

AD HOC MINISTERIAL GROUP ON IRAQ REHABILITATION
MEETING to be held in Conference Rm A,
70 Whitehall
on Thursday 8 May 2003 at 14:30

ANNOTATED AGENDA

Item 1 **The Political Process in Iraq**

1. A second consultative conference of Iraqis was held in Baghdad on 28 April. It attracted a reasonable cross-section of Iraqi opinion and agreed to move ahead with preparations to hold a national conference in the next four weeks to form an Iraqi Interim Authority (IIA). Further regional or local events may be held in the meantime, but none are currently planned. We favour an incremental process which will produce a widely-based IIA, incorporating a majority of internal Iraqis, separate but working with the Coalition, and as such seen as legitimate by the general Iraqi population and the international community. We hope to sponsor an Iraqi women's conference. A UK Special Representative for Iraq, John Sawers, HMA Cairo, has been appointed to seek to influence the emerging political structures, particularly in Baghdad.

2. The US, principally the DoD, is pushing for a quicker process, forming an IIA by 3 June, when OFF expires. They plan to use the major exile leaders, which runs counter to the bottom up approach agreed by the Prime Minister with Bush at Hillsborough. This would maintain a high level of US control over the IIA, by keeping it as part of the Coalition Provisional Authority, under Gen. Franks, and would help counter the political vacuum, which Shia clergy are trying to fill. We doubt that an IIA established on these lines will be credible internally or internationally or capable of taking forward an Iraqi-owned political process and reform programme. Moreover, as it stands, this model would not give the UK sufficient oversight of or consultation of decisions affecting us as an occupying power. We must be aware that the US could follow

this option, despite its downsides, but we have allies in Washington sympathetic to our view and should step up our engagement both centrally and with US leaders in Iraq to secure a more broad-based and sustainable IIA.

3. To achieve this, we should argue for two separate outputs from the Baghdad Conference: a largely technocratic IIA focussed on restoring the economy and government services and infrastructure, which in time might evolve into a more broadly based provisional government; and a process, involving the political leaders, which should concentrate on organising a path to elections and a formal representative government. A clear timetable should be agreed at the Baghdad conference on similar lines to the Bonn Conference on Afghanistan, leaving sufficient space for new Iraqi leaders to join the process in due course. A paper setting out contrasting UK and US views, and the risks, is attached at Annex A.

Ministers are invited to agree that they, officials and John Sawers in particular:

- **Should step up their lobbying of US counterparts to hold a Baghdad Conference which is representative of all Iraqis, including women, regarded as legitimate at home and abroad, and capable of initiating an Iraqi-owned political process and reform programme. We should argue for it to establish:**
- **a largely technocratic IIA, separate from but working with the Coalition, focussed on restoring the economy and government services and infrastructure, which might in time evolve into a provisional government; and**
- **a separate process, involving the political leaders, which should concentrate on organising a path to a formal representative government following elections, to a clear timetable; and**

- **agree that John Sawers should report regularly to Ministers on progress to this end.**

Item 2 Negotiations at the UN

4. The Oil for Food Programme expires on 3 June. With the exception of Russia and Syria, the Security Council is moderating on the early suspension, if not lift, of UN sanctions. Most are prepared to be flexible in order to facilitate UN re-engagement in Iraq, but within limits. We have not succeeded in persuading the US to take issues to the UN as they arise. Instead we are close to agreement on the text of an omnibus UNSCR to deal with the outstanding issues of sanctions, OFF, the IIA and the role of the Special Co-ordinator. The draft Resolution will be discussed in P5 capitals and may be tabled in New York by the middle of the month. If it passes it should provide legal cover for the main issues facing the Coalition. If it fails we made need to revert to the issue based approach at the UN. But some in the US may argue for doing without further Resolutions. Should this happen we would need urgent legal advice on our red lines, taking account of events on the ground such as the possible establishment of an IIA by then. These might include sanctions lift, oil exports and authority to reform Iraq. A note on UN negotiations is attached at Annex B.

