



Security Council

Distr.
GENERAL

S/1999/356
30 March 1999

ORIGINAL: ENGLISH

LETTERS DATED 27 AND 30 MARCH 1999, RESPECTIVELY, FROM THE CHAIRMAN
OF THE PANELS ESTABLISHED PURSUANT TO THE NOTE BY THE PRESIDENT OF
THE SECURITY COUNCIL OF 30 JANUARY 1999 (S/1999/100) ADDRESSED TO
THE PRESIDENT OF THE SECURITY COUNCIL

Letter dated 27 March 1999 from the Chairman of the panels
established pursuant to the note by the President of the
Security Council of 30 January 1999 (S/1999/100) addressed
to the President of the Security Council

With reference to the note by the President of the Security Council
(S/1999/100), I have the honour to attach the final report of the panel on
disarmament and current and future ongoing monitoring and verification issues
(annex I), which was adopted today, 27 March 1999.

As soon as the panel on humanitarian issues and the panel on prisoners of
war and Kuwaiti property conclude their work, I will be ready to present the
three reports to the Security Council.

(Signed) Celso L. N. AMORIM
Ambassador

Letter dated 30 March 1999 from the Chairman of the panels
established pursuant to the note by the President of the
Security Council of 30 January 1999 (S/1999/100) addressed
to the President of the Security Council

With reference to the note by the President of the Security Council (S/1999/100) and to the letter dated 27 March 1999, which forwarded the report of the panel on disarmament and current and future ongoing monitoring and verification issues, I have the honour to attach herewith the final report of the panel on humanitarian issues (annex II), as well as the final report of the panel on prisoners of war and Kuwaiti property (annex III), which were adopted today, 30 March 1999.

As stated before, I am ready to present the three reports to the Security Council at an appropriate moment.

(Signed) Celso L. N. AMORIM
Ambassador

/...

Annex I

REPORT OF THE FIRST PANEL ESTABLISHED PURSUANT TO THE NOTE
BY THE PRESIDENT OF THE SECURITY COUNCIL ON 30 JANUARY 1999
(S/1999/100), CONCERNING DISARMAMENT AND CURRENT AND FUTURE
ONGOING MONITORING AND VERIFICATION ISSUES

Annex II

REPORT OF THE SECOND PANEL ESTABLISHED PURSUANT TO THE NOTE
BY THE PRESIDENT OF THE SECURITY COUNCIL ON 30 JANUARY 1999
(S/1999/100), CONCERNING THE CURRENT HUMANITARIAN SITUATION
IN IRAQ

Annex III

REPORT OF THE THIRD PANEL ESTABLISHED PURSUANT TO THE NOTE
BY THE PRESIDENT OF THE SECURITY COUNCIL (S/1999/100) OF
30 JANUARY 1999 ON PRISONERS OF WAR AND KUWAITI PROPERTY

REPORT OF THE THIRD PANEL ESTABLISHED PURSUANT TO THE NOTE
BY THE PRESIDENT OF THE SECURITY COUNCIL (S/1999/100) OF
30 JANUARY 1999, ON PRISONERS OF WAR AND KUWAITI PROPERTY

MEMORANDUM OF UNDERSTANDING

The undersigned Heads of delegation, duly authorized to represent and commit their governments,

- reiterating their readiness to fully comply with all the provisions of the Four Geneva Conventions of 12 August 1949,
- endeavouring to carry out, as rapidly as possible, the repatriation of all POWs captured and civilians arrested in connection with the events of 2 August 1990 and thereafter,
- accepting the principles put forth therefore by the International Committee of the Red Cross (ICRC) in its memorandum, dated 5 March 1991,

have agreed during a meeting held in Riyadh on 7 March 1991, under the chairmanship of the ICRC, upon the following operational plan:

All Parties agree that the next meeting will take place in Riyadh on 21 March 1991, at 9 p.m. local time.

Before this meeting the Parties will undertake the following steps to the best of their abilities and in good faith:

1. The Coalition Forces will allow for the registration through the ICRC of all Iraqi POWs and civilians taken into captivity by the Parties to the Coalition on or after 2 August 1990, wherever they may be interned, to be completed by 20 March 1991.

