



Security Council

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Seventh 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. The present report provides a brief account of the relevant developments since my last report (S/2001/1196).

II. Background

2. On 20 December 2001, the High-level Coordinator, Yuli Vorontsov, introduced my sixth report pursuant to paragraph 14 of resolution 1284 (1999) (S/2001/1196) to the members of the Security Council. He pointed out that the problem of the repatriation and return of Kuwaiti and third-country nationals remained unchanged. However, there was growing international activity, by the League of Arab States, the Organization of the Islamic Conference and the European Union, to persuade the Government of Iraq to change its stance of non-cooperation. The members of the Council highlighted the need to strengthen further international solidarity in order to achieve a reversal of the Iraqi stance. During the deliberations on this issue, it was mentioned, inter alia, that Iraq should begin to cooperate with the International Committee of the Red Cross (ICRC) and the Tripartite Commission, that the reports of the Secretary-General contained incentives for such cooperation, and that the international community

would not be selective and would study carefully all cases of missing persons. In a statement to the press, the Council expressed its unanimous support for the work of the Coordinator, as well as deep concern at the continuing plight of the Kuwaiti and third-country nationals still remaining in Iraq.

3. On 29 December 2001, the Kuwaiti National Committee for Missing Persons and Prisoner of War Affairs also welcomed the sixth report and noted that numerous exchanges between the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah, and the Coordinator had produced positive results. The Minister of State for Foreign Affairs of Kuwait, Sheikh Mohammad Sabah Al-Salem Al-Sabah, stated in the Omani capital, Muscat, that the issue of the missing persons was of great importance, not only to Kuwait but also to the members of the Gulf Cooperation Council. The Government of Kuwait welcomed the Gulf Cooperation Council's recent call on Iraq to disclose the fate of Kuwaitis and third-country nationals not accounted for since the Gulf war. In the final communiqué adopted by the Supreme Council of the Gulf Cooperation Council at its twenty-second session, on 31 December 2001, the Council, inter alia, again urged Iraq to discharge all of its obligations under the Security Council resolutions, including its obligation to resume its cooperation with the United Nations in order to resolve the outstanding issues relating to cooperation with ICRC, the Tripartite Commission and the High-level Coordinator, with a view to devising an expeditious and definitive solution to the problem of Kuwaiti and third-country prisoners and hostages (see A/56/797-S/2002/125).

4. On 9 January 2002, *Al-Hayat* published comments made by the Minister for Foreign Affairs of Iraq, Najji Sabri, in which, inter alia, he said that Iraq was ready to receive a Kuwaiti delegation from families of the missing persons at a date to be decided "by our brothers in Kuwait". The delegation would be free to carry out any investigation in Iraq since Baghdad had nothing to hide. The Minister also noted that it was a purely humanitarian issue which Iraq hoped to resolve practically "with our brothers in Kuwait and Saudi Arabia". While repeating the well-known position that Iraq was no longer holding prisoners of war, he acknowledged Iraq's readiness to receive any Arab delegation to investigate, in addition to the Kuwaiti delegation mentioned above. Commenting on a Kuwaiti proposal to allow ICRC to search for the missing Iraqis in Kuwaiti prisons in return for a promise to provide information about Kuwaiti missing persons, Mr. Sabri expressed readiness to close this file at the earliest convenience.

5. On 11 January 2002, the Minister for Foreign Affairs of Iraq addressed a letter to me (see S/2002/60), in which he clarified the position of Iraq on the contents of a letter (S/2001/1188) received earlier from the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait (see S/2001/1196, para. 24). In his letter, Mr. Sabri affirmed Iraq's seriousness and sincere desire to achieve progress on the humanitarian issue of the missing persons, rather than the contrary. The most recent example of Iraq's cooperation, according to the Minister, was the closure, on 31 August 2001, of the file of the Saudi pilot.

