

# CURRENT DOCUMENTS

## GULF WAR LEGAL AND DIPLOMATIC DOCUMENTS

### INTRODUCTORY STATEMENT

The following excerpts are drawn from documents obtained by the *Houston Journal of International Law* directly from the Iraqi Embassy in Washington, D.C., from the United States Department of State, and from the United Nations General Headquarters in New York. These documents represent important diplomatic and legal developments which occurred prior to the Coalition's commencement of military action against Iraqi forces on January 16, 1991. With the exception of the Security Council Resolutions, these documents are not widely available to the public.

The editorial staff made no efforts to balance or distort the issues presented in these documents. The reader should recognize that some statements were made for purposes of propaganda, that not all statements have a firm basis in fact, and that these materials do not necessarily reflect the opinions of the *Houston Journal of International Law*, its staff, or the University of Houston Law Center. The *Houston Journal of International Law* realizes there are a number of different perspectives on the Gulf War, and welcomes your responses or comments.

The Board of Editors believes this material will be interesting to our readers, and hopes that it will be useful for research purposes. All original documents are kept on file at the offices of the *Houston Journal of International Law*.

## I. THE IRAQI PERSPECTIVE

**Kuwait and its Historical and Legal Relations with Iraq** (Dep't of Information, Ministry of Information and Culture)(Baghdad 1990)(on file at the Houston Journal of International Law).

Before World War I (1914), Kuwait was *qada'* (Administrative District) belonging to Basra Liwa (Province). It was governed by Sheikh of Kuwait in his capacity as an Ottoman Qaimmaqam (chief administrative officer) responsible to the governor of Basra.

. . . Kuwait was part of Basra from the eighteenth century to the outbreak of the World War I . . . . During that long period, the ruler of Kuwait owed loyalty and obedience to the Ottoman Sultan . . . . The Ottoman flag remained flown on the city of Kuwait until 1914 when the British authorities forced its ruler to change it.

. . . .  
Effective British influence began to penetrate into the city of Kuwait during the sheikhdom of Mubarak al-Sabah who, in 1897, turned to Britain for protection partly to achieve his personal ambitions and partly to avoid the risk of rivalry and war with prince of Najd, Ibn Rashid whom the Ottomans relied upon for support.

. . . They [the British] concluded a secret treaty with Sheikh Mubarak on 23 January 1899 under which the whole city fell to the British rule.

The 1899 Treaty, signed between the British Political Resident and Sheikh Mubarak Ibn Sheikh Sabah, stated that the Sheikh shall not accept agents or representatives of any country or government whether in Kuwait or in any other part within the limits of his territory without the prior permission of the British government. The Sheikh also pledged that neither he nor his heirs shall cede, sell, rent or mortgage any part of his territory or to give it to other governments or subjects or other countries, whatever the reasons of their occupation, without the prior approval of His Majesty's government. In return, the British government promised to give Sheikh Mubarak an annual amount of 15,000 rupees (Official Report of British Relations with Kuwait, Lorimer's "Gazetteer of the Gulf, Calcutta, 1908").

. . . Britain on 15 April 1900 renounced her former stance and apologized to the Sultan through her ambassador in Istanbul. She confirmed her recognition of the Ottoman sovereignty over Kuwait (Lorimer's "Gazetteer of the Gulf" Official Report of Britain's Relations with Kuwait).

. . . Yet, Sheikh Mubarak maintained his secret contacts with the British government, and in June 1901 he asked for her help, but Britain turned down his request . . . .

. . . In 1913 the British and Ottoman governments signed a treaty under which Britain gave a loan to the Ottoman Empire to help ease some of her financial burdens.

Another treaty was signed in London on 29 July 1913 between the two governments regarding the question of Kuwait. The treaty defined the territorial and administrative rights and duties of the ruler of Kuwait. It also defined the line for the demarcation of borders. Article II of the treaty stated that Sheikh of Kuwait shall exercise administrative autonomous rule, hoist the Ottoman flag as before, and, if he wishes, place the word (Kuwait) in one of the flag's corners. The said treaty, however, was not ratified due to the outbreak of World War I.

. . . After the breakout of World War I the British High Commissioner in the Gulf, on 3 November 1914, sent a message to the ruler of Kuwait Sheikh Mubarak al-Sabah requesting him to attack an[d] occupy Um Qasr, Safwan and Bobyan and to collaborate with Sir Sheikh Khaz'al Khan and prince Abdul Aziz Bin Su'ood and other reliable Sheikhs to liberate Basra from Turkish domination.

The British Commissioner promised Sheikh Mubarak . . . the British government would protect him if the Sheikh invaded and occupied Safwan, Um Qasr and Bobyan. Moreover, the British government shall recognize and accept that the Sheikhdom of Kuwait is an independent government under British protection.

. . . On April 19, 1923 the British High Commissioner in Iraq, Sir Percy Cox sent memo No. 5405 to the Political Consul in Kuwait in which he requested him to inform the ruler of Kuwait of the British government's agreement to mark the Iraqi-Kuwaiti borders as it appeared in the British Ottoman draft agreement in 1913.

. . . On July 17, 1932 . . . the British Commissioner in Baghdad (Sir Francis Humphreys) . . . suggested the need to establish the borders between Iraq and

Kuwait . . . .

. . . On July 21, 1932 the Iraqi Prime Minister Noori al-Sa'eed sent the letter No. 2944 to the British Commissioner in Baghdad requesting him to obtain Kuwait's approval of the borders' demarcation mentioned by the British.

. . . On July 30, 1932 the Minister of Defence Ja'far al-'Askari sent to the Council of Ministers' Secretariat the letter No. 432 in which he expressed his surprise at the hastiness of making the issue. He indicated his objection from a military point of view to the suggested borders especially for considering the islands of Worba and Bobyana as part of Kuwait's territory because it would make Kuwaiti territories intrude on Iraq's . .

. . . .  
. . . The letter of the then Iraqi Prime Minister (Noori al-Sa'eed) No. 2944 of July 21, 1932 which refers to the description of the Iraqi-Kuwait borders as sent to the British High Commissioner in Baghdad did not obtain the required legal character because the constitutional measures related to it had not been completed for the legislative powers at the time [therefore] did not ratify it. It is internationally recognized and stated by constitutions of all countries that border treaties need to be approved by the competent legislative power . . . .

Therefore, this letter is not good enough to be a basis for a legal pretext against Iraq, and it is not binding because it did not meet the constitutional procedures and the legal character required for ratifying border treaties.

