



Security Council

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Report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)

I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999) in which the Council requested me to report 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 as well as to appoint a high-level coordinator for that matter.

2. After conducting consultations with the parties concerned, on 14 February 2000, I appointed Ambassador Yuli Vorontsov of the Russian Federation as the high-level Coordinator, pursuant to paragraph 14 of resolution 1284 (1999) (S/2000/112 and 113 of 14 February 2000).

II. Background

3. It will be recalled that in December 1998, the Permanent Representative of Bahrain, Ambassador Jassim Mohammad Buallay, presented to the Security Council a proposal regarding Kuwaiti prisoners of war, properties and archives. In its informal note, Bahrain, at that time a member of the Security Council, stressed the need for an assessment of the situation of Kuwaiti prisoners of war, properties and archives in view of the fact that those questions had become an integral part of the Iraqi issue, together, and on the same footing, with disarmament and the humanitarian programme as stipulated in the relevant Security Council resolutions.

4. Following discussions in the Council and pursuant to the note by the President of the Security Council (S/1999/100) of 30 January 1999, a panel on

prisoners of war and Kuwaiti property was established under the Chairmanship of Ambassador Celso L. N. Amorim of Brazil.

5. The Amorim panel should be commended for making a valuable inventory of all the relevant Security Council resolutions. According to the report submitted by that panel in March 1999, the particular provisions of Security Council resolutions most relevant to the mandate of the panel on prisoners of war and Kuwaiti property are contained in resolutions 686 (1991), 687 (1991) and 706 (1991).

6. In summary, pursuant to those resolutions, Iraq was required:

(a) To release immediately, under the auspices of the International Committee of the Red Cross (ICRC), Red Cross Societies or Red Crescent Societies, all Kuwaiti and third-State nationals and return the remains of any deceased Kuwaiti and third-State nationals detained by Iraq;

(b) To arrange for immediate access to and release of all prisoners of war under the auspices of ICRC and return the remains of any deceased personnel of the forces of Kuwait and the Member States of the coalition;

(c) To extend all necessary cooperation to ICRC by providing lists of such persons, facilitating the access of ICRC to all such persons, wherever located or detained, and facilitating the search by ICRC for those Kuwaitis and third-State nationals still unaccounted for.

7. The Amorim panel reaffirmed the humanitarian character of the prisoner-of-war and missing-persons issue. The fate of the persons unaccounted for and the

suffering of their respective families should not be influenced by political considerations. The panel recommended that any procedure to be established in that regard in the future should take into account “(a) that the purpose is to ensure that the Council be informed of the issue (not to trigger a political discussion or to affect the humanitarian treatment of the issue); (b) it should be a motivational factor for cooperation and a positive inducement for progress and understanding (therefore, progress between Iraq, Kuwait and Saudi Arabia in this humanitarian issue could play an important role in the process of confidence-building and lead to an improvement in the overall political atmosphere); and (c) the need not to impinge on the work of the ICRC or to undermine the functioning of the Tripartite Commission.¹ The procedure should, therefore, be discreet, and have as its aim to foster dialogue and confidence-building and advance the ultimate objective of informing the families of the fate of the missing persons. Success of this exercise is directly dependent on the cooperation of all parties involved.” (Paras. 45, 46 and 50 of the panel’s final report)

8. The adoption of resolution 1284 (1999) has effectively closed the gap in resolutions 686 (1991) and 687 (1991) which resulted in the lack of specific reference to a mechanism for accountability.

