



Security Council

Distr.: General
13 December 2001

Original: English

Sixth 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 the compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third-country nationals or their remains and every six months on the return of all Kuwaiti property, including archives, seized by Iraq. The present report covers both issues and provides a brief account of the relevant developments since my last reports (S/2001/582 and S/2001/796).

II. Repatriation or return of all Kuwaiti and third-country nationals or their remains

A. Background

2. It will be recalled that, in the course of 2001, the High-level Coordinator, Ambassador Yuli M. Vorontsov, provided an oral report to the Security Council on his activities relating to this matter on 20 April and I submitted my fifth report on 15 August 2001 (S/2001/796).

3. On 21 August 2001, the Coordinator introduced my fifth report pursuant to paragraph 14 of resolution 1284 (1999) of the Security Council on the repatriation or return of all Kuwaiti and third-country nationals or their remains. During informal consultations, Council members pointed out that they continued to be united on this humanitarian issue, which should be maintained

on the agenda of the Council without it being politicized. Members of the Council also noted that any new initiatives of the League of Arab States and the Organization of the Islamic Conference should be welcomed and should supplement the efforts of the International Committee of the Red Cross (ICRC). The Tripartite Commission was considered to be the main mechanism established for the resolution of the fate of the missing persons. Council members emphasized that the efforts of the Coordinator should be continued, although it was noted that his activities would not be productive without the cooperation of Iraq. An effective dialogue of all parties concerned could enable the Council to find a way out of the ongoing impasse.

4. The statement to the press by the President of the Security Council emphasized that the members of the Council had expressed once again their unanimous support for the work of Ambassador Vorontsov for his efforts to bring this matter to a satisfactory conclusion. They had expressed deep concern at the continuing plight of the missing Kuwaiti and third-country nationals and their families, and expressed their hope that the issue would continue to be dealt with as a strictly humanitarian one by all sides concerned. Further, they had stressed the importance of dialogue amongst all parties, including ICRC and the Tripartite Commission, and had urged Iraq to cooperate fully with the Coordinator in fulfilling his mandate, as set out in Security Council resolution 1284 (1999) and with all other agencies and bodies dealing with the issue.

5. The Minister for Foreign Affairs of Iraq, Naji Sabri, reportedly addressed a letter in mid-August to the Secretary-General of the Arab League, Amre Moussa, in which he welcomed any League initiative



aimed at resolving the issue of missing Iraqis and Kuwaitis and reportedly indicated that Baghdad was ready to hold direct talks with Kuwait on the fate of missing persons. According to the Minister, this humanitarian matter should be resolved through direct contacts between Kuwait and Iraq. Iraq also expressed readiness to work with Kuwait and Saudi Arabia, in order to find a solution to the issue of missing persons.

6. Further to the letter from the Iraqi Minister, for Foreign Affairs the Arab League Secretary-General reportedly stated, on 19 August, that the Iraqi proposal for ending its dispute with Kuwait over the fate of the missing persons, including a request that the Arab League form a committee to investigate the issue, would be reviewed by other members of the League.

7. The Government of Kuwait continues to emphasize that the issue of repatriation or return of all Kuwaiti and third-country nationals or their remains continues to be a central issue to any resolution of the crisis between the two countries. On 24 August 2001, Kuwait reportedly reacted to Iraq's proposal, noting that the issue of the repatriation or return of all Kuwaiti and third-country nationals must be discussed within the framework set out in Security Council resolutions. At the same time, Kuwait reportedly took note of the remarks of Iraq's Foreign Minister, in which he announced Baghdad's readiness to hold direct talks with Kuwait on the fate of the Kuwaitis missing since the Gulf War.

8. The Minister of Information of Iraq, Muhammad Said Al-Sahaf, denounced Kuwait for not accepting Baghdad's proposal to establish an Arab League committee to follow up the issue of missing persons. Responding to this statement, the Information Minister of Kuwait, Sheikh Ahmad Al-Fahad Al-Sabah, accused Iraq of trying to politicize the issue. The State Minister for Foreign Affairs of Kuwait, Sheikh Mohammed Sabah Al-Salem Al-Sabah, has welcomed any Arab efforts that might persuade Iraq to abide by United Nations resolutions concerning the plight of Kuwaiti prisoners of war.

