

Iraq Inquiry

Statement by Rt Hon Jack Straw MP

Q1) The End of Containment

It has been argued that more could have been done to encourage Iraq's neighbours to comply with the sanctions regime making containment a more effective and sustainable strategy.

- a) What did you conclude about the potential for strengthening containment through encouraging regional compliance? On what basis?*
- b) What did you do as a consequence?*

- 1.1 From the moment that George Bush (41) decided on 27 February 1991 not to order United States and Coalition forces to proceed to Baghdad to secure the overthrow of Saddam Hussein, 'containment' of the regime became the method of the US, UK and the international community to achieve compliance by the Iraqi regime with its obligations under UN Security Council Resolutions (UNSCRs)- especially the removal of the threat posed by its chemical, biological and nuclear weapons programmes. This was true up until the end of the post-UNSCR 1441 diplomatic and inspection process, and the start of the major US/UK military action in mid-March 2003.
- 1.2 For 'containment' to secure its objectives, it had to be incremental in its effect. The Inquiry will be very familiar with the fact that in practice the progress achieved by the policy of containment was patchy. There were powerful forces who joined with the Iraqi regime in doing everything they could to undermine the policy of containment, and which believed that it was only a matter of time before the already shaky international consensus fractured altogether, and the Iraqi regime was –as they saw it- released from the burden of sanctions and of international scrutiny.
- 1.3 The Inquiry will also be very well aware that the extensive scale and nature of the chemical, biological and nuclear weapons programmes which the Iraqi regime had pursued was never a matter of conjecture based on (flawed) intelligence, but of incontrovertible fact. Indeed it remains the case, as the Iraq Survey Group has highlighted, that many of the 'unanswered questions' about the Iraqi regime's chemical and weapons programmes, set out in Dr Hans Blix 173 page report to the UNSC on 7 March 2003, remain unanswered.¹
- 1.4 When I took over as British Foreign Secretary in early June 2001, containment was proving very difficult to sustain. There were rounds of

¹ 2004 Duefler Iraq Survey Group Report- https://www.cia.gov/library/reports/general-reports-1/iraq_wmd_2004/index.html

discussions with P5 partners and other members of the UNSC over the future of the foundation resolution 1284 (1999), but substantial pessimism about its future. Thus, for example, the UK Ambassador to the UN, Sir Jeremy Greenstock, told the Security Council in its open debate on 26 June 2001, “Let us be clear, resolution 1284 has not been implemented because Iraq has refused to implement it.” [UKmis Tel 993].

- 1.5 Question (a) asks what I concluded about the potential for securing regional compliance, and (b) what I did as a consequence.
- 1.6 The direct answer to (a) is that pre-9/11 I concluded that this potential was low, but we carried on trying. Jordan was highly dependent on Iraqi petrol and other hydrocarbon supplies- with Iraq representing its biggest crude oil supplier prior to the invasion of 2003.² On 4 September 2001, Alan Goulty, then Director of MENA, briefed me (in advance of a meeting with Dr. Blix on 5th September) that, “The prospect of achieving more effective sanctions enforcement at Iraqi borders was always faint but has diminished with the deteriorating regional situation.” [Minute 4/9/01, paragraph 4].
- 1.7 Where there was evidence of countries seeking to evade or breach sanctions, however, the FCO took action in the region (and elsewhere) to seek explanation from the governments in question.
- 1.8 Jeremy Greenstock told the Inquiry in his evidence on the 27 November 2009 that, “By the beginning of 2001...the containment of Iraq was flawed and was regarded by everyone as flawed, by those who thought the sanctions regime should be maintained and by those who thought the sanctions regime should not be maintained.” My Private Secretary, Simon McDonald, also made clear in a note to David Manning in October 2001 that, “The present position is not sustainable. Sanctions are eroding. Iraqi WMD programmes are continuing. The Security Council is divided.” This view was not one isolated to the British Government. A phone call between Prime Minister Blair and President Chirac from June 2001 noted that, “
[REDACTED]
[REDACTED]
[REDACTED]” The position of Iraq’s neighbours could not be separated from countries further afield who had a vested interest in Saddam Hussein’s survival and the decay of sanctions.
- 1.9 The terrorist atrocities of 11 September 2001 wholly changed the climate in respect of Iraq’s compliance with its UNSCR obligations. UNSCR 1441 re-established a strong international consensus. Its objectives amounted to containment, since had its measures led (as they easily could have) to compliance, the Saddam regime would have been satisfactorily contained, not removed.

² 2006 Library of Congress paper on Jordan- <http://lcweb2.loc.gov/frd/cs/profiles/Jordan.pdf>

- 1.10 Our immediate response, however, was to focus on a new sanctions policy, the so-called 'smart sanctions'. HMG worked hard in 2001 to try to get these adopted- but we did not receive the support we needed to pass them in May and November of 2001 when we achieved roll-over resolutions only. It took till May 2002 before the Goods Review List (GRL) was agreed (UNSCR 1409 (2002)).

In your first statement to the Inquiry you commented on Sir David Manning's visit to Washington in early December 2001. You said "I approved the briefing for the Prime Minister and for Sir David on how we might influence the debate" (page 3).

c) What was the nature of the policy discussions in Number 10 at this time of which you were aware?

- 1.11 The immediate preoccupation post-9/11 was in respect of Afghanistan rather than Iraq.
- 1.12 I had a close working relationship with Prime Minister Blair throughout my period as Foreign Secretary, and saw him frequently (formally and informally) on many occasions. On these occasions Iraq would have been one of the issues discussed. It did not however significantly rise up the political agenda until after President Bush's "Axis of Evil" State of the Union Address in late January 2002.
- 1.13 In terms of the specific nature of policy discussions at this time; we were aware that post-9/11 the US were reviewing their position on Iraq. We were doing the same (although through a framework of focussing on Iraq's WMD and securing a resolution on 'smart sanctions' (GRL)).
- 1.14 Key thinking at the time, therefore, was to not simply get a roll-over of Oil for Food but to secure a new resolution on smart sanctions. As part of this there was a desire in the UK to bring America with us on our sanctions policy, build up international consensus and unite the P5. The ultimate aim of all of this, and our broader focus, was obviously to get weapons inspectors readmitted into Iraq.
- 1.15 There were also more limited discussions with the US about maintaining the No Fly Zones while we were engaged in operations in Afghanistan.

d) What role did regime change play within these debates?

