

AG saw on 28/8.

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Foreign &
Commonwealth
Office

27 August 2002

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London SW1A 2AH



Dear Sir

Iraq: Ultimatum

... We have now done further work on the possibility of a Security Council ultimatum to Iraq. I enclose a more developed reworking of our previous draft. President Bush's speech to the UN General Assembly on 12 September could be an important curtain-raiser.

Strategic Considerations

An ultimatum will be difficult to secure. But it is not out of reach; This will need a carefully-managed campaign during the early autumn; and will involve a great deal of work in P5 capitals.

} A trigger for a resolution could be provided either by the talks petering out, or, better, a definite breakdown due to Iraqi intransigence. If inspectors are allowed back, the trigger could be a report by Blix on Iraqi non-co-operation.

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Content

Any text will have to be conditioned to some extent by the wider context. There may be some political attractions here in tabling hard language. But, unless there is a serious Iraqi outrage, the harder the language the more difficult it will be to get the resolution through. So the enclosed text offers a number of alternative formulations, the key points of which are explained below.

"Flagrant Violation" or "Material Breach"?

A Council decision that the Iraqi refusal to accept inspectors is a material breach of SCR 687 (the ceasefire resolution) would have the advantages of clarity and a very direct message. "Material breach" has in the past been recognised language for reviving the authorisation to use force given in SCR 678 (the 1991 Desert Storm resolution). But it might be difficult for some Council members to accept. So language affirming that Iraqi behaviour over the inspectors is a flagrant violation of SCR 687 might be a little easier to sell (and harder to contest; it is, after all, an obvious fact). The draft enclosed with this letter includes alternative passages on this.

The Wording of the Ultimatum

The fifth operative paragraph of the draft is there for political and presentational reasons. But it may not be indispensable, particularly if we inserted in paragraph 2 a date by which the Council's demands must be met. Subject to the Attorney General's views, it seems to us that the resolution (particularly with "material breach" language) would still give cover for military action, and that in legal terms no further Council decisions would be required (though opponents of military action would argue that in the absence of the sort of language in operational paragraphs 2 and 5 Iraq should be given still more time to comply).

Legal Cover?

It will be important that the draft should provide legal cover for military action without further Council action. The Attorney General's advice will be needed on this point. When we have confirmation that you and we are content we propose to put our detailed drafting to the US.

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I am copying this letter to the Peter Watkins (PS/Defence Secretary),
David Brummell (PS/Attorney General) and to Sir Jeremy Greenstock.

Young etc

Simon

(Simon McDonald)
Principal Private Secretary

Sir David Manning KCMG
10 Downing Street

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PP1 Recalling all its previous relevant resolutions on the situation in Iraq, notably resolutions 678 (1990) of 29 November 1991, 687 (1991) of 8 April 1991, 1205 (1998) of 5 November 1998, and 1284 (1999) of 17 December 1999,

PP2 Gravely concerned that Iraq has not yet implemented numerous resolutions of the Council [and in particular has failed to agree to the unconditional redeployment of inspectors from the United Nations Monitoring Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA)], [see para 5 of covering letter]

PP3 Noting with concern that recent contacts between the Government of Iraq, UNMOVIC and the Secretary-General have failed to yield an agreement on modalities for the unconditional deployment of UNMOVIC and IAEA inspectors to Iraq,

PP4 Determined to ensure full and immediate compliance by Iraq without conditions or restrictions with its obligations under resolutions 687 (1991) and 1284 (1999) and other relevant resolutions,

PP5 Recalling that the effective operation of UNMOVIC and the IAEA is essential for the implementation of resolutions 687 (1991) and 1284 (1999), [see para 7 of covering letter]

PP6 [Acting under Chapter VII of the Charter of the United Nations] [see para 6 of covering letter]

1. [Affirms that the failure by Iraq to co-operate with UNMOVIC, in accordance with its obligations under the relevant resolutions, to allow unconditional and unrestricted access to UNMOVIC and the IAEA to any and all areas, facilities, equipment, records and means of transport which they wish to inspect in accordance with their mandates, as well as to all officials and other persons under the authority of the Iraqi Government whom they wish to interview, is a material breach by Iraq of its obligations under resolution 687 (1991) and other relevant resolutions;]

or

[Condemns as a flagrant violation of resolution 687 and other relevant resolutions the failure by Iraq to co-operate with UNMOVIC, in accordance with its obligations under relevant resolutions, to allow unconditional and unrestricted access to UNMOVIC and IAEA to any and all areas, facilities, equipment, records and means of transport which

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they wish to inspect in accordance with the mandate of UNMOVIC; as well as to all officials and other persons under the authority of the Iraqi Government whom UNMOVIC wishes to interview so that UNMOVIC and IAEA may fully discharge their mandates;]

[see para 5 of covering letter]

2. Demands that Iraq immediately reverse this non-co-operation with UNMOVIC and the IAEA
3. Reaffirms its full support for UNMOVIC and the IAEA in their efforts to ensure the implementation of their mandates under the relevant resolutions of the Council;
4. Demands that Iraq allow UNMOVIC and the IAEA teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transport which they wish to inspect in accordance with their mandates, as well as to all officials and other persons under the authority of the Iraqi Government whom they wish to interview, so that they may discharge their mandates,
- [5. Declares that unless Iraq complies with this demand by [date], it will be clear that Iraq has no intention of complying with its obligations;] [see para 8 of covering letter]]
6. Decides to remain seized of the matter.

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