

Resolution 773 (1992)
of 26 August 1992

The Security Council,

Reaffirming its resolution 687 (1991) of 3 April 1991, and in particular paragraphs 2 to 4 thereof, and its resolution 689 (1991) of 9 April 1991,

Recalling the report of the Secretary-General of 2 May 1991 relative to paragraph 3 of Security Council resolution 687 (1991),²³⁴ concerning the establishment of the United Nations Iraq-Kuwait Boundary Demarcation Commission and the subsequent exchange of letters between the Secretary-General and the President of the Security Council of 6 and 13 May 1991,²³⁹

Having considered the Secretary-General's letter of 12 August 1992 to the President of the Security Council transmitting the further report of the Commission,

Recalling in this connection that through the demarcation process the Commission is not reallocating territory between Iraq and Kuwait but is simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary set out in the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters"²⁴⁰ signed by them on 4 October 1963, and that this task is being carried out in the special circumstances following Iraq's invasion of Kuwait and pursuant to resolution 687 (1991) and the Secretary-General's report on the implementation of paragraph 3 of that resolution,

1. *Welcomes* the Secretary-General's letter of 12 August 1992 to the President of the Security Council and the further report of the United Nations Iraq-Kuwait Boundary Demarcation Commission enclosed therewith;

2. *Expresses its appreciation* to the Commission for its work on the demarcation of the land boundary, and welcomes its demarcation decisions;

3. *Welcomes also* the decision of the Commission to consider the eastern section of the boundary, which includes the offshore boundary, at its next session and urges it to demarcate this part of the boundary as soon as possible and thus complete its work;

4. *Underlines* its guarantee of the inviolability of the above-mentioned international boundary and its decision to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991);

5. *Welcomes further* the Secretary-General's intention to carry out at the earliest practicable time the realignment of the demilitarized zone referred to in paragraph 5 of resolution 687 (1991) to correspond to the international boundary demarcated

by the Commission, with the consequent removal of the Iraqi police posts;

6. *Urges* the two States concerned to cooperate fully with the work of the Commission;

7. *Decides* to remain seized of the matter.

Adopted at the 3108th meeting by 14 votes to none, with 1 abstention (Ecuador).

Decisions

Following the consultations held on 24 September 1992, the President issued the following statement on behalf of the members of the Council:²⁴¹

"The members of the Security Council held informal consultations on 24 September 1992 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991.

"After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there still was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution."

At its 3117th meeting, on 2 October 1992, the Council discussed the item entitled "The situation between Iraq and Kuwait".

Resolution 778 (1992)
of 2 October 1992

The Security Council,

Recalling its previous relevant resolutions and in particular resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991,

Taking note of the letter of 15 July 1992 from the Secretary-General to the President of the Security Council on Iraq's compliance with the obligations placed on it by resolution 687 (1991) of 3 April 1991 and subsequent resolutions,

Condemning Iraq's continued failure to comply with its obligations under relevant resolutions,

Reaffirming its concern about the nutritional and health situation of the Iraqi civilian population, and the risk of a further deterioration of this situation, and recalling in this regard that resolutions 706 (1991) and 712 (1991) provide a mechanism for providing humanitarian relief to the Iraqi population, and that resolution 688 (1991) of 5 April 1991 provides a basis for humanitarian relief efforts in Iraq,

Having regard to the fact that the period of six months referred to in resolutions 706 (1991) and 712 (1991) expired on 18 March 1992,

Deploring Iraq's refusal to cooperate in the implementation of resolutions 706 (1991) and 712 (1991), which puts its civilian population at risk and which results in the failure by Iraq to meet its obligations under relevant Council resolutions,