Ministers are invited to note that:

- **An omnibus UNSCR is likely to be introduced by mid May, which we will probably co sponsor. Should it fail we will need urgent legal advice on the areas where UN authority is crucial for UK engagement.**

Item 3 Security Sector Reform

5. There is an urgent need to address SSR in Iraq. Effective, legitimate and democratically accountable security institutions (armed forces, intelligence agencies, justice and law enforcement) are an essential element of establishing a united and representative Iraqi government and necessary to create the

conditions in which the Coalition can withdraw. Action to address the retraining and/or demobilisation and reintegration of Iraqi defence and security personnel is required. As in Afghanistan the US strategy on SSR is fragmented and not well developed. They give a big role to private US security consultants and Free Iraqi Forces. They aim to establish a 100-strong Office of the Senior Adviser to the Iraqi MOD and Iraqi National Defence Force by 25 May. Police and judicial reform is being handled separately within ORHA. The US are actively seeking Coalition and UK participation; our expertise is recognised. to control reform of the Iraqi intelligence services. A paper on our approach to SSR in Iraq is attached at Annex C.

At their meeting on 1 May, Ministers agreed that the UK should be involved in ORHA Security Sector Reform scoping studies. Ministers are now invited to agree that:

- **We should continue to encourage the US to adopt a broad concept of SSR in Iraq, and to address the employment of Iraqi defence and security personnel urgently;**
- **offer to establish a small SSR secretariat within our delegation to ORHA to advise on cross-cutting SSR issues in an attempt to create cohesion;**
- **contribute UK experts to the Office of the Defence Adviser and to police and judicial reform efforts in ORHA;**
- **press the US to include the UK in the reform of Iraq's intelligence services; and**
- **facilitate UN, IFI and other donor engagement in SSR as appropriate.**

Item 4 War Crimes and Transitional Justice

6. Officials have been working on a UK strategy for dealing with war crimes. This is closely linked to the justice sector reform above. An initial strategy paper is attached at Annex D.

7. There is one investigation into the deaths two UK soldiers in the recent conflict. In the event that sufficient evidence is obtained and suspects identified and detained, then four options for prosecution are available:

- Prosecution by Iraqi courts, but capacity may take years to establish;
- prosecution by UK courts using the Geneva Conventions Act 1957, in which case the Home Secretary will need be consulted, but there doubts about the ability to extradite suspects from Iraq;
- prosecution by UK military tribunals in Iraq, but the necessary Royal Warrant dates from 1945 and there are doubts about its political and legal standing; and
- prosecution by US military courts in Iraq. The US wishes to prosecute those suspects of crimes against US forces before such tribunals in Iraq. The UK could use this approach to try those suspected of crimes against UK forces, subject to agreeing modalities and penalties.

8. The scale of the crimes of the former regime, the identity and number of potential suspects and the quality and types of evidence that may be available, remains to be determined. The number of potential suspects is likely to be large. The FCO maintains a close dialogue with relevant US authorities on these issues. US thinking is still evolving; they are considering a three-tier mechanism involving:

- Special Chambers to deal with international crimes (including crimes against humanity, genocide and war crimes);
- the Iraqi judicial system for less serious offences; and
- a truth and reconciliation commission for the least serious offences.

9. The US recognises the need for international assistance, but is keen to ensure that, as far as possible, the process is Iraqi led. ORHA is leading on the development of plans for the justice sector generally, including war crimes.

According to ORHA personnel in Iraq, additional funding for reform has been set aside by the US DoD. Justice sector reform programmes should only be undertaken under a legitimate and properly mandated IIA, or following appropriate UN Security Council authority. In the meantime, the law and order situation in areas of Iraq is extremely unstable. In many parts of the country, including Baghdad, the police and judicial system is not functioning. The immediate ORHA priority is to get an Iraqi system working again. The Iraqis will not have the capacity to investigate war crimes in the short-term. ORHA intends to undertake an assessment of the existing capacity of the justice sector over the next two months, beginning on 8 May. This will be led by Clint Williamson (US NSC) who has extensive experience in transitional justice from the Balkans. War crimes are part of the assessment and he is interested in UK assistance on them.