9. During the open meeting of the Security Council on 24 March 2000, members of the Council paid due attention to the humanitarian problem of the Kuwaiti missing persons. In their statements, it was pointed out that “the resolution of the problem of the Kuwaiti missing persons would doubtless contribute to building confidence among the peoples of the region and would help make steady progress in adopting a global approach to the overall situation” (Tunisia); that “it is important for the Government of Iraq to resume cooperation with the International Committee of the Red Cross, the Tripartite Commission and the Technical Subcommittee, as reiterated by the Council in section B of resolution 1284 (1999)” (Namibia); that “it sympathizes with the families of the more than 600 Kuwaiti missing persons and other third-country nationals, who need to be accounted for and more aggressively sought and supports the efforts of the recently appointed Coordinator tasked with resolving this issue on which there is complete consensus in the Council. Iraq is therefore called to fulfil its obligation in this regard, along with all of its other international

obligations, to continue its participation in the Tripartite Commission and the Technical Subcommittee and to cooperate in resolving these issues once and for all, in the interest of humanitarianism and for the sake of restoring normalcy to the region” (Malaysia); that “the Council should not discuss humanitarian matters concerning Iraq without reminding the Government of Iraq of its commitment to facilitate the repatriation of all Kuwaiti and third country nationals, as reiterated in operative paragraph 13 of resolution 1284 (1999)” (Netherlands); and that “the often forgotten dimension of the humanitarian situation is the important question of prisoners of war and persons unaccounted for in Iraq. Over the last decade, the matter has reached a serious point and needs urgent resolution to ameliorate the untold suffering of the large number of affected families, not only in Kuwait but also in a number of other countries” (Bangladesh).²

III. Plan of work

10. On 27 March, I discussed with my high-level Coordinator his mandate and programme of work. At the initial stage of his efforts, he would be tasked to attempt to determine the factual up-to-date situation with the repatriation of Kuwaiti and third-country nationals referred to in paragraph 30 of resolution 687 (1991) and establish working contacts with the whole range of parties that have dealt with the issue.

11. Recommendations of the Amorim panel would be fully taken into account in the course of implementation of the Coordinator’s mandate. Given the sensitivity of the matter, rather than engaging in investigations, the Coordinator should encourage and coordinate efforts of all parties concerned.

12. The ultimate goal of the Coordinator is to assist in closing the largest possible number of files. The lack of information on the fate of those missing nourishes understandable uncertainties and frustration.

IV. High-level Coordinator’s activities

13. Upon his arrival in New York, the Coordinator held numerous meetings on 27-31 March 2000, with various representatives of parties concerned with his mandated activities. He met with the outgoing and incoming Presidents of the Security Council (Bangladesh and Canada, respectively), representatives

of the five permanent members of the Security Council (China, France, Russian Federation, United Kingdom and the United States), the Permanent Representatives of Kuwait, Colombia (in his capacity of Coordinator of the Non-Aligned Movement (NAM)), the Netherlands (in his capacity of President of the 661 Sanction Committee) and Egypt. He also held discussions with the Permanent Observers of the League of Arab States (LAS) and the Organization of the Islamic Conference (OIC). In pursuance of his mandate, the Coordinator contacted the head of the delegation of the International Committee of the Red Cross (ICRC), the organization which is the Chairman of the Tripartite Commission.

14. His presence in New York coincided with the visit to the United Nations Headquarters of Sheikh Salem Sabah Al-Salem Al Sabah, Deputy Prime Minister and Minister of Defense of Kuwait, who is also the Chairman of the Kuwaiti Prisoners of War and Missing Persons Committee. The Kuwaiti Deputy Prime Minister was accompanied by the members of the Tripartite Commission (except Iraq). My meeting with them on 28 March 2000 presented a good opportunity to introduce my high-level Coordinator to the Tripartite Commission. Ambassador Vorontsov met separately with Sheikh Salem Sabah Al-Salem Al Sabah and the members of the Commission on several occasions. I have emphasized to the members of the Tripartite Commission that an effective relationship between them and the Coordinator was needed but that Ambassador Vorontsov should be able to work independently and should not be regarded as a part of the Commission.

