

SECTION 3.5

DEVELOPMENT OF UK STRATEGY AND OPTIONS, SEPTEMBER TO NOVEMBER 2002 – THE NEGOTIATION OF RESOLUTION 1441

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Introduction and key findings

1. This Section addresses the negotiation of resolution 1441 following President Bush's speech to the United Nations (UN) General Assembly on 12 September, including the provision of legal advice, and the unanimous adoption of the resolution by the Security Council on 8 November

2. There were a number of other key developments during this period which are addressed elsewhere in the Report:

- The Joint Intelligence Committee (JIC) Assessments of Iraq's weapons of mass destruction (WMD) capabilities and Iraq's intentions for their use are set out in Section 4. The production of the Iraq dossier, published on 24 September 2002, and the presentation of its contents to Parliament are addressed in Section 4.2. The subsequent assessments of Iraq's actions, including its attitude towards the return of weapons inspectors, are addressed in Section 4.3.
- The development of options for a possible UK contribution to a US-led military invasion of Iraq, and the decision on 31 October to offer ground forces to the US for planning purposes, are addressed in Section 6.1.
- UK planning for a post-Saddam Hussein Iraq is addressed in Section 6.4.

3. The discussion within the UK Government after the adoption of resolution 1441 about the legal effect of the resolution, and Lord Goldsmith's advice on that issue and the legal basis for military action in Iraq, are addressed in Section 5.

Key findings

- The declared objective of the US and UK was to obtain international support within the framework of the UN for a strategy of coercive diplomacy for the disarmament of Iraq. For the UK, regime change was a means to achieve disarmament, not an objective in its own right.
- The negotiation of resolution 1441 reflected a broad consensus in the UN Security Council on the need to achieve the disarmament of Iraq.
- To secure consensus in the Security Council despite the different positions of the US and France and Russia, resolution 1441 was a compromise containing drafting "fixes".
- That created deliberate ambiguities on a number of key issues including: the level of non-compliance with resolution 1441 which would constitute a material breach; by whom that determination would be made; and whether there would be a second resolution explicitly authorising the use of force.

US/UK discussion of a draft resolution

4. The US and UK were in agreement about the objective of securing a UN resolution demanding that Iraq should permit the immediate and unconditional return of weapons inspectors and setting out the consequences of non-compliance.

5. At the beginning of the negotiations, however, there were significant differences between the US and the UK about the detailed content of a UN resolution and the approach to negotiations with China, France and Russia, the other Permanent Members, and with the wider Security Council.

6. The debate between the Foreign and Commonwealth Office (FCO) and No.10 on the objectives and terms for a new Security Council resolution on Iraq, between the end of July and President Bush's speech to the United Nations (UN) General Assembly on 12 September, are addressed in Section 3.4.

7. Initial discussion within the UK, and between the UK and US, about the terms of a draft resolution revolved around seven key issues:

- the need for a UN determination that Iraq was in material breach of its obligations;
- whether the demands for Iraq to comply should be limited to WMD (weapons of mass destruction) or address Iraq's wider failures to meet the obligations specified in UN resolutions since 1991;
- the nature of the ultimatum to Iraq on WMD and whether that should demand an immediate Iraqi declaration of its WMD holdings, and/or the return of weapons inspectors;
- whether to seek more intrusive and quicker inspections than those specified in resolution 1284 (1999);
- whether to seek explicit agreement to the use of "all necessary means" in the event of Iraqi non-compliance, which would provide explicit authority for military action;
- when the UN route would be deemed exhausted and the role of the Security Council in determining the seriousness of any reported Iraqi breach and in authorising the use of force; and
- whether to seek one resolution which met all the objectives or to adopt a two stage approach.

8. Resolution 1284 establishing the UN Monitoring, Verification and Inspection Commission (UNMOVIC), to replace the UN Special Commission (UNSCOM), was adopted on 17 December 1999, with China, France, Russia and Malaysia all abstaining.¹

¹ UN Security Council resolution 1284 (1999).

The timetable for inspections and the position of UNMOVIC in September 2002 is set out in the Box below.

Resolution 1284 (1999) and action to establish UNMOVIC

In March 1999, the panel chaired by Mr Celso Amorim, the Brazilian Permanent Representative to the UN in New York, which was tasked to provide a “comprehensive review” of UN approaches to Iraq, reported that “although important elements still have to be resolved, the bulk of Iraq’s proscribed weapons programs has been eliminated”.² Nonetheless, some inspections-based monitoring was needed to prevent rearmament.

The timetable set out in resolution 1284 for UNMOVIC and the International Atomic Energy Agency (IAEA) to start work and report to the Security Council on Iraq’s position resolution envisaged the inspectors would:

- “draw up, for approval by the Council, a work programme” not later than 60 days after they started work in Iraq;
- report “immediately when the reinforced system of ongoing monitoring and verification is fully operational in Iraq”;
- 120 days after that, report on whether “Iraq has co-operated in all respects with UNMOVIC and the IAEA in particular in fulfilling the work programmes in all the aspects to suspend sanctions”.³

The resolution also stated that:

- The 120 days would be renewable, subject to the “elaboration of effective financial and other operational measures” to ensure that Iraq did not acquire prohibited items.
- Should the Executive Chairman of UNMOVIC or the Director General of the IAEA report that Iraq was not co-operating in all respects, sanctions could be renewed.
- The IAEA would remain responsible for nuclear inspections and certification.

As Section 1.1 shows, the resolution was a compromise. Iraq was not required to demonstrate full compliance, just co-operation; and co-operation was not clearly defined. In addition, there was no certainty of a definitive end to sanctions. For this reason Iraq did not accept resolution 1284. It apparently hoped that sanctions would be suspended or at least eroded without it having to do much.

The decision to establish a new organisation to replace UNSCOM reflected allegations that it had not been impartial and had been used by western intelligence agencies to spy on Iraq. The intelligence agencies of member states could supply information to any new body but could not expect to receive any in return. Intelligence traffic would only be one-way. Inspectors were to be recruited independently and work directly for the UN, following UN standards and rules on impartiality and professionalism, rather than be loaned to the Commission by Member States. UNMOVIC was to be controlled by a College of Commissioners.

UNMOVIC was funded from Oil-for-Food (OFF) revenue.

² UN Security Council, 30 March 1999, ‘Letter dated 27 March 1999, from the Chairman of the panels established pursuant to the note by the President of the Security Council of 30 January 1999 (S/1999/100) addressed to the President of the Security Council’ (S/1999/356).

³ UN Security Council resolution 1284 (1999).

Dr Hans Blix was appointed as Executive Chairman of UNMOVIC on 27 January 2000.

A junior member of the UK permanent Mission to the UN in New York met Dr Blix on 12 September 2002 for a confidential conversation to explore:

- how long it would take UNMOVIC to establish a presence in Iraq;
- how long it would take to be “up and running”;
- how often it would be realistic for UNMOVIC to report on progress; and
- what its priorities would be for reinforcing inspections.⁴

The official reported that the practical arrangements for the return of inspectors would be crucial and would need to be agreed before their deployment. Discussions on the arrangements should take place outside Iraq, but once agreed an advance party from UNMOVIC could be in Iraq in a week. UNMOVIC would prefer to have three months to build up its presence before it “started work as set out in resolution 1284”, but it “could just about manage two months”.

The 60 days to draw up a work programme was “doable if Iraq co-operated” but that deadline could slip; the report would need to be shown to Iraq and approved by the College of Commissioners. Some inspections could take place within that period; that would be an early test of Iraqi compliance. There was nothing to stop Iraq providing UNMOVIC with the backlog of its biannual declarations on WMD. Depending on the co-operation it received, UNMOVIC could be “fully operational at the same time as it presented the work programme”.

The official noted that UNMOVIC already produced quarterly reports and a report every month was likely to be “too frequent”. Regular reports could help to put pressure on Iraq and could be used to highlight non-co-operation.

Dr Blix had received a suggestion that UNMOVIC be asked to report to the Council immediately if Iraq was not co-operating positively. He did not underestimate the difficulties of annulling the modalities governing access to sensitive sites and had advised that the Security Council could usefully reaffirm existing rights. Asking UNMOVIC to put forward suggestions to strengthen inspections would put its independence in doubt.

9. In preparation for a meeting with Mr Blair and following initial discussions in New York, Mr Jack Straw, the Foreign Secretary, set out his thinking on the UK’s approach to the negotiation of a new UN resolution on 14 September.

10. Mr Straw advised that the UK’s objective should be a more intrusive inspections regime. If Saddam Hussein complied, that would achieve the UK’s WMD objectives.

11. Mr Straw advocated that the UK and the US should seek only one resolution; and that it should incorporate both a demand for the return of inspectors and a tougher inspections regime. That would maximise pressure on Iraq to comply and avoid giving France and Russia a veto over military action.

⁴ Minute FCO [junior official] to HMA [UKMIS New York], 12 September 2002, ‘Iraq: Meeting with Blix’.

12. Reporting a conversation with Dr Condoleezza Rice, President Bush’s National Security Advisor, at a reception given by President Bush on 12 September, Mr Straw wrote that he had rehearsed his concerns about a two resolution strategy, “not least because it was being pushed ... by those who wanted a veto on military action and who wanted to avoid hard choices”.⁵ They had also discussed the possibility of seeking an Iraqi “declaration” of its WMD programmes. While that might create “something to do” while UNMOVIC got its teams into place, Mr Straw had said he thought it could be a “very dangerous proposal”. Saddam Hussein “would be very likely to respond with a massively detailed document to split the five Permanent Members of the Security Council (the P5) and international public opinion and buy more time”.

13. Following his discussions in New York and in preparation for a meeting with Mr Blair on 17 September, Mr Straw sent a minute to Mr Blair setting out a proposed strategy for “achieving our objectives through the UN”.⁶

14. Summarising his views, Mr Straw advised that the UK should:

- “• deliver a more intrusive inspection regime which, if Saddam complies, achieves our WMD objectives;
- demand Iraqi actions not words, within tight deadlines;
- get all we need into a first resolution, without either committing ourselves [to] or ruling out a second [resolution];
- persuade President Bush to commit to the heavy lifting necessary to secure Russian acquiescence, while we take the lead with the French;
- be prepared to run the resolution ourselves if the US agree, since we are better placed to deliver in the Security Council.”

15. Mr Straw wrote that President Bush’s speech on 12 September had “transformed the politics of the issue, at least in the short term”, which “gives us a huge opportunity”. He added that achieving the objectives would be a “highly complex process” which would require Mr Blair’s intervention at “crucial moments”, and that:

“US views will carry a lot of weight. But as on many issues, they will need our advice and tactical judgement to get what they need out of the Security Council.”

16. Mr Straw reported that he had been assured that President Bush was “serious about trying intrusive inspections as a means to achieve Iraqi WMD disarmament”. There were, however, differences of view within the US Administration. Mr Straw was concerned that there were voices suggesting that any resolution should be loaded “with impossible demands to ensure the inspectors never get deployed, and to create the earliest pretext for military action”.

⁵ Letter Straw to Manning, 13 September 2002, ‘Iraq’.

⁶ [Minute Straw to Prime Minister, 14 September 2002, ‘Iraq: Pursuing the UN Route’](#).

17. Mr Straw was also concerned that others in the Security Council wanted an approach which would “make it politically impossible to take military action”. It would be “crucial to avoid both traps”.

18. Addressing the substance of the issues, Mr Straw wrote that “our own emerging thinking and that of the US is converging” and the US and UK should seek a resolution which:

- determined that Iraq had been and was “now in material breach of a ... series of obligations to the Security Council”. That was “designed to provide the necessary legal cover”;
- demanded “unfettered access for inspectors, with clear deadlines as a first test of Iraqi acceptance and a more intrusive mandate”; and
- included “some provisions on what happens if Iraq fails to comply with the specific requirements”, but “falling short of authorising ‘all necessary measures’”. Sir Jeremy Greenstock, UK Permanent Representative to the UN in New York, judged that was “simply a non-starter” with China, France and Russia.

19. Mr Straw provided “an illustrative draft” resolution, which reflected initial discussions with the US but had not been shown to them.

20. The draft included elements from each of the options offered by the FCO on 6 September (see Section 3.4). Mr Straw identified a number of issues that would require political judgements:

- The advantages and disadvantages of the US proposal to challenge Iraq to produce a full declaration of its WMD holdings very quickly. Mr Straw thought that was “a bad idea” and that there were “better ways of setting early deadlines”.
- How much tougher an agreed inspection regime could be without making demands which would not be agreed by either the members of the Security Council or Iraq. The US was “thinking of a provision which would allow [Dr] Blix to decide what further access he needed to achieve his mandate”. That “would mean jettisoning previously agreed special arrangements (like exemption of palaces etc)”. That “would be difficult to negotiate” and Mr Straw did not want Iraq to reject the resolution because it “could be said to move the goalposts”; but he favoured trying the approach.
- How clear the resolution could be about the consequences in the event of non-compliance. That would be “the hardest-fought point in the Security Council”. As “all necessary measures” looked “unnegotiable”, and the US would “adamantly oppose a requirement” for a further resolution, the current US preference was “to stipulate that any failure to comply with the provisions of the resolution would constitute a further material breach and that Iraq would be responsible for the serious consequences of that”. Mr Straw took the view

that, while the negotiations should “start tough”: “The final result will almost certainly be less explicit.”

21. Addressing the tactics, Mr Straw wrote that the P5 lunch the previous day had, in the words of Mr Colin Powell, US Secretary of State, been “a good start on securing a consensus”.

22. Mr Straw added that France’s approach of two resolutions was “attractive to some precisely because it postpones any hard choices and gives Russia and France a veto on military action. I think it a very dangerous idea.” It would postpone hard choices and give other members of the P5 a veto over military action.

23. Mr Straw had argued to his Ministerial colleagues that “the tougher and more complete the first resolution, the greater the chance of Iraqi compliance. Paradoxically ... [a] two resolution approach would make the use of force more likely, because Iraq would view it as weak.”

24. Mr Straw wrote that he and Secretary Powell both believed that “we should get a long way down the road of agreeing the strategy in capitals” with the P5 before putting any draft text into the Council. They envisaged that, after intensive discussions, the US and UK would be “in a position to table proposals in the Security Council early in the week of 23 September”. He also suggested that there might be tactical advantages in the UK tabling the resolution.

25. Sir David Manning, Mr Blair’s Foreign Policy Adviser and the Head of the Cabinet Office Overseas and Defence Secretariat (OD Sec), sent the minute to Mr Blair with his own comments on a number of points:

- Mr Jacques Chirac, the French President, would not accept the use of the phrase all necessary measures “at this stage”.
- A declaration did not need to precede inspections: it could be pursued in parallel.
- The UK dossier was “designed to show how unsatisfactory absolving palaces from inspections has proved”.
- Mr Straw’s view that the negotiations should start tough but the consequences in the event of non-compliance would be less explicit than agreement to “all necessary measures” looked “right.”⁷

26. The UK was concerned to avoid US proposals for a comprehensive Iraqi declaration being used to provide the basis for military action before the return of inspectors.

⁷ [Manuscript comments Manning to Prime Minister on Minute Straw to Prime Minister, 14 September 2002, ‘Iraq: Pursuing the UN Route’.](#)

27. US and UK officials discussed draft resolutions on 15 and 16 September. Mr Peter Ricketts, FCO Political Director, reported that the main differences between them were; a US demand for comprehensive declarations and making failure to comply with that a “casus belli”; detailed proposals for unfettered access for inspectors; and “the ‘all necessary means’ issue”.⁸

28. Sir David Manning discussed developments with Dr Rice on 16 September.⁹ He stated that the position was “very much better ... than ... eight weeks ago”; and that Mr Blair was “pleased that the issue was now focused in the UN, where the early signs suggested the debate was going well”. Saudi Arabia had announced that they would permit overflights if there was a resolution authorising action.

29. Sir David Manning reported that he had told Dr Rice:

- The UK would consider two resolutions, one dealing with Iraq’s WMD and one dealing with other aspects of the Iraqi problem, including the restoration of Kuwaiti property.
- The UK was still considering whether to demand that Saddam Hussein should make a “Declaration about his WMD stocks”. There would be a discussion between Mr Blair and Mr Straw the following day.
- Mr Blair would be “sympathetic” to the need for an effective and intrusive inspections regime and the measures to ensure that, such as protection for UNMOVIC and the role of P5 representatives.
- On the question of whether to seek “all necessary means” or accepting language specifying “serious consequences”, there was the option of falling back on the Kosovo model (taking independent action if ultimately the UN route failed). It was the right way forward.

30. The US and UK Missions to the UN in New York produced a draft “composite resolution” on 16 September, which Mr Straw and Sir Jeremy Greenstock discussed with Secretary Powell later that day.¹⁰

31. Secretary Powell told Mr Straw that he had discussed the possibility of an Iraqi letter agreeing to unconditional access for inspectors with Mr Kofi Annan, Secretary-General of the UN, “three times in the last 14 hours”. Mr Annan had made it clear to Iraq that there would be a new resolution and there was nothing it could do to stop it.

32. Mr Straw thought that “overall the argument was going well”. Egypt and other countries were complaining about where an objective of regime change left them, but: “Saddam Hussein had a choice, either complying with SCRs [Security Council

⁸ Minute Ricketts to Secretary of State [FCO], 16 September 2002, ‘Iraq: UN Resolutions’.

⁹ Letter Manning to McDonald, 16 September 2002, ‘Iraq: Conversation with Condi Rice’.

¹⁰ [Telegram 1729 UKMIS New York to FCO London, 16 September 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 16 September’.](#)

resolutions] and surviving; or failing to comply and his regime ending up being changed as a consequence of the international community enforcing compliance.”

33. Secretary Powell told Mr Straw that the US was looking for a serious response from Iraq to a required declaration. If it was not serious, “Saddam would clearly be playing games and that should be considered a *casus belli*”. The US wanted something which it could measure, and “to assess Iraqi seriousness before they got rolling on inspectors”. In his view, Mr Blair and President Bush “needed to talk about the role of a declaration: there was still some uncertainty in the Administration about what the UK wanted/could live with”.

34. Mr Straw replied he “feared” a declaration “could be a trap for us, not Saddam”, and “a real chance that Saddam would deliver a Rolls Royce reply in order to ‘scatter his enemies’ ... [A] full, final and complete declaration could only be done with the inspectors.” A declaration could be folded into the process in a different way. The US and UK should focus on the return of the inspectors and ask for a declaration after practical arrangements had been agreed but before the inspectors arrived.

35. Asked what would happen if the declaration was inadequate, Sir Jeremy Greenstock stated that the Security Council could say the “inspectors would check the points over which there was disagreement”.

36. Secretary Powell said that “his hunch” was that Iraq would be forthcoming:

“They would send something which matched what we knew. In that case we could say we had a ‘serious basis’ for inspectors ... If, on the other hand, the Iraqis gave something thin, there would be no point sending inspectors ...”

37. Mr Straw thought that Iraq would calibrate its response to satisfy France and Russia: “We preferred the test to rely less on subjective judgement”. Mr Blair had “been consistent in giving prominence to the importance of inspections since the Crawford meeting in April. A declaration would be a diversion from our long-standing position.”

38. Mr Straw and Secretary Powell agreed that there were “no real differences” between the US and UK on the conditions for the inspectors’ return and the modalities for their operations.

39. Sir Jeremy Greenstock asked “how fierce the US wanted to be over ‘all necessary means’”. Sir David Manning’s conversations with Dr Rice seemed to indicate this was “not an absolute requirement” for President Bush. The US should talk to Russia before putting it to the Security Council. If the US and UK tried and failed to get Security Council agreement to inclusion of the phrase, “we would be further back than if we had not tried at all”.

40. Secretary Powell assessed that Mr Vladimir Putin, the Russian President, “wanted to be on this train” and we could get him “to sign up to most anything”. He reminded Mr Straw that “the US was going to deliver the French”.

41. In relation to the preparation of the UK dossier, Secretary Powell said “he was laying less stress on (disputable) dossiers and more on the fact that Saddam had (indisputably) violated SCRs for the last 11 years”.

42. Mr Straw and Secretary Powell also discussed whether to produce two resolutions. Mr Straw “pointed out that ... would both fulfil President Bush’s promise and help Villepin [Mr Dominique de Villepin, the French Foreign Minister] off a hook”. The UK preference was for a second resolution, addressing other problems with Iraq including terrorism, to be tabled later “so as not to blur the focus on WMD”.

43. Mr Straw and Secretary Powell were reported to have agreed that “we will only get a peaceful resolution if we prepare for war”.

44. Mr Simon McDonald, Mr Straw’s Principal Private Secretary, sent a separate letter to Sir David Manning reporting that, at the end of the discussion, Mr Straw and Secretary Powell had had a private word to discuss US uncertainty about Mr Blair’s position on the proposal for a comprehensive declaration.¹¹ Mr McDonald advised Sir David that Mr Straw had concluded “we need to incorporate a declaration within our approach but not in such a way that it can be used as a *casus belli*”.

45. Mr Straw also discussed possible resolutions with Mr Igor Ivanov, the Russian Foreign Minister, including whether, if Baghdad offered to allow the inspectors to resume their work, a new resolution would be needed.¹²

46. Mr Ivanov warned Mr Straw not to repeat the actions of Operation Desert Fox (in December 1998) or Kosovo (in 1999).

47. In parallel with negotiations on the content of the UN resolution, preparations to publish the Iraq dossier continued.

48. Mr Blair saw the purpose of the dossier as making the case for the return of inspectors with a tough regime.

49. In a note to No.10 officials covering a range of issues on 15 September, Mr Blair wrote:

“The dossier is crucial. The expectations must be right. Remember the case we need to make is for the return of a tough inspection regime, not that he is about to launch a strike. In my view, advice to me from the JIC is sufficiently persuasive. We also need to decide what we can show key politicians here and in the EU; early sharing of the info. will go down well and show willing.”¹³

¹¹ Letter McDonald to Manning, 17 September 2002, ‘Iraq’.

¹² Telegram [un-numbered] UKMIS New York to FCO London, 16 September 2002, ‘Foreign Secretary’s Meeting with Russian Foreign Minister: Iraq’.

¹³ Note Blair [to No.10 officials], 15 September 2002, [extract ‘Iraq’].

Iraq's agreement to the return of inspectors

50. Iraq informed Mr Annan on 16 September that it had decided to allow the return of inspectors and that it was ready to discuss the practical arrangements with the UN.

51. A subsequent letter from Saddam Hussein made clear that Iraq still saw agreement on those arrangements as part of a wider discussion reflecting Iraq's rights under the UN Charter and the need to address all the obligations of both Iraq and other Member States in relevant Security Council resolutions, not just Iraq's disarmament obligations.

52. Saddam Hussein declared that Iraq was “totally clear of all nuclear, chemical and biological weapons”; and challenged President Bush's “insinuation” that Iraq was linked to the attacks on 9/11 and international terrorism.

53. In a meeting with Foreign Ministers of the League of Arab States on 14 September, Mr Annan sought their support for the return of inspectors to Iraq as a means to strengthen peace and stability in the region and to avoid another major conflict.¹⁴ He also raised the issue in a meeting with Mr Amre Moussa, the Secretary General of the League of Arab States, and Dr Naji Sabri, the Iraqi Foreign Minister, later that day.

54. Dr Sabri wrote to Mr Annan on 16 September to inform him that, following the series of talks between Iraq and the UN in New York and Vienna between March and July 2002 and the latest round in New York on 14-15 September, Iraq had decided “to allow the return of United Nations inspectors to Iraq without conditions”.

55. Dr Sabri stated that, in taking the decision, the Government of Iraq was responding to the appeals of Mr Annan, Mr Moussa and those of “Arab, Islamic and other friendly countries”. The decision was based on Iraq's “desire to complete the implementation of the relevant Security Council resolutions and to remove any doubts that Iraq still possesses weapons of mass destruction”.

56. Responding to the points in Mr Annan's statement to the General Assembly on 12 September, the Dr Sabri stated that the decision was:

“... the indispensable first step towards an assurance that Iraq no longer possesses weapons of mass destruction and equally important, towards a comprehensive solution that includes the lifting of sanctions ... and the timely implementation of other provisions of the relevant ... resolutions. To this end ... Iraq is ready to discuss the practical arrangements necessary for the immediate resumption of inspections.”¹⁵

¹⁴ United Nations, 16 September 2002, *Daily Press Briefing by the Office of the Spokesman for the Secretary-General*.

¹⁵ UN Security Council, 16 September 2002, ‘Letter dated 16 September from the Minister of Foreign Affairs of Iraq addressed to the Secretary-General’, attached to ‘Letter dated 16 September from the Secretary-General addressed to the President of the Security Council’ (S/2002/1034).

57. Mr Annan sent the letter to the President of the Security Council, asking him to bring it to the attention of the Council.¹⁶

58. Mr Blair and Mr Straw agreed that they should secure as much of the elements required as possible in a first resolution, keeping an open mind on whether to seek two resolutions as the US would not at that stage accept a two stage approach.

59. Sir David Manning discussed the Iraqi initiative with Dr Rice in the early hours of 17 September.

60. Sir David reported to Mr Blair that he had told Dr Rice Mr Blair's position was that "the UN must be a facilitator for Iraqi disarmament".¹⁷ The UK would "continue to express scepticism about Saddam's intentions, given his capacity for games playing". Sir David stated he was sure Mr Blair would "continue to insist on a very tough resolution" demanding the return of inspectors and Iraq's full and immediate compliance with its terms. The UK would argue that "the new resolution was as important as ever in establishing the criteria for future Iraqi behaviour, and the benchmark for measuring it".

61. Sir David and Dr Rice had agreed to speak again later that day.

62. Mr Blair discussed the "state of play on the Iraq UNSCR(s)[UN Security Council resolutions]" with Mr Straw and Sir Jeremy Greenstock on 17 September.¹⁸ Mr Jonathan Powell (Mr Blair's Chief of Staff), Sir David Manning, Mr Alastair Campbell (Mr Blair's Director of Communications and Strategy), and Baroness Morgan (Mr Blair's Director of Political and Government Relations), were also present.

63. The record of the meeting listed its conclusions as:

- "The UK should continue to press, quickly, for a **new resolution**
 - (a) describing Saddam [Hussein] as in 'material breach' of his obligations,
 - (b) setting out the demand ... to allow unconditional UNMOVIC entry, and
 - (c) using the strongest language the Security Council ... would bear on the consequences in the event of non-compliance ..."
- The UK should "seek to secure in the first resolution as much as possible of the wording required, using the argument that the tougher the resolution, the less likely military action would become"; and "keep an open mind on whether a **second resolution** would be required, ruling it neither in nor out. It would be too much for the US to accept two resolutions now."

¹⁶ UN Security Council, 16 September 2002, 'Letter dated 16 September from the Secretary-General addressed to the President of the Security Council' (S/2002/1034).

¹⁷ Minute Manning to Prime Minister, 17 September 2002, 'Iraq'.

¹⁸ [Letter Rycroft to Sedwill, 17 September 2002, 'Iraq: Prime Minister's Meeting with Foreign Secretary and Sir Jeremy Greenstock, 17 September'](#).

- The “proposed **declaration of Iraq’s WMD** should be an update rather than a final and complete declaration ... [pursued] in parallel with the return of inspectors, not delay the inspectors’ return”.
- “**Publicly**” the UK should “describe [Iraq’s] offer of accepting inspectors as a tactical ploy, exactly as we had expected. We suspected that he [Saddam Hussein] had absolutely no intention of complying with all UN demands. It showed [the] tough approach was working. We must maintain the pressure. The inspection regime must be tough and able to do its job.”
- Mr Blair would speak to President Putin “in concert with” President Bush’s call.
- The UK “should keep in close touch with Blix, so that the resolution took account of his practical considerations”. He would “have to be very tough with the Iraqis”.

64. The record of the meeting was sent to the Ministry of Defence (MOD), Cabinet Office, the Private Secretary to Sir Richard Dearlove (Chief of the Secret Intelligence Service (SIS)), and to Sir Jeremy Greenstock, Sir Christopher Meyer (British Ambassador to the US), Sir John Holmes (British Ambassador to France) and Sir Roderic Lyne (British Ambassador to the Russian Federation).

65. Sir David Manning subsequently informed Dr Rice of the conclusions of Mr Blair’s meeting.¹⁹

66. The record of that conversation shows differences of view on the advantages and disadvantages of demanding a comprehensive Iraqi declaration; whether the resolution should address non-WMD issues; and the details of a new inspection regime.

67. Sir David and Dr Rice agreed that the purpose of the resolution was to dismantle Saddam Hussein’s WMD, not to get the inspectors back into Iraq: “The inspections were a means to this end, not an end in themselves.” They also discussed the risk that the inspectors would find nothing. Sir David said he thought “we were likely to find evidence, even though Saddam would have been busily hiding and disguising his stocks of WMD”.

68. Sir David and Dr Rice agreed that Sir Jeremy Greenstock and Ambassador John Negroponte, US Permanent Representative to the UN in New York, should be asked for “their expert advice on next steps about content and handling”.

69. Reporting a statement by Mr Straw, the FCO informed the UK Permanent Mission in New York that: “We see no advantage in an early UNSC [UN Security Council] debate on the Iraqi offer ... But we accept that pressure for Council discussion may be irresistible.”²⁰

¹⁹ Letter Manning to McDonald, 17 September 2002, ‘Iraq: Conversation with Condi Rice’.

²⁰ Telegram 535 FCO London to UKMIS New York, 17 September 2002, ‘Iraq: Letter Accepting Weapons Inspectors’.

70. The key points of the UK position were:

- “• ... scepticism. Iraq has a long history of playing games. The ... offer comes only four days after Iraq rejected inspections;
- Not clear what, exactly, the Iraqi letter amounts to ...
- Note Iraqi reference to discussion of practical arrangements for inspections. Iraq must not be allowed to drag this process out. A new UNSCR [UN Security Council resolution] would need to address this point ...
- Offer does not make clear that Iraq has accepted our basic demand, namely to grant inspectors immediate access to any site, building, records, personnel at any time of UNMOVIC's choosing ...
- We must keep up the pressure on Iraq. Their latest offer has only come because the international community has demonstrated its determination to stand firm. We must continue to do so.
- We must, therefore, work for a new UNSC resolution ...
- History tells us that we cannot trust Saddam's word. This time, our goal is to ensure that he complies with UNSC demands.”

71. Mr Blair and President Bush decided to continue to pursue a new Security Council resolution.

72. Mr Blair and President Bush discussed the position on 18 September.²¹

73. Mr Blair said that they should stick to the strategy. A resolution was needed and the inspectors must be allowed in to do their job properly. Mr Blair was sceptical about whether Saddam would comply: “It was obvious that Saddam would play games. He had only made his offer on inspections ... because he felt under pressure.” The pressure would need to be continued.

74. Mr Blair and President Bush also discussed the need for a new inspections regime that was unconditional and unrestricted. Mr Blair's view was that:

“This time we must be clear that obstruction would mean military action. This had to be a disarmament process. There could be no mindset of accepting conditions ...”

75. Mr Blair stated that, in relation to the overall strategy, Saddam Hussein was “trying to drag us into a negotiation”, and that the UN route provided the means to deprive him of the argument that the US would attack him whatever he did. Mr Blair said that disarmament “would occur, either through inspections or military action” and that the “choice was Saddam's”. In Mr Blair's view, the Iraqi regime “could crack with the arrival of inspectors”. Keeping up the public pressure would give the international community “no option but to support us”.

²¹ Letter Rycroft to Sedwill, 18 September 2002, ‘Iraq: Prime Minister's Phone Call with President Bush, 18 September’.

76. Iraq welcomed the US decision to act through the UN while emphasising that Iraq’s “inalienable rights” should be met and members of the Security Council should meet their obligations.

77. A letter from Saddam Hussein stated that Iraq was “totally clear of all nuclear, chemical and biological weapons” and would accept inspections to “achieve, with transparency the goal of making sure Iraq no longer possesses ... weapons of mass destruction”.

78. In his speech to the UN General Assembly on 19 September, Dr Sabri offered Iraq’s “condolences to the American people, especially the families of the victims” of the 11 September 2001 attacks.²²

79. Dr Sabri expressed “sincere gratitude” to states and organisations which had rejected US threats against Iraq and called for “a comprehensive political solution to the impasse in the relationship between Iraq and the Security Council”. The Iraqi Government’s decision “to allow the return of UN weapons inspectors without conditions as a first step towards a comprehensive solution” that included “the lifting of sanctions imposed on Iraq and the timely implementation of other provisions of relevant Security Council resolutions”, was a response to the appeals of Mr Annan and others.

80. Dr Sabri told the Security Council that he had been instructed by Saddam Hussein to convey excerpts from his letter to the General Assembly, which presented “Iraq’s position on the latest developments in the relationship between Iraq and the Security Council”.

81. Saddam Hussein welcomed the US decision “for the first time since the end of the cold war” to put one of its problems to the General Assembly “after years of disregard of the weight, effect and opinion of others”. But the letter was critical of American actions on Iraq and its support for Israel. It described President Bush’s speech on 12 September as presenting “extreme distortions of the so-called nuclear, biological, and chemical threats” posed by Iraq:

“... so as to make American citizens believe the deliberate insinuation that Iraq was linked to the American people’s tragedy of September 11.”

82. Saddam Hussein’s letter set out Iraq’s views on US actions and statements, including:

“So, after utilizing the American propaganda machine for a long time and spouting official statements full of lies, distortion, and falsehood, the focus was basically turned on inciting the American public against Iraq and pushing it to believe the United States Administration’s schemes of aggression as a *fait accompli* as if it were

²² UN General Assembly, ‘Fifty-seventh session 19 September 2002’ (A/57/PV.17).

the solution or the necessary rescue that would allow American citizens to live in security and stability after what they had gone through in the 11 September events.”

83. Saddam Hussein stated that when the US Administration had realised the necessity to have:

“... international cover for using force and that the world did not believe the lies it tried to propagate to link Iraq to the September events, it changed the issue and began to shed crocodile tears about international law and the necessity to comply with the resolutions of international legitimacy, alleging that Iraq is not complying with the Security Council resolutions, especially with regard to ... inspectors. This implied that Iraq had the intention to develop or already possesses nuclear, chemical and biological weapons ...”

84. Iraq “might give those weapons to terrorist organizations that pose a threat to world security”.

85. After complaining about the “intelligence and espionage” activities of weapons inspectors in the past and accusing the US of “acting on behalf of Zionism” and wanting “to destroy Iraq in order to control Middle East oil, and consequently control the politics as well as the oil and economic policies of the whole world”, Saddam Hussein stated that Iraq “was, and still is ready to co-operate with the Security Council and international organizations”. But it rejected “anyone’s transgression of its rights, sovereignty, security and independence”.

86. Iraq had “not rejected the relevant resolutions”, even though they were “unjust and at odds with the United Nations Charter and international law”. It called on members of the Security Council to meet their obligations, and demanded that Iraq’s “inalienable rights” should be met.

87. Saddam Hussein declared that Iraq was “totally clear of all nuclear, chemical and biological weapons” and offered to receive “any scientific experts accompanied by politicians” who wished to see “places and scientific and industrial installations” alleged to “contain prohibited materials or activities”. He also stated that Iraq had “accepted the return of inspections teams ... taking into consideration the arrangements that should safeguard” the principles that Iraq’s rights, sovereignty and security should be respected. That would “achieve, with transparency, the goal of making sure that Iraq no longer possesses nuclear, biological and chemical weapons of mass destruction”.

88. Saddam Hussein stated that Iraq had been:

“... keen to see the issue discussed between the Security Council and Iraq, through the United Nations Secretary-General and the representatives of Iraq, with a view to reaching a balanced formula, based on the principles of the Charter and the relevant resolutions of the Security Council, within a comprehensive solution which should bring to an end the cyclone of American accusations and fabricated

crises against Iraq. At the same time, this would reassure Iraq with regard to its security, sovereignty, territorial integrity and its right to choose its own way without interference, in accordance with ... the [UN] Charter ...”

Discussion of US draft of 20 September 2002

89. Intensive discussions about the approach to be adopted continued.

90. Some elements of the US proposals continued to present difficulties.

91. Sir David Manning explicitly warned Dr Rice that the UK was not in the business of manufacturing a casus belli.

92. Intensive discussions between the US and UK continued over the next three days. As well as discussions between officials in New York and Washington, there were frequent telephone calls between No.10 and the White House.

93. Mr Straw also spoke to Secretary Powell.²³

94. Mr Straw spoke to Mr Dominique de Villepin.²⁴

95. Mr Matthew Rycroft, Mr Blair’s Private Secretary for Foreign Affairs, spoke to the Élysée.²⁵

96. In addition to the points set out in the preceding paragraphs, other issues which emerged during the discussions were:

- Re-writing or going beyond resolution 1284 (1999) would open up “Pandora’s box”.
- Whether to seek to interview Iraqi citizens outside Iraq.
- Saddam Hussein could not impose conditions on UNMOVIC operations.
- Disarmament would occur either through inspection or military action.
- There was a good chance that Iraq would now make mistakes.
- Avoiding Saddam Hussein spinning out the process so that military action could not be launched and completed before summer 2003.
- The importance of demonstrating a firm position and unity in the Security Council.

²³ Telegram 482 FCO London to Washington, 18 September 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 18 September’.

²⁴ Telegram 198 FCO London to Paris, 20 September 2002, ‘Iraq: Foreign Secretary’s Conversation with French Foreign Minister, 20 September 2002’.

²⁵ Letter Rycroft to Sedwill, 18 September 2002, ‘Iraq: French Views’.

97. Following two conversations with Dr Rice on 19 September, Sir David Manning recorded that Mr Blair:

“... accepts that we should bid high ... with a view to being negotiated down to the sort of resolution ... we really want. He is content for us to work for specific mention of disarmament in the resolution. He is also content for us to work for a compromise on the question of an Iraqi declaration in parallel with preparations for the inspectors’ return. He is ready, too, to agree to a formulation that stipulates that UNMOVIC’s inspection regime must be settled in consultation with the Security Council; and that we should load this section of the resolution with demands on force protection for regional bases, participation by the P5 etc., in the knowledge that we shall have to jettison some of this under pressure from the Russians and French. He has, however, confirmed that he is not willing to allow references to terrorism to detract from the force of a resolution. This remains a firm UK red line.”²⁶

98. In advance of a planned visit to Moscow on 10 and 11 October, Mr Blair spoke to President Putin on 19 September.²⁷

99. Mr Blair said that the US decision to take the issue of Iraq to the UN was a significant and welcome step, but in the light of Iraq’s letter of 16 September:

“... we must hold to our original position: unconditional access for inspectors, backed by a strong resolution. It was only under pressure that Saddam would move further. So we had to keep the pressure up.”

100. President Putin had agreed that firm action was needed and that we must not lose time or give Saddam Hussein a breathing space. As a result of pressure, including from Russia, Saddam Hussein had yielded to an ultimatum. It would be wrong to engage in a debate about a new resolution until we had seen how the inspectors got on. President Putin would think further about what Mr Blair had said, and they had agreed that it would be vital to keep together. There would be further discussions between officials, including a briefing in London on Iraq’s WMD capability.

101. The US produced a draft resolution late on 20 September.

102. Sir David Manning told Dr Rice on 21 September that the draft was “very difficult” for the UK.²⁸ The risk was that it would be interpreted as a pretext for very early military action and the UK was:

“... not in the business of manufacturing a casus belli. Only if we were seen to have tried genuinely to make a success of the inspection route would we be able to secure support for other action if Saddam blocked us.”

²⁶ Letter Manning to McDonald, 19 September 2002, ‘Iraq: Conversation with Condi Rice’.

²⁷ Letter Rycroft to Sedwill, 19 September 2002, ‘Iraq: Prime Minister’s Phone Call with Putin, 19 September’.

²⁸ Letter Manning to McDonald, 21 September 2002, ‘Iraq: Conversation with Condi Rice’.

103. With President Bush, Mr Blair emphasised the need for the inspectors to return to test Saddam Hussein’s intentions.

104. On 21 September, Mr Blair and President Bush discussed the difficulties if the resolution was too weak and Saddam Hussein outwitted the inspectors so that when they returned they found nothing.²⁹ They also discussed the need for the draft resolution to be divided into two: a strong resolution concentrating on WMD – the toughest regime possible – and a second on non-disarmament issues.

105. Mr Blair argued that if Saddam Hussein “messed about with the inspectors, we must be ready to pull them out and take the appropriate steps. This was not going to be a re-run of UNSCOM.” It was likely that “Saddam would get up to his old tricks pretty quickly”. But “for the moment we must insist that we wanted to make inspections work so that we could disarm Saddam”.

106. Mr Blair agreed the need for a quick resolution and the rapid return of inspectors. They could not wait for another year for the inspectors to do their work.

107. Mr Campbell recorded that Mr Blair had had to “work on” President Bush in a conversation that had lasted 30 minutes because the US was “going down an impossible road again, basically a route that was unsellable”. No.10 was “worried that Rumsfeld [Mr Donald Rumsfeld, US Secretary of Defense] and Cheney [Mr Dick Cheney, US Vice President] were pushing for the idea that we get in conditions that we know Iraq could not meet”.³⁰

108. The record of the discussion between President Bush and Mr Blair on 21 September (and records of other discussions) confirms those comments.³¹

109. Mr Blair and Mr Straw eventually agreed on 23 September that the time had come to test the negotiability of the US position with France and Russia. They also agreed a negotiating strategy which asked for more than the UK thought could be agreed.

110. Mr Blair and Mr Straw discussed the content of the revised draft resolution on 23 September.³² They agreed that there were dangers with a proposal for a full, final and complete declaration of Iraq’s capabilities but the time had come to test its negotiability with France and Russia.

111. Mr Blair agreed that Mr Straw should tell Secretary Powell that, while he understood the US anxieties about whether the UN would deal effectively with the Iraqi

²⁹ Letter Manning to McDonald, 21 September 2002, ‘Iraq: Conversation between the Prime Minister and President Bush’.

³⁰ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

³¹ Letter Manning to McDonald, 21 September 2002, ‘Iraq: Conversation between the Prime Minister and President Bush’.

³² Letter Rycroft to Sedwill, 23 September 2002, ‘Iraq: UN Resolution’.

threat, the strategic decision that this was a better course than unilateral action was right. It would be “important to show that we were serious about allowing the UN to do its business”.

112. Following that meeting, Sir David Manning told Dr Rice that Mr Blair and Mr Straw were “pleased that the new draft resolution focused on the destruction of Iraq’s WMD, and the regime that would govern UNMOVIC inspections. This was the right place to be but there was one area of the draft in particular that continued to give us serious difficulties.”³³ That was the stipulation that Iraq must make a declaration of its holdings within 15 days of the passage of the resolution. He and Dr Rice had discussed the issues many times, including the likely response of other Security Council members. They discussed the language on that point and in the final operative paragraphs [OPs] and the regime for inspections.

113. Reporting the discussions Sir David Manning wrote that he had been assured that the resolution was not a “trigger” for military action and that he had told Dr Rice that he expected the discussions on the resolution to be difficult:

“They would be particularly resistant to the reference in OP10 to ‘... authorises Member States to use all necessary means’. We were very unlikely to get this, even though we should press it to see how the other Security Council members reacted. Condi agreed. She said that the Administration was privately prepared to concede this and settle for something like ‘serious consequences’.”

114. Sir David concluded that the UK had “done as much as we can in the last 48 hours to get the resolution into something approaching a plausible shape”. The UK would now have to wait to see the reactions to the draft.

Agreement to offer UK military forces to the US for planning purposes

115. On 20 September, the MOD sought Mr Blair’s agreement to offer Package 3 as a “possible add-on” to the US “for planning purposes”.

116. In parallel with the discussions on a new UN resolution, military planning continued although knowledge was kept to a very tight group of people and the sensitivities about potential leaks remained.

117. In response to a minute from Mr Jim Drummond, Assistant Head of OD Sec (Foreign Policy), primarily about military planning which Mr Drummond had classified ‘Confidential’, Sir David Manning commented: “Please ensure all minuting is Secret and Personal – and keep circulation to [the] barest minimum.”³⁴

³³ Letter Manning to McDonald, 23 September 2002, ‘Iraq: Conversation with Condi Rice’.

³⁴ Manuscript comment Manning on Minute Drummond to Manning, 16 September 2002, ‘Iraq: Pigott Meeting’.

118. Mr Peter Watkins, Principal Private Secretary to Mr Geoff Hoon, the Defence Secretary, wrote to Sir David Manning on 20 September, advising that two issues needed quickly to be addressed:

- what potential UK force contribution should be presented to a US planning conference the following week; and
- whether to replace army units already allocated to Operation FRESCO, the plan for the Armed Forces to provide cover in the event of a firefighters' strike, so that they would be available if a land force contribution was approved.³⁵

119. The MOD proposed that the air and maritime package, with Special Forces (Package 2), should be presented as a potential UK contribution at the US Central Command (CENTCOM) planning conference; and that further work was under way on whether the UK might also offer a Commando Group of around 1,700 Royal Marines for early operations in southern Iraq, although further work would be needed to establish whether that could be sustained in parallel with ground operations in northern Iraq.

120. The MOD had also considered the provision of a divisional headquarters together with an armoured brigade to operate with the US (Package 3). That would be “more complicated”, but the Chiefs of Staff regarded it as the “minimum sensible” ground contribution to operations in the North. It would entail a commitment of around 28,000 service personnel in addition to the 13,000 in Package 2, and the call-out of around 6,000 reservists.

121. Mr Watkins told Sir David that Mr Hoon felt it would be “premature” to offer a ground contribution on the same basis as Package 2:

“... we should indicate to CENTCOM that we are still considering this option and that they should model two plans in parallel, one including the UK land force contribution and one without it.”

122. Mr Blair and Sir David Manning had reservations about the viability and costs of the MOD proposal.

123. Sir David Manning advised Mr Blair that:

“The possibility that the military could make a land contribution in the North is a surprise. Until recently we were being told that covering the firemen’s strike (Operation FRESCO) would make this impossible. Now, suddenly it isn’t. The (militarily mouth-watering) prospect of being given tactical leadership of the campaign in the North ... may have something to do with this volte face.”³⁶

³⁵ [Letter Watkins to Manning, 20 September 2002, 'Iraq: Potential UK Contribution to Any Military Action'](#).

³⁶ [Minute Manning to Prime Minister, 22 September 2002, 'Iraq: Possible UK Military Contribution'](#).

124. Sir David advised Mr Blair to register “extreme caution” and to address a number of questions; in particular how this was suddenly possible, the Turkish angle, and whether the UK could sustain the numbers and, if so, for how long.

125. Mr Blair commented: “As discussed. Be careful of this Land idea ...”³⁷

126. In a meeting with Mr Hoon on 23 September, Mr Blair agreed limited contingency preparations for a land option, but asked for publicity to be minimised.

127. Following the discussion, the MOD informed the US that the UK was still considering a land option.

128. That was not the No.10 understanding of what had been agreed.

129. In the context of the many issues which were being addressed on 23 September 2002,³⁸ the Inquiry has seen no evidence to indicate that the difference of view about what Mr Blair and Mr Hoon had agreed was anything other than a genuine misunderstanding.

130. Mr Blair discussed the issues with Mr Hoon on 23 September.

131. Following that meeting, Mr Watkins informed officials in the MOD that:

“The Prime Minister is content for us to proceed broadly as set out in my letter of 20 September. The Prime Minister remains very cautious about the viability of Package 3, not least because of its implications for our ability to meet other contingencies and the significant cost premium entailed. In the light of this, Mr Hoon believes that it is all the more necessary heavily to caveat this possibility in contacts with the US. We should emphasise that it is at the limits of what we could offer and that – because of other potential demands on our Armed Forces including FRESCO – we cannot be sure that we could deliver it. The US must therefore examine carefully how they would plan the campaign in the absence of such a contribution.”³⁹

132. The packages that might be offered to the US were to be conveyed in terms cleared with Mr Hoon’s Private Office.

³⁷ [Manuscript comment Blair on Minute Manning to Prime Minister, 22 September 2002, ‘Iraq: Possible UK Military Contribution’.](#)

³⁸ Preparations for publication of the WMD dossier and statement/debates in Parliament on 24 September 2002.

³⁹ [Minute Watkins to DG Op Pol, 23 September 2002, ‘Iraq: Meeting with the Prime Minister: 23 September’.](#)

133. When the Chiefs of Staff discussed Iraq planning on 25 September, Admiral Sir Michael Boyce, Chief of the Defence Staff, emphasised that:

“... expectation management with respect to UK caveats had to be taut. Package 2 ... was a formidable contribution in its own right and Package 3, given its importance to the US, was not just a ‘nice to have’.”⁴⁰

134. Sir David Manning’s record of the meeting on 23 September, issued on 25 September, stated that Mr Blair had agreed that “we should present Package 2 as a potential contribution at the CENTCOM Planning Conference”.⁴¹ “We should not be shy about presenting this as a significant and valuable offer.” Units for Op FRESCO should be re-allocated to maintain the possibility of a Land Force contribution, with minimum publicity. Mr Blair did not, however, want “any suggestion” that the UK might offer “a major land contribution to a Force in northern Iraq. We should not surface the possibility at the [US] Planning conference.”

135. By that time, the MOD had already acted. Mr Hoon’s Private Office replied to No.10 immediately, stating:

“Separately and heavily caveated, we have indicated to CENTCOM that we are still considering a Land option ... [W]e agreed that the UK involvement ... should continue on this basis. Defence staffs will continue actively to ensure that US expectations remain realistic.”⁴²

136. Sir David Manning commented to Mr Jonathan Powell: “Just about OK” and referred to being “bounced” by the MOD.⁴³

Publication of the Iraq dossier

Cabinet, 23 September 2002

137. Mr Blair told Cabinet on 23 September that the dossier “would show that the policy of containment had worked up to a point” but Saddam Hussein “continued to rebuild” his weapons of mass destruction.

138. Cabinet was informed that the question of military action would arise “only if inspections were thwarted again”; and “there would be a discussion about the military options”.

139. Mr Blair concluded that a “crunch point” had been reached with the sanctions regime being eroded and Saddam Hussein “on the way to acquiring

⁴⁰ Minutes, 25 September 2002, Chiefs of Staff meeting.

⁴¹ [Letter Manning to Watkins, 25 September 2002, ‘Iraq: Potential UK Contribution to Any Military Action’.](#)

⁴² [Letter Williams to Manning, 25 September 2002, ‘Iraq: Potential UK Contribution to Any Military Action’.](#)

⁴³ [Manuscript comments Manning to Powell on Letter Williams to Manning, 25 September 2002, ‘Iraq: Potential UK Contribution to Any Military Action’.](#)

new capability in weapons of mass destruction”. Iraq “had to comply” with its obligations to the UN.

140. The record of the meeting held by Mr John Scarlett, Chairman of the Joint Intelligence Committee (JIC), at 1pm on 20 September (see Section 4.2) stated that copies of the dossier would be made available for Cabinet on 23 September.⁴⁴

141. Cabinet met at 5pm on 23 September. The minutes record only brief updates by Mr Blair and Mr Straw.⁴⁵

142. Opening the discussion, Mr Blair told his colleagues that:

“... the dossier on Iraq’s weapons of mass destruction would show that the policy of containment had worked up to a point, but that Saddam Hussein ... continued to rebuild his programme to acquire such weapons. The evidence showed his efforts to procure equipment and materials, and to restore production facilities. This was an issue for the United Nations, with whose Security Council resolutions Iraq had not complied. A new resolution was being negotiated.”

143. Mr Blair added:

“It was the threat of military action which had caused Saddam Hussein recently to invite United Nations inspectors back into Iraq. Only if inspections were thwarted again would the question of military action arise. Meanwhile, pressure had to be maintained ... We were not at the point of authorising military action now.”

