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From: JCR Gray, Head MED

Date: 11 April 2002

cc: Mr Wright  
Mr Fry  
Miss Wilmshurst  
Mr Grainger  
Mr Ricketts  
PS/Mr Bradshaw  
PS/Baroness Symons  
Dr Brewer  
Mr Pattison, UND  
Dr Tanfield

*Foray, Derby*

Mr Gouty

Private Secretary

IRAQ: UN

*1574*  
*Med*  
*Hand*  
*17/12*  
*16/14*

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1. I understand the Secretary of State has asked for advice on:

- what, assuming a UNSCR authorising military action against Iraq is unachievable, we might hope to get in the Council to sustain the pressure on Iraq and to begin to build a legal base for eventual military action; and on
- whether we could make use of the resolution which will be need to be adopted before the end of May giving effect to the Goods Review List. Could this, for example, also repeat in stronger terms the Council's demands for the unconditional return of the inspectors?

2. I do not think there is any prospect in foreseeable circumstances of getting a UNSCR explicitly authorising military action. Indeed, it is even conceivable that if there were a dispute in the Council about the legality of any military action, we could come under severe pressure, to the point of facing a draft resolution forcing us to back away from this option altogether.

**Getting the elements of authorising language into a technical resolution?**

3. Nor do I see much prospect of getting into one of the two imminent technical resolutions (implementing the new Goods Review List and renewing the Oil for Food

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programme respectively) language which could form at least the first elements of additional legal cover for military action if the time comes. The GRL resolution will need to be adopted in late April to allow the UN time to adjust their complex contract-handling procedures ready for the implementation of GRL on 30 May. On this, the Americans envisage a very short technical resolution, adopted quickly and without fuss. Having invested so much time and effort in the GRL, we too are strongly inclined not to jeopardise the new system by attempting to include military action language in its implementing resolution.

4. The prospects might be better for inserting our language on military action into the other pending technical resolution (rolling over the Oil for Food programme for a further six months from the end of May). But our actions on Iraq are now subject to minute scrutiny in the Council, notably from the Russians, and at present from the Syrians. Both would quickly detect language which smacked of easing the justification for military action. And our political <sup>position</sup> ~~action~~ in the event of military action would be even worse if we had previously tried to get something from the Council and had failed. It seems unlikely that we could bring the Russians round by bilateral lobbying.

#### **Demand for the return of the Inspectors?**

5. It might be conceivable, as an intermediate step, to incorporate in the Oil for Food resolution a demand for the return of the Inspectors. Success would depend on whether we could balance this against negotiating elements proposed by other P5 members. Alternatively, if Annan makes progress in his next bilaterals with the Iraqis (due on 18-19 April) we might seek a separate resolution calling for the Inspectors' return. In either case, the Russians will still be very watchful over the precise language. What is achievable will depend on Iraq's position and the mood in the Council, which in turn depends on action elsewhere (notably MEPP). We should keep this under close review. But the difficulties involved will be considerable.

6. We have consulted Sir J Greenstock; and Legal Advisers and UND concur.



JCR Gray

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