

Spain and the United Kingdom;²⁹⁵ it was adopted unanimously and without debate as resolution 1515 (2003), by which the Council, *inter alia*:

Endorsed the Quartet performance-based road map to a permanent two-State solution to the Israeli-Palestinian conflict;²⁹⁶

Called upon the parties to fulfil their obligations under the road map in cooperation with the Quartet and to achieve the vision of two States living side by side in peace and security.

Deliberations of 12 December 2003 (4879th meeting)

At its 4879th meeting, on 12 December 2003, the Council heard a briefing by the Special Coordinator for the Middle East Peace Process.

The Special Coordinator said that despite a lack of diplomatic progress there had been relative calm on the ground. He welcomed the reaffirmation by both parties of their commitments toward the implementation of the road map, applauded civil society initiatives aimed at bringing Israelis and

Palestinians together, and considered resolution 1515 (2003) an extremely positive step. He however cautioned against recent Israeli proposals to undertake a unilateral withdrawal of certain parts of the occupied Territories. He noted that while the Israeli withdrawal from southern Lebanon had been cited as a precedent, that withdrawal had not been carried out under Security Council supervision and with intense support from the United Nations Secretariat and in negotiation with both parties. On the other hand, a truly unilateral withdrawal would contain problematic elements, as it might be perceived by some that only terror and violence could create change, and that it was not necessary to arrive at a peaceful settlement through negotiations underpinned by international legitimacy. He reaffirmed the need for a step-by-step approach assisted by confidence-building measures and the need to address territory and terror as core issues. Finally, he referred to new proposals for providing financial assistance to the Palestinian Authority to compensate for economic losses and the dire humanitarian situation.²⁹⁷

²⁹⁵ S/2003/1100.

²⁹⁶ S/2003/529, annex.

²⁹⁷ S/PV.4879.

34. Items relating to Iraq

A. The situation between Iraq and Kuwait

Decision of 31 March 2000 (4123rd meeting): resolution 1293 (2000)

At its 4120th meeting,¹ on 24 March 2000, the Security Council included in its agenda a report of the Secretary-General dated 10 March 2000.² In his report, the Secretary-General observed that, at the outset of the implementation of the “oil-for-food” programme in 1997, the rate of deterioration of basic infrastructure had been accelerating, exacerbating the overall poor

nutritional status of the population and undermining public health. Consequently, this required efficient procurement and distribution systems and a broader range of inputs, financed at a much higher level than had been initially envisaged. However, the time frame required to halt deterioration of the humanitarian situation had proved to be much longer than anticipated because of the serious funding shortfall due to unexpectedly low oil prices. Despite the difficulties and shortcomings that had been identified in the report, the programme had provided substantial assistance in all sectors to address pressing humanitarian needs affecting the lives of the Iraqi people. However, a determined effort needed to be made by all parties concerned to collaborate effectively with a view to making further improvements in the implementation of the programme. To the end, he made a number of technical recommendations to the Government of Iraq and to the Security Council Committee established by resolution 661 (1990) concerning the situation between

¹ During this period, in addition to the meetings covered in this section, the Council held a number of meetings in private with the troop-contributing countries to the United Nations Iraq-Kuwait Observation Mission pursuant to resolution 1353 (2001), annex II, sects. A and B. The meetings were held on 2 October 2001 (4386th), 2 October 2002 (4617th), 2 April 2003 (4733rd) and 1 July 2003 (4781st).

² S/2000/208, submitted pursuant to paragraphs 28 and 30 of resolution 1284 (1999) and paragraph 5 of resolution 1281 (1999).

Iraq and Kuwait. He noted that despite the measures adopted to improve the funding level and widen the scope of the programme, its full potential had not been attained because of the numerous difficulties encountered. Accordingly, he appealed again to all those concerned to intensify their efforts in order to enable the programme to address more effectively the difficult conditions under which the Iraqi people continued to live.

At the meeting, the President drew attention to a letter dated 22 March 2000 from the Chairman of the Security Council Committee established by resolution 661 (1990), concerning the situation between Iraq and Kuwait, transmitting the report of the Committee pursuant to paragraph 10 of resolution 1281 (1999).³ Following a briefing by the Secretary-General on the humanitarian aspects of resolution 1284 (1999), statements were made by all members of the Council, as well as the Director of the United Nations Children's Fund (UNICEF).

In his briefing, the Secretary-General noted that while the original form of the oil-for-food programme had been subject to tight restrictions, as a result of decisions made by the Council over the previous three years, the list of items Iraq had been allowed to import had been considerably expanded and liberalized, and the ceiling on oil exports entirely eliminated. He stressed that although the recent rise in the price of oil had increased the value of exports, the oil industry in Iraq was seriously hampered by a lack of spare parts and equipment, which threatened the income of the programme in the long term. Therefore, he recommended a significant increase in the allocation of resources under the programme for the purchase of spare parts for the oil industry. He urged the Government of Iraq to take all necessary steps to ensure the effective and prompt distribution of the imported items. However, he stressed that even if the programme was implemented perfectly, it was possible that it would prove insufficient to satisfy the population's needs. The Council therefore needed to

³ S/2000/242. The report covers the Committee's major activities during the first 90-day period of phase VII of the oil-for-food programme, including information on the sale of petroleum and petroleum products; the processing of contracts for the supply of humanitarian products to Iraq; and efforts to expedite the approval process for contracts for sending oil spare parts and equipment to Iraq in accordance with existing procedures.

keep the effectiveness and impact of the programme constantly under review and take further steps to improve it if necessary. He concluded by saying that the humanitarian situation in Iraq posed a "serious moral dilemma" for the United Nations. He expressed particular concern over the report prepared by UNICEF and the Iraqi Ministry of Health that indicated that, in the centre and south of Iraq, infant mortality and morbidity had increased dramatically and reached unacceptable levels. In that context, he was happy to hear that the Committee was ready to give the Secretariat a list of drugs and other medical supplies which the Secretariat under resolution 1284 (1999) would be able to approve on its own authority. He maintained that while the Council needed to seek every opportunity to alleviate the suffering of the population, everyone needed to realize that the people of a State which was the object of sanctions would always, in some degree, be victims, both of their own Government and of the measures taken against it. The only satisfactory outcome of any such situation was for the State in question to return to full compliance with the decisions of the Council, so that the sanctions could be ended quickly.⁴

All speakers stressed the need to improve the deteriorating humanitarian situation in Iraq by improving the oil-for-food programme. Most speakers also stressed the need for Iraq to accept resolution 1284 (1999), which offered a path towards the suspension and lifting of sanctions. Most members of the Council expressed concern over the state of the oil infrastructure in Iraq and the resulting decline in production capability.

Several speakers endorsed the recommendation of the Secretary-General to increase the allocation to \$600 million to finance the procurement of oil spare parts and equipment for phases VI and VII to offset permanent damage to the oil-bearing structures in Iraq.⁵ A number of speakers stressed that every effort needed to be made to reduce the number and the length of holds on humanitarian and other contracts.⁶ Some

⁴ S/PV.4120, pp. 2-3.

⁵ *Ibid.*, p. 20 (Canada); p. 21 (Tunisia); p. 24 (Ukraine); S/PV.4120 (Resumption 1), p. 2 (Jamaica); p. 4 (United Kingdom); p. 6 (Namibia); p. 7 (Malaysia); p. 11 (Argentina); and p. 12 (Bangladesh).

⁶ S/PV.4120, p. 20 (Canada); p. 22 (Tunisia); p. 23 (Mali); p. 24 (Ukraine); S/PV.4120 (Resumption 1), p. 2 (Jamaica); p. 7 (Malaysia); p. 11 (Argentina); and p. 12 (Bangladesh).

speakers called for regular and comprehensive assessments of the impact of sanctions.⁷ Several speakers also called for an end to the “no-fly zones”.⁸

The representative of the Netherlands noted that there was a striking contrast between the report of the Secretary-General, which provided information on the progress made in meeting the humanitarian needs of the Iraqi people, and the alarming messages received from various quarters calling for swift and decisive action to halt and reverse the long-standing humanitarian emergency in Iraq. He asserted, however, that the two observations were not incompatible. The humanitarian programme was implemented within the context of a sanctions regime and should not be confused with a development programme. He maintained that the sanctions regime would come to an end as soon as the Government of Iraq met its obligations under the relevant Security Council resolutions. He observed that while it was “futile” to try to present the position of the Council as a “unified stand”, there was a remarkable degree of consensus on the fact that Iraq had yet to convince the international community that it had really abandoned its dream of developing weapons of mass destruction. He noted that Iraq was “the only country in modern history that had not only attempted to develop all categories of weapons of mass destruction — nuclear, biological and chemical” but had actually used such weapons against a foreign enemy and its own citizens. On the issue of the holds placed on contracts, he maintained that while credit was due to those delegations which possessed both the required resources and the political will to scrutinize all contacts for dual-use potential, his delegation considered the amount of applications placed on hold “intolerably high”, and stressed that a more sustained effort to reduce the amount was required.⁹

The representative of the Russian Federation averred that the report of the Secretary-General showed clearly that the scale of the “humanitarian catastrophe” in Iraq was inexorably leading to the “disintegration of the very fabric of civil society”. The “total impoverishment of the population” had led to a

situation where an entire generation of Iraqis had been “physically and morally crippled”. He maintained that the blocking by certain delegations of humanitarian contracts in the Committee continued to pose a serious threat to the implementation of the humanitarian programme. Completely “artificial pretexts” were being trumped up in order to place on hold contracts to deliver needed equipment to rehabilitate electrical power stations, medical equipment, vehicular transport and communications resources. He maintained that the artificial nature of the situation was illustrated by the fact that contracts from certain countries were put on hold, whereas requests for deliveries of similar goods from other countries were endorsed without problem. He called on the delegations concerned to review their approach. He also opined that the socio-economic and humanitarian situation in Iraq was worsening because civilian facilities in Iraq were constantly the targets of air strikes by the United States and the United Kingdom, in the unilaterally established “no-flight zones”. He stated that 42 per cent of the air strikes had resulted in human casualties, including a number of civilians. He asserted that the claims that the air strikes were not directed against civilian targets, or that they were in retaliation for actions by Iraqi anti-aircraft defences, did not “hold water”, as the data showed that facilities unrelated to anti-aircraft defence systems were being hit. The air strikes created a negative political backdrop for efforts to resume cooperation between the United Nations and the Government of Iraq, including on disarmament.¹⁰

The representative of the United States stressed that, given the long pattern of unacceptable behaviour by the Government of Iraq, including public rejection of resolution 1284 (1999), sanctions were the leverage that the international community had to get Iraq to comply with Security Council resolutions. He acknowledged that, because Iraq had continued to evade its obligations, sanctions had continued for an unimagined period. However, the Government of Iraq’s refusal to fulfil its responsibilities to care for and feed its own people had also been unimagined and still remained hard to comprehend. Iraq had consistently underspent on education, under-ordered foodstuffs and had never met the minimum calorie and protein targets set by the Secretary-General. While no one denied that poor oilfield management practices and lack of spare parts had resulted in critical circumstances for oil

⁷ S/PV.4120, p. 22 (Tunisia); S/PV.4120 (Resumption 1), p. 7 (Namibia); p. 10 (Malaysia); and p. 12 (Bangladesh).

⁸ S/PV.4120, p. 19 (China); and S/PV.4120 (Resumption 1), p. 9 (Malaysia).

⁹ S/PV.4120, pp. 3-5.

¹⁰ *Ibid.*, pp. 5-7.

production capacity, at the same time, Iraq had converted container ports into oil depots and had brought on line new facilities to export petroleum products in order to steal money via smuggling. He maintained that the abuses in Iraq, including warehousing of supplies, the wilful neglect of specific humanitarian sectors, the under-ordering of medicines and nutritional supplements, the siphoning off of goods to agents of the regime, the illegal re-exportation of humanitarian supplies, the establishment of front companies, the payment of kickbacks to manipulate and gain from oil-for-food contracts, were all well documented. Moreover, it was difficult to measure the impact of Iraqi obstruction on the broadest scale. For example, the fact that the Government of Iraq refused to divulge or make transparent financial figures and statistics made it difficult, if not impossible, to judge the general economic situation. He stressed that despite the manipulation by the Government of Iraq, the oil-for-food programme worked admirably, and about 90 per cent of the goods requested were approved. Describing his country's policy on reviewing and approving contracts, he stated that the review of contracts was guided by two principles: preventing Iraq from acquiring the means to again threaten regional stability and improving the humanitarian situation. He stated that the United States had about 1,000 contracts on hold out of more than 10,000 received, and for more than one third his delegation was waiting on information from the supplier about the goods, the end use or the end user. Other items were held because they had the potential for dual-use as components of weapons of mass destruction; were on the resolution 1051 (1996) list;¹¹ were linked to companies that have operated or were operating in violation of sanctions; or had irregular financial terms. He also admitted that there were 339 contracts on hold because his delegation had not yet reviewed additional information received, and stressed that the United States was tightening its procedures with a goal of quicker response times and examining the review criteria with the aim of focusing on holds on the items of most serious concern. However, he stressed that the best way to reduce the holds was to provide a guarantee that contracted goods went to approved purposes, which

¹¹ In resolution 1051 (1996), the Council referred to items to be notified by the United Nations Special Commission or the International Atomic Energy Agency under the plans for monitoring and verification approved by resolution 715 (1991).

could be achieved through better monitoring arrangements. Regarding the no-fly zones, the representative noted that they had been established to alleviate the most egregious examples of attacks by the Government of Iraq on the vulnerable population groups, including indiscriminate bombardment of civilian settlements, in the north and south, and that their enforcement had prevented wholesale genocide.¹²

The representative of France maintained that society in Iraq was "being destroyed", and, while the Government of Iraq bore a heavy share of the initial blame for the disastrous situation, the Council could no longer disregard its own responsibility in the matter, which was indisputable and increasingly condemned by international public opinion. He stressed that only the suspension of civilian sanctions, in the context of implementing resolution 1284 (1999), and then lifting them completely once conditions had been fulfilled, would allow the economy to start growing again. Meanwhile, the members of the Council had a responsibility to improve the Iraq programme. On the question of holds, while acknowledging that it was legitimate to ensure that goods were not used for prohibited purposes, the number of holds had become unacceptable. In particular, in certain vital sectors, such as electricity, water, agriculture and the oil industry, the rate of holds exceeded 50 per cent, which meant that the humanitarian programme could no longer function in those areas. He regretted the fact that few of the improvements to the programme envisaged in resolution 1284 (1999) that could reduce the number of holds had gone into force.¹³

The representative of China stressed that it was essential to maintain oil production and export capability in Iraq, because it was the basis for implementing the oil-for-food programme. Therefore, it was necessary to have the funds earmarked for the procurement of oil spare parts increased from \$300 million to \$600 million. He also stated that the serious problem of holds on contracts had exacerbated the deplorable humanitarian situation in Iraq. On the question of dual-use items, he asserted that while Council resolutions strictly prohibited the export of any materials or equipment to Iraq for military purposes, there had been no evidence of violations in that regard. Moreover, the Secretary-General, when

¹² S/PV.4120, pp. 7-14.

¹³ *Ibid.*, pp. 14-17.

approving the distribution plans submitted by the Government of Iraq, also carried out a strict examination and check on all items to be procured. Therefore, his delegation believed that all contracts looked at by the Office of the Iraq Programme and submitted to the sanctions Committee should be considered as conforming to all the relevant United Nations stipulations. He complained that despite this, some members still asked exporters for additional information, but then did not respond in an efficient way, causing long delays. Therefore, he called on the relevant Committee members to expedite the release of holds, but also called for improvements in the efficiency of the sanctions Committee, and for enhancing the monitoring capability of the Office of the Humanitarian Coordinator for Iraq to reassure Council members as to the use of goods. He also stressed that the no-fly zones had not been authorized by the Council, and called on all countries concerned to cease all military actions. In conclusion, he maintained that the sanctions would not help solve the problem, and the fundamental solution was in “the timely lifting of sanctions”.¹⁴

The representative of the United Kingdom, noting the concerns about the number of holds on contracts for Iraq, stated that it was time to put the “problem in perspective”. He stressed that, although it was the “core collective responsibility” of the Council to ensure that Iraq did not import items it could use to rebuild its military or weapons of mass destruction capability, only a small minority of Council members assumed full responsibility for doing that, while the rest of the Council assumed that they would. While his delegation would process its examination contracts “quickly and objectively”, they would not be diverted from preventing Iraq from rearming. He stressed that the biggest cause of holds was simply a lack of information on contracts, as well as the lack of information about the end use. The latter problem could be improved by more effective monitoring and observation in Iraq, where, despite the tripling in size of the programme, the number of United Nations observers had not increased since the programme was created. He noted that the sanctions Committee had heard a briefing from the Multinational Interception Force on its operations in the Gulf and on the enforcement of the Council’s resolutions, which had presented clear evidence that since mid-1999

¹⁴ Ibid., pp. 17-19.

smugglers had stepped up their activities to the point of exporting illegally over 400,000 tons per month of gas oil from Iraq, using the protection of Iranian territorial waters to transport oil to traders in the United Arab Emirates, as well as through other neighbouring States, including Turkey. He stressed that this impacted negatively on the revenues of the oil-for-food programme and urged the neighbouring States to take steps to prevent the trade. Regarding the no-fly zones, he maintained that they had been established in support of resolution 688 (1991), which called on Iraq to end its repression of the civilian population. In his view, the zones were justified under international law, in response to a situation of overwhelming humanitarian necessity. He reiterated that his country’s aircraft targeted only aircraft and ground facilities that target them, and that their actions were limited to proportionate responses and carefully targeted to avoid civilian casualties. He also accused Iraq of inflating military and civilian casualties for propaganda effect.¹⁵

The representative of Malaysia described the sanctions against Iraq as “the most comprehensive and punitive sanctions ever imposed on a people” and asserted that sanctions had destroyed Iraq as a modern State and decimated its people. The devastating effects of the sanctions testified to the failure of comprehensive sanctions as a policy tool, as such sanctions violated basic human rights. He argued that there should be no linkage between progress in disarming Iraq and the humanitarian efforts by the Council. Calling the continuation of the sanctions regime morally indefensible and incompatible with the spirit and letter of the United Nations Charter, he called for the economic sanctions to be drastically overhauled, eased and de-linked from the military sanctions.¹⁶

At the conclusion of the meeting, the Director of UNICEF stated that sanctions had been a factor in the rise of child mortality, but not the only one, as the effects of two wars and the failure of the Government of Iraq to invest in social services had also contributed.¹⁷

At its 4123rd meeting, on 31 March 2000, the Council again included the report of the Secretary-General dated 10 March 2000 in its agenda. The

¹⁵ S/PV.4120 (Resumption 1), pp. 3-6.

¹⁶ Ibid., pp. 7-10.

¹⁷ Ibid., p. 13.

President (Bangladesh) then drew attention to a draft resolution;¹⁸ it was put to the vote and adopted unanimously and without debate as resolution 1293 (2000), by which, acting under Chapter VII of the Charter of the United Nations, the Council, *inter alia*:

Decided, pursuant to paragraphs 28 and 29 of resolution 1284 (1999), that from the funds in the escrow account produced pursuant to resolutions 1242 (1999) and 1281 (1999) up to a total of \$600 million might be used to meet any reasonable expenses, other than expenses payable in Iraq, which followed directly from the contracts approved in accordance with paragraph 2 of resolution 1175 (1998), and expressed its intention to consider favourably the renewal of that provision;

Expressed its willingness to consider expeditiously other recommendations contained in the Secretary-General's report of 10 March 2000, and the provisions of section C of resolution 1284 (1999).

**Decision of 8 June 2000 (4152nd meeting):
resolution 1302 (2000)**

At its 4152nd meeting,¹⁹ on 8 June 2000, the Council included in its agenda a report of the Secretary-General dated 1 June 2000 on the distribution of humanitarian supplies throughout Iraq²⁰ and a letter dated 5 June 2000 from the Chairman of the Committee established by resolution 661 (1990) to the President of the Security Council, transmitting a report of the Committee on the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995).²¹

In his report, the Secretary-General provided an update on the implementation of the oil-for-food programme and made recommendations on how to achieve greater utilization of available resources. He noted that while the programme had been initially instituted as an exception to the sanctions, allowing Iraq to generate a limited amount of funds through the sale of oil for the importation of food and basic medicines, Iraq was currently authorized to export unlimited amounts of oil and to import a wide range of goods to meet the humanitarian needs of its population and to rehabilitate its civilian infrastructure. He maintained that the nutritional and health status of the

Iraqi people continued to be a major concern and reducing current malnutrition levels and improving the health status of the Iraqi people could be achieved by increasing the funding level in the food and health sectors and ensuring the timely contracting of all supplies in quantities sufficient to meet the requirements and targets previously recommended. He stressed that to assist Iraq in improving its distribution systems, it was essential that applications for contracts relating to distribution systems be approved by the Committee expeditiously. He welcomed the ongoing efforts by the Committee to improve its procedures and define its information requirements, which had already allowed for a significant number of contracts previously on hold to be approved. However, he underlined that much more needed to be done to bring about a drastic reduction in the number of holds placed on applications, which were seriously impairing the effective implementation of the programme. He appealed to the members of the Committee to further intensify efforts to review the applications placed on hold in the light of the additional information provided by the Office of the Iraq Programme. He also appealed to the Government of Iraq to provide expeditiously all additional information requested by members of the Committee. In conclusion, he stated that it needed to be borne in mind that the programme was never intended as a substitute for the resumption of normal economic activity, and could not be expected to address the whole range of needs of the Iraqi population.

At the meeting, statements were made by the representatives of China, the Netherlands, the Russian Federation, Tunisia, the United Kingdom and the United States. The President (France) drew attention to a draft resolution submitted by France and the United Kingdom;²² it was put to the vote and adopted unanimously as resolution 1302 (2000), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12 and subject to paragraph 15 of resolution 1284 (1999), should remain in force for a new period of 180 days beginning at 0001 hours eastern daylight time on 9 June 2000;

Further decided that from the sum produced from the import by States of petroleum and petroleum products originating in Iraq, including financial and other essential transactions related thereto, in the 180-day period referred to in

¹⁸ S/2000/266.

¹⁹ For more information on the discussion at this meeting, see chap. XI, part IX, sect. B, with regard to Article 51 of the Charter.

²⁰ S/2000/520, submitted pursuant to paragraph 5 of resolution 1281 (1999).

²¹ S/2000/536.

²² S/2000/544.

paragraph 1 of the resolution, the amounts recommended by the Secretary-General in his report of 1 February 1998²³ for the food/nutrition and health sectors should continue to be allocated on a priority basis in the context of the activities of the Secretariat, of which 13 per cent of the sum produced in the period referred to above should be used for the purposes referred to in paragraph 8 (b) of resolution 986 (1995);

Further decided to conduct a thorough review of all aspects of the implementation of the resolution 90 days after the entry into force of paragraph 1 and again prior to the end of the 180-day period, and expressed its intention, prior to the end of that period, to consider favourably renewal of the provisions of the resolution as appropriate, provided that the reviews indicated that those provisions were being satisfactorily implemented;

Decided that from the funds produced pursuant to the resolution in the escrow account established by paragraph 7 of resolution 986 (1995), up to a total of US \$600 million might be used to meet any reasonable expenses, other than expenses payable in Iraq, that followed directly from the contracts approved in accordance with paragraph 2 of resolution 1175 (1998) and paragraph 18 of resolution 1284 (1999).

Following the adoption of the resolution, the representative of Tunisia noted that his delegation had voted in favour even though some provisions did not command complete support. He had hoped that the draft resolution would contain a clear and explicit request for a focused assessment of the sanctions imposed on the Iraqi people and of their effects.²⁴

The representative of China also stated that his delegation was not entirely satisfied with the resolution because it did not fully reflect an important element favoured by most States members of the Council, including his Government, which was a request that the Secretary-General conduct an assessment of the impact of the 10 years of sanctions against Iraq, and to submit to the Security Council an objective and comprehensive consolidated report. Noting the invitation in the resolution to the Secretary-General to appoint independent experts to prepare a report, he stated that the text was evasive on the key issue of whether the report should focus on an assessment of the impact of the sanctions and was rather vague about the mandate of the experts.²⁵

The representative of the Russian Federation expressed regret that the text of the resolution did not reflect a number of other important proposals to ease the humanitarian crisis in Iraq, such as restoring civil

air communications with Iraq and repaying the debt of Iraq to the United Nations and to other international organizations. Concurring with many other delegations about the need for an in-depth analysis of the impact of sanctions on the humanitarian situation in Iraq, he considered that the wording of the resolution in that connection was rather vague and detached from that specific goal. He stressed that the group of independent experts should deal precisely with the consequences of sanctions and also suggested that if the group of independent experts found that there were other things that did not directly relate to the sanctions issue, those issues needed to be considered as a whole, without any exceptions. In that case, the questions needed to include the negative impact of the bombings by the United States and the United Kingdom against civilian targets and the economic infrastructure of Iraq. He noted that the intensity of those bombings had grown by a factor of 30 since December 1998. Finally, he noted that his delegation also had problems with paragraph 2, which unjustifiably stressed the supply of food and medicine. While those were important goods, areas such as oil and energy and the development of the transport infrastructure were just as important.²⁵

The representative of the United Kingdom underlined that nobody was completely satisfied, but compromises were necessary in work on a subject as complex as Iraq. He stressed that the Secretary-General would be guided by the resolution in setting the task for the experts that the Council had asked them to perform, and not by national statements after the adoption of the resolution. Responding to the mention of the no-fly zones, he maintained, echoed by the United States,²⁶ that at no time had or would the United Kingdom bomb the civilian infrastructure in Iraq. The action that was taken in the no-fly zones was, following Security Council resolution 688 (1991), to protect the civilian population of Iraq from repression by the Government of Iraq. The military action that was taken was purely in response to attacks on the aircraft in the no-fly zones which were patrolling without intent to bomb anybody or anything. He explained that the increase in the use of ordnance over the past 18 months was due to the fact that the Iraqi ground forces and air force had attacked coalition aircraft more than 650 times in that period.²⁷

²³ S/1998/90

²⁴ S/PV.4152, p. 2.

²⁵ *Ibid.*, p. 3.

²⁶ *Ibid.*, p. 5.

²⁷ *Ibid.*, p. 4.

