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# Iraq and UN Security Council Resolution 1441

This Paper gives an account of the latest developments concerning efforts to disarm Iraq of weapons of mass destruction. It discusses Security Council Resolution 1441 and looks at the new mandate for weapons inspectors.

More background detail on the inspection process over the past decade, and a discussion of the state of Iraqi disarmament and possible military action can be found in the complementary Library Research Paper *Iraq: the debate on policy options*, RP 02/53, of 20 September 2002.

Tim Youngs & Paul Bowers

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## Summary of main points

On 8 November 2002 the UN Security Council voted unanimously to adopt Resolution 1441. A UN press release summarised the Resolution as follows:

Holding Iraq in “material breach” of its obligations under previous resolutions, the Security Council this morning decided to afford it a “final opportunity to comply” with its disarmament obligations, while setting up an enhanced inspection regime for full and verified completion of the disarmament process established by resolution 687 (1991).

By the unanimous adoption of resolution 1441 (2002), the Council instructed the resumed inspections to begin within 45 days, and also decided it would convene immediately upon the receipt of any reports from inspection authorities that Iraq was interfering with their activities. It recalled, in that context, that the Council had repeatedly warned Iraq that it would face "serious consequences" as a result of continued violations.

Under the new inspection regime established by the resolution, the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) would have “immediate, unimpeded, unconditional and unrestricted access” to any sites and buildings in Iraq, including presidential sites. They would also have the right to remove or destroy any weapons, or related items, they found.

The Council demanded that Iraq confirm, within seven days, its intention to comply fully with the resolution. It further decided that, within 30 days, Iraq, in order to begin to comply with its obligations, should provide to UNMOVIC, the IAEA and the Council a complete declaration of all aspects of its programmes to develop chemical, biological and nuclear weapons, including chemical, biological and nuclear programmes it claims are for purposes not related to weapons production or material. Any false statement or omission in the declaration will be considered a further material breach of Iraq’s obligations, and will be reported to the Council for assessment.<sup>1</sup>

The Iraqi Government wrote to the UN Secretary-General on 13 November to indicate its acceptance of the Resolution. Talks between Iraq and the two UN bodies responsible for overseeing the disarmament of Iraq’s proscribed weapons programmes continued during November and an advance party of inspectors arrived in Iraq on 18 November. It is anticipated that the first full inspection will take place by 27 November.

The US and British Governments have confirmed the interpretation that the Council should consider an alleged breach in the first instance. They have indicated their preparedness to take military action to enforce disarmament in the event of Iraqi non-compliance.

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<sup>1</sup> UN Press Release SC/7564, 8 November 2002, <http://www.un.org/News/Press/docs/2002/SC7564.doc.htm>



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# 1. Background

## A. Evolution of Policy towards Iraq

Efforts to disarm Iraq of weapons of mass destruction (WMD) began in 1991 when it was ejected from Kuwait. The faltering progress of these efforts is detailed in Library Research Paper 02/53 of 20 September 2002.<sup>2</sup> The process was moribund after December 1998: following joint US-UK air strikes, Iraq refused to readmit inspectors and disputes arose within the UN Security Council over the future direction of policy towards Iraq.

By this time the USA had moved towards a policy of supporting regime change in Baghdad, either by covert means or by providing assistance to Iraqi opposition groups. The UK indicated general support for the prospect of a change of regime and continued to insist on the maintenance of UN sanctions pending full, unconditional Iraqi disarmament. Russia and France expressed their opposition to enforced regime-change, favouring instead a gradual easing of non-military sanctions and a normalisation of relations with the existing regime.<sup>3</sup> The result was deadlock in the Security Council and, in the absence of inspectors on the ground, mounting uncertainty over Baghdad's compliance with its disarmament obligations.

Following the terrorist attacks of 11 September 2001 the Bush administration devoted considerable attention to asymmetric threats which, in its view, had multiplied since the demise of communism in Europe. In his State of the Union address in January 2002 President Bush spoke of an axis of evil, comprising states that sought the proliferation of weapons of mass destruction and supported international terrorism. He named Iraq as one such state. Mr Bush said,

States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States. In any of these cases, the price of indifference would be catastrophic.<sup>4</sup>

In September 2002 President Bush published a new security doctrine, *The National Security Strategy of the United States of America*.<sup>5</sup> This gave greater priority than in the past to the concept of pre-emption. It discussed terrorist threats, including the possibility that terrorists might obtain weapons of mass destruction:

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<sup>2</sup> *Iraq: the debate on policy options*, Library Research Paper 02/53, 20 September 2002

<sup>3</sup> For more detail on the debate over UN sanctions on Iraq and the impact on the civilian population, see Library Standard Note, *Sanctions on Iraq*, SN/IA/1431, of 20 May 2002.

<sup>4</sup> Text of the President's State of the Union address, 29 January 2002, from the White House web site at <http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html>

<sup>5</sup> <http://www.whitehouse.gov/nsc/nss.pdf>

As was demonstrated by the losses on September 11, 2001, mass civilian casualties is the specific objective of terrorists and these losses would be exponentially more severe if terrorists acquired and used weapons of mass destruction.

The United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.

A fuller treatment of these ideas is given in a Standard Note, *The Concept of Self-Defence in International Law*, SN/IA/1957, of 22 October 2002.

Following the fall of the Taliban regime in Afghanistan in late 2001, it became apparent that the Bush administration was considering a new push to achieve Iraqi disarmament, and the suggestion was made that this might involve military action and perhaps regime change in Baghdad. There was significant debate, both within the administration and internationally, as to whether the USA should take action directly or whether it should seek the support of the UN Security Council.

On 12 September 2002 President Bush spoke to the UN General Assembly, and said that “my nation will work with the UN Security Council to meet our common challenge” in respect of Iraq. However, he also indicated that this willingness to engage in multilateralism was a means, not an alternative, to enforcing the established will of the international community for Iraqi compliance. He went on:

we will work with the UN Security Council for the necessary resolutions. But the purposes of the United States should not be doubted. The Security Council resolutions will be enforced – the just demands of peace and security will be met – or action will be unavoidable. And a regime that has lost its legitimacy will also lose its power.<sup>6</sup>

The speech represented a decisive shift by the US government in favour of pursuing Iraqi disarmament, at least initially, through a revived UN inspection process. The question of how to proceed had prompted intense debate within the administration, with some officials arguing that involving the UN might inhibit the administration’s freedom of action and allow Iraq to engage in further brinkmanship and delay.<sup>7</sup>

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<sup>6</sup> White House press release, 12 September 2002. Full text of the address is available at: <http://www.whitehouse.gov/news/releases/2002/09/print/20020912-1.html>

<sup>7</sup> See, for example, excerpts in the *Washington Post* of 17-19 November 2002 of the book by Bob Woodward, ‘Bush at War’, Simon and Schuster, 2002

Support for a multilateral approach to Iraq through the UN had been voiced by a number of states on the Security Council and within the region, and the speech was widely welcomed internationally.

Prime Minister Tony Blair had expressed support for securing Iraqi compliance through the Security Council in his speech to the TUC Congress two days before President Bush's speech to the General Assembly, although he also warned of the dangers if the UN failed to act:

I believe it is right to deal with Saddam through the United Nations. After all, it is the will of the UN he is flouting. He, not me or George Bush, is in breach of UN Resolutions. If the challenge to us is to work with the UN, we will respond to it.

But if we do so, then the challenge to all in the UN is this: the UN must be the way to resolve the threat from Saddam not avoid it.

Let it be clear that he must be disarmed. Let it be clear that there can be no more conditions, no more games, no more prevaricating, no more undermining of the UN's authority.

And let it be clear that should the will of the UN be ignored, action will follow. Diplomacy is vital. But when dealing with dictators - and none in the world is worse than Saddam - diplomacy has to be backed by the certain knowledge in the dictator's mind that behind the diplomacy is the possibility of force being used.<sup>8</sup>

## **B. Negotiations on a new Resolution**

Under intense pressure from other Arab governments and the wider international community, Iraq declared on 16 September 2002 that it would accept an unconditional return of UN inspectors. The move came as the USA and UK began work on a draft Security Council resolution aimed at strengthening the existing inspection process, which they believed to be flawed, establishing a precise timetable for Iraqi compliance, and indicating consequences in the event of non-compliance. According to Foreign Secretary Jack Straw, they began to circulate "elements of a draft resolution" on 25 September 2002, and a full text on 23 October 2002.<sup>9</sup>

In late September and early October 2002 talks were held in Vienna between the weapons inspectors and Iraq. Hans Blix, the Executive Chairman of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), Mohamed El Baradei, the Director General of the International Atomic Energy Agency (IAEA), and General Amir Al-Saadi, advisor to President Saddam Hussein, reached agreement on

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<sup>8</sup> Prime Minister's speech to the TUC Conference, 10 September 2002, from <http://www.pm.gov.uk/output/Page6052.asp>

<sup>9</sup> HC Deb 7 November 2002, c431.

practical arrangements for the resumption of inspections. Mr Blix and Mr El Baradei briefed the Security Council on the talks shortly afterwards, and a letter embodying their agreement with Iraq was subsequently published as an annex to Security Council Resolution 1441. The agreement allowed inspections of all sites other than those previously designated as 'presidential'. These were covered by a Memorandum of Understanding from 1998, which established special procedures for access.<sup>10</sup> Mr Blix indicated that the Security Council was the appropriate forum to decide on the nature of access to these sites, since it might be necessary to override the Memorandum, and the agreement merely anticipated the possibility that they might be included.

A Russian spokesman welcomed Iraq's decision to engage with the UN, saying:

[This agreement] will provide an answer to questions about the state of banned Iraqi programmes to build weapons of mass destruction and their delivery means.<sup>11</sup>

However, both the USA and UK stressed their view that inspectors should not return to Iraq without a revised mandate and a renewed warning to Iraq of the consequences of non-compliance. US Secretary of State Colin Powell said:

there is no magic calendar as to when they should go in. ... They should go in when they have the authority to do their job.<sup>12</sup>

Mr Straw said,

the very fact that Saddam Hussein has shifted this far, but only under the threat of force, makes the case even stronger for a new comprehensive and tough Security Council resolution.<sup>13</sup>

Discussions in the Security Council on the US-UK draft resolution were informal for the most part, and information about them is derived from secondary briefings. However, it is known that other permanent members of the Security Council, China, France and Russia, as well as some of the non-permanent members, had reservations about the draft resolution. France prepared an alternative draft, although this was never formally introduced. These states were concerned that the resolution should not include an authorisation for the use of force, and the French draft included a 'two step' process, in which a decision on possible enforcement action would be deferred pending the outcome

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<sup>10</sup> For more detail, see Section II A iv below, and Appendix 1 for the text of the Memorandum of Understanding.

<sup>11</sup> "Blix to brief Security Council on Iraq," *CNN.com*, 2 October 2002, at <http://www.cnn.com/2002/WORLD/europe/10/02/europe.iraq/>

<sup>12</sup> "US: no resolution, no inspectors," *CNN.com*, 2 October 2002, at <http://europe.cnn.com/2002/WORLD/europe/10/01/inspectors.iraq/index.html>

<sup>13</sup> "Blix to brief Security Council on Iraq," *CNN.com*, 2 October 2002, at <http://www.cnn.com/2002/WORLD/europe/10/02/europe.iraq/>

of inspections, and in which the Security Council would consider further action in the event of non-cooperation only after a report by the inspectors to that effect. The USA and the UK preferred that any party might call the Security Council to consider alleged non-cooperation.

After eight weeks of intensive negotiations there was sufficient agreement on the text that it was possible to submit it to a vote.

## **II UN Security Council Resolution 1441**

On 8 November 2002 the Security Council voted unanimously to adopt Resolution 1441 and thereby afford Iraq “a final opportunity to comply with its disarmament obligations.”<sup>14</sup> There had been doubt over the voting intentions of Syria, the sole Arab member of the Council, but it voted in favour.

In the Resolution, the Council deplored Iraq’s failure to provide an accurate, full, final and complete disclosure of its WMD and prohibited missile programmes, as required under Resolution 687. It also deplored Iraq’s repeated failure to cooperate fully and unconditionally with the inspection process and its decision in 1998 to cease all cooperation. Furthermore, the Council deplored Iraq’s failure to comply with its obligations with regard to renouncing international terrorism, ending the repression of its civilian population, and cooperating in attempts to return or account for Kuwaiti and third country nationals detained during the invasion of Kuwait in 1990.

The Council went on to state that Iraq had been and remained in material breach of its obligations, and recognised that this, with Iraq’s proliferation of WMD and ballistic missiles, posed a threat to international peace and security. It decided to give Iraq “a final opportunity to comply with its disarmament obligations” and concluded by noting that it had repeatedly warned Iraq it would “face serious consequences as a result of its continued violations of its obligations.”<sup>15</sup> The full text can be found in Appendix 3.

The Resolution set out the provisions and timetable for a revised inspection regime, the elements of which are examined in Section A below. The debate over whether the Resolution provides a legal basis for possible military action against Iraq, without further authorisation from the Council, is examined in Section B below.

### **A. Revised Inspection Regime**

#### **1. Composition of UNMOVIC**

The United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) was created under Security Council Resolution 1284.<sup>16</sup> It was tasked with continuing the mandate of the former UN Special Commission (UNSCOM) to disarm Iraq of its chemical and biological weapons, and ballistic missile systems with a range greater than 150 kilometres.