. . . On October 4, 1963 a joint Iraqi-Kuwaiti statement was issued, based on the Iraqi Prime Minister's letter of July 21, 1932 which the ruler of Kuwait agreed to in his letter of August 10, 1932.

What was stated in the above statement was not submitted for ratification to the legislative power . . . .

Accordingly the statement can not be taken as a basis for a legal pretext against Iraq and it is not binding either because it did not satisfy the constitutional procedures and the required legal character.

. . . .  
1. Iraq does not object to Kuwait's administrative independence if it is annexed to Iraq provided that it does not violate Iraq's sovereignty.

2. In case Britain does not agree to Kuwait's annexations to Iraq, an amendment to the suggested borders between Kuwait and Iraq to a 30 degree to the north of Kuwait shall be made so that Iraq may have access to protect its territory.

3. Renting a piece of land from Kuwait to build a deep port and to connect it to Basra's railways because Iraq is not sure of the safety of navigation in . . . Shatt-al-Arab, with time, will not be fit for navigation in the future.

Britain, however, refused these demands . . . . Iraq's demands remained as they were even after the declaration of what is called the 'Independence of Kuwait.'

On June 19, 1961, the Kuwaiti-British Agreement was announced under which the January 23, 1899 agreement, signed by Sheikh Mubarak al-Sabah and the Political commissioner of the gulf (M.G. Meed) concerning the special relation between Kuwait and Britain, was canceled.

. . . Iraq's Foreign Minister explained that the Kuwaiti government should give up to Iraq the two islands of Warba and Bobyan along with other territory close to Iraq's border in such a way as to make the border line deeper inside Kuwait to make vital space necessary to construct Um Qasr Port and the railway line attached to it. Iraq's Foreign Minister also explained that the Iraqi government wants the Kuwaiti agreement on these demands before Iraq agrees on the formation of the joint committee of the borders which the Kuwaiti sheikhs want to form . . . .

. . . .

. . . Iraq considered the islands of Warba and Bobyan and the coast opposite them as part of Iraq and repeated Iraqi government's non-commitment to the Agreements of 1932 and 1963 as they were not ratified by the Iraqi legislative authority. No progress was achieved during the negotiations because of the stand of the Kuwaiti sheikhs.

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During the period from 1974-1977, several attempts were made and several meetings were held to solve the problem . .

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The sheikhs of Kuwait wanted to change the character of the area adjacent to the border by setting up police posts, farms, plantations, embankments and drilling oil wells to pump

out oil from the Iraqi oil fields of Rumila. To give an example representative of many, the Kuwaiti Customs and Passport Office was in the area of "Al-Matla" until 1967 when it moved to the "Old" location of "Al-Abdali", some 75kms to the northern of "Al-Matla" towards southern Iraq. This indicates the gradual encroachment on territories and oil regions.

. . . . .  
 When the Baghdad Summit was held on 28-30 May 1990, as the Arab leaders ended the conference with great success, unanimously [sic] adopted the resolution, the final statement in a cordial atmosphere and positive interaction. President Saddam Hussein found it an opportunity to draw attention to his brothers in an honest and sincere manner about the dangers of violating OPEC resolutions. He said that a drop of oil prices by one dollar per barrel, Iraq loses one billion dollars a year. He added that war is sometimes launched by weapons, and by economy some other times and that Iraq would no longer tolerate further damage as a result of decline in its revenues caused by violation on the part of others of the determined oil production quota.

. . . . .  
 When the 2nd of August uprising took place in Kuwait[,] Iraq agreed on providing help and support to it to put a final end to the Al-Sabah clique which is known for its conspiracy, and corruption and which was installed by the British . . . .

Later . . . the Revolution Command Council in Iraq responded to the historic appeal made by the free interim government of Kuwait. A full union was declared between Iraq and Kuwait on 8 August 1990 by which the branch (Kuwait) returned to the main land (Iraq) and the historical mistake made by the colonial scheme was corrected.

**The Kuwait Question, Letter Addressed by H.E. Tariq Aziz, Deputy Prime Minister and Foreign Minister of The Republic of Iraq to The Ministers of Foreign Affairs of all Countries in the World (Baghdad Sept. 4, 1990)(on file at the Houston Journal of International Law).**

On 4 September 1990, Mr. Tariq Aziz, Deputy Prime Minister and Foreign Minister of the Republic of Iraq, addressed a letter to the Foreign Ministers of the Arab World and of the World at large. The letter offers a document presentation of historical facts and evidence about Kuwait, its historical,

geographical and human ties with its motherland in Iraq, and the role played by British imperialism in severing this part from Iraq and turning it into an artificial entity, under British hegemony, in order to deprive Iraq from its natural and historical access to the waters of the Arab Gulf.

In its second part, the letter addresses the conspiratorial role played by the former rulers of Kuwait at the ins[t]ig[ation] [sic] of the United States and its allies.

The letter also reviews the events preceding to the 2nd of August 1990, and the developments ensuing until the 4th of September, when it was signed.

. . . .

. . . The small village established some two centuries ago on the banks of the Arab Gulf under the name of "Kuwait", an Iraqi term for "a small settlement of people", had remained throughout the nineteenth century and up to the breakout of the First World War, an Iraqi Qadhaa' (district) belonging to the province of Basrah. Under Ottoman law, the outpost of Kuwait was an integral part of Iraq, subject to the jurisdiction of Basrah.

In 1899, Britain goaded Mubarak [District Administer of Kuwait] into signing a secret agreement under which the British were to provide him with protection even though he was part of the Ottoman Empire and, accordingly, had no authority to sign any international accord . . . .

Britain never ceased these attempts, but continued to establish bases in various parts of the Arab Gulf in order to consolidate its colonial grip over this region, the strategic importance of which had increased both militarily and politically, within the framework of the competition with the Ottoman Empire, and economically as it constituted an important trade route and was known by the British to contain vast oil reserves . . . . Britain focused its influence on Kuwait and drew artificial boundaries in the same way . . . . Britain perniciously severed a part of Iraq in a manner that deprived a country ancient in its civilization, and great in its land and population, of its natural access to the waters of the Arab Gulf, the access which it had possessed throughout history.

It was through such devious colonial machinations that a tiny artificial entity, called Kuwait, was hacked up under British domination and given artificial boundaries that have no historical or geographical foundations.

Since its establishment in 1921, the State of Iraq has refused to accept this artificial entity. All successive Iraqi governments continued demanding the return of this severed part of Iraq so that Iraq could regain its historical and geographical right in a manner that ensured its commercial and economic interests and provided it with the requirements necessary for the defence of its national security . . . .