The representative of the Netherlands expressed hope that an analysis by independent experts would shed light on some inexplicable actions on the part of the Iraqi authorities, such as the recurrent practice of the Government of Iraq adopting measures that harmed its own people.²⁷

Highlighting the need for a comprehensive consideration of all aspects of the Iraq situations, the representative of the Russian Federation asked the Secretariat to carry out an analysis of what was happening with regard to the implementation of Council resolutions on Iraq and whether what was happening generally in and around Iraq was in accordance with those resolutions. He further stressed that the Council could not continue to pretend, each time it extended the oil-for-food programme, that there was a humanitarian programme and there was the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), while at the same time there were the no-fly zones, non-governmental organizations working in northern Iraq and diplomats crossing the borders of Iraq without visas. He held that, if the Council were to find out about all of those facts and do nothing to collate them, it would not be doing its job, which was to resolve problems relating to the maintenance of peace and security. He stated that the Secretariat had enough authority under the Charter to draw attention to the fact that the problem of Iraq was not being resolved by the Security Council. While the Council was trying to alleviate the symptoms of the disease, it was not addressing the heart of the problem.²⁸

The representative of China stressed that whether or not the bombing had deliberately targeted civilians of Iraq, it had brought them suffering and the independent experts appointed by the Secretary-General needed to take this factor into consideration.²⁹

**Decision of 5 December 2000 (4241st meeting):
resolution 1330 (2000)**

At its 4241st meeting, on 5 December 2000, the Council included in its agenda the report of the Secretary-General of 29 November 2000.³⁰ In his report, the Secretary-General observed that, although

the humanitarian situation in Iraq had generally improved since the inception of the programme, the lives of ordinary Iraqis had not improved commensurately. Under the circumstances, he suggested that the Government of Iraq might wish to consider an increase in the targeting of resources to meet the needs of the most vulnerable groups, including children and the disabled. He also stressed that with increasing funding for the humanitarian component of the programme, the time had come to review the validity of applying procedures and practices originally designed to cover food and medicine to a vastly more complex array of infrastructure and equipment. The Secretary-General had therefore directed the Executive Director of the Iraq Programme to initiate consultations with the Committee and the Government of Iraq with a view to streamlining and improving procedures governing the submission, processing and approval of applications. In conclusion, he reiterated that while the sanctions regime had enjoyed considerable success in its disarmament mission, it had also been deemed responsible for the worsening of a humanitarian crisis as an unintended consequence. He regretted the continuing suffering of the Iraqi people, and expressed hope that the sanctions on Iraq could be lifted sooner rather than later. But that demanded that a way was found to move the Government of Iraq into compliance with Security Council resolutions.

During the meeting, statements were made by the representatives of Argentina, Canada, China, France, Malaysia, the Russian Federation, the United Kingdom and the United States.

The representative of the United Kingdom stated that, while there were measures that his delegation and others would have preferred to see included in the text, the draft resolution represented a reasonable balance of the collective interests of Council members and an important contribution to the work of the programme. He noted that there were a number of technical measures contained in the draft resolution, such as the extension of the so-called “green”, or pre-approved, lists that would ease and improve the implementation of the programme.³¹

The representative of Malaysia drew attention to the problem of holds in the Committee, which had become a major impediment to the smooth running of

²⁸ Ibid., pp. 5-6.

²⁹ Ibid., p. 6.

³⁰ S/2000/1132, submitted pursuant to paragraph 5 of resolution 1302 (2000).

³¹ S/PV.4241, p. 2.

the programme, with negative consequences on the ground. His delegation strongly supported the appeal of the Secretary-General to all parties concerned to fully cooperate and address the excessive number of holds placed on applications. He noted that many reasons had been given to explain the holds, but while some of them were plausible, many others clearly required the necessary political will on the part of Council members.³²

The representative of the United States maintained that the oil-for-food programme was meeting the needs of the Iraqi people while denying the Baghdad regime access to funds it would use to further threaten its neighbours. He acknowledged that the programme could be improved, and noted that the changes in the draft resolution his delegation had agreed to reflected their interest in making those improvements. But the most effective change would be for the regime to stop obstruction and implement the relevant humanitarian sections of resolution 1284 (1999), which were intended to improve the operation of the oil-for-food programme.³³

The representative of Argentina stated that his delegation was convinced that the progress contained in the draft resolution would be reflected in concrete improvement in the humanitarian situation.³⁴

The representative of China stressed that in certain areas the draft resolution did not fully reflect his delegation's requests and positions. He noted that the current oil industry situation in Iraq was extremely worrying and could not be sustained. He recalled that the Government of Iraq had proposed the use of a certain amount of cash components in order to maintain and improve oil-producing conditions. However, that had not been appropriately reflected in the draft resolution. He also maintained that many humanitarian projects had been put on hold despite the appeals of the Secretary-General and the cooperation of the contract-submitting countries. He opined that this had not been caused by purely technical reasons, and called upon the countries concerned to prove by their actions that they were sincere in reducing the holds. He stressed that only an early lifting of

sanctions could completely address the humanitarian sufferings of the Iraqi people.³⁵

The representative of Canada stated that, on the issue of how to manage the additional 5 per cent of revenue redistributed from the United Nations Compensation Commission,³⁶ his delegation would have liked to see a separate escrow account established to deliver targeted nutrition programmes to children and pregnant women. With respect to the payment by Iraq of its United Nations dues, he did not support the transfer of humanitarian funds for that purpose.³⁷

The representative of France noted that there were several shortcomings in the draft. No decision had been taken about the payment of the arrears of Iraq to the United Nations from the escrow account, which was not a humanitarian account but a bureaucratic instrument, nor had any concrete measures been included to decrease the high level of holds. Finally, he maintained that the Council would have to take a further decision to authorize Iraq to give financial aid to the Palestinians from the escrow account.³⁸

The representative of the Russian Federation stressed that the draft did not reflect any of the concerns contained in the report of the Secretary-General, most importantly the continuing problem of contract holds. He stressed that, as a fundamental resolution of the humanitarian crisis would be impossible as long as sanctions were maintained, his delegation was in favour of suspending or lifting the sanctions.³⁹

At the same meeting, the President (Russian Federation) drew attention to a draft resolution submitted by the United Kingdom;⁴⁰ it was put to the vote and adopted unanimously as resolution 1330 (2000), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12 and subject to paragraph 15 of resolution 1284 (1999), should remain in force for a new period of 180 days beginning at 0001 hours eastern standard time on 6 December 2000;

³² *Ibid.*, pp. 2-4.

³³ *Ibid.*, pp. 4-5.

³⁴ *Ibid.*, p. 5.

³⁵ *Ibid.*, pp. 5-6.

³⁶ For more information on the Compensation Commission, see chap. V, part I, sect. F.

³⁷ S/PV.4241, p. 6.

³⁸ *Ibid.*, pp. 6-7.

³⁹ *Ibid.*, pp. 7-8.

⁴⁰ S/2000/1149.

Further decided that from the sum produced from the import by States of petroleum and petroleum products originating in Iraq, including financial and other essential transactions related thereto, in the 180-day period referred to in paragraph 1 of the resolution, the amounts recommended by the Secretary-General in his report of 1 February 1998 for the food/nutrition and health sectors should continue to be allocated on a priority basis in the context of the activities of the Secretariat;

Decided that from the funds produced pursuant to the resolution in the escrow account established by paragraph 7 of resolution 986 (1995), up to a total of US \$600 million might be used to meet any reasonable expenses, other than expenses payable in Iraq.

**Decision of 1 June 2001 (4324th meeting):
resolution 1352 (2001)**

At its 4324th meeting, on 1 June 2001, the Council included in its agenda the report of the Secretary-General dated 18 May 2001.⁴¹ In his report, the Secretary-General provided a comprehensive report on the implementation of the oil-for-food programme. He appealed to the Security Council and the Committee to further streamline the cumbersome approval procedures and allow greater latitude so that a wider variety of medicine, health supplies, foodstuffs, as well as materials and supplies for essential civilian needs could be procured and supplied expeditiously. He stressed that such an approach would also reduce the excessive number of holds placed on applications. The Secretary-General provided a number of recommendations for how to streamline the process. He also stressed that it was essential for the Government of Iraq to prioritize its contracting, giving particular attention to the food, health and nutrition sectors. It was also essential for the Government of Iraq to address urgently the problems arising from inordinate delays in submissions of applications and from the submission of non-compliant applications. In conclusion, he stressed that it was incumbent on all parties concerned to take concerted measures to ensure the effective implementation of the humanitarian programme.

At the meeting, the President (Bangladesh) drew attention to a draft resolution;⁴² it was put to the vote and adopted unanimously and without debate as

⁴¹ S/2001/505, submitted pursuant to paragraph 5 of resolution 1330 (2000).

⁴² S/2001/545.

resolution 1352 (2001), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided to extend the provisions of resolution 1330 (2000) until 3 July 2001;

Expressed its intention to consider new arrangements for the sale or supply of commodities and products to Iraq based on the following principles: (a) that such new arrangements would improve significantly the flow of commodities and products to Iraq, subject to review by the Committee established by resolution 661 (1990); (b) that such new arrangements would improve the controls to prevent the sale or supply of items prohibited or unauthorized by the Council and to prevent the flow of revenues to Iraq outside the escrow account established pursuant to resolution 986 (1995) from the export of petroleum and petroleum products from Iraq.

**Decision of 3 July 2001 (4344th meeting):
resolution 1360 (2001)**

By a letter dated 15 June 2001 to the President of the Security Council,⁴³ further to the discussion of the question of Iraq at the informal consultations of the Security Council on 14 June 2001, the representative of the Russian Federation requested, in accordance with rule 2 of the provisional rules of procedure, the convening of an open formal meeting of the Council on the item entitled "The situation between Iraq and Kuwait" in order to consider ways of improving the humanitarian situation in Iraq in the conditions of the negative effect of the sanctions on the population of that country, and also ways of implementing all the Security Council resolutions on Iraq and a post-conflict settlement in the Gulf region.

At its 4336th meeting,⁴⁴ on 26 and 28 June 2001, held in response to the request contained in the above-mentioned letter, the Council included the letter in its agenda. The President (Bangladesh) also drew attention to a letter dated 18 June 2001 from the representative of Iraq addressed to the Secretary-General,⁴⁵ transmitting a letter from the Deputy Prime Minister of Iraq concerning the extension of the memorandum of understanding of 20 May 1996 between the Government of Iraq and the Secretariat, which had laid the legal and operational groundwork for the implementation of the oil-for-food programme in a

⁴³ S/2001/597.

⁴⁴ For more information on the discussion at this meeting, see chap. XI, part III, sect. B, with regard to Article 41 of the Charter; and part VIII, sect. B, with regard to Article 50.

⁴⁵ S/2001/603.

manner that fully respected the sovereignty and territorial integrity of Iraq. The memorandum of understanding also affirmed that the Government of Iraq and the Secretariat were responsible for making any eventual modification to the framework and mode of implementation of the programme. He maintained that resolution 1352 (2001) did two things that were incompatible with these basic facts: it extended the oil-for-food programme for a period of only one month, in violation of the previous practice of six-month extensions; and it expressed the intention of the Council to make radical changes in the concept of the programme and in the operating mechanisms that had been in effect for more than four years. Therefore, Iraq had refused to have anything to do with resolution 1352 (2001), and would refuse to have anything to do with any future resolution of the same nature. He suggested that the circumstances indicated that the United States and the United Kingdom were endeavouring to terminate the memorandum of understanding and the humanitarian programme and replace them with a “so-called regime of smart sanctions” that would impose international tutelage on Iraq for decades to come, would prevent it from using its resources and would ultimately lead to a further deterioration in the humanitarian situation in Iraq. He expressed the hope that the Secretary-General would oppose attempts to use the extension of the humanitarian programme as a facade for securing the adoption of schemes that sought to strengthen the embargo under the cover of the oil-for-food programme, and he stated that Iraq would have nothing to do with any resolution adopted that incorporated the provisions of the draft resolution proposed by the United States and the United Kingdom, regardless of which country sponsored it.

At the meeting, statements were made by all Council members, the representatives of Australia, Bahrain, Canada, Germany, India, Iraq, Italy, Japan, Jordan, Kuwait, the Libyan Arab Jamahiriya, Malaysia, the Netherlands, New Zealand, Norway, Saudi Arabia, Spain, Sweden (on behalf of the European Union⁴⁶), the Syrian Arab Republic, Thailand, Tunisia, Turkey

⁴⁶ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia aligned themselves with the statement.

and Yemen, as well as the Permanent Observer of the League of Arab States (LAS).⁴⁷

While expressing concern at the humanitarian problems in Iraq and stressing the need to improve the oil-for-food programme, most speakers noted the need for the Government of Iraq to cooperate on weapons inspections and other issues. Most speakers also noted the unresolved issues of missing nationals and property of Kuwait, and stressed the importance of resolving those outstanding issues. They also stressed the importance of the involvement of the neighbouring countries of Iraq. Many speakers noted the necessity of an effective monitoring programme in Iraq. Several representatives also expressed concern, *inter alia*, over the large numbers of holds on contracts in the Committee, and on the lack of a clear pathway for the lifting of sanctions.

Many representatives called for a comprehensive approach to the question of Iraq and reforms to the oil-for-food programme, which included, *inter alia*, modifying the sanctions regime to reduce restrictions on civilian imports through a goods review list, a “cash component” in all sectors, as well as reduce restrictions on investment and air travel.⁴⁸ Several representatives called for the removal or reconsideration of the no-fly zones.⁴⁹

The representative of the United Kingdom stressed that resolution 1284 (1999) remained the policy of the Council and the “only credible way forward”. He stated that there was no good reason to alter that framework, and emphasized that the only reason the resolution had not yet been implemented was because Iraq had refused to do so. He insisted that the series of proposals his delegation had set out were not intended to replace resolution 1284 (1999), but to liberalize the flow of goods and to examine ways to make sure that military-related items were not exported to Iraq. The proposals would move from a situation where no export was allowed unless approved by the Committee to a situation where every export was

⁴⁷ The representatives of Austria, Qatar and South Africa were invited to participate but did not make statements.

⁴⁸ S/PV.4336 and Corr.1, p. 12 (Tunisia); pp. 13-15 (Norway); pp. 15-16 (Colombia); pp. 16-17 (Ukraine); and pp. 18-19 (Mali); S/PV.4336 (Resumption 1), p. 8 (Germany); and p. 10 (Italy).

⁴⁹ S/PV.4336 and Corr.1, p. 11 (China); p. 12 (Tunisia); and p. 33 (Malaysia); S/PV.4336 (Resumption 1), p. 2 (Libyan Arab Jamahiriya); and p. 4 (India).

allowed except for a limited range of items that needed to be reviewed by the Committee on the basis of criteria related to their potential military use. He argued that the changes would improve the flow of goods and dramatically reduce the number of holds, leading to an immediate improvement in the lives of ordinary Iraqis.⁵⁰

The representative of the Russian Federation stated that resolution 1352 (2001) clearly defined the main goal of possible changes in the Iraqi humanitarian programme, which was facilitating trade and economic ties between Iraq and the rest of the world. His delegation had considered various proposals, including the draft resolution submitted by the United Kingdom, but their doubts had grown as to the feasibility of the concept in that draft and its political viability vis-à-vis the prospects for a lasting settlement in Iraq. Specifically, the key elements of the United Kingdom draft appeared to lead, not to easing the very harsh economic situation in Iraq, but rather to tightening sanctions. He noted that many questions had been raised by the proposal for a goods review list for deliveries to Iraq. He stated that the so-called 1051 list was already in effect and a procedure in place for its regular review. However, the authors of the new concept regarded the 1051 list as inadequate and wanted to include in their goods review list goods from the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. While that Arrangement, which brought together a limited group of countries on a voluntary basis, was already being applied in practice, inter alia, in respect of Iraq, he held that giving the Arrangement “sanctions status” under Chapter VII would have very serious legal and political consequences. Noting that other aspects of the proposed goods review list would be more prohibitive than the current system, he suggested that its approval could undermine prospects for the industrial development of Iraq. He also pointed out that there was “total silence” on the memorandum of understanding between Iraq and the United Nations, which suggested that the scheme was to be introduced without the consent of the Government of Iraq, which was “utterly unrealistic”. Overall, the concept of the goods review list politicized the humanitarian programme and turned it and UNMOVIC into an instrument for applying sanctions pressure. Moreover, as the proposed draft resolution would be “detrimental

⁵⁰ S/PV.4336 and Corr.1, pp. 4-6.

to averting the humanitarian catastrophe, devastate the Iraqi economy and work again a post-conflict settlement in the Gulf region”, the Russian Federation could not support it. However, the status quo was also unacceptable as resolution 1284 (1999) had too many gaps and ambiguity, which made it unimplementable in its current form. Therefore, his delegation had introduced a proposal that contained clear criteria for suspending and lifting sanctions that were tied to the deployment of an ongoing monitoring and verification system.⁵¹

The representative of France, noting that his delegations had been proposing reforms of the oil-for-food machinery for more than three years, expressed support for a transfer of jurisdiction from the Committee to the Secretariat, which should reduce the number of holds. However, as easing restrictions on trade would not enable the economy to recover sufficiently, he proposed that foreign investment be authorized. He also stressed the importance of working closely with the neighbouring countries of Iraq by setting up means for cooperation rather than “imposing Chapter VII obligations on them”. In his view, a resolution also needed to liberalize air traffic, require payment by Iraq of arrears to all organizations, and determine rates of assessment on oil sales by Iraq for the benefit of the Compensation Commission. He concluded by stating that his delegation was looking for a way for the Council to regain unity on Iraq and wanted speedy agreement on a system that would enjoy the support of the international community, particularly the neighbours of Iraq.⁵²

The representative of the United States remarked that the United Kingdom draft resolution would lift the sanctions on regular civilian commercial trade with the Iraqi people and questioned why at the moment when his Government and others were prepared to make a radical shift, they were attacked by others who despite having pressed for change to the system, sought to “perpetuate the status quo”. He stressed that the review list would not be a “denial list” and goods for civilian use would be approved. In conclusion, he argued that instead of changing the approach of the Council, based on resolution 1284 (1999), the proposals expanded the range of goods available to the civilian population and promoted future implementation by showing the

⁵¹ *Ibid.*, pp. 2-4.

⁵² *Ibid.*, pp. 6-8.

Government of Iraq that it had no alternative to cooperation.⁵³

The representative of China noted that some Council members had put forward draft resolutions on the new arrangements for Iraq and stressed that the Council needed to seriously consider the drafts in the context of a comprehensive resolution of the Iraq issue. He commented that, during the discussions, his delegation had emphasized that a goods review list should be drawn up based on resolution 1051 (1996) so that, with the exception of the goods on that list, Iraq would be able to import any civilian goods it needed. In addition, the financial controls against Iraq should be relaxed and Iraq allowed to use the funds in the escrow accounts to pay its contributions to international organizations. Foreign companies should be allowed to invest in Iraq; countries should be free to sign service contracts with Iraq; and civil aviation flights should be allowed to resume. He stressed that there needed to be clearly defined criteria for terminating sanctions in order to motivate Iraq to resume its cooperation with the United Nations. Finally, he also stressed that no new arrangement should have a further negative impact on the neighbours of Iraq.⁵⁴

The representative of Ireland noted that the Council needed to ensure that nothing in the measures adopted prevented the development of the normal economic infrastructure in Iraq. In that context, it was important that the list of goods that would be reserved for review by the Committee under the envisaged system was as short and precise as possible. Furthermore, any contract containing an item on the list needed to be carefully reviewed from the point of view of its overall economic importance.⁵⁵

The representative of Kuwait referred to a number of areas in which the Government of Iraq had not worked to ensure the success of the oil-for-food programme, including delays in submission of applications for humanitarian supplies and visas for international personnel. He stated that it was clear that Iraq was “indifferent” to the issues of missing people and property from Kuwait and noted that, at the Arab summit held in Jordan in March 2001, Iraq had rejected

the inclusion of a paragraph in the final declaration guaranteeing the security and sovereignty of Kuwait.⁵⁶

The representative of Jordan noted that his country was one of the countries that continued to endure severe economic consequences as a result of the Security Council sanctions against Iraq, a fact which, in and of itself, should prompt work to eliminate the adverse impact on his country. He informed the Council that his Government had submitted a memorandum to the Secretary-General showing the “gigantic repercussions” for Jordan if the existing agreements between Jordan and Iraq were interrupted. He stressed that any revision of the oil-for-food programme needed to be implementable and enjoy the agreement of all concerned, including Iraq. In conclusion, he maintained that the only way out of the crisis was the lifting of sanctions by the Council, and reviving a comprehensive dialogue between Iraq and the United Nations in order to settle all the outstanding issues from the invasion of Kuwait.⁵⁷

The representative of Malaysia argued that the situation did not justify the continuation of comprehensive sanctions. As the oil-for-food programme was not able to adequately mitigate the effects of the sanctions, a new approach that did not link progress and disarmament with humanitarian efforts was necessary.⁵⁸

The representative of the Libyan Arab Jamahiriya declared that the sanctions against Iraq had become “a crime of genocide” against the Iraqi people and the States that objected to the lifting of the sanctions were also guilty. He noted that, despite the fact that Iraq had largely cooperated with the United Nations and the Council, the sanctions had not been lifted, suspended or lessened. Therefore, calls on Iraq to cooperate with the United Nations, as well as the proposals to modify the sanctions regime, were merely “empty pretext” to maintain those sanctions. He, therefore, called for the immediate lifting of sanctions.⁵⁹ The representatives of Yemen and the Syrian Arab Republic also called for an end to sanctions.⁶⁰

The representative of Canada urged all members of the Council to support the draft resolution proposed

⁵³ Ibid., pp. 8-10.

⁵⁴ Ibid., pp. 10-11.

⁵⁵ Ibid., pp. 20-21.

⁵⁶ Ibid., pp. 24-28.

⁵⁷ Ibid., pp. 28-29.

⁵⁸ Ibid., p. 32.

⁵⁹ S/PV.4336 (Resumption 1), pp. 2-3.

⁶⁰ Ibid., p. 11 (Yemen); and p. 12 (Syrian Arab Republic).

by the United Kingdom, and stressed that a united stand by the Council would send a clear message that compliance with sanctions remained the only solution, while divisions in the Council had only encouraged intransigence by Iraq. He noted that Article 24 of the Charter specified that Council members were to act on behalf of the entire United Nations membership,⁶¹ so a threat to veto the draft resolution on the basis of acknowledged national, economic or political consideration damaged the credibility of the Council.⁶²

The Permanent Observer of LAS stated that the League called for the lifting of sanctions, but also stressed the need to guarantee the security and stability of Kuwait. The League believed that any solution had to be based on respect for all relevant Security Council resolutions. That did not mean that the sanctions imposed on Iraq would continue “forever” or that they would not be reviewed. The League therefore called for the use of dialogue as a means of dealing with the crisis.⁶³

The representative of Iraq stated that the obligations imposed on Iraq under Security Council resolutions were extremely harsh and went beyond customary legal measures to restore international peace and security. This was despite the fact that Iraq had implemented all the obligations enshrined in the relevant resolutions, particularly resolution 687 (1991). In that respect, Iraq had recognized the sovereignty and territorial integrity of Kuwait; fully implemented its commitments concerning the deployment of United Nations observer units; and met the requirements concerning disarmament. He asserted that Iraq had returned all the Kuwaiti properties that it could find and all prisoners of war, as well as continued to cooperate in investigating the fate of missing persons. Moreover, Iraq had also condemned all forms of international terrorism. Despite all of those efforts, the representative maintained that Iraq had faced “all forms of unusual measures”, including the involvement of the Council in the question of the borders between Iraq and Kuwait and an “astoundingly punitive” mechanism for reparations. Regarding disarmament, he maintained that the two bodies involved, the United Nations Special Commission and the International Atomic Energy Agency (IAEA), had served as an

instrument to “realize United States and United Kingdom policies”, which were to perpetuate the blockade imposed on Iraq, although Iraq had implemented its obligations. He criticized the Council for not reacting to the no-fly zones that had been imposed without a Council resolution and that violated the official ceasefire stipulated by resolution 687 (1991). The representative then responded to those who had accused the Government of Iraq of being the principal reason for the failure of the oil-for-food programme to achieve its goals. He stated that the failure to achieve the humanitarian objectives of the programme had been caused by, *inter alia*, the complexity of the measures adopted by the Council; interference by the United Kingdom and United States, including the use of holds on contracts; “objectionable bureaucracy” in the way contracts were submitted; and inadequate financial management. He continued to detail a number of other “grossly inadequate conditions” in the humanitarian programme, which had come to be the “fat pot for so many parasites”. He then formally called on the Security Council to undertake an appropriate investigation and to publish the results, as well as undertake an external audit of the accounts of the Iraq Programme, as well as the agencies, offices and committees linked to the oil-for-food programme since its inception. Regarding the draft resolution, he stated that the fundamental content entailed a *de facto* new regime for blockading Iraq. The so-called free trade in civilian goods had been subject to many restrictions and conditions, as well as oversight by a number of bodies, including UNMOVIC, the Committee, and the Office of the Iraq Programme in a way that changed the conditions of the memorandum of understanding. Furthermore, the proposed regime took control of all of Iraq’s financial resources, placed them under United Nations control and disbursed them without any role for the Government of Iraq. He stressed that the rejection of the plan rose “to the level of struggle for national independence, whatever the sacrifices involved”. In conclusion, he declared that from the beginning the goal of the “unjust embargo” had been to change the national political regime in Iraq.⁶⁴

At its 4344th meeting, on 3 July 2001, the Council again included in its agenda the report of the Secretary-General dated 18 May 2001.⁶⁵ Statements

⁶¹ For more information, see chap. XII, part II, sect. A, case 19, with regard to Article 24.

⁶² S/PV.4336 (Resumption 1), p. 14.

⁶³ *Ibid.*, p. 15.

⁶⁴ *Ibid.*, pp. 16-31.

⁶⁵ S/2001/505, submitted pursuant to paragraph 5 of

were made by the representatives of Tunisia, the United Kingdom and the United States. The President (China) drew the attention of the Council to a draft resolution;⁶⁶ it was put to the vote and adopted unanimously as resolution 1360 (2001), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12 and subject to paragraph 15 of resolution 1284 (1999), should remain in force for a new period of 150 days beginning at 0001 hours, eastern daylight time on 4 July 2001;

Further decided that from the sum produced from the import by States of petroleum and petroleum products originating in Iraq, including financial and other essential transactions related thereto, in the 150-day period referred to in paragraph 1 of the resolution, the amounts recommended by the Secretary-General in his report of 1 February 1998 for the food/nutrition and health sectors should continue to be allocated on a priority basis in the context of the activities of the Secretariat, of which 13 per cent of the sum produced in the period referred to above should be used for the purposes referred to in paragraph 8 (b) of resolution 986 (1995);

Decided to conduct a thorough review of all aspects of the implementation of the resolution 90 days after the entry into force of paragraph 1 and again prior to the end of the 150-day period, and expressed its intention, prior to the end of the 150-day period, to consider favourably renewal of the provisions of the resolution as appropriate;

Requested the Secretary-General to provide a comprehensive report to the Council 90 days after the date of entry into force of the resolution on its implementation and again at least one week prior to the end of the 150-day period.

