

Near East University



Faculty of Economics and Administrative Sciences

Department of International Relations

Master Thesis

UN Collective Security Operation in Iraq 1990-2003

Supervisor Prof. Dr. Jouni Suistola

Submitted by Rajha M. Shehab

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ABSTRACT

The core concept of this Thesis is the collective security. Essentially, the collective security is an approach to maintain international peace and security. The aim of the collective security is to prevent aggressors to threaten international peace and security. Basicly, the UN Security Council plays a leading role in maintaining the collective security.

The collective security is an extremely theorized and discussed topic. The participants of the debate are usually scholars and practitioners of international politics, as members of the UN staff, diplomats and top military.

The international intervention has been seen as the main tool of the collective security. Recently, the role of conflict resolution and peace building has been closely related to the collective security actions. Yet, there is a long way to fully understand those processes and actions.

This thesis is a critical appraisal of the UN collective security operations against Iraq (1990- 2003).

Usually, the collective security operations fail. However, the collective security operation in 1990 in Iraq was successful when the UNSC adopted the key of the success of the resolution 678 in late November 29, 1990 which authorized the US and its allies to take all necessary means to restore Kuwait's sovereignty. Prior to this, the UNSC imposed comprehensive mandatory economic sanctions in August 6, 1990 as a non-military action which aimed to force Iraq to withdraw from Kuwait. Consequently,

when the UNSC authorized the US and its allies to take all necessary measures to liberate Kuwait from Iraqi forces it revealed that this action of collective security could be achieved. Together with the requirements of collective security a high number of the members of the international community (34) agreed to attack Iraq in January 1991 (UNSC Res. 678, Nov. 29, 1990). Nevertheless, the economic sanctions that continued caused a humanitarian and even genocidal impact during the following years. In 2003 the requirements of the collective security were not met, as there was not authorization to use force against Iraq by the UN. Nevertheless, the US invaded Iraq in a way which was considered illegal on March 19, 2003.

Key words:

collective security, state, sovereignty, UNSC resolution, intervention, US, invasion and leadership.

ÖZ

Bu tezin ana ana temel kavramı kolektif güvenlidir. Kolektif güvenlik, uluslararası barış ve güvenliği korumak için bir yaklaşımdır.

Kolektif güvenliğin amacı uluslararası barış ve güvenliği tehdit saldırıları engellemektir. Saldırmanın büyüklüğünden bağımsız olarak cezalandırılması gerekir.

Gerçekten de, BM Güvenlik Konseyi kolektif güvenliğin sağlanması konusunda öncü bir rol oynamaktadır. Kolektif güvenlik son derece kuramsallaşmış ve tartışılmıştır.

Tartışmanın katılımcılar genellikle bilimadamları ve uluslararası politikanın uygulayanlarıdır, BM personeli, diplomatlar ve üst düzey askerî üyeleri gibidiler.

Müdahale genellikle toplu güvenlik için temel araç olarak görülmektedir. Son zamanlarda, çatışmaların çözümü ve barış-inşası rolü kolektif güvenlik müdahaleleri ile ilintili olmuştur. Henüz tam olarak bu süreçleri ve eylemleri anlamak için uzun bir yol vardır.

Bu tezde Irak'a karşı BM kolektif güvenlik operasyonlarını eleştiren bir

değerlendirmesidir.(1990-2000) Genellikle kolektif güvenliğin operasyonları

başarmamıştır. Bununla birlikte Irakta 1990 operasyonlarda başarılı idi, zira birleşmiş

milletler güvenlik konseyi 29 Kasım , 1990 yılında 678 nolu alınan kararı, Kuvyit

egemenliğine kavuşturulması için gerekli tedbirlerin alınması için yetkiyi Amerika

Bileşik Bevletleri ve mütefiklerine vermiştir.

Öncelikle kolektif güvenlik uluslararası kamusunda hazırlık yaptığında ekonomi yaptırımlar uygulamaya, 1990, ağustosun altısında uygulanması çok zaruri olarak empoze etmiştir. Bu cezai yaptırımlar kararı Kuvetten kendi güçleri geri çekmesi ve askeri amaçlı olmayan bir operasyon olduğunu savundu. (böl VII)

Sonuç olarak Birleşmiş Milletler örgütü bölümü, Irak kuvvetleri Kuvetten geri çekmesi için gerekli tedbirlerin alınması Amerika Birleşik Devletlerin ve mütefiklerine vermiştir ve bu operasyonu kolektif güvenlik tarafından gerçekleştirilmesini ilan edilmiştir. Bununla birlikte kolektif güvenlikte bulunan en fazla üyelerin istekleri üzere Irağa saldırma talebini kabul etmiştir. (Kasım, 29 1990- Birleşmiş güvenlik örgütün 678 nolu kararlarına göre)

Yine bu cezai yaptırımlar hem insani hem ekonomiye büyük etkileri meydana getirip soykırıma bile sebep olmuştur

2003 tarihinde kolektif güvenliğin talepleri gerçekleşmemiştir, zira kolektif güvenlik, büyük güçle saldırgan üzerine gitmemiştir. Buna rağmen Birleşmiş milletlerden Irak'a karşı güç kullanmayı yetki alınmamıştır. Birleşmiş Milletler etkisiz kılınmıştır. Onun için 19 mart, 2003 yılında yasal dayanağa olmayarak Irak'ı işgal edildi.

Anahtar kelimeler: Kolektif Güvenlik, devlet, egemenlik, BMGK kararı, müdahale, işgal ve liderlik.

DEDICATION

To My Family

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INTRODUCTION

As consequence of the Iraq–Kuwait crisis, in the early hours of 2nd August 1990, Iraq invaded Kuwait. The invasion was followed by seven months occupation. The destruction brought by this invasion and occupation, the subsequent allied military action to reverse it to apply collective security rule, inflicted enormous damage on Iraq and the region and its people. Moreover, 13 years later in March 2003 the American-led war on Iraq by a ‘Coalition of the Willing’ attacked Iraq without having obtained the clear legal mandate from the UN.

Whatever were the underlying reasons behind the invasion of Kuwait, it has been a significant event in modern Arab history, and the crisis that followed was also significant in world politics. Indeed it was the first time in modern history that an Arab state invaded and annexed another Arab state.

Sometimes tensed conflict and conflict of this nature can’t be left without an intervention by the international community and the UN.

In a world dominated by conflicts and wars, a major challenge facing the UN in relation to collective security is to which degree the UN has the capacity to restore or keep the peace in the contemporary world. In recent years, the UN had launched several collective security operations of which many are still active. Usually, the UN collective security operations include more than just the deployment of military troops for a cease-fire in expulsion situation, but it may involve disarming, humanitarian assistance, maintaining law and order, human rights, monitoring, negotiation, arbitration and

mediation as well as adjudication. Nowadays, as it can be noticed that the world politics is increasingly moving away from the entire collective security concept to the peacemaking and peace building concept.

The end of the cold war raised anticipation about the potential of the UN collective security operations to play a major role in addressing threats to international peace and security. In this sense, the Iraq and Kuwait conflict received the concern of the international community, and the UN operation in Iraq since 1990 represented a good test for the UN in the new world order.

There were two interconnected wars. The first one was the hegemonic war between Iraq and Iran in 1980-1988. Those were harsh eight years of the worst religious and ethnic conflict, which led politically, economically and militarily to the decay of Iraq. Consequently, we can see here the roots of the collapse of the regime and state of Iraq later on.

Secondly, there was the Iraqi invasion of Kuwait on August 2, 1990. One of the most interesting contradictions that we can notice between the Iraq–Iran war and the occupation of Kuwait is that in the former one the US supported Saddam, but in the latter one he was the main American target.

Kuwait crisis played a key role in Iraq's economical decline during and after the war. Main reasons of the invasion came as a result of Kuwait's foreign policy against Iraq that reduced oil prices in global markets. It had a dramatic impact on Iraq as its economy depends heavily on oil export.

The second reason was the dispute between Iraq and Kuwait over Rumaila oil fields, which are located at the border area between the two countries - but mostly in the Iraqi

side. During the Iraq–Iran war Iraq temporarily stopped its investments of that area, while Kuwait continued to extract oil from it. When the conflict emerged between the two countries, Iraq stressed that the amount of oil Kuwait pumped from the Rumaila field was worth of 2.4 billion dollars over its legal share with Iraq.

Third reason was the money that Iraq owed to the Gulf States. When Iraq fought the long war with Iran (1980-1988), the Gulf States stood at Iraq's side and gave Iraq a huge financial support. After the war ended, severe differences arose over the nature of this money: Was it a loan to be paid or an aid to become forgiven?

All these factors brought the crisis to a dead end, and played as factors for Iraq to invade Kuwait on August 2, 1990. The invasion led to several UN resolutions which gave a mandate for a legal intervention in the region. They also offered the US and its allies an excuse to bring their armies, and control the Gulf under the pretext of liberating Kuwait.

Timely diplomatic interventions at several key points could have greatly defused, reduced and contained the crisis on 1990-1991. But the great opportunity was missed. The diplomats misread the crisis and missed all opportunities that could have led to a peaceful solution. In fact, it was a crisis which could have been avoided. The mistake of Iraqi state that led to the Iraq – Kuwait crisis was the miscalculation of international community's reaction.

This study undertakes a critical evaluation in the sense that it will tackle the UN operations in Iraq and try critically to analyze them. The research will examine the fact that the UN operation in Iraq was a success. Here the following questions will be asked:

How did the collective security operations succeed in Iraq?

Why some analysts consider the UN collective security operation in Iraq first as a success but later as a failure?

What do the international law and norms say about the collective security, operations and interventions? And how are those laws and norms applied?

As the international views on security and interventions changed in 1990s, this will lead us to the following questions:

Did the Iraqi operation have an influence in this change, or did this change influence the Iraqi operation?

Was the operation successful generally and particularly in the light of:

- A. The international laws and norms
- B. The situation in Iraq
- C. Did it push the norms to a better or worse direction ?

This thesis will also examine the challenges, shortcomings, inadequacies that promoted these provisional measures according to the Charter of the United Nations in Articles 39, 40 regarding the Security Council (SC) intervention for the purpose of maintaining international peace and security. Nevertheless, the SC should find a solution or a peaceful settlement (legal or political) to the international disputes before they escalate and disturb the international peace and security. Therefore, we will focus more on these issues from the perspective of the international law.

It is quite important to critically evaluate the UN efforts in Iraq for several reasons:

Firstly, the context and results of UN intervention in Iraq require an analytical study to learn the lessons, and point out the failures and successes.

Secondly, the Iraq–Kuwait conflict and how it was dealt with have been a major issue for international organizations like the UN, the NATO, the EU, the Arab League, and others. Thus, it becomes pertinent and appropriate to make the UN collective security operation in Iraq a subject matter in an academic thesis.

Thirdly, the UN operation in Iraq was, in many respects, a bold experiment, testing the ability of the international community to help people devastated by a bad economy in a collapsed state.

Fourthly, the crisis and problems occurred in Iraq, since the invasion of Kuwait and the invasion of Iraq 1990-2003 are interconnected. Thus, the scope of this work will cover the UN collective security operations in Iraq in 1990-2003.

Fifthly, the end of the cold war has raised expectations about the potential of the UN collective security operations to play a major role in addressing threats to international peace and security. Hence, the conflict between Iraq and Kuwait has assumed International recognition in this regard, and thus, an idea for academic investigation.

This study will examine the UN operation in Iraq 1990-2003, and it will be divided into two main chapters additionally to the introduction and conclusion:

The first chapter examines the theory of collective security. It begins by examining what is the meaning of collective security. Even though, there is no agreed definition of collective security, for the purpose of this thesis the definition adopted here is the one given by the UN itself. The former UN Secretary General, Boutros Boutros-Ghali defines the collective security as the formation of a broad alliance of most major actors in an international system for the purpose of jointly opposing aggression by any actor. Consequently, there are two main requirements of collective security:

1) Members must keep their commitments.

2) A sufficiently large number of members must agree on what constitutes aggression.

For example, the League of Nations was an organization that represented the principle of collective security. Yet, when Italy invaded and occupied Abyssinia (today's Ethiopia), which was actually a member of the organization, the other members should have come together to defend it against aggression. They did nothing significant, because they were not committed enough to the principle. Their short-term interests in defending Abyssinia, (of limited strategic value), against Italy, which would have meant costly military actions, were perceived as insufficient.

Collective security concept came into force in international relations with the League of Nations after the First World War (1914-1918) to prevent the aggression of aggressor states against another state by taking provisional measures. This chapter also provides some insights into types of collective security and development of collective security as a theoretical construct and law.

The second chapter offers more analysis of the collective security as practiced by the UN in an operation conducted under chapters VI and VII of the UN charter. It gives a detailed analysis of Iraqi crisis as a case study, by examining the UN collective security operation against Iraq. It starts by presenting the deterioration and collapse of Saddam's capability and government. Thereafter, the thesis follows a step by step the approach of the UN collective security operation against Iraq starting in January 1991 to liberate Kuwait, and ending in 2003 with the invasion of Iraq. We can notice here the interconnection between war waged to liberate Kuwait and war to invade Iraq.

As well as this chapter presents the legal and mandate implications of the UN Collective Security operation in Iraq to modern collective security. The study takes the position that the international humanitarian law and International law form the framework of the UN operation in Iraq because the operation crossed the threshold of an armed conflict. Thus, the work reveals from the Iraq case that the doctrine of international humanitarian law governs the Iraq–Kuwait conflict. Thus, one of the hypotheses of this chapter is that the international humanitarian law is the framework to the UN collective security in Iraq. Also the work reveals that the UN collective security suffered from a gradual loss of representative power in the absence of a legitimate and authoritative Iraqi representation. The UN collective security efforts to contain the limited war ran aground, which shows a transition from collective security to the power enforcement under chapter VII of the Charter using force beyond self-defense. This chapter points out clearly that peace enforcement in Iraq was misplaced and probably doomed to fail. The mandate will require a greater coercive capacity. According to the perspective of the UN and the US as well as the almost all Arab countries, they thought Saddam was dangerous to the Gulf area.

Conclusion presents a review of the UN collective security operation in Iraq and critically examines the competing scholarly claims on collective security operation in Iraq. Hence, it presents a detailed critical appraisal of the UN collective security operation in Iraq. In doing this, analyses of various scholarly opinions will be presented. This chapter also shows that many analysts find that the UN failed to marginalize the US attempt on 2003, and couldn't prevent the invasion of the USA and its coalition to

Iraq in 2003. Therefore, the question that will be asked in this chapter is: why did the UN fail in 2003?

Finally, this thesis brings it to a logical end, to a worthwhile evaluation of the UN collective security in Iraq.

The methodology of this work will be theoretical analysis based on collective security in relation to Iraq. The theoretical analysis of the political structure of Iraq starts with the leadership, the contextual framework of the UN collective security and the contextual opinions of scholars and the analysis to the UN involvement in Iraq. In order to make a comprehensive study, several books, articles, the UN documents and resolutions, journals and websites were used this research.

CHAPTER ONE

CONCEPT OF COLLECTIVE SECURITY

1.1 Definition

This chapter examines the concept of collective security. The theoretical aspect of collective security here is as explained by International Relations and International Law, as well by the UN and the League Nations. It also presents the functions of collective security operations. It enquires on the principles or requirements governing collective security operation and the various types of collective security.

Basically, the collective security is based on the idea that members of the group of states are threatened in terms of security if there is an aggressor. Otherwise collective security is a liberal idea which is emphasized by the international community and NGOs, on the questions of the international security. Therefore, there is no agreed definition of collective security; despite the concept of the collective security goes back several centuries through a long series of proposals to deal with war and peace for maintaining international peace. There have been attempts for collective security since the 16th century and the Thirty Years War that was ended by Westphalia Treaty in 1648 in which the supremacy of states was recognized. There are also victorious coalitions with a shared commitment to collective security in the new world order. Consequently,

the collective security has been shaped as an agreement to act on the aggressive party.¹ Thus, the collective security means a coalition of all states against one state if an aggressor tries to destabilize the international system. The collective security was the concept to overcome a Hobbesian state of war from the perspective of the Catholic Society almost until the beginning of the 20th century.²

Actually, the general concept of collective security refers at applied arrangements which involve joint military action in crisis by two or more states and connotes the use of force in order to maintain international peace, security or balance of power that deters the aggressor in the same time. The authority is explicit in the UN Security Council (UNSC) in the chapter VII, Article 39.³

But what is aggression? And what is security? There are a lot of scholars and institutions to define them. Thus, the United Nations General Assembly defines aggression in the Resolution 3314.⁴ Based on the fact that one of the fundamental purposes of the United Nations is to maintain international peace and security and to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace.⁵ Nevertheless, security is defined in general, that there is no threat of launching a military attack or exercise political pressure or economic coercion. Thus, a state can

¹ Gerry J. Simpson, **Great Powers and Outlaw States: Unequal, Sovereigns in the International Legal Order**, 1st ED. (UK: Cambridge university Press, 2004), p. 94.

² Wolfgang Palaver, "Collective Security (Opportunities and Problems from the Perspective of Catholic Social Teaching)", <http://www.uibk.at/theol/leseraum/texte/407.html> [11.09.2010].

³ "Charter of the United Nations", <http://www.un.org/en/documents/charter/index.shtml> [11.09.2010].

⁴ "Definition of Aggression, United Nations General Assembly", <http://www1.umn.edu/humanrts/instrree/GAres3314> [14.12.2010].

⁵ "Charter of the United Nations: Chapter I: Purposes and Principles", <http://www.un.org/en/documents/charter/chapter1.shtml> [03.06.2011].

move forward to work freely to pursue its own development and progress. There is also the definition of the General Assembly of the UN: A/RES/38/188 on December, 20.1983.⁶ In short, the aggression is the use of armed forces by a State against the sovereignty of another State or its territorial integrity or political independence, or in any other manner, which is inconsistent with the Charter of the United Nations.

Essentially, a lot of scholars and institutions have offered some definitions of collective security. Nevertheless, the International law perspective in collective security tells that the use of force is illegal under the principle of International Law with the exception of the self-defense. However, collective security is in the power of the UN and other international organizations to authorize the use of armed force against delinquent states,⁷ which makes it legal from perspective of international law.

The League of Nations was the first organization adopting the principle of collective security. Therewith the League of Nations was the result of the conciliation with the American project proposed by the US President Woodrow Wilson. His idea was that a federation or majority of states could punish any state that committed aggression. This was clearly a Kantian approach. Therefore, Wilson and the British liberal diplomats drafted it, and led to the adoption of the Covenant on 28 April 1919 during the Versailles Peace Conference,⁸ then incorporated in the Versailles treaty. Consequently, it became an integral part of it, and entered into force of the Covenant in the tenth of January 1920. It modified the collective security system to carry out international peace

⁶ “United Nations General Assembly Resolution 3314 (XXIX)”, <http://www1.umn.edu/humanrts/instree/GAres3314.html>. [12.12.2010].

⁷ Martin Dixon, **Textbook on international Law**, 6th ED, (New York: Oxford University Press, 2007), p. 328.

⁸ Athanasia Spiliopoulou, **Justifications of Minority Protection in International Law, International Studies in Human Rights**. 1st ED, (London: Kluwer law international, 1997), p. 101.

and security, but the concept of the collective security had not become the function of League of Nations to prevent the war.⁹ Untimely the League of Nations failed miserably to deter the Second World War (WW2), because of its failure at collective security. The failure started when Italy occupied Ethiopia, which was actually a member of the organization. Other members should have come together to defend it against aggression. They did nothing significant because they were not committed enough to the principle. Their short-term interests in defending Ethiopia against Italy would have meant a costly military action, and were perceived as insufficient.¹⁰ In Kissinger's perspective, some countries elevated their national interests over the global collective security post WW2. He writes: "It becomes a method used by proliferators to gain time. Negotiations on proliferation and sanctions come to be defined by their attainability, not by their consequences. In this manner collective security begins to undermine itself."¹¹ With the lessons from the failure of the League of Nations the UN was created in 1945. It was a starting point for collective security after the WW2. Thus, the Charter of the UN was founded on the collective security concept to preventing the war. The UN established the international order that will use the collective forces of all member states against any violator of this order. The Charter of the UN does not define collective security explicitly, while the UN is fully empowered under Chapter VII of the Charter of the United Nations to address the full range of security threats which states are concerned by using military force to settle the international peace and security. The

⁹ Ibid.

¹⁰ Thomas G. Weiss and others, **The United Nations and Changing World Politics**. (US: West View Press, 1994), p. 21.

¹¹ Henry Kissinger, "Collective Security idea losing ground", <http://in.reuters.com/article/idINIndia-51423120100911?pageNumber=1>[10.09.2010].

reason of the failure of the collective security in the early years of the UN and the period of the cold war was the use of veto by the permanent members of the Security Council. Smith sees collective security as a mechanism to support the international peace and security effectively and it has been developed mainly by the United Nations to help control and resolve armed conflicts.¹²

Furthermore, collective security refers at any international effort involving an operational component to promote the stoppage of armed conflicts to the resolution of longstanding disputes. Boutros Boutros-Ghali, the former Secretary General of the United Nations, proposed in his Agenda for Peace to carry out to strengthening of international peace and security in the post cold war era through a new collective security. It designates a new collective security enforcement action to roll back aggression, as in Korea in 1950 and against Iraq in the Gulf War in January, 1991 according to Charter of the UN in Chapter VII.¹³ Following the principles of the UN collective security a more comprehensive definition of collective security has been established by the UN without consent of the parties concerned, to help to control and resolve conflicts between them, under the UN command control, collectively at the expenses of the member states, and also with military means.

The central challenge for the twenty first century is a broader understanding of the notion of “collective security.” It is of course, connected to various far-reaching proposals to reform the United Nations.

¹² Edwin M. Smith, **Collective Security, Peacekeeping, and Ad Hoc Multilateralism**, (UK: Cambridge University Press, 2003), p. 83.

¹³ Olara A. Otunnu, Michael W. Doyle, **International Peace Academy, Peacemaking and Peacekeeping for the New Century**, (USA: Rowman & Littlefield, 1998), p. 7.

In the light of collective security concept the collective security can be seen as a mechanism envisaged in the Charter that expands the possibilities for the prevention of conflict and war. Also the collective security is security of the state making the peace by using force. Collective security is required to remove conflicts and preserve peace once it is attained.

1.2 Functions of Collective Security Operation

Frequently we see the function of the Collective Security as a political bias or enforcement of international law. Thus, the collective security is a system that provides sanctions against aggressors by the other member states at the military level. Moreover, the UN collective security forces have other functions to perform. These embrace detecting violations of cease-fire agreement and supervising troop withdrawals. It is also the function of the collective security force, as neutral observers, to ensure that none of the disputing parties performs actions that violate the agreement established in the collective security operation and the cessation of military hostilities. Also the collective security force plays the role in maintaining international law and world order especially common for collective security operation deployed in international conflicts. This may involve the task of patrolling the streets and countryside, to report incidents and deter aggressors and other forms of hostile behavior.

Collective security force might monitor cease-fire, protect civilians, control barrier zones and avert a resumption of hostilities, create an environment more conducive to a negotiated settlement. The collective security force may also help in the execution of humanitarian activities like food distribution, assisting with electricity, water problems, medical claims. These activities may not always be a part of the mandate. Moreover,

collective security involves large-scale military action to repel or defeat the aggressor according to Chapter VII aiming to strengthen and reinforce the collective security, whereas diplomatic approaches shape the Chapter VI of the UN Charter of. Force size and military actions embraced and military are directed primarily against one or more state.¹⁴ In general, most diplomats prefer to avoid the use of force.

1.3 The Principles and Requirements Governing the UN's Collective Security Operations

There are the legal principles and requirements which operate to regulate the launching and the competence of the operation once it is on the ground. These legal principles and requirements include: neutrality, restriction on the use of force, permission of the host country/countries, a clear and precise mandate. These principles are called legal because they are repeated in all collective security operations. They are based on the long-standing UN practice and on the UN Charter principles.

1.3.1 Collective Security Operations are United Nations Operation

The first legal principle of collective security operations is that collective security operations are mostly the United Nations operations because they are established by one of the legal organs of the United Nations. Despite the collective security is not explicating in the Charter of the UN. Consequently, the collective security operations must have the full support of the Security Council because the Security Council support enhances the symbolic power of an operation. The Security

¹⁴ Paul F. Diehl, **Peace Operations**, 1st Ed, (Cambridge: Polity Press, 2008), p. 28.

Council involves in decisions regarding troop allotment, budgets, and mandate renewals.

1.3.2 Neutrality

Collective security forces are to be neutral. That is the vital principle as the mediation and observation are organized often with difficulty.¹⁵ This means that the collective security forces do not support one or the other side in the conflict as responsible for military conflict. The mission is not to advance the interest of one party against the other. Taking side in conflicts really means a violation of the terms on which the operation had been accepted by the parties. Neutral behavior of collective security troops must reinforce their neutral composition. For example, soldiers from other states with a known vested interest in the conflict at hand are explicitly not used. Neutrality in this sense entails that the actions of the collective security troops are not intended to favor one side or the other in the dispute. Neutrality or impartiality arises from the fact that the collective security operations are usually temporary arrangements set up without discrimination to the claims and positions of the parties. Neutrality is derived from the non-prejudicial nature of provisional measures as embodied in Article 40 of the UN Charter. One of the reasons for the UNIKO failure, as will be later on elaborated, is the fact that it was partial or not neutral in the conflict.

It should be pointed out that neutrality does not mean that the authorizing body of the collective security force will not pass any judgment on the conflict or that the organization may not condemn one side or the other. Also collective security can use

¹⁵ David J. Whittaker, **United Nations in Action**, (London: UCL. Press limited, 1995), p. 7.

pressure and mobilize international support and may even sometimes take forceful action when a party violates an agreed bargain.

1.3.3 Restrictions on the Use of Force

Another legal principle governing the UN collective security operations is that its military capability is limited. This means that collective security forces are lightly armed. They use light arms like rifles. But collective security forces must protect themselves and retain the means to exercise their right to self-defense. The right to self-defense is a general principle embedded in the UN charter and international law. Thus troops are only authorized to use force in self-defense and settlement of disputes. For example, the western allies moved immediately to expel Iraq from Kuwait's territory on the collective self-defense basis. Furthermore, there are two main requirements for collective security:¹⁶

1. The members must keep their commitments.
2. A sufficiently large number of members must agree on what constitutes an aggression. There, the collective security system does not work against aggression by a great power, for example, when the USSR invaded Afghanistan in 1979 and the USA invaded Iraq in 2003.

1.3.4 Permission of the Host Country/Countries

The collective security force do not have to take the permission of the state or states on whose territory the troops will be deployed, but the permission should be worthwhile to make collective security less threatening and more acceptable. Because it

¹⁶ Joshua S. Goldstein, **International Relations**, 5th ED, (New York: Pearson Longman, 2004), p. 124.

means that cooperation really respects the principle of sovereignty of states. That is, for instance, in the case of the ongoing genocide in Darfur where the Sudan government has vehemently refused to accept the UN force in Sudan, hence the UN has respected the sovereignty of Sudan.

1.3.5 Troops Required For the United Nations Collective Security Operations

The League of Nations was an organization embodying the principle of collective security on the whole in the Charter. On the other hand the League of Nations did not have troops, and the UN does not have standing army of its own. National armies and police forces could be the only source for uniformed personnel. The UN Charter provides for member states to enter into binding agreements with the Security Council under which they would commit themselves to provide it with troops. Participating Nations must be willing to provide troops and to accept risks.

1.3.6 A Clear and Precise Mandate Is Desirable

Under chapter VII of the UN to authorizing member states to use force in self-defense, initially the main objective of the Mission should be clear, obtainable, and known to all parties involved. One of the benefits of this principle is that an articulation of the mission objectives reduces local suspicion. Of course, flexibility demands that the collective security may adapt the operating strategies to better fit changing circumstances.

1.4 The Legal Parameters of the United Nations

Originally collective security system is working legal in practice. Thus, this section deals with constitutional issues. A lot of debates have been going on regarding

the exact constitutional basis of the power. The fundamental question is: which organ is constitutionally empowered to create and control the collective security force with both the General Assembly, Security Council, and Secretary General involved in the area? To answer this question, it is appropriate to discuss the constitutional empowerment of the UN organs in collective security starting with the Security Council.

1.4.1 The Competence of the Security Council

Under the Charter of the United Nations, particularly Chapter VII, the Security Council is the organ primarily responsible for maintaining peace and security. Article 39 states, that the Security Council shall determine the existence of any threat to the peace, or even act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with the Articles 41 and 42, to maintain or restore international peace and security. Although under the Article 40 it may indicate provisional measures pending a determination under the Article 39. Actually the Security Council involves itself in pacific settlement of disputes. In the Chapter VII, the Security Council examines action with respect to threats at the peace, breaches of the peace, and acts of aggression. A good examination of the specific powers of the Security Council shows that collective security falls under the Chapter VII generally referred to the primary responsibility for the maintenance of international peace and security. The UN collective security really entails a concrete military presence under the Article 42 which is the heart of collective security system. Thus, the Security Council has power to use armed force. For instance following Iraq's invasion of Kuwait in 1990 there was the Security Council Res 678. And therefore it does not simply consist of mere recommendations for settlement as found in the Article 41. Yet, collective security

is not a pure military enforcement action as envisaged under Chapter VII. However, the Article 41 involves non-military sanctions such as economic and diplomatic sanctions to formulate collective security force in the Security Council. This Article holds that "the Security Council may, at any stage of a dispute...recommend appropriate procedure or method of adjustment"¹⁷ such as in the case of Rhodesia (SC Res.235 in 1968).

