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The United Nations Security Council — Its Role in the Iraq Crisis: A Brief Overview

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Summary

On September 12, 2002, President Bush in his address to the U.N. General Assembly, focused on Iraq and its failure to comply with various resolutions adopted by the U.N. Security Council. He urged the Council to act in the face of such repeated violations. On November 8, 2002, the Council responded, adopting Resolution 1441 (2002) unanimously. This short report provides background information on what the U.N. Security Council is and what it does, including the occasions when it has authorized the use of force or its equivalent. As the U.N. organ having primary responsibility for the maintenance of peace and security, the 15-member Security Council set the major international response to the August 1990 Iraqi invasion of Kuwait, authorizing the use of “force” to gain Iraq’s withdrawal from Kuwait in compliance with the 11 resolutions previously passed in 1990. In 1991, after the war, the Council adopted a series of 12 resolutions that assigned an extensive set of tasks to the United Nations and imposed on Iraq an equally extensive series of obligations. As hostilities became imminent, U.N. activities inside Iraq were suspended. After March 19, 2003, the Council met in late March to air U.N. member concerns over the hostilities. This report ends with the start of hostilities and will not be updated.

What It Is and What It Does

The United Nations Security Council is one of the six principal organs of the United Nations.¹ Its membership of 15 nations consists of 10 nonpermanent members and five permanent members — China, France, the Russian Federation, the United Kingdom, and the United States. Each of these five states has veto rights over adoption of Council resolutions on substantive issues. This means that if a resolution receives the necessary nine yes votes to be adopted, if even one of these five states votes no, the resolution will not pass. The nonpermanent member nations are elected by the U.N. General Assembly each fall, five annually, to two-year terms. In 2003, the nonpermanent members were

¹ See U.N. Charter, Chapter V, and [<http://www.un.org/Docs/sc/>] for more information.

Angola, Bulgaria, Cameroon, Chile, Germany, Guinea, Mexico, Pakistan, Spain, and the Syrian Arab Republic.² Under the U.N. Charter, the Council has primary responsibility for the maintenance of international peace and security (Article 24).

In 1945, the drafters of the U.N. Charter created in Chapter VII a system of possible Council responses relating to the maintenance of international peace that included enforcement short of the use of force, and actions including the use of force. Chapter VII sets forth steps the Council might take in response to “threats to the peace, breaches of the peace, and acts of aggression.” The U.N. Security Council has authorized the use of “force” or its equivalent on a number of occasions. Sometimes, it has specifically used the word “force” while at others it has used such terms as “all means necessary”. Of the 18 resolutions authorizing the use of force directly or implicitly and passed by the Council between 1945 and May 1999, we found that the word “force” was used five times. In some instances, “All means necessary” did not really mean use of force. The text of each was checked for content and context.

The four instances before 1990 when the Council authorized the use of force are (1) Council Resolution 83 (1950), adopted June 27, 1950, to “furnish such assistance...necessary to repel the armed attack and to restore...peace and security” at the start of the Korean War; (2) Council Resolution 161A (1961), adopted February 21, 1961, to “take...all appropriate measures to prevent ...civil war in the Congo, including...the use of force, if necessary, in the last resort,” an authorization to the U.N. peacekeeping operation in the Congo (ONUC); (3) Council Resolution 169 (1961), adopted November 24, 1961, “to take vigorous action, including the use of the requisite measure of force, if necessary” to remove foreign military and other personnel not under the U.N. Command, another authorization to ONUC in the Congo; and (4) Council Resolution 221 (1966), adopted April 9, 1966, “calls on the... United Kingdom to prevent by the use of force if necessary the arrival at Beira of vessels...believed to be carrying oil destined for Rhodesia...” The Council did not cite the Charter in these four resolutions.

The Council cited Chapter VII of the U.N. Charter in all of the resolutions adopted since 1990, including Resolution 678 (1990). Resolution 665 (1990) cited, in a preambular paragraph, Resolution 661 (1990), which imposed economic sanctions acting under Chapter VII. (See discussion of resolutions 665 and 678 in the next paragraph) The Council gave four U.N.-commanded peacekeeping operations authority to use force or its equivalent — ONUC (U.N. Operation in the Congo), UNOSOM II (U.N. Operation in Somalia), UNPROFOR (U.N. Protection Force) in Bosnia and Herzegovina, and UNPROFOR in Croatia. The Council authorized six non-U.N. commanded or so-called coalition operations to use force or its equivalent — the Persian Gulf coalition of nations assisting Kuwait and under U.S. command; the Unified Task Force in Somalia, under U.S. command; the so-called Operation Turquoise, in Rwanda, under French command; the Multinational Force in Haiti, under U.S. command; and the NATO commanded operations in Bosnia to implement the Dayton accords — IFOR (Implementation Force) and SFOR (Stabilization Force).

The U.N. Security Council and Iraq

² On January 1, 2003, Angola, Chile, Germany, Pakistan, and Spain replaced Colombia, Ireland, Mauritius, Norway, and Singapore whose terms ended on December 31, 2002.