6. Referring to the functions of the High-level Coordinator, the Minister stated that Iraq reaffirmed that that function transferred the issue of missing persons from its natural place within the purview of ICRC and turned it into a political issue administered by the Security Council. He said that function was discriminatory and biased, and its scope was limited to the issue of missing persons who were Kuwaitis and third-country nationals, while it refused to investigate the subject of Iraqi missing persons. Further, the Minister acknowledged that Iraq was ready to cooperate with Kuwait to agree on non-discriminatory steps under ICRC supervision to resolve the missing persons issue, regardless of their nationalities. He also suggested that Iraq and Kuwait should follow the example of the cooperation between Iraq and the Islamic Republic of Iran, cooperation, under the

supervision of ICRC, which afforded an example of what might be achieved between the parties concerned without the intervention of outside parties that sought to use the humanitarian issue for political ends.

7. As reported by the Iraq News Agency, on 17 January 2002 the Director-General of Information of Iraq, Uday al-Ta'ae, stated that his country would welcome a visit to its prisons by Kuwaiti officials so as to prove that there were no Kuwaiti prisoners. He was responding to a statement by a Kuwaiti parliamentarian who said, during a visit to Bahrain, that he was sure that there were Kuwaiti prisoners in Iraqi prisons. In this connection the Chairman of the Popular Commission on Missing Iraqis, Munther al-Mutlak, had proposed an exchange of visits with Kuwaiti officials to discuss the question of persons missing since the Gulf war, and handed over a memorandum to this effect to the Secretary-General of the Arab League, Amre Moussa.

8. The Minister of State for Foreign Affairs of Kuwait, responding to Iraq's call to start direct contacts on the issue of the missing persons, noted that the only way to resolve it would be for Iraq to follow the dictates of the Security Council resolutions. He said that the invitation to visit Iraqi prisons was an attempt to evade the specific mechanism established on this issue, namely, the Tripartite Commission.

9. On 18 January 2002, the Secretary-General of the Arab League held talks in Baghdad with President Saddam Hussein on issues, including that of the missing Kuwaitis. Iraq proposed the formation of a joint committee with Kuwaiti authorities that would be allowed to search for missing persons in Kuwait and Iraq. Mr. Moussa was asked to inform the parties concerned that Iraq was ready to move forward on the issue of the Kuwaiti missing persons and to cooperate actively with members of the proposed committee. On 22 and 23 January 2002, Mr. Moussa met with the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait and informed him that Iraq had offered a new initiative to resolve the dispute over POWs. On 24 January, the Secretary-General of the Arab League met with Crown Prince Abdullah bin Abdul Aziz of Saudi Arabia. Mr. Moussa pointed out that Iraqi officials had indicated willingness to reassure its neighbours on their security and to address the issue of Kuwaiti missing persons.

10. According to reports by Agence France Presse and other agencies on 27 January 2002, President Saddam Hussein invited the Arabs, the Saudis and the Kuwaitis to make a surprise visit to Baghdad and to inspect specific locations based on information obtained from foreign intelligence services. Iraq would accept such surprise visits and would open the doors of any palace or home of an ordinary citizen.

11. The Under-Secretary of the Foreign Ministry of Kuwait, Khaled Suleiman Al-Jarallah, responded to this statement by saying that Iraq was a vast country and the missing persons could easily be kept out of sight. It was neither logical nor practical for a Kuwaiti delegation to go to Iraq to search for missing persons. Meanwhile, Kuwait would welcome any ideas reflecting a genuine intention on the part of Iraq to comply with Security Council resolutions. Later, the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait noted that Iraqi ideas presented to Mr. Moussa on improving ties with Kuwait contained nothing new, since any ideas, suggestions or regional moves should be in line with resolutions of the Security Council.

