

1 (2.00 pm)

2 RT HON JACK STRAW MP

3 THE CHAIRMAN: Good afternoon.

4 RT HON JACK STRAW MP: Good afternoon.

5 THE CHAIRMAN: Well, good afternoon and welcome, everyone.

6 Welcome to our witness. We are continuing our hearing
7 with the Rt Hon Jack Straw MP, who was Foreign Secretary
8 from the middle of 2001 to the middle of 2006.

9 We had a first session with Mr Straw on 21 January
10 and covered events then up to the start of the conflict
11 in March 2003, and you have since put in a supplementary
12 memorandum of evidence which is now being published on
13 our website.

14 The objectives today are to cover a number of issues
15 relating to the provision of legal advice, post-conflict
16 planning, the situation on the ground, and the
17 government's response from 2003 to 2006, with particular
18 attention, obviously, to the role of the Foreign Office
19 and any issues we need to pick up from Mr Straw's
20 earlier evidence.

21 Now, just two other preliminary remarks, that
22 I always make: we recognise that witnesses are giving
23 evidence based in part on their recollection of events,
24 and we, of course, cross-check what we hear against the
25 papers.

1 I remind each witness on each occasion that they
2 will later be asked to sign a transcript of evidence to
3 the effect that the evidence given is truthful, fair and
4 accurate.

5 Now, we have a great deal of ground still to cover
6 so I hope we can move through our questions with
7 reasonable dispatch and, without more delay, I'll turn
8 to Baroness Prashar.

9 BARONESS USHA PRASHAR: Thank you very much.

10 Mr Straw, thank you for your supplementary
11 memorandum. I want to look at the question of the
12 relationship with the Foreign Office legal advisers.
13 Sir Michael Wood told us that there were a number of
14 occasions when he was concerned that what you or the
15 Prime Minister said publicly, or your US counterparts,
16 on the possible legal basis of military action was
17 inconsistent with the legal advice that he had given.
18 He said, and I quote:

19 "It certainly was not my impression that the Foreign
20 Secretary really misunderstood the legal position at
21 this stage."

22 If that was the case, why did your public statements
23 and conversations not reflect the advice that you had
24 been given?

25 RT HON JACK STRAW MP: Baroness Prashar, the final decision

1 on the legal advice, the final decision on the
2 lawfulness or otherwise of military action was one that
3 was going to be taken by the Attorney General and the
4 Attorney General alone. There were, as Sir Michael Wood
5 himself accepted, always two views, in his words, about
6 the interpretation of United Nations Security Council
7 Resolution 1441.

8 BARONESS USHA PRASHAR: May I interrupt you at this stage,
9 if I may?

10 RT HON JACK STRAW MP: Please.

11 BARONESS USHA PRASHAR: This is actually before that,
12 because there were two occasions, one I think was
13 in March, 26 March, and in October, when I think it was
14 following your conversation with Colin Powell, and then
15 it was when he had read the transcripts of the evidence
16 that you gave to the Foreign Affairs Committee that he
17 had to write and correct you.

18 RT HON JACK STRAW MP: Yes, I think you are referring to
19 26 March --

20 BARONESS USHA PRASHAR: 2002.

21 RT HON JACK STRAW MP: -- 2002. What we were seeking to
22 do -- that was just before Crawford -- was to persuade
23 the Americans to go down the UN route. There were still
24 a number of views about whether or not 678 and 687 could
25 "revive" the authority for military action. As is

1 well-known, I had told the Prime Minister that my view
2 was that we had to go down the UN route in any event,
3 but I also had to keep our negotiating position
4 protected publicly, and that was why I used the words
5 that I did.

6 I was actually very, very careful in studying and
7 acknowledging the legal advice, which I received from
8 the legal advisers. In almost every case, I accepted
9 it. It seemed to me to be unquestionable that they were
10 right, as I say in my memorandum, in saying that
11 self-defence or a humanitarian crisis was no possible
12 basis for military action, and, in a sense, debate about
13 lawfulness or otherwise of the revival argument in the
14 absence of a Security Council Resolution was to some
15 extent academic, because I could see no way in which
16 that would gain the approval of Cabinet or Parliament.
17 So it was academic.

18 But I was on the stand, repeatedly questioned,
19 endlessly, day after day, after day. I think
20 Sir Michael Wood will acknowledge, in general, I stuck
21 pretty carefully, as he was generous to acknowledge, to
22 the advice that he gave me, as, for example, I did in
23 the debate that took place in the Commons at the end
24 of November. Occasionally, I didn't and I take
25 responsibility for that.