1.4.2 The Competence and Role of the General Assembly

The General Assembly may consider the general principle of cooperation in the maintenance of international peace and security, including the principle governing disarmament and the regulation of armaments, and makes recommendations with regard to such principles to the members or to the Security Council or even to both. Article 11 (1) of the Charter states that: "The General Assembly may consider the general principle of cooperation in the maintenance of international peace and security, including the maintenance of international peace and security, including the principles to the members or to the Security Council or to both."

The General Assembly may equally bring the attention of the Security Council to situations which are likely to endanger international peace and security. Thus, the General Assembly can have discussions of matters of peace and security. Articles 11-14 of the UN Charter give the General Assembly a wide range of recommendatory powers. Also the general assembly has asserted its right to deal with a threat or breach of the peace or act of aggression because of the UNSC to exercise its responsibility which could call for collective measures involving the use of force when necessary in the case

¹⁷ Dixon, p. 329.

of breach of the peace,¹⁸ according to the Article 24. For instance, there is the ceasefire the UN force in the Middle East by the General Assembly. In fact, the UN General Assembly opposed Iraq's invasion of Kuwait in 1990.

Also the Article 13 (1) (a) of the Charter allows the Assembly to initiate studies and make recommendations for the purpose of "promoting international cooperation in the political field and encouraging the progressive development of international law and its codification".

1.4.3 The Role of the Secretary General

The role of Secretary General in political situations is that they are essentially under the command and control of the Security Council, who acts with authority delegated to him by the Security Council, and reports regularly to it. He is the chief administrative officer of the UN according to the Article 79 of the Charter of the UN, and in addition the mediator between the Security Council and the UN collective security operation. The Charter of the UN in Article 99 holds that "the Secretary General may bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security."¹⁹

1.5 Types of Collective Security Operations

Previously, collective security operations had been mostly military in task and composition. The principal task was to help the parties stop fighting and to prevent any resumption of hostilities so that peacemakers can really negotiate an enduring

¹⁸ Malcolm N. Shaw, **International Law**, Fifth Ed, (London: Cambridge University Press, 2003), p. 1152.

¹⁹ Ibid.

settlement. Prior to 1919 when the League of Nations was founded, collective security has been seen as a rather homogeneous activity. Now the practice of collective security has expanded. Collective security is dynamic. There is now an evolution of collective security from traditional to modern collective security. As a result, now it is possible to identify many different types of collective security.

1.5.1 Traditional Collective Security

The main aim of traditional collective security is to support peacemaking efforts. This is achieved by helping to create conditions in which political negotiation can proceed. Traditional collective security is involved in ideological experience. With collective security the concept of universal moral obligation of the League of Nations Charter and Wilson idealism appreciated that the cost of punishment is drastically reduced, when the League of Nation was founded in 1919.

1.5.2 Modern Collective Security

Modern collective security, among other things, consists of operations set up to support implementation of a comprehensive settlement which has already been agreed by the parties. Consequently, modern collective security has been developing rapidly since 1990 largely because of the end of the cold war. In the case of comprehensive settlement, the collective security has to undertake functions like monitoring ceasefire, the destruction of weapons, and verifying respect for human rights. Therefore, Boutros Boutros-Ghali, the Secretary General of the UN published An Agenda for Peace which was commissioned by the UNSC at its historic summit on January 31, 1992.²⁰ The

²⁰ Eric Fawcett, Hanna Newcombe, **United Nations Reform, Looking Ahead After Fifty Years**, (Canada: Dundurn Press, 1995), p. 7.

reason of his report was that the UN recorded an unprecedented success post–cold war under the new collective security system in the Gulf War for liberation of Kuwait; meanwhile the UN failed in Yugoslavia.

However, there is one aspect in which there have been some difficulties in applying the modern collective security. This concerns the principle of impartiality. The principle resulted from the fact that collective security was an interim activity established without prejudice to the claims and positions of parties. The claims and position of parties should be reconciled in a comprehensive settlement agreed between them. In the chapter VII of the Charter of the UN the use of economic or military sanctions is clearly implied.²¹

1.5.3 Preventive Deployment

The Secretary–General could and should be equipped and staffed to act with troops before a conflict has actually begun. Preventive deployment is at the request of one of the parties and on its territory. The troops' function includes early warning. Also the troops increase the political price that would be paid by the potential aggressor. Preventive deployment was adopted by Boutros Boutros-Ghali in his report an Agenda for Peace. Their authority comes from the Security Council, acting under the provisions in the Charter relating to international peace and security Article 42 and 43 of the UN charter. For instance, a UN Iraq-Kuwait observation mission was set up in April 1991 to monitor the situation between Iraq and Kuwait.²²

²¹ Ibid, p. 118.

²² Weiss and others, p. 71-97.

1.5.4 Delivery of Humanitarian Supplies

In fact in the light of international law it is illegitimate to use force for humanitarian intervention because the UN Charter does not give the SC authority to use force for humanitarian purposes, such as the situation occurred in Korea, the Gulf War and to some extent in Rwanda, as a example such authorization may be implied from resolutions adopted.²³

The SC created new ground concerning the human rights in Iraq, and as a result, the protection and delivery of humanitarian aid became a significant type of collective security. This was applied to Iraq (1990-2003) and in Bosnia but it failed to yield the needed results in Iraq. Its failure in Iraq was mainly due to the fact that the UN could not conclude agreements for the deployment and activities of the collective security. In principle, the UN Security Council might authorize direct protection for persons such as the Kurds in Iraq or the Somalis, in the international community and employ more forceful methods. Thus, the Unified Task Force led by the US was formed with the mandate to establishing secure environment for the delivery of humanitarian aid.²⁴

1.5.5 Deployment of a United Nations Force in a Failed State

The UN has been able to engage in state-building operations. This entails the deployment of a United Nations force in a country where the institutions of state have largely collapsed, anarchy and lawlessness reign supreme. The break-up of the country is imminent. As such, some external agencies are needed to put the country together again. This involves a ceasefire, humanitarian relief, demobilization of troops, a

²³ Shaw, p. 1147.

²⁴ Ibid, p. 128.

political process of national reconciliation, the rebuilding of political and administrative structures, economic rehabilitation, reconciliation etc.

1.5.6. Ceasefire Enforcement

In the case of the Iraq-Kuwait conflict, the cease-fire was proclaimed by the UNCS in the Resolution 687 in 1991. As such it was forceful alternative of the traditional collective security. A United Nations force would be deployed after an agreement has been reached between the parties, with the authority and armament to use force against any party which violates the ceasefire.

Having examined the theoretical aspect of collective security and the principles governing collective security operations, it becomes paramount now to examine how the United Nations applied these principles in its collective security operation in Iraq (1990 to 2003).

CHAPTER TWO

THE UNITED NATIONS COLLECTIVE SECURITY

THE CASE OF IRAQ

2.1 Historical Background

The case study of collective security in Iraq builds the analysis of collective security as practiced by the UN under Chapters VI and VII of the UN Charter. The starting point shall be to present the deterioration and collapse of Saddam's capability and government. Thereafter, the thesis follows step by step the UN collective security operation in Iraq starting with 1990 invasion of Kuwait, and the 2003 invasion of Iraq. Meanwhile, it will analyze the actions of the UN and its resolutions as well as the US leaders' throughout this period.

Throughout the study of these issues, light will be shed on the legality, social, political, historical, strategical and economical dimensions of the background of the Gulf Crisis. Iraq was actually the cradle of civilization in ancient times and known as Mesopotamia with the first great civilization. It is situated in the north of the Arab world, and the north-east of the Arabian Peninsula. Iraq is neighbored by Turkey in the north, Syria and Jordan in the west, Saudi Arabia, Kuwait and the Arab Gulf in the

south and Iran in the east. Iraq was under the Ottoman Empire from 1638 to 1916 and after the World War One Britain dominated Iraq but it gained independence from the British occupation on the 3rd of October 1932 and in the same year Iraq was admitted to the League of Nations. In 1945 Iraq participated in the founding of the Arab League and joined the United Nations.

The Iraqi people were disappointed with the monarchical regime led then by King Feisal. As a consequence, on the 14th of July 1958, they staged a military coup led by Abd Al-Karim Qasim and Abd Al-Salam Aref which converted the monarchical regime into a republican one. In 1961 Kuwait declared its independence from the British occupation and Abd Al-Karim Qasim tried to claim Kuwait and actually sent troops to the Kuwaiti border but the Arab League rolled them back.

In 1968 the Baath party led a coup in Iraq and gained control of the government. In 1979 Saddam Hussein, a leading member of the Baath party, became the president of Iraq.

At the end of the cold war, Iraq was involved in an eight-year catastrophic war with Iran (1980-1988). Kuwait, Saudi Arabia and the United States as well as the Soviet Union armed the Iraqi army with enough weapons to win the battle. Ultimately, the UN forced both sides to cease-fire in 1988.²⁵ At the time of the war Iraq and Iran followed the realist approach, and they weren't developing a proper foreign policy. Instead, they were constantly calculating the potential threats they posed to each other and what capabilities they had. Generally, at that time the security dilemma shaped the

²⁵ Whittaker, p. 89.

international relations between the states.²⁶ On the other hand Kuwait supported Iraq and stood together with it in an alliance. Furthermore, the US provided Saddam with weapons. Saddam had a good relationship with the US and the western world as well as the Soviet Union, despite that the western media played a vital role in creating the conflict between Iraq and Kuwait. As a result, Iraq gained huge experience and learned big lessons in military matters, politics and economics, being the strongest military in the Middle East. President Saddam sought military assistance from the US and the Soviet Union, and Iraq was flooded with lots of arms and weapons. Therefore, the Iraqi army during the cold war – and particularly after the Iran-Iraq war - became more sophisticated.

These situations led to an increase of the merchants of war who wanted to continue conflicts to profit. Some merchants found the arms trade highly lucrative, because Iraq and Kuwait were good actors as both of them was rich in oil and able to cover the expenses. Besides, Saddam deployed all Iraqi men to get involved in the war seducing them with privileges. He also pressured the ministry of industry to produce weapons with the assistance of the foreign firms. Thus, the Iraqi military became the second ranked army in military capabilities in the world. At the end of the war Iraq started a gigantic reconstruction of the huge damages that were caused by the war and compensated the large number of the families of the Iraqi victims who died in the war, although, it had huge debts owed to Saudi Arabia and Kuwait which both were worth of 50 to 80 billion dollars.²⁷

²⁶ Goldstein, p. 90-92.

²⁷ Kamran Mofid, **The Economic Consequences of the Gulf War**, 1st Ed, (London: Routledge, 1990), p. 126.

The Iraqi economy depends mainly on oil trade, despite the fact that Iraq is also rich in its agriculture because it has two rivers, Euphrates and Tigris, and fertile land. There was the same time the problem of the decreasing oil prices and the huge scale of the destruction. They caused miscalculations among the planners and policymakers with unparalleled opportunity to shift to new policies. Furthermore, a prominent feature in the analysis of Iraq-Kuwait tension and conflict is also the colonial legacy because the British withdrawal did not solve border disputes. As a result, the tragic second Gulf War was predictable because it was the natural consequence of the first Gulf War between Iran and Iraq. The Gulf is essentially a conflict-prone region.

Therefore, on the second of August 1990 Iraqi forces invaded the State of Kuwait and annexed it as a province. The scholar Malcolm Kerr called the conflict "The Arab cold war".²⁸ That, as the West recalls it, was the Persian Gulf War. It can be considered as one of the largest catastrophe in the history of the region. It was a boundary dispute or an oil war and it was the first time in history that almost the whole world stood unanimously in cooperation against one state, Iraq. In fact the invasion was an irrational decision and a diplomatic miscalculation. Therefore, Iraq had violated the UN Charter as well as the principles of the International law. This was the perspective of the US and UK in addition to the whole international community, while the Arab world was split. Some of them were proponents and the others were reluctant of Iraq. Immediately the UN convened, whereas Saddam declared Kuwait as the "nineteenth province" and Baghdad sent a peace plan to the UN.²⁹

²⁸ Jerry M. Long, **Saddam's War of Words, Politics, Religions and the Iraq Invasion of Kuwait**, 1st ED, (Austin: University of Texas Press, 2004), p. 18-19.

²⁹ Ibid.

In the light of the above, the Iraqi regime justified this invasion on historic, economic and territorial grounds. This invasion did not comply with the logic of the current international laws and good neighbor relations.

Therefore, the UNSC adopted several resolutions immediately which demanded Iraq to withdraw from Kuwait unconditionally and imposed economic and diplomatic sanctions but the Iraqi regime did not respond to any appeals or sanctions. This led to prompting the international community to agree on the decision to liberate Kuwait by force. Generally, the UN, the US, UK, the Arab League and the international community were all disturbed by the invasion of Kuwait.

Basically, the cold war occurred between the Soviet Union and the United States, and its legacy created the Gulf crisis. Kenneth Pollack pointed out: Given the anarchy in international system that the most realists recognize, it is a real security dilemma in IR and this security dilemma created the causes of the arms race during the period of the cold war. This can clearly be seen in the conflict between Iraq and Iran (1980-1988).³⁰

Iraqi economy was left in ruins not only because of the war but also because of the arms race: "Iraq spent an estimated \$500 billion to fight the war, and by the time it ended, Iraq owed \$80 billion to other countries"³¹

The diplomatic failure to resolve Iraq-Kuwait crisis led to the air and ground operations against Iraq launched at dawn on January 17, 1991. The fierceness of the air operations was unprecedented in history, and we can clearly speak about an asymmetrical war by

³⁰ Richard Russell, "The Persian Gulf's Collective Security Mirage", Middle East Policy, C. XII, S.4 (2005), p. 78.

³¹ Laurie Collier Hillstrom and Julie Carnagie, **War in the Persian Gulf. Almanac. From Operation Desert Storm to Operation Iraqi Freedom**, 1st ED, (USA: U.X.S. Thomson Gale, 2004), p.18.

the coalition (30 nations were authorized by the UNSC to repel Iraqi army out of Kuwait).

As a good test of the UN in the new world order, the Iraqi case reflected a different situation and involved a variety of new tasks and challenges for the UN collective security actions. Indeed Iraq provided a model for the UN involvement in a global war against Iraq, despite both Iraq and Kuwait shared the same history, language and religion but were split into two heavily armed ethnic groups.

Many analysts and the UN diplomats have tried to examine what really went wrong in Saddam's regime in the case of Iraq-Kuwait conflict. One of them is David J. Whittaker, who claims that the quarrel happened because president Saddam took the conflict personally. What later complicated the situation was the American view that the issue shall be solved by power. Whereas the UN Secretary-General Perez de Cuellar's perspective of the issue was that it is really difficult to solve but it should be solved by negotiations based on objectivity, restraint and law.³²

2.2 The Downfall of Saddam

In the era of Saddam, according to the Iraqi constitution the president was the absolute head of the state, head of the government and the commander-in-chief of the armed forces. Essentially, the Iraqi political system was a one-party system with Baath Arab Socialist Party playing the dominant role, and the whole political system was highly centralized. Its central figure, Saddam Hussein was born 28th of April, 1937, in Tikrit, Iraq. He was also the former president and the head of the revolutionary command council, which formed the Arab Baath Socialist Party, which was founded in

³² Ibid, p. 91.

the 17th of July, 1973. Throughout 1970-1980 Saddam adopted new social economic programs which brought Iraq into the modern age. However, it is also claimed that Saddam was a ruthless dictator harming anybody who would try to stop him (even his own son). He was interested in power and authority.

Saddam took over and made Ahmad Hassan al-Bakr step down from the presidency of Iraq on July 16, 1979. Despite the totalitarian regime, he brought prosperity to Iraqi people, and people just obeyed him. Saddam was charismatic and he was able to maintain the control of Iraq during two military conflicts. He badly damaged the Khomeini regime in eight years fighting with Iran. In the end the UN efforts only could bring a cease-fire to the conflict on August 8, 1988. Iraq won the war because the US and the Soviet Union backed up Baghdad. Consequently, this date was recorded a national holiday every year in the Saddam's era.

On the 2nd of August, 1990, Saddam ordered the Iraqi army to annex Kuwait because he thought and believed, as it was mentioned above, that Kuwait was a part of Iraq as a province.

After four days as a response the UNSC adopted massive economic and military sanctions to punish Iraq in the Resolution 661. However substantially, the human rights are essential objectives and phenomenon of the Charter of the UNSC, but regardless of the UNSC humanitarian Law it imposed a comprehensive economic sanction on Iraq in its Resolution 661.³³ The foremost here is the heart of the collective security system non-military sanctions because the SC has the power to impose comprehensive mandatory sanctions as it's in Res 661.

³³ Geoff Simons, **Imposing Economic Sanctions. Legal Remedy or Genocidal Tool?**, 1st ED, (London: Pluto Press, 1999), p.70.

Besides, according to the UN General Assembly Resolution 44/215 (22 of December, 1989) in its paragraph (5) provides, "Reaffirms that developed countries should refrain from threatening or applying trade and financial restrictions, blockades, embargoes and other economic sanctions, incompatible with the provisions of the Charter of the United Nations and in violation of undertakings contracted multilaterally and bilaterally, against developing countries as a form of political and economic coercion that affects their political, economic and social development".³⁴

The enjoyment of the highest standard of health is one of the fundamental rights of every human being without distinction of race, according to the Universal Declaration of Human Rights, 1948.³⁵ But throughout 13 years Iraqi people have lost their rights of these Geneva conventions. They were suffering lack of food, clothing, housing and medical care and necessary social services, and they did not have right to security in case of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond their control. These as a whole were the influences of economic sanctions. As the economy depended on oil export, the standard of life extremely decreased. The salaries were on average \$2-\$10. Therefore, the majority of government employees left their office to seek for better salaries. On the other hand, many people migrated to look for better life. People were affected in their everyday life, and many health problems started to appear due to the lack of medicine and proper nutrition. The economic sanction had a negative impact on people and the infrastructure of Iraq.

³⁴ "United Nations General Assembly", <http://www.un.org/documents/ga/res/44/a44r215.htm> [22.12.2010].

³⁵ Simons, p. 65.

Subsequently, the UNSC Resolution 678 on November 29, 1990, authorized the US and its alliance to liberate Kuwait in the operation Desert Storm in 1991. Eventually the Iraqi troops were expelled from Kuwait unconditionally by the US-led coalition forces. However, these economic sanctions were not lifted although of Kuwait was liberated. Although, the SC adopted the economic sanctions against Iraq as the aggressor under the Article 41 of the Chapter VII of the Charter of the UN to compel Iraq to withdraw from Kuwait.

It is claimed that the Operation Desert Shield aimed at protecting Saudi Arabia from Iraq. George H. Bush, the president of USA, declared the liberation of Kuwait in the 27th of February, 1991, but on the other hand, he destroyed Iraq, whereas the defeated Iraqi troops returned to Iraq. Unfortunately this led to another profound crisis, political chaos, widespread banditry, looting, lawlessness, deteriorating security situation and refugee crisis. Approximately over one million people fled into surrounding countries as Turkey, Iran and Saudi Arabia. The situation demanded humanitarian assistance, particularly when the uprising spread from south towards north. However, Saddam succeeded in crushing them by force. Hence Saddam had spent large sums of money on sophisticated weapons to manage the war, especially during the period of the cold war when the US pushed him to attack Iran in 1980-1988. The perspective of the US was to contain the Islamic fundamentalist Revolution in Iran.³⁶ The US supported this goal through direct economic aid as well as indirect military aid and technologies. There was an action-reaction phenomenon leading to arms races which has generated mistrust in the security environment, but after that Saddam was optimistic and confident that

³⁶ Whittaker, p. 89.

America and its coalition could not invade Iraq. He thought that Iraq's allies like Russia, would prevent the US to attack Iraq.

As we know, on March 20, 2003 the US and its coalition invaded Iraq. Saddam was accused having nuclear weapons and connections with the 11 September 2001 terrorist attack against the World Trade Center in New York, and anyway Saddam was considered as a threat for the international peace and security. Most importantly, those were the views of President George W. Bush. This was the key issue and Saddam should be eliminated. On the other hand, for many people from different countries Saddam was just a nationalist leader, not a threat. In the end, his regime was removed and Saddam eliminated by the invasion to Iraq 2003. Later on, Saddam was executed.

2.3 Total Arm Supplies Embargo Imposed

Initially Iraq has spent large amount of money on a major high quality weapons since the Iraqi-Iranian war. As a result of the American and the Soviet assistance to Iraq, it purchased military technology and shared secret military information about Iran. Consequently, Saddam won the war against Iraq. The UN efforts brought in the cease-fire in 20 July, 1987, imposed on Iraq and Iran.³⁷

In the case of the Iraq-Kuwait crisis on 2nd of August, 1990, the day Iraq launched military action against Kuwait the UNSC passed the Resolution 660 and another Resolution 661 on August 6. It includes economic, military and financial sanctions against Iraq, as collective security non-military actions.³⁸ The economic sanctions were an unprecedented punishment in history to enforce Iraq to expel from Kuwait

³⁷ Majid Khadduri and Edmund Ghareeb, **War In The Gulf, 1990-1991: the Iraq-Kuwait Conflict And Its Implications**, (US: Oxford University Press, 1997), p. 94.

³⁸ See appendix-1-Resolutions of the SC dealing with Iraq-Kuwait war.

unconditionally. As a result, the UN created a massive humanitarian crisis in Iraq, in contradiction to the human rights law and in the Geneva conventions in 1949, which embrace the rights of food and health to all human beings without discrimination. Therefore, the essential objective and principle of the UN in the Charter should be to protect human rights as well as maintain international peace and security. When we analyze the Chapter VI of the Charter, it draws the peaceful measures (such as negotiation, mediation and arbitration) gradually step by step and if this method does not work, after that the UNSC should take provisional measures according to the Chapter VII of the Charter.

Furthermore, on 3 April, 1991, in Resolution 687, the UNSC decided to impose a general and total embargo on Iraq particularly on the economic and military field. Therefore, the UNSC demanded Iraq to disclose all nuclear, biological and chemical weapons capabilities. Essentially Iraq had to allow the inspectors a full access to verify and monitor compliance. Moreover, the UN formed an inspection committee for Iraq called the United Nations Special Commission Observation Mission the (UNSCOM). The UN also appointed a unit to monitor the situation between Iraq and Kuwait.

The Resolution 1284 on December 17, 1999 obliged Iraq to cooperate and allow the return of the international inspectors of weapons of mass destruction to Baghdad for resumption of the inspection mission, which had been suspended for a long time. In the UN perspective the possible Iraqi possession of biological, chemical and nuclear weapons worsened the security situation. Here we have to keep in mind that the UN

agreement that officially ended the Persian Gulf War late February, 1991 required Iraq to destroy or remove its entire biological, chemical, and nuclear weapons.³⁹

Thereafter, UNSC recognized there was humanitarian crisis in Iraq, as a result of economic sanctions, and it adopted Resolution 706 and 712 in 1991 and then the Resolution 986 in 1995 indicated to the program of "oil-for-food".⁴⁰ The "oil-for-food" program, allowed Iraq to export \$1.6 billion in oil every six months period in the world market in exchange for just food, medicine and other humanitarian needs for ordinary Iraqi citizens under the control of the UN sanctions committee by UN Secretary General Kofi Annan who was accomplishing one the largest and most unusual jobs ever entrusted to the Secretariat.⁴¹

In any case, regardless of the motive of imposing these sanctions, whether it aimed to starve out civilians and push them to rebel, or to put pressure on the regime and restrict its expanding emptions, or any other motives. What is important here is the question of the economic sanctions as a non-military action of collective security, which the UNSC imposed after four days of the invasion in the Resolution 661 in August, 1990.

As a consequence of Iraqi invasion of Kuwait, the UNSC Resolution 687 of April 3, 1991 provided for the international embargo on Iraq's export of oil to enforce Iraq fully to comply with the UN efforts especially regarding its weapons of mass destruction programs (WMDs). However, the SC judged Iraqi cooperation with the WMD inspection efforts as insufficient to achieve the lifting of the sanctions and to increase

³⁹ Ibid, p. 1.

⁴⁰ Kenneth Katzman, Christopher M. Blanchard, **Iraq: Oil-For-Food Program, Illicit Trade, and Investigations**, CRS Report for congress, (2006) p. 7.

⁴¹ Each Iraqi person received his or her share of the food per month but it was poor quality and insufficient as well as unhealthy. Consequently, diseases spread rapidly among the Iraqi people.

oil export revenues, the perspective of the UN was that, Iraq was unable to import sufficient quantities of food and medical supplies. Thus, the “oil-for-food” program reflects the UNSC efforts to alleviate human suffering in Iraq while pressing Iraq to comply with all relevant the UNSC resolutions. Additionally, the program represents a temporary measure and limited exception to the comprehensive international trade embargo. Practically, the "oil-for-food" program allowed Iraq to export \$1.6 billion in oil every 6 months according to the UNSC Resolution (706) on August 15, 1991 and (712) on September 19, 1991. But Iraq had rejected these resolutions because it considered them as infringement its sovereignty. Reluctantly Iraq accepted the Resolution 986 on April 14, 1995 which authorized Iraq to export a limited quota of oil.⁴² At first, the quota was fixed to \$2 billion worth every six months, and then the programme was increased to \$5.26 billion. Thus, the "oil-for-food" program allowed Iraq to sell oil on the world market in exchange for food and medicine and other humanitarian needs for ordinary Iraqi citizens without allowing Iraqi to boost its military capabilities periodically, but eventually the oil-for-food program ended after the US-led invasion Iraq in March, 2003, because of the UNSC adopted the resolution 1483 on 22 May, 2003.⁴³

Consequently, the UN admitted that the economic sanctions against Iraq were the longest, most comprehensive and controversial in the history. Notwithstanding the declaration of the economic sanctions were embraced the boycott of commercial,

⁴² Leon M. Jeffries and others, **Iraq: Issues, Historical Background, Bibliography**, (USA: Nova, 2003), p. 70-82.

⁴³ “Chapter VII UNSC Resolutions 1483”, <http://www.dinarspeculator.com/showthread.php?5039-Chapter-vii-uns-c-resolution-1483> [26.12.2010].

financial and overall military. Most of the members in the UN had committed in the resolution 661, except Cuba and Yemen, which abstained from the voting.

For instance the embargo on oil export extremely reduced the revenues available to Saddam regime, prevented the building of weapons of mass destruction, and finally blocked the import of vital materials and technologies. This was exactly what President George H. Bush in 1991 and later President Bill Clinton wanted. For Bush it was also a part of his balance of power politics in the Gulf region.

2.4 UN Operations in Iraq and the Use of Diplomatic Means

The measures envisaged in article 2 (3) of the UN Charter state that all members must settle their international disputes by peaceful means. Most importantly, there is the obligation of maintaining peace and security. It's also considered as one of the main principles of international law. The aim is to prohibit the use of force.

The roots of the invasion of Kuwait were in the clash of the economic interests, when Kuwait increased its oil production against Iraq. This action also breached the OPEC agreement. As a result, Iraq immediately informed the Arab League. Furthermore, Iraq accused Kuwait of stealing oil from its Rumaila oil field at the Iraqi-Kuwaiti border.

The problem emerged after the catastrophic Iraq-Iran war (1980-1988) which led to an economic crisis. Thereafter, Iraq and Kuwait entered negotiations such as Summits in Baghdad and Doha. Iraq had heavy debts,⁴⁴ and reckoned to pay that debt with oil revenues, but the Arabian mediation efforts were insufficient. For instance the king of Saudi Arabia invited Iraqi and Kuwait leaders to meet in Jeddah and to discuss how to resolve this boundary problem.

⁴⁴ Khadduri, p. 85-86.

For Majid Khadduri, Professor of Middle Eastern Studies, the boundary conflict was the reason for the invasion of Kuwait.⁴⁵ In the end, the Arab League could not resolve it, and, therefore, all doors were closed to solve the problem through peaceful means.

Saddam's decision to invade Kuwait was the biggest mistake that gave the excuse to the USA and its coalition to interfere under liberation of Kuwait in 1991 and later to invade Iraq in 2003. President George H. Bush did not leave any door open to solve the Gulf crisis through peaceful means. Henry Kissinger, in his article "A postwar Agenda" published in Time's issue dated January 28, 1991 strongly pleaded for the strengthening of the moderate Arab leaders who in his view would not only prove to be helpful to the US, but would also ensure Israel to have a breathing space. Judging all these points, one feels inclined to say that the US' claim of liberating Kuwait stands exposed. On the contrary, it has come out clearly from their policies that their long planned aim was to topple Saddam Hussein's regime.⁴⁶

Thereafter, Iraqi people suffered very much. The continued economic sanctions and the military solution led to a major humanitarian crisis, health problems, unemployment and poverty. Furthermore, many Iraqi citizens became refugees and migrants all around the world, despite the actions of the UN.

2.5 Unified Task Forces Deployed

When the Soviet Union collapsed, there was a shift to a new international system. President George H. Bush called it the "New World Order". For Francis Fukuyama the victory of liberalism/ capitalism meant the "end of history", because there was only one

⁴⁵ Ibid.