The representatives of the United Kingdom and United States expressed regret that the Council had been unable to agree on a new set of arrangements to improve the humanitarian programme, in particular by freeing up the flow of goods into Iraq. They recalled that the principles of the new approach had been endorsed unanimously in resolution 1352 (2001), and that four permanent members of the Council had agreed to the goods review list. They expressed hope that the time the rollover provided would be used to restore the Council consensus on the new approach.⁶⁷ The representative of Tunisia also stressed the

importance of using the rollover period to find a comprehensive solution to the problem.⁶⁸

Decision of 29 November 2001 (4431st meeting): resolution 1382 (2001)

At its 4431st meeting, on 29 November 2001, the Council included in its agenda the report of the Secretary-General dated 19 November 2001.⁶⁹ In his report, the Secretary-General stated that despite its shortcomings the oil-for-food programme continued to make a considerable difference in the daily life of the average Iraqi citizen. However, the programme had continued to suffer because of a number of factors, including the cumbersome procedures involved in formulating the distribution plan; slow contracting for essential supplies by both the Government of Iraq and the United Nations agencies and programmes; and the inordinate delays and irregularities in the submission of applications for such contracts to the Secretariat by both the suppliers and the agencies and programmes concerned. Other difficulties involved delays in the issuance of approval letters for approved applications; in the opening of letters of credit for a large number of approved applications; in the delivery of goods to Iraq by the suppliers; and in granting the required visas and delays in the clearance of imports of essential supplies and equipment, particularly those for the three northern governorates. Programme implementation had also suffered considerably because of the substantial reduction in revenues from oil exports, both because the volume of oil exports under the programme was reduced or suspended by the Government of Iraq and because of the comparatively lower price of oil on the international markets. The Secretary-General also noted that “the unacceptably high level of holds” placed by the Committee had remained almost unchanged. He appealed to all parties to refrain from politicizing the implementation of the programme and instead to concentrate on maximizing its benefits to the people of Iraq.

At the meeting, the President (Jamaica) drew the attention of the Council to a draft resolution,⁷⁰ and read out a revision to the text. The draft resolution was then put to the vote and adopted unanimously and without debate as resolution 1382 (2001), by which the

resolution 1330 (2000).

⁶⁶ S/2001/652.

⁶⁷ S/PV.4344, pp. 2-3 (United Kingdom); and p. 3 (United States).

⁶⁸ *Ibid.*, pp. 3-4.

⁶⁹ S/2001/1089, submitted pursuant to paragraph 5 of resolution 1360 (2001)

⁷⁰ S/2001/1123.

Council, acting under Chapter VII of the Charter, *inter alia*:

Decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12 and subject to paragraph 15 of resolution 1284 (1999), and the provisions of paragraphs 2, 3 and 5 to 13 of 1360 (2001) should remain in force for a new period of 180 days beginning at 0001 hours eastern standard time on 1 December 2001;

Stressed the obligation of Iraq to cooperate with the implementation of the resolution and other applicable resolutions, including by respecting the security and safety of all persons directly involved in their implementation;

Reaffirmed its commitment to a comprehensive settlement on the basis of the relevant resolutions of the Security Council, including any clarification necessary for the implementation of resolution 1284 (1999);

Decided that, for the purposes of the resolution, references in resolution 1360 (2001) to the 150-day period established by that resolution should be interpreted to refer to the 180-day period established pursuant to paragraph 1 of the present resolution.

**Decision of 14 May 2002 (4531st meeting):
resolution 1409 (2002)**

At the 4531st meeting,⁷¹ on 14 May 2002, the President (Singapore) drew the attention of the Council to a draft resolution submitted by Bulgaria, China, France, Norway, the Russian Federation, the United Kingdom and the United States.⁷²

The representative of the Syrian Arab Republic made a statement, in which he noted that his delegation had made a number of proposals on the draft resolution with the goal of, *inter alia*, ensuring that Iraq was not denied the means for self-defence, or rebuilding its infrastructure. However, despite the fact that those proposals had not been adopted and that his delegation and Arab public opinion supported the lifting of sanctions, he would vote for the resolution out of real concern for the unity of the Council and in an attempt to regain and rebuild its credibility.⁷³

The draft resolution was then put to the vote and adopted unanimously as resolution 1409 (2002), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided that the provisions of resolution 986 (1995), except paragraphs 4, 11, 12, and the provisions of paragraphs 2, 3 and 5 to 13 of resolution 1360 (2001), and subject to paragraph 15 of resolution 1284 (1999) and the other provisions of the present resolution, should remain in force for a new period of 180 days beginning at 0001 hours, eastern daylight time on 30 May 2002;

Decided to adopt the revised Goods Review List⁷⁴ and the revised procedures for its application as a basis for the humanitarian programme in Iraq;

Authorized States to permit the sale or supply of any commodities or products other than commodities or products referred to in paragraph 24 of resolution 687 (1991) as it related to military commodities and products, or military-related commodities or products covered by the Goods Review List;

Decided that the funds in the escrow account established pursuant to paragraph 7 of resolution 986 (1995) might also be used to finance the sale or supply to Iraq of those commodities or products that were authorized for sale or supply to Iraq under paragraph 3 of present resolution;

Decided to conduct regularly thorough reviews of the Goods Review List and the procedures for its implementation;

Decided that for the purpose of the resolution, references in resolution 1360 (2001) to the 150-day period established by that resolution should be interpreted to refer to the 180-day period established pursuant to paragraph 1 of the present resolution.

**Decision of 8 November 2002 (4644th meeting):
resolution 1441 (2002)**

By a letter dated 10 October 2002 addressed to the President of the Security Council,⁷⁵ the representative of South Africa, on behalf of the Non-Aligned Movement stressed the urgent need for a peaceful solution to the issue of Iraq in a way that preserved the authority and credibility of the Charter and international law, as well as peace and stability in the region. Noting that consultations were under way in the Council, particularly among the five permanent members, he requested the Council to convene an emergency open debate on Iraq to allow the Council to hear the views of the wider United Nations membership.

⁷⁴ S/2002/515, annex.

⁷⁵ S/2002/1132.

⁷¹ For more information on the discussion at this meeting, see chap. XI, part IX, sect. B, with regard to Article 51 of the Charter.

⁷² S/2002/532.

⁷³ S/PV.4531, pp. 2-3.

At its 4625th meeting,⁷⁶ on 16 and 17 October 2002, the Council included the above-mentioned letter in its agenda. Statements were made by all Council members and the representatives of Albania, Algeria, Angola, Argentina, Australia, Bangladesh, Belarus, Brazil, Cambodia, Canada, Chile, Costa Rica,⁷⁷ Cuba, Denmark (on behalf of the European Union⁷⁸), Djibouti, Egypt, India, Indonesia, the Islamic Republic of Iran, Iraq, Israel, Jamaica, Japan, Jordan, Kuwait, the Lao People's Democratic Republic, Lebanon, the Libyan Arab Jamahiriya, Liechtenstein, Malaysia, Morocco, Nepal, New Zealand, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, South Africa, Sri Lanka, the Sudan, Switzerland, Thailand, Tunisia, Turkey, Ukraine, the United Arab Emirates, Viet Nam, Yemen and Zimbabwe, as well as the Permanent Observers of Palestine, the Organization of the Islamic Conference (OIC), LAS and the Deputy Secretary-General.

The Deputy Secretary-General read a statement by the Secretary-General informing the Council of the decision made by Iraq to allow the return of the United Nations weapons inspectors without conditions. Since then, the Executive Chairman of UNMOVIC and the Director General of IAEA had met with an Iraqi delegation to discuss practical arrangements for the resumption of inspections. He stressed that inspectors needed to have unfettered access, and that a new resolution strengthening the inspectors' hands, so that there were no weaknesses or ambiguities, would be appropriate. He encouraged Council members to work in unison, which would give a greater chance of achieving a comprehensive solution that included the suspension and ending of sanctions, as well as the

timely implementation of other provisions of Council resolutions.⁷⁹

During the course of the meeting, most speakers acknowledged that they were participating in the current debate against the sombre backdrop of potential of war with Iraq. A war, which, they stressed, would have a direct and grave impact on international peace and security. They expressed hope that the debate would lead to a positive and effective consensus on how to move forward on the Iraq question and bring about lasting peace. Recalling the obligation of all States, under the Charter of the United Nations, to implement the decisions of the Council, they agreed that Iraq should immediately implement its obligations and commitments as stipulated by Council resolutions and cooperate fully with UNMOVIC to ensure an effective inspections process.

Many speakers welcomed the decision of the Government of Iraq of 16 September 2002 to accept the unconditional return of United Nations inspectors to its territory. Similarly, they welcomed the agreements reached during the talks in Vienna on 30 September and 1 October 2002. In their view, the Council should seize upon such positive developments by authorizing the immediate return of inspectors to Iraq. They expressed hope that this would open the way for the full implementation of all Council resolutions on Iraq, including those concerning the situation between Iraq and Kuwait, and bring about the lifting of sanctions against Iraq.

Nevertheless, most speakers emphasized that collective international security depended on the commitment of Member States to multilateral cooperation. They stressed that Member States should pursue ways to address the Iraq issue through the United Nations, and seek to preserve international unity. Multilateralism and multilateral institutions remained the best hope for the maintenance of international peace and security.

Some speakers underlined the need for the Council alone to decide what to do should Iraq not comply with the Council resolutions, as only the United Nations could confer international legitimacy on any action, particularly the use of force, against Iraq.⁸⁰ Only if it turned out that the inspectors had been

⁷⁶ For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; part III, sect. B, with regard to Article 41; part IV, sect. B, with regard to Article 42; and part IX, sect. B, with regard to Article 51; and chap. XII, part I, sect. A, with regard to Article 1 (2) and sect. E, case 9, with regard to Article 2 (7); and part II, sect. A, case 19, with regard to Article 24 and sect. B, case 20, with regard to Article 25.

⁷⁷ In the capacity of Acting Secretary of the Rio Group.

⁷⁸ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey aligned themselves with the statement.

⁷⁹ S/PV.4625 and Corr.1, pp. 3-4.

⁸⁰ *Ibid.*, p. 11 (Kuwait); p. 16 (Algeria); and p. 18 (Pakistan); S/PV.4625 (Resumption 1), p. 3 (Islamic

prevented from doing their job, and when that had been communicated to the Council should the Council decide on a position to adopt in the face of such a situation.⁸¹ Similarly, several speakers emphasized that no unilateral action would be acceptable.⁸²

Regarding the use of force against Iraq, most speakers stressed that it should be considered as a last resort, if at all.⁸³ A number of other speakers rejected any military action against Iraq.⁸⁴ A number of representatives expressed serious concern with concepts such as “regime change” and “pre-emptive strikes”, which had been used by some members, and which they argued posed a fundamental threat to the international security order.⁸⁵ In this context, the representative of the Islamic Republic of Iran noted that the concept of “regime change” ran counter to “peoples’ right to self-determination”, and the concept

Republic of Iran); p. 12 (Chile); p. 17 (New Zealand); p. 19 (Argentina); p. 20 (Nigeria); p. 22 (Canada); and p. 26 (Senegal); S/PV.4625 (Resumption 2), p. 2 (Morocco); p. 3 (Brazil); p. 5 (Switzerland); p. 10 (India); p. 12 (Viet Nam); p. 13 (Djibouti); p. 14 (Liechtenstein); p. 16 (Angola); p. 18 (Belarus); p. 25 (Qatar); and p. 27 (Nepal); S/PV.4625 (Resumption 3) and Corr.1, p. 9 (China); p. 15 (Norway); and p. 20 (Ireland).

⁸¹ S/PV.4625 and Corr.1, p. 5 (South Africa); p. 14 (Yemen); p. 16 (Algeria); p. 23 (Tunisia); S/PV.4625 (Resumption 1), pp. 2-3 (Islamic Republic of Iran); p. 4 (Ukraine); p. 7 (League of Arab States); and p. 12 (Chile); S/PV.4625 (Resumption 2), p. 3 (Morocco); and p. 5 (Switzerland); S/PV.4625 (Resumption 3) and Corr.1, p. 5 (Mexico), p. 10 (China); p. 13 (France); and pp. 19-20 (Ireland).

⁸² S/PV.4625 and Corr.1, p. 5 (South Africa); and p. 18 (Pakistan); S/PV.4625 (Resumption 1), p. 2 (Islamic Republic of Iran); S/PV.4625 (Resumption 2), p. 8 (Lebanon); p. 11 (India); p. 16 (Angola); p. 18 (Belarus); p. 22 (Jamaica); and p. 27 (Nepal).

⁸³ S/PV.4625 and Corr.1, p. 11 (Kuwait); and p. 18 (Pakistan); S/PV.4625 (Resumption 1), p. 12 (Chile); p. 13 (Indonesia); and p. 19 (Argentina); S/PV.4625 (Resumption 2), p. 4 (Brazil); p. 13 (Djibouti); p. 16 (Angola); p. 21 (Cambodia); and p. 27 (Nepal).

⁸⁴ S/PV.4625 and Corr.1, p. 14 (Yemen); p. 20 (United Arab Emirates); and p. 23 (Tunisia); S/PV.4625 (Resumption 1), p. 23; S/PV.4625 (Resumption 2), p. 9 (Lebanon); p. 17 (Palestine); and p. 20 (Organization of the Islamic Conference).

⁸⁵ S/PV.4625 and Corr.1, p. 14 (Yemen); S/PV.4625 (Resumption 1), p. 2 (Islamic Republic of Iran); S/PV.4625 (Resumption 2), p. 7 (Malaysia); p. 12 (Viet Nam); and p. 23 (Zimbabwe).

of “pre-emptive strike” distorted the conventional understanding of the right of self-defence as codified in the Charter.⁸⁶

On the question of adopting a new resolution on Iraq, several representatives expressed support for a new resolution that would clearly set out the functions and powers of UNMOVIC and provided the strongest possible basis for unconditional and unfettered inspections in Iraq. They argued that only through such inspections could the international community be completely satisfied that Iraq no longer posed a threat to international peace and security.⁸⁷ Several speakers stressed that the resolution needed to make clear that non-compliance with the inspection regime would have serious consequences.⁸⁸ Other representatives, however, opposed the adoption of any new resolution as Iraq had already agreed to the return of inspectors, and a new resolution would only complicate the issue.⁸⁹ The representative of Kuwait requested that the Council ensure that the question of Kuwaiti and third country prisoners held in Iraq be a key element in any Council resolution, arguing that it was the “most propitious” time to break the deadlock on that humanitarian question.⁹⁰ The representative of Cuba noted that the draft resolution that was being promoted would make war with Iraq “unavoidable”, as it included an automatic mechanism that would trigger the use of force. The text also included “unworkable” procedures such as having United Nations security forces accompany the inspectors; having representatives of the permanent members of the Security Council participate in the inspection teams, with the same rights accorded other members of the team; the establishment of no-fly/no-drive zones; and an obligation on Iraq to allow inspectors to take out of

⁸⁶ S/PV.4625 (Resumption 1), p. 2.

⁸⁷ S/PV.4625 and Corr.1, p. 22 (Japan); S/PV.4625 (Resumption 1), p. 11 (Australia); p. 12 (Chile); p. 15 (Denmark); p. 17 (New Zealand); p. 22 (Canada); p. 14 (Liechtenstein); and p. 26 (Senegal); S/PV.4625 (Resumption 3) and Corr.1, p. 4 (Costa Rica); p. 5 (Mexico); p. 15 (Norway); p. 20 (Ireland); p. 25 (Bulgaria); p. 26 (Mauritius); and p. 28 (Cameroon).

⁸⁸ S/PV.4625 (Resumption 1), p. 15 (Denmark on behalf of the European Union); p. 16 (Turkey); p. 19 (Argentina); and p. 22 (Canada).

⁸⁹ S/PV.4625 and Corr.1, p. 14 (Yemen); and p. 24 (Tunisia); S/PV.4625 (Resumption 1), p. 6 (Libyan Arab Jamahiriya); p. 20 (Oman); p. 25 (Sudan); S/PV.4625 (Resumption 2), and p. 23 (Zimbabwe).

⁹⁰ S/PV.4625 and Corr.1, pp. 10-13.

the country Iraqi nationals they wish to interview, along with their families.⁹¹ A number of representatives stressed that if any new resolution was adopted, it should primarily reinforce resolution 1284 (1999) and be focused on the implementation of previous resolutions, and should not include any threat of the use of force, or include “impossible demands” that made implementation less, rather than more, likely.⁹² The representative of India also added that while there was a case for tightening the inspections regime, there was also a case for the creation of an enabling environment for compliance within the current framework.⁹³ The representative of Mexico stressed that the Council needed to preserve its authority to determine the composition, mandate and rules of operation of the inspection teams, as well as the supervision of the implementation of the enforcement measures adopted pursuant to Chapter VII of the Charter. He argued that the “militarization of inspections” could prove to be counterproductive, since it would have the potential to generate situations of confrontation or other kinds of unforeseen incidents. Moreover, the missions should not have armed escorts or the “assistance of representatives of permanent members of the Council”. Since the inspectors would report to the Council, the representative deemed it inappropriate that the inspections regime should be determined exclusively by the five permanent members.⁹⁴ The representative of China stressed that a new resolution needed to call for support for UNMOVIC and IAEA, and its contents should be “practical and feasible, in the interests of an appropriate settlement”.⁹⁵

Several speakers drew attention to the Council’s responsibility to apply its decisions evenly and impartially, and not to practice “double standards”. In that regard, they juxtaposed the Iraq question with the situation in the Middle East, including the continued aggression against the Palestinian people by Israel, its failure to implement the resolutions of the Council, and its unhindered possession of weapons of mass destruction. A number of these speakers also noted that any military action against Iraq would undermine

progress in the Israeli-Palestinian peace process.⁹⁶ Other representatives expressed regret that the decisions on Iraq were being taken when other Council resolutions, including on the Middle East, remained unimplemented.⁹⁷ The representative of Israel responded that the “double standard” was in fact directed against Israel, stressing the differences between the “binding” resolutions adopted on Iraq under Chapter VII and the “interdependent recommendations or statements of principle, adopted under Chapter VI”, that were designed to “move all parties forward in the Middle East”.⁹⁸ He noted a number of instances where Israel had “taken significant steps” to implement Council resolutions, despite the fact that the Palestinian Authority had “totally ignored” its obligations in many cases.⁹⁹

A number of speakers commented on the roles of the five permanent members of the Council. The representative of South Africa, speaking on behalf of the Non-Aligned Movement, noted that on the question of a possible resolution on Iraq the significant consultations had been limited to the permanent members of the Council and their capitals, and that there had been suggestions that those members be given new and exclusive roles in dealing with the resolution of the Iraqi issue. He underlined the “special role” the elected members had to play in the Council’s deliberations, bringing “credibility and balance” to decision-making within the Council. Exclusion of the 10 elected members from consultations would only lead to the erosion of the authority and legitimacy of the Council as a whole.¹⁰⁰ This was echoed by a number of speakers who noted that the fact that the 10 non-permanent members had become “mere

⁹¹ S/PV.4625 (Resumption 1), p. 23.

⁹² S/PV.4625 (Resumption 2), p. 6 (Malaysia); p. 11 (India); and p. 17 (Palestine).

⁹³ *Ibid.*, p. 11.

⁹⁴ S/PV.4625 (Resumption 3) and Corr.1, pp. 4-5.

⁹⁵ *Ibid.*, p. 10.

⁹⁶ S/PV.4625 and Corr.1, p. 13 (Yemen); p. 15 (Algeria); p. 17 (Egypt); p. 19 (Pakistan); p. 20 (United Arab Emirates); and p. 21 (Jordan); S/PV.4625 (Resumption 1), p. 2 (Islamic Republic of Iran); p. 7 (League of Arab States); and p. 24 (Sudan); S/PV.4625 (Resumption 2); p. 8 (Malaysia); p. 9 (Lebanon); p. 17 (Palestine); pp. 18-19 (Saudi Arabia); p. 20 (Organization of the Islamic Conference); p. 24 (Zimbabwe); and p. 25 (Qatar); and S/PV.4625 (Resumption 3) and Corr.1, p. 7 (Syrian Arab Republic).

⁹⁷ S/PV.4625 (Resumption 1), p. 18 (New Zealand); p. 21 (Nigeria); and p. 26 (Senegal).

⁹⁸ For more information on the discussion at this meeting regarding the binding nature of Council resolutions, see chap. XII, part II, sect. B, case 20.

⁹⁹ S/PV.4625 (Resumption 3) and Corr.1, pp. 2-3.

¹⁰⁰ S/PV.4625 and Corr.1, pp. 4-6.

spectators” was wrong and stressed the importance of all members of the Council being involved in deliberations.¹⁰¹ Referring to “a suggestion to give a special role in the inspection regime” to the permanent members of the Council, the representative of New Zealand argued that despite the permanent members voting privileges and responsibilities, they were not distinct from other members, and introducing a distinction would be “neither constructive nor acceptable”.¹⁰²

The representative of South Africa, speaking on behalf of the Non-Aligned Movement, stated that the situation between Iraq and Kuwait should be addressed comprehensively by the United Nations. Iraq needed to comply with relevant Council resolutions and no Member State should be exempted from carrying out obligations as determined by the Council. He welcomed Iraq’s decision to allow inspectors to return without conditions, and urged the Council to allow their return as soon as possible. Noting that the Non-Aligned Movement had firmly rejected any type of unilateral action against any Member State, he stressed that it would be inconsistent with the Charter if the Council was to authorize the use of military force against Iraq at a time when Iraq had indicated its willingness to abide by Council resolutions.¹⁰³

The representative of Iraq stated that the United States administration had declared “unabashedly” its intentions to invade Iraq, changing the map of the region and “putting their hands on the sources of energy there”. The United States wanted the Council to give it a blank cheque to occupy Iraq as part of a plan to subject the entire world to American hegemony. He maintained that everyone knew that Iraq no longer possessed nuclear, chemical or biological weapons of mass destruction, a fact which had been recognized by IAEA and the Special Commission. He then elaborated on his country’s compliance with resolution 687 (1991) over the years. Nevertheless, he continued, ever since the United States had instructed the Special Commission to leave Iraq in 1998, the people of Iraq had been subjected to military aggression, no-fly zones in blatant violation of the Charter, and sanctions, the

impact of which had been nothing short of a “humanitarian catastrophe”, and which violated Articles 1 (1, 2 and 3), 2 (7), 24 and 55 of the Charter. He recalled that in spite of the declaration by his Government that it would allow the unconditional return of inspectors, the United States had increased its threats against Iraq and called for the imposition of “unfair, impossible and arbitrary conditions on Iraq”, against a background of “war hysteria” in the Government of the United States. He called on the international community to loudly voice their objections to the “aggressive” designs of the United States against Iraq, in order to prevent it from using the Council as a tool to carry out its policy of aggression. Not to do so would have serious repercussions for international peace and security, and would be “the beginning of the end” of the collective security system set out in the Charter and other instruments. He reiterated that Iraq had pledged to cooperate fully with the inspectors and had taken all the necessary practical measures and arrangements to facilitate their return. There was, therefore, “absolutely no need for the adoption of a new Council resolution”.¹⁰⁴

The Permanent Observer of LAS recalled that Article 2 (4) of the Charter stated that all Member States shall refrain in their international relations from the use of force, and stressed that LAS had completely rejected any strike against Iraq or any threat against the safety and security of any Arab country. He maintained that war with Iraq would open a Pandora’s box — violence and civil war would sweep the entire country, fragmenting it, which would then undermine the entire Arab region. Moreover, it would annul the current world order, the Charter and international law, exposing States “to the danger of attacks on the pretext of preventive measures, leading the entire world back to the era of the League of Nations”.¹⁰⁵

The representative of the Russian Federation stated that, like all “unbiased observers”, his country had not seen any persuasive evidence that there were weapons of mass destruction in Iraq or programmes to develop them. However, he stressed that the only way of making sure that weapons of mass destruction had been eliminated was to return the inspectors to Iraq, to which Iraq had agreed. Everything was in place for their return and there was no need for delay or for

¹⁰¹ S/PV.4625 (Resumption 1), p. 5 (Libyan Arab Jamahiriya); p. 23 (Cuba); and p. 24 (Sudan); S/PV.4625 (Resumption 2), p. 7 (Malaysia); p. 11 (India); and p. 22 (Jamaica).

¹⁰² S/PV.4625 (Resumption 1), p. 18.

¹⁰³ S/PV.4625 and Corr.1, pp. 4-6.

¹⁰⁴ S/PV.4625 and Corr.1, pp. 6-10.

¹⁰⁵ S/PV.4625 (Resumption 1), pp. 7-8.

“new decisions”. If the Council wanted to provide further support to UNMOVIC or IAEA, his delegation would be prepared to look at proposals. However, if the proposals were about creating a legal basis for the use of force or for “regime change”, he did not see how the Council could give its consent.¹⁰⁶

The representative of Nigeria noted that the courage and willingness of the parties to bring their difference to the Council for “deliberation and eventual determination” demonstrated recognition of Article 2 (3), which stipulated that all Members shall settle their international disputes by peaceful means.¹⁰⁷

The representative of France noted that, while his country did not possess irrefutable proof, there were indications that Iraq had used the absence of weapons inspectors since 1998 to pursue or resume its prohibited programmes, including in the chemical and biological areas. He stated that while France was willing to support measures strengthening the inspection regime if it was necessary to facilitate the work of the inspectors, his country rejected measures that would multiply the risk of incidents without improving effectiveness. He also underlined the importance of the multinational, independent nature of the inspectors. He proposed a two-stage approach: in the first stage the Council would adopt a resolution defining the inspection regime and warn Iraq that new violations would not be tolerated; in the second stage, if UNMOVIC or IAEA observed that Iraq was refusing to cooperate fully, the Council would meet immediately to decide on the appropriate measures to take, “without ruling out anything a priori”. He underlined that only a two-stage approach would preserve the unity of the Council, and any kind of “automaticity” in the use of force would be divisive. Finally, he stressed that the Council also needed to demonstrate fairness by showing Iraq that war was not inevitable if it fulfilled its obligations.¹⁰⁸ The representatives of Switzerland and Mexico also expressed support for the “two-stage” approach.¹⁰⁹

The representative of Australia stressed that his delegation remained convinced that the Government of Iraq still had ambitions to acquire weapons of mass

destruction, and that it had made continuing attempts to advance its weapons programme, including chemical, biological and nuclear weapons, as well as to extend the range of its ballistic missiles. Noting that Iraq had used weapons of mass destruction in the past, the representative expressed concern that Iraq could threaten its neighbours, or provide terrorist groups with chemical, biological or nuclear weapons.¹¹⁰

The representative of Albania agreed that the production of weapons of mass destruction by Iraq continued to be a menace to the international community. He also recalled the difficult position of the Security Council in deciding on the intervention of the international community against the “genocide committed by the criminal regime of Milosevic against the Kosovar Albanians”. He noted that, despite the fact that many States had been undecided on the intervention in a sovereign State, the action of the international community had proved to be right. He stressed that that intervention had not been meant to demonstrate “dominance or a unilateral stand” but to defend “the right of people to live in freedom”. Similarly, the current situation was one where the pre-emptive action of the international community was necessary in order to avert a possible world catastrophe precipitated by the use of weapons of mass destruction by an uncontrolled regime.¹¹¹

The representative of the United Kingdom stressed that his country’s firm objective was the complete disarmament of Iraq in the area of weapons of mass destruction by peaceful means. He maintained that analysis by the United Kingdom, backed up by reliable intelligence, showed that Iraq still had chemical and biological materials, sought to weaponize them, and had active military plans for the deployment of those weapons, as well as had tried to buy multiple components needed for the production of nuclear bombs. He expressed great concern at the evidence that Iraq was trying to hide its weapons and “fool the inspectors” again. His delegation wished to see a strong resolution adopted by the Council that gave Iraq an unequivocal choice between disarmament and inevitable consequences. An essential component of the resolution needed to be giving inspectors the “penetrating strength” to ensure disarmament. He noted that the recent letter from Iraq on practical

¹⁰⁶ S/PV.4625 (Resumption 3) and Corr.1, pp. 21-22.