144. Mr Blair stated:

“In presenting the case to Parliament ... he intended also to stress our commitment to rebuilding Afghanistan and making progress towards solving the Israel/Palestine problem.”

145. Mr Straw told Cabinet that “the climate of opinion had changed”. Since President Bush’s speech to the UN on 12 September:

“Responsibility for dealing with Iraq’s non-compliance had been placed with the United Nations. To achieve a peaceful outcome a tightly worded Security Council resolution was required and maximum support, including for the threat of the use of force.”

146. Mr Straw added that “the nature of the motion to be put before Parliament if military action became necessary would require consideration”.

⁴⁴ Minute [Cabinet Office] to Rycroft and others, 20 September 2002, ‘Iraq Dossier: Public Handling and Briefing’.

⁴⁵ [Cabinet Conclusions, 23 September 2002.](#)

147. In discussion a number of points were made:

- “the accusation of double standards, particularly in respect of dealing with Israel, would be made, but the ... development of weapons of mass destruction by Saddam Hussein presented a quite different order of threat”;
- “facing the United Nations with its responsibility for dealing with Iraq provided an opportunity” for the UN “to achieve success”. Iraq’s “defiance of the international community needed a firm response”;
- “promotion of multilateral action through the United Nations and our respect for international law” gave the UK’s stance “political legitimacy”;
- “in the event of military action a clear vision was required of the outcome we wanted in reconstructing Iraq: this would be a major task”;
- “the proportionality of any military action would have to balance the safety of UK forces with the avoidance of civilian casualties”;
- the impact on Muslim opinion in the UK “would need to be managed to preserve community cohesion”;
- the UK had “a clear role to play in overcoming a tendency in the United States towards unilateralism and in Europe towards anti-Americanism”;
- “the Middle East needed political impetus, as did other international problems ...”
- “the international community had to build confidence in democratic values and address the causes of terrorism”; and
- “solidarity and resolution backed by the threat of force” would be needed “to achieve a peaceful outcome”.

148. Summing up the discussion, Mr Blair said that a “crunch point” had been reached:

“The sanctions regime ... was being eroded and Saddam Hussein was on the way to acquiring new capability in weapons of mass destruction. Iraq had to comply with the obligations placed on it by the United Nations. A tough line was required. If military action was required, the job could be done. There would be a discussion about the military options ... civilian casualties should be kept to a minimum, but there could be no doubt that the main beneficiaries of the removal of Saddam Hussein would be the Iraqi people. Iraq was basically a wealthy country. The international community had to be committed to Iraq’s reconstruction. Progress also had to be made in the Middle East which he had stressed in his contacts with the United States Administration.”

149. Mr Blair concluded that the UK had to engage with Muslim countries. It also had to “deal with weapons of mass destruction elsewhere as a growing threat to peace and security”.

150. Cabinet “Took note”.

151. Cabinet was not told about the difficulties in reaching agreement on the content of a UN resolution.

152. Cabinet recognised that the strategy being pursued would lead to the use of military force if Saddam Hussein failed to disarm, but it was not asked to address the strategy or to endorse any decision.

153. Mr Campbell wrote that:

- Mr Blair had explained that the dossier “brought together accumulated evidence about Iraq’s attempts to build WMD, part historical, part intelligence-based” – “not saying that he [Saddam Hussein] was about to launch an attack on London, but we were saying there was an attempt to build a WMD programme in a significant way”. Mr Blair had “made clear we were still focused on the UNSCR route and if he doesn’t comply there will have to be international military action”, and that Saddam Hussein would not comply “unless he thinks the threat is real”.
- Mr John Prescott, the Deputy Prime Minister and Deputy Leader of the Labour Party, had said that the Cabinet was “in this together” and Mr Blair had “done a brilliant job of moving the US down the UN route and we should stick with him and stick together”.
- Mr Gordon Brown, the Chancellor of the Exchequer, had made “a few long-term points for the US, the need to think through post-Saddam, the importance of the MEPP [Middle East Peace Process]”.
- Ms Patricia Hewitt, the Trade and Industry Secretary, had suggested that the Attorney General should come to Cabinet to explain the legal position.
- Ms Clare Short, the International Development Secretary, has said that “if we are going to have collective responsibility we should have a collective decision”; there was “no doubt that Saddam was dedicated to possessing WMD but re the UN there’s a double standard vis-a-vis Israel”.
- Mr Blair had said “he believed it would be folly for Britain to go against the US on a fundamental policy” and that he “really believed in getting rid of bad people like Saddam”.
- Mr Hoon had said “the ultimate objective was disarmament and that the weapons inspectors are a means to an end. The clearer we are that we would use force, the likelier it may be that we don’t have to.” On “why now?”, Mr Hoon had said Saddam’s record, his use of WMD and the continued development.
- Mr Blair had argued that the US could become unilateralist or it could “be part of a wider agenda on Africa, MEPP, Afghanistan”.⁴⁶

⁴⁶ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

154. Mr Campbell commented:

“It was a pretty good discussion, though focused as much as anything on the idea that we were having to deal with a mad America and TB [Mr Blair] keeping them on the straight and narrow. JP [John Prescott] referred to the idea that TB would have sleepless nights, that we knew it could go to a difficult choice between the US and the UN.”

155. Mr Campbell added that the discussion had been “serious and sober and hard-headed and TB was in control of all the arguments”: “Funnily enough, I think TB won the Cabinet over more easily than the public.”

156. In his memoir published after the conflict, Mr Robin Cook, Leader of the House of Commons, June 2001 to March 2003, wrote that only he and Ms Short had “openly questioned the wisdom of military action”.⁴⁷ Ms Short had concluded that it was an unjust war. Mr Cook wrote that for him “the most difficult question was ‘Why now?’. What had happened in the past year to make Saddam Hussein more of an imminent danger than he has been any year in the past decade?” Mr Hoon’s attempt to answer that question by reference to the attack on 11 September 2001 had, in Mr Cook’s view, “only served to confirm the difficulty of the question” as “no one has a shred of evidence that Saddam Hussein was involved” in that attack.

157. Mr Cook wrote that he had closed his contribution:

“... by stressing the vital importance of getting approval for anything we do through the UN. ‘What follows after Saddam will be the mother of all nation building projects. We shouldn’t attempt it on our own – if we want the rest of the international community with us at the end, we need them in at the start.’”

158. Mr Cook also wrote that in summing up the meeting, Mr Blair had:

“... put rather more stress on the US than the UN. ‘To carry on being engaged with the US is vital. The voices on both the left and right who want to pull Europe and the US apart would have a disastrous consequence if they succeeded.’”

159. Lord Turnbull, Cabinet Secretary from September 2002 to September 2005, described Cabinet on 23 September as an “important meeting”; the members:

“... weren’t simply listening ... They were actually applying their political judgement and – for the most part supportively, in the direction that the Prime Minister wanted.

“... the only dissension was Robin Cook ... Everyone else accepted ... that containment wasn’t working and he was the one person to say he thought it was, and I am sorry he isn’t around to take the credit for that ...”⁴⁸

⁴⁷ Cook R. *The Point of Departure*. Simon & Schuster UK Ltd, 2003.

⁴⁸ Public hearing, 13 January 2010, page 49.

160. Asked if Mr Cook thought containment was working and could be defended and sustained, Lord Turnbull replied:

“Yes, but what the Prime Minister was saying was it wasn’t working, it couldn’t be sustained and we couldn’t take the risk that he [Saddam Hussein] would use this period to come back at someone.”

...

“... there is a slight implication in the way you put that they were just getting a nice interesting briefing. What was interesting about these occasions was – and it happens quite rarely – virtually everybody spoke.”⁴⁹

161. Lord Turnbull also stated that Mr Cook had said: “You are overestimating the extent to which containment has been eroded.”⁵⁰

162. Lord Boateng, Chief Secretary to the Treasury in September 2002, told the Inquiry that Cabinet in September 2002 was a “critical discussion”. His sense was that the UK was not, at that point, set on a particular course; it was:

“... engaged in a process, where there was strenuous diplomatic activity in order to bring Saddam Hussein to the table, that we were engaged in a process where diplomacy was obviously the preferred route and considerable activity in the UN and in capitals around that ...”⁵¹

163. Asked whether there had been a debate about different scenarios and different possible courses, Lord Boateng replied:

“... there was certainly a discussion around different scenarios that came up in the way in which we addressed these issues in Cabinet ...

“... in the September meeting, where, as you know, we were about to publish the dossier, there was about to be a report to Parliament and there was a discussion around that and it was a full discussion and, in the course of that, colleagues made various contributions and various scenarios surfaced. Did we come together at that meeting in September and say ‘These are the options, what are we going to go for?’ It wasn’t that sort of discussion ...

“What we did have was a full discussion around the issues as they were reported to us by those ... who were obviously most closely involved, and you never got a sense that debate and discussion were being curtailed, but you also got a sense – and indeed it was the case – that there were those who were most intimately involved on a day-to-day basis because it fell within their areas of responsibility and competence

⁴⁹ Public hearing, 13 January 2010, page 50.

⁵⁰ Public hearing, 13 January 2010, page 58.

⁵¹ Public hearing, 14 July 2010, page 3.

and that they clearly were having the sort of debate and discussion that you have referred to.”⁵²

164. Asked if, given his estimation that Saddam Hussein was unlikely to back down, Cabinet understood that beyond the UN route lay the possibility of military action, Mr Blair said he had been saying that at every Prime Minister’s Questions, and the Cabinet was fully behind the UN route.⁵³ He added that there were two groups in Cabinet:

“One group would have been absolutely with me all the way. The other group were saying: ‘Well ... we understand it’s a big problem, but let us try to avoid military action if we possibly can and the United Nations route is a good way of doing that.’

“All of us knew that at some point there was going to be a moment of truth ... where you had to decide are you seeing it through or are you not ...”

165. In response to a series of questions about when he sought Cabinet endorsement for the policy and whether Cabinet was aware that preparations for military action were under way and that it was taking collective responsibility for the policy, Mr Blair told the Inquiry:

“... the policy was totally clear. The policy was that we were going to deal with this issue. Our preference is to deal with it through the United Nations but not dealing with it is not an option.”⁵⁴

166. Mr Blair added:

- “Of course they were taking collective responsibility for the policy because it was being outlined the entire time. They know you can’t simply decide one day ...”
- “I would have been astonished if they didn’t [know that military preparations were under way] because there was discussion of that.”
- “I don’t think anybody was in any doubt about the course they were on.”
- “... that does not mean to say that there were not some who were saying ‘I wish we weren’t on this course’, but it really does defy common sense and logic, let alone the discussion, to think that there were people in the Cabinet who didn’t know ... that we were on a course where the principles of it were absolutely clear. Go down the UN route, get an ultimatum. If he fails to meet the ultimatum we are going to be with America on military action ... my public comments at the time. I set it out with crystal clarity at the time. That was our position. It was a position ... I was under a certain amount of criticism for having, but the Cabinet were completely aware of the fact that’s what we were on.”⁵⁵

⁵² Public hearing, 14 July 2010, pages 4-5.

⁵³ Public hearing, 21 January 2011, pages 19-20.

⁵⁴ Public hearing, 21 January 2011, page 22.

⁵⁵ Public hearing, 21 January 2011, pages 23-25.

Parliamentary debates, 24 September 2002

167. Both Houses of Parliament were recalled from recess on 24 September 2002 to debate the case for effective action in respect of the threat posed by Iraq.

168. When he sought the recall of Parliament, Mr Blair wrote that: “Parliament must and will be at the heart of the national debate on the issue of Iraq and weapons of mass destruction”; and that he envisaged a statement from himself followed by “a one-day debate on the Adjournment”, led by Mr Straw.⁵⁶

169. The dossier, *Iraq’s Weapons of Mass Destruction – The Assessment of the British Government*, was published on 24 September 2002 (see Section 4.2).⁵⁷

170. The Foreword to the dossier written by Mr Blair set out the Government’s position that “the inspectors must be allowed back to do their job properly”. If Saddam Hussein refused or “made it impossible for them to do their job” then “the international community will have to act”.

MR BLAIR’S STATEMENT, 24 SEPTEMBER 2002

171. Mr Blair stated that the dossier had been produced to explain the Government’s concerns to the British people.

172. The accuracy of the information in the dossier and some of the comments made by Mr Blair in its Foreword and in his statement to Parliament are addressed in Section 4.2.

173. Mr Blair’s statement to Parliament on the publication of the dossier on 24 September and the subsequent questions and answers lasted for 90 minutes.⁵⁸

174. Mr Blair began by thanking the Speaker for recalling Parliament “to debate the best way to deal with the issue of the present leadership of Iraq and weapons of mass destruction” and described the dossier as “detailing the history of Iraq’s weapons of mass destruction programme, its breach of United Nations resolutions and its attempts to rebuild that illegal programme”.

175. Addressing the problems encountered by the inspectors, Mr Blair placed the issues being addressed firmly in the context of:

“... an 11-year history ... of UN will flouted, of lies told by Saddam about the existence of his chemical, biological and nuclear weapons, and of obstruction, defiance and denial.

⁵⁶ [Letter Blair to Martin, 11 September 2002, \[untitled\]](#).

⁵⁷ *Iraq’s Weapons of Mass Destruction. The Assessment of the British Government*, 24 September 2002.

⁵⁸ House of Commons, *Official Report*, 24 September 2002, columns 1-23.

“There is one common, consistent theme ... the total determination of Saddam to maintain that programme; to risk war, international ostracism, sanctions and the isolation of the Iraqi economy ...”

176. Addressing the question of why Saddam Hussein had decided in mid-September, but not before, to permit the weapons inspectors, Mr Blair stated that the answer was in the dossier, and it was because:

“... his chemical, biological and nuclear programme is not an historic left-over from 1998. The inspectors are not needed to clean up the old remains. His weapons of mass destruction programme is active, detailed and growing. The policy of containment is not working. The weapons of mass destruction programme is not shut down; it is up and running now.”

177. Mr Blair stated that the dossier disclosing the intelligence assessments provided by the JIC had been produced because it was “important to explain our concerns about Saddam to the British people”. The “intelligence picture” painted by the JIC “had been accumulated over the last four years” and was:

“... extensive, detailed and authoritative. It concludes that Iraq has chemical and biological weapons, that Saddam has continued to produce them, that he has existing and active military plans for the use of chemical and biological weapons which could be activated within 45 minutes, including against his own Shia population, and that he is actively trying to acquire nuclear weapons capability.”

178. Addressing the content of the dossier, Mr Blair told Parliament that:

- As well as the chemical agents and pre-cursor chemicals, growth media for anthrax and special munitions for the delivery of chemical and biological agents which were “missing and unaccounted for” in 1998, Iraq continued “to produce chemical weapons; has rebuilt previously destroyed production plants across Iraq; has brought dual use chemical facilities; has retained key personnel ... and has a serious ongoing research programme into weapons production, all of it well funded”.
- “... production of biological agents has continued; facilities formerly used for biological agents have been rebuilt; equipment has been purchased for such a programme; and again Saddam Hussein has retained the personnel who worked on it prior to 1991. In particular, the UN inspection regime discovered that Iraq was trying to acquire mobile biological weapons facilities ... Present intelligence confirms that it has now got such facilities.” The UK believed Iraq could produce anthrax, botulinum toxin, aflatoxin and ricin, which “all eventually result in excruciatingly painful death”.
- Saddam Hussein’s previous nuclear programme had been “shut down by the inspectors” and “known remaining stocks of uranium” were “held under

supervision” by the IAEA. Key personnel who used to work on the nuclear weapons programme were “back in harness”. Saddam Hussein had also:

- “bought or was attempting to buy” items that could have a use in a nuclear programme; and
- “been trying to buy significant quantities of uranium from Africa, although we do not know whether he has been successful”.
- Iraq’s ballistic missile programme was required for the delivery of its chemical, biological and nuclear weapons, and “a significant number of longer-range missiles were effectively concealed from the previous inspectors and remain, including up to 20 extended-range SCUD missiles”. In mid-2001 there had been a step change in the programme; “development of weapons with a range of more than 1,000km was well under way; and ... hundreds of people are employed in that programme”. The capability being developed was “for multi-purpose use, including with WMD warheads”.

179. Mr Blair stated that: “In addition, we have well founded intelligence to tell us that Saddam Hussein sees his WMD programme as vital to his survival and as a demonstration of his power and influence in the region.”

180. Mr Blair added:

“There will be some who dismiss all this. Intelligence is not always right. For some of the material, there might be innocent explanations. There will be others who say rightly that ... it could be several years before Saddam acquires a usable nuclear weapon – though if he were able to purchase fissile material ... it would be only a year or two.”

181. In the light of the information he had set out, Mr Blair asked whether the world would be wise to trust to the “good faith of the current Iraqi regime”. Mr Blair added:

“Our case is simply this: not that we take military action come what may, but that the case for ensuring Iraqi disarmament, as the UN itself has stipulated, is overwhelming. I defy anyone, on the basis of this evidence, to say that that is an unreasonable demand for the international community to make when, after all, it is only the same demand that we have made for 11 years and that Saddam has rejected.”

182. Mr Blair posed, and addressed, three questions: “Why Saddam?”; “Why now?”; and “Why should Britain care?”.

183. On the question “Why Saddam?”, Mr Blair said two things about Saddam Hussein stood out: “He had used these weapons in Iraq” and thousands had died, and he had used them during the war with Iran “in which one million people died”; and the regime had “no moderate elements to appeal to”.

184. On the question “Why now?”, Mr Blair stated:

“I agree I cannot say that this month or next, even this year or next, Saddam will use his weapons. But I can say that if the international community, having made the call for his disarmament, now, at this moment, at the point of decision, shrugs its shoulders and walks away, he will draw the conclusion dictators faced with a weakening will always draw: that the international community will talk but not act, will use diplomacy but not force. We know, again from our history, that diplomacy not backed by the threat of force has never worked with dictators and never will.

“If we take this course and if we refuse to implement the will of the international community, Saddam will carry on, his efforts will intensify, his confidence will grow and, at some point in the future not too distant, the threat will turn into reality. The threat therefore is not imagined. The history of Saddam and weapons of mass destruction is not American or British propaganda. The history and the present threat are real.”

185. Mr Blair said that Britain should care:

“Because there is no way this man, in this region ... could begin a conflict using such weapons and the consequences not engulf the whole world, including this country. That ... is the reason the UN passed its resolutions. That is why it is right that the UN Security Council again makes its will and its unity clear and lays down a strong new UN resolution and mandate. Then Saddam will have the choice: comply willingly or be forced to comply. That is why alongside the diplomacy, there must be genuine preparedness and planning to take action if diplomacy fails.

“Let me be plain about our purpose. Of course there is no doubt that Iraq, the region and the whole world would be better off without Saddam. Iraq deserves to be led by someone who can abide by international law, not a murderous dictator; by someone who can bring Iraq back into the international community where it belongs, not ... languishing as a pariah; by someone who can make the country rich and successful, not impoverished by Saddam’s personal greed; and by someone who can lead a government more representative of the country as a whole while maintaining absolutely Iraq’s territorial integrity.

“We have no quarrel with the Iraqi people. Indeed, liberated from Saddam they could make Iraq prosperous and a force for good in the Middle East. So the ending of this regime would be the cause of regret for no one other than Saddam. But our purpose is disarmament. No one wants military conflict. The whole purpose of putting this before the UN is to demonstrate the united determination of the international community to resolve this in the way it should have been resolved years ago: through a proper process of disarmament under the UN. Disarmament of all weapons of mass destruction is the demand. One way or another it must be acceded to.”

186. Mr Blair also set out the UK's commitment, following regime change in Afghanistan, to "stick with" the Afghan people "until the job of reconstruction" was done. He highlighted the need for "a firm commitment to action and a massive mobilisation of energy" to get the Middle East Peace Process moving again, to address resentment in the Arab world that the international community was not pursuing that issue with the same vigour as addressing the threat from Saddam Hussein.

187. Mr Blair's statement concluded:

"Finally, there are many acts of this drama still to be played out. I have always said that Parliament should be kept in touch with all developments, in particular those that would lead us to military action. That remains the case, and to those who doubt it I say: look at Kosovo and Afghanistan. We proceeded with care, with full debate in this House, and when we took military action, we did so as a last resort. We shall act in the same way now, but I hope we can do so secure in the knowledge that should Saddam continue to defy the will of the international community, this House, as it has in our history so many times before, will not shrink from doing what is necessary and what is right."

188. Mr Blair's statement was followed by questions from the Leaders of both the main Opposition parties and 24 other MPs.

189. Mr Iain Duncan Smith, Leader of the Opposition, said the "key question" was whether Saddam Hussein had "the means, the mentality and the motive to pose a threat to Britain's national security and the wider international order". Mr Duncan Smith concluded that Saddam Hussein had the means and mentality. He stated:

"The evidence produced in the Government's report shows clearly that Iraq is still pursuing its weapons of mass destruction programme ...

"The ... dossier confirms that Iraq is self sufficient in biological weapons and that the Iraqi military is ready to deploy those, and chemical weapons, at some 45 minutes' notice."

190. Addressing whether Saddam Hussein had the motive to strike against Britain, Mr Duncan Smith stated:

"... I believe that it is fair to assume that he has ...

"The report shows that Saddam has illegally retained at least 20 Al Hussein missiles, with a range of 650km, capable of carrying the various warheads that he needs, and that he is also developing new ones."

191. Mr Duncan Smith also asked a number of questions, including whether a new Security Council resolution would be needed to take military action. He concluded it was "time to act" and: "The matter is now in Saddam Hussein's hands."

192. Mr Blair responded that:

- There was a need for the new UN Security Council resolution to be “absolutely clear and unambiguous about what is expected from Saddam and about what will follow if he does not comply”.
- The UK would “always act in accordance with international law”.

193. Mr Charles Kennedy, Leader of the Liberal Democrats, stated that legitimate questions had not been “adequately answered” either by Mr Blair’s statement or the dossier, including the role of the House of Commons and “the overriding supremacy of the United Nations”. In his view, the “notion of regime change” was “ill-defined” and would “set a dangerous precedent”. The UK also had to be “clear about the possible consequences”, including the “longer-term need for a rehabilitation strategy”.

194. Mr Kennedy asked:

“Does the Prime Minister truly believe that, on the evidence published today, a sufficient case has now been made that both clarifies Iraq’s present capacity, as well as its intent?”

195. Mr Blair responded:

“... yes I do believe the information we published today shows that there is a continuing chemical and biological weapons programme, and an attempt by Saddam Hussein to acquire a nuclear weapons capability. That is what I believe, and that is the assessment of the Joint Intelligence Committee – and frankly I prefer its assessment to the assessment of the Iraqi regime, which, let us say, on the basis of experience, is not one that should carry a lot of credibility.”

196. Mr William Hague (Conservative) asked:

“Does the Prime Minister recollect that, in the half-century history of various states acquiring nuclear capabilities, in almost every case – from the Soviet Union in 1949 to Pakistan in 1998 – their ability to do so had been greatly underestimated and understated by intelligence sources at the time? Estimates today of Iraq taking several years to acquire a nuclear device should be seen in that context ... [I]s there not at least a significant risk of the utter catastrophe of Iraq possessing a nuclear device without warning, some time in the next couple of years? In that case, does not the risk of leaving the regime on its course today far outweigh the risk of taking action quite soon?”

197. Mr Blair responded:

“I entirely agree ... For the preparation of the dossier we had a real concern not to exaggerate the intelligence that we had received. For obvious reasons, it is difficult to reflect the credibility of the information, and we rate the credibility of what we have very highly. I say no more than that.

...

“... I entirely agree that the danger of inaction ... far outweighs the danger of action.”

198. Mr Elfyn Llwyd (Plaid Cymru) asked if Mr Blair had “given the United States any commitment that the United Kingdom would support unilateral action against Iraq”.

199. Mr Blair replied that it was:

“... important to recognise that in the event of the UN’s will not being complied with we must be prepared to take that action. We are not at the point of decision yet, but no one should be in any doubt that it is important to express very clearly that should the UN’s will not be resolved through the weapons inspections and monitoring, it has to be resolved in a different way.”

200. Other points made by Mr Blair included:

- There was “no point in the UN taking charge ... again unless we are precise and clear about what we expect the Iraqi regime to do”.
- A fresh resolution was needed to focus on disarmament and for the “international community to reassert its will very clearly”.
- Experience suggested the Americans were “right to be cautious about believing that it [Iraq] intends to comply”.
- “In fact, I am sure that the regime does not intend to comply at all, although it may be forced to do so. Therefore, it is important that we make it clear that the pressure is there all the time. The purpose of any new UN resolution should be focused on disarmament because that is where the UN has expressed its will clearly.”
- “... it is perfectly natural to look at the history of Saddam Hussein and what he has done and to be sceptical about whether we shall be able to get a weapons inspection regime back in there that will be able to do its job properly.”
- “... in my judgement, if we do not deal with the proliferation of weapons of mass destruction and their retention by highly unstable states, often with dictatorial regimes, then perhaps not this year or next, but in the not too distant future, that problem will explode on to the consciousness of the world. I believe that passionately, which is why, whatever the issues in relation to Iraq ... it is important to take a stand now and say that, when we have made determinations on behalf of the international community, we will see them through. If we do not, the message to Saddam and anyone else will be that they can develop these weapons with impunity and that the international community lacks the will to deal with them.”
- “I have no doubt that if the weapons inspectors are able to do their job and we are effectively able to disarm Iraq, that will change the whole nature of the regime. Our ability to do so has to depend on the United Nations being prepared

to assert its will firmly and to back it by the threat of force, which is the only thing that will work.”

- “If we cannot get the UN resolution – I believe that we can – we have to find a way of dealing with this.”
- “We should make sure ... that the United States and the international community are working to the same agenda, and I believe they are ... I believe ... very strongly; it is an article of faith with me – the American relationship and our ability to partner America in these difficult issues is of fundamental importance, not just to this country but to the wider world. Those people who want to pull apart the transatlantic relationship ... or who can sneer about the American relationship that we have, may get some short-term benefit, but, long-term, that is very dangerous to this country.”
- “... the point is that if we know that someone has weapons of mass destruction, if they have used them before and if, as a result, the international community has said they must be disarmed of those weapons, surely the greatest risk is letting them carry on developing those weapons and not doing anything about it.”
- “... in the past four or five years the issue of Iraq, weapons inspections and what to do about that regime has come over my desk pretty much week after week ... [I]t has been there as an issue the whole time ... What we know now from the assessment given by our Joint Intelligence Committee is that the very thing that we feared is the very thing that the Iraqi regime is working on.”
- “... the purpose of any action should be the disarmament of Iraq. Whether that involves regime change is in a sense a question for Saddam ...”
- “What has happened ... is that, whether we like it or not, now is the point of decision ...”
- “We have to be clear that the consequences of saying now to Iraq that we are not going to do anything will be really, really serious.”
- “... we have to make the decision, and I do not think we can duck the consequences of that decision.”

201. Mr Blair did not directly respond to a question from Sir Brian Mawhinney (Conservative) about how long he was prepared to allow the UN to reassert its authority before looking for alternative strategies.

202. Mr Blair concluded that the threat was not that Saddam Hussein was going to launch an attack on the UK “tomorrow”:

“... the threat is that within his own region, or outside it given the missile capability that he is trying to develop, he launches an attack that threatens the stability of that region and then the wider world. All the evidence that we have is that if there is such a conflict in that region, we will not be able to stand apart from it.”

203. In his diaries, Mr Campbell wrote that Mr Blair had “done the statement pretty much himself”.⁵⁹

ADJOURNMENT DEBATE IN THE HOUSE OF COMMONS, 24 SEPTEMBER 2002

204. Mr Blair’s statement was followed in the House of Commons by a nine-hour debate.

205. In his speech, Mr Straw focused on the risk that, given his past actions, Saddam Hussein might “easily” use weapons of mass destruction in the future and his “deliberate and persistent flouting of the will of the United Nations”.

206. Mr Straw stated that only free and unfettered inspections, backed by a Security Council united in its determination to disarm Iraq, offered the prospect of dealing with that threat by peaceful means. The paradox in respect of Iraq was that diplomacy had a chance of success only if it was combined with the clearest possible prospect that force would be used if diplomacy failed.

207. In his speech opening the debate, Mr Straw stated that it was “about the case we make for effective action in respect of the threat posed by Iraq”.⁶⁰

208. Mr Straw addressed four issues:

- Is the Iraqi regime the threat that we say it is?
- Are there not other countries that have developed equally dangerous arsenals of weapons of mass destruction?
- Is not the international community guilty of double standards?
- Even if Iraq is the danger that we claim, is the threat of force or its use justified?

209. Before dealing with the threat posed by Saddam Hussein’s WMD, Mr Straw said:

“... I want to detain the House briefly on another aspect of the Iraqi regime – its record on human rights. That record speaks volumes not only about the way in which the regime deals directly with its own people, but with the way in which it would seek to operate in respect of other countries and territories beyond its borders. Taking both the threat from Iraq’s weapons of mass destruction and its human rights record, Iraq is in a league of its own – uniquely evil and uniquely dangerous.

“On human rights, no other regime now in power anywhere in the world has Saddam’s record for brutality, torture and execution as a routine way of life and as the principal means by which the elite stays in power.”

⁵⁹ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

⁶⁰ House of Commons, *Official Report*, 24 September 2002, columns 26-34.

210. In relation to other states which might have amassed stockpiles of weapons of mass destruction and could proliferate those weapons, Mr Straw stated:

“It is our hard-headed judgement that we can best prevent the use of their weaponry through diplomacy.

“With Saddam Hussein, the diplomatic route has been constantly and consistently obstructed by his intransigence and duplicity. It has been blocked altogether since December 1998 leaving us no alternative but to consider other options. Iraq not the UN has chosen the path of confrontation.”

211. Mr Straw added that Iraq had:

“... much greater intent to use ... [weapons of mass destruction] Saddam’s is the only regime in recent history to have used chemical weapons, the only regime to have been declared in breach of the Geneva protocol on chemical weapons and the only regime that sees those weapons of mass destruction as an active tool of regional and internal dominance. As page 19 of the dossier sets out, Saddam is prepared to use these weapons – they are by no means a last resort.”

212. Asked why he was convinced that Saddam Hussein would use weapons of mass destruction, except as a suicidal gesture in response to a military invasion when he was desperate and beaten, Mr Straw replied that there was “no need to look in the crystal ball for the reason why”. The answer was in Saddam’s record: “He has done it once, he has done it twice; he can easily do it again.”

213. Addressing the question of whether it would be justifiable to use force to deal with the threat from Iraq, Mr Straw stated:

“The short answer ... is yes, provided force is a last resort and its use is consistent with international law.

“Law ... depends for its legitimacy on the values it reflects ... But ... there will always be some who reject or despise the values on which the law is based. Against them, the law has to be enforced, ultimately by the force of arms. But the force used has to be consistent with the moral and legal framework it seeks to defend.”

214. Mr Straw added:

“The UN declaration of human rights and the UN Charter ... recognised that ... the ultimate enforcement of the rule of international law had to be by force of arms.

...

“Diplomacy ... should always be tried first, but the paradox of some situations – Iraq is pre-eminently one – is that diplomacy has a chance of success only if it is combined with the clearest possible prospect that force of arms will be used

if diplomacy fails ... We have used all the diplomatic instruments at the disposal of the United Nations, but, so far, Saddam has rendered them unworkable.”

215. Drawing attention to the recent changes in Iraq’s position on the admission of inspectors, Mr Straw stated:

“This is a pretence at co-operation, but even this has come about only because Saddam has at last realised that he faces a clear choice ...

“Some assert that the policy of containment has worked. My answer is that containment, backed by the potential use of force, was broadly working while the inspectors were able to do their job and the Security Council’s resolve remained firm. But all the evidence suggests that Saddam has used the past four years ... to break out of his containment and to seek to re-establish his power. Only free and unfettered inspections, backed by a Security Council united in its determination to disarm Iraq, offer the prospect of dealing with the threat by peaceful means.”

216. Mr Straw concluded:

“We should all be gravely exercised by the potential use of force ... I hope and pray that it will not come to a use of force. If there is military action, any participation ... will be strictly in accordance with our obligations in international law, and its purpose would be the disarmament of the Iraqi regime’s weapons of mass destruction and an end to its deliberate and persistent flouting of the will of the United Nations.

“The choice is Saddam’s ... But if Saddam continues to defy the international community ... doing nothing – will be much worse ...

“We faced difficult choices over Kosovo, Afghanistan and Sierra Leone, but does anyone now say that we should not have taken action in respect of those countries?
...

“Abdication of responsibility, and equivocation in the face of evil, led Europe down a desperate path in the late 1930s. From the ashes was born the United Nations ... But this international order requires law, and law requires enforcement. That is the issue before us today.”

Issues raised in the debate

A wide variety of issues were raised, by MPs of all parties, in the course of the debate, in which 50 backbench MPs spoke. There was a broad consensus about the brutal nature of Saddam Hussein’s regime, and the need for inspectors to return to Iraq and complete their task.

The points raised included:

- the level of threat posed by Iraq; and whether that justified military action.
- the importance of a UN resolution for the legal authorisation of military action and the need for compliance with international law;

- whether the real reason for a military conflict was access to oil and oil contracts;
- the desire for a vote in the House of Commons before any commitment of UK forces to Iraq;
- the extent of the UK's influence on the US, and the importance to the UK of maintaining its relationship with the US;
- the implications of Saddam Hussein's human rights record;
- preparations for a post-Saddam Iraq and the need for an "exit strategy";
- implications of a potential conflict for the Middle East as a whole;
- whether the UK had sufficient military manpower for the task, and the protection of those deployed;
- the potential use Diego Garcia;
- Saddam Hussein's willingness to use WMD;
- US and UK roles in supplying arms to Iraq;
- whether the international community should concentrate on Afghanistan where there was still much to do;
- implications of the dossier and of military action for the threat from international terrorism; and
- whether public opinion would support military action.

A number of MPs also protested that the debate should have been held much earlier.

217. In his speech closing the debate, Mr Adam Ingram, the Minister of State for Defence, set out "two critical questions" which Mr Blair and Mr Straw had said had to be addressed:

- Had the threat from Saddam Hussein increased?
- Should action be taken to address that threat and, if so, what action?

218. Mr Ingram stated that the dossier demonstrated:

- There was "significant evidence" that Saddam Hussein had "brazenly flouted" UN resolutions "to which he had agreed to adhere".
- Saddam Hussein had:
 - "continued to produce chemical and biological weapons";
 - "tried covertly to acquire technology and materials that could be used in the production of nuclear weapons";
 - "sought significant quantities of uranium from Africa";
 - "recalled specialists to work on his nuclear programme";
 - "commenced a comprehensive weapons development programme across a range of capabilities to deliver his future and current weapons of mass destruction"; and
 - "already begun to conceal sensitive equipment and documentation in advance of the inspectors' return".

219. Mr Ingram said that there was “unanimity in the House on the brutal nature of Saddam Hussein’s regime”. In relation to the dossier, he commented:

“With such evidence, I am surprised that there are hon. Members who continue to argue that Saddam Hussein does not now pose an increased threat both to the stability of the Middle East and on a wider international scale. I fear their opinion is based more on an entrenched position than on a cool analysis of the facts.”

220. Mr Ingram concluded that he had:

“... no doubt that the country at large will recognise why we have to confront this issue ... [E]very effort must be made to achieve a diplomatic solution ... but ... the choice is Saddam’s ... There is no middle way. The threat has to be removed or it will continue to grow.”

221. Mr Michael Martin, Speaker of the House of Commons, described the decision by 64 MPs to vote against a motion to adjourn the House after the debate as demonstrating “the strength of feeling in some quarters of the House on this difficult issue”.⁶¹

222. Mr Cook wrote that he had congratulated Mr Straw on his focus on upholding the UN and commented that he was “thoroughly impaled on the UN route”. Mr Cook added that he suspected “some tension between the Foreign Office and Downing Street about the extent to which the UN can be the only route”.⁶²

DEBATE IN THE HOUSE OF LORDS, 24 SEPTEMBER 2002

223. The corresponding debate in the House of Lords also took place on the afternoon of 24 September.⁶³ It covered much of the same ground as the Commons, including strong support for the UN route and for inspections, questions about legality and what role UK forces might play in military action, concerns about the impact of military action on the Middle East and the need to plan for what would follow in Iraq if Saddam Hussein was removed from power.

224. Closing the debate, Lord Bach said:

“The inspectors were very useful and they did a wonderful job. But let us not pretend to ourselves that somehow the inspectors managed to achieve all that they wanted. We cannot know all the details of how Saddam Hussein may lash out next time, but one thing is clear and I believe the House is united upon it. Doing nothing now is just not an option.”

⁶¹ House of Commons, *Official Report*, 24 September 2002, columns 155-156.

⁶² Cook R. *The Point of Departure*. Simon & Schuster UK Ltd, 2003.

⁶³ House of Lords, *Official Report*, 24 September 2002, columns 870-1025.

MR STRAW'S EVIDENCE TO THE FOREIGN AFFAIRS COMMITTEE,
25 SEPTEMBER 2002

225. Mr Straw told the Foreign Affairs Committee on 25 September that a new Security Council resolution was desirable but not essential.

226. During his appearance before the Foreign Affairs Committee (FAC) on 25 September, Mr Straw was asked if existing Security Council resolutions provided a sufficient legal basis for military action without a further resolution.⁶⁴

227. Mr Straw referred to his speech the previous day, adding:

“It has never been the case that the only basis of international law [for the use of force] is an extant resolution. Sometimes some people think it is and it is actually clear from within the United Nations Charter itself that this is not the case.

...

“... there are various points in the Charter, which is one of the key bases of international law, where the Charter itself refers to the inherent right of individual members. So as far as this is concerned, the direct answer to your question is no, we do not regard it as absolutely essential that there should be another Security Council resolution. We do regard it as desirable. As to what legal advice we receive if there is not a Security Council resolution, that frankly depends on the circumstances at the time ...”

228. Mr Straw added that the UK did “not regard it [existing resolutions] as an inadequate basis” for action, but “a clear, new resolution” was “desirable, not least politically”. But there was “ample power” in the existing resolutions and “ample evidence of a material breach”.

229. Mr Straw emphasised the extent to which Saddam Hussein’s actions “in the last 20 years” posed a unique threat to peace and security.⁶⁵ The UK approach in relation to other proliferators was to pursue progress through diplomatic channels for as long as possible, even if progress was slow, but it was impossible to do that with Iraq.

230. When Mr Michael Wood saw the evidence, he reminded Mr Straw that the use of force required express authorisation by the Security Council, which in turn required a further decision from the Council, such as a finding of material breach.⁶⁶

⁶⁴ Minutes, Foreign Affairs Committee (House of Commons), 25 September 2002, [Evidence Session], Qs 21-24.

⁶⁵ Minutes, Foreign Affairs Committee (House of Commons), 25 September 2002, [Evidence Session], Qs 34-35.

⁶⁶ [Minute Wood to PS \[FCO\], 4 October 2002, 'FAC: Iraq: International Law'](#).

Discussions between the US, the UK, France and Russia

231. Following the agreement between Mr Blair and Mr Straw on 23 September, there were further intensive discussions between the US and the UK in pursuit of agreement on a draft text which the US and UK might co-sponsor. That included further discussions in New York,⁶⁷ several telephone calls between Sir David Manning and Dr Rice,⁶⁸ advice from Washington,⁶⁹ and telephone calls between Mr Straw and Secretary Powell.⁷⁰

232. The UK was adamant that Iraqi non-compliance in relation to the proposed declaration of its holdings should not itself be a trigger for military action:

“It was essential that inspectors got onto the ground before any irrevocable decisions were made.”⁷¹

233. Mr Blair spoke to Mr Annan after the Parliamentary debates on 24 September, telling him that “a new, strong, clear resolution, focused on disarmament without extraneous issues, was essential”.⁷² Mr Blair said that it “was a critical moment for the UN and for persuading the US that the UN could deal with these issues”. There were concerns that Saddam Hussein would play games and the inspectors would not find any material.

234. Speaking about the Parliamentary debate, Mr Blair stated:

“People accepted that the threat had to be dealt with. It was important to demonstrate that military action was a last resort.”

235. A letter from Mr Straw to Mr Blair on 24 September recorded Sir Jeremy Greenstock’s concern that the draft “will not be seen as credible, it will be seen as a pretext”.⁷³

⁶⁷ Telegram 1827 UKMIS New York to FCO London, 24 September 2002, ‘Iraq Resolution: Where We Stand on 24 September’.

⁶⁸ Letter Manning to McDonald, 23 September 2002, ‘Iraq: Conversation with Condi Rice’; Letter Manning to McDonald, 25 September 2002, ‘Iraq: Conversation with Condi Rice’; Letter Manning to McDonald [second letter], 25 September 2002, ‘Iraq: Conversation with Condi Rice’.

⁶⁹ Letter Brenton to McDonald, 25 September 2002, ‘Iraq: Security Council Resolution’.

⁷⁰ Telegram 497 FCO London to Washington, 25 September 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 25 September’.

⁷¹ Minute Ricketts to Secretary of State [FCO], 24 September 2002, ‘Iraq: Resolution’.

⁷² Letter Rycroft to Sedwill, 24 September 2002, ‘Iraq: Prime Minister’s Conversation with UN Secretary General, 24 September’.

⁷³ Letter (handwritten) Straw to Blair, 24 September 2002, [untitled].

US/UK draft resolution, 25 September 2002

236. The UK and the US eventually agreed the text of a draft resolution as the basis for discussion with other members of the P5 on 25 September.

237. The detailed text of a draft resolution for discussion with other members of the P5 was finally agreed in a conference call between Mr Straw, Secretary Powell, Dr Rice and officials, including Sir David Manning and Sir Jeremy Greenstock, on 25 September.⁷⁴

238. In the conference call:

- It was agreed to set the timeline for the production of an Iraqi declaration as “prior to the beginning of inspections and not later than 30 days of the date of the resolution”.
- Following a discussion of Dr Blix’s reservations about interviewing Iraqi officials outside Iraq and concerns that they would be used to seek asylum, Dr Rice stated that conducting interviews outside Iraq was “a red line” for the US.
- It was agreed that the resolution should allow Permanent Members of the Security Council to request representation on the inspection teams. Dr Rice’s view was that there was “no need to be sympathetic to Iraqi concerns” that that would be a route for the US and UK to get intelligence for military strikes.
- Dr Rice said that there was no intention to force inspections but the US wanted to “signal that conditions were different”. It was “important to have things in the resolution to discard later”.
- Reflecting UK concerns about US draft language on provisions for No-Fly or No-Drive Zones, which Mr Straw described as looking like “an attempt to legitimise NFZs” – which was “not necessary for the future and dangerous for the past” – it was agreed that the draft should distinguish zones for the purposes of the resolution from the existing No-Fly Zones.
- Reflecting Sir Jeremy Greenstock’s concerns that there were “many things in the text that looked like trip wires”, and that it would be “better to judge Iraq by its actions not its words”, it was agreed that Iraq should be given a week, not 48 hours, to indicate that it accepted the resolution.
- It was agreed that it would be better to engage Russia and France “at a political level” before the French and Russian Permanent Representatives to the UN “got their hands on the text”. As the US and UK got close to agreement, senior officials should be sent to Moscow and Paris “to begin the task of selling the text”.

⁷⁴[Telegram 498 FCO London to Washington, 25 September 2002, ‘Iraq: Foreign Secretary’s Conference Call with US Administration, 25 September’.](#)

239. The draft resolution focused on WMD.⁷⁵ The key elements of the draft and the relevant operative paragraph (OP) are set out in the Box below.

US/UK draft resolution, 25 September 2002

The key elements in the draft resolution agreed by the US and the UK on 25 September 2002 were:

- a decision that Iraq “is still, and has been for a number of years, in material breach of its obligations under relevant resolutions, including resolution 687 (1991 ...)” **(OP1)**;
- a decision that “to begin to comply with its disarmament obligations, the Government of Iraq shall provide ... prior to the beginning of inspections and not later than 30 days from the date of this resolution an acceptable and currently accurate, full and complete declaration of all aspects of its programmes to develop chemical, biological and nuclear weapons, ballistic missiles and unmanned aerial vehicles ...” **(OP2)**;
- detailed provisions setting out an intrusive inspection regime including:
 - interviews outside Iraq;
 - a date to be specified for the resumption of inspections;
 - that members of the P5 could “recommend” sites for inspection and “request” to be represented on inspection teams;
 - UN security forces to protect the inspectors;
 - the right to declare No-Fly and No-Drive Zones “for the purposes of the resolution”; and
 - that Iraq should not “take or threaten hostile acts directed against any representative or personnel of the United Nations or of any member state taking action pursuant to any Security Council resolution” **(OPs 3-6)**;
- a request that the Secretary-General should notify Iraq of the revised procedures for inspections set out in OP5 and a decision that Iraq should accept those and the provisions in OPs 2, 3, 4 and 6 “within 7 days” **(OP7)**;
- a request that all Member States “give full support to UNMOVIC and the IAEA” **(OP8)**;
- a direction to the Executive Director of UNMOVIC and the Director General of the IAEA “to report immediately to the Council any interference with or problems with respect to the execution of their mission” **(OP9)**;
- a decision that “false statements or omissions in the declaration submitted by Iraq and failure by Iraq at any time to comply and co-operate fully in accordance with the provisions laid out in this resolution, shall constitute a further material breach of Iraq’s obligations, and that such breach authorises Member States to use all necessary means to restore international peace and security in the area” **(OP10)**;
- and
- a decision “to remain seized of the matter” **(OP11)**.

⁷⁵ Letter Brenton to McDonald, 25 September 2002, ‘Iraq: Security Council Resolution’ attaching Paper [unattributed], 25 September 2002, ‘Draft [Security Council Resolution] 9/25/02, 3:21PM’.

240. Mr Tony Brenton, Chargé d’Affaires at the British Embassy Washington, reported that concerns arising from the vote in the House of Commons the previous day had been a key factor in achieving compromise.⁷⁶

241. President Bush continued to determine the US position.

242. Dr Rice stated in her memoir that during the negotiations, she had “run interference” for the State Department:

“... taking up practically every controversy directly with the President rather than allowing continued haggling among the various agencies. I know that caused some unhappiness in Defense and within the Office of the Vice President, but the process was taking long enough at the United Nations; we didn’t need to slow it down with divisions within our own ranks.”⁷⁷

243. Mr Straw wrote in his memoir:

“It was one thing to have President Bush declare in favour of going to the UN. Turning his twelve words about ‘necessary resolutions’ into a text that could command a majority in the Security Council, and had teeth, was quite another.

“The first task was to pin down an acceptable draft. Inevitably parts of the US Government weren’t bothered about securing a consensus in the Security Council. If the other members of the Council supported it, fine; if they vetoed it, fine too ... The early drafts from the US were unacceptable to us. To resolve this we organised a six-way conference call ... We made good progress, but there were still some outstanding issues, which could only be resolved by Tony talking to the President.”⁷⁸

244. Lord Goldsmith, the Attorney General, confirmed that he was satisfied with the arrangements for the exchange of information with FCO Legal Advisers when he and Mr Straw discussed the position on 23 September.

245. A meeting between Lord Goldsmith and Mr Straw took place on 23 September.⁷⁹

246. Mr Simon McDonald recorded that:

“Lord Goldsmith said he admired what the Prime Minister and Foreign Secretary had achieved in persuading the US back to the UN route ... he would have to see the final shape of any resolution. Too much emphasis on a second resolution would cause him problems (about whether or not the first resolution allowed the use of force ...). It seemed to him unarguable that [the threat] of force had got Saddam Hussein to move.

⁷⁶ Letter Brenton to McDonald, 25 September 2002, ‘Iraq: Security Council Resolution’.

⁷⁷ Rice C. *No Higher Honour: A Memoir of My Years in Washington*. Simon & Schuster, 2011.

⁷⁸ Straw J. *Last Man Standing: Memoirs of a Political Survivor*. Macmillan, 2012.

⁷⁹ [Minute McDonald to Legal Adviser, 24 September 2002, ‘Attorney General’](#).

“Lord Goldsmith stressed the importance of the purpose for which force was used. Although regime change could not be the objective, it could possibly be the means by which an objective was achieved (if the only way to disarm Iraq of its WMD was to change the regime ...).

“Lord Goldsmith confirmed that he was satisfied with [the] existing arrangements for the exchange of information with FCO Legal Advisers. The Foreign Secretary stressed that you [Mr Michael Wood, FCO Legal Adviser] had his full authority to talk to Lord Goldsmith.”

247. Lord Goldsmith was asked for his advice on the draft US/UK resolution on 24 September. He offered oral views to Mr Wood and Mr Grainger on 27 September.

248. On 24 September, Mr Wood wrote to Ms Cathy Adams, Legal Counsellor in the Legal Secretariat to the Law Officers, with a copy of the draft resolution which had “now been largely agreed with the US Government”.⁸⁰ He stated that Lord Goldsmith would be “aware of the context and background”.

249. Mr Wood reviewed the provisions of the draft resolution, focusing on the question of whether, if it were not possible to agree the current draft text authorising the use of “all necessary means”, the resolution would provide a legal basis for the use of force in the event of a breach which was sufficiently grave to undermine the basis or effective operation of the cease-fire agreed in resolution 687 (1991) “on the ground that it revived the authorisation to use force contained in resolution 678”.

250. Mr Wood wrote that the Government had “last relied upon this legal basis” in 1998; and that “The passage of time has not changed the principle”. In his view, if a resolution could be achieved which contained “an amended version ... with ‘serious consequences’ language it would be an adequate legal basis for the use of force”.

251. Mr Wood qualified that view by reference to advice set out by Mr Grainger in an internal FCO minute, which stated that the military action authorised would be such action as was necessary and proportionate to remedy a particular breach in the circumstances at the time.⁸¹

252. Mr Wood stated that he “would be grateful for any advice which the Attorney General [might] wish to give on the resolution as currently drafted, or on any of the possible outcomes mentioned”.⁸²

⁸⁰ [Letter Wood to Adams, 24 September 2002, ‘Iraq: Use of Force’.](#)

⁸¹ Minute Grainger to Pattison, 23 September 2002, ‘Iraq Resolution: Draft of 22 September’.

⁸² [Letter Wood to Adams, 24 September 2002, ‘Iraq: Use of Force’.](#)

253. Ms Adams advised Lord Goldsmith that she did not think the letter disclosed any new issues and there was “no particular deadline” for a response. Mr Wood had offered to discuss the issues if Lord Goldsmith wished.⁸³

254. Lord Goldsmith met Mr Wood and Mr Grainger on 27 September.⁸⁴

255. There is no record of the meeting but Ms Adams prepared a draft reply to Mr Wood, which did not differ materially from the views expressed in Mr Wood’s letter of 24 September. Lord Goldsmith saw it before the meeting, but it was not sent. A manuscript note by Ms Adams recorded that Lord Goldsmith had “indicated agreement with substance” of the draft.⁸⁵

256. In his statement to the Inquiry, Lord Goldsmith wrote that he had responded to Mr Wood’s request during a meeting on 27 September:

“I gave him my view of the text and what would be necessary to achieve our objectives in the various different scenarios that he posed. The text at that stage provided that failure by Iraq at any time to comply and co-operate fully with the provisions of the draft resolution would constitute a further material breach and that such a breach authorised member states to use all necessary means to restore international order. I believe I said that if the draft resolution was adopted ... it would constitute a clear statement by the Security Council that Member States were authorised to take measures, including the use of force ... I believe that I went on to say though that the use of force would have to be directed towards securing compliance with Iraq’s disarmament obligations and any force would have to be a necessary and proportionate response to the breach of the resolution.”⁸⁶

257. France and Russia immediately raised serious concerns about the approach in the draft resolution and in particular the draft of OP10 and whether it would “trigger” or permit “automatic” military action without a specific decision of the Security Council.