- 1.16 I was well aware that the US policy, agreed by President Clinton on 31 October 1998 (the Iraq Liberation Act), was for regime change. However, this was not the policy of HMG. In the briefing letter sent to David Manning by my Private Secretary on 3 December 2001 the final paragraph states:

“Regime change may look an attractive alternative. Removal of Saddam, if achieved swiftly, would be applauded by his neighbours, the GCC and the wider Arab/Islamic world. **But previous uprisings in 1991 failed for want of outside support and military intervention for this purpose would be illegal.** The US are nevertheless considering their options again. David Manning’s visit to Washington this week offers the opportunity to find out what they have in mind and to test the viability of any plans.” [Emphasis added].

- 1.17 As Simon McDonald made clear in the note quoted above, we were aware that hawks in the US system were talking up military action to topple Saddam. There was therefore a sense on our part that we needed to influence the debate in Washington and focus their attention on working through the international community.
- 1.18 The first sentence of the paragraph from Simon McDonald above made clear that whilst from the UK’s point-of-view regime change in Iraq, given the nature and history of Saddam’s regime, was to be wished for, regime change was never, and could never, be a lawful *casus belli* for the UK.

e) What did you do to ensure that a full range of expertise was being drawn upon?

- 1.19 As a consequence of Britain’s long standing involvement in the Middle East, the FCO had an impressive cadre of diplomats and research analysts expert in this field, and in the Arabic language. As simply one example of many: of the three main private secretaries in my Private Office at the time, two were Arabists- Simon McDonald, the Principal Private Secretary, and Mark Sedwill, with specific responsibility for Iraq. Mr Sedwill had been an UNSCOM weapons’ inspector in Iraq on secondment from the FCO from 1996 to 1997.

Before the 7 March 2002 Cabinet meeting which discussed Iraq policy, you asked for the paper which had been prepared for the Parliamentary Labour Party to be circulated to Cabinet members. The Cabinet Office was preparing a paper on policy options for Iraq at the time, but that was not submitted to Cabinet.

f) What was the origin and purpose of the Parliamentary Labour Party paper on Iraq?

- 1.20 Parliamentary Labour Party (PLP) briefings were almost always drafted by special advisers, on relevant issues or specific areas of concern.
- 1.21 The purpose of these briefings was to give Labour MPs a concise, factual, report on particular issues. These briefings would often also contain answers to questions from the MPs or to ones which were being asked of the MPs themselves.

- 1.22 This particular brief was produced at my request by Dr Michael Williams, my special adviser, when it became clear that Iraq was becoming an issue of concern for Labour MPs and in response to the developing situation in Washington.
- 1.23 The specific concern at the time was anxiety that the UK would support military action against Iraq without going down the UN route. Although it was not a direct trigger for the briefing, the scale of the concern is well illustrated in an Early Day Motion (EDM 927) that had been put down on the 4th March 2002 and which received the backing of over 100 Labour MPs.
- 1.24 The PLP brief was therefore a response to these concerns and sought to detail why Iraq was a problem which could not simply be ignored. If anything it made the case for UN action and the return of UN inspectors, it was never intended to make the case for war.

g) Who had cleared the judgements made in it?

- 1.25 Of my two then special advisers (Dr Michael Williams and Mr Ed Owen) it was Dr Williams who had policy responsibility for Iraq. He drafted the paper. He was assiduous in checking the accuracy of any briefing with officials. I assume that I saw and endorsed the paper in advance but I cannot be certain at this stage.

h) Why did you think it important that the policy should be circulated to Cabinet members but you did not submit a formal paper on Iraq policy?

- 1.26 I was aware that Iraq was down to be discussed in Cabinet on Thursday 7th March 2002 and I therefore forwarded them the brief.
- 1.27 I felt the brief would be helpful for fellow ministers in preparation for discussion of the topic in Cabinet.

i) Did you discuss the Cabinet Office paper with the Prime Minister? If so, when?

j) Did you discuss it with others? If so, when?

- 1.28 I almost certainly discussed this document with the Prime Minister, if not the document itself specifically, then all the issues in it were then part of the current debate about Iraq.
- 1.29 Within the FCO internally, the document was discussed. A note from my Private Secretary to Peter Ricketts, the Political Director, on the 11 March 2002, for instance, sought extra detail on a number of areas discussed in the paper.

Q2) Discussion with the Americans

When asked about the events of March and July 2002, Jonathan Powell told the Inquiry that you were “arguing for alternative options...I think he was thinking about particularly politically, and the domestic political differences that it would cause in the Parliamentary Labour Party and more generally” (page 69).

- a) What was your assessment of whether the policy being pursued by the Prime Minister was sustainable domestically?**
- b) What risks did that present for the strategy being pursued? How did you understand those risks were being managed?**

2.1 The strategy of the Prime Minister had obvious risks, for him and his Administration. Managing these risks was one of the many pre-occupations for me, as it was for the Prime Minister.

2.2 Crucial in my view to managing the risks was a) a new resolution from the UNSC, b) a clear undertaking that any decision on UK involvement in military action would require the explicit approval by substantive resolution of the House of Commons.

In your previous evidence you said that “for all the swirl in the American system, there is a moment when the president pronounces” (page 69). You also referred to the confluence of Colin Powell’s views and UK policy. There was, however, a possibility that the President could decide on policies which were not aligned with British objectives.