Recalling that the escrow account provided for in resolutions 706 (1991) and 712 (1991) will consist of Iraqi funds administered by the Secretary-General which will be used to pay contributions to the United Nations Compensation Fund, the full costs of carrying out the tasks authorized in section C of resolution 687 (1991), the full costs incurred by the United Nations in facilitating the return of all Kuwaiti property seized by Iraq, half the costs of the United Nations Iraq-Kuwait Boundary Demarcation Commission and the cost to the United Nations of implementing resolution 706 (1991) and of other necessary humanitarian activities in Iraq,

Recalling that Iraq, as stated in paragraph 16 of resolution 687 (1991), is liable for all direct damages resulting from its invasion and occupation of Kuwait, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms,

Recalling its decision in resolution 692 (1991) of 20 May 1991 that the requirement for Iraqi contributions to the Compensation Fund applies to certain Iraqi petroleum and petroleum products exported from Iraq before 3 April 1991, as well as to all Iraqi petroleum and petroleum products exported from Iraq after 2 April 1991,

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

1. *Decides* that all States in which there are funds of the Government of Iraq, or its State bodies, corporations, or agencies, that represent the proceeds of sale of Iraqi petroleum or petroleum products, paid for, by or on behalf of the purchaser on or after 6 August 1990, shall cause the transfer of those funds (or equivalent amounts) as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991) provided that this paragraph shall not require any State to cause the transfer of such funds in excess of 200 million United States dollars or to cause the transfer of more than 50 per cent of the total funds transferred or contributed pursuant to paragraphs 1 to 3 of the present resolution and further provided that States may exclude from the operation of this paragraph any funds which have already been released to a claimant or supplier prior to the adoption of the present resolution, or any other funds subject to or required to satisfy the rights of third parties, at the time of the adoption of the present resolution;

2. *Also decides* that all States in which there are petroleum or petroleum products owned by the Government of Iraq, or its State bodies, corporations, or agencies, shall take all feasible steps to purchase or arrange for the sale of such

petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991);

3. *Urges* all States to contribute funds from other sources to the escrow account as soon as possible;

4. *Decides further* that all States shall provide the Secretary-General with any information needed for the effective implementation of the present resolution and that they shall take the necessary measures to ensure that banks and other bodies and persons provide all relevant information necessary to identify the funds referred to in paragraphs 1 and 2 above and details of any transactions relating thereto, or the said petroleum or petroleum products, with a view to such information being utilized by all States and by the Secretary-General in the effective implementation of the present resolution;

5. *Requests* the Secretary-General:

(a) To ascertain the whereabouts and amounts of the said petroleum and petroleum products and the proceeds of sale referred to in paragraphs 1 and 2 above, drawing on the work already done under the auspices of the United Nations Compensation Commission, and report the results to the Council as soon as possible;

(b) To ascertain the costs of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991);

(c) To take the following actions:

(i) To transfer to the United Nations Compensation Fund, from the funds referred to in paragraphs 1 and 2 above, the percentage referred to in paragraph 10 below; and

(ii) To use the remainder of funds referred to in paragraphs 1 to 3 above for the costs of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991), taking into account any preference expressed by States transferring or contributing funds as to the allocation of such funds among these purposes;

6. *Decides* that for so long as oil exports take place pursuant to the system provided in resolutions 706 (1991) and 712 (1991) or to the eventual lifting of sanctions pursuant to paragraph 22 of resolution 687 (1991), implementation of paragraphs 1 to 5 above shall be suspended and all proceeds of those oil exports shall immediately be transferred by the Secretary-General in the currency in which the transfer to the escrow account was made, to the accounts or States from which funds had been provided under paragraphs 1 to 3 above, to the

extent required to replace in full the amounts so provided (together with applicable interest), and that, if necessary for this purpose, any other funds remaining in the escrow account shall similarly be transferred to those accounts or States, provided, however, that the Secretary-General may retain and use any funds urgently needed for the purposes specified in paragraph 5 (c) (ii) above;

7. *Decides* that the operation of the present resolution shall have no effect on rights, debts and claims existing with respect to funds prior to their transfer to the escrow account; and that the accounts from which such funds were transferred shall be kept open for retransfer of the funds in question;