9. Minister Najji Sabri, while addressing the meeting of the Arab Foreign Ministers in early September, called for Arab League intervention on the issue of missing persons. He also renewed Iraq's appeal for resolving the matter among Kuwait, Iraq and Saudi Arabia within the Arab League. Foreign Ministers reportedly rejected Iraq's request to include the issue of

missing persons in the agenda of the sixteenth session of the Arab Ministerial Council. The Ministers recommended that the Secretary-General of the Arab League submit a report on the issue to King Abdullah of Jordan, who was authorized to deal with the file at the last Arab Summit. The Foreign Ministers of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates urged Iraq to release Kuwaiti prisoners and to return Kuwait's property, including archives.

10. On 12 September 2001, the Permanent Representative of Bahrain transmitted to me the press communiqué of the eightieth session of the Ministerial Council of the Cooperation Council for the Gulf Arab States, held at Jeddah, Saudi Arabia, on 7 and 8 September 2001 in which, inter alia, the Council renewed its call to Iraq to discharge in full its obligations under the Security Council resolutions relating to cooperation with ICRC, the United Nations high-level Coordinator and the Tripartite Commission in devising an expeditious and definitive solution to the problem of Kuwaiti and third-country prisoners and detainees and the return of all Kuwaiti property in its possession (see A/56/362-S/2001/871).

11. On 4 September 2001, the Director-General of the National Committee for Missing Persons and Prisoners of War Affairs of Kuwait, Rabea Al-Adsani, has refuted Iraqi allegations that hundreds of Kuwaiti and third-country nationals were released from Iraqi detention camps. He said that the Iraqi claims were totally untrue because, since December 1998, Iraq had been boycotting the meetings of the Tripartite Commission.

12. The Special Rapporteur of the Commission on Human Rights, Andreas Mavrommatis, continued to follow developments with regard to Kuwaiti prisoners of war and persons unaccounted for, as well as missing Iraqis. In his report on the situation of human rights in Iraq (A/56/340), it is stressed that, irrespective of the validity or otherwise of any arguments by the Government of Iraq not to participate in the work of the Tripartite Commission, there can always be alternative methodologies, such as indirect, proximity or parallel efforts to solve an urgent humanitarian issue, such as the one in question. In this regard, the Special Rapporteur welcomes information to the effect that a "parallel approach" in respect to the missing Kuwaitis has been initiated recently. Mr. Mavrommatis urged all concerned to redouble their efforts and

investigate thoroughly all information available on the question of Kuwaiti prisoners of war or persons unaccounted for since the Iraqi occupation of Kuwait. The Special Rapporteur also noted that the same should apply to all cases of missing persons, including those Iraqis missing during the same time, as well as those expelled in the 1980s.

13. On 17 October 2001, the Permanent Representative of Iraq to the United Nations transmitted to the Secretary-General a response of the Government of Iraq (A/C.3/56/4) to the reports of the Special Rapporteur¹ in which, inter alia, it was noted that the Government of Iraq had cooperated with ICRC, believing that the question of missing persons, regardless of their nationality, was a humanitarian issue. The reply also indicated that Iraq had approached with all seriousness all of the impartial initiatives proposed to resolve the matter of the missing Iraqis, Kuwaitis and Saudis and missing persons of other nationalities with the aim of searching for them and establishing their fate and welcomed the initiatives of the League of Arab States to resolve this humanitarian issue in 1991, 1994 and 1999. It was also recalled that the Government of Iraq had proposed a new initiative in a letter dated 16 August 2001 addressed to the Secretary-General of the League of Arab States, in which it had expressed its desire for the League to play a part in helping to resolve this humanitarian issue.

14. The Third Committee of the General Assembly approved a draft resolution (A/C.3/56/L.57), in paragraph 4 (j) of which the Assembly called upon the Government of Iraq to cooperate with the Tripartite Commission and its Technical Subcommittee to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third-country nationals to cooperate with the high-level Coordinator of the Secretary-General for Kuwaitis and third-country nationals and Kuwaiti property.