- c) What did you assess to be the risk of that happening?**
- d) On what basis did you make that assessment?**
- e) Did your assessment evolve over time?**
- f) Did you caution the Prime Minister about your assessment of the risks involved in aligning himself so closely with the Bush administration on the issue of Iraq?**

2.3 It is inherent in all international relations that the interests even of otherwise close allies may diverge, and sometimes conflict. That has long been true of US/UK relations.

2.4 On Iraq there was a difference in objective between the US and UK. The US (as stated above) had since 31 October 1998 had as an objective a change of Iraqi regime- i.e. the removal of Saddam Hussein. The US determined the legality of its actions in a different way from the UK. For the UK, however desirable the removal of Saddam Hussein might be, regime change could not be an objective of UK foreign policy, not least because military action for this purpose would palpably have been unlawful. Our objective was more constrained.

- 2.5 There were many other differences of interest and perception between the US and UK. These included the very different hinterlands of the two governing parties- the US Republicans on the one hand, the British Labour Party on the other. Perhaps of a great many, the biggest difference of all was in the level of vulnerability felt in each country after 9/11. It was intense and raw in the US.
- 2.6 All this meant that the US President, like any US President, could indeed decide on policies which were not aligned with British objectives. A central part of the UK's overall strategy with the US was to secure that alignment- most notably through the UN route.
- 2.7 My assessment of the alignment or otherwise of US and UK objectives was continuous, as the situation evolved. I discussed the risks with the Prime Minister, orally and in writing on many occasions.

Q3) WMD

At the beginning of September 2002, in advance of his press conference in Sedgefield, the Prime Minister requested briefing on Iraq. On 2 September, your office sent the Prime Minister's Office a briefing.

a) Who had written the advice?

b) Were you concerned that the briefing made more definitive statements about Iraq's WMD capability than the contemporary JIC assessments?

- 3.1 The Foreign Secretary's Private Office was (and is) the conduit for requests for briefings from Number 10. Such was the volume and frequency of these requests that many of them were processed by my office without any direct involvement by me, save that copies of the final version of the important briefs were usually put into my box for my information.
- 3.2 I was out of the UK from early on the morning of Monday 2 September 2002, until Thursday 5 September.
- 3.3 My understanding from the records is as follows:
- 3.4 Questions were sent from the Private Office at Number 10 to Charles Gray and Edward Chaplin in the FCO for turnaround by the close of play the next day- which was subsequently changed to 6pm the same day.
- 3.5 A draft of the answers which Charles Gray, Head of MED, produced was seen and amended by Peter Ricketts, Political Director, before being sent back to Number 10. It would therefore have been for officials, and my Private Office to have discussed the matter with me if they felt they needed to.

In his statement, John Williams says that he wrote to you in August 2002 suggesting you should try to dissuade the Prime Minister from going ahead with the dossier.

c) What did you do with his advice?

- 3.6 I was abroad on annual leave from 27 July 2002 to 18 August 2002, in France. Whilst I was in daily contact with my Private Office, and the FCO had installed a fax (not secure), secure communication was very difficult. I had no staff (nor security personnel) with me.
- 3.7 I have been unable to locate the 2nd August minute so I am relying on memory. I understand that the 4th September Iraq Media Strategy document John Williams produced is substantively similar to the content of his August minute.
- 3.8 It was John Williams' belief, which he made clear in that minute, that there was, in his view, no "killer fact" in the draft dossier which "proves" action had

to be taken against Saddam. I took on board his media advice on this subject- indeed as the subsequent press reaction showed, there was a sense that the dossier 'told us nothing new'.

- 3.9 The dossier was not produced, however, with the intention of revealing a "killer fact" or of justifying war. There had been intense pressure for more and more briefing on Iraq. It was decided to produce the dossier as an act of open government to explain, more fully, to the public why HMG felt Iraq was an issue of such concern and why further inspections were required.
- 3.10 Indeed as John Williams himself states in the document on the 4th September, "The Foreign Secretary's interviews in late August established that our immediate focus is on getting weapons inspectors into Iraq, in line with UN resolutions; they must have unfettered access; we are familiar with the games Saddam Hussein plays."
- 3.11 The dossier outlined why the government was so concerned to get the inspectors into Iraq and what issues we felt needed to be dealt with during this process.

Q4) The Inspection Process

You commented in your first statement to the Inquiry “Early on in the New Year, however, I began to be more optimistic that with more pressure Iraq might co-operate fully with the inspectors” (page 11).

a) What was the basis for your optimism?

- 4.1 In my first written statement to the Inquiry in January 2010 I stated (as mentioned in the question) that, “Early on in the New Year, however, I began to be more optimistic that with more pressure Iraq might cooperate fully with the inspectors, and be subsequently given a clean bill of health by the inspectors, and that the case for military action would then fall away.”
- 4.2 I then on went to explain the basis of this optimism by saying:
- 4.3 “I had formed this provisional judgement not least from my own reading of the Iraqi régime’s behaviour. It was, for sure, an odious, brutal régime: but by its own terms it acted with some rationality. I could not believe that, faced with the near certainty of military action if it failed to comply with 1441, the régime could fail to appreciate that its very survival depended on full compliance, and that this would be relatively straightforward for them to prove- unless they had something absolutely terrifying to hide. In the event, however, my optimism proved unfounded.”
- 4.4 To expand on this slightly: a key foundation for my optimism was that by UNSCR 1441 the United States had committed itself to dealing with Saddam by working through the United Nations- a position that had not been certain even a few months before.
- 4.5 This was coupled to emerging evidence that, while no means sufficiently, the inspectors were beginning to make some progress. We shared with other governments at the time the fact that there was an improving flow of intelligence to Blix from UK and US intelligence agencies, which it was hoped would assist in improving the inspections still further.
- 4.6 Additionally, there were indications from the United States that it was moving closer to committing itself to going for a second resolution. My optimism at the time was therefore also in part based on the hope of a unified Security Council position, in the form of a second resolution. I believed at the time, and I still believe today, that confronting Saddam Hussein with this clear, united position from the international community, through a second resolution, would have presented us with the best way to deal with Iraq peacefully.