258. Sir Jeremy Greenstock advised that two resolutions might be needed:

- The primary objective for the first would be “unequivocal powers for inspections and hurdles for Iraq”.
- There would be “differing views about what constituted an Iraqi sin of sufficient gravity to trigger a second resolution authorising force”.

⁸³ Minute Adams to Attorney General, 26 September 2002, ‘Iraq: Request for Advice’.

⁸⁴ Minute Adams to Attorney General, 27 September 2002, ‘Security Council Resolution on Iraq: Request for Advice’.

⁸⁵ Manuscript comment Adams, 27 September 2002, on Letter [draft] to Wood, ‘Iraq: Use of Force’.

⁸⁶ Statement, 4 January 2011, paragraph 1.16.

259. The US and UK began to circulate elements of the draft resolution, which became resolution 1441, to fellow Security Council members on 25 September.⁸⁷

260. Following visits to Paris and Moscow by Mr Ricketts⁸⁸ and a conversation between Sir David Manning and Mr Jean-Marc de La Sablière, Diplomatic Adviser to President Chirac,⁸⁹ it became clear that France and Russia had serious concerns about the key elements of the draft resolution proposed by the US and UK.

261. A perception that the draft text of OP10 implied automaticity for the use of force was one area of difficulty. As a result, both Sir Jeremy Greenstock and Mr Ricketts began to consider how the UK should react if, as they had predicted, it proved impossible to secure agreement to “all necessary means” in a first resolution.⁹⁰

262. Sir Jeremy advised that there was “a case for not showing too deep a concern about the need to come back to the Council for a decision”. In his view, the “primary objective of a first resolution” was to “establish unequivocal powers for the inspectors and hurdles for Iraq”.

263. Sir Jeremy wrote that the US and UK should not “walk away” if the first stage failed; that would “almost certainly lead to a critical resolution which we would have to veto”. Instead they should “bear with it to a second stage” when:

“... the chance of persuading the Council to come with us will remain open; and if they eventually do not, we will be seen to have tried harder, our political case ... will look more objective, and we shall be less likely ... to confront a critical resolution.”

264. Sir Jeremy also advised:

“There will, of course, be differing views about what constitutes an Iraqi sin of sufficient gravity to trigger a second resolution authorising force.”

265. Mr Ricketts reported that he had told a US colleague that the UK remained “absolutely firm on the need for an ‘all necessary means’ authorisation” but it looked as though “we might well not win the argument”.⁹¹ While the shared negotiating priority was to take a “hard position” on that point to “line up support for the toughest possible inspection regime”, there was a recognition that “we would have to find a middle way between our present position and an explicit two resolution approach”. They had agreed work was needed on a formula which would achieve that.

⁸⁷ House of Commons, *Official Report*, 7 November 2002, column 431.

⁸⁸ Telegram 555 Paris to FCO London, 26 September 2002, ‘Iraq: UNSC Resolution’; Telegram 341 Moscow to FCO London, 29 September 2002, ‘Iraq: UNSC Resolution’.

⁸⁹ Letter Manning to McDonald, 26 September 2002, ‘Iraq: Contacts with the French’.

⁹⁰ Telegram 1861 UKMIS New York to FCO London, 27 September 2002, ‘Iraq: Security Council Resolution’.

⁹¹ Minute Ricketts to Private Secretary [FCO], 30 September 2002, ‘Iraq: Security Council Resolution’.

266. Mr Ricketts reported that he had said the UK would consider “a range of formulae which we would pass the Americans very privately”. He also drew attention to the likely sensitivities in Washington to a change of approach.

267. Sir David Manning discussed the French and Russian reactions with Dr Rice on 30 September.⁹²

268. Sir David reported that he had decided not to get into a detailed discussion about one resolution or two, although he had said that Mr Blair “remained very firm on substance and would want to be convinced that the two resolution route would work”.

269. Sir David Manning and Dr Rice also discussed what had happened over Kosovo. Sir David asked for “a note setting out our own views on Kosovo” before he spoke to Dr Rice the next day.

270. Mr Straw discussed French concerns, about “how far a UN resolution should rewrite arrangements for weapons inspections and ‘automaticity’ of military action”, with Mr de Villepin on 30 September.⁹³

271. Mr Straw told Mr de Villepin that the “resolution had to be tough enough so Saddam understood this was his last chance”; and that “a peaceful solution was more likely to be found through a strong and clear resolution”. The provisions in resolution 1284 were “unsatisfactory, not least on the access to Presidential sites”.

272. Mr Straw warned Mr de Villepin that:

“... we had to ensure that Washington could keep on board those within the Administration who were averse to handling Iraq in the UN. If that required one resolution, France would still have the option of tabling ... another if it did not like what the US proposed.”

273. In Mr Straw’s view, there would be “serious difficulties” without an international consensus. He and Mr de Villepin agreed that should be the aim.

274. In a telegram later that day, Sir John Holmes identified a number of underlying French concerns, including:

- a French conviction that the US were set on a policy of regime change;
- the damage “unilateral(ish) action ... would do to the UN’s credibility and thus to French influence in the world”;
- the “precedents unilateral pre-emptive action could set”;
- the “damage it would do to the whole way international relations work”;

⁹² Letter Manning to McDonald, 30 September 2002, ‘Iraq: Conversation with Condi Rice’.

⁹³ Telegram 208 FCO London to Paris, 30 September 2002, ‘Iraq: Foreign Secretary’s Conversation with French Foreign Minister, 30 September’.

- the “effects in the region of military action ... without reasonable cause and wide international support could be disastrous”;
- that “Western, and French, political and economic interests in the Middle East could suffer irreparably”; and
- the impact on Muslims in France and the “potential for further race-related violence”.⁹⁴

275. Sir John commented that the UK should:

“... keep hammering home to the key decision makers [in France] that ... a tough resolution now can really avoid military action – indeed it is the only way to do so – and thus avoid the consequences they fear ... At the same time we must continue to make the intellectual arguments for action (Why Saddam? Why now? Why does deterrence not work?);

“work ... on persuading the French that the Americans:

- (a) have a plan capable of quick military success;
- (b) are committed to seeing through the post-military phase of political reconstruction in Iraq;
- (c) have a plan for dealing with the wider repercussions in the region.”

276. In a separate telegram, Sir John reported that President Chirac’s spokesman had briefed the French press on 27 September about the President’s reaction to the UK/US draft text.⁹⁵

277. In a telephone conversation with President Bush, President Chirac had asserted that France “like the majority of the international community” favoured a “two-step approach”; and that France’s objective was disarmament of Iraq within the UN framework and therefore the unconditional and immediate return of the inspectors. A simple, firm resolution showing the unity of the Security Council and the international community could help achieve that.

278. Sir John Holmes reported that the spokesman had also said that a telephone call to President Putin the previous day confirmed that France and Russia took the same approach; and that the French spokesman had quoted the Chinese Prime Minister as saying:

“... if inspections did not take place, and there was no proof of Iraqi WMD and no authority for action from the UN Security Council, there should be no question of launching an attack on Iraq. The consequences of such an attack would be ‘incalculable’.”

⁹⁴ Telegram 562 Paris to FCO London, 30 September 2002, ‘Iraq: Military action: France’s Dilemma’.

⁹⁵ Telegram 563 Paris to FCO London, 30 September 2002, ‘Iraq: Chirac’s Reaction to the US/UK Text’.

279. Reporting his most recent discussions in New York, Sir Jeremy Greenstock repeated his warning that:

“Starting publicly with ‘all necessary means’ and then losing it risks looking like a defeat and undermining any subsequent argument that we have legal cover for military action.”⁹⁶

Mr Blair’s speech to the Labour Party Conference, 1 October 2002

280. In his speech to the Labour Party Conference on 1 October, Mr Blair briefly set out the arguments for acting in a global partnership, and for the UK to “help shape” the new world through its friendship with the US and its membership of the EU.

281. Mr Blair also stated that in dealing with a dictator, sometimes the only chance for peace was a readiness for war.

282. Mr Blair’s speech to the Labour Party Conference on 1 October was mainly about domestic issues, but in his remarks on international relations he focused on:

- The need to build “a new global partnership” that moved “beyond a narrow view of national interest”. That was “the antidote to unilateralism”.
- The basic values of democracy, freedom, tolerance and justice were shared by the UK, the US and Europe. But they were “human values”, not western values and should be used to “build our global partnership” and be applied in an even-handed way.
- Partnership was “statesmanship for the 21st Century”.⁹⁷

283. In relation to Iraq, Mr Blair stated:

“Some say the issue is Iraq. Some say it is the Middle East Peace Process. It is both.

“Some say it’s poverty, some say it’s terrorism. It’s both.

“So the United Nations route. Let us lay down the ultimatum. Let Saddam comply with the will of the UN.

“So far most of you are with me. But here is the hard part. If he doesn’t comply, then consider.

“If at this moment having found the collective will to recognise the danger, we lose our collective will to deal with it, then we will destroy not the authority of America or Britain but of the United Nations itself.

⁹⁶ Telegram 1869 UKMIS New York to FCO London, 30 September 2002, ‘Iraq Resolution: Discussions with Levitte and E10’.

⁹⁷ *BBC News*, 1 October 2002, *Blair’s conference speech in full*.

“Sometimes and in particular dealing with a dictator, the only chance for peace is a readiness for war.”

284. Mr Blair also set out his goals for the Middle East Peace Process:

“By this year’s end, we must have revived final status negotiations and they must have explicitly as their aims: an Israeli state free from terror, recognised by the Arab World and a viable Palestinian state based on the boundaries of 1967.”

285. Mr Blair added that “to help shape” that new world, the UK needed to be part of it. That meant making the most of both the UK’s friendship with the US and its membership of Europe. In five years in government he had learnt that:

- “the radical decision is the right one”;
- the “right decision is usually the hardest one”; and
- “the hardest decisions are often the least popular at the time”.

The “starting point” was not policy, it was “hope”.

286. Public opinion in the US was supportive of President Bush’s position.

287. In early October, the US Administration was also negotiating the terms of a bipartisan resolution to be tabled in Congress.

288. Sir Christopher Meyer reported that “the points of disagreement [were] relatively narrow: no one doubts that inspections will fail, the argument is how hard to try for international support for the war that will ensue”.⁹⁸

289. A draft circulated by the Chair of the Senate Foreign Relations Committee (Senator Biden) and his Republican counterpart (Senator Lugar) required the President to certify before using force against Iraq that he had attempted to seek UN approval for action, and provided for regular updates to Congress on how far allies were assisting the military effort. It also focused on the WMD threat as the basis for action rather than the wider failings of the Iraqi regime.

290. Sir Christopher reported that the White House was taking an “uncompromising approach” and had rejected that text.

291. Sir Christopher assessed that the Administration was in a strong position, with at least 70 out of 100 votes for military action in the Senate and a Democrat leadership which did not want to fight the November mid-term elections by challenging President Bush on national security.

⁹⁸ Telegram 1263 Washington to FCO London, 1 October 2002, ‘Iraq: US Congressional and Public Opinion’.

292. Recent polls had showed that public support for military action had “eased since mid-September to around 60 percent”. That dropped to “40 percent or less” if there was “no UN approval or allied support”, but jumped:

“... into the seventies if action is taken by an international force or with UN backing. Some 50 percent or fewer think that the Bush policy is well thought through, has been fully explained, or sufficiently backed up by evidence, and people want Congress to ask more questions. But while waiting to be convinced, people continue to endorse Bush’s leadership, and trust him to get this right by huge margins over the Democrats.”

293. The joint resolution was agreed by Congress, and signed by President Bush on 17 October.

Mr Blair’s conversations with President Bush, 2 October 2002

294. Mr Straw described getting the inspectors into Iraq to tackle WMD disarmament as his and Mr Blair’s “overriding objective”.

295. France and Russia’s position was that in the event of non-compliance a “second” decision of the Security Council would be required before the use of force would be authorised. In the light of that, Mr Straw advised a two stage approach would be needed for agreement on a first resolution establishing a tough inspections regime and sending a strong signal of the Council’s willingness to use force in the event of a clear Iraqi violation.

296. The US and UK might also have to make clear that only a serious violation would trigger further Council action.

297. Sir David Manning advised Mr Blair that he should try to persuade President Bush to adopt a two resolution approach.

298. In a conversation with Secretary Powell on 1 October, about whether to table OP10 as currently drafted in the Security Council, Mr Straw told Secretary Powell that the resolution which had argued against military action in any circumstances, and had been tabled at the Labour Party Conference, had been defeated; but the debate “had confirmed that the Government would be in serious difficulty if a good new [UN] resolution was not agreed”.⁹⁹

299. When Sir David Manning subsequently spoke to Dr Rice, they discussed three options for amending OP10:

- Leaving open the possibility of coming back to the Security Council, but not to specify it, and to tone down the language of “all necessary means” to something

⁹⁹ Telegram 510 FCO London to Washington, 1 October 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 1 October’.

like “serious consequences”. Any member of the Security Council would be free to bring the issue back to the UN.

- Casting OP10 in terms of a stark warning that the Iraqis must comply with the resolution but without specifying what would follow if they did not.
- Putting the “all necessary means” provision into a second resolution.¹⁰⁰

300. Sir David stated:

“There should be no difficulty if Blix [Dr Hans Blix, Executive Chairman of UNMOVIC] notified the Council that Saddam was in breach. It might be more difficult if there were a series of low level skirmishes between Blix and the Iraqi authorities that we interpreted as obstruction but that the French or others tried to interpret differently. In that event, we should have to be very clear and very tough.”

301. Mr Blair and President Bush were to discuss the issue the following day. Sir David asked the FCO for advice.

302. Mr Straw spoke to Secretary Powell at 12.30pm on 2 October and talked him through proposed language for “the ‘one and a half’ resolutions” they had discussed.¹⁰¹

303. Mr Straw’s Private Office subsequently advised Sir David Manning that:

- The US and UK were focusing in the P5 in New York on the arrangements for inspections in OP5, which would leave “time for the Prime Minister and President Bush to discuss the most politically difficult point, the consequences of non-compliance, in OP10”.
- It was clear that “both the French and the Russians” would “insist that the Council must take a second decision before the use of force is authorised”.
- Mr Straw and Secretary Powell had “therefore agreed to look at an alternative two stage approach”, which Mr Blair and Mr Straw had “always seen ... as a possible approach to achieving our overriding objective of getting the inspectors in to tackle the disarmament of Iraqi WMD”.
- That “would involve a first resolution establishing a tough inspections regime and sending a strong signal of the Council’s willingness to authorise the use of force in the event of Iraqi non-co-operation”.
- There “would be a private side agreement committing the French/Russians to agree the adoption of a short second resolution authorising the use of force in the event of clear Iraqi violations”.
- To address French and Russian concerns that OP10 as drafted could authorise the use of force on a trivial pretext, it would be redrafted to “drop the prior determination that any violation constituted a material breach and the prior authorisation” for the use of “all necessary means”.

¹⁰⁰ Letter Manning to McDonald, 1 October 2002, ‘Iraq: Conversation with Condi Rice’.

¹⁰¹ Letter McDonald to Manning, 2 October 2002, ‘Iraq’.

- The US and UK “might also have to make clear that only a serious violation would trigger further Council action”.¹⁰²

304. The FCO provided a paper on the options, including:

- variants on the language for a “new OP10”;
- how these variants were likely to be viewed by France and Russia;
- whether Kosovo provided a precedent; and
- the principles on which a possible side agreement might be based.¹⁰³

305. Mr Straw recommended that Mr Blair should discuss the case for moving to one of those options, with President Bush, “to achieve the goal of a much tougher inspections regime, and putting the onus on the Security Council to pass the necessary second resolution in the case of non-compliance or do huge damage to the credibility of the UN system”. Mr Blair should start with an option whereby the Security Council declared its readiness, in the event of non-compliance, to decide whether there had “been a further material breach of Iraq’s obligations” and “that such a breach” authorised “member states (or another formula ...) to use all necessary means to restore international peace and security”.

306. The FCO did not address the precedent of Kosovo for Iraq. The paper stated only that:

“Several Council resolutions on Kosovo warned of an impending humanitarian catastrophe, and affirmed that the deterioration in the situation constituted a threat to peace and security in the region. But we argued that military action was justified as an exceptional measure to prevent an overwhelming humanitarian catastrophe, rather than that it was based on any provisions in a resolution.”

307. The FCO suggested that a possible side agreement between the parties on the adoption of a second resolution should be based on the following general principles:

“... where there is information/evidence [reported by UNMOVIC/IAEA] of any Iraqi:

- action/attempts to conceal information related to weapons programmes;
- action/attempts to conceal other information which UNMOVIC/IAEA deem necessary to fulfil their mandate;
- action/attempts to obstruct the work of UNMOVIC/IAEA personnel in a manner likely to impede UNMOVIC/IAEA’s effectiveness in fulfilling their mandate;
- failure to co-operate in the establishment of OMV [ongoing monitoring and verification], or in the destruction of any equipment designated by

¹⁰² [Letter McDonald to Manning, 2 October 2002, ‘Iraq: UNSC Resolution’ attaching Paper, ‘Options for a New OP10’.](#)

¹⁰³ [Paper ‘Options for a New OP10’, attached to Letter McDonald to Manning, 2 October 2002, ‘Iraq: UNSC Resolution’.](#)

UNMOVIC/IAEA or in any other way required of them under the terms of relevant resolutions or under terms set out by UNMOVIC/IAEA ...

- failure to meet the deadlines set out in the relevant resolutions.”

308. Sir David Manning told Mr Blair that the “main issue” for his conversation with President Bush was the provision for the use of “all necessary means” if Saddam Hussein was found to be in breach of his obligations.¹⁰⁴ That “automaticity” went “too far” for France and Russia. President Bush would “ideally like to dispense” with the draft OP10, but accepted that was “a political impossibility”. The UK wanted “something like OP10 to give us legal cover if at some stage we take military action”.

309. Sir David added that the FCO letter “identified various possible fixes”, and he recommended that Mr Blair should persuade President Bush “to go the two resolution route (you warned that this might well be necessary at last month’s Camp David meeting)”.

310. Sir David proposed language in OP10 that stipulated “in the event of a breach, the Council will decide to authorise all necessary means”. That conceded the issue would “have to come back to the Security Council for further decision, so saving Chirac’s face”.

311. Sir David advised that, “at the same time”, the US and UK “should insist on privately pre-negotiating the terms of a second, follow-up resolution [with France and Russia] that would authorise ‘all necessary means’ once a breach is established”; and that the current draft should not be revised until that had been agreed. That would:

“... not be without difficulties:

- bringing the French and Russians to pre-negotiate a tough second resolution and commit themselves to it;
- establishing clearly what would constitute a breach and so trigger action: this will need to be pinned down in advance.

“But there is a chance a deal of this kind can be struck ... The French and Russians may well be reluctant: but if this is the price to avoid early US unilateralist action with serious long term damage to the Security Council, they may well pay.”

312. Sir David concluded that if Mr Blair and President Bush could agree, “we can get on with the business of trying to sell it in capitals and the UN. We now need to move fast.”

313. In a second conversation on 2 October, Mr Straw was informed that President Bush was “very energised” about a single resolution.¹⁰⁵

¹⁰⁴ [Minute Manning to Prime Minister, 2 October 2002, ‘Iraq: Your Phonecall Today with Bush’.](#)

¹⁰⁵ Letter Straw to Manning, 2 October 2002, ‘Iraq: Conversations with Colin Powell’.

314. In the first of two conversations with President Bush on 2 October, Mr Blair initially focused on achieving a tough regime for inspections as more important than the issue of a two stage approach.

315. Mr Blair spoke twice to President Bush on the afternoon of 2 October.¹⁰⁶

316. In the first conversation, Mr Blair and President Bush discussed their concerns about the outcome of Dr Blix's talks with Iraqi representatives in Vienna on 1 October and that the burden of proof that he had no WMD must be on Saddam Hussein.

317. Mr Blair told President Bush that the need to ensure a sufficiently strong inspection regime was "more important than the question of one resolution or two". The inspectors should "go in as soon as possible".

318. Mr Blair set out three options in descending order of preference:

- two resolutions (as set out by Sir David Manning);
- a "tough resolution keeping open whether a second resolution would be needed, with others knowing that we would be prepared to act without a second resolution if necessary. We need not rule out a second resolution, but we should not tie ourselves to one"; and
- the "worst outcome" of requiring a second resolution but not being able to get it.

319. In a conversation with Dr Rice between the two discussions between Mr Blair and President Bush, Sir David Manning pursued the argument for two resolutions.¹⁰⁷ He also suggested that Mr Blair and President Bush should confer about the scale of the deceit that would require military action: "We would want to establish a 'pattern of deceit' rather than a specific incident as a trigger."

320. Separately, Mr Straw was informed by Secretary Powell that the White House was interpreting Mr Blair's conversation with President Bush as support for a single resolution and that some in the US were warning the President about the dangers of being mired in the UN.¹⁰⁸ Mr Straw had talked him through the UK proposals for modifying the existing resolution which Sir Jeremy Greenstock thought France would agree. They agreed it was worth trying to get President Bush's agreement.

321. In the subsequent conversation Mr Blair suggested draft language for the resolution implying a second resolution would be sought if Iraq failed to comply with the provisions in the new resolution and indicating that the Security Council would be willing to authorise force in those circumstances.

¹⁰⁶ Letter Rycroft to Sedwill, 2 October 2002, 'Iraq: Prime Minister's Telephone Calls with Bush, 2 October'.

¹⁰⁷ Letter Rycroft to Sedwill, 2 October 2002, 'Iraq: Prime Minister's Telephone Calls with Bush, 2 October'.

¹⁰⁸ Letter Straw to Manning, 2 October 2002, 'Iraq: Conversations with Colin Powell'.

322. Mr Blair said that any significant obstruction or discovery of WMD would constitute a breach. The inspectors should report the facts and we should make the judgements.

323. Mr Blair told President Bush that if the UN did not authorise force in the event of a breach, the US and UK would still act.

324. The issues of what would constitute a breach and who would decide on the appropriate action were key issues in the negotiation of the resolution and its subsequent interpretation.

325. In the second conversation with President Bush, Mr Blair proposed that OP10 should be amended to read:

“Decides that false statements and omissions in the declaration submitted by Iraq to the Council and failure by Iraq at any time to comply and co-operate fully in accordance with the provisions laid out in this resolution shall constitute a further flagrant violation of Security Council resolutions, and expresses its readiness to authorise all means necessary to restore international peace and security in the area.”¹⁰⁹

326. In exchange, Mr Blair said the US and UK should “hang tough” on OP5 [the arrangements for intrusive inspections] and on material breach in OP1. When the first resolution was passed the US and UK should make clear that, in the event of non-compliance, “we would expect the Security Council to authorise the use of force”. If for any reason it were not to do so, “we would go ahead anyway, on the Kosovo model”.

327. Mr Blair and President Bush also discussed what would constitute a breach and who would decide.

328. Mr Blair said that if Iraq declared it had no WMD and the inspectors then found a significant amount, it “would be a casus belli”; any significant obstruction or discovery of WMD would constitute a breach. That was not a judgement for Dr Blix; “the inspectors should report the facts, and we should make the judgements”.

329. In a subsequent telephone call Secretary Powell told Mr Straw that he and Dr Rice were about to discuss the UK proposal.¹¹⁰

330. In a fifth conversation that evening Secretary Powell told Mr Straw that the US “were buying into” Mr Blair’s proposal, but “there would need to be a lot of work done on it”.¹¹¹

331. Mr Campbell wrote that Mr Blair and Mr Straw had had “a very difficult meeting early on” when Mr Straw had explained that the US was “getting very jittery about the

¹⁰⁹ Letter Rycroft to Sedwill, 2 October 2002, ‘Iraq: Prime Minister’s Telephone Calls with Bush, 2 October’.

¹¹⁰ Letter Straw to Manning, 2 October 2002, ‘Iraq: Conversations with Colin Powell’.

¹¹¹ Letter Straw to Manning, 3 October 2002, ‘Iraq’.

UN route”. Mr Straw had also said that France was making clear it would not support war at all, China “didn’t care, and Russia was playing hardball”.¹¹²

332. Mr Campbell wrote that the US “wanted one resolution that would allow them to hit Iraq at the first sign of Saddam lying or causing trouble”. Mr Blair had described his first conversation with President Bush as “difficult”. President Bush was “beginning to wonder whether we are going down the right road”. Mr Campbell wrote that the US was “getting more and more impatient”.

333. Mr Campbell also wrote that President Clinton’s references to Iraq in his speech to the Labour Party Conference were intended to convey the view that Mr Blair “was in a position to influence US policy” and to get President Bush “to side with [Secretary] Powell”. But Mr Blair was “less confident we could get the tough resolution we wanted”. President Bush had told Mr Blair that he was “having trouble holding on to my horse”. Mr Campbell wrote it was clear that President Bush was trying to get Mr Blair “to agree that if Saddam was found to be lying that was a ‘*casus belli*’”.

334. Following the second conversation between Mr Blair and President Bush, Mr Campbell wrote that Mr Blair was concerned that rhetoric aimed at managing the Republican right wing would stop President Bush getting to the right policy positions; and that Mr Blair “seemed to be moving to the view that this [the US Administration] was a government that was ruthless about its own power and position”.

335. In his memoir, Mr Straw wrote that in his first conversation with President Bush, Mr Blair’s mind was on the Labour Party Conference and he:

“... simply didn’t make the key points. I told him that, however embarrassing, he’d have to make the call again. It was fixed for later that evening.”¹¹³

336. Mr Straw wrote that the second call:

“... went well. We had a text to broker with the other members of the Security Council.

“There then followed an extraordinary five-week period in which not just every phrase, but every word, and even the punctuation, was the subject of the closest debate and argument. I often spent hours each day in telephone calls with Colin [Powell] and Dominique de Villepin and Igor Ivanov, as well as with the Chinese foreign minister, Tang Jiaxuan and the foreign Ministers of the non-permanent members of the Security Council.”

¹¹² Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

¹¹³ Straw J. *Last Man Standing: Memoirs of a Political Survivor*. Macmillan, 2012.

Continuing difficulties in securing agreement on a draft text

Iraq's rebuttal of the UK dossier

337. The Iraqi Ministry of Foreign Affairs published a “detailed rebuttal” on 2 October, which described the UK dossier as “a series of lies and empty propaganda” which was “totally inconsistent” with the facts and reports made by UNSCOM and the International Atomic Energy Agency (IAEA).¹¹⁴

338. The rebuttal emphasised Iraq’s “intensive efforts” and co-operation between 1991 and 1998 in implementing resolution 687 (1991) and other resolutions. It also stated that Iraq had not imported any prohibited material.

339. Detailed comments on Iraq’s rebuttal are set out in Section 4.3.

340. Mr Julian Miller, Chief of the Assessments Staff, told Sir David Manning that a review of the rebuttal conducted by the Assessments Staff, the intelligence agencies and the FCO dismissed it as: “In broad terms ... very weak; long on rhetoric and short on detail.” It did not undermine the UK dossier and in a number of key areas failed to provide a credible response.

341. Mr Miller added that the document presented “a somewhat rosy picture” of Iraq’s relationship with UNSCOM. He characterised Iraq’s refutation of the UK “claim that its WMD programmes have continued post 1998” as an “attitude of denial”.

342. Under the heading “Iraq: Still Playing Games”, press lines prepared by the Communications and Information Centre (CIC) focused on:

- Iraq’s pre-1998 co-operation with UNSCOM and its failures:
 - to provide full and comprehensive disclosures;
 - to allow the inspectors immediate, unconditional and unrestricted access to relevant sites, documents and persons; and
- material for which UNSCOM had been unable account.

343. Mr Miller concluded: “I do not think we need to offer a fuller reply to any of Iraq’s claims.”

344. Iraq’s explicit denials of possession of prohibited weapons, materials and programmes were not addressed, and there was no consideration of the risk which Iraq would have faced by issuing a detailed rebuttal which inspections might show to be untrue.

¹¹⁴ [Minute Miller to Manning, 4 October 2002](#), ‘[The Dossier: Iraq’s Response](#)’ attaching Email FCO [junior official] to Hamill, 3 October 2002, ‘Iraq’s reply on Blair’s Report’ and Paper [CIC], [undated], ‘Iraq – Still Playing Games!’.

Discussions between Iraq, UNMOVIC and the IAEA about the return of inspectors

345. Dr Blix told the Security Council on 3 October that, although there was no legal need for a new resolution to authorise the return of inspectors, it would be better, if there was going to be a new resolution, for them to wait to return to Iraq until that was in place.

346. Dr Blix and Dr Mohamed ElBaradei, Director General of the IAEA, held separate talks with Iraqi officials about the practical arrangements for inspections in Vienna on 30 September and 1 October.

347. Some officials had identified the practicalities of the timetable for preparing and conducting inspections as “the most difficult area”.¹¹⁵

348. The UK Mission to the UN in Vienna reported that Dr Blix thought the talks had gone well in most respects, including Iraq’s agreement to drop the 1996 arrangements for visits to sensitive sites.¹¹⁶ The main outstanding issues were:

- arrangements for the safety of inspection flights in the No-Fly Zones;
- interviews, where the Iraqis were still insisting on the presence of an Iraqi official and the right to film; and
- UNMOVIC use of U2 (surveillance) flights.

Access to Presidential sites had not been addressed.

349. Mr Campbell wrote that Dr Blix:

“... seemed to be making progress and looked like he was trying to do a deal which would not necessarily include palaces. It wasn’t good enough for the US but the UN were pushing it and suggested that we didn’t need another UNSCR. Powell was very hard line that there could be no new inspections without a new UNSCR.”¹¹⁷

350. The British Embassy Washington reported that Secretary Powell had responded swiftly to the talks with an impromptu press conference warning that UNMOVIC should not return to Iraq until a new resolution had been adopted; and that the US preference was for a single resolution.¹¹⁸

351. The Embassy also reported that:

- The US press was reporting a claim by Secretary Rumsfeld that the No-Fly Zones were the air component of the inspections regime under resolution 687.

¹¹⁵ Minute Pattison to FCO [junior official], 12 September 2002, ‘Iraq: Draft Resolution’.

¹¹⁶ Telegram 95 UKMIS Vienna to FCO London, 2 October 2002, ‘Iraq: Return of Inspectors’.

¹¹⁷ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

¹¹⁸ Telegram 1264 Washington to FCO London, 1 October 2002, ‘US/Iraq: 1 October’.

He had also stated that, since promising on 16 September to allow the unconditional return of inspectors, Iraq had fired on coalition aircraft 67 times with the clear inference that Iraq was threatening US interests.

- A White House spokesman had stated that “regime change is welcome whatever form it takes”; and that “the cost of one bullet” fired by the Iraqi people would be “substantially less” than the cost of military action.

352. The FCO instructed Sir Jeremy Greenstock to use Dr Blix’s report to the Security Council on 3 October to emphasise that key issues remained to be resolved and a new resolution was “essential to demonstrate that the UNSC is determined to ensure proper inspections this time, backed up by the will to enforce its decisions if necessary”.¹¹⁹ In an interview for the *BBC’s Today* programme on 1 October, Mr Blair had stated that a tougher resolution was necessary before the inspectors returned.

353. While recognising that Member States could not dictate the inspectors’ activities, the UK was concerned that inspectors should not return to Iraq before “new modalities” had been agreed.

354. Sir Jeremy Greenstock reported that Dr Blix’s view, as expressed to the Security Council on 3 October, was that, while it would be helpful to reaffirm and strengthen UNMOVIC’s rights, there was no legal need for a new resolution before the inspectors returned.¹²⁰ His “main concern” was “unanimity and a Council willingness to back inspectors up”. If there was going to be a new resolution there would be no point in returning to Iraq only for new arrangements then to be put in place.

355. Sir Jeremy Greenstock told the Council that a further resolution was necessary to ensure the inspectors were effective. Iraq was continuing to take measures to conceal its WMD facilities and stocks. The Council needed to hear from Dr Blix and Dr ElBaradei what additional measures were required and it would be prudent to tie up loose ends – “one man’s loose end could be another man’s casus belli”.

356. The agreement reached in Vienna was set out in a letter of 8 October from Dr Blix and Dr ElBaradei to the Government of Iraq.¹²¹ It was subsequently endorsed by the Security Council and resolution 1441 (OP6) made its contents legally binding.

357. Negotiations on the content of the draft resolution between the UK and US and with other members of the P5 continued without agreement being reached on a text which would secure support in the Security Council.

358. The FCO considered that the two stage approach would mean a second resolution would be required to authorise the use of force.

¹¹⁹ Telegram 576 FCO London to UKMIS New York, 3 October 2002, ‘Iraq: Blix’s Briefing to the Security Council and P5’.

¹²⁰ Telegram 1903 UKMIS New York to FCO London, 4 October 2002, ‘Iraq: Informal Council Meeting with Blix and El Baradei’.

¹²¹ Letter Blix and ElBaradei to Al-Saadi, 8 October 2002, [untitled].

359. On 3 October, the FCO provided a revised text incorporating the amended OP10 and other changes to reflect discussions between the P5.¹²² The covering letter explicitly stated:

“In our view, a text along these lines would require a further Security Council resolution to authorise the use of force.”

360. The FCO also stated:

“There would, of course, be ... argument about the extent to which any Iraqi transgression constituted a flagrant violation. It would therefore be important to obtain a clear commitment from the French and Russians in advance. This could either be through a side agreement with them containing an indication of the circumstances in which we would want to seek authorisation on the lines described in the paper enclosed with my letter ... of 2 October. It could also be useful to agree on a contingency basis among the P5 the text of a second resolution.”

361. Sir David Manning discussed the draft resolution with Dr Rice on 3 October, pointing out that it “did not rule out military action if there were no further Security Council resolution ie it did not pre-empt the ‘Kosovo option’ ... President Bush had yet to take a view on it.”¹²³

362. Mr Campbell wrote that Sir David Manning was concerned that Saddam Hussein was “probably going to make positive noises about inspections and try to drag things to February because then the ‘window of war’ would close”.¹²⁴

363. Mr Ricketts advised that failure to obtain a second resolution was likely to leave the UK with “no plausible legal basis” for the use of force; the “Kosovo option” would be no help.

364. Mr Straw told Secretary Powell that there was “no parallel” between the circumstances of military action in Iraq and in Kosovo.

365. In a minute on 3 October to Mr Straw’s Private Office, which was sent to Sir David Manning and Sir Jeremy Greenstock, Mr Ricketts set out his views, “As a mind clearing exercise”, on whether: “If the Security Council adopts a resolution with our new version of OP10 ... we have conceded the principle that a second resolution is required.”¹²⁵ He added: “If we do not for some reason get it, it must be very likely that the Attorney would conclude that [the UK] did not have a legal basis for military action.”

366. Mr Ricketts did “not think the ‘Kosovo option’ helps in these circumstances”. The UK had not relied on or sought a resolution authorising the use of force; it had relied on

¹²² Letter McDonald to Manning, 3 October 2002, ‘Iraq: UNSC Resolution’.

¹²³ Letter Manning to McDonald, 3 October 2002, ‘Iraq: Conversation with Condi Rice’.

¹²⁴ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

¹²⁵ [Minute Ricketts to Private Secretary \[FCO\], 3 October 2002, ‘Iraq: Resolutions: The “Kosovo Option”’.](#)

“an alternative legal base i.e. that action was necessary to prevent an overwhelming humanitarian catastrophe (by analogy with the 1991 action in Northern Iraq to help the Kurds)”. Mr Ricketts commented:

“... that would not be credible grounds for action this time. So far as I can see, failure to get a second resolution would leave us with no plausible legal basis.”

367. In a manuscript comment in the margin of Mr Ricketts’ minute, Sir David Manning wrote: “What about the reference in OP1 to ‘material breach’?”¹²⁶

368. It is not clear whether Sir David had seen the minute before his conversation with Dr Rice.

369. On 4 October, Sir David Manning reported that the US Administration was not yet willing to discuss detailed draft texts with the French.¹²⁷ Secretary Powell would discuss “concepts” with Mr de Villepin. The instinct was to move cautiously and to take time to see if agreement was possible. The US was also considering changes to the proposed text of OP10.

370. In his conversation with Mr de Villepin on 4 October, Mr Straw stated that: we had to find out the extent of the problem with Iraq and its WMD by getting the inspectors back.¹²⁸ We had got as far as we had with the Iraqis by threatening force. We would prefer to resolve the problem peacefully. If this was not possible we would use force.

371. Mr Straw and Mr de Villepin agreed officials should discuss.

372. Mr Straw spoke twice to Secretary Powell on 4 October. In the second conversation he told Secretary Powell that there was “no parallel” with the Kosovo model.¹²⁹

373. FCO Legal Advisers continued to voice concerns about the absence of a clear statement from the Security Council reviving the authority for the use of force, and that Lord Goldsmith’s views would be needed once the language in the draft resolution on that point had been firmed up.

374. On 4 October, in a minute copied to Sir Jeremy Greenstock among others, Mr John Grainger, FCO Legal Counsellor, expressed concerns that the current draft resolution

¹²⁶ Manuscript comment Manning on Minute Ricketts to Private Secretary [FCO], 3 October 2002, ‘Iraq: Resolutions: The “Kosovo Option”’.

¹²⁷ Letter Manning to McDonald, 4 October 2002, ‘Iraq: Conversation with Condi Rice’.

¹²⁸ Telegram 213 FCO to Paris, 4 October 2002, ‘Iraq: Foreign Secretary’s Conversation with French Foreign Minister, 4 October’.

¹²⁹ Telegram 521 FCO London to Washington, 4 October 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 4 October’.

would allow other Member States to argue that it did not amount to an authorisation of the use of force. He concluded:

“In the time available I have not been able to consult the Attorney General, whose views would be crucial. In the past his predecessors have emphasised the need for a clear statement that the Council authorises the revival of the use of force, which this draft does not appear to offer. We will need to obtain the Attorney’s view on the effect of any language once it firms up.”¹³⁰

375. The British Embassy Washington reported on 4 October that Vice President Cheney wanted a resolution that would provide a ‘tripwire’ for military action.

376. Mr Brenton reported on 4 October that he had been told that Vice President Cheney “simply didn’t believe that any achievable inspection regime would give us the cast iron assurance we had to have that Iraqi WMD had been eliminated.” He “[supported] the ... US approach” of trying to get the UN to endorse a tough inspections regime; but he expected “Saddam would try to play games” and “would be caught out, providing the US with its casus belli”.¹³¹ Vice President Cheney would not “sign up to any regime which seemed likely to fail in this tripwire function”.

377. Mr Blair saw the minute.¹³²

President Bush’s speech in Cincinnati, 7 October 2002

378. President Bush set out the case for urgent action to disarm Iraq on 7 October.

379. President Bush stated that Iraq had “an opportunity to avoid conflict” only if it complied with all its obligations. The US hoped it would make that choice but it had “little reason to expect it”.

380. On 1 October, in advance of the votes in Congress to authorise the use of force, if it proved necessary to enforce Security Council demands, the Central Intelligence Agency produced its National Intelligence Estimate (NIE) on ‘Iraq’s Continuing Programs for Weapons of Mass Destruction’.¹³³

381. An unclassified document based on the NIE was published on 4 October (see Section 4.3).¹³⁴

¹³⁰ Minute Grainger to Ricketts, 4 October 2002, ‘Iraq: Draft Resolution: OP10’.

¹³¹ Minute Brenton to HMA [Washington], 4 October 2002, ‘Iraq: Cheney’s Attitude’.

¹³² Manuscript comment Powell on Minute Brenton to HMA [Washington], 4 October 2002, ‘Iraq: Cheney’s Attitude’.

¹³³ CIA, 1 October 2002, *National Intelligence Estimate, Iraq’s Continuing Programs for Weapons of Mass Destruction*.

¹³⁴ CIA, 4 October 2002, *Iraq’s Weapons of Mass Destruction Programs*.

382. President Bush used a speech in Cincinnati on 7 October to set out in detail the case for urgent action to disarm Iraq.¹³⁵

383. President Bush described Iraq as “a grave threat to peace” and stated that the US was determined “to lead the world in confronting that threat”. Members of Congress and the Security Council agreed that Saddam Hussein was a threat and “must disarm”; the question was how best that could be achieved.

384. President Bush stated that the US Administration had “discussed broadly and fully” the nature of the threat and the urgency of action. The threat from Iraq stood “alone” because it gathered “the most serious dangers of our age in one place”. Iraq was “unique” because of its “past and present actions ... its technological capabilities ... the merciless nature of its regime”.

385. President Bush set out the main components of that threat, including the US perception of Iraq’s WMD programmes and intent and its ability to deliver such weapons; Saddam Hussein’s potential links to international terrorism; and the need for the US to act to protect itself. The points made included:

- The possibility of Iraq acquiring a nuclear weapon.
- Concerns that Iraq was “exploring ways of using UAVs [Unmanned Aerial Vehicles] for missions targeting the United States”.
- Iraq and Al Qaida (AQ) had “high level contacts that go back a decade”.
- Some AQ leaders who had fled Afghanistan were in Iraq, including “one very senior ... leader” who had “been associated with planning for chemical and biological attacks”.
- “[C]onfronting the threat posed by Iraq” was “crucial to winning the war against terror”. Saddam Hussein was “harboring terrorists and the instruments of terror, the instruments of mass death and destruction”. He could not be trusted and the risk that he would “use them, or provide them to a terror network” was “simply too great”.
- The enemies of the US would be “eager to use biological or chemical, or a nuclear weapon”, and it “must not ignore the threat”: “Facing clear evidence of peril, we cannot wait for the final proof – the smoking gun – that could come in the form of a mushroom cloud.”

386. President Bush stated that the danger, from Iraq, could not be addressed “by simply resuming the old approach to inspections”. After eleven years of trying “containment, sanctions, inspections, even selected military action”, Saddam Hussein still had chemical and biological weapons and was “increasing his capabilities to make more”; and he was “moving ever closer to developing a nuclear weapon”.

¹³⁵ The White House, 7 October 2002, *President Bush Outlines Iraqi Threat*.

387. President Bush warned the Iraqi regime that it had “an opportunity to avoid conflict” only if it took steps to comply with all its obligations [as set out in Security Council resolutions]”. The US hoped the regime would make that choice but it had “little reason to expect it”.

388. President Bush also warned the Iraqi regime against attempting “cruel and desperate measures” if it were facing its demise. If Saddam Hussein ordered such measures, his generals would be “well advised to refuse”; “they must understand that all war criminals will be pursued and punished”.

389. President Bush stated that waiting to act was “the riskiest of all options”. There could be “no peace” if the security of the US depended “on the will and whims of a ruthless and aggressive dictator”.

390. Addressing concerns that regime change could produce instability in Iraq, President Bush concluded that the situation in Iraq:

“... could hardly get worse, for world security and for the people of Iraq ...

“Freed from the weight of oppression, Iraq’s people will be able to share in the progress and prosperity of our time ... the United States and our allies will help the Iraqi people rebuild their economy, and create the institutions of liberty in a unified Iraq ...”

JIC Assessment, 10 October 2002

391. The JIC Assessment of 10 October stated that Iraq’s ability to conduct effective terrorist attacks was very limited; and it was “inadequate” to carry out terrorist, chemical or biological attacks outside Iraq.

392. The JIC also assessed that Saddam Hussein would use terrorism only in response to a US attack.

393. At the request of the FCO, the JIC produced a specific Assessment on 10 October 2002 of the terrorist threat in the event of US-led military action or imminent action against Iraq.¹³⁶ That included an assessment of the relationship between Iraq and members of Al Qaida, and how Al Qaida would “use an attack on Iraq as further ‘justification’ for terrorist attacks against Western or Israeli interests”.

394. The Assessment stated that Saddam Hussein’s “overriding objective” was to “avoid a US attack that would threaten his regime”, but the JIC judged that in the event of US-led military action against Iraq, Saddam would:

“... aim to use terrorism or the threat of it. Fearing the US response, he is likely to weigh the costs and benefits carefully in deciding the timing and circumstances in

¹³⁶ [JIC Assessment, 10 October 2002, ‘International Terrorism: The Threat from Iraq’.](#)

which terrorism is used. But intelligence on Iraq's capabilities and intentions in this field is limited."

395. The Key Judgements of the JIC Assessment of 10 October were:

- Saddam's capability to conduct effective terrorist attacks is very limited, especially outside the Gulf region.
- But Iraq will aim to conduct terrorist attacks against Coalition interests and Israel during a military campaign. Terrorism could be attempted against Coalition forces and Gulf States supporting them during a military build-up if Saddam believes an attack is inevitable.
- Saddam will seek to conduct terrorist attacks against UK interests abroad in the event of military action against him. Iraqi attacks within the UK are unlikely.
- No major terrorist group will conduct attacks on behalf of Iraq. But Al Qaida and other Islamic extremists may initiate attacks in response to Coalition military action. Al Qaida will use an attack on Iraq as further 'justification' for terrorist attacks against Western or Israeli interests.
- Iraq's terrorism capability is inadequate to carry out chemical or biological attacks beyond individual assassination attempts using poisons. But Al Qaida or other terrorist groups could acquire a chemical/biological capability from the dispersal of Iraqi material or expertise during a conflict in Iraq or following the collapse of Saddam's regime."

396. The Assessment stated that during the 1991 Gulf Conflict, Iraq had "sought (with negligible success) to conduct terrorist attacks against Coalition interests" and that Saddam Hussein's "overriding objective" was to "avoid a US attack that would threaten his regime".

397. In the event of US-led military action against Iraq, the JIC judged that Saddam Hussein would:

"... aim to use terrorism or the threat of it. Fearing the US response, he is likely to weigh the costs and benefits carefully in deciding the timing and circumstances in which terrorism is used. But intelligence on Iraq's capabilities and intentions in this field is limited."

398. Other key points in the Assessment are set out in the Box below.

**JIC Assessment, 10 October 2002:
'International Terrorism: The Threat from Iraq'**

Iraq's capabilities and intentions

The Assessment stated that:

- Diplomatic and economic restrictions since 1991 had "severely degraded Baghdad's already limited overseas terrorism capability".

- The Directorate of General Intelligence (DGI) had “little reach or capability outside Iraq”.
- There were indications that Saddam Hussein was “trying to rebuild a terrorist capability”, but the willingness of individuals to conduct attacks was “in doubt”.
- There were suggestions of individuals being trained in Iraq for terrorism in the event of a Coalition attack, including “uncorroborated reports” of suicide attackers, but “some of this reporting may reflect aspiration rather than reality”.
- Iraq had the materials for chemical and biological (CB) terrorism but the JIC judged that the overall terrorist capability was “inadequate to carry out CB terrorist attacks outside Iraq other than individual assassinations using poisons”.
- Iraq was “likely to attempt terrorist attacks against military targets during a build up of Coalition Forces” and it was “possible that attacks – or threats – could be directed against regional states affording support to Coalition Forces”.
- Even after hostilities commenced, the expectation of diplomatic options might “restrain any attempt to use terrorism until he [Saddam Hussein] believes collapse of his regime is certain”.
- “In the event of military action”, Saddam Hussein would “seek to conduct terrorist attacks” against the UK’s overseas interests, “especially military forces and diplomatic facilities in the Middle East” and possibly Cyprus; but there was “no intelligence” suggesting specific plans for attacks in the UK. The “experience of 1991 and current intelligence” suggested that Iraq might “seek less well-protected targets overseas, for example South East Asia”.

Al Qaida

The JIC judged that “**the greatest terrorist threat in the event of military action against Iraq will come from Al Qaida and other Islamic extremists**”; and they would be “pursuing their own agenda”.

The JIC did “**not believe that Al Qaida plans to conduct terrorist attacks under Iraqi direction**”.

The JIC assessed that “US-led military action against Iraq” would “motivate other Islamic extremist groups and individuals to carry out terrorist attacks against Coalition targets”.

Al Qaida had:

“... sought to portray anticipated US-led military operations against Iraq as further confirmation that the US is waging a war on Islam, attracting widespread popular support across the Muslim world and on the Arab ‘street’. Al Qaida could also use the opportunity of a military build up to target Coalition forces in the Gulf.”

The JIC predicted that:

“In the longer term, a Coalition attack may radicalise increasing numbers of Muslims, especially Arabs, and boost support and recruitment for terrorist groups.”

The JIC concluded:

“... the terrorist threat from Al Qaida and other Islamic extremists will increase in the event of US-led action against Iraq. Widespread, sporadic, opportunity attacks are most likely. Major, complex operations would be mounted by Al Qaida only if the timing of military action coincides with culmination of their longer-term attack plans.”

Iraq's links with Al Qaida

The Assessment stated that:

- There had been “sporadic links between Al Qaida and the Iraqi regime since at least the early 1990s”.
- Saddam Hussein’s attitude to Al Qaida had “not always been consistent”; he had “generally rejected suggestions of co-operation”.
- “Intelligence nonetheless indicates that [...] meetings have taken place between senior Iraqi representatives and senior Al Qaida operatives.”
- “Some reports also suggest that Iraq may have trained some Al Qaida terrorists since 1998.”
- “Al Qaida has shown interest in gaining chemical and biological expertise from Iraq, but we do not know whether any such training was provided.”
- There was “no intelligence of current co-operation between Iraq and Al Qaida”.
- There was intelligence on an Al Qaida presence in Iraq.
- Abu Musab al-Zarqawi, “a prominent Al Qaida associated operational planner, was in Baghdad” and appeared “to act with a considerable degree of autonomy”. It was “possible that he could be acting independently of the senior Al Qaida leadership”.
- In addition, there were “a number of Al Qaida extremists (possibly in the hundreds)”, “linked to al-Zarqawi”, in the Kurdish Autonomous Zone (KAZ) in northern Iraq. Some were “involved in development and production of CB substances at a facility near Halabjah, within a base run by the Kurdish extremist group **Ansar al-Islam** (associated with Al Qaida).”
- There was “no evidence of control” by the Iraqi regime over either Ansar al-Islam or the Al Qaida elements in the KAZ.

Iraq's links with other terrorist groups

Senior Iraqi Government officials had “sought to establish contact with **Hizballah**” in the summer of 2002, but “those approaches were rejected”; Hizballah would “not respond in any way that might be perceived as support for Saddam”.

There had also been Iraqi “attempts to increase co-operation” with “major **Palestinian terrorist groups**”. The JIC assessed that they would remain preoccupied with events in Israel and the Occupied Territories; and that they would “be influenced more by Iran and Syria – who want to avoid antagonising the US – than by Saddam”. Individual Palestinian terrorists and groups under Saddam Hussein’s influence had “limited capabilities, but could mount small scale attacks”.

JIC ASSESSMENT, 16 OCTOBER 2002: ‘INTERNATIONAL TERRORISM: THE CURRENT THREAT FROM ISLAMIC EXTREMISTS’

399. A further JIC Assessment, ‘International Terrorism: The Current Threat from Islamic Extremists’, was produced on 16 October 2002.

400. In the light of recent terrorist attacks, including an attack on a French supertanker off Yemen on 6 October, an attack against US Marines in Kuwait on 8 October and the

bombings in Bali on 12 October, a JIC Assessment of the current threat from Islamic extremists was produced at short notice on 16 October.¹³⁷

401. Mr Campbell wrote on 15 October that the question of “how can we do terrorism and Iraq” was “growing”, and that Mr Blair was “keen to build argument that they were part of the same coin”.¹³⁸

402. The minutes of the JIC discussion on 16 October record that the draft Assessment focused “on the areas of greatest current concern and presented a rather sombre picture”.¹³⁹ The final Assessment could “bring out the changing nature ... of the threat to the UK, especially CBW attacks”. There was “a huge amount of intelligence and a kaleidoscope of ghastly possibilities, but it was important to balance that with the aspirational nature of much of the planning – not all threats came to fruition”.

