

DECLASSIFIEDUnited Kingdom Mission
to the United NationsOne Dag Hammarskjold Plaza
(885 Second Avenue)
New York, NY 10017

FACSIMILE LEADER

Mailing Address:

PO Box 5238

New York, NY 10150-5238

Tel:

Fax:

E-Mail: uk@un.int

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FROM:

TO: PETER RICKETTS / EDWARD CHAPLIN, FCO

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THE PAPER REFERRED TO IN OUR TELEGRAM
OF 17/02

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February resolution 2003

Background:

- Resolution 1441 (2002) demands that Iraq shall cooperate immediately, unconditionally, and actively with UNMOVIC and the IAEA -- to bring to completion the disarmament process, in particular the actions required under paragraphs 8 to 13 of resolution 687 (1991). This does not cover long term monitoring, which is open-ended.
- Resolution 1441 (2002) describes the cooperation required as a "final opportunity". However, among the various time lines it provides (for acceptance, for submission of the Declaration etc.) the latest is the one which requests the inspectors to "update" the Council two months after the first inspection. This update took place on 27 January. There is no definition of "active" and "unconditional". There are, accordingly, questions how long the "final opportunity" for "immediate" cooperation is to be open and whether the cooperation provided is, in fact, "active" and "unconditional".
- While Iraq has on some occasion tried to refer to its right to "sovereignty and territorial integrity", recognized in resolution 1441 (2002), against measures requested, e.g. air surveillance, it has generally steered clear of trying to set clear-cut conditions.
- Can one say that the cooperation has been "immediate"? On the whole there has been great promptness of response. While unsatisfactory, the Declaration and the list of personnel requested were delivered within the time lines set. Cooperation on process, e.g. setting up the regional office in Mosul and other infrastructural measures have been without delays or foot dragging.
- It can hardly be said, on the other hand, that cooperation on substance, notably solving unresolved disarmament issues and questions so far has been "active", or, as it is often termed in the Council, "proactive". A few recent measures could be seen as "active", provided that their potential usefulness is borne out by real results. **Two Commissions** have been appointed, both on the initiative of the Iraqi side. One is to look for any remaining proscribed items, the other is to look for any relevant documentation. The first commission has so far come up with 4 empty chemical weapons warheads, not much. Will the Commission find more? Will it report all the finds it makes? It remains to be seen and assessed. The other Commission has not yet reported any result. Lack of documentary evidence supporting Iraqi declarations has been a key deficiency, causing many notes of "unaccounted

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for". Will the Commission make any important document finds that can help the accounting? Will it report all of them?

- A third initiative from the Iraqi side has been recently to provide a list of personnel who took part in 1991 in the destruction of proscribed chemical items. Authentic documents contemporary with the action they refer to constitutes the best evidence. However, if such documents were to remain unavailable, interviews with witnesses could provide important evidence, provided they can take place in circumstances that give credibility to the testimony. Witnesses can evidently be scripted. A list of persons who took part in the alleged destruction of biological items in 1991 would be of as great value as the one now received. So far no interviews have taken place. It is an urgent task.
- The presentation by Iraq to the meeting on 8 and 9 February of **papers** on anthrax and growth media, Vx and missiles was a spontaneous action, focused on central issues but without any new evidence attached.
- While on the issue of **interviews** the Iraqi side claims to encourage persons to come for "private" interviews in Baghdad, there is doubt that the persons really feel they can talk freely. Interviews out of Iraq is certainly an option that must be open, but it raises difficult questions.
- **If it seems clear that many governments feel that enough time has not yet been given for the option of disarmament through inspection, how much further time, would they ask for inspections** under resolution 1441 (2002) before they give up on this option and how "active" should Iraq be required to be?
- It does not seem unreasonable to hold that **11 weeks of inspections**, which have barely come up to full strength, and which come after a period of 8 years of inspections between 1991 and 1998 and 4 years of non-inspections between the end of 1998 and November 2002, **is a rather short period** to allow a final conclusion that the disarmament requirements cannot be fulfilled through this method. What is clear, on the other hand, is that the military and political pressure has been and remains indispensable to bring about compliance. A slackening of it would, in all likelihood, result in less cooperation.
- It would not seem unreasonable in the circumstances to provide **an explicit time line** within which satisfactory cooperation and the required resolution of unresolved disarmament issues (or "key remaining disarmament tasks") would be demanded. This, of course, would leave aside the monitoring, which has no time line but requires continuing cooperation.

