

**SPAIN, UNITED KINGDOM, AND UNITED STATES DRAFT
RESOLUTION with OSI proposed changes**

The Security Council,

Recalling all its previous relevant resolutions,

Reaffirming the sovereignty and territorial integrity of Iraq,

Reaffirming also the importance of disarmament of Iraqi weapons of mass destruction and of eventual confirmation of the disarmament of Iraq,

Stressing the right of the Iraqi people freely to determine their own political future and control their own natural resources, *welcoming* the commitment of concerned parties to support the creation of an environment in which they may do so as soon as possible, and *expressing* resolve that the day when Iraqis govern themselves must come quickly,

Encouraging efforts by the people of Iraq to form a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender, and in this connection, *recalls* resolution 1325 (2000) of 31 October 2000,

Welcoming the first steps of the Iraqi people in this regard, and *noting* in this connection the 15 April 2003 Nasiriyah statement and the 28 April 2003 Baghdad statement,

Resolved that the United Nations should play a vital role in providing humanitarian relief, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance,

Noting the statement by the Group of Seven Industrialized Nations in which the members recognized the need for a multilateral effort to help rebuild and

¹ All additions to the original draft resolution text are underlined; all deletions from the original text are in ~~strikethrough~~.

develop Iraq and for the need for assistance from the International Monetary Fund and the World Bank in these efforts,

Welcoming also the resumption of humanitarian assistance and the continuing efforts of the Secretary-General and the specialized agencies to provide food and medicine to the people of Iraq,

Welcoming the appointment by the Secretary-General of his Special Advisor on Iraq,

Affirming the need for accountability for crimes and atrocities committed by the previous Iraqi regime,

Stressing the need for respect for the archaeological, historical, cultural, and religious heritage of Iraq, and for the continued protection of archaeological, historical, cultural, and religious sites, museums, libraries, and monuments,

Noting the letter of 8 May 2003 from the Permanent Representative of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security Council (S/2003/538) and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the "Authority"),

Noting further that other States that are not occupying powers are working now or in the future may work under the Authority,

Welcoming further the willingness of Member States to contribute to stability and security in Iraq by contributing personnel, equipment, and other resources under the Authority,

Concerned that many Kuwaitis and Third-State Nationals still are not accounted for since 2 August 1990,

Determining that the situation in Iraq, although improved, continues to constitute a threat to international peace and security,

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

1. *Appeals* to Member States and concerned organizations to assist the people of Iraq in their efforts to reform their institutions and rebuild their country,

and to contribute to conditions of stability and security in Iraq in accordance with this resolution;

2. *Calls upon* all Member States in a position to do so to respond immediately to the humanitarian appeals of the United Nations and other international organizations for Iraq and to provide humanitarian assistance to help meet the humanitarian and other needs of the Iraqi people by providing food, medical supplies, and resources necessary for reconstruction and rehabilitation of Iraq's economic infrastructure;

3. *Appeals to* all Member States to deny safe haven to those members of the previous Iraqi regime who are alleged to be responsible for crimes and atrocities and to support actions to bring them to justice;

4. *Calls upon* the Authority, consistent with the Charter of the United Nations and other relevant international law, ~~to promote the welfare of the Iraqi people through the effective administration of the territory,~~ to honor its obligations as an occupying power, including in particular working towards the restoration of conditions of security and stability and the creation of conditions in which the Iraqi people may freely determine their own political future;

5. *Calls upon* the occupying powers and all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907;

6. *Calls upon* the Authority, and relevant organizations and individuals to continue efforts to locate, identify, and repatriate all Kuwaiti and Third Country Nationals or the remains of those present in Iraq on or after 2 August 1990, as well as the Kuwaiti archives, that the previous Iraqi regime failed to undertake; and in this regard, *directs* the High Level Coordinator, in consultation with the International Committee of the Red Cross and the Tripartite Commission and with the appropriate support of the people of Iraq and in coordination with the Authority, to take steps to fulfill his mandate with respect to the fate of Kuwaiti and Third-Country national missing persons and property;