12. On 26 January 2002, the Minister of the Interior of Saudi Arabia, Prince Naif bin Abdul Aziz, doubted reports of Saudi POWs in Iraqi jails. Speaking to a Saudi press agency, he commented on Iraq's proposal for a joint committee to search for POWs, noting that Kuwait's concern about its POWs in Iraq was well-known and documented, but did not match letter for letter that of Saudi Arabia. On 30 January, the Minister of the Interior stressed the similarity of Saudi and Kuwaiti policies towards the issue of the Kuwaiti and other missing persons and ruled out any difference between the Saudi and Kuwaiti stances in this respect. He said that if there were Saudi POWs in Iraq, the rulers of the Kingdom would be very concerned, just as Kuwait is concerned about its POWs.¹ The Deputy Prime Minister and Minister of the Interior of Kuwait, Sheikh Mohammad Al-Khalid Al-Sabah, replied that there were international resolutions that Iraq should implement, particularly those related to the release of Kuwaiti POWs, which had established specific mechanisms for dealing with this humanitarian issue.

13. Regarding missing persons of other nationalities, at the beginning of February there were press reports that the Government of Bahrain and civil society

organizations were investigating, in coordination with the Kuwaiti National Committee for Missing Persons and Prisoner of War Affairs, the fate of nine Bahraini students missing in Iraq since 1991.

14. On 11 March 2002, during its meeting in Riyadh, the Ministerial Council of the Gulf Cooperation Council called on Iraq to resume its cooperation with the United Nations to settle issues relating to cooperation with ICRC, the Tripartite Committee and the High-level Coordinator, in order to find a quick and final solution to the problem of Kuwaiti POWs.

III. Recent activities

15. On 20 February 2002, the Coordinator sent a letter to the Permanent Representative of Iraq to the United Nations, in which he again requested a meeting with the Minister for Foreign Affairs of Iraq.² The Coordinator noted that the establishment of direct contacts between the Government of Iraq and himself could facilitate a solution to the humanitarian issue. He attached a self-explanatory text on the issue of the missing Iraqi nationals, prepared in response to the numerous letters from Iraq on the subject. (A summary of the attachment is contained in annex I to the present report.)

16. I met twice, in Vienna and in New York (on 30 January and 4 February, respectively), with the Secretary-General of the Arab League, who briefed me on the outcome of his visits to Iraq and countries of the region, as well as of the Iraqi initiatives regarding the missing persons.

17. On 11 February, I received the Permanent Representative of Kuwait, who reiterated that the issue of repatriation or return of all Kuwaiti and third-country nationals or their remains should be resolved in the context of relevant Security Council resolutions and the existing mechanisms established for this purpose. On 12 February, he met with the Coordinator and noted that attempts to remove the issue of repatriation or return of all Kuwaiti and third-country nationals from the Security Council's agenda would not be acceptable to the Kuwaiti authorities. On the same day, I explored further steps pursuant to paragraph 14 of resolution 1284 (1999) with the Coordinator.

¹ Saudi Press Agency, 30 January 2002.

² The previous request was sent on 25 October 2001.

18. On 6 March 2002, the Permanent Representatives of Kuwait and Oman briefed me on the final communiqué of the twenty-second session of the Supreme Council of the Gulf Cooperation Council, in which Iraq was urged to implement all obligations under the relevant resolutions of the Security Council, and, inter alia, on the repatriation or return of all Kuwaiti and third-country nationals (see para. 3 above).

19. On 7 March, I met in New York with the Minister for Foreign Affairs of Iraq and his delegation. Among the topics discussed was the issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains. In his opening remarks, the Minister stated that Iraq had returned all prisoners of war and was still offering its cooperation to investigate the fate of all those missing in action. He said that 1,137 Iraqis were missing; this issue should also be addressed and the Iraqi authorities were ready to do so on a bilateral level with Kuwait and with the assistance of ICRC. I called the attention of the Minister to the fact that the mandate of the Coordinator was to facilitate and not to politicize the issue but, according to resolution 1284 (1999), it did not cover the Iraqi missing persons. The Foreign Minister preferred that ICRC remain the only mechanism dealing with the Iraqi missing persons.

20. On 8 March, I briefed the Security Council on my discussion with the Foreign Minister of Iraq, noting that he had informed me of Iraq's recent initiatives towards the resolution of the humanitarian problem of repatriation of Kuwaiti and third-country nationals or their remains, on a bilateral basis, with Kuwait and Saudi Arabia, with the facilitation of ICRC.