Dr Hans Blix, the Swedish former head of the International Atomic Energy Agency (IAEA), was appointed as Executive Chairman to UNMOVIC in March 2000. The

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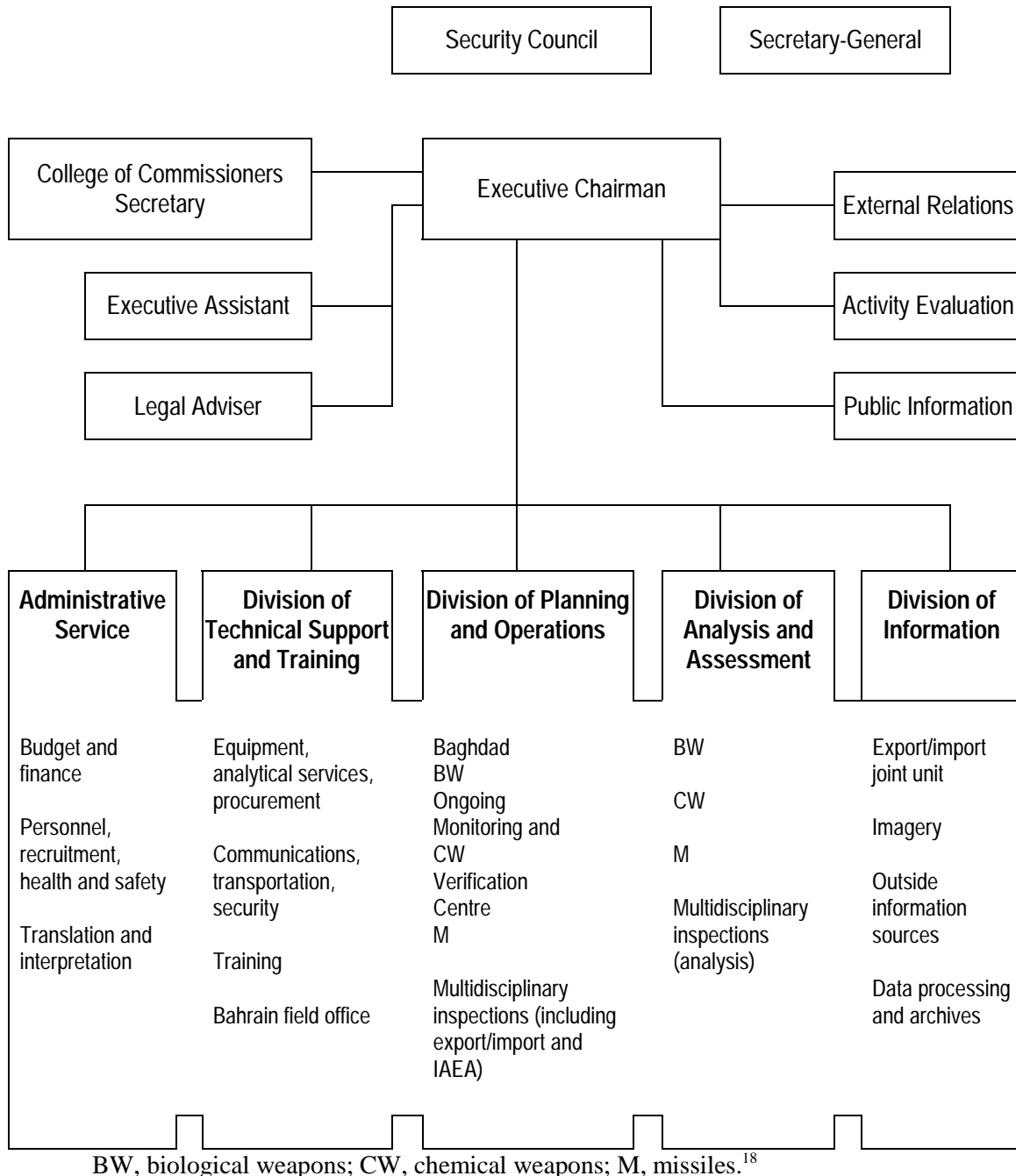
<sup>14</sup> Paragraph 2, *S/RES/1441* (2002)

<sup>15</sup> Paragraphs 2 & 13, *S/RES/1441* (2002)

<sup>16</sup> The full text of UN Security Council Resolution 1284 can be found in Appendix 2.

Executive Chairman has responsibility for briefing the Security Council on all tasks entrusted to the Commission and for providing the Council with assessments of Iraq’s compliance with its disarmament obligations. He is supported by a 16-strong College of Commissioners, who are responsible for reviewing implementation of Resolution 1284 and providing him with professional advice and guidance.<sup>17</sup>

The organisational structure of UNMOVIC is laid out in the diagram below:



<sup>17</sup> The list of Commissioners can be found on the UNMOVIC web site at: <http://www.unmovic.org>

<sup>18</sup> Source: UNMOVIC web site at <http://www.unmovic.org>

Headquartered in New York, UNMOVIC comprises four divisions (Planning and Operations, Analysis and Assessment, Information, and Technical Support and Training) as well as an administrative service.<sup>19</sup> The Commission's staff includes weapons specialists, analysts, scientists, engineers and operational planners.

UNMOVIC currently has a pool of around 200 inspectors from 44 countries. It is anticipated that up to 80 would be based at the UNMOVIC office in Baghdad at any one time, with individual teams for specific inspections ranging in size from 4-5 staff up to 20-30 for major tasks.<sup>20</sup>

UNMOVIC's predecessor, UNSCOM, relied mainly on staff seconded from and paid by national Governments, a factor that fuelled allegations of partiality and improper ties to national intelligence agencies. By contrast, UNMOVIC personnel are

United Nations employees subject to Article 100 of the Charter, which requires that they shall neither seek nor receive instructions from any Government and that Member States shall not seek to influence them in the discharge of their responsibilities. The staff will be required to respect strict rules of confidentiality. This will contribute to giving "a clear United Nations identity" to the Commission ...<sup>21</sup>

Dr Blix has stressed the importance of avoiding charges of bias, indicating that he would remove any staff suspected of conducting espionage on behalf of national intelligence agencies. At a press conference on 16 November, he said:

People have asked me: 'Can you be absolutely sure we will have no spies in any of the member states?' and I said no, I don't think either the KGB or the CIA can give that absolute assurance. All I can say is that if I see someone having two hats, then I would ask them to walk out from us and to be somewhere else.<sup>22</sup>

Nonetheless, observers believe the inspectors will face a difficult task in balancing conflicting demands. On the one hand, UNMOVIC and the IAEA need to avoid a repeat of the UNSCOM experience by demonstrating their impartiality and independence from any national interests, particularly given the sensitivity of their role and the potential consequences that may follow if they report to the Security Council that Iraq is failing to comply with its disarmament obligations.

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<sup>19</sup> The organisational plan for UNMOVIC that was submitted by the Executive Chairman to the Security Council in April 2000 (*S/2000/292*) can be accessed on the UNMOVIC web site at: <http://www.unmovic.org>

<sup>20</sup> More detail on UNMOVIC can be found on the UN web site at: <http://www.unmovic.org>

<sup>21</sup> Organizational plan for the United Nations Monitoring, Verification and Inspection Commission prepared by the Executive Chairman, *S/2000/292*, 6 April 2000

<sup>22</sup> 'UN chief inspector 'will sack spies'', BBC News web site at <http://news.bbc.co.uk>, 16 November 2002

On the other hand, the nature of the inspectors' task will require them to establish a working relationship with national intelligence agencies so as to gain access to effective and timely intelligence on suspected weapons sites and to counter potential Iraqi counter-measures and attempts at concealment. A former deputy director of UNSCOM, Robert Gallucci, commented that:

The intelligence function in an international organisation conducting a mission like this is difficult... There has to be a balance struck between the need to get intelligence, and the need to avoid compromising the mission and the organisation. [...] Iraq is the quintessential difficult case. These inspectors are going to need all the help they can get.<sup>23</sup>

Resolution 1441 requests that all Member States:

give full support to UNMOVIC and the IAEA in the discharge of their mandates, including by providing any information related to prohibited programmes or other aspects of their mandates, including on Iraqi attempts since 1998 to acquire prohibited items, and by recommending sites to be inspected, persons to be interviewed, conditions of such interviews, and data to be collected, the results of which shall be reported to the Council by UNMOVIC and the IAEA;<sup>24</sup>

One such example of potential collaboration is set out in the letter to Iraq of 8 October from the UNMOVIC Executive Chairman and the IAEA Director General, and which is annexed to Resolution 1441. The letter declares that UNMOVIC may wish to resume the use of US U2 and French Mirage reconnaissance aircraft to provide aerial imagery of suspected weapons sites.

Resolution 1284 specified that the Commission's personnel should be "suitably qualified and experienced" and "drawn from the broadest possible geographical base".<sup>25</sup> The need for suitable personnel was reiterated by the Council in Resolution 1441, which states that:

UNMOVIC and the IAEA shall determine the composition of their inspection teams and ensure that these teams are composed of the most qualified and experienced experts available;<sup>26</sup>

UNMOVIC personnel have reportedly undergone 'cultural sensitivity' training, in an effort to avoid unnecessary difficulties and disputes with Iraqi officials during the inspection process. Iraq hinted at possible areas of friction in this regard in its letter to the UN Secretary-General accepting Resolution 1441:

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<sup>23</sup> Cited by Charles Clover, 'Inspectors relearn lessons from first time round', *Financial Times*, 12 November 2002

<sup>24</sup> Paragraph 10, *S/RES/1441 (2002)*

<sup>25</sup> *S/RES/1284 (1999)*

<sup>26</sup> Paragraph 7, *S/RES/1441 (2002)*, 8 November 2002

All concerned parties should remember that we are in our holy month of Ramadan and that the people are fasting, and that after this month is a feast. The concerned bodies and officials, however, will cooperate with the inspectors against this entire background and that of the tripartite statement of France, the Russian Federation and China. The Government of Iraq will also take all of this into consideration when dealing with the inspectors and with all matters relating to their demeanour and the intentions of any one of them who demonstrates bad faith or an inappropriate approach to preserving the national dignity, independence and security of the people and the security, independence and sovereignty of the homeland. We are eager for them to accomplish their task in accordance with international law as soon as possible. If they do so in a professional and lawful manner, and without previously planned goals, the fabrications of the liars will be revealed to the public and the declared aim of the Security Council will be achieved.

Dr Blix has stressed that “We are not coming to Iraq to harass or to insult or humiliate them. That’s not our purpose.”<sup>27</sup>

## **2. Composition of the IAEA Iraq Action Team**

The International Atomic Energy Agency was tasked under Resolution 687 with ensuring Iraqi nuclear disarmament and an ‘Iraq Action Team’ was established to fulfil this task. Prior to the withdrawal of IAEA and UNSCOM staff in December 1998, the Action Team carried out 27 numbered inspections and over 1500 ongoing monitoring and verification inspections. The result was the effective neutralisation of Iraq’s clandestine nuclear weapons programme, although the subsequent four-year absence of inspectors has raised doubts about whether Iraq has sought to rebuild a weapons capability.

The Action Team includes experts on all stages of the nuclear fuel cycle as well as dual use technologies, import-export controls and nuclear smuggling. It has around 15 staff members drawn from some 11 different nationalities and it reports directly to the Director General of the IAEA, Mohamed El Baradei. Dr El Baradei, an Egyptian, reports in turn to the Security Council.<sup>28</sup>

As has been the case since 1991, Iraq is liable for the full costs of UNSCOM/UNMOVIC and the IAEA in relation to their work on Iraq, with the necessary funds being drawn from the UN Oil for Food programme.<sup>29</sup>

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<sup>27</sup> BBCi News profile of Hans Blix, 19 September 2002, from <http://news.bbc.co.uk/1/hi/world/europe/2268819.stm>

<sup>28</sup> More detail on the Iraq Action Team can be found on the IAEA web site at: <http://www.iaea.org/worldatom/Programmes/ActionTeam/index.html> and <http://www.iaea.org/worldatom/Press/Focus/iaeaIraq/index.html>

<sup>29</sup> For more detail on the UN sanctions regime on Iraq and the Oil for Food Programme, see Library Standard Note SN/IA/1431.

### 3. Issues of Access

On a number of occasions between 1991 and 1998, Iraqi officials engaged in delaying tactics, blocking access for UNSCOM inspectors while sensitive material and documents were removed from the buildings to be inspected. In order to prevent similar occurrences in the future, the Security Council has granted UNMOVIC and the IAEA the right to impose a freeze on ground and aerial movement around an inspection site. Paragraph 7 of Resolution 1441 states that:

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

To ensure inspectors are able to travel freely and without hindrance, the Council has stipulated in Resolution 1441 that:

UNMOVIC and the IAEA shall have the free and unrestricted use and landing of fixed- and rotary-winged aircraft, including manned and unmanned reconnaissance vehicles;<sup>30</sup>

The USA and UK had sought provision in an earlier draft for armed UN blue helmet guards to accompany inspection missions.<sup>31</sup> This provision was dropped in late October in favour of allowing UNMOVIC and the IAEA to deploy an unspecified number of UN security guards around their facilities, both at their headquarters in Baghdad and any regional offices around the country. During the 1990s Iraq mounted an intensive espionage effort against UNSCOM and the IAEA in an attempt to uncover details about the inspection process and thereby pre-empt planned inspections. The advance mission from UNMOVIC and the IAEA which travelled to Baghdad on 18 November 2002 was accompanied both by security guards and surveillance and counter-espionage specialists.

In order to avoid any repetition of earlier Iraqi interference with the inspection process and manhandling of UN personnel, the Council has stipulated that: “Iraq shall not take or threaten hostile acts directed against any representative or personnel of the United Nations or the IAEA or of any Member State taking action to uphold any Council resolution”.<sup>32</sup>

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<sup>30</sup> *S/RES/1441 (2002)*, 8 November 2002

<sup>31</sup> This idea had been put forward by several commentators during August and September: see for example the plan suggested by the Foreign Policy Centre and the Carnegie Endowment for International Peace for a UN-mandated armed rapid-response unit to allow for ‘coercive’ inspections of suspected weapons sites, as reported in ‘Support grows for idea of ‘coercive’ inspections in Iraq’, *Financial Times*, 19 September 2002

<sup>32</sup> Paragraph 8, *S/RES/1441 (2002)*, 8 November 2002

#### **4. Access to ‘Presidential Sites’**

During early 1998 disputes over access by UNSCOM to so-called presidential sites led to the conclusion of a Memorandum of Understanding by UN Secretary-General Kofi Annan and Iraqi Deputy Prime Minister Tariq Aziz. The MoU, which was endorsed by the Security Council in Resolution 1154 of 2 March 1998, laid down special procedures for the inspection of the eight disputed sites by a Special Group comprising senior diplomats appointed by the Secretary-General and experts drawn from UNSCOM and IAEA.<sup>33</sup>

During the discussions in the Security Council between September and November 2002, the US and British governments indicated their desire to revoke the MoU, arguing that it undermined the principle of unrestricted access for weapons inspectors. The British Government claimed in its assessment of Iraq’s WMD programmes of September 2002 that:

Many of these so-called ‘palaces’ are in fact large compounds which are an integral part of Iraqi counter-measures designed to hide weapons material.<sup>34</sup>

The Security Council agreed to re-establish the principle of unfettered access in Resolution 1441, which expressly states that the provisions of the MoU on ‘presidential sites’ are no longer valid. Paragraph 7 states that:

UNMOVIC and the IAEA shall have unrestricted rights of entry into and out of Iraq, the right to free, unrestricted, and immediate movement to and from inspection sites, and the right to inspect any sites and buildings, including immediate, unimpeded, unconditional, and unrestricted access to Presidential Sites equal to that at other sites, notwithstanding the provisions of resolution 1154 (1998) of 2 March 1998;<sup>35</sup>

#### **5. Interviewing Iraqi Officials**

Iraq is required to provide UNMOVIC and the IAEA with the names of all personnel associated with proscribed weapons programmes. Paragraph 7 of Resolution 1441 states that:

UNMOVIC and the IAEA shall have the right to be provided by Iraq the names of all personnel currently and formerly associated with Iraq’s chemical, biological, nuclear, and ballistic missile programmes and the associated research, development, and production facilities;<sup>36</sup>

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<sup>33</sup> The full text of the Memorandum of Understanding can be found in Appendix 1.