403. The Assessment addressed the overall threat posed by AQ and other Islamic extremists. In relation to the UK and US interests, the JIC judged that: “Many known threats to Western interests include US interests as a target. Planning and preparation for attacks in the UK itself is probably also in progress. There is a continuing risk of displacement from hardened US targets to the UK, UK interests and other Western interests.”¹⁴⁰

404. The JIC assessed that AQ was “also intent on attacking US allies, especially the UK; and [...]. Intelligence on attacks against US interests often includes UK interests as a parallel or secondary target.”

405. The Assessment stated that an AQ network based in northern Iraq was interested in the use of toxic chemical and biological materials, based on techniques learned in Afghanistan, but also wished to mount conventional operations.

JIC Assessment, 11 October 2002

406. The JIC assessed on 11 October that Saddam Hussein was determined to retain Iraq’s proscribed weapons programme and that he was confident he could prevent the UN inspectors, operating under existing UN resolutions, from finding any evidence before military options started to close in spring 2003.

407. Without specific intelligence, the inspectors would not know where to look.

¹³⁷ JIC Assessment, 16 October 2002, ‘International Terrorism, The Current Threat from Islamic Extremists’.

¹³⁸ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

¹³⁹ Minutes, 16 October 2002, JIC meeting.

¹⁴⁰ JIC Assessment, 16 October 2002, ‘International Terrorism, The Current Threat from Islamic Extremists’.

408. As military pressure increased, Iraq’s concealment policy could be undermined by the requirement to prepare hidden “chemical and biological missile systems for military deployment”.

409. The JIC had assessed, most recently on 21 August, that Saddam Hussein would permit the return of weapons inspectors if he believed the threat of large scale military action was imminent. The JIC had also assessed that he would seek to frustrate the activities of the inspectors.

410. At the request of the Cabinet Office (OD Sec), the JIC assessed Iraq’s attitude and approach to dealing with the return of UN weapons inspectors and its concealment policy.¹⁴¹

411. The minutes of the JIC discussion of the draft Assessment on 9 October recorded:

- Iraq was “very confident” about its concealment policy and “had put a lot of effort into ensuring that inspectors would not find anything”.
- “UNMOVIC still had no information about suspect sites and without specific intelligence, it would be impossible for them to know where to start looking.”
- “A tougher, penetrative [inspections] regime backed by a good intelligence flow from inside Iraq, would therefore be absolutely central to success”.
- “... as military pressure increased, the point would come when concealment would make it impossible” for Iraq to “prepare for weaponisation”.¹⁴²

412. The JIC’s Key Judgements were:

- Saddam is determined to retain Iraq’s proscribed weapons programmes. He is confident that he can prevent UNMOVIC, operating on the basis of existing UNSCRs, from finding any evidence before military options start to close off in spring 2003.
- Concealment and dispersal of sensitive items are the main elements of Iraq’s strategy for dealing with UNMOVIC. The inspectors are hampered by poor preparedness and a lack of intelligence, so far, to guide them.
- Saddam will probably accept a new UN resolution. If inspections are conducted under a tougher regime, and if specific intelligence on WMD locations is forthcoming in response to clear US determination to topple Saddam, UNMOVIC might find evidence of Iraq’s WMD programmes.
- In the short-term, we do not expect a repeat of the blatant Iraqi policy of intimidation and obstruction that UNSCOM encountered. Widespread Iraqi obstruction would be seen as too obvious a challenge to the authority of the UN. But if inspectors come close to uncovering evidence of WMD, Iraq will employ a wide range of tactics to delay their work.

¹⁴¹ [JIC Assessment, 11 October 2002, ‘Iraq: The Return of UN Inspectors’](#).

¹⁴² Minutes, 9 October 2002, JIC meeting.

- Iraq will use all diplomatic efforts, backed by its economic leverage on its neighbours, to undermine political support for a continuation of the inspections and sanctions.”¹⁴³

413. Details of the Assessment are set out in the Box below.

JIC Assessment, 11 October 2002: 'Iraq: The Return of UN Inspectors'

The Assessment stated that Saddam Hussein's decision to agree to the return of weapons inspectors on 16 September appeared "to have been driven by a serious wish to avoid a new, strong UN Security Council resolution".

Overall strategy

Intelligence indicated that Saddam Hussein was "determined to retain Iraq's weapons of mass destruction", which he considered "to be a key part of Iraq's regional political and military power. He was "adamant that UN weapons inspectors should not be allowed to find and destroy the WMD capability that Iraq has been able to develop further in the four years since UNSCOM left in 1998".

Iraq was "confident" that it could "ensure the inspectors, acting under the terms of existing UNSCRs", would "not be able to find anything when they return and that Iraq will retain its proscribed weapons programmes".

Iraq's tactics would be:

"... guided principally by the need to avoid military action which would threaten Saddam's regime. Whilst there is a credible military threat, Iraq is likely to co-operate with the inspectors and present them with sanitised sites, the result of a programme of concealment and deception. This will be backed by a political effort to focus the inspection issue on as narrow a programme as possible (in scope, geography and time). Iraq will continue to pursue a 'comprehensive solution' and argue for unwarranted interim 'rewards', such as softening of sanctions or the No-Fly Zones for early reasonable behaviour."

The JIC judged that:

"Iraq's obstruction may initially be limited, for fear of provoking early US military action, but that Saddam will incrementally test the extent to which the international community retains the political will to enforce Iraqi disarmament. [...] Iraq's Deputy Prime Minister Tariq Aziz is confident that it will be easier to delay the inspectors once they arrive in Iraq."

Practical arrangements for the return of the inspectors

Under the provisions of resolution 1284 (1999), UNMOVIC would submit a work programme for UN approval 60 days after inspections began. It would then have 120 days after being able to establish monitoring and verification to confirm co-operation by Iraq: "Possibly by the end of July/Sept[ember] 2003".

¹⁴³ [JIC Assessment, 11 October 2002, 'Iraq: The Return of UN Inspectors'](#).

Discussions with UNMOVIC revealed concerns focused on “the limited technical knowledge of the sites and equipment to be inspected and poor quality of some inspectors”. Dr Blix and the IAEA had “also expressed concerns about the lack of reliable information currently available to them”. Dr Blix “would prefer to have any new UNSCR agreed before the inspectors return[ed] to Iraq”. To be effective “he needed:

- authority (including ability to freeze sites);
- practical arrangements including regional bases;
- a supporting threat (from the UN Security Council rather than forces on the ground);
- information on where to look.”

The Assessment stated that, “despite its public statements”, Iraq “would reluctantly judge it had to accept” a new Security Council resolution:

“International pressure to do so would be overwhelming and rejection would trigger military action to overthrow the regime. A further round of technical talks might be required to take account of a new UNSCR. [...] Saddam may lose patience at the constant pressures ... and refuse to co-operate. A resolution with such stringent conditions that it threatened Iraq’s sovereignty or the regime’s confidence in its concealment policy would clearly increase the likelihood of such a refusal. On balance, however ... Iraq is likely to accept a new resolution, play for time and rely on concealment to deal with inspections.

“In the short term, we do not expect the same level of intimidation and obstruction that UNSCOM encountered. But a policy of deniable obstruction is likely, where problems at individual inspection sites are blamed on over-zealous local Iraqi officials, avoiding too obvious a challenge to the authority of the UN. However, we cannot rule out a mistake by Saddam that would result in a serious breach of UNMOVIC’s mandate and bring about the military attack he seeks to avoid.”

Concealment tactics

“A body of intelligence” indicated that “concealment and dispersal of sensitive items” were “the main planks of Iraq’s strategy to deal with the return of weapons inspectors”. Saddam Hussein had “reportedly taken into account the experience gained during the UNSCOM inspections” and believed he could “exploit weaknesses in the inspections regime” in resolution 1284.

The JIC stated:

“Iraq’s current preparedness to be flexible on access to these sites [presidential palaces as defined in a 1998 MOU [Memorandum of Understanding] between Iraq and the UN] should be seen in the light of this intelligence. Qusay [Saddam Hussein’s son] also instructed that the production of sensitive materials be moved to other secret locations. We have little intelligence on these locations and Blix has expressed his concern at this weakness.”

Iraq’s concealment efforts were “widespread”; Iraq had “had time to prepare”; and stocks of chemical and biological weapons would be “considerably smaller than after the Gulf War”. Intelligence showed that:

“... steps were being taken to prevent weapons inspectors from finding any prohibited weapons, sensitive papers and documents, including by hiding them in residential

buildings, schools and private homes. Duplicate and non-essential papers had been destroyed and the remaining archives had been split up and hidden in the homes of trusted officials. In the absence of specific intelligence, the prospects of successfully finding illicit material at such sites is very limited ... Iraq will use widespread media coverage to exploit any UNMOVIC failures to find anything of significance at any sites, including presidential palaces, to undermine public opinion in the need for inspections. Iraq is likely to seek to move the onus of responsibility away from it having to prove its compliance onto the inspectors to justify their activity.”

Iraq was “exploiting dual-use sites and mobile production facilities” and reporting indicated that it was “confident that any inspection of dual-use facilities” would be “unsuccessful”: the equipment could be used for legitimate purposes “and any incriminating raw material or prohibited product would be removed before any inspection”. Iraq had:

“... developed transportable biological production facilities with the intention of not only making it harder to target them but also difficult to find them. Iraq may also have dispersed stocks of chemical and biological weapons away from suspect sites to avoid detection. Intelligence indicates that Iraq has explored unorthodox options for delivering chemical and biological weapons which means the weapons inspectors will have difficulty knowing what to look for.”

Iraq was “confident in its concealment plans”:

“The fact that Saddam is prepared, temporarily, to allow sensitive equipment out of his ‘immediate’ control, indicates the importance he attaches to retaining chemical and biological weapons and ballistic missiles.”

Commenting on Iraq’s repeated statements that it had “nothing to declare and no documents to reveal”, the Assessment stated:

“... the longer inspectors remain in Iraq the greater the likely impact on Iraq’s development programmes. UNMOVIC are more likely to come up with evidence of proscribed activity at Iraq’s missile facilities than those associated with the chemical, biological and nuclear programmes. We judged that production could continue at a much reduced level whilst inspectors were in-country. As the military pressure against Iraq increases, its concealment policy could be undermined by the Iraqi requirement to prepare its hidden stocks of chemical and biological missile systems for military deployment.”

Prospects for concealment

The JIC judged that Iraq’s “emphasis on concealment and the limited capabilities of UNMOVIC” meant that:

“... without additional guidance to UNMOVIC, there is a serious risk that Iraq could prevent inspectors from finding conclusive evidence of its WMD programmes before military options start to close off in spring 2003. Nonetheless, Iraq’s concealment policy will face some challenges. Inspections conducted under a tougher regime than allowed for under UNSCR 1284 could, for example, allow interviews to be conducted without an intimidating Iraqi presence, increasing the prospects for obtaining incriminating evidence. And the changed political context, including the clear determination of the US to bring about regime change, may itself encourage a greater intelligence flow, which could enable UNMOVIC to discover substantive evidence of Iraq’s WMD programme.”

Differences between the US, the UK, France and Russia remain unresolved

414. Following discussions with Mr Blair, President Putin stated on 11 October that he supported an effective inspections regime but questioned whether there was evidence that Iraq had any weapons of mass destruction.

415. In preparation for Mr Blair's meeting with President Putin, the FCO advised that Russia was negotiating but its position was that there was no need for a new resolution.¹⁴⁴ It was unlikely to agree a resolution which would allow military action without further reference to the Security Council. The FCO suggested Mr Blair would wish to:

- “major on Iraq”;
- reassure President Putin that the overriding objective was “to remove WMD from Iraq and therefore to ensure the inspectors have a means of doing so”, and that we would “continue to take full account of Russian views”; and
- say that if military action became “inevitable”, the long-term stability of Iraq would be “a key consideration”.

416. Mr Blair met President Putin on 10 and 11 October.¹⁴⁵

417. President Putin emphasised that action against Saddam Hussein should be channelled through the UN.

418. Mr Blair and President Putin also discussed the political and economic constraints, including the effect on Russia of a reduction in the price of oil if Saddam Hussein were overthrown and the supply of Iraqi oil on the world market increased.

419. In the subsequent joint press conference President Putin stated that he agreed the “need to take into account the experience of the work done by the UN inspectors” and “to take a decision to ensure the effective operation of the UN inspectors”.¹⁴⁶ For the first time, President Putin added:

“With this purpose we don't exclude ... the possibility of adopting a UN resolution.”

420. Asked what he thought about the UK dossier, President Putin replied:

“Russia does not have in its possession any trustworthy data which would support the existence of nuclear weapons or any weapons of mass destruction in Iraq and we have not received from our partners such information as yet.

¹⁴⁴ Letter Davies to Manning, 8 October 2002, ‘Prime Minister's Visit to Russia, 10-11 October 2002’.

¹⁴⁵ Letter Manning to McDonald, 12 October 2002, ‘The Prime Minister's visit to Moscow on 10/11 October: Iraq’.

¹⁴⁶ *The Guardian*, 11 October 2002, *Russian rebuff for Blair over Iraq*.

“This fact has also been supported by the information dispatched by the CIA to the US Congress.

“We do have apprehensions that such weapons might exist on the territory of Iraq and this is precisely why we want to see to it that United Nations inspectors should travel there.”

421. France remained opposed to a resolution which permitted military action without an explicit decision by the Security Council.

422. On 5 October, Mr Straw and Mr Blair discussed the need to induce France to move.¹⁴⁷ Mr Blair said that he would speak to President Chirac after President Bush had done so.

423. Following discussions between Sir David Manning and Dr Rice,¹⁴⁸ and his own discussions with Secretary Powell and Mr de Villepin, Mr Straw told Mr de Villepin in a meeting in Paris on 7 October that he had listened to two telephone conversations between Mr Blair and President Bush in which the President had said he wanted to solve the problem peacefully.¹⁴⁹ Mr Straw said he “believed him [President Bush]”. Mr Straw encouraged Mr de Villepin to get President Chirac to talk to President Bush.

424. Sir Jeremy Greenstock reported on 7 October that:

“... under the pressure of the unmistakable determination of Washington to resort to force unless Saddam throws in the towel completely, is the growing focus amongst other members of the Council, not on avoiding war, but on preserving the authority of the UN. It is therefore quite possible that a large majority in the Council would go along with a package which (a) adopted a first resolution which did not (not) specifically prefigure a second one to authorise force; and (b) gave the Council a chance to pass an authorising resolution even if the Americans were going to go ahead anyway.

“... This could be done by drafting the two resolutions at the same time ...”¹⁵⁰

425. Sir Jeremy offered some suggestions.

426. In a conversation on 9 October, Sir David Manning told Mr de La Sablière:

“... we did not envisage taking military action if there were one isolated act of stupidity. The test would be whether there was a pattern of obstruction or deceit ... Washington realised that the Council would need to review the position and decide

¹⁴⁷ Minute Manning to Wechsberg and Rycroft, 6 October 2002, ‘Prime Minister’s Conversation with Foreign Secretary on 5 October’.

¹⁴⁸ Letter Manning to McDonald, 8 October 2002, ‘Iraq: Conversation with Condi Rice’.

¹⁴⁹ Telegram 254 Cairo to FCO London, 8 October 2002, ‘Iraq: Foreign Secretary’s Meeting with French Foreign Minister, Paris 7 October’.

¹⁵⁰ Telegram 1924 UKMIS New York to FCO London, 7 October 2002, ‘Iraq: Security Council Resolution(s)’.

what to do next. And this was the solution to the French worry about automaticity. In practice, we all knew that if Blix were unable to do the job, the Security Council would have to meet to consult. There was thus bound to be a second stage in the UN process ...”¹⁵¹

427. Sir David suggested that the resolution might say something to the effect that the Security Council “would consult and decide”. He told Mr de La Sablière that the “time had come” to “talk seriously about texts ... We needed to find a way through quickly. The price of failure would go well beyond the immediate Iraq crisis. It would strike at the viability of the UN itself.”

428. Sir David also discussed the points with Dr Rice, who told him that President Bush and President Chirac were due to speak later that day.¹⁵²

429. FCO Legal Advisers considered that the draft resolution would not authorise the use of force.

430. In response to a request from Mr Edward Chaplin, FCO Director Middle East and North Africa, for his views on a further draft of the resolution, which stated that if Iraq failed to comply fully with its obligations it would “bear full responsibility for the serious consequences” that would follow, Mr Grainger advised on 11 October that “even read in the context of the rest of the draft” that provision “would not in itself authorise the use of force”.¹⁵³

431. Mr Grainger was concerned that the draft did not use the language of material breach of resolution 687 (1991): “This point is crucial, as it is only a material breach of the cease-fire terms which permits the revival argument.”

432. Mr Grainger added: “If our objective is that the resolution itself authorises the use of force”, amendments would be needed and even then the resolution would need to be looked at as a whole and in the light of any statements made at the time it was adopted.

433. Mr Grainger also raised a question about whether the finding that Iraq was in material breach of OP1 of the draft resolution could be relied on “in current circumstances” to justify the use of force. That would be “difficult to maintain when the [other] provisions ... indicate that the Council is itself taking the responsibility of setting out the steps Iraq must follow to remedy those breaches”.

434. Mr Grainger warned that the addition of language suggested by Sir Jeremy Greenstock, to the effect that the Council had decided to “remain fully seized of its responsibility”, would in his view have the effect of making it “even clearer that the Council was not authorising the use of force”.

¹⁵¹ Letter Manning to McDonald, 9 October 2002, ‘Iraq: Conversation with Jean-Marc de La Sablière’.

¹⁵² Letter Manning to McDonald, 9 October 2002, ‘Iraq: Conversation with Condi Rice’.

¹⁵³ [Minute Grainger to Chaplin, 11 October 2002, ‘Iraq: Latest US Compromise’.](#)

435. In conclusion, Mr Grainger wrote:

“What we say to the French as a tactical ploy is one thing, but we should be under no illusion that the use of force solely on the basis of the first resolution as currently drafted would be unlawful.”

436. Reporting major difficulties with the negotiations, Sir Jeremy Greenstock proposed a way of bridging the gap between the US, UK and French positions by making the UK’s expectation of a second resolution authorising force implicit rather than explicit.

437. In a telegram to Mr Straw late on 11 October, Sir Jeremy Greenstock advised that Mr Straw’s visit to Washington was “an opportunity to get a firm message across to the Americans about UK requirements”, and offered “some thoughts about turning our need for UN legal cover into virtue”.¹⁵⁴

438. Sir Jeremy advised: “The French/US standoff is looking unresolvable. It places the UK in a very difficult situation.”

439. Sir Jeremy calculated that the US “could not get nine positive votes for a first-stage resolution that appeared to authorise US military force”. Norway and Bulgaria would be the only two countries which could be counted on to vote with the US and UK; but “only if some of the excesses” in the draft provisions on the inspections regime were “trimmed”. There could be seven abstentions.

440. Sir Jeremy predicted:

“Even if they [the US] managed to find a text which attracted nine votes, it would leave the inspection regime in a weak position and Iraq somewhat comforted. More to the legal point, many members of the Council ... could be expected to make explanations of vote stating that they regarded it as essential for the Council to meet to take a decision on any report of significant Iraqi non-co-operation.”

441. Sir Jeremy reported that he was concerned that Secretary Powell thought he had nine votes for a first stage resolution that would satisfy the US. His judgement was that Mr de Villepin’s calculation was more accurate. Mr Annan agreed.

442. Addressing the question of where that left the UK, Sir Jeremy wrote:

“We have to ensure that decisions taken by ... [the UK Government] conform with international law, as you [Mr Straw] and the Prime Minister have made clear publicly. A first resolution which falls short of explicit or implicit authorisation of the use of force would, I assume be insufficient as a basis for UK military action, depending of course on the circumstances and the final advice of the Law Officers. I have seen no

¹⁵⁴ [Telegram 1955 from UKMIS New York to FCO London, 11 October 2002, ‘Iraq: Security Council Resolution’.](#)

indication that we have Self-Defence grounds for military action. We need a second resolution if the first does not do the job; or at the very least we need to ... point to a clear Council failure to face up to its responsibilities.

“If this is the case, there is a way of making a virtue out of necessity. If the Americans jib at the need for a second resolution, the UK does not have to. If we stated clearly and publicly ... that we would expect the Council to meet to discuss any significant Blix report of non-co-operation, and we ... would want to hear Council views about that, we would be providing a bridge between the US and French positions.”

443. Sir Jeremy explained:

“The US would not have expressed a commitment [to a second resolution], but the rest of the Council would know that a second stage was inevitable, in practice even for the US unless the latter decided, improbably, to go for unilateral military action before Blix had reported ...

“If we were to make this signal about future Council action, it would add strength to our approach if it was we who put a second-stage resolution on the table ...”

444. Sir Jeremy concluded:

“We should in this way have put our money where our mouth is with the Americans; we would solve a problem for them; we would have found a constructive way of telling them that we could not go with them on a unilateral route; and we should have enhanced our legal cover for the use of force.”

445. Sir Jeremy offered to discuss the telegram with Mr Straw on 14 October before he (Mr Straw) left for Washington.

446. There is no record of any discussion.

447. The telegram was also sent to Sir David Manning and British Ambassadors in Washington, Paris and Moscow.

448. Sir Christopher Meyer advised on 11 October that President Bush was the prime mover for US policy on Iraq and he believed war would be necessary to eliminate Saddam Hussein. With Congressional authorisation to use force, he was likely to become “increasingly impatient and tough with the Security Council” and US and UK views on what exhausting the UN process meant could diverge.

449. Sir Christopher also questioned whether there would be an “intolerable contradiction” between the preferred military timetable and that for inspections.

450. If there was no agreement in New York and the US was faced with acting alone, the UK’s position might have a decisive effect on President Bush’s decision.

451. Sir Christopher Meyer sent a telegram to Mr Straw later on 11 October.¹⁵⁵ He wrote that President Bush wanted:

“... to be rid of Saddam. He is the prime mover of US policy. He believes that this can be done in the end only by war. To eliminate the danger presented by Iraqi WMD is to eliminate Saddam. Anything short of that, including highly intrusive inspections backed by a new SCR, will not do the trick. Inspections are a tripwire for war.”

452. Sir Christopher advised that President Bush was “intensely suspicious of the UN”, and in an:

“... ideal world, he would be on his way now to Baghdad, with a little assistance from the British and a handful of regional helpers. This is why he is eternally susceptible to those like Cheney and Rumsfeld who think coalition-building is of limited utility and inspections a waste of time (thus their attempt to insert in the UNSCR a pre-inspections tripwire in the requirement for Saddam to make a declaration of his WMD holdings).”

453. Sir Christopher wrote that his analysis was “a little different” from his advice before Mr Blair’s visit to Camp David in early September: “the forces arguing for more haste, less speed have gathered some strength, sharpening dilemmas for the White House”.

454. Sir Christopher reported that President Bush had “bought the argument that it is worth trying to maximise international support by giving the Security Council one last chance”. That argument had “got stronger as the Administration started to focus ... on ‘day after’ issues: it is one thing to go to war without ... UN cover, quite another to rule Iraq indefinitely without UN backing”.

455. The polls were telling the White House that “Americans are far happier about going to war if they do so in company and under UN cover”. President Bush was “well aware of the British political debate”. Sir Christopher reported that he had been told by Mr Scooter Libby, Vice President Cheney’s Chief of Staff, that “the UK was the only indispensable ally for an attack on Iraq”. President Bush’s “rhetoric has been less inflammatory and he has soft-pedalled on regime change”. That had “helped him get, by large majorities, the Congressional resolutions which as near as dammit give him a free hand in Iraq”. With that behind him, the President was likely to become “increasingly impatient and tough with the Security Council”.

456. Sir Christopher warned that if there was no progress in discussions with the French, “patience could start to expire next week”; and that:

“As I have previously warned, the US and UK’s views of what exhausting the UN process means could suddenly diverge.

¹⁵⁵ [Telegram 1326 Washington to FCO London, 11 October 2002, ‘US/Iraq: Will the President go to War’.](#)

“Most people in Washington see two scenarios, each leading to war: Security Council discussions collapse without agreement, in which case the UN will – in Bush’s eyes – have failed the key test; or Saddam flouts a new UN resolution on WMD declarations/inspections, thereby bringing the full force of the international community to bear.

“The big worry for the hardliners is a third way: that Saddam appears to ... take ‘yes’ for an answer. If Saddam is clever, he will give UNMOVIC and the Security Council no cause for complaint for months to come, until the US becomes enmeshed in the 2004 presidential election campaign.”

457. Sir Christopher added:

“Assuming we can get past the current US/French impasse ... the next argument will therefore be over the trigger. The White House claims to agree with us that there would have to be a pattern of non-co-operation to provide a casus belli: I do not think ... this is bankable. An important point for you to discuss with [Secretary] Powell is whether ... mobilisation has reached such a point that there is an intolerable contradiction between the preferred military timetable and Blix scouring Iraq for months on end.”

458. Sir Christopher concluded:

“We are not yet at the moment of truth when the irresistible force meets the immovable object ... I appear to be in a minority of one in thinking if it all goes wrong in New York, and the US is faced with going it alone, Bush may blink. Or, to put it another way, what the UK decides to do in these circumstances could be the decisive factor in the White House.”

459. Sir David Manning showed the telegram to Mr Blair, commenting: “Good tel[egram] on Bush: prejudices and pressures – and continued importance of UK to him.”¹⁵⁶

460. Mr Straw spoke to both Mr de Villepin¹⁵⁷ and Secretary Powell¹⁵⁸ on 12 October. The discussions focused primarily on the difficulties with OP10.

461. Mr Straw also spoke to Mr Tang Jiaxuan on 13 October to discuss progress.¹⁵⁹

¹⁵⁶ [Manuscript comments Manning to Prime Minister on Telegram 1326 Washington to FCO London, 11 October 2002, ‘Your Visit to Washington’.](#)

¹⁵⁷ Telegram 220 FCO London to Paris, 12 October 2002, ‘Iraq: Foreign Secretary’s Conversation with French Foreign Minister, 12 October’.

¹⁵⁸ Telegram 535 FCO London to Washington, 12 October 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 12 October’.

¹⁵⁹ Telegram 550 Beijing to FCO London, 14 October 2002, ‘Iraq: Foreign Secretary’s Conversation with Chinese Foreign Minister’.

US Congressional authorisation for the use of force

On 10 and 11 October, the House of Representatives and the Senate passed a joint resolution authorising the use of military force against Iraq.¹⁶⁰

The resolution expressed support for President Bush's efforts:

“to –

- (1) strictly enforce through the United Nations Security Council all relevant ... resolutions regarding Iraq and encourages him in those efforts; and
- (2) obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and non-compliance and promptly and strictly complies with all relevant ... resolutions ...”

It also authorised President Bush to:

“use the Armed Forces of the United States as he determines to be necessary and appropriate to –

- (1) defend the national security of the United States against the continuing threat posed by Iraq; and
- (2) enforce all relevant United Nations ... resolutions ...”

Signing the joint resolution on 16 October, President Bush stated that it symbolised the united purpose of the nation and expressed the considered judgement of Congress.¹⁶¹ Congress had authorised the use of force but he had not ordered that use, and he hoped that would not become necessary.

President Bush added that confronting the threat from Iraq was:

“... necessary, by whatever means that requires. Either the Iraqi regime will give up its weapons of mass destruction, or, for the sake of peace, the United States will lead a global coalition to disarm that regime ...

“The Iraqi regime is a serious and growing threat to peace ... [T]he regime is armed with biological and chemical weapons, possesses ballistic missiles, promotes international terror and seeks nuclear weapons ...

“If Iraq gains even greater destructive power, nations in the Middle East would face blackmail, intimidation or attack. Chaos in that region would be felt in Europe and beyond. And Iraq's combination of weapons of mass destruction and ties to terrorist groups and ballistic missiles would threaten the peace and security of many nations. Those who choose to live in denial may eventually be forced to live in fear.”

President Bush also called on the members of UN to meet the challenge:

“Every nation that shares in the benefits of peace also shares in the duty of defending the peace. The time has arrived once again for the United Nations to live up to the purposes of its founding to protect our common security ...”

¹⁶⁰ Almanac of Policy Issues, 15 October 2002, *Congressional Resolution Authorizing Force Against Iraq*.

¹⁶¹ The White House, 16 October 2002, *President Signs Iraq Resolution*.

President Bush stated that Iraq had an obligation to comply with the world's demands. He added:

- Failure to provide “an accurate and full and complete accounting for all chemical, biological and nuclear materials, as well as missiles and other means of delivery ... would be further indication of the regime’s bad faith and aggressive intent”.
- New and effective rules were needed for inspections which Iraq “must accept ... without qualification or negotiation”.
- The regime must allow witnesses to be interviewed outside Iraq and take their entire families with them.

President Bush emphasised that the US was seeking to liberate and free Iraq and its people. When it had “a government committed to the freedom and well-being of its people”, the US and other nations would “share a responsibility to help Iraq reform and prosper”. He pledged that the US would meet those responsibilities.

President Bush concluded:

“... those risks only increase with time. And the costs would be immeasurably higher in years to come.

“To shrink from that threat would bring a false sense of temporary peace ...

“The terrorist attacks of last year put our country on notice ... This nation will not live at the mercy of any foreign power or plot. Confronting grave dangers is the surest path to peace and security ...

“The broad resolve of our government is now clear to all ... We will defend our nation, and lead others in defending peace.”

462. On 14 October, Mr Blair and President Bush discussed progress on the draft resolution and the need to find common ground with France.

463. Mr Blair told President Bush that if, in the event of a breach there were no action in the UN, the US and UK should take action.

464. Following a conversation with Dr Rice on 12 October, Sir David Manning reported that discussions between the US and France were continuing but the US Administration was determined to resolve the wording of the resolution the following week.¹⁶² He and Dr Rice also discussed:

- Dr Blix’s insistence on independence and legitimacy and the need to ensure he did not underestimate the tricks Saddam Hussein would play and the efforts he would make to obstruct the inspectors.
- Whether Saddam Hussein might refuse to allow the inspections to go ahead which “would be a casus belli”. The regime might collapse once rigorous inspections were taking place.

¹⁶² [Letter Manning to McDonald, 12 October 2002, 'Iraq: Conversation with Condi Rice'](#).

465. Sir David replied that the last “would be ideal” and reported: “To my surprise, Condi warmly agreed.”

466. Sir David commented that he had been left in little doubt that Washington’s patience was “wearing very thin”. He added that he had been struck by Dr Rice’s:

“... comment on the possible collapse of Saddam’s regime. Perhaps, even in the White House there is now a faint sense of disquiet about what a military campaign against Iraq, and its subsequent occupation, would involve. Long shot though it may be, the thought that the Iraqis might do the job themselves may seem increasingly attractive.”

467. Sir David Manning advised Mr Blair that a resolution was needed that week and the UK should:

- insist on material breach language in OP1;
- get the tightest inspection regime it could negotiate in OP5, taking account of Dr Blix’s legitimate concerns;
- look for language in OP10 that balanced commitment to consult with commitment to act; and
- consider pre-negotiating a second resolution which committed everyone to action “when Saddam is in breach” as a way through the “current impasse”.¹⁶³

468. Mr Blair spoke to President Bush on 14 October.

469. The conversation on Iraq focused primarily on the progress of the discussions on the draft UN resolution, including the need to find common ground with France and to take action if the UN did not respond.¹⁶⁴

470. Referring to the “Kosovo model”, Mr Blair said that it would allow a return to the Security Council for a further discussion in the event of a breach but it was clear that “if there were no UN action then we would take action ourselves”.

471. Mr Blair also underlined the importance of OP5; the key was for Saddam Hussein not only to allow inspectors in but also to co-operate fully with them and tell the truth about Iraq’s WMD holdings.

472. Commenting on President Bush’s public line that war was his last choice, Mr Blair said that had registered in Europe. They also discussed the possibility that the issue could be resolved peacefully. A tough inspections regime could embolden dissidents “a la Romania”. Mr Blair agreed that war was not inevitable but disarmament was; either through UN inspections or through enforcement.

¹⁶³ Minute Manning to Prime Minister, 14 October 2002, ‘Bush Call’.

¹⁶⁴ Letter Rycroft to Sedwill, 14 October 2002, ‘Iraq: Prime Minister’s Phone Call with Bush’.

473. Following the discussion, Mr Rycroft commissioned further advice on the conditions the US would want to impose on inspections.

474. France continued to pursue an explicit Security Council decision on any measures against Iraq, including military action.

475. France produced revised language in New York on 14 October which proposed that, in the event of a report from UNMOVIC or the IAEA of any serious failure by Iraq to comply with its obligations, the Security Council would meet to decide any measure, including the use of force.¹⁶⁵ Sir Jeremy Greenstock judged that was unlikely to be acceptable to the US.

476. Mr Ricketts advised Mr Straw that the French proposal was the first time that they had been willing to engage in textual discussion and that should be encouraged.¹⁶⁶

477. Mr Ricketts wrote that the US was considering seeking text which would decide that the Council should meet to assess how to meet its responsibility for international peace and security; and that Iraq would bear responsibility for the consequences. If that proved acceptable to the US, Mr Ricketts thought that implied a second Council decision and would “put us in the position of needing a second resolution: and therefore potentially at odds with the US at a later stage. But that is implicit in the Greenstock approach.”

478. No.10 officials discussed the position with Lord Goldsmith on 14 October.

479. The advice prepared for Lord Goldsmith focused on the implications of a failure to secure a resolution authorising the use of force.

480. It included the possibility of action in “exceptional circumstances” without a Security Council resolution, if it “was evident to and generally accepted by the international community as a whole” that Iraq had repudiated the cease-fire and military force was the only way to secure compliance.

481. Lord Goldsmith met Sir David Manning and Baroness Morgan to discuss Iraq on 14 October 2002.¹⁶⁷

482. The briefing note prepared for Lord Goldsmith advised him that the “French and Russians” were “insisting on a two resolution approach” whereas the Americans were “dead against”. There appeared to be a “stalemate” in the discussions, “with neither the

¹⁶⁵ Telegram 1963 UKMIS New York to FCO London, 15 October 2002, ‘Iraq: French Proposal and Second Iraqi Letter’.

¹⁶⁶ Minute Ricketts to Private Secretary [FCO], 15 October 2002, ‘Iraq Draft SCR: French Compromise Proposal’.

¹⁶⁷ [Minute Adams to Attorney General, 14 October 2002, ‘Iraq: Meeting with David Manning, 14 October’.](#)

French nor the US willing to back down on their approach”. That left “the UK in a very difficult position”:

“Unlike the French, we are committed (politically) to participating in any military action. But unlike the Americans, the Government needs to be sure that there is a secure legal basis ... given that the PM has stated on numerous occasions that any action will be in accordance with international law.”

483. Ms Adams told Lord Goldsmith that she had “no indication of precisely what Number 10 would like to discuss with you”, but she addressed three points:

- the need for the Council to “make clear that there has been a breach of the cease-fire conditions which is ‘sufficiently grave to undermine the basis or effective operation of the cease-fire’”;
- “what would be the position if the UK were to propose a second resolution which was then not adopted by the Council?”; and
- what would happen in the event of no resolution.

484. Addressing the second point, Ms Adams wrote that there was:

“... nothing to prevent us from tabling a draft second resolution authorising the use of force if, as expected, the Iraqis did not comply with the Council’s demands in the first resolution. But there is no guarantee that such a resolution would be adopted. The question then would be whether the perverse failure of the Council to adopt the resolution (perhaps because of a single veto) would justify recourse to unilateral action ...”

485. Ms Adams advised:

“This is a question which would have to be considered very carefully in the light of the circumstances at the time. The Law Officers advised in 1997 ... that there could be ‘exceptional circumstances in which although the Council had not made a determination of material breach it was evident to and generally accepted by the international community as a whole that Iraq had in effect repudiated the cease-fire and that a resort to military force to deal with the consequences of Iraq’s conduct was the only way to ensure compliance with the cease-fire conditions.’”

486. Ms Adams added:

“I understand this passage was included in the advice to cover the sort of situation where the Council was unable to act. But of course the counter view would be that if the Council has rejected a resolution authorising the use of force, then under the scheme of the Charter, it cannot be said that force is legally justified.”

487. Ms Adams recommended that if Lord Goldsmith had “concerns about the lawfulness of military action under any of these scenarios”, he should make that “very

clear at the meeting, as it is likely to increase the political efforts to achieve a satisfactory resolution”.

488. There is no record of the discussion.

489. Mr Straw separately sought urgent advice from Mr Wood on the practical consequences of acting without international legal authority.

490. On 15 October, Mr Straw’s Private Office asked Mr Wood for an urgent note about the practical consequences of the UK acting without international legal authority in using force against Iraq for the UK Government or individual Service personnel; whether they would be vulnerable to charges relating to unlawful use of force and therefore whether the legality of the UK’s actions would be determined in domestic courts; and whether the International Court of Justice could have any role.¹⁶⁸

491. Mr Wood replied the same day, outlining a number of potential consequences, including that such action might constitute a breach of the Ministerial Code, and the possible risk of civil litigation.¹⁶⁹ He stated that the advice had been provided “on the basis that we enter into an armed conflict which is clearly unlawful, without respectable legal arguments”; and that it was “therefore in the realm of extremely theoretical speculation”.

492. Mr Wood wrote that, while the legality of the conflict would not be directly in issue either in UK courts or the International Criminal Court, “the choice of lawful targets would be difficult if the objectives of the conflict were themselves unlawful”. In that context, it was “not inconceivable” that allegations of war crimes could be made on the basis that the objectives of the conflict were unlawful. In addition, it was “just conceivable” that an attempt could be made in the UK “domestic courts to launch a private prosecution for the crime of aggression”.

493. Mr Straw and Sir David Manning advised Mr Blair that two resolutions would be needed to authorise military action.

494. Mr Straw urged Mr Blair to give President Bush clear messages about the need for a two resolution approach to secure support in the UN and the legal authority required by the UK.

495. Secretary Powell told Mr Straw that President Bush had not been clear from the telephone conversation with Mr Blair, on 14 October, that Mr Blair needed two resolutions.¹⁷⁰

¹⁶⁸ [Minute McDonald to Legal Adviser, 15 October 2002, ‘Iraq’.](#)

¹⁶⁹ [Minute Wood to PS \[FCO\], 15 October 2002, ‘Iraq’.](#)

¹⁷⁰ Telegram 544 FCO London to Washington, 16 October 2002, ‘Iraq: My Conversation with US Secretary of State, 15 October’.

496. Mr Jonathan Powell marked the telegram to Mr Blair with the comment “Important”.¹⁷¹

497. In a minute to Mr Blair on 16 October, Mr Straw reported discussions with Secretary Powell on 14 and 15 October.¹⁷²

498. Mr Straw told Secretary Powell that he had spoken to Mr Blair on 13 October, who “had ... favoured a two resolution approach”. He had also told Secretary Powell:

“... legally and politically it was almost certain that we would need a second resolution explicitly authorising military action were the UK to be involved in such [military] action against Saddam.”

499. Mr Blair wrote alongside that point: “I don’t accept this in all circs.”¹⁷³

500. Mr Straw and Secretary Powell had also discussed the risks of acting without international backing and the problems of the “day after” which would be the “largest and most hazardous exercise in nation-building”; it would not be as straightforward as some thought.¹⁷⁴

501. Mr Straw told Secretary Powell that he felt:

“... with two resolutions we could close a deal with [President] Chirac, but otherwise Chirac would use every chance he had, of which there would be many, to stift [sic] both us and the US. And right now, the French had the votes and we did not.”

502. As he had agreed with Mr Blair, Mr Straw also set out the arguments for two resolutions, including:

- “In the real world, there was bound to be a further discussion in the S[e]curity C[ouncil] if there was any non-compliance by the Iraqis, and (since we did not control the agenda) a second resolution. On this ... the only question was who took the initiative – us (US/UK) or others.”
- He “accepted that Blix could not determine whether the US could go to war but we were all bound to rely on Blix’s reports as to the facts about non-compliance, on which the US and others would then make their own judgements”.

503. In relation to the political environment in the UK, Mr Straw had told Secretary Powell that he was:

“... as certain as [he] could be that there would be insufficient support in Cabinet and the parliamentary Party to allow us to go to war without clear UN backing. I was

¹⁷¹ Manuscript comment Powell to PM on Telegram 544 FCO London to Washington, 16 October 2002, ‘Iraq: My Conversation with US Secretary of State, 15 October’.

¹⁷² [Minute Straw to Prime Minister, 16 October 2002, ‘Iraq: Conversation with Powell: No US Interlocutors’.](#)

¹⁷³ [Manuscript comment Blair on Minute Straw to Prime Minister, 16 October 2002, ‘Iraq: Conversation with Powell: No US Interlocutors’.](#)

¹⁷⁴ [Minute Straw to Prime Minister, 16 October 2002, ‘Iraq: Conversation with Powell: No US Interlocutors’.](#)

completely certain that there would be monumental political controversy: and this ran into the legal problems which were more hazardous for us than the US. I was getting advice on the domestic legal consequences of such military action and would share this with him [Secretary Powell].”

504. Finally, Mr Straw recorded that he had asked whether the military preparations were such that war was inevitable and had been told “emphatically” that they were not. Secretary Powell had told him that, as President Bush got into the issue, he became more nervous of the outcome and he was watching the opinion polls carefully. Those showed a big majority against military action without UN backing.

Security Council open debate, 16 and 17 October 2002

505. An open debate of the Security Council on 16 and 17 October demonstrated the extent of interest amongst Member States about the provisions of a further resolution on Iraq and concerns about its implications.

506. Statements by the five Permanent Members of the Security Council made clear their strongly held and very different perspectives about events since the late 1990s; and the reasons why, in addition to Iraq’s position, there had been no progress in implementing the comprehensive approach towards Iraq provided for by resolution 1284 adopted in December 1999.

507. The divergence in their positions on the way ahead remained.

508. The Non-Aligned Movement (NAM) asked on 10 October for an “emergency open debate on the situation in Iraq”.¹⁷⁵ In its view, all Members States and Permanent Observers of the UN should be “afforded an opportunity to air their views” on the draft resolution on Iraq because the issues were “of importance to the entire membership ... and the future role of the United Nations in the maintenance of international peace and security”. It was “imperative for the Security Council to hear the views of the wider ... membership” before it adopted “such an important resolution”.

509. An open debate of the Council, attended by more than 50 Member States or Permanent Observers, in addition to the members of the Security Council, took place on 16 and 17 October.¹⁷⁶

¹⁷⁵ UN Security Council, ‘Letter dated 10 October 2002 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council’ (S/2002/1132).

¹⁷⁶ UN Security Council, ‘4625th Meeting Wednesday 16 October 2002’ (S/PV.4625, S/PV.4625 Resumption 1); UN Security Council, ‘4625th Meeting Thursday 17 October 2002’ (S/PV.4625, S/PV.4625 Resumption 2, S/PV.4625 Resumption 3).

510. In his absence, a statement from Mr Annan was read to the Council by Ms Louise Fréchette, Deputy Secretary-General. In addition to reiterating the points he had made on 12 September (see Section 3.4), Mr Annan also stated that:

- Iraq’s “failure to comply fully” with the resolutions of the Council was one of the “gravest and most serious” situations facing the Council.
- The Council’s primary responsibility for the maintenance of international peace and security, conferred in Article 24 of the UN Charter, was a grave responsibility. It was “essential” for the Council to face up to that responsibility.
- The situation also presented an opportunity to “strengthen international co-operation, the rule of law and the UN”.
- Iraq’s decision to readmit the inspectors without condition was “an important first step, but only a first step”.
- Full compliance remained “indispensable”, and had “not yet happened”. The Council would expect “unfettered access”. A new resolution “strengthening the inspectors’ hands” would be “appropriate”: “The new measures must be firm, effective, credible and reasonable.”
- If Iraq failed “to make use of this last chance, and if its defiance continues”, the Council would “have to face its responsibilities”. It did that “best and most effectively” when its members worked “in unison”.

511. Mr Annan concluded by “urging” the Council:

“... to make every effort to retain their unity of purpose. If you allow yourselves to be divided, the authority and credibility of the ... [UN] will undoubtedly suffer; but if you act in unison, you will have a greater impact and a better chance of achieving your objective, which must be a comprehensive solution that includes the suspension and eventual ending of the sanctions that are causing such hardship for the Iraqi people, as well as the timely implementation of other provisions of your resolutions. If the Council succeeds ... it will strengthen the United Nations in a way that will place future generations in its debt.”

512. During the debate that followed, a wide range of views and concerns were aired reflecting the positions of the participants.

513. Mr Mohammed Aldouri, Iraqi Permanent Representative to the UN, criticised the US Administration’s “plans to invade and occupy Iraq, using military force” and argued that it wanted “a blank cheque” from the Security Council to “colonize Iraq ... [and] subject the entire region to American hegemony”. He stated that there were “no nuclear, chemical and biological weapons of mass destruction in Iraq and that Iraq had implemented many years ago the disarmament requirements” in resolution 687 (1991).

514. Following a description of Iraq’s position on its implementation of resolution 687 and the conduct of inspectors before their departure in December 1998, “as instructed by the United States”, and criticism of the implementation of the sanctions regime,

Mr Aldouri stated that Iraq had taken the initiative of opening a dialogue with Mr Annan. That had achieved “some progress” but the US had exerted pressure “which prevented the Council from participating in efforts to seek a comprehensive solution”.

515. The Iraqi Government had “agreed, unconditionally, to the return” of inspectors on 16 September and agreed arrangements with Dr Blix and Dr ElBaradei in Vienna for the return of inspectors by 19 October. The US had hampered those arrangements by “calling for the imposition of unfair, impossible and arbitrary conditions on Iraq”.

516. Mr Aldouri concluded by reiterating that Iraq “had pledged to co-operate with inspectors in every possible way so as to facilitate their task of ascertaining” there were “no weapons of mass destruction in Iraq”. There was “absolutely no need for adoption of a new Security Council resolution”.

517. Following the statements by non-members of the Security Council, Sir Jeremy Greenstock set out the UK position in his speech on 17 October. He stated that the issues being debated went much wider than Iraq and included:

- “the security of the whole neighbourhood of Iraq”;
- “the reinforcement of our collective effort to eliminate terrorism”;
- “justice for Palestine and security for Israel within the law”;
- “the role of the Security Council when serious matters of national security are before its members”; and
- “the overall effectiveness of the United Nations itself”.

518. Sir Jeremy emphasised that the UK’s “firm objective” was “the complete disarmament of Iraq in the area of weapons of mass destruction, by peaceful means”, and “a peaceful resolution to the current crisis surrounding Iraq”. But ensuring that there was such a solution lay “in the hands of Iraq”.

519. Addressing Iraq’s response to the conditions of the cease-fire in 1991, Sir Jeremy stated that Iraq remained “in material breach of these obligations”. He added:

“We all know of the myriad ways in which Iraq sought, almost immediately after inspections began to frustrate inspections and intimidate inspectors.

“We all know of the succession of allegedly final declarations ... We all know that Iraq tried to limit and hinder inspections to the extent that in August 1998 the then head of ... UNSCOM said it was impossible for him to do his job. We all know of the outstanding weapons of mass destruction for which UNSCOM was unable to account. We all know of the multiple warnings sent to Iraq ...

“No shadow of a doubt remains that Iraq has defied the United Nations ...

“Iraq could have invited inspectors back without conditions at any time ... Sanctions could have been lifted ... Only Baghdad’s insistence on retaining weapons of mass

destruction capability has blocked that path ... Only under recent intense diplomatic pressure, and particularly the threat of military action, has the Iraqi Government letter of 16 September ... emerged.”

520. Sir Jeremy stated that Iraq’s:

“... words, while necessary, are of themselves not enough. We remain deeply perturbed by evidence that Iraq believes it can hide its weapons of mass destruction rather than declare them, that it can again fool the inspectors and play games with them. The United Kingdom analysis, backed by reliable intelligence, indicates that Iraq still possesses chemical and biological materials, has continued to produce them, has sought to weaponise them, and has active military plans for the deployment of such weapons. The United Kingdom analysis, backed up by reliable intelligence, shows that Iraq has in recent years tried to buy multiple components relevant to the production of a nuclear bomb. The United Kingdom analysis, backed by reliable intelligence, points to the retention of extended-range missiles and to the employment of hundreds of people in projects to develop weapons with a range of over 1,000 kilometres that could carry both weapons of mass destruction and conventional warheads.

“It would be an abdication of responsibility to ignore this challenge to the international community. We cannot afford to bury our heads in the sand and pretend the problem does not exist. We cannot accept the Iraqi Government’s word at face value, knowing what we know.”

521. Sir Jeremy stated that the UK wished “to see the Security Council ... express its will and its unity in a clear strong resolution”, which gave the Iraqi regime “an unequivocal choice” to complete WMD “disarmament and normal membership of the international community, or refusal and the inevitable consequences”. The offer to Iraq was genuine and represented “a single final chance for Iraq”. If that was understood and the Council kept its nerve, there might be:

“... a prospect that Iraq will finally comply with its obligations and that military action can be averted. If we fail to send that tough signal, we shall be ignoring the realities. The weaker we collectively appear, the more probable it is that military action will be the outcome.”

522. Sir Jeremy added that effective inspections were an “essential component” of the message and there should be no return to the “ambiguous modalities” and exceptions of the past. He questioned whether the language in recent Iraqi letters about the practical arrangements for inspections was sufficient and called for the arrangements to be made legally binding.

523. Sir Jeremy said he had “heard loud and clear the concerns of many speakers that, on a decision so crucial, we should not rush into a war”; and that “any Iraqi violations must be discussed by the Security Council”. If either Dr Blix or Dr ElBaradei reported

that Iraq was “not fully co-operating with the inspections process”, the UK Government would “expect there to be a detailed Security Council discussion”. The UK would “want at that point to hear the views” of the other members of the Council.

524. Addressing the comments by a number of speakers that the non-permanent members of the Council had “been kept in the dark” or even humiliated, Sir Jeremy said he believed the facts had been “misrepresented”. None of the permanent members had:

“... been in a position so far to bring a draft resolution to each other here or to the Council as a whole. The permanent five have done no negotiating on a text in New York. Discussion in capitals has taken place on bilateral channels. Of course our Governments have been working to make a negotiation worthwhile ... Once there is a draft with a prospect of broad acceptance in the Council, no Council member will be excluded from discussion ...”

525. Sir Jeremy concluded by referring to Iraq’s breach of other Security Council obligations and called on Iraq to rectify that position.

526. The description of Iraq’s WMD capabilities in Sir Jeremy Greenstock’s statement reflected the judgements in the UK dossier on Iraq and the JIC Assessment of 11 October.

527. Setting out China’s position, Mr Zhang Yishan, Chinese Deputy Permanent Representative to the UN, stated that the “absence for so long of a solution to the question of Iraq” had “not served peace and stability in the Gulf region or the authority and credibility of the Security Council”. Nor had it “been conducive to improving the humanitarian situation in Iraq”. “An early and appropriate settlement” was “the important and urgent task” for the international community and the UN in particular.

528. The Chinese Government had “consistently maintained that Iraq should unconditionally and strictly implement the relevant Security Council [resolutions] ... and fully co-operate with the United Nations” on inspections and other issues.

529. Commenting that the number of participants attested to the importance of the issues and the concerns about the implications for international relations, Mr Zhang added:

“The overwhelming majority of States have emphasised during the debate that the question of Iraq should be settled within the framework of the United Nations, that the Security Council should play a central role in the process and that the unity of the Security Council was of paramount importance.

“A number of countries, especially the Arab States, have also expressed their strong wish for peace not war. They have pointed out that war can only further exacerbate the already tense situation in the Middle East. The independence, sovereignty and territorial integrity of Iraq, Kuwait and other countries of the region should be

respected. These views and positions are very important, and we agree with them. We hope the Security Council will give them serious consideration.”