15. During his meeting with the Permanent Representative of Colombia, the Coordinator had an opportunity to discuss the issue of the Kuwaiti prisoners of war and missing persons with the representative of the organizers of the thirteenth Ministerial Conference of the Movement of the Non-Aligned Countries, held at Cartagena. It will be recalled that subsequently, in the final document of that Conference, the following provision was included:

“We stress the need to resolve expeditiously the fate of all prisoners/detainees and missing persons of Kuwait and third country nationals by means of serious and sincere cooperation with the International Committee of the Red Cross to reach a solution of this particular issue and to return the properties of the Government of

Kuwait including official documents removed from national archives seized by Iraq. In this respect, we recall the appointment of Mr. Yuli Vorontsov by the Secretary-General as the High-level Coordinator to follow-up the release of Kuwaiti and third country prisoners/detainees and the return of Kuwaiti property seized by Iraq.”

16. From 3 to 11 April, the Coordinator visited the headquarters of ICRC in Geneva, Kuwait, Saudi Arabia and Egypt. In Geneva, he had productive meetings with representatives of ICRC, including the Vice-President of ICRC, and with Prince Turki Ben Mohammed Ben Saud Al-Kabir, the Head of the Committee for Saudi Prisoners of War in Iraq. He also used his visit there to meet with Ambassador Amorim. It was recalled that his panel had been tasked to consider information from a variety of sources and had received, informally, a non-paper by Iraq concerning the question of prisoners of war. In that paper, dated 25 January 1999, the Iraqi authorities drew the attention of the panel to the suffering of the families of the Iraqi missing persons in Kuwait whose number was set at more than 1,100.

17. ICRC representatives remain available for contacts with all parties and, in this regard, have held consultations quite recently with the Iraqi authorities in Baghdad. ICRC, being neutral and impartial, bases its actions on documented cases and does not engage in investigation. ICRC has consistently pursued its efforts to fulfil its mandate to gather information on 605 Kuwaiti persons unaccounted for and thus to relieve the anguish of families left with no news of their loved ones. The fact that progress is slow does not in any way affect ICRC's humanitarian commitment. In line with its customary working procedures and on the basis of a common understanding reached between all the parties, the ICRC will continue its efforts and proceed in a confidential manner conducive to fostering a climate of confidence and a spirit of dialogue.

18. In all contacts of the Coordinator special emphasis is placed on the fact that the work of ascertaining the fate of missing military personnel and civilians has been assigned to the Tripartite Commission, created by the document entitled “Plan of Operation Designed to Ascertain the Whereabouts of the Fate of the Military and Civilians Missing”, known as the Riyadh Agreement. However, at the end of 1998, Iraq took the decision not to participate in the work of the Tripartite Commission and its Technical Sub-Committee.³

19. The Government of Iraq argues that there are no Kuwaiti prisoners of war or detainees in its territory. From the Iraqi point of view, the issue is one of missing persons, not prisoners of war. Iraq has responded to 126 cases, based on a "recollection process" of Iraqi officers who recalled that 121 of those persons had been arrested, interrogated and sent to detention centres in the southern Governorates. The subsequent unrest in the south of the country, in the beginning of 1991, led to the alleged escape of the detainees in question. Iraq claims that all documents that could have provided a basis for the search were destroyed, burned or lost in the outbreak of riots in its southern Governorates.

20. It will be recalled that in resolution 1284 (1999) the Security Council reiterated the obligation of Iraq, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third-country nationals referred to in paragraph 30 of resolution 687 (1991), to extend all necessary cooperation to ICRC, and called upon the Government of Iraq to resume cooperation with the Tripartite Commission and Technical Sub-Committee established to facilitate work on that issue. In view of this requirement and in accordance with his mandate, the Coordinator has already attempted to contact the Iraqi representatives to assure their cooperation. He will continue his efforts to establish dialogue with the Iraqi side.