<sup>34</sup> *Iraq’s Weapons of Mass Destruction: The Assessment of the British Government*, available at: <http://www.pm.gov.uk/output/Page6117.asp>

<sup>35</sup> *S/RES/1441 (2002)*, 8 November 2002

<sup>36</sup> *S/RES/1441 (2002)*, 8 November 2002

Furthermore, Resolution 1441 authorises UNMOVIC and the IAEA to take witnesses and their families out of Iraq for interviewing, without the presence of Iraqi officials. Under Paragraph 5 the Council:

decides that UNMOVIC and the IAEA may at their discretion conduct interviews inside or outside of Iraq, may facilitate the travel of those interviewed and family members outside of Iraq, and that, at the sole discretion of UNMOVIC and the IAEA, such interviews may occur without the presence of observers from the Iraqi Government.<sup>37</sup>

## 6. Timetable for Inspection

Resolution 1441 established a timetable for the return of UNMOVIC and the IAEA and for assessing progress towards Iraqi disarmament.

The Resolution gave Iraq seven days to accept the terms of the new Resolution. A letter of acceptance from Iraq's Foreign Minister, Naji Sabri, was delivered to the UN Secretary-General on 13 November, two days ahead of the stipulated deadline.<sup>38</sup>

Within 30 days of the adoption of the Resolution (i.e. by 8 December), Iraq must provide the UN with a "currently accurate, full, and complete declaration" of all aspects of its prohibited weapons programmes. At the time of writing, Iraq was continuing to insist it was not in possession of any proscribed weapons, contradicting allegations made by British and US intelligence and concerns over unaccounted materials raised by UNSCOM in its final report to the Council in early 1999. Nonetheless, IAEA Director General, Dr El Baradei, said on 19 November that the Iraqi Government had given assurances during talks that it would meet the deadline for a full disclosure of its WMD programmes.<sup>39</sup>

Weapons inspections should resume within 45 days of the adoption of the Resolution (i.e. by 22 December). The advance team of inspectors arrived in Baghdad on 18 November and Dr Blix has indicated that he expects full inspections to resume by 27 November.<sup>40</sup>

UNMOVIC and the IAEA are then tasked with reporting to the Council within 60 days of the first full inspection on the progress made and the state of Iraqi disarmament. If, as anticipated, the first full inspection takes place on 27 November, the first report from inspectors would fall due on 26 January 2003.

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<sup>37</sup> *S/RES/1441 (2002)*, 8 November 2002

<sup>38</sup> *S/2002/1242*, 13 November 2002. The full text of the letter can be found in Appendix 4 and can be accessed online at <http://daccess-ods.un.org/doc/UNDOC/GEN/N02/690/99/PDF/N0269099.pdf?OpenElement>

<sup>39</sup> BBC News web site at <http://news.bbc.co.uk>, 19 November 2002

<sup>40</sup> UN Press Release, 15 November 2002

UNMOVIC and the IAEA are directed to report back earlier to the Security Council if they conclude that their work is being obstructed or hampered by Iraq. Under Paragraph 11 of Resolution 1441, the Council:

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

In that event, the Council would “convene immediately...to consider the situation and the need for full compliance with all of the relevant Council resolutions in order to secure international peace and security”.<sup>41</sup>

## **B. Breaches and the Use of Force**

### **1. The question of automaticity**

Security Council Resolution 1441 was adopted under Chapter VII of the UN Charter. This chapter concerns action with respect to threats to or breaches of international peace and security, and it allows the Security Council to authorise the use of force. France, Russia and other states brought pressure to bear during the negotiations over the draft of Resolution 1441 to ensure that the Resolution itself did not include such an authorisation.<sup>42</sup> Instead, it provides for the inspectors to report back to the Security Council any Iraqi non-compliance, and for the Security Council to consider such a report. It repeats existing warnings to Iraq of serious consequences as a result of violations of its obligations.

The US and British Governments have stated that they would return to the Security Council in the event of a breach by Iraq of the provisions of Resolution 1441. However, they have been careful not to constrain themselves.

President Bush made the following comment following the adoption of the Resolution:

The United States has agreed to discuss any material breach with the Security Council, but without jeopardizing our freedom of action to defend our country.<sup>43</sup>

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<sup>41</sup> Paragraph 12, *S/RES/1441 (2002)*, 8 November 2002

<sup>42</sup> Eg, comments by Russian Deputy Foreign Minister, Yuriy Fedotov, that “Russia, with the support of France, China and other UN Security Council members, ‘managed to have the most unacceptable formulations from the project excluded,’ including ‘provisions which would permit an automatic unilateral use of force.’” ITAR-TASS, 8 November 2002, in *BBC Monitoring*, 9 November 2002.

<sup>43</sup> *Remarks by the President on the United Nations Security Council Resolution*, Office of the Press Secretary, 8 November 2002, <http://www.whitehouse.gov/news/releases/2002/11/print/20021108-1.html>.

The USA's explanation of vote on the Resolution elaborated these points. The US Permanent Representative to the UN, John Negroponte, was reported thus:

the resolution contained, he said, no "hidden triggers" and no "automaticity" with the use of force. The procedure to be followed was laid out in the resolution. And one way or another, Iraq would be disarmed. If the Security Council failed to act decisively in the event of further Iraqi violation, the resolution did not constrain any Member State from acting to defend itself against the threat posed by that country, or to enforce relevant United Nations resolutions and protect world peace and security.<sup>44</sup>

The report continued:

The resolution afforded Iraq a final opportunity, he said. He concurred with the Secretary-General's remark that the Security Council must face its responsibilities if Iraq's defiance continued. Members, he said, could rely on the United States to live up to its responsibilities, if the Iraq regime persisted with its refusal to disarm.

Mr Straw said, in response to questions on his statement on the draft Resolution,

I do not want to anticipate what will happen if there is a breach, except to say that although we would much prefer decisions to be taken within the Security Council, we have always made it clear that within international law we have to reserve our right to take military action, if that is required, within the existing charter and the existing body of UN Security Council resolutions if, for example, a subsequent resolution were to be vetoed.<sup>45</sup>

The UK Explanation of Vote concluded thus:

We heard loud and clear during the negotiations the concerns about "automaticity" and "hidden triggers" – the concern that on a decision so crucial we should not rush into military action; that on a decision so crucial any Iraqi violations should be discussed by the Council. Let me be equally clear in response, as a co-sponsor with the United States of the text we have adopted. There is no "automaticity" in this Resolution. If there is a further Iraqi breach of its disarmament obligations, the matter will return to the Council for discussion as required in Operational Paragraph 12. We would expect the Security Council then to meet its responsibilities.

Ultimately, Mr President, the choice lies with Iraq as to whether to take the peaceful route to disarmament. The UK hopes that Iraq will fully co-operate with the United Nations, meet its obligations, and take the path back to the lifting of sanctions laid out in Resolutions 1284 and 687. The disarmament of Iraq in the

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<sup>44</sup> Security Council Press Release, SC/7564, 8 November 2002.

<sup>45</sup> HC Deb 7 November 2002, c435.

area of WMD by peaceful means remains the UK's firm preference. But if Iraq chooses defiance and concealment, rejecting the final opportunity it has been given by the Council in Operational Paragraph 2, the UK – together, we trust, with other Members of the Security Council – will ensure that the task of disarmament required by the Resolutions is completed.<sup>46</sup>

France, Russia and China issued a joint statement giving their interpretation of the Resolution:

Resolution 1441 (2002) adopted today by the Security Council excludes any automaticity in the use of force. In this regard, we register with satisfaction the declarations of the representatives of the United States and the United Kingdom confirming this understanding in their explanations of vote, and assuring that the goal of the resolution is the full implementation of the existing Security Council resolutions on Iraq's weapons of mass destruction disarmament. All Security Council members share this goal.

In case of failure by Iraq to comply with its obligations, the provisions of paragraphs 4, 11 and 12 will apply. Such failure will be reported to the Security Council by the executive chairman of UNMOVIC (U.N. Monitoring, Verification and Inspection Commission) or the director general of the IAEA (International Atomic Energy Agency). It will be then for the Council to take (a) position on the basis of that report.

Therefore, this resolution fully respects the competence of the Security Council in the maintenance of international peace and security, in conformity with the Charter of the United Nations.<sup>47</sup>

UN Secretary-General Kofi Annan said that the Resolution “has strengthened the cause of peace,” but that “if Iraq’s defiance continues ... the Security Council must face its responsibilities.”<sup>48</sup>

## **2. Procedure in the event of a breach**

Resolution 1441 provides that breaches of its terms be reported to the Security Council. In paragraph 4 the Security Council

decides that false statements or omissions in the declarations submitted by Iraq pursuant to this resolution and failure by Iraq at any time to comply with, and cooperate fully in the implementation of, this resolution shall constitute a further

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<sup>46</sup> *Explanation of vote on Security Council Resolution 1441 on Iraq*, Sir Jeremy Greenstock, UK Permanent Representative to the UN, 8 November 2002, at [http://www.ukun.org/xq/asp/SarticleType.17/Article\\_ID.516/qx/articles\\_show.htm](http://www.ukun.org/xq/asp/SarticleType.17/Article_ID.516/qx/articles_show.htm).

<sup>47</sup> *Reuter News*, 9 November 2002.

<sup>48</sup> Security Council Press Release, SC/7564, 8 November 2002.

material breach of Iraq's obligations and will be reported to the Council for assessment

while in paragraph 11 it

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

In the event that a report is made under paragraphs 4 or 11 the Council will then convene immediately, under paragraph 12,

in order to consider the situation and the need for full compliance with all of the relevant Council resolutions in order to secure international peace and security.

The Resolution refers to the Council's warnings to Iraq that "it will face serious consequences as a result of its continued violations of its obligations" and decides that its own terms constitute "a final opportunity to comply with its disarmament obligations." Mr Straw told the House that "'serious consequences' means serious consequences up to and including military force."<sup>49</sup>

The Resolution appears to specify in great detail the steps which Iraq must take to comply, what behaviour would constitute non-compliance, and the process that would follow in that event, culminating in the Security Council meeting to consider the matter. However, the USA places emphasis on the close circumscription of Iraq, while France and Russia emphasise the process of further Council consideration. France has stated that it would agree to military action in some circumstances, but already there is disagreement over what might or might not constitute a breach of Iraq's obligations.

US officials have argued that they could refer to the Security Council for consideration as a breach Iraqi action against US aircraft patrolling the no-fly zones.<sup>50</sup> This raises two questions: does a state have the right to make such a referral, and would action in the no-fly zones constitute a breach?

In the negotiations over the text of Resolution 1441 the USA argued that any party should have the right to refer an alleged breach to the Security Council, while France and Russia argued that only the inspectors should have the right to do this. The draft had stated in paragraph 4 that any breach would be reported to the Council for assessment in accordance with paragraphs 11 or 12. Paragraph 11 directs the inspectors to make a report in the event of non-compliance, while paragraph 12 says that the Council will

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<sup>49</sup> HC Deb 7 November 2002, c436.

<sup>50</sup> *Reuter News*, 15 November 2002.

convene to consider the situation if a report is made. This would have left open the possibilities that a breach under paragraph 4 could lead to the inspectors making a report (paragraph 11) and triggering a Security Council consideration (paragraph 12), or that a breach under paragraph 4 could lead directly to a Security Council consideration.<sup>51</sup> The latter would allow parties other than the inspectors to make the report, and this implies that states could raise the matter directly. France secured a late change to the wording so that paragraph 4 in the actual Resolution states that a breach will be reported for assessment in accordance with “paragraphs 11 **and** 12” (emphasis added). So paragraph 4 (reporting a breach) can lead to paragraph 12 (assessment by the Security Council) only when paragraph 11 (a report by the inspectors) also applies. The statement issued by France, Russia and China after the vote indicates their interpretation that this secured their aim, so that the inspectors have the sole right to refer alleged breaches to the Security Council.

As to the question of whether hostile acts against aircraft patrolling the no-fly zones would be a breach of Resolution 1441, under paragraph 8 of the Resolution the Security Council decided that Iraq should not

take or threaten hostile acts directed against any representative or personnel of the United Nations or the IAEA or of any Member State taking action to uphold any Council resolution.

The USA and the UK argue that the no-fly zones were set up pursuant to Resolution 688, although other states dispute this.<sup>52</sup> Some US officials have been reported as arguing that hostile acts by Iraq in the no-fly zones would constitute a breach of paragraph 8 and could be reported by the USA to the Security Council.<sup>53</sup> General Powell was less direct:

if they were to take hostile acts against the United States or United Kingdom aircraft patrolling in the northern and (southern) no-fly zone, then I think we would have to look at that with great seriousness if they continue to do that.<sup>54</sup>

Mr Rumsfeld said that it was for Mr Bush and the Security Council to “make judgements about their view of Iraqi behaviour over a period of time.”<sup>55</sup>

Russia said that “recent claims that Iraq’s actions in the ‘no-fly’ zones can be seen as a violation of the UN Security Council resolution 1441 have no legal grounds.”<sup>56</sup> Mr

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<sup>51</sup> Theoretically, the inspectors could make a report under paragraph 11 without reference to paragraph 4, but this distinction is fine, since paragraph 4 covers any failure to comply with the Resolution, and would seem therefore to encompass all the possibilities of paragraph 11.

<sup>52</sup> The British position is nuanced by the invocation of a right of humanitarian intervention, which is held to apply in certain conditions. These **include** that the action should be in support of Security Council resolutions, but there are other conditions as well.

<sup>53</sup> *Reuter News*, 19 November 2002 and 15 November 2002.