21. On 11 March, I met with the Chairman of the Kuwaiti National Committee for Missing Persons and Prisoner of War Affairs, Sheikh Salem Sabah Al-Salem Al-Sabah, and members of his delegation. The Chairman reiterated the importance of the Security Council's engagement with the issue of repatriation or return of all Kuwaiti or third-country nationals and stressed that any solution should emerge from the context of the relevant resolutions, with the participation of ICRC, the Tripartite Commission and the High-level Coordinator. I thanked the Chairman for his cooperation with Ambassador Vorontsov and conveyed to him some of my impressions of the discussion held in New York with the Minister for Foreign Affairs of Iraq, including his complaint that the problem of Iraqi missing persons tended to be

ignored and that the issue of missing persons in general should be solved on a bilateral basis with the assistance of ICRC. My Kuwaiti interlocutors maintained that the issue should continue to be addressed by the Tripartite Commission and other relevant mechanisms.

22. The following day, the President of the Security Council also met with the Chairman and later briefed the Council members. The Chairman expressed hope that the Council would continue to focus on the issue of Kuwaiti and third-country missing persons and POWs, and that the question would be included in the agenda of the next meeting of the Secretary-General with the Iraqi delegation.

23. On 27 March, while attending the Beirut summit meeting of the League of Arab States, I met with the Vice-Chairman of the Revolutionary Command Council, Izzat Ibrahim, who confirmed the decision of Iraq to continue the comprehensive dialogue with the United Nations. At the summit, a declaration was adopted in which the Council of the Arab League called on Iraq to cooperate in seeking an expeditious and definitive solution to the issue of the Kuwaiti prisoners and detainees. The Council also called on Kuwait to cooperate with Iraq under the auspices of ICRC with respect to Iraqi nationals reported missing.

24. The Foreign Minister of Iraq stated in Beirut that the Declaration confirmed the respect and cooperation of the parties (Iraq and Kuwait) on the lingering issues, particularly concerning the missing persons. He said that Iraq pledged to cooperate on the issue of the Kuwaiti missing and Kuwait pledged to cooperate on the issue of the missing Iraqis. The Government of Iraq was willing to work with the Kuwaiti authorities to locate any missing people.

25. During the reporting period, the Coordinator continued to visit countries and regional organizations to pursue his efforts aimed at the resolution of the humanitarian issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains.

26. On 7 and 8 March, Ambassador Vorontsov visited Geneva, where he was briefed by the participants in the meeting of the Tripartite Commission (except Iraq). He also met the ICRC Delegate General for Europe, the Middle East and North Africa, Angelo Gnaedinger, and the Executive Secretary of the United Nations Compensation Commission, Rolf Knutsson. Representatives of the Office of the United Nations High Commissioner for Human Rights briefed the

Coordinator on the recent visit to Baghdad by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, Andreas Mavrommatis.

27. On 7 March, the Tripartite Commission concluded its regular meeting, during which the participants expressed readiness to discuss any new reasonable and practical ideas, as long as they respected general principles of international law and did not contradict the existing mechanism and rules of the Commission. Unfortunately, the Iraqi authorities, notwithstanding some recent initiatives, including invitations to visit Baghdad to search for POWs, decided not to resume participation in the meetings of the Tripartite Commission, leading some members of the Commission to believe that there was a general lack of will on the part of the Government of Iraq to resolve this humanitarian issue.

28. The case of Lieutenant Commander Speicher was also addressed at the recent meeting of the Tripartite Commission. It will be recalled that, in April 2001, the representatives of the United States of America submitted to the Tripartite Commission and ICRC an official request form for Lt. Cmdr. Speicher. In November 2001, the Government of Iraq provided ICRC with an initial response to that official request form (see annex II for more details).

29. The Delegate General of ICRC, while meeting with Ambassador Vorontsov, expressed strong support for the activities of the latter and encouraged him to continue making every effort to resolve the humanitarian issue of repatriation of Kuwaitis and third-country nationals.