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 . . . When the British government forced the Prime Minister of Iraq in 1932 to exchange correspondence with the British Commissioner in Baghdad, regarding the demarcation of the boundaries on the basis of the draft agreement proposed between the Ottoman and British governments, the agreement which had remained unsigned because of . . . eruption of the World War I, the Iraqi House of Representatives refused, in its capacity as the country's legislative authority, to ratify the said correspondence.

. . . . .  
 In April 1938, Mr. Tawfiq al-Swedy, Iraq's Foreign Minister at the time informed the British ambassador in Baghdad, Mr. Peterson, that: "the Anglo-Turkish Agreement of 1913 had recognised Kuwait as a district belonging to the province of Basrah, and since sovereignty over Basrah had been reli[n]quished by the Ottomans to the government of Iraq, then that sovereignty should be extend[ed] to include Kuwait as provided for in the agreement of 1913. Furthermore, Iraq had never recognised any change in the status of Kuwait.

. . . . .  
 Following the assassination of King Ghazi, British puppets seized power in the country . . . . [T]he Second World War broke out to initiate a series of successive changes and developments in Iraq and in the region as a whole. Amongst those developments were the Arab-Israeli war and the revolution in Egypt. All these developments gave the British colonialists the pretext to concentrate their influence in Kuwait while severing its political and human links with Iraq.

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 . . . [B]ritain was prepared to grant Kuwait independence, but would give Kuwait the freedom to decide the question of joining the Federation . . . .

Early in 1958, Prime Minister Nouri al-Said of Iraq submitted to the Baghdad Pact the Iraqi position on the necessity of the return of Kuwait to Iraq . . . .

. . . Following the establishment of the Arab Federation between Iraq and Jordan on 14 February 1958, King Faisal II, joined by Prime Minister Nouri al-Said, and the Foreign Minister of the new Federation, Tawfiq al-Swedy, brought up the issue of unity with Kuwait once again with British Foreign Minister Sellwyn Lloyd. The British, however, still rejected the Iraqi demand.

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. . . [T]he land of Kuwait had, from the point of view of international law, been under the sovereignty of the Ottoman empire, as a qadhaa' (district) belonging to the province of Basrah. This sovereignty had never been subject to doubt or dispute from the point of view of either the local authorities in Kuwait or the British government. Indeed, the latter had recognized this fact in the Anglo-Turkish Agreement signed in London on 29 July 1913 which stated, in article 6, the right of the Sheikh of Kuwait to exercise his authority invested in him as an Ottoman district administrator subordinate to the governor of Basrah.

. . . .

In 1961, Britain decided to grant the artificial entity of Kuwait what it called "independence", a decision which prompted the then Prime Minister of Iraq to declare, in a press conference on 25 June 1961, that Iraq considered Kuwait an integral part of its territory and that Iraq had never recognized the special relationship agreement between Britain and Kuwait which the Sheikh of Kuwait, Abdulla al-Salim al-Sabah, had signed with Colonel M.J. Meade, the British Political Resident in the Gulf, on 19 June 1961. Following that declaration, Britain deployed its armed forces to the area to confront Iraq and protect its new creation, the so-called "State of Kuwait."

Had it not been for the procedural mistake made by Iraq's Foreign Minister at the time, Hashim Jawad, when he withdrew in angry protest from the meeting of the Arab League Council, which was discussing the entry of the so-called "State of Kuwait" into the League of Arab States, a mistake which allowed a decision to be adopted, on 20 July 1961, to accept

Kuwait as a member of the Arab League, this artificial entity would have remained outside the League; for new membership in the League of Arab States is subject to a unanimous vote of approval.

. . . Iraq issued a Foreign Ministry statement on 21 July 1961, stating unequivocally that Iraq considered decision no. 35-1777, accepting Kuwait as a member of the League of Arab States, to be a flagrant violation of the League's Charter which stipulated that such a decision could only be adopted by unanimous approval. Iraq also declared the said decision to be null and void and made clear its position that Kuwait would remain an integral part of its territory and that Iraq would not abandon its rightful endeavor to restore this part by all legitimate means.

The Government of the old regime in Kuwait also failed in its efforts between 1961 and late 1963 to be granted membership in the United Nations.

. . . .  
 . . . [N]one of the successive governments of Iraq had accepted the severance of the Kuwaiti part from the land of Iraq or signed a border treaty with the artificial entity created therein. No constitutional law has ever been passed to describe such a border line.

This had been the situation prevailing in Iraq by the time the revolution of 17-30 July 1968 came about. The revolutionary government leading Iraq since that date has been keen, under instruction from President Saddam Hussein, to settle this issue in a manner that would secure to Iraq a reasonable level of its historical rights and remove at least a limited part of the injustice done to it since the beginning of the century.

. . . .  
 . . . [F]ollowing the breakout of the Iran-Iraq war . . . . I [Tariq Aziz] took the initiative of informing the Foreign Minister of . . . our genuine desire to settle this issue . . . . [In] July 1988 . . . the Foreign Minister of the former regime [of Kuwait] visited Iraq to agree that the subject be discussed by the two Foreign Ministers.

. . . [T]alks . . . were delayed because of . . . Iraq-Iran negotiations following the ceasefire . . . .

. . . .

. . . During the visit made by the Sabah ruler of Kuwait to Baghdad in September 1989, President Saddam Hussein proposed to him that the border talks be resumed . . . .

. . . [T]he former rulers of Kuwait . . . made use of Iraq's internal and regional preoccupations, the last and most pressing of which being the Iran-Iraq war which lasted eight years. They exploited the situation to expand northwards, setting up outposts, military installations, farms and oil installations . . . .

. . . .  
In February 1990, . . . President Hussein pointed out that:

the continued US presence in the gulf is due to the fact that the gulf, in view of the developments witnessed in international politics and in the oil market and of the increasing need for oil by the United States, Europe, Japan, and perhaps even the Soviet Union, has become the most important spot in the region. Indeed it may have become the most important spot in the whole world. The country therefore, that succeeds in wielding the biggest share of influence over the region, through the Arab Gulf and its oil, will secure to itself an unchallenged supremacy as a superpower. This means that, unless the people of the Gulf and all the Arabs are careful enough, the Gulf region will become subject to the will of the United States.

Following the President's speech, a feverish campaign [sic] was launched against Iraq by US and other Zionist-influenced circles in the West . . . .