Pre-War Actions. The Iraqi invasion of Kuwait on August 1-2, 1990, set into motion a series of actions by U.N. member states that catapulted the United Nations Security Council into the limelight. Between August 2 and December 31, 1990, the Council adopted 12 resolutions that progressively applied elements of Chapter VII of the Charter. (For the texts of the resolutions adopted in 1990, see CRS Report 90-513, *Iraq-Kuwait: U.N. Security Council Resolutions — Texts and Votes*.) After condemning the Iraqi invasion of Kuwait and demanding Iraq's withdrawal in Resolution 660 (1990), the Council decided in Resolution 661 (1990) to impose economic sanctions against Iraq and occupied Kuwait as a means of securing compliance by Iraq with Resolution 660 (1990). In Resolution 665 (1990), the Council authorized states with maritime forces in the area to "use such measures as may be necessary" to ensure strict implementation of the sanctions as related to shipping. Finally, in Resolution 678 (1990), the Council authorized states "to use all necessary means" to implement previous Council resolutions.

Post-War Actions. In 1991, the U.N. Security Council adopted a series of 12 resolutions that assigned an extensive set of tasks to the United Nations and imposed on Iraq an equally extensive series of obligations. The cease-fire resolution, Resolution 687 (1991), was the most comprehensive and longest resolution ever then adopted by the Council and established the range of issues to be covered by the United Nations. They included boundary demarcation, U.N. Iraq-Kuwait Observer Mission, weapons of mass destruction, return of Kuwaiti property, compensation (reparations), sanctions: general and arms embargo, sanctions: oil exports/humanitarian imports program, and repatriation of Kuwaiti and third country nationals. The Council also adopted Resolution 688 on humanitarian intervention.

A major distinguishing feature of Resolutions 687 and 688 and at least four subsequent resolutions was the extent to which the Council imposed obligations and duties that directly infringed on Iraq's internal affairs. Iraq was obliged to accept onto its territory teams of inspectors in search of weapons of mass destruction that were to be destroyed and/or removed. Iraq was obliged to accept international assistance for the housing, protection, and feeding of the segments of its population that had been subjected to and fled from gross human rights violations inflicted by the Iraqi government. Although Iraq was still subject to the economic sanctions imposed in August 1990, it was allowed to export a limited amount of its petroleum products under an explicit set of provisions requiring tight U.N. control and monitoring.³ (For the texts of resolutions adopted in 1991, see CRS Report 91-395, *Iraq-Kuwait: U.N. Security Council Resolutions, Texts and Votes — 1991*.)

Over the past ten years, from **1992 through December 31, 2002**, the Council adopted 39 resolutions dealing with Iraq. (For the texts of resolutions adopted during this period, see CRS Report RL31611, *Iraq-Kuwait: United Nations Security Council Resolutions. Texts — 1992-2002*) A few resolutions dealt with such issues as the Iraq-Kuwait boundary demarcation, the operation of the U.N. Iraq-Kuwait Observation

³ This and the previous paragraph are taken from the Summary and Conclusions, p. vii, of the following report: U.S. Congress. House. Committee on Foreign Affairs. *U.N. Security Council Resolutions on Iraq: Compliance and Implementation*. Report prepared for the Subcommittee on Europe and the Middle East. March 1992. Washington, D.C., U.S. Government Printing Office, 1992 (102d Congress, 2d Session. Committee Print), with contribution by this author.

Mission (UNIKOM), and reparations payments. Much of the Council's attention was directed at inspections and access issues and the establishment and operation of an oil for food program. Among the significant resolutions adopted were Resolution 986 (1995), setting up the oil for food program and Resolution 1409 (2002), further defining the oil for food program and expediting the humanitarian distribution process. Resolution 1051 (1996) set up a mechanism for monitoring Iraqi imports and exports relating to weapons of mass destruction, while Resolution 1194 (1998) stopped Council sanctions reviews until inspections access difficulties were resolved. In 1999, the Council adopted Resolution 1284 (1999), creating a new inspections mechanism, the U.N. Monitoring, Verification and Inspection Commission (UNMOVIC), which, until 2002, had not been able to operate within Iraq. During this time, the Council did not specifically authorize the further use of force to ensure Iraqi compliance with Resolution 687 (1991) or any of its subsequent resolutions. It did, however, refer to previously adopted resolutions, including Resolution 678 (1990) and Resolution 687 (1991).

