



SECURITY COUNCIL REPORT UPDATE REPORT



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IRAQ

Expected Council Action

The US (Council president in December) has scheduled a high profile meeting of the Council on Iraq on 15 December. US Vice President Joseph Biden is expected to chair the meeting. It was unclear at time of writing at what level other Council members would participate.

It seems that the rationale for this high-level event is to mark in a distinctive way the recent positive political progress in Iraq and in particular the completion of the complex interparty negotiations on government formation. Several Iraq issues were previously scheduled on the calendar for the Council in the month of December, and the US has taken the opportunity to consolidate discussion of some of these issues and to focus Council attention on Iraq and move forward with the termination of some of the Saddam era Chapter VII obligations imposed on Iraq.

Several decisions are possible from the high-level meeting, including a presidential statement on Iraq's political progress and possibly as many as three resolutions removing some of the Chapter VII restrictions imposed on Iraq. It is unclear whether the Council meeting will also address residual issues such as the still unimplemented obligations of Iraq to Kuwait.

Background

Council members will have before them in December the Secretary-General's regular four-monthly report on Iraq. In addition a report from Gennady Tarasov, the high-level coordinator on Kuwaiti missing persons and property, is due for discussion in December.

Also the mandate for the Development Fund for Iraq (DFI) and related immunities expires at the end of the year.

It seems that negotiations have begun on draft resolutions which would:

- grant a further (and final) six-month extension of DFI immunities;
- formally terminate the Oil-for-Food programme; and
- remove Chapter VII restrictions imposed on Iraq with regard to weapons of mass destruction (WMD).

DFI

Resolution 1483 established the DFI to meet Iraq's humanitarian and economic reconstruction needs following the fall of the Saddam regime in 2003. The DFI was provided with immunities to prevent creditors from seizing Iraqi oil revenue and financial assets. It holds the proceeds of petroleum export sales from Iraq as well as balances from other frozen Iraqi funds. In December 2009 the Council adopted resolution 1905, extending the arrangements and related immunities

for the DFI for one year and calling on the government of Iraq to put in place an action plan and timeline to ensure the transition to a post-DFI mechanism by 31 December 2010.

On 10 November the UN Controller, Jun Yamazaki, briefed the Council on the DFI. Iraq requested that the DFI immunities be extended for another year. The Controller noted that it was for the Council to assess Iraq's proposal.

Oil-for-Food

The Oil-for-Food programme was established by the Council in 1995 in resolution 986 to allow Iraq an exemption to the sanctions regime to sell oil via a UN managed programme in exchange for humanitarian goods. Funds to pay suppliers were held in a UN Iraq escrow account. The programme was in practice terminated on 31 December 2007, but a residual issue remained relating to open contracts where suppliers claimed to have delivered goods to Iraq but were unpaid. Resolution 1483, which established the DFI, also envisaged the termination of the Oil-for-Food programme after which surplus funds would be transferred from the Iraq escrow account to the DFI.

In his November's DFI briefing, the UN Controller said that with regard to remaining outstanding letters of credit for Oil-for-Food suppliers, Iraq was willing to pay 32 of the bills. He noted that if the Secretariat does not receive requisite documentation for the others the Council has the option of cancelling the remaining letters of credit, though this should be subject to Iraq's providing an indemnity for all UN activities connected with the programme.

WMD

Resolution 687 of 1991 obligated Iraq to destroy its weapons of mass destruction and not use, develop, construct or acquire chemical, biological or nuclear weapons. The resolution also proscribed ballistic missiles. (Subsequent resolutions reaffirmed these obligations.)

Iraq wrote to the Council on 28 July 2010 informing it of several steps it had taken to demonstrate its commitment to the principles of disarmament and non-proliferation, including its continuing voluntary application of the additional protocol to the IAEA Safeguards Agreement. Iraq argued that in light of this, the Council should lift the outstanding restrictions pertaining to disarmament imposed on Iraq. In resolution 1936 on 5 August, the Council welcomed Iraq's voluntary application of the additional protocol on a provisional basis pending ratification and reaffirmed the importance of ratification by Iraq as soon as possible. It also welcomed the intention of the Government of Iraq to sign the Hague Code of Conduct against Ballistic Missile Proliferation.

Key Issues

The key issue for the Council is whether the progress made by Iraq in meeting its obligations with regard to establishing a DFI successor mechanism and concluding the Oil-for-Food programme now justify formal action to lift various Saddam era resolutions.

A related issue is whether—in the absence of a positive response to the Council's call for Iraq to ratify the IAEA additional protocol—it is premature to remove the Chapter VII WMD provisions.

A further key issue is whether in light of the relative lack of recent progress with regard to Iraq's obligations to Kuwait, those issues should also be touched on in the resolutions.