The price of oil, at the time of the President's speech in Amman, was somewhere between \$18 and \$21 per barrel. Immediately afterwards, we saw the rulers of Kuwait, supported by those of the Emirates, surprise us by their demand for an increase in their OPEC quotas. Without even waiting for the matter to be discussed in OPEC, [they] went ahead to flood the oil market through overproduction, bringing about a sharp fall in prices and a severe blow to Iraq's already debilitated revenues. The price of oil went down to \$11 per barrel, which represented a reduction of several billion dollars in Iraq's income, at a time when the country was encountering the very heavy economic burden left by the costs of the war.

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. . . Iraq proposed that a summit meeting be held amongst the four parties (Iraq, Saudi Arabia, the Emirates and Kuwait), with a view to working out a solution to the problem acceptable to all . . . .

. . . .

In his national address of 16 July 1990, President Saddam Hussein reiterated his warning against [sic] the new type of conspiracy being perpetrated against Iraq through certain Arab quarters. The President said:

. . . .

As for the government of Kuwait, its aggression against Iraq has been two-fold, on the one hand, Kuwait has committed aggression against Iraq and its rights by encroaching upon its territories and oilfields and by stealing its national wealth, an action tantamount to a military aggression. On the other hand, the Kuwaiti government deliberately wants to bring about a collapse in the Iraqi economy at this time in particular when Iraq is being subjected to a ferocious Imperialist-Zionist threat. This is an aggression no smaller, in the damage it perpetrates, than a military one.

. . . .

It was this grave conspiracy against Iraq that led us to extend military assistance to young revolutionaries in Kuwait and their uprising on 2 August 1990 . . . .

. . . President Bush asked his Defence Secretary to visit Saudi Arabia seeking the King's approval for US forces to be invited to Saudi Arabia. The US Defence Secretary arrived in Jeddah in the morning of 6 August and the US forces began entering Saudi Arabia on 7 August . . . . The speed with which the whole thing was done confirms two basic facts. The first fact is that a US military plan had already been prepared to ensure US domination of the gulf region, and this was the right time for its implementation. (This has been substantiated by former US officials including Zbigniew Brzezinski). The second fact is that the United States deliberately sought to abort the plan for an Arab settlement of the problem to be reached through the planned Jeddah summit.

. . . .

. . . On the first day of the events, the United States goaded the Security Council into adopting a resolution against Iraq on the basis of Chapter VII of the UN Charter. I am referring here to resolution 660 of 2 August 1990, which has no precedence of its kind in the whole history of the Security Council. The Council adopted this resolution without even giving Iraq the chance to be heard. It has always been normal practice in the Security Council, while dealing with international crises, to invite the Foreign Ministers of the parties concerned [sic] to attend the Council meetings before a resolution is adopted . . . . [A]nother unprecedented resolution was adopted to impose unjust sanctions against Iraq. This was resolution 661 of 6 August 1990. . . .

**Statement by H.E. Mr. Tariq Aziz Deputy Prime Minister and Minister of Foreign Affairs of the Republic of Iraq** (as delivered on his behalf by Ambassador Abdul-Amir Al-Anbari, Permanent Representative of Iraq to the United Nations)(New York Oct. 4, 1990)(on file at the Houston Journal of International Law).

. . . .  
. . . [I]n 1913, Britain undertook to sever Kuwait from Iraq; . . . all the successive governments, both monarchical and republican, which have ruled Iraq over a period of seventy years have refused to accept this colonialist act; . . . . The United States and its Western Allies are deliberately obliterating any awareness of the developments and events which have led to the present situation . . . .

. . . .  
. . . On the very first day of the events [Aug. 2, 1990], the United States had the Security Council convene an emergency meeting and placed before it a resolution based on Chapter VII <sup>1</sup>. . . . Resolution 660 is unprecedented in the history of the Security Council whether in terms of the hasty way in which it was passed and discussed or in terms of its direct leap to Chapter VII within the first hours of the occurrence of the events.

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1. See The Charter of the United Nations, Ch. VII (Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression).

The United States and its Western Allies are not defending international law and the Charter. As the American President George Bush has stated, they are defending the capitalist monetary system of which the investments by the former Kuwaiti regime, amounting to over 200 billion dollars, constitute one of the principal props. They are seeking to gain control over the oil reserves in the Gulf so as to have a free hand in manipulating the needs of the world, and especially the needs of the peoples of the third world, for this important commodity. The United States is seeking, in a dangerously coercive manner, to impose its hegemony over the world, as was disclosed by President George Bush in his speech before the Congress on 11 September 1990 when he said that American objectives in the Gulf are clear, American goals defined and familiar . . . America and the world must defend common vital interests . . . and in the pursuit of these goals, the United States will not be intimidated . . . .

. . . On the other hand the United States, which resisted until a few weeks ago normal and balanced increases in the price of oil in response to supply and demand, is now intent on keeping the price high because it is blackmailing its allies among the oil-producing countries so as to make them spend the earnings resulting from the higher prices to cover the heavy financial costs of its military campaign against Iraq.

. . . .  
The United States is not doing all that it is doing now for the sake of the Charter, international law or the rights of peoples. America and its Western Allies are seeking, through this military, political and informational campaign, to gain control over the oil wells and to impose imperialist political, economic and military hegemony over the world, and over third world [sic] countries in particular.

. . . .  
Free countries that truly believe in the Charter and in international law and that are sincerely interested in peace are under obligation to press unremittingly for a comprehensive and just solution to all the issues of the region.

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**Excerpts from the minutes of the audience given by His Excellency President Saddam Hussein to Miss April Glaspy, the US Ambassador to Iraq (July 25, 1990)(on file at the *Houston Journal of International Law*).**

. . . .

. . . I [Ambassador Glaspy] admire your extraordinary efforts to rebuild your country. I know you need funds. We understand that, and are of the opinion that you should have the opportunity to rebuild your country. But what we hold no opinion about are inter-Arab disputes, such as your border disagreement with Kuwait. I was in the American embassy in Kuwait during the late sixties. The instructions we had at that time were that we should have nothing to do with that this issue and the issue was not connected to US concerns.

**Excerpt from the Iraqi perspective on the position of the United Nations on enforcement of related Resolutions.**

Although Security Council resolutions on numerous occasions have referred to Article 2, Para 4 of the UN Charter (that all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State), Israel invaded Lebanon in 1969, 1978 and 1982; it still occupies southern Lebanon and bombards innocent Palestinian and Lebanese civilians daily; it attacked Iraq's nuclear facilities for peaceful purposes in 1981, and it raided Tunisia in 1985. In these cases the Council had condemned these acts as acts of aggression perpetrated by Israel yet did not invoke Chapter VII.