15. On 31 October 2001, Minister for Foreign Affairs Naji Sabri reiterated that Iraq was ready to cooperate with Kuwait and Saudi Arabia to solve the issue of missing persons. He reportedly stated that Iraq was trying through its embassies and representatives abroad to convince officials in Kuwait and Saudi Arabia to cooperate with Iraq to solve this humanitarian issue, and that Iraq would also accept any Arab initiative to

discuss this humanitarian issue through bilateral cooperation and direct contact.

16. The Tripartite Commission met in Geneva on 1 November 2001 without Iraqi representatives. The High-level Coordinator was informed that the members represented were briefed, inter alia, on the cases of the Saudi pilot, Colonel Mohammad Salih Nazirah, as well as the United States Navy pilot, Michael Scott Speicher. As to the Saudi pilot, it was noted that the competent authorities had confirmed his death on the basis of laboratory analysis results. The file of the pilot would be considered closed at a formal meeting of the Commission with all members present. It was pointed out that many problems had been resolved as a result of cooperation between Iraq, Saudi Arabia and ICRC, in accordance with the temporary parallel approach, as well as the flexibility displayed by the other members of the Commission. In the case of the United States Navy pilot, the need to receive answers to outstanding questions, as part of the beginning of a dialogue on this case, was stressed. Thus, the response received from Iraq constituted such a beginning. As to the sensitive issues of a parallel approach, the importance of the confidentiality of ICRC was highlighted.

17. It will be recalled that, in his letter dated 17 August 2001 (S/2001/804), addressed to me, Minister for Foreign Affairs of Iraq, Naji Sabri, reiterated Iraq's willingness to cooperate with ICRC, which he characterized as an impartial international body. The represented members of the Tripartite Commission during the meeting in Geneva took note of this letter, in which it was also stated that three States of major international standing, namely, China, India and the Russian Federation, should participate in the work of the Tripartite Commission. The members reportedly agreed to discuss this proposal within the Commission with the participation of Iraq.

B. Recent activities with regard to repatriation or return of all Kuwaiti and third-country nationals or their remains

18. During the reporting period, I continued to raise this issue, inter alia, with representatives of Member States and heads of international organizations. On 7 June, I discussed it with the President of ICRC, Dr. Jacob Kellenberger; on 19 September with the Acting

Prime Minister and Minister for Foreign Affairs of the State of Kuwait, Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah; on 26 October with the Secretary-General of the League of Arab States, Amre Moussa; and on 14 November with the Minister for Foreign Affairs of Iraq, Naji Sabri.

19. In pursuance of his mandate, the Coordinator maintained close contacts with the leadership of the League of Arab States and the Organization of the Islamic Conference (see A/56/474, para. 3, and A/56/398, para. 8).

20. On 15 August, the Coordinator addressed letters to the Permanent Representatives of Bahrain, Egypt, India, the Islamic Republic of Iran, Lebanon, Oman, the Syrian Arab Republic and Saudi Arabia, in which he provided information on their nationals who are yet to be repatriated, or their remains returned.

21. During the General Debate of the General Assembly, held in New York from 10 to 16 November, the Coordinator met with Sheikh Sabah Al-Ahmed Al-Jaber Al-Sabah, Acting Prime Minister and Minister for Foreign Affairs of Kuwait; Amre Moussa, Secretary-General of the League of Arab States; Kamal Kharrazi, Minister for Foreign Affairs of the Islamic Republic of Iran; Igor Ivanov, Minister for Foreign Affairs of the Russian Federation; Mahmoud Hammoud, Minister for Foreign Affairs of Lebanon; and Ambassador John B. Richardson, Head of the Delegation of the European Commission to the United Nations, with a view to further intensifying efforts aimed at the resolution of the humanitarian issue of the repatriation or return of all Kuwaiti and third-country nationals, or their remains, and the return of all Kuwaiti property, including archives, seized by Iraq. All the interlocutors of Ambassador Vorontsov stressed that it was most unfortunate that Iraq was still refusing to meet with him because of its well-known attitude towards Security Council resolution 1284 (1999).