¹⁰⁷ S/PV.4625 (Resumption 1), pp. 20-21.

¹⁰⁸ S/PV.4625 (Resumption 3) and Corr.1, pp. 12-14.

¹⁰⁹ S/PV.4625 (Resumption 2), p. 5 (Switzerland); and S/PV.4625 (Resumption 3) and Corr.1, p. 5 (Mexico).

¹¹⁰ S/PV.4625 (Resumption 1), pp. 9-11.

¹¹¹ S/PV.4625 (Resumption 2), pp. 19-20.

arrangement for inspections had “brought back the obfuscations of the past” and reinforced the need for strengthened inspections and for practical arrangements to be made legally binding. He promised that any reports from UNMOVIC or IAEA of non-cooperation on the part of Iraq would be discussed in the Council. Finally, responding to the concerns that non-permanent members had been “kept in the dark”, he stressed that none of the permanent members had been in a position to bring a draft resolution and had done no negotiating on a text in New York. He stated that once there was a draft with a prospect of broad acceptance, no Council member would be excluded.¹¹²

The representative of the United States stressed that there could be no more “toothless resolutions” that Iraq would ignore and that the Council needed to unite in adopting a resolution that made clear the obligations on Iraq, the types of access and authorities that UNMOVIC and IAEA needed to have and the consequences to non-compliance. He noted that there had been clear signs that Iraq was reverting to form, as Iraq had invited inspectors to return without conditions, and then immediately placed conditions, as well as responded to requests for clarity on practical arrangements from UNMOVIC and IAEA with obfuscation. He noted that the Executive Chairman of UNMOVIC and the Director General of IAEA had stated that they would welcome a new resolution that strengthened their hands and allowed for more effective inspections. In conclusion, he recalled that the previous week the House of Representatives and the Senate of the United States had passed a joint resolution that expressed support for the administration’s diplomatic efforts in the Council, and authorized the use of United States armed forces should diplomatic efforts fail. He expressed hope that the Council would succeed, but stressed that if Iraq did not give up its weapons of mass destruction, the United States would lead a global coalition to disarm Iraq.¹¹³

At the 4644th meeting,¹¹⁴ on 8 November 2002, at which statements were made by all members of the Council and the Secretary-General, the President (China) drew attention to a draft resolution submitted

by the United Kingdom and the United States;¹¹⁵ it was adopted unanimously as resolution 1441 (2002), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided to afford Iraq a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council; and accordingly decided 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;

Decided that, in order to begin to comply with its disarmament obligations, in addition to submitting the required biannual declarations, the Government of Iraq should provide to UNMOVIC, IAEA, and the Council, not later than 30 days from the date of the 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, sub-components, 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 claimed were for purposes not related to weapons production or material;

Decided that Iraq should provide to UNMOVIC and IAEA immediate, unimpeded, unconditional, and unrestricted access to any and all, including those underground, areas, facilities, buildings, equipment, records, and means of transport which they wished to inspect.

The Secretary-General noted that the resolution set out the obligations of Iraq in clear terms and left no doubt as to how they needed to be fulfilled. He called on Iraq to seize the opportunity and stressed that the manner in which the crisis was resolved would affect the course of peace and security in the coming years throughout the world.¹¹⁶

All members of the Council welcomed the unanimous vote and expressed hope that Iraq would comply with the resolution. They noted that the resolution gave UNMOVIC and IAEA stronger authority to carry out their mandate. Many speakers stressed that UNMOVIC and IAEA would carry out their duties with the necessary objectivity and impartiality.

The representatives of the United States and United Kingdom noted that the resolution, which

¹¹² S/PV.4625 (Resumption 3) and Corr.1, pp. 7-9.

¹¹³ *Ibid.*, pp. 11-12.

¹¹⁴ For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; part IV, sect. B, with regard to Article 42; and part IX, sect. B, with regard to Article 51.

¹¹⁵ S/2002/1198.

¹¹⁶ S/PV.4644 and Corr.1, p. 2.

would significantly strengthen the inspection regime, also confirmed that Iraq remained in “material breach” of its disarmament obligations. They confirmed that the resolution contained no “hidden triggers” and no “automaticity” with respect to the use of force, as any breach reported by UNMOVIC, IAEA or a Member State would be taken up by the Council for discussions. However, they stressed that if Iraq chose defiance and concealment they, along with other members of the Council, would ensure that the task of disarmament was completed.¹¹⁷

A number of speakers noted that the resolution did not contain any element of “automaticity” with regard to the use of force, and left the response to a failure by Iraq to be decided by the explicit authorization of the Council.¹¹⁸ The representatives of France, Mexico and China noted that the resolution reflected the “two-stage approach” that they had supported.¹¹⁹

The representative of the Russian Federation also noted the following clarifying points: that more than 30 days would probably be needed for Iraq to submit information on non-military programmes in the chemical and biological areas, however, any delay there would not constitute a violation; that nothing in the resolution affected the status of UNMOVIC, of IAEA or of members of their staff, as independent international personnel and the cooperation of Member States with UNMOVIC and with IAEA would be carried out fully in accordance with the status and mandates of those organizations; and that the reference in paragraph 8¹²⁰ was to personnel of the United Nations, those of IAEA and to any other personnel whom Members of the United Nations might provide to UNMOVIC or to IAEA on the request of those organizations.¹²¹

¹¹⁷ Ibid., pp. 3-4 (United States); and pp. 4-5 (United Kingdom).

¹¹⁸ Ibid., p. 5 (France); pp. 6-7 (Mexico); p. 7 (Ireland); p. 8 (Russian Federation); p. 9 (Bulgaria); p. 10 (Syrian Arab Republic, Norway); p. 11 (Colombia, Cameroon); and p. 13 (China).

¹¹⁹ Ibid., p. 5 (France); pp. 6-7 (Mexico); and p. 12 (China).

¹²⁰ Paragraph 8 of resolution 1441 (2002) reads: “*Decides also that Iraq shall not commit or threaten hostile acts directed against any representative or personnel of the United Nations or the Agency or of any Member State taking action to uphold any Council resolution.*”

¹²¹ S/PV.4644 and Corr.1, p. 9.

Decision of 25 November 2002 (4650th meeting): resolution 1443 (2002)

At its 4650th meeting, on 25 November 2002, the Council included in its agenda the report of the Secretary-General dated 12 November 2002 on the implementation of the humanitarian programme in Iraq.¹²² In his report, the Secretary-General provided detailed information on the implementation of the oil-for-food programme. He noted the programme could be further enhanced if all parties took the concerted measures necessary for removing the difficulties faced in its implementation, in particular the difficulties stemming from the “dire funding shortfall”. Noting that discussions in the Council were focused on the weapons inspection regime, he, nevertheless, appealed to all to focus attention on the humanitarian dimension.

At the meeting, the President (China) drew attention to a draft resolution submitted by Bulgaria and the United Kingdom;¹²³ it was adopted unanimously and without debate as resolution 1443 (2002), by which the Council, acting under Chapter VII of the Charter, *inter alia*, decided to extend the provisions of resolution 1409 (2002) until 4 December 2002, and to remain seized of the matter.

Decision of 4 December 2002 (4656th meeting): resolution 1447 (2002)

At its 4656th meeting, on 4 December 2002, the Council again included in its agenda the report of the Secretary-General dated 12 November 2002.¹²² The President (Colombia) drew the attention of the Council to a draft resolution;¹²⁴ it was adopted unanimously and without debate as resolution 1447 (2002), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12, and the provisions of paragraphs 2, 3 and 6 to 13 of resolution 1360 (2001) and subject to paragraph 15 of resolution 1284 (1999) and the other provisions of the present resolution, should remain in force for a new period of 180 days beginning at 0001 hours eastern standard time on 5 December 2002;

¹²² S/2002/1239, submitted pursuant to paragraphs 7 and 8 of resolution 1409 (2002).

¹²³ S/2002/1293.

¹²⁴ S/2002/1330.

Decided to consider necessary adjustments to the Goods Review List¹²⁵ and the procedures for its implementation, for adoption no later than 30 days from the adoption of the resolution and thereafter to conduct regular, thorough reviews;

Decided that, for the purposes of the resolution, references in resolution 1360 (2001) to the 150-day period established by that resolution should be interpreted to refer to the 180-day period established pursuant to paragraph 1 of the present resolution.

**Decision of 30 December 2002
(4683rd meeting): resolution 1454 (2002)**

At the 4683rd meeting,¹²⁶ on 30 December 2002, at which statements were made by the representatives of China, France, the Russian Federation and the Syrian Arab Republic, the President (Colombia) drew the attention of the Council to a draft resolution submitted by Bulgaria, the United Kingdom and the United States;¹²⁷ it was put to the vote and adopted by 13 votes to none, with 2 abstentions (Russian Federation, Syrian Arab Republic) as resolution 1454 (2002), by which the Council, acting under Chapter VII, *inter alia*:

Approved, for implementation beginning at 0001 hours eastern standard time on 31 December 2002, the adjustments to the Goods Review List specified in annex A to the resolution and the revised procedures for its implementation set forth in annex B;

Decided to conduct a thorough review of the Goods Review List and the procedures for its implementation, and, in this connection, requested the Committee established by resolution 661 (1990) to review the List and recommend the Council necessary additions to, and/or deletions from, the List and procedures;

Directed the Secretary-General, within 60 days, to develop consumption rates and use levels for the implementation of paragraph 20 of annex B to the resolution;

Appealed to all States to continue to cooperate in the timely submission of technically complete applications and the expeditious issuing of export licences.

The representative of the Russian Federation stated that, while it was of key importance that the resolution provided for the possible lifting of sanctions, the consultations on the draft resolution had not enabled the Council to take the proposals of the

Russian Federation fully into account. His delegation felt that the wording in the Goods Review List imposed too many restricted and affected goods that were exclusively civilian in nature. In particular, he argued that the limitations on trucking and transport vehicles were unjustifiably harsh. He stated that his delegation had decided not to object to the adoption of the resolution as the List was not a “denial list” but only one that provided for the adoption in the sanctions Committee of decisions on specific contracts.¹²⁸

The representative of the Syrian Arab Republic stated that the cooperation by Iraq with the weapons inspectors and its positive approach to resolution 1441 (2002) should inevitably lead to the lifting of the sanctions, and not to the sanctions regime being complicated by the addition of further restrictions under the pretext that certain goods could be of dual use. In addition, the haste of the negotiations had not allowed his delegation to study the Goods Review List to ensure that it would not have a negative impact on the Iraqi population.¹²⁹

The representatives of France and China expressed support for the resolution, but noted that if there had been more time for negotiations the Council might have been able to come to a unanimous decision. They noted that the Goods Review List might need to be further adjusted so as to better meet the humanitarian needs of Iraq.¹²⁹

**Deliberations of 27 January to 27 March 2003
(4692nd, 4701st, 4707th, 4709th, 4714th,
4717th, 4721st and 4726th meetings)**

At the 4692nd meeting, on 27 January 2003, the President (France) invited the Executive Chairman of UNMOVIC and the Director General of IAEA to brief the Council.

The Executive Chairman of UNMOVIC stated that Iraq had cooperated “rather well” with UNMOVIC on matters related to the procedures, mechanisms, infrastructure and practical arrangements to pursue inspections and seek verifiable disarmament. Access had been provided to all sites, although there had been some issues relating to air operations. On the question of substantive cooperation of Iraq in declaring all the programmes of weapons of mass destruction, he noted

¹²⁵ S/2002/515, annex.

¹²⁶ For more information on the discussion at this meeting, see chap. XI, part III, sect. B, with regard to Article 41 of the Charter.

¹²⁷ S/2002/1330.

¹²⁸ S/PV.4683, pp. 2-3.

¹²⁹ *Ibid.*, p. 3.

that, while Iraq had submitted a 12,000-page declaration, a number of unresolved disarmament issues, relating to chemical and biological weapons, as well as missile technology, had not been addressed. The declaration, most of which was a reprint of earlier documents, did not seem to contain any new evidence that would eliminate the questions or reduce their number.¹³⁰

The Director General of IAEA provided an update on the activities of IAEA in Iraq and, while noting that Iraq had not provided new information on certain outstanding questions, concluded that to date they had found no evidence that Iraq had revived its nuclear weapons programme. He stated that barring exceptional circumstances and provided there was proactive cooperation by Iraq, IAEA should be able to provide credible assurance that Iraq had no nuclear weapons programme in the next few months.¹³¹

Both speakers noted that while resolution 1441 (2002) had given IAEA and UNMOVIC the authority to determine modalities and venues for conducting interviews, all of the people they wished to speak to had refused to be interviewed unless a representative of the Government of Iraq was present. They also stressed the need for more proactive cooperation from the Government of Iraq.

At its 4701st meeting,¹³² on 5 February 2003, the Council heard a briefing by the Secretary of State of the United States, following which statements were made by all Council members¹³³ and the representative of Iraq.¹³⁴

In his briefing, the Secretary of State of the United States provided additional information on what the United States knew about Iraq's weapons of mass

destruction as well as Iraq's involvement in terrorism. In that respect, he provided evidence, including tapes of telephone conversations and satellite images, which, he maintained, showed that Saddam Hussein and his regime were concealing their efforts to produce more weapons of mass destruction. He stated that intelligence had indicated that Iraq was carrying out a systematic effort not only to keep key materials and people from the inspectors but also to conceal actual weapons of mass destruction, both biological and chemical, as well as missiles and other delivery systems banned under Council resolutions. He also maintained that the Government of Iraq had never abandoned its nuclear weapons programme and was actively trying to develop the ability to produce fissile material. He also provided information on the "sinister nexus between Iraq and the Al-Qaida terrorist network" and noted the ongoing human rights violations by the regime. Recalling that resolution 1441 (2002) stated that the failure of Iraq to cooperate with inspectors would constitute a further material breach of Iraq's obligations, he argued that Iraq had clearly failed the test and had placed itself in danger of the serious consequences called for in the resolution.¹³⁵

Most speakers called on Iraq to cooperate fully with the inspectors. Many speakers stressed that only UNMOVIC and IAEA could say to what extent Iraq was complying with the demands of the Council, and suggested continuing inspections. They stressed that the main focus of the Council needed to be on facilitating the inspections process, including by strengthening the inspections regime if necessary.¹³⁶ Several speakers welcomed the presentation by the United States but suggested that the information needed to be handed over to UNMOVIC and IAEA for processing, as well as to ask any other States with relevant information to provide it.¹³⁷

The representative of the Russian Federation, responding to the idea that "time was running out for a settlement" stressed that while resolution 1441 (2002) aimed to quickly achieve results, it did not set out any

¹³⁰ S/PV.4692, pp. 2-8.

¹³¹ *Ibid.*, pp. 8-12.

¹³² For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter.

¹³³ Bulgaria, Chile, China, France, Germany, Mexico, Pakistan, the Russian Federation and Spain were represented by their respective Ministers for Foreign Affairs; the United Kingdom by the Secretary of State for Foreign and Commonwealth Affairs, Cameroon by the Minister of State in charge of External Relations; and Angola by the Vice-Minister for Foreign Affairs.

¹³⁴ The Secretary-General, the Executive Chairman of UNMOVIC and the Director General of IAEA were also present at the meeting.

¹³⁵ S/PV.4701, pp. 2-17.

¹³⁶ *Ibid.*, pp. 17-18 (China); p. 21 (Russian Federation); p. 22 (Cameroon); p. 24 (France); p. 25 (Mexico); p. 26 (Bulgaria); p. 28 (Pakistan); p. 30 (Chile); p. 32 (Angola); p. 33 (Syrian Arab Republic); p. 35 (Guinea); and p. 36 (Germany).

¹³⁷ *Ibid.*, p. 21 (Russian Federation); p. 23 (Cameroon); p. 27 (Pakistan); and p. 33 (Syrian Arab Republic).

concrete time frame.¹³⁸ The representative of Cameroon suggested that the Council should ask the Secretary-General to go to Iraq to speak with President Saddam Hussein on ways and means to find a peaceful resolution to the crisis.¹³⁹ The representative of France proposed strengthening inspections, by, *inter alia*, doubling or tripling the number of inspectors; establishing a body to keep areas already inspected under surveillance; and substantially enhancing the capabilities for coordination and information-processing. He also recommended establishing, with the consent of the inspections team, a realistic time frame for the assessment and elimination of problems.¹⁴⁰

The representative of the United Kingdom agreed that Iraq was in “material breach” of resolution 1441 (2002), as it had made false statements claiming that it did not have weapons of mass destruction and had provided a veneer of superficial cooperation masking wilful concealment. He stressed that while the United Kingdom did not want war, the logic of resolution 1441 (2002) was inescapable, and if non-cooperation continued, the Council would need to fulfil its responsibilities.¹⁴¹ The representatives of Bulgaria and Spain noted that the presentation by the United States showed that Iraq remained in “material breach” of Council resolutions.¹⁴² The representative of Spain maintained that the real issue was the lack of will on the part of Iraq to fulfil its obligations, and urged Iraq to take advantage of the last chance that had been offered under resolution 1441 (2002).¹⁴³

The representative of Iraq denied all of the allegations made in the statement by the United States. He reiterated that Iraq possessed no weapons of mass destruction programme, and that it had submitted an accurate declaration. He noted that UNMOVIC and IAEA had found no evidence of any weapons or programme anywhere in Iraq. He also mentioned that analysts at the Central Intelligence Agency had complained that the United States Administration had exaggerated reports on weapons of mass destruction in Iraq and that the United Kingdom had ignored intelligence reports from its own Government stating

that there was no relationship between Iraq and Al-Qaida. He concluded by stressing that the main point of the presentation was to “sell the idea of war”, without legal, moral or political justification.¹⁴⁴

At its 4707th meeting,¹⁴⁵ on 14 February 2003, the Council heard briefings by the Executive Chairman of UNMOVIC and the Director General of IAEA, following which statements were made by all members of the Council and the representative of Iraq.¹⁴⁶

The Executive Chairman of UNMOVIC briefed the Council on progress made in the inspections in Iraq. He noted that UNMOVIC had conducted more than 400 inspections covering more than 300 sites. All inspections were performed without notice and access was almost always provided promptly, with no evidence that Iraq knew when inspectors were coming. UNMOVIC had found no weapons of mass destruction, only a small number of empty chemical munitions that should have been destroyed. However, he noted that many proscribed weapons and items remained unaccounted for, and Iraq had a responsibility to provide credible evidence that they had been destroyed. He called on Iraq to provide the necessary cooperation to answer all remaining questions. He also requested that the intelligence agencies of Member States cooperate with UNMOVIC by sharing information that would allow for more effective inspections.¹⁴⁷

The Director General of IAEA informed the Council that the focus of inspections had moved from the reconnaissance phase into the investigative phase, focused on understanding the activities of Iraq over the past four years. He stressed that to date IAEA had found no evidence of ongoing prohibited nuclear or nuclear-related activities in Iraq, although a number of issues were still under investigation.¹⁴⁸

¹³⁸ *Ibid.*, p. 21.

¹³⁹ *Ibid.*, p. 23.

¹⁴⁰ *Ibid.*, pp. 24-25.

¹⁴¹ *Ibid.*, pp. 18-20.

¹⁴² *Ibid.*, pp. 26-27 (Bulgaria); and p. 29 (Spain).

¹⁴³ *Ibid.*, p. 29.

¹⁴⁴ *Ibid.*, pp. 37-39.

¹⁴⁵ For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; and part IV, sect. B, with regard to Article 42.

¹⁴⁶ Chile, China, France, Germany, Mexico, Russian Federation, Spain and the Syrian Arab Republic were represented by their respective Ministers for Foreign Affairs; the United Kingdom by the Secretary of State for Foreign and Commonwealth Affairs; and the United States by the Secretary of State.

¹⁴⁷ S/PV.4707, pp. 2-6.

¹⁴⁸ *Ibid.*, pp. 6-9.

Most speakers argued that as substantial progress had been made in the work of the inspectors, the Council needed to continue to support them and give them sufficient time to undertake their task, as set out in resolution 1441 (2002). A number of speakers stressed the importance of strengthening the inspections regime as necessary, and of greater cooperation from Iraq on outstanding issues.¹⁴⁹ Several speakers cautioned that any war in Iraq would have grave consequences for the unity and territorial integrity of Iraq, and would threaten the entire region. Most argued that the use of force was not justified at the present time.¹⁵⁰

The representative of Spain stated that neither more inspections nor an increase in the means of inspections was needed, as the problem was primarily the lack of political will in Iraq. His delegation was in favour of a solution being found within the Security Council, but if there was not a change of political attitude by Iraq, then the Council would be obliged to assume its responsibilities in the interest of peace and security.¹⁵¹

The representative of the United Kingdom maintained that it was clear that Iraq had failed to fully and actively comply with resolution 1441 (2002). He argued that if the Council backed away from a credible threat of force, and if it was not ready to use that force, then the disarmament of Iraq and the maintenance of peace and security by the international community would be much harder.¹⁵²

The representative of the United States stressed that resolution 1441 (2002) was about disarmament and compliance and not “merely a process of inspections that goes on forever without ever resolving the basic problem”. He argued that Iraq had failed to comply with resolution 1441 (2002), and stressed that in the near future the Council would have to consider

“serious consequences” of the kind intended by resolution 1441 (2002).¹⁵³

On the question how much time to allow for inspections, the representative of France noted that war might seem swifter, but that even after the war was won, it would be necessary to build a peace, which would be longer and more difficult than inspections were likely to be.¹⁵⁴

The representative of Iraq stated that, following the return of inspectors to Iraq, his country had provided everything that might fall within the concept of proactive cooperation, and had been discussing the outstanding issues with UNMOVIC and providing new documentation. However, he emphasized that if the “proactive cooperation” called for by some Council members meant that Iraq had to show weapons of mass destruction, his delegation would have to respond that Iraq did not have such weapons and therefore could not dismantle them. He concluded by appealing to the Council to allow the inspectors to fulfil their role, which would lead to peace and not war, and for the lifting of the embargo on Iraq.¹⁵⁵

The 4709th meeting of the Council^{156,157} was held on 18 and 19 February 2003 in response to the request in a letter dated 6 February 2003 from the representative of South Africa, in his capacity as the Chairman of the Coordinating Bureau of the Non-Aligned Movement,¹⁵⁸ to hold an open debate on the reports presented at the 4707th meeting by the Executive Chairman of UNMOVIC and the Director General of IAEA. The Council included the letter in its agenda. At the meeting, the President (Germany) drew attention to a letter dated 14 February 2003 from the representative of South Africa to the President of the Security Council.¹⁵⁹

¹⁴⁹ Ibid., p. 10 (Syrian Arab Republic); p. 11 (France); p. 14 (Chile); p. 15 (China); p. 22 (Russian Federation); p. 23 (Mexico); p. 24 (Guinea); p. 25 (Pakistan); p. 28 (Angola); p. 29 (Bulgaria); and p. 30 (Germany).

¹⁵⁰ Ibid., p. 10 (Syrian Arab Republic); p. 11 (France); p. 15 (Chile); p. 22 (Russian Federation); p. 25 (Pakistan); p. 26 (Cameroon); p. 28 (Angola); and p. 30 (Germany).

¹⁵¹ Ibid., pp. 16-17.

¹⁵² Ibid., pp. 17-18.

¹⁵³ Ibid., pp. 18-21.

¹⁵⁴ Ibid., pp. 11-13.

¹⁵⁵ Ibid., pp. 30-32.

¹⁵⁶ At its 4708th meeting, held in private on 14 February 2003, the Council had a constructive exchange of views with the Executive Chairman of UNMOVIC and the Director General of IAEA.

¹⁵⁷ For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; part IV, sect. B, with regard to Article 42; and part IX, sect. B, with regard to Article 51.

¹⁵⁸ S/2003/153.

¹⁵⁹ S/2003/183, informing the Council that Iraq had accepted the offer by South Africa to send to Iraq the

Statements were made by the representatives of Albania, Algeria, Argentina, Australia, Bahrain, Belarus, Brazil, Canada, Costa Rica, Cuba, Ecuador, Egypt, Fiji, the Gambia, Georgia, Greece (on behalf of the European Union¹⁶⁰), Honduras, Iceland, India, Indonesia, the Islamic Republic of Iran, Iraq, Japan, Jordan, Kuwait, Latvia, Lebanon, the Libyan Arab Jamahiriya, Liechtenstein, Malaysia, the Marshall Islands, Mauritius, Morocco, New Zealand, Nicaragua, Nigeria, Norway, Oman, Paraguay, Peru, Qatar, the Republic of Korea, Saudi Arabia, Serbia and Montenegro, Singapore, South Africa, Sri Lanka, Saint Lucia (on behalf of the Caribbean Community), the Sudan, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, the United Arab Emirates, Uruguay, Uzbekistan, Viet Nam, Yemen and Zimbabwe, as well as the Permanent Observers of the League of Arab States and the Holy See.

Most speakers maintained that the inspection process was working, Iraq was cooperating with UNMOVIC and IAEA, and, as there was no fixed timetable for inspections, they should be continued. They stressed that no information provided thus far would seem to justify the Council abandoning the inspections process and immediately resorting to the threatened "serious consequences". Most speakers paid tribute to the work done by the Executive Chairman of UNMOVIC and the Director General of IAEA. They also underlined the central role of the Security Council in dealing with Iraq, particularly the exclusive responsibility of the Council in authorizing the use of force or sanctions. Many speakers expressed concern that any military action in Iraq would have far-reaching, destabilizing consequences in the Middle East, and that all diplomatic channels and forms of negotiation should be explored. They also voiced concern about the devastating impact of an armed conflict on the humanitarian situation of the civilian population of Iraq as well as to the regional and global economy.

Several speakers voiced support for strengthening the inspections through an increase in the number of

experts who led the successful South African programme to destroy nuclear, chemical and biological weapons, as well as the missiles for the delivery of those weapons.

¹⁶⁰ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey aligned themselves with the statement.

inspectors, a stronger mandate or other approach.¹⁶¹ The representative of Malaysia noted that the Council had never authorized the use of force on the basis of a potential threat of violence. All past authorizations had been in response to actual invasions. Therefore, an attack against Iraq without any credible evidence provided to the international community of the imminent threat it posed was illegal and unjustified.¹⁶²

At the same time, a number of speakers expressed the view that Iraq had not met its obligations pursuant to resolution 1441 (2002) and needed do so or the Council would have an obligation to act.¹⁶³ Several of these delegations stressed, however, that military force needed to be a last resort and used under international legality and with the approval of the Security Council.¹⁶⁴

Several delegations underlined the importance of the implementation of paragraph 14 of resolution 687 (1991) which called for the declaration of the Middle East as a region free from weapons of mass destruction, a declaration that needed to include the nuclear arsenal of Israel, or otherwise called for the regulation of nuclear weapons programmes in Israel.¹⁶⁵ A number of delegations underlined the need for Baghdad to release prisoners of war, property and missing persons from the time of the invasion of Kuwait.¹⁶⁶

¹⁶¹ S/PV.4709, p. 4 (South Africa); p. 12 (Islamic Republic of Iran); p. 14 (Algeria); p. 16 (Jordan); and p. 22 (Brazil); S/PV.4709 (Resumption 1) and Corr.1, p. 5 (Costa Rica); p. 6 (Switzerland); p. 8 (Indonesia); p. 9 (Malaysia); and p. 12 (Uruguay).