530. Mr Zhang stated that disarmament was “at the core of the Iraqi question”, but: “Only when the ... weapons inspectors return to Iraq and conduct effective inspections can the truth ultimately emerge.” He welcomed the agreements reached in Vienna for inspections, adding that China hoped Iraq would “honour its commitments and translate them into actual deeds”, and it believed weapons inspectors should return:

“... as soon as possible to conduct independent, fair and professional inspections and report truthfully and in a timely manner to the Council the results of such inspections, so that the Council can draw objective, fair and realistic conclusions ...

“Under such circumstances, it is not that we cannot consider the adoption by the Council of a new resolution ... Such a draft ... however, should be practical and feasible, in the interests of an appropriate settlement ...”

531. Mr Zhang concluded:

“The Iraqi question has reached a critical juncture. The international community has high hopes of the Security Council. It hopes that the Council will be able to effectively undertake its responsibilities to maintain international peace and security and take action to safeguard the purposes and principles of the Charter. The Chinese Government is ready to join other countries in promoting an appropriate settlement of the Iraqi question within the Security Council.”

532. Ambassador Negroponte described President Bush’s speech to the General Assembly on 12 September as a “declaration of purpose, not a declaration of war” which had:

“... put the United Nations in the spotlight and challenged the international community to restore the Security Council’s relevance on this issue by confronting this threat to international peace and security and 11 years of failure by Iraq to accept the demands made of it after its invasion and destruction of Kuwait.”

533. The threat from Iraq was “serious and unique”, arising directly from Iraq’s “history of aggression and brutality, its defiance of the international community and its drive towards an arsenal of terror and destruction”. It was a regime which had:

- “invaded two of its neighbours and tried to annihilate one of them”;
- “used chemical weapons on its neighbours and on its very own citizens”;
- “lied about its development of weapons of mass destruction”; and
- “signed the Nuclear Non-Proliferation Treaty and then proceeded to develop a major nuclear weapons programme”.

534. Since 1991, the Council had “tried in every way to bring Iraq to peaceful fulfilment of the ... cease-fire”, but the Iraqi regime had “violated all of its obligations”.

535. Ambassador Negroponte stated that the Council was meeting “to publicly discuss the message that the Security Council will send to Iraq and ... Saddam Hussein”. The US view had been clear since 12 September; there could be:

“... no more business as usual or toothless resolutions that Iraq will continue to ignore. Our intent is that the Council should meet the challenge and stand firm, resolute, and united in adopting a draft resolution that holds Iraq to its commitments, lays out clearly what Iraq must do to comply and states that there will be consequences if Iraq refuses to do so.”

536. The US expected the Council to act, and that when it adopted a resolution which sent “a clear and united message to Iraq that it must fulfil its obligations”, Iraq would have a choice “whether to take this last chance to comply”. The US hoped Iraq would comply, but if it did not, the US would “seek compliance and disarmament by other means”.

537. Addressing the role of the UN, Ambassador Negroponte described the world’s “united response” to Iraq’s aggression in 1990 and 1991 and the resolutions passed by the Security Council as “unique and ground-breaking”, which “brought the world body closest to the visions of its founders”. But in the ensuing 10 years, Iraq’s “failure to implement” the “peace terms” had become “a question of enormous significance”. The challenge was whether the UN could “perform the function its founders envisaged”.

538. The US hoped the answer would be “Yes”. Since 12 September it had “seen signs of emerging Council unity during intensive discussions here and in capitals”. But it had “also seen clear signs” that Iraq was “reverting to form”, including inviting inspectors to return without conditions, then placing conditions, and responding to UNMOVIC and IAEA requests for clarity with “obfuscation and multiple answers”. Iraq had shown it hoped “to return to the word games, ephemeral commitments and misdirection of the past, while continuing to develop the world’s deadliest weapons”. That was “why a clear, firm message from the Council was so important”.

539. The Council and the UN membership would do “no favour” to the people of Iraq, the countries of the region or the credibility of the UN if they created “the impression that an outcome in which Iraq retains its chemical, biological and nuclear weapons programmes is an acceptable or possible outcome”. A consensus had been forming in the Council that “the time for denial, deception and delay” had “come to an end and that Iraq must be verifiably disarmed”. There was “a growing agreement that there must be immediate, unconditional and unrestricted inspections of all Iraqi facilities that may have a role in the development of weapons of mass destruction”.

540. Ambassador Negroponte stated that the US and UK had shared “the elements of our vision of a resolution that will address Iraq’s material breach of its obligations ... specify the types of access and authorities that UNMOVIC and IAEA must have to be able effectively to verify Iraqi disarmament, make clear Iraq’s obligations and articulate to Iraq that there will be consequences to non-compliance” with other members of

the Council. The US believed that the “best way to ensure Iraqi compliance” was one resolution which was “firm and unambiguous in its message”. A resolution “with clear and immediate requirements ... that Iraq would voluntarily meet if it chooses to co-operate” would be placed before the Council “in the near future”. Dr Blix and Dr ElBaradei had “made it clear that they would welcome a new ... resolution that strengthens their hands and allows for more effective inspections”.

541. Ambassador Negroponte concluded:

“Now, the spotlight is back on the Security Council. We hope and expect that the Council will act and play its proper role as a safeguard of our common security. If it fails to do so, then we and other States will be forced to act.

“The approach of the United States and United Kingdom aims at clarity ... with respect to what Iraq must now do to fulfil its 1991 obligations to restore peace and security in the region ... what inspectors must be allowed to do; and our seriousness. Without such clarity there is too high a danger that Iraq will miscalculate. And miscalculation by Iraq will lead to precisely the military action we all hope to avoid.

“The Security Council faces a defining moment. The Council works best on Iraq when it works together ... when the Council is resolute and united, its actions produce results. We must stand together and show Iraq that its failure to comply will no longer be tolerated.”

542. Mr Jean-David Levitte, French Permanent Representative to the UN, stated that the international community had been unable, since December 1998, to verify whether Iraq possessed weapons of mass destruction and whether it was “pursuing programmes to that end”. By refusing to allow the return of inspectors, Iraq had defied the authority of the Council. “Even though France” did “not possess irrefutable proof”, there were “several indications” that Iraq had used the absence (of inspectors) to “pursue or resume its prohibited programmes, notably in the chemical and biological areas”. The “behaviour of the Baghdad authorities” had “given rise to strong suspicions”. That situation could “not be tolerated”; proliferation of WMD and their delivery systems, “in Iraq or elsewhere”, constituted “a serious threat to international security”. In the face of that challenge, France considered the objective was the disarmament of Iraq and that implied “the return of the inspectors and the resumption of monitoring on the ground”.

543. Iraq had confirmed the practical arrangements for inspections agreed in Vienna, and inspectors “must now return ... as soon as possible”, but the UN would need to verify the sincerity of Iraq’s commitments:

“In the light of past experience, the international community cannot be satisfied with words alone. Iraq must translate its promises into concrete, verifiable and lasting acts.”

544. Mr Levitte observed that the outcome of past UN inspections had been “very positive. UNSCOM had destroyed more WMD between 1991 and 1998 than military operations in 1991”, and: “In 1998, the IAEA believed it had succeeded in dismantling the Iraqi nuclear programme. It was not the inspections that failed, but the international community’s ability to enforce its decisions in a sufficiently firm and united manner.” He added that France was “fully disposed to support measures strengthening the inspection regime, insofar as that proves necessary to facilitate the inspectors’ work”. But it rejected “measures that would ... multiply the risk of incidents without improving the effectiveness” of UNMOVIC and the IAEA. In addition, France “also set store” on the “multinational, independent nature of the inspectors” and any measure which countered that “would be tantamount to repeating past mistakes”. The Council should be guided in its choices by Dr Blix and Dr ElBaradei.

545. Addressing the role of the Council, Mr Levitte stated that France attached “importance to the principle of collective security”. That was why it was proposing a two-stage approach. In the first, the Council “should adopt a resolution clearly stating the ‘rules of the game’”. It would “define the inspection regime with a view to ensuring the inspectors” could “accomplish their mission fully and without any hindrance”. It “should also send a clear warning to Iraq” that the Council would “not tolerate new violations”.

546. In the second stage, if the inspectors observed that Iraq was “refusing to co-operate fully” with them, the Council “would meet immediately to decide on the appropriate measures to take, without ruling anything out a priori”.

547. France’s view was that such an approach, which was also the one proposed by Mr Annan in his statement to the Council, was “the only one” that could offer “unity, cohesion, fairness and legitimacy”. Unity of the Council was “absolutely vital”. In the past Iraq had “taken advantage of divisions ... to renege on its obligations and defy the Council’s authority”:

“Only a united front will convince it not to repeat this error. Only a two-stage approach will allow us to preserve our Council’s unity; any kind of ‘automaticity’ in the use of force will profoundly divide us.

“The two-stage approach is, rather, the choice of cohesion. United in sending Iraq a message of firmness in an initial resolution, the Security Council will, we have no doubt, remain united to assume all of its responsibilities during the second stage, should Iraq violate its commitments.”

548. Mr Levitte added that the Council “should also demonstrate fairness by showing Iraq that war is not inevitable if it fully and scrupulously fulfils its obligations”. That would “open the way to the suspension then lifting of sanctions in accordance with Security Council resolutions”. Given the “gravity of the situation”, it was “essential for the Security Council to stay in charge of the process every step of the way”. That was “fundamental for the legitimacy of our action and essential for maintaining unanimous support for our common objectives”.

549. Mr Levitte concluded the Council was discussing:

“... the future of the international order, relations between North and South, and notably, our relationship with the Arab world. An action of uncertain legitimacy ... that does not enjoy the support of the international community, would not be understood and could gravely affect these relations.

“By placing this action within the framework of collective security, the French approach aims to ensure its legitimacy and effectiveness, while respecting the principles defined by the United Nations Charter.”

550. In his opening remarks, Mr Sergei Lavrov, Russian Permanent Representative to the UN, stated:

“For almost 12 years now, the international community has sought a way to settle the Iraqi situation. Throughout that time the Security Council has adopted more than 50 resolutions and endured several severe crises. The current ongoing impasse is rooted not only in the position of the Iraqi side, although we are far from condoning Baghdad’s behaviour, while the need for Iraq to meet all its obligations ... has been frequently alluded to ... We fully support such assessments. At the same time, in a number of instances the Security Council has been unable to hold up its own end with respect to an objective assessment of the situation and to meeting its own obligations to work for a comprehensive settlement ...”

551. After making similar remarks to Mr Levitte on the overall achievements of the inspectors, Mr Lavrov stated that it was unfortunate that the Council “was not able to recognise” the opinion of the IAEA in 1998 that its task could be converted into a “long-term monitoring regime”. That conclusion had been supported in a letter from Dr ElBaradei to the President of the Council on 14 October, which had “clearly indicated” there were “no outstanding unresolved nuclear issues requiring further clarification”. Mr Lavrov added that:

- There was a “virtually complete picture of the missile situation”.
- A “significant portion of the stocks of chemical weapons” had been destroyed, “although there were some outstanding issues requiring further clarification”.
- The “largest problems persisted in the biological sphere”.
- “But on these issues and all the outstanding issues, solutions were possible. At any rate, documents of the former UNSCOM testify that such was the case.”
- “In December 1998 the head of the former UNSCOM [Dr Richard Butler] provoked a crisis, arbitrarily withdrawing inspectors from Iraq without the approval of the Security Council. His report came to the Security Council only after [the] United States and the United Kingdom had launched military strikes against Iraq.”

- After the strikes, the US Government stated they “had dealt with the issue of eliminating the vestiges of Iraqi weapons of mass destruction programmes, although the relevant information was not given to the Security Council”.¹⁷⁷
- Through its “acts of provocation” the former UNSCOM had “fully discredited itself and simultaneously undermined the pre-December 1998 prospects for reaching a comprehensive settlement”.
- The “Council then found itself in a profound crisis not of its own making on the question of Iraq and for a long time was unable to get out of the impasse”.
- Resolution 1284 “allowed us to renew the inspections on a new genuinely international basis”, but it “contained extremely ambiguous criteria for suspension of the sanctions”. That gave individual Council members the opportunity “to maintain the embargo indefinitely”. Russia had made proposals to give “concrete substance to the criteria of sanctions suspension in the context of a comprehensive settlement”, which remained extant.
- The Security Council had implemented the provisions of resolution 1382 (2001) in respect of the creation of a Goods Review List, but it had not pursued the “commitment to a comprehensive settlement on the basis of existing Council decisions”.
- Russia would “do its utmost to prevent a renewal” of Iraq’s WMD programmes, and was “prepared to co-operate” on that “with all States”. But Russia, “like all unbiased observers”, had “not seen any kind of persuasive evidence that there are weapons of mass destruction in Iraq or programmes to develop them”. Nor had it “seen any other facts that would situate Iraq in the context of combating terrorism”.
- The “immediate redeployment of the international inspectors to Iraq” was the “only way to remove any doubts”.

552. Mr Lavrov stated that Iraq had “consented” to an unconditional return of inspectors and the “new, enhanced and very effective parameters for conducting inspections”. There was “everything we need to ensure there is no renewal of the proscribed military programmes in Iraq” and for “a political and diplomatic settlement of the crisis”. There was “no need to delay deployment” of the inspectors. He added:

“If the Council has a prevailing desire to give further support to UNMOVIC and the IAEA in the interest of the effective implementation of the existing resolutions ... we will be prepared to look at the relevant proposals, including and based on the great importance of maintaining Council unity.”

553. In his concluding remarks, Mr Lavrov stated that Russia was “calling for collective steps by the international community” and unilateral actions did “not facilitate the efforts

¹⁷⁷ The UK assessment of the impact of Operation Desert Fox is set out in Section 4.1.

for a settlement”. The Council should continue to press for Iraq’s compliance with all resolutions. The crux of the matter was:

“If we are all sincerely interested in the non-renewal of weapons of mass destruction ... What are we waiting for? ... If we are talking not about the deployment of the inspectors but about an attempt to use the Security Council to create a legal basis for the use of force, or even for a regime change of a United Nations Member State – and this goal has been constantly and publicly alluded to by several officials – then we see no way how the Security Council could give its consent to that ...

“The Charter powers of the Security Council allow it at any time to make decisions about any measures which could be required to eliminate real threats. The important thing now is to achieve a comprehensive settlement based on political and diplomatic methods, with the central role of the Security Council and in strict compliance with Council resolutions on the norms of international law.

“... we are prepared to interact on this platform with other members of the Security Council. This is what we have been called on to do by the vast majority of the international community during the discussions ... We are convinced that Security Council members will not be able to ignore this call.”

554. In a second intervention, Mr Aldouri made a number of further points, including:

- The Council was “fully aware that the only objectives of the approaching war are oil, wealth and hegemony ... the world is now split into two and that the larger part favours peace ...” He was in the latter camp.
- The future of the UN had “recently been jeopardised by the statement of one major Power that, if the United Nations failed to take into account the interests of that State, it would go its own way”.
- One State had adopted war legislation during the debate, and that was “a virtual declaration of war”.
- Iraq’s doors were “open” to the inspectors. Iraq had “full trust” in Dr Blix, and “he and his teams will be welcomed in Iraq”. Iraq’s “hands were now clean” and there were “no weapons of mass destruction in Iraq”. It hoped the inspectors would “return soon” so that they “could tell the international community that Iraq had no WMD. Iraq would not “in any way hinder the work of the inspectors”.
- American and British officials had “made clear statements to the effect that sanctions and the embargo will never be lifted until there has been ‘regime change’ in Iraq”.

555. The report of the second day of the debate from the UK Mission in New York stated that the Security Council was “almost unanimously open to a new resolution” that

strengthened inspections.¹⁷⁸ There was overwhelming support for two stages “or at least a continued central role for the Council” in authorising military action. There was “an overwhelming dislike of unilateral action and strong desire for [a] diplomatic solution”.

556. Sir John Holmes advised that France was likely to stand firm on the need for a two stage approach, which would leave the UK in an uncomfortable dilemma.

557. Sir John Holmes advised that France thought that it was winning the argument and did not think that much would happen until the debate on Iraq in the Security Council on 16 October.¹⁷⁹ France “remained convinced of the need for the international community to stay united to avoid an explosion of unrest and terrorism”. It was concerned about “the catastrophic consequences of a war on Iraq without clear proof of Saddam’s WMD ambitions and full international, including Arab, support”. France would “nevertheless” be:

“... ready to support military action if the full cycle of inspections/renewed (serious) Iraqi misbehaviour/international agreement can be gone through, and have confirmed that someone else’s veto of a second resolution would not deter them if they were convinced of the need for action. But they are uncomfortably aware that there may ... not be time available for this full cycle to be gone through before the presumed climatic window ... for military action closes.”

558. That led to two reflections which were “mutually contradictory”: that the US was “bent on war come what may ... and are only looking for the UN to endorse a casus belli” or that “even the US are not mad enough to embark on military action ... without significant international support”. Both led “the French to think that they should stand firm”.

559. Sir John concluded that, if the deadlock was not broken, the UK risked “being left in the most uncomfortable position of all, choosing whether to follow the US without UN cover, with all that entails, domestically and internationally”. He understood the UK’s “reluctance to get squeezed between the Americans and the French”, but suggested that Mr Blair might have a “crucial” role.

The US offers compromise language for OP10

560. The US tabled compromise language on 16 October intended to bridge the difference between the US and French positions, deliberately creating ambiguity by stating that the Security Council would “consider” reports of a breach, not “decide” if a breach existed.

561. That language remained virtually unchanged in the final resolution.

¹⁷⁸ Telegram 1992 UKMIS New York to FCO London, 17 October 2002, ‘Iraq: Security Council Open Debate: Day 2’.

¹⁷⁹ Telegram 597 Paris to FCO London, 15 October 2002, ‘Iraq: French Thinking’.

562. Sir Jeremy Greenstock reported that US “understood and accepted” the UK’s need for a second resolution but did not want this “spelt out” in the resolution.

563. Reporting on discussions in New York on 16 October, Sir Jeremy Greenstock wrote that the latest US draft was intended to show that the US had taken French concerns seriously and made an effort to meet them halfway.¹⁸⁰ The reference to “all necessary means” had been removed and the draft provided for a Security Council meeting. The US would not agree to the Council “explicitly taking the decision to approve force; but that did not mean that the Council would not take it”. Sir Jeremy reported that President Bush had personally approved the draft text in OP10.

564. Sir Jeremy also reported that he had told Ambassador Negroponte that Mr Straw had made clear to Secretary Powell that the UK “needed a second resolution. It was extremely unlikely we could find a legal basis without it.” The US “understood and accepted” the UK need for a second resolution; “but it didn’t have to be spelt out in the resolution”. Sir Jeremy had agreed but warned that, if the formulation in the draft “made it through the Council, the explanations of vote were likely to make it unequivocally clear there needed to be a second resolution”.

565. In relation to a discussion about the political importance of interviews to the US, Sir Jeremy reported that the language on interviews would be unchanged. In response to his concerns that the draft language would make it harder to secure interviews and that Dr Blix was likely to oppose it, Ambassador Negroponte had said the arrangements were discretionary.

566. Sir Jeremy also reported that the French Mission had been pleased with the indications of US movement, but were likely to suggest France should “push for an amendment saying that the Council would convene immediately to ‘consider any measures’”. He had warned Mr Levitte that there would be “a very big reaction” if the compromise was rejected.

567. Sir Jeremy concluded that the new text had a “good chance of being a basis for progress so long as the French are not foolish enough to reject it”. It was clear the US had “no appetite to give more ground”.

¹⁸⁰ [Telegram 1983 UKMIS New York to FCO London, 16 October 2002, ‘Iraq: US Compromises and UK Intervention’.](#)

568. Sir Michael Wood drew the Inquiry's attention to the "American compromise language" handed over in New York by Ambassador Negroonte to Sir Jeremy Greenstock.¹⁸¹ It stated that the Security Council would:

"... convene immediately, upon receipt of a report ... [of a breach] in order to consider the situation and the need for full compliance with all the relevant Security Council resolutions in order to restore international peace and security."

569. That paragraph remained virtually unchanged throughout the rest of the negotiation and became OP12 of resolution 1441.

570. Before a meeting planned for 17 October, Mr Straw sent a handwritten letter to Mr Blair addressing the differences of view within the US Administration.¹⁸²

571. Mr Straw wrote that Mr Blair should read the record of his conversation with Secretary Powell, which would give him a "flavour of the intense and dangerous arguments in the Administration".

572. In response to Mr Blair's question about whether Secretary Powell was "winning", Mr Straw wrote that "he should win in the end", but Mr Blair had a critical role to play. Mr Straw advised that Mr Blair now needed "to give some clear messages" to President Bush that:

"... we'll have to settle for a two resolution approach; that it is safe to do so; and that the non-UN approach being pushed by Cheney et al would be a catastrophe for the US, and whatever your personal sentiment, not something where you would get support, still less obtain legal authority. In other words, you need to tell him that you have politics too. At present, partly because they are mesmerised with your standing in British politics, they (White House) take your support for any US position for granted. This (a) is to misread your position (b) weakens people like Powell."

573. Mr Straw concluded:

"David and I can work up a good case for two resolutions to put to Bush – not a climb-down or a wimp-out, but a way of squaring – and then cornering Chirac – by a private deal with him on the second resolution."

574. Sir David Manning spoke twice to Dr Rice on 16 October.

575. In the first conversation they discussed possible wording for the draft resolution which avoided conceding that the Security Council would "decide" on the action to be taken in the event of a report of a serious breach by Iraq and leave the question of a decision ambiguous.¹⁸³

¹⁸¹ Statement, 15 March 2011, page 8, quoting Telegram 1983 UKMIS New York to FCO London, 16 October 2002, 'Iraq: US Compromises and UK Intervention'.

¹⁸² [Letter \(handwritten\) Straw to Prime Minister, 16 October 2002, 'Iraq: US'](#).

¹⁸³ Letter Manning to McDonald, 16 October 2002, 'Iraq: Conversation with Condi Rice'.

576. Sir David and Dr Rice agreed that everyone knew that the Security Council would have to meet if Dr Blix reported that the Iraqis were in breach; and that everyone knew that the French could table another resolution at that point if they wanted to. Sir David told Dr Rice that “it was important to signal, through the new resolution, that the Security Council was united in its determination to support Blix and bring the maximum pressure to bear on Saddam to disarm. We had to go through this process.”

577. Mr Powell asked, “Where does this leave us with the AG [Attorney General]?”¹⁸⁴

578. Sir David responded:

“Can’t say at this stage.

- (i) Will almost certainly be the beginning not the end of the negotiation with the French.
- (ii) If we have a material breach in OP1 with an open OP10 (ie consultations) we shall still be in the same place with the AG as before – at least I presume so. Still better for us to get a pre-cooked second resolution.”¹⁸⁵

579. In the second conversation, Dr Rice told Sir David that the US had agreed to put new language “in play” while ensuring that it remained clear to everyone that the US would insist on safeguarding its freedom to act if the UN would not.¹⁸⁶

580. Sir David Manning also wrote to Mr Powell, pursuing the idea that Mr Blair could suggest a private agreement to President Bush on the text of a second resolution authorising “all necessary means”, which the UK would table at the UN Security Council “if and when appropriate”.¹⁸⁷ Sir David thought it “could be a tough sell” but Sir Jeremy Greenstock thought it was “possible”. Sir David added: “This would give us legal cover.”

581. Mr Powell marked the minute to Mr Blair “to see”.¹⁸⁸

582. Mr Straw clearly expected that in response to a breach, a second resolution would be tabled.

583. In a conversation with Mr de Villepin on 17 October, Mr Straw encouraged France to accept the US language, including by pointing out that France could set out its interpretation in an explanation of its vote, “consider” was an active verb implying a subsequent decision, and a two stage approach would be required.

¹⁸⁴ Manuscript comment Powell to Manning on Letter Manning to McDonald, 16 October 2002, ‘Iraq: Conversation with Condi Rice’.

¹⁸⁵ Manuscript comment Manning to Powell, 16 October 2002, on Letter Manning to McDonald, 16 October 2002, ‘Iraq: Conversation with Condi Rice’.

¹⁸⁶ Letter Manning to McDonald, 16 October 2002, ‘Iraq: Conversation with Condi Rice’.

¹⁸⁷ Minute Manning to Powell, 16 October 2002, ‘Iraq: The Second Resolution Dilemma’.

¹⁸⁸ Manuscript comment Powell to PM on Minute Manning to Powell, 16 October 2002, ‘Iraq: The Second Resolution Dilemma’.

584. Mr de Villepin made clear that the decision would be made by President Chirac.

585. In the conversation with Mr de Villepin on 17 October, Mr Straw reminded him of his “undertaking not to veto” a second resolution “if Iraq were obviously in breach, and of his suggestion that France might participate in military action even if someone else had vetoed (following the Kosovo precedent)”. Mr de Villepin had not demurred.¹⁸⁹

586. Mr Straw told Mr de Villepin that Secretary Powell had “moved mountains to accommodate French concerns” and that the draft resolution “referred explicitly to a further meeting of the Council”:

“The US could not accept language requiring a further SCR, but they accepted that a further meeting implied a second SCR whether moved by them or other members of the Council. There was no need to spell this out ...”

587. Mr de Villepin:

“... described the new text as very good and a basis for final agreement. He accepted the need for some ambiguity, so was prepared to agree the verb ‘consider’ rather than ‘decide’, which he recognised was too much for the US. But ... [h]e would like language along the lines of: ‘... consider the situation and any necessary measures to ensure full compliance ...’.”

588. Mr Straw warned Mr de Villepin that:

“... pressing the US for more ... risked making the best the enemy of the good ... Levitte could use his EOv [Explanation of Vote] to explain the French interpretation, even if it were not possible to get the exact language they wanted. He explained at some length that, in English political language, ‘consider’ was an active verb implying a subsequent decision. It was a stronger concept than the French equivalent. He also explained that ‘need’ should be read as embracing ‘measures’.”

589. Mr de Villepin warned Mr Straw that:

“... although he entirely took the point about the debate within the US Administration, he would have to persuade Chirac, who would probably want the text strengthened. For Chirac the second step had to have credibility.”

590. In their further conversation, Mr Straw:

- Urged Mr de Villepin “to take Yes for an answer”, which Mr de Villepin was reported to have “agreed; as soon as he got an answer from Chirac on ‘measures’”.

¹⁸⁹ [Telegram 223 FCO London to Paris and Washington, 17 October 2002, ‘Iraq: Foreign Secretary’s Conversation with French Foreign Minister, 17 October’.](#)

- Warned Mr de Villepin not to make an issue of the “material breach” language in OP1. That was “a matter of historical fact and, with the new OP10, no longer permitted the one stage approach France had feared”.
- Told Mr de Villepin that the French position was “a matter of trust for the UK as well as the US. Villepin’s reassurances about France’s willingness to support and participate in military action if justified had empowered Powell to get the changes made in OP10. If France tried to get ‘material breach’ language out of OP1, those in the [US] Administration who opposed the UN route would argue that France could not be trusted on a second SCR.”

591. Mr de Villepin was reported to have responded “somewhat half-heartedly” that “others in the Council opposed ‘material breach’ language ... and that the SCR should focus on the need for inspections rather than looking back”. He had not suggested it was a French “red line”.

592. Mr Straw concluded that, if President Chirac “were willing to sign up to the new OP10 language, he would have more negotiating room ... should he want to reach a private agreement on how to move forward”.

593. In a statement for the Inquiry, Sir Michael Wood wrote:

“Early the next morning (17 October) the Foreign Secretary ran through the new OP10 with the French Foreign Minister, saying in this context that the US could not accept any language requiring a further Security Council resolution but that they accepted that a further meeting implied a second SCR whether moved by them or other members of the Council.”¹⁹⁰

Mr Blair’s meeting with Mr Straw and Mr Hoon, 17 October 2002

594. Mr Blair discussed the latest developments on the UN negotiations and the military options with Mr Straw, Mr Hoon and Adm Boyce on 17 October.¹⁹¹ Mr Powell, Mr Campbell, Baroness Morgan, Sir David Manning and Mr Rycroft were also present.

595. Mr Blair continued to take the position that a further resolution explicitly authorising military action would not be needed in all circumstances.

596. Mr Blair, Mr Straw and Mr Hoon concluded on 17 October that the only way to keep the US on the UN route was if there was a clear understanding that, in the event of a reported breach of the new UN resolution, action would be taken even if a second resolution could not be agreed.

¹⁹⁰ Statement, 15 March 2011, page 8.

¹⁹¹ [Letter Rycroft to Sedwill, 17 October 2002, ‘Iraq: UN Route’](#).

597. The record of the discussion on the UN negotiations stated that the meeting had:

“... concluded that the only way to keep the US on the UN route was for there to be a clear understanding that if [Dr] Blix reported an Iraqi breach of the first resolution, then Saddam would not have a second chance. In other words, if for some reason (such as a French or Russian veto) there were no second resolution agreed in those circumstances, we and the US would take action.”¹⁹²

598. The meeting also agreed that, “at the time the first resolution was passed”, the UK:

“would make three public points:

- (a) When the Inspectors returned, Iraq’s obligation was not only to co-operate with them on access to sites etc, but also to provide accurate and full information about WMD.
- (b) If Iraq breached this resolution, action would follow.
- (c) In the meantime we could not assume a peaceful solution to the problem of Iraq’s WMD, so we would outline the military preparations we were making. (It was important to do this only once the resolution was passed, and not before.)”

599. Mr Rycroft’s record of the meeting was sent to the FCO. It was also sent to Sir Jeremy Greenstock, the MOD, the Cabinet Office and various diplomatic posts.

600. Mr Campbell wrote that at the meeting, Mr Blair had felt that Mr Straw was “too close to caving in on the two-resolution route”.¹⁹³

601. Mr Blair told the Inquiry that the meeting had:

“... agreed ... that there were clear objectives for the resolution, and those objectives were ... the ultimatum goes into 1441. If he [Saddam Hussein] breaches the ultimatum action follows. So this was the instruction given.”¹⁹⁴

602. **In response to Mr Hoon’s request to tell the US that it could plan on the assumption the UK would make a land contribution, Mr Blair concluded that, while he wanted to keep the option of Package 3 open, the UK must not commit itself at that stage.**

603. Mr Hoon wrote to Mr Blair on 15 October, seeking a decision that week on whether to tell the US it could assume a UK land contribution in addition to the air, maritime and Special Forces package already offered for planning purposes.¹⁹⁵

¹⁹² [Letter Rycroft to Sedwill, 17 October 2002, ‘Iraq: UN Route’.](#)

¹⁹³ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq.* Hutchinson, 2012.

¹⁹⁴ Public hearing, 21 January 2011, pages 55-56.

¹⁹⁵ [Minute Hoon to Prime Minister, 15 October 2002, ‘Iraq: UK Military Options’.](#)

604. Mr Hoon also sent his minute to Mr Brown, Mr Straw and Sir Andrew Turnbull.

605. The background to that request, the detailed arguments set out by Mr Hoon, the advice for Mr Straw and the immediate reaction in No.10, are addressed in Section 6.1.

606. In relation to the discussion of military options, Mr Rycroft recorded that Mr Hoon and Adm Boyce had:

“... set out the options, as in the Defence Secretary’s minute ... of 15 October. CDS [Adm Boyce] put the military arguments for agreeing to Package 3. But if we were to end up agreeing on Package 2, it would be better to tell the US now. The Foreign Secretary said that the international case for Package 3 was strong.”¹⁹⁶

607. Mr Blair took “these points” but:

“... remained concerned about the costs. He concluded that he wanted to keep open the option of Package 3. But we must not commit to it at this stage.”

608. The meeting also “agreed that there must be no leaks and no public announcements (for instance any notices to Reserves) until after the first UN resolution had passed and after a further discussion” with Mr Blair.

609. Copies of Mr Rycroft’s record of the discussion on military options were sent to the Private Offices of Mr Hoon, Mr Straw, Mr Brown and Sir Andrew Turnbull, and to Mr Desmond Bowen, Deputy Head of OD Sec.

Cabinet, 17 October 2002

610. The discussion on Iraq recorded at Cabinet on 17 October, which focused on other foreign policy concerns, was brief.

611. The minutes record that Cabinet on 17 October was informed that discussions continued amongst the Permanent Members of the UN Security Council on a resolution on Iraq. The right balance had to be struck and progress was being made.¹⁹⁷

612. Mr Campbell wrote that the discussion at Cabinet “was almost all foreign”, including on the Middle East Peace Process, India and Pakistan, the bombings in Bali and the risk of further attacks.¹⁹⁸ There had also been a discussion of the firefighters’ strike.

¹⁹⁶ [Letter Rycroft to Watkins, 17 October 2002, ‘Iraq: UK Military Options’.](#)

¹⁹⁷ Cabinet Conclusions, 17 October 2002.

¹⁹⁸ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq.* Hutchinson, 2012.

Legal views on the draft resolution

613. Mr Wood remained concerned about the references to the “Kosovo model” providing a precedent and that the draft resolution then under discussion did not have the effect of reviving the authority to use force.

614. Mr Wood wrote to Mr Chaplin on 17 October to express concerns about Mr Blair’s statement, reported in the record of a conversation with President Bush on 14 October, that:

“... the Kosovo model would allow a return to the Security Council for a further discussion in the event of a further breach by Iraq; but if there were UN inaction (i.e. no second UN resolution authorising the use of force) we would take action.”¹⁹⁹

615. Mr Wood was “concerned that the conversation does not take full account of legal advice”. The legal justification for action in Kosovo was an overwhelming humanitarian catastrophe which could not be prevented by any other means. That was not the position in Iraq. The “Kosovo model” was “no authority for a proposition that action would be legally justified if authority from the Security Council had been sought but without success”. The facts available to Mr Wood did “not justify action in self-defence”. “The use of force would, therefore, be unlawful unless authorised by the Security Council.”

616. Mr Wood added:

“There is currently no express authorisation to use force against Iraq, nor would a resolution on the lines discussed ... give an implied authorisation based on the revival of the authority to use force contained in resolution 678 (1990). Subject to consideration of a final text (and the circumstances of its adoption), a finding of material breach in OP1 of the current text, followed by a long list of provisions detailing the action which the Council expects Iraq to take, together with a final paragraph which indicates that the Council would need to meet in the case of a further breach by Iraq, or some such, would not permit the revival argument. Rather, it would point to further action to be taken by Iraq, and then by the Council if Iraq were not to co-operate.

“In my view, we need to write urgently to No.10 recalling the legal position.”

617. When Mr Wood saw Mr Rycroft’s record of Mr Blair’s meeting on 17 October, he sent an “urgent and personal” minute to Mr Ricketts, stating:

“The concerns in my minute to Edward Chaplin earlier today are reinforced by [the] record of the Prime Minister’s meeting this morning, suggesting that ‘if for some reason [such as a French or Russian veto] there were no second resolution ... we and the US would take action’.

¹⁹⁹ [Minute Wood to Chaplin, 17 October 2002, ‘Prime Minister’s Phone Call with Bush, 14 October’.](#)

“I have spoken briefly to the Foreign Secretary, who assured me that the Prime Minister understood that action could not be taken if the Attorney advised that it was unlawful ...

“The Foreign Secretary saw no point in writing again to No.10. The ... record was ... abbreviated ... The Foreign Secretary had made clear to the Prime Minister the legal advice.

“I think it is important, even if we do not write, that we ask David Manning to draw the Prime Minister’s attention to your [Mr Ricketts’] minute of 2 [sic] October.”²⁰⁰

618. Mr Chaplin sent Mr Wood’s minute of 17 October to Mr Straw’s Private Secretary, stating that he and Mr Wood had discussed the minute and, given the advice already offered to No.10, thought “it would be sufficient for you [the Private Secretary] to remind Sir David Manning” of previous advice, saying that it was strongly endorsed by FCO Legal Advisers and asking him to make that clear to the Prime Minister.²⁰¹

619. A copy of Mr Wood’s minute to Mr Chaplin of 17 October, with Mr Chaplin’s comments to Mr Straw’s Private Secretary, is in the Attorney General’s files, with a manuscript note stating that Mr Wood had “handed over” a copy of his minute to Mr Ricketts to Mr David Brummell, Legal Secretary to the Law Officers, on the evening of 17 October.²⁰²

620. On 18 October, Mr Wood sought Lord Goldsmith’s views on whether the draft resolution could have the effect of reviving the authorisation to use force.

621. Mr Wood wrote to Ms Adams with the most recent text of the draft resolution on Iraq on 18 October.²⁰³ He drew attention to the key elements of the draft which were “particularly relevant to the issue of whether it could be regarded as authorising the use of force” against Iraq. Mr Wood stated that, as the Attorney General would be aware, a finding by the Council that Iraq was in material breach of its obligations under the cease-fire resolution 687, together with a warning that Iraq would face serious consequences in the event of continued non-compliance, “can have the effect of reviving the authorisation to use force”. The draft, however, had to be “read as a whole” and other paragraphs gave “a clear indication that further action would be for the Council”. Mr Wood’s view was that: “Accordingly ... this resolution cannot be read as permitting the revival argument.”

²⁰⁰ [Minute \(handwritten\) Wood to Ricketts, 17 October 2002, ‘Iraq: UN Route’](#). The reference to a minute from Mr Ricketts of 2 October is an error; that minute was written on 3 October.

²⁰¹ [Manuscript comment Chaplin on Minute Wood to Chaplin, 17 October 2002, ‘Prime Minister’s Phone Call with Bush, 14 October’](#).

²⁰² [Manuscript comment Brummell on Minute \(handwritten\) Wood to Ricketts, 17 October 2002, ‘Iraq: UN Route’](#).

²⁰³ [Letter Wood to Adams, 18 October 2002, ‘Iraq: Latest Text’](#).

622. Mr Wood concluded:

“We would be grateful for any advice which the Attorney General may wish to give on the resolution as currently drafted and would, as ever, be happy to come over and discuss the matter.”

LORD GOLDSMITH'S CONVERSATIONS WITH MR POWELL AND MR STRAW,
17 AND 18 OCTOBER 2002

623. Lord Goldsmith raised his concerns with Mr Straw on 18 October.

624. Mr Straw persuaded Lord Goldsmith not to put his views in writing until he had spoken to Mr Blair.

625. Mr Straw told Lord Goldsmith that he accepted a second resolution would be needed “unless circumstances changed”, but he argued that could not be acknowledged publicly for tactical reasons.

626. Mr Straw subsequently advised Mr Blair that they should camp on the position they had both taken publicly not to rule out involvement in military action if circumstances required that and, for example, a second resolution were to be vetoed.

627. Lord Goldsmith spoke to Mr Jonathan Powell on 17 October to register his concerns about what Mr Blair was reported to have told President Bush on 14 October. Mr Powell suggested that he should speak to Mr Blair.²⁰⁴

628. Asked how Mr Powell had responded, Lord Goldsmith was unable to recall any further details of his conversation with Mr Powell than the details in the record of his discussion with Mr Straw the following day.²⁰⁵

629. Lord Goldsmith spoke to Mr Straw on 18 October.

630. Both Ms Adams and Mr Straw's Private Office made records of the conversation. There is a considerable difference in emphasis between the two documents.

631. Ms Adams recorded that Lord Goldsmith had told Mr Straw that “he was concerned by reports he had received” that Mr Blair had indicated to President Bush that “he would join the US in acting without a second Security Council decision if Iraq did not comply with the terms of a resolution in the terms of the latest US draft”.²⁰⁶

²⁰⁴ [Note Adams, 21 October 2002, 'Iraq: Record of Attorney General's Telephone Conversation with the Foreign Secretary, 18 October'](#).

²⁰⁵ Statement, 4 January 2011, paragraph 2.6.

²⁰⁶ [Note Adams, 21 October 2002, 'Iraq: Record of Attorney General's Telephone Conversation with the Foreign Secretary, 18 October'](#).

632. In Lord Goldsmith's view, the "draft would not be sufficient to authorise the use of force without a second resolution". He had made that clear the previous day to Mr Powell, who had suggested that he should speak to the Prime Minister.

633. Discussing the detail of the draft, Lord Goldsmith reiterated that he was "very troubled by the way things appeared to be going".

634. Ms Adams reported that Mr Straw had "explained the political dimension", his conviction that the "strategy of standing shoulder to shoulder with the US was right politically", and the importance of obtaining a "decent Security Council resolution". Mr Blair had said that the UK would act in accordance with international law:

"That remained the position. The consequences of acting unlawfully were clearly unacceptable. But it was important not to suggest publicly that we had doubts about the proposed resolution. It would make the prospects of reaching agreement remote."

635. Mr Straw told Lord Goldsmith that he had made Lord Goldsmith's views on the legal position clear to Mr Blair.

636. Lord Goldsmith responded that he understood the politics and the importance of getting President Bush "behind" a UN resolution. He was:

"... not concerned about what Ministers said externally, up to a point. The Government must, however, not fall into the trap of believing it was in a position to take action which it could not take. Nor must HMG promise the US Government that it can do things which the Attorney considers to be unlawful."

637. Ms Adams recorded that Mr Straw commented that he believed Secretary Powell "understood the legal position".

638. Recalling his advice to Mr Blair of 30 July, Lord Goldsmith told Mr Straw that he might "now need to send a further note". Lord Goldsmith:

"... recognised that circumstances may change, but he wished to make clear to the Foreign Secretary that his firm view was that if a resolution was adopted in the terms of the present US draft, and if Blix subsequently reported to the Council that there had been a breach by Iraq, the resolution as it stands would not be sufficient to authorise the use of force without another Security Council resolution."

639. Mr Straw was recorded as suggesting that Lord Goldsmith might:

"... not wish to commit himself on paper until he had seen the Prime Minister. There might be circumstances, for example, if Russia vetoed a second resolution in the face of clear evidence that Iraq was flouting the Council's demands, in which force would be justified on the basis of existing resolutions. The French had indicated that they would support such an interpretation."

640. Lord Goldsmith had agreed but “stressed that he wished to ensure that his advice was clearly on the record”. Mr Straw had “assured” Lord Goldsmith that Mr Blair was fully aware of Lord Goldsmith’s views.

641. Finally, Ms Adams recorded that Lord Goldsmith:

“... hoped that, if there were any further meetings ... at which decisions on the use of force were to be made, the Foreign Secretary would make clear that the Attorney ought to be present. The Foreign Secretary agreed.”

642. The note of the conversation produced by Mr Straw’s Private Office records that Lord Goldsmith told Mr Straw that the latest draft of the resolution “did not provide legal authorisation for the use of force”.²⁰⁷ In a discussion of the tactics necessary to persuade the US to take the UN route, Lord Goldsmith said he was:

“... comfortable with what had been said publicly so far. He noted the Prime Minister’s assurance to Bush that we would participate in military action should the Security Council route fail, but he took the Foreign Secretary’s point that to maintain influence over the American approach, we had to demonstrate that we stood shoulder to shoulder. The Foreign Secretary reassured the Attorney that both he and the Prime Minister had explained our legal position to Powell and Bush who understood the constraints.”

643. Lord Goldsmith and Mr Straw agreed that discussions within Government “should take full account of the legal issues”. Mr Straw “accepted” that “unless circumstances changed ... we would need a second resolution to authorise the use of force” but “tactically, we should not commit ourselves to this externally yet”. Mr Straw also pointed out that he “could envisage circumstances in which it might be possible to take action without specific Security Council authority”, but “obviously the Government would need the Attorney’s advice”. Lord Goldsmith would be seeing Mr Blair the following week and he and Mr Straw would keep in touch.

644. The FCO record of Lord Goldsmith’s conversation with Mr Straw was sent to Mr Ricketts. It was also sent to the Private Secretaries of Mr Straw and Sir Michael Jay, FCO Permanent Under Secretary (PUS), Mr Wood, Mr Stephen Pattison, Head of FCO United Nations Department and other senior officials.

645. No record of the conversation between Lord Goldsmith and Mr Straw appears to have been sent to UKMIS New York.

646. In his statement to the Inquiry, Lord Goldsmith wrote that he had not had the opportunity to consider the draft resolution in detail before his telephone call to Mr Straw, but his view was that the draft was not sufficient to authorise the use of force.²⁰⁸

²⁰⁷ [Minute Sedwill to Ricketts, 18 October 2002, ‘Iraq: Foreign Secretary’s Conversation with the Attorney-General, 18 October’.](#)

²⁰⁸ Statement, 4 January 2011, paragraph 2.2.

647. Lord Goldsmith explained that his telephone call to Mr Straw had been “prompted” when he had learned of Mr Blair’s statement to President Bush (on 14 October) that he would join the US in acting without a second Security Council resolution:

“I thought that such action by the UK would be unlawful and I felt strongly that there had to be recognition within government of the constraints under which we were acting, and we should not lead the US to believe that we would take action ... I knew too that if we boxed ourselves into a corner that would make my task when I came to advise on the effect of the resolution more difficult.”²⁰⁹

648. Lord Goldsmith confirmed that Mr Straw had persuaded him not to provide a note of advice until he (Lord Goldsmith) had seen Mr Blair.²¹⁰ Mr Straw had said that there might be circumstances in which the UK could proceed without a second resolution, for example if Russia exercised a veto unreasonably. Lord Goldsmith wrote that although he “was not persuaded by that example ... it did make sense to him to have a discussion with the Prime Minister ... before putting his advice in writing”.

649. Intense discussions on the elements of a draft resolution continued.

650. Reporting a discussion on 16 October, Sir Christopher Meyer wrote that Mr Sandy Berger, President Clinton’s National Security Advisor, thought that an attack on Iraq would be “very risky” and might destabilise a number of countries in the region. In addition, he “thought that, whatever the scenario, the British Government has got itself into the position where it would go with the US whatever the circumstances. ‘The die is cast for the UK.’”²¹¹

651. Sir Christopher also reported that Mr Berger could envisage a situation where UNMOVIC might find “something nasty” and the US “would want to go to war”, but others on the Security Council would say that it “showed inspections were working and that they should continue”.

652. Sir David Manning commented to Mr Powell that that was “an inherent risk in the UN route”; and that: “Other routes were even riskier.”²¹²

653. Mr Blair and Mr Annan discussed the need to bring the discussions on a new resolution to a successful conclusion for all concerned on 17 October.²¹³ They agreed that: “If the UN handled this well, it would emerge stronger, and reinforce the international rule of law.”

²⁰⁹ Statement, 4 January 2011, paragraph 2.3.

²¹⁰ Statement, 4 January 2011, paragraph 2.8.

²¹¹ Letter Meyer to Manning, 17 October 2002, ‘Iraq: Berger’s Views’.

²¹² Manuscript comment Manning to Powell, 18 October 2002, on Letter Meyer to Manning, 17 October 2002, ‘Iraq: [US individual’s] Views’.

²¹³ Letter Wechsberg to McDonald, 17 October 2002, ‘Iraq: Prime Minister’s Telephone Call with UN Secretary General’.

654. Mr Blair emphasised that the US and UK wanted to see the UN's will enforced. They did not want to see action on the slightest pretext but they were worried that in the event of a breach the UN might fail to act and lead us into another round of negotiation. We could not end up where we were before – ie Saddam Hussein ignoring the process.

655. In a letter to Sir Christopher Meyer on 19 October reporting two of Mr Straw's conversations with Secretary Powell, Mr Straw's Private Office recorded that he had:

“... touched base with the Prime Minister, Jonathan Powell and David Manning ... As well as running through this morning's exchanges they had a brief discussion of the implications should it not prove possible to secure a second resolution in the event of Iraqi defiance, which the Foreign Secretary noted that he had also talked over with the Attorney General.”²¹⁴

656. A copy of the letter was sent to Sir Jeremy Greenstock.

657. The FCO instructions to the UK permanent Mission in New York, issued on 21 October, stated that the latest draft of the resolution could not be “read as authorising the use of force, taking into account the draft resolution as a whole, including OP10, which gives a clear indication that further action will be for the Council”.²¹⁵ The UK was keen that the full text of the draft resolution being discussed with the US should be shown to other P5 members “as soon as possible”.

LORD GOLDSMITH'S MEETING WITH MR BLAIR, 22 OCTOBER 2002

658. Lord Goldsmith informed Mr Blair on 22 October that, although he would not be able to give a final view until the resolution was adopted, the 19 October draft resolution would not on its own authorise military action.

659. In response to a question from Mr Blair, Lord Goldsmith agreed to give “further consideration” to the implications of an “unreasonable veto”.

660. The meeting between Lord Goldsmith and Mr Blair took place on 22 October.

661. Ms Adams advised Lord Goldsmith that Mr Straw's comments recorded in Mr McDonald's letter to Sir David Manning of 21 October made it “all the more important” for Lord Goldsmith to “place” his views “clearly on the record in writing”.²¹⁶

²¹⁴ Letter Sedwill to Meyer, 19 October 2002, 'Iraq: Foreign Secretary's Conversation with Powell, 19 October'.

²¹⁵ [Telegram 602 FCO London to UKMIS New York, 21 October 2002, 'Iraq: Draft UNSCR'](#).

²¹⁶ [Minute Adams to Attorney General, 22 October 2002, 'Iraq: Meeting with the Prime Minister, 22 October'](#).

662. Ms Adams also provided suggested “Lines to Take” for Lord Goldsmith.²¹⁷ They:

- explained why the draft resolution did not amount to an authorisation to use force;
- dismissed the Kosovo “precedent” as: “Simply not relevant”; and
- reminded Lord Goldsmith of the 1997 advice, set out in her minute of 14 October, which identified the possibility of “exceptional cases” where military action might be taken without a determination by the Security Council.

663. On the last point, Ms Adams wrote:

“It is impossible to give a firm view on this now. We should certainly not plan on being able to rely on such a justification. There does not seem to [be] wide support for military action among the wider international community at present.”

664. Lord Goldsmith’s aide memoire of the points he wished to make stated:

- “1. Anxious you know my legal advice
2. Note statements – political imperative
3. As it stands – will need a 2nd resolution (says so in Op10)
4. Need to express my view in writing?
5. [a reference to correspondence with an MP].”²¹⁸

665. In his statement to the Inquiry, Lord Goldsmith confirmed that the manuscript notes were an aide memoire made by him before the meeting of the points he wished to make.²¹⁹

666. Lord Goldsmith added:

“As it happened, we also discussed the legal effect of one of the other P5 members exercising a veto unreasonably.”

667. No.10 did not produce a record of the meeting, but Lord Goldsmith’s account was reported in a letter from Mr Brummell to Sir David Manning.²²⁰ Mr Brummell wrote:

“The Attorney expressed the view ... that, as things stand at present and viewing the text as a whole, a resolution in the form of the latest draft seen by him (dated 19 October) would not on its own authorise military action ... However, it will not

²¹⁷ [Briefing ‘Lines to take’ attached to Minute Adams to Attorney General, 22 October 2002, ‘Iraq: Meeting with the Prime Minister, 22 October’.](#)

²¹⁸ [Manuscript comment Goldsmith on Minute Adams to Attorney General, 22 October 2002, ‘Iraq: Meeting with the Prime Minister, 22 October’.](#)

²¹⁹ Statement, 4 January 2011, paragraph 3.1.

²²⁰ [Letter Brummell to Manning, 23 October 2002, ‘Iraq: Attorney General’s Meeting with the Prime Minister, 22 October’.](#)

be possible to give a final view on the legal effect of the resolution until it has been adopted. Unless the Council's intent is crystal clear from the text (which seems unlikely), it will have to be assessed in light of all the circumstances, in particular any statements concerning the effect of the resolution made by Council members at the time of its adoption."

668. Mr Blair asked about the position "if, following a flagrant violation by Iraq, one of the other P5 Members perversely or unreasonably vetoed a second resolution intended to authorise the use of force". Mr Brummell's note records that Lord Goldsmith replied that it was "not easy to see how there is room for arguing that a condition of reasonableness can be implied as a precondition for the lawful exercise of a veto"; but he agreed to give the issue further consideration.