8. *Reaffirms* that the escrow account referred to in the present resolution, like the Compensation Fund, enjoys the privileges and immunities of the United Nations, including immunity from legal proceedings, or any forms of attachment, garnishment or execution; and that no claim shall lie at the instance of any person or body in connection with any action taken in compliance with or implementation of the present resolution;

9. *Requests* the Secretary-General to repay, from any available funds in the escrow account, any sum transferred under the present resolution to the account or State from which it was transferred, if the transfer is found at any time by him not to have been of funds subject to the present resolution; a request for such a finding could be made by the State from which the funds were transferred;

10. *Confirms* that the percentage of the value of exports of petroleum and petroleum products from Iraq for payment to the Compensation Fund shall, for the purpose of the present resolution and exports of petroleum or petroleum products subject to paragraph 6 of resolution 692 (1991), be the same as the percentage decided by the Security Council in paragraph 2 of resolution 705 (1991) of 15 August 1991, until such time as the Governing Council of the Compensation Fund may decide otherwise;

11. *Decides* that no further Iraqi assets shall be released for purposes set forth in paragraph 20 of resolution 687 (1991) except to the sub-account of the escrow account established pursuant to paragraph 8 of resolution 712 (1991), or directly to the United Nations for humanitarian activities in Iraq;

12. *Decides* that, for the purposes of the present resolution and other relevant resolutions, the term "petroleum products" does not include petrochemical derivatives;

13. *Calls upon* all States to cooperate fully in the implementation of the present resolution;

14. *Decides* to remain seized of this matter.

Adopted at the 3117th meeting by 14 votes to none, with 1 abstention (China).

Decisions

In a letter dated 9 October 1992, the President of the Security Council informed the Secretary-General as follows:²⁴²

"In accordance with the provisions of Council resolution 689 (1991) of 9 April 1991, and in the light of your report on the United Nations Iraq-Kuwait Observation Mission for the period from 1 April to 30 September 1992, dated 2 October 1992,²⁴³ the members of the Security Council have reviewed the question of termination or continuation of the Mission, as well as its modalities of operation.

"I have the honour to inform you that the members of the Council concur with your recommendations, in particular that contained in paragraph 27 of your report."

In a letter dated 3 November 1992,²⁴⁴ the President informed the Secretary-General as follows:

"The members of the Council have examined the question you brought to the attention of the President through your letter dated 23 September 1992. They fully share the concerns expressed by the Commander of the United Nations Iraq-Kuwait Observation Mission related to the threats to security linked to the presence of Iraqi and Kuwaiti military equipment in six bunkers within the demilitarized zone, near the headquarters of the Mission. The members of the Council deem it necessary, as recommended by the Commander of the Mission, for the bunkers to be emptied of their contents.

"The members of the Council have noted that the Mission has carried out, within the demilitarized zone where it is deployed, destruction of mines and ammunition that might be harmful to the observers, as indicated in your report of 5 and 9 April 1991²⁴⁵ on the implementation of paragraph 5 of Security Council resolution 687 (1991) approved by resolution 689 (1991) of 9 April 1991, in your report of 2 October 1991²⁴⁶ on the United Nations Iraq-Kuwait Observation Mission for the period from 9 April to 2 October 1991, in your report of 31 March 1992²²⁷ on the United Nations Iraq-Kuwait Observation Mission for the period from 3 October 1991 to 31 March 1992, and in your report of 2 October 1992²⁴³ on the United Nations Iraq-Kuwait Observation Mission for the period from 1 April to 30 September 1992. They are of the opinion that the military equipment referred to in your letter dated 23 September 1992, which also represents a threat to the security of the members of the Mission, should similarly be destroyed by the Mission or by a specialized company acting upon the request of the Mission and under its supervision.

"In the event of the Mission entrusting a specific company with the destruction of the military equipment contained in the six bunkers, the cost of this operation