



SECURITY COUNCIL REPORT

UPDATE REPORT



14 April 2006 No. 4

IRAQ/KUWAIT (MISSING PERSONS)

Expected Council Action

Council members will be briefed on Monday 17 April in closed consultations by the High-Level Coordinator Yuli M. Vorontsov on an issue arising out of the Iraqi invasion of Kuwait in 1990—the repatriation and return of Kuwaiti and third-country nationals or their remains. A statement to the press by the president of the Council is likely. Vorontsov's mandate also covers the return of Kuwaiti property, but that will not be covered in Monday's briefing.

The Council will also receive a separate briefing from the Secretariat on the Iraq Kuwait Boundary Maintenance Project (IKBMP) regarding the results of the maintenance requirements of the pillars and markers on the boundary between Iraq and Kuwait. The work of IKBMP is not controversial; no Council action on the subject is expected.

Key Facts

After Iraq invaded Kuwait on 2 August 1990, the Council, following various resolutions condemning the Iraqi invasion, authorised member states through resolution 678 to use "all necessary means" to restore international peace and security in the area. In March 1991, after Iraqi armed forces had been driven out of Kuwait, and following the passage of Council resolutions 686 and 687 setting detailed conditions for a ceasefire, the Tripartite Commission was created under International Committee of the Red Cross (ICRC) auspices to ascertain the fate of missing military personnel and civilians. The Commission consists of the allied Coalition on one side and Iraq on the other, with the ICRC as a third party.

Iraq, never having cooperated fully, withdrew from the Tripartite Commission in December 1998. On 17 December 1999, in resolution 1284, the Council requested the Secretary-General to report every four months on the compliance by Iraq with its obligations regarding the repatriation and return of all Kuwaiti and third-country nationals and their remains.

The Secretary-General appointed Yuli M. Vorontsov of the Russian Federation as the High-Level Coordinator for Iraq's compliance with its obligations regarding the missing persons. His mandate is to encourage and coordinate efforts of all parties concerned and to keep the Council periodically informed of the situation. Vorontsov regularly meets with relevant parties in the Middle East, New York and Geneva. The actual investigation and exhumation of human remains from Iraqi mass graves is conducted by Kuwaiti search and assessment teams.

By December 2002, under considerable diplomatic pressure, Iraq resumed its participation in the Tripartite Commission, and following the fall of Saddam Hussein's regime, the Coalition Provisional Authority continued cooperation with the Commission. Emphasising that the Tripartite Commission was the principal mechanism for resolving the Kuwait missing persons issue, the Secretary-General recommended in his report of August 2003 that the Council might wish to consider bringing High-Level Coordinator Vorontsov's mandate to a close upon submission of the next report in December that year.

Kuwait shortly thereafter conveyed its strong desire for the Council to continue to follow this issue and to extend Vorontsov's mandate. Following Kuwait's appeal, the Council adopted a presidential statement on the matter, deciding that High-Level Coordinator should continue his work, while announcing the Council's intention to keep his mandate under review.

In his last report, in December 2005, the Secretary-General reported that no further remains of Kuwaiti and third-country nationals and missing persons had been identified. Since the last report, Kuwaiti search and assessment teams had not been able to enter Iraq due to security concerns. It is therefore not expected that Vorontsov will be able to report any substantial developments.

The Coordinator's briefing, held every four months, is normally followed by a press statement drafted by the UK. This month, contrary to normal practice, the Secretary-General will not issue a written report on this issue as there have been very few developments since the last report was issued in December 2005.

With respect to the border issue, after the United Nations Iraq-Kuwait Observation Mission (UNIKOM) departed from the Demilitarised Zone in March 2003, the UN was unable to inspect the boundary between the countries. After Iraq and Kuwait confirmed that they would provide security and funding, the Secretary-General proposed establishing IKBMP. In February 2006, an IKBMP assessment mission was deployed to assess the maintenance requirements of the boundary pillars and markers. It is hoped that the project will contribute to the normalisation of relations between Iraq and Kuwait, and that the parties will subsequently create their own border maintenance mechanism.

Key Issues

In the Secretary-General's first report, in April 2000, on Iraq's compliance with regard to the repatriation and return of all Kuwaiti and third-country nationals or their remains, he stressed the importance of repatriating missing persons who were still alive. Last year the Secretary-General observed however, that although the fate of some 270 missing persons is not yet known, the chances that they may be found alive have diminished with time. As the number of identified persons has remained unchanged since August 2005, an issue is whether this matter, though a serious humanitarian concern, still requires the attention of the Council three times a year.

Council Dynamics

Many Council members believe it is time to bring this mandate to a close, due to the drastic change in political circumstances since its creation: the time elapsed since the missing persons disappeared and the practical obstacles the security problems in Iraq pose to the Coordinator's work. However, it seems that as long as Kuwait wants this issue on the agenda, the majority will acquiesce in retaining it. The Council has not openly discussed whether or not to terminate the mandate.

Options

The most likely option is the customary statement to the press by the president of the Council, drafted by the UK, which would convey the Council members' deepest condolences to all of the affected families and express the Council's full support for Vorontsov's continued effort.

Some other options before the Council could be:

- to decide to carry out a comprehensive review of Iraq-related mandates and the nature of future UN involvement in Iraq;
- to decide that there is no longer a need for a special High-Level Coordinator to report on Kuwaiti missing persons and transfer the responsibility to one of the Secretariat's departments; or
- to decide that rather than require reporting three times a year, reporting should be reduced to once a year.

Underlying Problems

The question of carrying out a more comprehensive review of other mandates arising out of the 1990 invasion of Kuwait overshadows the question of Vorontsov's mandate. Members otherwise interested in terminating this specific mandate might be reluctant to approach the issue, worrying that it may trigger a broader and much more contentious debate involving other mandates including, for instance, the review of United Nations Monitoring, Verification and Inspection Commission.

