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IRAQ'S NON-COMPLIANCE WITH ITS SAFEGUARDS OBLIGATIONS

NOTE BY THE DIRECTOR GENERAL ON THE AGENCY'S ACTIONS CONCERNING IRAQ IN 1990-91

The Agency has been much engaged in the events caused by and involving Iraq since August 1990. The United Nations Security Council has entrusted a key role to the Agency in inspecting nuclear installations in Iraq, in neutralizing any nuclear weapons capacity or preparations for the development of such capacity, and in ensuring that Iraq's nuclear activities are strictly limited until otherwise decided by the Council. The Agency is reporting, through the Secretary-General, to the Council on the fulfillment of the tasks placed upon it. The Director General has informed the Board of Governors continuously about the activities being carried out in Iraq by the Agency at the request of the Security Council. The Director General has also formally submitted to the Board his view that certain conduct by Iraq constitutes non-compliance with Iraq's safeguards agreement with the Agency, and the Board has concluded that there was non-compliance.

For the information of the General Conference, the present chronology gives an overview of major events, with references to relevant documents.

1. Security Council resolution 661 (6 August 1990) imposed a broad range of sanctions on Iraq which resulted in the suspension of the Agency's technical co-operation activities in Iraq.
2. Security Council resolution 687 (3 April 1991) requested "the Director-General of the International Atomic Energy Agency, through the Secretary-General, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General to carry

out immediate on-site inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Security Council within forty-five days calling for the destruction, removal, or rendering harmless as appropriate of all items listed in paragraph 12 [of the resolution]; to carry out the plan within forty-five days following approval by the Security Council; and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968, for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12 [of the resolution], including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that Agency safeguards cover all relevant nuclear activities in Iraq, to be submitted to the Security Council for approval within one hundred and twenty days of the passage of the present resolution".

3. On 15 April 1991, the Director General established an Action Team to be responsible for planning and co-ordinating the Agency's responsibilities in implementing UN Security Council resolution 687.

4. On 18 April 1991, the Secretary-General issued a report (United Nations document S/22508) which contained his proposals for establishing a Special Commission as required by Security Council resolution 687 and set out the arrangements necessary for the Commission to begin implementation of its tasks. This report, inter alia, stated that "As soon as the baseline field assignments of the Special Commission and of the International Atomic Energy Agency have been completed, I [the Secretary-General] intend to work out, in consultation with the Commission, a detailed plan for the implementation of the various tasks entrusted to it, and to submit it to the Security Council for its approval."

5. On 18 April 1991, Iraq submitted a declaration which indicated that it had nothing to declare that would fall under the terms of Security Council resolution 687.

6. On 19 April 1991, Professor Zifferero, Action Team Leader, wrote to the Minister for Foreign Affairs of Iraq to seek clarification of the declaration that Iraq possessed nothing that fell under the terms of the Security Council resolution 687.

7. On 27 April 1991, Iraq replied to the letter of 19 April 1991 with a

declaration of nuclear materials and facilities.

8. On 6 May 1991, the Board of Governors met at the request of the Director General in order to consider a report on the obligations that had been placed upon the Agency by the Security Council in resolution 687. The Director General drew the Board's attention to the fact that the Security Council had acted under Chapter VII of the United Nations Charter which, in combination with the Relationship Agreement between the United Nations and the Agency, requires the Agency to co-operate with the Security Council when requested. The Board noted with appreciation the actions already taken and being taken pursuant to resolution 687 and requested the Director General to keep it informed as appropriate.

9. The first Agency inspection under Security Council resolution 687 took place between 14 May and 22 May 1991. It involved principally verification, in and around the Tuwaitha Nuclear Research Centre, of the accuracy and completeness of the 27 April 1991 declaration by Iraq. In addition, one short-notice inspection was carried out at a site -- Tarmiya -- designated by the Special Commission. A report on the first inspection mission can be found in document GOV/INF/618.

10. On 15 May 1991, the Director General submitted to the Secretary-General the plan, required by Security Council resolution 687 to be submitted within 45 days of the resolution's adoption, for the destruction, removal and rendering harmless of "nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above" (S/22615).

11. The second Agency inspection under Security Council resolution 687 took place between 22 June and 4 July 1991. In addition to continuing inspection activities related to the Tuwaitha Nuclear Research Centre, short-notice inspections were carried out at Tarmiya, Abu Ghraib, Al Hamath, Zaafaraniya, Al Musayyib and Falluja. At two of these sites -- Abu Ghraib and Falluja -- the Iraqi authorities denied access for the purposes of inspection and removed material even after the Chief Inspector had ordered that no material or equipment should be moved from the sites until the inspections had been completed. Photographic evidence substantiated a strong suspicion that the removed material was related to undeclared uranium enrichment activities. At the end of the second inspection, the inspection team concluded on the basis of the evidence it had obtained that the Iraqis had been pursuing an undeclared uranium

enrichment programme using the electromagnetic isotope separation technique (EMIS). A report on the second inspection mission can be found in document GOV/INF/618.