669. Mr Brummell wrote that it would "be important for the Attorney to be kept closely informed of developments"; and that: "The attitude of other Council members (and the wider international community) in response to any breach by Iraq will also be critical, i.e. whether there is general support within the Council and the wider community for military action to enforce the terms of the 1991 cease-fire arrangements as amended by the new resolution."

670. Mr Brummell concluded by stating that he had been asked "to make clear" that Lord Goldsmith would be "available for a further meeting at any time the Prime Minister would find this helpful".

671. Mr Brummell's letter was not sent to anyone other than Sir David Manning.

672. Mr Brummell's letter provoked concern from No.10. In a note for the No.10 file, Mr Powell recorded:

"I spoke to the AG to make it clear that we do not expect records of meetings from other departments, especially from people not even at the meeting. We produce records should they be needed. Furthermore, this was a commentary on a draft UNSCR that no longer exists."²²¹

673. Lord Goldsmith told the Inquiry that, although the draft resolution he had discussed with Mr Blair on 22 October had, as Mr Powell had pointed out, been replaced, "none of these immediate changes affected the concerns" he had raised.²²²

674. Mr Blair told the Inquiry:

"... I can't remember exactly what I said after 22 October [the meeting with Lord Goldsmith], but I should imagine I said, 'Well, you [Lord Goldsmith] had better make sure it does meet our objectives.'²²³

²²¹ [Note \(handwritten\) Powell, 25 October 2002, 'File'](#).

²²² Statement, 4 January 2011, paragraph 3.7.

²²³ Public hearing, 21 January 2011, pages 55-56.

The UK's draft strategic objectives

The preliminary objective for UK policy in Iraq agreed by Mr Straw and Mr Hoon in May, and recorded in Mr Hoon's minute to Mr Blair of 31 May 2002 (see Section 3.3), was revised in October 2002.

Mr Stephen Wright, FCO Deputy Under Secretary Defence and Intelligence, told the first FCO co-ordination meeting on 6 September that, following a conversation with the Chiefs of Staff, he thought more work needed to be done on strategic campaign objectives.²²⁴

Mr Bowen sent a draft to Sir David Manning on 4 October, explaining that "Whitehall would find it helpful" to agree objectives "for the present phase of activity" and, "in particular, it would help us in formulating an information strategy".²²⁵

The draft stated that the UK's prime objective was:

"... to rid Iraq of its weapons of mass destruction (WMD) and their associated programmes and means of delivery, including prohibited ballistic missiles (BM) ... in accordance with United Nations Security Council resolutions ... an expression of the will of the international community, with which Iraq has persistently failed to comply, thereby perpetuating the threat to international peace and security."

Other objectives included the desired end-state for Iraq,²²⁶ to which "and providing effective and representative government for its own people" had been added; and restoring the authority of the UN. The draft also stated that: "Success in achieving our prime objective should help deter the proliferation of WMD and B[allistic] M[issiles] more generally."

The Cabinet Office draft identified the immediate priorities as:

- achieving "a tough new UNSCR";
- the return of inspectors to Iraq "under conditions which enable them to identify and eliminate prohibited WMD/BM material, associated equipment and activity";
- enabling UNMOVIC and the IAEA to institute a regime of long-term monitoring and verification measures to ensure compliance;
- maintaining "international solidarity behind the UN Security Council and support for effective ... action" by UNMOVIC and the IAEA;
- preserving regional stability; and
- continuing to "make military plans and preparations in case military action" was required to "force compliance with UNSCRs".²²⁷

Mr Bowen advised that some had argued that the aspirations for the future of Iraq should be translated into the main objective. He had resisted:

"... on the grounds that our purpose has been plainly stated by the Prime Minister as disarmament and because the effective implementation of that policy does not necessarily deliver our wider aspirations".

²²⁴ Minute [FCO junior official] to Grey [sic], 6 September 2002, 'Iraq Coordination Meeting'.

²²⁵ [Minute Bowen to Manning, 4 October 2002, 'Iraq: Strategic Policy Objectives'](#).

²²⁶ Agreed by Mr Straw and Mr Hoon in May 2002 and included in the Cabinet Office paper of 19 July, 'Iraq: Creating the Conditions for Military Action', which was discussed by Ministers on 23 July.

²²⁷ [Minute Bowen to Manning, 4 October 2002, 'Iraq: Strategic Policy Objectives'](#).

The objectives would also need to “evolve with changing circumstances”.

Mr Bowen stated that the paper was not intended for publication: if Mr Blair was content, Sir David would “no doubt ... arrange for it to be sent to DOP [Defence and Overseas Policy Sub-Committee of Cabinet] colleagues” (see Section 2).

Mr Bowen’s advice was also sent to Sir David Omand, Cabinet Office Permanent Secretary and Security and Intelligence Co-ordinator, Mr Scarlett, and to officials in the FCO, the MOD and the Home Office.

Mr Ian Lee, MOD, Director General Operational Policy, sent a copy of the draft to Mr Hoon’s Private Office, commenting that while the text was “helpful” it did not “go far enough in providing direction for current military activity and an information strategy”.²²⁸ Mr Lee did not expect the draft to move forward until there was a clear UN position.

Pointing out that there was “a good deal of contingency planning work going on in Whitehall to support action in the United Nations on Iraq”, Sir David Manning wrote on 22 October to Mr McDonald and the Private Secretaries of DOP members to inform them that Mr Blair had approved the objectives enclosed with his letter, which “should help guide work in Departments for current phase of activity”.²²⁹

The letter was also sent to the Private Secretaries to Mr David Blunkett (the Home Secretary), Mr John Prescott and Mrs Margaret Beckett (the Environment, Food and Rural Affairs Secretary).

The objectives were unchanged from those proposed by Mr Bowen on 4 October.

The draft objectives underpinned subsequent policy statements both to explain the UK’s position and to maintain the pressure on Saddam Hussein to comply with the demands of the international community.

Mr Straw formally announced the UK’s objectives on 7 January 2003 (see Section 3.6).²³⁰

Discussion of the US/UK draft resolution of 23 October 2002

675. A telegram from the British Embassy Paris on 21 October, recorded that there was “universally positive” coverage in the French media of President Chirac’s firm stance on Iraq, including a threat of the “first use of France’s veto since Suez” and suggestions that he had forced US concessions over a two-step approach.²³¹ The media also reported some details of the textual negotiations.

676. President Chirac’s stance was cited as the main reason for the jump in his popularity in the latest opinion poll from 52 percent in September to 57 percent. President Chirac was also given credit for the paragraph on Iraq in the Francophone Summit conclusions “defending multilateralism, the primacy of international law and the pivotal role of the UN”.

²²⁸ [Minute Lee to PS/Secretary of State \[MOD\], 7 October 2002, ‘Iraq: Strategic Policy Objectives’.](#)

²²⁹ [Letter Manning to McDonald, 22 October 2002, ‘Iraq’ attaching Paper Cabinet Office, ‘Iraq: Strategic Policy Objectives’.](#)

²³⁰ House of Commons, *Official Report*, 7 January 2003, columns 4-6WS.

²³¹ Telegram 609 Paris to FCO London, 21 October 2002, ‘Iraq: French views: Chirac Riding High’.

677. On 22 October, Mr Straw and Secretary Powell discussed French and Russian concerns that the draft text had reintroduced “automaticity” in the preambular paragraphs (PPs) and in OPs 1-3.²³²

678. Mr Powell suggested to Sir David Manning that it was “Worth bringing to the AG’s attention. Shows Russians and French think OPs 1-3 [?] automaticity.”²³³

679. Following the conversation between Mr Straw and Secretary Powell, the FCO told UKMIS New York on 22 October that it could confirm that the UK would act as co-sponsor of the resolution if that was what the US wanted.²³⁴

680. In the face of signs of mounting US impatience with the UN process, Mr Blair sought to persuade President Bush to continue to negotiate a resolution.

681. Mr Blair continued to assert that the UK would take action in the event of a further material breach by Iraq.

682. Mr Blair did not offer any caveats to reflect the views Lord Goldsmith had expressed.

683. Sir David Manning told Dr Rice that, after the “difficult” discussions of the draft text between the P5 in New York on 22 October, Mr Blair thought the time had come to engage Foreign Ministers directly in the debate.²³⁵ He had asked Mr Straw to talk to Secretary Powell “about a meeting at Foreign Minister level” early the following week. Dr Rice thought that was an attractive idea which she would discuss with Secretary Powell.

684. Mr Blair also thought “we should revisit the possibility of agreeing the wording of a short second resolution that the P5 would table if Saddam violated the terms of the first resolution”. Sir David added:

“If we could secure this, the French and the Russians would have acknowledged, in writing, that they would be ready to use ‘all necessary means’ if Saddam were again in material breach.”

685. Sir David reported that Dr Rice had doubts:

“... the difficulty would be that the French or the Russians would quibble over whether Saddam had committed a violation serious enough to trigger the follow up action required for the second resolution.”

²³² Telegram 560 FCO London to Washington, 22 October 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 22 October’.

²³³ Manuscript comment Powell to Manning on Telegram 560 FCO London to Washington, 22 October 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 22 October’.

²³⁴ Telegram 560 FCO London to Washington, 22 October 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 22 October’.

²³⁵ [Letter Manning to McDonald, 23 October 2002, ‘Iraq: Conversation with Condi Rice’](#).

686. Dr Rice told Sir David that the objections raised by France in relation:

“... to the language dealing with: ‘material breach’; ‘serious consequences’; and OP5 ... were unacceptable to Washington. The US had gone a long way in meeting French and Russian difficulties. The earlier reference to ‘all necessary means’ had been dropped ... there was agreement to go back to the Council to assess any Blix report of violations; and it was clear to everyone that a second resolution could be tabled by the French whatever the US and UK might prefer. The Administration could not give any more ground ... on the substance. There had been lots of publicity about US concessions already. Today there were two editorials in major US newspapers ... saying it was time for Washington to put down its draft resolution ... either the UN backed the resolution; or the US went to war.”

687. Sir David told Dr Rice that he “understood the political pressures” but the effect of tabling a resolution “on a take-it or leave-it basis would not necessarily be clear cut”. France and Russia might table a resolution which might attract more support. In response to a comment from Dr Rice that the US and UK “would have to veto the counter-draft just as the French and Russians would no doubt veto ours”, Sir David replied that was possible, “but deeply unattractive”. That was why the UK had proposed discussion at Foreign Minister level.

688. Dr Rice told Sir David that the:

“Essential elements for the US were:

- Maintaining the references to ‘material breach’ and ‘serious consequences’
- Retaining the wording ‘... false statements or omissions ... and failure by Iraq at any time to comply ...’
- Standing firm on the terms of the inspections regime
- No further weakening of OP12.”

689. Sir David stated that the UK’s willingness to co-sponsor the resolution demonstrated that it was “in firm agreement on the elements” of the resolution, but he “accepted that there might be differences on where to compromise if there was a serious negotiation”. That would be a matter “for the Prime Minister and the Foreign Secretary” whom he would consult. Dr Rice also said she would try to set up a conference call between herself, Sir David, Secretary Powell and Mr Straw.

690. Dr Rice concluded that France still seemed to misunderstand the US position, and its apparent belief that the US would, if pushed, concede was “mistaken”. “Washington was ready to go it alone if it had to; and the consequence would be that the UN would be marginalised for a long time to come.”

691. Sir David suggested that he was not sure President Chirac understood. It “seemed to him” that President Chirac’s “grasp of the issue” was “uncertain, and sometimes emotional”. Dr Rice should talk to the Élysée.

692. Sir David wrote that he had told Mr Straw there were “signs of mounting impatience in the White House with the whole UN process”. He added:

“Apparent evidence, too, that this is pushing the White House to consider putting the resolution down, and challenging the French (and Russians) to block it. Condi’s mood this morning was that the US had made enough concessions. If the UN process failed, Paris and Moscow would be responsible for the broken UN china ...”

693. Sir David Manning advised Mr Blair that he should tell President Bush to persist with the UN route despite the frustrations and that “real negotiations” were “just beginning”. The domestic pressures on President Bush to do so were considerable. There was nervousness in Middle America about war on Iraq without UN cover, or without UK company. That gave the UK “leverage in the UN context”.

694. In his conversation with President Bush, Mr Blair accepted that the negotiations in New York were in pretty good shape: the three vital elements in the resolution were material breach, the declaration of Iraqi WMD, and the tough inspection regime.²³⁶

695. Mr Blair’s view was that those provisions should not be weakened. If they were agreed, the UK could accept a further Security Council discussion in the event of a breach, but “on the understanding that either this discussion would then authorise action or if it did not we would go ahead anyway”.

696. To ensure that President Bush understood the UK position, Mr Blair underlined the importance for the UK of securing the first resolution.

697. Mr Blair also stated that he continued to think that tough inspections just might lead to the collapse of Saddam Hussein’s regime.

698. A draft resolution agreed by the US and UK was tabled in the Security Council on 23 October 2002.

699. The US/UK draft resolution was presented to the full Security Council on 23 October.²³⁷

700. Delegations were invited to refer the text, “which remained a working document”, to capitals.²³⁸

701. The key changes to the text agreed by the US and UK at the end of September are set out in the Box below.²³⁹

²³⁶ Letter Rycroft to McDonald, 23 October 2002, ‘Iraq: Prime Minister’s Conversation with President Bush, 23 October’.

²³⁷ Telegram 2031 UKMIS New York to FCO London, 23 October 2002, ‘Iraq: Draft Resolution of 23 October’.

²³⁸ Telegram 2030 UKMIS New York to FCO London, 23 October 2002, ‘Iraq: UK/US Text Presented to the Security Council’.

²³⁹ Telegram 2031 UKMIS New York to FCO London, 23 October 2002, ‘Iraq: Draft Resolution of 23 October’.

US/UK draft resolution, 23 October 2002

Key revisions in the text tabled in the Security Council by the US and UK on 23 October were:

- a new **OP2** recalling that the Council had repeatedly warned Iraq that it would face serious consequences as a result of its continued violations of its objectives, replacing the reference to all necessary means in the initial OP10;
- a new **OP4** deciding that false statements and omissions in the declarations submitted by Iraq (pursuant to this resolution - the original OP2 provisions) and failure by Iraq at any time to comply with, and co-operate fully in the implementation of this resolution shall constitute a further material breach of Iraq's obligations;
- a new **OP11**, a revision of the previous OP9, directing Dr Blix and Dr ElBaradei to report immediately to the Council any interference by Iraq with inspection activities, as well as any failure by Iraq to comply with its disarmament obligations, including its obligations regarding inspections under this resolution; and
- a new **OP12**, a revision of the previous OP10, deciding that the Council would convene immediately upon receipt of a report (in accordance with OP11) to consider the situation and the need for full compliance with all the relevant Security Council resolutions in order to restore international peace and security.

702. Sir Jeremy Greenstock reported that he had stated:

“In terms of process this was the first time we ... had a text worth putting down as [the] basis for discussion. The text gave Iraq a clear warning that it had a last chance to comply with strengthened UN inspections. This was a genuine offer ... the co-sponsors were proposing two clear stages. No decisions on further action would be taken until inspections had been tested by UNMOVIC/IAEA, professional and independent bodies. If [they] reported problems, the text made clear that the Council would immediately meet to discuss the way forward – this was something the UK had wanted and which had not figured in previous drafts. The rest of the draft dealt with two main priorities: strengthening inspections so Iraq understood it had no escape but to comply; and underlining the serious consequences if Iraq did not comply, subject to OPs 11 and 12.”²⁴⁰

703. Sir Jeremy added that he “hoped this was something the whole Council could support”.

704. Sir Jeremy reported that while the French delegation had welcomed the progress since the initial draft to identify two, well-defined stages, there were still concerns that it contained “hidden triggers” for automatic military action. France also wanted the

²⁴⁰ Telegram 2030 UKMIS New York to FCO London, 23 October 2002, ‘Iraq: UK/US Text Presented to the Security Council’.

mandate for the inspectors to be checked with Dr Blix and Dr ElBaradei. France had proposals for alternative text.

705. Russia had supported France and drawn attention to the importance of the practical arrangements set out in the letter from Dr Blix and Dr ElBaradei on 8 October.

706. China had also sympathised with the French position and stated that the Council should look for a solution by peaceful means, not authorising force in the resolution.

707. The Council agreed to discuss the draft on 25 October and to meet on 28 October to discuss the draft with Dr Blix.

708. Cabinet was informed on 24 October that negotiations on the UN resolution continued and progress was “slow”.

709. Mr Blair said that Iraq would continue to be discussed at Cabinet, “including in due time the military options”.

710. Mr Straw told Cabinet on 24 October that discussions with the Permanent Members of the Security Council and with others continued on a resolution on Iraq.²⁴¹ It was a long drawn out process and progress was slow.

711. In discussion a number of points were made:

- A strong resolution was required so that Saddam Hussein would understand that the disarmament of Iraq would be achieved.
- In the event of a breach of that resolution, the Security Council’s response would determine its future reputation.
- If there was military action and Iraq responded with chemical or biological weapons, a humanitarian disaster could ensue.
- Effective disarmament of Iraq through inspection remained a possibility, as did the Iraqi regime cracking under the pressure applied.

712. Mr Blair stated that Iraq would continue to be discussed in Cabinet, “including in due time the military options”. The Government must “keep its options open in responding to future developments” after a resolution was achieved.

713. Other members of the P5 continued to express concerns about key elements of the new US and UK draft resolution, primarily that it should not contain any triggers permitting automatic military action.

714. Mr Blair and President Chirac discussed Iraq during a meeting in Brussels on 24 October. The record of the meeting concluded that there was “no meeting of minds”.²⁴²

²⁴¹ Cabinet Conclusions, 24 October 2002.

²⁴² Letter Rycroft to Sedwill, 24 October 2002, ‘Iraq: Prime Minister’s Meeting with Chirac, 24 October’.

715. The following day there was a major disagreement between President Chirac and Mr Blair over reform of the Common Agricultural Policy. Mr Campbell wrote in his diaries that:

“They had also had some pretty fiery exchanges on Iraq, TB telling him [President Chirac] that the US were going to do it so it depended [on whether] he wanted to be part of the equation or not.”²⁴³

716. Discussions between Mr Straw and other Foreign Ministers and between Sir David Manning and Dr Rice, including on French ideas on the detailed text, continued.

717. Reporting discussions with a wide range of colleagues in New York, Sir Jeremy Greenstock said he had told Ambassador Negroponte that there was a case for putting the US/UK text into near final form (“into the blue”) on 25 October, to pre-empt possible alternative texts being tabled by France or Russia. “Doing so would show that we were serious about not wasting time.”²⁴⁴

718. Ambassador Negroponte agreed. The three compromise changes discussed with the UK on 23 October “were getting nowhere in Washington”: “The main stumbling block was State Department lawyers.”

719. Sir Jeremy stated that, as he saw the UK’s position, “we had no fear of a second stage Council discussion. We would not be bound if, at that stage, the Council funked its responsibilities.” He “did not understand why the US lawyers were frightened. This would simply mean taking the process to that point.” Sir Jeremy “asked if UK pressure would help”. He also suggested amending OP11 to require Dr Blix to report “any systematic interference”, rather than “any interference”.

720. Sir Jeremy reported that Ambassador Negroponte had also said Mr Lavrov had told him he had been instructed to make clear that the draft resolution was “unacceptable” and “Russia would veto”.

721. Sir Jeremy commented:

“The tactical manoeuvring is now getting sharp. Lavrov’s veto threat is presumably agreed by Putin. My instinct is to regard this as hard negotiating ... they [the Russians] would not veto on their own. But it makes clear that, whatever further concessions are squeezed out of the Washington system, the Russians will not vote positively.

...

“The French text ... is actually not bad from a UK point of view. We shall have to see what Washington makes of it. My guess is that there is probably one more round of

²⁴³ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

²⁴⁴ Telegram 2042 UKMIS New York to FCO London, 25 October 2002, ‘Iraq: Discussions on 24 October’.

significant concessions, in the ‘material breach’ area to be had out of the Americans. I see our role tomorrow as being primarily a listening one ... But I would like to see the Americans showing more teeth.”

722. On 25 October, Mr Straw and Secretary Powell discussed the need to deal with views amongst other P5 members, that the reference to material breach in OP4 was a potential trigger for military action.²⁴⁵ They agreed that the issue needed to be addressed.

723. During the discussion in the Security Council on 25 October Sir Jeremy Greenstock stated that the draft:

“... was a text about disarmament and nothing else. It was not, and would not be, a text that established a casus belli. The whole point was to make clear that Iraq had not complied, but ... we were giving it a last chance to get this right through peaceful disarmament. OP4 did not establish that a false declaration or omission was, on its own, a casus belli. There were no triggers except as set out in OPs 11 and 12, ie requiring a second stage of Council business.”²⁴⁶

724. Discussions also focused on whether the finding of material breach in OP1 would be framed in the past or present tense, and the need to make clear that it did not constitute a trigger for action.

725. Reporting informal consultations between Security Council members and Dr Blix and Dr ElBaradei on 28 October, the UK Mission in New York advised that there was support for most provisions in the UK/US draft resolution. Both Dr Blix and Dr ElBaradei had emphasised:

- the importance of clear and unified support for inspections from the Council;
- UNMOVIC and the IAEA should choose their staff; and
- the modalities for the conduct of interviews should be left to the inspectors.²⁴⁷

726. There were foreseeable practical difficulties with interviews outside Iraq. Dr Blix was aware of the large responsibility placed on UNMOVIC in reporting Iraqi interference and failure to comply. Its reports would have to be accurate. But that would not mean war and peace were in the inspectors’ hands – they would simply report to the Security Council, which would decide on the consequences.

727. FCO Legal Advisers continued to warn that the resolution might not deliver legal authority for military action and that the revival of the authority for the use

²⁴⁵ Telegram 566 FCO London to Washington, 25 October 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 25 October’.

²⁴⁶ Telegram 2050 UKMIS New York to FCO London, 25 October 2002, ‘Iraq: Informal Consultations 25 October’.

²⁴⁷ Telegram 2057 UKMIS New York to FCO London, 28 October 2002, ‘Iraq: Informal Consultations with Blix and ElBaradei’.

of force was not a judgement which could be made by individual Member States of the Security Council.

728. The final amendments to the draft resolution were seen by FCO Legal Advisers and by Lord Goldsmith and his officials.

729. Lord Goldsmith also asked FCO Legal Advisers for information on the use and effect of a veto.

730. Mr Wood reminded Lord Goldsmith that the Law Officers had not excluded the possibility of action in the event of a failure to act by the Council, in “exceptional circumstances” where “the international community as a whole favoured action”; but they had reached no firm conclusion on the point.

731. Mr Grainger drew Sir Jeremy’s remarks to Ambassador Negroponte to the attention of Ms Elizabeth Wilmshurst, FCO Deputy Legal Adviser.²⁴⁸

732. Mr Grainger wrote to Mr Chaplin on 31 October, stating that:

“The effect of this resolution will be that it does not authorise the use of force, either now or in the event of further Iraqi non-compliance, and that it envisages further Council action if force is to be authorised (as recognised in OP12). Equally, the Council failing to take its responsibilities (i.e. not authorising the use of force when we believe that politically it ought to do so) would not provide a legal basis for the use of force.”²⁴⁹

733. Echoing Lord Goldsmith’s advice to Mr Straw on 18 October, Mr Grainger cautioned that “we must be careful not to give the US (or ... others in Whitehall) a false impression of our understanding of the legal position”.

734. Mr Grainger sent copies of his minute to Mr Pattison and others within the FCO, but not to the UK Mission in New York.

CIG Assessment, 28 October 2002

A global survey of chemical and biological weapons, produced at the request of the MOD, was issued by the JIC on 28 October.²⁵⁰ It provided a general assessment of the practicalities involved in producing and using chemical and biological agents and an assessment of the capabilities of several countries. Its judgements in relation to Iraq are addressed in Section 4.3.

²⁴⁸ Email Grainger to Wilmshurst, 25 October 2002, ‘Iraq: Discussions on 24 October’.

²⁴⁹ [Minute Grainger to Chaplin, 31 October 2002, ‘Iraq: UKMIS NY TELNO 2078’.](#)

²⁵⁰ [CIG Assessment, 28 October 2002, ‘Global Chemical and Biological Weapons Survey’.](#)

Decision to offer a land contribution to the US for planning purposes

735. The MOD advised Mr Blair on 29 October that its influence on US planning was reducing and the option to deploy UK ground forces was at risk of being excluded by default. The only way to avoid that was to offer Package 3 to the US for planning on the same basis as Package 2.

736. Package 3 could also significantly reduce the UK's vulnerability to US requests to provide a substantial and costly contribution to post-conflict operations.

737. Mr Watkins wrote to Sir David Manning on 29 October, to report that "US military planning [was] continuing, but increasingly assuming no UK Land contribution"; and that an option for a "significant land contribution" could be "sensibly kept open only by placing it on a similar basis" to Package 2.²⁵¹

738. The MOD stated that Package 3 was:

"... for practical purposes being excluded by default. If we are to keep the option open, and continue to have the strongest military cards to underpin our political influence, the Defence Secretary believes that we should indicate to the US that they should plan on the assumption that the land contribution would be available, subject to final political approval ... It is also worth noting that, while Package 3 is significantly more expensive in itself than Package 2, making it available could significantly reduce our vulnerability to US requests to provide a substantial (and costly) contribution to post-conflict stabilisation operations."

739. The MOD letter and the advice for Mr Blair from Sir David Manning are addressed in Section 6.1.

740. On 31 October, Mr Blair agreed that the MOD could offer Package 3 to the US on the same basis as Package 2.

741. The decision to offer ground forces (Package 3) to the US for planning purposes was a significant step. Once the offer had been made, it would have been difficult to withdraw and constrained the UK's subsequent policy choices.

742. Mr Blair, Mr Straw, Mr Hoon and Adm Boyce discussed the MOD wish to offer Package 3 to the US for planning purposes again on 31 October.²⁵²

743. Mr Rycroft recorded that Mr Blair concluded that the MOD should tell the US that the UK was "prepared to put Package 3 on the same basis as Package 2 for planning purposes, in order to keep the option open; but that no warning should be issued to the Reservists at this stage". Mr Blair "should be consulted again before any such warning was issued".

²⁵¹ [Letter Watkins to Manning, 29 October 2002, 'Iraq: UK Military Options'](#).

²⁵² [Letter Wechsberg to Watkins, 31 October 2002, 'Iraq: Military Options'](#).

744. Copies of the record of the meeting were sent to Adm Boyce, the Private Offices of Mr Hoon, Mr Straw and Mr Brown, and to Mr Bowen.

745. The reasons for the decision to offer ground forces are considered in Section 6.1.

746. Sir David Manning raised the possibility with Dr Rice of delaying action until winter 2003 in view of the potential mismatch between the timetable for inspections and the US military plan, but there was no substantive discussion of that option.

747. Sir David Manning flew to Washington on 31 October for talks with Dr Rice, Secretary Powell and Mr Richard Armitage, US Deputy Secretary of State.

748. The record of the discussions sent to Whitehall stated that Sir David had “underlined the importance for the UK of a UNSCR” and had discussed the prospects for reaching agreement. The US was working on a revised text. Sir David had “a strong impression that the gap between [the US and France] had widened again”.²⁵³

749. A separate private minute from Sir David to Mr Blair reported concern about whether the potential difficulties in reaching agreement with the French had been underestimated, and an assurance that President Bush understood the UK’s political constraints.²⁵⁴

750. The other major issue discussed was whether a UK military force would be permitted to transit through Turkey.

751. Sir David Manning reported that he and Dr Rice had discussed the fact that “the UN inspection timetable was now out of sync with the timetable for possible military action beginning in early January”. He had asked “whether we might now be looking at the second of the original ‘windows’ ie a campaign next winter rather than this”. That had not been ruled out but the conversation had shifted to the prospects for internal regime change sparing the need for military action. The best chance of securing that was “a very tough UN resolution accompanied by threatening military preparations, in the hope that Saddam’s system would implode under the strain”.

752. Sir David reported that Dr Rice had been focused on events developing in a way which meant military action might not be necessary. He speculated whether that might indicate a shift in the US attitude. They had also discussed the possibility of issuing an ultimatum to Saddam Hussein and his sons to leave Iraq if he was in breach of the resolution.

753. In conclusion, Sir David reported that there had been a “pretty sharp change of mood over the past three months, perhaps fuelled by polls which show growing doubts among the US public, and a growing appreciation of the huge difficulties we shall face

²⁵³ Letter Rycroft to McDonald, 1 November 2002, ‘Iraq: US Views, 1 November’.

²⁵⁴ Minute Manning to Prime Minister, 3 November 2002, ‘Visit to Washington: Talks with Condi Rice’.

if we have to occupy ... Iraq". He did not "want to make too much of this" but wondered if it suggested "a new wariness at the heart of the [US] Administration".

Final stages of the negotiation of resolution 1441

754. Cabinet was informed on 31 October that a UN resolution was likely to be agreed the following week.

755. On 31 October, Mr Straw told the Cabinet that the Security Council was in the final stages of the negotiation of a resolution on Iraq.²⁵⁵ The text would need to meet French concerns that it would not provide a pretext for war and UK and US concerns to avoid too restrictive a formulation on what would follow an Iraqi breach of the resolution. The most likely outcome was a resolution the following week. The pressure to reach closure was "growing".

756. In discussion the need for the inspection regime to be tough and for existing defects to be rectified, and for the resolution to provide for further discussion in the Security Council, were raised.

757. Mr Blair concluded that a "robust resolution was required which would send a clear message to Saddam Hussein. If Iraq did not comply there would be further discussion in the ... Security Council of the next steps."

758. Mr Straw told Mr Ivanov on 1 November that if Iraq did not comply, the draft resolution meant the issue would "have to go back to the Security Council to decide what action was required".

759. In a conversation with Mr Straw on 1 November, Mr Ivanov stated that efforts should be concentrated on two sets of questions:

- The provisions in the resolution on inspection procedures should reflect the views of Dr Blix and Dr ElBaradei. In his view, that would be "difficult, but feasible".
- What happened in the event that a resolution was violated.²⁵⁶

760. Mr Ivanov was reported to be content for the resolution to contain references to previous material breaches:

"But the resolution had to be careful about future material breaches. He did not want a situation where military action could be automatically sanctioned without further reference to the Security Council."

²⁵⁵ Cabinet Conclusions, 31 October 2002.

²⁵⁶ [Telegram 583 from FCO London to Washington, 1 November 2002, 'Iraq: Foreign Secretary's Conversation with Russian Foreign Minister, 1 November'](#).

761. Mr Straw told Mr Ivanov that his “strong hope was that negotiations in New York would lead to a resolution that all sides could vote for”, and:

“... underlined that the resolution could not be used as a pretext for unjustified military action ... the reference to ‘all necessary means’ had now gone. In its place stood OP11 and OP12. The issue would now have to go back to the Security Council to decide what action was required.”

762. Citing the differences in view about the legal basis for the No-Fly Zones in Iraq, Mr Ivanov said he wanted to “avoid situations of ambiguity” and “repeated that he did not want to see the resolution ... used unilaterally for military action”.

763. Mr Straw responded that:

“... there was no intention of using force unless it was absolutely essential. If the UK sought the use of force, then it was likely that Russia, France and China would want it too.”

764. **Following a warning from Sir Jeremy Greenstock on 1 November that there was a risk that China, France and Russia would veto the resolution, intense negotiations on the precise wording of the draft resolution continued between P5 capitals and in New York.**

765. Reporting his discussions in New York on 1 November, Sir Jeremy Greenstock said that he had told the US delegation: “We could be close to a Russian/French/Chinese deal to exercise a triple veto because of OP4.” (They were concerned that OP4 could be a trigger for military action.)²⁵⁷

766. Sir Jeremy questioned whether OP4 was useful given that: “With any negotiable OP4, the Council would have to ‘establish’ or ‘assess’ any material breach leading to potential argument and constraining our flexibility.” He had suggested losing the OP and moving the reference “to false statements or omissions in the declaration” to OP11.

767. Mr Grainger sent a copy of the text of the US draft resolution of 1 November to Mr Brummell on 4 November, saying that Mr Wood would be in touch.²⁵⁸

768. The draft text of OP4 included text additional to the draft resolution of 23 October, stating that in the event of a further material breach, “the Council shall convene in accordance with paragraphs 11 and 12” of the draft resolution.

769. The reference to the Council’s warnings “that Iraq will face serious consequences as a result of continued violations of its obligations”, OP2 in the draft of 23 October, had been moved to the end of the resolution, and became OP13 in resolution 1441.

²⁵⁷ Telegram 2097 UKMIS New York to FCO London, [01] November 2002, ‘Iraq Resolution: 1 November’.

²⁵⁸ [Note \(handwritten\), Grainger to Brummell, 4 November 2002, attaching text of US draft resolution.](#)

770. The draft text also included a new provision deciding that “notwithstanding” the finding in OP1 that Iraq “remains” in material breach of its obligations under relevant resolutions, Iraq would be afforded “a final opportunity to comply” with its obligations.

771. That provision, which was designed to provide a ‘firebreak’ between the finding of material breach in OP1 and the rest of the provisions in the resolution, became, after further amendment, OP2 in resolution 1441.

772. Intense discussions on the precise wording of those and other provisions in the draft resolution continued between capitals and in New York.

773. A document setting out “a further update of the compendium of proposals on key paragraphs”, reflecting discussions over the preceding weekend, was circulated with an email from Mr Pattison’s office on the morning of 4 November.²⁵⁹ That included an option for alternative additional text in OP4 to the proposal in the 1 November draft which stated: “and will be reported to the Security Council for assessment in accordance with OP12”.

774. Mr Grainger immediately sent Mr Pattison’s email of 4 November to Mr Wood and Ms Wilmshurst.²⁶⁰

775. A minute from Mr Ricketts to Mr Straw’s Private Office on 5 November reported that the French were concerned about the omission of a reference to OP11 – as well as to OP12 – in OP4. That could be read as opening the door “further” to a report to the Council from a Member State for assessment in accordance with OP12.²⁶¹

776. Mr Ricketts’ advice was sent to Mr Grainger, amongst others.

777. Lord Goldsmith met Mr Wood and Mr Grainger on 5 November.

778. A letter from Mr Grainger to Mr Brummell later that day makes clear that Lord Goldsmith asked for further information on the use and effect of the veto by the Permanent Members of the Security Council.²⁶² The letter indicated that the discussion centred on the question of the legal effect of a veto of a resolution by a Permanent Member of the Security Council.

779. One of the questions on which Lord Goldsmith had sought further information was whether it would be possible to argue that a P5 veto had been cast on unreasonable grounds and therefore would not prevent a resolution being adopted. Mr Grainger’s clear advice was that there was nothing in the practice of the Council or in the UN Charter to support that argument.

²⁵⁹ Email PA/Mr Pattison to FCO officials, 4 November 2002, attaching Paper ‘Iraq: UNSCR: UK, French and American proposals’.

²⁶⁰ Email Grainger to Wood and Wilmshurst, 4 November 2002, ‘Iraq’.

²⁶¹ Minute Ricketts to Private Secretary [FCO], 5 November 2002, ‘Iraq: French Reactions’.

²⁶² Letter Grainger to Brummell, 5 November 2002, ‘Iraq: Legal Effect of the Veto’.

780. There is no record of whether the text of the draft resolution and its effect were discussed at that meeting.

781. Lord Goldsmith drew the Inquiry's attention to a copy of Mr Grainger's note of 4 November in the files of the Attorney General's Office, which had "a manuscript reference" in the margin of OP4 which read: "and will be reported to SC [Security Council] for assessment in acc with para [11+]12".²⁶³

782. Lord Goldsmith told the Inquiry that:

"... it is not clear when that manuscript note was made. In any event I do not believe that I saw it and there was no request to advise on the effect of the words. I feel reasonably confident that if I had been asked about those words I would have said that they were problematic and would have argued for their removal. In the event, when I came to advise on the text after it was adopted, the words became of central importance and caused me much difficulty."²⁶⁴

783. In a conversation with President Bush on 6 November, Mr Blair reiterated his view that the clear message to Saddam Hussein must be that, if there were a further breach by Iraq, action should follow.

784. Mr Blair telephoned President Bush on 6 November primarily to discuss Iraq.²⁶⁵

785. The UK/US draft resolution was to be circulated later that day and Mr Blair welcomed its provisions for a tough inspections regime. Mr Blair and President Bush also discussed making statements after the resolution had been adopted and the messages that would send to Saddam Hussein.

786. Mr Blair told President Bush that there was a chance, albeit a small one, that under the pressure and humiliation of inspections the regime might crumble. They "must play into that" and "be very tough, to encourage regime members to split off". A psychological profile would be useful.

787. Mr Blair said that:

"... there must be a clear understanding that if there were a further breach action must follow; we should imply, without spelling it out, that if there were a veto in those circumstances, there would still be action."

788. In his subsequent conversation with Dr Rice, Sir David Manning reported that Mr Blair had told the President that he would point to the commitment in the resolution

²⁶³ [Note \(handwritten\) Grainger to Brummell, 4 November 2002, attaching text of US draft resolution.](#)

²⁶⁴ Statement, 4 January 2011, paragraph 1.7.

²⁶⁵ Letter Rycroft to McDonald, 6 November 2002, 'Iraq: Prime Minister's Phone Call with Bush, 6 November'.

to consult if there were a violation, and underline that he would then expect the Security Council to act.²⁶⁶

789. In a discussion with Secretary Powell on 6 November, Mr Straw commented that the UK and US had got what they wanted, including “serious consequences”.²⁶⁷

790. On 2 November, France proposed that the following words should be added to the paragraph:

“shall constitute a further material breach of Iraq’s obligations when assessed by the Security Council.”²⁶⁸

791. The US then proposed:

“... shall constitute a further material breach of Iraq’s obligations and will be reported to the Security Council for assessment in accordance with OP12.”

792. The resolution was finally tabled in the Security Council on 6 November.

793. The revised US/UK draft resolution was presented to the Security Council on 6 November.²⁶⁹

794. Lord Goldsmith saw the draft text.²⁷⁰

795. The omission of a reference to OP11 in the US proposal was a matter of concern to both France and Russia. Russia expressed concern that its omission created a *casus belli* before a reported breach reached the Security Council; France was concerned that OP4 should refer to OPs 11 “and” 12 lest it might be taken to imply that a meeting of the Security Council could take place, not on a report from UNMOVIC or the IAEA, but from a Council member.²⁷¹

796. Sir Jeremy Greenstock reported that points raised in discussions between P5 Ambassadors included:

- Ambassador Negroponte said the draft resolution “was a genuine US effort to go through the UN and strengthen inspections – not to find hidden triggers”. A resolution with P5 support “would give the clearest possible signal to Iraq”.

²⁶⁶ Letter Manning to McDonald, 6 November 2002, ‘Iraq: Conversation with Condi Rice’.

²⁶⁷ Telegram [un-numbered] FCO London to Washington, 6 November 2002, ‘Foreign Secretary’s Conversation with US Secretary of State, 6 November’.

²⁶⁸ Telegram 585 FCO London to UKMIS New York, 2 November 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 2 November’.

²⁶⁹ Telegram 2120 UKMIS New York to FCO London, 7 November 2002, ‘Iraq: Security Council Consultations’.

²⁷⁰ Manuscript comment Adams to AG on Telegram 2112 UKMIS New York to FCO London, 6 November 2002, ‘Iraq: 6 November Revised Resolution’.

²⁷¹ Telegram 2119 UKMIS New York to FCO London, 7 November 2002, ‘Personal Iraq: P5 Meeting and Contacts with Negroponte’.

- Mr Lavrov was disappointed that the draft did not take on board comments on a number of issues, but he had been instructed to focus on four:
 - "... 30 days was unrealistic for a declaration covering non-WMD chemical and biological programmes." That was "important given omissions ... could trigger a material breach".
 - The draft language in OP4 "created a casus belli before the report reached the Council". He had been instructed to insist on the earlier French formulation, referring to a material breach being reported to the Council, "in accordance with Ops 11 and 12".
 - A preference for French language on Presidential sites in OP7.
 - The reference to restoring international peace and security in the draft of OP12 was not appropriate "(it was not clear it would need restoring)". He could compromise on "secure".
- Mr Wang Yingfan, Chinese Permanent Representative to the UN, shared Mr Lavrov's view on OP4 and was not clear what "assessment" meant in Chinese.
- Mr Levitte said that unanimity was essential. OP4 "had to refer to OPs 11 'and' 12, not 11 'or' 12": "'Or' could mean a meeting taking place, not on a report from Blix, but from a Council member. If this was the intention, the result would be conflicting reports from different Members. If reports were not sent through Blix or ElBaradei we would end up with a very ambiguous situation ... He expected Powell and Villepin to address the issue."

797. In subsequent discussion, the US said OP4 created a distinction between an "automatic casus belli" and "automaticity for the use of force": "further failures to comply would constitute a material breach, but that material breach would result in a Council discussion". Ambassador Negroponete "clarified" that an omission in the declaration (required by OP3) "on its own would not constitute a material breach".

798. In a bilateral discussion with Ambassador Negroponete, Sir Jeremy suggested that "and" could be reinstated in OP4 but the use of "or" should be retained in OP12 (which provided for the Council to convene immediately upon receipt of a report in accordance with OP4 or OP11).²⁷²

CABINET, 7 NOVEMBER 2002

799. Mr Blair told Cabinet on 7 November that after the return of inspectors to Iraq, "tricky questions would arise about whether Iraq had breached its obligations and what steps should be taken".

²⁷² Telegram 2119 UKMIS New York to FCO London, 7 November 2002, 'Iraq: P5 Meeting and Contacts with Negroponete'.

800. Mr Straw told Cabinet on 7 November that the vote on the resolution on Iraq was likely to take place the following day and described its provisions.²⁷³ The aim was to achieve unanimity, which would be a triumph for UK and American diplomacy.

801. In discussion, it was suggested that:

- public opinion in the US, which had in the past not been supportive of the UN, was now supportive of the multilateral approach;
- inspections had to be done properly and would need to be backed by a sufficient level of military threat to ensure Iraq's compliance;
- the facts of any breach would be reported by the inspectors, with the Security Council having to judge what the facts meant; and
- media speculation that pressure on Iraq was about access to oil supplies and that British companies would be disadvantaged was not helpful.

802. Mr Blair concluded that “after the return of inspectors tricky questions would arise about whether Iraq had breached its obligations and what steps should be taken”. The resolution “should send a clear message to Iraq in terms of what the international community required and the consequences of non-compliance”. The “need to move forward on the Middle East Peace Process had not been overlooked”.

MR STRAW'S CONVERSATION WITH LORD GOLDSMITH, 7 NOVEMBER 2002

803. In preparation for a discussion between Mr Straw and Lord Goldsmith, Mr Wood wrote to Mr Straw on 6 November offering his view of the legal considerations.²⁷⁴ Mr Wood emphasised that it was important that anything said by the Government, either publicly or to the US or others, was not incompatible with the position under international law. All statements, including Explanations of Vote and Parliamentary Statements, should be seen by the Legal Secretariat to the Law Officers.

804. Mr Wood identified “the most difficult question on which doubtless we shall be pressed, is what the legal position would be if [in the event of a further material breach by Iraq] the Council ‘fails to act’ at a second stage”. He wrote:

“The first resolution [what became 1441] ... does not itself authorise the use of force, or revive the authorisation to use force given in SCR 678. Although OP1 decides that Iraq has been and remains in material breach of the cease-fire resolution, the remaining paragraphs (and in particular OPs 11 and 12) indicate that the Council has decided to take action itself if the breach continues or if there are further violations. This is the case even though OP4 remains in the resolution.

²⁷³ Cabinet Conclusions, 7 November 2002.

²⁷⁴ [Minute Wood to PS \[FCO\], 6 November 2002, ‘Iraq: Legal Basis for the Possible Use of Force’.](#)

“If at a second stage the Council authorises the use of force, or uses language which revives the authorisation given by SCR 678 ... the position will be relatively straightforward.

“If, however, the Council is unable to take a decision at the second stage, whether because there are insufficient votes for another resolution, or a resolution is vetoed, there will be nothing to point to by way of revival of the authorisation to use force given in SCR 678. We have previously noted that this is not a judgment to be made unilaterally by individual Member States.”

805. Mr Wood also addressed the position if the Security Council failed to act in response to a further material breach by Iraq:

“The position that could arise if the Council ‘fails to act’ was ... addressed, in hypothetical terms, by the then Law Officers in November 1997. After concluding that in circumstances then prevailing an essential precondition for the use of force was appropriate action by the Council, the Law Officers went on to say that they ‘did not exclude the possibility’ (though they reached no firm conclusion) that exceptional circumstances could arise in which it was generally accepted by the international community as a whole that Iraq had in effect repudiated the cease-fire and that a resort to military force to deal with the consequences of Iraq’s conduct was the only way to ensure compliance.

“Too much should not be read into this ... The possibility raised in 1997 has not been relied upon and is not based on authority or precedent. In any event, the situation envisaged was a very narrow one where the international community as a whole favoured action but the Council decided not to act.”

806. Copies of Mr Wood’s letter were sent to FCO officials and to Mr Iain Macleod, Legal Counsellor, in the UK Permanent Mission to the UN in New York.

807. Lord Goldsmith saw the letter.²⁷⁵

808. Lord Goldsmith addressed the issue of an “unreasonable” veto in his advice to Mr Blair of 14 January 2003 (see Section 5).

809. There is no record of Lord Goldsmith’s conversation with Mr Straw on 7 November.

810. In preparation for the conversation, Ms Adams advised Lord Goldsmith:

“... the main purpose ... was to make clear to the Foreign Secretary that he should not take it for granted that ‘it will be alright on the night’.”²⁷⁶

²⁷⁵ Manuscript comment Adams to AG, 6 November 2002, on Minute Wood to PS [FCO], 6 November 2002, ‘Iraq: Legal Basis for the Possible Use of Force’.

²⁷⁶ [Minute Adams to Attorney General, 7 November 2002, ‘Iraq: Meeting with the Foreign Secretary’.](#)

811. Lord Goldsmith told the Inquiry that was the main purpose of the conversation with Mr Straw on 7 November; and he had meant that “they shouldn’t take it for granted that, when it came to it and definitive legal advice was given, that it was going to be that we are in a position to take military action”.²⁷⁷

812. Ms Adams also wrote:

“A vote is expected at the end of the week. The draft ... may change further ... so you are still not in a position to give a definitive view of what it means (and of course we will need to wait and see what statements are made on adoption).”²⁷⁸

MR STRAW’S STATEMENT TO PARLIAMENT, 7 NOVEMBER 2002

813. Mr Straw told Parliament that the UK’s objective was consensus on a tough resolution that left Iraq under no illusions about the need for disarmament.

814. The UK wanted a peaceful resolution to the crisis, and the best chance of achieving that was a clear and credible threat of the use of force.

815. If Saddam Hussein failed to comply, it was open to any member of the Security Council to table a further resolution seeking UN support for the use of force and the UK reserved the right to do so. But Mr Straw could not anticipate what could happen.

816. Whether military action was justified would depend on the circumstances. The UK reserved its “right” within international law to take military action if that was required.

817. Mr Straw made a statement to the House of Commons on 7 November.²⁷⁹

818. Mr Straw stated:

“... our overriding objective is to disarm Iraq of its weapons of mass destruction through an effective inspections regime ...

“As one of the five Permanent Members of the Security Council, the UK has been determined to ensure that the UN emerges from this crisis with its credibility enhanced. During the negotiations, our aim has been to secure consensus on a tough resolution that leaves Iraq under no illusions about the need for disarmament ...”

819. Mr Straw stated that the resolution used the full powers of the UN under Chapter VII of its Charter and that the “key points” included the finding in OP1 that Iraq had been

²⁷⁷ Public hearing, 27 January 2010, page 32.

²⁷⁸ [Minute Adams to Attorney General, 7 November 2002, ‘Iraq: Meeting with the Foreign Secretary’.](#)

²⁷⁹ House of Commons, *Official Report*, 7 November 2002, columns 431-451.

and remained in material breach of its obligations, and that OP2 offered Iraq a final opportunity to comply.

820. Mr Straw also stated:

“The text sets out the procedure to be followed in the case of failure by Iraq to comply; it requires in operative paragraph 4 that any further material breach ... should be reported to the Security Council. It directs in operative paragraph 11 the Executive Chairman of UNMOVIC and the Director General of the IAEA to report immediately to the Council any interference by Iraq with their inspection activities of failure to comply with its disarmament obligations. It provides in operative paragraph 12 that the Council will convene immediately on receipt of a report of non-compliance in order to consider the situation.”

821. Mr Straw stated:

“Britain wants a peaceful resolution to this crisis, and the United States has shown by its engagement in the long negotiation over the past weeks that it too is committed to using the UN route in order to resolve this problem.”

822. Quoting Mr Annan’s remarks (on 16 October), Mr Straw stated that in relation to Iraq, diplomacy had to be backed by military force to succeed and that:

“The more credible the threat, the more likely it is that Iraq will respond to the demands of the UN ... The choice for Saddam Hussein is to comply with the UN or face the serious consequences.”

823. Mr Michael Ancram, the Opposition Front Bench Spokesman on Foreign Affairs, asked for clarification on whether OP2 of the resolution meant that:

“... in the event of non-compliance, no further resolutions will be required? Is it implicit in the resolution that action is already justified by the existing and continuing breach of Iraq’s obligations?”

824. In response, Mr Straw referred to the provisions of OPs 1, 2 and 3-10, adding:

“... under operative paragraph 11, the inspectors are under a duty to report to the Security Council if they come across any breach; and under operative paragraphs 4 and 11, the Security Council can – and will – resume its meetings to consider the circumstances if there is a breach.

“I do not want to anticipate what will happen if there is a breach, except to say that although we would much prefer decisions to be taken within the Security Council, we have always made it clear that within international law we have to reserve our right to take military action, if that is required, within the existing charter and the existing body of UN Security Council resolutions, if, for example, a subsequent resolution were to be vetoed ... I do not believe it will come to that.”

825. Asked by Mr George Osborne (Conservative) if UN-authorized military action would require a new resolution if Iraq was in material breach of the resolution, Mr Straw replied:

“The processes set out in the Security Council resolution are complicated ... False statements or omissions or failure to comply, as set out in operative paragraph 4, will amount to a material breach, and any reporting by the inspectors may turn out to show a material breach. Then, under operative paragraph 12, the Security Council will meet to discuss the matter. Any member of the Council can table a resolution, and it remains to be seen whether the Security Council or individual members judge that a further resolution is necessary to deal with the material breach that is presented to them. It is complicated, but it is clear.”

826. Asked if the British Government intended to table a resolution seeking UN support for the use of force in the event that Saddam Hussein failed to comply, Mr Straw replied that it was “open to any member of the Security Council ... to put forward a resolution or resolutions” and that the UK reserved the right to do so. But he could not “at this stage anticipate what could happen”.

827. Asked by Ms Ann Clwyd (Labour) about progress using international law to set up a war crimes tribunal on Iraq, Mr Straw replied:

“We have been making as much progress as we can in respect of indicting war criminals in Iraq. I recognise my hon. Friend’s feeling that is not sufficient and I will continue to pursue indictment in the United Kingdom ... I speak to ... Attorney General about this from time to time. I shall be seeing him again this afternoon for a further discussion. We certainly do not rule out an international tribunal trying Saddam Hussein and others in his Government for war crimes.”

828. In response to other points raised by MPs, Mr Straw stated:

- “... any decisions that we make in respect of military action will be made within the context of the body of international law, of which Security Council resolutions form part, but not the whole.”
- The “best chance of a peaceful solution to the crises” was “through unanimity of the international community and a clear and credible threat of the use of force” if Iraq did not comply. He remained “quite optimistic” that the process could work.
- The text did not define “material breach” because it was “a term of art familiar in international law”.
- In relation to who was to decide if there was a material breach, it would “become patent [sic] whether there has been a material breach”, and what followed would “in the first instance be a matter for discussion within the Security Council”.
- If the resolution was passed unanimously, there would be “clear deadlines for compliance”.