It was agreed that transfers to and from camps will gradually stop, till 20 March 1991 as to facilitate ICRC registration.

A plan on the progressive "freezing" of the camps will be worked out between the ICRC delegation in the Kingdom of Saudi Arabia and the Detaining Powers by Saturday, 9 March 1991.

2. The Iraqi Authorities will submit to the ICRC delegation in Baghdad most urgently, at the latest 20 March 1991, numbers, nominal lists and locations of all Kuwaiti and other foreign nationals they are holding in the context of the events which started on 2 August 1990. These data will be transmitted immediately to the Powers of Origin by the ICRC.
3. The Iraqi Authorities will immediately grant the ICRC access to all persons mentioned in para. 2, so that its delegates can verify their identities, their well-being and their willingness to be repatriated. The Iraqi Authorities will extend to the ICRC all facilities needed to enable it to complete this process before the meeting of 21 March 1991.
4. The ICRC and the Parties will start to repatriate POWs and civilians interned to their Country of Origin before 21 March 1991. Such

/...

repatriations shall only be restricted by logistical considerations and the capacity of the Powers of Origin to receive their own nationals.

Repatriation operations before the meeting of 21 March 1991 will be carried out by land as of 11 March 1991.

Special repatriation operations, such as for Kuwaiti nationals held in Basra, will be arranged separately, based on local conditions.

5. During the meeting of 21 March 1991 the ICRC will submit proposals regarding
- the question of missing in action and mortal remains not returned before 21 March 1991,
 - the termination of the repatriation process, and
 - the sharing of the costs of this operation.

Agreed and signed in Riyadh, on 7 March 1991.

For the Coalition Forces:

(Signed) H.E. Dr. Mohammad Omar Madani
Kingdom of Saudi Arabia

(Signed) Col. G. Hussenot Desenonges
Republic of France

(Signed) Col. Abdullah Hamad Al-Sultan
State of Kuwait

(Signed) Col. Strong
United Kingdom

(Signed) Brig. Gen. P. Fratarangelo
United States of America

For the Republic of Iraq:

(Signed) H.E. Dr. Akram Al-Witry

/...

PLAN OF OPERATION DESIGNED TO ASCERTAIN THE WHEREABOUTS
OF THE FATE OF THE MILITARY AND CIVILIAN MISSING

1. REMAINING PRISONERS OF WAR AND CIVILIAN INTERNEES OR PROTECTED CIVILIANS ON THE TERRITORY OF AN ADVERSE PARTY.

1.1 Upon completion of the general repatriation operation, the parties to the conflict shall agree on measures to be taken to:

- trace dispersed prisoners of war (POWs) and interned civilians, and civilians protected by the Fourth Convention on the territory of an adverse party, and
- arrange for their repatriation in conformity with Article 118 of the Third Convention and Articles 134 and 137 of the Fourth Convention.

1.2 All POWs who have refused to return to their home countries during the general repatriation process will be interviewed by ICRC delegates as to their intentions for the future, including the possibility of meeting consular representatives of their home countries and informing their family and/or their Power of Origin of their whereabouts.

2. INFORMATION ON THE DECEASED

2.1 The parties to the conflict shall provide to the adverse party/parties, through the intermediary of the ICRC and as rapidly as possible, all available information regarding

- the identification of deceased persons
- the gravesites of deceased persons

belonging to the adverse party/parties.

2.2 At the request of the Power on which the deceased depend, the parties to the conflict shall organize the repatriation of the mortal remains and/or allow the identification of the deceased by the adverse party.

3. MISSING PERSONS

3.1 COLLECTION OF INFORMATION ON MISSING PERSONS

3.1.1 Each party is responsible for compiling a list of its nationals reported missing, taking into account:

- captured persons - POWs or civilian internees - who have been repatriated;
- deaths recorded among members of its armed forces;

/...

- notifications of deaths and information relative to deceased persons received from the adverse party/parties through the intermediary of the ICRC.

3.1.2 As regards its missing nationals, each party is responsible for compiling a file with as many details as possible, on the basis of the attached form.

As a rule, there should be one file for each missing person.

3.2 PROCESSING MISSING PERSON FILES

3.2.1 Each opened file shall be sent in triplicate to the ICRC which shall arrange for it to be forwarded to the party concerned.