12. A high-level delegation dispatched by the Security Council visited Iraq from 29 June to 4 July 1991. This delegation, which consisted of the Director General, the Chairman of the Special Commission and the United Nations Under-Secretary-General for Disarmament Affairs, was charged with conveying to the Iraqi authorities the necessity of their providing access for the inspection team to the material observed on 28 June, when the right of inspection had been denied, and of implementing a policy which would ensure that all future teams enjoyed unimpeded access in carrying out inspection activities. In reporting its findings (S/22761) to the Secretary-General, the high-level mission concluded that "In spite of their unambiguous character, the general assurances given and the specific measures promised can only be evaluated in the light of present and future implementation by the Iraqi authorities. As described in the present report, the Iraqi response to the request for access to the objects which the inspection team had endeavored to inspect on 28 June falls short of what has been called for by the Security Council."

13. On 7 July 1991, Iraq made an additional declaration which disclosed a substantial clandestine uranium enrichment programme. This declaration indicated that at one time or another gaseous diffusion, electromagnetic isotope separation, gas centrifuge and chemical exchange technologies had been explored by Iraq. Iraq declared that substantial work had been done on the EMIS process, less attention having been given to gas centrifuge and chemical exchange enrichment. Also, it mentioned experimental activity at the laboratory level related to the reprocessing of spent ceramic fuel and involving the separation and purification of uranium and plutonium.

14. The third Agency inspection under Security Council resolution 687 took place from 7 to 18 July 1991. The work of the inspection team revolved around verification of the Iraqi declaration of 7 July 1991, particularly the recovery and inventorizing of EMIS parts that had been dispersed and partially destroyed by the Iraqi military authorities. A report on the third inspection mission can be found in document GOV/INF/621.

15. An informal briefing of the Agency's Board of Governors on the outcome of the high-level mission to Iraq took place on 8 July 1991.

16. On 18 July 1991, the Board of Governors adopted a resolution which found "on the basis of the report of the Director General in GOV/2530, that the Government of Iraq has not complied with its obligations under its safeguards agreement with the Agency (INFCIRC/172)". The Board went on to condemn the non-compliance by the Government of Iraq with its safeguards agreement and decided to report this non-compliance to all members of the Agency and to the Security Council and General Assembly of the United Nations. Also it decided to inscribe an item entitled "Iraq's non-compliance with its safeguard obligations" in the agenda for its September meetings and in the provisional agenda for the thirty-fifth regular session of the General Conference (GOV/2532).

17. The fourth Agency inspection under Security Council resolution 687 took place from 27 July to 13 August 1991. On the first inspection day, the Iraqi authorities handed over a list of nuclear materials which included items not previously declared. It confirmed the existence of a clandestine programme to (i) manufacture several kilograms of uranium oxide fuel, (ii) irradiate it in the IRT-5000 reactor and (iii) reprocess the irradiated fuel in order to chemically separate plutonium. This inspection had as a priority task the obtaining of a more comprehensive picture of the Iraqi efforts in the centrifuge enrichment area, including details of the overall plan and direction of Iraq's programme. The team was able to identify and inspect a large production site for centrifuge production. A report on the fourth inspection mission can be found in document GOV/INF/624.

18. On 29 July 1991, as provided for in paragraph 13 of Security Council resolution 687, the Agency submitted through the Secretary-General to the Security Council a draft plan for the future ongoing monitoring and verification of Iraq's compliance with its undertakings under resolution 687. The draft plan laid out a two-phase approach that addressed, first, the issues of current and near-term monitoring and verification and, second, the approach for long-term monitoring and verification (S/22872 and GOV/INF/622).

19. On 9 August 1991, the Director General submitted an additional report (GOV/2530/Add. 1) to the Board on Iraq's non-compliance with its obligations under the safeguards agreement - related to the undeclared production and separation of plutonium in safeguarded facilities.

20. On 15 August 1991, the Security Council adopted resolution 707, which found that Iraq had failed to act in strict conformity with its obligations under resolution 687 and that this behaviour constituted "a

material breach of the relevant provisions of resolution 687 which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region". The resolution also demanded that Iraq "halt all nuclear activities of any kind, except for use of isotopes for medical, agricultural or industrial purposes until the Security Council determines that Iraq is in full compliance with this resolution and paragraphs 12 and 13 of resolution 687 (1991), and the IAEA determines that Iraq is in full compliance with its safeguards agreement with that Agency". The resolution also determined that Iraq "retains no ownership interest in items to be destroyed, removed or rendered harmless pursuant to paragraph 12 of resolution 687 (1991)".