30. When briefed on the recent visit to Iraq by Ambassador Mavrommatis, the Coordinator was informed that the Special Rapporteur had met, inter alia, officials from the Ministry of Foreign Affairs responsible for the issue of missing persons. With regard to missing Kuwaiti prisoners of war and persons unaccounted for since the time of the Iraqi occupation of Kuwait, the Iraqi officials referred to their initiatives to locate the missing through public broadcasts and by issuing posters and announcements throughout the country. Prior to his visit to Iraq, the Special Rapporteur met with the representatives of the Government of Kuwait, from whom he received documents indicating that some missing Kuwaitis were still in Iraq.

31. With regard to the issue of missing prisoners of war, the Special Rapporteur indicated, in his report on the situation of human rights in Iraq (E/CN.4/2002/44), that he would be willing to assist in this issue on the basis of a declaration of mutual cooperation and an expression of trust towards ICRC. He reiterated that the Tripartite Commission was the appropriate forum and urged the Government of Iraq to rejoin it. He noted with regret that no progress had been achieved on the issue of missing persons and called attention to the need for all parties to redouble their efforts to find a solution to this humanitarian issue. The Special Rapporteur urged the Government of Iraq to cooperate with the Coordinator.

32. In Geneva, the Coordinator also met with the Executive Secretary of the Compensation Commission. It will be recalled that, at the beginning of this year, *Al-Zawra* made comments concerning the activities of the Compensation Commission attributed to an "authoritative source" at the Iraqi Foreign Ministry. Mr. Knutsson told Ambassador Vorontsov that an assertion was made that the Compensation Commission paid more than twice the compensation claimed by a Kuwaiti Government claimant. Similar accusations were made in the past, which were not supported by facts. In the Kuwaiti Government claim in question, filed by the National Committee for Missing Persons and Prisoner of War Affairs, the claimant sought US\$ 85.4 million in compensation for payments made to the families of the missing and the POWs for loss of financial support and for salary payments made for the missing individuals who had been employees of the Government of Kuwait. In addition, the National Committee sought further compensation for future support and salary payments that would have to be made to the families of the missing and the POWs until the individuals were released or otherwise accounted for.

33. The Panel of Commissioners made no recommendation of compensation to the National Committee for its claim for reimbursement of the salary payments made to the families of missing individuals who were Government of Kuwait employees, nor for future salary payments to be made on the grounds that such missing individuals and POWs remain eligible to file their own salary claims within one year of their release from detention, or to have claims filed on their behalf by surviving family members within one year of being declared legally

dead by their Government. The Panel recommended that the review of this portion of the National Committee's claim should be deferred to a later date, until such time as the missing and POWs were either released or the Government of Kuwait certified their deaths.

34. On 11 March, the Coordinator held separate meetings in Cairo with the Minister for Foreign Affairs of Egypt, Ahmed Maher El Sayed, and the Secretary-General of the League of Arab States. Ambassador Vorontsov commended Mr. Moussa for working tirelessly to reveal the fate of the missing persons and for his efforts to persuade Iraq to cooperate on this humanitarian issue. While meeting the Foreign Minister of Egypt, the Coordinator reiterated Iraq's obligations to search for missing persons and expressed hope that Baghdad would cooperate sooner or later, since it was in Iraq's interest to do so.

35. While in Kuwait on 12 and 13 March, Ambassador Vorontsov was received by the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait; the Speaker of the Kuwaiti National Assembly, Jassem Mohammed Al-Kharafi; and Mohammad Al-Haddad of the National Committee for Missing Persons and Prisoner of War Affairs.

36. On 12 March, the First Deputy Prime Minister and Minister for Foreign Affairs hosted a luncheon in honour of the Force Commander of UNIKOM, Major General Miguel Moreno, and the Coordinator. The Foreign Minister hoped that Ambassador Vorontsov would be able to obtain information to expedite the resolution of the issue of repatriation of Kuwaiti and third-country nationals or their remains. The Coordinator replied that the issue must not be deprived of its humanitarian framework and be delinked from any other problem.