<sup>54</sup> *Reuter News*, 15 November 2002.

<sup>55</sup> *Reuter News*, 19 November 2002.

Annan said, “I don’t think that the Council will say this is in contravention of the resolution.”

### **3. Other possibilities**

The question arises as to the options available to states if the Security Council did not agree on enforcement action following alleged non-compliance.

#### **a. *Reactivation of Resolution 678***

In its preamble Resolution 1441 recognises

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

The preamble recalls that

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

These obligations include the destruction of chemical, biological and nuclear weapons and verification of this by international monitors. The operative part of the Resolution goes on to decide that Iraq “has been and remains in material breach of its obligations under relevant resolutions, including resolution 687 (1991).”

An argument might be made out around these phrases that Iraq’s persistent breaches of the ceasefire terms invalidate that ceasefire, and that a return to the use of force authorised in Resolution 678 might be countenanced.

Prior to the adoption of Resolution 1441 a range of views had been expressed as to the reactivation of Resolution 678. Some commentators argued that the objective of removing Iraq from Kuwait had been secured, and therefore the authorisation of the use of force was no longer current, while others argued that the ceasefire was conditional and if Iraq breached those conditions then the authorisation of the use of force had to be seen as live, including for political reasons concerning the credibility of international law.

#### **b. *Self-defence***

A Resolution authorising a specific use of force in an explicit manner might have the advantage of indicating widespread international agreement, and it would provide a watertight legal basis, but the absence of such would not imply that any use of force would be unlawful. Future Iraqi behaviour, or discoveries about its activities, might bring other possibilities into view. States enjoy a right of self-defence, and the US and British

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<sup>56</sup> *Reuter News*, 19 November 2002.

Governments have mentioned this in the context of Iraq. Resolution 1441 makes specific reference to Iraq's breaches of the ceasefire in respect of its weapons of mass destruction, and this could be relevant to a claim of self-defence.<sup>57</sup>

Mr Straw drew attention to the range of possible situations that might arise:

the Security Council resolutions form part of international law but not the total corpus, and whether military action is justified in international law, with or without a second resolution, depends on the circumstances.<sup>58</sup>

*c. States acting in support of Security Council resolutions*

The two Governments have also argued that the Security Council must back up its resolutions with a credible threat of force in order that Iraq take them seriously. An argument might be made that if the Council did not enforce its own resolutions it would not be fulfilling its responsibilities, and states might take independent action in support of those resolutions.

Secretary of State Colin Powell said on 10 November that:

The United States believes because of past material breaches, current material breaches and new material breaches there is more than enough authority for it to act.<sup>59</sup>

He added:

I can assure you if he [Saddam Hussein] doesn't comply this time we are going to ask the UN to give authorisation for all necessary means, and if the UN isn't willing to do that, the United States with like-minded nations will go and disarm him forcefully.<sup>60</sup>

In the past, there have been occasions when extraneous political considerations have led permanent members of the Security Council to veto draft resolutions in a way that interrupted ongoing efforts by the Council to deal with a situation.<sup>61</sup> Moves have been made to circumvent this kind of deadlock in the Security Council by taking unilateral action or by turning to the General Assembly. This would not be a simple matter in legal or political terms, and the latter is most unlikely today, but it indicates a willingness by states to pursue matters outside of the Security Council if that body falls into deadlock.

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<sup>57</sup> Further information is available in a Standard Note, *The Concept of Self-Defence in International Law*, SN/IA/1957, 5 November 2002.

<sup>58</sup> HC Deb 7 November 2002, c439.

<sup>59</sup> 'We are ready to attack, US warns Saddam', *Daily Telegraph*, 11 November 2002

<sup>60</sup> 'We are ready to attack, US warns Saddam', *Daily Telegraph*, 11 November 2002

<sup>61</sup> This originated in the repeated use of the Soviet veto in 1950 in protest at the Taiwanese occupation of the Chinese seat at the UN.

Also, the no-fly zones over northern and southern Iraq were established on the argument that they supported the purposes of Security Council Resolution 688, although they were not explicitly authorised, nor indeed mentioned, therein.<sup>62</sup>

#### 4. The example of Operation Desert Fox

When the USA and the UK took military action against Iraq in December 1998, in Operation *Desert Fox*, some questions of a broadly similar nature arose. When the action was first contemplated in February 1998 the two Governments cited existing Security Council resolutions, laying emphasis on Iraq's failure to comply with its obligations under the ceasefire. There was pressure in some quarters for a further resolution declaring Iraq to be in 'material breach' of these obligations. The British Government regarded this as desirable in political terms, but not necessary for the action to be lawful. The February crisis was resolved when Iraq signed a Memorandum of Understanding with the UN Secretary-General to cooperate with weapons inspectors of UNSCOM and the IAEA. The Security Council endorsed this Memorandum in Resolution 1154, and warned Iraq of "the severest consequences" in case of violation. Later this was cited by Mr Cook as an indication that sufficient legal basis existed for the use of force:

we are absolutely clear that we have thorough clear backing in UN resolutions ... Last February Saddam was warned in the Security Council resolution [1154] that there would be the severest consequences if he broke his undertakings.<sup>63</sup>

There was dispute within the Security Council over this point. The USA maintained that Resolution 1154 provided the authority to act in the event of further Iraqi non-compliance, whereas Russia argued that the Resolution was "not an automatic green light to use force."<sup>64</sup>

In October 1998 Iraq suspended cooperation with UNSCOM and restricted the activities of the IAEA, prompting the Security Council to adopt Resolution 1205, in which it condemned Iraq's decision as a "flagrant violation" of existing resolutions. Air strikes were authorised by the US and British Governments, but were aborted after Iraq offered to resume cooperation. After a short period of further diplomatic moves, and a report by Richard Butler, the Executive Chairman of UNSCOM, that Iraq had not in fact abided by this latest commitment to cooperate, military action was taken by the USA and the UK.

The USA and the UK argued that they had authority in Security Council Resolutions for their action, and, as noted above, some other states rejected this. The legal arguments around this point, concerning the conditionality of the ceasefire, the warning of severest consequences, and the suggestion that the action was taken in support of the purposes of

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<sup>62</sup> The use of force in the no-fly zones is on the basis of self-defence.

<sup>63</sup> "Interview with Foreign Secretary Robin Cook," 18 December 1998, from FCO website at <http://www.fco.uk>.

<sup>64</sup> *Financial Times*, 4 March 1998.

the UN, particularly as expressed in its resolutions on Iraq,<sup>65</sup> might provide a model which could be used in respect of Resolution 1441. On the other hand, the action in 1998 was relatively limited, consisting of four days of air strikes against suspected weapons of mass destruction infrastructure, Republican Guard units and command and control centres, and it could be argued that the circumstances then were not in direct parallel to today's situation.

## 5. The example of Operation Desert Storm

Twelve resolutions were adopted by the Security Council in the period between Iraq's invasion of Kuwait in August 1990 and the commencement of military action in Operation *Desert Storm* in January 1991. The authorisation of the use of force came in one of these, Resolution 678, but this built on the earlier resolutions.

In August 1990 the Security Council adopted Resolution 660, in which it condemned the invasion, determined that it constituted a breach of international peace and security, and demanded that Iraq withdraw immediately. The Council made it clear that this Resolution was not an authorisation for the use of force, because it cited Article 40 of the UN Charter, which allows it to call upon states to comply with "provisional measures" before it decides on sanctions, forceful or otherwise. It also decided to meet again to consider further steps as necessary.

This happened soon afterwards when Resolution 661 was adopted. This imposed economic sanctions in order to secure compliance with Resolution 660. Further resolutions refined the operation of the sanctions, imposing a maritime blockade and establishing a system for the import of food on an humanitarian basis. There were also resolutions rejecting the purported annexation of Kuwait by Iraq, demanding that foreign nationals be allowed to leave Iraq and Kuwait, condemning Iraqi attacks on diplomats in Kuwait and condemning Iraqi attempts to alter the demography of Kuwait.

Throughout this period, in the autumn of 1990, the Security Council repeated its determination to seek a solution through peaceful means. For instance, the preamble of Resolution 674 contains five paragraphs on this point, which conclude with a reaffirmation of the Council's "determination to ensure compliance by Iraq with the Security Council resolutions by maximum use of political and diplomatic means." This would suggest that states might have found it difficult to claim the authority of the Security Council resolutions passed before Resolution 678, had they sought to use force prior to its adoption. However, had cooperation broken down in the Security Council and

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<sup>65</sup> Article 2 (4) of the Charter tells states to refrain from the threat or use of force in a "manner inconsistent with the Purposes of the United Nations." Elsewhere, the Charter allows that the Security Council may authorise the use of force, and recognises that states have a right of self-defence unimpaired by the Charter. The argument that force may be used other than in self-defence or when authorised by the Security Council, so long as it is used consistently with the purposes of the UN is sometimes mooted but not generally upheld.

an authorisation not been forthcoming, the right of self-defence would still have applied. This was recognised in Resolution 661, which affirmed “the inherent right of individual or collective self-defence, in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the Charter.”

On 29 November 1990 the Security Council adopted Resolution 678, made under Chapter VII of the Charter. In Resolution 678 the Council demanded that Iraq comply with Resolution 660 (ie that it withdraw from Kuwait immediately), and with all subsequent Resolutions. It also decided “to allow Iraq one final opportunity, as a pause of goodwill, to do so.” It went on to authorise member states “to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area,” unless Iraq fully implemented the relevant resolutions by 15 January 1991. This did not happen, no further resolution was passed, and military action commenced on 16 January 1991.

### III International Response to the Resolution

#### A. Iraqi Reaction

The Iraqi Government initially gave a guarded response to the adoption of Resolution 1441 by the Security Council. The Iraqi News Agency declared the Resolution to be bad and unfair, but said the leadership would study it calmly and respond in the coming days.

The first official comment on the Resolution came from Foreign Minister Naji Sabri on 9 November, who claimed that:

The US hostile objective of using the UN Security Council as a cover for aggression on Iraq has been foiled. The international community has foiled this, for the international community does not share the evil administration in Washington's appetite for aggression, killing and destruction.<sup>66</sup>

On 11 and 12 November the Iraqi National Assembly met to debate the Resolution. A number of leading parliamentary officials denounced it as being full of lies, claiming it opened the way for US aggression against Iraq. The Assembly voted unanimously to reject Resolution 1441, although it decided to leave the final decision on whether to accept to President Saddam Hussein.

The decision to involve the National Assembly was dismissed by some observers as political theatre, as the Assembly has little real power and Saddam Hussein's son, Uday, had earlier urged it to accept the Resolution. BBC Middle East analyst Roger Hardy interpreted the Assembly's decision as a signal from the Iraqi leadership that it would ultimately accept the Resolution, but only with the greatest reluctance and distaste.<sup>67</sup>

On 13 November, two days ahead of the deadline, the Iraqi Foreign Minister wrote to the UN Secretary-General to convey Baghdad's response to Resolution 1441. The official letter, which ran to almost four and a half pages, declared that:

[...] we hereby inform you that we will deal with resolution 1441 (2002), despite its iniquitous contents, even though it is to be implemented against the background of the intentions harboured by those of bad faith.

Hence, as we said in the aforementioned agreement and press statement, we are ready to receive the inspectors so that they can perform their duties and ascertain that Iraq has produced no weapons of mass destruction in their absence from Iraq since 1998 under the circumstances known both to you and to the Security

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<sup>66</sup> *Al Jazeera* satellite TV, 9 November 2002, from *BBC Summary of World Broadcasts*, 10 November 2002

<sup>67</sup> 'Iraq parliament spurns inspectors', BBC News web site at <http://news.bbc.co.uk>, 12 November 2002

Council. We request you to inform the Security Council that we are ready to receive the inspectors in accordance with the established dates.<sup>68</sup>

Nonetheless, Mr Sabri concluded by saying that he would be sending a further letter outlining the areas of the Resolution that his government deemed to be inconsistent with international law:

I should like to inform you that I shall address a further detailed letter to you in due course, stating our comments on the procedures and measures contained in resolution 1441 (2002) that are inconsistent with international law, the Charter of the United Nations, the established facts and the requirements of previous relevant Security Council resolutions.

Baghdad's decision to accept Resolution 1441 was widely welcomed, although the possibility of a further letter drew warnings from several states that compliance had to be unconditional.

## **B. International Reaction**

President Bush welcomed the passage of Resolution 1441, declaring that:

The resolution approved today presents the Iraqi regime with a test — a final test. Iraq must now, without delay or negotiations, fully disarm; welcome full inspections, welcome full inspections, and fundamentally change the approach it has taken for more than a decade.

The regime must allow immediate and unrestricted access to every site, every document, and every person identified by inspectors. Iraq can be certain that the old game of cheat-and-retreat tolerated at other times will no longer be tolerated.

Any act of delay or defiance will be an additional breach of Iraq's international obligations, and a clear signal that the Iraqi regime has once again abandoned the path of voluntary compliance.

He concluded by saying that:

The outcome of the current crisis is already determined. The full disarmament of weapons of mass destruction will occur. The only question for the Iraqi regime is to decide how. The United States prefers that Iraq meet its obligations voluntarily, yet we are prepared for the alternative. In either case, the just demands of the world will be met.

