

THE DOWNING STREET PAPERS, Transcriptions

Text of the Iraq **Options paper - March 8, 2002** Memo from Overseas and Defence Secretariat

IRAQ: OPTIONS PAPER

SECRET UK EYES ONLY

SUMMARY

Since 1991, our objective has been to re-integrate a law-abiding Iraq which does not possess WMD or threaten its neighbors, into the international community. Implicitly, this cannot occur with Saddam Hussein in power. As at least worst opinion, we have supported a policy of containment which has been partially successful. However:

- * Despite sanctions, Iraq continues to develop WMD, although our intelligence is poor. Saddam has used WMD in the past and could do so again if his regime were threatened, though there is no greater threat now than in recent years that Saddam will use WMD; and
- * Saddam's brutal regime remains in power and destabilises the Arab and wider Islamic world.

We have two options. We could toughen the existing containment policy. This would increase the pressure on Saddam [sic]. It would not reintegrate Iraq into the international community.

The US administration has lot faith in containment and is now considering regime change. The end states could either be a Sunni strongman or a representative government.

Tre [sic] three options for achieving regime change are:

- * covert support to opposition groups to mount an uprising/coup;
- * air support for opposition groups to mount an uprising/coup; and
- * a full-scale ground campaign.

These are not mutually exclusive. Options 1 and/or 2 would be natural precursors to Option3 [sic]. the greater investment of Western forces, the greater our control over Iraq's future, but the greater the cost and the longer we woul [sic] need to stay. the only certain means to remove Saddam and his elite is to invade and impose a new government. But this could involve nation building over many years. Even a representative government could seek to acquire WMD and build-up its conventional forces, so long a Iran and Israel retain their WMD and conventional armouries and there was no acceptable solution to Palestinian grievances.

A legal justification for invasion would be needed. Subject to Law Officers advice, non currently exists. This makes moving quickly to invade legally very difficult. We should therefore consider a staged approach, establishing international support, building up pressure on Saddam and developing military plans. There is a lead time of about 6 months to a ground offensive.

CURRENT OBJECTIVES OF UK POLICY

1 Within our objectives of preserving peace and stability in the Gulf and ensuring energy security, our current objectives towards Iraq are:

- * the reintegration of a law-abiding Iraq which does not possess WMD or threaten its neighbours, into the international community. Implicitly this cannot occur with Saddam in power; and
- * hence, as the least worst option, we have supported containment of Iraq, by constraining Saddam's ability to re-arm or build up WMD and to threaten his neighbours.

2 Subsidiary objectives are:

- * Preserving the territorial integrity of Iraq;
- * improving the humanitarian situation of the Iraqi people;
- * protecting the Kurds in Northern Iraq;
- * sustaining UK/UK co-operation, including, if necessary by moderating US policy; and
- * maintaining the credibility and authority of the Security Council.

HAS CONTAINMENT WORKED?

3 Since 1991, the policy of containment has been partially successful;

- * Sanctions have effectively frozen Iraq's nuclear programme;
 - * Iraq has been prevented from rebuilding its conventional arsenal to pre-Gulf War levels;
 - * ballistic missile programmes have been severely restricted;
- Biological weapons (BW) and Chemical Weapons (CW) programmes have been hindered;
- * No Fly Zones established over northern and southern Iraq have given some protection to the Kurds and the Shia. Although subject to continuing political pressure, the Kurds remain autonomous; and
 - * Saddam has not succeeded in seriously threatening his neighbours.

4 However:

- * Iraq continues to develop weapons of mass destruction, although our intelligence is poor. Iraq has up to 20 650km-range missiles left over from the Gulf War. These are capable of hitting Israel and the Gulf states. Design work for other ballistic missiles over the UN limit of 150km continues. Iraq continues with the BW and CW programmes and, if it has not already done so could produce significant quantities of BW agents within days and CW agent within weeks of a decision to do so. We believe it could deliver CBW by a variety of means, including in ballistic missile warheads. There are also some indications of a continuing nuclear programme. Saddam has used WMD in the past and could do so again if his regime were threatened.
- * Saddam leads a brutal regime, which impoverishes his people. While in power Saddam is a rallying point for anti-Western sentiment in the Arab and wider Islamic world, and as such a cause of instability; and
- * despite UN controls over Iraq's oil revenue under Oil for Food, there is considerable oil and other smuggling.

5 In this context, and against the background of our desire to re-integrate a law-abiding Iraq into the international community, we examine the two following policy options:

- * a toughening of the existing containment policy, facilitated by 11 September; and
- * regime change by military means: a new departure which would require the construction of a coalition and a legal justification.

TOUGHENING CONTAINMENT

6 This would consist of the following elements:

- * full implementation of all relevant UNSCRs, particularly 687 (1991) and 1284 (1999). We should ensure that the Good Review List (GRL) is introduced in May and that Russian holds to its promise not to block. The signs are positive but continuing pressure is needed. (The GRL focuses sanctions exclusively on preventing shipments of WMD-related and other arms, while allowing other business without scrutiny. As such, it will greatly facilitate legitimate Iraqi commerce under Oil for Food.);
- * encourage the US not to block discussions to clarify the modalities of Resolution 1284 once Russian agreement to the GRL has been secured. We should take a hard-line on each area for clarification - the purpose of clarification is not to lower the bar on Iraqi compliance; but
- * P5 and Security Council unity would facilitate a specific demand that Iraq re-admit the UN inspectors. Our aim would be to tell Saddam to admit inspectors or face the risk of military action.
- * push for tougher action (especially by the US) against states breaking sanctions. This should not discriminate between allies (Turkey), friends (UAE) and others (especially Syria). It would put real pressure on Saddam either to submit to meaningful inspections or to lash out;
- * maintain our present military posture, including in the NFZs, and be prepared to respond robustly to any Iraqi adventurism; and
- * continue to make clear (without overtly espousing regime change) our view that Iraq would be better off without Saddam. We could trail the rosy future for Iraq without him in a 'Contract with the Iraqi People', although to be at all credible, this would need some detailed work.

7 What could it achieve:

- * There will be greater pressure on Saddam. The GRL will make sanctions more attractive to at least some of their detractors. Improving implementation of sanctions would reduce the regime's illicit revenues; and
- * the return of UN weapons inspectors would allow greater scrutiny of Iraqi programmes and of Iraqi forces in general. If they found significant evidence of WMD, were expelled or, in face of an ultimatum, not re-admitted in the first place, then this could provide legal justification for large-scale military action (see below).

8 But:

- * Some of the difficulties with the existing policy still apply; those states in breach of sanctions will want compensation if they are to change tack;
- * Saddam is only likely to permit the return of inspectors if he believes the threat of large scale US military action is imminent and that such concessions would prevent the US from acting decisively. Playing for time, he would then embark on a renewed policy of non co-operation; and
- * although containment has held for the past decade, Iraq has progressively increased its international engagement. Even if the GRL makes sanctions more sustainable the sanctions regime could collapse in the long-term.

9 Tougher containment would not re-integrate Iraq into the international community as it offers little prospect of removing Saddam. He will continue with his WMD programmes, destabilising the Arab and Islamic world, and impoverishing his people. But there is no greater

threat no that he will use WMD than there has been in recent years, so continuing containment is an option.

US VIEWS

10 The US has lost confidence in containment. Some in government want Saddam removed. The success of Operation Enduring Freedom, distrust of UN sanctions and inspection regimes, and unfinished business from 1991 are all factors. Washington believes the legal basis for an attack on Iraq already exists. Nor will it necessarily be governed by wider political factors. The US may be willing to work with a much smaller coalition than we think desirable.