¹⁶² S/PV.4709 (Resumption 1), and Corr.1, p. 10.

¹⁶³ S/PV.4709, p. 8 (Kuwait); p. 19 (Australia); p. 23 (Peru); and p. 24 (Japan); S/PV.4709 (Resumption 1) and Corr.1, p. 6 (Switzerland); p. 7 (Republic of Korea); p. 18 (the former Yugoslav Republic of Macedonia); p. 20 (Nicaragua); p. 21 (Albania, Uzbekistan); p. 27 (Iceland); pp. 29-30 (Georgia); p. 31 (Serbia and Montenegro); and p. 32 (Latvia).

¹⁶⁴ S/PV.4709, p. 8 (Kuwait); and p. 23 (Peru); S/PV.4709 (Resumption 1) and Corr.1, p. 6 (Switzerland); p. 27 (Iceland); and p. 32 (Latvia).

¹⁶⁵ S/PV.4709, p. 15 (Algeria, Bahrain); p. 26 (League of Arab States); p. 29 (Yemen); S/PV.4709 (Resumption 1) and Corr.1, p. 11 (Saudi Arabia); p. 24 (United Arab Emirates); and p. 30 (Lebanon).

¹⁶⁶ S/PV.4709, p. 9 (Kuwait); p. 18 (Gambia); p. 29 (Yemen); p. 32 (Argentina, Sudan); and p. 36 (India); S/PV.4709 (Resumption 1) and Corr.1, p. 3 (Qatar); p. 9 (Malaysia); p. 11 (Saudi Arabia); p. 14 (Libyan Arab

The representative of Japan considered it desirable that the Council adopt a new resolution that clearly demonstrated the determined attitude of the international community.¹⁶⁷ The representative of Canada suggested that a deadline for Iraq's compliance be established, as well as for the Government of Iraq to fully implement all its international obligations in accordance with other relevant Council resolutions, which would allow the Council to judge whether Iraq was cooperating on substance and not just on process.¹⁶⁸ The representative of Mauritius maintained that in the event that no tangible progress was seen in the next UNMOVIC report, the Council would have to assume its responsibility and take whatever action necessary.¹⁶⁹

The representative of Australia held the view that the Council should not wait forever to confront the issue, and that it should move quickly to consider a further resolution that dealt decisively with Iraq's failure to comply with resolution 1441 (2002).¹⁷⁰ The representatives of Albania and the Marshall Islands stated that their delegations understood and supported the commitment of the United States and other nations to avoid the threats of weapons of mass destruction and international terrorism.¹⁷¹

The representative of Switzerland reported that his country had recently held a meeting in Geneva to suggest a platform for humanitarian dialogue in the event of armed conflict in Iraq, which would act as a forum for the exchange of views aimed at strengthening existing coordinating mechanisms.¹⁷²

The representative of Iraq reiterated that, as a result of his country's active cooperation with inspectors, all allegations made by the United States and the United Kingdom had been refuted, proving that Iraq possessed no weapons of mass destruction. He called upon all Member States to put an end to the unjust embargo, eliminate the no-fly zones imposed unilaterally by the United States and the United Kingdom, and to heed the call for peace expressed by

millions of people around the world over the past few days.¹⁷³

At its 4714th meeting,¹⁷⁴ on 7 March 2003, the Council included in its agenda the note by the Secretary-General dated 28 February 2003, transmitting the twelfth quarterly report of the Executive Chairman of UNMOVIC.¹⁷⁵ The Executive Chairman concluded that, during the period of time covered, Iraq could have made greater efforts to find any remaining proscribed items or provide credible evidence showing the absence of such items.

At the meeting, the Council heard briefings by the Executive Chairman of UNMOVIC and the Director General of IAEA; statements were made by all members of the Council and representative of Iraq.¹⁷⁶

In his briefing, the Executive Chairman of UNMOVIC noted that since the resumption of inspections, UNMOVIC had faced relatively few difficulties in matters relating to process and had been able to perform "no-notice" inspections all over the country and to increase aerial surveillance. He believed, however, that Iraq should be able to provide more documentary evidence about its proscribed weapons programmes. Responding to claims from intelligence services about mobile weapons of mass destruction capacity, he noted that no evidence of such proscribed activities had been found so far, nor had any underground facilities for chemical and biological weapons production. He reported some tangible progress on unresolved disarmament tasks, highlighting in particular the destruction of Al-Samoud 2 missiles, which had been found to exceed the permissible range determined by the Council, and the efforts to clarify issues related to the quantity of

Jamahiriya); pp. 23-24 (United Arab Emirates) and pp. 30-31 (Lebanon).

¹⁶⁷ S/PV.4709, p. 24.

¹⁶⁸ S/PV.4709 (Resumption 1) and Corr.1 p. 29.

¹⁶⁹ *Ibid.*, p. 26.

¹⁷⁰ S/PV.4709, p. 19.

¹⁷¹ S/PV.4709 (Resumption 1) and Corr.1, p. 21 (Albania); and p. 22 (Marshall Islands).

¹⁷² *Ibid.*, p. 6.

¹⁷³ S/PV.4709, pp. 5-6; and S/PV.4709 (Resumption 1) and Corr.1, pp. 34-35.

¹⁷⁴ For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; and part IV, sect. B, with regard to Article 42.

¹⁷⁵ S/2003/232; the report was submitted pursuant to paragraph 12 of resolution 1284 (1999).

¹⁷⁶ Chile, China, France, Germany, Guinea, Mexico, the Russian Federation, Spain and the Syrian Arab Republic were represented by their respective Ministers for Foreign Affairs, Angola by the Deputy Minister for Foreign Affairs, the United Kingdom by the Secretary of State for Foreign and Commonwealth Affairs, and the United States by the Secretary of State.

biological and chemical weapons, which Iraq claimed to have unilaterally destroyed in 1991. Against the background of what he termed an acceleration of initiatives “since the end of January”, he stated that Iraq’s efforts, while proactive, could not be said to constitute immediate cooperation. He noted that, pursuant to its mandate under resolution 1284 (1999), UNMOVIC would be ready to submit a draft programme of work to the Council with key remaining disarmament tasks in March, and that the complete list of clustered issues would be ready at the request of Council members. In conclusion, he stated that, even with a proactive Iraqi attitude, induced by continued pressure, verified disarmament would take months to achieve.¹⁷⁷

The Director General of IAEA reported that the Agency had seen no indication that Iraq had resumed nuclear activities in the buildings identified through satellite imagery, nor any indication that it had attempted to import uranium, aluminium tubes and magnets for use in a centrifuge enrichment programme. In summing up, he stated that IAEA had found no evidence or plausible indication of the revival of a nuclear weapons programme in Iraq.¹⁷⁸

A number of Council members stated that the inspectors’ report demonstrated that progress had been achieved in implementing resolution 1441 (2002), although several representatives noted that cooperation still needed to be improved. They saw no need for a new resolution, but instead spoke in favour of strengthening inspections. In that regard, it was noted that France, the Russian Federation and Germany had presented a memorandum proposing “a tough regime of intensive inspection”, and that a time frame needed to be prescribed for each outstanding issue to be addressed.¹⁷⁹ The representative of France also proposed that the inspectors be asked to establish a hierarchy of disarmament tasks to establish priority issues and be required to submit a progress report every three weeks. The Council would then establish a schedule for assessing the implementation of the work programme, and noted that resolution 1284 (2002) provided for a time frame of 120 days, which could be shortened if the inspectors considered it feasible. He

further underlined that the military agenda must not dictate the calendar of inspections, noting that he could not accept an ultimatum as long as inspectors were reporting progress in terms of cooperation, and would not, as a permanent member of the Council, allow a resolution to pass that authorised the automatic use of force.¹⁸⁰ Deploring the divergence of opinions in the Council on how to secure the elimination of Iraq’s weapons of mass destruction, the representative of Pakistan believed that an agreed approach could and had to evolve through consultations among Council members and United Nations inspectors. Once ways to credibly achieve the disarmament of Iraq’s weapons of mass destruction were established, the Council could also agree on a relatively short time frame. He added that his delegation did not believe there was an imminent threat to international peace and security.¹⁸¹

The representative of Mexico stated that he wished to broaden the range of formulas for achieving an effective disarmament of Iraq and to open the space to more ideas that would preserve the diplomatic option. He also insisted on the importance of working towards a consensus position on future actions to be taken by the Council.¹⁸² The representatives of Chile, Cameroon and Guinea noted that the cooperation by Iraq was inadequate, but that inspections, subject to a time limit, should continue and that the use of force could only be invoked, by the Council, when all peaceful means had been exhausted.¹⁸³ The representative of Angola agreed that Iraq had not fully cooperated with inspectors, but also held that the Council needed to exhaust all peaceful and diplomatic means before force could be considered.¹⁸⁴

The representative of the United States maintained that, despite some of the progress that had been mentioned, he considered the briefing by the inspectors to show “a catalogue of non-cooperation” by Iraq. He reiterated that Iraq had not made a strategic decision to disarm and that the Council needed to step up to its responsibilities. He maintained that, while nobody wanted war, it was clear that the limited progress that had been achieved had come from the presence of a large military force and from the

¹⁷⁷ S/PV.4714, pp. 2-6.

¹⁷⁸ *Ibid.*, pp. 6-9.

¹⁷⁹ *Ibid.*, pp. 9-10 (Germany); pp. 10-12 (Syrian Arab Republic); pp. 17-18 (Russian Federation); and pp. 18-21 (France).

¹⁸⁰ *Ibid.*, pp. 18-21.

¹⁸¹ *Ibid.*, pp. 32-33.

¹⁸² *Ibid.*, pp. 13-14.

¹⁸³ *Ibid.*, p. 22 (Chile); p. 29 (Cameroon); and pp. 33-34 (Guinea).

¹⁸⁴ *Ibid.*, p. 28 (Angola).

willingness to use that force. He noted that the draft resolution put forward was appropriate and encouraged the Council to bring it to a vote.¹⁸⁵ The representatives of Spain, the United Kingdom and Bulgaria stressed that the Government of Iraq had given no sign of a credible will to disarm and the Council needed to assume its responsibility to disarm Iraq, including by adopting a new draft resolution to put greater pressure on the regime.¹⁸⁶ The United Kingdom added that his delegation was introducing an amendment that would specify a further period beyond the adoption of a resolution for Iraq to take the final opportunity to disarm and to bring itself into compliance. He stressed, however, that the Council would need to send Iraq the clear message that they would resolve the crisis on United Nations terms, the terms that the Council had established in resolution 1441 (2002).¹⁸⁷

The representative of Iraq stated that the possibilities of launching a war of aggression against his country had become imminent, despite demands for a peaceful solution, illustrated by the positions of France, Germany, the Russian Federation and China, the most recent Arab and Non-Aligned Movement summits, as well as the meeting of Heads of State of Islamic countries. He held that the United States and the United Kingdom were unable to prove the existence of weapons of mass destruction in his country, and were only interested in advancing their private agenda in the region. The representative stressed that his Government would continue to provide proactive and rapid cooperation with UNMOVIC and IAEA and was grateful to those opposing the proposed draft resolution.¹⁸⁸

By a letter dated 7 March 2003 to the President of the Security Council,¹⁸⁹ the representative of Malaysia requested the holding of an open debate on the reports presented at the 4714th meeting by the Executive Chairman of UNMOVIC and the Director General of IAEA and on the new proposals that had been introduced.

¹⁸⁵ *Ibid.*, pp. 14-17.

¹⁸⁶ *Ibid.*, pp. 23-25 (Spain); pp. 25-26 (United Kingdom); and pp. 30-31 (Bulgaria).

¹⁸⁷ *Ibid.*, p. 27.

¹⁸⁸ *Ibid.*, pp. 34-36.

¹⁸⁹ S/2003/283.

At its 4717th meeting,¹⁹⁰ held on 11 and 12 March 2003, in response to the above-mentioned letter, the Council included the letter in its agenda. Statements were made by the representatives of Albania, Algeria, Argentina, Australia, Belarus, Bolivia, Brazil, Canada, Colombia, Cuba, the Dominican Republic, Egypt, El Salvador, Ethiopia, Georgia, Greece (on behalf of the European Union¹⁹¹), Nigeria, Iceland, India, Indonesia, the Islamic Republic of Iran, Iraq, Japan, Kuwait, the Lao People's Democratic Republic, Latvia, Lebanon, the Libyan Arab Jamahiriya, Malawi, Malaysia (on behalf of the Non-Aligned Movement), Morocco, New Zealand, Nicaragua, Norway, Papua New Guinea, Peru, the Philippines, the Republic of Korea, Senegal, Singapore, South Africa, the Sudan, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, Venezuela, Viet Nam, Zambia and Zimbabwe, as well as the Permanent Observers of LAS and OIC.

During the debate, most speakers underlined the need for the peaceful disarmament of Iraq, as reflected in the conclusions of recent summits of the League of Arab States, the Non-Aligned Movement, and the Organization of the Islamic Conference, as well as the decisions of the European Union and Africa Union. They voiced opposition to the prospect of an imminent military action against Iraq outside the multilateral framework of the United Nations and the Security Council. Many speakers also observed that Iraq was cooperating in the implementation of resolution 1441 (2002), citing, as proof of Baghdad's willingness to disarm, the recent destruction of various Al-Samoud 2 missiles, as well as the recent statement of the Director General of IAEA that there was no indication of the resumption of nuclear activities. Nevertheless, they reaffirmed calls on Baghdad to continue to cooperate with United Nations inspectors. While some speakers

¹⁹⁰ For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; part III, sect. B, with regard to Article 41; part IV, sect. B, with regard to Article 42; and part IX, sect. B, with regard to Article 51; and chap. XII, part III, sect. B, with regard to encouragement or calls by the Security Council for action by regional arrangements in the pacific settlement of disputes.

¹⁹¹ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey aligned themselves with the statement.

stressed that Iraq had not cooperated unconditionally, most expressed the view that the inspections were making concrete progress towards a genuine resolution of the situation and voiced support for giving inspectors the few additional months they had requested in order to complete their work, before establishing a deadline. Many speakers asked if it was reasonable, given the progress in inspections, that war should now be threatened, particularly when the requested period of time was so short. A number of speakers expressed concern about the possible devastating humanitarian consequences of such a conflict, and maintained that any conflict would have destabilizing consequences for the Middle East and for international peace and security. Several speakers also underlined that how the Council considered the issue of Iraq would mark a defining moment in its history and would impact the manner in which the international community approached future conflict situations. Several speakers emphasized the importance of a speedy resolution of the Israeli-Palestinian conflict or called for a zone free of weapons of mass destruction in the Middle East in accordance with paragraph 14 of resolution 687 (1991).

In terms of what action the Council needed to take, while agreeing that progress was being made, several speakers believed that the Council should strengthen the inspections process by, *inter alia*, endorsing a work programme for inspections, including the key remaining disarmament tasks or strengthening their mandate.¹⁹²

A number of speakers agreed that there was no need for the revised draft resolution¹⁹³ being considered by the Council, which set a deadline of 17 March for compliance by Iraq.¹⁹⁴ The representative of South Africa held that any timetable developed without taking into account the programme of work of the inspectors could only lead to an unnecessary ultimatum for war, and furthermore would be counterproductive and contradict both resolutions 1284 (1999) and 1441 (2002).¹⁹⁵

¹⁹² S/PV.4717, p. 9 (South Africa); p. 13 (Algeria); p. 15 (India); p. 19 (Canada); p. 30 (Indonesia); and p. 32 (Viet Nam).

¹⁹³ S/2003/215.

¹⁹⁴ S/PV.4717, p. 26 (Cuba); and p. 34 (Lebanon); S/PV.4717 (Resumption 1), p. 3 (Sudan); and p. 18 (Malawi).

¹⁹⁵ S/PV.4717, p. 9.

Several representatives maintained that Iraq had not fulfilled its obligations under resolution 1441 (2002) and had only taken small and belated steps under pressure. They held that the best and perhaps last hope of achieving a peaceful solution was for the Council to send a clear message to Iraq through a new resolution, which set deadlines and included concrete demands that it must fully disarm. In appealing to Council members to support a new resolution, speakers stated clearly that it was time that the Council faced its responsibilities, adding that the unity of the Council, particularly if force was required, needed to be maintained.¹⁹⁶ Several speakers noted that it was clear that Iraq had not complied and that a clear deadline was necessary to guarantee its disarmament and expressed hope that the Council would act in a way that preserved its unity.¹⁹⁷ The representative of the Philippines stated that Iraq was in material breach of its obligations and remarked that, while his delegation shared the hopes for peace, it was necessary to be ready to take decisive action to preserve and maintain a meaningful peace.¹⁹⁸

The representative of Canada, recalling his Government's proposal of 18 February, held that a message of absolute clarity should be sent by the Council to Baghdad on what was required by requiring the leadership of Iraq to publicly direct all levels of the Government to take all necessary disarmament decisions; asking UNMOVIC to bring forward the programme of work urgently, within a week, including the list of key remaining disarmament tasks; setting a deadline of three weeks for Iraq to demonstrate conclusively that it was implementing those tasks; and authorizing Member States to eventually use all necessary means to force compliance, unless, on the basis of ongoing inspectors reports, the Council concluded that Iraq was complying.¹⁹⁹

The representative of Switzerland invited Council members to see to it that any decision taken on the

¹⁹⁶ S/PV.4717, pp. 5-6 (Kuwait); pp. 18-19 (Australia); and p. 31 (Albania); S/PV.4717 (Resumption 1), p. 2 (Japan); p. 8 (Dominican Republic); p. 9 (Latvia); p. 10 (El Salvador); p. 11 (Georgia, Nicaragua); p. 17 (the former Yugoslav Republic of Macedonia); and p. 23 (Colombia).

¹⁹⁷ S/PV.4717, p. 28 (Singapore); and pp. 28-29 (Republic of Korea); S/PV.4717 (Resumption 1), p. 4 (Thailand).

¹⁹⁸ S/PV.4717 (Resumption 1), p. 4.

¹⁹⁹ S/PV.4717, p. 20.

basis of Chapter VII included the unconditional demand that all parties respect international humanitarian law.²⁰⁰

The representative of Iraq noted, *inter alia*, that the goal of the United States and the United Kingdom was not disarmament but to acquire Iraqi oil, control the region and redraw its borders to ensure the continuation of their vital interests in the long-term. He affirmed that Iraq had taken the strategic decision to rid itself of weapons of mass destruction, and he called upon the international community to prevent a “catastrophe” that had become imminent. He rejected the allegations that had been presented by the United States and others, noting the lack of evidence and the use of forged documents and other faulty intelligence. At the close of the meeting, the representative noted that the majority of speakers had expressed support for the cooperation being shown by his Government for the inspection process. While reiterating that Iraq possessed no weapons of mass destruction, he stressed that “only time” was needed to provide proof to the international community.²⁰¹

At its 4721st meeting,²⁰² on 19 March 2003, the Council heard briefings by the Executive Chairman of UNMOVIC and a representative of the Director General of IAEA; statements were made by all members of the Council,²⁰³ the representative of Iraq and the Secretary-General.

The Executive Chairman of UNMOVIC expressed sadness that three and a half months of work carried out by UNMOVIC in Iraq had not brought the assurances needed about the absence of weapons of mass destruction or other proscribed items in Iraq; that no more time was available for the inspectors; and that armed action now seemed imminent. At the same time, he felt a sense of relief that it had been possible to withdraw all United Nations international staff, including that of UNMOVIC and IAEA, safely from Iraq, with the cooperation of the Iraqi authorities. He also noted that Iraq had submitted several more letters

on unresolved issues and those efforts should be acknowledged. At the same time, his experts had found that in substance only limited new information had been provided that would help to resolve the remaining questions. Regarding the programme of work UNMOVIC had submitted, he stated that it was possible for the Council to single out a few issues for resolution within a specific time, although whatever approach was followed, results would depend on the active cooperation of Iraq on substance.²⁰⁴

The representative of the Director General of IAEA informed the Council that the work programme for IAEA had been transmitted, that it was self-explanatory and the Director General would be available any time to discuss it if the Security Council so wished.²⁰⁵

Council members expressed regret that it had not been possible to reach an agreement that would have allowed the continued peaceful disarmament of Iraq, and that the situation on the ground had brought the work of United Nations inspections to a standstill. At the same time, members took note of the Secretary-General’s decision to withdraw all United Nations staff on the basis of the need to ensure the continued safety and security of all personnel. Most speakers stressed that the United Nations and the Security Council needed to continue to play a central role in the Iraq conflict, as it bore the primary responsibility for world peace and international security. A number of speakers also expressed concern over the humanitarian consequences of war in Iraq. Most speakers emphasized that inspections within the framework of the United Nations would continue to be an important tool to prevent the proliferation of weapons of mass destruction.

The representatives of Germany, France, the Russian Federation and China believed that it was still possible to disarm Iraq peacefully, specifically by adhering to the deadlines outlined in the work programme of UNMOVIC, whose approach they endorsed.²⁰⁶ The representative of Chile stated that nothing could be more serious than suspending the inspections process, as that could create doubts concerning the validity of that instrument for

²⁰⁰ *Ibid.*, p. 21.

²⁰¹ S/PV.4717, pp. 3-5; S/PV.4717 (Resumption 1), pp. 24-25.

²⁰² For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; and part IV, sect. B, with regard to Article 42.

²⁰³ France and Germany were represented by their respective Ministers for Foreign Affairs.

²⁰⁴ S/PV.4721, pp. 2-3.

²⁰⁵ *Ibid.*, p. 3.

²⁰⁶ *Ibid.*, pp. 3-4 (Germany); p. 5 (France); p. 8 (Russian Federation); and p. 19 (China).

international peace and security. He expressed concern that if confidence in disarmament institutions eroded, those institutions would lose their value and would no longer be a guarantor of peace.²⁰⁷

The representatives of Germany and the Russian Federation stressed that the policy of military intervention had no credibility, and that there was no basis in the Charter for regime change by military means.²⁰⁸ The representative of Mexico added that the Council was the only organ which the international community had entrusted the right to use force.²⁰⁹ The representative of France maintained that the respect for law was the keystone of the international order and it needed to apply under all circumstances, particularly when it was a question regarding the use of force. He also believed that the example of UNMOVIC should serve as a model for the establishment of a permanent disarmament body under the auspices of the United Nations, aimed at resolving similar crises in the future.²¹⁰ The representative of the Syrian Arab Republic noted that the majority of the members of the Council had rejected the idea of adopting a draft resolution authorizing the use of force, thus rendering the use of the veto unnecessary by any country. He also noted that the verbatim record of the meeting of the Council included comments by those members that were hastening to wage war, confirming their belief that resolution 1441 (2002) did not permit a strike against Iraq without reverting to the Council.²¹¹

The representative of Spain stated that Saddam Hussein was responsible for the suspension of the inspections, due to his ongoing policy of deceit, concealment and delaying tactics, having decided to “openly opt for the path of confrontation”, in contravention of the demands of the Security Council. As for the legitimacy of the use of force against Iraq, he maintained that a new resolution was not legally necessary as it had already been established based on the logical linking of resolutions 660 (1990), 678 (1990), 687 (1991) and 1441 (2002), adopted under Chapter VII. He explained that in resolution 660 (1990) the Council had considered the Iraqi invasion of Kuwait a breach of the peace and international security and, while by resolution 687 (1991) it had declared a

ceasefire, that had been subordinated to compliance with a number of conditions mostly relating to the disarmament of weapons of mass destruction. Therefore, resolution 687 (1991) had left in abeyance resolution 678 (1990), by which the use of force had been authorized, but had not abolished it. The content of resolution 678 (1990) continued to be perfectly valid, and had been recalled in resolution 1441 (2002), by which the Council recognized that the non-compliance of Iraq constituted a threat to international peace and security, recalled that peace had not been restored to the region, and decided that Iraq had failed to comply and continued to fail to comply most seriously with the demands imposed by the international community.²¹² The representative of Bulgaria maintained that, in refusing to cooperate fully, actively and without condition with the inspectors, Iraq had failed to seize its last chance to comply with the relevant resolutions.²¹³ The representative of the United Kingdom stressed that any action which his country took would be in accordance with international law and based on relevant resolutions of the Council.²¹³

The representative of Cameroon, expressing concern at the de facto suspension of the oil-for-food programme, suggested that the Committee meet as soon as possible so that it could adopt any emergency measures needed at the humanitarian level.²¹⁴

The representative of the United States noted that consideration of the draft programmes of work, which represented the agenda for the meeting, was incompatible with the issue of non-compliance of Iraq with resolution 1441 (2002) and the “current reality on the ground”. He expressed concern over the humanitarian needs of Iraq and stated that his country had been planning across all relevant United States agencies and in support of United Nations efforts to anticipate likely requirements and to be prepared to administer necessary relief as quickly as possible. He also noted the importance of keeping the oil-for-food programme running, and informed the Council that his delegation would present a draft humanitarian resolution that would ensure the continuity of the programme.²¹⁵

²⁰⁷ *Ibid.*, p. 17.

²⁰⁸ *Ibid.*, pp. 3-4 (Germany); and p. 8 (Russian Federation).

²⁰⁹ *Ibid.*, p. 12.

²¹⁰ *Ibid.*, pp. 6-7 (France).

²¹¹ *Ibid.*, p. 9.

²¹² *Ibid.*, pp. 15-16.

²¹³ *Ibid.*, p. 19.

²¹⁴ *Ibid.*, p. 14.

²¹⁵ *Ibid.*, pp. 13-14.

The representative of Iraq reiterated that his country no longer possessed weapons of mass destruction and that the United States and the United Kingdom had failed to prove any allegations to the contrary since the adoption of resolution 1441 (2002). He believed that those countries' true motives, namely the occupation of Iraq and taking control of its oil wells, had now been exposed, and that the forthcoming conflict would show that. Highlighting the dire humanitarian effects of any conflict, the representative called on the Council to renew the work of the oil-for-food programme, specifically to ensure that the agreed-upon shipment of humanitarian goods on their way to Iraq, amounting to \$10 billion, was not further delayed.²¹⁶

The Secretary-General shared the regrets of Council members on the failure to reach a common position on Iraq. Recalling the sufferings of the Iraqi people over the past two decades brought about by two major wars and more than a decade of debilitating sanctions, he stated that in the short term the conflict about to get under way could worsen the situation. He further expressed the hope that members of the Council would agree that everything should be done to mitigate the "imminent disaster". He recalled that under international law the responsibility for protecting civilians in conflicts fell on the belligerents and, in any area under military occupation, respect for the welfare of the population fell on the occupying power. However, the Secretary-General emphasized that the United Nations would do whatever it could to help, and had in fact been preparing for some time for that contingency. He also indicated that he would be preparing proposals for the Council's consideration on how to adjust the oil-for-food programme to enable its resumption.²¹⁷

By a letter dated 24 March 2003 to the President of the Council,²¹⁸ the representative of Iraq, in his capacity as the Chairman of the Group of Arab States for the month of March 2003 and on behalf of the States members of LAS, with the reservation of Kuwait, requested the convening of an urgent session of the Security Council with regard to halting the American-British aggression and the immediate withdrawal of the invading forces outside the international boundaries of Iraq and reconfirming its

sovereignty, political independence and territorial integrity and preventing all States from interfering in its internal affairs.