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<sup>68</sup> S/2002/1242, 13 November 2002. The full text of the letter can be found in Appendix 4, or can be accessed online at:

<http://daccess-ods.un.org/doc/UNDOC/GEN/N02/690/99/PDF/N0269099.pdf?OpenElement>

Foreign Secretary Jack Straw said in a BBC radio interview that the adoption of the Resolution by the Security Council had left President Saddam Hussein facing “the choice of his lifetime”:

If he does comply with this United Nations Security Council resolution 1441, then the prospect and the justification for military action will recede. That’s the choice that the world has put before him with the Security Council resolution. And we’ve already seen some indications that he will meet the first, seven-day deadline, set for his acknowledgment that he accepts the Security Council resolution in principle. There’s a more important deadline on 7 December, the 30-day deadline. Under Operational Paragraph 3 he’s got thirty days in which to produce a complete disclosure of his weapons of mass destruction and the means for producing them. We will know therefore in the next thirty days whether he’s serious about complying.<sup>69</sup>

The French Prime Minister, Jean-Pierre Raffarin, welcomed the unanimous vote in the Security Council, stressing that the Resolution would “facilitate disarmament by peaceful means”. He went on to say that the vote was “good news and an encouraging decision for France”, adding:

I am proud of France's actions. President Chirac's authority allowed us to put pressure on Iraqi authorities in relation to the U.N. Security Council resolution which envisions peaceful disarmament.<sup>70</sup>

The French Foreign Minister, Dominique de Villepin, indicated that his government was “not opposed to the use of force in principle”, warning that:

if Iraq does not satisfy the obligations, there will be a second round, where the U.N. Security Council will examine the inspectors' reports and will determine what it is advisable to do, including the recourse to force.<sup>71</sup>

The Presidency of the European Union issued a statement on behalf of the Union, declaring that:

The resolution is an important step towards the elimination of Iraq's weapons of mass destruction. The European Union urges Iraq to accept immediately UNSCR Resolution 1441 and to comply unconditionally with all the provisions of the resolution. This is Iraq's last opportunity to fulfil its disarmament obligations. The European Union urges Iraq to extend full cooperation to the weapons inspectors

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<sup>69</sup> Edited transcript of interview given by the Foreign Secretary, Jack Straw, for *BBC Radio 4*, 10 November 2002, from the FCO web site at <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391629&date=2002-11-10>

<sup>70</sup> *ITAR-TASS* news agency, 9 November 2002

<sup>71</sup> *Reuters News*, 9 November 2002

and to secure immediate, unimpeded and unrestricted access for the weapons inspectors to all areas and facilities in Iraq.<sup>72</sup>

Russian Deputy Foreign Minister Yuri Fedotov said that the wording of the Resolution was “not ideal but coming from a difficult compromise”, adding that:

The main thing is that compromise is reached and the world community has managed to avert a real threat of war. The way for political and diplomatic settlement of the Iraqi situation is open.<sup>73</sup>

A Chinese Ministry of Foreign Affairs spokesman declared that China had “participated actively, and with a constructive attitude,” during the discussions in the Security Council on the new Resolution, adding that:

We resolutely advocate using peaceful methods to resolve the issue of Iraq, acting within the framework of the United Nations, by way of political and diplomatic measures. The Chinese government has always called on Iraq to implement the relevant resolutions of the Security Council strictly and in full, to cooperate fully with the United Nations, and to investigate thoroughly and destroy weapons of mass destruction. China has always believed that if there is to be a comprehensive resolution of the issue of Iraq, Iraq's sovereignty and territorial integrity, as well as its reasonable concerns, should be respected, and that based on the status of Iraq's implementation of the resolutions, the Security Council should consider suspending and ultimately abolishing the sanctions which have been imposed against Iraq for the long span of time of twelve years.<sup>74</sup>

The Syrian Permanent Representative to the United Nations offered the following explanation of why his country had voted in favour of the Resolution:

We approved the draft resolution in line with Syria's historic stands, which respect the UN resolutions, especially those related to Iraq or the Palestine question or the Arab-Israeli conflict. This vote also followed assurances and contacts that were made at the highest levels between permanent members at the Security Council and the leadership in the Syrian Arab Republic. On this basis we voted for the resolution. We saw that the drift of the resolution does not allow any side to launch an attack automatically on Iraq. This resolution also asserts the central role of the Security Council in following up all developments related to Iraq and the need to have recourse to the council to discuss the issue in the event of any future developments.<sup>75</sup>

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<sup>72</sup> Statement by the Presidency on behalf of the European Union on Security Council Resolution 1441 (Iraq), 14 November 2002, from [http://www.eu2002.dk/news/news\\_read.asp?iInformationID=24802](http://www.eu2002.dk/news/news_read.asp?iInformationID=24802)

<sup>73</sup> *ITAR TASS*, 8 November 2002, from *BBC Summary of World Broadcasts*, 9 November 2002

<sup>74</sup> *New China News Agency*, 8 November 2002, from *BBC Summary of World Broadcasts*, 10 November 2002

<sup>75</sup> *Al-Jazeera* satellite TV, 8 November 2002, from *BBC Summary of World Broadcasts*, 10 November 2002

Other Arab governments welcomed the Resolution as an important step towards defusing tension in the Gulf region and averting the threat of war.

The Egyptian Foreign Minister said that his government had played a key role in convincing Washington to address the Iraqi issue through the UN, adding that he believed Iraq would deal constructively with the inspectors and allow them unconditional access. He went on to stress his government's view that the Resolution "did not stipulate the automatic use of force."<sup>76</sup>

The Saudi cabinet urged Iraq to accept the Resolution so as to avoid inflicting harm on the Iraqi people, and expressed its hope that the Resolution would put an end to the deteriorating situation in the region and avert the danger of war.<sup>77</sup>

Kuwait called on Iraq to take the Resolution seriously and to comply with the UN's demands in order to avert the danger of war.<sup>78</sup>

The Bahraini Foreign Minister said his government hoped Iraq would comply with its obligations, saying the Resolution offered the region an opportunity to avoid any action which might endanger its security. He said the Resolution also offered an opportunity to safeguard Iraq's sovereignty and safety and maintain the integrity of its territories. It was also a chance to ease the suffering of the Iraqi people.<sup>79</sup>

An Iranian Foreign Ministry spokesman said his government hoped that Iraq would cooperate fully with the Security Council and UN arms inspectors so that the stage would not be set for America to make excuses and conduct adventurism in the region. He also stressed that the Security Council should be the decision maker and axis for any action against Iraq.<sup>80</sup>

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<sup>76</sup> Egyptian news agency *MENA*, 9 November 2002, from *BBC Summary of World Broadcasts*, 11 November 2002

<sup>77</sup> Saudi News Agency *SPA* website, 11 November 2002, from *BBC Summary of World Broadcasts*, 13 November 2002

<sup>78</sup> *Kuna* news agency, Kuwait, 9 November 2002, from *BBC Summary of World Broadcasts*, 11 November 2002

<sup>79</sup> *Gulf Daily News* website, 11 November 2002, from *BBC Summary of World Broadcasts*, 14 November 2002

<sup>80</sup> *IRNA* news agency, 9 November 2002, from *BBC Monitoring*

## IV Parliamentary Substantive Motions

Mr Straw told the House after his statement on Iraq of 7 November 2002 that he was keen to see a debate on a substantive motion at an early stage.<sup>81</sup> It was announced on 20 November that the motion for the debate on the UN Security Council Resolution on Iraq to be held on 25 November is:

That this House supports UNSCR 1441 as unanimously adopted by the UN Security Council; agrees that the Government of Iraq must comply fully with all provisions of the Resolution; and agrees that, if it fails to do so, the Security Council should meet in order to consider the situation and the need for full compliance.

There has been pressure in the past from some Members for the Government to pursue positive approval from the House if it wishes to use force. Others speak in terms of opportunities to express a view on the merits of Government policy as a whole. In the present case the Government has been careful to stress that no military action is currently planned, but rather that a credible threat of force is necessary to ensure Iraqi compliance.

The role of Parliament in relation to the use of force is discussed in Library Standard Note, *Parliament and the use of force*, SN/IA/1218, of 25 October 2001. Briefly, the decision to commit British forces to action is taken by the Government under the Royal Prerogative, and Parliament has no constitutional role. It is usual for Governments to keep the House informed of such matters and to give opportunities for debate. Commonly, a statement will be made announcing the decision to deploy troops and a debate will follow. The debate is usually on a motion to adjourn. Occasionally, debates have been held on substantive motions, for instance during the Gulf War of 1991. The commencement of hostilities was announced in a statement by John Major on 17 January 1991 and a debate took place on 21 January. The Government's motion was

that this House expresses its full support for British forces in the Gulf and their contribution to the implementation of United Nations resolutions by the multinational force, as authorised by United Nations Security Council Resolution 678.<sup>82</sup>

The Government accepted an Opposition amendment, which was put and agreed to on a division. This amended the motion by adding at the end

commends the instructions to minimise civilian casualties wherever possible; and expresses its determination that, once the aggression in Kuwait is reversed, the

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<sup>81</sup> HC Deb 7 November 2002, cc435 & 440.

<sup>82</sup> HC Deb 21 January 1991, c24.

United Nations and the international community must return with renewed vigour to resolving the wider problems in the Middle East.<sup>83</sup>

The use of such a motion is not the norm, and a successful motion is not necessary for a particular deployment. Likewise, the defeat of a substantive motion would indicate the view of the House without prejudice to the exercise of the Royal Prerogative. Rather, the significance of a vote on a substantive motion is its indication of wider political sentiment on the issue, to which the Government might be expected to respond in some way.

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<sup>83</sup> HC Deb 21 January 1991, c113.

## Appendix 1 – Memorandum of Understanding between the United Nations and the Republic of Iraq, 23 February 1998

S/1998/166

27 March 1998

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LETTER DATED 25 FEBRUARY 1998 FROM THE SECRETARY-GENERAL  
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Further to my briefing of the Security Council yesterday regarding my recent mission to Baghdad, please find attached a copy of the Memorandum of Understanding which I signed with Mr. Tariq Aziz, Deputy Prime Minister of Iraq. Although the text of the Memorandum was made available informally to the members of the Council prior to the briefing, I should appreciate it if it could now be formally brought to their attention.

(Signed) Kofi A. ANNAN

Memorandum of Understanding  
between  
the United Nations and the Republic of Iraq

1. The Government of Iraq reconfirms its acceptance of all relevant resolutions of the Security Council, including resolutions 687 (1991) and 715 (1991). The Government of Iraq further reiterates its undertaking to cooperate fully with the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA).
2. The United Nations reiterates the commitment of all Member States to respect the sovereignty and territorial integrity of Iraq.
3. The Government of Iraq undertakes to accord to UNSCOM and IAEA immediate, unconditional and unrestricted access in conformity with the resolutions referred to in paragraph 1. In the performance of its mandate under the Security Council resolutions, UNSCOM undertakes to respect the legitimate concerns of Iraq relating to national security, sovereignty and dignity.
4. The United Nations and the Government of Iraq agree that the following special procedures shall apply to the initial and subsequent entries for the performance of the tasks mandated at the eight Presidential Sites in Iraq as defined in the annex to the present Memorandum:
  - (a) A Special Group shall be established for this purpose by the Secretary-General in consultation with the Executive Chairman of UNSCOM and the Director General of IAEA. This Group shall comprise senior diplomats appointed by the Secretary-General and experts drawn from UNSCOM and IAEA. The Group shall be headed by a Commissioner appointed by the Secretary-General.

(b) In carrying out its work, the Special Group shall operate under the established procedures of UNSCOM and IAEA, and specific detailed procedures which will be developed given the special nature of the Presidential Sites, in accordance with the relevant resolutions of the Security Council.

(c) The report of the Special Group on its activities and findings shall be submitted by the Executive Chairman of UNSCOM to the Security Council through the Secretary-General.

5. The United Nations and the Government of Iraq further agree that all other areas, facilities, equipment, records and means of transportation shall be subject to UNSCOM procedures hitherto established.

6. Noting the progress achieved by UNSCOM in various disarmament areas, and the need to intensify efforts in order to complete its mandate, the United Nations and the Government of Iraq agree to improve cooperation, and efficiency, effectiveness and transparency of work, so as to enable UNSCOM to report to the Council expeditiously under paragraph 22 of resolution 687 (1991). To achieve this goal, the Government of Iraq and UNSCOM will implement the recommendations directed at them as contained in the report of the emergency session of UNSCOM held on 21 November 1997.

7. The lifting of sanctions is obviously of paramount importance to the people and Government of Iraq and the Secretary-General undertook to bring this matter to the full attention of the members of the Security Council.

Signed this 23rd day of February 1998 in Baghdad in two originals in English.

For the United Nations

Kofi A. Annan  
Secretary-General

For the Republic of Iraq

Tariq Aziz  
Deputy Prime Minister

Annex  
to the Memorandum of Understanding  
between the United Nations and the Republic of Iraq  
of 23 February 1998

The eight Presidential Sites subject to the regime agreed upon in the present Memorandum of Understanding are the following:

1. The Republican Palace Presidential Site (Baghdad).
2. Radwaniyah Presidential Site (Baghdad).
3. Sijood Presidential Site (Baghdad).
4. Tikrit Presidential Site.
5. Tharthar Presidential Site.

6. Jabal Makhul Presidential Site.

7. Mosul Presidential Site.

8. Basrah Presidential Site.

The perimeter of the area of each site is recorded in the survey of the "Presidential sites" in Iraq implemented by the United Nations Technical Mission designated by the Secretary-General, as attached to the letter dated 21 February 1998 addressed by the Secretary-General to the Deputy Prime Minister of Iraq.

## **Appendix 2 – UN Security Council Resolution 1284**

UNITED NATIONS

17 December 1999

RESOLUTION 1284 (1999)

Adopted by the Security Council at its 4084th meeting,  
on 17 December 1999

*The Security Council,*

*Recalling* its previous relevant resolutions, including its resolutions 661 (1990) of 6 August 1990, 687 (1991) of 3 April 1991, 699 (1991) of 17 June 1991, 707 (1991) of 15 August 1991, 715 (1991) of 11 October 1991, 986 (1995) of 14 April 1995, 1051 (1996) of 27 March 1996, 1153 (1998) of 20 February 1998, 1175 (1998) of 19 June 1998, 1242 (1999) of 21 May 1999 and 1266 (1999) of 4 October 1999,

*Recalling* the approval by the Council in its resolution 715 (1991) of the plans for future ongoing monitoring and verification submitted by the Secretary-General and the Director General of the International Atomic Energy Agency (IAEA) in pursuance of paragraphs 10 and 13 of resolution 687 (1991),

*Welcoming* the reports of the three panels on Iraq (S/1999/356), and having held a comprehensive consideration of them and the recommendations contained in them,

*Stressing* the importance of a comprehensive approach to the full implementation of all relevant Security Council resolutions regarding Iraq and the need for Iraqi compliance with these resolutions,

*Recalling* the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons as referred to in paragraph 14 of resolution 687 (1991),

*Concerned* at the humanitarian situation in Iraq, and determined to improve that situation, *Recalling* with concern that the repatriation and return of all Kuwaiti and third country nationals or their remains, present in Iraq on or after 2 August 1990, pursuant to paragraph 2 (c) of resolution 686 (1991) of 2 March 1991 and paragraph 30 of resolution 687 (1991), have not yet been fully carried out by Iraq,

*Recalling* that in its resolutions 686 (1991) and 687 (1991) the Council demanded that Iraq return in the shortest possible time all Kuwaiti property it had seized, and noting with regret that Iraq has still not complied fully with this demand,

*Acknowledging* the progress made by Iraq towards compliance with the provisions of resolution 687 (1991), but noting that, as a result of its failure to implement the relevant Council resolutions fully, the conditions do not exist which would enable the Council to take a decision pursuant to resolution 687 (1991) to lift the prohibitions referred to in that resolution,

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

*Acting* under Chapter VII of the Charter of the United Nations, and taking into account that operative provisions of this resolution relate to previous resolutions adopted under Chapter VII of the Charter,

A.