Q5) The Second Resolution

In your first statement to the Inquiry you said “I was equally in no doubt that a second resolution was an objective for which we should strain every sinew to obtain” (page 17)). In your first evidence session with the Inquiry you said “it unquestionably would have made handling of the issue in the United Kingdom much easier and the building of an international coalition,,, we wanted to give the Iraq regime a second final opportunity...”(page 82). We understand that there was a debate inside the Government about whether to go for a second resolution.

a) What was your involvement in the formal decision by the UK government to pursue a second resolution?

b) What advice did you offer on the likelihood of success? On what basis?

c) What advice did you offer on the international consequences if the UK was not successful?

In your second evidence session to the Inquiry you said “The thing then became polarised, and if you want me to put a date on it, it is 20 January, at the Security Council meeting” (page 74).

d) What did you do to revise the UK’s strategy at this juncture?

On 17 March 2003 speaking of the second resolution, you told the House of Commons “We were close to achieving a consensus and were in exactly the same situation as we were shortly before we achieved consensus on 1441” (Column 715- 716 Hansard).

e) On what basis did you make that statement?

- 5.1 Please see the documentary records available to the Committee, and my own previous evidence. I was heavily involved in the decisions in respect of the second resolution. My judgement- and advice- about the likelihood of success changed as the information on which I based those judgements changed. Part of my advice, oral and written, concerned the international implications of any lack of success.
- 5.2 As to d) – When I referred in evidence to 20 January 2003 I did so, historically with the benefit of hindsight. At the time, although I felt that M. De Villepin’s conduct of the 20 January UN Security Council had been profoundly unhelpful, we were all engaged in a process to secure, if humanly possible, the implementation of the obligations which UNSCR 1441 imposed on Iraq. Our strategy to achieve this evolved day by day.
- 5.3 In respect of e)- I refer the Committee to the extensive oral evidence I gave on 8 February 2010. For the basis of my view that “we were close to achieving a consensus”; see pages 87- 99, and in particular the exchanges from page 95,

where precisely the passage from my oral statement in the Commons on 17 March 2003 had been put to me by Sir Roderic Lyne.

5.4 I do not mean to sound trite, but negotiations are never over until they are over.

5.5 Many successful negotiations had, in my experience, gone through similar rhythms to those for the second resolution, up till 10 March 2003. On that date, as I told the Commons in this passage a week later, President Chirac's statement to veto a second resolution whatever the circumstances "paralysed the negotiation process". (Col 716).

Q6) Post Saddam Iraq

In his evidence to the Inquiry, Lord Jay said

“at the end of 2002 and the beginning of 2003...it did not seem clear to us in the Foreign Office, that a British participation in the conflict was inevitable”(page 70).

“we should have done more and we could have done more...we need to have a mechanism, even when one is trying to avoid something that you do not want to happen...you need to have some mechanism...working out what happens if you fail and making the best preparations for failure...I don’t think we had the structures available to us to do that” (page 71).

a) To what extent was your time and that of your senior officials focussed on the UN diplomatic process rather than preparing for the consequences of any military intervention?

- 6.1 I answered many of these questions in my oral evidence sessions. Some of the answers to others (for instance question g) below) would require a catalogue of the documents/meeting notes involving me. Some remain classified. All are in the Inquiry’s possession.
- 6.2 I shared Lord Jay’s view that at the end of 2002 and beginning of 2003 British participation in military conflict against Iraq was not inevitable. This was reflected in my relative optimism about that time, the subject of question 4).
- 6.3 Amongst Ministers and subject to the authority of the Prime Minister –and Cabinet- I had the clear lead on the diplomatic process. That said, as Edward Chaplin told the Inquiry on 1 December 2009, planning for post-Saddam Iraq was, “pretty intense from late 2002, as far as we were concerned” (page 40).
- 6.4 Because of the intense and fast moving pace of the diplomacy both pre, and post, UNSCR 1441, and because of my own commitment to find a peaceful settlement if that were humanly possible, I devoted a great deal of time and effort to this end.

b) Given its importance, whom did you hold accountable for planning for post Saddam Iraq within the UK system?

- 6.5 Ministerial responsibility for the post-conflict situation was shared between the Defence Secretary, International Development Secretaries and myself.
- 6.6 The FCO’s Iraq Planning Unit was established on 17 February 2003. Before that, post-conflict planning had been undertaken by FCO UND. The work was led at FCO official level by Peter Ricketts, the Political Director.

c) To what objectives did you understand them to be working?

- 6.7 Strategic objectives for Iraq were agreed by the Prime Minister towards the end of October 2002; these were expanded considerably as officials worked up their detail. But I was unaware of the objectives causing much controversy. Broadly they wrote themselves- e.g. “to ensure as rapidly as possible” for Iraq to become a stable, united and law abiding country.

d) What assurance did you have before the invasion that the FCO (and the UK government more widely) had the structures, skills and capabilities for the role it would need to play?

- 6.8 I can only really answer this question in the negative. I was not aware of any submission before the invasion suggesting that the FCO lacked the “structures, skills and capabilities” for the rôle it was to play. What, of course, was and remained, unclear until well after the event was exactly what that rôle would be.

In your previous evidence to the Inquiry on 8 February 2010 (page 114) you said that “the fundamental problem” with aftermath planning was Washington. You said that up to mid-late February you were reassured about State Department’s role. On 20 January 2003 the creation of Office of Reconstruction and Humanitarian Affairs (ORHA) was announced.

e) What insight did you have into the creation of ORHA before its establishment?

f) What was your initial understanding of its role and accountability?