The ICRC shall assign a reference number to each file processed by it.

3.2.2 On the basis of the contents of each file, the adverse party/parties shall take all possible measures (administrative steps and appeals to the public) to obtain information on the person reported missing;

Details of the various measures taken and the results obtained shall be recorded on a tracing request form, duly dated and authenticated by the party concerned. All documents relative to the measures taken and the results obtained shall be included in the file. Any first-hand accounts shall be dated and shall contain the name(s) and address(es) of the witness(es).

3.2.3 Once the enquiry has been completed, the tracing form and the accompanying documents shall be returned to the ICRC, which shall forward them to the Power on which the missing person depends.

Once the case has been resolved, the file shall be closed by the Power on which the missing person depends and the family shall be informed accordingly.

* * * * *

SPECIAL SUB-COMMITTEE ON MILITARY AND CIVILIAN MISSING AND MORTAL REMAINS

RULES OF PROCEDURE AND PLAN OF OPERATION

BASIC RULES

The Special Sub-Committee on military and civilian missing and moral remains (hereinafter "the Sub-Committee")

/...

- in conformity with the Geneva Conventions of 12 August 1949, and in particular
 - a) Articles 16 and 17 of the Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field of 12 August 1949 (hereinafter "the First Convention"),
 - b) Articles 19 and 20 of the Geneva Convention for the amelioration of the condition of wounded, sick and ship-wrecked members of armed forces at sea of 12 August 1949 (hereinafter "the Second Convention"),
 - c) Articles 118, 119, 120, 121, 122 and 123 of the Geneva Convention relative to the treatment of prisoners of war of 12 August 1949 (hereinafter "the Third Convention"),
 - d) Articles 26, 129, 130, 131, 132, 133, 134, 136, 137, 138, 139 and 140 of the Geneva Convention relative to the protection of civilian persons in time of war of 12 August 1949 (hereinafter "the Fourth Convention"),
- recalling Point 6 of the Memorandum of Understanding adopted at the meeting in Riyadh on 7 March 1991, the document entitled "Military and Civilian Missing and Mortal Remains", adopted in Riyadh on 22 March 1991, and the document entitled "Military and Civilian Missing and Mortal Remains", adopted in Riyadh on 28 March 1991,
- in a common, sincere and genuine desire to lay down procedures for the successful, efficient and comprehensive implementation of the rules of the Geneva Conventions of 12 August 1949 providing for the settlement of the question of persons reported missing in connection with the conflict since 2 August 1990, and in accordance with the enclosed plan of operation,

works according to the rules set out below.

/...

PART I

MEMBERS OF THE SUB-COMMITTEE

RULE I

(MEMBERSHIP)

1. The members of the Sub-Committee shall be representatives of:
 - A) the Republic of Iraq,
 - B) the following States party to the Coalition Forces.
 - Kingdom of Saudi Arabia
 - Republic of France
 - State of Kuwait
 - United Kingdom of Great Britain and Northern Ireland
 - United States of America.
2. In addition to its chief representative, each member shall be allowed up to three other representatives at each meeting.

RULE 2

(CHAIRMANSHIP)

1. The International Committee of the Red Cross (ICRC), acting as a neutral intermediary, shall put at the Sub-Committee's disposal a delegation, made up of three delegates and a secretary, which will chair the meetings of the Sub-Committee.
2. Following each meeting, the ICRC shall submit for the approval by the Sub-Committee the minutes containing the decisions adopted during the meeting.

/...

PART II

PROCEEDINGS OF THE SUB-COMMITTEE: GENERAL RULES

RULE 3

(VENUE)

As a general rule, the Sub-Committee shall meet in Baghdad, Riyadh, or Kuwait and in Geneva whenever necessary.

RULE 4

(LANGUAGE)

The official and working language of the Sub-Committee shall be English.

RULE 5

(HOLDING OF MEETINGS)

1. The Sub-Committee shall hold as many meetings as required for the exercise of its functions.
2. Meetings shall be convened on dates decided by the Sub-Committee. At the end of each meeting, the place, time and date of the next meeting shall be agreed upon.
3. The Sub-Committee may be convened in Geneva for extraordinary meetings, at the request of the ICRC, to deal with specific questions. In such cases the ICRC shall notify the other members of the Committee of the date and time of the meeting. Whenever possible such notification shall be given at least ten days in advance.