⁴⁶ M.A. Hussein Mullick, "Gulf War or Emergence of US Oil Imperialism", Economic Review, 1991. http://findarticles.com/p/articles/mi_hb092/is_n2_v22/ai_n28600323/ [01.02.2011].

political-economic system left.⁴⁷ The change in the world order system has always implications in its parts - the single states and their relations. From this respect, the major change in the end of the cold war was the transformation of many states from communist to liberal capitalist system with "free market" mechanisms and "free trade". From the systemic perspective it was also important that the world moved to a unipolar system and the US became the only remaining superpower. The same time the US adapted the role of some kind of a world police.

From the outset, the crisis between Iraq and Kuwait was a domestic crisis. Saddam had placed Iraq under huge economic pressure and debts. It would have been hard to overcome those problems, but the same time he believed, he could achieve hegemony in the Middle East. Saddam also may had mistakenly believed that the US and UK would not intervene to resolve the conflict on August 2, 1990. Iraq's invasion to Kuwait had its effects on Arab and western countries. The US and UK particularly thought that they had to protect their interests in the Gulf region. They had to find a way to coerce the Iraqi army to withdraw from Kuwait. However, the question is if the military means were the right way to solve the problem? In fact President George H. W. Bush cooperated with the Soviet Union in the SC and formulated the forms of the new world order, which basically followed Woodrow Wilson's idea of collective security. British Prime Minister Margaret Thatcher declared that: "Iraq's invasion of Kuwait defies every principle for which the United Nations stands. If we let it succeed, no small

⁴⁷ Francis Fukuyama, "The end of the History?", Wes Jones, 2003, <http://www.wesjones.com/eoh.htm> [20.01.2011].

country can ever feel safe again. The law of the jungle would take over from the rule of law.”⁴⁸

President George H. W. Bush also launched a military assistance operation to help Saudi Arabia. That meant the beginning of the coalition building around the American troops. Then he began to send them to Saudi Arabia on August 8, 1990 under the name of the operation Desert Shield. He also claimed that the US and its allies were only interested in protecting their oil supplies rather than in helping the people of the Middle East.⁴⁹

Thus, President George H.W. Bush’s approach was to deploy the US forces to establish initial security. Here he was on a different line with an American scholar Robert Pape who strongly suggested non-military means and diplomatic overtures and economic sanctions as the right way out. Only if those means failed, the military intervention could be used to resolve the conflict. One part of this logic was to avoid the costly battles.⁵⁰ After another round of a complex negotiation process in the UNSC, economic sanctions were imposed on Iraq. As a middle position there was the Helsinki summit between President George H.W. Bush and the Soviet President Mikhail Gorbachev. Basically the two leaders agreed on a plan to deal with Iraq through political means.⁵¹

Saddam in response offered a peace plan on August 12, 1990 in which demanded some conditions:

⁴⁸ Richard W. Mansbach, Kirsten I. Rafferty, **Introduction to Global politics**, 1st ED, (UK, Routledge, 2008), p. 237.

⁴⁹ Collier Hillstrom and Carnage, p. 29.

⁵⁰ James S. Kockler, “**Coercive Airpower Theory In Operation Desert Storm**”, (Alabama: Research Report, Maxwell Air Force Base, 2005), p. 4.

⁵¹ Whittaker, p. 92.

1- American military forces in Saudi Arabia should be replaced with Arab League forces.

2- Lifting of the economic sanctions.

3- Israeli withdrawal from the Palestinian territories and Syria from Lebanon, to balance the Iraqi withdrawal from Kuwait.⁵²

The reaction of UN Secretary-General Perez de Cuellar was that those demands were very difficult to meet. At the same time, Saddam's proposal was never considered seriously by the permanent members of the Security Council. Especially, the western members were already busy with the coalition building for the military operation. "American view of parleying with a power that had moved from occupation to annexation was completely averse to withdrawal and did nothing to prevent its soldiers from committing atrocities"⁵³ However, the US was totally unwilling to discuss and negotiate about the occupation and annexation of Kuwait. America wanted Iraq to immediately withdraw unconditionally from Kuwait according to the UN resolutions 660 on August 2, 1990 and 661 on August 6, 1990, even though there were efforts to peaceful initiatives such as negotiation, mediation and arbitration.

The USSR supported a firm stand of the UN, whereas China generally abstained in the SC and France had reservations. Some members of the Arab League supported the coalition undertaking (as Egypt, Saudi Arabia, Syria and Morocco), whereas the others supported Iraq (as Jordan, Sudan, Algeria, Mauritania, Yemen and PLO).

Sanctions and blockade were the measures of the peaceful UN resolutions. Iraq lost the oil income of \$62 million each day, which caused hardship to the Iraqi people.

⁵² Ibid.

⁵³ Ibid.

Moreover, the UNSC adopted resolutions 669 and 670 imposed a blockade on air space in Iraq and Kuwait.⁵⁴

The UNSC passed a series of resolutions, but there are many critical views especially in the light of the Article and provisions 39, 40 and 42. One of those critical voices was Professor Marcel Merle, the scholar of International Relations at the University of the Sorbonne.⁵⁵ Merle said:" The rules established by Chapter VII in a good state of rationality, are in solidarity with one another and they should not be interpreted as optional". He means that there was no respect for the gradient or gradual rules according to the Charter of the UN. Initially after four days of Iraq's invasion Kuwait, the UNSC imposed the resolution 661 with comprehensive economic sanctions on August 6, 1990 as coercive measures according to the Chapter VII. Regardless of that, initially the specific measures in the Chapter VI should be followed. On November 29, 1990 the UNSC adopted resolution 678 under Chapter VII which authorized the US and its coalition to implement the Resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area. The resolution mentions the time frame to liberate Kuwait: Iraq had to withdraw from Kuwait unconditionally by January 15, 1991. As a result the US and UK and its coalition forces from 34 nations,⁵⁶ achieved an overwhelming success, and liberated Kuwait on February 27, 1991.

⁵⁴ Ibid.

⁵⁵ Marcel Merle, "**La crise du Golfe et le nouvel ordre international**", trs. Rajha Shehab, *Politique étrangère*, c.57, s.1 (1992), p. 173-174.

⁵⁶ Argentina, Australia, Bahrain, Bangladesh, Belgium, Canada, Denmark, Egypt, France, Greece, Italy, Kuwait, Morocco, Netherlands, New Zealand, Niger, Norway, Oman, Pakistan, Portugal, Qatar, South Korea, Saudi Arabia, Senegal, Sierra Leone, Singapore, Spain, Syria, the United Arab Emirates, the United Kingdom and the United States itself.

The purpose of the US troop deployment was under the title of defensive measures, but the main aim was protecting their interests and gaining more strategic position over the oil of the Gulf region.

In the aftermath of the 1991 war, the arms race was encouraged by the security dilemma. Iraq was prevented to purchase weapons by the UN resolution together with economic sanctions and inspections. Yet, Iraq retained substantial conventional forces, and the will to use them. Few doubted that Iraq will, or have the capacity to produce weapons of mass destruction. There were more doubts surrounding the actual actions taken by Saddam.

After the Iraq-Kuwait crisis and with the collapse of Soviet Union, the US neo-liberal plan for hegemony started to become declared with the new world order project and under the key words of the “globalization” and "free market economy" and "human rights".

We will highlight here the UN collective security measures in the case study of Iraq-Kuwait conflict in 1990-2003. In the first case of collective security is the application of the liberal concept of the international security as far as questions of international security are concerned.⁵⁷ It is an agreement according to which the aggressive party has often difficulties to act. This is one of the problems today with the UN especially when one of the great powers is involved. An example of this would be when the US invaded Iraq on March 20, 2003. What could have been done by the UN? Or is the invasion permissible just to the superpower under the pretext of collective security? Therefore the operation of collective security depends on the central decision-making organ of the

⁵⁷ Goldstein, p. 123.

UN which is the SC. For example, the SC determined the aggressor instantly when Iraq invaded Kuwait. In the appendix of the Thesis there are the 12 resolutions until liberation of Kuwait (660-678), as well as most resolutions that the UNSC adopted until the invasion of Iraq. The UN behavior was really setting the state for military action regardless the rules of the UN Charter in the Chapter VII. Initially the UN four days after the Iraq's invasion of Kuwait imposed comprehensive economic sanctions without following the peaceful measures of Chapter VI. Thus, it resorted to non-military collective security. Actually, this step should have been taken later according to the Chapter VII when the UN wants to resolve the crisis. Additionally, the UNSC was also acting to the contrary of Geneva conventions of 1949 and their protocols 69 and 70 in 1977, particularly the articles 18 and 54 of the protocols, which prohibit the starvation of civilians as a means to pressure the ruling authority.⁵⁸ Nonetheless, the UNSC was taking these measures against Iraq in the resolution 661 on August 6, 1990 as the first step. This was a violation of the human rights and we can even claim that it caused a humanitarian crisis and genocide in Iraq. Obviously the UN Charter applies a system of collective security in the Chapters VI, VII, and VIII. The resolutions following the enforcement measures under Chapter VII (articles 39-51) envisage a series of steps of force to maintain international peace and security.

Under Article 39 the UNSC is authorized to determine if there is a threat of a breach of international peace and security, or more seriously if an act of aggression has occurred

⁵⁸ International Humanitarian Law, "Convention (IV) relative to the Protection of Civilian Persons in Time of War",

<http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c>

on any state. Consequently, the implication is that an action deemed as an aggression is more serious than one deemed as a threat or a breach under Article 40, in which the UNSC role is to make it easier for a process of negotiations to end conflict. Article 41 authorizes the UNSC to execute economic sanctions and other non-forceful measures it views necessary to end the dispute.

Article 42 states that the UNSC may use military force to end the conflict if necessary. Thus, the UNSC resolution on 678 that authorized armed intervention did not implement Article 42 on August 2, 1990. When Iraqi forces had invaded Kuwait, the SC adopted resolution 660 which determined that a breach to international peace and security had occurred. Therefore, the UNSC has implemented the provision of Chapter VII according to Article 39 and 40: it may use negotiations to resolve the conflict. Moreover, the Resolution 661 which imposed economic sanctions according to Article 41 which were modified in subsequent Resolutions 665 and 670 which provided trade embargo at sea and in the air. Obviously Iraq wanted to make the UN to pay on its demands by the annexation of Kuwait. Furthermore, the Resolution 662 declared Iraq's annexation of Kuwait null and void. The same time President George H.W. Bush was sending American troops and a number of coalition troops to Saudi Arabia to prepare for Desert Shield operation on August 8, 1990.⁵⁹

There were diplomatic efforts in finding a negotiated solution to this hot conflict. Iraqi government also proposed a peace plan but it was not taken into consideration by the US and the UN.⁶⁰ The UNSC adopted the Resolution 678 on November 29, 1990 but Cuba and Yemen voted against it while China abstained. Therefore the UNSC decided

⁵⁹ Collier Hillstrom and Carnagie, p. 28-29.

⁶⁰ Whittaker, p. 90.

to give Iraq one final chance until January 15, 1991 to comply with all the SC Resolutions. If Iraq failed to comply by the January 15, 1991, the SC authorized the UN member states to use all necessary means to implement Resolution 660 and all subsequent resolutions by force.⁶¹

From the neo-realistic perspective all the states are seeking for security and it is very important in the international anarchical system. Also the states are competing for security. Scholars working from different theoretical perspectives have tried to explain the functioning of the collective security in the case of Iraq-Kuwait crisis as central factor. As a consequence, the UNSC did not consider the rules that are set up in the Charter of the UN in the chapter VI, Article 33 paragraph 1.

2.6 UN Operation in Iraq and Use of Force

The Arab peace initiatives and the efforts of the international community could not resolve the Iraq-Kuwait crisis about boundary disputes and oil prices. However, Kuwait and the Arab League did not respond to demands of Iraq. Consequently, Saddam ordered Iraqi Army to invade Kuwait. Thus, Iraq invaded Kuwait on the second of August 1990. It was an unprecedented invasion and there were massive reactions and reflections immediately on the same day. Therefore, the UNSC unanimously adopted Resolution 660 to condemn Iraq's invasion of Kuwait as an aggression, and the UNSC demanded Iraq to withdraw unconditionally and immediately from Kuwait. After four days, on August 6, 1990 the UNSC adopted Resolution 661 imposing economic and military sanctions on Iraq.

⁶¹ Collier Hillstrom and Carnagie, p .37.

Saddam announced the annexation of Kuwait as the nineteenth province on August 8, 1990. Consequently, the UNSC adopted Resolution 662 on 10th August, condemning Iraq's annexation of Kuwait as "null and void".

On the 9th of September 1990, at the Helsinki summit President Georg H. Bush and President Mikhail Gorbachev reached an agreement to support the UN sanctions against Saddam Hussein. Although there were political means under the UN management and the General Assembly to solve the problem in peaceful means, "the logic of war" was stronger than "the logic of peace", regardless of the French efforts that advocated a peace settlement. However, the US and the UK did not consider the peace with Iraq, and as a result President George H. Bush proposed to establish preliminary security. Consequently, on November 29, 1990, the UNSC adopted Resolution 678 under chapter VII (with the USSR in agreement, Cuba and the Yemen dissenting and China abstaining).⁶² It authorized the US and its alliance to use force and "all necessary means". Essentially the following actions were considered for collective security as a military operation against Iraq to liberate Kuwait, if Iraq failed to comply with the resolutions of the UNSC, which included the following:

1-Iraq should comply with the Resolution 660 of the UNSC on August 2, 1990.

2-The resolution put a deadline on January 15, 1991.

Iraq did not comply. Thus, the president of the US deployed military troops to prepare the war against Iraq in his campaign that was launched since November 8, 1990. He deployed two hundred thousand American troops. However, Iraqi foreign minister Tariq Aziz and US Secretary of State, James Baker, met in Geneva on January 9, 1991 to

⁶² Whittaker, p. 93.

reach a peaceful settlement of the Gulf crisis. When these efforts failed, the US Congress on January 12, 1991 authorized President Bush to use force to liberate Kuwait. Consequently, the Desert Storm operation was launched against Iraq with an air operation by the US and its coalition. Then also the ground war was brutally launched and also the air raids continued. Many of houses were bombed and people killed.

The Gulf War as a collective security operation was a disaster and unprecedented as such in the history as it was compared in several occasions with Hiroshima. But still many analysts consider that the collective security operation achieved a comprehensive success.

It was a post-cold war phenomenon and it directly correlated with the rise of the American empire as a unipolar superpower. The Soviet Union collapsed later in 1991 and the new world order began with the US hegemony. When many nations joined the military coalition, they brought in valuable contributions. The goal of the coalition in the collective security operation was to carry out unity efforts with same commitment against Iraq. Consequently, Iraq was destroyed economically and the defeated Iraqi army had to withdraw from Kuwait. Unfortunately, the Shiite Muslims in the southern Iraq and Kurds in northern Iraq (encouraged by the US) revolted against Saddam's rule, and sadly Saddam violently crushed them.

At the end, the UNSC adopted the resolution 687 on April 1991 to embrace a formal cease-fire, to extend sanctions and to establish the UN special Inspection Commission on WMDs. Then the UNSC adopted several resolutions against Iraq as the regime did not comply with the UN resolutions. However, the Iraqi crisis didn't end with the Iraqi

withdrawal from Kuwait, but its consequences kept affecting the life of Iraqi people, and Iraq stayed at the top agenda of the US presidents throughout the following years.

2.7 President George H. Bush Administration and Iraq-Kuwait Conflict

President George H. Bush succeeded Reagan in 1988. He had impressive experience in foreign and military policies and some scholars even called him “Post Imperial”.⁶³ He was the president of the US in the period 1989-1993. After the collapse of the Soviet Union, he declared The New World Order, with the victory of Liberalism over communism and with the rise of the American Empire. Actually the new world should have been imposing peace, security, freedom and the rule of law.⁶⁴ Fundamental changes in the world took place as a reflection of how the president George H. Bush acted toward the rest of the world. The adopted US foreign policy was to deter and contain and prevent war.

As mentioned above, when Iraq invaded Kuwait on the 2nd of August, 1990, President George H. Bush condemned the invasion and called for international unity to oppose Iraq, demanding Iraq’s unconditionally and immediate withdrawal from Kuwait. He also imposed an embargo on Iraq. Moreover, President George H. Bush led a coalition of thirty four nations that sent troops, aircraft and ships to liberate Kuwait.

The UNSC Res. 678 adopted on November 29, 1990, set a deadline of the January 15, 1991 for Iraqi forces to withdraw from Kuwait. Not to forget that the SC’s resolution

⁶³ John B. Judis, **The Folly of Empire What George W. Bush Could Learn from Theodore Roosevelt and Woodrow Wilson**. 1st ED, (New York: Oxford University Press, 2004), p. 150.

⁶⁴ Tareq Y. Ismael, Jacqueline S. Ismael, **The Gulf War and the New World Order: International Relations of the Middle East**, (Florida: New York University Press, 1994), p. 1.

authorized the US and its coalition to take all necessary actions to liberate Kuwait. Additionally, the US president promised to Kuwait to intervene, and the US Congress on January 15, 1991 gave President George H. Bush the authority to use force against Iraq to liberate Kuwait.

Despite the comprehensive demonstrations that took place around the world condemning the war, thirty four countries joined the coalition with the United States. The New World Order, for the first time since the days of Woodrow Wilson, witnessed an unprecedented and unanimous collective security implementation.⁶⁵

President George H. Bush started sending the first military forces which were composed of army, navy, air forces and marines to Saudi Arabia on August 8, 1990 to protect Kuwait under Desert Shield operation. Furthermore, he planned to send 200, 000 American soldiers for the same purpose, but the total number of American troops sent was 230, 000. Additionally, other nations in the coalition against Iraq, (Bahrain, Kuwait, Saudi Arabia, Oman, Qatar, and the United Arab Emirates) contributed with 145, 000 troops, 330 aircrafts, and 36 war ships. Great Britain also sent 25, 000 troops, 54 aircrafts, and 17 war ships to assist the coalition. Egypt also sent 40, 000 troops, while Syria added 15, 000 more.

Denmark, Greece, Norway, Portugal, and Spain contributed with warships. Russia and several other countries provided two warships each. Nevertheless Japan didn't sent any military forces, but its government provided financial assistance to the coalition.⁶⁶

⁶⁵ Stanley Meisler, **United Nations: The First Fifty Years**, 1st Ed, (New York, Atlantic Monthly Press, 1995), p. 257.

⁶⁶ Collier Hillstrom and Carnagie, p. 40.

From George H. Bush's perspective, the Persian Gulf was extremely important because it contains about quarter of the world's oil reserves. Consequently, if Iraq controlled Kuwait it could give Iraq a comprehensive power over the world's economy.⁶⁷ On February 27th, 1991, Bush declared Kuwait's liberty.

There are a lot of critical remarks about the coalition's withdrawal after the liberation Kuwait. Bush stated: "I firmly believed that we should not march to Baghdad. Our stated mission, as codified in the UN resolutions, was a simple one, end the aggression, knock Iraq's forces out of Kuwait, and restore Kuwait's leaders. To occupy Iraq would instantly shatter our coalition, turning the whole Arab world against us, and mark a broken tyrant into a latter day Arab hero. It would have taken us way beyond the imprimatur law bestowed by the resolutions of the Security Council. . . . It could plunge that part of the world in to even greater instability and destroy the credibility we were working so hard to reestablish."⁶⁸ This was an admission from the administration; they had planned to invade Iraq since to liberate Kuwait. Also the neoconservatives had worked together in president George H. Bush's administration to launch a military intervention against Iraq.⁶⁹

After the invasion of 1991 Iraq signed a cease-fire agreement that required Iraq to eliminate its weapons of mass destruction, anti-aircraft missiles and allowed inspectors of the UN Special Commission to monitor the process and to prohibit no-fly-zones in the south and north of Iraq.⁷⁰

⁶⁷ Judis, p. 153.

⁶⁸ George Bush, Brent Scowcroft, **A world transformed**, (USA: Rand House, 1998), p. 489.

⁶⁹ Paul R. Viotti , Mark V. Kauppi, **International Relations and World Politics**, 4th ED, (London: Pearson Prentice Hall, 2009), p. 84.

⁷⁰ Collier Hillstrom and Carnagie, p. 89.

2.8 President Clinton's Administration and Iraq-Kuwait Conflict

President Clinton won the elections in November 1992 and was announced the President of the USA in January 1993. He was representing "The New Democracy" (1993-2001). Surely he believed in democracy and in economy as the center of foreign policies. He also went back to the 19th century British Liberalism of free trade and market theory. Indeed, he was committed to the global democracy and promoted democratic structures and free market nations. However, he faced severe international conflicts. One of these conflicts was the Iraqi-Kuwait crisis after the liberation of Kuwait by the US and its coalition.

As we have seen, Iraq invaded Kuwait, and the UNSC imposed trade, economic and military sanctions. Although Kuwait was liberated the sanctions on Iraq continued. France and Russia and some Arabic countries paid efforts to lift the sanctions but Clinton's administration insisted to continue them, and this caused controversy in the United States as well. In February 2000, 70 members of the US House of Representatives signed a letter asking President Clinton to lift the economic sanctions against Iraq, but 125 other representatives signed a letter expressing their support for continued sanctions. The Democratic Representative Nita Lowey, who signed the second letter, told the media: "I am horrified by the images of Iraqis who do not have enough food and shelter, but this is a product of tyrannical leadership, not UN sanctions. Lifting sanctions will only bolster Saddam Hussein's coffers [treasury] and enable him to buy weapons of mass destruction. It will not help the Iraqi people."⁷¹

⁷¹ Ibid, p. 98.

President Clinton's perspective was to contain the power of Saddam, and prevent Iraq from posing a threat to international peace and security. Clinton tried to justify his actions by claiming that he had evidence that showed Saddam using the humanitarian aid to become rich himself and build up his military. In reality there was a humanitarian crisis and need in Iraq, because of the economic sanctions.⁷² However, the sanctions kept provoking a lot of criticism. For instance, the Secretary of State Madeleine Albright was asked by the interviewer Lesley Stahl about the 500,000 Iraqi children who died as a result of the UN's sanctions against Iraq: "Do you think the price is worth paying?" and she replied "We Think the price is Worth It". In February 1998, when Albright discussed the Clinton administration's Iraq policy at Ohio State University, she was heckled by angry US citizens. This event was broadcasted live around the world and embarrassed Clinton's administration.⁷³

The Operation Desert Fox was a new military intervention against Iraq that Clinton's administration got involved in. The main reason behind launching this new operation was the UN inspectors' complaints about Iraq's lack of cooperation with the commission. At that point, the American and British military forces launched on December the 16th, 1998, a massive bombing attack to destroy what they suspected to be weapons of mass destruction.⁷⁴ However, the intervention was outside of the UN resolution mandate, and it constituted repeated cease-fire violations and almost a full-scale war which happened following the UN sponsored agreement. As a result of this military action, Russia withdrew its ambassador from the United States as a protest, and

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid, p. 101.

the Arab League condemned the massive bombing as illegal. Clinton's administration met severe criticism from many countries, as the US illegally attacked Iraq with harsh air raids which led to massive Iraqi civilian casualties.⁷⁵

2.9 President George W. Bush's Administration and Iraq-Kuwait Conflict

George W. Bush became the president of the US in January, 2001. He was fully aware of the Iraq-Kuwait conflict because his father was the former president of the US who liberated Kuwait on February 27, 1991. Bush's administration emphasized war on terror but turned its attention towards Iraq, and ultimately overthrew its government by the invasion in 2003.⁷⁶

President George W. Bush's aim was a regime change in Iraq, and he also requested Iraq to destroy its suspected biological, chemical and nuclear weapons.

The Security Council passed the Resolution 1441 in November 2002 under the Chapter VII of the Charter of the UN (see in the appendix the resolutions of the UNSC), which was the most serious international resolution. After the Iraqi-Kuwait crisis, the resolution authorized the Commission to monitor, verify and inspect the suspected weapons with broad powers which authorized them to inspect any place at any time inside the Iraqi borders, including presidential palaces. The Commission and the International Atomic Energy Agency (IAEA) were given the right to question any Iraqi inside or outside Iraq without the presence of a representative of the Iraqi government, in regard of Iraqi weapons program. Also it gave these bodies the right to confirm or

⁷⁵ Ibid, p. 102.

⁷⁶ Richard Clarke, "**Bush Administration's First memo on al-Qaeda Declassified**", <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB147/index.htm> [27.09.2010].

deny the possession of weapons of mass destruction in Iraq. Here the question is if the UN was for or against the possible war?

Obviously, the UN's Security Council Resolution 1441 was unprecedented in the history of the United Nations by its practice, because the UN imposed its trusteeship on Iraq implicitly. Also the UN handed the Inspection Commission absolute powers which exceeded the Iraqi sovereignty. Moreover, it let the Inspection Commission to intervene in the affairs of Iraqi people without any Iraqi permission. It also could question scientists and bring them out of the country with their families without Iraqi government interference. Nevertheless, the UN was certainly aware that the 1648 Peace Treaty of Westphalia established the concept of the sovereignty. Basically in the international law state is deemed to possess sovereignty over its subjects and its affairs and within its territorial limits. According to Goldstein's view, sovereignty means that a state has the right, at least in principle, to do whatever it wants inside its own territory. Sovereignty also means that states are not supposed to interfere in the internal affairs of other states.⁷⁷

Nevertheless, Iraq complied with the UN resolution 1441 and the arms inspectors stated: "Iraqi officials have granted completely open access to every site, and are permitting the questioning of Iraqi scientist."⁷⁸ However, Bush continued to argue that Iraq posed a significant threat to the world's security. He claimed that Saddam Hussein

⁷⁷ Goldstein, p. 74.

⁷⁸ Alton Miller, "**101 Reasons not to go war with Iraq**", <http://work.colum.edu/~amiller/pp012103.htm> [25.02.2011].

still possessed weapons of mass destruction and could supply such weapons to terrorists.⁷⁹

Bush's plan to attack Iraq split Europe down in the middle. Consequently, this plan triggered a clear division of Europe, to members and non-members of the coalition of the willing.

In his address to the graduating class of West Point in 2002, Bush declared: "America has, and intends to keep military strengths beyond challenge".⁸⁰ The United States was capable to turn down threats to its vital interests and to defeat any adversary if the deterrence failed.⁸¹

As a result of Iraqi invasion to Kuwait on August 2, 1990 the UNSC imposed 54 resolutions against Iraq which included both military and non-military means of a collective security. The economic sanctions shaped the non-military means as a collective security rule under the Chapter VII. The economic sanctions were the harshest and longest economic sanctions in the history of the UN. As a result there was a humanitarian crisis and even genocide in Iraq.

The UNSC concluded several resolutions in order to solve Iraq-Kuwait crisis. Nevertheless, the problem was that the Iraqi people were subject to severe punishment by international community in order to get rid of Saddam's regime.

⁷⁹ Khadduri, p. 104.

⁸⁰ United States Military Academy, "**President Bush Delivers Graduation Speech at West Point**".
<http://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020601-3.html>. [1.06.2010].

⁸¹ Frank H. Columbus, **The National Security of the United States of America**, (USA: Novinka Books, 2003). p. 21.

The radical changes in the international system after the collapse of the Soviet Union led to emerging of a New Unipolar World Order and the dominance of the US which made its influence on the UN and international political system.

The US and its allies liberated Kuwait on February 27, 1991, by the Operation Desert Storm, but the UN couldn't lift the sanctions on Iraq, regardless of its effects that brought in a humanitarian crisis and human rights violations.

In 1990 the UNSC adopted 12 resolutions against Iraq. But, throughout the crisis (1990-2003) the aggregate of the resolutions was approximately 54. Nevertheless, the resolution 1441 made a distinction to the rest of these resolutions because of it limited Iraq's sovereignty. The US harnessed the Security Council to carry out its goal by collective security operations. In fact, this was not actually for the implementation of collective security, but it aimed to protect the US interest in the Persian Gulf.

The roots of the crisis between Iraq and Kuwait can be found in the economic reasons, besides the boundary problem. Parallely, the competition on oil control in the Persian Gulf was the cause of the conflict between Saddam and the US. This war can be clearly seen as asymmetrical war and since the US was much stronger in military capabilities and technology, they won the war, but not necessarily the peace.

2.10 Legal and Mandate Implications of UN Collective Security in Iraq

The military operations against Iraq, such as the operation 'Desert Storm', represented a good test for the United Nations in the new world order. It aimed to force Iraqi army to withdraw from Kuwait and to pressure Iraq to comply with various UNSC resolutions and to deliver humanitarian assistance to the Iraqi people during the sanction years. The Iraq-Kuwait case reflects different situations and involves a variety of tasks and challenges for the UN collective security operation forces. Indeed, Iraq provided a model for the UN involvement in civil wars and also in the cases of failed states.⁸²

The United Nations collective security operation against Iraq takes the framework of humanitarian law. The concept of humanitarian law is not new in the International Law. As the International Law has evolved and developed, a new understanding between sovereignty and humanitarian interventions has been evolving. There have been several cases where states and organizations have intervened in other state's affairs for various reasons. These interventions can be multilateral or unilateral. The reasons for the intervention might be political, religious, cultural or purely humanitarian in form and essence. States may decide to intervene in humanitarian fashion whenever they do see that necessity. This was the case of the UN and United States intervention in Iraq. However, since 1945 the UN has been responsible for preserving peace and security among the sovereign states in the world.

⁸² Peter W. Galbraith, **The end of Iraq. How American Incompetence Created a War Without End**, (New York: Simon and Schuster, 2006), p. 82.