- Whether military action was justified in law “with or without a second resolution” would depend on the circumstances, which he could not predict.
- There was “now a great emerging consensus” which recognised that Saddam Hussein had “been in the most terrible breach of international obligations ... and that the time had come to require that awful, terrible regime to put right those breaches”.
- There were “no trip wires in the resolution”; the UK had “been extremely careful to ensure” that there were none.
- The UK was working on the basis that Saddam Hussein was “a liar and a cheat”.
- He and Mr Blair were aware “of the anxieties of the public ... about the prospect of military action”, and: “Military action should never be used except as a last resort when all other possibilities have been exhausted.”
- The UK “would prefer to stay with the UN Security Council route” but “must reserve the right, within our obligations under international law, to take military action if we deem that necessary, outwith a specific Security Council resolution being passed in the future”. The UN Charter, Security Council resolutions and customary international law were the basis of international law, and judgements about whether military action was “necessary and justified” had to be made on “that totality”.
- The prospect of military action was seen “very much as a last resort”; if the resolution was passed, the prospect of military action would recede.

Resolution 1441 (2002)

829. Following a series of discussions in New York on 7 November, the US and UK tabled a revised draft resolution.

830. An instruction to the UK Mission in New York agreeing amendments to the draft text was cleared with No.10 on the morning of 7 November.²⁸⁰ That included an amendment to the text of OP4 to refer to OP11 “and” OP12, “while keeping ‘or’ in OP12” to “leave open the possibility of a member state, as well as Blix, making a report to the Council”.

831. Mr Blair discussed the resolution with President Putin on 7 November.²⁸¹

832. Mr Blair said that he “hoped that, through this resolution and the inspection regime, the issue of Iraq’s WMD could be resolved without conflict”. Mr Blair and President Putin also discussed the issue of who under OP4 would establish the material breach. Mr Blair told President Putin that if there were a breach by Iraq then we would come back for a further discussion in the Security Council. Our expectation would be that if there were a significant breach, the Security Council would authorise action.

²⁸⁰ Fax Ricketts to Rycroft, 7 November 2002, attaching Paper ‘Draft telegram to UKMIS New York’.

²⁸¹ Letter Rycroft to McDonald, 7 November 2002, ‘Iraq: Prime Minister’s Conversation with Putin, 7 November’.

833. Mr Putin proposed a joint EOV by the P5. Mr Blair was prepared to agree that, provided that the undertaking to consult was tied to an undertaking to act.

834. Following a series of discussions in New York on 7 November, which focused on Security Council unity and the need for a balance between safeguards on Council involvement, a clear warning of the consequences of non-compliance and the powers needed by the inspectors to secure the objective of Iraq's disarmament, the US and UK agreed the final changes to the draft resolution.²⁸²

835. Sir Jeremy Greenstock reported that Mr Lavrov had sought an addition to OP4 providing for a material breach to be "reported [to] and assessed by the Council", and had also expressed concern that the "US wanted the whole Council to accept some unpredictable future event would constitute a material breach".

836. Sir Jeremy Greenstock subsequently stated that the purpose of the resolution was:

"(i) to clarify and strengthen the inspections regime so that the disarmament of Iraq's WMD, in accordance with its obligations ... could be brought to full and verified completion through this enhanced inspections regime; and (ii) to deliver the clear-cut warning, one final time, that failure to comply with its disarmament obligations would, in accordance with this resolution, including the procedures specified in OPs 4, 11 and 12, mean that Iraq will face serious consequences."

837. The US and UK also made clear that the resolution provided for a two stage process with the Council at its centre.

838. Following discussion with Washington and agreement with the UK, the US delegation introduced a revised text. The decision that a further material breach would be "reported to the Council in accordance with paragraphs 11 and 12", not "11 or 12", in OP4 was described as a "substantial change". At the request of Russia, "secure" replaced "restore" in OP12.

839. Mr Lavrov had also asked the US and UK for confirmation that the "failures" referred to in OP4 related to WMD programmes, and to clarify whether they understood OP4 to require a report by UNMOVIC and the IAEA to the Security Council and then Council discussion.

840. On the last point, Sir Jeremy had responded that:

"If there was a further Iraqi breach ... the matter would return to the Council for discussion as required under OP12. We would then expect the Security Council to meet its responsibilities."

841. Resolution 1441 was adopted on 8 November by a unanimous vote of the members of the Security Council.

²⁸² Telegram 2128 UKMIS New York to FCO London, 8 November 2002, 'Iraq Resolution: 7 November'.

842. The preambular paragraphs (PPs 1-18) set out the relevant Security Council resolutions and the obligations they imposed on Iraq.²⁸³ The resolution:

- recognised that Iraq’s non-compliance with existing obligations imposed by the Security Council, in relation to WMD and long range missiles, posed a threat to international peace and security (PP3);
- recalled that resolution 678 (1990) had authorised Member States to use all necessary means to uphold and implement the relevant resolutions and to restore international peace and security in the area (PP4);
- expressed the Council’s determination to secure full compliance with its decisions (PP17); and
- stated that it was acting under Chapter VII of the Charter (PP18).

843. A summary of the key operative paragraphs is in the Box below.

Resolution 1441 (2002): summary of key operative paragraphs

- Iraq “has been and remains in material breach of ... relevant resolutions, including Resolution 687 (1991)”, the “cease-fire” resolution (**OP1**).
- Iraq had “a final opportunity to comply with its disarmament obligations”. The Security Council had decided to set up “an enhanced inspection regime with the aim of bringing to full and verified completion the disarmament process established by ... resolutions of the Council” (**OP2**).
- Iraq “shall provide ... not later than 30 days from the date of this resolution, a currently accurate, full and complete declaration of all aspects of its programmes to develop chemical, biological and nuclear weapons, ballistic missiles and other delivery systems ... including any holdings and precise locations of such weapons, components, sub-components, stocks of agents, and related material and equipment, the locations and work of its research, development and production facilities, as well as all other chemical, biological, and nuclear programmes, including any which it claims are for purposes not related to weapon production or material” (**OP3**).
- “[F]alse statement or omissions in the declarations ... and failure by Iraq ... to comply with, and co-operate fully in the implementation of, this resolution shall constitute a further material breach” which would be “reported to the Council for assessment in accordance with paragraphs 11 and 12” (**OP4**).
- Iraq “shall provide UNMOVIC and the IAEA with immediate, unimpeded, unconditional and unrestricted access to any and all, including underground, areas, facilities, buildings, equipment, records, and means of transport which they wish to inspect, as well as immediate, unimpeded, unrestricted and private access to all officials and other persons whom ... wish to interview in the mode or location of UNMOVIC’s or the IAEA’s choice ... inside or outside of Iraq ... without the presence of observers from the Iraqi Government”. UNMOVIC was instructed, and the IAEA requested, “to resume

²⁸³ UN Security Council resolution 1441 (2002).

inspections no later than 45 days” following adoption of the resolution and “to update the Council 60 days thereafter” (OP5).

- The contents of the letter of 8 October 2002, from Dr Blix and Dr ElBaradei to General Amir al-Sa’adi, the Scientific Adviser to the Iraqi Presidency, setting out the rights of the inspectors agreed in talks in Vienna [1 October], would be “binding” (OP6).
- UNMOVIC and the IAEA were given specified “revised or additional authorities ... to facilitate their work in Iraq” which were “binding upon the Iraq” (OP7).
- Iraq was prohibited from taking or threatening hostile acts against any representative of the UN, IAEA or Member State taking action to uphold any Council resolution (OP8).
- Iraq was given seven days to confirm “its intention to comply fully” with the resolution and to co-operate “immediately, unconditionally, and actively with UNMOVIC and the IAEA” (OP9).
- Member States were requested to “give full support to UNMOVIC and the IAEA in the discharge of their mandates” (OP10).
- Dr Blix and Dr ElBaradei were directed to “report immediately to the Council any interference ... with inspection activities, as well as any failure by Iraq to comply with its disarmament obligations” (OP11).
- The Council would “convene immediately upon receipt of a report” of any failure by Iraq to comply with its obligations under OP4 or OP11 “in order to consider the situation and the need for full compliance with all of the relevant ... resolutions in order to secure international peace and security” (OP12).
- Iraq would “face serious consequences” as a result of its continued violations of its obligations (OP13).
- The Security Council would “remain seized of the matter” (OP14).

844. After the vote, Mr Annan stated that the resolution had “strengthened the cause of peace and given renewed impetus to the search for security in an increasingly dangerous world”.²⁸⁴ He urged the Iraqi leadership to “seize this opportunity” provided by the resolution and reiterated his statement of 12 September 2002 that: “If Iraq’s defiance continues, however, the Security Council must face its responsibilities.”

845. Mr Annan stated that the road ahead would be “difficult and dangerous”. For the inspectors to succeed, they would “require full and unconditional co-operation on the part of Iraq and the continued determination of the international community to pursue its common aim in a united and effective manner”. The goal was to “ensure the peaceful disarmament of Iraq in compliance with Security Council resolutions” and “a better, more secure future for its people”.

846. Mr Annan concluded: “How this crisis is resolved will affect greatly the cause of peace and security in the coming years, in the region and in the world.”

²⁸⁴ UN Security Council, ‘4644th Meeting Friday 8 November 2002’ (S/PV.4644).

Explanations of Vote

847. Reflecting the need for ambiguity to secure consensus, the UK's Explanation of Vote did not directly address the issue of whether there should be a further resolution and decision by the Security Council, stating only that, in the event of a report of a further breach, the UK "would expect the Security Council to meet its responsibilities".

848. As Sir Jeremy Greenstock had predicted, each member of the Security Council made a statement explaining the basis for its vote, and in a number of cases its interpretation of the provisions of the resolution.²⁸⁵ Many Member States, including the US and the UK, stressed that resolution 1441 did not provide "automaticity" for the use of force.

849. Referring to his statement on 17 October, during the Security Council's open debate on Iraq, Sir Jeremy Greenstock stated that there was "no shadow of doubt" that Iraq had defied the UN and had sought to hinder and frustrate inspections since 1991.

850. Sir Jeremy also stated:

- "With the adoption of this resolution the Security Council has clearly stated that the United Nations will no longer tolerate this [Iraq's] defiance." Iraq was "being given a final opportunity to comply with its disarmament obligations; a final opportunity to remedy its material breach of resolution 687". The regime in Baghdad faced "an unequivocal choice: between complete disarmament and the serious consequences indicated in paragraph 13" of the resolution.
- The unanimous support of Council members sent the most powerful signal that Iraq could no longer evade its obligations.
- Because of the strength of that signal there was "at last a chance" that Iraq would "finally comply ... and that military action can be averted".
- The provisions agreed in the resolution made the practical arrangements set out by the inspectors legally binding. That would "reinforce international confidence in the inspectors". It would also, he hoped, "lead Iraq away from a fatal decision to conceal weapons of mass destruction".
- The Council had "heard loud and clear ... the concerns about 'automaticity' and 'hidden triggers' – the concern that on a decision so crucial we should not rush into military action; that on a decision so crucial any Iraqi violations should be discussed by the Council".
- As a co-sponsor of the resolution, the UK would be "equally clear in response". There was: "... no 'automaticity' in this resolution. If there is a further Iraqi breach of its disarmament obligations, the matter will return to the Council for discussion as required in paragraph 12." The UK "would [then] expect the Security Council to meet its responsibilities".

²⁸⁵ UN Security Council, '4644th Meeting Friday 8 November 2002' (S/PV.4644).

- “Ultimately” the choice lay with Iraq “whether to take the peaceful route to disarmament”. The UK hoped it would do so: disarmament “by peaceful means” remained “the UK’s firm preference”.
- If Iraq chose “defiance and concealment, rejecting the final opportunity” it had been given, the UK “together, we trust with other Members of the Security Council” would “ensure that the task of disarmament required by the resolutions” was “completed”.

851. Key points made by other members of the Security Council in their EOV are set out in Table 1 in the order in which they were made.

Table 1: Key points from Explanations of Vote

Country	Extracts from Explanations of Vote (EOV)
USA	<p>“By this resolution we are now united in trying a different course ... to send a clear message to Iraq insisting on disarmament ... or face the consequences.</p> <p>“... This resolution is designed to test Iraq’s intentions ... Every act of Iraqi non-compliance will be a serious matter, because it would tell us that Iraq has no intention of disarming.</p> <p>“... this resolution contains no ‘hidden triggers’ and no ‘automaticity’ with respect to the use of force. If there is a further Iraqi breach, reported to the Council by UNMOVIC, the IAEA or a Member State, the matter will return to the Council for discussions as required in paragraph 12. The resolution makes clear that any Iraqi failure to comply is unacceptable and that Iraq must be disarmed ... If the Security Council fails to act decisively in the event of further Iraqi violations, this resolution does not constrain any Member State from acting to defend itself against the threat posed by Iraq or to enforce relevant United Nations resolutions and protect world peace and security.”</p>
France	<p>“The Resolution strengthens the role and authority of the Security Council. That was the main and constant objective of France ... reflected in our request that a two-stage approach be established and complied with, ensuring that the Security Council would maintain control of the process at each stage.</p> <p>“That objective has been attained: in the event that ... UNMOVIC or the ... IAEA reports to the Security Council that Iraq has not complied with its obligations, the Council would meet immediately to evaluate the seriousness of the violations and draw the appropriate conclusions. France welcomes the fact that all ambiguity on this point and all elements of automaticity have disappeared from the resolution.</p> <p>...</p> <p>“This resolution represents a success for the Security Council and the United Nations ...</p>

Country	Extracts from Explanations of Vote (EOV)
France (continued)	<p>“It is against that backdrop, and through collective responsibility, that the efforts of the international community to disarm Iraq should be carried out. War can only be the last recourse. The rules of the game spelled out by the Security Council are clear and demanding and require the unfailing co-operation of Iraqi leaders. If Iraq wants to avoid confrontation it must understand that this is its last opportunity.”</p>
Mexico	<p>“The resolution just adopted is the result of negotiations in which those who called for automatic recourse to the use of force agreed to give Iraq one last chance to voluntarily, immediately and unconditionally comply with Security Council resolutions ... [T]his resolution also constitutes progress, as it eliminates the concept of automaticity in the use of force in response to a serious violation without the explicit agreement of the Council.</p> <p>“We welcome the fact that the two-stage approach has been accepted ... [A]ny decision in response to possible material breach by Iraq ... will have to be taken on the basis of two prerequisites.</p> <p>“... The first stage would entail a credible process to evaluate Iraq’s true military capability and its intentions to use its weapons or the ability of terrorist groups to have access to them. The second ... would entail the agreement of the Security Council and other States involved on the measures to be adopted if the evaluation process detects a threat to international peace and security.</p> <p>...</p> <p>“... We emphasise the importance that the Security Council decisions taken in this connection must continue to comply with the principles of the Charter and international law on the basis of objectively verifiable facts.</p> <p>“We reiterate the belief reflected in the agreed text that the possibility of the use of force is valid only as a last resort, with prior explicit authorisation required from the Security Council.</p> <p>“... the resolution stipulates that should Iraq fail to comply, it will be the inspectors who will report to the Council. This multilateral body will then determine the nature of the failure to comply, judge whether international peace and security have been imperilled, and then decide what is appropriate under the ... Charter.”</p>
Ireland	<p>“... we welcome the assurances given by the sponsors that their purpose in presenting this resolution was to achieve disarmament through inspections and not to establish a basis for the use of military force ...</p> <p>...</p> <p>“... the resolution ... offers the most likely means of securing Iraq’s voluntary compliance ... avoiding a military conflict and preserving the primary responsibility of the Security Council for the maintenance of international peace and security ...</p> <p>“The resolution provides for a clear, sequential process whereby ... UNMOVIC or the ... IAEA will give the Council its assessment of any material breach or alleged material breach of Iraq’s obligations ... The matter will then be fully examined by the Security Council itself.</p>

Country	Extracts from Explanations of Vote (EOV)
Ireland (continued)	<p>“As far as Ireland is concerned, it is for the Council to decide on any ensuing action ... we are confident that, should it be necessary, the Council will ... face its responsibilities.</p> <p>“... As the concept of material breach is a key element of this resolution ... Ireland’s understanding of this concept is in accordance with the definition contained in the 1969 Vienna Convention on the Law of Treaties: ‘the violation of a provision essential to the accomplishment of the object or purpose of the treaty ... We fully expect this same definition to be applied in determining whether any further material breach has occurred, should it become necessary to do so.”</p>
Russia	<p>“... our delegation participated constructively in work on additional procedures for inspections that would ensure there would be no resumption of Iraqi programmes for weapons of mass destruction and at the same time would create the conditions for a comprehensive settlement of the situation around Iraq, including the lifting of sanctions.</p> <p>“At all stages ... we were guided by the need to direct the process of a settlement onto a diplomatic and political path and not to allow a military scenario ... the resolution ... contains no provisions for the automatic use of force. It is important that the resolution’s sponsors today officially confirmed ... that that is their understanding and that they provided an assurance that the resolution’s objective is the implementation of existing Security Council decisions concerning Iraq through inspections ...</p> <p>“... it is of fundamental importance that the resolution clearly confirms that all Members of the United Nations respect the sovereignty and territorial integrity of Iraq ... It also confirms the need for full implementation of resolution 1382 (2001), whereby all members of the Security Council undertook to seek a comprehensive settlement ... which assumes the lifting of sanctions.</p> <p>...</p> <p>“The ... wording is not ideal ... but that reflects the very complicated nature of the compromise that was reached. The Russian Federation made a choice ... What is most important is that the resolution deflects the direct threat of war and that it opens the road towards further work in the interests of a political diplomatic settlement.</p> <p>“It is particularly important that ... in the event of any kind of disagreement over disarmament matters, it is the heads of UNMOVIC and of the IAEA who will report ... to the Security Council, and that it is the Council that will consider the situation ...</p> <p>...</p> <p>“Implementation ... will require goodwill ... the willingness to concentrate on moving forward towards the declared common goals, not yielding to the temptation of unilateral interpretation of the resolution’s provisions and preserving the consensus and unity of all members of the ... Council.”</p>
Bulgaria	<p>“This Resolution is not a pretext for automatic recourse to the use of force ...</p> <p>“My country welcomes the fact that the resolution categorically reaffirms the centrality of the Security Council in our decision-making process.”</p>

Country	Extracts from Explanations of Vote (EOV)
Syria	<p>“Syria voted in favour ... having received reassurances ... that it would not be used as a pretext for striking against Iraq and does not constitute a basis for any automatic strikes against Iraq. The resolution should not be interpreted ... as authorising any State to use force. It reaffirms the central role of the Security Council in addressing all the phases of the Iraqi issue.</p> <p>“Syria has also received reassurances from the Permanent Members of the ... Council that the resolution strengthens the mandate of the international inspectors; that it serves the objective of preserving Iraq’s sovereignty, territorial integrity and inviolability and that it will lead to a comprehensive solution of the Iraqi issue.”</p>
Norway	<p>“... we commit ourselves to using the Security Council to resolve a serious crisis and thus signal our determination to uphold the authority of the Organisation and respect for international law.</p> <p>“... In case of Iraqi non-compliance, the resolution sets out a procedure whereby the Security Council will convene immediately in order to secure international peace and security.”</p>
Singapore	<p>“It makes clear that Iraq will be given a full and final opportunity to comply with its obligations under the relevant resolutions ...</p> <p>“The difference between successful and unsuccessful inspections may be the difference between peace and war ...”</p>
Colombia	<p>“We insisted on preserving the central role of the Security Council ... This resolution is not, nor could it be at this time, a resolution to authorize the use of force.”</p>
Cameroon	<p>“My country welcomes the clear statements ... by the sponsors spelling out the fact that the resolution ... does not contain traps or automaticity ... they are working, and will always work, for the centrality of the Security Council in the maintenance of international peace and security.”</p>
Guinea	<p>“My country ... reaffirms the unity and the role of the Security Council as the guarantor of international peace and security.”</p>
Mauritius	<p>“We are pleased to see the clear and unambiguous role of the Security Council and the maintenance and promotion of international peace and security through peaceful means.”</p>
China	<p>“China stands firmly for a peaceful solution to the question of Iraq, through political and diplomatic means and within the framework of the United Nations.</p> <p>“China has consistently held that, in seeking a comprehensive settlement of the question of Iraq, the sovereignty and territorial integrity as well as the legitimate concerns of Iraq should be respected ...</p> <p>...</p> <p>“China supports the two-stage approach ... the sponsors of the draft resolution accommodated our concerns, and the Council members have finally reached consensus.</p>

Country	Extracts from Explanations of Vote (EOV)
China (continued)	<p>“... the purpose of the resolution is to achieve the disarmament of Iraq through effective inspections. The text no longer includes automaticity for authorising the use of force ... only upon receipt of a report by UNMOVIC and the IAEA on Iraq’s non-compliance and failure to co-operate fully in the implementation of the resolution, will the Security Council consider the situation and take a position.</p> <p>...</p> <p>“The Security Council bears the primary responsibility for the maintenance of international peace and security – a responsibility that is entrusted to it by the Charter. Now the ... Council has adopted this important resolution ... we hope it will contribute to preserving the authority of the Council, facilitate a political settlement ... and enable an early return of the ... inspectors to Iraq.</p> <p>...</p> <p>“We would also like to point out that the ... inspectors should draw lessons from the United Nations Special Commission. We trust that UNMOVIC and the IAEA will strictly abide by the mandate provided by the ... Council ... and faithfully fulfil its duties.”</p>

Statements by the Permanent Members of the Security Council

852. China, France and Russia made a joint statement that, in the event of a report of a further material breach, it would “be for the Security Council to take a position on the basis of that report”.

853. China, France and Russia also issued a joint statement outlining their interpretation of the resolution:

“Resolution 1441 (2002) adopted today by the Security Council excludes any automaticity in the use of force. In this regard, we register with satisfaction the declarations of the representatives of the United States and the United Kingdom confirming this understanding in their explanations of vote, and assuring that the goal of the resolution is the full implementation of the existing Security Council resolutions on disarmament of Iraq’s weapons of mass destruction. All Security Council members share this goal.

“In case of failure by Iraq to comply with its obligations, the provisions of paragraphs 4, 11 and 12 will apply. Such failure will be reported to the Security Council by the Executive Chairman of UNMOVIC or the Director General of the IAEA. It will then be for the Council to take a position on the basis of that report.

“Therefore, the Resolution fully respects the competences of the Security Council in the maintenance of international peace and security, in conformity with the Charter of the United Nations.”²⁸⁶

854. Sir John Holmes told the Inquiry that President Chirac’s “overriding objective throughout this period ... was to prevent war with Iraq because he did not believe that it was justified”.²⁸⁷

855. Sir John added that the wider French objectives were:

“... to get the inspectors back in, to make sure that there was going to be no automaticity ... [there] had to be a subsequent decision by the Security Council, and there should be no hidden triggers in 1441, which would allow the Americans and the British to claim that somehow they had legitimised military action when they hadn’t.”²⁸⁸

856. Sir John was very clear that France had deliberately accepted ambiguity about the need for a further decision by the Security Council:

“... if the language could have been more explicit about that they would have liked that, but they accepted weaker language in the interests in the end of getting a result, and I think the other objective they did share at that point was getting the international community united about something, which of course 1441 did, however temporarily, because everybody was on board and, therefore, they thought that was a difficult negotiation, but a successful one, from their point of view, at the end of the day.”²⁸⁹

857. Sir John stated:

“Well of course they [the French] knew what they were agreeing to, that there was no actual decision to have a second resolution ... their preference always was, because the main concern was to avoid automaticity, therefore, the main concern was to be sure that you had to go back to the Security Council. Now, what that meant, whether it meant a resolution or not was perhaps less important to them, which is why they conceded the language at the end of the day, than the fact that you had to go back there and the fact that 1441 could not be considered of itself as a sufficient legitimisation by the Security Council of military action ... everybody knew that this was ambiguous. This was the best language that could be achieved in the circumstances ... [but] it did leave a central area of doubt about what exactly would happen should Saddam Hussein be determined to be in a further material breach ... they knew what they meant in their heads by that, and we knew what we

²⁸⁶ UN Security Council, Annex to Letter dated 8 November 2002 – ‘Joint statement by the People’s Republic of China, France and the Russian Federation’ (S/2002/1236).

²⁸⁷ Public hearing, 29 June 2010, page 18.

²⁸⁸ Public hearing, 29 June 2010, pages 22-23.

²⁸⁹ Public hearing, 29 June 2010, pages 23-24.

meant in our heads by that, but that's the nature of a negotiation like that. You come up with some language that can encapsulate both those things simultaneously, but it doesn't remove the ambiguity."²⁹⁰

858. Asked whether the French position had remained that the use of force could only be authorised by a decision of the Security Council, Sir John replied that was essentially the French position, but:

“They were a little bit wary about articulating that as clearly as they might have done, and I think that's because, like us, they had always had this concern, a broader concern, not related to any particular situation, that they didn't want to be in a position where military action in the modern world could only be authorised by the Security Council.”²⁹¹

859. Mr Blair's statement of 8 November focused on the decision made by the UN that Iraq must comply with its obligations, and the choice for Saddam Hussein of whether to disarm willingly.

860. Mr Blair also stated that he hoped that disarmament would be achieved peacefully.

861. In a statement issued on 8 November, Mr Blair expressed delight that the Security Council had risen to the challenge and, by unanimously adopting resolution 1441, it had “made clear beyond doubt” that Iraq had to comply with its obligations to the UN.²⁹²

862. Mr Blair stated:

- Iraq's obligation was to co-operate with the weapons inspectors. It was “not a game of hide and seek, where the inspectors try their best to find the weapons and Saddam does his best to conceal them”.
- The “duty of co-operation” meant “not just access but information. Failure to be open and honest in helping the inspectors ... is every bit as much a breach as failure to allow access to sites.”
- The survival of Saddam Hussein's regime was “in his hands”. Conflict was “not inevitable”. Disarmament was.
- In the event of Saddam refusing to co-operate or a breach, there would be “a further UN discussion”. There was no “automatic trigger” in the resolution.
- “But everyone now accepts that if there is a default ... the international community must act to enforce its will. Failure to do so would mean, having stated our clear demand, we lacked the will to enforce it.”

²⁹⁰ Public hearing, 29 June 2010, pages 25-26.

²⁹¹ Public hearing, 29 June 2010, page 30.

²⁹² The National Archives, 8 November 2002, *PM statement on Iraq following UN Security Council resolution*.

- He hoped the issue could be “resolved peacefully”. “From the outset” he had wanted the issue “resolved through the UN with the international community acting together”: “We have made our choice: disarmament through the United Nations, with force as a last resort.”
- The message to Saddam Hussein was “disarm or you face force. There must be no more games, no more deceit, no more prevarication, obstruction or defiance.”

863. Mr Blair also stated that there was no quarrel with the Iraqi people; and that: “Whatever happens, the territorial integrity of Iraq will be absolute.”

864. Mr Blair concluded that he hoped “an Iraq free of WMD” and a “Government unable to use them to oppress its people and its neighbours” was “a symbol of change ... and hope for the future”.

865. President Bush emphasised that Iraq’s co-operation would need to be “prompt and unconditional” or it would “face the severest consequences”. “Any act of delay or defiance” would be “a clear signal” that the Iraqi regime had “abandoned the path of voluntary compliance”.

866. The US had “agreed to discuss any material breach with the Security Council, but without jeopardising” its “freedom of action to defend our country”.

867. The US was determined not to allow anything in a new resolution which would detract from the authorities to use force it believed it had.

868. Reporting conversations with senior officials in the US Administration on 7 November, Mr Brenton wrote that the hawks in Washington saw the resolution as a defeat and warned that they would be “looking for the least breach of its terms as a justification for resuming the countdown to war”.²⁹³ They had also discussed the issue of the supervision of the oil sector “post occupation”.

869. In remarks to the press on the adoption of resolution 1441, President Bush stated that Saddam Hussein had been “given clear and fair notice” that:

- he “must fully disclose and destroy his weapons of mass destruction”;
- he “must submit to any and all methods to verify his compliance”; and
- co-operation “must be prompt and unconditional or he will face the severest consequences”.²⁹⁴

870. President Bush added that the Iraqi regime had “treated its own pledge” to disarm “with contempt” since 1991. Iraq was already in material breach of its obligations and

²⁹³ Minute Brenton to Gooderham, 7 November 2002, ‘Iraq’.

²⁹⁴ The White House, 8 November 2002, *President Pleased with UN Vote*.

had “aggressively pursued weapons of mass destruction, even while inspectors were inside the country”. The world had learned “an essential lesson” from that experience:

“... inspections will not result in a disarmed Iraq unless the Iraqi regime fully co-operates. Inspectors do not have the power to disarm an unwilling regime. They can only confirm that a government has decided to disarm itself. History has shown that when Iraqi leaders stall inspections and impede the progress, it means they have something to hide.”

871. President Bush warned Iraq that “the old game of cheat and retreat” would “no longer be tolerated”; and:

“Any act of delay or defiance will be an additional breach of Iraq’s international obligations, and a clear signal that the Iraqi regime has once again abandoned the path of voluntary compliance.”

872. Setting out the US standpoint, President Bush stated:

“With the passage of this resolution, the world must not lapse into unproductive debates over whether specific instances of Iraqi non-compliance are serious. Any Iraqi non-compliance is serious, because such bad faith will show that Iraq has no intention of disarming ...

“America will be making only one determination: is Iraq meeting the terms of the Security Council resolution or not? The United States has agreed to discuss any material breach with the Security Council, but without jeopardising our freedom of action to defend our country. If Iraq fails to comply, the United States and other nations will disarm Saddam Hussein.”

873. President Bush stated that the US would support the UN inspections teams, including with “information that can help identify illegal activities and materials in Iraq”, and called on other nations and “patriotic Iraqis” to do the same. Saddam Hussein could not “hide his weapons of mass destruction ... without the co-operation of hundreds and thousands of Iraqis – those who work in the weapons programmes and those who are responsible for concealing the weapons”.

874. Framing action on Iraq squarely in the context of the threat from international terrorism, President Bush stated:

“Americans recognise what is at stake. In fighting a war on terror, we are determined to oppose every source of catastrophic harm that threatens our country, our friends, and our allies ... And we oppose a uniquely dangerous regime – a regime that has harboured terrorists and can supply terrorists with weapons of mass destruction; a regime that has built such terrible weapons and has used them to kill thousands; a brutal regime with a history of both reckless ambition and reckless miscalculation.

“The United States of America will not live at the mercy of any group or regime that has the motive and seeks the power to murder Americans on a massive scale. The threat to America also threatens peace and security in the Middle East and far beyond. If Iraq’s dictator is permitted to acquire nuclear weapons, he could resume his pattern of intimidation and conquest and dictate the future of a vital region.

“In confronting this threat, America seeks the support of the world. If action becomes necessary, we will act in the interests of the world. And America expects Iraqi compliance with all UN resolutions.”

875. President Bush concluded that the UN Security Council “must maintain its unity and sense of purpose so that the Iraq regime cannot revert to the strategies of obstruction and deception it used so successfully in the past”. The question for Iraq was whether to meet its obligations voluntarily. If it did not, the US was “prepared for the alternative” and the “just demands of the world” would be met.

876. Secretary Rumsfeld wrote:

“President Bush wanted to rally the United Nations to support a US-led effort to enforce the Security Council’s resolutions. The British Prime Minister, a persuasive advocate, buttressed Bush’s efforts. Bush and Blair, Powell and ... Straw coaxed and cajoled the members of the Security Council on the matter. Finally ... the Security Council voted 15-0 to support resolution 1441.”²⁹⁵

877. Mr Blair used a speech on 11 November to emphasise the importance of dealing with WMD and terrorism as part of a wider agenda and the importance of US leadership for success.

878. Commenting on a draft of his speech to the Lord Mayor’s Banquet at the Mansion House on 11 November 2002, Mr Blair set out the elements of the argument he wanted to make about the importance of a shared agenda in international politics.²⁹⁶

879. In relation to Iraq, Mr Blair stated that fighting the new threats, which crossed all national boundaries and were linked to extremism and failed states, needed a unified international community and that depended on a shared agenda:

“The real reason people worry about Iraq is that they think the US is solely concerned with their issues but no-one else’s. A shared agenda can only be based on a sense of fair play and justice and of one standard for all. Hence the importance of the MEPP.”

880. Mr Blair also commented: “helping failed states recover ie Afghanistan or, potentially Iraq, can’t just be invaded and left”.

²⁹⁵ Rumsfeld D. *Known and Unknown: A Memoir*. Sentinel, 2011.

²⁹⁶ Note Blair [to No.10 officials], 3 November 2002, [extract ‘Lord Mayor’s Speech’].

881. Mr Blair began his speech:

“Last Friday was an important day for the world. After months of debate, the United Nations came together and made its will plain. Saddam now has to decide: he can either disarm voluntarily ... or he can defy the world, in which case he will be disarmed by force.”²⁹⁷

882. Most of the speech focused on the broader threat posed by WMD and terrorism, stating that they were linked, and the need to counter them by moving forward the Middle East Peace Process, being prepared to help failed or failing nations to recover, and creating “bridges of understanding” between religions, and coalitions of force buttressed by a coalition of common ideas and a shared agenda.

883. Drawing together the capabilities of Iraq and North Korea, Mr Blair warned:

“States which are failed, which repress their people brutally, in which notions of democracy and the rule of law are alien, share the same absence of rational boundaries to their actions as the terrorist. Iraq has used WMD. North Korea’s admission that it has a programme to produce Highly Enriched Uranium was an important confession. We know that North Korea has traded ballistic missile technology. We know there are other highly unstable states who want to get their hands on Highly Enriched Uranium. With it a nuclear weapon could be a step away. Just reflect on that and the danger is clear.

“And terrorism and WMD have the potential, at least, to be directly linked ...”

884. Mr Blair added that Al Qaida could and would buy and use WMD:

“So these are new and different dangers ...

“... above all the international community needs to be unified in its response.”

885. Mr Blair concluded that it would be “irresponsible to ignore the threat” posed by terrorism and WMD. President Bush recognised that “full US engagement and leadership” was needed, as the “decision to go through the UN on Iraq” showed.

886. In his diaries, Mr Campbell wrote:

“We were also having to get the balance right re Bush. There was no point him [TB] just getting up there and putting the US line but he did not want to be seen as anything other than supportive. The question was how you weave in the argument about maximising influence without being explicit.”²⁹⁸

²⁹⁷ The National Archives, 11 November 2002, *PM speech at the Lord Mayor’s Banquet*.

²⁹⁸ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

What was resolution 1441 intended to achieve?

887. The Inquiry was given a range of views about the UK's policy objectives for resolution 1441, the relative priority of those objectives, and what had been achieved.

888. Some witnesses emphasised the objective of disarming Iraq through a policy of coercive diplomacy and agreement on an effective inspections regime without military action.

889. Other witnesses emphasised the purpose of providing a legal base for military action without the need for a further decision by the Security Council.

890. Resolution 1441 decided (OP1) that Iraq "has been and remains in material breach" of its obligations under relevant resolutions adopted by the Security Council, in particular its failure to co-operate with UNMOVIC and the IAEA and to complete the actions for disarmament required by resolution 687 (1991), and decided to set up an enhanced inspection regime.

891. In his advice of 7 March 2003, Lord Goldsmith wrote that:

"... while the US objective was to ensure the resolution did not constrain the right of action which they believed they already had, our objective was to secure a sufficient authorisation from the Council in the absence of which we would have had no right to act."²⁹⁹

892. Lord Goldsmith's consideration of the legal effect of the resolution and whether it achieved that objective is addressed in Section 5.

893. Mr Blair was asked to provide a statement setting out:

- his understanding of President Bush's objectives in relation to the UN;
- his objectives and strategy in the negotiation of [resolution] 1441;
- whether he was aware of differences between the UK's position and prevailing American objectives for 1441; and
- the implications of those differences for his strategy.³⁰⁰

894. In response, Mr Blair wrote:

"The objectives for both President Bush and myself in trying to secure a fresh resolution were clear: to give Saddam one final chance to comply; and to make it clear if he didn't, then we would act, if necessary by force. In other words: change of heart or change of regime. Because he had so frequently broken his word, disregarded UN resolutions and refused to comply with the inspectors, we knew

²⁹⁹ Minute Goldsmith to Prime Minister, 7 March 2003, 'Iraq: Resolution 1441'.

³⁰⁰ Inquiry request for a written statement, 13 December 2010, Q4, page 2.

the wording of the resolution had to be unequivocal: he had to co-operate fully and unconditionally. The stress on co-operation was deliberate. His concealment activity was again very clear and had been further demonstrated by his treatment of his son-in-law who had revealed his intentions, been lured back to Iraq and executed.

“So we had to insert language in the resolution that made this plain; and in particular resist language that meant that the words ‘final opportunity’ were diluted by requiring another UNSC decision. So we also sought to ensure that in the resolution itself, we specifically had a provision that a failure to comply would be itself a material breach.

“I was kept closely in touch with the negotiation, as was Jack Straw. We were very satisfied with the outcome. It achieved our objectives. We resisted attempts by France to insert language that would have required an additional decision. We never had a problem with another discussion in the UNSC. What we could not tolerate was a situation where Saddam continued to refuse to comply fully and unconditionally and yet we were powerless to act.”³⁰¹

895. Mr Blair concluded:

“Then, but even more in retrospect, UNSCR 1441 was a pivotal moment. If Saddam at that point had genuinely changed; had he welcomed inspectors and fully co-operated, action would have been avoided. I made this clear to President Bush and he agreed. I also think at the time those more sympathetic to Saddam thought he would. The fact is he did not and the Iraq Survey Group reports show why he did not.”

896. Asked for a statement about what he thought would be achieved by inspections and his expectations about Iraqi co-operation with UNMOVIC, Mr Blair wrote:

“It is fair to say that I did not think that Saddam would change his behaviour. His record was clear. On the other hand he might have.”³⁰²

897. Mr Blair cited Libya’s response to the events of 9/11, which had condemned the attack and co-operated in pursuing Al Qaida, as evidence of a country which had demonstrated “a genuine change of heart, a strategic decision to alter” its position in the world. Saddam Hussein’s actions and behaviour, including payments to the families of Palestinian suicide bombers, had shown “a completely different attitude”. Inspections were “necessary”, but they could only be successful with genuine co-operation.”

898. Asked at what point he had asked for and received advice about what would happen if the inspectors did get back into Iraq, Mr Blair told the Inquiry that “the view of our system was, and certainly the intelligence services, was the likelihood that Saddam

³⁰¹ Statement, 14 January 2011, pages 5-6.

³⁰² Statement, 14 January 2011, page 7.

would play around, but I always thought it was possible that he would realise that this was the moment of choice”.³⁰³

899. In the context of advice from officials in the 19 July Cabinet Office paper, ‘Iraq: Conditions for Military Action’, that the inspectors would “need at least six months”, Mr Blair added:

“For me it was never a matter of time but a matter of attitude. You could have given him [Saddam Hussein] longer than six months if he was co-operating but if he was not it wouldn’t really matter ... I do not accept that if Blix had carried on doing his inspections we would have found out the truth.”³⁰⁴

900. In his first statement for the Inquiry, Mr Straw wrote that the UK objective was to secure agreement to:

“... a robust text which provided terms for the readmission of inspectors to Iraq, and their unfettered operation, which was tough but not so tough that the Saddam Hussein regime could plausibly reject them altogether.”³⁰⁵

901. Asked whether the purpose of 1441 was to ensure the return of the weapons inspectors to Iraq, or to create the conditions necessary to justify military action, Mr Straw replied:

“The purpose of 1441 was as it stated. It was to secure compliance by Saddam Hussein with the obligations imposed on him by the Security Council. As I have said probably to the point of tedium, had Saddam complied with the resolution, he would have stayed in post. At the very minimum it would have been impossible for any British Government to have taken part in any military action, but I don’t believe military action would have taken place, because the casus belli would have gone ... It was not there as an excuse for military action. Certainly not ... sometimes diplomacy has to be backed by the threat and, if necessary, the use of force ... It was, to use the jargon, based on the idea of coercive diplomacy, but its purpose was to secure compliance, essentially the disarmament of Iraq, and that’s what we set about achieving.”³⁰⁶

902. In his memoir, Mr Straw wrote:

“The resolution provided the best hope there was of resolving the crisis through peaceful means. The obligations that it imposed on the Iraqi government were easy to meet. Iraq had to make a full declaration of all its WMD programmes, and allow the IAEA and UNMOVIC inspectors unrestricted access. I often said that ‘we would take yes for an answer’. There would have been no possibility whatever of war if the

³⁰³ Public hearing, 21 January 2011, page 76.

³⁰⁴ Public hearing, 21 January 2011, page 77.

³⁰⁵ Statement, January 2010, page 9.

³⁰⁶ Public hearing, 2 February 2011, pages 59-60.

inspectors had reported in unequivocal terms that Iraq was complying with 1441. Resolution 1441 was the means of enabling Saddam to say ‘yes’. But we could only resolve this peacefully with the threat of military action.”³⁰⁷

903. In his statement for the Inquiry, Sir Jeremy Greenstock wrote:

“The UK ... was interested in ending the threat from Iraq of the use of WMD against UK interests. If this could be done by a successful and effective UN regime of intrusive inspections, this was preferable to a war.”³⁰⁸

904. Sir Jeremy Greenstock told the Inquiry:

“UK strategy was influenced by two principal factors: the need to research every possible angle for the disarmament of Iraq through means short of the use of actual force; and the need to establish with the greatest international consensus the justification for the use of force, if force in the end proved necessary. This meant ... that the UN inspectors had to return to Iraq to establish in detail whether or not Saddam Hussein was complying with UN resolutions, under conditions that both attracted support within the Security Council and gave the inspectors a real chance of achieving something useful.”³⁰⁹

905. In his statement for the Inquiry, Sir Jeremy Greenstock wrote:

“The US ... was keen to impose terms on Saddam Hussein which made the case for military measures unquestionable if he did not fulfil them. There was therefore an American interest in setting the bar very high for Iraq.”³¹⁰

906. Sir Jeremy added:

“The UK, on the other hand, was interested in ending the threat from Iraq from the use of WMD against UK interests. This could be done by a successful and effective UN regime of intrusive inspections, this was preferable to a war.”

907. Sir Jeremy wrote that it was the expectation of many Member States that there would be a Security Council decision before force was used:

“Most members of the Council, however, made an assumption that further discussion in the Security Council about Iraqi compliance would itself lead to a decision for or against the use of force. In public explanations of vote after 1441 was adopted, only Mexico was absolutely explicit that this was their expectation. France and Russia were not so explicit, which implied to me that they recognised that 1441 did not amount unambiguously to such a condition.”³¹¹

³⁰⁷ Straw J. *Last Man Standing: Memoirs of a Political Survivor*. Macmillan, 2012.

³⁰⁸ Statement, November 2009, page 7.

³⁰⁹ Statement, November 2009, page 9.

³¹⁰ Statement, November 2009, page 7.

³¹¹ Statement, November 2009, page 11.

908. Sir Jeremy also wrote:

“... the UK was not specific in saying that a new decision would not be necessary. Nor in fact was the United States. We left it that SCR 1441 would have to speak for itself.

“The UK’s actual position was that the whole corpus of resolutions, from SCR 678 and 687 onwards, substantiated the case for the use of force against Iraq, through the termination of the 1991 ceasefire, if Iraq was shown not to have complied with relevant resolutions. In taking this position, we were using exactly the same approach as in justifying the bombing of Iraq in December 1998, which up to this time had never been contested on a legal basis by another Member State.”³¹²

909. Sir Jeremy told the Inquiry that, in negotiating resolution 1441, the UK had:

“... had to scale Washington’s more unilateral ambitions back down to something that was negotiable within the Security Council.”³¹³

910. Subsequently, Sir Jeremy said: “it was an important objective of our diplomacy that we should have as large a consensus in the Security Council as possible for those reasons of legitimacy”.³¹⁴

911. Sir Jeremy Greenstock told the Inquiry:

“We found language to express a consensus that meant that the inspectors would normally be expected to declare whether or not Saddam Hussein was in compliance, but there could also be a report from other sources that there was non-co-operation or non-compliance ... Secondly, that if there was a report that there was non-compliance, the Security Council would meet to assess what that meant, and that was the only requirement of the resolution. It was not expressly stated in any operative paragraph of 1441 that the Security Council should meet and decide what to do in the case of non-compliance, and that was where the French and the Americans met, that there should be a further stage of consideration but that further stage of consideration should not necessarily mean that there would be a further decision of the Security Council if force had to be used under the terms of the whole corpus of resolutions up to that point.”³¹⁵

912. Sir Jeremy added:

“It was my instructions that we should not concede ... that it would be necessary to have a specific decision of the Security Council before force was used under the cover of the previous resolutions.”³¹⁶

³¹² Statement, November 2009, page 11.

³¹³ Public hearing, 15 December 2009, page 33.

³¹⁴ Public hearing, 27 November 2009, page 39.

³¹⁵ Public hearing, 27 November 2009, page 41.

³¹⁶ Public hearing, 27 November 2009, page 47.

913. Sir Jeremy told the Inquiry:

“The French and Russians and some others were absolutely determined to establish that there should be no use of force without a specific decision of the UN Security Council. The United States was absolutely determined to resist the need for a specific decision by the United Nations Security Council on the use of force. Those two positions were irreconcilable.”³¹⁷

914. Sir Jeremy told the Inquiry:

“It was actually quite surprising to me that only the Mexican delegation said unequivocally that they expected that, if it came to the use of force, it would be solely the Security Council that had the authority to take that decision. The Irish delegate said something similar ... but not as unequivocally as the Mexicans. Strangely, the French and the Russians, who were, as it were, our antagonists in this operation in the Security Council, were equivocal in what they said in their explanations of vote, which they had to be, because they had tried to negotiate specific language in 1441 and they had failed to negotiate that.”³¹⁸

915. Summing up the position following adoption of Resolution 1441, Sir Jeremy said:

“This is where diplomacy gets clever and, as you can see from the outcome, from 1441, too clever for its own good, but diplomacy got clever and it produced a text in 1441 that was equivocal on two issues: one, what should happen if Saddam Hussein and his regime did not comply with the terms of 1441; and who should be the judge of whether or not Iraq was complying with the terms of 1441.”³¹⁹

916. Sir Jeremy also told the Inquiry:

“It was not expressly stated in any operative paragraph of 1441 that the Security Council should meet and decide what to do in the case of non-compliance, and that was where the French and the Americans met, that there should be a further stage of consideration but that further stage of consideration should not necessarily mean that there would be a further decision of the Security Council if force had to be used under the terms of the whole corpus of resolutions up to that point.”³²⁰

917. Mr Chaplin told the Inquiry:

“... there was a surge of hope after 1441. 1441 was quite a remarkable achievement and if the Security Council could once more come together, as it had before, and we could see a track record going way back into the 90s, that, when the Security Council were united, Saddam Hussein took notice, as indeed he did on this occasion

³¹⁷ Public hearing, 27 November 2002, page 40.

³¹⁸ Public hearing, 27 November 2009, pages 47-48.

³¹⁹ Public hearing, 27 November 2009, pages 40-41.

³²⁰ Public hearing, 27 November 2009, page 41.

by letting the inspectors back in, that there might, after all, be a route to resolving this problem through the inspection route and without military action.”³²¹

918. In his statement to the Inquiry, Mr Pattison offered his perspective “on how FCO policy officials understood” resolution 1441 “at the time of its drafting”.³²²

919. Mr Pattison wrote that the “objectives in negotiating the text were clear by early September 2002”. The FCO wanted “if possible to secure a resolution which:

- (i) brought the UN back into the process by putting the focus on the disarmament process (rather than follow the perceived US agenda of regime change);
- (ii) made clear that Iraq had an absolutely final opportunity to comply with UN demands; and
- (iii) contained authorisation to use force if necessary.”

920. Mr Pattison’s “broad understanding during the negotiations was that, at a minimum, the position of previous Attorneys General required us to obtain a resolution which contained a material breach finding and talked of ‘serious consequences’ if Iraq remained in breach”.

921. Mr Pattison explained:

“At the risk of stating the obvious, I think it worth pointing out that Security Council resolutions are often the products of complex political negotiations. The result is that the texts are sometimes more nuanced than one might expect in domestic law making ... They are made by states seeking to protect political positions as well as to make international law. They often contain important compromises, which allow states with different points of view to sign up to a final text claiming it protects their positions while knowing it gives another group of states what they were seeking.”³²³

922. Mr Pattison told the Inquiry that the objectives “were all equally important” as a means to achieving the objective of trying to “bring about an Iraq about whom we had no questions concerning their weapons programme”.³²⁴

923. Mr Rycroft told the Inquiry:

“Our top objective was to get the Iraq issue back into the UN. By that we meant a UN Security Council resolution ideally by unanimity that sets out a final opportunity, an ultimatum to comply with all the previous resolutions, and a two-stage process so that if there were further evidence of non-compliance or non-co-operation, then ... a discussion but not a further resolution by the Security Council about the consequences. So one objective was to keep the international community

³²¹ Public hearing, 1 December 2009, page 26.

³²² Statement, January 2011, paragraphs 1-2.

³²³ Statement, January 2011, paragraph 3.

³²⁴ Public hearing, 31 January 2011, page 11.

together and the other objective was to ensure that if there was a material breach either through non-co-operation or through a find of WMD, then we didn't have to go through this whole rigmarole again and have another resolution that then gave a final, final opportunity to comply."³²⁵

924. Mr Macleod thought that there were two main objectives for the resolution:

"One was to achieve the disarmament of Iraq by essentially inspections and peaceful means, if we could at all, and that's why part of the focus of 1441 is on a strong inspection regime, but I think it was very much a part of the framework, also, that there should be one final opportunity for Iraq to disarm and that that should be this resolution, and that there would not be a further Security Council decision at a later stage."³²⁶

925. In his private hearing, Sir Jeremy Greenstock told the Inquiry that the US:

"... wanted freedom to be able to pin Iraq down in material breach, either through something that was heinous in the declaration, or through a further act or omission, and they wanted the capacity to report that to the Security Council without it being reported through the inspectors."³²⁷

926. Sir Jeremy stated:

"The French knew what they were agreeing to, and then later didn't want to live up to what they had agreed to, and to that extent changed their policy from the basis of the understanding of the negotiation in 1441."³²⁸

927. Sir Jeremy added:

"The French wanted to make sure that the United States could not take unilateral action. This was underlying the French position from beginning to end.

"... the French knew that they had not achieved in 1441 the requirement that the Security Council make a decision following 1441, that 1441 was the last point of agreement that we had reached, and that left the decision open by a Member State, devoid of a Security Council resolution, to follow up on the previous resolutions."³²⁹

928. In his first statement for the Inquiry, Mr Straw wrote that the US had "never", so far as he was aware, "explicitly ruled out the possibility of a 'second resolution'", but their "hard policy commitment was for one resolution only": "An objective of the

³²⁵ Private hearing, 10 September 2010, page 61.

³²⁶ Public hearing, 30 June 2010, page 10.

³²⁷ Private hearing, 26 May 2010, pages 11-12.

³²⁸ Private hearing, 26 May 2010, pages 12-13.