## II. THE UNITED STATES' PERSPECTIVE

**Statement by Ambassador Thomas R. Pickering, United States Permanent Representative to the United Nations, in the Security Council, in Explanation of Vote, on the Situation in the Occupied Territories (May 31, 1990)(on file at the Houston Journal of International Law).**

. . . President Bush on May 22 stated clearly our view, and I quote: "It is not enough, however, to deplore what has happened and to call for restraint. It is essential to address the political issues that lie at the core of the region's strife. Based on experience, we believe that violence in the Middle East will continue and possibly grow so long as there is an absence of a promising peace process that nourishes hope among Israelis and Palestinians alike.["]

**Statement by Ambassador Thomas R. Pickering, United States Permanent Representative to the United Nations, in the Security Council, on the Situation in Kuwait (Aug. 2, 1990)(on file at the Houston Journal of International Law).**

. . . [S]hortly after midnight in Kuwait and Iraq, Iraqi forces moved into Kuwait territory, according to reports received from the American embassy in Kuwait . . . .

There was opposition to the movement of these military forces, firing, and combat . . . .

. . . [T]he Iraqis at one point made a serious mistake. Instead of staging a coup d'etat and installing the so called free provisional government before the invasion they got it the wrong way around. They invaded Kuwait and then staged the coup d'etat in a blatant and deceitful effort to try to justify their action.

. . . .  
Within the last few hours, the White House has issued the following statement:

The United States strongly condemns the Iraqi military invasion of Kuwait and calls for the immediate and unconditional withdrawal of all Iraqi forces. We have conveyed this message to the Iraqi ambassador in Washington and to the Iraqi government through our embassy in Baghdad. We deplore this blatant use of

military aggression and violation of the United Nations Charter. Together with Kuwait, we are calling for an emergency session of the United Nations Security Council.

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It is our understanding that the present aggression was completely unprovoked. The United States policy has been to support every diplomatic effort to resolve the present crisis

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**Statement by Ambassador Thomas R. Pickering, United States Permanent Representative to the United Nations, in the Security Council, on United Nations Sanctions against Iraq (Aug. 6, 1990)(on file at the Houston Journal of International Law).**

. . . [M]y government has joined nine other countries in sponsoring the resolution before us today. It is in response to Iraq's blatant aggression against Kuwait, a sovereign member state of the United Nations, and Iraq's unacceptable failure to comply with Resolution 660, a mandatory resolution which is binding on all member states . . . .

These actions follow Iraq's declarations eleven days ago that it would not invade Kuwait . . . . The family of nations has come to the point where it cannot believe anything the Baghdad regime has to say on this matter.

. . . [T]he European Community, the Gulf Cooperation Council, the Arab League, and the Non-Aligned States condemn the Iraqi invasion and demand withdrawal . . . .

. . . In a matter of six hours, Iraq took over Kuwait; in a matter of twenty-four hours, Iraq established a marionette "provisional government"; in a matter of forty-eight hours, Iraqi troops—upwards of 100,000 strong—were "volunteered" to serve quickly as cobbled puppets and moved south to the Saudi border . . . .

. . . Iraq must learn that its disregard for international law will have crippling political and economic costs, including, but not limited to, arms cutoffs . . . .

. . . [T]oday's resolution is binding upon all member states of the United Nations . . . . [M]y government acted swiftly to freeze all Iraqi and Kuwaiti assets, and barred all trade with Iraq, and we welcomed the issuance of many governments' decisions to cease all arms transfers to Iraq . . . .

**Statement by Ambassador Thomas R. Pickering, United States Permanent Representative to the United Nations, in the Security Council, on the Situation in Kuwait (Aug. 9, 1990)(on file at the Houston Journal of International Law).**

. . . The United States does not recognize Iraq's outrageous and unlawful declaration that Kuwait is part of Iraq.

My government therefore is eager to support the legitimate government of Kuwait through the consensus resolution which we have adopted which declares that any such charade is null and void, and without legal effect . . . .

. . . .

Why is this resolution [661] necessary? It is necessary because Iraq is attempting to extinguish the sovereignty of a member state of the United Nations.

**Statement by Ambassador Thomas R. Pickering, United States Permanent Representative to the United Nations, in the Security Council, on the Situation in Iraq and Kuwait (Aug. 25, 1990)(on file at the Houston Journal of International Law).**

. . . Our first resolution condemned the invasion, sought an immediate and unconditional withdrawal, and provided a basis for a negotiated settlement. Resolution 661 established a broad sanctions regime which further reinforced those objectives. Resolution 662 declared null and void Iraqi action purporting to annex Kuwait. Resolution 664 condemned Iraqi actions in holding foreigners hostage, in shutting down embassies in Kuwait, and in removing the diplomatic immunity of their personnel. All the diplomatic approaches undertaken by this Council have thus far disturbingly and sadly fallen on deaf ears in Baghdad.

. . . .

. . . [M]y country remains steadfastly interested in a peaceful settlement to this crisis. Such a settlement can only be predicated on the willingness of the international community to remain steadfast in the face of Iraqi aggression and inhumanity . . . .

**Statement by Ambassador Thomas R. Pickering, United States Permanent Representative to the United Nations, in the Security Council, on the Situation in Iraq and Kuwait (Sept. 16, 1990)(on file at the Houston Journal of International Law).**

Mr. President, once again Iraq has violated a fundamental rule of international law. Not satisfied with violations such as depriving diplomatic missions in Kuwait of food, water and other services, Iraqi special forces troops have now added to their crimes breaking and entering diplomatic premises, kidnapping the French military attache and three French citizens, ransacking the house, and treating brutally two female Philippine citizen workers . . . .

By singling out diplomatic missions for attack, Iraq has, in a special way, confirmed its preference for the instruments of force over the paths of diplomacy and negotiation . . . .

**Text of remarks by Secretary of State James A. Baker, III in the United Nations Security Council (Sept. 25, 1990)(on file at the Houston Journal of International Law).**

. . . [T]his marks only the third time in the 45-year history of this organization that all of the Perm Five Foreign Ministers of the Security Council are meeting. Rarely has the United Nations been confronted by so blatant an act of aggression as the Iraqi invasion of Kuwait . . . .

. . . For international society to permit Iraq to overwhelm a small neighbor and to erase it from the map would send a disastrous message . . . .

. . . .  
. . . [W]e remind the Government of Iraq that it is not free to disregard its international obligations, especially the humanitarian provisions of the Fourth Geneva Convention. Each day that Iraqi officials flout norms of elementary decency makes it that much more difficult for Iraq to resume its place in the international community and to repair the damage it has done . . . .