The main objective of this chapter is to analyze the legal and mandate implications to modern collective security using the case of Iraq-Kuwait crisis. In doing this, this chapter will discuss the case of Iraq and study the rules of the international law. The UN intervention against Iraq aimed to restore the rule of law in the country. This was however unsuccessful. Yet the failure or success had legal implications to modern collective security.

The starting point of this section will be to present the legal implications resulting from state failure as was evident in the Iraq case. The next step will be to present Iraq's consequential loss of representative power. Also we will present here the human right law and the humanitarian laws as the legal framework for the UN collective security operations against Iraq and their implications on the modern collective security.

2.11 Legal Implications of Iraq State

The UN collective security in operation Desert Storm on Iraq started with some sort of reconstruction and humanitarian intervention. During the UN collective security operation against Iraq in January, 1991, Iraq remained as a strong state, despite of the Shiite uprising in the southern Iraq, as a result of the political and security vacuum that followed the defeat of the Iraqi army. But when the US and its coalition invaded Iraq 2003, it led to the state collapse. Nevertheless, Bush administration justified the US engagement in the war on Iraq in human right terms.

On August 6, 1990 the UNSC adopted the resolution 661, which meant comprehensive economy sanctions that caused a massive humanitarian crisis, and as a result of these sanctions an estimated one million innocent people became victims. Moreover, about

500,000 Iraqi children died. Also, these comprehensive economic sanctions were combined with continual bombing raids, like the one in 1991.

In fact the Assistant of the Secretary-General of the United Nations, Denis Halliday, who resigned in 1998, was angry about these coercive measures. He stated that “the policy of economic sanctions is totally bankrupt. We are in the process of destroying an entire society. It is as simple as that.” Halliday continued: “The policy “satisfies the definition of genocide... We all know that the regime, Saddam Hussein, is not paying the price for economic sanctions. On the contrary, he has been strengthened by them.”⁸³

And the UN Secretary General Boutros Boutros-Ghali described the sanctions as a “blunt instrument” which is a heavy and serious instrument used to hit someone or to make someone weaker as it was done to Iraq.⁸⁴

Despite the Iraqi withdrawal from Kuwait, initially, the sanctions remained under the pretext of making sure Iraq is free of weapons of mass destruction. Subsequently, the UN aimed to enforce Iraq to implement the UN resolutions. But the economic sanctions were a measure shortcoming of the war that destroyed the Iraq’s economy, infrastructure and people.

In 1991, a few months after the end of the war, the U.N. Secretary General's envoy reported that Iraq was facing a crisis in the areas of food, water, sanitation, and health, as well as elsewhere in its entire infrastructure, and predicted an "imminent catastrophe,

⁸³ Collier Hillstrom and Carnegie, p. 97.

⁸⁴ Joy Gordon, **Invisible war: the United States and the Iraq sanctions**, (USA: Harvard University Press, 2010), p. 86-87.

which could include epidemics and famine, if massive life-supporting needs are not rapidly met."⁸⁵

The UN Secretariat offered the 'oil for food program' under the supervision of the UN according to the resolution of the UNSC 986 on April 14, 1995 that allowed the Iraqi government to sell "oil for food" an amount of \$ 1 billion dollar every 90 days by the agreement which was signed between the UN and Iraqi government in order to mitigate the genocidal tool of the economic sanctions. Moreover, humanitarian agencies such as the UNICEF and the World Health Organization started to work in Iraq, to improve the situation for Iraqi people.

On the other hand, an armed domestic conflict emerged and various insurgent groups opposed the government in the south and north of Iraq simultaneously. As a consequence the government crushed the whole opposition and rebels. Many Shiite and Kurdish refugees fled to Syria, Iran and Turkey. Consequently, the UNSC adopted the resolution 688 in 1991 to condemn the widespread Iraqi repression of its Kurds and Shiites, and based on that, the US, UK and France proclaimed 'no-fly zones' in the north and south of Iraq. There was no authorization by the UN; but it was argued by UK that the no-fly zones were justified under international law in response to a situation of overwhelming humanitarian necessity.⁸⁶

2.12 The Gradual Loss of Representative Power

States are the principal subjects of international law. The Montevideo Convention of 1933 lays the traditional and most widely accepted criteria of statehood in

⁸⁵ Joy Gordon, "**Cool War: Economic Sanctions as a Weapon of Mass Destructions**", <http://harpers.org/archive/2002/11/0079384> [November. 2010].

⁸⁶ Show, p. 1046.

international law. It states: “The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.”⁸⁷

Today, many scholars argue that the modern states are currently experiencing an erosion of sovereignty and they offer several reasons for the decline of the state. The most basic cause of the erosion of state sovereignty is the increasing interconnectedness of states. The process of globalization is responsible for the emerging interdependence.⁸⁸

James Mittelman argues that what we face with the power of globalize production and international finance, state leaders are constrained to concentrate on enhancing national conditions for competing forms of capitalism. Thus, statecraft, tested by globalizing forces, is reduced in efficacy. The result, says James Mittelman, is that the state is at risk because of the challenges to its sovereignty in the aftermath of the Cold War. In the opinion of James Mittelman, while globalization limits state power, there is a reassertion of historical forces. Just as globalization gives impetus to cultural homogenization, so too does a global thrust undermine state power and produces a range of cultural pluralism.⁸⁹

After the UN collective security operation was launched against Iraq to liberate Kuwait from the invasion by Iraqi forces on August 2, 1990, the UN gradually recognized the use of force as an enforcement action. The UNSC extended the significant economic sanctions in the resolution 687 on April 3, 1991. Initially, the UNSC had imposed on

⁸⁷ J.G. Starke, I.A. Shearer, **Starke’s International Law**, 11th ED, (London: Butterworths, 1994), p. 85.

⁸⁸ Ava Helen, **The Erosion of State Sovereignty**, (Associated Content, 2007), p. 1.

⁸⁹ James Mittelman, **Globalization: Critical Reflections**, (London: Lynne Rienner Publishers, 1997), p.7.

Iraq economic sanctions according to resolutions 661 on 1990 to damage the Iraqi military capacity and isolate the Iraqi government.

Subsequently, the UNSC issued the resolution 678 on November 29, 1990 under Article 51 of the UN Charter, and the purpose of this resolution was to put Iraq under pressure in order to force it to withdraw from Kuwait by using economic sanctions. Thus, the US and its coalition were authorized to use all possible means to end the aggression against Kuwait. Therefore, the UN collective security operations began on January 17, 1990 with the operation Desert Storm, which was led by the American military forces with the a contribution of thirty four countries as a coalition force.⁹⁰

Certainly, the success of the collective security operations is a substantial step and accomplishment in the IR as an alternative to war and use of force against Iraq as an aggressor. The victory of the US in liberating Kuwait on February 27, 1991, came after the collapse of the Soviet Union and the socialist bloc, which caused the loss of international balance in the system of world order, and turned it towards the unipolar system and towards the rise of the American empire and its agenda. It began to unfold the US new strategy that aimed to dominate the world and the willingness to use any effective means to achieve its objectives.

Under the new world order the United States started preparing for the third Gulf War against Iraq as a first stage in this context. The moment of the embodiment of this deviation was aimed to achieve macro-control of the fate of the world, and the fate of humanity, citing the need to work at full speed against the military-industrial complex of Iraq who has sought to be amplified. Frequently, the US had warned of programs

⁹⁰ Khadduri, p. 171.

developed in the field of weapons of mass destruction, nuclear and sought to convince Western allies that a direct military action was the only way to get rid of this threat. After the invasion of Kuwait, the UNSC adopted 12 resolutions to force Iraq to withdraw from Kuwait, and later ultimately Kuwait was liberated by a collective security operation.

The UNSC majority adopted the most significant resolutions under chapter VII of the Charter of the UNSC 687 on April 3, 1991 (See the appendix), which embraced that Iraq should accept the destruction and removal of its programs for chemical and biological weapons and give the mandate to the International Atomic Energy Agency (IAEA) to search in Iraq for the nuclear weapons, according to the 1968 Non-proliferation Treaty.⁹¹

From the perspective of Saddam, this resolution aimed to destroy the Iraqi state, and it implicated that the US was using the UN under the pretext of weapons of mass destruction removal. Thus, this resolution imposed peace on Iraq, but why the economic sanctions continued to be imposed after Kuwait was liberated? Why the UN tied the economic sanctions with disarmament of weapons of mass destruction? In the perspective of George W. Bush, Saddam would have endangered the international peace and security, if he had weapons of mass destruction. As a result, this resolution imposed serious and necessary commitments on Iraq, but Iraq showed its refusal to this resolution and frequently did not allow the special commission of the UN an access to specific locations.

⁹¹ Whittaker, p. 98.

In the following years, President Bill Clinton adopted the policy of containment on Iraq, but this policy showed its failure later. President George W. Bush policy was developed under the theme of pre-empting future threats to the US security, whereas the regime change was seen as the realistic and permanent solution to the problem of Saddam and his possible ambition to develop and deploy weapons of mass destruction.

Nevertheless, Iraq was deemed in breach of its obligations. Therefore the UNSC unanimously adopted a strong resolution 1441 on November 8, 2002 according to Chapter VII of the Charter of the UN which embraced Iraq to renew the mission of Weapons Inspectors. Thus, President George W. Bush proposed to the UN that the resolution 1441 was a final opportunity and Iraq would face serious consequences if it did not comply with its disarmament obligations. Consequently, the period of containment policy was ended.⁹²

Basically the Iraqi government accepted the resolution 1441 on November 13, 2002; however the UNSC did not authorize the US and its allies to attack Iraq. Therefore Anne-Marie Slaughter, the Dean of Princeton University, stated in March 4, 2003 that: "International Law Expert says U.S. should delay an Iraq attack until it gains Security Council backing."⁹³ But what was the vital interest to go to war against Iraq? The oil was important as the president George W. Bush once said in his campaign speech. However, the aggression against Iraq, aimed to contain Iraq, through war and economic embargo.

⁹² Nathaniel Hurd, "Security Council Resolution 1441 and the potential use of force against Iraq", <http://www.casi.org.uk/info/hurd021206.pdf> [06.12.2010].

⁹³ Anne-Marie Slaughter, "Did the UN Security Council Resolution 1441 provide sufficient legal basis for military action against Iraq", <http://usiraq.procon.org/view.answers.php?questionID=000875> [04.03.2011].

The perspective of conservatives and neoconservatives such as Frank Gaffney, Jr., Henry Kissinger, Richard Perle, A. M. Rosenthal, William Safire, tended towards war and The Wall Street Journal claimed that smashing Iraq's military potential and destroying the Iraqi capacity to develop nuclear weapons was America's overriding objective in the Gulf.⁹⁴

The intervention in Iraq opened a new chapter in the international law. First it started as a reaction to the invasion of Kuwait and later on turned to the civil war in the north and south of Iraq and the problem with WDMs. Thus, the intervention in Iraq once again challenged the conventional wisdom of states, because states are also responsible to international community when they invade another state.

2.13 Human Rights Law and Humanitarian Law

Concerning the human rights the UN Secretary-General Kofi Annan has stated: "As human beings, we cannot be neutral, or at least have no right to be, when other human beings are suffering. Each of us must do what he or she can to help that in need, even though it would be much safer and more comfortable to do nothing." Human rights are what the reason requires and the conscience demands. They are us and we are them. Human rights are rights that any person has as a human being and should be treated so. We are all human beings; we all deserve human rights. One cannot be true without the other.⁹⁵

Many scholars have addressed the UN collective security operation against Iraq in the contexts of humanitarian intervention and state-building as well. But fundamental

⁹⁴ Christopher Layne, "Why the Gulf War Was Not in the National Interest", Atlantic Monthly, c.268, s.1, (1991), p. 54-81.

⁹⁵ Human Rights, <http://www.abc.net.au/civics/rights/enter.htm> [11.04.2011].

questions arise from the UN intervention in Iraq, such as the impact of the international human rights and humanitarian law. Indeed, the humanitarian interventions have taken their roots from Natural Law. In that sense, violation of human rights in a state cannot be viewed as a domestic problem of that state. Rather it ought to be a common problem of humanity and as such something bigger. This also means that state sovereignty has only a limited scope. There are certain limits to that. As it was in the case of Iraq states do not have right to abuse their sovereign powers over their citizens. For modern collective security, human right law and humanitarian law should be the legal framework.

However, the humanitarian intervention in Iraq has some unique characteristics. First of all, it contributes to the development of a new custom exception in international law according to Article 2 (4). Customary law is one of the primary sources of international law and the humanitarian interventions will be identified with a new custom. As humanitarian interventions do happen more often, this custom will find a stronger venue in modern collective security and current trends of international law. Yet, how fragile this state practice is, is shown in a widespread violation of human rights.⁹⁶

Actually, Human Rights are traditionally asserted to protect individuals primarily against the abuse of states and state officials. State is there to implement human rights, and to ensure that people enjoy it within the state territory. Theretofore there were the universal declaration of human rights 1948, international convention on social, economic and cultural rights. Finally, also the UN adopted the international legitimacy for the principles of human rights in the Charter.

⁹⁶ Dixon, p. 325.

The critical issue of the Iraq case indicates the violation of the human rights with economic sanctions on Iraqi's population. Generally speaking there was a hostile attitude in the resolutions of the UNSC, especially in the comprehensive sanctions resolutions 661 and 687 (see the appendix). The goal of the UNSC in the resolution 661 on August 6, 1990, which imposed the economy sanctions, was to force Iraq to compel to withdraw from Kuwait. This seemed to be the core of the controversy as to how the UNSC was dealing with the Gulf crisis. It was strongly criticized by several members of the UN. Of course, Kuwait was liberated on February 28, 1991 via collective security operation, but the same time collective security operation and sanctions were devastating to Iraqi civilians and the Iraqi infrastructure. Furthermore, many Iraqis were killed and wounded and a several others became disabled. On the top of that, the economic sanctions continued on the Iraqi population.

Here the question is why were the economic sanctions continued? The answer lays in the resolution 687 that was adopted on April 3, 1991 that enforced a ceasefire and continuation of the siege. The sanction system evolved as a genocidal tool administered jointly by the US-directed official bureaucracies in individual countries and the UN Iraqi Sanctions Committee. Therefore in the complaint issued against the US a former US Attorney-General mentioned that the sanctions caused the death of more than 1,500,000 people including 750,000 children. In the collective security operation from January 16 to February 27, 1991 some 88,000 tons of bombs were dropped. This meant that Iraq was subjected to the equivalent of one Hiroshima size atomic bomb a week

over the period of the war It meant a scale of destruction that was unique in the history of warfare.⁹⁷

Consequently, Iraqi people were suffering and their human rights violated. Therefore, the UN intervened with a new program, "oil for food", according to the resolution 986 on April 14, 1995. The resolution confirmed that the sanctions were continued until the Iraqi government complies with the resolution 687.

In 1995 the UN Secretary-General Boutros Boutros-Ghali said that the international community had failed to confront "the ethical question of whether suffering inflicted on vulnerable groups in the target country is a legitimate means of exerting pressure on political leaders, whose behavior is unlikely to be affected by the plight and dilemma of their subjects"⁹⁸ Throughout 1998, despite the early negotiated agreement with the UN Secretary-General Kofi Annan, the Iraqi authorities came to believe that Richard Butler, head of the UNSCOM, would never be prepared to present a report to the Security Council that would allow the sanctions to be lifted. In July 1998 Saddam predicted that with the growing isolation of Washington in the world community, sanctions would gradually be waived away; in August the new UNSCOM-Iraqi talks collapsed, while Washington was reportedly planning new acts against the Iraqi regime.⁹⁹ In brief, the imposing economic sanctions on Iraq had included fundamental human right but the UN failed to mitigate the suffering of the Iraqi people after the collective security operation in February 1991. Actually, Iraq has the second largest oil

⁹⁷ Simons, p. 173.

⁹⁸ Simons, p. 180.

⁹⁹ Ibid.

reserves in the world, next to Saudi Arabia. As a result the economy of Iraq depends fundamentally on oil.

The US-dominated Sanctions Committee continued to cause delays in the delivery of humanitarian goods to Iraq over an eight-year period. Therefore, after the mission of the UN led by Secretary the Deputy Secretary General Martti Ahtisaari to Iraq on 10-17 March 1991, they reported that the starvation was widespread already beyond most Iraqi families. Likewise a Harvard study team reported that at least 170,000 young children under five years will die in the coming year as a result of war and the sanctions.¹⁰⁰ Consequently, the UN failed not to deliver human rights and humanitarian law to Iraqi people only, but contributed in the violation of the principles of human rights.

2.14 Mandate Implications to Modern Collective Security

After a halt of the UNCS collective security operation against Iraq on February 27, 1991, which ended with the liberation of Kuwait, the Shiites and Kurds revolted against Saddam's regime. However, the Iraqi army crushed violently the uprising. Thereafter, Iraq signed a comprehensive agreement on its condition of the cease-fire that left one sixth of the US military on Iraq's territory under control of coalition forces. The UN Security Council Resolution 688 issued on April 5, 1991 contributed to the development of humanitarian interventions in international law. However, this resolution demanded Iraq to end the repression against the Iraqi people and especially the Kurds, but the resolution was not under the powers of the Chapter VII. The Security Council in April 1991 launched a new collective security operation mandated to

¹⁰⁰ Ibid, p. 174-175.

establish new formation by US, British and French troops in the Northern part of Iraq. In spite of that Saddam did not allow any organization or agency to intervene and offer humanitarian assistance, but the US began airdropping with assistance supplies to the Kurdish refugees who fled along the Iraqi border. There were one million refugees fleeing to the surrounding countries.

The scholar Peter Hilpold commented at this point: "No mention is made in this resolution of the Chapter VII of the Charter or of an authorization to use all necessary means this resolution was regarded, however, as a sufficient basis to establish the so-called "safe havens" in northern Iraq by the US and their European allied forces. It is true that the resolution 688 mentioned the existence of a threat to international peace and security in the region but this statement was more connected to the massive flow of refugees towards and cross international frontiers and to cross border incursion than to the humanitarian crisis itself."¹⁰¹

The Gulf War was generally justified in traditional collective security terms as a measure that was necessary to restore security to the region and to punish the aggressor. Yet, the military intervention has achieved new respectability and has come to represent, amongst other things, a means for the liberal alliance of democratic states to bring human rights, democracy and humanitarian principles to those in undemocratic, authoritarian or failed states. Such liberal internationalists argue that collective humanitarian intervention has become necessary to address the problems of local

¹⁰¹ Peter Hilpold, "**Humanitarian Intervention: Is there a Need for a Legal Appraisal?**", Foreign Policy Research Institute, c.12, s. 3, (2001), p. 445.

dictators, tribalism, ethnic tension and religious fundamentalism thrown up in the post-Cold War era.¹⁰²

It was a major step because the United Nations was trying to intervene for humanitarian reasons in a sovereign state which was also a member of the United Nations. This clearly shows that although states do possess sovereign rights they exercise internally and externally, those sovereign rights are not endless and there are certain limitations to those rights. Hence, the state sovereignty is not unlimited. This means that universal rights of the citizens are subject to the protection ensured by the international organizations and the rest of the states if that state fails to do so. Therefore the UN has right in this case to arrogate itself instead of the government, and it claims: "I am here as a government to protect civilian people and implant human rights principles". Likewise this was the perspective of the Secretary-General Kofi Annan, as he stated about the UN role that, "the organization is at long last elevating the doctrine of preventing mass atrocities against people to the same level of collective responsibility as preventing and repelling armed aggression against states".¹⁰³ As a result, the decision should be taken to use force for human rights and to make the distinction between legality and legitimacy.

As a conclusion, there is no doubt that the UN collective security operation to resolve Iraq–Kuwait crisis has contributed a lot towards modern collective security via the successful outcome of coalition's armed enforcement action in 1991. One clear contribution lays in the mandate of the US and its coalitions, which was authorized by

¹⁰² Anne Orford, **Reading Humanitarian Intervention Human Rights and the Use of Force in International Law**, 1st ED, (New York: Cambridge University Press, 2003), p. 4.

¹⁰³ Ramesh Thakur, **The United Nations, Peace and Security. From collective Security to Responsibility to protect**, 1st ED. (New York: Cambridge University press, 2006), p. 1.

the UNSC to liberate Kuwait. Also we have seen the measures designed to protect the Kurds in north Iraq. But, the mandate of the US and its coalitions clearly violated the international law and human rights, by the air raids that were killing many civilian people, and the economic sanctions that led to catastrophe in all fields of the essential life needs.

Another major contribution of the UN operation in Iraq-Kuwait crisis towards modern collective security is the transition from collective security to responsibility to protect humanity in the south and north, when UNSC adopted the resolution 688 on April 5, 1991. Therefore, in the Iraq case of human rights, the UN move from chapter seven (Action with respect to threats to the peace, breaches of the peace and acts of aggression) of the Charter, to Chapter six (peaceful settlement of disputes), by implication brought in the element of peace-making. This is a contribution to modern collective security and the lesson to be learned from the Iraq–Kuwait crisis. One legal lesson in this case is that the UN must give yield to early warning and not miss-reading the situation in Iraq as expressed in the reports on the impact of economic sanctions, as well as the continuity of the air strikes on civilians which led to kill thousands of Iraqi people. Another legal and mandate implication of the UN operation in Iraq-Kuwait crisis to modern collective security is that the UN is probably ready to implement a broader concept of security that includes good governance, economic development and social institutions.

They also show that the UN has recognized in that respect for state sovereignty ought to be balanced against other issues, such as the provision of basic needs, respect for fundamental freedom and where necessary, a guarantee of minority rights.

Notwithstanding, the oil for food program failed, the UN should tackle the reasons of failure to apply human rights law. No doubt, the United Nation successful intervention in Iraq did open a new chapter in the international law and human rights law, at the beginning of the establishment of a new world order after the end of the Cold War and on the eve of 21st century. Because primarily the UN should follow or pursue the peaceful means according to chapter VI, then take provisional measures to halt the conflict according to chapter VII as the UN Charter draw the legal measures.

CONCLUSION

This attempts to render the United Nations collective security operation in Iraq-Kuwait crisis to a critical evaluation. The main point here is to present the appraisals of the UN operation against Iraq that was made by various scholars. The UN response to these appraisals is equally to be examined. Also this chapter questions the reason that the UN operation against Iraq ultimately failed while initially it was successful in January 16, 1991. In the end this chapter we will present our point of view on the UN collective security operation against.

In an attempt to evaluate the UN intervention in Iraq and provide an answer about what went wrong or right in the United Nations operation against Iraq, many analysts gave different reasons. Some blame the repressive and ‘divide and rule’ method of Saddam as a major factor that generated the conflicts. Also the mandates of the mission especially the peace enforcement mandate were given an evaluation by analysts. Some other analysts blame the United Nations for its lack of neutrality in the collective security operation against Iraq. We will examine here all of these different opinions. Hassan EI-Najjar argues that the key issue from Saddam’s perspective was that he aimed at restoring stability to the world order, as Kuwait in his view disrupted the status quo in the region. Furthermore, he accused Kuwaiti government of illegal taking about 2.4 billion USD worth of Iraqi oil from the Rumaila oil field which is located on the

border between Iraq and Kuwait. The Kuwaiti government was also exceeding OPEC's production quota. Those factors caused a big damage to Iraqi economy.¹⁰⁴

The perspective of President Bush was that Iraq was representing a threat to the new world order. Thus, the US played a major role in Iraq-Kuwait crisis. A major problem was that the US never explicitly warned Saddam against the use of force in his dispute with Kuwait. For example, when John Kelly, the US Assistant Secretary of State for Near East Affairs visited Baghdad in February 1990, he expressed American indifference to Iraq's border dispute with Kuwait.¹⁰⁵ Besides, the most important event was the meeting between Saddam and the US Ambassador April Glaspie, who expressed that the US "has no opinion on the Arab-Arab conflicts, like the border disagreement with Kuwait".¹⁰⁶ Consequently, the US encouraged Saddam to invade Kuwait. But when Iraq invaded Kuwait, it was considered by the USA as an aggressor.

Usually, the UNSC should intervene, and must give an authorization to specify the objectives of the operation and the means to be employed, except in the case of aggression such as Saddam's attack on Kuwait in August 1990. This is the view of Simon Jenkins is blaming the UN and at the same time proponent it, when things go wrong in crisis, it is due to those who are really responsible.¹⁰⁷ Additionally, James Baker pointed out to the UN during his meeting with Iraqi foreign minister, "we must not let the UN go the way of the League of Nations". Baker wanted to remind the SC of

¹⁰⁴ Hassan El-Najjar, "The Gulf War : Overreaction & Excessiveness", Chapter 6, <http://www.gulfwar1991.com> [20.05.2011].

¹⁰⁵ James E Elliott, 'Another Desert Warrior', http://firstuualton.org/Sermon_files/anotherdesertwarrior.htm [10.06.2011].

¹⁰⁶ Wikipedia, 'April Glaspie', http://en.wikipedia.org/wiki/April_Glaspie [10.06.2011].

¹⁰⁷ James Mayall, **The New Interventionism, 1991-1994: United Nations Experience in Cambodia**, 1st ED. (USA: Cambridge University Press, 1996), p. 11.

the UN's function: they should aim to achieve peace and justice in principle.¹⁰⁸ The Foreign Minister of Iraq, Tariq Aziz, criticized the policy of the US against Iraq, when the UNSC adopted mandatory resolution against Iraq. In the same time, the US was pressuring other members of the SC to vote in favor of most of the mandatory resolutions against Iraq, during the polite dialogue which was held between Tariq Aziz and James Baker.¹⁰⁹ Aziz blamed the UN for lacking neutrality towards Iraq because the UN ignored Iraq's legitimate right in its disputes with Kuwait. Baker mentioned the new world order based on peace and justice, and frequently warned about the disaster that might fall over Iraq if it refuses to heed the calls to withdraw.¹¹⁰

The US was criticized for unwillingness to resolve the crisis by peaceful means. President George H. Bush sent to Saddam a message with U.N. Secretary-General (Perez De Cuellar) during his visit to Baghdad on January 11, 1991: "The United States will not attack Iraq or its armed forces if withdrawal from Kuwait has been achieved and the situation has returned to what it was prior to August 2, 1990. The United States does not want to keep ground forces in the region; it will support negotiations between the parties concerned, and I shall accept any decision taken by those parties."¹¹¹ There was plenty of criticism about the use of force in the SC resolution 678 in the late of November 1990 under the Chapter VII of the UN Charter, especially if Iraq was ready to resolve the Gulf crisis as Baker said at the Geneva meeting on January 10, 1991.

¹⁰⁸ Khadduri, p. 151.

¹⁰⁹ Ibid., p. 155.

¹¹⁰ Ibid., p. 156.

¹¹¹ Ibid., p. 157.

At the prologue of the UN Charter article 1, it's mentioned that the purpose of the UN is to achieve both peace and justice to save succeeding generations from the scourge of war;¹¹² this is the point which idealists and realists agreed and it must be observed under any world order. Peter Cipkowski pointed out that Iraq would face war against the world if it failed to withdraw from Kuwait by the UN deadline on January 15, 1991. Consequently, once again Secretary General of the UN, Javier Perez de Cuellar met with Aziz and Saddam; however the meeting failed to make any progress to tackle the crisis between Iraq and Kuwait. Consequently, the UN failed to achieve the objective of the negotiations. Therefore, President H. Bush waged the war against Iraq and used the force under Chapter VII of the Charter of the UN as a collective security operation. The US justified its action for the needs to smash Iraq's military potential and destroy its capacity to develop nuclear weapons.

In this case of the Gulf war, the SC instead of taking action itself authorized member state(s) able and willing to do so to use armed force in an international conflict. Scholars like Hanspeter Neubold, see that the most spectacular example of such a 'franchise operation' for restoration of international peace and security was furnished by the SC resolution 678 on November 29, 1990 in the Gulf conflict.¹¹³ The opinions of scholars are divided on the legal basis of this type of military action. Some scholars regard it as the exercise of the right of collective self-defense under Article 51 of the Charter expressly restated by the SC. On the other hand, others wonder why resort to this inherent right need to be authorized; instead, these scholars refer to a functional

¹¹² Ibid, p. 160.

¹¹³ Hanspeter Neubold, **Collective Security, After Operation Allied Force**, (Netherland: Kluwer Law International, 2000), p. 85.

interpretation of the Charter and point to its Article 48: since, by virtue of this provision, the SC may determine that all or just some member states shall carry out its decisions, but it also be deemed to have the lesser power of a mere authorization.¹¹⁴

As Richard Kugler, pointed out, reflecting on the US military presence in the Persian Gulf in the early time of the conflict, the US could manage a balance of power strategy; moreover he criticized the US military presence before 1991 because it led to increase the tension as it did when over 500,000 troops were deployed in the Gulf.¹¹⁵ This action meant initially that US intended to use force without wasting time in negotiations.

Regarding the post-Gulf war crisis, few would argue that the collective security as an approach to international aggression had been vindicated or even tested. Instead, it appears that the UN authorized a resort to war as a result of pressure exerted by the US government, as Richard Falk sees it; besides, he see the UN failed in relation to the Gulf war because it was ‘tragic and far reaching’. And the war was improperly initiated, and carried well beyond the basic UN mandate.¹¹⁶

Likewise, Robert Springborg examined the role of the UN in the Gulf crisis. He criticizes the process by which the US recruited the UN to its cause to crush Iraq simultaneously ensuring that the UN did not intrude and interfere into the Israeli-Palestinian conflict. Washington invoked the name and authority of the UN for its unilateral naval blockade two weeks prior to the passing of the SC resolution 665 (1990) that authorized such action. Resolution 678 which authorized the use of force

¹¹⁴ Ibid.