REGIME CHANGE

11 In considering the options for regime change below, we need to first consider what sort of Iraq we want? There are two possibilities:

* A Sunni military strongman. He would be likely to maintain Iraqi territorial integrity. Assistance with reconstruction and political rehabilitation could be traded for assurances on abandoning WMD programmes and respecting human rights, particularly of ethnic minorities. The US and other militaries could withdraw quickly. However, there would then be a strong risk of the Iraqi system reverting to type. Military coup could succeed until an autocratic, Sunni dictator emerged who protected Sunni interests. With time he could acquire WMD; or

* a representative broadly democratic government. This would be Sunni-led but within a federal structure, the Kurds would be guaranteed autonomy and the Shia fair access to government. Such a regime would be less likely to develop WMD and threaten its neighbours. However, to survive it would require the US and others to commit to nation building for many years. This would entail a substantial international security force and help with reconstruction

OTHER FACTORS TO CONSIDER: INTERNAL

12 Saddam has a strong grip on power maintained through fear and patronage. The security and intelligence apparatus, including the Republican and Special Republican Guard, who protect the regime to effectively are predominantly drawn from the Arab Sunni minority (2-25 per cent of the population); many from Tikrit like Saddam. They fear non-Sunni rule, which would bring retribution and the end of their privileges. The regime's success in defeating the 1991 uprising stemmed from senior Sunni officers looking into the abyss of Shia rule and preserving their interests by backing Saddam. In the current circumstances, a military revolt or coup is a remote possibility.

13 Unaided, the Iraqi opposition is incapable of overthrowing the regime. The external opposition is weak, divided and lacks domestic credibility. The predominant group is the Iraqi National Congress (INC), an umbrella organisation led by Ahmad Chalabi, a Shia and convicted fraudster, popular on Capitol Hill. The other major group, the Iraqi National Accord (INA), espouses moderate Arab socialism and is led by another Shia, Ayad Allawi. Neither group has a military capability and both are badly penetrated by Iraqi intelligence. In 1996, a CIA attempt to stir opposition groups ended in wholesale executions. Most Iraqis see the INC/INA as Western stooges.

14 The internal opposition is small and fractured on ethnic and sectarian grounds. There is no effective Sunni Arab opposition. There are 3-4m in northern Iraq. Most live in Kurdish Autonomous Zone, established in 1991. The Kurds deploy at least 40,000 lightly armed militia but are divided between two main parties, the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP). These groups have an interest in preserving the status quo and are more interested in seeking advantage over the other than allying against Saddam. Divide and rule is easy; in 196 the KDP assisted the Iraqi Army's expulsion of the PUK and Iraqi opposition groups from Irbil.

15 The Kurds do not co-operate with the Shia Arabs who form 60 per cent of the population. The main Shia opposition group is the Supreme Council for the Islamic Revolution in Iraq (SCIRI), with 3-5,000 fighters, but it is tainted by Iranian support. Most Shia would like to have a greater say in Iraqi government, but not necessarily control: they do not want secession, Islamic autonomy or Iranian influence.

REGIONAL

16 Iraq's neighbours have a direct interest in the country's affairs. Iran and Turkey, in particular, are wary of US influence and oppose some opposition groups. Turkey, conscious of its own restive Kurdish minority, will do anything to prevent the establishment of an independent Kurdish state in northern Iraq, including intervention. Iran, also with a Kurdish minority, would also oppose a Kurdish state and is keen to protect the rights of its co-religionists in the south (see FCO paper on P5, European and regional view of possible military action against Iraq, attached.)

17 We have looked at three options for achieving regime change (we dismissed assassination of Saddam Hussein as an option because it would be illegal):

OPTION 1: COVERT SUPPORT TO OPPOSITION GROUPS

18 The aim would be to bring down the regime by internal [sic] revolt, aided by the defection or at least acquiescence of large sections of the Army. A group of Sunni generals probably from within the Republican Guard, might depose Saddam if they decided the alternative was defeat. This option could be pursued by providing covert intelligence, large scale financial and Special Forces support to opposition groups. The Kurds would be persuaded to unite and attack into northern Iraq, tying down some Iraqi forces. Simultaneously, in a greater threat to the regime, the Shia would rise up in the southern cities, and in Baghdad.

19 This option also has a very low prospect of success on its own. The external opposition is not strong enough to overthrow Saddam and would be rejected by most Iraqis as a replacement government. The Kurds could only mount a very limited offensive in the north. Mass uprisings in the south would be unlikely. The US failure to support the 1991 uprising remains vivid. The Republican Guard would move against any opposition and any wavering regular Army units. There would also be a high risk of US/coalition forces being captured. The remaining elements of opposition could be eliminated, buttressing Saddam and his reputation as Arab folk hero. On the other hand, this option has never been pursued in a concerted, single-minded way before and should not be dismissed, at least as a possible precursor to Options 2 and 3.

OPTION 2: AN AIR CAMPAIGN PROVIDING OVERT SUPPORT TO OPPOSITION GROUPS LEADING TO A COUP OR UPRISING

20 The aim would be to assist an internal revolt by providing strategic and tactical air support for opposition groups to move against the regime. Such support would disable Saddam's military and security apparatus. Suspected WMD facilities would also be targeted. Substantial numbers of aircraft and munitions would need to be built up in theatre over a period of months. Any campaign would take several weeks at least probably several months. Pressure on the regime could be increased by massing ground and naval forces and threatening a land invasion.

21 This option has no guarantee of success. The build up of pressure might persuade other Sunnis to overthrow Saddam and his family, but there is no guarantee that another Sunni autocrat would be better. Comparisons with Afghanistan are misleading. Saddam's military and security apparatus is considerable more potent and cohesive. We are not aware of any Karzai figure able to command respect inside and outside Iraq. Arab states would only back the plan if they were sure Saddam would be deposed. At least the co-operation of Kuwait would be needed for the necessary military build-up. The Arab street would oppose an air attack against Iraq, but visibility of a popular uprising could calm Arab public opinion.

OPTION 3: A GROUND CAMPAIGN

22 The aim would be to launch a full-scale ground offensive to destroy Saddam's [sic] military machine and remove him from power. A pro-Western regime would be installed which would destroy Iraq's WMD capability, make peace with Iraq's neighbours and give rights to all Iraqis, including ethnic minorities. As in the Gulf War, this would need to be preceded by a major air-offensive to soften up defences.

23 US contingency planning prior to 11 September indicated that such a ground campaign would require 200-400,000 troops. The numbers would be roughly half those of 1991 because Iraqi forces are now considerably weaker. Any invasion force would need to pose a credible threat to Baghdad in order to persuade members of the Sunni military elite that their survival was better served by deserting to the coalition than staying loyal to Saddam. Sufficient air assets would need three months and ground forces at least four-five months to assemble so on logistical grounds a ground campaign is not feasible until autumn 2002. The optimal times to start action are early spring.

24 From a purely military perspective it would be very difficult to launch an invasion from Kuwait alone. Carrier-based aircraft would not be enough because of the need for land-based air-to-air refuelling. To be confident of success, bases either in Jordan or in Saudi Arabia would be required. However, a wider and durable international coalition would be advantageous for both military and political reasons. Securing moderate Arab support would be greatly assisted by the promise of a quick and decisive campaign, and credible action by the US to address the MEPP.

25 The risks include US and others military casualties. Any coalition would need much tending over the difficult months of preparation for an actual invasion. Iran, fearing further US encirclement and that it will be invaded next will be prickly but is likely to remain neutral. With

his regime in danger, Saddam could use WMD, either before or during an invasion. Saddam could also target Israel as he did during the Gulf War. Restraining Israel will be difficult. It would try to pre-empt a WMD attack and has certainly made clear that it would retaliate. Direct Israeli military involvement in Iraq would greatly complicate coalition management and risk spreading conflict more widely.