- 6.9 My insight and understanding at that stage was informed by detailed conversations with Secretary Powell and my own officials and, for instance, from US generated and detailed planning papers shared with us by the United States Government in late January 2003.

In your previous evidence you said “We had anticipated a lot of what we found in Iraq” (page 111). The comments of other witnesses would suggest that there was concern that the coalition was unsighted on what it would find and what would happen in Iraq.

g) What advice did you receive between September 2002 and March 2003 about the situation we would find in Iraq? What were the sources of that advice?

h) How much of this advice focused on what would be physically found in Iraq? How much did it look at what might happen following the fall of Saddam?

i) What did the advice correctly anticipate?

j) Were there any gaps in the advice?

k) Were you assured that this advice was being fed into planning? Were you confident planning was being adjusted as a result?

l) What assurances were you given about the state and effectiveness of UK planning on the eve of the invasion?

- 6.10 The quotation from my evidence, transcript page 111, lacks the context in which it was given. The full text, on that page and proceeding pages, makes crystal clear that I was saying that we had, correctly, anticipated and broadly avoided a humanitarian crisis.
- 6.11 The Inquiry has full access to all the records which indicate what was, and what was not, correctly anticipated. Sight of these records indicates that over the pre-conflict planning period (i.e. from November 2002 – late March 2003) there was some specific anticipation of every difficulty which did later rise, including al Qaeda terrorism, in respect of Iraq's security forces and civil administration.
- 6.12 There was wide agreement, too, that not only would WMD be found, but that they might be used in the event of military action (e.g. Clare Short/Geoff Hoon 30 October/11 November 2002).
- 6.13 What, amongst other things, was not correctly anticipated was a) that Saddam's regime would not use any WMD, and its military forces would collapse very quickly, b) the balance and intensity of the difficulties which did arise. As David Manning said to you in his evidence, much of the aftermath was foreseeable, "but it was very difficult to foresee it being on that scale" (page 93).
- 6.14 Partly because of good planning, an humanitarian crisis was in the main avoided. Partly because of poor planning and coordination by the US, and misjudgements by the American administration, the de-Baathification process had unnecessary and disastrous consequences for the internal security and administration of the country. (See my oral evidence 8 February 2010, page 116).

An effective plan for post Saddam Iraq had been considered key to a successful strategy.

m) Given the state of planning on the eve of invasion, did you or your colleagues reconsider participating in military action in Iraq?

n) If so, how was that discussed and decided?

- 6.15 On m) and n) the Inquiry will be aware of the discussions between the Prime Minister and myself on alternative options to full-scale UK military involvement. These were not, however principally prompted by concerns about post-conflict planning.

The UK invested a great deal of diplomatic capital in championing a leading role for the UN in post-Saddam Iraq, including at one point a UN-led civilian administration.

o) What signals did you receive from i) the US and ii) the UN that there was any appetite for such a plan?

p) With the UN not playing a major role, what were the gaps and limits of the UK's operating model in post conflict situations?

q) What did you do to ensure those gaps would be addressed?

6.16 Again, the Inquiry has access to detailed records showing that pre-conflict the UK sought the agreement of the US Government for a much more active UN role than in fact was agreed. However, as I told the Inquiry on 8 February 2010, (page 100) and the record shows, it became clear as early as 19 March 2003 that in the circumstances the UN would not accept the sole lead in Iraq; nor had the US even been keen on a truly central rôle for the UN.

6.17 I worked hard, with officials, to ensure that adequate arrangements were made on the ground and that there was a good UNSCR behind them, in what became 1483.

Q7) The decision to take military action

In your previous evidence to the Inquiry on 21 January 2010, you were asked about the consideration of alternative options on the eve of conflict. You said “I prepared a paper for Mr Blair. I talked to him about it. If you are asking me who else was present in discussions, I can’t directly answer” (page 105). In “A Journey” Mr Blair recalls you warning him about the perils of taking military action in Iraq without a second resolution (Page 429).

a) When the second resolution failed, did you discuss with the Prime Minister whether he should go ahead with committing British troops to military action in Iraq?

b) If so, when and how?

- 7.1 As I have made clear in earlier answers, my discussions with the Prime Minister were continuous throughout the process and included both oral and written advice from me. This dialogue naturally dealt with our decision to go for a second UN Security Council resolution and the possible consequences which could arise from this.
- 7.2 An example of this, with clear reference to the question you are asking, is a minute I wrote to the Prime Minister on the 11th March 2003 entitled ‘*Iraq: What if we cannot win the second resolution?*’ In this document I set out for Mr Blair the different routes open to him in the event of us not getting a second UNSCR and my judgements on these various courses of action.
- 7.3 I have now also had brought back to my mind (in the extract of anonymous evidence provided to me by the Inquiry) that there was a meeting with the Prime Minister on the 12th March 2003 at which I made clear to him that he had options other than committing to the invasion and that these were still open to him should he want to take them.

Q8) UNSCR 1483, the Occupation and the Coalition Provisional Authority

In early 2003, concerns were expressed about the legal limits of UK activity in the reconstruction of Iraq without a further UN resolution covering the UK's post invasion presence in Iraq. Despite this the UK continued to send staff to ORHA. By April (after the US and UK had entered Iraq) the UK was seeking a Memorandum of Understanding (MOU) with the US to cover the operation of ORHA and ensure early consultation and joint decision making. No MOU was ever signed.

a) Given the legal advice about the limits of UK participation in reconstruction, why had action not been taken before the invasion to resolve these pressing issues?

- 8.1 Extensive advice had been given on the legal position of UK forces after the conflict.
- 8.2 I was clear that under international law, as page 8 of Michael Wood's statement recalls, we would be bound by the 1907 Hague Regulations as well as the Fourth Geneva Convention of 1949. We would therefore be considered an occupying power with responsibility for providing "public order and safety, while respecting, unless absolutely prevented, the laws in force in the country." We would need specific UNSCR authorisation for powers and duties beyond these instruments.
- 8.3 The British position had, from very early on, been that we would want both UN cover for any post-conflict period and a role for the UN within this as well. We worked very hard on securing the US's support for this and then to obtain UNSCR 1483 in 2003.

b) What was the UK seeking to achieve through a MOU with the Americans?