37. The Coordinator also reiterated that the fate of 1,137 Iraqis unaccounted for since the Gulf war was not within the mandate established by resolution 1284 (1999). He recalled that in 2001 Iraq had approached UNIKOM with a request to examine several mass graves in the area (see S/2000/1197, para. 22), but did not follow up on this request later. Kuwaiti officials said that, although they did not consider themselves legally responsible for the Iraqi missing while Kuwait was under occupation, they were investigating the files of 70 missing Iraqis. The Coordinator was informed that Kuwait was ready to study and discuss any

reasonable and practical ideas, provided that they were based on general principles of international law, and did not conflict with existing mechanisms, such as the Tripartite Commission.

IV. Observations

38. Though no tangible progress has yet been achieved on the repatriation or return by Iraq of all Kuwaiti and third-country nationals or their remains, recent developments provide reasons for guarded optimism and hope.

39. In the outcome of the Arab League summit meeting in Beirut, positive signs emerged in the relations between Iraq, Kuwait and Saudi Arabia. The First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait was satisfied with the text of the summit's Declaration, which referred to seeking an expeditious and definitive solution to the issue of the Kuwaiti prisoners and detainees and cooperation regarding the list provided by Iraq of all its missing persons through ICRC. The Foreign Minister of Iraq had also expressed optimism about a rapprochement with Kuwait. In an interview with a Kuwaiti newspaper, he stated that although the Iraqi Government was not holding any prisoners of war from Kuwait it was willing to look for any missing. He further proposed that Iraqi and Kuwaiti representatives meet together and investigate the fate of the missing.

40. I welcome the continued efforts of ICRC to resolve the humanitarian issue of missing persons, and its dialogue with the Iraqi, Kuwaiti and Saudi Arabian authorities. The Tripartite Commission remains the most appropriate mechanism to deal with the issue and the Coordinator will continue to maintain close contacts with it.

41. It should be recalled that the mandate of the Coordinator includes determining the factual up-to-date situation with regard to the repatriation of Kuwaiti and third-country nationals and establishing working contacts with the whole range of parties that have dealt with the issue. The procedures followed by the Coordinator ensured that the Security Council has been properly informed of the issue (without triggering a political discussion or affecting the humanitarian treatment of the issue). Furthermore, the Coordinator continued his role in motivating the parties to cooperate within the framework of different existing

mechanisms. He was careful not to impinge on the work of ICRC and the Tripartite Commission. The Coordinator himself has never participated in any investigations.

42. The establishment of a dialogue between Ambassador Vorontsov and the Iraqi authorities is vitally important and Iraq's cooperation with him would not be inconsistent with Iraq's own stated assurances that it regards the problem of missing persons as a humanitarian one. In this connection, the Coordinator is guided in his activities by the conclusion of the panel on prisoners of war and Kuwaiti property (see S/1999/356, annex III) that the determination of the fate of persons unaccounted for should not be influenced by political considerations. Needless to say, Iraq's compliance with its obligations would demonstrate respect for international humanitarian law. I also call upon Iraq to stand by its intention to fully implement decisions of the Beirut summit regarding the issue of missing persons.

43. I am confident that progress achieved recently in Beirut between Iraq, Kuwait and Saudi Arabia will play an important role in the process of confidence-building and will lead to an improvement in the overall political atmosphere. I call on the leadership of the League of Arab States and the Organization of the Islamic Conference, and ICRC, to continue, through all available channels, efforts aimed at the speediest resolution of the humanitarian issue of the repatriation of all Kuwaiti and third-country nationals.

Annex I

Summary of the attachment to the letter dated 20 February 2002 from the High-level Coordinator to the Permanent Representative of Iraq

1. Reports of the Secretary-General submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999) on the issue of repatriation or return of all Kuwaiti and third-country nationals or their remains, as well as the High-level Coordinator's briefings to the Security Council, have made numerous references to the issue of the Iraqi missing persons, for example: the first report, of 26 April 2000 (S/2000/347, paras. 16 and 28); the third report, of 15 December 2000 (S/2000/1197, paras. 14, 26, 28 and 38); the fifth report, of 15 August 2001 (S/2001/796, para. 24); the sixth report, of 15 December 2001 (S/2001/1196, paras. 5 and 12).

