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Iraq - The Need for Strengthened Inspections and "Robust Monitoring"

To: UN Security Council; UN Member States; U.S. and International Press
From: Jonathan Granoff, President, Global Security Institute (GSI)
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Date: Feb. 26, 2003
Pages: 5

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PURPOSE:

The purpose of this memo is to place before the UN Security Council a path that will at a minimum help accomplish the following:

1. Improve international cooperation and strengthen the rule of law;
2. Heighten the respect for the foreign policies of those countries willing to put their troops at risk, as well as those countries that have put forth the security-enhancing proposals consistent with the suggestions contained in this memo;
3. Ensure that Iraq is properly and effectively disarmed;
4. Constrain the Iraqi regime and change its behavior;
5. Save lives.

EXECUTIVE SUMMARY:

The peaceful resolution of the disarmament crisis in Iraq is in the vital interest of the international community as a whole. This requires the UN Security Council

- to strengthen the current UN inspection team by enhancing the quantity and quality of its personnel, together with its financial and technical resources; and
- to initiate, in accordance with UN SC Res. 715 (1991), 1284 (1999) and 1441 (2002), long-term disarmament monitoring and verification in Iraq under maintenance of a credible enforcement threat (so-called "Robust Monitoring").

Such action would allow the Security Council to

- improve international and national security by effectively disarming Iraq;
- demonstrate cooperative leadership in the implementation of international law;
- enhance its capacity to effectively address other pressing issues threatening international peace and security.

To facilitate Iraq's return into the community of law abiding states, the UN Security Council should further consider the adoption of a new resolution to authorize the deployment of human rights monitors in Iraq.

RATIONALE:

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I. Iraq's Disarmament Obligations under UN SC Resolutions

(A) Chemical and Biological Weapons and Ballistic Missiles

UN SC Res. 687 (April 8, 1991), para. 8, determined that "Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of

- (a) all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto;
- (b) all ballistic missiles with a range greater than one hundred and fifty kilometers, and related major parts and repair and production facilities."

(B) Nuclear Weapons

UN SC Res. 687 (1991) invited Iraq "to reaffirm unconditionally its obligations" under the NPT.¹ More importantly, the Resolution decided that Iraq "shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapon-usable material or any subsystem or components or any research, development, support or manufacturing facilities" related to nuclear weapon capability.²

II. Implementation of Iraq's Disarmament Obligations

Immediately following the end of the Gulf War, the UN Security Council laid out a three-stage implementation procedure, consisting of

- gathering and assessment of information (immediate on-site inspections; *see* (A), below);
- disposal of weapons and facilities and all other items specified in Res. 687 (1991) (medium-term destruction of WMD and missile capabilities; *see* (B), below); and
- ongoing monitoring and verification of Iraq's compliance (long-term monitoring and verification; *see* (C), below).

(A) Immediate On-site Inspections

UN SC Res. 687 (1991) established the United Nations Special Commission (UNSCOM).³ The Resolution called for "immediate on-site inspections of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional

¹ Para. 11.

² Para. 12.

³ Para. 9(b).

locations by the special commission itself.”⁴ As far as nuclear weapons capabilities were concerned, the Resolution required Iraq “to place all its nuclear-weapon-usable materials under the exclusive control, for custody and removal, of the [International Atomic Energy] Agency, with the assistance and cooperation of the Special Commission,” and “to accept, in accordance with the arrangements provided for in paragraph 13, urgent on-site inspection”⁵ Para. 13 specified that these “immediate on-site inspections of Iraq’s nuclear capabilities” be conducted on the basis of Iraq’s declarations and designations.

(B) Medium-term Destruction of WMD and Missile Capabilities

As indicated under (A) above, one of UNSCOM’s central goals was to achieve the complete destruction of all WMD. Accordingly, UN SC Res. 687 (1991) called for “[t]he yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless ... of all items specified under paragraph 8 (a) [*i.e.*, chemical and biological weapons] ... and the destruction by Iraq, under the supervision of the Special Commission, of all its missile capabilities, including launchers, as specified under paragraph 8 (b).”⁶ The same resolution also called for “...the destruction, removal and rendering harmless as appropriate...” of Iraq’s nuclear-weapon-usable materials.⁷

(C) Long-term Monitoring and Verification

UN SC Res. 687 (1991) clarified that on-site inspections and the destruction of found WMD and missile capabilities must be followed by long-term monitoring and verification efforts. Para. 10 of the Resolution called upon the Secretary-General – in consultation with UNSCOM – “to develop a plan for the future ongoing monitoring and verification of Iraq’s compliance.” Para. 12 called upon Iraq to accept this plan, while para. 13 requested the Director General of the IAEA, through the Secretary-General and with the assistance of UNSCOM, “...to develop a plan...for the future ongoing monitoring and verification of Iraq’s compliance ... including an inventory of all nuclear material in Iraq subject to the Agency’s verification and inspections to confirm that Agency safeguards cover all relevant nuclear activities in Iraq... .”

UN SC Res. 715 (October 11, 1991) approved and let enter into force the Secretary-General’s October 2, 1991 Report (S/22871/Rev.1) which spelled out the plan for long-term monitoring and verification in Iraq. According to this plan, “the task of carrying out the monitoring and verification provided for under the Plan should be entrusted to an executive body under the authority of the Security Council.”⁸ Para. 7 determined that this “compliance unit” be organized under UNSCOM. Iraqi non-compliance, however, ultimately was to be determined by the Security Council, which would respond pursuant to Chapter VII of the UN Charter.⁹ The duration of the monitoring was left to the discretion of the Security Council.¹⁰

⁴ Para. 9(b)(i).

