



INTERNATIONAL PROGRESS ORGANIZATION

MEMORANDUM

addressed to the President of the General Assembly and to the Secretary-General of the United Nations on the humanitarian emergency and threat to peace resulting from the Security Council's sanctions policy vis-à-vis Iraq, on the efforts to establish a régime of so-called "smart sanctions," on the continued violation of Iraqi sovereignty by permanent members of the Security Council, on the unilateral threat of the use of force against Iraq, and on the special responsibility of the international community to uphold the principles of the United Nations Charter and to avert armed aggression against Iraq

Vienna, 18 February 2002/P/RE/17478

The International Progress Organization (I.P.O.) presents its compliments to the President of the General Assembly and to the Secretary-General of the United Nations and submits the following Memorandum concerning the international crisis resulting from the ongoing comprehensive sanctions against the people of Iraq and the threat of the use of force against Iraq. The I.P.O. addresses this Memorandum specifically to the General Assembly of the United Nations because the threat of the use of force emanates from a permanent member of the Security Council, which – because of the provisions of Art. 27 (3) of the Charter – prevents the Council de facto from exercising its responsibilities under Art. 24 (1) of the Charter for the maintenance of international peace and security on behalf of all United Nations member states.

We would like to draw Your attention to the following facts and grave dangers for global peace in connection with the situation caused by the punitive sanctions imposed on Iraq and as a result of the dispute between Iraq and the United States in particular:

1. The comprehensive sanctions enforced by the Security Council since 1990 constitute a measure of collective punishment of the civilian population of Iraq that is in open contradiction to the basic provisions of human rights which are part of *jus cogens* of general international law. Such a policy constitutes not only a violation of international law, it has proven to increase tensions and to endanger a lasting peaceful settlement of the dispute between Security Council Members and Iraq. In conformity with Art. 54 (1) of the First Additional Protocol to the Geneva Conventions, starvation of civilians is strictly prohibited. As stated by many scholars of international law, this principle is to be applied not only in times of war but

also in regard to coercive measures in accordance with Chapter VII of the Charter. In regard to the human rights problems of the Security Council's sanctions régime, we reiterate the concerns expressed by our organization as early as 1991 at the session of the United Nations Commission on Human Rights – Sub-commission on Prevention of Discrimination and Protection of Minorities (Document E/CN.4/Sub.2/1991/SR.10, 20 August 1991). We further reiterate what we stated in Par. 6 of the Memorandum of 28 September 1990 addressed to the President of the Security Council concerning resolution 661 (1990): “The present enforcement measures ... do not justify the starvation of the entire population[s] of Iraq ... Collective punishment of the civilian population is not admissible under any pretext whatsoever.” In this regard, we also refer to the research publication by Hans Koechler on “The United Nations Sanctions Policy & International Law” (Penang / Malaysia: Just World Trust, 1995) and to the working paper prepared for the UN Commission on Human Rights by Mr. Marc Bossuyt on “The Adverse Consequences of Economic Sanctions on the Enjoyment of Human Rights” (Doc. E/CN.4/Sub.2/2000/33).

2. Because of the voting behaviour particularly of the United States in the Security Council's Sanctions Committee operating under the terms of resolution 661 (1990), the sanctions régime has been implemented in such a way that the delivery of medicine and health supplies (which are generally exempt from the sanctions regulations) and of vital foodstuffs (that fall under the provisions for humanitarian exemptions under resolution 661 [1990], Par. 3 [c] and resolution 687 [1991], Par. 20) has frequently been prevented or blocked indefinitely. This has caused unbearable suffering and death to many Iraqi citizens, particularly children, the sick and elderly. This policy of effective “sabotage” of the work of the Sanctions Committee in regard to granting humanitarian exemptions clearly indicates the political intentions aimed at the destabilization of the political order in Iraq. Such a policy is inhumane and has to be condemned by all people of good will.

3. The arms inspection and monitoring régime established pursuant to Security Council resolution 687 (1991) has not been carried out in good faith and has been abused for intelligence purposes on behalf of at least one permanent member of the Security Council. The facts are well documented, among others, by statements of former UNSCOM inspector Scott Ritter from the United States. This has not only rendered the sanctions regulations under the existing provisions inconsistent and even inoperative, it has seriously undermined the credibility of the Security Council in its policies vis-à-vis Iraq. Repeated unilateral statements by the United States have made it clear that, whatever measures Iraq undertakes to bring about the lifting of the sanctions under Paragraphs 21 and 22 of resolution 687 (1991), this will have no effect on the actual lifting of the punitive measures by the Sanctions Committee where the United States exercise their veto power. The United States administration has made it plain that only a régime change in Iraq will make it agree to the lifting of the sanctions. In this context and after the failure of UNSCOM, it has become obvious that resolution 1284 (1999) providing for the establishment of a “United Nations Monitoring, Verification and Inspection Commission” (UNMOVIC) cannot be the basis for a continued monitoring régime under the original provisions of resolution 687 (1991). Paragraph 33 of the resolution falls back even

behind the earlier resolution – by only vaguely offering the prospect of suspending sanctions instead of lifting them as provided for in Paragraphs 21 and 22 of resolution 687 (1991). This new resolution has deliberately obscured what is required of Iraq even for the mere suspension of sanctions.

4. In light of the experience with the inspection and monitoring régime as exercised by the failed UNSCOM, the UK draft resolution of 20 June 2001 concerning the establishment of so-called “smart sanctions” does not seem to be a viable alternative. Entrusting UNMOVIC, the successor of UNSCOM, with a far-reaching monitoring and verification authority in regard to Iraq’s industry means putting Iraq effectively under a kind of trusteeship under the direct control of her main adversary in the Security Council, namely the United States. It is obvious to any international observer that the provisions for the functioning of UNMOVIC make it impossible for this controlling body to act in a balanced and independent manner. The proposal for a so-called “smart sanctions” régime, in connection with the rules of engagement for UNMOVIC, negates the sovereignty of Iraq as a member state of the United Nations and jeopardizes its political independence.