2. During the Coordinator's briefing to the Council on 17 August 2000, he referred to several letters received from the Permanent Representative of Iraq, dated 26 May 2000 (S/2000/502), 21 June 2000 (S/2000/622) and 22 July 2000 (S/2000/735), raising, inter alia, the issue of Iraqi missing persons.

3. The letter from the Permanent Representative of Iraq dated 1 May 2001 (S/2001/439) referred to alleged distortions contained in the fact sheet presented to the Security Council, as well as in the Coordinator's briefing to the Council on 20 April 2001. The fact sheet addressed the issue of the Iraqi missing persons as follows:

"Iraq maintains that the Security Council resolutions are discriminatory since they refer only to the repatriation or return of all Kuwaiti and third-country nationals and not to Iraqis who are said to be missing. The Iraqi National Assembly's Human Rights Committee noted that Security Council resolutions avoided any reference to the Iraqi missing persons despite the fact that 1,142 files had been prepared with the assistance of ICRC. On the eve of the Arab Summit in Amman, the National Commission for Missing Iraqis addressed a letter to King Abdullah of Jordan, urging him to obtain information from certain Member States on the humanitarian plight of the missing Iraqis. It will be recalled that the search for the Iraqi missing persons should be conducted through the mechanism of the Tripartite Commission and ICRC."

4. In his letter dated 11 January 2002 (S/2002/60), the Minister for Foreign Affairs of Iraq stated that the scope of the Coordinator's functions "is limited to the issue of missing persons who are Kuwaitis and third-country nationals, while it refuses to investigate the subject of Iraqi missing persons". The third report (S/2000/1197, para. 21) provides the clarification that the Coordinator's mandate, as defined by resolution 1284 (1999), was limited to Kuwaiti and third-country nationals.

Annex II

The case of Lieutenant Commander Michael Speicher

1. It will be recalled that, on 22 May 1991, the United States Navy status review board found “no credible evidence” to suggest that a Navy pilot, Lieutenant Commander Speicher, had survived the crash of his aircraft, thus his status was established as killed in action/body not recovered.

2. In December 1995, through the International Committee of the Red Cross, investigators from the United States Navy and Army’s Central Identification Laboratory visited Iraq and conducted a thorough excavation of the crash site. The team found the aircraft. Analysis of the wreckage determined that Lt. Cmdr. Speicher initiated the ejection sequence and jettisoned the canopy. Since the cockpit area of the aircraft had been removed prior to the arrival of the United States team, nothing could have been determined from the wreckage regarding the fate of the pilot.

3. Since 1996, the United States Government has continued to look for more details and to analyse all available information to resolve Speicher’s fate. After another review, his status was changed on 11 January 2001 from killed in action/body not recovered to missing in action. “The lack of crash-site evidence of Lt. Cmdr. Speicher’s death, statistical data associated with F/A-18 incidents and the condition of the pilot’s flight suit recovered at the site suggested that he probably had survived the crash”, stated one of the reports.

4. When Lt. Cmdr. Speicher’s status was changed to missing, the United States State Department, through ICRC and other channels, requested Iraq for additional information. On 24 March 2002, an Iraqi Foreign Ministry spokesman stated that Iraq was ready to receive any United States team, accompanied by United States media, in order to discuss, under the supervision of ICRC, the fate of Lt. Cmdr. Speicher. The State Department spokeswoman responded that Washington had learned of the Iraqi proposal through the news media and not through the established mechanism for resolving the humanitarian issue of POWs and MIAs — the Tripartite Commission.

5. On 30 March the Minister for Foreign Affairs of Iraq reportedly forwarded a letter through the United States interests section of the Polish Embassy in Baghdad informing the United States Government of Iraq’s readiness to receive a United States team to look into the fate of Lt. Cmdr. Speicher. Another letter was forwarded and received through ICRC.