

~~SECRET~~
Declassified.

DRAFT/19.12.02/DB

**IRAQ: NOTE OF MEETING AT No. 10 DOWNING STREET -
4.00 p.m., 19 December 2002**

In attendance:-

Jonathan Powell
Sir David Manning
Baroness Morgan

Attorney General
David Brummell

1. It was noted at the outset that the purpose of the meeting was to provide the Attorney General with an update on developments and likely timings for any future action, rather than for the AG to provide specific legal advice. Sir David Manning gave a brief résumé of the present position, following the adoption of Resolution 1441 (which he described as having been a "tremendous fillip"). The preliminary examination of the first 4,000 pages of the 11,800-page Iraqi declaration (the rest consisted of annexes) indicated that Iraq had included absolutely no new information and had even failed to address outstanding issues. It was very disappointing and, if anything, something of an own goal for the Iraqi regime. On any analysis, Iraq had provided an incomplete answer.
2. There was likely to be further discussion in the Security Council around 27 January, when DM expected there to be a "UN spectacular".
3. It was not yet known whether the US would regard the Iraqi declaration as itself constituting a "material breach". However even if they did, DM's present understanding was that the US would make it clear that this did not of itself provide the trigger for military action. The US recognised the conjunctive force of the "and" in OP. 4 of Resolution 1441 ("*... failure by Iraq at any time to comply with, **and** cooperate fully in the implementation of, this resolution...*").
4. Jonathan Powell then sketched out three possible scenarios:-
 - (i) Saddam Hussein does something very stupid and the Weapons Inspectors find some WMD, which leads to a UN Security Council Resolution finding material breach and authorising the use of force.
 - (ii) The Inspectors catch out Saddam Hussein in some way but the response of members of the Security Council is such that there is no second Resolution.

~~SECRET~~
Declassified.

~~SECRET~~
declassified

- (iii) At the other extreme, the US become frustrated with the UN process and decide to take military action regardless, ie. without UN support.
5. In the case of scenario 4(i) JP commented that there was self-evidently no problem. There would be a legal basis for the use of force and political support would be forthcoming. In the event of scenario 4(ii), if the US and UK were to decide that military action was justified, the British Cabinet would be unanimous in their support of this. There would be no question of the UK supporting military action in the event of scenario 4(iii). In the absence of UK support, however, it was unlikely that the US would proceed.
6. JP went on to say that, if military action were to be taken before the onset of the summer heat, this would have to start in February/March 2003. It was possible that military action would start as early as mid-February (but unlikely that it would start before then). DM confirmed that the first option (ie. a second Resolution authorising military action) was what the UK was pushing for. He thought that there was a reasonably good prospect (ie. a 50:50 or so chance) that we would get a second Resolution.
7. It was noted that, although the Iraqi declaration was fundamentally flawed, this was in fact helpful in terms of the reaction it was likely to produce in the UN Security Council (ie. antipathy towards Iraq). DM added that Iraq had also made the mistake of alienating Russia by cancelling a Russian oil contract. This had provoked a certain amount of peevishness on the Russian side and would change the political weather.
8. The Attorney General agreed that the adoption of Resolution 1441, which represented a "complex compromise", had been a considerable achievement. He thought that a key question arose in relation to the interpretation of OP. 4, which provides that any failure by Iraq (i) to comply and (ii) to cooperate (such dual failure amounting to a material breach) is to be *"reported to the Council for assessment in accordance with paragraphs 11 and 12 below"*. What could the phrase *"for assessment"* mean if it did not mean an assessment as to whether the breach was sufficiently material to justify resort to use of force? The AG mentioned the letter he had received from Michael Wood (Legal Adviser, FCO) on Resolution 1441, which set out two alternative views - which the AG was considering - on this point.
9. DM confirmed that the basic assumption was that, where he found evidence of breaches, Blix would report these to the Security Council. The SC would then debate whether the reported breaches were serious or trivial. It would then be for the SC, in the light of that debate, to decide what action should be taken. It was noted that this would suggest that it was expected that the SC would have to express its view.

~~SECRET~~
declassified

~~SECRET~~
declassified

10. In terms of further consideration of these issues, it was noted that there would be a full Cabinet discussion on Iraq some time in the middle of January, ie. before the Security Council met at the end of January. The following actions were agreed:-

- (a) The AG would be invited to attend Cabinet for this purpose.
- (b) It would be useful if the AG were able to speak to Sir Jeremy Greenstock, to get a fuller picture of the history of the negotiation of Resolution 1441.
- (c) The AG was not being called on to give advice at this stage. But he would be giving further consideration to all these issues. It was agreed that it might be helpful if he were to discuss a legal advice paper in draft with the Prime Minister.

DB

David Brummell
LSLO
19 December 2002