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JULY 1991

10 DOWNING STREET

*The legal advice is,
as ever, far too narrow.*

PRIME MINISTER

You may like to look at this over the weekend. It sets the scene for Tuesday's discussion with Ministers and the Chiefs on Iraq. It covers much of the ground we discussed yesterday.

I shall let you have a list of questions that we shall need to cover at the meeting, on Monday, after further discussion with John Scarlett and others.

David

David

19 July 2002

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IRAQ: CONDITIONS FOR MILITARY ACTION

(A Note by Officials)

Summary

Ministers are invited to:

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

Introduction

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

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

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

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

The Goal

5. Our objective should be a stable and law-abiding Iraq, within present borders, co-operating with the international community, no longer posing a threat to its neighbours or to international security, and abiding by its international obligations on WMD. It seems unlikely that this could be achieved while the current Iraqi regime remains in power. US military planning unambiguously takes as its objective the removal of Saddam Hussein's regime, followed by elimination of Iraqi WMD. It is, however, by no means certain, in the view of UK officials, that one would necessarily follow from the

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other. Even if regime change is a necessary condition for controlling Iraqi WMD, it is certainly not a sufficient one.

US Military Planning

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

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

The Viability of the Plans

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

UK Military Contribution

9. The UK's ability to contribute forces depends on the details of US military planning and the time available to prepare and deploy them. The MOD is examining how the UK might contribute to US-led action. The options range from deployment of a

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Division (ie Gulf War sized contribution plus naval and air forces) to making available bases. It is already clear that the UK could not generate a Division in time for an operation in January 2003, unless publicly visible decisions were taken very soon. Maritime and air forces could be deployed in time, provided adequate basing arrangements could be made. The lead times involved in preparing for UK military involvement include the procurement of Urgent Operational Requirements, for which there is no financial provision.

The Conditions Necessary for Military Action

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

Justification

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

12. This leaves the route under the UNSC Resolutions on weapons inspections. Kofi Annan has held three rounds of meetings with Iraq in an attempt to persuade them to admit the UN weapons inspectors. These have made no substantive progress; the Iraqis are deliberately obfuscating. Annan has downgraded the dialogue but more

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pointless talks are possible. We need to persuade the UN and the international community that this situation cannot be allowed to continue ad infinitum. We need to set a deadline, leading to an ultimatum. It would be preferable to obtain backing of a UNSCR for any ultimatum and early work would be necessary to explore with Kofi Annan and the Russians, in particular, the scope for achieving this.

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

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

An International Coalition

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

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

A Quiescent Israel-Palestine

18. The Israeli re-occupation of the West Bank has dampened Palestinian violence for the time being but is unsustainable in the long-term and stoking more trouble for the future. The Bush speech was at best a half step forward. We are using the Palestinian reform agenda to make progress, including a resumption of political negotiations. The Americans are talking of a ministerial conference in November or later. Real progress towards a viable Palestinian state is the best way to undercut Palestinian extremists and reduce Arab antipathy to military action against Saddam Hussein. However, another upsurge of Palestinian/Israeli violence is highly likely. The co-incidence of such an upsurge with preparations for military action against Iraq cannot be ruled out. Indeed, Saddam would use continuing violence in the Occupied Territories to bolster popular Arab support for his regime.

Benefits/Risks

19. Even with a legal base and a viable military plan, we would still need to ensure that the benefits of action outweigh the risks. In particular, we need to be sure that the outcome of the military action would match our objective as set out in paragraph 5 above. A post-war occupation of Iraq could lead to a protracted and costly nation-building exercise. As already made clear, the US military plans are virtually silent on

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this point. Washington could look to us to share a disproportionate share of the burden. Further work is required to define more precisely the means by which the desired endstate would be created, in particular what form of Government might replace Saddam Hussein's regime and the timescale within which it would be possible to identify a successor. We must also consider in greater detail the impact of military action on other UK interests in the region.

Domestic Opinion

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

Timescales

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

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

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

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- (b) even if military action were to be deferred till Winter 2003/04, there are preparations which our Armed Forces need to make sooner rather than later, not least to ensure adequate provision of equipment and stores requirements;
- (c) these include an information campaign, work on the UN to prepare an ultimatum and work to build a coalition, in addition to procurement of Urgent Operational Requirements.

Cabinet Office, 19 July 2002

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