¹¹⁵ Russell, p. 78.

¹¹⁶ Tareq and Jacqueline Ismael. p. 2.

against Iraq, was a masterpiece obfuscation intended to avoid the UN control over the US military actions.¹¹⁷

In my opinion, clearly when the scholars criticize the inadequacy of the United Nations, they perhaps mean the need to limit the American role in the United Nations and in the collective security operation on January 17, 1991. It is necessary to resolve any international conflict dispassionately.

Here we will shed some light on the two types of collective security implemented against Iraq:

1– Military action: ‘The Desert Storm operation’ on January 16, 1991, which was also called the second Gulf War. As we have mentioned previously, the US and its coalition accomplished an unprecedented success in the history of the collective security operation of the UN, as the requirements of the collective security were achieved.

2- Non-military action: which were the economic sanctions that were imposed on August 6, 1990 by the resolution 661 of the UNSC? It was the first diplomatic attempt to resolve the Iraq-Kuwait crisis. It imposed a total embargo on arms and a comprehensive economic sanctions under the chapter VII of the UN Charter; following that, the SC adopted a series of resolutions such as 678 on the late of the November 29, 1990 that demanded to expel Iraqi army from Kuwait, then the resolution 687 which required Iraq to be disarmed, cooperate with the weapons inspectors.

Some in the administration of George H. Bush have argued that Iraq has not complied with (cease–fire) terms of the resolution 687. In fact the US and its coalition had the

¹¹⁷ Ibid.

legal authority to use force against Iraq in order to liberate Kuwait according to the resolution 678. But, the UN should have set another resolution to define the purpose and the function of such a measure. And if the US and UK had used the force against Iraq under the pretext and authorization of the UN on 1990, then the invasion of Iraq on 2003, should be considered as illegal and illegitimate action, as it wasn't covered with such an authorization, and it contradicts the principle of the UN Charter and the international law.

The question was tackled in the special report of the 'World Press Review'.¹¹⁸ George W. Bush administration's case against Iraq was laid out before the UNSC, and was presented by Colin Powell, the Secretary of State at that time. He stated: "Iraq has now placed itself in danger of the serious consequences called for in the UN Resolution 1441. And this body places itself in danger of irrelevance if it allows Iraq to continue to defy its will without responding effectively and immediately". However, at that time the UN Monitoring, Verification and Inspection Commission (UNMOVIC) had not finished its task in Iraq yet.

The argument of Powell could be divided into two main tracks:

1- Firstly, Iraq had to be punished because it did not comply with several SC resolutions. "Last Nov. 8, this council passed Resolution 1441 by a unanimous vote," the Secretary said. "The purpose of that resolution was to disarm Iraq of its weapons of mass destruction. Iraq had already been found guilty of material breach of its obligations, stretching back over 16 previous resolutions and 12 years."¹¹⁹

¹¹⁸ Rachel S. Taylor, "**The United Nations, International Law, and the war in Iraq**", World Press Review, <http://www.worldpress.org/specials/Iraq/> [25.05.2011].

¹¹⁹ Ibid.

2- Secondly, Powell argued that Saddam's government is posing a risk to the US and its allies, as he anticipated that Iraq's "weapons can be connected to terrorist organizations that have no compunction about using such devices against innocent people around the world," Powell asserted that Al-Qaeda "could turn to Iraq for help in acquiring expertise on weapons of mass destruction."¹²⁰

The international legal rules prohibit any nation from using force against another as it's pointed out in the Article 2(4) of the UN Charter. The charter allows only two exceptions to this rule: when force is required in self-defense (Article 51) or when the Security Council authorizes the use of force to protect international peace and security (Chapter VII).

The first exception, under the self-defense, has long been discussed and debated among international legal scholars. Although the text of Article 51 explicitly provides only for "the inherent right of individual or collective self-defense if an armed attack occurs," over the years, scholars have expanded the required trigger for self-defense to include both when an armed attack occurs and when an armed attack is imminent. But such circumstances - in which an armed attack occurs or is imminent - do not apply to the situation in case of Iraq. Thus, President George W. Bush had introduced a new category of self-defense - pre-emptive self-defense - that he claims is legally justified in the post-September 11 world.¹²¹ We can trace the roots of this argument for pre-emptive self-defense in his address to the United Nations General Assembly on Sept. 12, 2002, when he said, "The first time we may be completely certain [Saddam

¹²⁰ Ibid.

¹²¹ Ibid.

Hussein] has a nuclear weapon is when, God forbid, he uses one. We owe it to all our citizens to do everything in our power to prevent that day from coming."¹²²

Critics of Bush's argument point out that the notion of pre-emptive self-defense is not mentioned in Article 51 of the U.N. Charter and is therefore illegal under international law. Moreover, some have noted, Article 51 allows for self-defense "until the Security Council has taken measures necessary to maintain international peace and security." This suggests that the right to self-defense exists only when there is no time to take the issue before the Security Council, and that if there is time for deliberation, the use of force is not justified.¹²³ In the case of Iraq, the threat posed by Iraq had neither occurred nor was it imminent, and there was enough time to take the case to the Security Council. Thus, the US claims had no legal justification for using force against Iraq as a self-defense.

However, the US and British launched air strikes on Iraq under the pretext that Iraq did not comply with the UN resolutions. When the Desert Storm operation was accomplished, the UNSC adopted the resolution 687. The inspection commission was sent to Iraq, but the UNSC did not authorize the US and its allies again to use force against Iraq. The US and British resorted to force because they thought their authorization in the resolution 678 was not limited, although some scholars argue differently.

The most serious resolution adopted by UNSC was the Resolution 1441, on November 8, 2002. It was ultimately passed by a vote of 15-0. It recognized the continued threat Iraq posed to international peace and security, recalling that Resolution 678 authorized

¹²² Ibid.

¹²³ Ibid.

member states to use all necessary means to implement relevant subsequent resolutions, and noting that Resolution 687 imposed conditions on Iraq - with which it has not complied - the council made it clear that Iraq "has been and remains in material breach of its obligations under relevant resolutions."¹²⁴

The Resolution 1441 mandated the creation of an enhanced inspection regime and laid out the process to be implemented if Iraq fails to comply. Hans Blix, the executive chairman of UNMOVIC (the U.N. Monitoring, Verification and Inspection Commission) and Mohamed ElBaradei, the director general of the IAEA (the International Atomic Energy Agency) reported to the Security Council about any Iraqi noncompliance. The resolution made clear that Iraq will face "serious consequences" if it does not comply with the resolution's demands.¹²⁵

Ultimately the reports of the inspectors were in favor of Iraq, but the US aim was that Iraq would refuse to comply with the resolution 1441. However, Iraq accepted the resolution. Nevertheless, the resolution 1441 did not give any sort of authorization for war, but the US and coalition forces went ahead to invade Iraq on 19th of March 2003.

United Nations collective security operation against Iraq on 1991 is considered by many scholars as a decisive victory. The demilitarization and removal of Saddam's regime on 2003 was a big success for the US leadership. On the other hand, the Operations of the collective security against Iraq clearly indicated the United Nations

¹²⁴ Wikipedia, "**United Nations Security Council Resolution 1441**", http://en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_1441 [25.05.2011].

¹²⁵ Ibid.

inadequacies and perhaps the need to limit the role of the United States in the United Nations collective security operations.

The Iraqi experience also shows that the US and other leading nations should act through peaceful means (whether it's preventive diplomacy, negotiation, coercive or mediatory). Article 33 of chapter VI of the UN Charter emphasizes the importance of negotiation, mediation and conciliation as the most effective means of resolving public disputes. Through negotiation and mediation, positive relationships between the various factions and collective security actors may be formed, which will help in reaching an agreement to restore stability in international peace and security. According to the article 41 of the UN Charter the economic sanctions that were imposed on Iraq by the UNSC, aimed to limit the Iraqi army capabilities to fight. Nevertheless, the economic sanctions led to a humanitarian crisis, health problems and genocide.

In regard to the resolution 1441 the United Nations Secretary-General Kofi Annan said: "If Iraq's defiance continues, however, the Security Council must face its responsibilities". He continued: "This is a time of trial-for Iraq, for the United Nations and for the world. The goal is to ensure the peaceful disarmament of Iraq in compliance with Council resolutions and a better, more secure future for its people."¹²⁶ This was the interpretation of the SCR 1441 by the UN. Clearly the policy of the US towards Iraq and the implementation of this resolution were through the use of military force.

The UN operation against Iraq enforces the point that the linkage between the UN collective security mandates and the resources made available by the members of the SC as they interpret the resolutions and treaties, so that they do not approve mission that

¹²⁶ Peter Willetts, "**Speech by Kofi Annan, UN Secretary-General to the UN General Assembly**", <http://www.Staff.city.ac.uk/p.willetts/IRAQ/SGSM8378.HTM> [12.09.2010].

will expose the UN collective security to serve risk. In sum, the UN collective security operation against Iraq exposed the UN's capacity to manage collective security and the UN weakness in managing peace enforcement operation.¹²⁷

Through this study, we focused on two main questions that this thesis tried to examine: Firstly, why did the UN collective security operation against Iraq in 1990 primarily succeed? Secondly, why did the UN collective security in Iraq ultimately fail in 2003?

In tackling these questions, we pointed out that the Iraqi invasion of Kuwait on August 2, 1990, was the key of the whole conflict. The reasons behind the crisis between Iraq and Kuwait were based on historical factors, border and economical disputes between the two states. Some people even believe that the United States had pushed Saddam or encouraged him to invade Kuwait, in order to have the reason to interfere and put its hand in the Gulf region. At the early stages of the conflict there were examples supporting this claim. At the beginning, the US showed absolutely no sign of opposition to Iraq's increasing threats against Kuwait. And as Noam Chomsky said: "the United States has very often supported those aggressions and interfered with UN efforts to stop them and has helped maintain them".¹²⁸ And this also appeared clearly from the conversation that happened between Saddam and the US ambassador April Glaspie on July 23, 1990.¹²⁹

¹²⁷ Michael Byers, **The Shifting Foundations of International Law: A Decade of Forceful Measures against Iraq**, (EJIL, 2002), p. 41.

¹²⁸ Noam Chomsky interviewed by Robert MacNeil, "The Gulf Crisis", <http://www.chomsky.info/interviews/19900911.htm> [11.09.2010].

¹²⁹ Kaleem Omar, "Is the US state Department still keeping April Glaspie under warps?", <http://www.informationclearinghouse.info/article11376.htm> [25.12.2010].

The major problem for the UN was that Iraq did not comply with its resolutions. This was clear when the UNSC adopted the Resolution 660 in 1990 which demanded Iraq to withdraw from Kuwait unconditionally and immediately. Hereafter the UNSC adopted non-military collective security actions in the Resolution 661 on August 6, 1990 in the form of economic sanctions, which led to a humanitarian catastrophe. Then, the Resolutions 662, 664, 665, 666, 667, 669, 670, 671, 674 and 677 followed. Finally, the serious Resolution 678 on November 29, 1990 that authorized the US and the coalition to use all necessary means to implement the previous resolutions and restore the international peace and security in the area.

Essentially, the responsibility to maintain international peace and security is the function of the Security Council as it's mentioned in the Charter of the UN - Chapters VI and VII. It is the core that establishes the collective security system in order to save the world from the scourge of the wars by taking the necessary measures. The international system should impose the collective security according to the Charter of the UN and solve the conflicts between the states by the peaceful measures, as it is stated in the article 33 of the Charter of the UN. If there was no solution for the conflict or failure, the procedures set forth in the Chapter VII in the Article 39 to put an end to the conflict, which endanger the international peace and security, or when the act of the aggression is a critical variable, as in the case of Iraq, the UNSC did not implement the measures of the Charter gradually as the Charter of the UN implicates. Nevertheless, the UNSC adopted recommendations or resolutions to take measures according to the articles 41 and 42 to maintain international peace and security.

In the Iraqi-Kuwait crisis in 1990 the Security Council authorized the US and its allies to resort to military measures despite the fact that the diplomatic measures were not exhausted yet. Actually the Article 33 of the Chapter VI of the UN Charter emphasizes the importance of negotiation, mediation and reconciliation as the most effective means. This study reveals the UN could have resolved the crisis between Iraq and Kuwait if the peace has got a change.

The result was that the UN was drawn into the destruction of the Iraqi military and the removal of Saddam's regime at the end. Consequently, the Iraqi people also suffered heavy losses as a result of years of economic sanctions and destruction.

The crisis of Iraq-Kuwait on 1990 was considered as a threat to international peace and this was used as a questionable justification for the interference of the UN and later the authorization of US and its allies to use force against Iraq. But in the US invasion of Iraq on 2003, the US justified its use of force, according to the resolution 678 in 1990 as it was valid, but this resolution was not explicit to which Article should be implemented. Thus, the US breached the Charter of the UN and international law in this invasion.

The UN showed a grave weakness in Iraq during the whole period of 1990-2003. As many scholars agree the UN collective security operation against Iraq did not achieve any success apart from forcing the Iraqi army to withdraw from Kuwait. The disastrous effects of the economy sanctions led to poverty, massive healthy problems and had destroyed Iraq's infrastructure.

The major reason behind this UN failure in its collective security operation against Iraq (1990-2003) was the biased role, and the influence of United States at the UNSC that

didn't leave a space for a peaceful resolution with Iraq. Instead, the UN was used by US to justify war against Iraq. Here we have to keep in mind that the UN's main objective since it was established was to prevent the war and maintain international peace and security.

Some scholars claim that the collective security always fails, as Mathew Rendall points out: "Collective security has a bad reputation in the international relations literature. Since the early modern period, but especially in the last century, reformers have dreamt of replacing balance of power politics with a united front against aggression. Yet many consider such international unity a pipe dream, holding that collective security has never worked or has failed miserably in each case."¹³⁰ Nevertheless, according to the requirements of the collective security, in the operation against Iraq on January 17, 1991 the alliance kept its commitments. Consequently, the UN collective security operation was an unprecedented success in the history. On the contrary, the UN failed in its task on March 20, 2003 because the UN could not carry out the requirements of the collective security, as the permanent members of the UNSC were split in the middle, and a firm decision was not possible. Thus, it is clear that the collective security system does not work against the will of great powers.

I was personally living in Iraq throughout all these harsh years, and I witnessed all the episodes of the Gulf crisis in 1990, and the US-led war and invasion of Iraq in March 2003. I experience all the suffering that people of Iraq had to face throughout the years of war and sanctions. I actually wrote my thesis, with painful memories in my mind. It's

¹³⁰ Mathew Rendall, "The Qualified Success for Collective Security", *Diplomacy & Statecraft*, c.18, s.2, (2007), p.271-295.

the legacy of wrong decision to invade Kuwait that resulted with devastating effects on Iraq and it was a severe punishment on Iraqi people.

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APPENDIX

The Resolutions of the UNSC (1990-2003)

1-Resolution 660 (1990) Adopted by the Security Council at its 2932nd meeting, on 2 August 1990

The Security Council,

Alarmed by the invasion of Kuwait on 2 August 1990 by the military forces of Iraq,

Determining that there exists a breach of international peace and security as regards the Iraqi invasion of Kuwait,

Acting under Articles 39 and 40 of the Charter of the United Nations,

1. condemns the Iraqi invasion of Kuwait;
2. Demands that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990;
3. Calls upon Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the League of Arab States;
4. Decides to meet again as necessary to consider further steps to ensure compliance with the present resolution.

This is the most comprehensive economic resolution which UNSC imposed on IRAQ.

2-Resolution 661 (1990) Adopted by the Security Council at its 2933rd meeting, on 6 August 1990

The Security Council,

Reaffirming its resolution 660 (1990) of 2 August 1990, Deeply concerned that that resolution has not been implemented and that the invasion by Iraq of Kuwait

Determined to bring the invasion and occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

Noting that the legitimate Government of Kuwait has expressed its readiness to comply with resolution 660 (1990) ,

Mindful of its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

Affirming the inherent right of individual or collective self-defence, in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the Charter,

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

1. Determines that Iraq so far has failed to comply with paragraph 2 of resolution 660 (1990) and has usurped the authority of the legitimate Government of Kuwait;
2. Decides, as a consequence, to take the following measures to secure compliance of Iraq with paragraph 2 of resolution 660 (1990) and to restore the authority of the legitimate Government of Kuwait;
3. Decides that all States shall prevent: (a) The import into their territories of all commodities and products originating in Iraq or Kuwait exported therefrom after the date of the present resolution; (b) Any activities by their nationals or in their territories which would promote or are calculated to promote the export or trans-shipment of any commodities or products from Iraq or Kuwait; and any dealings by their nationals or their flag vessels or in their territories in any commodities or products originating in Iraq or Kuwait and exported therefrom after the date of the present resolution, including in particular any transfer of funds to Iraq or Kuwait for the purposes of such activities or dealings; (c) The sale or supply by their nationals or from their territories or using their flag vessels of any commodities or products, including weapons or any other military equipment, whether or not originating in their territories but not including supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs, to any person or body in Iraq or Kuwait or to any person or body for the purposes of any business carried on in or operated from Iraq or Kuwait, and any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply of such commodities or products;
4. Decides that all States shall not make available to the Government of Iraq or to any commercial, industrial or public utility undertaking in Iraq or Kuwait, any funds or any other financial or economic resources and shall prevent their nationals and any persons within their territories from removing from their territories or otherwise making available to that Government or to any such undertaking any such funds or resources and from remitting any other funds to persons or bodies within Iraq or Kuwait, except payments exclusively for strictly medical or humanitarian purposes and, in humanitarian circumstances, foodstuffs;
5. Calls upon all States, including States non-members of the United Nations, to act strictly in accordance with the provisions of the present resolution notwithstanding any contract entered into or licence granted before the date of the present resolution;

6. Decides to establish, in accordance with rule 28 of the provisional rules of procedure of the Security Council, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations: (a) To examine the reports on the progress of the implementation of the present resolution which will be submitted by the Secretary-General; (b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the provisions laid down in the present resolution;
7. Calls upon all States to co-operate fully with the Committee in the fulfilment of its task, including supplying such information as may be sought by the Committee in pursuance of the present resolution;
8. Requests the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for the purpose;
9. Decides that, notwithstanding paragraphs 4 through 8 above, nothing in the present resolution shall prohibit assistance to the legitimate Government of Kuwait, and calls upon all States: (a) To take appropriate measures to protect assets of the legitimate Government of Kuwait and its agencies; (b) Not to recognize any regime set up by the occupying Power;
10. Requests the Secretary-General to report to the Council on the progress of the implementation of the present resolution, the first report to be submitted within thirty days;
11. Decides to keep this item on its agenda and to continue its efforts to put an early end to the invasion by Iraq.

United Nations

S/RES/0662 (1990)
9 August 1990

3-RESOLUTION 662 (1990)

Adopted by the Security Council at its 2934th meeting on 9 August 1990

The Security Council,

Recalling its resolutions 660 (1990) and 661 (1990),

Gravely alarmed by the declaration by Iraq of a "comprehensive and eternal merger" with Kuwait,

Demanding, once again, that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990,

Determined to bring the occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

Determined also to restore the authority of the legitimate Government of Kuwait,

1. Decides that annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void;
2. Calls upon all States, international organizations and specialized agencies not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation;
3. Further demands that Iraq rescind its actions purporting to annex Kuwait;
4. Decides to keep this item on its agenda and to continue its efforts to put an early end to the occupation.

United Nations

S/RES/0664 (1990)
18 August 1990

4-RESOLUTION 664 (1990)

Adopted by the Security Council at its 2937th meeting on 18 August 1990

The Security Council,

Recalling the Iraqi invasion and purported annexation of Kuwait and resolutions 660, 661 and 662,

Deeply concerned for the safety and well being of third state nationals in Iraq and Kuwait,

Recalling the obligations of Iraq in this regard under international law,

Welcoming the efforts of the Secretary-General to pursue urgent consultations with the Government of Iraq following the concern and anxiety expressed by the members of the Council on 17 August, 1990,

Acting under Chapter VII of the United Nations Charter:

1. Demands that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of the nationals of third countries and grant immediate and continuing access of consular officials to such nationals;
2. Further demands that Iraq take no action to jeopardize the safety, security or health of such nationals;
3. Reaffirms its decision in resolution 662 (1990) that annexation of Kuwait by Iraq is null and void, and therefore demands that the Government of Iraq rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel, and refrain from any such actions in the future;
4. Requests the Secretary-General to report to the Council on compliance with this resolution at the earliest possible time.

United Nations

S/RES/0665 (1990)
25 August 1990

5-RESOLUTION 665 (1990)

Adopted by the Security Council at its 2938th meeting on 25 August 1990

The Security Council,

Recalling its resolutions 660 (1990), 661 (1990), 662 (1990) and 664 (1990) and demanding their full and immediate implementation,

Having decided in resolution 661 (1990) to impose economic sanctions under Chapter VII of the Charter of the United Nations,

Determined to bring an end to the occupation of Kuwait by Iraq which imperils the existence of a Member State and to restore the legitimate authority, and the sovereignty, independence and territorial integrity of Kuwait which requires the speedy implementation of the above resolutions,

Deploring the loss of innocent life stemming from the Iraqi invasion of Kuwait and determined to prevent further such losses,

Gravely alarmed that Iraq continues to refuse to comply with resolutions 660 (1990), 661 (1990), 662 (1990) and 664 (1990) and in particular at the conduct of the Government of Iraq in using Iraqi flag vessels to export oil,

1. Calls upon those Member States co-operating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990);
2. Invites Member States accordingly to co-operate as may be necessary to ensure compliance with the provisions of resolution 661 (1990) with maximum use of political and diplomatic measures, in accordance with paragraph 1 above;
3. Requests all States to provide in accordance with the Charter such assistance as may be required by the States referred to in paragraph 1 of this resolution;

4. Further requests the States concerned to co-ordinate their actions in pursuit of the above paragraphs of this resolution using as appropriate mechanisms of the Military Staff Committee and after consultation with the Secretary-General to submit reports to the Security Council and its Committee established under resolution 661 (1990) to facilitate the monitoring of the implementation of this resolution;

5. Decides to remain actively seized of the matter.

United Nations

S/RES/0666 (1990)

13 September 1990

6-RESOLUTION 666 (1990)

Adopted by the Security Council at its 2939th meeting on 13 September 1990

The Security Council,

Recalling its resolution 661 (1990), paragraphs 3 (c) and 4 of which apply, except in humanitarian circumstances, to foodstuffs,

Recognizing that circumstances may arise in which it will be necessary for foodstuffs to be supplied to the civilian population in Iraq or Kuwait in order to relieve human suffering,

Noting that in this respect the Committee established under paragraph 6 of that resolution has received communications from several Member States,

Emphasizing that it is for the Security Council, alone or acting through the Committee, to determine whether humanitarian circumstances have arisen,

Deeply concerned that Iraq has failed to comply with its obligations under Security Council resolution 664 (1990) in respect of the safety and well-being of third State nationals, and reaffirming that Iraq retains full responsibility in this regard under international humanitarian law including, where applicable, the Fourth Geneva Convention,

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

1. Decides that in order to make the necessary determination whether or not for the purposes of paragraph 3 (c) and paragraph 4 of resolution 661 (1990) humanitarian circumstances have arisen, the Committee shall keep the situation regarding foodstuffs in Iraq and Kuwait under constant review;
2. Expects Iraq to comply with its obligations under Security Council resolution 664 (1990) in respect of third State nationals and reaffirms that Iraq remains fully responsible for their safety and well-being in accordance with international humanitarian law including, where applicable, the Fourth Geneva Convention;
3. Requests, for the purposes of paragraphs 1 and 2 of this resolution, that the Secretary-General seek urgently, and on a continuing basis, information from relevant United Nations and other appropriate humanitarian agencies and all other sources on the availability of food in Iraq and Kuwait, such information to be communicated by the Secretary-General to the Committee regularly;
4. Requests further that in seeking and supplying such information particular attention will be paid to such categories of persons who might suffer specially, such as children under 15 years of age, expectant mothers, maternity cases, the sick and the elderly;
5. Decides that if the Committee, after receiving the reports from the Secretary-General, determines that circumstances have arisen in which there is an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait in

order to relieve human suffering, it will report promptly to the Council its decision as to how such need should be met;

6. Directs the Committee that in formulating its decisions it should bear in mind that foodstuffs should be provided through the United Nations in co-operation with the International Committee of the Red Cross or other appropriate humanitarian agencies and distributed by them or under their supervision in order to ensure that they reach the intended beneficiaries;

7. Requests the Secretary-General to use his good offices to facilitate the delivery and distribution of foodstuffs to Kuwait and Iraq in accordance with the provisions of this and other relevant resolutions;

8. Recalls that resolution 661 (1990) does not apply to supplies intended strictly for medical purposes, but in this connection recommends that medical supplies should be exported under the strict supervision of the Government of the exporting State or by appropriate humanitarian agencies."

United Nations

S/RES/0667 (1990)
16 September 1990

7-RESOLUTION 667 (1990)

Adopted by the Security Council at its 2940th meeting on 16 September 1990

The Security Council,

Reaffirming its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990) and 666 (1990),

Recalling the Vienna Conventions of 18 April 1961 on diplomatic relations and of 24 April 1963 on consular relations, to both of which Iraq is a party,

Considering that the decision of Iraq to order the closure of diplomatic and consular missions in Kuwait and to withdraw the immunity and privileges of these missions and their personnel is contrary to the decisions of the Security Council, the international Conventions mentioned above and international law,

Deeply concerned that Iraq, notwithstanding the decisions of the Security Council and the provisions of the Conventions mentioned above, has committed acts of violence against diplomatic missions and their personnel in Kuwait,

Outraged at recent violations by Iraq of diplomatic premises in Kuwait and at the abduction of personnel enjoying diplomatic immunity and foreign nationals who were present in these premises,

Considering that the above actions by Iraq constitute aggressive acts and a flagrant violation of its international obligations which strike at the root of the conduct of international relations in accordance with the Charter of the United Nations,

Recalling that Iraq is fully responsible for any use of violence against foreign nationals or against any diplomatic or consular missions in Kuwait or its personnel,

Determined to ensure respect of its decisions and of Article 25 of the Charter of the United Nations,

Further considering that the grave nature of Iraq's actions, which constitute a new escalation of its violations of international law, obliges the Council not only to express its immediate reaction but also to consider further concrete measures to ensure Iraq's compliance with the Council's resolutions,

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

1. Strongly condemns aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, including the abduction of foreign nationals who were present in those premises;
 2. Demands the immediate release of those foreign nationals as well as all nationals mentioned in resolution 664 (1990);
 3. Further demands that Iraq immediately and fully comply with its international obligations under resolutions 660 (1990), 662 (1990) and 664 (1990) of the Security Council, the Vienna Conventions on diplomatic and consular relations and international law.
 4. Further demands that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq and take no action to hinder the diplomatic and consular missions in the performance of their functions, including access to their nationals and the protection of their person and interests;
 5. Reminds all States that they are obliged to observe strictly resolutions 661 (1990), 662 (1990), 664 (1990), 665 (1990) and 666 (1990);
 6. Decides to consult urgently to take further concrete measures as soon as possible, under Chapter VII of the Charter, in response to Iraq's continued violation of the Charter, of resolutions of the Council and of international law.
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United Nations

S/RES/0669 (1990)
24 September 1990

8-RESOLUTION 669 (1990)

Adopted by the Security Council at its 2942nd meeting on 24 September 1990

The Security Council,

Recalling its resolution 661 (1990) of 6 August 1990,

Recalling also Article 50 of the Charter of the United Nations,

Conscious of the fact that an increasing number of requests for assistance have been received under the provisions of Article 50 of the Charter of the United Nations,

Entrusts the Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait with the task of examining requests for assistance under the provisions of Article 50 of the Charter of the United Nations and making recommendations to the President of the Security Council for appropriate action.