- 8.4 The MOU to which the Inquiry refer to above was, I believe, a draft MOU I sent to the Prime Minister in a note on 7th April 2003.
- 8.5 In this MOU the UK was seeking clarity on that for which we would be responsible and to ensure that ORHA confined its efforts to those obligations the coalition had under international humanitarian law. The MOU also sought to secure "full consultation (and joint decision-making) in advance of policy decisions about ORHA's activities."

c) Why did the UK and US fail to sign a MOU?

- 8.6 The US refused to sign this Memorandum of Understanding with the UK.
- 8.7 Minutes from the Ad Hoc group on the 15th May 2003 recall that, "our pursuit of an MOU with US on scope of ORHA's operations had met with high-level opposition in Washington, particularly in the NSC."

d) Before the invasion, had you considered that the UK would “occupy” Iraq for more than a year?

e) When was that decision made?

- 8.8 The legal advice and planning process prior to the invasion was clear that our forces would be treated as occupying powers under international law. Michael Wood’s advice to me on the 28 February 2003 expressed the view that, “the longer an occupation went on, and the further the tasks undertaken departed from this objective, the more difficult it would become to justify an occupation in legal terms.”
- 8.9 It was Britain’s planning basis from very early on, therefore, that we would aim first to secure UN cover for any post-conflict presence as early as possible and second that we would pass over to an interim Iraqi authority as soon as the situation on the ground permitted.
- 8.10 This final caveat is obviously an important one. Neither the circumstances nor the timescale for transfer of responsibilities to an Iraqi authority were possible to fully predict in advance of the end of hostilities. It was therefore not feasible firmly to foresee any specific timetable.
- 8.11 What was clear, however, was that the UK wanted an Security Council Resolution to support this process- and this is what we achieved in UNSCR 1483 (2003).

You told the inquiry on 8 February 2010 “I thought we were bound to take responsibility...because we were an occupying power and it was going to be very difficult for us to sort of draw a boundary and say, “We are the occupying power in the south and the Americans are the occupying power everywhere else”. In practice, although we were overwhelmingly in the south, we weren’t just in the south. So my view was that this responsibility went with the decision we had made to take military action. There it was. We were the joint occupying powers and I think, though I can’t be certain, that that was also the direction of the legal advice. But we were occupying powers and we had to put up with that. We had to take our responsibilities”(page 115).

According to the written evidence FCO lawyers were providing legal advice that the UK would be the occupying power under the Hague regulations for the geographical area where the UK de facto exercised authority. After UNSCR 1483 it seems that the Attorney General advised that the UK had joint responsibility for the actions of the Coalition throughout Iraq.

f) When was a formal decision made that the UK should formally become one of only two joint occupying powers for all of Iraq under UNSCR 1483?

- 8.12 The decision was based on the Attorney General's interpretation of UNSCR 1483 and this reflected earlier advice from him.
- 8.13 Having discounted an MOU giving the UK sole responsibility for Southern Iraq, the Attorney General's view was that we were considered a joint occupying power.
- 8.14 As I said in a letter to the Prime Minister on 5 June 2003, "we wanted an MOU with the US to agree that the UK was solely responsible for our southern area: the US for the rest of Iraq. The US refused. The result, as Peter Goldsmith advises (undoubtedly correctly)- we are jointly responsible for all decisions."
- 8.15 An example of the Attorney General's interpretation of the effect of 1483 is contained, for instance, in the note from the Attorney General's office to Huw Llewellyn, Legal Counsellor at the FCO, on 9th June 2003. This note states:
- 8.16 "The fact that the resolution imposes joint responsibility [for disbursements from the DFI] gives the UK a locus to argue with the US that we should be fully involved in the decision-making process. Anything less would be legally risky."

g) Why did the UK discount the options of limiting its responsibilities in UNSCR 1483 to Southern Iraq?

- 8.17 As the Inquiry is aware from documents at its disposal, the UK did investigate the possibility of securing this under an MOU with the US, but they refused to sign.
- 8.18 Quite apart from this, the Attorney General's advice, based on his reading of UNSCR 1483 (2003) was that we were considered a joint occupying power.
- 8.19 Given that we were, by this stage, involved with ORHA and areas of decision-making that affected the whole country, this position, as I made clear in my previous evidence to the Inquiry, was also one I felt went hand-in-hand with the responsibility to take military action.

h) How were these decisions about UNSCR 1483 taken? Who was involved?

- 8.20 In discussion with FCO legal advisers and others, and where appropriate, across government. The decision itself, a legal one, was made by the Attorney General.

i) What were you advised about the implications including the legal responsibilities flowing from those decisions?

- 8.21 The letter from the Attorney General's office to Huw Llewellyn on 9th June 2003, which I refer to above, states:
- 8.22 "Resolution 1483 confers a clear mandate on the Coalition working with the Special Representative of the Secretary General (SRSG), to facilitate a process leading to the establishment by the people of Iraq, first, of an Iraqi interim administration and subsequently of an internationally recognised representative government. The resolution clarifies the legitimate scope of the Occupying Powers and authorises them to undertake actions for the reform and reconstruction of Iraq going beyond the limitations of Geneva Convention IV and the Hague regulations."

j) What were you advised about the adequacy of the UK's resources and capabilities to fulfil those roles?

- 8.23 Again, this question is easier to respond to in the negative and I will confine my remarks to my understanding of the "resources and capabilities" of the Foreign Office.
- 8.24 I do not recall receiving any advice at the time to say that the department under my responsibility, the FCO, was not fully equipped for the role it was playing.

k) What did you understand to be the mechanisms for consultations with the United States in relation to decisions for which we were jointly responsible? How effective were they?

