

INTERNATIONAL PROGRESS ORGANIZATION

To the President of the Security Council
United Nations
New York, N.Y.
–via telefax–

Vienna, 19 December 1990
P/K/12507

Your Excellency,

In reference to the message of 17 August and the Memorandum of 28 September 1990, the International Progress Organization would like to state that Security Council resolution 678 (1990) concerning Iraq's occupation of Kuwait and measures to bring about implementation of resolution 660 (1990) is not in full conformity with the United Nations Charter.

Leaving the initiative to individual Member States (that are only required in para. 4 to report on their action *post factum*), Para. 2 of the resolution, which «authorizes» the use of «all necessary means» (in indirect reference to the use of armed force in the sense of Art. 42 of the Charter), does not pay proper attention to the provisions outlined in paragraphs 1 to 3 of Art. 43 of the Charter where it is stipulated that Members of the United Nations have to act on the Security Council's call and in accordance with special agreements (para. 1). Such agreements shall govern the number and types of forces, etc. (para. 2). In fact, no agreements have been concluded between the Security Council and Member States concerning military deployments in the Gulf region.

As resolution 678 (1990), in the very general and vague formulation of its para. 2, seems to neglect all these provisions of collective enforcement action, while being publicly interpreted by Member States as authorization of the use of armed force under the supreme (national) authority of the respective Heads of State, it is obvious that the resolution cannot be implemented unless violating the very Charter of the United Nations from which the resolution's legitimacy is derived. Military action by any State on the basis of the said resolution will be contrary to letter and spirit of the Charter, and in particular to its concept of collective security.

As this is not a procedural, but a substantial question of international law, we deem it necessary that, in conformity with Art. 96, paragraph 1 of the Charter, the matter shall be referred to the International Court of Justice for an advisory opinion on this fundamental question as to the application of the Charter.

We are deeply concerned about the erosion of international legitimacy which results from the neglect of basic provisions of Chapter VII of the Charter concerning «combined international enforcement action» (Art. 45). We solemnly warn the Security Council of the devastating consequences of the chain of events that may have been initiated by Security Council resolution 678 (1990), and we appeal once more to the Council not to completely neglect the provisions of Chapter VI (Pacific Settlement of Disputes). Peace-keeping, not war-making, should be the main concern of the United Nations.

I kindly ask Your Excellency to add this message – in conformity with para. (a) of the Appendix of the Provisional Rules of Procedure – on the list of communications to be circulated to all representatives on the Security Council.

Accept, Excellency, the assurances of my highest consideration.



Hans Koechler
President

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