26 None of the above options is mutually exclusive. Options 1 and/or 2 would be natural precursors to Option 3. All options had lead times. If an invasion is contemplated this autumn, then a decision will need to be taken in principle six months in advance. The greater investment of Western forces, the greater our control over Iraq's future, but the greater the cost and the longer we would need to stay. Option 3 comes closest to guaranteeing regime change. At this stage we need to wait to see which option or combination of options may be favoured by the US government.

27 But it should be noted that even a representative government could seek to acquire WMD and build-up its conventional forces, so long as Iran and Israel retain their WMD and conventional armories.

LEGAL CONSIDERATIONS

28 A full opinion should be sought from the Law Officers if the above options are developed further. But in summary CONTAINMENT generally involves the implementation of existing UNSCRs and has a firm legal foundation. Of itself, REGIME CHANGE has no basis in international law. A separate note by FCO Legal Advisors setting out the general legal background and the obligations in the relevant UN Resolutions is attached.

29 In the judgement of the JIC there is no recent evidence of Iraq complicity with international terrorism. There is therefore no justification for action against Iraq based on action in self-defence (Article 51) to combat imminent threats of terrorism as in Afghanistan. However, Article 51 would come into play if Iraq were about to attack a neighbour.

30 Currently, offensive military action against Iraq can only be justified if Iraq is held to be in breach of the Gulf War ceasefire resolution, 687. 687 imposed obligations on Iraq with regard to the elimination of WMD and monitoring these obligations. But 687 never terminated the authority to use force mandated in UNSCR 678 (1990). Thus a violation of 687 can revive the [sic] authorisation to use force in 678.

31 As the ceasefire was proclaimed by the Security Council in 687, it is for the Council to decide whether a breach of obligations has occurred. There is a precedent, UNSCR 1205 (1998), passed after the expulsion of the UN inspectors, stated that in doing so Iraq had acted in flagrant violation of its obligations under 687. In our view, this revived the authority for the use of force under 678 and underpinned Operation Desert Fox. In contrast to general legal opinion, the US asserts the right of individual Member States to determine whether Iraq has breached 687, regardless of whether the Council has reached this assessment.

32 For the P5 and the majority of the Council to take the view that Iraq was in breach of 687:

- * they would need to be convinced that Iraq was in breach of its obligations regarding WMD, and ballistic missiles. Such proof would need to be incontrovertible and of large-scale activity. Current intelligence is insufficiently robust [sic] to meet this criterion. Even with overriding proof China, France and Russia, in particular, would need considerable lobbying to approve or acquiesce in a new resolution authorising military action against Iraq. Concessions in other policy areas might be needed. However, many Western states, at least, would not wish to oppose the US on such a major issue; or
- * if P5 unity could be obtained, Iraq refused to readmit UN inspectors after a clear ultimatum by the UN Security Council; or
- * the UN inspectors were re-admitted to Iraq and found sufficient evidence of WMD activity or were again expelled trying to do so.

CONCLUSION

33 In sum, despite the considerable difficulties, the use of overriding force in a ground campaign is the only option that we can be confident will remove Saddam and bring Iraq back into the international community.

34 To launch such a campaign would require a staged approach:

- * winding up the pressure: increasing the pressure on Saddam through tougher containment. Stricter implementation of sanctions and a military build-up will frighten his regime. A refusal to admit UN inspectors, or their admission and subsequent likely frustration, which resulted in an appropriate finding by the Security Council could provide the justification for military action. Saddam would try to prevent this, although he has miscalculated before [sic];
- * careful planning: detailed military planning on the various invasion and basing options, and when appropriate force deployment;
- * coalition building: diplomatic work to establish an international coalition to provide the broadest political and military support to a ground campaign. This will need to focus on China, France and particularly Russia who have the ability to block action in the UN Security Council and on the other Europeans. Special attention will need to be paid to moderate Arab states and to Iran;
- * incentives: as an incentive guarantees will need to be made with regard to Iraqi territorial integrity. Plans should be worked up in advance of the great benefits the international community could provide for a post-Saddam Iraq and its people. These should be published.
- * tackling other regional issues: an effort to engage the US in a serious effort to re-energise the MEPP would greatly assist coalition building; and
- * sensitising the public: a media campaign to warn of the dangers that Saddam poses and to prepare public opinion both in the UK and abroad.

35 The US should be encouraged to consult widely on its plans.

OVERSEAS AND DEFENCE SECRETARIAT
CABINET OFFICE
8 MARCH

SECRET UK EYES ONLY

Text of the **Iraq: Legal Background-March 8, 2002 memo** from UK Foreign and Commonwealth Office (office of Jack Straw, Foreign Secretary) to Tony Blair advising him on the legality of the use of force against Iraq.

CONFIDENTIAL

IRAQ: LEGAL BACKGROUND

(i) Use of Force: (a) Security Council Resolutions

(b) Self-defence

(c) Humanitarian Intervention

(ii) Security Council Resolutions relevant to the sanctions regime

(iv) Security Council Resolutions relating to UNMOVIC

(i) Use of Force: (a) Security Council Resolutions relevant to the Authorisation of the Use of Force

1. Following its invasion and annexation of Kuwait, the Security Council authorised the use of force against Iraq in resolution 675 (1990); this resolution authorised coalition forces to use all necessary means to force Iraq to withdraw, and to restore international peace and security in the area. This resolution gave a legal basis for Operation Desert Storm, which was brought to an end by the cease-fire set out by the Council in resolution 687 (1991). The conditions for the cease-fire in that resolution (and subsequent resolutions) imposed obligations on Iraq with regard to the elimination of WMD and monitoring of its obligations. Resolution 687 (1991) suspended but did not terminate the authority to use force in resolutions 678 (1990).

2. In the UK's view a violation of Iraq's obligations which undermines the basis of the cease-fire in resolution 687 (1991) can revive the authorisation to use force in resolutions 678 (1990). As the cease-fire was proclaimed by the Council in resolution 687 (1991), it is for the Council to assess whether any such breach of those obligations has occurred. The US have a rather different view: they maintain that the assessment of breach is for individual member States. We are not aware of any other State which supports this view.

3. The authorisation to use force contained in resolution 678 (1990) has been revived in this way on certain occasions. For example, when Iraq refused to cooperate with the UN Special Commission (UNSCOM) in 1997/8, a series of SCRs condemned the decision as unacceptable. In resolution 1205 (1998) the Council condemned Iraq's decision to end all cooperation with UNSCOM as a flagrant violation of Iraq's obligations under resolution 687 (1991), and restated that the effective operation of UNSCOM was essential for the implementation of that Resolution. In our view these resolutions had the effect of causing the authorisation to use force in resolutions 678 (1990) to revive, which provided a legal basis for Operation Desert Fox. In a letter to the President of the Security Council in 1998 we stated that the objective of that

operation was to seek compliance by Iraq with the obligations laid down by the Council that the operation was undertaken only when it became apparent that there was no other way of achieving compliance by Iraq, and that the action was limited to what was necessary to secure this objective.

4. The more difficult issue is whether we are still able to rely on the same legal base for the use of force more than three years after the adoption of resolution 1205 (1998). Military action in 1998 (and on previous occasions) followed on from specific decisions of the Council; there has now not been any significant decision by the Council since 1998. Our interpretation of resolution 1205 was controversial anyway; many of our partners did not think the legal basis was sufficient as the authority to use force was not explicit. Reliance on it now would be unlikely to receive any support.

USE OF FORCE: (B) SELF-DEFENCE

5. The conditions that have to be met for the exercise of the right of self-defence are well known:

- i) There must be an armed attack upon a State or such an attack must be imminent;
- ii) The use of force must be necessary and other means to reverse/avert the attack must be unavailable;
- iii) The acts in self-defence must be proportionate and strictly confined to the object of stopping the attack.

