



# Security Council

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## **Twenty-fifth report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)**

### **I. Introduction**

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999), in which the Council requested me to report every four months on the compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third-country nationals or their remains and every six months on the return of all Kuwaiti property, including archives, seized by Iraq.

2. Since June 2006, the frequency of reports on the compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third-country nationals or their remains has been reduced from every four months to every six months.

3. My twenty-fourth report (S/2007/321) was submitted in May 2007. The present report covers the developments with regard to both issues, the compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third-country nationals or their remains and the return of all Kuwaiti property, including archives, seized by Iraq.

### **II. Background**

4. Three regional organizations, the Gulf Cooperation Council, the League of Arab States and the Organization of the Islamic Conference, have kept the issues referred to in this report on their agendas. At its 104th session, held on 1 September 2007 in Jeddah, Saudi Arabia, the Ministerial Council of the Gulf Cooperation Council urged the United Nations to continue its efforts to finalize unresolved issues, in particular with regard to the national archives of the State of Kuwait and the fate of all remaining Kuwaiti and third-country detainees.

5. The Council of the League of Arab States, meeting at the ministerial level on 5 September 2007 in Cairo, condemned both the grave human rights violations that had occurred during the occupation of the State of Kuwait and the destruction of facts relating to Kuwaiti and third-country detainees and missing persons. It expressed deep sympathy to the families of victims whose remains had been identified and concern for the plight of those whose whereabouts remained



unknown. The Council also called for every effort to be made to ascertain the fate of all Kuwaiti and third-country missing persons.

6. The annual coordination meeting of Ministers for Foreign Affairs of States members of the Organization of the Islamic Conference, held on 2 October 2007 in New York, strongly condemned the killing of Kuwaiti and Iranian prisoners of war and third-country nationals by the former Iraqi regime. The meeting also condemned the concealment of these crimes for over a decade by the former Iraqi regime, which is considered to be a violation of international humanitarian law. It called for bringing to trial the perpetrators of these crimes against humanity.

### **III. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals or their remains**

7. From 19 to 21 November 2007, the High-level Coordinator, Yuli Vorontsov, visited Kuwait, where he had meetings at the Ministry of Foreign Affairs as well as with members of the Kuwaiti National Committee for Missing Persons and Prisoners of War Affairs, representatives of Kuwait Airways Corporation and other officials. His visit to Kuwait took place after the holding of the 55th meeting of the Technical Subcommittee and the 30th meeting of the Tripartite Commission in Kuwait on 11 and 13 November, respectively. Chaired by the International Committee of the Red Cross (ICRC), both meetings were attended by representatives of Iraq, Kuwait, Saudi Arabia, France, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

8. Since my last report, the number of Kuwaiti and third-country nationals whose mortal remains have been identified remains unchanged, at 233 (208 Kuwaitis, 1 Egyptian, 2 Lebanese, 3 Iranians, 1 Omani, 6 Saudis and 12 of unknown citizenship). The identifications were based on the human remains brought to Kuwait in 2004. No exhumation activities were conducted by Kuwait in Iraq in 2007. Kuwait is unable to send field missions to Iraq to perform search, assessment and exhumation activities as long as the security situation in Iraq remains dangerous. Efforts to convince Iraqi witnesses to come to Kuwait and provide pertinent information have so far been unsuccessful.

9. The Kuwaiti National Committee informed the High-level Coordinator that while it was not possible to dispatch technical teams to Iraq, preparatory work for such humanitarian missions has continued in accordance with the plan of action adopted at Geneva in November 2006 (see S/2006/948, paras. 10 and 11). As soon as the situation in Iraq stabilizes such missions would resume in coordination with the Iraqi Government and other members of the Tripartite Commission.

10. As part of this preparatory work, Kuwait has been gathering information about burial sites in Iraq that are likely to contain mortal remains of Kuwaiti prisoners of war and third-country nationals. Kuwait looks forward to receiving from the United States of America, as well as the United Kingdom of Great Britain and Northern Ireland and France, satellite and high altitude imagery allowing it to determine with greater precision the location of mortal remains of Kuwaiti detainees in Iraq and of subsequent exhumation work. It is prepared to provide data which may narrow the area to be scanned and welcomes the arrival of foreign experts to Kuwait, if so

needed. The security situation permitting, it hopes to send a technical team to Iraq in early 2008 to carry out identification procedures at one such site.

11. Kuwait and other members of the Tripartite Commission have taken into consideration the entering into force in Iraq of the new law on the protection of gravesites now placed under supervision of the Iraqi Ministry of Human Rights. The Tripartite Commission policy and guidelines for the exhumation and identification of mortal remains, which has been in effect since June 2003, were amended accordingly.