21. In Kuwait, the Coordinator was received by Sheikh Sabah Al-Ahmed Al-Sabah, Deputy Prime Minister and Minister for Foreign Affairs, and Sheikh Salem Sabah Al-Salem Al-Sabah, Deputy Prime Minister, Minister of Defence and Chairman of the Kuwaiti Prisoners of War and Missing Persons Committee. He also had an emotional meeting with some 100 families of the missing people and was informed of their grievances. The Kuwaiti authorities extended their fullest cooperation to Ambassador Vorontsov, who took special note of Kuwait's commitment to work for a peaceful arrangement for the closure of the files on missing persons, without vengeance. The Kuwaiti authorities assured him that they remained determined to continue supporting the work of the Tripartite Commission and Technical Sub-Committee, having a strong desire to help those bodies achieve their specified goals, using all available means to foster a spirit of cooperation and trust between the parties concerned.

22. In Jeddah, the Coordinator had a conversation with Prince Faisal Al-Saud, Minister for Foreign Affairs of Saudi Arabia, and held discussions with Mr. Azeddine Laraki, Secretary-General of OIC. In Cairo, he met with Dr. Ismat Abdel-Meguid, Secretary-General of the League of Arab States, and with Ambassador Fikki, the Assistant to the Minister of Foreign Affairs of Egypt.

23. The visits to the Headquarters of OIC and LAS were important in view of the long-lasting involvement of those two international organizations in the issue of prisoners of war and missing persons and of the lines of communication they maintain with Iraq. The Coordinator invited OIC and LAS to use their influence with parties concerned in order to resolve, as soon as possible, the issue of missing persons. All interlocutors of Ambassador Vorontsov in Cairo and Jeddah assured him of their support and cooperation and found it useful to expand their contacts with the Coordinator.

24. Attention was also drawn to a number of resolutions and appeals issued by OIC concerning Kuwaiti prisoners of war and missing persons. OIC stands prepared to continue its efforts and, if requested, will designate a special representative to deal with the files.

25. The LAS representatives informed the Coordinator that the League had strongly recommended that Iraq cooperate with the strictly humanitarian mission of Ambassador Vorontsov, the success of which would serve the interests of both the Kuwaiti and Iraqi people. High Saudi and Egyptian officials also promised their assistance in arranging for the Coordinator's visit to Baghdad for discussions with Iraqi authorities. By the time of this writing, Iraq has not yet responded to these efforts.

26. The Coordinator learned from his conversation at LAS headquarters that on more than one occasion, the Iraqi President had been advised that progress in solving the issue of Kuwaiti missing persons would improve Iraq's stance in the world and, in particular, ameliorate the political climate among the Arab States. In March 1999, the Ministerial Committee of LAS adopted a resolution establishing a mechanism for dealing with the problem of missing persons.

27. Summarizing the discussions held by Ambassador Vorontsov in New York, Geneva and the region, it should be pointed out that in previous years the activities of the Tripartite Commission and its

Technical Sub-Committee resulted in the repatriation, with Iraq's participation, of some 6,000 Kuwaiti prisoners of war through ICRC and other channels. But a significant number of people still remain unaccounted for (see the annex). The Kuwaiti authorities have submitted individual files, well-documented by eyewitness testimony and official Iraqi arrest records, on missing Kuwaiti and third-country nationals. The Coordinator had an opportunity to examine some of those files while in Kuwait.

28. Iraq has provided no information since 1998. However, Iraq submitted to ICRC requests to ascertain the fate and whereabouts of more than 1,000 Iraqis not accounted for after the withdrawal of Iraqi forces from Kuwait. In that connection, the Kuwaiti authorities informed the Coordinator that they had no Iraqi prisoners of war on their territory except several common criminals of Iraqi origin imprisoned in Kuwait. The Kuwaiti authorities are prepared to allow Iraqi representatives, accompanied by ICRC and in the presence of observers from international organizations, to conduct search and identification operations on the territory of Kuwait.

V. Observations

29. The fate of Kuwaiti and other nationals unaccounted for — whether prisoners of war, civilian detainees or missing persons — is a humanitarian tragedy which needs highest attention of all parties involved and concerned. After nine years of uncertainty, the bereaved family members continue to seek closure of the files, not knowing the fate of their loved ones; the women concerned do not know whether they are wives or widows. It is important to bring about concrete results — to repatriate to Kuwait the missing persons who are still alive or to recover the mortal remains for return to the families.