22. Kuwaiti Acting Prime Minister and Minister for Foreign Affairs, Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah, while addressing the General Assembly at its fifty-sixth session, called upon the Security Council to exert pressure on Baghdad to fulfil all its obligations, including the return of prisoners of war and missing persons. In his meeting with the Coordinator, he expressed disappointment about the fact that very little results had been reached on the determination of the fate of the Kuwaiti and third-country nationals. He

reiterated Kuwait's position that it would allow an Iraqi delegation, accompanied by ICRC, to visit Kuwaiti prisons, on the condition that, prior to such a visit, Iraq would have started to cooperate on the issue of the repatriation or return of all Kuwaiti and third-country nationals, or their remains (see also S/2001/1188).

23. The Secretary-General of the League of Arab States reminded the Coordinator that the humanitarian issue of the missing persons was the focus of attention of the League of Arab States, which fully supported his mission. Mr. Moussa expressed the hope that the activities of Ambassador Vorontsov would facilitate the repatriation or return of all Kuwaiti and third-country nationals, or their remains. The Secretary-General and the Coordinator agreed to remain in constant contact for further exchange of information and views on the subject.

24. I received a letter addressed to me by the Acting Prime Minister and Minister for Foreign Affairs of Kuwait, Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah (S/2001/1188) in which it was noted that a solution to the issue of the Kuwaitis and third-country nationals detained in Iraq could not be further delayed. According to the letter, all appropriate mechanisms to resolve this issue, such as the Tripartite Commission and its Technical Subcommittee, ICRC, the Secretary-General of the United Nations and the dialogue that commenced in February 2001, and the High-level Coordinator, already exist.

25. During the reporting period, publicly available information on the issue of prisoners of war and missing persons has been collected and analysed. Such information sources include newspaper articles, such as the one in *The New York Times* dated 12 November 2001, and other published material.

III. Return of all Kuwaiti property, including archives, seized by Iraq

A. Background

26. On 20 June 2001, the Coordinator introduced my fourth report (S/2001/582) to the Security Council, noting that there had been no progress made regarding the return of the Kuwaiti property. Ambassador Vorontsov reaffirmed his readiness to travel to Baghdad in order to facilitate the return of archives and military equipment, as well as other items belonging to

Kuwait. Members of the Council, in their interventions, pointed out, inter alia, that it was legitimate for Kuwait to demand the return of the national archives. They noted that the return of the national archives would be an important signal of the willingness of Iraq to cooperate on the issue. Council members reiterated their disappointment that there had been no tangible progress and called upon the Government of Iraq to cooperate fully with Ambassador Vorontsov. They supported further exploration of pragmatic approaches for identifying modalities for the return of Kuwaiti property. The Coordinator of the Caucus of the Movement of Non-Aligned Countries noted that the caucus had emphasized the return of the Kuwaiti national archives and welcomed the personal efforts of the Secretary-General in this regard. All these elements were reflected in the statement to the press by the President of the Security Council.

27. It will be recalled that the Coordinator, while introducing my fifth report (S/2001/796) to the Security Council on 21 August 2001, referred to the two letters from the Minister for Foreign Affairs of Iraq, Naji Sabri (S/2001/804 and S/2001/809). The Foreign Minister had stated, inter alia, that my report quoted in a distorted manner some of the statements made during the open meeting of the Security Council on 26 and 28 June 2001. In particular, the Iraqi side claimed that, in the text of one of the speeches, reference to property was deleted, thereby deliberately “perverting” the text and its context. It should be noted that the report referred to above (S/2001/796) was devoted to the issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains and, therefore, did not address the issue of Kuwaiti property.

28. During the open meeting of the Security Council, on 26 and 28 June 2001, members of the Council and representatives of Member States referred, inter alia, to the important issue of the return of all Kuwaiti property, including archives, seized by Iraq. According to their statements, “the issue of ... the loss of property should be properly resolved at an early date. ... In accordance with the relevant provisions of international law, Iraq is obliged to cooperate by identifying and returning to Kuwait the ... Kuwaiti property” (China); “a comprehensive solution ... would facilitate a final settlement of pending issues such as ... Kuwaiti property” (Tunisia); “we fail to understand why the required transparency with regard to ... stolen property

