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To: MENAD - All Staff
From: MENAD
Subject: FW: LEAD: OO FCOLN/ABIDJ 65: IRAQ: UN ASPECTS
Sent: 09 February 2003 08:00:42 GMT

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Sent: Sunday, February 09, 2003 8:00:43 AM
To: MENAD
Subject: LEAD: OO FCOLN/ABIDJ 65: IRAQ: UN ASPECTS
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SUBJECT: IRAQ: UN ASPECTS

Summary

1. Guidance in the form of questions and answers on a number of key UN aspects of our policy on Iraq. You may draw on it freely orally, but please do not give the text to your interlocutors.

Detail

2. On the basis of SCR 1441, can anyone launch military action without a further Security Council resolution?

- Resolution 1441 does not stipulate that there has to be a second resolution to authorise military action.
- As Foreign Secretary has said, preference of British Government, in the event there is a material breach, is for a second resolution. So far Security Council has, as Kofi Annan said "faced up to its responsibilities". We believe it will continue to do so. But we must reserve our position in the event it does not.
- Iraq should be in no doubt: the message of resolution 1441 is clear: any failure by Iraq to comply will have serious consequences. The Council has reiterated the need for full, active co-operation. The action necessary to bring Iraq into compliance will depend on the circumstances at the time.

3. Does shooting at coalition aircraft in the NFZs amount to

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material breach?

- US and UK aircraft operate in the 'no-fly zones' in support of SCR 688. They are justified under international law in response to a situation of overwhelming humanitarian necessity. Iraqi action against our aircraft is contrary to international law and is inconsistent with UN resolutions. Our pilots are authorised to act in self-defence. They do not need further approval from the Security Council.

- (If necessary) Since the legal basis of the 'no-fly zones' is other than SCR 1441, we are on record as saying that threats against our aircraft would not be a material breach of that Resolution. The focus of 1441 is disarmament.

4. What about other possible triggers? What if Iraq objects to certain personnel on inspection teams etc?

- The Security Council will meet immediately on receipt of a report of Iraqi interference with inspection activities, or any failure by Iraq to comply with its disarmament obligations. Further decisions will depend on the circumstances.

5. Does the Iraqi WMD declaration on 7 December mean that Iraq is co-operating?

- As UNMOVIC and IAEA have made clear, the 7 December Iraqi declaration is mostly a reprint of earlier documents, and does not contain any new evidence that would eliminate the outstanding disarmament questions or reduce their number. It is not the full and complete declaration required by resolution 1441. Obvious omissions include the Iraqi regime's failure to account for the large quantities of nerve agent, chemical precursors and munitions listed in UNSCOM's final report. Foreign Secretary has published a list of 10 outstanding questions, identified by Dr Blix, that Iraq must answer.

- By failing to provide a full, final and complete declaration, as required by the Security Council, Iraq has failed to comply with a key part of resolution 1441.

- Saddam and his officials would do well to remember that concealment is not compliance. Only declarations supported by evidence will give confidence in a country with such a long history (almost 12 years) of avoiding disclosures.

6. Is Iraq co-operating with inspectors?

- In his update to the Security Council on 27 January, Dr Blix highlighted a number of instances of Iraqi non-co-operation with the weapons inspectors: failing to answer outstanding issues, identified by UNSCOM; obstructing U2 reconnaissance flights; hindering interviews; some instances of harassment of the inspectors.

7. Do you expect Blix/EI Baradei to report any hitch, however trivial?

- Resolution 1441 directs them to report any failure by Iraq to comply with its disarmament obligations.

8. Does trigger for military action now rest with Blix/EI Baradei?

- No. What rests with Blix/EI Baradei is the responsibility to

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report non-co-operation by Iraq to the Security Council.

9. So is Iraq in material breach?

- UNSCR 1441 is clear: false statements or omissions in the declaration and failure to co-operate fully with the inspectors shall constitute a further material breach of Iraq's obligations.
- As the Foreign Secretary has made clear, Iraq has failed both tests and the inescapable conclusion is that Iraq is now in material breach of resolution 1441. War is not inevitable. But the responsibility to avoid conflict rests with Saddam Hussein.

10. Does Foreign Secretary's judging Iraq to be in "material breach" mean you are taking this to the Council for assessment under paragraph 4 of SCR 1441? And going for a second resolution authorising military action?

- The Council, through its meetings last week, and in future meetings such as those scheduled for 5 and 14 February, is continuously assessing Iraq's compliance.
- Resolution 1441 warned that Iraq would face "serious consequences" if it failed to comply. We expect the Security Council to live up to its responsibilities.

11. How much time is left?

- "It's not a matter time; it's a matter of attitude. And the attitude we're getting from the Iraqis at the moment is just not sufficient for the eradication of the programs that we know about." (Sir J Greenstock)

12. In practice, given that it has taken so long to get this far, what chance is there of UNSC agreement to authorise use of force in the future?

- The unanimous adoption of SCR 1441 shows the clear determination of the Security Council to ensure that Iraq fulfils its obligations. This is the toughest resolution on Iraq for years. Iraqis and others should be in no doubt that members of the Council are determined to ensure its implementation.

13. So are you making preparations for military action?

- The Prime Minister has made clear that prudent preparations and planning are required, in case force proves necessary. Preparations will continue to ensure that British forces are ready for action if required.

14. UNMOVIC's powers/chances of success?

- International community has expressed its determination to rid Iraq of WMD. UNMOVIC must be given the best possible chance to succeed.
- HMG fully committed to giving the necessary support to UNMOVIC: in direct discussion with UNMOVIC how we can best assist.
- Iraq is concealing WMD programmes from renewed inspections, including through the use of mobile facilities and hindering inspectors' efforts to interview personnel.
- New inspection regime is tougher. For example:
- No restrictions on access to so-called Presidential and other "sensitive" sites. No safe havens for WMD programmes.

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- No notice required for any inspections.
- UNMOVIC is also able to declare exclusion zones to freeze an area without identifying the exact inspection site, and travel by fixed or rotary wing aircraft into "boxes" which again will not identify the exact inspection site.
- Essential ingredient for success is good information, e.g. from defectors, intelligence agencies, reports or sanctions violations. Measures are in place to pass information to UNMOVIC.
- Intelligence material has been made available to UNMOVIC and the IAEA for some time. We shall continue to provide them with such material as appropriate, and we will support them in every way that we can in the detail of what they're doing.
- But no illusions: not an easy task for the inspectors.
- Inspectors are not meant to be detectives. While they will verify the accuracy, completeness and credibility of Iraq's declarations, the onus is on Iraq to show they have no WMD. It is up to them to co-operate with UNMOVIC to do this, and to demonstrate to the international community that they are committed to eliminating the threat of WMD. That's why the resolution puts such emphasis on requirement for Iraq to co-operate - and on the serious consequences if it doesn't.

15. Timetable?

- Resolution 1441 requires Iraq to produce an accurate, full and complete declaration of its WMD and missile/other delivery system programmes, including dual-use programmes within 30 days of adoption (by 8 December). Iraq submitted the declaration on 7 December. Inspections started on 27 November (ahead of the 23 December deadline required by SCR 1441). Dr Blix and Dr El Baradei updated the Security Council 60 days later (27 January), and have offered to provide another update on 14 February.

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[MENAD, CHARLES GRAY]

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