

**WORLD EDITORIAL & INTERNATIONAL LAW  
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The Hon. Kofi A. Annan  
Secretary-General of the United Nations  
United Nations Headquarters  
New York, New York 10017

March 10, 2003

Dear Mr. Secretary-General,

Because the legal authority of the United Nations is being challenged today by the threat of an illegal war against Iraq, the onset of which arguably would pose the most serious threat to world legal order since World War II, and

Considering that,

- (a) United Nations Charter Article 99 stipulates “The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security”;
- (b) Two permanent members of the Security Council, the United States of America and the United Kingdom of Great Britain and Northern Ireland, have repeatedly threatened the use of force against a United Nations member state, Iraq, without Security Council authorization in violation of United Nations Charter Article 2, paragraph 4, which stipulates “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, or in any other manner inconsistent with the Purposes of the United Nations”;
- (c) No Security Council resolution issued since 1991 has authorized the threat or use of force against Iraq;
- (d) The claim that Security Council Resolution 1441 (2002) authorizes the automatic use of force against Iraq on the basis of its renewed warning that Iraq “will face serious consequences as a result of its continued violations of its obligations” is unsupported by the resolution’s drafting history (*travaux préparatoires*), inconsistent with the plain and natural meaning of the warning’s text (cast in recollective rather than directive terms and making no mention of the use of armed force *per se*), and, in any event, contradicted by the post-adoption interpretative practice of a majority of the Security Council, including three-fifths of its permanent members;
- (e) Iraq has not attacked any state since 1990; it has neither attacked nor threatened to attack either the United States or the United Kingdom, and possesses no military capability to engage in an armed attack of either the United States or the United Kingdom;
- (f) Claims that Iraq intends to attack, or is capable of attacking, the United States or any state with weapons of mass destruction on its own or indirectly by providing such weapons to an international terrorist network are speculative, and are not supported by credible evidence;
- (g) An American or British resort to a “preventive” use of force, including an armed attack of Iraq, as a response to a speculative, prospective terrorist threat from Iraq would violate the United Nations Charter and fundamental principles of international law with respect to the prohibition of the use of force;
- (h) While state practice may authorize a “preemptive” use of force to offset an immediate short-term threat, this claim is at best controversial and, in any event, there is no international law precedent justifying a “preventive” use of force against a long-term threat, least of all a speculative one;

- (i) United Nations Charter Article 51 stipulates that states are permitted to threaten or use force only “if an armed attack occurs” and “only until the Security Council has taken measures necessary to maintain international peace and security”; in this context, American and British claims that Iraq’s failure to comply with its disarmament obligations as stipulated in a series of Security Council resolutions constitutes a *casus belli* are inconsistent with the United Nations Charter or customary principles of international law with respect to the use of force;
- (j) No Security Council resolution with respect to Iraq identifies Iraq’s failure to comply with its disarmament obligations to the United Nations as a *casus belli*;
- (k) A resort to force in the absence of Security Council authorization and any credible evidence of an imminent threat of armed attack would not only violate the United Nations Charter, it would also constitute a war of aggression and, thus, a crime against peace under the Nuremberg precedent;
- (l) Alternative solutions to achieve the disarmament of weapons of mass destruction in Iraq are available and have not been exhausted, including diplomatic pressure, negotiations, sanctions on certain goods with military applications, destruction of stockpiles of weapons of mass destruction, and inspections of facilities with capabilities to assist in production of weapons of mass destruction; and
- (m) The United Nations has achieved considerably more disarmament success in Iraq than the governments of the United States and the United Kingdom have claimed, as reported by the United Nations Monitoring, Verification and Inspection Commission, the International Atomic Energy Agency, and the Amorim Panel report (March 1999), which concluded “The bulk of Iraq’s proscribed weapons programme has been eliminated,”

We urge you,

1. To encourage in your public remarks the Security Council and all United Nations member states to act toward Iraq in a manner that adheres to the requirements of the United Nations Charter and international law with respect to the threat and use of force;
2. To similarly encourage the Security Council to act toward Iraq in a manner that reflects the overriding and fundamental purposes of the United Nations, stated in United Nations Charter Article 1, “to maintain international peace and security,” and “to bring about by peaceful means” the settlement of international disputes;
3. To invite the General Assembly, in the event of an impasse within the Security Council with respect to its deliberations on Iraq, to act under Uniting for Peace precedents in response to any ongoing threat or use of force against Iraq,

Respectfully yours,

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