Ministers are invited to agree that:

- **The Iraq Policy Unit will maintain close contact with ORHA and key US departments on war crimes. The Cabinet Office should continue to co-ordinate Whitehall policy on war crimes issues;**
- **we should second a number of UK transitional justice and war crimes experts to the ORHA justice sector assessment mission, with a focus on war crimes and other serious international crimes. In light of their recommendations:**
- **we should agree a policy with the US on the handling of all crimes alleged to have been committed by members of the former Iraqi regime, agreed with the relevant Iraqi bodies (e.g. the IIA and/or Judicial Council);**
- **consider providing additional personnel as and when required; and**
- **consider the role to be played by the wider international community and the UN in the area of transitional justice.**

Item 5 The Work of the Iraq Survey Group

10. No conclusive evidence of WMD has yet been found in Iraq. Before the conflict the US and UK agreed a list of 147 potential WMD-related sites across Iraq. Investigations have begun at 19 sites. US investigation efforts are currently ad hoc but will be established on a sounder footing from the end of May with the establishment of the Iraq Survey Group, reporting to the Pentagon. The Group will eventually have over 1000 specialist staff and will also pursue leaders and the illicit funds of the former regime, terrorists and war crimes. We have already agreed to offer a one-star chief of staff, together with specialist personnel. Australia is also providing some support. A unit may be established in Basra initially. We are discussing how third party verification of WMD can be achieved, including in the short-term possibly through a laboratory in the Netherlands, and in the medium-term through reconstituted UN inspection arrangements. Given the level of concealment by the Iraqi authorities, investigations into WMD will be a lengthy process. A background note on progress and key issues is attached at Annex E.

Ministers are invited to note progress made and the time likely before investigations produce clear results.

Item 6 Status of Historic Oil Contracts in Iraq

11. Under sanctions, numerous international companies held discussions with Iraq on future oil field development, but for the most part shied away from ratifying agreements barred by the UN in Iraq's oil sector. UK legislation forbids discussion of post sanctions trade with Iraq, so British companies kept away. As a result, only seven agreements have actually been signed: four with Russian companies (most significantly Lukoil) and one each with Chinese, Indian and Syrian companies. No work has started. Our information on the contracts is limited but it seems that the Lukoil contract was the largest. It was subsequently cancelled by the Iraqis. Separately, TotalFinaElf (French) pursued direct negotiations, but because of sanctions, only initialled a contract.

Companies from Tunisia, Indonesia and Vietnam reached similar stages. These agreements and discussions are different from entirely legal oil sale and purchase agreements under OFF, oil drilling contracts and future rehabilitation contracts.

12. At their meeting on 24 April, Ministers agreed that we should leave future decisions about the shape of the oil industry and management of oil revenues to the new Iraqi government, while advising best international practice, including openness and transparency in procurement and management of revenues.

13. From what we know so far it seems likely that the new Iraqi oil managers will not be encumbered by many major investment contracts signed by Saddam, but they will need to check the legal position on each contract carefully. They will have to take commercial decisions on whether to move quickly to increase oil production which could point to using those companies which already know the sector in Iraq well, or to invite others in. We expect the new managers will be reluctant to use French and Russian firms. At the appropriate time we may want to consider whether any of the companies who signed contracts, breached sanctions.

14. UK companies believe that they are at a disadvantage compared to the French and Russians, but say will only enter negotiations once a stable, legitimate Iraqi authority is in place and sanctions are removed. Companies from other countries, including the US, may not wait this long. But there may be opportunities for UK companies to be brought in as partners of other multinationals. A paper on historic oil contracts is at Annex F.