By a letter dated 24 March 2003 to the President of the Council,²¹⁹ the representative of Malaysia, in his capacity as Chairman of the Coordinating Bureau of the Non-Aligned Movement, requested the Security Council to consider convening urgently an open debate on the situation between Iraq and Kuwait.

The 4726th meeting of the Council²²⁰ was held on 26 and 27 March 2003 in response to the requests contained in the above-mentioned letters, which were included in the agenda. Statements were made by all members of the Council and the representatives of Albania, Algeria, Argentina, Australia, Belarus, Brazil, Canada, Colombia, Costa Rica, Cuba, the Dominican Republic, Egypt, El Salvador, Ethiopia, the Federated States of Micronesia, Georgia, Greece (on behalf of the European Union²²¹), Guatemala, Guinea, Honduras, Iceland, India, Indonesia, the Islamic Republic of Iran, Iraq, Jamaica, Japan, Jordan, Kenya, Kuwait, Kyrgyzstan, the Lao People's Democratic Republic, Latvia, Lebanon, the Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Malaysia (on behalf of the Non-Aligned Movement), the Marshall Islands, Mauritius, Mongolia, Morocco, New Zealand, Nicaragua, Norway, Poland, the Republic of Korea, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Sri Lanka, the Sudan, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Tunisia, Turkey, Uganda, the United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam and Yemen, as well as the Secretary-General and the Permanent Observers of LAS and Palestine.

In his introductory statement the Secretary-General expressed regret that intense efforts to achieve

²¹⁹ S/2003/363.

²²⁰ For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; part IV, sect. B with regard to Article 42; and part IX, sect. B, with regard to Article 51; and chap. XII, part I, sect. A, case 3, with regard to Article 1 (2); part I, sect. B, case 5, with regard to Article 2 (4); part I, sect. E, case 9, with regard to Article 2 (7); and part II, sect. A, case 19, with regard to Article 24.

²²¹ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey aligned themselves with the statement.

²¹⁶ *Ibid.*, pp. 21-22.

²¹⁷ *Ibid.*, pp. 22-23.

²¹⁸ S/2003/362.

a peaceful solution, through the Council, had not succeeded. He stressed that the inability of the Council to agree earlier on a collective course of action placed an even greater burden on the Council now. He declared that the international community wanted to see the war brought to an end as soon as possible. Nevertheless, while it continued, it was essential that everything be done to protect the civilian population, as well as the wounded and the prisoners of war, on both sides, in accordance with international humanitarian law, in particular the Fourth Geneva Convention. He also reiterated the need to reach an agreement among Council members on how to adjust the oil-for-food programme. With regard to the future, he pointed out that the Council would also need to determine how it would address the many needs of the Iraqi people, whatever the outcome of the war, and what the United Nations itself might be asked to undertake. For anything beyond strictly humanitarian relief, the United Nations needed a mandate from the Council. In conclusion, the Secretary-General urged the Council to rediscover its “unity of purpose”, fearing that the deep divisions, if not healed, could have grave consequences for the international system and relations between States.²²²

The representative of Iraq informed the Council that “the American-British full-scale military aggression” had commenced on 20 March 2003 and the President of the United States had declared that the goal of the action was the occupation of Iraq and the change of its political regime. He recalled that the Security Council had not authorized the use of force by the United States and Britain and that resolution 1441 (2002) did not allow the use of force at all, a fact which both the United Kingdom and the United States had confirmed when it was adopted by stating that it did not contain “a hidden agenda, trigger or automatic use of force”. He held that the military invasion constituted a blatant material breach of international law and of the Charter, particularly Article 2 (4 and 7), as well as the relevant Council resolutions, all of which obliged Member States to respect the sovereignty, political independence and territorial integrity of Iraq. He argued that the world was well aware that the real reason for the aggression and invasion was “the occupation of Iraq, to recolonize it and control its oil wealth”. He further called on the United Nations, and the Council in particular, to condemn the invasion and

²²² S/PV.4726, pp. 3-4.

aggression and call for an unconditional and immediate end to it. Drawing attention to the Council members’ deliberations on the “humanitarian” as opposed to the “military” aspects of the aggression, he held that the Council should first and foremost pay attention to the cessation of the war of aggression as it was the cause of the humanitarian problems. In conclusion he stressed that the people of Iraq would resist and would “pay the price in blood in order to get the United States out of Iraq.”²²³

During the course of the debate, most speakers expressed strong disappointment that the efforts to avert war in that country had failed. They also underlined the need to address the humanitarian situation in Iraq and for all parties to the conflict to comply with their obligations under international humanitarian law. Most speakers also reiterated the need to respect the independence, sovereignty and territorial integrity of Iraq, emphasizing in particular the right of the people of Iraq to choose their own political destiny and form of governance, as well as their right to control their country’s natural resources. A majority of speakers reaffirmed the central role of the United Nations as the institution to ensure international peace and security. They underlined the need for the United Nations to continue to play a central role during and after the current crisis, noting that the United Nations system had a unique capacity and practical experience in coordinating assistance in post-conflict States. Most speakers stressed that the war should not be allowed to lead to the erosion of the principles and values that were set out in the Charter. Some highlighted the disunity in the Council and the need for it to reunite so as to ensure that the Council and the United Nations could respond quickly and meet the needs of the Iraqi people.

A large number of speakers argued that the inspections should have been allowed to continue as they had been producing results and that Iraq had indeed been actively cooperating with the inspectors.²²⁴ A number of delegations stressed that the

²²³ S/PV.4726, pp. 4-6; and S/PV.4726 (Resumption 1), pp. 35-36.

²²⁴ S/PV.4726, p. 7 (Malaysia on behalf of the Non-Aligned Movement); pp. 8-9 (League of Arab States); pp. 10-11 (Algeria); p. 12 (Egypt); pp. 13-14 (Yemen); pp. 17-18 (Libyan Arab Jamahiriya); pp. 19-20 (Indonesia); pp. 20-21 (South Africa); p. 22 (Cuba); p. 24 (India); p. 32 (Jamaica); p. 33 (Islamic Republic of Iran); p. 35

war had been carried out without the authorization of the Security Council, in violation of the principles of international law and the Charter, and called on the Council to use its authority to stop the military action and revert to the multilateral process in an effort to resolve the issue. Many of those delegations reiterated the importance of the principles of the non-use of force and non-interference in the internal affairs of States. Several speakers also noted that the doctrine of “pre-emptive strikes” had no foundation in international law.²²⁵ The representative of the Syrian Arab Republic stressed that the war was not justifiable because it was not aimed at the elimination of weapons of mass destruction in Iraq, as the inspectors had maintained that there was no evidence of such weapons. The objective was to occupy Iraq, to subject the region to hegemony and exploitation, and to help Israel, which did possess weapons of mass destruction.²²⁶

Other speakers maintained that Iraq had not voluntarily disarmed and given up its weapons of mass destruction or abided by the provisions of resolution 1441 (2002), which had contained a warning of “grave consequences” in case of non-compliance, based on Chapter VII of the Charter, and noted the responsibility of the Government of Iraq for any consequences.²²⁷

(Lebanon); p. 36 (Tunisia); and p. 37 (Mauritius); S/PV.4726 (Resumption 1), p. 9 (United Republic of Tanzania); p. 17 (Kenya); p. 20 (Pakistan); p. 26 (Russian Federation); p. 28 (China, France); and p. 32 (Syrian Arab Republic).

²²⁵ S/PV.4726, p. 7 (Malaysia on behalf of the Non-Aligned Movement); pp. 8-9 (League of Arab States); pp. 10-11 (Algeria); p. 12 (Egypt); pp. 13-14 (Yemen); pp. 17-18 (Libyan Arab Jamahiriya); pp. 19-20 (Indonesia); pp. 20-21 (South Africa); p. 22 (Cuba); p. 28 (Brazil); p. 30 (Switzerland); p. 31 (Sudan); p. 32 (Viet Nam); pp. 32-33 (Jamaica); p. 33 (Islamic Republic of Iran); p. 35 (Lebanon); p. 36 (Tunisia); pp. 37-38 (Mauritius); p. 38 (Belarus); p. 46 (Venezuela); and p. 47 (Lao People’s Democratic Republic); S/PV.4726 (Resumption 1), p. 2 (Liechtenstein); pp. 7-8 (Saudi Arabia); p. 9 (United Republic of Tanzania); p. 10 (Palestine); p. 16 (Kyrgyzstan); pp. 26-27 (Russian Federation); p. 28 (China, France); and pp. 32-33 (Syrian Arab Republic).

²²⁶ S/PV.4726 (Resumption 1), p. 32.

²²⁷ S/PV.4726, p. 24 (Poland); pp. 25-26 (Singapore); pp. 34-35 (Republic of Korea); p. 39 (Japan); pp. 39-40 (the former Yugoslav Republic of Macedonia); p. 41 (Georgia, Uzbekistan); p. 42 (Latvia, Nicaragua); p. 45 (Albania); p. 46 (Iceland); and p. 47 (Mongolia); S/PV.4726 (Resumption 1), p. 6 (El Salvador); p. 8

Several delegations argued that the failure to take action against the Iraqi regime would have been tantamount to tolerating non-compliance with Council resolutions. They stressed that failure to take action to effectively disarm the Iraqi regime would be a serious political and military mistake and would lead to the further undermining of the authority of the United Nations.²²⁸ A number of speakers opined that the actions of the coalition were in accordance with international law, they noted, pointing out that resolutions 678 (1990), 687 (1991) and 1441 (2002) provided authority for the use of force to disarm Iraq of weapons of mass destruction and to restore international peace and security to the region.²²⁹ The representative of Singapore stated that, while his delegation would have preferred that the Council had explicitly authorized military action, it had felt that, given the long history of Iraq flouting Council resolutions, the inability to reach consensus could not be taken as a reason for inaction.²³⁰ The representative of the Marshall Islands expressed support for the ultimate goals of the operation in Iraq, which were to ensure Iraqi compliance with its disarmament obligations and to restore the sovereignty of the country to its people.²³¹ The representative of Argentina stated that, while the use of force was a last resort, and within the United Nations system it needed to be authorized by the Council, his delegation believed that in the current situation, legal and political debate on the legality of the armed conflict would “divide and paralyse” the Council and divert attention from the humanitarian situation of the people of Iraq.²³²

Several speakers also noted the need to prevent a humanitarian catastrophe in Iraq and therefore called, *inter alia*, for the immediate resumption of the oil-for-

(Federated States of Micronesia); p. 11 (Timor-Leste); p. 13 (Uganda); p. 14 (Sri Lanka); p. 15 (Ethiopia); p. 23 (United Kingdom); p. 29 (Spain); and p. 31 (Bulgaria).

²²⁸ S/PV.4726, p. 25 (Poland); p. 27 (Australia); pp. 34-35 (Republic of Korea); p. 30 (Japan), pp. 39-40 (the former Yugoslav Republic of Macedonia); p. 41 (Georgia); and p. 46 (Iceland); S/PV.4726 (Resumption 1), p. 5 (Lithuania); and p. 8 (Federated States of Micronesia).

²²⁹ S/PV.4726, p. 27 (Australia); and p. 40 (the former Yugoslav Republic of Macedonia); S/PV.4726 (Resumption 1), p. 8 (Federated States of Micronesia); and p. 23 (United Kingdom).

²³⁰ S/PV.4726, p. 26.

²³¹ S/PV.4726 (Resumption 1), p. 4.

²³² S/PV.4726, p. 37.

food programme, or for its amendment to allow an uninterrupted flow of humanitarian supplies.²³³ In contrast, the representative of the Libyan Arab Jamahiriya argued that the people of Iraq did not need the humanitarian assistance that was being requested by some States that were trying to provide it “from the wealth and resources of Iraq”, despite the fact that they had stopped the oil-for-food programme.²³⁴ The representative of South Africa cautioned that, while the Council had a role to play in ensuring that provisions were in place to assist with the delivery of humanitarian relief, the Council should not be drawn into drafting a resolution that would “provide tacit or implied approval of the military operations”.²³⁵ This was echoed by the representative of Cuba, who noted that the aggression and the occupation of territories should not be legalized or endorsed under humanitarian pretexts.²³⁶ The representative of Albania declared that the humanitarian situation had been caused by the “dictatorial policies” of the Government of Iraq and called on the regime to step aside and spare the people of Iraq from further danger.²³⁷

A number of speakers noted the importance of the Arab-Israel conflict and the lack of progress there. They opined, *inter alia*, that the real threat to the safety and security of the Arab nation was the possession by Israel of weapons of mass destruction; its ongoing occupation of the Arab territories; its policy against the Palestinian people; and its refusal to comply with numerous Council resolutions.²³⁸ Other speakers

²³³ S/PV.4726, p. 11 (Algeria); p. 15 (Kuwait); p. 19 (Greece on behalf of the European Union); pp. 20-21 (South Africa); p. 23 (New Zealand); p. 24 (India); p. 26 (Singapore); p. 27 (Australia); p. 29 (Turkey); p. 30 (Switzerland); p. 32 (Viet Nam); p. 35 (Republic of Korea); p. 37 (Argentina); p. 40 (the former Yugoslav Republic of Macedonia); p. 40 (Colombia); p. 41 (Georgia, Uzbekistan); p. 42 (Latvia, Nicaragua); p. 43 (Norway); p. 45 (Albania); p. 46 (Venezuela); pp. 47-48 (Mongolia); p. 48 (Guatemala); S/PV.4726 (Resumption 1), p. 2 (Liechtenstein); p. 3 (Canada); p. 4 (Uruguay); p. 5 (Thailand); p. 6 (Slovakia, El Salvador); p. 15 (Ethiopia); p. 16 (Jordan); p. 18 (Slovenia); p. 19 (Mexico); pp. 21-22 (Pakistan); p. 24 (Cameroon); p. 28 (China); p. 29 (France, Spain); p. 31 (Chile, Bulgaria); pp. 33-34 (Germany); and pp. 34-35 (Guinea).

²³⁴ S/PV.4726, p. 17.

²³⁵ *Ibid.*, p. 21.

²³⁶ *Ibid.*, p. 23.

²³⁷ *Ibid.*, p. 45.

²³⁸ *Ibid.*, p. 9 (League of Arab States); p. 13 (Yemen); p. 17

reiterated their commitment to the road map and progress in the Arab-Israeli peace process.²³⁹

The representative of the United Kingdom noted that the coalition action, which encompassed over 40 States, was under way to enforce Council decisions on complete disarmament by Iraq. He stressed that the action was being directed only at the regime, and that the coalition partners were doing everything possible to minimize the effect on civilians, leave infrastructure intact, and ensure the rapid delivery of humanitarian assistance. He also stated that his country accepted in full all its obligations under international humanitarian law.²⁴⁰

The representative of the United States expressed regret that the Government of Iraq had not taken advantage of the final opportunity provided in resolution 1441 (2002) and reiterated that the coalition’s response was legitimate and not unilateral. He recalled that resolution 687 (1991) imposed a series of obligations on Iraq that were the conditions of the ceasefire. A material breach of those obligations removed the basis of the ceasefire and revived the authority to use force under resolution 678 (1990). By resolution 1441 (2002) the Council explicitly found Iraq in continuing material breach. Therefore, in view of additional material breaches by Iraq, the basis for the existing ceasefire had been removed and the use of force was authorized under resolution 678 (1990). The representative also provided an overview of efforts to provide rapid assistance to the Iraqi people. He expressed support for the Secretary-General’s request for the necessary authorities to ensure the continuity of the oil-for-food programme and noted that the Council was close to an agreement on a resolution. He stressed that if the Council failed to adopt such a resolution there would be serious humanitarian implications. On the future of Iraq, he listed five principles that guided the Government of the United States. First, his country would demonstrate to the people of Iraq and the world

(Libyan Arab Jamahiriya); p. 34 (Islamic Republic of Iran); and p. 44 (Morocco); S/PV.4726 (Resumption 1), pp. 7-8 (Saudi Arabia); p. 9 (United Republic of Tanzania); p. 10 (Palestine); p. 12 (Timor-Leste); pp. 13-14 (Uganda); pp. 14-15 (Sri Lanka); p. 16 (Jordan); p. 22 (Pakistan); and p. 32 (Syrian Arab Republic).

²³⁹ S/PV.4726, p. 19 (Greece on behalf of the European Union); S/PV.4726 (Resumption 1), p. 23 (United Kingdom); p. 29 (Spain); and p. 31 (Chile).

²⁴⁰ S/PV.4726 (Resumption 1), p. 23.

that the United States and the coalition aspired to liberate, not to occupy. Second, Iraq needed to be disarmed of all nuclear, chemical and biological weapons production capabilities and the means to deliver such weapons. Third, the “terrorist infrastructure” in Iraq needed to be eliminated. Fourth, Iraq needed to be preserved as a unified State, with its territorial integrity intact. Stressing that concern for the safety of the people of Iraq had been “foremost in our minds”, he said that the United States and the coalition would “provide security to prevent chaos and retribution”. Fifth, a process of economic and political reconstruction needed to be started. He noted the commitment of his Government to working in close partnership with international institutions, including the United Nations. Finally, he reiterated that his country wanted to return control over the sovereignty of Iraq to its people as soon as possible.²⁴¹

The representative of the Russian Federation maintained that the military action undertaken by the United States and the United Kingdom in violation of Security Council resolutions could not be justified in any way. He noted that those countries had been unable to provide any proof to justify their allegations regarding the possession of weapons of mass destruction and support for international terrorism by Iraq. He also noted that no proof had been found in the course of the ongoing military action to sustain such accusations. Bearing in mind the exceptional, his delegation was prepared, to resolve the issue of temporary amendments to the procedures followed in the oil-for-food programme in order to meet the humanitarian needs of Iraqis. However, his delegation would not support the proposal to restructure the mechanism for the humanitarian programme in the light of the military scenario, which was a technical matter. He stressed that there was no more urgent task than to halt the war and return to the path of a political settlement within the context of the Security Council. To that end, his delegation would continue to oppose both direct and indirect attempts to legitimize the use of force against Iraq or to shift the responsibility for that action to the international community through the United Nations.²⁴²

The representative of Kuwait stated that the operations against Iraq had resulted from that country’s

²⁴¹ Ibid., pp. 25-26.

²⁴² Ibid., pp. 26-28.

persistent refusal to comply with relevant Security Council resolutions concerning the elimination of weapons of mass destruction. He reaffirmed that his delegation’s position on the military operations was in conformity with relevant Council resolutions and with the legal obligations on Iraq that proceeded from them. He stressed that his Government would not participate in any military measures against Iraq and that all measures taken were aimed at protecting the security, safety and territorial integrity of Kuwait. He added that the attacks by Iraq against civilian targets in Kuwait constituted a flagrant violation of the Charter of the United Nations and called on the Council to condemn them.²⁴³

The representative of Turkey noted that it was common knowledge that elements of the armed forces of Turkey had been stationed in northern Iraq for years in the context of Operation Northern Watch, which had been conducted from the territory of Turkey and which provided protection and humanitarian relief to Kurds in northern Iraq. However, he underlined that his country had no intention of entering into Iraq, but “should that need occur”, his country would not enter Iraq to fight but to monitor a refugee crisis if it unfolded and to respond to immediate concerns of security on the border. He stressed that Turkey could not allow another influx of refugees, as in 1991. Any refugee movement needed to be contained inside Iraq and the people in distress provided with shelter, food and security. He also stressed that his country could not allow Kurdish armed terrorists marauding in parts of northern Iraq to instigate terrorism and provocation that would set in motion a vicious circle hampering his country’s efforts to provide assistance.²⁴⁴

**Decision of 28 March 2003 (4732nd meeting):
resolution 1472 (2003)**

At the 4732nd meeting, on 28 March 2003, statements were made by a majority of Council members,²⁴⁵ and the Secretary-General. The President (Guinea) drew the attention of the Council to a draft resolution submitted by Angola, Bulgaria, Cameroon, Chile, China, France, Germany, Guinea, Mexico, Pakistan, the Russian Federation, Spain, the United

²⁴³ S/PV.4726, pp. 14-15.

²⁴⁴ Ibid., p. 29.

²⁴⁵ The representatives of Angola, Cameroon, Chile, China, Mexico and the United Kingdom did not make statements.

Kingdom and the United States;²⁴⁶ it was adopted unanimously as resolution 1472 (2003), by which the Council, acting under Chapter VII of the Charter, inter alia:

Authorized the Secretary-General: (a) to establish alternative locations for the delivery, inspection and authenticated confirmation of humanitarian supplies and equipment provided under the oil-for-food programme; (b) to review the approved funded and non-funded contracts concluded by the Government of Iraq to determine the relative priorities of the need for adequate medicine, health supplies, foodstuffs and other materials and supplies for essential civilian needs; (c) to contact suppliers of those contracts to determine the precise location of contracted goods; (d) to negotiate and agree on necessary adjustments in the terms or conditions of those contracts and their respective letters of credit; (e) to negotiate and execute new contracts for essential medical items under the programme; (f) to transfer unencumbered funds between the accounts created pursuant to paragraphs 8 (a) and (b) of resolution 986 (1995) on an exceptional and reimbursable basis as necessary to ensure the delivery of essential humanitarian supplies to the people of Iraq;

Decided that all applications outside the programme submitted for distribution or use in Iraq of emergency humanitarian supplies and equipment, other than medicines, health supplies and foodstuffs, should be reviewed by the Committee established by resolution 661 (1990), under a 24-hour no-objection procedure;

Decided that the provisions contained in paragraph 4 of the resolution should remain in force for a period of 45 days following the date of adoption of the resolution.

During the debate, most speakers welcomed the adoption of a resolution to provide humanitarian relief to the people of Iraq by restarting the oil-for-food programme, and noted that its adoption was a positive signal that the Council could return to a path of unity.

The representative of Pakistan underlined the principles guiding his delegation's position, namely, respect for the inalienable right of the people of Iraq over their natural resources and ensuring that the people of Iraq were not called upon to pay additional costs which the conflict might impose on the oil-for-food programme. Noting that his delegation accepted the fact that the Secretary-General would have to coordinate with whomever was in actual control of Iraq, he reiterated that the acceptance did not imply any position on the legality of the situation.²⁴⁷

²⁴⁶ S/2003/381.

²⁴⁷ S/PV.4732, pp. 2-3.

The representative of the Syrian Arab Republic stressed that his vote should not be construed as an acceptance of the "American-British occupation". He noted that the contents of the resolution, including the references in paragraphs 4 and 5 to the Secretary-General's taking certain measures as an urgent first step and performing additional functions as a second step, meant only that his delegation was trying to cooperate with the current Government of Iraq.²⁴⁸

The representative of the Russian Federation reiterated that the adoption of the resolution in no way signified any type of legitimization of the military action being carried out by the coalition in violation of the Charter of the United Nations. The resolution clearly called the participants in the coalition "occupying Powers", whose actions on the occupied territory needed to be guided strictly by all norms of international humanitarian law, without exception. He stressed that any humanitarian problems needed to be dealt with primarily by those who began the war, as they bore responsibility for meeting the civilian population's humanitarian needs under the Fourth Geneva Convention. With regard to the United Nations humanitarian programme for Iraq, the resolution's adjustments to the programme had "a technical and provisional nature" and made it possible to use contracts that had been signed but not yet implemented in order to solve individual practical humanitarian issues caused by the war. The resolution did not change the essence of the humanitarian programme, and it fully retained the control of the Security Council over the United Nations special account that was accumulating revenue from the export of Iraqi oil.²⁴⁸

The representative of France also noted that it was important that the text recalled principles, humanitarian law instruments, in particular the Geneva Conventions, humanitarian access to the populations and the sovereignty of Iraq over its resources.²⁴⁹

**Decision of 24 April 2003 (4743rd meeting):
resolution 1476 (2003)**

At the 4743rd meeting, on 24 April 2003, the President (Mexico) drew the attention of the Council to a draft resolution;²⁵⁰ it was adopted unanimously and without debate as resolution 1476 (2003), by which the

²⁴⁸ *Ibid.*, p. 3.

²⁴⁹ *Ibid.*, pp. 4-5.

²⁵⁰ S/2003/465.

Council, acting under Chapter VII of the Charter, *inter alia*:

Decided that the provisions contained in paragraph 4 of resolution 1472 (2003) should remain in force until 3 June 2003 and might be subject to further renewal by the Council;

Decided to remain seized of the matter.

**Decision of 22 May 2003 (4761st meeting):
resolution 1483 (2003)**

At the 4761st meeting,²⁵¹ on 22 May 2003, statements were made by most members of the Council.²⁵² The President (Pakistan) drew attention to a draft resolution submitted by Spain, the United Kingdom and the United States;²⁵³ it was put to the vote and adopted by 14 votes²⁵⁴ as resolution 1483 (2003), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided that all Member States should take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq;

Decided that, with the exception of prohibitions related to the sale or supply to Iraq of arms and related materiel, all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and subsequent relevant resolutions, including resolution 778 (1992), should no longer apply;

Decided to terminate within six months from the adoption of the resolution, the operations of the oil-for-food programme;

Decided to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six-month period called for above;

Decided that all export sales of petroleum, petroleum products, and natural gas from Iraq following the date of the

adoption of the resolution should be made consistent with prevailing international market best practices;

Decided further that 5 per cent of the proceeds referred to in paragraph 20 should be deposited into the Compensation Fund established in accordance with resolution 687 (1991);

Decided that, until 31 December 2007, unless the Council decided otherwise, petroleum, petroleum products and natural gas originating in Iraq should be immune from legal proceedings against them and not be subject to any form of attachment, garnishment or execution;

Decided that all Member States in which there were (a) funds or other financial assets of the previous Government of Iraq or (b) funds or other financial assets that had been removed from Iraq should freeze without delay those funds and, unless those funds were themselves the subject of a prior judicial, administrative or arbitral lien or judgement, immediately should cause their transfer to the Development Fund for Iraq;

Decided to review the implementation of the resolution within 12 months of its adoption and to consider further steps that might be necessary.

During the discussion, speakers noted the importance of the resolution and of the fact that it, *inter alia*, provided a framework under Chapter VII for the Coalition Provisional Authority; reaffirmed the obligations of the occupying Powers; affirmed the commitment of the Council to the development of an internationally recognized representative Government of Iraq; created a mandate for a Special Representative of the Secretary-General and otherwise set out a post-conflict role for the United Nations; established a framework for an orderly phase-out of the oil-for-food programme while providing for humanitarian needs; and the lifting of sanctions on Iraq, with the exception of trade in arms. Several speakers also noted the outstanding issues that would still need to be dealt with by the Council, including the role for UNMOVIC and IAEA in the longer-term monitoring of disarmament.