The right of self-defence may only be exercised until the Security Council has taken measures necessary to ensure international peace and security and anything [sic] done in exercise of [sic] the right of self-defence must be immediately reported to the Council.

6. For the exercise of the right of self-defence there must be more than "a threat". There has to be an armed attack actual or imminent. The development of possession of nuclear weapons does not in itself amount to an armed attack; what would be needed would be clear evidence of an imminent attack. During the Cold War there was certainly a threat in the sense that various States had nuclear weapons which they might, at short notice unleash upon each other. But that did not mean the mere possession of nuclear weapons, or indeed their possession in time of high tension or attempt to obtain them, was sufficient to justify pre-emptive action. And when Israel attacked an Iraqi nuclear reaction, near Baghdad, on 7 June 1981 it was "strongly condemned" by the Security Council (acting unanimously) as a "military" attackin clear violation of the Charter of the United Nations and the norms of international conduct".

USE OF FORCE: (C) HUMANITARIAN INTERVENTION

7. In the UK view the use of force may be justified if the action is taken to prevent an overwhelming humanitarian catastrophe. The limits to this highly contentious doctrine are not clearly defined, but we would maintain that the catastrophe must be clear and well documented, that there must be no other means short of the use of force which could prevent it, and that the measures taken must be proportionate. This doctrine partly underlies the very limited action taken by allied aircraft to patrol the No Fly Zones in Iraq (following action by Saddam to repress the Kurds and the Shia in the early 90s), which involved occasional and limited use of force by those aircraft in self-defence. The application of this doctrine depends on the circumstances at any given time, but it is clearly exceptional.

(II) NO FLY ZONES (NFZs)

8. The NFZs over Northern and Southern Iraq are not established by UN Security Council Resolutions. They were established in 1991 and 1992 on the basis that they were necessary and proportionate steps taken to prevent a humanitarian [sic] crisis. Prior to the establishment of the Northern NFZ the Security Council had adopted resolution 688 (1991) on 5 April 1991 in which the Council stated that it was gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, which had led to a massive refugee flow and that it was deeply disturbed by the magnitude of the human suffering involved. The resolution condemned that repression of the Iraqi civilian population and demanded that Iraq immediately end the repression. In our view the purpose of the NFZs is to monitor [sic] Iraqi compliance with the provisions of resolution 688. UK and US air-craft patrolling the NFZs are entitled to use force in self-defence where such a use of force [sic] is a necessary and proportionate response to actual or imminent attack from Iraqi ground systems.

9. The US have on occasion claimed that the purpose of the NFZs is to enforce Iraqi compliance with resolutions 687 or 688. This view is not consistent [sic] with resolution 687, which does not deal with the repression of the Iraqi population, or with resolution 688, which was not adopted under Chapter VII of the UN Charter and does not contain any provision for enforcement. Nor (as it is sometimes claimed) were the current NFZs provided for in the Safwan agreement, a provisional agreement between coalition and Iraqi commanders of 3 March 1991, laying down military conditions for the cease fire which did not contain any reference to the NFZs.

(III) SECURITY COUNCIL RESOLUTIONS RELEVANT TO THE SANCTIONS REGIME

10. The sanctions regime against Iraq was established by resolutions 661 (1990) of 8 August 1990, which, following the invasion of Kuwait by Iraq, decides that all states shall prevent the import into their territories of any commodities originating in Iraq, the sale or supply to Iraq of any commodities other than medical supplies, and, in humanitarian circumstances, food stuffs, and that Iraqi funds and financial resources should be frozen. Resolution 661 remains in force. The major exception to the sanctions regime is the oil for food programme which was established by resolution 986 (1993) by Iraq on condition that the purchase price is paid into an escrow account established by the UN Secretary-General, and the funds to that account are used to meet the humanitarian needs of the Iraqi people through the export of medicine, health supplies, foodstuffs and materials and supplies for essential civilian needs. The escrow account is also used to fund the UN [sic] Compensation Commission and to meet the operating costs of the UN, including [sic] those of UNMOVIC (see below).

11. The oil for food programme is renewed by the Security Council at (usually) 6 monthly intervals, most recently by resolution 1382 (2001) of 29 November 2001. Under that resolution the Council also decided that it would adopt, by 13 May 2002, procedures which would improve the flow of goods to Iraq, other than arms and other potential dual use goods on a Good Review List. The US are currently reviewing the final details of the list with the Russians.

12. In resolution 687 (1991) the Council decided that the prohibition against the import of goods from Iraq should have no further force when Iraq has completed all the actions contemplated in

paragraphs 8-13 of that resolution concerning Iraq's WMD programme. Iraq has still not complied with this condition. Under paragraph 21 of resolution 687, the Council decided to review the prohibition against the supply of commodities to Iraq every 60 days in the light of the policies and practices of the Iraqi government, including the implementation of all the relevant resolutions of the Council, for the purpose of determining whether to reduce or lift them. These regular reviews are currently suspended as a result of Iraqi noncompliance with the Council's demands.

13. The intention of the Council to act in accordance with resolution 687 on the termination of these prohibitions has been regularly reaffirmed, including in resolution 1284 (1999). Paragraph 33 of that resolution also contains a complex formula for the suspension of economic sanctions against Iraq for renewable periods of 120 days, if UNMOVIC and the IAEA report cooperation in all respects by Iraq in fulfilling work programmed with those bodies for a period of 120 days after a reinforced system of monitoring and verification in Iraq becomes fully operational. Iraq has never complied with these conditions.

(iv) SECURITY COUNCIL RESOLUTIONS RELATING TO UNMOVIC

14. UNMOVIC was established under resolution 687 (1991) (the ceasefire resolution). UNMOVIC is to undertake the responsibilities of the former Special Commission under resolution 687 relating to the destruction of Iraqi CBW and ballistic missiles with a range of over 150 kilometres and the on-going monitoring and verification of Iraq's compliance with these obligations. Like the Special Commission, UNMOVIC is to be allowed unconditional access to all Iraqi facilities, equipment and records as well as to Iraqi officials. Under paragraph [sic] 7 of resolution 1284 UNMOVIC and the IAEA were given the responsibility of drawing up a work programme which would include the implementation of a reinforced system of ongoing monitoring and verification (OMV) and key remaining disarmament tasks to be completed by Iraq, which constitute the governing standard of Iraqi compliance. There are currently no UNMOVIC personnel in Iraq, and the reinforced OMV system has not been implemented because of Iraq's [sic] refusal to cooperate.

Text of the **David Manning Memo - March 14, 2002** memo from David Manning (UK Foreign Policy Advisor) to Tony Blair recounting Manning's meetings with his US counterpart Condoleeza Rice (National Security Advisor), and advising Blair for his upcoming visit to Bush's Crawford ranch.

SECRET - STRICTLY PERSONAL

FROM : DAVID MANNING

DATE: 14 MARCH 2002

CC: JONATHAN POWELL

PRIME MINISTER

YOUR TRIP TO THE US

I had dinner with Condi on Tuesday; and talks and lunch with her and an NSC team on Wednesday (to which Christopher Meyer also came). These were good exchanges, and particularly frank when we were one-on-one at dinner. I attach the records in case you want to glance.

IRAQ

We spent a long time at dinner on IRAQ. It is clear that Bush is grateful for your support and has registered that you are getting flak. I said that you would not budge in your support for regime change but you had to manage a press, a Parliament and a public opinion that was very different than anything in the States. And you would not budge either in your insistence that, if we pursued regime change, it must be very carefully done and produce the right result. Failure was not an option.

Condi's enthusiasm for regime change is undimmed. But there were some signs, since we last spoke, of greater awareness of the practical difficulties and political risks. (See the attached piece by Seymour Hersh which Christopher Meyer says gives a pretty accurate picture of the uncertain state of the debate in Washington.)

