

UNITED NATIONS * NATIONS UNIES

POSTAL ADDRESS—ADRESSE POSTALE: UNITED NATIONS, N.Y. 10017
CABLE ADDRESS—ADRESSE TELEGRAPHIQUE: UNATIONS NEWYORK

Reference.

6 May 1991

Dear Mr. Ambassador,

I should be grateful if you would transmit the enclosed letter from the Secretary-General to His Excellency, Mr. Ahmed Hussein, Minister for Foreign Affairs.

The letter constitutes a proposed exchange of letters regarding the status, privileges and immunities of the Special Commission established pursuant to operative paragraph 9 of Security Council resolution 687 (1991).

A copy is attached for your information.

Yours Sincerely,

Virendra Dayal
Chef de Cabinet

His Excellency
Dr. Abdul Amir A. Al-Anbari
Permanent Representative of Iraq
to the United Nations
New York

from THE SECRETARY-GENERAL

6 May 199

Excellency,

I have the honour to refer to the letter dated 19 April 1991 from the President of the Security Council (S/22509) in which he informed me of the concurrence of the members of the Security Council with my proposals, made pursuant to paragraph 9(b)(i) of Security Council resolution 687(1991), on the forming of a Special Commission to carry out the tasks enumerated in paragraphs 9(b)(i-iii), 10 and 13 of the above mentioned resolution. These proposals are contained in my report to the Security Council dated 18 April 1991 (S/22508).

In order to facilitate the fulfilment of the purposes of the Special Commission, I propose that your Government, in implementation of its obligations under Article 105 of the Charter of the United Nations, extend to the Special Commission, its property, funds and assets the provisions of the Convention on the Privileges and Immunities of the United Nations (the Convention) to which Iraq acceded on 15 September 1949. In view of the importance of the functions which the Special Commission shall perform in Iraq, I propose in particular that your Government extend to:

- the Executive Chairman, the Deputy Executive Chairman and other members of the Special Commission whose names shall be communicated to the Government, the privileges and immunities, exemptions and facilities which are enjoyed by diplomatic envoys in accordance with international law;

- the officials of the United Nations, any of the Specialized Agencies of the United Nations or of the International Atomic Energy Agency performing functions in connection with Security Council resolution 687(1991), the privileges and immunities applicable to them under Articles V and VII of the Convention or Articles VI and VIII of the Convention on the Privileges and Immunities of the Specialized Agencies to which Iraq acceded on 9 July 1954 or Articles VI and IX of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency (the Agreement) which Iraq accepted on 23 November 1960;

- the technical experts and other specialists whose names shall be communicated to the Government, the privileges and immunities accorded to experts performing missions for the United Nations, its Specialized Agencies or for the International Atomic Energy Agency under Article VI of the Convention, the relevant Annexes of the Convention on the Privileges and Immunities of the Specialized Agencies and Article VII of the Agreement, respectively.

The privileges and immunities necessary for the fulfilment of the functions of the Special Commission shall also include:

- (i) unrestricted freedom of entry and exit without delay or hindrance of its personnel, property, supplies, equipment, spare parts and other items as well as means of transport, including expeditious issuance of entry and exit visas;

- (ii) unrestricted freedom of movement without advance notice within

Iraq of the personnel of the Special Commission and its equipment and means of transport;

(iii) right to unimpeded access to any site or facility for the purpose of the on-site inspection pursuant to operative paragraph 9 of resolution 687 (1991), whether such site or facility be above or below ground. The Executive Chairman of the Special Commission or the Director-General of the International Atomic Energy Agency shall make arrangements to inform Iraq regarding the commencement of an inspection of a location declared by Iraq pursuant to operative paragraphs 9 or 12 of Security Council resolution 687(1991) or designated by the Special Commission, identify the site being inspected, and provide Iraq with the name of the head of the inspection team (the Chief Inspector) and an estimate of the number of the Special Commission members that will take part in the inspection. The Chief Inspector shall be the official point of contact between Iraq and the Special Commission and/or the International Atomic Energy Agency during the course of an inspection. Upon receipt of the name of the Chief Inspector for an inspection, Iraq shall immediately inform the Executive Chairman of the Special Commission, or the Director-General of the International Atomic Energy Agency, as the case may be, of the name of the individual who will be the Iraqi Inspection Representative for the inspection. Any number of sites, facilities, or locations may be subject to inspection simultaneously;

(iv) right to request, receive, examine and copy any record, data or information or examine, retain, move or photograph, including videotape, any item relevant to the Special Commission's activities and to conduct interviews;

(v) right to designate any site whatsoever for observation, inspection or other monitoring activity and for storage, destruction, or rendering harmless items described in operative paragraphs 8, 9 or 12 of the Security Council resolution 687(1991);

(vi) right to install equipment or construct facilities for observation, inspection, testing or monitoring activity and for storage, destruction or rendering harmless items described in operative paragraphs 8, 9 or 12 of Security Council resolution 687(1991);

(vii) right to take photographs whether from the ground or from the air relevant to the Special Commission's activities;

(viii) right to take and analyse samples of any kind as well as to remove and export samples for off-site analysis;

(ix) right to fly the United Nations flag on United Nations premises and its vehicles;

(x) acceptance of United Nations registration of means of transport on land, sea and in the air and United Nations licensing of the operators thereof;

(xi) right to unrestricted communication by radio, satellite or other forms of communication and to connect with the United Nations radio and satellite network, as well as by telephone, telegraph or other means; and

(xii) right to make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of the Special Commission. The Government of Iraq shall be informed of the nature of such arrangements, and shall not interfere

with or apply censorship to the mail of the Special Commission or its members.