5. The existing sanctions régime exercised by the Security Council’s Sanctions Committee violates international law in another basic respect, namely by arbitrarily banning civilian flights into and out of Iraq. Passenger traffic – whether by land, sea or air – is not covered by the sanctions resolutions 661 (1990) and 687 (1991). Those resolutions prohibit the import and export of commercial goods into and out of Iraq but not the traffic of passengers. The embargo on civilian flights in and out of Iraq is totally illegal and constitutes an arbitrary unilateral measure in abuse of Security Council resolutions. In strictly legal terms, the Sanctions Committee of the Security Council has no authority whatsoever to “grant permission” for civilian flights – in the same way as it has no authority to restrict passenger traffic by land or sea. The arrogation of powers it does not possess under existing Security Council resolutions, by the Sanctions Committee, demonstrates again the lack of good faith and the absence of an unequivocal commitment to the rule of law on the part of the Committee.

6. Apart from the international anarchy brought about by the arbitrary mode of action of the Security Council’s Sanctions Committee, an even more serious breach of international law has been committed through the imposition of the so-called “no-fly zones” in the northern and southern regions of Iraq. This unilateral measure by the governments of the United States and the United Kingdom has no basis whatsoever in Security Council resolutions. The continued attacks by aircraft of those countries constitute a breach of the peace and are acts of aggression according to Art. 39 of the United Nations Charter. They endanger security and stability in the entire region of the Middle East. Because these acts are committed by permanent members of the Security Council, the Council is incapacitated in the exercise of its collective responsibility for the maintenance of international peace and security under the provisions Articles 41 and 42 of the Charter.

7. The measures of disarmament enforced vis-à-vis Iraq lack consistency and legitimacy in one additional basic respect. Par. 14 of

resolution 687 (1991) defines Iraq's disarmament obligations as "steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery ...". This solemn commitment was reiterated by the Security Council in the Preamble to resolution 1284 (1999) providing for the establishment of UNMOVIC. In spite of these declarations, no steps have ever been undertaken in the more than ten years that have elapsed since the resolution establishing the arms monitoring régime in Iraq towards the implementation of this commitment in regard to the occupying power in Palestine that possesses a huge arsenal of weapons of mass destruction. A disarmament policy vis-à-vis Iraq based on binding resolutions according to Chapter VII of the UN Charter will not be seen as legitimate by the large majority of nations in the region as long as double standards are applied in regard to Arab states and the occupying power in Palestine.

8. Since the terrorist attacks of 11 September 2001 in New York, Washington DC and Pennsylvania, the United States has repeatedly threatened the unilateral use of force against Iraq. In his State of the Union Address, the President of the United States has included Iraq as part of a self-declared "axis of evil." The International Progress Organization would like to state unambiguously that no evidence at all has ever related Iraq to the terrorist acts of 11 September 2001. While the United States, like any other state, enjoys the inherent right of self-defense according to Art. 51 of the United Nations Charter, it has absolutely no right to threaten the use of force against a country not involved in the perpetration of these terrorist acts. By its behaviour the United States administration blatantly violates its obligations under Art. 2 (4) of the United Nations Charter according to which "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." While unequivocally condemning the terrorist acts committed against innocent people in the United States, the International Progress Organization calls upon the member states of the United Nations General Assembly to stand up against the threat of force by the United States against Iraq. The unilateral action by the United States seriously undermines the international rule of law to which all UN member states are committed.

9. In this regard, we would like to reiterate the views expressed in the message dated 12 February 1998 to the Secretary-General of the United Nations. The United States' threats against Iraq and the eventual preparations for all-out war constitute a flagrant violation of the basic purposes and principles of the United Nations as outlined in Art. 1 (1) of the Charter. The US actions constitute a "threat to the peace" according to Art. 39 of the UN Charter. According to the Charter, the Security Council would be called upon to immediately deal with this issue. In this regard, the Secretary-General may himself make use of the provision in Art. 99 of the Charter to place this issue on the agenda of the Council.


10. However, the United States, enjoying the status of permanent member in the Security Council with the related voting privilege as defined in Art. 27 (3), will effectively be in a position to prevent the Security Council from exercising its collective responsibility under the Charter.

Because of the *de facto* paralysis of the Council in all matters related to threats to the peace, breaches of the peace and acts of aggression committed by a permanent member, the General Assembly of the United Nations may consider emergency action under the provisions of resolution 377 A (V) of 3 November 1950 (“Uniting for Peace Resolution”). We would like to recall that this resolution stipulates that “if the Security Council, because of the lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security ..., the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures ... to maintain or restore international peace or security.”

The further existence of the United Nations Organization as an entity of multilateral action, for the sake of collective security and peace, is in jeopardy if the unilateral use of force by its most powerful member state remains unopposed. What the peoples of the world – solemnly referred to in the Preamble of the United Nations Charter – need most, and indeed deserve, at this juncture of history, is personal courage and a strong and unequivocal commitment to peace on the part of the holders of high office in the United Nations system.

The International Progress Organization solemnly appeals to the President of the General Assembly and to the Secretary-General of the United Nations to exercise their responsibility under the United Nations Charter and asks the President of the General Assembly to circulate the present Memorandum among the Member states.

The International Progress Organization avails itself of this opportunity to renew to the President of the General Assembly and to the Secretary-General of the United Nations the assurances of its highest consideration.



Dr Hans Koechler
President