From what she said, Bush has yet to find the answers to the big questions:

- how to persuade international opinion that military action against Iraq is necessary and justified;
- what value to put on the exiled Iraqi opposition;
- how to coordinate a US/allied military campaign with internal opposition (assuming there is any);
- what happens on the morning after?

Bush will want to pick your brains. He will also want to hear whether he can expect coalition support. I told Condi that we realised that the Administration could go it alone if it chose. But if it wanted company, it would have to take account of the concerns of its potential coalition partners. In particular:

- the Un [sic] dimension. The issue of the weapons inspectors must be handled in a way that would persuade European and wider opinion that the US was conscious of the international framework, and the insistence of many countries on the need for a legal base. Renewed refusal [sic] by Saddam to accept unfettered inspections would be a powerful argument'
- the paramount importance of tackling Israel/Palestine. Unless we did, we could find ourselves bombing Iraq and losing the Gulf.

YOUR VISIT TO THE RANCH

No doubt we need to keep a sense of perspective. But my talks with Condi convinced me that Bush wants to hear you [sic] views on Iraq before taking decisions. He also wants your support. He is still smarting from the comments by other European leaders on his Iraq policy.

This gives you real influence: on the public relations strategy; on the UN and weapons inspections; and on US planning for any military campaign. This could be critically important. I think there is a real risk that the Administration underestimates the difficulties. They may agree that failure isn't an option, but this does not mean that they will avoid it.

Will the Sunni majority really respond to an uprising led by Kurds and Shias? Will Americans really put in enough ground troops to do the job if the Kurdish/Shi'ite stratagem fails? Even if they do will they be willing to take the sort of casualties that the Republican Guard may inflict on them if it turns out to be an urban war, and Iraqi troops don't conveniently collapse in a heap as Richard Perle and others confidently predict? They need to answer these and other tough questions, in a more convincing way than they have so far before concluding that they can do the business.

The talks at the ranch will also give you the chance to push Bush on the Middle East. The Iraq factor means that there may never be a better opportunity to get this Administration to give sustained attention to reviving the MEPP.

Text of the **Christopher Meyer Letter - March 18, 2002** memo from Christopher Meyer (UK ambassador to the US) to David Manning (UK Foreign Policy Advisor) recounting Meyer's meeting with Paul Wolfowitz (US Deputy Secretary of Defense).

DAVID MANNING

CONFIDENTIAL AND PERSONAL

British Embassy Washington

From the Ambassador
Christopher Meyer KCMG

18 March 2002

Sir David Manning KCMG
No 10 Downing Street

1. Paul Wolfowitz, the Deputy Secretary of Defense, came to Sunday lunch on 17 March.
2. On Iraq I opened by sticking very closely to the script that you used the Condi Rice last week. We backed regime change, but the plan had to be clever and failure was not an option. It would be a tough sell for us domestically, and probably tougher elsewhere in Europe. The US could go it alone if it wanted to. But if it wanted to act with partners, there had to be a strategy for building support for military action against Saddam. I then went through the need to wrongfoot Saddam on the inspectors and the UN SCRs and the critical importance of the MEPP as an integral part of the anti-Saddam strategy. If all this could be accomplished skilfully (sic), we were fairly confident that a number of countries would come on board.
3. I said that the UK was giving serious thought to publishing a paper that would make the case against Saddam. If the UK were to join with the US in any operation against Saddam, we would have to be able to take a critical mass of parliamentary and public opinion with us. It was extraordinary how people had forgotten how bad he was.
4. Wolfowitz said that he fully agreed. He took a slightly different position from others in the Administration, who were focussed (sic) on Saddam's capacity to develop weapons of mass destruction. The WMD danger was of course crucial to the public case against Saddam, particularly the potential linkage to terrorism. But Wolfowitz thought it indispensable to spell out in detail Saddam's barbarism. This was well documented from what he had done during the occupation of Kuwait, the incursion into Kurdish territory, the assault on the Marsh Arabs, and to his (sic) own people. A lot of work had been done on this towards the end of the first Bush administration. Wolfowitz thought that this would go a long way to destroying any notion of moral equivalence between Iraq and Israel. I said that I had been forcefully struck, when addressing university audiences in the US, how ready students were to gloss over Saddam's crimes and to blame the US and the UK for the suffering of the Iraqi people.

5. Wolfowitz said that it was absurd to deny the link between terrorism and Saddam. There might be doubt about the alleged meeting in Prague between Mohammed Atta, the lead hijacker on 9/11, and Iraqi intelligence (did we, he asked, know anything more about this meeting?). But there were other substantiated cases of Saddam giving comfort to terrorists, including someone involved in the first attack on the World Trade Center (the latest New Yorker apparently has a story about links between Saddam and Al Qaeda operating in Kurdistan).

6. I asked to Wolfowitz's take on the struggle inside the Administrations between the pro- and anti- INC lobbies (well documented in Sy Hersh's recent New Yorker piece, which I gave you). He said that he found himself between the two sides (but as the conversation developed, it became clear that Wolfowitz was far more pro-INC than not). He said that he was strongly opposed to what some were advocating: a coalition including all outside the factions except the INC (INA, KDP, PUK, SCRI) . This would not work. Hostility towards the INC was in reality hostility toward Chalabi. It was true that Chalabi was not the easiest person to work with. Bute (sic) had a good record in bringing high-grade defectors out of Iraq. The CIA stubbornly refused to recognize this. They unreasonably denigrated the INC because of their fixation with Chalabi. When I mentioned that the INC was penetrated (sic) by Iraqi intelligence, Wolfowitz commented that this was probably the case with all the opposition groups: it was something we would have to live with. As to the Kurds, it was true that they were living well (another point to be made in any public dossier on Saddam) and that they feared provoking an incursion by Baghdad. But there were good people among the Kurds, including in particular Salih (?) of the PUK. Wolfowitz brushed over my reference to the absence of Sunni in the INC: there was a big difference between Iraqi and Iranian Shia. The former just wanted to be rid of Saddam.

7. Wolfowitz was pretty dismissive of the desirability of a military coup and of the defector generals in the wings. The latter had blood on their hands. The important thing was to try to have Saddam replaced by something like a functioning democracy. Though imperfect, the Kurdish model was not bad. How to achieve this, I asked? Only through a coalition of all the parties was the answer (we did not get into military planning).

Text of the **Peter Ricketts Letter - March 22, 2002** memo from Peter Ricketts (Political Director, UK Foreign and Commonwealth Office) to Jack Straw (UK Foreign Secretary) providing Ricketts' advice for the Prime Minister on issues of the threat posed by Iraq, connections to al Qaida, post-war considerations and working with the UN.

Confidential and Personal PR.121

From: P F Ricketts, Political Director

Date: 22 March 2002

CC: PUS

Secretary of State

IRAQ: Advice for the Prime Minister

1 You invited thoughts for your personal note to the Prime Minister covering the official advice (we have put up a draft minute separately). Here are mine.

2 By sharing Bush's broad objective" the Prime Minister can help shape how it is defined, and the approach to achieving it. In the process, he can bring home to Bush home of the realities which will be less evident from Washington. He can help Bush make good decisions by telling him things his own machine probably isn't.

3 By broad support for the objective brings two real problems which need discussing.

4 First, the THREAT. The truth is that what has changed is not the pace of Saddam Hussein's WMD programmes, but our tolerance of them post-11 September. This is not something we need to be defensive about, but attempts to claim otherwise publicly will increase scepticism about our case. I am relieved that you decided to postpone publication of the unclassified document. My meeting yesterday showed that there is more work to do to ensuer that the figures are accurate and consistent with those of the US. But even the best survey of Iraq's WMD programmes will not show much advance in recent years ont he nuclear, missile or CW/BW fronts: the programmes are extremely worrying but have not, as far as we know", been stepped up.