. . . .  
. . . [T]he Council puts the government of Iraq on notice that its continued failure to comply could lead to further action, including action under Chapter Seven. The international community has made clear its desire to exhaust every peaceful possibility for resolving this matter in accordance with the

principles of the United Nations Charter. But we are all well aware that the Charter envisages the possibility of further individual and collective measures to defend against aggression and flagrant violations of international humanitarian law.

**Statement by Ambassador Thomas R. Pickering, United States Representative to the 45th Session of the United Nations General Assembly, in Plenary, in Right of Reply to Iraq (Oct. 5, 1990)**(on file at the Houston Journal of International Law).

Mr. President, the representative of Iraq has just abused us all with a caricature of history, a distortion of the Charter obligations we all share as members of the United Nations, and a deliberate misrepresentation of the policies of other Member States, including my own . . . .

The Iraqi representative made a spurious claim regarding the refusal by the United States of permission for the travel here of the Iraqi Foreign Minister. The United States did not refuse permission for the minister, and he could easily have come here on any number of many scores of convenient daily commercial flights to and from Europe and the Middle East. The United States did refuse permission for a special Iraqi flight to land in New York. It is incongruous to say the least for the Iraqi government, which holds thousands of foreign nationals hostage in Iraq, denying their right to leave the country by any means—let alone private aircraft—to complain about the inability of my Government to permit such a special flight. The Ministers [sic] failure to attend the General Assembly obviously derives from other motives.

. . . .

The Representative of Iraq suggested, erroneously, that the United States has applied different conceptions of its Charter obligations in the case of Iraq's unprovoked invasion and annexation of Kuwait. Nothing could be further from the truth. When the Security Council acted to adopt resolution 660 it acted in full knowledge of the essential facts. Resolution 660 condemned the Iraqi invasion of Kuwait and demanded that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990. It called upon Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supported all efforts in

this regard, especially those of the League of Arab States. The record of the United States in supporting this resolution is clear.

. . . In violation of the fourth Geneva Convention it has looted and pillaged in Kuwait, denied the national identity of its citizens, and tortured some of those who would even think about resisting . . . .

. . . It [Iraq] violated the most basic Charter obligations, even to the extreme point of aggression aiming to extinguish the existence of a friendly, but peaceful, neighboring state. . .

**Statement by Ambassador Thomas R. Pickering, United States Permanent Representative to the United Nations, in the Security Council, on the Situation in Iraq and Kuwait (Oct. 29, 1990)(on file at the Houston Journal of International Law).**

. . . .  
The Council further demands that Iraq honor its obligations under the Vienna convention towards diplomatic and consular personnel and missions and ensure immediate access to supplies of food, water and basic services to those missions, to allow these missions to exercise their functions for the protection of foreign nationals, to assure the immunities of their premises and personnel, and to allow the departure of all diplomatic and consular personnel who wish to depart . . . .

This resolution also makes clear that Iraq is liable for full restitution or compensation for the losses and damages it has caused by its illegal invasion and occupation of Kuwait . . . .

**Statement by Ambassador Thomas R. Pickering, United States Permanent Representative to the United Nations, in the Security Council, on the Situation in Kuwait (Nov. 28, 1990)(on file at the Houston Journal of International Law).**

. . . The 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War, drafted by the same generation of statesmen who founded our organization, places specific obligations on Iraqi officials. As invited by Resolution 674, the United States has submitted as a document of the Security Council information on grave breaches of that convention.

. . . [L]et me report some of the grave breaches committed by Iraqi authorities.

**Willful Killing:**

—At the end of August the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities condemned the Iraqi Government after studying “reliable reports of mass extrajudicial executions.”

—In September, there were numerous executions of Kuwaiti youths for suspected involvement with the resistance and of medical workers.

. . . .

—October 12 was a busy day for Iraqi authorities: six youngsters were hanged for distributing leaflets; four people were shot for possession of a camera and photocopy machine; a family of seven was shot for possession of a United States passport, not theirs; a manager of a food shop was shot for not displaying a photo of Saddam Hussein, and two boys were executed in front of their parents.

**Torture:**

—Amnesty International has reported that Iraqi methods of torture have included rape, electric shock treatment, beatings, breaking of limbs, and mock executions.

—In one case Iraqi authorities beat a prisoner until he was unconscious, and on regaining consciousness, kicked him and applied electric shocks until he lost consciousness again. This treatment was repeated each time he awakened for four days.

—A man claiming to have been in the Kuwaiti resistance reported conditions in a place of detention outside Basra. Inmates were fed only bread and water. During interrogation they were hung upside down. Iraqi soldiers raped them, pulled out their fingernails, chopped off pieces of their fingers and hands, and burned them with hot irons.

**Willfully Causing Great Suffering or Serious Injury:**

—By mid-September over 500 patients had been turned out of hospitals and other public care institutions . . . . [M]any patients have died for lack of care.

—Iraqi authorities have evicted Kuwaitis from their homes and put in their places Iraqis.

Iraq has also committed numerous grave breaches under the categories of unlawful deportation or transfer of a protected person, unlawful confinement of a protected person, and taking

of hostages—with hundreds held to this day at military, industrial, and scientific sites.

The plunder of Kuwait is now far beyond our worst fears: hospitals, mosques, schools, factories, port facilities, industrial complexes, stores, private residences, and even amusement parks have been looted. Anything that could be moved has been stolen. Much of what was left behind has been destroyed.

The only way to end these grave breaches is to end Iraq's occupation of Kuwait. The Iraqi crime is not simply against the people of Kuwait. Iraq holds foreign nationals hostage. Its aggression has wreaked havoc on the economies of many countries. Iraqi intransigence mocks the hopes of the world community for a better future.

.....

... As members of the United Nations we are all bound, by our charter obligations, to oppose Iraq's policy, accomplish the withdrawal of Iraqi forces from Kuwait, and to obtain the re-establishment of Kuwaiti authority . . . .

**Text of remarks by Secretary of State James A. Baker, III as UN Security Council President introducing the debate (Nov. 29, 1990)(on file at the Houston Journal of International Law).**

.....

Our aim today must be to convince Saddam Hussein that the just, humane demands of this Council and the international community cannot be ignored. If Iraq does not reverse its course peacefully, then other necessary measures—including the use of force—should be authorized. We must put the choice to Saddam Hussein in unmistakable terms.

**Text of remarks by Secretary of State James A. Baker, III in the United Nations Security Council Thursday (Nov. 29, 1990)(on file at the Houston Journal of International Law).**

.....