Ministers are now invited to agree that:

- The new managers of the Iraq oil sector should be encouraged to take early advice on the validity of exploration contracts signed by Saddam, as part of managing the sector transparently. It will be for the relevant courts to decide;
- at the appropriate time we should encourage the UN to examine contracts agreed by Saddam to ensure there was no breach of sanctions; and
- we should ensure that UK companies are well placed to take advantage of future commercial opportunities and as far as possible are not disadvantaged because they stuck to sanctions.

Item 7 Progress since Last Meeting: IFIs, Debt and Commercial Opportunities for UK Companies

15. At the Spring Meetings of the IMF and World Bank, both the IMF and Development Committees agreed that the IMF and World Bank 'stand ready to play their normal role in Iraq's re-development'. Since the meetings, both the World Bank and the IMF have had informal Board discussions on Iraq. Both bodies are doing desk-based research on Iraq. Both are ready to send missions to Iraq when the security situation permits, with the IMF likely to go first.

16. Following agreement at the Spring meetings to address Iraq's official debt at the Paris Club, members held a preliminary discussion at the end of April. They agreed to carry out a comprehensive assessment of Iraq's indebtedness to members, through a formal data call, and to continue to review the situation.

17. On commercial opportunities for UK companies, BTI continues to lobby US contractors to allow UK firms to compete for sub-contracts, although some have doubts about their legality. BTI and BE Washington are also pressing the US not to adopt technical standards which restrict opportunities to US companies. Baroness Symons will raise the issue in Washington on 15-16 May.

TPUK has established an Iraq Industry Working Group to act as a channel of communication with industry in our work to help UK firms access reconstruction opportunities. Members of the Group may join Baroness Symons on her visit to Washington. A scoping mission will take place to Iraq as soon as the situation allows. A background note is at Annex G.

Ministers are invited to note progress made.

Item 8 Next Meeting and Future Business

18. The Group will next meet, provisionally, **on Thursday, 15 May.**

Ministers are invited agree that the next meeting should consider updates and recommendations from officials on:

- **the political process, including the proposed women's meeting;**
- **negotiations on the UN Resolution;**
- **progress in ORHA; and**
- **progress on Coalition military contributions.**

Cabinet Office

7 May 2003

ANNEX E: WMD AND THE WORK OF THE IRAQ SURVEY GROUP

Summary

- **No conclusive evidence of WMD found. Investigations ongoing.**
- **US plans focus around Iraq Survey Group. UK will offer 1-star Chief of Staff, plus some dedicated units and specialist personnel.**
- **Issues over presentation, pace of investigations, legal relationships, and hand-over to civilians.**

Current position

Evidence of Iraq's WMD programmes (or its absence) is the subject of intense parliamentary and press attention. Evidence could take a variety of forms, including CBRN agents themselves, delivery systems, WMD facilities, documentation, and human sources. Finding evidence of WMD remains a key objective. Particular political, presentational and legal pressures on HMG. Similar but less fundamental concerns for the US. Efforts to manage expectations over WMD finds bearing fruit, but pressures still intense.

Current focus of Coalition efforts to find evidence of WMD is Sensitive Site Exploitation (SSE). SSE activity ongoing and intensifying, but constrained by finite security and logistics resources. No firm evidence of WMD as yet. Some red herrings, particularly from pesticides which can trigger field detectors in the same way as some chemical agents.

Before the conflict US and UK agreed 147 potential WMD-related sites across Iraq (concentrated in US area of operations) as highest priority. As at 30 April 2003, investigations had been initiated into 19 of these 147 sites, plus 42 ad-hoc sites. Around 400 lower-priority potential WMD sites remain.

Concerns that continued looting and destruction at SSE sites may hinder the location and elimination of Iraqi WMD, or place unwitting looters at risk.

Most promising find so far is of HGV trailer in North, near Irbil. Initial assessment is that this closely matches earlier descriptions (from intelligence) of a vehicle that supported mobile BW agent production. UK and US experts have arrived on the scene and making more detailed assessments as at 2 May 2003. Samples returning shortly to DSTL Porton Down, although suspicions that vehicle may have been decontaminated and samples may not show presence of agent.