cannot be achieved through cooperation with the United Nations” (Norway); “Iraq must, once and for all, close its painful chapter in relation to Kuwait, by ... returning its historical and cultural heritage, including Kuwaiti archives ...” (Mauritius); “Iraq has failed to account for property seized in Kuwait, including the national archives, which represent the memory of the country” (Mali); “after more than a decade, Kuwait continues to be deprived of the sense of closure on this issue that the return of key Kuwaiti property seized by Iraq could bring” (Singapore); “we urge Iraq to return Kuwaiti cultural property” (Jamaica); “It calls on the Government of Iraq to cooperate fully with the high-level Coordinator in order to resolve matters pending in this file and to restore all property seized, especially the national archives and other official Kuwaiti documents, as well as Kuwaiti military equipment” (Kuwait); “not less important is the need to facilitate the return of Kuwait’s national archives and other property that was taken out of Kuwait” (Malaysia); “the Security Council must be prepared to lift the embargo against Iraq when ... the issue of ... Kuwaiti properties are resolved” (Bahrain); “it is of the utmost urgency that there be a return to an appropriate dialogue ... on property that had been removed” (Italy); and “... the need for the return of Kuwaiti properties to Kuwait in a practical framework agreed upon fundamentally between the two parties, Iraq and Kuwait, so that deliberations on these issues may have a political and humanitarian framework, thus leading to a solution” is stressed (Syrian Arab Republic) (see S/PV.4336 and S/PV.4336 (Resumption 1)).

29. The Under-Secretary for Foreign Affairs of Iraq, Dr. Riyadh Al-Qaysi, stated at the same meeting of the Security Council that “Iraq has returned all the Kuwaiti properties that it could find, and has pledged to return any other material that may be found in the future” (see S/PV.4336, Resumption 1).

B. Recent activities with regard to the property issues

30. During the reporting period, the Coordinator met with the Executive Secretary of the Compensation Commission, Rolf G. Knutsson, in New York on 23 October 2001 and discussed the problem of the return of the Kuwaiti property, including its financial aspects. During his trip to Cairo in June, the Coordinator had also raised the property issue in his discussions, in

particular, with the Secretary-General of the League of Arab States, Amre Moussa, the Minister for Foreign Affairs of Egypt, Ahmad Maher and Ambassador Soliman Awaad of the Ministry of Foreign Affairs of Egypt. Ambassador Vorontsov maintains regular contact on the issue with his interlocutors in Kuwait.

IV. Observations

31. In my annual report on the work of the Organization,² I noted that Iraq had continued its approach of non-cooperation with the High-level Coordinator. It is most unfortunate that since the issuance of that report there has been no change in the Iraqi position (see also S/2001/715). I should like to take this opportunity to reject the groundless and inaccurate claims concerning the Coordinator and the Secretariat contained in communications received from the Iraqi side earlier this year (see S/2001/809). Such claims are counterproductive for the resolution of long-standing humanitarian issues.

32. Once again, I strongly urge the Iraqi leadership to reconsider its current policy regarding the Coordinator. As I have stated on a number of occasions, he can only achieve what he is mandated to accomplish if Iraq changes its position. In this connection, the Coordinator remains ready, at short notice, to meet with Iraqi officials, at any time and at any place. It is my strong conviction that a dialogue between the Government of Iraq and Ambassador Vorontsov would bring positive results in the search for a solution to the humanitarian issues with which he has been entrusted.

33. It would be helpful if Iraq were to abandon its stance of declaring no knowledge of the whereabouts and fate of the Kuwaiti and third-country nationals who were arrested and deported more than 11 years ago. It must adopt a constructive position of cooperation on the repatriation or return of those persons or their mortal remains. Iraq's stated intention to continue to cooperate with ICRC should be welcomed, and I very much hope that words will be met by deeds.

34. As to the property issue, it is most regrettable that, during the past two years, not a single item has been returned to Kuwait. The most disturbing aspect in this regard remains Iraq's refusal to address the issue of the national archives of Kuwait. I sincerely hope that the Iraqi leadership will reassess its negative attitude,

with a view to bringing this matter to a satisfactory closure for all concerned.

35. I wish to reiterate my gratitude to the members of the Security Council for their continued unanimous support for the efforts of the Coordinator, as well as to the efforts by the League of Arab States and the Organization of the Islamic Conference. The combined efforts of the international community demonstrate a determination to achieve a satisfactory solution of these issues on humanitarian grounds.

Notes

¹ E/CN.4/2001/42 and A/56/340.

² *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 1 (A/56/1)*.