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United Nations

S/RES/0670 (1990)
25 September 1990

9-RESOLUTION 670 (1990)

Adopted by the Security Council at its 2943rd meeting on 25 September 1990

The Security Council,

Reaffirming its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990), 666 (1990) and 667 (1990),

Condemning Iraq's continued occupation of Kuwait, its failure to rescind its actions and end its purported annexation and its holding of third State nationals against their will, in flagrant violation of resolutions 660 (1990), 662 (1990), 664 (1990) and 667 (1990) and of international humanitarian law,

Condemning further the treatment by Iraqi forces of Kuwaiti nationals, including measures to force them to leave their own country and mistreatment of persons and property in Kuwait in violation of international law,

Noting with grave concern the persistent attempts to evade the measures laid down in resolution 661 (1990),

Further noting that a number of States have limited the number of Iraqi diplomatic and consular officials in their countries and that others are planning to do so,

Determined to ensure by all necessary means the strict and complete application of the measures laid down in resolution 661 (1990),

Determined to ensure respect for its decisions and the provisions of Articles 25 and 48 of the Charter of the United Nations,

Affirming that any acts of the Government of Iraq which are contrary to the above-mentioned resolutions or to Articles 25 or 48 of the Charter of the United Nations, such as Decree No. 377 of the Revolution Command Council of Iraq of 16 September 1990, are null and void;

Reaffirming its determination to ensure compliance with Security Council resolutions by maximum use of political and diplomatic means,

Welcoming the Secretary-General's use of his good offices to advance a peaceful solution based on the relevant Security Council resolutions and noting with appreciation his continuing efforts to this end,

Underlining to the Government of Iraq that its continued failure to comply with the terms of resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 666 (1990) and 667 (1990) could lead to further serious action by the Council under the Charter of the United Nations, including under Chapter VII,

Recalling the provisions of Article 103 of the Charter of the United Nations,

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

1. Calls upon all States to carry out their obligations to ensure strict and complete compliance with resolution 661 (1990) and, in particular, paragraphs 3, 4 and 5 thereof;
2. Confirms that resolution 661 (1990) applies to all means of transport, including aircraft;
3. Decides that all States, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before the date of the present resolution, shall deny permission to any aircraft to take off from their territory if the aircraft would carry any cargo to or from Iraq or Kuwait other than food in humanitarian circumstances, subject to authorization by the Council or the Committee established by resolution 661 (1990) and in accordance with resolution 666 (1990), or supplies intended strictly for medical purposes or solely for UNIIMOG;
4. Decides further that all States shall deny permission to any aircraft destined to land in Iraq or Kuwait, whatever its State of registration, to overfly its territory unless:

- (a) The aircraft lands at an airfield designated by that State outside Iraq or Kuwait in order to permit its inspection to ensure that there is no cargo on board in violation of resolution 661 (1990) or the present resolution, and for this purpose the aircraft may be detained for as long as necessary; or
- (b) The particular flight has been approved by the Committee established by resolution 661 (1990); or
- (c) The flight is certified by the United Nations as solely for the purposes of UNIIMOG;
5. Decides that each State shall take all necessary measures to ensure that any aircraft registered in its territory or operated by an operator who has his principal place of business or permanent residence in its territory complies with the provisions of resolution 661 (1990) and the present resolution;
6. Decides further that all States shall notify in a timely fashion the Committee established by resolution 661 (1990) of any flight between its territory and Iraq or Kuwait to which the requirement to land in paragraph 4 above does not apply, and the purpose for such a flight;
7. Calls upon all States to co-operate in taking such measures as may be necessary, consistent with international law, including the Chicago Convention, to ensure the effective implementation of the provisions of resolution 661 (1990) or the present resolution;
8. Calls upon all States to detain any ships of Iraqi registry which enter their ports and which are being or have been used in violation of resolution 661 (1990), or to deny such ships entrance to their ports except in circumstances recognized under international law as necessary to safeguard human life;
9. Reminds all States of their obligations under resolution 661 (1990) with regard to the freezing of Iraqi assets, and the protection of the assets of the legitimate Government of Kuwait and its agencies, located within their territory and to report to the Committee established under resolution 661 (1990) regarding those assets;
10. Calls upon all States to provide to the Committee established by resolution 661 (1990) information regarding the action taken by them to implement the provisions laid down in the present resolution;
11. Affirms that the United Nations Organization, the specialized agencies and other international organizations in the United Nations system are required to take such measures as may be necessary to give effect to the terms of resolution 661 (1990) and this resolution;
12. Decides to consider, in the event of evasion of the provisions of resolution 661 (1990) or of the present resolution by a State or its nationals or through its territory, measures directed at the State in question to prevent such evasion;
13. Reaffirms that the Fourth Geneva Convention applies to Kuwait and that as a High Contracting Party to the Convention Iraq is bound to comply fully with all its terms and, in particular, is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches.

United Nations

S/RES/0674 (1990)
29 October 1990

10-RESOLUTION 674 (1990)

Adopted by the Security Council at its 2951st meeting on 29 October 1990

The Security Council,

Recalling its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990), 666 (1990), 667 (1990) and 670 (1990),

Stressing the urgent need for the immediate and unconditional withdrawal of all Iraqi forces from Kuwait, for the restoration of Kuwait's sovereignty, independence and territorial integrity, and of the authority of its legitimate Government,

Condemning the actions by the Iraqi authorities and occupying forces to take third State nationals hostage and to mistreat and oppress Kuwaiti and third State nationals, and the other actions reported to the Council such as the destruction of Kuwaiti demographic records, forced departure of Kuwaitis, and relocation of population in Kuwait and the unlawful destruction and seizure of public and private property in Kuwait including hospital supplies and equipment, in violation of the decisions of this Council, the Charter of the United Nations, the Fourth Geneva Convention, the Vienna Conventions on Diplomatic and Consular Relations and international law,

Expressing grave alarm over the situation of nationals of third States in Kuwait and Iraq, including the personnel of the diplomatic and consular missions of such States,

Reaffirming that the Fourth Geneva Convention applies to Kuwait and that as a High Contracting Party to the Convention Iraq is bound to comply fully with all its terms and, in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches,

Recalling the efforts of the Secretary-General concerning the safety and well-being of third State nationals in Iraq and Kuwait,

Deeply concerned at the economic cost, and at the loss and suffering caused to individuals in Kuwait and Iraq as a result of the invasion and occupation of Kuwait by Iraq,

Acting under Chapter VII of the United Nations Charter,

Reaffirming the goal of the international community of maintaining international peace and security by seeking to resolve international disputes and conflicts through peaceful means,

Recalling also the important role that the United Nations and its Secretary-General have played in the peaceful solution of disputes and conflicts in conformity with the provisions of the United Nations Charter,

Alarmed by the dangers of the present crisis caused by the Iraqi invasion and occupation of Kuwait, directly threatening international peace and security, and seeking to avoid any further worsening of the situation,

Calling upon Iraq to comply with the relevant resolutions of the Security Council, in particular resolutions 660 (1990), 662 (1990) and 664 (1990),

Reaffirming its determination to ensure compliance by Iraq with the Security Council resolutions by maximum use of political and diplomatic means,

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1. Demands that the Iraqi authorities and occupying forces immediately cease and desist from taking third State nationals hostage, and mistreating and oppressing Kuwaiti and third State nationals, and from any other actions such as those reported to the Council and described above, violating the decisions of this Council, the Charter of the United Nations, the Fourth Geneva Convention, the Vienna Conventions on Diplomatic and Consular Relations and international law;
2. Invites States to collate substantiated information in their possession or submitted to them on the grave breaches by Iraq as per paragraph 1 above and to make this information available to the Council;
3. Reaffirms its demand that Iraq immediately fulfil its obligations to third State nationals in Kuwait and Iraq, including the personnel of diplomatic and consular missions, under the Charter, the Fourth Geneva Convention, the Vienna Conventions on Diplomatic and Consular Relations, general principles of international law and the relevant resolutions of the Council;

4. Reaffirms further its demand that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of those third State nationals, including diplomatic and consular personnel, who wish to leave;
5. Demands that Iraq ensure the immediate access to food, water and basic services necessary to the protection and well-being of Kuwaiti nationals and of nationals of third States in Kuwait and Iraq, including the personnel of diplomatic and consular missions in Kuwait;
6. Reaffirms its demand that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq, take no action to hinder these diplomatic and consular missions in the performance of their functions, including access to their nationals and the protection of their person and interest and rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel;
7. Requests the Secretary-General, in the context of the continued exercise of his good offices concerning the safety and well being of third State nationals in Iraq and Kuwait, to seek to achieve the objectives of paragraphs 4, 5 and 6 and, in particular, the provision of food, water and basic services to Kuwaiti nationals and to the diplomatic and consular missions in Kuwait and the evacuation of third State nationals;
8. Reminds Iraq that under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq;
9. Invites States to collect relevant information regarding their claims, and those of their nationals and corporations, for restitution or financial compensation by Iraq with a view to such arrangements as may be established in accordance with international law;
10. Requires that Iraq comply with the provisions of the present resolution and its previous resolutions, failing which the Council will need to take further measures under the Charter;
11. Decides to remain actively and permanently seized of the matter until Kuwait has regained its independence and peace has been restored in conformity with the relevant resolutions of the Security Council;

B

12. Reposes its trust in the Secretary-General to make available his good offices and, as he considers appropriate, to pursue them and undertake diplomatic efforts in order to reach a peaceful solution to the crisis caused by the Iraqi invasion and occupation of Kuwait on the basis of Security Council resolutions 660 (1990), 662 (1990) and 664 (1990), and calls on all States, both those in the region and others, to pursue on this basis their efforts to this end, in conformity with the Charter, in order to improve the situation and restore peace, security and stability;
13. Requests the Secretary-General to report to the Security Council on the results of his good offices and diplomatic efforts.

United Nations

S/RES/0677 (1990)
28 November 1990

11-RESOLUTION 677 (1990)

Adopted by the Security Council at its 2962nd meeting on 28 November 1990

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990, 662 (1990) of 9 August 1990 and 674 (1990) of 29 October 1990,

Reiterating its concern for the suffering caused to individuals in Kuwait as a result of the invasion and occupation of Kuwait by Iraq,

Gravely concerned at the ongoing attempt by Iraq to alter the demographic composition of the population of Kuwait and to destroy the civil records maintained by the legitimate Government of Kuwait,

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

1. Condemns the attempts by Iraq to alter the demographic composition of the population of Kuwait and to destroy the civil records maintained by the legitimate Government of Kuwait;
2. Mandates the Secretary-General to take custody of a copy of the population register of Kuwait, the authenticity of which has been certified by the legitimate Government of Kuwait and which covers the registration of the population up to 1 August 1990;
3. Requests the Secretary-General to establish, in co-operation with the legitimate Government of Kuwait, an Order of Rules and Regulations governing access to and use of the said copy of the population register.

United Nations

S/RES/0678(1990)
29 November 1990

12-RESOLUTION 678 (1990)

Adopted by the Security Council at its 2963rd meeting on 29 November 1990

The Security Council,

Recalling, and reaffirming its resolutions 660 (1990) of 2 August (1990), 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990 and 677 (1990) of 28 November 1990.

Noting that, despite all efforts by the United Nations, Iraq refuses to comply with its obligation to implement resolution 660 (1990) and the above-mentioned subsequent relevant resolutions, in flagrant contempt of the Security Council,

Mindful of its duties and responsibilities under the Charter of the United Nations for the maintenance and preservation of international peace and security,

Determined to secure full compliance with its decisions,

Acting under Chapter VII of the Charter,

1. Demands that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of good wil, to do so;

2. Authorizes Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the above-mentioned resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;
3. Requests all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 of the present resolution;
4. Requests the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 of the present resolution;
5. Decides to remain seized of the matter.

United Nations

S/RES/0686 (1991)
2 March 1991

13-RESOLUTION 686 (1991)

Adopted by the Security Council at its 2978th meeting on 2 March 1991

The Security Council,

Recalling and reaffirming its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990), 666 (1990), 667 (1990), 669 (1990), 670 (1990), 674 (1990), 677 (1990), and 678 (1990),

Recalling the obligations of Member States under Article 25 of the Charter,

Recalling paragraph 9 of resolution 661 (1990) regarding assistance to the Government of Kuwait and paragraph 3 (c) of that resolution regarding supplies strictly for medical purposes and, in humanitarian circumstances, foodstuffs,

Taking note of the letters of the Foreign Minister of Iraq confirming Iraq's agreement to comply fully with all of the resolutions noted above (S/22275), and stating its intention to release prisoners of war immediately (S/22273),

Taking note of the suspension of offensive combat operations by the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990),

Bearing in mind the need to be assured of Iraq's peaceful intentions, and the objective in resolution 678 (1990) of restoring international peace and security in the region,

Underlining the importance of Iraq taking the necessary measures which would permit a definitive end to the hostilities,

Affirming the commitment of all Member States to the independence, sovereignty and territorial integrity of Iraq and Kuwait, and noting the intention expressed by the Member States cooperating under paragraph 2 of Security Council resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with achieving the objectives of the resolution,

Acting under Chapter VII of the Charter,

1. Affirms that all twelve resolutions noted above continue to have full force and effect;
2. Demands that Iraq implement its acceptance of all twelve resolutions noted above and in particular that Iraq:
 - (a) Rescind immediately its actions purporting to annex Kuwait;
 - (b) Accept in principle its liability for any loss, damage, or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq;
 - (c) Under international law immediately release under the auspices of the International Committee of the Red Cross, Red Cross Societies, or Red Crescent Societies, all Kuwaiti and third country nationals detained by Iraq and return the remains of any deceased Kuwaiti and third country nationals so detained; and
 - (d) Immediately begin to return all Kuwaiti property seized by Iraq, to be completed in the shortest possible period;
3. Further demands that Iraq:
 - (a) Cease hostile or provocative actions by its forces against all Member States including missile attacks and flights of combat aircraft;
 - (b) Designate military commanders to meet with counterparts from the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990) to arrange for the military aspects of a cessation of hostilities at the earliest possible time;
 - (c) Arrange for immediate access to and release of all prisoners of war under the auspices of the International Committee of the Red Cross and return the remains of any deceased personnel of the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990); and
 - (d) Provide all information and assistance in identifying Iraqi mines, booby traps and other explosives as well as any chemical and biological weapons and material in Kuwait, in areas of Iraq where forces of Member States cooperating with Kuwait pursuant to resolution 678 (1990) are present temporarily, and in adjacent waters;
4. Recognizes that during the period required for Iraq to comply with paragraphs 2 and 3 above, the provisions of paragraph 2 of resolution 678 (1990) remain valid;
5. Welcomes the decision of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990) to provide access and to commence immediately the release of Iraqi prisoners of war as required by the terms of the Third Geneva Convention of 1949, under the auspices of the International Committee of the Red Cross;
6. Requests all Member States, as well as the United Nations, the specialized agencies and other international organizations in the United Nations system, to take all appropriate action to cooperate with the Government and people of Kuwait in the reconstruction of their country;
7. Decides that Iraq shall notify the Secretary-General and the Security Council when it has taken the actions set out above;
8. Decides that in order to secure the rapid establishment of a definitive end to the hostilities, the Security Council remains actively seized of the matter.

United Nations

S/RES/687 (1991)
8 April 1991

14-RESOLUTION 687 (1991)

Adopted by the Security Council at its 2981st meeting,
on 3 April 1991

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, 677 (1990) of 28 November 1990, 678 (1990) of 29 November 1990 and 686 (1991) of 2 March 1991,
Welcoming the restoration to Kuwait of its sovereignty, independence and territorial integrity and the return of its legitimate Government,

Affirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq, and noting the intention expressed by the Member States cooperating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with paragraph 8 of resolution 686 (1991),

Reaffirming the need to be assured of Iraq's peaceful intentions in the light of its unlawful invasion and occupation of Kuwait,

Taking note of the letter sent by the Minister for Foreign Affairs of Iraq on 27 February 1991 and those sent pursuant to resolution 686 (1991),

Noting that Iraq and Kuwait, as independent sovereign States, signed at Baghdad on 4 October 1963 "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters", thereby recognizing formally the boundary between Iraq and Kuwait and the allocation of islands, which were registered with the United Nations in accordance with Article 102 of the Charter of the United Nations and in which Iraq recognized the independence and complete sovereignty of the State of Kuwait within its borders as specified and accepted in the letter of the Prime Minister of Iraq dated 21 July 1932, and as accepted by the Ruler of Kuwait in his letter dated 10 August 1932,

Conscious of the need for demarcation of the said boundary,

Conscious also of the statements by Iraq threatening to use weapons in violation of its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and of its prior use of chemical weapons and affirming that grave consequences would follow any further use by Iraq of such weapons,

Recalling that Iraq has subscribed to the Declaration adopted by all States participating in the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States, held in Paris from 7 to 11 January 1989, establishing the objective of universal elimination of chemical and biological weapons,

Recalling also that Iraq has signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972,

Noting the importance of Iraq ratifying this Convention,

Noting moreover the importance of all States adhering to this Convention and encouraging its forthcoming Review Conference to reinforce the authority, efficiency and universal scope of the convention,

Stressing the importance of an early conclusion by the Conference on Disarmament of its work on a Convention on the Universal Prohibition of Chemical Weapons and of universal adherence thereto,

Aware of the use by Iraq of ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq,

Concerned by the reports in the hands of Member States that Iraq has attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,

Recalling the objective of the establishment of a nuclear-weapons-free zone in the region of the Middle East,

Conscious of the threat that all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons,

Conscious also of the objective of achieving balanced and comprehensive control of armaments in the region,

Conscious further of the importance of achieving the objectives noted above using all available means, including a dialogue among the States of the region,

Noting that resolution 686 (1991) marked the lifting of the measures imposed by resolution 661 (1990) in so far as they applied to Kuwait,

Noting that despite the progress being made in fulfilling the obligations of resolution 686 (1991), many Kuwaiti and third country nationals are still not accounted for and property remains unreturned,

Recalling the International Convention against the Taking of Hostages, opened for signature at New York on 18 December 1979, which categorizes all acts of taking hostages as manifestations of international terrorism,

Deploring threats made by Iraq during the recent conflict to make use of terrorism against targets outside Iraq and the taking of hostages by Iraq,

Taking note with grave concern of the reports of the Secretary-General of 20 March 1991 and 28 March 1991, and conscious of the necessity to meet urgently the humanitarian needs in Kuwait and Iraq,

Bearing in mind its objective of restoring international peace and security in the area as set out in recent resolutions of the Security Council,

Conscious of the need to take the following measures acting under Chapter VII of the Charter,

1. Affirms all thirteen resolutions noted above, except as expressly changed below to achieve the goals of this resolution, including a formal cease-fire;

A

2. Demands that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands 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 in the exercise of their sovereignty at Baghdad on 4 October 1963 and registered with the United Nations and published by the United Nations in document 7063, United Nations, Treaty Series, 1964;

3. Calls upon the Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait to demarcate the boundary between Iraq and Kuwait, drawing on appropriate material, including the map transmitted by Security Council document S/22412 and to report back to the Security Council within one month;

4. Decides to guarantee the inviolability of the above-mentioned international boundary and to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations;

B

5. Requests the Secretary-General, after consulting with Iraq and Kuwait, to submit within three days to the Security Council for its approval a plan for the immediate deployment of a United Nations observer unit to monitor the Khor Abdullah and a demilitarized zone, which is hereby established, extending ten kilometres into Iraq and five kilometres into Kuwait from the boundary referred to in the "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters" of 4 October 1963; to deter violations of the boundary through its presence in and surveillance of the demilitarized zone; to observe any hostile or potentially hostile action mounted from the territory of one State to the other; and for the Secretary-General to report regularly to the Security Council on the operations of the unit, and immediately if there are serious violations of the zone or potential threats to peace;

6. Notes that as soon as the Secretary-General notifies the Security Council of the completion of the deployment of the United Nations observer unit, the conditions will be established for the Member States cooperating with Kuwait in accordance with resolution 678 (1990) to bring their military presence in Iraq to an end consistent with resolution 686 (1991);

C

7. Invites Iraq to reaffirm unconditionally its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and to ratify the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972;

8. Decides that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:

(a) All chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities;

(b) All ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities;

9. Decides, for the implementation of paragraph 8 above, the following:

(a) Iraq shall submit to the Secretary-General, within fifteen days of the adoption of the present resolution, a declaration of the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection as specified below;

(b) The Secretary-General, in consultation with the appropriate Governments and, where appropriate, with the Director-General of the World Health Organization, within forty-five days of the passage of the present resolution, shall develop, and submit to the Council for approval, a plan calling for the completion of the following acts within forty-five days of such approval:

(i) The forming of a Special Commission, which shall carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself;

(ii) The yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless, taking into account the requirements of public safety, of all items specified under paragraph 8 (a) above, including items at the additional locations designated by the Special Commission under paragraph 9 (b) (i) above and the destruction by Iraq, under the supervision of the Special Commission, of all its missile capabilities, including launchers, as specified under paragraph 8 (b) above;

(iii) The provision by the Special Commission of the assistance and cooperation to the Director-General of the International Atomic Energy Agency required in paragraphs 12 and 13 below;

10. Decides that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9 above and requests the Secretary-General, in consultation with the Special Commission, to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with this

paragraph, to be submitted to the Security Council for approval within one hundred and twenty days of the passage of this resolution;

11. Invites Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968;

12. Decides that Iraq shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; to submit to the Secretary-General and the Director-General of the International Atomic Energy Agency within fifteen days of the adoption of the present resolution a declaration of the locations, amounts, and types of all items specified above; to place all of its nuclear-weapons-usable materials under the exclusive control, for custody and removal, of the International Atomic Energy Agency, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General discussed in paragraph 9 (b) above; to accept, in accordance with the arrangements provided for in paragraph 13 below, urgent on-site inspection and the destruction, removal or rendering harmless as appropriate of all items specified above; and to accept the plan discussed in paragraph 13 below for the future ongoing monitoring and verification of its compliance with these undertakings;

13. Requests the Director-General of the International Atomic Energy Agency, through the Secretary-General, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General in paragraph 9 (b) above, to carry out immediate on-site inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Security Council within forty-five days calling for the destruction, removal, or rendering harmless as appropriate of all items listed in paragraph 12 above; to carry out the plan within forty-five days following approval by the Security Council; and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968, for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12 above, including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that Agency safeguards cover all relevant nuclear activities in Iraq, to be submitted to the Security Council for approval within one hundred and twenty days of the passage of the present resolution;

14. Takes note that the actions to be taken by Iraq in paragraphs 8, 9, 10, 11, 12 and 13 of the present resolution represent steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons;

D

15. Requests the Secretary-General to report to the Security Council on the steps taken to facilitate the return of all Kuwaiti property seized by Iraq, including a list of any property that Kuwait claims has not been returned or which has not been returned intact;

E

16. Reaffirms that Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait;

17. Decides that all Iraqi statements made since 2 August 1990 repudiating its foreign debt are null and void, and demands that Iraq adhere scrupulously to all of its obligations concerning servicing and repayment of its foreign debt;

18. Decides also to create a fund to pay compensation for claims that fall within paragraph 16 above and to establish a Commission that will administer the fund;

19. Directs the Secretary-General to develop and present to the Security Council for decision, no later than thirty days following the adoption of the present resolution, recommendations for the fund to meet the requirement for the payment of claims established in accordance with paragraph 18 above and for a programme to implement the decisions in paragraphs 16, 17 and 18 above, including: administration of the fund; mechanisms for determining the appropriate level of Iraq's contribution to the fund based on a percentage of the value of the exports of petroleum and petroleum products from Iraq not to exceed a figure to be suggested to the Council by the Secretary-General, taking into account the requirements of the people of Iraq, Iraq's payment capacity as assessed in conjunction with the international financial institutions taking into consideration external debt service, and the needs of the Iraqi economy; arrangements for ensuring that payments are made to the fund; the process by which funds will be allocated and claims paid; appropriate procedures for evaluating losses, listing claims and verifying their validity and resolving disputed claims in respect of Iraq's liability as specified in paragraph 16 above; and the composition of the Commission designated above;

F

20. Decides, effective immediately, that the prohibitions against the sale or supply to Iraq of commodities or products, other than medicine and health supplies, and prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall not apply to foodstuffs notified to the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait or, with the approval of that Committee, under the simplified and accelerated "no-objection" procedure, to materials and supplies for essential civilian needs as identified in the report of the Secretary-General dated 20 March 1991, and in any further findings of humanitarian need by the Committee;

21. Decides that the Security Council shall review the provisions of paragraph 20 above every sixty days in the light of the policies and practices of the Government of Iraq, including the implementation of all relevant resolutions of the Security Council, for the purpose of determining whether to reduce or lift the prohibitions referred to therein;
22. Decides that upon the approval by the Security Council of the programme called for in paragraph 19 above and upon Council agreement that Iraq has completed all actions contemplated in paragraphs 8, 9, 10, 11, 12 and 13 above, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall have no further force or effect;
23. Decides that, pending action by the Security Council under paragraph 22 above, the Security Council Committee established by resolution 661 (1990) shall be empowered to approve, when required to assure adequate financial resources on the part of Iraq to carry out the activities under paragraph 20 above, exceptions to the prohibition against the import of commodities and products originating in Iraq;
24. Decides that, in accordance with resolution 661 (1990) and subsequent related resolutions and until a further decision is taken by the Security Council, all States shall continue to prevent the sale or supply, or the promotion or facilitation of such sale or supply, to Iraq by their nationals, or from their territories or using their flag vessels or aircraft, of:
- (a) Arms and related materiel of all types, specifically including the sale or transfer through other means of all forms of conventional military equipment, including for paramilitary forces, and spare parts and components and their means of production, for such equipment;
 - (b) Items specified and defined in paragraphs 8 and 12 above not otherwise covered above;
 - (c) Technology under licensing or other transfer arrangements used in the production, utilization or stockpiling of items specified in subparagraphs (a) and (b) above;
 - (d) Personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in subparagraphs (a) and (b) above;
25. Calls upon all States and international organizations to act strictly in accordance with paragraph 24 above, notwithstanding the existence of any contracts, agreements, licences or any other arrangements;
26. Requests the Secretary-General, in consultation with appropriate Governments, to develop within sixty days, for the approval of the Security Council, guidelines to facilitate full international implementation of paragraphs 24 and 25 above and paragraph 27 below, and to make them available to all States and to establish a procedure for updating these guidelines periodically;
27. Calls upon all States to maintain such national controls and procedures and to take such other actions consistent with the guidelines to be established by the Security Council under paragraph 26 above as may be necessary to ensure compliance with the terms of paragraph 24 above, and calls upon international organizations to take all appropriate steps to assist in ensuring such full compliance;
28. Agrees to review its decisions in paragraphs 22, 23, 24 and 25 above, except for the items specified and defined in paragraphs 8 and 12 above, on a regular basis and in any case one hundred and twenty days following passage of the present resolution, taking into account Iraq's compliance with the resolution and general progress towards the control of armaments in the region;
29. Decides that all States, including Iraq, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government of Iraq, or of any person or body in Iraq, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Security Council in resolution 661 (1990) and related resolutions;
- G
30. Decides that, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third country nationals, Iraq shall extend all necessary cooperation to the International Committee of the Red Cross, providing lists of such persons, facilitating the access of the International Committee of the Red Cross to all such persons wherever located or detained and facilitating the search by the International Committee of the Red Cross for those Kuwaiti and third country nationals still unaccounted for;
31. Invites the International Committee of the Red Cross to keep the Secretary-General apprised as appropriate of all activities undertaken in connection with facilitating the repatriation or return of all Kuwaiti and third country nationals or their remains present in Iraq on or after 2 August 1990;
- H
32. Requires Iraq to inform the Security Council that it will not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism;
- I
33. Declares that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990);
34. Decides to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area.

United Nations

S/RES/0688 (1991)

5 April 1991

15-RESOLUTION 688 (1991)

Adopted by the Security Council at its 2982nd meeting on 5 April 1991

The Security Council,

Mindful of its duties and its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

Recalling of Article 2, paragraph 7, of the Charter of the United Nations,

Gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, which led to a massive flow of refugees towards and across international frontiers and to cross-border incursions, which threaten international peace and security in the region,

Deeply disturbed by the magnitude of the human suffering involved, Taking note of the letters sent by the representatives of Turkey and France to the United Nations dated 2 April 1991 and 4 April 1991, respectively (S/22435 and S/22442),

Taking note also of the letters sent by the Permanent Representative of the Islamic Republic of Iran to the United Nations dated 3 and 4 April 1991, respectively (S/22436 and S/22447),

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

Bearing in mind the Secretary-General's report of 20 March 1991 (S/22366),

1. Condemns the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, the consequences of which threaten international peace and security in the region;
2. Demands that Iraq, as a contribution to remove the threat to international peace and security in the region, immediately end this repression and express the hope in the same context that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected;
3. Insists that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations;
4. Requests the Secretary-General to pursue his humanitarian efforts in Iraq and to report forthwith, if appropriate on the basis of a further mission to the region, on the plight of the Iraqi civilian population, and in particular the Kurdish population, suffering from the repression in all its forms inflicted by the Iraqi authorities;
5. Requests further the Secretary-General to use all the resources at his disposal, including those of the relevant United Nations agencies, to address urgently the critical needs of the refugees and displaced Iraqi population;
6. Appeals to all Member States and to all humanitarian organizations to contribute to these humanitarian relief efforts;
7. Demands that Iraq cooperate with the Secretary-General to these ends;
8. Decides to remain seized of the matter.

United Nations

S/RES/0689 (1991)

9 April 1991

16-RESOLUTION 689 (1991)

Adopted by the Security Council at its 2983rd meeting on 9 March 1991

The Security Council,

Recalling its resolution 687 (1991),

Acting under Chapter VII of the Charter,

1. Approves the report of the Secretary-General on the implementation of paragraph 5 of Security Council resolution 687 (1991) contained in document S/22454 and Add. 1-3 of 5 April 1991;
2. Notes that the decision to set up the observer unit was taken in paragraph 5 of resolution 687 (1991) and can only be terminated by a decision of the Council. The Council shall therefore review the question of termination or continuation every six months;
3. Decides that the modalities for the initial six-month period of the United Nations Iraq-Kuwait Observation Mission shall be as set out in accordance with the above-mentioned report and shall also be reviewed every six months.