1 BARONESS USHA PRASHAR: Because I think the point you make
2 in terms of having to be careful -- but wasn't the
3 problem that the advice of the Attorney General wasn't
4 sought at an early stage? Because he said in his
5 evidence to us that it was creating a problem for him:
6 "Because I was having to react to public statements
7 by ministers and prepare briefings for people on the
8 basis of my views without having a definitive view from
9 the Attorney General."
10 RT HON JACK STRAW MP: With respect, I don't think that
11 comment was made in relation to anything I had said that
12 caused the Attorney General difficulty. I think you
13 will find, if you read the transcripts, that that
14 specific comment was said in relation to something the
15 then Secretary of State for Defence Geoff Hoon had said.
16 I was very, very conscious indeed about the issue --
17 BARONESS USHA PRASHAR: But you would accept that he did
18 have to correct you on two occasions, in March and when
19 you been to the Foreign Affairs Committee?
20 RT HON JACK STRAW MP: His job was as legal adviser and he
21 was fully entitled, indeed it was his duty, to offer me
22 advice wherever he thought it was appropriate, and
23 I never for a single second would have challenged that
24 right. I regarded it as a duty.
25 On the other hand, ministers have to be responsible

1 for what they say publicly and there is nothing in terms
2 of constitutional principle that I'm aware of, nor, for
3 example, in the Ministerial Code, that in an area where
4 things were moving in any event -- and let me say the
5 legal advisers knew that there was no way that I was
6 going to be involved in seeing this country take
7 military action in the absence of a Security Council
8 Resolution. There is nothing in any of those
9 requirements that says you have to accept the advice
10 that you were offered. There is a proper process, where
11 you do not, which means it goes to the Attorney General.

12 BARONESS USHA PRASHAR: But you would accept that he was
13 performing his duty as a legal adviser, when he saw
14 statements which he thought were contrary to what the
15 prevailing legal view was at the time, by drawing it to
16 your attention? That was an appropriate role for him
17 to --

18 RT HON JACK STRAW MP: I have never in the least challenged
19 that he was performing his duty. As I say, it wasn't
20 only his right, but it was his duty, if he felt that he
21 should say something, that he should say it. That has
22 always been my approach in dealing with officials,
23 whether they are lawyers or policy officials.

24 BARONESS USHA PRASHAR: I want to turn to your
25 correspondence following Sir Michael's note of

1 24 January. In your response you argued that
2 international law was an uncertain field.

3 Now, while we all know that some areas of
4 international law are uncertain, this particular issue
5 turned on the interpretation of the text of 1441.
6 Wasn't this a rather narrow issue? Because, while the
7 lack of clarity in 1441 allowed for different views of
8 its interpretation, that did not suggest a wide
9 discretion that was available to lawyers because
10 international law was vague.

11 RT HON JACK STRAW MP: I wasn't suggesting there was a wide
12 discretion, but there were two views, and, if you took
13 one view, came down with the opinion that military
14 action was unlawful. If you took the other view, in the
15 absence of a further Security Council Resolution -- if
16 you took the other view, then you came down with the
17 opinion that military action was lawful. So although
18 you can argue this was a narrow point, as is often the
19 case, every day in domestic and international courts
20 narrow points have huge consequences, which flow from
21 them.

22 Now, Sir Michael himself accepted -- and he was
23 already on the record as accepting -- that there were
24 indeed two views. You raised -- if I may just finish,
25 Baroness. You raised the issue about whether or not the

1 opinion of the Attorney General had been sought too
2 late. As it happens, 1441 was passed on, I think,
3 8 November 2002. Sir Michael Wood's letter of
4 instructions, detailed ones, was sent to the Attorney
5 General on 9 December and --

6 BARONESS USHA PRASHAR: I really want to focus on the
7 correspondence that you had with Sir Michael Wood,
8 because I thought his note and your response to it
9 was -- were not about the correct reading of 1441, but
10 it was about the views that international law, as
11 a genre, was uncertain.

12 RT HON JACK STRAW MP: The answer is that in some areas of
13 course international law is very clear, and, for
14 example, in respect of military action against Iraq, as
15 I have already said, Baroness, military action on the
16 basis of self-defence or extreme humanitarian crisis was
17 plainly unlawful. No one is arguing about that. Legal
18 arguments always turn on issues where there is a --
19 there are two or three views. That's inevitable.

20 The reason that I had views about this was because
21 I had been completely involved in the negotiation of
22 1441. Yes, as I say in my note, I'm famously not an
23 international lawyer, but I was able to bring something
24 to the party, which was intense knowledge of the
25 negotiating history and some knowledge of the

1 circumstances in which that negotiating history would
2 come to be interpreted; for example, as a result of the
3 Namibia ruling by the ICJ. So I was aware of that.

4 I was also aware of Sir Michael's own very, very
5 detailed letter to the Attorney General, which offered
6 not one view -- sorry, because you are asking me how did
7 I come to the view, which I said in my minute on
8 29 January:

9 "I note your advice, but do not accept it."

10 BARONESS USHA PRASHAR: Here I'm talking about your comments
11 about international law being rather vague, but, you
12 know, it is in this context -- it was a narrow
13 interpretation in the context of 1441.

14 RT HON JACK STRAW MP: I didn't say it was vague. I don't
15 think I used that adjective, with great respect.

16 BARONESS USHA PRASHAR: Uncertain, sorry.

17 RT HON JACK STRAW MP: Here was an area -- I don't think any
18 international lawyer would deny that the interpretation
19 of 1441 was uncertain. By definition, it was because
20 there were two views, and the same legal adviser, who
21 had written to me on 24 January, saying, "There was no
22 doubt that only one view applied", had himself gone on
23 the record at very great length to say that wasn't the
24 case and there were two views.

25 BARONESS USHA PRASHAR: Can I just come to that? Because,

1 quite rightly, in your statement you explain why you
2 responded by noting Sir Michael's advice and not
3 accepting it, and in paragraph 16 of your written memo
4 you say that you came to your view because you were
5 struck by the categorical nature of the advice you were
6 being offered in the minute, and, in contrast, with the
7 very balanced and detailed advice the same legal adviser
8 had offered to the Attorney General.