It is understood that the Government of Iraq shall provide at no cost to the United Nations, in agreement with the Executive Chairman of the Special Commission all such premises as may be necessary for the accommodation and fulfilment of the functions of the Special Commission. All such premises shall be inviolable and subject to the exclusive control and authority of the Executive Chairman of the Special Commission.

Without prejudice to the use by the Special Commission of its own means of transport and communication, it is understood that your Government shall, where necessary and upon the request of the Special Commission provide, at its own expense, the means of transport and communication for official use of the Special Commission.

Without prejudice to the use by the Special Commission of its own security, it is expected that the Government of Iraq shall ensure the security and safety of the Special Commission and its personnel and shall further provide the Special Commission where necessary and upon request of the Special Commission, with maps and other information which may be useful in facilitating its tasks and movements. Upon the request of the Executive Chairman escort and/or support personnel shall be provided to protect and assist the Special Commission and its personnel during the exercise of the functions of the Special Commission when in their opinion such personnel is necessary.

If the above provisions meet with your approval, I would propose that this letter and your reply thereto constitute an agreement between the United Nations and Iraq to take effect as of the date of the arrival of the first element of the Special Commission in Iraq, which shall be confirmed to you.

Please accept, Excellency, the assurances of my highest consideration.

Signed

Javier Perez de Cuéllar

His Excellency
Mr. Ahmed Hussein
Minister for Foreign Affairs
of the Republic of Iraq
Baghdad

UNITED NATIONS * NATIONS UNIES

POSTAL ADDRESS—ADRESSE POSTALE: UNITED NATIONS, N.Y. 10017
CABLE ADDRESS—ADRESSE TELEGRAPHIQUE: UNATIONS NEWYORK

15 May 1991

Your Excellency,

With reference to our conversation this afternoon regarding the letter on the facilities for and the privileges and immunities of the Special Commission established pursuant to operative paragraph 9 of Security Council resolution 687 (1991), sent by the Secretary-General to the Foreign Minister of Iraq on 6 May 1991, I wish to provide the following information on the Special Commission's intentions regarding the implementation of certain paragraphs.

Regarding paragraph (i), it is the understanding of the Commission that it refers solely to entry to and exit from Iraq.

Regarding paragraph (ii) on unrestricted freedom of movement, it is the intention of the Commission in practice to provide what notice is appropriate in particular instances to permit safe movement within Iraq and consistent with the objectives of Security Council resolution 687 (1991);

Regarding paragraph (iv), in particular the reference to the conduct of interviews, the Commission intends to undertake such interviews with any facility personnel at a declared or designated site subject to inspection on the understanding that the Government of Iraq may in each case designate an observer to be present at the interview.

Regarding paragraph (v), the words "any site whatsoever" are understood by the Commission to refer to any additional locations designated by the Special Commission under paragraph 9 (b) (i) and paragraph 13 of Security Council resolution 687 (1991).

Regarding paragraph (vii) on the right to take photographs Inter alia from the air, it is the intention of the Commission that the words "relevant to the Special Commission's activities" relates to aerial photography of declared or designated sites and on the understanding that the Government of Iraq may in each case designate an observer to accompany the team taking the aerial photography.

Regarding paragraph (xii), it is not the intention of the Commission to implement the provisions of this paragraph at this time.

The Commission has taken note of your undertaking regarding use of the diplomatic pouch and will avail itself of this facility for its communications.

Regarding the paragraphs of the letter on the provision of

premises and means of transportation and communications, it is the understanding of the Commission that these are matters to be the subject of practical arrangements entered into between the competent United Nations officials and the Government of Iraq.

Regarding the arrangements as a whole, I wish to place on record the understanding that the Government of Iraq may in each case designate a representative to accompany inspection teams and to observe all verification activities. I also wish to confirm that naturally all the activities of the Commission, including those referred to above, are to be conducted under the terms of Security Council resolution 687 (1991).

I trust that your Government can proceed forthwith to send a positive response to the Secretary-General's letter to its Minister of Foreign Affairs of 6 May 1991.

Accept, Your Excellency, the assurances of my highest consideration.

Signed

Rolf Ekéus

Executive Chairman

Office of the Special Commission

His Excellency

Dr. Abdul Amir A. Al-Anbari

Ambassador Extraordinary and Plenipotentiary

Permanent Representative of Iraq to the United Nations

New York, New York

THE PERMANENT MISSION OF IRAQ
TO THE UNITED NATIONS
New York NY 10021

17 May 1991

Excellency,

In reference to your letter of 6 May 1991, concerning the facilities for, privileges and immunities of the Special Commission, established pursuant to operative paragraph 9 of Security Council Resolution 687 (1991), addressed to H.E. Mr. Ahmed Hussein, Iraq Foreign Minister, please find inclosed herewith a fax copy of the letter signed by H.E. the Foreign Minister accepting the proposals contained in your letter.

Accept, Excellency, the Assurances of my highest consideration.

Signed

Abdul Amir Al-Anbari
Ambassador
Permanent Representative

H.E. Javier Perez de Cuellar
The Secretary-General of the United Nations

Translated from Arabic

Republic of Iraq
Ministry of Foreign Affairs
Minister's Office

Sir,

With reference to your letter dated 6 May 1991 addressed to us, which formulates a proposal for an exchange of letters constituting an agreement between the United Nations and the Iraqi Government concerning the status, privileges and immunities of the Special Commission established in accordance with paragraph 9 of Security Council resolution 687 (1991), I have the honour to notify you that the Iraqi Government concurs with the provisions set forth in your proposal.

Accept, Sir, the assurances of my highest consideration.

(Signed)

HUSSEIN
Minister for Foreign Affairs
of the Republic of Iraq

Baghdad, 17 May 1991

His Excellency the Secretary-General
of the United Nations
New York