United Nations

S/RES/0692 (1991)

20 May 1991

17-RESOLUTION 692 (1991)

Adopted by the Security Council at its 2987th meeting on 20 May 1991

The Security Council,

Recalling its resolutions 694 (1990) of 29 October 1990, 686 (1991) of 2 March 1991 and 687 (1991) of 3 April 1991, concerning the liability of Iraq, without prejudice to its debts and obligations arising prior to 2 August 1990, for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait,

Taking note of the Secretary-General's report of 2 May 1991 (S/22559), submitted in accordance with paragraph 19 of resolution 687 (1991),

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

1. Expresses its appreciation to the Secretary-General for his report of 2 May 1991;

2. Welcomes the fact that the Secretary-General will now undertake the appropriate consultations requested by paragraph 19 of resolution 687 (1991) so that he will be in a position to recommend to the Security Council for decision as soon as possible the figure which the level of Iraq's contribution to the Fund will not exceed;
3. Decides to establish the Fund and Commission referred to in paragraph 18 of resolution 687 (1991) in accordance with Part I of the Secretary-General's report, and that the Governing Council will be located at the Offices of the United Nations at Geneva and that the Governing Council may decide whether some of the activities of the Commission should be carried out elsewhere;
4. Requests the Secretary-General to take the actions necessary to implement paragraphs 2 and 3 above in consultation with the members of the Governing Council;
5. Directs the Governing Council to proceed in an expeditious manner to implement the provisions of Section E of resolution 687 (1991), taking into account the recommendations in section II of the Secretary-General's report;
6. Decides that the requirement for Iraqi contributions shall apply in the manner to be prescribed by the Governing Council with respect to all Iraqi petroleum and petroleum products exported from Iraq after 3 April 1991 as well as such petroleum and petroleum products exported earlier but not delivered or not paid for as a specific result of the prohibitions contained in resolution 661 (1990);
7. Requests the Governing Council to report as soon as possible on the actions it has taken with regard to the mechanisms for determining the appropriate level of Iraq's contribution to the Fund and the arrangements for ensuring that payments are made to the Fund, so that the Security Council can give its approval in accordance with paragraph 22 of resolution 687 (1991);
8. Requests that all States and international organizations cooperate with the decisions of the Governing Council taken pursuant to paragraph 5 of the present resolution, and also requests that the Governing Council keep the Security Council informed on this matter;
9. Decides that, if the Governing Council notifies the Security Council that Iraq has failed to carry out decisions of the Governing Council taken pursuant to paragraph 5 of this resolution, the Security Council intends to retain or to take action to reimpose the prohibition against the import of petroleum and petroleum products originating in Iraq and financial transactions related thereto;
10. Decides also to remain seized of this matter and that the Governing Council will submit periodic reports to the Secretary-General and the Security Council.

United Nations

S/RES/699 (1991)
17 June 1991

18-RESOLUTION 699 (1991)

Adopted by the Security Council at its 2994th meeting on
17 June 1991

The Security Council,

Recalling its resolution 687 (1991),

Taking note of the report of the Secretary-General of 17 May 1991 (S/22614), submitted to it in pursuance of paragraph 9 (b) of resolution 687 (1991),

Also taking note of the Secretary-General's note of 17 May 1991 (S/22615), transmitting to the Council the letter addressed to him under paragraph 13 of the resolution by the Director-General of the International Atomic Energy Agency (IAEA),

Acting under Chapter VII of the Charter,

1. Approves the plan contained in the report of the Secretary-General;

2. Confirms that the Special Commission and the IAEA have the authority to conduct activities under section C of resolution 687 (1991), for the purpose of the destruction, removal or rendering harmless of the items specified in paragraphs 8 and 12 of that resolution, after the 45-day period following the approval of this plan until such activities have been completed;

3. Requests the Secretary-General to submit to the Security Council progress reports on the implementation of the plan referred to in paragraph 1 every six months after the adoption of this resolution;

4. Decides to encourage the maximum assistance, in cash and in kind, from all Member States to ensure that activities under section C of resolution 687 (1991) are undertaken effectively and expeditiously; further decides, however, that the Government of Iraq shall be liable for the full costs of carrying out the tasks authorized by section C; and requests the Secretary-General to submit to the Council within 30 days for approval recommendations as to the most effective means by which Iraq's obligations in this respect may be fulfilled.

United Nations

S/RES/0700 (1991)
17 June 1991

19-RESOLUTION 700 (1991)

Adopted by the Security Council at its 2994th meeting on 17 June 1991

The Security Council,

Recalling its resolutions 661 (1990) of 6 August 1990, 665 (1990) of 25 August 1990, 670 (1990) of 25 September 1990 and 687 (1991) of 3 April 1991,

Taking note of the Secretary-General's report of 2 June 1991 (S/22660) submitted pursuant to paragraph 26 of resolution 687 (1991),

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

1. Expresses its appreciation to the Secretary-General for his report of 2 June 1991 (S/22660);
2. Approves the Guidelines to Facilitate Full International Implementation of paragraphs 24, 25 and 27 of Security Council resolution 687 (1991), annexed to the report of the Secretary-General (S/22660);
3. Reiterates its call upon all States and international organizations to act in a manner consistent with the Guidelines;
4. Requests all States, in accordance with paragraph 8 of the Guidelines, to report to the Secretary-General within 45 days on the measures they have instituted for meeting the obligations set out in paragraph 24 of resolution 687 (1991);
5. Entrusts the Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait with the responsibility, under the Guidelines, for monitoring the prohibitions against the sale or supply of arms to Iraq and related sanctions established in paragraph 24 of resolution 687 (1991);
6. Decides to remain seized of the matter and to review the Guidelines at the same time as it reviews paragraphs 22, 23, 24 and 25 of resolution 687 (1991) as set out in paragraph 28 thereof.

United Nations

S/RES/0705 (1991)

15 August 1991

20-RESOLUTION 705 (1991)

Adopted by the Security Council at its 3004th meeting, on 15 August 1991

The Security Council,

Having considered the note of 30 May 1991 of the Secretary-General pursuant to paragraph 13 of his report of 2 May 1991 (S/22559) which was annexed to the Secretary-General's letter of 30 May 1991 to the President of the Security Council (S/22661),

Acting under Chapter VII of the Charter,

1. Expresses its appreciation to the Secretary-General for his note of 30 May 1991 which was annexed to his letter to the President of the Security Council of the same date (S/22661);
2. Decides that in accordance with the suggestion made by the Secretary-General in paragraph 7 of his note of 30 May 1991, compensation to be paid by Iraq (as arising from section E of resolution 687) shall not exceed 30 per cent of the annual value of the exports of petroleum and petroleum products from Iraq;
3. Decides further, in accordance with paragraph 8 of the Secretary-General's note of 30 May 1991, to review the figure established in paragraph 2 above from time to time in light of data and assumptions contained in the letter of the Secretary-General (S/22661) and other relevant developments.

United Nations

S/RES/0706 (1991)

15 August 1991

21-RESOLUTION 706 (1991)

Adopted by the Security Council at its 3004th meeting, on 15 August 1991

The Security Council,

Recalling its previous relevant resolutions and in particular resolutions 661 (1990), 686 (1991), 687 (1991), 688 (1991), 692 (1991), 699 (1991) and 705 (1991),

Taking note of the report (S/22799) dated 15 July 1991 of the inter-agency mission headed by the Executive Delegate of the Secretary-General for the United Nations inter-agency humanitarian programme for Iraq, Kuwait and the Iraq/Turkey and Iraq/Iran border areas,

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

Concerned also that the repatriation or return of all Kuwaitis and third country nationals or their remains present in Iraq on or after 2 August 1990, pursuant to paragraph 2 (c) of resolution 686 (1991), and paragraphs 30 and 31 of resolution 687 (1991) has not yet been fully carried out,

Taking note of the conclusions of the above-mentioned report, and in particular of the proposal for oil sales by Iraq to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs for the purpose of providing humanitarian relief,

Taking note also of the letters dated 14 April 1991, 31 May 1991, 6 June 1991, 9 July 1991 and 22 July 1991 from the Minister of Foreign Affairs of Iraq and the Permanent Representative of Iraq to the Chairman of the Committee established by resolution 661 (1990) concerning the export from Iraq of petroleum and petroleum products,

Convinced of the need for equitable distribution of humanitarian relief to all segments of the Iraqi civilian population through effective monitoring and transparency.

Recalling and reaffirming in this regard its resolution 688 (1991) and in particular the importance which the Council attaches to Iraq allowing unhindered access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and making available all necessary facilities for their operation, and in this connection stressing the important and continuing role played by the Memorandum of Understanding between the United Nations and Government of Iraq of 18 April 1991 (S/22663),

Recalling that, pursuant to resolutions 687 (1991), 692 (1991) and 699 (1991), Iraq is required to pay the full costs of the Special Commission and the IAEA in carrying out the tasks authorized by section C of resolution 687 (1991), and that the Secretary-General in his report to the Security Council of 15 July 1991 (S/22792), submitted pursuant to paragraph 4 of resolution 699 (1991), expressed the view that the most obvious way of obtaining financial resources from Iraq to meet the costs of the Special Commission and the IAEA would be to authorize the sale of some Iraqi petroleum and petroleum products; recalling further that Iraq is required to pay its contributions to the Compensation Fund and half the costs of the Iraq-Kuwait Boundary Demarcation Commission, and recalling further that in its resolutions 686 (1991) and 687 (1991) the Security Council demanded that Iraq return in the shortest possible time all Kuwaiti property seized by it and requested the Secretary-General to take steps to facilitate this,

Acting under Chapter VII of the Charter,

1. Authorizes all States, subject to the decision to be taken by the Security Council pursuant to paragraph 5 below and notwithstanding the provisions of paragraphs 3 (a), 3 (b) and 4 of resolution 661 (1990), to permit the import, during a period of 6 months from the date of passage of the resolution pursuant to paragraph 5 below, of petroleum and petroleum products originating in Iraq sufficient to produce a sum to be determined by the Council following receipt of the report of the Secretary-General requested in paragraph 5 of this resolution but not to exceed 1.6 billion United States dollars for the purposes set out in this resolution and subject to the following conditions:

(a) Approval of each purchase of Iraqi petroleum and petroleum products by the Security Council Committee established by resolution 661 (1990) following notification to the Committee by the State concerned,

(b) Payment of the full amount of each purchase of Iraqi petroleum and petroleum products directly by the purchaser in the State concerned into an escrow account to be established by the United Nations and to be administered by the Secretary-General, exclusively to meet the purposes of this resolution.

(c) Approval by the Council, following the report of the Secretary-General requested in paragraph 5 of this resolution, of a scheme for the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), in particular health related materials, all of which to be labelled to the extent possible as being supplied under this scheme, and for all feasible and appropriate United Nations monitoring and supervision for the purpose of assuring their equitable distribution to meet humanitarian needs in all regions of Iraq and to all categories of the Iraqi civilian population as well as all feasible and appropriate management relevant to this purpose, such a United Nations role to be available if desired for humanitarian assistance from other sources,

(d) The sum authorized in this paragraph to be released by successive decisions of the Committee established by resolution 661 (1990) in three equal portions after the Council has taken the decision provided for in paragraph 5 below on the implementation of this resolution, and notwithstanding any other provision of this paragraph, the sum to be subject to review concurrently by the Council on the basis of its ongoing assessment of the needs and requirements,

2. Decides that a part of the sum in the account to be established by the Secretary-General shall be made available by him to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs, as referred to in paragraph 20 of resolution 687, and the cost to the United Nations of its roles under this resolution and of other necessary humanitarian activities in Iraq,
3. Decides further that a part of the sum in the account to be established by the Secretary-General shall be used by him for appropriate payments to the United Nations Compensation Fund, the full costs of carrying out the tasks authorized by Section C of resolution 687 (1991), the full costs incurred by the United Nations in facilitating the return of all Kuwaiti property seized by Iraq, and half the costs of the Boundary Commission,
4. Decides that the percentage of the value of exports of petroleum and petroleum products from Iraq, authorized under this resolution to be paid to the United Nations Compensation Fund, as called for in paragraph 19 of resolution 687 (1991), and as defined in paragraph 6 of resolution 692 (1991), shall be the same as the percentage decided by the Security Council in paragraph 2 of resolution 705 (1991) for payments to the Compensation Fund, until such time as the Governing Council of the Fund decides otherwise,
5. Requests the Secretary-General to submit within 20 days of the date of adoption of this resolution a report to the Security Council for decision on measures to be taken in order to implement paragraphs 1 (a), (b), (c), estimates of the humanitarian requirements of Iraq set out in paragraph 2 above and of the amount of Iraq's financial obligations set out in paragraph 3 above up to the end of the period of the authorization in paragraph 1 above, as well as the method for taking the necessary legal measures to ensure that the purposes of this resolution are carried out and the method for taking account of the costs of transportation of such Iraqi petroleum and petroleum products,
6. Further requests the Secretary-General in consultation with the International Committee of the Red Cross to submit within 20 days of the date of adoption of this resolution a report to the Security Council on activities undertaken in accordance with paragraph 31 of resolution 687 (1991) in connection with facilitating the repatriation or return of all Kuwaiti and third country nationals or their remains present in Iraq on or after 2 August 1990,
7. Requires the Government of Iraq to provide to the Secretary-General and appropriate international organizations on the first day of the month immediately following the adoption of the present resolution and on the first day of each month thereafter until further notice, a statement of the gold and foreign currency reserves it holds whether in Iraq or elsewhere,
8. Calls upon all States to cooperate fully in the implementation of this resolution,
9. Decides to remain seized of the matter.

United Nations

S/RES/707 (1991)
15 August 1991

22-RESOLUTION 707 (1991)

Adopted by the Security Council at its 3004th meeting,
on 15 August 1991

The Security Council,

Recalling its resolution 687 (1991), and its other resolutions on this matter,

Recalling the letter of 11 April 1991 from the President of the Security Council to the Permanent Representative of Iraq to the United Nations (S/22485) noting that on the basis of Iraq's written agreement (S/22456) to implement fully resolution 687 (1991) the preconditions established in paragraph 33 of that resolution for a cease-fire had been met,

Noting with grave concern the letters dated 26 June 1991 (S/22739), 28 June 1991 (S/22743) and 4 July 1991

(S/22761) from the Secretary-General, conveying information obtained from the Executive Chairman of the Special Commission and the Director-General of the IAEA which establishes Iraq's failure to comply with its obligations under resolution 687 (1991),

Recalling further the statement issued by the President of the Security Council on 28 June 1991 (S/22746) requesting that a high-level mission consisting of the Chairman of the Special Commission, the Director-General of the IAEA, and the Under-Secretary-General for Disarmament Affairs be dispatched to meet with officials at the highest levels of the Government of Iraq at the earliest opportunity to obtain written assurance that Iraq will fully and immediately cooperate in the inspection of the locations identified by the Special Commission and present for immediate inspection any of those items that may have been transported from those locations,

Dismayed by the report of the high-level mission to the Secretary-General (S/22761) on the results of its meetings with the highest levels of the Iraqi Government,

Gravely concerned by the information provided to the Council by the Special Commission and the IAEA on 15 July 1991 (S/22788) and 25 July 1991 (S/22837) regarding the actions of the Government of Iraq in flagrant violation of resolution 687 (1991),

Gravely concerned also by the evidence in the letter of 7 July 1991 from the Minister of Foreign Affairs of Iraq to the Secretary-General and in subsequent statements and findings that Iraq's notifications of 18 and 28 April were incomplete and that it had concealed activities, which both constituted material breaches of its obligations under resolution 687 (1991),

Noting also from the letters dated 26 June 1991 (S/22739), 28 June 1991 (S/22743) and 4 July 1991 (S/22761) from the Secretary-General that Iraq has not fully complied with all of its undertakings relating to the privileges, immunities and facilities to be accorded to the Special Commission and the IAEA inspection teams mandated under resolution 687 (1991),

Affirming that in order for the Special Commission to carry out its mandate under paragraph 9 (b) (i), (ii) and (iii) of resolution 687 (1991) to inspect Iraq's chemical and biological weapons and ballistic missile capabilities and to take possession of them for destruction, removal or rendering harmless, full disclosure on the part of Iraq as required in paragraph 9 (a) of resolution 687 (1991) is essential,

Affirming that in order for the IAEA with the assistance and cooperation of the Special Commission, to determine what nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to them need, in accordance with paragraph 13 of resolution 687 (1991), to be destroyed, removed or rendered harmless, Iraq is required to make a declaration of all its nuclear programmes including any which it claims are for purposes not related to nuclear-weapons-usable material,

Affirming that the aforementioned failures of Iraq to act in strict conformity with its obligations under resolution 687 (1991) constitutes a material breach of its acceptance of the relevant provisions of resolution 687 (1991) which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region,

Affirming further that Iraq's failure to comply with its safeguards agreement with the International Atomic Energy Agency, concluded pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968, as established by the resolution of the Board of Governors of the IAEA of 18 July 1991 (GOV/2531), constitutes a breach of its international obligations,

Determined to ensure full compliance with resolution 687 (1991) and in particular its section C,
Acting under Chapter VII of the Charter,

1. Condemns Iraq's serious violation of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to cooperate with the Special Commission and the IAEA, which constitutes a material breach of the relevant provisions of resolution 687 which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region,

2. Further condemns non-compliance by the Government of Iraq with its obligations under its safeguards agreement with the International Atomic Energy Agency, as established by the resolution of the Board of Governors of 18 July, which constitutes a violation of its commitments as a party to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,

3. Demands that Iraq

(i) provide full, final and complete disclosure, as required by resolution 687 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes, including any which it claims are for purposes not related to nuclear-weapons-usable material, without further delay,

(ii) allow the Special Commission, the IAEA and their Inspection Teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect,

(iii) cease immediately any attempt to conceal, or any movement or destruction of any material or equipment relating to its nuclear, chemical or biological weapons or ballistic missile programmes, or material or equipment relating to its other nuclear activities without notification to and prior consent of the Special Commission,

(iv) make available immediately to the Special Commission, the IAEA and their Inspection Teams any items to which they were previously denied access,

(v) allow the Special Commission, the IAEA and their Inspection Teams to conduct both fixed wing and helicopter flights throughout Iraq for all relevant purposes including inspection, surveillance, aerial surveys, transportation and logistics without interference of any kind and upon such terms and conditions as may be determined by the Special

- Commission, and to make full use of their own aircraft and such airfields in Iraq as they may determine are most appropriate for the work of the Commission,
- (vi) halt all nuclear activities of any kind, except for use of isotopes for medical, agricultural or industrial purposes until the Security Council determines that Iraq is in full compliance with this resolution and paragraphs 12 and 13 of resolution 687 (1991), and the IAEA determines that Iraq is in full compliance with its safeguards agreement with that Agency,
- (vii) ensure the complete implementation of the privileges, immunities and facilities of the representatives of the Special Commission and the IAEA in accordance with its previous undertakings and their complete safety and freedom of movement,
- (viii) immediately provide or facilitate the provision of any transportation, medical or logistical support requested by the Special Commission, the IAEA and their Inspection Teams,
- (ix) respond fully, completely and promptly to any questions or requests from the Special Commission, the IAEA and their Inspection Teams,
4. Determines that Iraq retains no ownership interest in items to be destroyed, removed or rendered harmless pursuant to paragraph 12 of resolution 687 (1991),
5. Requires that the Government of Iraq forthwith comply fully and without delay with all its international obligations, including those set out in the present resolution, in resolution 687 (1991), in the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 and its safeguards agreement with the IAEA.
6. Decides to remain seized of this matter.

United Nations

S/RES/0712 (1991)
19 September 1991

23-RESOLUTION 712 (1991)

Adopted by the Security Council at its 3008th meeting, on 19 September 1991

The Security Council,

Recalling its previous relevant resolutions and in particular resolutions 661 (1990), 686 (1991), 687 (1991), 688 (1991), 692 (1991), 699 (1991), 705 (1991) and 706 (1991),

Expressing its appreciation for the report (S/23006) dated 4 September 1991 submitted by the Secretary-General pursuant to paragraph 5 of resolution 706 (1991),

Reaffirming its concern about the nutritional and health situation of the Iraqi civilian population, and the risk of a further deterioration of this situation, and underlining the need in this context for fully up-to-date assessments of the situation in all parts of Iraq as a basis for the equitable distribution of humanitarian relief to all segments of the Iraqi civilian population,

Recalling that the activities to be carried out by or on behalf of the Secretary-General to meet the purposes referred to in resolution 706 (1991) and the present resolution enjoy the privileges and immunities of the United Nations,

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

1. Confirms the figure mentioned in paragraph 1 of resolution 706 (1991) as the sum authorized for the purpose of that paragraph, and reaffirms its intention to review this sum on the basis of its ongoing assessment of the needs and requirements, in accordance with paragraph 1 (d) of resolution 706 (1991);

2. Invites the Committee established by resolution 661 (1990) to authorize immediately, pursuant to paragraph 1 (d) of resolution 706 (1991), the release by the Secretary-General from the escrow account of the first one-third portion of the sum referred to in paragraph 1 above, such release to take place as required subject to the availability of funds

n the account and, in the case of payments to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs which have been notified or approved in accordance with existing procedures, subject to compliance with the procedures laid down in the report of the Secretary-General as approved in paragraph 3 below;

3. Approves the recommendations in the Secretary-General's report as contained in its paragraphs 57 (d) and 58;
4. Encourages the Secretary-General and the Committee established by resolution 661 (1990) to cooperate, in close consultation with the Government of Iraq, on a continuing basis to ensure the most effective implementation of the scheme approved in this resolution;
5. Decides that petroleum and petroleum products subject to resolution 706 (1991) 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 sale are not diverted from the purposes laid down in resolution 706 (1991);
6. Reaffirms that the escrow account to be established by the United Nations and administered by the Secretary-General to meet the purposes of resolution 706 (1991) and the present resolution, like the Compensation Fund established by resolution 692 (1991), enjoys the privileges and immunities of the United Nations;
7. Reaffirms that the inspectors and other experts on mission for the United Nations, appointed for the purpose of this resolution, enjoy privileges and immunities in accordance with the Convention on the Privileges and Immunities of the United Nations, and demands that Iraq shall them full freedom of movement and all necessary facilities;
8. Confirms that funds contributed from other sources may if desired, in accordance with paragraph 1 (c) of resolution 706 (1991), be deposited into the escrow account as a sub-account and be immediately available to meet Iraq's humanitarian needs as referred to in paragraph 20 of resolution 687 (1991) without any of the obligatory deductions and administrative costs specified in paragraphs 2 and 3 of resolution 706 (1991);
9. Urges that any provision to Iraq of foodstuffs, medicines or other items of a humanitarian character, in addition to those purchased with the funds referred to in paragraph 1 of this resolution, be undertaken through arrangements which assure their equitable distribution to meet humanitarian needs;
10. Requests the Secretary-General to take the actions necessary to implement the above decisions, and authorizes him to enter into any arrangements or agreements necessary to accomplish this;
11. Calls upon States to cooperate fully in the implementation of resolution 706 (1991) and the present resolution in particular with respect to any measures regarding the import of petroleum and petroleum products and the export of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), and also with respect to the privileges and immunities of the United Nations and its personnel implementing this resolution; and to ensure that there are no diversions from the purposes laid down in these resolutions;
12. Decides to remain seized of the matter.

United Nations

S/RES/715 (1991)
11 October 1991

24-RESOLUTION 715 (1991)

Adopted by the Security Council at its 3012th meeting, on 11 October 1991

The Security Council,

Recalling its resolutions 687 (1991) of 3 April 1991 and 707 (1991) of 15 August 1991, and its other resolutions on this matter,

Recalling in particular that under resolution 687 (1991) the Secretary-General and the Director General of the International Atomic Energy Agency (IAEA) were requested to develop plans for future ongoing monitoring and verification, and to submit them to the Security Council for approval,

Taking note of the report and note of the Secretary-General (S/22871/Rev.1 and S/22872/Rev.1), transmitting the plans submitted by the Secretary-General and the Director General of the International Atomic Energy Agency, Acting under Chapter VII of the Charter of the United Nations,

1. Approves, in accordance with the provisions of resolutions 687 (1991), 707 (1991) and the present resolution, the plans submitted by the Secretary-General and the Director General of the International Atomic Energy Agency (S/22871/Rev.1 and S/22872/Rev.1);

2. Decides that the Special Commission shall carry out the plan submitted by the Secretary-General (S/22871/Rev.1), as well as continuing to discharge its other responsibilities under resolutions 687 (1991), 699 (1991) and 707 (1991) and performing such other functions as are conferred upon it under the present resolution;

3. Requests the Director General of the International Atomic Energy Agency to carry out, with the assistance and cooperation of the Special Commission, the plan submitted by him (S/22872/Rev.1) and to continue to discharge his other responsibilities under resolutions 687 (1991), 699 (1991) and 707 (1991);

4. Decides that the Special Commission, in the exercise of its responsibilities as a subsidiary organ of the Security Council, shall:

(a) Continue to have the responsibility for designating additional locations for inspection and overflights;

(b) Continue to render assistance and cooperation to the Director General of the International Atomic Energy Agency, by providing him by mutual agreement with the necessary special expertise and logistical, informational and other operational support for the carrying out of the plan submitted by him;

(c) Perform such other functions, in cooperation in the nuclear field with the Director General of the International Atomic Energy Agency, as may be necessary to coordinate activities under the plans approved by the present resolution, including making use of commonly available services and information to the fullest extent possible, in order to achieve maximum efficiency and optimum use of resources;

5. Demands that Iraq meet unconditionally all its obligations under the plans approved by the present resolution and cooperate fully with the Special Commission and the Director General of the International Atomic Energy Agency in carrying out the plans;

6. Decides to encourage the maximum assistance, in cash and in kind, from all Member States to support the Special Commission and the Director General of the International Atomic Energy Agency in carrying out their activities under the plans approved by the present resolution, without prejudice to Iraq's liability for the full costs of such activities;

7. Requests the Committee established under resolution 661 (1990), the Special Commission and the Director General of the International Atomic Energy Agency to develop in cooperation a mechanism for monitoring any future sales or supplies by other countries to Iraq of items relevant to the implementation of section C of resolution 687 (1991) and other relevant resolutions, including the present resolution and the plans approved hereunder;

8. Requests the Secretary-General and the Director General of the International Atomic Energy Agency to submit to the Security Council reports on the implementation of the plans approved by the present resolution, when requested by the Security Council and in any event at least every six months after the adoption of this resolution;

9. Decides to remain seized of the matter.

United Nations

S/RES/0773 (1992)

26 August 1992

25-RESOLUTION 773 (1992)

Adopted by the Security Council at its 3108th meeting, on 26 August 1992

The Security Council,

Reaffirming its resolution 687 (1991) of 3 April 1991, and in particular paragraphs 2, 3 and 4 thereof, and its resolution 689 (1991) of 9 April 1991,

Recalling the report of the Secretary-General dated 2 May 1991 concerning the establishment of the United Nations Iraq-Kuwait Boundary Demarcation Commission (the Commission) and the subsequent exchange of letters of 6 and 13 May 1991 (S/22558, S/22592 and S/22593),

Having considered the Secretary-General's letter of 12 August 1992 to the President of the Security Council transmitting the further report of the Commission,

Recalling in this connection that through the demarcation process the Commission is not reallocating territory between Kuwait and Iraq, but it is 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 is being carried out in the special circumstances following Iraq's invasion of Kuwait and pursuant to resolution 687 (1991) and the Secretary-General's report for implementing paragraph 3 of that resolution (S/22558),

1. Welcomes the Secretary-General's letter of 12 August to the President of the Council and the further report of the Commission enclosed therewith;
2. Expresses its appreciation to the Commission for its work on the demarcation of the land boundary, and welcomes its demarcation decisions;
3. Welcomes also the decision of the Commission to consider the Eastern section of the boundary, which includes the offshore boundary, at its next session and urges the Commission to demarcate this part of the boundary as soon as possible and thus complete its work;
4. Underlines its guarantee of the inviolability of the above-mentioned international boundary and its decision to take as appropriate all necessary measures to that end in accordance with the Charter, as provided for in paragraph 4 of resolution 687 (1991);
5. Welcomes further the Secretary-General's intention to carry out at the earliest practicable time the realignment of the demilitarized zone referred to in paragraph 5 of resolution 687 (1991) to correspond to the international boundary demarcated by the Commission, with the consequent removal of the Iraqi police posts;
6. Urges the two States concerned to cooperate fully with the work of the Commission;
7. Decides to remain seized of the matter.