30. On the basis of the mandate given by the Geneva Conventions, ICRC is continuing its efforts to gather information on Kuwaiti prisoners of war and missing persons. It is my conviction that the ICRC's independent dialogue with Iraqi authorities needs to proceed uninterrupted. ICRC's principle of independence and confidentiality should be respected.

31. The numerous presentations made in New York and elsewhere on the work of the Tripartite Commission demonstrated that its efforts should

continue, especially with the resumed participation of Iraq. The Commission is the most appropriate mechanism to deal with the issue of persons unaccounted for. The Coordinator would work in close contact with the Commission.

32. I call on the leadership of NAM, LAS and OIC to continue, through all available channels, their efforts aimed at the speediest resolution of the humanitarian issue of missing persons. Iraq's response to the issue of missing persons, as a purely humanitarian one, would become a yardstick by which the international community would measure Iraq's position on other outstanding problems. The recent releases of the Iraqi and Iranian prisoners of war after more than a decade of extensive search and negotiations should be noted. This fact gives a beam of hope that similar developments may take place in regard to those missing in the aftermath of the Gulf War.

33. The Coordinator's mandate is only a part of resolution 1284 (1999), and he would work, for the sake of facilitating the humanitarian process of ascertaining the fate of the missing persons, as an independent entity. Understanding, reciprocity and display of good will are of critical importance. His success requires the full cooperation and support of all parties concerned and of the international community in general. The establishment of a productive dialogue between the Coordinator and the Iraqi authorities would be a welcome development.

34. Many of the interlocutors of the Coordinator expressed the hope that the issue of the prisoners of war and missing persons would be addressed in different international forums. The Coordinator would continue his role in motivating the parties to cooperate in the framework of different existing mechanisms, taking into account the fact that the resolution of humanitarian issues could not wait for political movement on other outstanding matters. It is hoped that Ambassador Vorontsov, who has just begun his efforts, will be able to achieve positive results.

Notes

¹ After the global repatriation of prisoners of war, civilian internees and civilians and with a view to ascertaining the fate of missing military personnel and civilians, a plan was signed by the representatives of France, Iraq, Kuwait, Saudi Arabia, the United Kingdom and the United States of America in Riyadh on 12 April 1991,

which brought the Tripartite Commission into being. From its inception, the Commission has been composed of the above-mentioned countries.

² See S/PV.4120, of 24 March 2000.

³ On 8 December 1994, the members of the Tripartite Commission set up the Technical Sub-Committee to work on practical and technical aspects, its objective being to: (a) expedite the search for all persons for whom inquiry files had been opened; (b) facilitate the exchange of all requisite information relating to individual inquiry files; (c) decide on and implement any follow-up measures that might be required as a result of the investigations; and (d) foster a climate of confidence.

Annex

Persons unaccounted for

The date of 31 July 1996 was set as the deadline for the parties to submit official request forms, or individual files of persons unaccounted for, to be treated within the framework of the Tripartite Commission. All official request forms received by ICRC by 13 June 1996 were to be dealt with in the first stage. All those received between 14 June 1996 and 31 July 1996 were to be dealt with in the second stage.

A number of files pertaining to persons unaccounted for were transmitted to ICRC by Iraq after 31 July 1996. They are, therefore, being processed outside the framework of the Tripartite Commission, on the basis of the ICRC's mandate concerning missing persons.

The current figures for cases handled within the process of the Tripartite Commission and the Technical Sub-Committee are as follows:

(a) First-stage files of persons unaccounted for:

598 submitted by Kuwait (including seven files for Saudi nationals);

17 submitted by Saudi Arabia;

102 submitted by Iraq.

(b) Second-stage files of persons unaccounted for:

10 submitted by Kuwait;

687 submitted by Iraq, of which 446 have been transmitted by ICRC to one of the investigating parties. The remaining 241 will be forwarded by ICRC as soon as the Iraqi authorities are in a position to supplement the information given on the files.
