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UKMIS NEW YORK ARCHIVE

To: NYMIX - eTelegrams
From: COMCEN Gateway 2
Subject: OUTTELS:DD:CONF:PERSONAL IRAQ: SECURITY COUNCIL
RESOLUTION:NYMIS/FCOLN-11215758
Sent: 11 October 2002 21:55:53 GMT

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AND TO FLASH CABINET OFFICE
INFO IMMEDIATE MOSCOW, PARIS, WASHINGTON

FCO PERSONAL FOR SCERETARY OF STATE, PRIVATE SECRETARY AND
RICKETTS, CABINET OFFICE FOR MANNING, POSTS FOR HMA'SSoFS, PS
CC: Manning, Ambassadors, Chaplin

SUBJECT: PERSONAL IRAQ: SECURITY COUNCIL RESOLUTION

SUMMARY

1. Your visit to Washington is an opportunity to get a firm message across to the Americans about UK requirements. Here are some thoughts about turning our need for UN legal cover into a virtue.

DETAIL

2. The French/US standoff is looking unresolvable. It places the UK in a very difficult situation.
3. My calculation is that the US could not get nine positive votes for a first-stage resolution that appeared to authorise US military force. France, Russia, China, Syria and Ireland would all withhold a positive vote; and Cameroon, Mauritius and Mexico would be very likely to go with them. Given that line-up, Singapore and Colombia would want to stay with the majority. Votes for could be counted on from US, UK, Norway and Bulgaria (the latter two only if some of the Op4/5 excesses are trimmed). Guinea has sounded robust up to now, but might decide to stick with the other Africans. Of course the US would exert pressure, especially on Cameroon, Mauritius and Mexico; but I would expect them to fail to avoid, say, seven abstentions - the vital blocking

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number.

4. The Americans have the option, presumably now being considered by Powell (your conversation reported in FCO telno 530), of proposing a more ambiguous text which would leave the question of Council authorisation open. As I see it at this moment, such a text would not be able to include anything like the present Op1, whether or not there was an Op10, without risking strong French/Russian opposition. Even if they managed to find a text that 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, even if they voted for a middle-ground text, could be expected to make explanations of vote stating that they regarded it as essential for the Council to meet and take a decision on any report of significant Iraqi non-cooperation.

5. I am therefore concerned that Powell thinks he has nine votes or more for a first-stage resolution satisfactory to the US. My judgement is that Villepin's calculation is more accurate. Kofi Annan agreed when I consulted him privately today.

6. Where does this leave the UK? We have to ensure that decisions taken by HMG conform with international law, as you 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 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 be able to point to a clear Council failure to face up to its responsibilities.

7. 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 here in New York that we would expect the Council to meet to discuss any significant Blix report of non-cooperation, and that we would want to hear Council views about that, we would be providing a bridge between the US and French positions. The US would not have expressed a commitment, 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 they did go for it early, the likelihood of course is that they would face a condemnatory resolution in the Council, broadly supported.)

8. 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. This would have the effect of

- a) underlining our seriousness about Security Council consultation
- b) introducing clarity into second-stage substance
- c) providing extra reassurance to France, Russia et al
- d) leaving the US uncommitted and free
- e) putting pressure on the Iraqis, not least when members of the Council made clear that such a resolution, depending on Blix's experiences, was a likely development.

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9. 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.

10. I would be happy, if you wish, to go over this on the before you leave for Washington on Monday morning.

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