12. In another development, in September 2007, Kuwait returned to Iraq 40 human remains whose analysis produced results insufficient to identify them as belonging to Kuwaiti or third-country missing persons. The human remains were returned with DNA profiles, which should help Iraq to identify its nationals buried in mass graves.

13. Kuwait is prepared to cooperate with Iraq, the United Kingdom and ICRC in order to locate and repatriate 10 Iraqis buried in Kuwait.

14. The case of the missing American serviceman, Captain Michael Scott Speicher, remains open and has been addressed at the meetings of the Tripartite Commission, including the latest one. The United States is resolved to continue searching for him. Kuwait has been using his DNA samples in identification procedures applied to human remains brought to the country.

#### **IV. Recent activities with regard to the return of Kuwaiti property**

15. The Kuwaiti national archives have still not been found. The country's officials have repeatedly raised this issue in conversations with the High-level Coordinator. Ambassador Vorontsov has intensified his efforts to ascertain the whereabouts and facilitate the return of the archives. He has been making inquiries in this connection.

16. The issue of the Kuwaiti archives was the main subject of the meeting held between Ambassador Vorontsov and Mr. Gordon Gray, Deputy Assistant Secretary for Near Eastern Affairs of the United States Department of State, on 26 September 2007. In a follow-up to this meeting, on 29 November, Mr. Gray wrote to Ambassador Vorontsov informing him that the United States Government had supported the efforts of the State of Kuwait and the United Nations to recover both official and unofficial Kuwait documents lost during the 1990/91 Iraqi invasion of Kuwait. Mr. Gray assured Ambassador Vorontsov that his Government would continue to cooperate with the High-level Coordinator and the Government of Kuwait in that regard and would expeditiously return documents discovered during future searches.

17. In a letter dated 2 November, the Permanent Representative of Kuwait to the United Nations informed the High-level Coordinator that the United States military in Iraq had recovered two boxes of documents belonging to Kuwait. United States officials handed the boxes over to the Kuwaiti Ministry of Foreign Affairs on 29 October. While in Kuwait, the High-level Coordinator inspected these documents, which are papers, some of a confidential nature, belonging to the Kuwaiti Ministries of Defence, Labour and Information, dating back to the years preceding Iraq's invasion of Kuwait. According to the Kuwaiti side, these documents, while important, do not constitute part of the Kuwaiti national archives.

The latter are the official records of the country belonging to the Amiri Diwan, the offices of the Council of Ministers and the Ministry of Foreign Affairs. However, the papers received are evidence that Kuwaiti documents were seized by Iraq during its invasion of Kuwait and taken out of the country.

18. On 7 September 2007, the Permanent Representative of Kuwait advised Ambassador Vorontsov that, according to the information received from the Ministry of Foreign Affairs of Saudi Arabia, the Saudi Arabian authorities had found two original paintings by Picasso and other valuable items that had been seized by Iraq during its invasion of Kuwait. The Permanent Representative of Kuwait requested the High-level Coordinator to facilitate the return of these items to Kuwait.

19. In complying with this request, Ambassador Vorontsov wrote to the Permanent Mission of Saudi Arabia to the United Nations expressing his readiness to witness the transfer from Saudi Arabia to Kuwait of the mentioned items. He hopes that the Saudi authorities will soon be in a position to carry out the transfer.

## **V. Observations**

20. Kuwait remains resolute in its determination to ensure that all persons unaccounted for or their mortal remains, regardless of their nationality, are repatriated. This essentially humanitarian goal, supported by the Security Council in paragraph 14 of its resolution 1284 (1999), given the serious security challenges in Iraq, is taking more time to achieve than initially expected. The closure of all files, the national objective of Kuwait, should be respected. Putting an end to the prolonged human tragedy will bring a sense of relief to the bereaved families.

21. I am hopeful that the security conditions in Iraq will permit Kuwait to field technical teams and resume search and exhumation activities at Iraqi mass burial sites in 2008, thus expanding the list of those whose remains have been found and identified. I am encouraged that Kuwait continues preparations for the resumption of technical operations in close contact with members of the Tripartite Commission and its Technical Subcommittee chaired by ICRC. The positive stance taken by the Iraqi authorities in this regard is commendable.

22. It is a matter of growing concern that the Kuwaiti national archives have not been found. I support the intensified activities of the High-level Coordinator aimed at determining the fate of the archives. I am grateful to the United States Government for its determination to assist in recovering and transferring to Kuwait its legitimate property.