9 You say that a full range of views should be
10 reflected with the advice offered by the legal advisers,
11 but Sir Michael told us that his advice to the
12 Attorney General deliberately left the matter open
13 because it was made clear to him that he should leave
14 the matter open in that paper.

15 He also said that it was made clear to him that he
16 should say that legal advice was not needed at this
17 stage, and, when pressed, he said this came from you.

18 He further explained that minutes sent to you were
19 not detailed pieces of advice, they were operational
20 notes, notes saying that you shouldn't be saying this or
21 leaving that matter of weight with the Attorney General.

22 Do you not think it is therefore rather unfair to
23 contrast a minute that reflects his own views and the
24 ones which he, at that stage, thought were no different
25 to those of the Attorney? Because I think the purpose

1 was different.

2 RT HON JACK STRAW MP: Baroness, I don't think it is unfair

3 in the least, is the answer. What Sir Michael is doing

4 in his letter of 9 December is what legal advisers are

5 there for in this kind of case, is not to make

6 a decision, but to put before the Attorney General a set

7 of instructions of the kind that any lawyer --

8 BARONESS USHA PRASHAR: He did that because you asked him to

9 do so to kind of present a balanced paper --

10 RT HON JACK STRAW MP: Yes.

11 BARONESS USHA PRASHAR: -- but, when he wrote to you, it was

12 basically an operational note just drawing your

13 attention to the fact that what you were saying was

14 unlawful.

15 RT HON JACK STRAW MP: With the greatest of respect, I'm

16 sorry, where I disagreed with him was that he had the

17 right over and above the Attorney General to say what

18 was or was not unlawful, and, if I may say so, as I say

19 in my note, it is a most extraordinary constitutional

20 doctrine that, in the absence of a decision by the

21 Attorney General about what was or is not lawful, that

22 a departmental legal adviser is able to say what is or

23 is not unlawful.

24 BARONESS USHA PRASHAR: But my understanding is that the

25 Attorney General's view and that of Sir Michael Wood was

1 the same until about February 2003.

2 RT HON JACK STRAW MP: That is the evidence that

3 Peter Goldsmith has given and it is certainly my

4 understanding.

5 BARONESS USHA PRASHAR: This note was being written to you

6 in January.

7 RT HON JACK STRAW MP: Yes, but with great respect,

8 Peter Goldsmith had not made a decision at that stage.

9 He was in the process of talking to people, particularly

10 Sir Jeremy Greenstock, the Americans, and I don't think

11 he, at that stage, talked to me about the negotiating

12 history. Certainly the letter which I wrote to him

13 in February had not at that stage been written.

14 So, as a matter of fact I don't entirely see, if

15 I may say so, why there is -- I understand at one level,

16 because it is a very interesting story, but, at another

17 level, why there is such concern that I should have

18 received a note which, as Sir Michael Wood said, was not

19 in any case legal advice in the normal sense, which is

20 one of the surprises for me, but he thought it was

21 operational, and he didn't say in the note --

22 BARONESS USHA PRASHAR: I don't think --

23 RT HON JACK STRAW MP: Please allow me to finish. He didn't

24 say in the note, "Look, there is a balanced view about

25 this. My strong view, which I will be recommending to

1 the Attorney General, is that 1441 requires a further
2 resolution for military action to be lawful".

3 What he said is:

4 "I hope there is no doubt in anyone's mind that,
5 without a further decision of the Security Council, the
6 United Kingdom cannot lawfully use force against Iraq."

7 Now, I thought that was -- in the light of
8 everything that was known in the Foreign Office about
9 the whole negotiating history of 1441, including by the
10 legal advisers, and also, given what Sir Michael Wood
11 had put his name to, on 9 December, it was a rather odd
12 thing to say, and, yes, I did ask Sir Michael to ensure
13 that Peter Goldsmith was given a balanced view, but this
14 was in an area which everybody acknowledges and accepts
15 was open to interpretation.

16 Now, as it happens, my view, from having been
17 involved in the negotiations, line by line, word by
18 word, comma by comma, was that there was an overwhelming
19 argument that 1441 required a second stage but not
20 a second resolution. But Sir Michael -- I fully accept
21 there were two views of this. They were raging in the
22 public press.

23 There were other areas, Baroness, where plainly
24 there weren't two views, but this was an area where he
25 acknowledged and accepted there were two views, and was

1 content, despite his personal opinions, to work with the
2 view that the Attorney General came to, subsequently in
3 government.

4 BARONESS USHA PRASHAR: But in writing to you, he was
5 drawing to your attention what you said, because, at
6 that stage, there was no definitive opinion given by the
7 Attorney General. When you say he was being rather
8 categorical, the point I'm trying to make is that what
9 he wrote to you was an operational note and the advice
10 that was given to the Attorney General at your
11 suggestion was rather balanced and gave two points of
12 view. So the purposes were different.

13 RT HON JACK STRAW MP: But in the absence of a decision by
14 the Attorney General about that, Baroness, there had to
15 be doubt. That was what I thought was strange, and, as
16 I say, he is fully entitled to send me the note.
17 I never challenged his right to do that, and if I may
18 say so, there is some suggestion in the quotes I ignored
19 the advice. I never ignore advice. I gave it the most
20 careful attention.