⁵ Para. 12.

⁶ Para. 9(b)(ii).

⁷ Paras. 12 and 13.

⁸ Para. 5.

⁹ *Ibid.*

¹⁰ Para. 27.

III. Transition from UNSCOM to UNMOVIC and Effect on Implementation

UNSCOM operated without major obstacles until August 1998. On 9 September, the Security Council unanimously adopted resolution 1194 (1998), in which it, *inter alia*, condemned Iraq's decision to suspend cooperation with the Commission, terming Iraq's actions an unacceptable contravention of its obligations, and demanded that Iraq rescind its decision of 5 August to stop cooperation with UNSCOM. The Council also decided not to conduct any further reviews provided for in paragraphs 21 and 28 of resolution 687 (1991) until Iraq rescinded its decision and UNSCOM reported to the Council that it was satisfied that it had been able to exercise its full range of activities provided for in its mandate, including inspections.

In the preamble to resolution 1194 (1998), the Security Council nevertheless expressed its readiness to consider, in a comprehensive review, Iraq's compliance with its obligations under all relevant resolutions once Iraq had rescinded its 5 August decision and demonstrated that it was prepared to fulfil all its obligations, including, in particular, on disarmament issues, by resuming full cooperation with UNSCOM.

Richard Butler, Executive Chairman of UNSCOM, on Dec. 15, 1998 concluded that in “the absence of full cooperation by Iraq, it must regrettably be recorded again that the Commission is not able to conduct the substantive disarmament work mandated to it by the Security Council.” UN inspectors were withdrawn from Iraq and bombing followed.

On Dec. 17, 1999, the Security Council pursuant to Res. 1284 established the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC). According to the Resolution's para. 2, UNMOVIC “undertake[s] the responsibilities mandated to [UNSCOM].” More specifically, the Resolution states that UNMOVIC “will implement the plan approved by the Council in resolution 715 (1991).”¹¹

UN SC Res. 1441 (Nov. 8, 2002), attesting that Iraq “has been and remains in material breach” of its disarmament obligations, grants Iraq “a final opportunity” to comply with the Council's decade-old implementation plan. The Council in this Resolution 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)”¹² Contrary to previous resolutions, Res. 1441 now covers nuclear-weapon-usable material too.¹³ Res. 1441 also authorizes UNMOVIC “to remove, destroy, or render harmless all prohibited weapons, subsystems, components, records, materials, and other related items... .”¹⁴ It thus incorporates the implementation procedures originally adopted in UN SC Res. 715 (1991) and reiterated in the context of UNMOVIC in UN SC Res. 1284 (1999).

De jure, no new implementation strategy applies to the situation in Iraq. UN SC Res. 1284 (1999) states quite clearly that UNMOVIC continues the work of UNSCOM and will do so

¹¹ Para. 2.

¹² Para. 2.

¹³ See Para. 3.

¹⁴ Para. 7.

within UNSCOM's operational parameters. The strategy of the inspection process evolving into monitoring – though not explicitly mentioned in UN SC Res. 1441 (2002) – is reaffirmed in UN SC Res. 1284 (1999).

CONCLUSION AND RECOMMENDATIONS:

1. The threat to use force has been instrumental in persuading Iraq to readmit UN inspectors and cooperate with them. However, the current opportunity to strengthen the rule of law without risking lives should not be missed. A non-violent resolution of the Iraq crisis could help bridge existing differences in the international community while reestablishing a climate of mutual trust. Such a climate is needed to deal more efficiently with numerous pressing problems that threaten international peace and security, including terrorism, pandemic poverty, infectious diseases, and environmental degradation.
2. In spite of the clear language in UN SC Res. 1284 (1999), which calls upon UNMOVIC to follow through with all three stages of the original disarmament plan put forth in UN SC Res. 687 (1991), the third stage – consisting of long-term monitoring and verification – thus far has not been addressed. It represents a potent tool. In an effort to secure full Iraqi compliance with the UN SC disarmament resolutions and to provide the international community with confidence and a sense of regained security, it is highly desirable that the UN Security Council
 - (a) strengthen the UN inspection team currently operating in Iraq by enhancing the quantity and quality of its personnel, together with its financial and technical resources;
 - (b) deploy a substantial contingent of long-term UN disarmament monitors under maintenance of a credible enforcement threat;
 - (c) keep these disarmament monitors deployed until it arrives at the conclusion that their presence in Iraq is no longer needed.
3. Taking such action would allow the UN Security Council to
 - (a) improve international and national security by effectively disarming Iraq;
 - (b) demonstrate cooperative leadership in the implementation of international law;
 - (c) enhance its capacity to effectively address other pressing issues threatening international peace and security.
4. A strengthened inspection regime and a “Robust Monitoring” contingent would be far less expensive and far more beneficial to all UN member states than the use of force with all attendant uncertainties and instabilities. They could both be enacted under the authority of existing UN SC resolutions.
5. It would further be beneficial for the UN Security Council to consider the adoption of a new resolution allowing for the deployment in Iraq of an additional team of monitors to address ongoing human rights concerns. Human rights monitors could facilitate Iraq's return into the community of law abiding states. They could also support the aspirations of progressive forces inside Iraq, in the region and worldwide who – in the long term - want Iraq to become a productive, prosperous, and peace-loving country.

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