1. *Decides* to establish, as a subsidiary body of the Council, the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) which replaces the Special Commission established pursuant to paragraph 9 (b) of resolution 687 (1991);

2. *Decides also* that UNMOVIC will undertake the responsibilities mandated to the Special Commission by the Council with regard to the verification of compliance by Iraq with its obligations under paragraphs 8, 9 and 10 of resolution 687 (1991) and other related resolutions, that UNMOVIC will establish and operate, as was recommended by the panel on disarmament and current and future ongoing monitoring and verification issues, a reinforced system of ongoing monitoring and verification, which will implement the plan approved by the Council in resolution 715 (1991) and address unresolved disarmament issues, and that UNMOVIC will identify, as necessary in accordance with its mandate, additional sites in Iraq to be covered by the reinforced system of ongoing monitoring and verification;

3. *Reaffirms* the provisions of the relevant resolutions with regard to the role of the IAEA in addressing compliance by Iraq with paragraphs 12 and 13 of resolution 687 (1991) and other related resolutions, and requests the Director General of the IAEA to maintain this role with the assistance and cooperation of UNMOVIC;

4. *Reaffirms* its resolutions 687 (1991), 699 (1991), 707 (1991), 715 (1991), 1051 (1996), 1154 (1998) and all other relevant resolutions and statements of its President, which establish the criteria for Iraqi compliance, affirms that the obligations of Iraq referred to in those resolutions and statements with regard to cooperation with the Special Commission, unrestricted access and provision of information will apply in respect of UNMOVIC, and decides in particular that Iraq shall allow UNMOVIC teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transport which they wish to inspect in accordance with the mandate of UNMOVIC, as well as to all officials and other persons under the authority of the Iraqi Government whom UNMOVIC wishes to interview so that UNMOVIC may fully discharge its mandate;

5. *Requests* the Secretary-General, within 30 days of the adoption of this resolution, to appoint, after consultation with and subject to the approval of the Council, an Executive Chairman of UNMOVIC who will take up his mandated tasks as soon as possible, and, in consultation with the Executive Chairman and the Council members, to appoint suitably qualified experts as a College of Commissioners for UNMOVIC which will meet regularly to review the implementation of this and other relevant resolutions and provide professional advice and guidance to the Executive Chairman, including on significant policy decisions and on written reports to be submitted to the Council through the Secretary-General;

6. *Requests* the Executive Chairman of UNMOVIC, within 45 days of his appointment, to submit to the Council, in consultation with and through the Secretary-General, for its approval an

organizational plan for UNMOVIC, including its structure, staffing requirements, management guidelines, recruitment and training procedures, incorporating as appropriate the recommendations of the panel on disarmament and current and future ongoing monitoring and verification issues, and recognizing in particular the need for an effective, cooperative management structure for the new organization, for staffing with suitably qualified and experienced personnel, who would be regarded as international civil servants subject to Article 100 of the Charter of the United Nations, drawn from the broadest possible geographical base, including as he deems necessary from international arms control organizations, and for the provision of high quality technical and cultural training;

7. *Decides* that UNMOVIC and the IAEA, not later than 60 days after they have both started work in Iraq, will each draw up, for approval by the Council, a work programme for the discharge of their mandates, which will include both the implementation of the reinforced system of ongoing monitoring and verification, and the key remaining disarmament tasks to be completed by Iraq pursuant to its obligations to comply with the disarmament requirements of resolution 687 (1991) and other related resolutions, which constitute the governing standard of Iraqi compliance, and further decides that what is required of Iraq for the implementation of each task shall be clearly defined and precise;

8. *Requests* the Executive Chairman of UNMOVIC and the Director General of the IAEA, drawing on the expertise of other international organizations as appropriate, to establish a unit which will have the responsibilities of the joint unit constituted by the Special Commission and the Director General of the IAEA under paragraph 16 of the export/import mechanism approved by resolution 1051 (1996), and also requests the Executive Chairman of UNMOVIC, in consultation with the Director General of the IAEA, to resume the revision and updating of the lists of items and technology to which the mechanism applies;

9. *Decides* that the Government of Iraq shall be liable for the full costs of UNMOVIC and the IAEA in relation to their work under this and other related resolutions on Iraq;

10. *Requests* Member States to give full cooperation to UNMOVIC and the IAEA in the discharge of their mandates;

11. *Decides* that UNMOVIC shall take over all assets, liabilities and archives of the Special Commission, and that it shall assume the Special Commission's part in agreements existing between the Special Commission and Iraq and between the United Nations and Iraq, and affirms that the Executive Chairman, the Commissioners and the personnel serving with UNMOVIC shall have the rights, privileges, facilities and immunities of the Special Commission;

12. *Requests* the Executive Chairman of UNMOVIC to report, through the Secretary-General, to the Council, following consultation with the Commissioners, every three months on the work of UNMOVIC, pending submission of the first reports referred to in paragraph 33 below, and to report immediately when the reinforced system of ongoing monitoring and verification is fully operational in Iraq;

B.

13. *Reiterates* the obligation of Iraq, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third country nationals referred to in paragraph 30 of resolution 687 (1991), to extend all necessary cooperation to the International Committee of the Red Cross, and calls upon

the Government of Iraq to resume cooperation with the Tripartite Commission and Technical Subcommittee established to facilitate work on this issue;

14. *Requests* the Secretary-General to report to the Council every four months on compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third country nationals or their remains, to report every six months on the return of all Kuwaiti property, including archives, seized by Iraq, and to appoint a high-level coordinator for these issues;

C.

15. *Authorizes* States, notwithstanding the provisions of paragraphs 3 (a), 3 (b) and 4 of resolution 661 (1990) and subsequent relevant resolutions, to permit the import of any volume of petroleum and petroleum products originating in Iraq, including financial and other essential transactions directly relating thereto, as required for the purposes and on the conditions set out in paragraph 1 (a) and (b) and subsequent provisions of resolution 986 (1995) and related resolutions;

16. *Underlines*, in this context, its intention to take further action, including permitting the use of additional export routes for petroleum and petroleum products, under appropriate conditions otherwise consistent with the purpose and provisions of resolution 986 (1995) and related resolutions;

17. *Directs* the Committee established by resolution 661 (1990) to approve, on the basis of proposals from the Secretary-General, lists of humanitarian items, including foodstuffs, pharmaceutical and medical supplies, as well as basic or standard medical and agricultural equipment and basic or standard educational items, decides, notwithstanding paragraph 3 of resolution 661 (1990) and paragraph 20 of resolution 687 (1991), that supplies of these items will not be submitted for approval of that Committee, except for items subject to the provisions of resolution 1051 (1996), and will be notified to the Secretary-General and financed in accordance with the provisions of paragraph 8 (a) and 8 (b) of resolution 986 (1995), and requests the Secretary-General to inform the Committee in a timely manner of all such notifications received and actions taken;

18. *Requests* the Committee established by resolution 661 (1990) to appoint, in accordance with resolutions 1175 (1998) and 1210 (1998), a group of experts, including independent inspection agents appointed by the Secretary-General in accordance with paragraph 6 of resolution 986 (1995), decides that this group will be mandated to approve speedily contracts for the parts and the equipments necessary to enable Iraq to increase its exports of petroleum and petroleum products, according to lists of parts and equipments approved by that Committee for each individual project, and requests the Secretary-General to continue to provide for the monitoring of these parts and equipments inside Iraq;

19. *Encourages* Member States and international organizations to provide supplementary humanitarian assistance to Iraq and published material of an educational character to Iraq;

20. *Decides* to suspend, for an initial period of six months from the date of the adoption of this resolution and subject to review, the implementation of paragraph 8 (g) of resolution 986 (1995);

21. *Requests* the Secretary-General to take steps to maximize, drawing as necessary on the advice of specialists, including representatives of international humanitarian organizations, the effectiveness of the arrangements set out in resolution 986 (1995) and related resolutions

including the humanitarian benefit to the Iraqi population in all areas of the country, and further requests the Secretary-General to continue to enhance as necessary the United Nations observation process in Iraq, ensuring that all supplies under the humanitarian programme are utilized as authorized, to bring to the attention of the Council any circumstances preventing or impeding effective and equitable distribution and to keep the Council informed of the steps taken towards the implementation of this paragraph;

22. *Requests also* the Secretary-General to minimize the cost of the United Nations activities associated with the implementation of resolution 986 (1995) as well as the cost of the independent inspection agents and the certified public accountants appointed by him, in accordance with paragraphs 6 and 7 of resolution 986 (1995);

23. *Requests further* the Secretary-General to provide Iraq and the Committee established by resolution 661 (1990) with a daily statement of the status of the escrow account established by paragraph 7 of resolution 986 (1995);

24. *Requests* the Secretary-General to make the necessary arrangements, subject to Security Council approval, to allow funds deposited in the escrow account established by resolution 986 (1995) to be used for the purchase of locally produced goods and to meet the local cost for essential civilian needs which have been funded in accordance with the provisions of resolution 986 (1995) and related resolutions, including, where appropriate, the cost of installation and training services;

25. *Directs* the Committee established by resolution 661 (1990) to take a decision on all applications in respect of humanitarian and essential civilian needs within a target of two working days of receipt of these applications from the Secretary-General, and to ensure that all approval and notification letters issued by the Committee stipulate delivery within a specified time, according to the nature of the items to be supplied, and requests the Secretary-General to notify the Committee of all applications for humanitarian items which are included in the list to which the export/import mechanism approved by resolution 1051 (1996) applies;

26. *Decides* that Hajj pilgrimage flights which do not transport cargo into or out of Iraq are exempt from the provisions of paragraph 3 of resolution 661 (1990) and resolution 670 (1990), provided timely notification of each flight is made to the Committee established by resolution 661 (1990), and requests the Secretary-General to make the necessary arrangements, for approval by the Security Council, to provide for reasonable expenses related to the Hajj pilgrimage to be met by funds in the escrow account established by resolution 986 (1995);

27. *Calls upon* the Government of Iraq:

(i) to take all steps to ensure the timely and equitable distribution of all humanitarian goods, in particular medical supplies, and to remove and avoid delays at its warehouses;

(ii) to address effectively the needs of vulnerable groups, including children, pregnant women, the disabled, the elderly and the mentally ill among others, and to allow freer access, without any discrimination, including on the basis of religion or nationality, by United Nations agencies and humanitarian organizations to all areas and sections of the population for evaluation of their nutritional and humanitarian condition;

(iii) to prioritize applications for humanitarian goods under the arrangements set out in resolution 986 (1995) and related resolutions;

(iv) to ensure that those involuntarily displaced receive humanitarian assistance without the need to demonstrate that they have resided for six months in their places of temporary residence;

(v) to extend full cooperation to the United Nations Office for Project Services mine-clearance programme in the three northern Governorates of Iraq and to consider the initiation of the demining efforts in other Governorates;

28. *Requests* the Secretary-General to report on the progress made in meeting the humanitarian needs of the Iraqi people and on the revenues necessary to meet those needs, including recommendations on necessary additions to the current allocation for oil spare parts and equipment, on the basis of a comprehensive survey of the condition of the Iraqi oil production sector, not later than 60 days from the date of the adoption of this resolution and updated thereafter as necessary;

29. *Expresses* its readiness to authorize additions to the current allocation for oil spare parts and equipment, on the basis of the report and recommendations requested in paragraph 28 above, in order to meet the humanitarian purposes set out in resolution 986 (1995) and related resolutions;

30. *Requests* the Secretary-General to establish a group of experts, including oil industry experts, to report within 100 days of the date of adoption of this resolution on Iraq's existing petroleum production and export capacity and to make recommendations, to be updated as necessary, on alternatives for increasing Iraq's petroleum production and export capacity in a manner consistent with the purposes of relevant resolutions, and on the options for involving foreign oil companies in Iraq's oil sector, including investments, subject to appropriate monitoring and controls;

31. *Notes* that in the event of the Council acting as provided for in paragraph 33 of this resolution to suspend the prohibitions referred to in that paragraph, appropriate arrangements and procedures will need, subject to paragraph 35 below, to be agreed by the Council in good time beforehand, including suspension of provisions of resolution 986 (1995) and related resolutions;

32. *Requests* the Secretary-General to report to the Council on the implementation of paragraphs 15 to 30 of this resolution within 30 days of the adoption of this resolution;

#### D.

33. *Expresses* its intention, upon receipt of reports from the Executive Chairman of UNMOVIC and from the Director General of the IAEA that Iraq has cooperated in all respects with UNMOVIC and the IAEA in particular in fulfilling the work programmes in all the aspects referred to in paragraph 7 above, for a period of 120 days after the date on which the Council is in receipt of reports from both UNMOVIC and the IAEA that the reinforced system of ongoing monitoring and verification is fully operational, to suspend with the fundamental objective of improving the humanitarian situation in Iraq and securing the implementation of the Council's resolutions, for a period of 120 days renewable by the Council, and subject to the elaboration of effective financial and other operational measures to ensure that Iraq does not acquire prohibited items, prohibitions against the import of commodities and products originating in Iraq, and prohibitions against the sale, supply and delivery to Iraq of civilian commodities and products

other than those referred to in paragraph 24 of resolution 687 (1991) or those to which the mechanism established by resolution 1051 (1996) applies;

34. *Decides* that in reporting to the Council for the purposes of paragraph 33 above, the Executive Chairman of UNMOVIC will include as a basis for his assessment the progress made in completing the tasks referred to in paragraph 7 above;

35. *Decides* that if at any time the Executive Chairman of UNMOVIC or the Director General of the IAEA reports that Iraq is not cooperating in all respects with UNMOVIC or the IAEA or if Iraq is in the process of acquiring any prohibited items, the suspension of the prohibitions referred to in paragraph 33 above shall terminate on the fifth working day following the report, unless the Council decides to the contrary;

36. *Expresses* its intention to approve arrangements for effective financial and other operational measures, including on the delivery of and payment for authorized civilian commodities and products to be sold or supplied to Iraq, in order to ensure that Iraq does not acquire prohibited items in the event of suspension of the prohibitions referred to in paragraph 33 above, to begin the elaboration of such measures not later than the date of the receipt of the initial reports referred to in paragraph 33 above, and to approve such arrangements before the Council decision in accordance with that paragraph;

37. *Further expresses* its intention to take steps, based on the report and recommendations requested in paragraph 30 above, and consistent with the purpose of resolution 986 (1995) and related resolutions, to enable Iraq to increase its petroleum production and export capacity, upon receipt of the reports relating to the cooperation in all respects with UNMOVIC and the IAEA referred to in paragraph 33 above;

38. *Reaffirms* its intention to act in accordance with the relevant provisions of resolution 687 (1991) on the termination of prohibitions referred to in that resolution;

39. *Decides* to remain actively seized of the matter and expresses its intention to consider action in accordance with paragraph 33 above no later than 12 months from the date of the adoption of this resolution provided the conditions set out in paragraph 33 above have been satisfied by Iraq.