5 US scrambling to establish a link between Iraq and Al Aaida is so far frankly unconvincing. To get public and Parliamentary support for military operations, we have to be convincing that:

- the threat is so serious/imminent that it is worth sending our troops to die for;
- it is qualitatively different from the threat posed by other proliferators who are closer to achieving nuclear capability (including Iran).

CONFIDENTIAL AND PERSONAL

We can make the case on qualitative difference only Iraq has attacked a neighbour' used CW and fired missiles against Israel). The overall strategy needs to include re-doubled efforts to tackle other proliferators, including Iran, in other ways (the UK/French ideas on greater IAEA activity are helpful here). But we are still left with a problem of bringing public opinion to accept the imminence of a threat from Iraq. This is something the Prime Minister and President need to have a frank discussion about.

6 The second problem is the END STATE. Military operations need clear and compelling military objectives. For Kosovo" it was: Serba out, Kosovars back" peace-keepers in. For Afghanistan, destroying the Taleban and Al Qaida military capability. For Iraq, "regime change: does not stack up. It sounds like a grudge between Bush and Saddam. Much better, as you have suggested, to make the objective ending the threat to the international community from Iraqi WMD before Saddam uses it or gives it to the terrorists. This is at once easier to justify in terms of international law" but also more demanding. Regime change which produced another Sunni General still in charge of an active Iraqi WMD programme would be a bad outcome (not least because it would be almost impossible to maintain UN sanctions on a new leader who came in promising a fresh start). As with the fight against UBL, Bush would do well to de"personalise the objective" focus on elimination of WMD, and show that he is serious about UN Inspectors as the first choice means of achieving that (it is win/win for him: either Saddam against all the odds allows Inspectors to operate freely" in which case we can further hobble his WMD programmes, or he blocks/hinders, and we are on stronger ground for switching to other methods),

7 Defining the end state in this way, and working through the UN, will of course also help maintain a degree of support among the Europeans, and therefore fits with another major message which the Prime Minister will want to get across: the importance of positioning Iraq as a problem for the international community as a whole" not just for the US.

PETER RICKETTS

CONFIDENTIAL AND PERSONAL

Text of the **Jack Straw Memo - March 25, 2002** memo from Jack Straw (UK Foreign Secretary) to Tony Blair in preparation for Blair's visit to Bush's Crawford ranch, covering Iraq-al Qaida linkage, legality of invasion, weapons inspectors and post-war considerations.

SECRET AND PERSONAL

PM/02/019

CRAWFORD/IRAQ

1 The rewards from your visit to Crawford will be few. The risks are high, both for you and for the Government. I judge that there is at present no majority inside the PLP for any military action against Iraq, (alongside a greater readiness in the PLP to surface their concerns). Colleagues know that Saddam and the Iraqi regime are bad. Making that case is easy. But we have a long way to go to convince them as to:

- (a) the scale of the threat from Iraq and why this has got worse recently:
- (b) what distinguishes the Iraqi threat from that of eg Iran and North Korea so as to justify military action;
- (c) the justification for any military action in terms of international law: and
- (d) whether the consequence of military action really would be a compliant, law abiding replacement government.

2 The whole exercise is made much more difficult to handle as long as conflict between Israel and the Palestinians is so acute.

THE SCALE OF THE THREAT

3 The Iraqi regime plainly poses a most serious threat to its neighbours, and therefore to international security. However, in the documents so far presented it has been hard to glean whether the threat from Iraq is so significantly differently from that of Iran and North Korea as to justify military action (see below).

WHAT IS WORSE NOW?

4 If 11 September had not happened, it is doubtful that the US would now be considering military action against Iraq. In addition, there has been no credible evidence to link Iraq with UBL and Al Qaida. Objectively, the threat from Iraq has not worsened as a result of 11 September. What has however changed is the tolerance of the international community

(especially that of the US), the world having witnesses on September 11 just what determined evil people can these days perpetuate.

THE DIFFERENCE BETWEEN IRAQ, IRAN AND NORTH KOREA

5 By linking these countries together in this "axis of evil" speech, President Bush implied an identity between them not only in terms of their threat, but also in terms of the action necessary to deal with the threat, but also in terms of the action necessary to deal with the threat. A lot of work will now need to be to delink the three, and to show why military action against Iraq is so much more justified than against Iran and North Korea. The heart of this case" that Iraq poses a unique and present danger - rests on the facts that it:

- * invaded a neighbour;
- * has used WMD and would use them again;
- * is in breach of nine UNSCRS.

THE POSITION IN INTERNATIONAL LAW

6 That Iraq is in flagrant breach of international legal obligations imposed on it by the UNSC provides us with the core of a strategy, and one which is based on international law. Indeed' if the argument is to be won, the whole case against Iraq and in favour (if necessary) of military action, needs to be narrated with reference to the international rule of law.

7 We also have better to sequence the explanation of what we are doing and why. Specifically, we need to concentrate in the early stages on:

- * making operational the sanctions regime foreshadowed by UNSCR 1382;
- * demanding the readmission of weapons inspectors, but this time to operate in a free and unfettered way (a similar formula to that which Cheney used at your joint press conference, as I recall).

8 I know there are those who say that an attack on Iraq would be justified whether or not weapons inspectors were readmitted. But I believe that a demand for the unfettered readmission of weapons inspectors is essential, in terms of public explanation, and in terms of legal sanction for any subsequent military action.

9 Legally there are two potential elephant traps:

(i) regime change per se is no justification for military action; it could form part of the method of any strategy, but not a goal. Of course, we may want credibly to assert that regime change is an essential part of the strategy by which we have to achieve our ends - that of the elimination of Iraq's WMD capacity; but the latter has to be the goal;

(ii) on whether any military action would require a fresh UNSC mandate (Desert Fox did not). The US are likely to oppose any idea of a fresh mandate. On the other side, the weight of legal

advice here is that a fresh mandate may well be required. There is no doubt that a new UNSCR would transform the climate in the PLP. Whilst that (anew mandate) is very unlikely, given the US's position, a draft resolution against military action with 13 in favour (or handsitting) and two vetoes against could play very badly here.

THE CONSEQUENCES OF ANY MILITARY ACTION

10 A legal justification is a necessary but far from sufficient pre-condition for military action. We have also to answer the big question - what will this action achieve? There seems to be a larger hole in this than on anything. Most of the assessments from the US have assumed regime change as a means of eliminating Iraq's WMD threat. But none has satisfactorily answered how that regime change is to be secured, and how there can be any certainty that the replacement regime will be better.

11 Iraq has had NO history of democracy so no-one has this habit or experience.

(JACK STRAW)

Foreign and Commonwealth Office
25 March 2002

SECRET AND PERSONAL

Text of the **Cabinet Office Briefing Paper, July 21 2005**

Cabinet Office paper: Conditions for military action

Submitted by [downing](#) on Sun, 2005-06-12 12:12. [Evidence](#)

Published by Sunday Times of London, June 12, 2005

The paper, produced by the Cabinet Office on July 21, 2002, is incomplete because the last page is missing. The following is a transcript rather than the original document in order to protect the source.