The entire international community has been affronted by a series of brutal acts:

Iraqi forces have invaded and seized a small Arab neighbor.

A once prosperous country has been pillaged and looted.

A once peaceful country has been turned into an armed camp.

A once secure country has been terrorized.

The nations of the world have not stood idly by. We have taken political, economic, and military measures to quarantine Iraq and to contain its aggression. We have worked out a coordinated international effort involving over fifty states to provide assistance to those nations most in need as a consequence of the economic embargo of Iraq. And, military forces from over twenty-seven nations have been deployed to defend Iraq's neighbors from further aggression and to implement UN resolutions. The twelve resolutions passed by the Security Council have established clearly that there is a peaceful way out of this conflict: the complete, immediate, and unconditional Iraqi withdrawal from Kuwait, the restoration of Kuwait's legitimate government, and the release of all hostages.

. . . . .  
 If Saddam should come to dominate the resources of the Gulf, his ambitions will threaten all of us here and the economic well-being of all nations. Finally, if Iraq should emerge from this conflict with territory or treasure or political advantage, then the lesson will be clear: aggression pays.

**Statement by The Honorable Jacob Stein, United States Alternate Representative to the Forty-Fifth Session of the United Nations General Assembly, in Plenary, on Item 35, Situation in the Middle East (Dec. 10, 1990)(on file at the Houston Journal of International Law).**

. . . The United States commitment to the search for peace between Arabs and Israelis remains a major part of our foreign policy . . . . The disengagement agreements following the 1973 war, the Camp David process, and the peace treaty between Egypt and Israel are clear indications of the fact that this issue can be dealt with successfully and creatively. Our goal continues to be a comprehensive peace settlement.

. . . As Secretary Baker has recently said, "Saddam did not invade Kuwait to help the Palestinians. [H]e did it for his own self-aggrandizement." Ironically, it is Iraq's policy of aggression that is a paramount obstacle to resolving the Palestinian issue, notwithstanding Iraq's professed desire to resolve that problem. As explained by Soviet Foreign Minister Shevardnadze, you do not enslave one people to free another.

. . . [K]ey principles which we believe can provide a solid foundation for an equitable settlement.

First, the objective in these negotiations is to achieve a comprehensive settlement . . . . These negotiations should thus involve territory for peace, security and recognition for Israel and for all the states in the region, and the attainment of legitimate political rights for the Palestinian people.

. . . [A] second principle should guide the negotiations — moving through a transitional period will be required so that the parties can adjust to each other, build the confidence and trust required for durable settlement, and continue the negotiating process necessary to arrive there . . . .

Third, the final settlement will be shaped by the negotiations among the parties. It cannot be dictated by any party in advance . . . . In this regard, the United States has not supported the creation of an independent Palestinian state in the Occupied Territories just as we cannot support annexation or permanent Israeli control over those same territories.

The development of principles alone is not sufficient to move parties forward. Conditions must be created in order to sustain viable and ongoing negotiations . . . .

In dealing with this situation, an approach is required that will break the current cycle of deepening confrontation between Israelis and Palestinians . . . .

. . . [W]e have supported and continue to support the idea of free and fair elections as offering a practical pathway to do this. We welcomed the Israeli government's initiative of May 1989 in this regard . . . .

. . . [T]he tragic cycle of violence between Israelis and Palestinians in the West Bank and Gaza continues to carry with it not only a bitter legacy of confrontation and mistrust, but also a major impediment to opening up the process of negotiations . . . .

. . . .  
. . . Linkage is a blatant attempt to blur the focus of unprovoked aggression and should not be accepted.

### III. THE UNITED NATIONS' PERSPECTIVE

#### UNITED NATIONS SECURITY COUNCIL RESOLUTIONS RELATING TO THE CRISIS IN THE GULF<sup>2</sup>

**Security Council Resolution 660** (Aug. 2, 1990)(U.N. Doc number unavailable; copy on file at the Houston Journal of International Law)<sup>3</sup>

The Security Council,

Alarmed by the invasion of Kuwait on 2 August 1990 by the military forces of Iraq,

Determining that there exists a breach of international peace and security as regards the Iraqi invasion of Kuwait,

. . . .

1. Condemns the Iraqi invasion of Kuwait;
2. Demands that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990;
3. Calls upon Iraq and Kuwait to begin immediately intensive negotiations for the resolutions of their differences and supports all efforts in this regard, and especially those of the League of Arab States; . . . .

**Security Council Resolution 661** (Aug. 6, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>4</sup>

. . . .

Noting that the legitimate Government of Kuwait has expressed its readiness to comply with resolution 660 (1990),

Mindful of its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

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2. The United Nations Security Council is composed of 15 members. Five are permanent: China, France, the Soviet Union, the United Kingdom, and the United States. The ten non-permanent members are elected by the General Assembly to serve two-year terms. At the time these resolutions were adopted, the non-permanent members were: Canada, Colombia, Cote d'Ivoire, Cuba, Ethiopia, Finland, Malaysia, Romania, Yemen, and Zaire.

3. Adopted by a vote of 14 in favor, 0 against, and 1 abstention (Yemen).

4. Adopted by a vote of 13 in favor, 0 against, and 2 abstentions (Cuba and Yemen).

Affirming the inherent right of individual or collective self-defence, in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the Charter,<sup>5</sup>

Acting under Chapter VII of the Charter of the United Nations,

. . . .

2. Decides . . . to restore the authority of the legitimate Government of Kuwait;

3. Decides that all States shall prevent:

(a) The import into their territories of all commodities and products originating in Iraq or Kuwait exported therefrom after the date of the present resolution;

(b) Any activities by their nationals or in their territories which would promote or are calculated to promote the export or transshipment of any commodities or products from Iraq or Kuwait; and any dealings by their nationals or their flag vessels or in their territories in any commodities or products originating in Iraq or Kuwait and exported therefrom after the date of the present resolution, including in particular any transfer of funds to Iraq or Kuwait for the purposes of such activities or dealings;

(c) The sale or supply by their nationals or from their territories or using their flag vessels of any commodities or products, including weapons or any other military equipment, whether or not originating in their territories but not including supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs, to any person or body in Iraq or Kuwait or to any person or body for the purposes of any business carried on in or operated from Iraq or Kuwait, and any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply of such commodities or products;

4. Decides that all States shall not make available to the Government of Iraq or to any commercial, industrial or public utility undertaking in Iraq or Kuwait, any funds or any other financial or economic resources and shall prevent their nationals and any persons within their territories from removing from their territories or otherwise making available to that Government or to any such undertaking any such funds or resources and from remitting any other funds to persons or bodies within Iraq or Kuwait, except payments exclusively for strictly medical

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5. *See infra.*

or humanitarian purposes and, in humanitarian circumstances, foodstuffs; . . .