## Appendix 3 – UN Security Council Resolution 1441

**UNITED NATIONS**

**8 November 2002**

**Resolution 1441 (2002)**

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

*The Security Council,*

*Recalling* all its previous relevant resolutions, in particular its resolutions 661 (1990) of 6 August 1990, 678 (1990) of 29 November 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 April 1991, 688 (1991) of 5 April 1991, 707 (1991) of 15 August 1991, 715 (1991) of 11 October 1991, 986 (1995) of 14 April 1995, and 1284 (1999) of 17 December 1999, and all the relevant statements of its President,

*Recalling also* its resolution 1382 (2001) of 29 November 2001 and its intention to implement it fully,

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

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

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

*Deploring* the fact that Iraq has not provided an accurate, full, final, and complete disclosure, as required by resolution 687 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than one hundred and fifty kilometres, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes, including any which it claims are for purposes not related to nuclear-weapons-usable material,

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

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

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

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

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

*Recalling* that the effective operation of UNMOVIC, as the successor organization to the Special Commission, and the IAEA is essential for the implementation of resolution 687 (1991) and other relevant resolutions,

*Noting* that the letter dated 16 September 2002 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General is a necessary first step toward rectifying Iraq's continued failure to comply with relevant Council resolutions,

*Noting further* the letter dated 8 October 2002 from the Executive Chairman of UNMOVIC and the Director-General of the IAEA to General Al-Saadi of the Government of Iraq laying out the practical arrangements, as a follow-up to their meeting in Vienna, that are prerequisites for the resumption of inspections in Iraq by UNMOVIC and the IAEA, and expressing the gravest concern at the continued failure by the Government of Iraq to provide confirmation of the arrangements as laid out in that letter,

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

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

*Determined* to secure full compliance with its decisions,

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

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

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

3. *Decides* that, in order to begin to comply with its disarmament obligations, in addition to submitting the required biannual declarations, the Government of Iraq shall provide to UNMOVIC, the IAEA, and the Council, not later than 30 days from the date of this resolution, a currently accurate, full, and complete declaration of all aspects of its programmes to develop

chemical, biological, and nuclear weapons, ballistic missiles, and other delivery systems such as unmanned aerial vehicles and dispersal systems designed for use on aircraft, including any holdings and precise locations of such weapons, components, subcomponents, stocks of agents, and related material and equipment, the locations and work of its research, development and production facilities, as well as all other chemical, biological, and nuclear programmes, including any which it claims are for purposes not related to weapon production or material;

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

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

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

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

- UNMOVIC and the IAEA shall determine the composition of their inspection teams and ensure that these teams are composed of the most qualified and experienced experts available;
- All UNMOVIC and IAEA personnel shall enjoy the privileges and immunities, corresponding to those of experts on mission, provided in the Convention on Privileges and Immunities of the United Nations and the Agreement on the Privileges and Immunities of the IAEA;
- UNMOVIC and the IAEA shall have unrestricted rights of entry into and out of Iraq, the right to free, unrestricted, and immediate movement to and from inspection sites, and the right to inspect any sites and buildings, including immediate, unimpeded, unconditional, and unrestricted access to Presidential Sites equal to that at other sites, notwithstanding the provisions of resolution 1154 (1998) of 2 March 1998;
- UNMOVIC and the IAEA shall have the right to be provided by Iraq the names of all personnel currently and formerly associated with Iraq's chemical, biological, nuclear, and ballistic missile programmes and the associated research, development, and production facilities;

- Security of UNMOVIC and IAEA facilities shall be ensured by sufficient United Nations security guards;
- UNMOVIC and the IAEA shall have the right to declare, for the purposes of freezing a site to be inspected, exclusion zones, including surrounding areas and transit corridors, in which Iraq will suspend ground and aerial movement so that nothing is changed in or taken out of a site being inspected;
- UNMOVIC and the IAEA shall have the free and unrestricted use and landing of fixed- and rotary-winged aircraft, including manned and unmanned reconnaissance vehicles;
- UNMOVIC and the IAEA shall have the right at their sole discretion verifiably to remove, destroy, or render harmless all prohibited weapons, subsystems, components, records, materials, and other related items, and the right to impound or close any facilities or equipment for the production thereof; and
- UNMOVIC and the IAEA shall have the right to free import and use of equipment or materials for inspections and to seize and export any equipment, materials, or documents taken during inspections, without search of UNMOVIC or IAEA personnel or official or personal baggage;

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

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

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

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

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

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

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

**Annex****Text of Blix/El-Baradei letter**

**United Nations Monitoring, Verification  
and Inspection Commission**

**International Atomic Energy Agency**

**The Executive Chairman**

**The Director General**

H.E. General Amir H. Al-Saadi  
Advisor  
Presidential Office  
Baghdad  
Iraq

8 October 2002

Dear General Al-Saadi,

During our recent meeting in Vienna, we discussed practical arrangements that are prerequisites for the resumption of inspections in Iraq by UNMOVIC and the IAEA. As you recall, at the end of our meeting in Vienna we agreed on a statement which listed some of the principal results achieved, particularly Iraq's acceptance of all the rights of inspection provided for in all of the relevant Security Council resolutions. This acceptance was stated to be without any conditions attached.

During our 3 October 2002 briefing to the Security Council, members of the Council suggested that we prepare a written document on all of the conclusions we reached in Vienna. This letter lists those conclusions and seeks your confirmation thereof. We shall report accordingly to the Security Council.

In the statement at the end of the meeting, it was clarified that UNMOVIC and the IAEA will be granted immediate, unconditional and unrestricted access to sites, including what was termed "sensitive sites" in the past.

As we noted, however, eight presidential sites have been the subject of special procedures under a Memorandum of Understanding of 1998. Should these sites be subject, as all other sites, to immediate, unconditional and unrestricted access, UNMOVIC and the IAEA would conduct inspections there with the same professionalism.

We confirm our understanding that UNMOVIC and the IAEA have the right to determine the number of inspectors required for access to any particular site. This determination will be made on the basis of the size and complexity of the site being inspected. We also confirm that Iraq will be informed of the designation of additional sites, i.e. sites not declared by Iraq or previously inspected by either UNSCOM or the IAEA, through a Notification of Inspection (NIS) provided upon arrival of the inspectors at such sites.

Iraq will ensure that no proscribed material, equipment, records or other relevant items will be destroyed except in the presence of UNMOVIC and/or IAEA inspectors, as appropriate, and at their request.

UNMOVIC and the IAEA may conduct interviews with any person in Iraq whom they believe may have information relevant to their mandate. Iraq will facilitate such interviews. It is for UNMOVIC and the IAEA to choose the mode and location for interviews.

The National Monitoring Directorate (NMD) will, as in the past, serve as the Iraqi counterpart for the inspectors. The Baghdad Ongoing Monitoring and Verification Centre (BOMVIC) will be maintained on the same premises and under the same conditions as was the former Baghdad Monitoring and Verification Centre. The NMD will make available services as before, cost free, for the refurbishment of the premises.

The NMD will provide free of cost: (a) escorts to facilitate access to sites to be inspected and communication with personnel to be interviewed; (b) a hotline for BOMVIC which will be staffed by an English speaking person on a 24 hour a day/seven days a week basis; (c) support in terms of personnel and ground transportation within the country, as requested; and (d) assistance in the movement of materials and equipment at inspectors' request (construction, excavation equipment, etc.). NMD will also ensure that escorts are available in the event of inspections outside normal working hours, including at night and on holidays.

Regional UNMOVIC/IAEA offices may be established, for example, in Basra and Mosul, for the use of their inspectors. For this purpose, Iraq will provide, without cost, adequate office buildings, staff accommodation, and appropriate escort personnel.

UNMOVIC and the IAEA may use any type of voice or data transmission, including satellite and/or inland networks, with or without encryption capability. UNMOVIC and the IAEA may also install equipment in the field with the capability for transmission of data directly to the BOMVIC, New York and Vienna (e.g. sensors, surveillance cameras). This will be facilitated by Iraq and there will be no interference by Iraq with UNMOVIC or IAEA communications.

Iraq will provide, without cost, physical protection of all surveillance equipment, and construct antennae for remote transmission of data, at the request of UNMOVIC and the IAEA. Upon request by UNMOVIC through the NMD, Iraq will allocate frequencies for communications equipment.

Iraq will provide security for all UNMOVIC and IAEA personnel. Secure and suitable accommodations will be designated at normal rates by Iraq for these personnel. For their part, UNMOVIC and the IAEA will require that their staff not stay at any accommodation other than those identified in consultation with Iraq.

On the use of fixed-wing aircraft for transport of personnel and equipment and for inspection purposes, it was clarified that aircraft used by UNMOVIC and IAEA staff arriving in Baghdad may land at Saddam International Airport. The points of departure of incoming aircraft will be decided by UNMOVIC. The Rasheed airbase will continue to be used for UNMOVIC and IAEA helicopter operations. UNMOVIC and Iraq will establish air liaison offices at the airbase. At both Saddam International Airport and Rasheed airbase, Iraq will provide the necessary support premises and facilities. Aircraft fuel will be provided by Iraq, as before, free of charge.

On the wider issue of air operations in Iraq, both fixed-wing and rotary, Iraq will guarantee the safety of air operations in its air space outside the no-fly zones. With regard to air operations in the no-fly zones, Iraq will take all steps within its control to ensure the safety of such operations.

Helicopter flights may be used, as needed, during inspections and for technical activities, such as gamma detection, without limitation in all parts of Iraq and without any area excluded. Helicopters may also be used for medical evacuation.

On the question of aerial imagery, UNMOVIC may wish to resume the use of U-2 or Mirage overflights. The relevant practical arrangements would be similar to those implemented in the past.

As before, visas for all arriving staff will be issued at the point of entry on the basis of the UN Laissez-Passer or UN Certificate; no other entry or exit formalities will be required. The aircraft passenger manifest will be provided one hour in advance of the arrival of the aircraft in Baghdad. There will be no searching of UNMOVIC or IAEA personnel or of official or personal baggage. UNMOVIC and the IAEA will ensure that their personnel respect the laws of Iraq restricting the export of certain items, for example, those related to Iraq's national cultural heritage. UNMOVIC and the IAEA may bring into, and remove from, Iraq all of the items and materials they require, including satellite phones and other equipment. With respect to samples, UNMOVIC and IAEA will, where feasible, split samples so that Iraq may receive a portion while another portion is kept for reference purposes. Where appropriate, the organizations will send the samples to more than one laboratory for analysis.

We would appreciate your confirmation of the above as a correct reflection of our talks in Vienna.

Naturally, we may need other practical arrangements when proceeding with inspections. We would expect in such matters, as with the above, Iraq's co-operation in all respect.

Yours sincerely,

*(Signed)*  
**Hans Blix**  
 Executive Chairman  
 United Nations Monitoring,  
 Agency  
 Verification and Inspection Commission

*(Signed)*  
**Mohamed ElBaradei**  
 Director General  
 International Atomic Energy

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## **Appendix 4 – Letter from Iraq’s Foreign Minister to the UN Secretary-General on Resolution 1441**

**S/2002/1242**

**13 November 2002**

**Original: English**

**Letter dated 13 November 2002 from the Secretary-General addressed to the President of the Security Council**

I have the honour to convey the attached communication, dated 13 November 2002, from the Minister for Foreign Affairs of the Republic of Iraq, His Excellency Mr. Najji Sabri.

I should be grateful if you would have this circulated as a document of the Security Council.

*(Signed)* Kofi A. Annan

### **Annex**

**Letter dated 13 November 2002 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General**

[Original: Arabic]

In the Name of God, the Merciful, the Compassionate “Go to Pharaoh; he has overstepped the bounds. But speak to him with gentle words so that hopefully he will pay heed or show some fear”

Almighty God has spoken the truth.

His Excellency Mr. Kofi Annan  
Secretary-General of the United Nations  
New York, N.Y.

Sir,

You may recall the enormous uproar created by the President of the United States of America in the greatest and most wicked slander against Iraq, in which he was followed in his malicious intent and preceded in word and infliction of harm by his lackey Tony Blair, when they spread the rumour that Iraq might have produced or might have been on the way to producing nuclear weapons during the period since 1998 in which the international inspectors were absent. They later asserted that Iraq had indeed produced chemical and biological weapons, though they know as well as we do, and other States are in a position to know, that this is an utterly unfounded fabrication. But does knowledge of the truth even enter into the vocabulary of political interaction in our time, after evil has been unleashed to the fullest within the American administration and any hope of good has been dashed? Indeed, is there any good to be expected or hoped for from American administrations now that they have been transformed by their greed, by Zionism and by other well-known factors into the false god of our time?

After some States and the public were taken in by this lie, while others remained silent, Iraq confronted them with its consent to the return of the international inspectors after agreeing with you, as representative of the United Nations in New York, on 16 September 2002, and in a press statement issued jointly in Vienna on 30 September/1 October 2002 by an Iraqi technical delegation headed by Amer Al-Saadi, Chief Inspector Hans Blix and Mohamed ElBaradei, Director General of the International Atomic Energy Agency (IAEA). Yet a few hours after Iraq's consent to the return of the inspectors became an established fact, including agreement on 19 October 2002 as the date of their arrival, Colin Powell, the American Secretary of State, declared that he would refuse to have the inspectors go to Iraq. The gang of evil began once again to talk of the need to adopt a new resolution in order to entertain the people of the world with something new, rather than following the teams of inspectors and witnessing the facts stated by Iraq, namely that it neither had produced nor possessed any nuclear, chemical or biological weapons of mass destruction during the absence of the inspectors. The officials in the international Organization and its agencies, however, and especially those from the permanent members of the Security Council, rather than engaging in such monitoring so as to expose those responsible for their lies and false accusations, busied themselves with discussions of the nature and wording of the new resolution. They would strike or add a letter here and letter there, a word here and a word there, until they reached agreement, on the argument that it was better to take the kicks of a raging bull in a small ring than to face its horns in an open space. This took place under the pressure of the American administration and its threats to withdraw from the international Organization unless it agreed to what America wanted, which was at best evil in the extreme and a reason for embarrassment for every honest and free member of the international Organization who recalls the provisions of the Charter and sees that there are some who feel shame on behalf of those members who are shameless.