PERSONAL SECRET UK EYES ONLY

IRAQ: CONDITIONS FOR MILITARY ACTION (A Note by Officials)

Summary

Ministers are invited to:

- (1) Note the latest position on US military planning and timescales for possible action.
- (2) Agree that the objective of any military action should be a stable and law-abiding Iraq, within present borders, co-operating with the international community, no longer posing a threat to its neighbours or international security, and abiding by its international obligations on WMD.
- (3) Agree to engage the US on the need to set military plans within a realistic political strategy, which includes identifying the succession to Saddam Hussein and creating the conditions necessary to justify government military action, which might include an ultimatum for the return of UN weapons inspectors to Iraq. This should include a call from the Prime Minister to President Bush ahead of the briefing of US military plans to the President on 4 August.
- (4) Note the potentially long lead times involved in equipping UK Armed Forces to undertake operations in the Iraqi theatre and agree that the MOD should bring forward proposals for the procurement of Urgent Operational Requirements under cover of the lessons learned from Afghanistan and the outcome of SR2002.
- (5) Agree to the establishment of an ad hoc group of officials under Cabinet Office Chairmanship to consider the development of an information campaign to be agreed with the US.

Introduction

1. The US Government's military planning for action against Iraq is proceeding apace. But, as yet, it lacks a political framework. In particular, little thought has been given to creating the political conditions for military action, or the aftermath and how to shape it.

2. When the Prime Minister discussed Iraq with President Bush at Crawford in April he said that the UK would support military action to bring about regime change, provided that certain conditions were met: efforts had been made to construct a coalition/shape public opinion, the Israel-Palestine Crisis was quiescent, and the options for action to eliminate Iraq's WMD through the UN weapons inspectors had been exhausted.

3. We need now to reinforce this message and to encourage the US Government to place its military planning within a political framework, partly to forestall the risk that military action is precipitated in an unplanned way by, for example, an incident in the No Fly Zones. This is particularly important for the UK because it is necessary to create the conditions in which we could legally support military action. Otherwise we face the real danger that the US will commit themselves to a course of action which we would find very difficult to support.

4. In order to fulfil the conditions set out by the Prime Minister for UK support for military action against Iraq, certain preparations need to be made, and other considerations taken into account. This note sets them out in a form which can be adapted for use with the US Government. Depending on US intentions, a decision in principle may be needed soon on whether and in what form the UK takes part in military action.

The Goal

5. Our objective should be a stable and law-abiding Iraq, within present borders, co-operating with the international community, no longer posing a threat to its neighbours or to international security, and abiding by its international obligations on WMD. It seems unlikely that this could be achieved while the current Iraqi regime remains in power. US military planning unambiguously takes as its objective the removal of Saddam Hussein's regime, followed by elimination of Iraqi WMD. It is however, by no means certain, in the view of UK officials, that one would necessarily follow from the other. Even if regime change is a necessary condition for controlling Iraqi WMD, it is certainly not a sufficient one.

US Military Planning

6. Although no political decisions have been taken, US military planners have drafted options for the US Government to undertake an invasion of Iraq. In a 'Running Start', military action could begin as early as November of this year, with no overt military build-up. Air strikes and support for opposition groups in Iraq would lead initially to small-scale land operations, with further land forces deploying sequentially, ultimately overwhelming Iraqi forces and leading to the collapse of the Iraqi regime. A 'Generated Start' would involve a longer build-up before any military action were taken, as early as January 2003. US military plans include no specifics on the strategic context either before or after the campaign. Currently the preference appears to be for the 'Running Start'. CDS will be ready to brief Ministers in more detail.

7. US plans assume, as a minimum, the use of British bases in Cyprus and Diego Garcia. This means that legal base issues would arise virtually whatever option Ministers choose with regard to UK participation.

The Viability of the Plans

8. The Chiefs of Staff have discussed the viability of US military plans. Their initial view is that there are a number of questions which would have to be answered before they could assess whether the plans are sound. Notably these include the realism of the 'Running Start', the extent to which the plans are proof against Iraqi counter-attack using chemical or biological weapons and the robustness of US assumptions about the bases and about Iraqi (un)willingness to fight.

UK Military Contribution

9. The UK's ability to contribute forces depends on the details of the US military planning and the time available to prepare and deploy them. The MOD is examining how the UK might contribute to US-led action. The options range from deployment of a Division (ie Gulf War sized contribution plus naval and air forces) to making available bases. It is already clear that the UK could not generate a Division in time for an operation in January 2003, unless publicly visible decisions were taken very soon. Maritime and air forces could be deployed in time, provided adequate basing arrangements could be made. The lead times involved in preparing for UK military involvement include the procurement of Urgent Operational Requirements, for which there is no financial provision.

The Conditions Necessary for Military Action

10. Aside from the existence of a viable military plan we consider the following conditions necessary for military action and UK participation: justification/legal base; an international coalition; a quiescent Israel/Palestine; a positive risk/benefit assessment; and the preparation of domestic opinion.

Justification

11. US views of international law vary from that of the UK and the international community. Regime change per se is not a proper basis for military action under international law. But regime change could result from action that is otherwise lawful. We would regard the use of force against Iraq, or any other state, as lawful if exercised in the right of individual or collective self-defence, if carried out to avert an overwhelming humanitarian catastrophe, or authorised by the UN Security Council. A detailed consideration of the legal issues, prepared earlier this year, is at Annex A. The legal position would depend on the precise circumstances at the time. Legal bases for an invasion of Iraq are in principle conceivable in both the first two instances but would be difficult to establish because of, for example, the tests of immediacy and proportionality. Further legal advice would be needed on this point.

12. This leaves the route under the UNSC resolutions on weapons inspectors. Kofi Annan has held three rounds of meetings with Iraq in an attempt to persuade them to admit the UN weapons inspectors. These have made no substantive progress; the Iraqis are deliberately obfuscating. Annan has downgraded the dialogue but more pointless talks are possible. We need to persuade the UN and the international community that this situation cannot be allowed to continue ad infinitum. We need to set a deadline, leading to an ultimatum. It would be preferable to obtain

backing of a UNSCR for any ultimatum and early work would be necessary to explore with Kofi Annan and the Russians, in particular, the scope for achieving this.

13. In practice, facing pressure of military action, Saddam is likely to admit weapons inspectors as a means of forestalling it. But once admitted, he would not allow them to operate freely. UNMOVIC (the successor to UNSCOM) will take at least six months after entering Iraq to establish the monitoring and verification system under Resolution 1284 necessary to assess whether Iraq is meeting its obligations. Hence, even if UN inspectors gained access today, by January 2003 they would at best only just be completing setting up. It is possible that they will encounter Iraqi obstruction during this period, but this more likely when they are fully operational.

14. It is just possible that an ultimatum could be cast in terms which Saddam would reject (because he is unwilling to accept unfettered access) and which would not be regarded as unreasonable by the international community. However, failing that (or an Iraqi attack) we would be most unlikely to achieve a legal base for military action by January 2003.

An International Coalition

15. An international coalition is necessary to provide a military platform and desirable for political purposes.

16. US military planning assumes that the US would be allowed to use bases in Kuwait (air and ground forces), Jordan, in the Gulf (air and naval forces) and UK territory (Diego Garcia and our bases in Cyprus). The plans assume that Saudi Arabia would withhold co-operation except granting military over-flights. On the assumption that military action would involve operations in the Kurdish area in the North of Iraq, the use of bases in Turkey would also be necessary.

17. In the absence of UN authorisation, there will be problems in securing the support of NATO and EU partners. Australia would be likely to participate on the same basis as the UK. France might be prepared to take part if she saw military action as inevitable. Russia and China, seeking to improve their US relations, might set aside their misgivings if sufficient attention were paid to their legal and economic concerns. Probably the best we could expect from the region would be neutrality. The US is likely to restrain Israel from taking part in military action. In practice, much of the international community would find it difficult to stand in the way of the determined course of the US hegemon. However, the greater the international support, the greater the prospects of success.