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- Dr. ElBaradei has talked about needing a few further months. Dr. Blix has said that a relatively short time could do if the required cooperation were to be provided. Under resolution 1284 (1999) 120 days were thought to be a time frame within which "progress" on key remaining disarmament tasks would be doable. It is evidently a question of **political judgment how much time should now be given under resolution 1441 (2002)**. However, a time frame should not be set without any regard as to what may be achievable in any given period of time. Even if very active and spontaneous cooperation were to come from the Iraqi side, notably in presenting proscribed items, or convincing evidence, the verification would take some time. (In South Africa it took two years! However, we have had inspections in Iraq since 1991 and the Iraqi side is thoroughly familiar with the questions).
- Another vital questions relates to **judging whether there has been cooperation and disarmament. And who provides this judgment**. In the last resort the Security Council must provide the answer, but it seems likely that the Council would need to rely on a prior assessment by UNMOVIC and the IAEA. Both questions are, however, very broad. To make it easier to judge whether there has been cooperation perhaps there could be some particular actions which one could look for (benchmarks) as indispensable but not conclusive. Similarly, the question whether there has been disarmament could perhaps be judged on the basis of progress noted on some key issues (as was specified in resolution 1284 (1999)) rather than the whole catalogue of issues.
- If the above reasoning were to be accepted it would become important to define key points of cooperation and to have **a precise list of unresolved disarmament issues** from which key issues could be selected. In the latter respect UNMOVIC does have a document (**the cluster document**) that could be made available to the Security Council rather soon, if requested (but not easily before 1 March, when the quarterly report is due anyway). This document seeks to define all unresolved issues and to indicate what Iraq would need to do to solve them. It is, of course, possible that some of the measures indicated for Iraq to do would turn out to be genuinely undoable and a risk that Iraq would claim that they are all undoable (no documents, no witnesses...) Nevertheless, it would probably be possible to see whether Iraq provided active, genuine cooperation to solve the issues rather than dragging its feet and be evasive.

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Below is an illustration of a draft resolution based on the reasoning and concepts given above.

Considering that

Resolution 1441 (2002) gave Iraq a last opportunity to comply with its obligations to disarm and required Iraq to cooperate immediately, unconditionally and actively to do so;

Iraq has not yet seized the opportunity;

Iraq has shown cooperation on process but not, so far, on substance;

Iraq has not presented proscribed items, which may exist, or convincing evidence about their non-existence; and thus

Iraq has not shown that it is free from weapons of mass destruction and other proscribed items and has not enabled UNMOVIC and the IAEA to examine relevant evidence,

Iraq has presented a Declaration of 12,000 pages without giving relevant new evidence;

Iraq has imported missile engines in contravention of UN resolutions and developed missiles, which exceed the permitted range;

Iraq has not secured the private interviews to which UNMOVIC/IAEA are entitled

The Security Council

1. Requests UNMOVIC/IAEA to submit by [1 March] a list of currently remaining unresolved disarmament issues and questions, indicating which, in their view are key points, and what, in their view, Iraq should do to solve these issues and to answer these questions;

2. Demands that Iraq shall eliminate under UNMOVIC/IAEA supervision all missiles and other items identified by the organizations as proscribed under Resolutions 687 (1991) and 715 (1991)

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3. Demands that Iraq shall present any and all other remaining proscribed items for elimination under supervision of UNMOVIC/IAEA and that such presentation by Iraq shall not constitute a material breach of its disarmament obligations;

4. Requests UNMOVIC/IAEA to undertake private interviews at their discretion either inside or out of Iraq with scientists and other persons who can shed light on present and past proscribed activities and items; and demands that Iraq shall ensure that such persons called by UNMOVIC/IAEA, will be made available for the private interviews in Iraq or out of Iraq, as determined by UNMOVIC/IAEA; and requests UNMOVIC/IAEA to report to the Council any non-compliance with this requirement;

5. Demands that Iraq shall facilitate the establishment by UNMOVIC/IAEA of an effective system of checking that no proscribed items are being transported on the roads;

[6. Oil pipeline to Syria?]

[7. No fly zones?]

8. Requests UNMOVIC/IAEA to submit to the Security Council *[before]* a report whether, in their judgment, the disarmament issues and questions listed by them have been resolved and whether Iraq has fulfilled the obligations laid upon it in this resolution; and to report, at any time immediately to the Council any finding of proscribed items or programs and any impediments to the inspections process;

9. Decides that if the Council should conclude, on the basis of the reports by UNMOVIC and the IAEA, that Iraq has not fulfilled its disarmament obligations or provided the required cooperation, or both, and it thus must be taken that Iraq has not made use of the inspection process, which has been offered to convince the Council and the world that it is complying with its disarmament obligations, the inspections will be terminated and the Council will consider other measures to solve the disarmament issue.

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