21 BARONESS USHA PRASHAR: We are not suggesting you ignored
22 it, because you said you read it, you noted it, but you
23 did not accept it and you gave your reasons.

24 I'm trying to go through what you said your reasons
25 were to point out -- I'm finding it difficult to

1 understand, because what I'm pointing out to you is that
2 it was an operational note and what he had written
3 before to the Attorney General was something at your
4 request to provide a balanced view.

5 RT HON JACK STRAW MP: With great respect, the same lawyer
6 had written these things --

7 BARONESS USHA PRASHAR: At that stage --

8 RT HON JACK STRAW MP: -- and legal advisers are employed
9 for their judgment. So, if Sir Michael -- I said,
10 "Please send a balanced note, because I happen to think
11 there are two views". If he had said, "There isn't,
12 there is only one view", then that's what he would have
13 written to the Attorney.

14 I had no input, as far as I recall -- and we have
15 been through the records -- whatsoever in what he wrote
16 to the Attorney General. Quite properly. That was
17 a matter for him. I don't think I, so far as I recall,
18 ever saw the letter until after it had been written, and
19 that's entirely proper.

20 If his view had been, "There is no doubt we require
21 a second resolution", as there was no doubt that
22 self-defence would be unlawful, then that's what he
23 should have written, but he didn't.

24 What he did was to say there were two views in one
25 letter and then to say to me in the most categorical

1 terms, "There is only one view".

2 BARONESS USHA PRASHAR: But do you accept the point that the
3 purposes of the two documents were different? He was
4 your legal adviser, just picking up something you had
5 said, drawing it to your attention, and in another one
6 he was actually writing a balanced advice for the
7 Attorney General at your request. So the purposes of
8 the two documents were different.

9 RT HON JACK STRAW MP: Sorry, the purposes of the two
10 documents were the same, to offer legal advice, and the
11 legal advice he offered, frankly, was contradictory, and
12 I think I was entitled to raise that.

13 The other matter was perhaps slightly trivial, if
14 you like, but whilst I think he was entirely correct to
15 raise concerns with me about things I said publicly,
16 this was in a private meeting with Vice-President Cheney
17 and I don't -- I have not checked all the records, but
18 I don't think it ever gained any currency at all
19 publicly because these were always private meetings.

20 BARONESS USHA PRASHAR: But this was about Kosovo as well,
21 because, you know, already it had been accepted that
22 Kosovo was no precedent because in your conversations
23 you said "a la Kosovo".

24 RT HON JACK STRAW MP: This was a very quick, as I say --
25 and I can't remember what the conversation would have

1 been, a half-hour, 40-minute conversation, a very
2 cryptic report in a Foreign Office telegram and, I mean,
3 the issue of Kosovo I accept was entirely separate.
4 There was the separate issue which went back to 1993 in
5 the Gulf about the revival argument, but I accept that
6 Kosovo was not directly relevant.

7 BARONESS USHA PRASHAR: But it was for that reason he
8 responded to you?

9 RT HON JACK STRAW MP: I think the reason he responded to me
10 was because I said we didn't need a second resolution,
11 it wasn't because of Kosovo.

12 BARONESS USHA PRASHAR: Can I move on to paragraph 17?

13 RT HON JACK STRAW MP: Of my memorandum?

14 BARONESS USHA PRASHAR: Yes, indeed, where you said rightly
15 the decision was one for the Attorney General, a fact to
16 which no reference has been made and no qualifications
17 offered in Sir Michael's minute to you on 24 January.

18 Sir Michael had made it clear in a number of
19 previous notes that it was a matter on which the
20 Attorney General would need to advise, because in
21 a number of documents we have read, he consistently says
22 that this was a matter on which the Attorney General
23 would have to advise. So why did you feel it necessary
24 to say that in your note to him?

25 RT HON JACK STRAW MP: I didn't say it in my immediate

1 response, the response I wrote five days later. I did
2 say it here, because, again, there is a striking
3 contrast between the balanced view that the legal
4 advisers were taking and a reference to the Attorney
5 General, as was required constitutional practice, and
6 the very categorical statement that he made here, which,
7 frankly, was, on any analysis, at the time, incorrect,
8 because there was doubt, there was doubt publicly.
9 There was doubt between international lawyers, there was
10 doubt evidently in his own mind sufficient for him to be
11 able to put his name to a letter which said there were
12 two views.

13 BARONESS USHA PRASHAR: But isn't the point that FCO
14 advisers give advice day in and day out without waiting
15 having to wait for the Attorney General to pronounce on
16 it or without making an express caveat to the ultimate
17 constitutional authority that lies with the Attorney
18 General?

19 RT HON JACK STRAW MP: Look, there is legal advice and legal
20 advice, and there are plenty of things where, of course,
21 the Attorney is not troubled and life goes on, and
22 I enjoyed a good relationship with the lawyers in the
23 Foreign Office, as I hopefully have done in the two
24 other major departments I have been in, but, with
25 respect, there is a huge difference between the normal

1 run of the mill legal advice on usual issues and legal
2 advice on whether it was lawful for the United Kingdom
3 to take military action and that was why, on all sides,
4 this issue was so sensitive.