- 8.25 My hope throughout this process was that we would be consulted on decisions for which we were going to be held jointly responsible and that our views would be taken on board.
- 8.26 As I made clear in my evidence to the Inquiry on the 8 February 2010, these mechanisms, unfortunately, were not always effective. This led, as I said, to the UK, for instance, finding out about the decision that had been taken regarding the scale of de-Baathification only as a *fait accompli*.

l) Were you aware that senior Iraqis had strongly advised against the US and UK being formally designated as "occupiers"?

- 8.27 In the absence of a functioning Iraqi government, able to manage and deliver essential services and security, there was no half-way house between such an indigenous government, which did not exist, and responsibility on the US/UK as occupying powers.
- 8.28 As I outline above, I was properly informed about our legal position following the military action.

UNSCR 1483 stated that major decisions could not be made without consultation with the UN Special Representative and the Iraqi Governing Council.

m) Were you satisfied that appropriate mechanisms were in place to ensure that this happened?

n) Were you satisfied with the way they operated in practice?

8.29 After returning from a visit to Iraq, the Prime Minister made clear in a meeting on the 3rd June his analysis of the CPA. He explained his view that:

8.30 “Bremer and the Coalition Provisional Authority (CPA) did not have the adequate administrative capacity. It was grip and organisation that were lacking, not money or number of staff.”

8.31 He went on to say that we should “beef up UK involvement in CPA” and that “the CPA’s [REDACTED] process were too slow.”

8.32 It was evident, therefore, that the CPA was not, at that stage, operating to its optimum and that action was required.

o) What did you see as the FCO’s role during the period of the CPA?

8.33 The FCO was in the lead. With regard to staffing the CPA with UK personnel the FCO acted as a clearing house to get the people (specialists) into Iraq that were required.

8.34 Each department seconded people to the CPA and were ultimately responsible for their own staff.

8.35 A note from Michael Jay to Sir Andrew Turnbull on 25 July 2003 sets out the position in stating:

8.36 “We will continue to need to provide good human resources if the CPA is to succeed. As reconstruction proceeds we expect more of this requirement to be met with staff engaged under contract from outside HMG. But we will continue to have a need to second staff with specialist skills from our own public service. The new machinery in Baghdad and the IPU will enable us to match requirements and resources more exactly. I am grateful to home departments for bearing the salary costs for seconded officials and sympathise with the pressures this has put on your own resources: we will continue to meet additional costs from funds provided centrally.”

p) Did the FCO have the resources, skills and capabilities to fulfil that role?

8.37 As I have said above; throughout my time as Foreign Secretary I do not recall receiving briefing or advice to suggest the FCO was not fit for the role it was playing.

8.38 There were, of course, areas where the FCO was stronger than others. In a note to John Sawers on 27 November 2003, for instance, I say that there is,

“a lack of understanding in the FCO about police issues and practice (in strong contrast with the FCO’s obvious understanding of the UK military).”

q) Were the UK secondees well placed to influence outcomes in the CPA?

- 8.39 As was the case during ORHA, this was never a simple process. The US were not always as inclusive as they could have been. I know, however, that all FCO staff did their best positively to influence the workings of the CPA.
- 8.40 More widely, I know that Sir Jeremy Greenstock, who had detailed first-hand experience of the workings of the CPA, has told the Inquiry in his evidence of 15 December 2009, that UK secondees, “performed extremely effectively under very trying circumstances” (page 74/5). I endorse those comments.

r) What impact did Jeremy Greenstock’s position outside the CPA have on CPA accountability to London and the UK’s ability to influence its direction?

- 8.41 Jeremy’s role, which he agreed through the Prime Minister and Ambassador Bremer, was that rather than become a deputy administrator to Bremer, he would act as his ‘partner’ and would be responsible for the UK’s interests.
- 8.42 As Jeremy makes clear, Bremer was not always open to the political advice he offered. Jeremy was able to raise areas of concern he had back in London. Jeremy also made his own contacts with the Iraqi Governing Council and within the CPA structure, where he played an extremely valuable role.

Q9) Policing

The FCO has lead responsibility for co-ordinating the UK's responsibilities for policing in Iraq and the rule of law more generally, and you had the ministerial lead for this until 2005. A number of witnesses have told us that there was insufficient expertise and knowledge of UK policing structures within the FCO to do this effectively. You, of course, had been Home Secretary until June 2001 so policing was an area with which you were very familiar.

- 9.1 As the question indicates, as a former Home Secretary I was very familiar with policing policy and practices in the UK. I sought to make use of this familiarity in our deliberations over the UK contribution to policing in Iraq.
- 9.2 Policing in England and Wales is unusual in two respects a) the main body of officers is unarmed; armed officers are relatively few in number, and in specifically trained specialist units; b) there is no direct command and control line from any 'Ministry of Interior' through senior offices to officers on the ground. Chief Officers of the Police have a high degree of operational independence.
- 9.3 In both respects UK police experience is therefore very different from the *gendarmerie*-style policing arrangements of Iraq (and most if not all other countries in the region).
- 9.4 As I mention above (in answer to Q8) *p*)) I had noticed and commented on my perception of a comparative "lack of understanding in the FCO about police issues and practice" when writing to John Sawers on 27th November 2003. I was frustrated about the lack of progress and made reference in the note to the, "Byzantine bureaucracy of ACPO".

a) What was your understanding of the UK's responsibilities, as an occupying power, for providing law and order from the point of the invasion onwards?