However, several representatives also stressed that the resolution had been a “compromise”. The representative of France noted that the resolution substantiated the essential role of the United Nations in a variety of areas. He also expressed the belief that the process of political transition in Iraq would gain in credibility if a precise procedure and timetable for establishing a representative and internationally recognized Government of Iraq were defined.²⁵⁵ The representative of Mexico noted that the resolution did not authorize the establishment of long-term

²⁵¹ For more information on the discussion at this meeting, see chap. XI, part III, sect. B, with regard to Article 41 of the Charter.

²⁵² The representative of the Syrian Arab Republic did not make a statement.

²⁵³ S/2003/556.

²⁵⁴ The representative of the Syrian Arab Republic did not participate in the voting. At the 4762nd meeting of the Council, also on 22 May 2003, he stated that he would have voted in favour of the draft resolution if granted more time, despite the fact that it failed to rise to the expectations and aspirations of the Iraqi people (S/PV.4762, p. 20). See also chap. IV, part IV, sect. B, case 4.

²⁵⁵ S/PV.4761, pp. 3-4.

commitments that would alienate the sovereignty of the people of Iraq over the petroleum resources.²⁵⁶ The representative of the Russian Federation, affirming that his delegation was looking forward to receiving information on efforts to find the weapons of mass destruction programmes, expressed hope that the resolution would make it possible to reach closure on that issue.²⁵⁷ The representative of Pakistan stated that while his delegation had agreed to the delegation of certain powers by the Council to the occupying Powers, represented by the Authority, he expected that the responsibilities entrusted would be exercised in the interest of the people of Iraq.²⁵⁸

**Decision of 3 July 2003 (4783rd meeting):
resolution 1490 (2003)**

At its 4768th meeting, on 5 June 2003, the Council included in its agenda a note by the Secretary-General dated 10 May 2003;²⁵⁹ transmitting the thirteenth quarterly report of the Executive Chairman of UNMOVIC, which provided an update on the work of UNMOVIC leading up to the evacuation of inspectors and noted that, despite the alteration of the situation resulting from the occupation of Iraq, UNMOVIC was still a subsidiary body of the Council until another decision was taken. The Council was briefed by the Executive Chairman of UNMOVIC, who noted that, while proscribed items remained unaccounted for, UNMOVIC had not found any evidence during the inspections of the continuation or resumption of programmes of weapons of mass destruction or significant quantities of proscribed items.²⁶⁰

At its 4783rd meeting, on 3 July 2003, the Council included in its agenda the report of the Secretary-General on the activities of the United Nations Iraq-Kuwait Observation Mission (UNIKOM)²⁶¹ following the suspension of its mandate owing to the deteriorating security situation in the demilitarized zone prior to the invasion of Iraq by coalition forces on 20 March 2003.

²⁵⁶ *Ibid.*, p. 7.

²⁵⁷ *Ibid.*, p. 8.

²⁵⁸ *Ibid.*, p. 11.

²⁵⁹ S/2003/580; the report was submitted pursuant to paragraph 12 of resolution 1284 (1999).

²⁶⁰ S/PV.4768, pp. 2-4.

²⁶¹ S/2003/656.

In his report, the Secretary-General noted that the Government of Kuwait had informed him that the delicate situation regarding the border between Kuwait and Iraq was ample reason for the maintenance of the mandate until such time as the situation became clearer and peace and security were restored to the area. In the altered conditions, he recommended that the residual peacekeeping presence of UNIKOM be maintained for a final three months, until 6 October 2003, when the Mission would be closed. During that period UNIKOM would, *inter alia*, scale down its military presence to a minimum, and make appropriate arrangements for handing over its activities in assisting humanitarian operations to other entities remaining in the area.

At the meeting, the President (Spain) drew the attention of the Council to a draft resolution;²⁶² it was put to the vote and adopted unanimously and without debate as resolution 1490 (2003), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided to continue the mandate of UNIKOM for a final period until 6 October 2003;

Directed the Secretary-General to negotiate the transfer of the Mission's non-removable property and of those assets that could not be disposed otherwise to the States of Kuwait and Iraq, as appropriate;

Decided to end the demilitarized zone extending 10 kilometres into Iraq and 5 kilometres into Kuwait from the Iraq-Kuwait border at the end of the Mission's mandate on 6 October 2003;

Requested the Secretary-General to report to the Council on the completion of the Mission's mandate.

**Decision of 14 August 2003 (4808th meeting):
resolution 1500 (2003)**

At its 4791st meeting, on 22 July 2003, the Council included in its agenda the report of the Secretary-General dated 17 July 2003 on the work of his Special Representative with respect to the implementation of resolution 1483 (2003).²⁶³ In his report, the Secretary-General recommended an overall approach and structure for the United Nations presence in Iraq for the remainder of 2003. He noted that the Special Representative had met people representing a large and diverse spectrum of society. The response

²⁶² S/2003/684.

²⁶³ S/2003/715, submitted pursuant to paragraph 24 of resolution 1483 (2003).

had included an overwhelming demand for the early restoration of sovereignty, as well as concerns over the process of de-Baathification, the dissolution of the army of Iraq; the lack of improvement in daily living conditions and the precarious security situation. The unanimous concern among political groups was the urgent establishment of an Iraqi provisional government, by an Iraqi process, which could help to address some of the immediate practical challenges. The Secretary-General also laid out the proposal for a United Nations Assistance Mission for Iraq (UNAMI), which would incorporate the Office of the Special Representative, as well as other offices. In conclusion, he stressed that, if some of the concerns that had been relayed were to be allayed, it was important that the people of Iraq be able to set a clear timetable leading to the full restoration of sovereignty and the end of military occupation.

At the meeting, the Council heard briefings by the Secretary-General, the Special Representative of the Secretary-General for Iraq, and the head of the delegation for the Governing Council of Iraq, following which all members of the Council made statements.

The Secretary-General welcomed the formation of the Governing Council as a first step towards restoring the sovereignty of Iraq. He also stressed that the establishment of the Governing Council needed to be followed by a constitutional process run by the people of Iraq.²⁶⁴

In his briefing, the Special Representative of the Secretary-General for Iraq provided an overview of the situation in Iraq and the initial work of the United Nations. He stressed that the Governing Council possessed credible executive authority and that it was broadly representative of the various constituencies in Iraq. However, the Governing Council would need to be empowered to deliver tangible improvements while not becoming an object of criticism due to the legal obligations of the Coalition Provisional Authority. He noted that, while the United Nations did not have a clear mandate, the situation in Iraq was exceptional and the lack of clarity allowed for the United Nations role in Iraq to develop as the situation evolved. Some of the key areas in the programme of action would be the reform of key institutions and the establishment of electoral and constitutional processes. Nonetheless, it

was essential that the population of Iraq set the agenda and that the United Nations support its implementation as required.²⁶⁵

The head of the delegation of the Governing Council of Iraq maintained that Iraq had rid itself of the “oppressive tyrannical regime” that had oppressed the Iraqi people, and that, despite the ongoing suffering due to current security and living conditions, the people of Iraq had “a taste of freedom”. He noted that resolution 1483 (2003) did not set out in “a clear and precise manner” the function of the interim administration, which allowed for expansion of the powers of the Governing Council so all aspects of government could be covered. The primary goal was to put together an elected Government under a constitution to be endorsed in free elections. The draft constitution would be examined by a constitutional congress representing all political, social and religious groups. He suggested that the United Nations could help draw up legislation to prepare for the congress and subsequent elections. He indicated that some of the pressing issues to be addressed by the Governing Council were the need to appoint ministers and personnel not implicated in the previous regime; reopen the embassies of Iraq abroad and appoint representatives to international organizations, including the United Nations; establish institutions that could rebuild the national police and army; re-examine legislation enacted by the previous regime; consider special tribunals for those who had committed criminal acts under the previous regime; and revive the national economy. He also noted that the Governing Council had decided to train and employ 30,000 police officers, establish at least 1,500 schools and clinics throughout Iraq, pay back salaries and start a programme to reabsorb more than 200,000 demobilized soldiers into civilian employment.²⁶⁶

Most speakers expressed support for the efforts of the Special Representative and welcomed the formation of the Governing Council. They stressed the importance of quickly establishing an elected national Government and fully restoring sovereignty, on the basis of a clear timetable. They also expressed deep concern with the security situation in Iraq, as well as the lack of basic services such as electricity and fuel. A number of speakers called for an active and effective

²⁶⁴ S/PV.4791, pp. 2-3.

²⁶⁵ *Ibid.*, pp. 3-9.

²⁶⁶ *Ibid.*, pp. 9-11.

role for the United Nations in Iraq and supported the creation of UNAMI. Several speakers also highlighted the importance of the regional dimension and of the need to work with the neighbours of Iraq on reconstruction. Most speakers also drew attention to the importance of establishing the rule of law and respect for human rights in Iraq.

The representative of France noted that resolution 1483 (2003) remained an imperfect and limited framework and underlined the need for a genuine international partnership as prolonged instability in Iraq would be harmful to all.²⁶⁷

The representative of the United States expressed support for the Governing Council, and opined that the fragile security situation was a manifestation of the minority of those who opposed political freedom. Acknowledging that the security situation was complex, he stated that the approach of the coalition was multifaceted, including enabling Iraqis to ultimately provide for their own security. He informed the Council that the coalition was moving quickly to establish police forces, and would shortly begin recruiting and training the first members of the new Iraqi army.²⁶⁸

The representative of Cameroon maintained that the Security Council would need to have informal discussions on the best way for the United Nations to make a decisive contribution to solving the issue of insecurity. He commented that although UNAMI would not have a military or police component, it would be desirable for the approach selected not to close the door to such a possibility.²⁶⁹

The representative of Pakistan noted that in promoting security, operations needed to be conducted in ways that were sensitive to the welfare and sentiments of the people of Iraq and to their cultural and religious values.²⁷⁰

At its 4808th meeting,²⁷¹ on 14 August 2003, the Council again included in its agenda the report of the Secretary-General dated 17 July 2003.²⁷² Statements

²⁶⁷ *Ibid.*, pp. 14-15.

²⁶⁸ *Ibid.*, pp. 18-20.

²⁶⁹ *Ibid.*, p. 23.

²⁷⁰ *Ibid.*, p. 24.

²⁷¹ For more information on the discussion at this meeting, see chap. XII, part I, sect. A, case 3, with regard to Article 1 (2) of the Charter.

²⁷² S/2003/715.

were made by the representatives of China, France, Mexico, Pakistan, the Russian Federation, Spain, the Syrian Arab Republic, the United Kingdom and the United States.

The President (Syrian Arab Republic) drew attention to a draft resolution submitted by Angola, Bulgaria, Cameroon, Chile, Guinea, Spain, the United Kingdom and the United States;²⁷³ it was put to the vote and adopted by 14 votes, with 1 abstention (Syrian Arab Republic), as resolution 1500 (2003), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Welcomed the establishment of the broadly representative Governing Council of Iraq on 13 July 2003, as an important step towards the formation by the people of Iraq of an internationally recognized, representative government that would exercise the sovereignty of Iraq;

Decided to establish UNAMI to support the Secretary-General in the fulfilment of his mandate under resolution 1483 (2003) in accordance with the structure and responsibilities set out in his report of 15 July 2003, for an initial period of 12 months.

Following the adoption of the resolution, most speakers welcomed the establishment of UNAMI and reiterated their support for the Governing Council of Iraq. Several speakers requested that in the future non-permanent members be given more time to consider draft resolutions and that there be more transparent and comprehensive consultations, particularly on important topics such as Iraq.²⁷⁴

The representative of France reaffirmed the conviction that the success of the reconstruction of Iraq required the United Nations to play a dynamic role in the post-conflict management of the country, but resolution 1500 (2003) was not intended to do that. In particular, he reiterated the need for a timetable to be established with regard to the sequence of the political transition.²⁷⁵

The representative of Mexico noted that welcoming the establishment of the Governing Council did not constitute legal recognition, "nor should it be interpreted as endorsement", as the Governing Council

²⁷³ S/2003/812.

²⁷⁴ S/PV.4808, p. 4 (Pakistan, Spain); pp. 4-5 (Germany); p. 5 (Mexico); and pp. 6-7 (Syrian Arab Republic).

²⁷⁵ *Ibid.*, p. 2.

was still under the authority of the occupying Powers.²⁷⁶

The representative of the Syrian Arab Republic explained that he had abstained in the vote to reflect the Arab position endorsed by the Foreign Ministers of Arab States members of the Arab follow-up committee that had met in Cairo on 5 August 2003 on the question of Iraq. At that meeting, the Foreign Ministers had stressed that the Governing Council would gain credibility from the fact that it was paving the way for the formation of a national Government that represented the full spectrum of society in Iraq. He expressed regret that the sponsors of the resolution had not taken into account a number of important recommendations made by the Secretary-General in his report.²⁷⁷

Decision of 16 October 2003 (4844th meeting): resolution 1511 (2003)

At its 4812th meeting, on 21 August 2003, the Council heard briefings by the representatives of the United States and the United Kingdom; statements were made by all other members of the Council.

In his briefing, the representative of the United States expressed sympathy to the victims of the attack on the United Nations headquarters in Iraq and for the death of Sergio Vieira de Mello, the Special Representative of the Secretary-General in Iraq. He noted that, while the identities of the attackers was not known, their motives were likely to restore the Saddam regime and the Baath party, to terrify those who wanted to work with the international community and to prevent the emergence of a new Iraq. He then provided an overview of the situation in Iraq and the activities of the Coalition Provisional Authority. He highlighted several important markers of progress including projects to improve economic conditions, develop capacity to foil the saboteurs who were targeting electrical infrastructure, the oil industry and other key infrastructure; promote a secure environment; and start training the new army.²⁷⁸

The representative of the United Kingdom also began by expressing his shock at the attack and sympathy of the victims, including Sergio Vieira de Mello. In his briefing, he focused on humanitarian

activities, the contributions made by the Coalition Provisional Authority to efforts to establish local institutions for representative governance and human rights and legal and judicial reform. He stated that the food distribution systems had been fully restored, but there was a need to look beyond the end of the oil-for-food programme. He also noted the progress made in restoring health care services, the education system and the water sector.²⁷⁹

All representatives expressed their shock at the attack against the United Nations in Baghdad on 19 August, and their condolences for the deaths of the Special Representative of the Secretary-General and other United Nations and local employees. Most speakers emphasized that the terrorist attack showed that security remained the priority problem in Iraq, and called for a review of security measures for United Nations staff both in Iraq and elsewhere. Several speakers called for the process of restoring sovereignty to be accelerated and the strengthening of a local role for the Iraqi people.

The representatives of France and Mexico noted that the restoration of security and public order were the responsibility of the occupying Powers pursuant to international law, particularly the Geneva Conventions.²⁸⁰

The representative of France recalled that the Council still did not have any details on weapons of mass destruction that the regime of Saddam Hussein was said to have held. He underlined the importance of reconsidering the mandate of UNMOVIC within a reasonable time. He maintained that the joint mobilization of the entire international community was a basic requirement for the successful reconstruction of Iraq. He also commented that the International Advisory and Monitoring Board of the Development Fund for Iraq, a key instrument provided for in resolution 1483 (2003) to ensure ongoing international monitoring of the use of the resources of Iraq, needed to be established without delay. That would be possible only if the coalition authorities acknowledged that they could not succeed alone and if they played their role in a completely transparent manner. He stressed that sharing burdens and responsibilities also meant sharing information and authority.²⁸¹ The representative of

²⁷⁶ Ibid., p. 5.

²⁷⁷ Ibid., pp. 6-7.

²⁷⁸ S/PV.4812, pp. 2-3.

²⁷⁹ Ibid., pp. 4-5.

²⁸⁰ Ibid., p. 6 (France); and p. 16 (Mexico).

²⁸¹ Ibid., pp. 6-7.

Cameroon also appealed to the Coalition to be more transparent, and to clarify its activities and purposes in Iraq.²⁸² The representative of Angola commented that the Coalition Powers had no option but to carry on with their task, no matter the price they would be obliged to pay and the difficulties they would encounter “on that hard, rocky and treacherous road”.²⁸³

At the 4844th meeting,²⁸⁴ on 16 October 2003, statements were made by the Secretary-General, the representatives of Bulgaria, Chile, China, France, Germany, Pakistan, the Russian Federation, Spain, the United Kingdom and the United States. The President (United States) drew attention to a draft resolution submitted by Cameroon, Spain, the United Kingdom and the United States;²⁸⁵ it was adopted unanimously as resolution 1511 (2003), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Authorized a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq, including for the purpose of ensuring necessary conditions for the implementation of the timetable and programme as well as to contribute to the security of UNAMI, the Governing Council and other institutions of the Iraqi interim administration, and key humanitarian and economic infrastructure;

Urged Member States to contribute assistance under this United Nations mandate, including military forces, to the multinational force referred to above;

Decided that the Council would review the requirements and mission of the multinational force referred to above not later than one year from the date of adoption of the resolution, and that in any case the mandate of the force should expire upon the completion of the political process as described in paragraphs 4 to 7 and 10 of the resolution, and expressed readiness to consider on that occasion any future need for the continuation of the multinational force, taking into account the views of an internationally recognized, representative government of Iraq;

Urged Member States and international and regional organizations to support the Iraq reconstruction effort initiated at the United Nations technical consultations of 24 June 2003, including through substantial pledges at the international donors conference to be held in Madrid on 23 and 24 October 2003;

²⁸² *Ibid.*, p. 13.

²⁸³ *Ibid.*, pp. 16-17.

²⁸⁴ For more information on the discussion at this meeting, see chap. XII, part I, sect. A, case 3, with regard to Article 1 (2) of the Charter.

²⁸⁵ S/2003/992.

Called upon Member States and concerned organizations to help to meet the needs of the Iraqi people by providing resources necessary for the rehabilitation and reconstruction of Iraq’s economic infrastructure.

The Secretary-General stated that he would do his utmost to implement the mandate established by the Council bearing in mind the constraints on building up the required capacity and his obligations for the safety of United Nations staff. He expressed gratitude to the Council for the flexibility the resolution gave him. He reiterated that, despite having only a skeletal presence on the ground, the United Nations was determined to help the people of Iraq, from both inside and outside the country, primarily in providing humanitarian assistance.²⁸⁶

Most speakers welcomed the adoption of the resolution as an important step towards the return of sovereignty for Iraq. They also noted the importance of its unanimous adoption.

The representative of the Russian Federation pointed to several positive aspects of the resolution, including the elaboration of a specific timetable for the political process and giving the Secretary-General the right to take decisions regarding timetable and modalities for forming the membership of a constitutional conference and the holding of elections. He also noted that the mandate for the multinational force was subordinate to the task of promoting the restoration of sovereignty, and once that was restored, only if a “legitimately elected Government of Iraq” requested security assistance would the Council consider a request to extend the mandate. The resolution also called for the swift establishment of the International Advisory and Monitoring Board, which had been delayed too long without any convincing reason. Nonetheless, he stressed that the resolution was not ideal and the result was a compromise.²⁸⁷

The representative of Germany stated that the integration of the amendments proposed by Germany, France and the Russian Federation could have led to a better resolution. He deplored the lack of a clear signal that the transfer of sovereignty to the Iraqis would be accelerated, and suggested that the role of the United Nations and the Secretary-General could have been strengthened. Finally, he had also wanted to see clearer guidelines with regard to timing. As a result, he noted

²⁸⁶ S/PV.4844, p. 2.

²⁸⁷ *Ibid.*, p. 3.

that Germany could not envisage any military commitment.²⁸⁸

The representative of the United Kingdom declared that it was quite right that the resolution did not prescribe artificial schedules for the transfer of power. Instead, it set a deadline of two months by which time the Governing Council needed to provide a timeline and the programme leading to a constitution and democratic elections, and it engaged the Council in that process.²⁸⁹

The representative of China agreed that the text of the resolution was a marked improvement over the original draft presented by the United States and would have a positive impact on accelerating the transfer of power from the Coalition Provisional Authority to the Iraqi people and increase transparency in the economic reconstruction of Iraq. Nonetheless, his delegation was not fully satisfied with its contents.²⁹⁰

The representative of Pakistan explained that his delegation had supported the resolution because “despite the complexity and contradictions of parts of the text”, its fundamental objectives were the restoration of sovereignty, the improvement of the security environment and the promotion of economic reconstruction. His delegation would have preferred a clearer process for the early restoration of sovereignty. He noted that the political process would have gained in credibility if it had been conducted under the authority and auspices of the United Nations. Regarding the multinational force, he recalled that Pakistan had advocated that it have an identity separate and distinct from the occupation forces and that its deployment be a result of an invitation from the people of Iraq, with the concurrence of the other States in the region. As those considerations were not reflected in the resolution, he stressed that Pakistan would not be able to contribute troops to the multinational force in Iraq.²⁹¹

The representative of the Syrian Arab Republic stated that although the resolution did not meet all of his delegation’s expectations, he hoped that it would represent a step along the road to freedom and independence for Iraq and that the commitments set out

in the resolution would be fulfilled in order to accelerate the transfer of sovereignty.²⁹²

The representative of the United States noted that the resolution confirmed Iraqi leadership by establishing a political horizon for the transfer of power and made clear that the interim leadership embodied Iraqi sovereignty during the transition. He maintained that his Government’s careful consideration of the text during the previous weeks reflected its commitment to a multilateral approach.²⁹³

**Decision of 20 November 2003
(4868th meeting): statement by the President**

At its 4851st meeting, on 28 October 2008, the Council heard a briefing by the Executive Director of the Office of the Iraq Programme, following which statements were made by all members of the Council.

In his briefing, the Executive Director stressed that the United Nations would terminate the oil-for-food programme on 21 November 2003, as called for in resolution 1483 (2003), and would continue to facilitate a smooth handover to the Coalition Provisional Authority, in close coordination with the relevant Iraqi authorities. Nonetheless, he stressed that handing over a multi-billion dollar programme of such complexity in the mandated six-month period would have been difficult under any circumstances, but under the conditions of insecurity and reduced on-site staffing would require a degree of realism and flexibility from all parties concerned. He set out the actions identified and taken to meet the goals that had been set and listed the activities that remained to be undertaken by the United Nations, the Authority and the relevant Iraqi authorities.²⁹⁴

Most Council members welcomed the briefing and stressed the importance of maintaining a high-level of transparency and continuity in the transition of the programme. A number of members expressed concern at the pace of work and made technical suggestions for improving the process.

Several speakers emphasized the importance of identifying and amending all of the priority contracts by the deadline,²⁹⁵ while other representatives stressed

²⁸⁸ Ibid., pp. 3-4.

²⁸⁹ Ibid., pp. 4-5.

²⁹⁰ Ibid., pp. 5-6.

²⁹¹ Ibid., pp. 6-8.

²⁹² Ibid., p. 8.

²⁹³ Ibid., pp. 9-10.

²⁹⁴ S/PV.4851, pp. 2-9.

²⁹⁵ Ibid., p. 11 (Bulgaria); p. 12 (Russian Federation); p. 16

the need to be flexible with the deadlines as it seemed unlikely that all of the work would be completed before then, negatively affecting suppliers who had not had their contracts amended through no fault of their own.²⁹⁶

A number of representatives observed that, to avoid delivery disruptions, the Coalition Provisional Authority needed to come forward with clear information on how the programme would be continued as soon as possible.²⁹⁷ The representative of France suggested that as a practical solution, the United Nations agencies, with the agreement of the Coalition Provisional Authority and the relevant Iraqi authorities, could continue the process for a few more weeks. This approach would not be an extension of the programme, but simply a technical arrangement between the Authority and the agencies that would not contradict the terms of resolution 1483 (2003).²⁹⁸ The representative of the Russian Federation declared that the entire issue needed to be reviewed regularly in the Council and the sanctions Committee.²⁹⁹

The representative of the United Kingdom stressed that Coalition and Iraqi ministry officials were engaged in developing an effective transition strategy to ensure the efficient delivery of goods as well as adequate warehousing and inventory management and that measures were in hand for the uninterrupted authentication of deliveries after 21 November. He also confirmed that the Coalition Provisional Authority would continue to honour its existing commitment to support the fulfilment of all prioritized contracts.³⁰⁰ The representative of the United States said that his Government continued to devote significant resources to ensuring a smooth transition of the oil-for-food programme after 21 November.³⁰¹

At its 4868th meeting, on 20 November 2003, the Council heard a statement by the Secretary-General. In his statement, the Secretary-General noted that the Council was meeting to mark the completion of the oil-for-food programme, one of “the largest, most complex

(Chile); and p. 17 (Cameroon).

²⁹⁶ Ibid., p. 10 (Germany); p. 15 (Syrian Arab Republic); and p. 16 (Mexico).

²⁹⁷ Ibid., p. 10 (Germany); p. 11 (Spain); and p. 12 (Russian Federation).

²⁹⁸ Ibid., p. 19.

²⁹⁹ Ibid., p. 12.

³⁰⁰ Ibid., p. 13.

³⁰¹ Ibid., pp. 20-21.

and most unusual tasks” ever entrusted to the Secretariat. He remarked that in its seven years of operation, the oil-for-food programme had been required to meet an “almost impossible series of challenges”, using some \$46 billion of Iraqi export earnings on behalf of the people of Iraq and delivering food rations sufficient to feed all 27 million residents of Iraq and reducing the malnutrition rate among children by 50 per cent. He stated that all of the responsibilities, as well as the remaining funds and assets, would be handed over to the Coalition Provisional Authority on the next day. However, the actual delivery of items would continue into the next year and any unspent or undisbursed amounts would be transferred to the Development Fund for Iraq after the programme closed.³⁰²

At the same meeting, the President (Angola) made a statement on behalf of the Council,³⁰³ by which the Council, *inter alia*:

Underlined the exceptionally important role of the Iraq Programme in providing humanitarian assistance to the people of Iraq under the regime of sanctions imposed by the Security Council;

Emphasized the need for continued international efforts aimed at the reconstruction of Iraq and, in this context, took note with satisfaction of the statements made by the representatives of the United States and the United Kingdom on the measures which the Coalition Provisional Authority intended to take in order to continue the payment mechanisms and the deliveries under the Programme;

Recognized the important role of the United Nations in coordinating the termination of the Programme, including the transfer at the earliest possible time of all surplus funds in the escrow accounts to the Development Fund for Iraq;

Recalled the vital role foreseen for the United Nations in resolutions 1483 (2003), 1500 (2003) and 1511 (2003), as circumstances permitted, *inter alia*, in the areas of humanitarian assistance, facilitation of economic rehabilitation and reconstruction.

Decision of 24 November 2003 (4872nd meeting): resolution 1518 (2003)

At its 4869th meeting, on 21 November 2003, the Council heard briefings by the representatives of the United States and United Kingdom on the situation in Iraq; all the other members of the Council made statements.

³⁰² S/PV.4868, pp. 2-4.

³⁰³ S/PRST/2003/24.