Options

Options for the Council include:

- allowing the DFI and related immunities to expire and the DFI successor mechanism to begin functioning on 1 January;
- responding positively to Iraq's request for a further extension of the DFI and related immunities for a short period;
- finally terminating the Oil-for-Food programme;
- taking no action on the Oil-for-Food programme until it is confirmed that the outstanding letters of credit have been settled;
- cancelling remaining letters of credit and concluding the Oil-for-Food programme on condition of indemnity for all UN activities connected with the programme;
- taking no action on WMD-related restrictions until Iraq makes further progress, for example by ratifying the IAEA additional protocol;
- removing WMD-related restrictions;
- using any agreed presidential statement or resolutions to also reassert the ongoing importance of complying with Iraq's obligations to Kuwait under Council resolutions.

Council and Wider Dynamics

It seems that many Council members are open to some sort of extension of DFI immunities in order to provide additional support to the Iraqi government in the near term. Others have been more sceptical of yet another extension, but may be persuaded to support one especially if it is clear that it would be the final extension of immunities and more limited in duration. Some members note the advice in the 10 November Secretariat briefing that it is possible for the Council to cancel letters of credit from the Oil-for-Food programme that lack requisite documentation and transfer the remaining escrow funds to the DFI or its successor.

There does not yet seem to be agreement among members with regard to removing the WMD provisions. The absence of ratification of the IAEA additional protocol is the key issue. Some view this as an important final step to demonstrate Iraqi compliance (and recall the Council's August demand in that regard). Others now seem to think it unnecessary.

There does seem to be some concern that the high-level meeting should also include Iraq/Kuwait issues including the obligations in resolution 833 relating to the international border and the outstanding compensation payments to Kuwait. (It is possible that the Council will hold consultations on 17 December following the briefing of the high-level coordinator Gennady Tarasov for missing Kuwaiti persons and property because his mandate expires at the end of December. Most members seem to support a continuation of the coordinator's activities and it appears likely the Council will extend his financing by writing to the Secretary-General before the end of the year. However, the concern flows from the fact that this will be a closed meeting which does not focus on all other relevant issues.)

The US is the lead country on Iraq issues in general, and the UK is the lead on Iraq/Kuwait issues.

UN Documents

Selected Security Council Resolutions

- S/RES/1936 (5 August 2010) extended UNAMI's mandate through 31 July 2011 and welcomed Iraq's provisional application of the IAEA additional protocol to the Comprehensive Safeguards Agreement though reaffirming the need for its ratification.
- S/RES/1905 (21 December 2009) extended the arrangements for the DFI and the International Advisory and Monitoring Board (IAMB) until 31 December 2010, called on Iraq to develop an action plan and timeline for a post-DFI mechanism in 2010 and

<p>requested the Secretary-General to report on strengthening oversight of the DFI, legal issues and options for a post-DFI mechanism, and Iraq's progress in preparing for such a mechanism.</p> <ul style="list-style-type: none"> • S/RES/1859 (22 December 2008) requested the Secretary-General to report on all Council resolutions concerning Iraq since 1990; a letter from Iraq requesting the lifting of Saddam-era resolutions is included as an annex to the resolution. • S/RES/1483 (22 May 2003) established sanctions against the previous Iraqi government, created the DFI, provided immunity to Iraqi petroleum products and envisaged the termination of the Oil-for-Food programme. • S/RES/1284 (17 December 1999) appointed a high-level coordinator for Iraq/Kuwait missing persons and property. • S/RES/986 (14 April 1995) established the Oil-for-Food program. • S/RES/833 (27 May 1993) welcomed the Secretary-General's decision for the maintenance of the Iraq/Kuwait boundary until other arrangements were made by the parties. • S/RES/692 (20 May 1991) established the UN Compensation Commission and the UN Compensation Fund.
<p>Selected Presidential Statement</p> <ul style="list-style-type: none"> • S/PRST/2010/23 (12 November 2010) welcomed the Iraqi agreement to form a national partnership government.
<p>Selected Meeting Records</p> <ul style="list-style-type: none"> • S/PV.6418 (10 November 2010) was the latest briefing on the DFI and the IAMB. • S/PV.6368 (4 August 2010) was the latest briefing on UNAMI.
<p>Selected Letters</p> <ul style="list-style-type: none"> • S/2010/567 (28 October 2010) transmitted Iraq's third quarterly report on the DFI. • S/2010/403 (28 July 2010) was a letter from Iraq to the Council outlining additional steps taken to comply with disarmament and nonproliferation obligations. • S/2010/378 (12 July 2010) informed the Secretariat that the Council had approved funding for the activities of the High-Level Coordinator for missing Kuwaiti persons and property. • S/2010/150 (22 March 2010) included an IAEA assessment of Iraq's cooperation with its safeguards activities.
<p>Selected Secretary-General's Reports</p> <ul style="list-style-type: none"> • S/2010/606 (26 November 2010) was on UNAMI. • S/2010/563 (1 November 2010) was on the DFI and the IAMB. • S/2010/300 (9 June 2010) was the most recent report on Iraq/Kuwait missing persons and property. • S/2009/385 (27 July 2009) was the report on the review of Iraq resolutions.

Other Relevant Facts

<p>Special Representative of the Secretary-General in Iraq</p> <p>Ad Melkert (Netherlands)</p>
<p>High-Level Coordinator for Iraq/Kuwait Missing Persons and Property</p> <p>Gennady Tarasov (Russia)</p>

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