7. *Decides that* all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 2 August 1990, including by

establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed; and *calls* upon the United Nations Educational, Scientific, and Cultural Organization, INTERPOL, and other international organizations, as appropriate, to assist in the implementation of this paragraph;

8. *Requests* the Secretary-General to appoint a Special Representative for Iraq whose independent responsibilities shall involve reporting regularly to the Council on ~~his activities under~~ this resolution, coordinating activities of the United Nations in post-conflict processes in Iraq, coordinating among UN and international agencies and nongovernmental organizations engaged in humanitarian assistance and reconstructions activities in Iraq, and, in coordination with the Authority, assisting the people of Iraq through:

(a) coordinating humanitarian and reconstruction assistance by UN agencies and between UN agencies and non-governmental organizations;

(b) promoting the safe, orderly, and voluntary return of refugees and displaced persons;

(c) working intensively with ~~the Authority~~, the people of Iraq, and others concerned to advance their efforts to restore and establish national and local institutions for representative governance, including by collaborating to facilitate a process leading to an internationally recognized, representative government of Iraq;

(d) facilitating the reconstruction of key infrastructure, in cooperation with other international organizations;

(e) promoting economic reconstruction and the conditions for sustainable development, including through coordination with national and regional organizations, as appropriate, civil society, donors and the international financial institutions;

(f) encouraging international efforts to contribute to basic civilian administration functions;

(g) promoting the protection of human rights;

(h) encouraging international efforts to rebuild the capacity of the Iraqi civilian police force; and

(i) encouraging international efforts to promote legal and judicial reform;

8 bis Requests the Secretary General to report back within 3 months recommendations on an appropriate role for the United Nations supporting the establishment of post-conflict justice mechanisms in order to provide accountability for those who have committed violations of international humanitarian law and serious violations of fundamental human rights law;

9. *Supports* the formation, by the people of Iraq ~~with the help of the Authority and~~ working with the Special Representative, of an Iraqi interim administration as a transitional administration run by Iraqis, until an internationally recognized, representative government is established by the people of Iraq ~~and assumes the responsibilities of the Authority;~~ Calls upon the Authority to cooperate with the Special Representative for this purpose;

10. *Decides* that, with the exception of prohibitions related to the sale or supply to Iraq of arms and related materiel other than those arms and related materiel required ~~by the Authority~~ to serve the purposes of this and other related resolutions, all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and subsequent relevant resolutions, including resolution 778 (1992) of 2 October 1992, shall no longer apply;

11. *Reaffirms* that Iraq must meet its disarmament obligations, *invites* the United Kingdom of Great Britain and Northern Ireland and the United States of America to keep the Council informed of their activities in this regard, and *underlines* the intention of the Council to ~~revisit~~ implement the mandates of the UN Monitoring and Verification Commission and the International Atomic Energy Agency as set forth in resolutions 687 (1991) of 3 April 1991, 1284 (1999) of 17 December 1999, and 1441 (2002) of 8 November 2002;

12. *Notes* the establishment by the authority consistent with applicable international law of a Development Fund for Iraq to be held by the Central Bank of Iraq and to be audited by independent public accountants approved by the International Advisory and Monitoring Board of the Development Fund for Iraq and looks forward to the early meeting of that International Advisory and

Monitoring Board, whose members shall include duly qualified representatives of the Secretary General, of the Managing Director of the International Monetary Fund, of the Director-General of the Arab Fund for Social and Economic Development, of Iraqi civil society (appointed by the Secretary General), and of the President of the World Bank, and shall include fund management experts and environmental experts;

13. *Notes* further that the funds in the Development Fund for Iraq shall be disbursed at the direction of the Authority, in consultation with the International Advisory and Monitoring Board and the Iraqi interim administration, consistent with international law and for the purposes set out in paragraph 14 below;