A Quiescent Israel-Palestine

18. The Israeli re-occupation of the West Bank has dampened Palestinian violence for the time being but is unsustainable in the long-term and stoking more trouble for the future. The Bush speech was at best a half step forward. We are using the Palestinian reform agenda to make progress, including a resumption of political negotiations. The Americans are talking of a ministerial conference in November or later. Real progress towards a viable Palestinian state is the best way to undercut Palestinian extremists and reduce Arab antipathy to military action

against Saddam Hussein. However, another upsurge of Palestinian/Israeli violence is highly likely. The co-incidence of such an upsurge with the preparations for military action against Iraq cannot be ruled out. Indeed Saddam would use continuing violence in the Occupied Territories to bolster popular Arab support for his regime.

Benefits/Risks

19. Even with a legal base and a viable military plan, we would still need to ensure that the benefits of action outweigh the risks. In particular, we need to be sure that the outcome of the military action would match our objective as set out in paragraph 5 above. A post-war occupation of Iraq could lead to a protracted and costly nation-building exercise. As already made clear, the US military plans are virtually silent on this point. Washington could look to us to share a disproportionate share of the burden. Further work is required to define more precisely the means by which the desired endstate would be created, in particular what form of Government might replace Saddam Hussein's regime and the timescale within which it would be possible to identify a successor. We must also consider in greater detail the impact of military action on other UK interests in the region.

Domestic Opinion

20. Time will be required to prepare public opinion in the UK that it is necessary to take military action against Saddam Hussein. There would also need to be a substantial effort to secure the support of Parliament. An information campaign will be needed which has to be closely related to an overseas information campaign designed to influence Saddam Hussein, the Islamic World and the wider international community. This will need to give full coverage to the threat posed by Saddam Hussein, including his WMD, and the legal justification for action.

Timescales

21. Although the US military could act against Iraq as soon as November, we judge that a military campaign is unlikely to start until January 2003, if only because of the time it will take to reach consensus in Washington. That said, we judge that for climactic reasons, military action would need to start by January 2003, unless action were deferred until the following autumn.

22. As this paper makes clear, even this timescale would present problems. This means that:

(a) We need to influence US consideration of the military plans before President Bush is briefed on 4 August, through contacts between the Prime Minister and the President and at other levels;

Downing Street Minutes complete text

http://www.timesonline.co.uk/article/0,,2087-1593607_1,00.html

The Sunday Times – Britain May 01, 2000

The secret Downing Street ‘memo’

SECRET AND STRICTLY PERSONAL - UK EYES ONLY

DAVID MANNING

From: Matthew Rycroft

Date: 23 July 2002

S 195 /02

cc: Defence Secretary, Foreign Secretary, Attorney-General, Sir Richard Wilson, John Scarlett, Francis Richards, CDS, C, Jonathan Powell, Sally Morgan, Alastair Campbell

IRAQ: PRIME MINISTER'S MEETING, 23 JULY

Copy addressees and you met the Prime Minister on 23 July to discuss Iraq.

This record is extremely sensitive. No further copies should be made. It should be shown only to those with a genuine need to know its contents.

John Scarlett summarised the intelligence and latest JIC assessment. Saddam's regime was tough and based on extreme fear. The only way to overthrow it was likely to be by massive military action. Saddam was worried and expected an attack, probably by air and land, but he was not convinced that it would be immediate or overwhelming. His regime expected their neighbours to line up with the US. Saddam knew that regular army morale was poor. Real support for Saddam among the public was probably narrowly based.

C reported on his recent talks in Washington. There was a perceptible shift in attitude. Military action was now seen as inevitable. Bush wanted to remove Saddam, through military action, justified by the conjunction of terrorism and WMD. But the intelligence and facts were being fixed around the policy. The NSC had no patience with the UN route, and no enthusiasm for publishing material on the Iraqi regime's record. There was little discussion in Washington of the aftermath after military action.

CDS said that military planners would brief CENTCOM on 1-2 August, Rumsfeld on 3 August and Bush on 4 August.

The two broad US options were:

(a) Generated Start. A slow build-up of 250,000 US troops, a short (72 hour) air campaign, then a move up to Baghdad from the south. Lead time of 90 days (30 days preparation plus 60 days deployment to Kuwait).

(b) Running Start. Use forces already in theatre (3 x 6,000), continuous air campaign, initiated by an Iraqi casus belli. Total lead time of 60 days with the air campaign beginning even earlier. A hazardous option.

The US saw the UK (and Kuwait) as essential, with basing in Diego Garcia and Cyprus critical for either option. Turkey and other Gulf states were also important, but less vital. The three main options for UK involvement were:

(i) Basing in Diego Garcia and Cyprus, plus three SF squadrons.

(ii) As above, with maritime and air assets in addition.

(iii) As above, plus a land contribution of up to 40,000, perhaps with a discrete role in Northern Iraq entering from Turkey, tying down two Iraqi divisions.

The Defence Secretary said that the US had already begun "spikes of activity" to put pressure on the regime. No decisions had been taken, but he thought the most likely timing in US minds for military action to begin was January, with the timeline beginning 30 days before the US Congressional elections.

The Foreign Secretary said he would discuss this with Colin Powell this week. It seemed clear that Bush had made up his mind to take military action, even if the timing was not yet decided. But the case was thin. Saddam was not threatening his neighbours, and his WMD capability was less than that of Libya, North Korea or Iran. We should work up a plan for an ultimatum to Saddam to allow back in the UN weapons inspectors. This would also help with the legal justification for the use of force.

The Attorney-General said that the desire for regime change was not a legal base for military action. There were three possible legal bases: self-defence, humanitarian intervention, or UNSC authorisation. The first and second could not be the base in this case. Relying on UNSCR 1205 of three years ago would be difficult. The situation might of course change.

The Prime Minister said that it would make a big difference politically and legally if Saddam refused to allow in the UN inspectors. Regime change and WMD were linked in the sense that it was the regime that was producing the WMD. There were different strategies for dealing with Libya and Iran. If the political context were right, people would support regime change. The two key issues were whether the military plan worked and whether we had the political strategy to give the military plan the space to work.

On the first, CDS said that we did not know yet if the US battleplan was workable. The military were continuing to ask lots of questions.

For instance, what were the consequences, if Saddam used WMD on day one, or if Baghdad did not collapse and urban warfighting began? You said that Saddam could also use his WMD on Kuwait. Or on Israel, added the Defence Secretary.

The Foreign Secretary thought the US would not go ahead with a military plan unless convinced that it was a winning strategy. On this, US and UK interests converged. But on the political strategy, there could be US/UK differences. Despite US resistance, we should explore discreetly the ultimatum. Saddam would continue to play hard-ball with the UN.

John Scarlett assessed that Saddam would allow the inspectors back in only when he thought the threat of military action was real.

The Defence Secretary said that if the Prime Minister wanted UK military involvement, he would need to decide this early. He cautioned that many in the US did not think it worth going down the ultimatum route. It would be important for the Prime Minister to set out the political context to Bush.

Conclusions:

(a) We should work on the assumption that the UK would take part in any military action. But we needed a fuller picture of US planning before we could take any firm decisions. CDS should tell the US military that we were considering a range of options.

(b) The Prime Minister would revert on the question of whether funds could be spent in preparation for this operation.

c) CDS would send the Prime Minister full details of the proposed military campaign and possible UK contributions by the end of the week.

(d) The Foreign Secretary would send the Prime Minister the background on the UN inspectors, and discreetly work up the ultimatum to Saddam.

He would also send the Prime Minister advice on the positions of countries in the region especially Turkey, and of the key EU member states.

(e) John Scarlett would send the Prime Minister a full intelligence update.

(f) We must not ignore the legal issues: the Attorney-General would consider legal advice with FCO/MOD legal advisers.

(I have written separately to commission this follow-up work.)

MATTHEW RYCROFT

(Rycroft was a Downing Street foreign policy aide)