5 BARONESS USHA PRASHAR: But I think it is for this reason.

6 Sir Michael Wood also said to us that this was atypical
7 because he was having to --

8 RT HON JACK STRAW MP: Atypical?

9 BARONESS USHA PRASHAR: Yes, this period, because he was
10 having to correct pronouncements made more often
11 than he had done in any other period.

12 RT HON JACK STRAW MP: With respect, the period was
13 atypical, which is why I had never sent a minute like
14 that before or since, and in the event, Baroness --
15 I mean -- and with great respect to Sir Michael, the
16 Attorney General came to the view that the
17 interpretation which I had been putting forward happened
18 to be correct. So did quite a number of other
19 distinguished international lawyers outside the system.

20 So as I say, what I was able to bring to the party
21 was considerable knowledge of the negotiating history
22 and what 1441 meant.

23 SIR RODERIC LYNE: I wonder if I could just try to clarify
24 this. Isn't the point that Sir Michael was making that
25 you had taken a position with Vice-President Cheney, in

1 saying that we would be okay if we tried and failed a la
2 Kosovo, that, at that time, was not the government's
3 position because the Attorney General had not changed
4 his view at that time, and so you were actually
5 misrepresenting the government's position to
6 Vice-President Cheney? Surely he was right to point
7 that out to you?

8 RT HON JACK STRAW MP: Sir Roderic, I'm not challenging his
9 right here. Let's be clear about that. What I was
10 questioning was the categorical conclusion that he came
11 to. The fact of the matter was that, as of 24 January,
12 I believed -- and so did Sir Jeremy Greenstock and so
13 did Secretary Powell and virtually everybody who
14 negotiated 1441, including, as it turns out, the French
15 Ambassador to Washington -- that a second resolution
16 would not be required if there were a continuing
17 material breach by Iraq. I felt that I was entitled to
18 say that.

19 That was, of course, subject to a decision which the
20 Attorney General, and he alone, would make, but if this
21 was an operational discussion in private of the kind
22 that you will have had, and the assumption, that the
23 whole world knew about, was that we would prefer
24 a second resolution, but, fine, if we got one, was
25 shorthand in a private meeting, but if we weren't able

1 to get a second resolution for political reasons and all
2 the other criteria of 1441 were satisfied, then our view
3 was 1441 would have allowed military action to be
4 lawful, but that, of course, was a decision not for us
5 but for the Attorney General.

6 SIR RODERIC LYNE: But it was clearly established all the
7 way through the advice to the end -- and indeed has not
8 been challenged in the evidence we have heard since --
9 that the Kosovo precedent didn't apply in the case of
10 Iraq, and, therefore, to say to Vice-President Cheney we
11 would be okay if we tried and failed a la Kosovo was
12 simply not accurate.

13 RT HON JACK STRAW MP: I don't know exactly what -- there is
14 no transcripts, so far as I know, of this conversation.
15 This was a -- this is a compression of a pretty
16 lengthy --

17 SIR RODERIC LYNE: So you might not have said "a la Kosovo"?

18 RT HON JACK STRAW MP: I'm sure I did say it, if it was down
19 there. What I have not got available, and I can check
20 if you want it, is the exact context in which I said
21 that. I think what I had in mind was not that Kosovo
22 was a precedent qua precedent for military action in
23 Iraq, because obviously the basis was different, but in
24 Kosovo it was relevant only to this extent, that as
25 I recall -- and I wasn't in the Foreign Office -- there

1 was an effort made to gain Security Council approval and
2 that failed, but the military action went ahead in any
3 event, but I fully accept that the legal basis for
4 Kosovo and Iraq was different.

5 I think the only point I was making, as I now
6 recall, as far as Kosovo is concerned, was about the
7 process, not, as it were, the substance of the law.

8 SIR RODERIC LYNE: I'm told the quotation was accurate and
9 appeared in the telegram in quotations --

10 RT HON JACK STRAW MP: The quotation itself is a perfectly
11 accurate quotation from the telegram.

12 SIR RODERIC LYNE: We shouldn't have said Kosovo, Kosovo was
13 never seen as precedent in the legal advice, and, in
14 saying what you did say to Cheney, you were anticipating
15 a position that the Attorney General was later to arrive
16 at that he himself had not arrived at, at that stage.

17 RT HON JACK STRAW MP: No, hang on a second. So far as
18 I shouldn't have said Kosovo, I have just explained to
19 you that I used the Kosovo example as a parallel, albeit
20 a loose one.

21 I wasn't suggesting -- and I don't think there is
22 anything in the telegram which suggests otherwise --
23 that the Kosovo, in terms of a legal base, was
24 a parallel, but Kosovo in terms of an attempt being made
25 to get Security Council approval and then that not being

1 possible, was some parallel. That's all.

2 SIR RODERIC LYNE: But at the time you saw Cheney, the

3 Attorney General's position was that a further

4 determination by the Security Council would be needed.

5 He later came to a different position, but that wasn't

6 the case at the time you saw Cheney, and Michael Wood

7 was pointing out that, therefore, you had taken

8 a position with Vice-President Cheney that was not in

9 accordance with the government's position.

10 RT HON JACK STRAW MP: I'm sorry, I don't accept that. The

11 position had not been decided. Michael Wood obviously

12 had reached his own view, or he set out two views

13 in December. The Attorney General gave you evidence at

14 some length a couple of weeks ago and he made it very

15 clear that the view he had come to in January was

16 a provisional view. That was well before he had spoken

17 to Sir Jeremy Greenstock. He had been to Washington.