14. *Underlines* that the Development Fund for Iraq shall be used in a transparent manner to meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq's infrastructure, ~~for the continued disarmament of Iraq,~~ and for the costs of Iraqi civilian administration ~~and for other purposes benefiting the people of Iraq;~~ the International Advisory and Monitoring Board shall report to the Council on the operations of the fund at least every three months;

15. *Calls* upon the international financial institutions to assist the people of Iraq in the reconstruction and development of their economy and to facilitate assistance by the broader donor community, and *welcomes* the readiness of creditors, including those of the Paris Club, to seek a solution to Iraq's sovereign debt problems;

16. *Requests* also that the Secretary-General, in coordination with the Authority, continue the exercise of his responsibilities under Security Council resolution 1472 (2003) of 28 March 2003 and 1476 (2003) of 24 April 2003, for a period of six months following the adoption of this resolution, and terminate within this time period, in the most cost effective manner, the ongoing operations of the "Oil-for-Food" Programme (the "Programme"), both at headquarters level and in the field, transferring responsibility for the administration of any remaining activity under the Programme to the Authority and the Iraqi interim administration, including by taking the following necessary measures:

(a) to facilitate as soon as possible the shipment and authenticated delivery of priority civilian goods as identified by the Secretary-General and representatives designated by him, in coordination with the Authority and the Iraqi interim administration, under approved and funded contracts previously concluded by the

previous Government of Iraq, for the humanitarian relief of the people of Iraq, including, as necessary, negotiating adjustments in the terms or conditions of these contracts and respective letters of credit as set forth in paragraph 4 (d) of resolution 1472 (2003);

(b) to review, in light of changed circumstances, in coordination with the Authority and the Iraqi interim administration, the relative utility of each approved and funded contract with a view to determining whether such contracts contain items required to meet the needs of the people of Iraq both now and during reconstruction, and to defer the performance of those contracts determined to be of questionable utility and the respective letters of credit until an internationally recognized, representative government of Iraq is in a position to make its own determination as to whether such contracts shall be fulfilled;

(c) to provide the Security Council within 21 days following the adoption of this resolution, for the Security Council's review and consideration, an estimated operating budget based on funds already set aside in the account established pursuant to paragraph 8 (d) of resolution 986 (1995) of 14 April 1995, identifying:

(i) all known and projected costs to the United Nations required to ensure the continued functioning of the activities associated with implementation of the present resolution, including operating and administrative expenses associated with the relevant UN agencies and programs responsible for the implementation of the Programme both at headquarters and in the field;

(ii) all known and projected costs associated with termination of the Programme;

(iii) all known and projected costs associated with restoring Government of Iraq funds that were provided by Member States to the Secretary General as requested in paragraph 1 of resolution 778 (1992) of 2 October 1992; and

(iv) all known and projected costs associated with the Special Representative and the qualified representative of the Secretary General identified to serve on the International Advisory and Monitoring Board, for the six month time period defined above;

(d) to consolidate into a single fund the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995);

(e) to fulfill all remaining obligations related to the termination of the Programme, including negotiating any necessary settlement payments in the most cost effective manner with those parties that previously have entered into contractual obligations with the Secretary-General under the Programme, and to determine, in coordination with the Authority and the Iraqi interim administration, the future status of contracts undertaken by the United Nations and related UN agencies under the accounts established pursuant to paragraphs 8 (b) and 8 (d) of resolution 986 (1995);

(f) to provide the Security Council, 30 days prior to the termination of the Programme, with a comprehensive strategy developed in close coordination with the Authority and the Iraqi interim administration that would lead to the delivery of all relevant documentation and the transfer of all operational responsibility of the Programme to the Authority;

17. *Requests* further that the Secretary General transfer as soon as possible to the Development Fund for Iraq 1 billion United States dollars from unencumbered finds in the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), and *decides* that, after deducting all relevant UN expenses associated with the shipment of authorized contracts, and to cover costs to the Programme outlined in paragraph 16(c) above, including residual obligations, all surplus funds in the escrow accounts established pursuant to paragraphs 8 (a), 8 (b), 8 (d), and 8 (f) of resolution 986 (1995) shall be transferred at the earliest possible time to the Development Fund for Iraq;