The representative of the United States noted that, despite the continuing violence, Iraqis were taking on increasing responsibility for their security and were working to rebuild a strong Iraqi police force and army. Iraqis were also continuing to take over administrative responsibilities and to provide for the delivery of basic services. He stated that the announcement by the Governing Council of Iraq on 15 November of an agreement on political process had been a dramatic step forward. Under that process, a transitional national assembly would be formed to elect an executive branch, select ministers and serve as a legislative body. By 30 June 2004, this new transitional administration would assume full responsibility for governing Iraq, and the Coalition Provisional Authority and the Governing Council would be dissolved. There was also a timeline for the direct election of a constitutional convention no later than 15 March 2005, to draft a permanent constitution for Iraq, which would be ratified through a popular referendum. A new Iraqi Government would be elected under that constitution no later than 31 December 2005. Stressing the importance of security, he observed that despite the killings, bombings and other attacks witnessed in the media, much of Iraq was calm and the strategy of enabling Iraqis to assume responsibility for their own security was achieving success, with major increases in the number of police and military. On the question of the disarmament of Iraq, he informed the Council that on 16 June the Iraq Survey Group, which included personnel from the United States, the United Kingdom and Australia, as well as experts from the former Special Commission, had assumed responsibility of searching and eliminating Iraqi weapons of mass destruction, prohibited missile-delivery systems and related infrastructure. The Survey Group had been investigating suspect sites and in October issued a report that detailed the numerous violations by Iraq of its mandated obligations under Council resolutions. Those included deliberate efforts to conceal equipment and programme activities related to weapons of mass destruction from the United Nations during the inspections beginning late in 2002.³⁰⁴

The representative of the United Kingdom briefed the Council on the provision of basic services, economic and reconstruction issues and human rights and justice. He stated that the Coalition Provisional Authority had worked to ensure the rapid restoration of

distribution networks and basic services. He further outlined the improvements and repairs being done on the power grid, the airport, mobile phone network, hospitals and schools. He also noted that unemployment remained a major challenge in Iraq and reforms were being initiated to transition Iraq to a liberalized market-based economy. He commented on the newly formed Ministry of Human Rights, stressing that those responsible for atrocities needed to be brought before an Iraqi-led process of justice. More generally, he noted that a central criminal court was up and running and the penal code had been amended to include new rights, including the absolute exclusion of evidence obtained through torture.³⁰⁵

Following the briefings, most members of the Council welcomed the new approach contained in the agreement between the Governing Council and the Coalition Provisional Authority signed in Baghdad on 15 November, and stressed the importance of a rapid restoration of Iraqi sovereignty and the establishment of a fully responsible Government. While welcoming the progress made in the restoration of basic services and other areas, Council members expressed concern that the continuation of violence and the lack of security threatened any gains. Most members also stressed that the United Nations needed to have a strong role in Iraq and expressed hope that international staff would be able to return as the situation improved. A number of representatives also recalled the importance of the involvement of Iraq's neighbours.

The representatives of France, Germany and the Russian Federation stated that the idea of a national conference, under United Nations auspices, which would bring together all Iraqi groups, as well as countries from the region, should be carefully considered.³⁰⁶ The representative of the Russian Federation added that his Government was not ruling out holding the conference outside of Iraq, and suggested that the conference could be used to form the transitional Government of Iraq, which could, together with the Secretary-General and his representatives, elaborate specific steps in order to implement the political process.³⁰⁷ The representative of Mexico stressed that there needed to be an international follow-

³⁰⁴ S/PV.4869, pp. 2-5.

³⁰⁵ *Ibid.*, pp. 5-8.

³⁰⁶ *Ibid.*, p. 9 (France); p. 10 (Germany); and p. 12 (Russian Federation).

³⁰⁷ *Ibid.*, pp. 12-13.

up mechanism to strengthen legitimacy and give transparency to the process of the election of a Transitional National Assembly.³⁰⁸

The representative of Germany noted that the plan for creating an interim Government still needed to be clarified and evaluated, and that there was a need to examine how the legitimacy of the process of transferring sovereignty could be strengthened.³⁰⁹

The representative of France stated that once a fully responsible transitional Government was established, the Iraqi people would be able to define permanent constitutional arrangements and organize elections at their own pace. He underlined that it was essential that the United Nations be allowed, with full independence, to lend its legitimacy and support to each stage of the transition in Iraq. Responding to the concerns expressed by the Secretary-General regarding the security of United Nations staff, he proposed that initially a special envoy of the Secretary-General be appointed who would not reside permanently in Iraq, but would help to engage Iraqis and countries in the region in the transition process.³¹⁰

The representative of the Russian Federation asked why the agreement of 15 November had not been transmitted officially to the Security Council, and expressed disappointment that there was no mention in it of the United Nations. He stressed that in order to successfully resolve the Iraq problem, the active participation of the international community was necessary. On the question of disarmament, he also wondered why UNMOVIC and IAEA had not tried to obtain more information about the efforts of the Coalition and why the report prepared in October by a missing persons survey group could not be sent to UNMOVIC and IAEA experts. On the question of the timeline for the elections, he expressed the belief that it would be better if the date of the election for the constitutional convention and the date of the general election for the permanent Government were decided on by the Transitional Government and the Transitional National Assembly. He also expressed concern that the current timeline was a bit of a stretch, particularly the expectation that the constitutional convention would be held on 15 March and the general elections by the end of 2005. He also argued that there were certain

contradictions between parts of the agreement with respect to the proposal to form organizational committees that could affect future elections. He noted that the agreement stated that the Governing Council of Iraq would not play any formal role in selecting members of the National Assembly, but it also stated that the Governing Council would nominate five of the representatives of each provincial organizational committee. That meant that it would be playing a very real role and might lead to a situation where certain segments of the population were left out of the process.³¹¹

The representative of the Syrian Arab Republic stressed that any measure that might lead to a division of Iraq needed to be rejected, and Iraq's sovereignty, independence and territorial integrity respected.³¹²

Responding to a question from the Russian Federation on the proposal to conclude, by the end of March 2004, an agreement on security between the Coalition and the Governing Council, including on the status of forces, the representative of the United Kingdom noted that the new force would not be the multinational force envisaged in resolution 1511 (2003), but would be something else, operating at the invitation of an Iraqi Government. He further expressed hope that it would be recognized in some way by the Council.³¹³

At the 4872nd meeting,³¹⁴ on 24 November 2003, the President (Angola) drew the attention of the Council to a draft resolution submitted by Bulgaria, Chile, Guinea, Spain, the United Kingdom and the United States.³¹⁵ Statements were made by the representatives of France, Germany, Mexico and the Russian Federation.³¹⁶

The representative of France noted that the draft resolution created a new committee to take over from the Committee established by resolution 661 (1990) and ensure follow-up of the implementation of freezes and transfers of the financial assets of the Government

³⁰⁸ *Ibid.*, p. 17.

³⁰⁹ *Ibid.*, p. 9.

³¹⁰ *Ibid.*, pp. 8-9.

³¹¹ *Ibid.*, pp. 12-13.

³¹² *Ibid.*, p. 16.

³¹³ *Ibid.*, p. 23.

³¹⁴ For more information on the discussion at this meeting, see chap. XI, part III, sect. B, with regard to Article 41 of the Charter.

³¹⁵ S/2003/1107.

³¹⁶ The Secretary-General was present at the meeting but did not make a statement.

of Saddam Hussein and of high officials in his regime, as provided for in resolution 1483 (2003). Such a provision was particularly important for ensuring the continuity of the monitoring of the implementation of financial sanctions.³¹⁷

A number of speakers emphasized that the new Committee should also be entrusted with monitoring for any possible violations of the arms embargo to Iraq, which remained fully in force under resolution 1483 (2003). They also stated that in the meantime it would be up to the Council to supervise the arms embargo.³¹⁸ The representative of the Russian Federation asked why the authors of the resolution had refused to entrust the Committee with monitoring the embargo at a time when the Council regularly heard statements on the illegal flow of arms into Iraq.³¹⁹ The representatives of France and Germany concurred that there were strong reasons of principle for wanting the Committee to monitor compliance.³²⁰

The representative of Mexico noted that his delegation had joined the consensus based on the understanding that the adoption of the guidelines and definitions for the implementation of the provisions of paragraphs 19 to 23 of resolution 1483 (2003), stipulated in operative paragraph 2 of the draft resolution, would be done on Mexican territory in accordance with Mexican law and in strict compliance with the principle of legality.³²¹

The draft resolution was then put to the vote and adopted unanimously as resolution 1518 (2003), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided to establish a Committee to continue to identify individuals and entities referred in paragraph 19 of resolution 1483 (2003), including by updating the list of individuals and entities already identified by the Committee established by resolution 661 (1990), and to report on its work to the Council;

Decided to adopt the guidelines and definitions previously agreed by the Committee established by resolution 661 (1990) to implement the provisions of paragraphs 19 and 23 of resolution 1483 (2003), and decided that the guidelines and definitions could be amended by the Committee in the light of further considerations;

Decided that the mandate of the Committee would be kept under review and to consider the possible authorization of the additional task of observing fulfilment by Member States of their obligations under paragraph 10 of resolution 1483 (2003);

Decided to remain seized of the matter.

Deliberations of 16 December 2003 (4883rd meeting)

On 5 December 2003, the Secretary-General submitted a report on the situation in Iraq,³²² in which he described the key developments in Iraq from 17 July to 19 August 2003; set out the events of 19 August 2003, when the United Nations headquarters in Baghdad was attacked and the actions taken by the United Nations in the aftermath; detailed the United Nations relief and reconstruction planning activities that had continued; summarized key political developments in Iraq since 19 August; and outlined a plan of action with regard to security, the deployment of UNAMI and the conduct of United Nations relief, recovery and reconstruction activities in Iraq. In laying down the way forward for the United Nations in Iraq, he stated that the fact that a sovereign transitional Government of Iraq was to be established by 30 June 2004 required him to consider which United Nations activities were appropriate immediately and which needed to wait for the new Government. He stressed that humanitarian assistance and emergency rehabilitation could not wait. In addition, as civil society had an essential role to play in the political dialogue and the United Nations had a great deal of experience in supporting civil society, ways needed to be found for UNAMI and the agencies to play such a role as quickly as possible. However, on the political front it had yet to be established what role, if any, Iraqis and the Coalition Provisional Authority wanted the United Nations to play in the formation of the Transitional National Assembly. He noted that in a letter dated 10 November the President of the Governing Council had urged him to appoint a new Special Representative for Iraq, who would not be resident but would go to Iraq for consultations as needed, and that he intended to do so. He also informed the Council that he had established an advisory group on Iraq, composed of neighbouring countries, Egypt and members of the Security Council,

³¹⁷ S/PV.4872, p. 3.

³¹⁸ *Ibid.*, p. 2 (Russian Federation); pp. 2-3 (Germany); and p. 3 (France, Mexico).

³¹⁹ *Ibid.*, p. 2.

³²⁰ *Ibid.*, pp. 2-3 (Germany); and p. 3 (France).

³²¹ *Ibid.*, p. 3.

³²² S/2003/1149, submitted pursuant to paragraph 24 of resolution 1483 (2003) and paragraph 12 of resolution 1511 (2003).

for the purpose of initiating an informal dialogue to develop a common basis for approaching the situation. On the subject of UNAMI, he indicated that it was impossible to predict when circumstances would permit its full deployment to Iraq. Therefore, he had decided to start an incremental process of establishing UNAMI by setting up the core of the Mission outside of Iraq, with the bulk of UNAMI staff located in Nicosia. Additional staff would be deployed to a small office in Amman and to other locations in the region. He envisaged a core team of around 40 international staff in total by early 2004, which would increase to 60, once the new Special Representative had been appointed. In conclusion, he noted that, while real progress had been made in many areas, including the advancement of basic human rights, the dangers posed by insurgents were real. He listed several steps that could be taken to deal with the insurgency, including the need to act on the recognition that the insecurity problem could not be solved through military means alone, but that required a political solution that made the political transition process more inclusive and empowered Iraqi institutions to take key decisions. He also stressed that intensified efforts by Coalition forces were needed to demonstrate that they were adhering strictly to international humanitarian law and human rights instruments even in the face of provocative terrorist attacks. In that connection, the use of lethal force by Coalition forces needed to be proportionate and discriminating in accordance with international humanitarian law, and all detainees needed to be protected in accordance with Iraqi law and the Geneva Conventions.

At its 4883rd meeting, on 16 December 2003, the Council included in its agenda the above-mentioned report of the Secretary-General.³²² The President (Bulgaria) also drew the attention of the Council to several documents.³²³ At the meeting, the Council heard statements by the Secretary-General and the representative of Iraq.

³²³ Letter dated 2 December 2003 from the President of the Security Council to the representative of Iraq, acknowledging the receipt of a letter dated 24 November 2003 from the President of the Iraqi Governing Council, regarding the timetable agreed upon with the Coalition Provisional Authority in accordance with paragraph 7 of Security Council resolution 1511 (2003) (S/2003/1169); and letter dated 11 December 2003 from the interim President of the Iraqi Governing Council regarding that timetable (S/2003/1170).

The Secretary-General noted that the Council was meeting three days after the capture of Saddam Hussein by Coalition forces, which was an opportunity for a new beginning in the vital task of helping Iraqis to take control of their destiny. He stated that it was right that Hussein be held to account for past deeds through a procedure that met the highest international standards of due process. He reiterated that the task of restoring the effective exercise of sovereignty to Iraq was urgent, and while there might not be time to organize credible elections, it was essential that the process leading to the formation of a provisional Government be fully inclusive and transparent. He also underlined that much greater clarity was needed on what was expected of the United Nations, by Iraqis and by the Coalition, in terms of assistance to the political transition. He stressed that the end of the occupation and formation of a provisional Government would not bring about an end to insecurity, but a credible and inclusive transition offered the best hope of stability and the mobilization of Iraqis against the violence.³²⁴

The representative of Iraq welcomed the capture of Saddam Hussein, who would have to answer to the Iraqi people for his crimes against humanity, and thanked the Coalition for its role in delivering him into the hands of the people. He then presented the Council the timetable set out in the Agreement on Political Process signed on 15 November by the Governing Council and the Coalition Provisional Authority in accordance with paragraph 7 of resolution 1511 (2003). He stated that the plan spelled out the steps needed to rightfully restore full sovereignty to Iraq, ultimately in a new constitution. He observed that the Governing Council had unanimously agreed on the timetable and stressed that progress would continue to depend on the security situation. The representative underlined the need to see an expanded United Nations role in Iraq on many levels: humanitarian relief, capacity and nation-building, promoting sustainable development and advancing the electoral and political process. Therefore, he urged the appointment of a Special Representative and stressed that the help and expertise of the United Nations could not be effectively delivered from Cyprus or Amman. He underlined Iraq's willingness to help provide whatever security was required to see the United Nations return to Iraq. He also called upon the Members of the United Nations to look beyond their differences over the decision to go to

³²⁴ S/PV.4883, pp. 2-3.

war in Iraq and come together to forge an international consensus. Finally, he maintained that while Iraq was reaching out to its neighbours and the international community, his country insisted on playing a full part in any initiatives that concerned its future. He also strongly disagreed with those views that questioned the legitimacy of the present Iraqi authorities and argued that the Governing Council was “the most representative and democratic governing body in the region”. For that reason, members of the Council should be reaching out and engaging his Government to encourage their nascent democracy in “a region well known for its authoritarian rule”.³²⁵

Decision of 18 December 2003 (4887th meeting): statement by the President

At its 4887th meeting,³²⁶ on 18 December 2003, the Council included in its agenda the report of the Secretary-General dated 9 December 2003 on the compliance by Iraq with its obligations regarding the repatriation and return of all Kuwaiti and third-country nationals, or their remains and all Kuwaiti property seized by Iraq.³²⁷ In his report, the Secretary-General noted that, after years of denial by the previous Government of Iraq, the discovery of mass graves in Iraq containing the remains of Kuwaitis was a devastating development. He stressed that those responsible for the horrendous crimes, particularly those who had ordered the executions, needed to be brought to justice. He expressed regret that the Kuwaiti

archives and military equipment had not yet been returned, and trusted that the Governing Council, the Coalition Provisional Authority and the special group established by the United States would maintain their commitment to the search and return of Kuwaiti property. He concluded that there was further room for progress towards a satisfactory conclusion of the remaining humanitarian concerns of Kuwait and that more time and effort would be required before the questions could be settled. He also noted that Kuwait had requested that the mandate of the High-level Coordinator be extended in accordance with paragraph 14 of resolution 1284 (1999). Noting that he had previously suggested that the Council bring the Coordinator’s mandate to a close,³²⁸ he stated that the Council would have to determine whether it would wish the mandate to continue.

At the same meeting, the Council invited the representative of Kuwait to participate in the discussion. The President (Bulgaria) then made a statement on behalf of the Council,³²⁹ by which the Council, *inter alia*:

Strongly condemned the killing of Kuwaiti and third-country nationals by the previous Iraqi regime in violation of international law;

Stressed the importance of the work of the Coalition Provisional Authority, the International Committee of the Red Cross, the Tripartite Commission and its Technical Subcommittee, and called on all parties concerned to continue to work towards a satisfactory solution to all of the outstanding humanitarian aspects covered by the mandate of the High-level Coordinator.

³²⁵ *Ibid.*, pp. 3-6.

³²⁶ At the 4884th meeting, held in private on 16 December 2003, the members of the Council and the Minister for Foreign Affairs of Iraq had a constructive exchange of views.

³²⁷ S/2003/1161, submitted pursuant to paragraph 14 of resolution 1284 (1999).

³²⁸ S/2003/813, para. 39.

³²⁹ S/PRST/2003/28.

B. Response to the humanitarian situation in Iraq

Initial proceedings

Deliberations of 22 May 2003 (4762nd meeting)

At its 4762nd meeting, on 22 May 2003, the Council adopted as its agenda the item entitled "Response to the humanitarian situation in Iraq". The Council heard briefings by the Deputy Secretary-General; the Administrator of the United Nations Development Programme (UNDP); the Executive Director of the World Food Programme (WFP); the Executive Director for Sustainable Development and Health Environments and Senior Policy Adviser to the Director General of the World Health Organization (WHO); the Director of Emergency Programmes of UNICEF; and the President of the International Committee of the Red Cross (ICRC). Following the briefings, most Council members and the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator made statements regarding the humanitarian situation in Iraq.³³⁰

At the meeting, the Deputy Secretary-General explained that, although a major humanitarian crisis had been averted in Iraq, the situation was still precarious. She described the various efforts that United Nations agencies had undertaken to provide food, water, medicine and other emergency assistance throughout the country. She stressed that the general lack of law and order had had a wide variety of humanitarian consequences: many ministries, water treatment plants, hospitals and warehouses were devastated; many facilities were repaired or restored only to be looted again, as were many of the archaeological sites, historical buildings, monuments and museums in Iraq; and unexploded ordnance and mines had continued to threaten the civilian population.³³¹

The Administrator of UNDP reported that the Programme had been coordinating closely with other intergovernmental and non-governmental organizations, especially in the construction of electricity facilities, sewage treatment plants, medical facilities and a dredging project in the port of Umm Qasr. He explained that the activities in each of these

areas had been accelerated by access to contracts from the oil-for-food programme.³³²

The Executive Director of WFP reported that tremendous progress had been made in the distribution of foodstuffs to Iraq. He stated that over 200,000 tons of food had been delivered to the country already, and that after a five-month period the Iraqi authority would likely have the capacity to take over the programme. The Executive Director stressed that although there had been no food crisis in Iraq, there were a number of challenges which needed to be addressed: the issue of security for staff, warehouses, silos, mills and offices, and the pressing issue of the payment of salaries for Ministry of Trade staff. He further emphasized the importance of food rations, as the entire population of Iraq depended on the rations to some degree. Until there was political stability and broad economic recovery, the food rations would continue to provide basic household food security and act as a stabilizing force in that volatile period.³³³

The representative of WHO reported that the people of Iraq had faced a mix of health hazards which were generally associated with longstanding deprivation, such as heart and kidney disease, cancer and diabetes. He explained that those people were heavily dependent on functioning health services and that the security situation in Iraq had been hampering their access to such services. He also enumerated several other problems with the health system in Iraq and noted that it had been running at between 20 and 40 per cent of its pre-war capacity.³³⁴

The Director of Emergency Programmes of UNICEF emphasized the high priority that the Fund had placed upon the need for law and order throughout Iraq. He explained that a proper security environment was essential to getting all children back to school as soon as possible. While 80 per cent of the primary schools had reopened, many families had continued to refuse to send their children to school due to security concerns. He also declared that water facilities and sanitation needed to be improved and that breast-milk

³³⁰ The President of the Council (Pakistan) did not make a statement in his capacity as representative of Pakistan.

³³¹ S/PV.4762, pp. 2-4.

³³² *Ibid.*, pp. 4-5.

³³³ *Ibid.*, pp. 5-7.

³³⁴ *Ibid.*, pp. 7-8.

substitutes, which were ascertained to be hazardous to a child's health when mixed with contaminated water, should no longer be provided to the population in the food basket. He concluded by noting some steps that UNICEF had taken to protect children from various forms of abuse and exploitation.³³⁵

The President of ICRC stressed that ICRC had been active in Iraq since 1980 and that it had been focusing on priorities such as visits to all persons deprived of their liberty; the protection of vulnerable groups, including children and internally displaced persons; the re-establishment of family links; emergency repair and rehabilitation of vital structures such as water, health and sewage facilities; the provision of medical emergency consumables and equipment; and awareness-raising activities related to unexploded ordnance. He further warned that although there was no "general humanitarian catastrophe" in Iraq, things could still go wrong if security was not improved and if the infrastructure and specific sectors, such as hospitals, did not receive due attention.³³⁶

Most speakers paid tribute to the humanitarian efforts of the various United Nations agencies and ICRC and expressed the view that the primary challenge in Iraq was the security environment and the general lack of law and order in the country. Several speakers enumerated the various aid packages that their countries had given to Iraq in order to provide humanitarian relief and/or facilitate the reconstruction effort.³³⁷

The representative of the Syrian Arab Republic stressed that looting was still commonplace in Iraq, especially in the educational institutions.³³⁸ The representative of Germany cautioned that although the Deputy Secretary-General's briefing had assured the Council that there was no humanitarian catastrophe in Iraq at present, the situation was still grave and required immediate assistance programmes to prevent a dramatic deterioration of the situation. He also identified looting as a problem which prevented normal economic activity from resuming and stated that it was the responsibility of the "occupying Powers" to make

the country's vital infrastructures safe. He further brought to the attention of the Council the allegation that some hospitals which had experienced less looting were receiving protection from Shiite or Sunni militias, which led to the wrong perception among the population of Iraq that the only way to provide for security was to follow religious groups.³³⁹

The representative of the United States agreed that security was the key problem and explained that his country had been making every effort to bring stability to Iraq. He explained that the United States had been deploying additional military police, promoting disarmament programmes and providing micro-grants to build confidence among the diverse population of Iraq. The representative stated that although difficulties had persisted in Iraq, economic activities of the most basic form — money and barter — were beginning to resume, and that progress had been made in a variety of other issues such as investigations into mass graves, the fortification of flour with vitamins and minerals, which had been missing from the average Iraqi diet, and the restoration of power lines and the southern marshes.³⁴⁰

The representative of the Russian Federation expressed concern with the ongoing instability in Iraq and stressed that the coalition forces had the responsibility of ensuring the safety of United Nations staff and of the personnel of other humanitarian organizations. He stated that the humanitarian situation remained alarming as there were shortages of drinking water, medical staff, equipment and electricity. He concluded by noting that the oil sector in Iraq was the engine for further development of the entire country's economy.³⁴¹

The representative of the United Kingdom reported on the situation in the United Kingdom's area of operation. He stated that the humanitarian situation was getting better, although security remained a challenge. He explained that basic services, such as the sewage system, had improved and that there was no food crisis in Iraq.³⁴²

The representative of Mexico pointed out the unprecedented nature of the collapse of the state of Iraq and the resultant economic and social consequences. He noted that looting was commonplace

³³⁵ Ibid., pp. 8-10.

³³⁶ Ibid., pp. 10-11.

³³⁷ Ibid., p. 12 (Syrian Arab Republic); and p. 14 (Bulgaria); S/PV.4762 (Resumption 1), pp. 2-4 (United States); pp. 5-7 (United Kingdom); and pp. 9-10 (Spain).

³³⁸ S/PV.4762, p. 12.

³³⁹ Ibid., pp. 12-13.

³⁴⁰ S/PV.4762 (Resumption 1), pp. 2-4.

³⁴¹ Ibid., p. 5.

³⁴² Ibid., p. 6.

in Iraq and that certain segments of civil society had managed to organize and were filling the void created by the collapse of state institutions.³⁴³

The representative of China stated that the Council should fully implement the oil-for-food programme and fully utilize its resources.³⁴⁴ The representative of France reiterated that, although there was no humanitarian catastrophe *per se* in Iraq, the situation remained nonetheless extremely fragile.³⁴⁵

³⁴³ *Ibid.*, pp. 7-8.

³⁴⁴ *Ibid.*, pp. 8-9.

³⁴⁵ *Ibid.*, pp. 10-11.

Following the statements, the representatives of UNDP, WHO, UNICEF and ICRC and the Under-Secretary-General responded to questions from Council members.³⁴⁶

³⁴⁶ *Ibid.*, pp. 12-15 (Administrator of UNDP); pp. 15-16 (Executive Director of WHO); pp. 16-18 (Director of UNICEF); p. 18 (President of ICRC); and pp. 18-19 (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator).

35. Letter dated 5 October 2003 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council

Letter dated 5 October 2003 from the Permanent Representative of Lebanon to the United Nations addressed to the President of the Security Council

Initial proceedings

Deliberations of 5 October 2003 (4836th meeting)

By a letter dated 5 October 2003 addressed to the President of the Security Council,¹ the representative of the Syrian Arab Republic requested an emergency meeting of the Council to consider the violations of Syrian and Lebanese airspace committed on 5 October 2003 by the Israeli air force and the missile attack carried out by the latter on the same day against a civilian site situated inside Syrian territory.

By a letter dated 5 October 2003 addressed to the President of the Security Council,² the representative of Lebanon also requested an urgent meeting of the Council to consider a situation threatening the stability along the Israeli-Lebanese border. The representative of Lebanon requested the Council to meet immediately and consider the measures that needed to be taken to deter Israel from further violating the airspace of Lebanon.

¹ S/2003/939.

² S/2003/943.

At the 4836th meeting, held on 5 October 2003 in response to the requests contained in the above-mentioned letters, which the Council included in its agenda, statements were made by all members of the Council and the representatives of Algeria, Bahrain, Cuba, Egypt, the Islamic Republic of Iran, Israel, Jordan, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Morocco, Qatar, Saudi Arabia, the Sudan, Tunisia and Yemen, as well as the Permanent Observers of the League of Arab States and Palestine.³

At the meeting, the representative of the Syrian Arab Republic stated that the air strike by Israel was a violation of the Charter of the United Nations, of international law and of the Agreement on Disengagement of 1974. He maintained that the "Israeli aggression" was no isolated incident, but had been preceded by another violation by Israel, on 2 January 2003, that had resulted in the death of a soldier of the Syrian Arab Republic. He requested the Council to

³ The representatives of Djibouti, Oman, Somalia and the United Arab Emirates were invited to participate but did not make statements.