RULE 6

(AGENDA)

1. Each member shall circulate to the other members and to the ICRC any proposed agenda items or a draft agenda of matters to be discussed at the next meeting. Notification of such items shall be given at least 48 hours before the next meeting.
2. At the beginning of each meeting the ICRC shall propose a comprehensive agenda.
3. The agenda shall be adopted by the Sub-Committee at the beginning of each meeting.

/...

RULE 7

(DOCUMENTATION)

At least one copy of all working documents relating to the various items on the agenda shall be provided to each member of the Sub-Committee and the ICRC.

RULE 8

(QUORUM)

For its proceedings to be valid, the Sub-Committee shall require a quorum of at least one representative of the Republic of Iraq and representatives of at least three of the States party to the Coalition Forces.

RULE 9

(PRIVACY AND CONFIDENTIALITY)

1. The Sub-Committee shall meet in closed session. Its deliberations shall remain confidential unless it decides otherwise.
2. Apart from the representatives of Sub-Committee members and the ICRC, no other person may be present at its meetings, unless the Sub-Committee decides otherwise.

RULE 10

(HEARINGS)

The Sub-Committee may hear any person whom it considers to be in a position to assist it in the performance of its functions with regard to the Geneva Conventions.

RULE 11

(ADOPTION OF DECISIONS)

1. The decisions of the Sub-Committee shall be adopted by consensus, and reflected in the minutes of the meeting.
2. The decisions of the Sub-Committee shall be implemented immediately.
3. In matters relating to the implementation of the Geneva Conventions, the Sub-Committee's decisions are binding on the authorities of the Republic of Iraq and/or on those of the States party to the Coalition Forces.
4. Parts of a proposal or amendment may be adopted separately.

/...

5. If the implementation of decision binds a party not present and participating in the decision, they will be afforded the opportunity to concur on the decision.

RULE 12

(RECONSIDERATION OF DECISIONS)

Once a decision has been adopted, it may be re-examined only if the Sub-Committee accedes to such a request.

RULE 13

(WORKING GROUPS)

The Sub-Committee may set up ad hoc working groups comprising a limited number of representatives of its various members. The terms of reference of such working groups shall be defined by the Sub-Committee.

PART III

PARTICIPATION BY THE ICRC

RULE 14

1. The ICRC shall participate in the work of the Sub-Committee in conformity with its role as defined by its mandate and by international humanitarian law.
2. The ICRC shall act as chairman of the Sub-Committee without prejudice to its humanitarian activities relating to the conflict. It shall retain - even after the setting up of the Sub-Committee - its full competence for tasks entrusted to it under the Geneva Conventions.

RULE 16

(COMMUNICATIONS, PROPOSALS AND INFORMATION SUBMITTED BY THE ICRC FOR CONSIDERATION BY THE SUB-COMMITTEE)

1. The ICRC shall bring to the Sub-Committee's attention, on its own initiative, any communication, proposal, plan of work or information which might contribute to the efficiency of the Sub-Committee's work. Any such contribution by the ICRC shall be dealt with as a matter of priority in the agenda of each meeting, if the Sub-Committee so decides.
2. The Sub-Committee may request the ICRC at any time to submit opinions on points of law, to make practical proposals or to intervene as consulting body to the Sub-Committee.

/...

PART IV

AMENDMENTS AND SUSPENSION

RULE 16

(AMENDMENTS TO THE RULES)

These rules of procedure may be amended by a decision of the representative of the governments concerned.

RULE 17

(SUSPENSION OF A RULE)

Upon the proposal by a Sub-Committee member, the application of a rule may be suspended for a limited period of time, subject to the provisions of the Geneva Conventions and to the approval of all members of the Sub-Committee.

Riyadh, 12 April 1991

/...

REPORT OF THE THIRD PANEL ESTABLISHED PURSUANT TO THE NOTE
BY THE PRESIDENT OF THE SECURITY COUNCIL (S/1999/100) OF
30 JANUARY 1999, ON PRISONERS OF WAR AND KUWAITI PROPERTY

GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN
PERSONS IN TIME OF WAR OF 12 AUGUST 1949