United Nations

S/RES/0778 (1992)
2 October 1992

26-RESOLUTION 778 (1992)

Adopted by the Security Council at its 3117th meeting, on 2 October 1992
The Security Council,

Recalling its previous relevant resolutions and in particular resolutions 706 (1991) and 712 (1991),

Taking note of the letter of 15 July 1992 from the Secretary-General to the President of the Security Council on Iraq's compliance with the obligations placed on it by resolution 687 (1991) and subsequent resolutions,

Condemning Iraq's continued failure to comply with its obligations under relevant resolutions,

Reaffirming its concern about the nutritional and health situation of the Iraqi civilian population, and the risk of a further deterioration of this situation, and recalling in this regard its resolution 706 (1991) and 712 (1991), which provide a mechanism for providing humanitarian relief to the Iraqi population, and resolution 688 (1991), which provides a basis for humanitarian relief efforts in Iraq,

Having regard to the fact that the period of six months referred to in resolutions 706 (1991) and 712 (1991) expired on 18 March 1992,

Deploring Iraq's refusal to cooperate in the implementation of resolutions 706 (1991) and 712 (1991), which puts its civilian population at risk, and which results in the failure by Iraq to meet its obligations under relevant Security Council resolutions,

Recalling that the escrow account provided for in resolutions 706 (1991) and 712 (1991) will consist of Iraqi funds administered by the Secretary-General which will be used to pay contributions to the Compensation Fund, the full costs of carrying out the tasks authorized by section C of resolution 687 (1991), the full costs incurred by the United Nations in facilitating the return of all Kuwaiti property seized by Iraq, half the costs of the Boundary Commission, and the cost to the United Nations of implementing resolution 706 (1991) and of other necessary humanitarian activities in Iraq,

Recalling that Iraq, as stated in paragraph 16 of resolution 687 (1991), is liable for all direct damages resulting from its invasion and occupation of Kuwait, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms,

Recalling its decision in resolution 692 (1991) that the requirement for Iraqi contributions to the Compensation Fund applies to certain Iraqi petroleum and petroleum products exported from Iraq after 2 April 1991,

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

1. Decides that all States in which there are funds of the Government of Iraq, or its State bodies, corporations, or agencies, that represent the proceeds of sale of Iraqi petroleum or petroleum products, paid for by or on behalf of the purchaser on or after 6 August 1990, shall cause the transfer of those funds (or equivalent amounts) as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991); provided that this paragraph shall not require any State to cause the transfer of such funds in excess of 200 million dollars or to cause the transfer of more than fifty per cent of the total funds transferred or contributed pursuant to paragraphs 1, 2 and 3 of this resolution; and further provided that States may exclude from the operation of this paragraph any funds which have already been released to a claimant or supplier prior to the adoption of this resolution, or any other funds subject to or required to satisfy the rights of third parties, at the time of the adoption of this resolution;
2. Decides that all States in which there are petroleum or petroleum products owned by the Government of Iraq, or its State bodies, corporations, or agencies, shall take all feasible steps to purchase or arrange for the sale of such petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds as soon as possible to the escrow account provided for in resolution 706 (1991) and 712 (1991);
3. Urges all States to contribute funds from other sources to the escrow account as soon as possible;
4. Decides that all States shall provide the Secretary-General with any information needed for the effective implementation of this resolution and that they shall take the necessary measures to ensure that banks and other bodies and persons provide all relevant information necessary to identify the funds referred to in paragraphs 1 and 2 above and details of any transactions relating thereto, or the said petroleum or petroleum products, with a view to such information being utilized by all States and by the Secretary-General in the effective implementation of this resolution;
5. Requests the Secretary-General:

- (a) To ascertain the whereabouts and amounts of the said petroleum products and the proceeds of sale referred to in paragraphs 1 and 2 of this resolution, drawing on the work already done under the auspices of the Compensation Commission, and report the results of the Security Council as soon as possible;
- (b) To ascertain the costs of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991); and
- (c) to take the following actions:
- (i) transfer to the Compensation Fund, from the funds referred to in paragraphs 1 and 2 of this resolution, the percentage referred to in paragraph 10 of this resolution; and
- (ii) use of the remainder of funds referred to in paragraphs 1, 2 and 3 of this resolution for the costs of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991), taking into account any preference expressed by States transferring or contributing funds as to the allocation of such funds among these purposes;
6. Decides that for so long as oil exports take place pursuant to the system provided in resolutions 706 (1991) and 712 (1991) or to the eventual lifting of sanctions pursuant to paragraph 22 of resolution 687 (1991), implementation of paragraphs 1 to 5 of this resolution shall be suspended and all proceeds of those oil exports shall immediately be transferred by the Secretary-General in the currency in which the transfer to the escrow account had been made, to the accounts or States from which funds had been provided under paragraphs 1, 2 and 3 of this resolution, to the extent required to replace in full the amounts so provided (together with applicable interest); and that, if necessary for this purpose, any other funds remaining in the escrow account shall similarly be transferred to those accounts or States; provided, however, that the Secretary-General may retain and use any funds urgently needed for the purposes specified in paragraph 5 (c) (ii) of this resolution;
7. Decides that the operation of this resolution shall have no effect on rights, debts and claims existing with respect to funds prior to their transfer to the escrow account; and the accounts from which such funds were transferred shall be kept open for retransfer of the funds in question;
8. Reaffirms that the escrow account referred to in this resolution, like the Compensation Fund, enjoys the privileges and immunities of the United Nations, including immunity from legal proceedings, or any forms of attachment, garnishment or execution; and that no claim shall lie at the instance of any person or body in connection with any action taken in compliance with or implementation of this resolution;
9. Requests the Secretary-General to repay, from any available funds in the escrow account, any sum transferred under this resolution to the account or State from which it was transferred, if the transfer is found at any time by him not to have been of funds subject to this resolution; a request for such a finding could be made by the State from which the funds were transferred;
10. Confirms that the percentage of the value of exports of petroleum and petroleum products from Iraq for payment to the Compensation Fund shall, for the purpose of this resolution and exports of petroleum or petroleum products subject to paragraph 6 of resolution 692 (1991), be the same as the percentage decided by the Security Council in paragraph 2 of resolution 705 (1991) until such time as the Governing Council of the Compensation Fund may decide otherwise;
11. Decides that no further Iraqi assets shall be released for purposes set forth in paragraph 20 of resolution 687 (1991) except to the sub-account of the escrow account, established pursuant to paragraph 3 of resolution 712 (1991), or directly to the United Nations for humanitarian activities in Iraq;
12. Decides that, for the purposes of this resolution and other relevant resolutions, the term "petroleum products" does not include petrochemical derivatives;
13. Calls upon all States to cooperate fully in the implementation of this resolution;
14. Decides to remain seized of this matter.

United Nations

S/RES/0809 (1993)

5 February 1993

27-RESOLUTION 806 (1993)

S/RES/806 (1993)

5 February 1993

RESOLUTION 806 (1993)

Adopted by the Security Council at its 3171st meeting, on 5 February 1993

The Security Council,

Reaffirms its resolution 687 (1991) of 3 April 1991, and in particular paragraphs 2, 3, 4 and 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 January 1993 (S/25123),

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 (UNIKOM),

Recalling the statements made by the President on behalf of the Council on 8 January 1993 (S/25081) and on 11 January 1993 (S/25091),

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 Kuwait and the Republic of Iraq and its decision to take as appropriate all necessary measures to that end in accordance with the Charter, as provided for in paragraph 4 of resolution 687 (1991);
2. Approves the report, and decides to extend the terms of reference of UNIKOM 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 UNIKOM 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 UNIKOM and the modalities of UNIKOM 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..

United Nations

S/RES/899 (1994)

4 March 1994

28-RESOLUTION 899 (1994)

Adopted by the Security Council at its 3343rd meeting,

on 4 March 1994

The Security Council,

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

Having considered the Secretary-General's letter of 22 February 1994 (S/1994/240) 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 Secretary-General's letter of 22 February 1994 may be remitted to the private citizens concerned in Iraq, notwithstanding the provisions of resolution 661 (1991).

United Nations

S/RES/949 (1994)

15 October 1994

29-RESOLUTION 949 (1994)

Adopted by the Security Council at its 3438th meeting,

on 15 October 1994

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 cease- fire,

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 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* 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 statement of 8 October 1994 (S/1994/PRST/58),

Taking note of the letter from the Permanent Representative of Kuwait of 6 October 1994 (S/1994/1137), regarding the statement by the Revolution Command Council of Iraq of 6 October 1994,

Taking note also of the letter from the Permanent Representative of Iraq of 10 October 1994 (S/1994/1149), 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.

United Nations

S/RES/986 (1995)

14 April 1995

30-RESOLUTION 986 (1995)

Adopted by the Security Council at its 3519th meeting,

on 14 April 1995

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 as a temporary measure to provide for the humanitarian needs of the Iraqi people until the fulfilment by Iraq of the relevant Security Council resolutions, including 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,

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 90 days for the purposes set out in this resolution and subject to the following conditions:

(a) Approval by the Committee established by resolution 661 (1990), in order to ensure the transparency of each transaction and its conformity with the other provisions of this 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 this 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 this 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 this resolution shall come into force at 00.01 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 180 days unless the Council takes other relevant action with regard to the provisions of resolution 661 (1990);

4. *Further decides* to conduct a thorough review of all aspects of the implementation of this resolution 90 days after the entry into force of paragraph 1 above and again prior to the end of the initial 180 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 180 day period, to consider favourably

renewal of the provisions of this 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 this 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 this 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 this 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 this 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 by 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 this 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 million and 150 million United States dollars every 90 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 90 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 this 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 90 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-Yumurtaalik 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 (1991) 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 this resolution, and following approval in each case by the Committee established by 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 90 days after the date of entry into force of paragraph 1 above, and again prior to the end of the initial 180 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 by 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 this resolution and to report to the Council 90 days after the date of entry into force of paragraph 1 above and again prior to the end of the initial 180 day period on the implementation of those arrangements;

13. *Requests* the Secretary-General to take the actions necessary to ensure the effective implementation of this 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 this 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 this resolution;

15. *Affirms* that the escrow account established for the purposes of this 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 this 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 this resolution;

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

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

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

United Nations

27 March 1996

31-RESOLUTION 1051 (1996)

Adopted by the Security Council at its 3644th meeting,

on 27 March 1996

The Security Council,

Reaffirming its resolution 687 (1991) of 8 April 1991, and in particular section C thereof, its resolution 707 (1991) of 15 August 1991 and its resolution 715 (1991) of 11 October 1991 and the plans for ongoing monitoring and verification approved thereunder,

Recalling the request in paragraph 7 of its resolution 715 (1991) to the Committee established under resolution 661 (1990), the Special Commission and the Director General of the International Atomic Energy Agency (IAEA) to develop in cooperation a mechanism for monitoring any future sales or supplies by other countries to Iraq of items relevant to the implementation of section C of resolution 687 (1991) and other relevant resolutions, including resolution 715 (1991) and the plans approved thereunder,

Having considered the letter of 7 December 1995 (S/1995/1017) to the President of the Council from the Chairman of the Committee established under resolution 661 (1990), annex I of which contains the provisions for the mechanism for export/import monitoring called for in paragraph 7 of resolution 715 (1991),

Recognizing that the export/import monitoring mechanism is an integral part of ongoing monitoring and verification by the Special Commission and the IAEA,

Recognizing that the export/import mechanism is not a regime for international licensing, but rather for the timely provision of information by States in which companies are located which are contemplating sales or supplies to Iraq of items covered by the plans for ongoing monitoring and verification and will not impede Iraq's legitimate right to import or export for non-proscribed purposes, items and technology necessary for the promotion of its economic and social development,

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

1. *Approves*, pursuant to the relevant provisions of its resolutions 687 (1991) and 715 (1991), the provisions for the monitoring mechanism contained in annex I of the aforementioned letter of 7 December 1995 (S/1995/1017), subject to the terms of this resolution;

2. *Approves also* the general principles to be followed in implementing the monitoring mechanism contained in the letter of 17 July 1995 from the Chairman of the Special Commission to the Chairman of the Committee established under resolution 661 (1990)

which is contained in annex II of the aforementioned letter of 7 December 1995 (S/1995/1017);

3. *Affirms* that the mechanism approved by this resolution is without prejudice to and shall not impair the operation of existing or future non-proliferation agreements or regimes on the international or regional level including arrangements referred to in resolution 687 (1991), nor shall such agreements or regimes impair the operation of the mechanism;

4. *Confirms*, until the Council decides otherwise under its relevant resolutions, that requests by other States for sales to Iraq or requests by Iraq for import of any item or technology to which the mechanism applies shall continue to be addressed to the Committee established under resolution 661 (1990) for decision by that Committee in accordance with paragraph 4 of the mechanism;

5. *Decides*, subject to paragraphs 4 and 7 of this resolution, that all States shall:

(a) Transmit to the joint unit constituted by the Special Commission and the Director General of the IAEA under paragraph 16 of the mechanism the notifications, with the data from potential exporters, and all other relevant information when available to the States, as requested in the mechanism on the intended sale or supply from their territories of any items or technologies which are subject to such notification in accordance with paragraphs 9, 11, 13, 24, 25, 27 and 28 of the mechanism;

(b) Report to the joint unit, in accordance with paragraphs 13, 24, 25, 27 and 28 of the mechanism, any information they may have at their disposal or may receive from suppliers in their territories of attempts to circumvent the mechanism or to supply Iraq with items prohibited to Iraq under the plans for ongoing monitoring and verification approved by resolution 715 (1991), or where the procedures for special exceptions laid down in paragraphs 24 and 25 of the mechanism have not been followed by Iraq;

6. *Decides* that the notifications required under paragraph 5 above shall be provided to the joint unit by Iraq, in respect of all items and technologies referred to in paragraph 12 of the mechanism, as from the date agreed upon between the Special Commission and the Director General of the IAEA and Iraq, and in any event not later than sixty days after the adoption of this resolution;

7. *Decides* that the notifications required under paragraph 5 above shall be provided to the joint unit by all other States as from the date the Secretary-General and the Director General of the IAEA, after their consultations with the members of the Council and other interested States, report to the Council indicating that they are satisfied with the preparedness of States for the effective implementation of the mechanism;

8. *Decides* that the information provided through the mechanism shall be treated as confidential and restricted to the Special Commission and the IAEA, to the extent that this is consistent with their respective responsibilities under resolution 715 (1991), other relevant resolutions and the plans for ongoing monitoring and verification approved under resolution 715 (1991);

9. *Affirms*, if experience over time demonstrates the need or new technologies so require, that the Council would be prepared to review the mechanism in order to determine whether any changes are required and that the annexes to the plans for ongoing monitoring and verification approved under resolution 715 (1991), which identify the items and technologies to be notified under the mechanism, may be amended in accordance with the plans, after appropriate consultations with interested States and, as laid down in the plans, after notification to the Council;

10. *Decides* also that the Committee established under resolution 661 (1990) and the Special Commission shall carry out the functions assigned to them under the mechanism, until the Council decides otherwise;

11. *Requests* the Director General of the IAEA to carry out, with the assistance and cooperation of the Special Commission, the functions assigned to him under the mechanism;

12. *Calls upon* all States and international organizations to cooperate fully with the Committee established under resolution 661 (1990), the Special Commission and the Director General of the IAEA in the fulfilment of their tasks in connection with the mechanism, including supplying such information as may be sought by them in implementation of the mechanism;

I listed the majority resolution below and just some brief .

32-Resolution 1060 on June 1996

Iraq's refusal to allow access to sites designated by the Special Commission

Resolution 1115 on June 1997

Condemns the repeated refusal of the Iraqi authorities to allow access to sites" and "demands that they cooperate fully" with Unsc. Suspends the sanctions and arms embargo reviews (paragraphs 21 and 28 of SCR 687) until the next Unsc report and threatens to "impose additional measures on those categories of Iraqi officials responsible for the non-compliance".

Resolution 1129 on 12 September 1997

Alters timing of permitted Phase II oil sales in response to Iraqi government's refusal to sell oil until its Distribution Plan was approved by the UN.

1143 on 4 December 1997

Begins Phase III of "oil for food", to start on 5 December 1997 and welcomes the Secretary-General's intention to submit a supplementary report on possible improvements in the "oil for food" programme.

1137 on 12 November 1997):

Rejects Iraqi government's announced intention to prohibit weapons inspections unless the composition of Unscm teams is altered to limit the number of inspectors from the US, and to prohibit Unscm overflights. Imposes travel ban on officials to be lifted when full cooperation resumes. Sanctions review to be in April 1998 if cooperation has been restored.

1134 (23 October 1997

Reaffirms Iraq's obligations to cooperate with weapons inspectors after Iraqi officials announce in September 1997 that "presidential sites" are off-limits to inspectors. Threatens travel ban on obstructive Iraqi officials not "carrying out bona fide diplomatic assignments or missions" if non-cooperation continues. Sanctions reviews again delayed.

1129 (12 September 1997

Alters timing of permitted Phase II oil sales in response to Iraqi government's refusal to sell oil until its Distribution Plan was approved by the UN.

1210 on 24 November 1998

Begins Phase V of "oil for food", to start on 26 November 1998.

1205 (5 November 1998

Echoes SCR 1194, demands that the Iraqi government "provide immediate, complete and unconditional cooperation" with inspectors and alludes to the threat to "international peace and security" posed by the non-cooperation.

1194 on 9 September 1998

"Condemns the decision by Iraq ... to suspend cooperation with [Unscm] and the IAEA", demands that the decisions be reversed and cancels October 1998 scheduled sanctions review.

1175 on 19 June 1998

Gives Iraq permission to apply to import up to \$300 million of oil industry spare parts this Phase to allow it to increase its oil production to the cap set in SCR 1153.

1158 on 25 March 1998

Continues Phase III but under the enhanced provisions of SCR 1153.

1154 on 2 March 1998

Commends the Secretary-General for securing commitments from the Iraqi government to fully comply with weapons inspections on his mission to Baghdad, and endorses the memorandum of understanding (S/1998/166) that was signed on 23 February. The mapping of the areas of the eight "presidential sites" by a UN Technical Mission is described in an annexed report to a letter from the Secretary-General of 27 February (S/1998/166/Add.1). The procedures for the inspection of "presidential sites" are laid out in an annex to the letter from the Secretary-General of 8 March 1998 (S/1998/208). This agreement put off US and British bombing threats.

33-1153 on 20 February 1998

Agrees to increase the cap on permitted Iraqi oil sales to \$5.256 billion per Phase once the Secretary-General has approved an "enhanced distribution plan" for the new revenue. Recognises the importance of infrastructure and project-based purchases. Phase IV eventually begins on 30 May 1998.

34-1284 on 17 December 1999

demands Iraqi co-operation on prisoners of war, alters the "oil for food" programme, and discusses the possible suspension of sanctions in ambiguous terms. 1281 (10 December 1999)

Begins Phase VII of "oil for food", to start on 12 December 1999.

1266 on 4 October 1999.

Allows an additional \$3.04 billion in oil sales to offset deficits during previous Phases and (possibly) to slow the rise in oil prices.

1242 on 21 May 1999

Begins Phase VI of "oil for food", to start on 25 May 1999.

35-2000

1330 on 4 December 2000.

Extends the oil-for-food programme by 180 days, to commence Phase IX. The resolution also allocates another \$600m to oil-industry spares, requests exploration into a "cash component.

1302 on 8 June 2000

Begins Phase VIII of "oil for food". The UN's press release. Paragraph 8 asks for water and sanitation "green lists". Paragraph 9 extends the oil spare parts permission of SCR 1293. Paragraph 18 calls for the establishment of a team of "independent experts to prepare by 26 November 2000 a comprehensive report and analysis of the humanitarian situation in Iraq, including the current humanitarian needs [...] and recommendations to meet those needs, within the framework of the existing resolutions". According to a UN source, the UK and US insisted upon the final clause of paragraph 18, knowing that the Iraqi government's position would prevent it from cooperating with such an analysis. As a result, there has been no cooperation and no such report has been produced.

36-1293 on 31 March 2000

Doubles permitted oil spare part imports for Phases VI and VII.

1382 on 29 November 2001

Extends the oil-for-food programme by 180 days, commencing Phase XI on 1 December 2001

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37-1360 3 July 2001

Extends the oil-for-food programme by 150 days to begin Phase X, after no agreement was reached over the new UK proposals for a modified sanctions regime.

38-1352 on 1 June 2001.

Extends Phase IX of the oil-for-food programme by one month only, after there is general agreement that more time is necessary to review the UK's draft resolution (and annex) to change the scope and mode of operation of the sanctions.

39-1409 on 14 May 2002

Extends the oil-for-food programme by six months, and introduces a new import procedure.

This is a serious resolution which is unprecedented in the history



**The United Nations,
International Law,
and the War in Iraq**

a worldpress.org special report

S/RES/1441 (2002)
8 November 2002

40-UN Security Council Resolution 1441 (2002)

Adopted by the Security Council at its 4644th meeting, on 8 November 2002

The Security Council, Recalling all its previous relevant resolutions, in particular its resolutions 661 (1990) of 6 August 1990, 678 (1990) of 29 November 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 April 1991, 688 (1991) of 5 April 1991, 707 (1991) of 15 August 1991, 715 (1991) of 11 October 1991, 986 (1995) of 14 April 1995, and 1284 (1999) of 17 December 1999, and all the relevant statements of its President, Recalling also its resolution 1382 (2001) of 29 November 2001 and its intention to implement it fully,

Recognizing the threat Iraq's non-compliance with Council resolutions and proliferation of weapons of mass destruction and long-range missiles poses to international peace and security,

Recalling that its resolution 678 (1990) authorized Member States to use all necessary means to uphold and implement its resolution 660 (1990) of 2 August 1990 and all relevant resolutions subsequent to resolution 660 (1990) and to restore international peace and security in the area,

Further recalling that its resolution 687 (1991) imposed obligations on Iraq as a necessary step for achievement of its stated objective of restoring international peace and security in the area,

Deploring the fact that Iraq has not provided an accurate, full, final, and complete disclosure, as required by resolution 687 (1991), of all aspects of its programmes to

develop weapons of mass destruction and ballistic missiles with a range greater than one hundred and fifty kilometres, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes, including any which it claims are for purposes not related to nuclear-weapons-usable material,

Deploring further that Iraq repeatedly obstructed immediate, unconditional, and unrestricted access to sites designated by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA), failed to cooperate fully and unconditionally with UNSCOM and IAEA weapons inspectors, as required by resolution 687 (1991), and ultimately ceased all cooperation with UNSCOM and the IAEA in 1998,

Deploring the absence, since December 1998, in Iraq of international monitoring, inspection, and verification, as required by relevant resolutions, of weapons of mass destruction and ballistic missiles, in spite of the Council's repeated demands that Iraq provide immediate, unconditional, and unrestricted access to the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), established in resolution 1284 (1999) as the successor organization to UNSCOM, and the IAEA, and regretting the consequent prolonging of the crisis in the region and the suffering of the Iraqi people,

Deploring also that the Government of Iraq has failed to comply with its commitments pursuant to resolution 687 (1991) with regard to terrorism, pursuant to resolution 688 (1991) to end repression of its civilian population and to provide access by international humanitarian organizations to all those in need of assistance in Iraq, and pursuant to resolutions 686 (1991), 687 (1991), and 1284 (1999) to return or cooperate in accounting for Kuwaiti and third country nationals wrongfully detained by Iraq, or to return Kuwaiti property wrongfully seized by Iraq,

Recalling that in its resolution 687 (1991) the Council declared that a ceasefire would be based on acceptance by Iraq of the provisions of that resolution, including the obligations on Iraq contained therein,

Determined to ensure full and immediate compliance by Iraq without conditions or restrictions with its obligations under resolution 687 (1991) and other relevant resolutions and recalling that the resolutions of the Council constitute the governing standard of Iraqi compliance,

Recalling that the effective operation of UNMOVIC, as the successor organization to the Special Commission, and the IAEA is essential for the implementation of resolution 687 (1991) and other relevant resolutions, Noting that the letter dated 16 September 2002 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General is a necessary first step toward rectifying Iraq's continued failure to comply with relevant Council resolutions, Noting further the letter dated 8 October 2002 from the Executive Chairman of UNMOVIC and the Director-General of the IAEA to General Al-Saadi of

the Government of Iraq laying out the practical arrangements, as a follow-up to their meeting in Vienna, that are prerequisites for the resumption of inspections in Iraq by UNMOVIC and the IAEA, and expressing the gravest concern at the continued failure by the Government of Iraq to provide confirmation of the arrangements as laid out in that letter,

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

Commending the Secretary-General and members of the League of Arab States and its Secretary-General for their efforts in this regard,

Determined to secure full compliance with its decisions, Acting under Chapter VII of the Charter of the United Nations,

1. Decides that Iraq has been and remains in material breach of its obligations under relevant resolutions, including resolution 687 (1991), in particular through Iraq's failure to cooperate with United Nations inspectors and the IAEA, and to complete the actions required under paragraphs 8 to 13 of resolution 687 (1991);

2. Decides, while acknowledging paragraph 1 above, to afford Iraq, by this resolution, a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council; and accordingly decides to set up an enhanced inspection regime with the aim of bringing to full and verified completion the disarmament process established by resolution 687 (1991) and subsequent resolutions of the Council;

3. Decides that, in order to begin to comply with its disarmament obligations, in addition to submitting the required biannual declarations, the Government of Iraq shall provide to UNMOVIC, the IAEA, and the Council, not later than 30 days from the date of this resolution, a currently accurate, full, and complete declaration of all aspects of its programmes to develop chemical, biological, and nuclear weapons, ballistic missiles, and other delivery systems such as unmanned aerial vehicles and dispersal systems designed for use on aircraft, including any holdings and precise locations of such weapons, components, subcomponents, stocks of agents, and related material and equipment, the locations and work of its research, development and production facilities, as well as all other chemical, biological, and nuclear programmes, including any which it claims are for purposes not related to weapon production or material;

4. Decides that false statements or omissions in the declarations submitted by Iraq pursuant to this resolution and failure by Iraq at any time to comply with, and cooperate fully in the implementation of, this resolution shall constitute a further material breach of Iraq's obligations and will be reported to the Council for assessment in accordance with paragraphs 11 and 12 below;

5. Decides that Iraq shall provide UNMOVIC and the IAEA immediate, unimpeded, unconditional, and unrestricted access to any and all, including underground, areas,

facilities, buildings, equipment, records, and means of transport which they wish to inspect, as well as immediate, unimpeded, unrestricted, and private access to all officials and other persons whom UNMOVIC or the IAEA wish to interview in the mode or location of UNMOVIC's or the IAEA's choice pursuant to any aspect of their mandates; further decides that UNMOVIC and the IAEA may at their discretion conduct interviews inside or outside of Iraq, may facilitate the travel of those interviewed and family members outside of Iraq, and that, at the sole discretion of UNMOVIC and the IAEA, such interviews may occur without the presence of observers from the Iraqi Government; and instructs UNMOVIC and requests the IAEA to resume inspections no later than 45 days following adoption of this resolution and to update the Council 60 days thereafter;

6. Endorses the 8 October 2002 letter from the Executive Chairman of UNMOVIC and the Director-General of the IAEA to General Al-Saadi of the Government of Iraq, which is annexed hereto, and decides that the contents of the letter shall be binding upon Iraq;

7. Decides further that, in view of the prolonged interruption by Iraq of the presence of UNMOVIC and the IAEA and in order for them to accomplish the tasks set forth in this resolution and all previous relevant resolutions and notwithstanding prior understandings, the Council hereby establishes the following revised or additional authorities, which shall be binding upon Iraq, to facilitate their work in Iraq:

– UNMOVIC and the IAEA shall determine the composition of their inspection teams and ensure that these teams are composed of the most qualified and experienced experts available;

– All UNMOVIC and IAEA personnel shall enjoy the privileges and immunities, corresponding to those of experts on mission, provided in the Convention on Privileges and Immunities of the United Nations and the Agreement on the Privileges and Immunities of the IAEA;

– UNMOVIC and the IAEA shall have unrestricted rights of entry into and out of Iraq, the right to free, unrestricted, and immediate movement to and from inspection sites, and the right to inspect any sites and buildings, including immediate, unimpeded, unconditional, and unrestricted access to Presidential Sites equal to that at other sites, notwithstanding the provisions of resolution 1154 (1998) of 2 March 1998;

– UNMOVIC and the IAEA shall have the right to be provided by Iraq the names of all personnel currently and formerly associated with Iraq's chemical, biological, nuclear, and ballistic missile programmes and the associated research, development, and production facilities;

– Security of UNMOVIC and IAEA facilities shall be ensured by sufficient United Nations security guards;

– UNMOVIC and the IAEA shall have the right to declare, for the purposes of freezing a site to be inspected, exclusion zones, including surrounding areas and transit corridors, in which Iraq will suspend ground and aerial movement so that nothing is changed in or taken out of a site being inspected;

– UNMOVIC and the IAEA shall have the free and unrestricted use and landing of fixed- and rotary-winged aircraft, including manned and unmanned reconnaissance vehicles;

– UNMOVIC and the IAEA shall have the right at their sole discretion verifiably to remove, destroy, or render harmless all prohibited weapons, subsystems, components, records, materials, and other related items, and the right to impound or close any facilities or equipment for the production thereof; and

– UNMOVIC and the IAEA shall have the right to free import and use of equipment or materials for inspections and to seize and export any equipment, materials, or documents taken during inspections, without search of UNMOVIC or IAEA personnel or official or personal baggage;

8. Decides further that Iraq shall not take or threaten hostile acts directed against any representative or personnel of the United Nations or the IAEA or of any Member State taking action to uphold any Council resolution;

9. Requests the Secretary-General immediately to notify Iraq of this resolution, which is binding on Iraq; demands that Iraq confirm within seven days of that notification its intention to comply fully with this resolution; and demands further that Iraq cooperate immediately, unconditionally, and actively with UNMOVIC and the IAEA;

10. Requests all Member States to give full support to UNMOVIC and the IAEA in the discharge of their mandates, including by providing any information related to prohibited programmes or other aspects of their mandates, including on Iraqi attempts since 1998 to acquire prohibited items, and by recommending sites to be inspected, persons to be interviewed, conditions of such interviews, and data to be collected, the results of which shall be reported to the Council by UNMOVIC and the IAEA;

11. Directs the Executive Chairman of UNMOVIC and the Director-General of the IAEA to report immediately to the Council any interference by Iraq with inspection activities, as well as any failure by Iraq to comply with its disarmament obligations, including its obligations regarding inspections under this resolution;

12. Decides to convene immediately upon receipt of a report in accordance with paragraphs 4 or 11 above, in order to consider the situation and the need for full compliance with all of the relevant Council resolutions in order to secure international peace and security;

13. Recalls, in that context, that the Council has repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations;

14. Decides to remain seized of the matter.