18. *Decides* to terminate effective on the adoption of this resolution the functions related to the observation and monitoring activities undertaken by the Secretary General under the Programme, including the monitoring of the export of petroleum and petroleum products from Iraq;

19. *Decides* to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six months period called for in paragraph 16 above and *further decides* that the Committee shall identify individuals and entities referred to in paragraph 23 below;

20. *Decides* that all export sales of petroleum, petroleum products, and natural gas from Iraq following the date of the adoption of this resolution shall be

made consistent with prevailing international market best practices, to be audited by independent public accountants reporting to the International Advisory and Monitoring Board referred to in paragraph 12 above in order to ensure transparency, and *decides further* that, except as provided in paragraph 21 below, all proceeds from such sales shall be deposited into the Development Fund for Iraq, until such time as an internationally recognized representative government of Iraq is properly constituted; *decides that no decision shall be made affecting the long term organization of the Iraq oil industry during this period;*

21. *Decides further* that 5 percent of the proceeds referred to in paragraph 17 above shall be deposited into the Compensation Fund established in accordance with resolution 687 (1991) of 3 April 1991 and subsequent relevant resolutions and that, unless an internationally recognized, representative government of Iraq and the Governing Council of the United Nations Compensation Commission, in the exercise of its authority over methods of ensuring that payments are made into the Compensation Fund, decides otherwise, this requirement shall be binding on a properly constituted, internationally recognized, representative government of Iraq and any successor thereto; *Decides further that X percent shall be available to UNMOVIC and X percent for the activities of the UN in Iraq.*

22. *Noting* the relevance of the establishment of an internationally recognized, representative government of Iraq and the desirability of prompt completion of the re-structuring of Iraq's debt through the process referred to in paragraph 15 above, further *decides* that, until December 31, 2007, unless the Council decides otherwise, petroleum, petroleum products, and natural gas originating in Iraq shall be immune, until title passes to the initial purchaser from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection, and that proceeds and obligations arising from sales thereof, as well as the Development Fund for Iraq, shall enjoy privileges and immunities equivalent to those enjoyed by the United Nations except that the above mentioned privileges and immunities will not apply with respect to any legal proceeding in which recourse to such proceeds or obligations is necessary to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill, that occurs after the date of adoption of this resolution;

23. *Decides* that all Member States in which there are:

(1) funds or other financial assets or economic resources of the previous Government of Iraq or its state bodies, corporations, or agencies, located outside Iraq as of the date of this resolution, or

(2) funds or other financial assets or economic resources that have been removed from Iraq, or acquired, by Saddam Hussein or other senior officials of the former Iraqi regime and their immediate family members, including entities owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction,

shall freeze without delay such funds until they can be transferred to an internationally recognized, representative government of Iraq and immediately cause the transfer of those funds or other financial assets or other economic resources to the Development Fund for Iraq; it being understood that, unless otherwise addressed, claims made by private individuals or non-government entities on those transferred funds or other financial assets may be presented to the internationally recognized, representative government of Iraq; and *decides* further that all such funds or other financial assets or economic resources shall enjoy the same privileges, immunities, and protections as provided under paragraph 22;

23 bis *Endorses the exercise of the responsibilities stated in this resolution by the Authority for an initial period of 6 months from the date of the adoption of this resolution, to continue thereafter as the Security Council decides*;

24. *Requests* the Secretary General to report to the Council at regular intervals on the ~~work of the Special Representative with respect to the implementation of this resolution and on the work of the International Advisory and Monitoring Board and invites~~ the United Kingdom of Great Britain and Northern Ireland and the United States of America periodically to inform the Council of their efforts under this resolution;

25. *Calls upon* Member States and international and regional organizations to contribute to the implementation of this resolution;

24. *Decides* to remain seized of this matter.