Iraq and the U.N. Security Council — 2002

On November 8, 2002, after nearly two months of consultation, negotiation, and debate, the U.N. Security Council, by a vote of 15-0-0, adopted Resolution 1441 (2002).⁴ In this resolution, the Council decided (1) to give Iraq which “has been and remains in material breach” of U.N. resolutions, “a final opportunity to comply with its disarmament obligations” and (2) to set up “an enhanced inspection regime.” It decided that Iraq “shall provide...a currently accurate, full, and complete declaration of all aspects of its programs to develop chemical, biological, and nuclear weapons, ballistic missiles, and other delivery systems” by December 8.⁵ It decided that “false statements or omissions in the declarations submitted” and “failure by Iraq at any time to comply with, and cooperate fully in the implementation of, this resolution shall constitute a further material breach” and “will be reported to the Council for assessment.” The Council decided that Iraq “shall provide...immediate, unimpeded, unconditional, and unrestricted access to any and all, including underground, areas, facilities, buildings, equipment, records, and means of transport which they wish to inspect, as well as immediate, unimpeded, unrestricted, and private access to all officials and other persons whom UNMOVIC or the IAEA wish to interview....” The Council directed UNMOVIC and IAEA to “report immediately to the Council any interference by Iraq with inspection activities, as well as any failure by Iraq to comply with its disarmament obligations.” In addition, the Council decided that it would “convene immediately upon receipt of a report” relating to Iraqi noncompliance and recalled, “in that context, that it had repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations.”

On September 12, 2002, President Bush in his address to the U.N. General Assembly, had focused on Iraq and its failure to comply with various resolutions adopted by the U.N. Security Council. He urged the Security Council to act in the face of such repeated violations:

⁴ The Security Council held an open debate on Iraq on October 16 and 17, 2002. During the four meetings, the 15 members of the Council were joined by 51 U.N. members and three Permanent Observers, in expressing their views on a number of issues related to Iraq and various options for response to President Bush's General Assembly speech.

⁵ Iraq submitted a 12,000 page declaration on December 7, 2002.

My nation will work with the U.N. Security Council to meet our common challenge. If Iraq's regime defies us again, the world must move deliberately, decisively to hold Iraq to account. We will work with the U.N. Security Council for the necessary resolutions. ...The Security Council resolutions will be enforced — the just demands of peace and security will be met — or action will be unavoidable.

The question of the “Situation between Iraq and Kuwait” is still on the Council's agenda. The Council considers the situation under a number of topics, including a biannual review of continuation of the U.N. Iraq-Kuwait Observation Mission (UNIKOM); the annual report of the Resolution 661 Sanctions Committee; the Oil for Food program (a report is required every 90 days); and the quarterly report of the U.N. Monitoring, Verification and Inspection Commission (UNMOVIC).

Among the issues that faced Council members as they worked to draft what became S/RES/1441 (2002) in response to President Bush's request were the following:

- What inspection regime will apply? The pre-Resolution 1441 (2003) set of Council resolutions included approval of the 1998 memorandum of understanding on access to presidential palaces in Iraq and the 1999 establishment of UNMOVIC, that included an extensive, or some would say expansive, timetable for the conduct of inspections. Iraq's September 16, 2002 acceptance of inspectors without conditions and U.S. demands for inspectors to “go anywhere, anytime, see anyone, inspect anything, at the time and place of the inspector's choosing” would seem to require an additional resolution to revise inspection access. Some countries, however, seemed to prefer that no additional Council resolution be passed.
- Should a deadline for Iraqi compliance, either with Council resolutions or with unconditional inspections, be set by the Council before inspections start?
- When should the Council authorize actions that might be taken if Iraq did not comply — before or after the inspections phase? Some nations, including the United States, sought a “consequences” authorization as part of a single resolution on inspections and Iraqi compliance while others preferred a two-stage process, with a specific authorization of force or its equivalence after inspections had been given a chance to work.

Iraq and the U.N. Security Council in 2003

During most of the first quarter of the year, members of the U.N. Security Council continued to review the work of the UNMOVIC and IAEA, as briefed and reported by the chief inspectors (see CRS Report RL31671, *Iraq: U.N. Inspections for Weapons of Mass Destruction*, by Sharon A. Squassoni), and to consider what the Council's next steps, if any, might be. Considerable time was devoted to efforts by the United States and the United Kingdom to get the Council to adopt a so-called second resolution that would determine that Iraq had failed to comply with Council resolution 1441 (2002). On March 17, 2003, U.N. Secretary-General Kofi Annan informed the Council that he had

authorized “the withdrawal of all remaining United Nations system personnel from Iraq.” At a “press encounter,” he said that the “mandates” of the UNMOVIC and the IAEA inspections, UNIKOM, the U.N. oil-for-food program, and the sale of oil under the sanctions program were “suspended” because they will be “inoperable.” The Council met on Wednesday, March 19, to review a report on “key remaining disarmament tasks.”

On March 19, 2003, a coalition of states, led by the United States and including the United Kingdom, Spain, and Australia, initiated hostilities in Iraq. On March 20, 2003, the United States sent a letter (S/2003/351) to the Council notifying it that coalition forces had “commenced military operations in Iraq. These operations are necessary,” continued the letter, “in view of Iraq’s continued material breaches of its disarmament obligations under relevant Security Council resolutions, including resolution 1441 (2002).” According to the letter, the “actions being taken are authorized under existing Council resolutions, including its resolutions 678 (1990) and 687 (1991).” On March 26 and 27, 2003, the Security Council met, in response to requests from the League of Arab States and the Non-Aligned Movement, to discuss the situation in Iraq. Sixty-eight U.N. member states who were not Council members participated in the debate, which did not result in a resolution or Presidential Statement by the President of the Council.

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