UN Documents

Selected Security Council Resolutions

- S/RES/1483 (22 May 2003) called on the occupying powers and relevant organisations to continue efforts to locate, identify and repatriate all Kuwait and third-country nationals or the remains of those present in Iraq on or after 2 August 1990.
- S/RES/1441 (8 November 2002) deplored the failure by Iraq to account for Kuwaiti and third-country nationals wrongfully detained.
- S/RES/1284 (17 December 1999) requested the Secretary-General to report to the Council every four months on the compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third-country nationals.
- S/RES/833 (27 May 1993) welcomed the Secretary-General's decision for the maintenance of the boundary until other arrangements were made by Iraq and Kuwait.
- S/RES/706 (18 August 1991) requested the Secretary-General to submit a report on the repatriation or return of all Kuwaiti and third-country nationals.
- S/RES/687 (3 April 1991) decided that Iraq should extend all necessary cooperation to the ICRC in their search for missing Kuwaiti and third-country nationals.
- S/RES/686 (2 March 1991) demanded that Iraq release all Kuwaiti or third country nationals and return the remains of any deceased Kuwaiti and third country nationals so detained.

Presidential Statement

- S/PRST/2003/28 (18 December 2003) expressed the Council's continued support for Vorontsov's work, while announcing its intention to keep his mandate under review.

Selected Secretary-General's Reports

- S/2005/769 (8 December 2005) commended the new Iraqi authorities on their constructive cooperation.
- S/2005/513 (8 August 2005) reported that the mortal remains of 227 Kuwaitis and other countries' nationals (six Saudi, one Lebanese, one Egyptian, one Omani, three Iranian and 12 stateless) had been identified.
- S/2003/1161 (9 December 2003) stated that more effort would be required before the questions of concern to Kuwait could be settled and proposed that the Council determine the future of High-Level Coordinator's mandate in view of the request by Kuwait that it be continued.
- S/2003/813 (13 August 2003) proposed that the Council might wish to consider bringing the High-Level Coordinator's mandate to a close by the end of 2003.

Selected Statements to the Press

- SC/8580 (14 December 2005) expressed the Council members' full support for High-Level Coordinator's continued efforts and welcomed the constructive engagement of the Government of Iraq.
- SC/8481 (25 August 2005) expressed the Council members' full support for High-Level Coordinator's continued efforts.

Selected Letters

- A/59/824-S/2005/363 (31 May 2005) was a letter from Bahrain to the Secretary-General which transmitted the Joint Communiqué of the Ministerial Meeting between the Gulf Cooperation Council states and the EU, expressing appreciation to ICRC and the Tripartite Commission for seeking Kuwaiti and third-country nationals and missing persons whose fate and whereabouts were still unknown.
- S/2002/112 (14 February 2000) appointed High-Level Coordinator Yuli M. Vorontsov.

Other Documents

- S/25811 (21 May 1993) and Add.1 (21 May 1993) was the final report on the demarcation by the UN Iraq-Kuwait Boundary Demarcation Commission.

Historical Background

8 December 2005 The Secretary-General's latest report re-stated that to date, the mortal remains of 227 Kuwaitis and other countries' nationals (six Saudi, two Lebanese, one Egyptian, one Omani, three Iranian and 12 stateless) taken from mass graves have been identified.

18 December 2003 The Council issued a presidential statement expressing the Council's continued support for Vorontsov's work, while announcing its intention to keep his mandate under review.

24 November 2003 Kuwait sent a letter to the members of the Council conveying its strong desire for the Council to extend Vorontsov's mandate.

13 August 2003 While strongly encouraging the continued collaboration between Iraq and Kuwait within the framework of the Tripartite Commission and ICRC, the Secretary-General suggested that the Council may wish to consider bringing the Coordinator's mandate to a close by the end of 2003.

1 June 2003 Tripartite Commission held its meeting at the ICRC office in Baghdad. Representatives of Kuwait, Saudi Arabia, France, the UK, the US and the Coalition Provisional Authority representing Iraq attended the meeting under the auspices of ICRC.

March 20 2003 US-led coalition invaded Iraq.

18 December 2002 Iraq participated on the sidelines of the Tripartite Commission's meeting in Geneva for first time since its decision to boycott the Commission in 1998.

14 February 2000 The Secretary-General appointed Ambassador Yuli M. Vorontsov of the Russian Federation as the High-Level Coordinator for compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third country nationals or their remains, as well as the return of all Kuwaiti property.

17 December 1999 The Council called on Iraq to resume cooperation with the Tripartite Commission and requested 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.

December 1998 Bahrain, at the time a Council member, presented an informal note to the Council, emphasising the need for an assessment of the situation of Kuwaiti prisoners of war, properties and archives.

December 1998 Iraq withdrew from the Tripartite Commission.

March 1991 A special commission was created to ascertain the fate of missing military personnel and civilians. The commission has later been referred to as the Tripartite Commission because the commission consists of the allied Coalition on one side and Iraq on the other, under ICRC auspices and chairmanship as a third party.

28 February 1991 Kuwait City was liberated and all Iraqi armed forces vacated the territory of Kuwait.

16 January 1991 A coalition force led by the US and authorised by the UN began air attacks against Iraq, followed by a ground offensive on 24 February.

29 November 1991 After the Council had adopted various resolutions condemning the Iraqi invasion, it adopted resolution 678, specifying that if Iraq had not fully implemented by 15 January 1991 all of the Council's resolutions, member states were authorised to use "all necessary means" to compel Iraq to do so and restore international peace and security in the area.

2 August 1990 Iraq invaded Kuwait.

Other Relevant Facts

High-Level Coordinator
Yuli M. Vorontsov (Russia)