³²⁹ Private hearing, 26 May 2010, pages 13-14.

negotiations ... was therefore that it should be self contained, and not legally contingent on a second resolution.”³³⁰

929. Mr Straw told the Inquiry that his view “was that there was an overwhelming argument that 1441 required a second stage but not a second resolution”.³³¹

930. Mr Straw told the Inquiry:

“I believed that we were intent on negotiating a self-contained resolution ... The Americans would never agree to a resolution that was not self-contained. I would say everybody else we were negotiating with took the same view. As Jeremy Greenstock has pointed out, if we had been ready to accept a resolution which simply required another resolution, we would have got that in a week.”³³²

931. In his memoir, Mr Straw described the negotiation of resolution 1441 as “a great team effort”. The UK and US teams had:

“... argued so intensely over every last detail because everyone knew what was riding on it.”³³³

932. Mr Straw wrote that he had felt a “great sense of relief and achievement “about the outcome of the resolution; it was “comprehensive”, it was “mandatory, based on Chapter VII of the UN Charter” and, “crucially it recognised ‘the threat Iraq’s non-compliance ... poses to international peace and security’”.³³⁴

Lord Goldsmith’s role in the negotiation of resolution 1441

933. Lord Goldsmith’s officials were involved in the initial formulation of proposals for a resolution, but he was not formally asked for his views until 24 September, after a draft had been agreed with the US.

934. Lord Goldsmith was sent a copy of the FCO advice to No.10 of 27 August, setting out possible elements for a new resolution.³³⁵

935. In his statement for the Inquiry, Lord Goldsmith wrote that the letter of 27 August:

“... attached a rudimentary outline of the terms of a possible resolution. I was shown the letter but I am sure I would have assumed that my advice was not required in relation to that text but that instead it would be sought on a more developed draft ...”³³⁶

³³⁰ Statement, January 2010, page 7.

³³¹ Public hearing, 8 February 2010, page 13.

³³² Public hearing, 2 February 2011, page 67.

³³³ Straw J. *Last Man Standing: Memoirs of a Political Survivor*. Macmillan, 2012.

³³⁴ Straw J. *Last Man Standing: Memoirs of a Political Survivor*. Macmillan, 2012.

³³⁵ [Letter McDonald to Manning, 27 August 2002, ‘Iraq: Ultimatum’](#).

³³⁶ Statement, 4 January 2011, paragraph 1.15.

936. Sir David Manning proposed the establishment of an Ad Hoc Ministerial Group on Iraq to Mr Blair on 12 September (see Section 2).³³⁷ Setting out proposals for membership, Sir David wrote:

“This leaves the question of what to do about the Attorney. I assume that you would not want him to attend your Ad Hoc Groups except by invitation on specific occasions.”

937. Mr Blair decided to wait to set up a Cabinet Group.³³⁸

938. There are no records of Lord Goldsmith’s direct involvement in UK Government discussions before his meeting with Mr Straw on 23 September, when Mr Straw had “stressed” that Mr Wood “had his full authority to talk to Lord Goldsmith”.³³⁹

939. Mr Wood’s letter of 24 September stated that Lord Goldsmith would be “aware of the context and background” of the draft resolution and asked for his advice.³⁴⁰

940. Lord Goldsmith told the Inquiry that a “number of difficulties” had “prevented” him “from being more actively engaged” in advising on resolution 1441.

941. In his statement, Lord Goldsmith identified three broad areas of difficulty:

- his Office was not sent all the relevant documents;
- he was not sufficiently involved in Ministerial discussions; and
- the approach to seeking his advice was inconsistent.

942. Lord Goldsmith initially told the Inquiry that during the drafting of resolution 1441:

“I don’t know whether every draft was being copied, but certainly some drafts were copied to my office, not with a request that I should advise, which was slightly unsatisfactory, because it was sort of ‘keep you in the picture’ but not actually ask you to advise.”³⁴¹

943. Asked to clarify his comment that the arrangements for seeking his advice on the resolution were “unsatisfactory” and that he had not been asked to provide advice, Lord Goldsmith’s witness statement identified a “number of difficulties” that had “prevented” him “from being more actively engaged” in advising on resolution 1441.³⁴²

944. The negotiation of resolution 1441 was difficult and at times conducted directly between Mr Blair and Mr Straw and their counterparts.

³³⁷ [Minute Manning to Prime Minister, 12 September 2002, ‘Iraq’.](#)

³³⁸ [Manuscript comment, \[unsigned and undated\], on Minute Manning to Prime Minister, 12 September 2002, ‘Iraq’.](#)

³³⁹ [Minute McDonald to Legal Adviser, 24 September 2002, ‘Attorney General’.](#)

³⁴⁰ [Letter Wood to Adams, 24 September 2002, ‘Iraq: Use of Force’.](#)

³⁴¹ Public hearing, 27 January 2010, page 26.

³⁴² Statement, 4 January 2011, paragraph 1.8.

945. While the exceptional nature of the negotiations would have made it impossible for Lord Goldsmith to follow each twist and turn of the negotiations, he was not sent the records of some of the most critical discussions.

946. Lord Goldsmith wrote that, as Ms Adams had told the Inquiry, his Office was not sent copies of all the telegrams during the negotiation process. In particular, he had not seen those reporting “some of the most critical discussions”.³⁴³

947. Ms Adams told the Inquiry that the Attorney General’s Office (then known as the Legal Secretariat to the Law Officers (LSLO)) received telegrams from UKMIS New York and from the Foreign Office itself:

“... during the course of the negotiation ... there were two distributions for telegrams ... and ... a lot of the very critical points in the negotiation were issues that were discussed between the Foreign Secretary and US Secretary Powell and obviously the French Foreign Minister and so on. Those records of rather key moments were not coming to us at the time.”³⁴⁴

948. The evidence confirms that Lord Goldsmith did not see records of key discussions between Mr Blair and Mr Straw and their counterparts, or proposals on the draft resolution which were being discussed within the UK Government, before decisions were taken.

949. Mr Macleod told the Inquiry that, during the negotiation of resolutions 1154 and 1205 in 1997 and 1998, he had been working in the Attorney General’s Office. In relation to resolution 1154, he described a letter and briefing which took him and the Attorney General through the background in New York, the UN processes, the significance of the different terminology, the origins of the revival doctrine and the view of previous Law Officers on it:

“The picture that emerges is very much of the Attorney’s office being told what was happening, being offered ideas about what the future shape of the resolution might be, being asked for advice on whether one formulation was the stronger basis than another and giving views on that.”³⁴⁵

950. After the adoption of resolution 1154 and before and during the negotiation of resolution 1205 Mr Macleod stated:

“... it [the process] worked exactly the same way; we knew what was coming, there were drafts going round, different operative paragraphs. I think there were even drafts of the explanations of vote, and they were gone through both before and after the adoption of the text, and I think there was guidance from the Attorney.”

³⁴³ Statement, 4 January 2011, paragraph 1.8.

³⁴⁴ Public hearing, 20 July 2010, page 10.

³⁴⁵ Public hearing, 30 June 2010, pages 14-15.

951. Mr Macleod’s account of the involvement of the Attorney General in 1998 is supported by contemporaneous records that the Inquiry has seen.

952. Ms Adams contrasted the process during the drafting of resolution 1441 with that which subsequently took place on the second resolution and other cases when:

“... the Attorney General was presented with a draft and it was clear, ‘This is our objective for this resolution. Is this text sufficient to achieve this objective, and if it isn’t, what do we need as a sort of legal red line?’ ... the Attorney was able to say ‘I think X or Y’ and therefore, that informed the process of the negotiation in New York ...”³⁴⁶

953. Sir Michael Wood told the Inquiry that the FCO Legal Advisers “kept the Attorney General informed” about the “course of the negotiations” and about the advice they were giving as the draft resolution developed: “both to ensure that he was in a position to give advice to Ministers and to the negotiators at any time, either on request or as he saw fit, whether or not his advice was formally sought”.³⁴⁷

954. Sir Michael explained:

“What was in my view more important than a formal request for advice was for the FCO Legal Advisers to keep the Attorney General’s Office as fully informed as they could throughout the negotiations. This we did. We sent to his Office anything we saw that was legally significant as soon as we received it, and we kept him informed of the advice that we were giving. We wished to ensure that the legal advice we were giving within the FCO and beyond on a matter of such importance did not differ from his own views.

“The Attorney’s advice was ... obtained during the negotiation of 1441, but not at every stage (which would have been impractical, given the complexity of the negotiations and the manner in which they were being carried out). His views on the revival argument, and the kind of language that was needed in any resolution if it was of itself to authorise the use of force, were well known.”³⁴⁸

955. Sir Michael Wood also told the Inquiry that there were “no formal or other rules” on seeking the Attorney General’s advice during the negotiation of UN Security Council resolutions, “either in general or in exceptional circumstances like 1441”; and that it “all depends on the circumstances”. The FCO Legal Advisers had “made it clear throughout to policy clients, including Ministers, that it was highly desirable to seek the Attorney’s advice, and in particular that the Attorney’s advice would be needed before military force was used”.³⁴⁹

³⁴⁶ Public hearing, 20 July 2010, pages 13-14.

³⁴⁷ Statement, 15 March 2011, page 1.

³⁴⁸ Statement, 15 March 2011, page 12.

³⁴⁹ Statement, 15 March 2011, page 14.

956. Lord Goldsmith's requests to Mr Straw on 18 October and Mr Blair on 22 October, to be invited to meetings and "to be kept closely informed of developments", which would have allowed him to be more involved in discussions about the resolution and the policy behind it, were not followed up by Mr Straw or Mr Blair.

957. Despite agreement in July that Mr Blair and Lord Goldsmith should discuss his advice in September, that discussion did not take place until 22 October.

958. The meeting took place as a result of Lord Goldsmith raising his concerns with Mr Powell and Mr Straw.

959. Key decisions on the resolution had already been taken and the draft was at an advanced stage.

960. In his statement for the Inquiry, Lord Goldsmith wrote that he was not sufficiently involved in the Ministerial meetings and discussions about the resolution and the policy behind it. He had told:

- Mr Straw on 18 October that he should be present at "any meetings between the Prime Minister, the Foreign Secretary and others at which decisions on the use of force were made"; and
- Mr Blair in the meeting on 22 October that that it would be important for him "to be kept closely informed of developments". He had made it clear that he "was available for a further meeting with the Prime Minister at any time".³⁵⁰

961. After that, Lord Goldsmith was not invited to key meetings to discuss the UK's negotiating strategy and the implications of changes to the draft resolution.

962. There were inconsistencies about the level of involvement expected from Lord Goldsmith.

963. His advice was sought in the early stages of the development of the draft resolution, but from late-September onwards that was not the case.

964. In his statement Lord Goldsmith wrote that there "was an inconsistent approach within Government about the level of engagement that was expected" from him.³⁵¹

965. In the period between his meeting with Mr Blair on 22 October and his "telephone call" with Mr Straw on 7 November, his "views were not sought"; and "During that period ... important changes [to the draft resolution] occurred."³⁵²

³⁵⁰ Statement, 4 January 2011, paragraph 1.9.

³⁵¹ Statement, 4 January 2011, paragraph 1.11.

³⁵² Statement, 4 January 2011, paragraph 1.2.

966. Identifying those changes, Lord Goldsmith wrote:

“In particular ... OP2 said that Iraq was being given a ‘final opportunity’ to comply with its obligations; OP4 contained the words ‘for assessment’; and OP13 recalled that the Council had repeatedly said that there would be ‘serious consequences’ as a result of Iraq’s continued violation of its obligations.”³⁵³

967. Lord Goldsmith identified the addition stipulating that any further material breaches would be reported to the Council for assessment in the text of what became OP4, as the “most important” of those changes.

968. In addition, there had been “no further meetings” between Lord Goldsmith and “Ministers or officials of the FCO on this ... prior to adoption of the resolution”.³⁵⁴

969. Lord Goldsmith wrote that after 18 October there had been “no further requests” for advice:

“... the FCO Legal Advisers were not pressing for advice before the resolution was adopted. I recall ... that at some point after the meeting on 22 October 2002 Cathy Adams expressly informed me that my advice was not being sought and that documentation was being provided for my reference only.”³⁵⁵

970. FCO Legal Advisers and Lord Goldsmith’s office were aware on 4 November of the revision of the final clause of OP4 over the weekend of 2-3 November, when Secretary Powell agreed to replace the text that, in the event of a further material breach, the Security Council would “convene in accordance with OPs 11 and 12” with the phrase that it would be “reported to the Council for assessment”.

971. There is no evidence that any concerns were raised about the inclusion of “for assessment” before the adoption of resolution 1441.

972. Lord Goldsmith saw the draft resolution containing the revised text on 6 November.

973. Sir Michael Wood identified that, as well as his letters of 24 September and 18 October, the note from Mr Grainger to Mr Brummell of 4 November 2002, was a specific occasion when the FCO Legal Advisers had “made it clear to the Attorney and his Office, formally or informally, that we needed his advice”.³⁵⁶

³⁵³ Statement, 4 January 2011, paragraph 1.6.

³⁵⁴ Statement, 4 January 2011, paragraph 1.10.

³⁵⁵ Statement, 4 January 2011, paragraph 1.11.

³⁵⁶ Statement, 15 March 2011, page 12.

974. Sir Michael Wood told the Inquiry that in the meeting with Lord Goldsmith on 5 November 2002:

“... we expressed concerns that assumptions were being made by Ministers about his eventual advice, and that therefore in our view early advice from the Attorney was desirable. As I recall, the Attorney’s response was to the effect that he would give his advice when it was requested by Ministers, but that in any event we knew his views.”³⁵⁷

975. Asked what legal advice had been provided on the effect of the insertion of the words “for assessment”, Sir Michael Wood wrote that the words were “proposed by the US Secretary of State, in response to a French request, and agreed by him directly with the British and French Foreign Ministers, without, so far as I am aware, legal advice being sought”.³⁵⁸

976. Despite the difficulties which Lord Goldsmith rightly identified as limiting his contribution during the negotiation of resolution 1441, the way in which Lord Goldsmith’s advice was provided raises a number of issues.

977. After the meeting with Mr Blair on 22 October, Lord Goldsmith understandably felt it necessary to ask Mr Brummell to record his views.

978. Accordingly, on Lord Goldsmith’s instructions, Mr Brummell wrote to Sir David Manning setting out the points that Lord Goldsmith had made in his meeting with Mr Blair.

979. Asked about his meeting with Mr Blair on 22 October and Mr Brummell’s letter of 23 October 2002 before the declassification of his manuscript notes of that meeting, Lord Goldsmith told the Inquiry that he hadn’t thought he needed to put his views in writing at that stage:

“I think I had been very clear in my oral statements that there needed to be a clear statement of material breach and so forth. So I don’t think I needed to add anything else.”³⁵⁹

980. Asked if he had been anxious that Mr Blair should know his legal advice, Lord Goldsmith replied:

“I don’t think so ... I couldn’t have given definitive legal advice at that stage, because the whole point was he [Mr Blair] had had the advice in July about what needed to happen ... Until there was a resolution finally, there wasn’t really anything more to say, although I was giving a bit of guidance about a couple of matters. One of them

³⁵⁷ Statement, 15 March 2011, page 13.

³⁵⁸ Statement, 15 March 2011, page 18.

³⁵⁹ Public hearing, 27 January 2010, pages 29-30.

was some expressions of concern about the developing resolution, draft resolution, though, as I have said it actually changed in significant ways at the last moment.”

981. Lord Goldsmith subsequently wrote that in his oral evidence he had had in mind the passage in Mr Brummell’s letter recording that he could not give a final view on the effect of the resolution until it had been adopted.³⁶⁰

982. Asked about Mr Brummell’s letter to Sir David Manning of 23 October, Lord Goldsmith wrote that he “felt there should be a record of the advice” he had offered; that he had asked Mr Brummell to send the letter; and that, if he had not recorded his advice through that means, he “would have ensured that the same result was achieved by other means, i.e. through written advice in a note to No.10”.³⁶¹

983. Lord Goldsmith’s argument that he could not give a ‘final view’ on the legal effect of resolution 1441 until after its adoption is evidently correct.

984. Lord Goldsmith was also being advised that he should not “provide a running commentary”.

985. Nevertheless, and given its importance, Mr Blair and Mr Straw should have ensured that Lord Goldsmith was invited to advise on the legal implications of the text under discussion at key stages in the development of resolution 1441.

986. That would have ensured that policy decisions were fully informed by consideration of the legal issues.

987. Specifically Lord Goldsmith’s views should, at the very least, have been sought and considered first in the context of the decision on 17 October that the UK should seek to negotiate a resolution which would be capable of authorising the use of force without a further decision by the Security Council, and secondly once the near final draft of the resolution was available on 4 November and before the resolution was adopted on 8 November.

988. There should have been an agreed, collective understanding of the legal effect of the resolution amongst key Ministers, the Cabinet Secretary, the Chief of the Defence Staff and senior officials participating in the negotiations.

989. As Ms Adams pointed out, the UK Government “didn’t really know what it was voting for”.

990. Ms Adams had told the Inquiry that the timing of the legal advice was:

“... a very important issue ... and in fact for me this is the key lesson learned from the whole episode ... I say this with the benefit of hindsight – I do think that if definitive advice had been given, and perhaps it might have had to be conditional

³⁶⁰ Statement, 4 January 2011, paragraph 3.8.

³⁶¹ Statement, 4 January 2011, paragraphs 3.3 and 3.5.

advice, but nevertheless, if definitive advice from the Attorney had been given prior to the adoption of resolution 1441, events would have unfolded rather differently.”³⁶²

991. Ms Adams stated:

“... it has struck me very forcibly with the benefit of hindsight that that would have been desirable, to say the least, in relation to 1441 because the net effect was ... the Government didn’t really know what it was voting for ... the Foreign Secretary and Sir Jeremy had a very clear view of what they thought the resolution meant. Michael Wood had a very clear view which was a rather different view, but the one person whose view actually mattered hadn’t even been asked at that stage.”³⁶³

992. Ms Adams told the Inquiry that Lord Goldsmith’s advice at an earlier stage:

“... would have influenced the statements that were made about the resolution after its adoption ... the Explanation of Vote which was made. Normally, when you have a resolution negotiated, if you don’t achieve everything that you want to achieve in the negotiation and you end up with a less than clear text, it is a classic way to reinforce one’s interpretation by stating clearly that you think it means a certain thing ... our statement was arguably not inconsistent with the view that the Attorney had reached, but it could have been clearer and I think some of the things that were said ... about what automaticity did or didn’t mean and these kind of issues, but if there had been a very definitive legal view, then perhaps that would have fed into a clearer Explanation of Vote.”³⁶⁴

993. Lord Goldsmith wrote that there was a view within his Office that he “should not provide a running commentary on the drafts as they emerged”.³⁶⁵ He only saw what were “effectively snapshots provided ... for information”. His role should be to “provide advice on the legal effect of the final, agreed wording”. That seemed to him “a valid position” which he “understood to be consistent with the role adopted by his predecessors”. Lord Goldsmith wrote that that was what he “had in mind” when he told Mr Blair in their meeting on 22 October that “it would not be possible to give a final view on the legal effect of the resolution until it had been adopted”.

994. Asked to address the effect greater involvement during the negotiation of the resolution could have had, Lord Goldsmith wrote:

“If my advice had been provided to the negotiating team at key points in the later stage of the negotiations, I think this may well have influenced the negotiations and the statements that were made about the resolution after its adoption.

³⁶² Public hearing, 20 July 2010, page 9.

³⁶³ Public hearing, 20 July 2010, pages 13-14.

³⁶⁴ Public hearing, 30 June 2010, pages 15-16.

³⁶⁵ Statement, 4 January 2011, paragraph 1.13.

“It is impossible to say what difference this would have made but the text did change after my meeting with the Prime Minister [on 22 October 2002] and my advice on it was not sought. Some of those changes were in my view significant and featured in my eventual advice.”³⁶⁶

995. Lord Goldsmith added that it would not be “impossible for an Attorney General in London to give advice throughout the process of negotiations”, but that would have required him to have “been given much more information and to have been included to a far greater extent”.³⁶⁷

996. Asked whether Lord Goldsmith should have been more closely involved in the negotiation of resolution 1441, Mr Blair stated:

“... in retrospect it would have been sensible to have had him absolutely in touch with the negotiating machinery all the way through ...”³⁶⁸

997. Sir Michael Wood identified the “main consequence” of the fact that Lord Goldsmith did not give advice at the later stages of the negotiation was that “there was inevitably some uncertainty about his views on the meaning of the resolution, which made it difficult for FCO Legal Advisers to advise Ministers”. But it was “far from clear that having his further views during the negotiation would have made a significant difference to the course of the negotiations or to the terms of the eventual resolution”.³⁶⁹

998. Lord Goldsmith decided to convey his views orally rather than in writing on a number of occasions, including in response to the three explicit requests, of 24 September, 18 October and 4 November 2002, from FCO Legal Advisers for his advice.

999. Lord Goldsmith bears some responsibility for not seeking more assertively to ensure that his views were known and understood by those negotiating the resolution and those responsible for its implementation.

The role of FCO Legal Advisers in the negotiation of resolution 1441

1000. Mr Wood and Mr Macleod did not have full visibility of the discussions between Mr Blair and Mr Straw and their counterparts which led to some of the key provisions in resolution 1441.

1001. Nor did they see all the records of discussions in which Lord Goldsmith set out his concerns.

1002. The accounts given to the Inquiry by Sir Michael Wood, Sir Jeremy Greenstock and Mr Macleod, about the UK Permanent Mission to the UN

³⁶⁶ Statement, 4 January 2011, paragraphs 1.5-1.6.

³⁶⁷ Statement, 4 January 2011, paragraph 1.14.

³⁶⁸ Public hearing, 21 January 2011, page 53.

³⁶⁹ Statement, 15 March 2011, page 12.

in New York’s knowledge and understanding of the views of the FCO Legal Advisers and Lord Goldsmith during the negotiations and of their understanding in early November 2002 of the legal effect of the drafts of resolution 1441, were not consistent.

1003. In a statement to the Inquiry, Sir Michael Wood wrote that he, Ms Wilmshurst and Mr Grainger worked closely together as a team on all matters concerning the use of force against Iraq.³⁷⁰

1004. Legal advice was “folded in to the day-by-day instructions to UKMIS New York”. Mr Grainger attended the daily meetings on Iraq, discussed drafts with the United Nations Department (UND), cleared draft instructions to New York and gave day-to-day advice orally and in writing. Virtually all significant pieces of written legal advice were a co-operative effort.³⁷¹

1005. Sir Michael had been aware of, and agreed with, all the advice Mr Grainger had given.

1006. Sir Michael stated that he had ensured that he was “consulted ... on all significant legal questions concerning Iraq”, and that he gave his own written advice whenever he “was asked directly by Ministers or senior officials”.³⁷² He would “intervene directly only when we considered that necessary, particularly to get a point across to Ministers”.

1007. Instructions to the Mission in New York on the negotiation of resolution 1441 were issued from the FCO in London.

1008. Sir Michael Wood’s and Mr Macleod’s evidence indicates that direct contact between the FCO Legal Advisers and the Legal Counsellor in UKMIS New York was limited.

1009. Mr Straw told the Inquiry that the Legal Counsellor in New York had “played a very important role in the negotiation and drafting of 1441 and after that, in its interpretation”.³⁷³

1010. In his statement to the Inquiry, Mr Macleod wrote that his instructions came “from or through UND”, and that was the case “even on issues with a high ‘legal’ content”.³⁷⁴ Direct contact with FCO Legal Advisers was “not commonplace”, and

³⁷⁰ Statement, 15 March 2011, pages 5-7.

³⁷¹ Statement, 15 March 2011, pages 6-8.

³⁷² Statement, 15 March 2011, pages 6-7.

³⁷³ Public hearing, 8 February 2010, page 52.

³⁷⁴ Statement, 24 June 2010, paragraphs 1-2, 6-8.

on major negotiations, such as resolution 1441 “pretty rare”. He reported “ultimately to the Permanent Representative [Sir Jeremy Greenstock]”. There was:

“... no line of reporting, direct or indirect to the FCO Legal Adviser in London ... Nor was there any routine process of ... reporting on legal issues or anything of that sort.”

1011. Sir Michael Wood wrote that “the work of a legal adviser overseas is quite different from that of a lawyer in London, having large policy and representational elements”.³⁷⁵ The Legal Counsellor and First Secretary (Legal) in UKMIS New York reported to the UK Permanent Representative to the UN and, while it was “important” that the links to the FCO Legal Advisers were maintained, it would not have been “appropriate” for them to “report directly to, and effectively work under the FCO Legal Adviser”.

1012. Sir Michael added:

“... the negotiation of SCR 1441 was wholly exceptional, with Washington firmly in the lead and key negotiations taking place directly between foreign ministers and often on the telephone. The negotiating process was quite different from that for other SCRs, such as SCRs 1154, 1205, the second resolution in early 2003, and subsequent resolutions on Iraq adopted in 2003/4.”

1013. As a result, in Sir Michael’s view: “It was, therefore, not always easy for anyone, including the lawyers, to follow the negotiations blow-by-blow and to feed in considered and timely advice in the usual way.”³⁷⁶

1014. In Mr Macleod’s view, the UK Mission in New York had had “a relatively limited role” in the drafting of resolution 1441:

“The main components of the draft came to us from Washington via London.”³⁷⁷

1015. Mr Macleod wrote that he had received “no instructions” from London in relation to the negotiation of resolution 1441 “beyond or in addition to those received by Sir Jeremy Greenstock and UKMIS”.³⁷⁸

1016. Mr Macleod told the Inquiry that, “as a member of Sir Jeremy’s team”, he was “closely involved in the negotiation of what became UNSCR 1441 from an early stage”.³⁷⁹ He “knew what we were trying to achieve and attended the majority of the negotiating sessions”. He had: “Occasionally ... noted and reported the discussion”, but “on the whole” he had “a watching brief”.

³⁷⁵ Statement, 15 March 2011, page 1.

³⁷⁶ Statement, 15 March 2011, page 9.

³⁷⁷ Statement, 24 June 2010, paragraph 12.

³⁷⁸ Statement, 24 June 2010, paragraph 10.

³⁷⁹ Statement, 24 June 2010, paragraph 12.

1017. Mr Macleod wrote:

“On some key points, Sir Jeremy [Greenstock] had a crucial input, and I was involved in the drafting and discussion of proposals within the mission.”

1018. Asked about the process of providing advice to Sir Jeremy, Mr Macleod told the Inquiry that it was “fairly informal”:

“... Jeremy knew the issue very, very well. He understood that the legal parameters in which 1441 was being negotiated were very well-established, at least as far as we were concerned, because he had been responsible for negotiating resolution 1205 and he had probably been involved in the earlier ones too. So the framework we were operating in was very clear and pretty well understood by all of us, and I don’t recall really any occasion when we had to sit down and have a head-to-head about any legal issue.”³⁸⁰

1019. Within the FCO, Mr Pattison was responsible for the formulation of policy on Security Council resolutions, and provided instructions to the UK Mission in New York.³⁸¹

1020. Mr Pattison wrote that the key tactical decisions were taken at twice-daily meetings chaired by Mr Ricketts which agreed instructions for UKMIS New York on how to handle negotiations on the text of resolution 1441.³⁸²

1021. Mr Pattison told the Inquiry that instructions were sent in the form of a telegram, known as an e-gram, and were complemented by daily telephone conversations between Mr Ricketts and Sir Jeremy Greenstock, and by correspondence with other members of UKMIS New York.³⁸³

1022. Mr Pattison circulated a draft of the instructions around the ‘core group’, which included Mr Chaplin, Mr Charles Gray, Head of the FCO Middle East Department, representatives of the FCO Non-Proliferation Department (headed by Mr Tim Dowse) and FCO Legal Advisers, before sending them to New York.

1023. Telegrams sent by the FCO in London to the UK Mission in New York during the negotiation of resolution 1441, were in accordance with usual practice, signed “Straw” but would have been compiled by the process Mr Pattison described. Some report the Foreign Secretary’s own involvement in discussions on the draft resolution with his US and French counterparts. Others contain detailed instructions to New York for discussion in the Security Council.

³⁸⁰ Public hearing, 30 June 2010, pages 8-9.

³⁸¹ Statement, January 2011, paragraphs 27 and 29.

³⁸² Statement, January 2011, paragraph 27.

³⁸³ Public hearing, 31 January 2011, pages 22-23.

1024. When it was drawn to his attention that only one of the telegrams expressly stated the legal view of the effect of the draft resolution, Mr Pattison replied that:

“... legal advice was incorporated into all the instructions we sent. We did not normally practise making a distinction between legal and ... policy advice.”³⁸⁴

1025. Sir Michael Wood confirmed that:

“... instructions were drafted by United Nations Department, cleared with the FCO Legal Advisers and others, and, presumably, submitted to Ministers as necessary. They would be conveyed to UKMIS by telegram, fax or on the phone. This was standard practice for the drafting of SCRs.”³⁸⁵

1026. Sir Jeremy Greenstock told the Inquiry that he was not aware of the divergence of view about whether the draft of resolution 1441 would authorise the use of force without a further resolution.

1027. Mr Straw, Sir Jeremy Greenstock and Mr Pattison all referred to the fact that Mr Macleod took the view that resolution 1441 authorised the use of force, without the need for a further resolution.

1028. There is no contemporaneous written evidence of Mr Macleod’s advice during the negotiation of resolution 1441.

1029. Mr Macleod told the Inquiry that he was not conscious of the strength of the FCO Legal Advisers’ concerns until late November.

1030. Asked whether he was aware of the views, after its negotiation, of Sir Michael Wood and other Foreign Office Legal Advisers on the effect of resolution 1441, Sir Jeremy Greenstock told the Inquiry:

“I was not copied in on the minuting, for instance, between Michael Wood and the Secretary of State, Jack Straw, at the time ...

“I relied on two things in New York, one was the telegrams of instruction, signed ‘Straw’, coming from London; and secondly, my legal adviser Iain Macleod’s advice in New York ...”³⁸⁶

1031. Sir Jeremy told the Inquiry that Mr Macleod’s advice:

“... was different in substance and character from the legal advice coming from Elizabeth Wilmshurst and Michael Wood to the Secretary of State.”

³⁸⁴ Public hearing, 31 January 2011, page 24.

³⁸⁵ Statement, 15 March 2011, pages 7-8.

³⁸⁶ Private hearing, 26 May 2010, page 14.

1032. Subsequently, in the context of questioning about the later debate on the interpretation of resolution 1441 and the need for a second resolution, Sir Jeremy Greenstock stated:

“If I had known that there was that degree of doubt in London, I would have had to examine whether the advice I was getting from my own legal adviser was the advice I should be listening to.”³⁸⁷

1033. The Inquiry drew those extracts from Sir Jeremy’s evidence, which addressed the understanding in New York of the legal effect of resolution 1441 after its adoption and which had not at that stage been published, to the attention of Mr Macleod before he gave evidence to the Inquiry.

1034. Addressing his advice to Sir Jeremy in his statement, Mr Macleod wrote:

“Sir Jeremy Greenstock knew the legal framework as well as I did ... I think we had a shared understanding of what London’s instructions required and a shared assessment of what the final text meant. I did not have to offer lengthy written advice: my views were simply fed into the negotiating process, along with those of the rest of the team. At no time during the negotiation of UNSCR ... was there any opposition or questioning of the views I expressed, and nor was I put under any pressure to advise in any particular direction (by Sir Jeremy or anyone else).”³⁸⁸

1035. Mr Macleod told the Inquiry that he was “not really clear about what exactly happened in London during the negotiation of resolution 1441”.³⁸⁹ He understood from papers that he had seen “that questions were being asked of the Attorney on a couple of occasions” but he did not “think that was evident to us at the time in New York”.

1036. Mr Macleod added that “there seemed to be no definitive view from the Attorney’s Office during the 1441 process”; which he thought had been “a big mistake” and which he contrasted with the process adopted during the negotiations in 1997 and 1998.³⁹⁰

1037. Mr Macleod told the Inquiry that UKMIS “had one view of the resolution, we thought it would authorise the use of force”. He thought difficulties “could have been avoided” if Lord Goldsmith’s view “had been obtained at that earlier stage”.³⁹¹

1038. Referring to the “doubts in London that began to emerge and really became apparent to us in November”, Mr Macleod stated that it was:

“... puzzling ... that people decided just to continue allowing UKMIS to negotiate a text which was, to use the phrase, ‘unfit for purpose’ because ... a key criterion for

³⁸⁷ Private hearing, 26 May 2010, page 26.

³⁸⁸ Statement, 24 June 2010, paragraph 22.

³⁸⁹ Public hearing, 30 June 2010, page 12.

³⁹⁰ Public hearing, 30 June 2010, pages 12-13.

³⁹¹ Public hearing, 30 June 2010, page 16.

the resolution was that there wouldn't have to be a further decision of the Security Council to authorise the use of force.

“... the other reason why it is odd is that we had been negotiating in New York side by side with the US ...

“... to have reached the end of that and then have to turn round and tell the Americans that ‘Actually, what you and we thought we were negotiating, we haven't achieved at all’, it is a very strange place to end up.”³⁹²

1039. Asked if he was completely unaware that the FCO Legal Adviser was repeatedly and very clearly advising Mr Straw during and after the negotiation of 1441 that it did not authorise the use of force without a further resolution, Mr Macleod replied:

“There are minutes – on the file which I have seen subsequently, which in hindsight you could see ... the London legal view was diverging from the policy as we thought of it. But I wasn't really aware, to be honest, that there was such a divergence of view.”³⁹³

1040. Mr Macleod added that it was not until “towards the end of November” when he saw the draft of the instructions asking Lord Goldsmith to advise that he “really realised that something was not quite right here. I hadn't really spotted it before then, and perhaps I should have, but I hadn't really.”

1041. Addressing what he described as “the legal advice beginning to diverge from where the policy was”, Mr Macleod stated “Jeremy [Greenstock] and I both thought that it [resolution 1441] did achieve that [the policy aim]”; and:

“That remains my view and, in the end that was the view the Attorney also took. But London, it is clear certainly now, that wasn't the view in [the FCO] Legal Advisers. The way to fix that was actually relatively straightforward, which is to get a view from the Attorney. I think it should have happened. Now, why it didn't is very difficult for me to say from where I was, but I think it is a big gap in the process.”³⁹⁴

1042. Asked specifically if he was aware that Lord Goldsmith had advised Mr Straw on 18 October that the draft resolution would not in itself authorise force, Mr Macleod said he was not aware of that advice.³⁹⁵

1043. Pressed on the implications, Mr Macleod stated that he should have been aware of the advice, and that:

“... it would have had an impact. There would have had to be some quite serious analysis with London, but also with Washington, of where we were going.

³⁹² Public hearing, 30 June 2010, pages 16-17.

³⁹³ Public hearing, 30 June 2010, pages 20-21.

³⁹⁴ Public hearing, 30 June 2010, pages 21-22.

³⁹⁵ Public hearing, 30 June 2010, pages 28-30.

“... If that kind of doubt had begun to emerge about where we were going, that ought to have been fed into every conversation the Foreign Secretary was having with Secretary of State Powell, indeed the conversations that were taking place above that and below it and at the USUN ... that would have been a huge impact on the whole way the negotiations were going without any doubt at all.”

1044. Mr Pattison, who was in daily contact with the UK Mission in New York, and Mr Ricketts, who spoke frequently to Sir Jeremy Greenstock, were both aware of the decision taken on 17 October, the views of the FCO Legal Advisers, and Lord Goldsmith’s conversation with Mr Straw on 18 October.

1045. The FCO’s arrangements to provide instructions to the UK Mission in New York on a day by day basis should have meant that Sir Jeremy and Mr Macleod were both aware of the essential points made by the FCO Legal Advisers and Lord Goldsmith which were of direct relevance to the negotiations.

1046. Mr Pattison told the Inquiry he had assumed that there had been direct contact between the FCO Legal Advisers and Mr Macleod.

1047. Mr Pattison told the Inquiry that he had not discussed Lord Goldsmith’s advice to Mr Straw with Mr Macleod, asserting that Mr Macleod’s contacts with the Foreign Office “were entirely with Legal Advisers, as was proper and appropriate at the time”; and that he had “assumed that the Legal Advisers were talking to each other offline, privately in telephone conversations”.³⁹⁶

1048. Mr Pattison told the Inquiry that Mr Macleod “had a different opinion on the interpretation of the text, as of course, did United States’ lawyers”.³⁹⁷

1049. Mr Pattison would have been:

“... surprised if the Mission in New York wasn’t aware that Iain Macleod’s views were not endorsed by the Foreign Office Legal Adviser”.³⁹⁸

1050. Mr Pattison told the inquiry that he was “surprised” that UKMIS New York was not aware of the Lord Goldsmith’s views of 18 October:

“Jeremy must have had regular conversations with Peter Ricketts ... I would have thought that the evolution of the Attorney General’s view was a subject in them ...”

1051. Mr Grainger’s minutes of 4 and 11 October and the FCO telegram of 21 October were sent to the UK Mission in New York.

³⁹⁶ Public hearing, 31 January 2011, pages 31-32.

³⁹⁷ Public hearing, 31 January 2011, page 31.

³⁹⁸ Public hearing, 31 January 2011, page 33.

1052. They clearly set out the view of FCO Legal Advisers that the drafts of the resolution then under discussion would not authorise the use of force without a further decision by the Security Council.

1053. Sir Jeremy Greenstock took the same position in a conversation with Ambassador Negroponte on 16 October.

1054. Mr Straw took the same position in conversations with Secretary Powell and Mr de Villepin on 16 and 17 October.

1055. The Inquiry has seen no evidence that the correspondence recording the concerns expressed by the FCO Legal Advisers and Lord Goldsmith and their discussions with Mr Straw on 17-18 October was sent to the UK Mission in New York.

1056. Advice from Mr Wood to Mr Straw was not sent to the UK Mission in New York until 6 November.

1057. In his statement for the Inquiry, Sir Michael Wood wrote:

“... there were occasions when written legal advice was copied directly to UKMIS New York. This was the case, for example, with John Grainger’s minutes of 4 and 11 October 2002 and my submission ... of 6 November 2002.”³⁹⁹

1058. Sir Michael wrote that, given the convention that neither the advice of the Law Officers nor the fact that they had advised was to be disclosed, there was a general practice that their advice should not be sent to posts overseas.⁴⁰⁰

1059. No copies of the minutes expressing Mr Wood’s concerns at that time or the records of the conversation between Lord Goldsmith and Mr Straw on 18 October appear to have been sent to the UK Mission in New York.

1060. The FCO instructions to the UK Mission issued on 21 October clearly stated, however, that the draft could not “be read as authorising the use of force, taking into account the draft resolution as a whole, including OP10, which gives a clear indication that further action will be for the Council”.⁴⁰¹

1061. Mr Pattison also told the Inquiry that by 6 November, when Mr Wood sent his advice to Mr Straw, he “certainly understood” Mr Wood’s position [that there would need to be a further decision by the Security Council to revive the authorisation to use force in resolution 678]; and that he had had that understanding “for some time”.⁴⁰²

³⁹⁹ Statement, 15 March 2011, page 8.

⁴⁰⁰ Statement, 15 March 2011, page 9.

⁴⁰¹ [Telegram 602 FCO London to UKMIS New York, 21 October 2002, ‘Iraq: Draft UNSCR’](#).

⁴⁰² Public hearing, 31 January 2011, page 31.

1062. Mr Pattison added that he was “reasonably confident that both Iain Macleod and Jeremy Greenstock would have understood that to be the Legal Adviser’s opinion”.

1063. Asked if it was “strange” that the UK Mission in New York was finalising the negotiation in ignorance of Lord Goldsmith’s position and thought that they had achieved something which Lord Goldsmith said that they had not, Mr Pattison agreed.⁴⁰³

1064. Sir Michael Wood told the Inquiry that it was not clear to him that Mr Macleod took a different view from himself; and that the differences between their positions only crystallised when it became clear that a second resolution would not be forthcoming.

1065. Mr Straw told the Inquiry that Mr Macleod took a different view to Mr Wood about the effect of resolution 1441.⁴⁰⁴

1066. Asked whether Mr Macleod and Sir Jeremy Greenstock were aware during the course of the negotiation of resolution 1441 of his view that the various drafts did not authorise the use of force without a further resolution, and whether it was recognised that there was a discrepancy between their respective positions, Sir Michael Wood responded that he did not think that during the negotiation of resolution 1441 Mr Macleod had a radically different view of the essential legal position from that of the lawyers in London.⁴⁰⁵ They were both clear that resolution 1441 in itself did not authorise the use of force and that a second stage was needed.

1067. Sir Michael added:

“The only question was what precisely was needed at that second stage, which only crystallised as a major issue following the adoption of the resolution.”

1068. Asked whether a difference of view had been recognised at the time, Sir Michael wrote:

“... I do not believe that there was a significant discrepancy between the legal views in London and New York during the negotiation of the resolution. Such differences as there may have been seem to have arisen when it came to interpreting the resolution as adopted, in the light of the preparatory work ... and of the surrounding circumstances.”⁴⁰⁶

1069. Asked to identify the consequences of failing to resolve the differences of view during the negotiation, Sir Michael responded:

“Given (i) the limited nature of such differences as there may have been, (ii) the fact that what mattered at the end of the day was the Attorney General’s opinion,

⁴⁰³ Public hearing, 31 January 2011, page 34.

⁴⁰⁴ Public hearing, 2 February 2011, page 66.

⁴⁰⁵ Statement, 15 March 2011, pages 8-9.

⁴⁰⁶ Statement, 15 March 2011, page 10.

not those of lawyers in the FCO or in UKMIS New York, and (iii) the nature of the negotiations, I do not consider that there would have been any significant change in the course of the negotiation, or the wording of the eventual resolution.”⁴⁰⁷

1070. The Inquiry was given divergent views on the question of whether it would have been appropriate for there to have been more direct links between the FCO Legal Advisers and the Legal Counsellor in New York.

1071. The different reporting arrangements under which the Legal Counsellor in New York reports to the Head of the Mission rather than to the FCO Legal Adviser in London, and the reasons for that, are understandable.

1072. But given the importance of resolution 1441 and the complex legal considerations, and notwithstanding Sir Michael Wood’s position that the general practice at that time was that the advice of the Law Officers was not sent to posts overseas, direct discussions between Mr Wood (or Mr Grainger on his behalf) and Mr Macleod of the drafts during the negotiation could have ensured a common understanding of, and advice on, the legal effect.

1073. Sir Michael Wood wrote that he:

“... did not recall discussing the negotiation of SCR 1441 with Sir Jeremy Greenstock or Iain Macleod, though we were ... seeing many of the same papers. Direct contact was not necessary since ... legal advice was fully incorporated into the instructions ... Lawyers in New York and London played quite different roles ...”⁴⁰⁸

1074. Sir Michael Wood added:

“Nor in my view would it have been appropriate for Iain Macleod and me to have conducted some sort of ‘back channel’ discussion among lawyers on the course of the negotiations and the ever-changing texts. It would have short-circuited the regular process for feeding in combined policy and legal considerations into the instructions sent to New York. And, in the particular circumstances of this negotiation, it would have risked crossing wires, and might even have been seen as interfering in matters of great political sensitivity.”⁴⁰⁹

1075. Sir Franklin Berman, who preceded Sir Michael as the FCO Legal Adviser, provided the Inquiry with his thoughts on the processes followed in negotiating resolution 1441; he did not seem to share that concern.⁴¹⁰

1076. Acknowledging that, unlike in London, as a member of the Mission the legal adviser answers to and takes instructions from the Head of Mission, Sir Franklin

⁴⁰⁷ Statement, 15 March 2011, page 10.

⁴⁰⁸ Statement, 15 March 2011, page 9.

⁴⁰⁹ Statement, 15 March 2011, page 9.

⁴¹⁰ Submission Berman, 7 March 2011, ‘The process for giving and receiving Legal advice’.

said he had never known a Head of Mission take umbrage at separate, parallel, correspondence between the Mission legal adviser and the FCO Legal Advisers.

1077. Sir Daniel Bethlehem, Sir Michael's successor as FCO Legal Adviser, agreed fully with the observations that had been made in evidence about the wholly exceptional nature of the negotiations that led to resolution 1441.⁴¹¹ He identified the close personal involvement of the Foreign Secretary, the particular political significance of the resolution, the sensitivity of the issues in question, their security classification and the potential consequences that would follow from the resolution as the reasons for the exceptional nature.

1078. Sir Daniel also commented on the formality of the process of instruction from London to UKMIS New York during the negotiation of resolution 1441.

1079. Sir Daniel added that in more recent years issues concerning the negotiation of Security Council resolutions would be conducted by email (with multiple copy addresses), video-conferencing and other mechanisms which enabled timely, inclusive and interactive communication, as well as by more formal electronic telegrams.

Conclusions

1080. The declared objective of the US and UK was to obtain international support within the framework of the UN for a strategy of coercive diplomacy for the disarmament of Iraq. For the UK, regime change was a means to achieve disarmament, not an objective in its own right.

1081. A new UN resolution was a key element of Mr Blair's "clever strategy" to achieve the policy objectives of the US and UK in a manner which fostered international unanimity and maintained the authority of the UN.

1082. The UK's stated objective for the negotiation of resolution 1441 was to give Saddam Hussein "one final chance to comply" with his obligations to disarm. The UK initially formulated the objective in terms of:

- a resolution setting out an ultimatum to Iraq to readmit the UN weapons inspectors and to disarm in accordance with its obligations; and
- a threat to resort to the use of force to secure disarmament if Iraq failed to comply.

1083. Iraq's agreement in principle on 16 September to the return of inspectors, was almost certainly a response to President Bush's speech on 12 September, but the US and UK immediately expressed scepticism about the terms on which Iraq would readmit inspectors and its future conduct.

⁴¹¹ Statement, 24 June 2011, pages 4-5.

1084. A new resolution would not have been required to permit UNMOVIC and the IAEA to operate in Iraq. The UK and the US had, however, already agreed that the provisions of resolution 1284 (1999) were no longer sufficient to secure the disarmament of Iraq and a strengthened inspections regime would be required. A new resolution would maintain the pressure on Iraq and define a more intrusive inspections regime allowing the inspectors unconditional and unrestricted access to all Iraqi facilities.

1085. Iraq's letters of 16 and 19 September to the Security Council declaring that Iraq was "totally clear of all nuclear, chemical and biological weapons" and Saddam Hussein's rebuttal of suggestions that Iraq might share such weapons with Al Qaida were immediately discounted. In response to Iraq's detailed rebuttal of the UK dossier, the Assessments Staff concluded that there was no need for a full reply to Iraq's claims.

1086. The negotiation of resolution 1441 reflected a broad consensus in the United Nations Security Council on the need to achieve the disarmament of Iraq.

1087. There were, however, significant differences between the US and UK positions: and between them and China, France and Russia about the substance of the strategy to be adopted, including the role of the Security Council in determining whether peaceful means had been exhausted and the use of force to secure disarmament was justified.

1088. Those differences resulted in difficult negotiations over more than eight weeks before the eventual unanimous adoption of resolution 1441 on 8 November 2002.

1089. In September and October 2002 negotiations were being conducted simultaneously at three separate levels: discussions between Heads of State and Government and their advisers; between foreign ministers; and in New York.

1090. The degree to which Mr Blair, Mr Straw and Sir David Manning, and their counterparts in other capitals, were directly engaged in the detailed negotiations with counterparts in other capitals was highly unusual and demonstrated the difficulty and political sensitivity of the issues under discussion.

1091. Mr Blair played an active role in determining the UK's negotiating strategy and seeking to influence President Bush, President Chirac and President Putin.

1092. Within the UK's overarching objective, the initial discussion of the resolution focused on the crucial need to revive UN authority to permit UK use of military force if coercive diplomacy failed.

1093. Mr Blair was advised that it would be impossible to get agreement in the Security Council to a single resolution unequivocally providing that authority.

From the end of September, Mr Blair was advised that a second decision by the Security Council would be needed to authorise military action.

1094. Mr Straw and Sir David Manning advised Mr Blair that tough messages were required to persuade President Bush to accept the UK position and to address the difficulties for the UK that the US stance might create. He was encouraged to try to get the US to agree to two resolutions.

1095. Between 2 and 17 October, Mr Blair made a series of decisions which aligned the UK with the declared US position that no further decision by the Security Council could be explicitly conceded in the negotiation.

1096. To maintain pressure on Iraq, Mr Blair and Mr Straw decided on 17 October not to address the question of a second resolution at that time.

1097. The effect of the policy was that if a material breach of the resolution was reported to the Security Council, Saddam Hussein would not get a second chance.

1098. But Mr Blair, Mr Straw and other senior UK participants in the negotiation of resolution 1441 envisaged that, in the event of a material breach of Iraq's obligations, a second resolution determining that a breach existed and authorising the use of force was likely to be tabled in the Security Council.

1099. The pursuit of a possible "side agreement" to that end, Mr Straw's conversations with Secretary Powell and Mr de Villepin, and Sir Jeremy Greenstock's suggestion that the UK might table such a resolution all confirm that conclusion.

1100. Mr Blair and Mr Straw were, however, concerned that it might be difficult to secure agreement to a second resolution within the Council and that one or more of the Permanent Members might veto the resolution.

1101. In those circumstances, Mr Blair's and Mr Straw's position was that if the Security Council failed to meet its responsibilities, military force should be used to disarm Iraq. Mr Blair had already assured President Bush on several occasions that the UK would take such action.

1102. Mr Blair framed that in terms of the "Kosovo option" and what would happen in the event of an "unreasonable" veto.

1103. Mr Straw told Lord Goldsmith that he accepted a second resolution would be needed "unless circumstances changed", but he argued that could not be acknowledged publicly for tactical reasons.

1104. Lord Goldsmith informed Mr Blair on 22 October that, although he would not be able to give a final view until the resolution was adopted, the draft of the resolution of 19 October would not on its own authorise military action.

1105. The way in which the legal advice was sought and considered during the negotiation of resolution 1441, and the substance of that advice, including Lord Goldsmith's views on the legal effects of the drafts he saw and whether there was any reason for the Government to assume that the resolution adopted on 8 November could by itself provide the authority for the use of force, are addressed earlier in this Section.

1106. Decisions made by Mr Blair at key stages in the negotiations limited the policy options subsequently available to the UK.

1107. In seeking to influence President Bush's decisions, Mr Blair offered the UK's support while suggesting possible adjustments to the US position.

1108. In his discussions with President Bush, Mr Blair did not seek to use the potential UK military contribution to influence the US during the negotiation of resolution 1441.

1109. The way in which the decision on 31 October to offer significant forces for ground operations to the US for planning purposes was taken is addressed in Section 6.1.

1110. The UK was successful in changing some aspects of the US position during the negotiations, in particular ensuring resolution 1441 was based on the disarmament of Iraq rather than wider issues as originally proposed by the US.

1111. Initial US/UK drafts of the resolution which would not be acceptable to other members of the Security Council were tabled without identifying the impact that would have on the timetable for reaching consensus, the consequent delay in the return of the inspectors, and the extent to which that would require key questions to remain unresolved.

1112. The length of time taken to agree resolution 1441 meant the first update from the inspectors for the Security Council would not be required until mid-February, and the resolution was silent on what would happen after that.

1113. The potential tension between the time available for inspections and when US would be ready to take military action was recognised in papers produced by officials from July onwards.

1114. Reporting from Washington in mid-October identified clear indications that the US Administration was likely to be impatient about the time allowed for inspections.

1115. Notwithstanding Mr Blair's and Mr Straw's statements at the time and his evidence to the Inquiry, resolution 1441 did not meet all the UK's original objectives.

1116. To secure consensus in the Security Council despite the different positions of the US and France and Russia (described by Sir Jeremy Greenstock as “irreconcilable”), resolution 1441 was a compromise containing drafting ‘fixes’.

1117. That created deliberate ambiguities on a number of key issues including:

- the level of non-compliance with resolution 1441 which would constitute a material breach;
- by whom that determination would be made; and
- whether there would be a second resolution explicitly authorising the use of force.

1118. As the Explanations of Vote demonstrated, there were significant differences between the positions of the members of the Security Council about the circumstances and timing of recourse to military action. There were also differences about whether Member States should be entitled to report Iraqi non-compliance to the Council.