We have told members of the Security Council whom we have contacted or who have contacted us, when they spoke to us of the pretexts of the Americans and their threats of aggression against our country, either by themselves or with whomever might stand with them if the Security Council did not agree to what they wanted, that we preferred, if it was inevitable, to have America alone attack us and to confront it, placing our trust in God, rather than having it obtain international cover with which to camouflage its lies in whole or in part, bringing falsehood closer to the truth so that it might stab the truth with the dagger of evil and perfidy. Indeed, we have confronted it before, at a time when it could be characterized the same way, and that was one of the reasons for its isolation in the human environment all over the globe.

America's aggressiveness and single-handed infliction of injustice and destruction on its victims, chief among them Muslim and Arab believers, constitute the main reason for its withdrawing its ambassadors and other staff, closing its embassies and limiting its interests in many parts of the world, in addition to the hatred of the peoples of the world for its aggressive policies and objectives. This is a situation which no other country in the world has experienced before, not even the fathers of colonialism in earlier times. Yet the Security Council, or more exactly those who basically run it, instead of leaving the American administration and its lackey, behind whom stands hateful Zionism, to reap the consequences of the evil they have sown, have saved iniquity rather than curbing it. We shall see, and then remorse will not be of any avail as they bite their fingers.

The influence of any international organization is based on the conviction and trust of the community in which it exists, once the organization declares that it has been established to serve goals important to that community. We fear that the United Nations will lose the trust and interest of peoples, if that has not already taken place, once it has been exhausted by powerful interests, wherever those interests converge at the expense of other peoples or flatter each other and haggle over what is false at the expense of what is true. Thus the United Nations and its agencies will collapse just as the League of Nations did before it. The responsibility for this will not rest on the American administration alone, but on all those who, in their weakness, work for its interests, yielding to its threats, enticements or promises.

He who fails to speak out the truth is a voiceless demon. Nothing is more distressing than the silence of the representatives of States in the Security Council during their discussion of the American draft in the face of the question raised by the representative of Mexico regarding the possibility of lifting the sanctions imposed on Iraq. During the consultations in the Security Council concerning resolution 1441 on 7 November 2002, the Mexican representative said that he was not satisfied with the explanations provided by the American ambassador concerning the absence of any reference to the lifting of the sanctions and the establishment in the Middle East of a zone free from weapons of mass destruction, adding that he would convey this to his Government in order to receive instructions. The British representative replied that he had listened to the statements of the delegations of Syria and Mexico regarding the inclusion in the resolution of a paragraph on the lifting of the sanctions. He said that Iraq had previously been afforded an opportunity to rid itself of weapons of mass destruction, but had ignored it and made a decision to keep them. Consequently, any reference to the lifting of the sanctions while Iraq still had such weapons was improper. Nevertheless, an indirect reference to that effect was being included. We should add that none of the representatives asked him when, how or where such an alleged decision had been taken by Iraq to keep weapons of mass destruction. The delegates treated the statement of the British representative as though it related to a matter that did not concern them, or rather, as though telling the truth was of no concern to them. Do not this and other things, together with the decline in the prestige of international organizations of this nature, point to the possibility of the collapse of this international Organization, which was founded to maintain international peace and security, but has turned into a kitchen for haggling over the interests of the big powers and for providing cover for war, destruction, blockades and the starvation of peoples?

The future will be determined in the light of the potential for reform, or the inability to achieve reform, as will the future of the United Nations. All those who show their concern in deed and not merely in word to foster this international Organization and its work on the basis of its Charter so that stability, justice and fairness prevail throughout the world as a route to peace, freedom and cooperation among peoples are called upon to exercise caution and act in accordance with international law and the Charter of the United Nations and not at whim in accordance with the unrestrained tendencies of those who threaten the world with their weapons and evil endeavours and those who narrow-mindedly look to their own interests, which they seek to achieve by bargaining at the expense of truth, justice and fairness.

We know that those who pressed the case in the Security Council for the adoption of Security Council resolution 1441 (2002) have objectives other than to ascertain that Iraq has developed no weapons of mass destruction in the absence of the inspectors from Iraq since 1998. You are aware of how they left Iraq and who was the cause of their departure. Although we are aware that, following the widely known understanding between the representatives of Iraq and the Secretary-General and the press statement issued by Blix, El Baradei and the representatives of Iraq, there are no facts or principles of justice and fairness to necessitate the adoption of that resolution in the name of the Security Council, we hereby inform you that we will deal with resolution 1441 (2002), despite its iniquitous contents, even though it is to be implemented against the background of the intentions harboured by those of bad faith. Based as this is in an attempt to spare our people harm, we shall not forget, just as others should not forget, that the preservation of our people's dignity and of their security and independence within their homeland is a sacred and honourable national duty on the agenda of our leadership and our Government. The same is true of the protection of the homeland and its sovereignty, together with that of the people and their security, interests and high values, from antagonists and oppressors. Hence, as we said in the aforementioned agreement and press statement, we are ready to receive the inspectors so that they can perform their duties and ascertain that Iraq has produced no weapons of mass destruction in their absence from Iraq since 1998 under the circumstances known both to you and to the Security Council. We request you to inform the Security Council that we are ready to receive the inspectors in accordance with the established dates. All concerned parties should remember that we are in our holy month of Ramadan and that the people are fasting, and that after this month is a

feast. The concerned bodies and officials, however, will cooperate with the inspectors against this entire background and that of the tripartite statement of France, the Russian Federation and China. The Government of Iraq will also take all of this into consideration when dealing with the inspectors and with all matters relating to their demeanour and the intentions of any one of them who demonstrates bad faith or an inappropriate approach to preserving the national dignity, independence and security of the people and the security, independence and sovereignty of the homeland. We are eager for them to accomplish their task in accordance with international law as soon as possible. If they do so in a professional and lawful manner, and without previously planned goals, the fabrications of the liars will be revealed to the public and the declared aim of the Security Council will be achieved. At that point, the Security Council will become legally obligated to lift the embargo from Iraq, failing which all persons of goodwill throughout the world, in addition to Iraq, will tell it to lift the embargo and all the other unjust sanctions from Iraq. Before the public and the law, the Council will be under obligation to apply paragraph 14 of its resolution 687 (1991) to the Zionist entity (Israel) and thereafter to the entire region of the Middle East so that it is free of weapons of mass destruction. The worldwide number of fair-minded persons will increase, together with Iraq's potential to drive from its environment the cawing of the crows of evil, who daily raid its lands, demolish its property and take the lives of those hit by their bombs, if not already claimed by the evil-doers themselves. When this happens, it will help to stabilize the region and the world, if accompanied by a solution not based on double standards to end the Zionist occupation of Palestine and if the aggressors desist from their attacks against Muslims and the world.

We therefore reiterate, through you, the same statement to the Security Council: send the inspectors to Iraq to ascertain as much and, if their conduct is thoroughly supervised to ensure that it is lawful and professional, everyone will be assured that Iraq has produced no nuclear, chemical or biological weapons of mass destruction, whatever allegations to the contrary are made by the evil pretenders. The fabrications of the liars and the deceit of the charlatans in the American and British administrations will be revealed before the world in contrast to the truthfulness of the proud Iraqis and the correctness of what they say and do. If, however, the opportunity is left for the whim of the American administration and the desires of Zionism, coupled with the followers, intelligence services, threats and foul inducements of each, to manipulate and play with the inspection teams and among their ranks, the picture will be muddled and the ensuing confusion will distort the facts and push matters in a dangerous direction, to the edge of the precipice, a situation wanted neither by the fair-minded nor by those, including my Government, who seek to uncover the facts as they stand. The fieldwork and the implementation will be the deciding factors as to whether the true intent was for the Security Council to ascertain that Iraq is free of those alleged weapons or whether the entire matter is nothing more than an evil cover for the authors of the resolution, with their vile slander and their shamelessness in lying to the public, including their own peoples.

So let the inspectors come to Baghdad to perform their duty in accordance with the law, whereupon we shall hear and see, together with those who hear, see and act, each in accordance with his obligations and rights as established in the Charter of the United Nations and international law. The final frame of reference continues to be resolution 687 (1991), which imposes obligations on the Security Council and Iraq, as well as the code of conduct contained in the agreement signed with the Secretary-General in New York on 16 September 2002 and the press statement issued jointly with Hans Blix and El Baradei in Vienna on 30 September-1 October 2002.

We hope that you will exercise your responsibilities by speaking to the oppressors and advising them that their unjust treatment of Muslims, faithful Arabs and all people has disastrous consequences and that God is omnipotent and capable of all things. Tell them that the people of Iraq are proud, faithful and militant, having fought and waged war against the former colonialism, imperialism and aggression, including that of the false god, for years and years. The price paid for the preservation of their independence, dignity and the high principles in which they believed was

rivers of blood, together with a great deal of deprivation and damage to their wealth, alongside the immortal achievements and record in which they take pride. We hope that you will advise those who are ignorant not to push the situation to the edge of the precipice at the time of implementation, because the people of Iraq will not choose to live if the price is their dignity, their homeland, their freedom or the things sacrosanct to them. On the contrary, the price will be their lives if that is the only way forward to preserve what must be preserved.

Before concluding this letter of mine, I should like to inform you that I shall address a further detailed letter to you in due course, stating our comments on the procedures and measures contained in resolution 1441 (2002) that are inconsistent with international law, the Charter of the United Nations, the established facts and the requirements of previous relevant Security Council resolutions.

“Have you guaranteed that the One in heaven will not strike earth and cause it to tumble?”

Almighty God has spoken the truth.  
God is great.

*(Signed)* Naji **Sabri**

Minister for Foreign Affairs of the Republic of Iraq  
13 November 2002

## Appendix 5 – Parliamentary Sources

### Debates, Statements and Adjournment Debates in the House of Commons on Military Action in Iraq<sup>84</sup>

#### A Selected Debates in the House of Commons

##### **Debate on a motion for the adjournment on defence in the world.**

HC Deb 17 October 2002, cc494-572

Opening and closing speeches: Rt Hon Geoff Hoon MP; Hon Bernard Jenkin MP; Rt Hon Adam Ingram MP

##### **Debate on a motion for the adjournment on Iraq and weapons of mass destruction.**

(Negatived on division 64 to 6). (Recall of Parliament during Summer Recess)

HC Deb 24 September 2002, cc26-156

Opening and closing speeches: Rt Hon Jack Straw MP; Rt Hon Michael Ancram QC DL MP; Hon Bernard Jenkin MP; Rt Hon Adam Ingram MP

##### **Debate on a motion for the adjournment on defence policy.**

HC Deb 14 February 2002, cc329-413

Opening and closing speeches: Rt Hon Geoff Hoon MP; Desmond Swayne MP; James Gray MP; Rt Hon Adam Ingram MP

##### **Debate on a motion for the adjournment on Iraq**

HC Deb 17 December 1998, cc1112-93

Opening and closing speeches: Rt Hon Robin Cook MP; Rt Hon Michael Howard QC MP; John Maples MP; Rt Hon George Robertson MP

##### **Debate on a motion condemning the continuing refusal of Iraq to comply with its obligations etc**

HC Deb 17 February 1998, cc899-989

Opening and closing speeches: Rt Hon Robin Cook MP; Rt Hon Michael Howard QC MP; Rt Hon Sir George Young MP; Rt Hon George Robertson MP

##### **Debate on a motion to express full support for British Forces in the Gulf**

HC Deb 21 January 1991, cc23-113

Opening and closing speeches: Rt Hon John Major MP; Rt Hon Neil Kinnock MP; Rt Hon Tom King MP; Rt Hon Gerald Kaufman MP

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<sup>84</sup> The selection here includes the most recent examples, plus some key debates and statements over the longer history of the issue. Full lists may be generated from POLIS or the Parliamentary Indexes.

**Debate on a motion for the adjournment on the Gulf**

HC Deb 15 January 1991, cc734-825

Opening and closing speeches: Rt Hon John Major MP; Rt Hon Neil Kinnock MP; Rt Hon Gerald Kaufman MP; Rt Hon Douglas Hurd MP

**B Selected Statements in the House**

**Statement on draft Security Council Resolution on Iraq**

HC Deb 7 November 2002, cc431-51

Rt Hon Jack Straw MP

**Statement on Iraq and weapons of mass destruction.**

(Recall of Parliament during Summer Recess)

HC Deb 24 September 2002, c1-23

Rt Hon Tony Blair MP

**Statement on the Middle East following discussions with President Bush in Crawford, Texas**

HC Deb 10 April 2002, cc22-38

Rt Hon Tony Blair MP

**Statement on coalition operations to enforce the no-fly zones over Iraq.**

HC Deb 26 February 2001, cc620-34

Rt Hon Geoff Hoon MP

**Statement on Iraq (Operation *Desert Fox*)**

HC Deb 17 December 1998, cc1097-111

Rt Hon Tony Blair MP

**Statement on Iraq**

HC Deb 24 February 1998, cc173-87

Rt Hon Tony Blair MP

**Statement on the start of hostilities in the Gulf**

HC Deb 17 January 1991, cc979-96

Rt Hon John Major MP

**Statement on developments in the Middle East since October 24 1990**

HC Deb 28 November 1990, cc869-85

Rt Hon Douglas Hurd MP

**C Recent Adjournment Debates**

**Adjournment debate on countries providing support for international terrorism.**

HC Deb 4 March 2002, cc125-32

Jim Murphy MP; Ben Bradshaw MP

**Westminster Hall adjournment debate on Iraq.**

HC Deb 6 March 2002, cc69-89WH

Tam Dalyell MP; Ben Bradshaw MP

**Westminster Hall adjournment debate on foreign policy and terrorism.**

HC Deb 31 October 2002, c323-66WH

Rt Hon Donald Anderson MP; Mike O'Brien MP

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