Some blockages in flow of information from US to UK – these now appear to be clearing following high-level intervention.

UK "silver standard" CBRN lab deploying to Baghdad International Airport. As requested by DOD, UK MOD aiming to recruit former UN WMD inspectors to provide expert advice on the ground. Initial briefing session with 20-30

expressers of interest, all UK, all former UNSCOM or UNMOVIC, held in London 2 May 2003. These would form a pool of experts who could be deployed for specific tasks.

The Iraq Survey Group

US envisage migration from SSE to investigations being conducted by the Iraq Survey Group (ISG). ISG will be DIA-led with strong political direction of Rumsfeld and Defence Under Secretary Cambone. ISG will be Iraq-wide and remit will be wider than just WMD. The proposed mission of the ISG is to:

Coordinate and conduct intelligence exploitation throughout Iraq and locate, disable and eliminate Iraqi CBRN/M production, storage facilities and materials in order to: complete the removal of the Iraqi regime; enable the prosecution of war crimes and crimes against humanity; determine the status of Kuwaiti POWs and Capt Speicher; remove the threat from Iraqi WMD and assist the Global War on Terrorism.

US commander of the ISG (Major General Keith Dayton) anticipates taking full command around 30 May, though many US and UK elements should be in operation well before then. Considerable variations of view in the US on time-scales; Gen Dayton has talked in terms of six months; others see processes taking two years or more.

Preparations for ISG not as advanced as they could be, and interim period before ISG becomes operational is growing. Significant logistical challenges, and Gen Dayton sceptical over ability to operate in Baghdad. Possible interim, rear HQ in Qatar. Opportunity for UK to influence, but must be wary of over-committing. Urgent need to establish how best to use relevant assets in the meantime.

Australian government has agreed to provide a one-star military officer to the ISG to direct conventional weapons exploitation together with 10-12 analytical staff. MOD has agreed to provide a one-star Chief of Staff, and to assign to the ISG UK WMD related units already in theatre or about to arrive, including:

The DIS Battlefield Intelligence Recovery Team.;

The Joint Forces Interrogation Team;

7630 (HUMINT) Squadron R Aux AF; and,

A Document Exploitation Team.

MOD also investigating the most effective use of the Joint NBC Regiment and other assets in theatre, including EOD. DIS Liaison Staff in Washington will be reinforced to support ISG work, with a view to providing a UK presence in the ISG Fusion Cell in Washington. Also looking at dedicating other analytical expertise (including the DSTL/AWE "silver" mobile laboratory) to the ISG effort. Must focus on where UK can add value.

Independent verification

The US accept the political desirability of third-party verification of WMD finds, but UN involvement still raises hackles with some. Have made point to the US that - suitably re-constituted - UN inspectors can confer maximum international credibility to WMD finds. Radical change in operating environment for inspectors in Iraq could be opportunity/justification for re-structuring of UNMOVIC. FCO, with MOD, are developing proposals for a re-constitution of UNMOVIC tailored to the new permissive environment in Iraq.

Separately examining options for third-party verification of WMD samples - a Dutch lab seems most promising, but methodologies still being developed.

Key issues

- Presentation. Still need to manage expectations. Should we acknowledge that bulk stocks of weapons may have been destroyed? At what stage would combined weight of other evidence (documentation, testimonials) merit an announcement?
- Pace of investigations. Earliest interim ISG capability now not until June. Need to impress upon US utility of an early, convincing find, both domestically and internationally, even if independent verification will take longer
- Legal relationships. ISG concept of operations still fluid but could include action against regime figures. Potential to place UK, and in particular UK ISG Chief of Staff, in a very difficult position. Clarity needed on precise role of ISG.
- Longer term. Will need to consider civilianisation/contractorisation of UK contribution to overall effort. Some of this will have long lead-times.

MOD
3 May 2003