18 He had spoken to me or he had received my letter, and,

19 at that time, the truth was that there wasn't a single

20 government legal position; there were two views about

21 this, and it was going to be a matter for the Attorney

22 General, as it turned out, for him to make a decision.

23 THE CHAIRMAN: Usha?

24 RT HON JACK STRAW MP: Sir John, could I just say, if what

25 you were interested in is whether the Americans were

1 aware that our legal advisers were advising us that --
2 on the face of it, a further resolution would be
3 required, the answer in any event is, yes, they were,
4 because I mentioned this quite separately to
5 Secretary Powell.

6 THE CHAIRMAN: Thank you.

7 BARONESS USHA PRASHAR: But I think what I was trying to
8 establish is the relationship with the Foreign Office
9 legal advisers and their role, which you quite rightly
10 accept, and then you have clearly described that in your
11 memorandum. But wasn't it rather unusual that the
12 Attorney General should feel it necessary to write to
13 you formally, following what you had written to
14 Sir Michael Wood?

15 RT HON JACK STRAW MP: It was very unusual, yes.

16 BARONESS USHA PRASHAR: Why do you think he felt it
17 necessary?

18 RT HON JACK STRAW MP: I think he felt that I was
19 questioning the right of legal advisers to offer me
20 advice. I had also talked to him -- I explained to him
21 that I wasn't and I put that on the record afterwards,
22 but what -- and as I say in my note, I could have had
23 this and thought, "Well, there we are", and then spoken
24 to Sir Michael, but I thought, because he had raised his
25 views in such categorical terms, that I owed him

1 a statement of where I stood, and since there is quite
2 a lot of criticism of this government for not putting
3 things on the record, I thought that it was better to
4 put my view, albeit in private, on the record, and so
5 I did.

6 Peter Goldsmith gave evidence to you about the
7 circumstances in which he felt that he ought to make
8 clear, as it were, his protection of legal advisers and
9 I may say that I was not seeking to challenge their
10 position, but, as I say, there isn't any requirement --
11 indeed the government would break down -- that ministers
12 have to accept what amounts in this case to provisional
13 legal advice that is offered them, any more than you
14 have to accept policy advice.

15 What you have to be is fully responsible for the
16 decisions you make, but I never, ever acted unlawfully
17 at all. I have always been extremely careful about the
18 law, but that cannot exclude the possibility of having
19 an honest debate with the lawyers. But Peter Goldsmith
20 himself, elsewhere in his evidence, was good enough to
21 acknowledge that I had a right to raise matters in this
22 way.

23 I'll just turn it up if I may, where he -- he said
24 that. I think I put it in my draft and then dropped it
25 in the end, but in the -- if you go through the

1 transcript, he acknowledges that there were plenty of
2 occasions, for example in the Home Office, when I came
3 to a different opinion, talked to the legal advisers,
4 and he also -- Peter said at one stage that legal advice
5 is not something which comes down from an ivory tower,
6 it is a subject of debate, and there was a great deal of
7 debate at the time about what was the better view.

8 It is not the case that there was only one view of
9 the better view, there were very serious people outside
10 government who came to a different view, I think.

11 BARONESS USHA PRASHAR: We have heard that, but I think this
12 is really about the way the legal adviser's views were
13 handled by you. But I think your last point brings me
14 to my final question, which is about -- you compare your
15 roles as the Home Secretary and as the Foreign
16 Secretary, but I think both Sir Michael and
17 Elizabeth Wilmshurst told us, in effect, that because
18 there is no court with jurisdiction to rule on the use
19 of force in Iraq, should mean that the legal advisers
20 and those taking decisions based on legal advice have to
21 be all the more scrupulous in adhering to the law.

22 Do you agree that they have such a responsibility?

23 RT HON JACK STRAW MP: Yes, of course. You have to be
24 extremely scrupulous, because it is a decision which is
25 made internally without external determination, but

1 it -- and I don't think anybody could accuse me of not
2 being extremely careful here and cautious, but that's
3 a very separate point from saying that, because you have
4 to be cautious, the correct view is on one side rather
5 than the other. The correct view was the correct view.

6 My view was that, leaving aside the moral and
7 political case for the war, which was the separate --
8 the correct view, from everything I knew from my
9 involvement in 1441 what it meant, and, crucially, what
10 it did not mean, because of language which the French
11 and the Russians had tried to put in and had then
12 dropped, particularly in operational paragraph 12, where
13 they dropped the word "decide" and went for the word
14 "consider", that the better view was the one that the
15 Attorney General finally came to.

16 BARONESS USHA PRASHAR: Thank you.

17 THE CHAIRMAN: Just for the avoidance of doubt, and I don't
18 think there is any misunderstanding, it is right, isn't
19 it, that any legal adviser across government can give
20 a firm piece of legal advice without waiting for an
21 Attorney General's opinion, and, if one is sought, it is
22 perfectly proper to do that?

23 RT HON JACK STRAW MP: Of course. They do that all the
24 time. Virtually every day, I get -- and it would be
25 absurd to go off to the Attorney on every issue, but

1 this was not every issue.