- 9.5 Michael Wood sent a note to me on the 28 February 2003 which included a paper from John Grainger entitled 'Rights Under International Law to Occupy Iraq After a Conflict'. This document said:
- 9.6 "To the extent that Iraq came under coalition control during the course of any conflict the rights and obligations of the coalition would be those of an Occupying Power, as set out in detail in Articles 42 to 56 of the regulations annexed to Hague Convention IV of 1907, and in the Geneva Convention IV relative to the Protection of Civilian Persons in Time of War of 1949. In general, the Occupying Power must take all measures in its power to restore and ensure public safety by respecting, unless absolutely prevented, the law in the occupied state (Hague Regulations Article 43). Detailed provisions include limited rights to take possession of and use state property as

administrator and 'unsufructuary' (Articles 53 and 55 of the Hague Regulations); to remove officials or judges (Articles 51 and 54 of the Geneva Convention); and to amend the penal laws of the occupying territory if they threaten the security or impede compliance with international law and set up its own military courts to try offences under occupation legislation (Articles 64 to 67 of the Geneva Convention). The Geneva Convention also provides a comprehensive code on the protection of the civilian population and internees."

b) What was your understanding of the arrangements to ensure that the UK could meet those responsibilities?

- 9.7 A process had been under way within the FCO from January 2003 onwards.
- 9.8 A note from [REDACTED] (Peacekeeping Section, UND at the FCO) to John Buck on 18th September 2003 outlines the arrangements the FCO had been undertaking to ensure that we could meet our responsibilities.
- 9.9 In this note [REDACTED] sets out the key actions that had taken place since January 2003 through to September of that year, which I summarise below:
- 9.10 In January a strategy meeting was held to plan towards a possible UK contribution in policing.
- 9.11 In February thirty Ministry of Defence Police (MDP) were trained in preparation for a possible deployment.
- 9.12 In May a UK police assessment mission was sent to Baghdad and Basra. Justin Davies (senior POLAD), Chris Gale (a criminal justice consultant) and Superintendent John Hughes were seconded to the CPA to produce a policing needs assessment.
- 9.13 In June I wrote to the Home Secretary to seek his support in the creation of a pool of 200 officers for training for deployment to Iraq.
- 9.14 In July firearms training facilities and firearms trainers were located. DCC Brand and DCC White were recruited.
- 9.15 In August both men were then deployed to Iraq along with a number of other senior officers; Chief Inspector Steve Burfitt, for instance, was deployed to Baghdad as an intelligence handling officer.
- 9.16 In September the deadline was reached for the recruitment of the 200 police officers, the applications were sifted and on the 10 September 2003 training began.

c) What steps did you take to satisfy yourself that the arrangements were sufficient

9.17 I received regular briefing on the situation from officials. As an example of this, both of Chief Constable Paul Kernaghan's reports were sent to me.

d) What role did you expect current and former members of the UK's police forces, the wider UK criminal justice community, the UK military and the international community to play in those arrangements?

9.18 As is made clear above in the note from [REDACTED], senior Police officers were recruited to serve in Baghdad as part of the CPA, such as DCC Brand, as well as officers to operate in Southern Iraq; DCC Stephen White was deployed to Basra for instance.

9.19 In addition, as is also outlined above, a pool of 200 police officers was recruited with the intention of deploying 100 into theatre.

Between 2003 and 2005, Iraqiisation became an increasing focus of the Coalition's strategy for Iraq and problems with the development of the Iraqi police service became apparent.

Lord Jay told the Inquiry "I don't have a recollection of particular specific discussions myself on policing...I cannot recollect any discussions specifically about policing, nor have I been able to come across any papers" (page 48).

e) What steps did you take to ensure that your department (and wider government) understood the priority that should be afforded to policing and had adequate resource to deliver/coordinate an effective approach?

9.20 I was aware of these processes taking place and received regular briefing.

9.21 Where I felt a Ministerial lead was required, I took it.

9.22 The Inquiry will be aware from the papers at its disposal, that I wrote, for instance, to the Home Secretary, Rt Hon David Blunkett MP, on a number of occasions to ensure that the pool of 200 officers was created and that officers were subsequently deployed to theatre. I also wrote to John Sawers on 27 November 2003, in light of Paul Kernaghan's second report to me, to ensure that these processes were actioned on schedule.

f) What assessment did you make of the timescales being proposed?

9.23 The scale and pace which the US Government set for Iraqiisation, with particular reference to security sector reform, was evidently ambitious and had some clear risks attached to it. [REDACTED] (Iraq Security Sector

Unit, FCO), for instance, wrote to my Private Secretary on 4 November 2011 and said that:

- 9.24 “The objective is to get as many newly trained police on the streets as soon as possible, and there appears to be no current plan for on-the-job mentoring by international police mentors. This is far from ideal, and DCC White’s concerns may be justified: the risks flowing from putting large numbers of insufficiently trained police on the streets are clear.”
- 9.25 However, the principle, as soon as practicable to train and deploy Iraqi police forces, was a sensible one. Indeed, a section of Paul Kernaghan’s second report to me gives an example of some of the basis for this need where he states:
- 9.26 “I was provided a helicopter for a tour of Baghdad and it confirmed my view that large parts of the city will never and should never see CP-SF patrol activity. Huge areas are composed of high-density housing and foreign security forces would merely become targets with no accompanying security benefit being gleaned from patrol activity. You will only ‘police’ ‘Sadr City’ for example, with indigenous forces, preferably police officers.”
- 9.27 A summary of our position and the assessment at that stage of the timescales, however, was set out in a note from my Private Secretary Jonathan Sinclair to Nigel Sheinwald on 17th October 2003:
- 9.28 “We judge that the Coalition now has a credible and deliverable strategy to train 30,000 Iraqi police over the next year. Our main concern is the lack of a clear framework for the wider development of the Iraqi police and the employment of newly-trained officers on their return to Iraq from Jordan.”

Concluding Statement:

I hope my statement satisfactorily answer the Inquiry's questions. It, of course, goes without saying that I am happy to expand on or clarify any part of this statement at the oral evidence session.

Rt Hon Jack Straw MP
19th January 2011