. . . .

9. Decides . . . and calls upon all States:

(a) To take appropriate measures to protect assets of the legitimate Government of Kuwait and its agencies;

(b) Not to recognize any regime set up by the occupying Power; . . .

**Security Council Resolution 662** (Aug.9, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>6</sup>

. . . .

1. Decides that annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void; . . .

2. Calls upon all States, international organizations and specialized agencies not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation;

3. Further demands that Iraq rescind its actions purporting to annex Kuwait; . . .

**Security Council Resolution 664** (Aug.18, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>7</sup>

. . . .

1. Demands that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of the nationals of third countries and grant immediate and continuing access of consular officials to such nationals;

2. Further demands that Iraq take no action to jeopardize the safety, security or health of such nationals;

3. Reaffirms its decision in resolution 662 (1990) that annexation of Kuwait by Iraq is null and void, and therefore demands that the government of Iraq rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal

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6. Adopted by unanimous vote.

7. Adopted by unanimous vote.

of the immunity of their personnel, and refrain from any such actions in the future; . . .

**Security Council Resolution 665** (Aug. 25, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>8</sup>

. . . .

1. Calls upon those Member States co-operating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990); . . .

**Security Council Resolution 667** (Sept. 16, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>9</sup>

. . . .

1. Strongly condemns aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, including the abduction of foreign nationals who were present in those premises;  
2. Demands the immediate release of those foreign nationals as well as all nationals mentioned in resolution 664 (1990); . . .

**Security Council Resolution 670** (Sept. 25, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>10</sup>

. . . .

2. Confirms that resolution 661 (1990) applies to all means of transport, including aircraft;  
3. Decides that all States . . . shall deny permission to any aircraft to take off from their territory if the aircraft would

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8. Adopted by a vote of 13 in favor, 0 against, and 2 abstentions (Cuba and Yemen).

9. Adopted by unanimous vote.

10. Adopted by a vote of 14 in favor and 1 against (Cuba).

carry any cargo to or from Iraq or Kuwait other than food in humanitarian circumstances . . . .

4. Decides further that all States shall deny permission to any aircraft destined to land in Iraq or Kuwait, whatever its State of registration, to overfly its territory unless:

(a) The aircraft lands . . . in order to permit its inspection to ensure that there is no cargo on board in violation of resolution 661 (1990) . . . .

13. Reaffirming that the Fourth Geneva Convention applies to Kuwait and that as a High Contracting Party to the Convention Iraq is bound to comply fully with all its terms and in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches.

**Security Council Resolution 674** (Oct. 29, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>11</sup>

. . . . .  
Stressing the urgent need for the immediate and unconditional withdrawal of all Iraqi forces from Kuwait, for the restoration of Kuwait's sovereignty, independence and territorial integrity and of the authority of its legitimate government,  
Condemning the actions by the Iraqi authorities and occupying forces to take third-State nationals hostage and to mistreat and oppress Kuwaiti and third-State nationals, and the other actions reported to the Security Council, such as the destruction of Kuwaiti demographic records, the forced departure of Kuwaitis, the relocation of population in Kuwait and the unlawful destruction and seizure of public and private property in Kuwait, including hospital supplies and equipment, in violation of the decisions of the Council, the Charter of the United Nations, the Fourth Geneva Convention, the Vienna Conventions on Diplomatic and Consular Relations and international law,

. . . . .  
Reaffirming that the Fourth Geneva Convention applies to Kuwait and that as a High Contracting Party to the Convention Iraq is bound to comply fully with all its terms and in partic-

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11. Adopted by a vote of 13 in favor, 0 against, and 2 abstentions (Cuba and Yemen).

ular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches,

. . . .

1. Demands that the Iraqi authorities and occupying forces immediately cease and desist from taking third-State nationals hostage, mistreating and oppressing Kuwaiti and third-State nationals and any other actions, such as those reported to the Security Council and described above, that violate the decisions of this Council, the Charter of the United Nations, the Fourth Geneva Convention, the Vienna Conventions on Diplomatic and Consular Relations and international law;

. . . .

3. Reaffirms its demand that Iraq immediately fulfil its obligations to third-State nationals in Kuwait and Iraq . . .

4. Also reaffirms its demand that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of those third-State nationals, including diplomatic and consular personnel, who wish to leave;

5. Demands that Iraq ensure the immediate access to food, water and basic services necessary to the protection and well-being of Kuwaiti nationals and of nationals of third States in Kuwait and Iraq, including their personnel of diplomatic and consular missions in Kuwait;

. . . .

8. Reminds Iraq that under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq; . . .

9. Invites States to collect relevant information regarding their claims, and those of their nationals and corporations, for restitution or financial compensation by Iraq with a view to such arrangements as may be established in accordance with international law; . . .

**Security Council Resolution 677** (Nov. 28, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>12</sup>

. . . .  
1. Condemns the attempts by Iraq to alter the demographic composition of the population of Kuwait and to destroy the civil records maintained by the Legitimate Government of Kuwait; . . .

**Security Council Resolution 678** (Nov. 29, 1990)(U.N. Doc. number unavailable; copy on file at the Houston Journal of International Law).<sup>13</sup>

. . . .  
Noting that, despite all efforts by the United Nations, Iraq refuses to comply with its obligations to implement resolution 660 (1990) and the above-mentioned subsequent relevant resolutions, in flagrant contempt of the Security Council,  
Mindful of its duties and responsibilities under the Charter of the United Nations for the maintenance and preservation of international peace and security,

Determined to secure full compliance with its decisions,  
Acting under Chapter VII of the Charter,

1. Demands that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

2. Authorizes Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the foregoing resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;

3. Requests all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 of the present resolution;

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12. Adopted by an unanimous vote.

13. Adopted by a vote of 12 in favor, 2 against (Cuba and Yemen) and 1 abstention (China).

4. Requests the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 of the present resolution; . . .

**THE CHARTER OF THE UNITED NATIONS CHAPTER VII (ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OR AGGRESSION)**

**ARTICLE 39**

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken with Articles 41 and 42, to maintain or restore international peace and security.

**ARTICLE 40**

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

. . . .

**ARTICLE 42**

. . . [T]he Security Council . . . may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

. . . .

**ARTICLE 48**

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine . . . .

**ARTICLE 51**

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council under the present Charter to take at any time such actions as it deems necessary in order to maintain or restore international peace and security.