2 THE CHAIRMAN: Purely I wanted to clarify the exact
3 position. Lawrence?

4 SIR LAWRENCE FREEDMAN: Just going on to the nature of this
5 contested interpretation of 1441, you had had
6 a perfectly consistent view right from the conclusion of
7 the negotiation, you had stated it to the Commons and
8 you basically, as far as I can see, never deviated at
9 all from that view, that there was a certain
10 interpretation that was correct. We have heard
11 Sir Jeremy had a similar view and that was heavily
12 influenced by your intense experience of the
13 negotiations.

14 So your basic difficulty with the Attorney General
15 was that he clearly didn't share that interpretation.
16 So the question really then becomes the process by which
17 you encourage him to come to share your perspective.

18 Lord Goldsmith told us that there were three main
19 influences on -- when he reached the view that a second
20 resolution was not needed; what you had said, what
21 Sir Jeremy Greenstock had said, and what the American
22 lawyers had said.

23 Just to carry on through, when he talked to
24 Sir Jeremy Greenstock after that meeting, he told us
25 that:

1 "Sir Jeremy made some good points. He moved me in
2 my mind, but he didn't quite get me there."
3 To where was he supposed to be getting?
4 RT HON JACK STRAW MP: You would have to ask him that, I am
5 afraid. I assume from where he had been to where he
6 finally ended up.
7 SIR LAWRENCE FREEDMAN: He had some sense of where he was
8 going?
9 RT HON JACK STRAW MP: That's a matter for him, but I assume
10 what he is doing is talking about, retrospectively, that
11 he had a provisional view, he wanted to test very
12 clearly whether that provisional view was right or wrong
13 and --
14 SIR LAWRENCE FREEDMAN: In terms of the arguments you used,
15 because he mentioned you as an important influence on
16 his decision, what sort of arguments were you using?
17 Were these largely the ones connected with the
18 negotiating history or were there other arguments that
19 you thought were as persuasive?
20 RT HON JACK STRAW MP: The view I used is set out in
21 a detailed letter, which I wrote to him on 6 February,
22 which has now been declassified. So that's the view,
23 and it was entirely, as you will see, Sir Lawrence,
24 about the negotiating history.
25 SIR LAWRENCE FREEDMAN: So that was the basic --

1 RT HON JACK STRAW MP: Yes, I mean, I think -- as you said,
2 Sir John, having to base on recollections -- this is
3 seven years ago, and I didn't often -- let me say, for
4 the avoidance of doubt, Peter Goldsmith is a friend of
5 mine, someone whom I greatly admire. I didn't see
6 a great deal of him at the time, because I was, frankly,
7 out of the country a great deal and he didn't come to
8 Cabinet. I used to see him from time to time. So
9 I think I would have had a -- well, obviously, evidently
10 from the first sentence of this letter I had had
11 a conversation with him at the Prime Minister's meeting
12 on asylum at the beginning of February. He asked me if
13 I had seen a draft of his opinion about Iraq and I said
14 that I had but hadn't had a chance to study it, and then
15 I did so, and my guess is -- I can't be certain -- it
16 might have been in the weekend box, I went off -- no,
17 I didn't, perhaps I went off to the States that weekend,
18 but I don't think I did. It was the following week.
19 So I went through it. I spent some time drafting
20 this. Obviously I'm pretty certain that
21 Sir Jeremy Greenstock would have seen the draft and his
22 legal adviser, Iain MacLeod, certainly Peter Ricketts
23 working as my Political Director, but, you know, I then
24 put it together from the negotiating history, but that
25 was really the sum of what I said to him.

1 SIR LAWRENCE FREEDMAN: So basically the -- it is your
2 recollection of the negotiating history and then he is
3 encouraged to talk to the Americans. We will come on to
4 the Americans in a second. He also said that he felt he
5 couldn't go and talk to the French. He was very
6 explicit about this to us.

7 Would you not have been able to help him yourself
8 with the French view? Is it the case that in your
9 conversations with the French they had accepted your
10 interpretation of what had happened?

11 RT HON JACK STRAW MP: First of all, if he had asked me to
12 talk to the French, of course, we would have facilitated
13 that. There is no -- and I think that he is also a very
14 good French speaker. He knows the environment well. So
15 there is --

16 SIR LAWRENCE FREEDMAN: He seemed to think it would be a big
17 issue.

18 RT HON JACK STRAW MP: So far as I know -- we are all trying
19 prove negatives here, but I have no recollection of that
20 ever being raised with me at all.

21 As to the position of the French, the view of the
22 French was, as it were, on the record, in their
23 explanation of votes as well as in the text of 1441.
24 You may say, why wasn't I raising this? Ultimately, it
25 was going to turn on an interpretation of the wording of

1 1441 as illustrated by the debate about the particular
2 words in 1441, and he had the telegrams, I assume he
3 did, it was a matter of public record -- that the French
4 had sought, for example, to put "decide" into -- for
5 what -- operational paragraph 12 and had withdrawn that
6 and accepted "consider".

7 Equally, as far as operational paragraph 4 was
8 concerned, we had accepted a strengthening of that,
9 where we had agreed that there should be a linking "and"
10 between the two pillars for a further material breach,
11 where previously there had been an "or". Now, I know,
12 interestingly, that there was a debate between
13 Sir Michael Wood and Lord Goldsmith about whether that
14 "and" was disjunctive or conjunctive. If you want to
15 ask me what the negotiating history of that was, it was
16 conjunctive as a matter of fact, so I don't want you to
17 get the idea that I'm simply on one side of this,
18 because you have to report what you witness.

19 SIR LAWRENCE FREEDMAN: Well, if it hadn't been that, it
20 would have meant that all you needed was a commentary on
21 the original final disclosure by Iraq and that would
22 have been sufficient to go to war.

23 RT HON JACK STRAW MP: Indeed. So the record is there and
24 the other, I think, really important point is, if you
25 are seeking the meaning here, is what has subsequently

1 been brought out on the record, not least by the words
2 of Ambassador Levitte.

3 SIR LAWRENCE FREEDMAN: We are aware of this, but I think
4 there are two separate issues here. There is one,
5 a question of whether the French thought it wise to have
6 a second resolution at that time, and there is another
7 question -- and in a sense in the context of an
8 American -- apparent American determination to go to war
9 anyway, but there is the question of the negotiating
10 history, and here I'm interested in whether or not, in
11 the material that you made available to Lord Goldsmith,
12 the conversation that you had had with the French
13 Foreign Minister in early November, where you had had
14 a discussion about the meaning of different terms,
15 including operational paragraph 12.

16 RT HON JACK STRAW MP: In the run-up to agreement on --

17 SIR LAWRENCE FREEDMAN: Yes, but I think this is when that
18 clause had been agreed.

19 RT HON JACK STRAW MP: Sorry, what ...

20 SIR LAWRENCE FREEDMAN: It is difficult to go into the text,
21 but you had a discussion with Villepin in
22 early November. I think it is fair to say -- but you
23 may correct me if I'm wrong -- that that suggested that
24 he did seem to believe that that language allowed for
25 a second resolution, encouraged a second resolution.

1 RT HON JACK STRAW MP: Well --

2 SIR LAWRENCE FREEDMAN: That the Security Council had to
3 decide.

4 RT HON JACK STRAW MP: I think you are making, if I may say
5 so, two different points. The language certainly
6 allowed for the possibility of a second resolution. The
7 question was whether it required a second resolution.

8 I had, as you will know from the full records that
9 you have, very intense and regular conversations with
10 Dominic de Villepin and, as I think I said last time, we
11 managed to maintain very good personal relationships all
12 the way through this, including our decision to take
13 military action, and afterwards, and thankfully were
14 able to bring things back together with the Germans when
15 we got together to develop a common policy on Iran.
16 But -- I mean, the records show there were these intense
17 discussions. What is incontrovertible is the French
18 wanted the word "decide", they accepted the word
19 "consider", and the language of the negotiation was
20 English.

21 I know there is an issue about the meaning of the
22 French translation -- the French meaning of
23 "se prononcer", but, as I pointed out in my
24 letter of 6 February, if you go to any dictionary,
25 "consider" does not mean "determine".

1 Sir John, I have just turned up the comment by
2 Jean-David Levitte and this helped me on the issue of
3 Kosovo, too, because what Jean-David Levitte said -- and
4 this was, after all, only less than a week,
5 23 March 2003, after the military action had taken place
6 or was actually in the middle of it. He said on the
7 record before the Council of Foreign Relations:

8 "I went to the State Department and to the
9 White House to say 'Don't do it, the second resolution.
10 First, because you will split the Council, and, second,
11 because you don't need it'."

12 Then he goes on to say:

13 "Let's agree to disagree between gentlemen, as we
14 did on Kosovo, before the war on Kosovo."

15 I add that to my answer, if I may, to Sir Roderic on
16 the issue --

17 SIR LAWRENCE FREEDMAN: It is an interesting point and it is
18 an important point, because it goes to the diplomacy and
19 tactics of the second resolution, and I think it is
20 something hopefully we will come on to later.

21 The only point I want to establish at the moment is
22 whether or not, in the negotiating history that was
23 provided to Peter Goldsmith, you actually -- that he
24 would have seen a telegram which records
25 a disagreement -- let's put it no higher than that --

1 between you and the French on what is required of
2 operational paragraph 12, that there was evidence that
3 the French did not accept necessarily that there is
4 a different view -- that they had agreed to no second
5 resolution.

6 RT HON JACK STRAW MP: First of all, I have to say with
7 respect, I think what Jean-David Levitte said
8 immediately after, both on the record at the Council of
9 Foreign Relations on 23 March 2003 and then in
10 a detailed -- in an albeit private, but recorded in
11 detail,-- lunch with Peter Goldsmith, is more than
12 a matter of tactics, it is a matter of what their view
13 was of the law.

14 On the issue of the telegrams, the telegrams,
15 I assume, were available to the Attorney General, if not
16 at the time, then as part of the overall negotiating
17 history, and certainly they were --

18 SIR LAWRENCE FREEDMAN: Certainly coming to his view,
19 obviously he couldn't anticipate what the President may
20 have said later on.

21 RT HON JACK STRAW MP: He, I assume -- I haven't got the
22 detail in front of me -- that the legal advisers in the
23 Foreign Office would have put together a huge bundle of
24 the telegrams.

25 But if I may just say this about the French

1 position, the French were profoundly concerned that
2 there should, in the words of Dominique de Villepin, be "no
3 automaticity"; in other words, that the first resolution
4 that became 1441, should not provide approval or
5 authority of itself for immediate military action as 678
6 had done.

7 We accepted that, and, as Lord Goldsmith spelled out
8 in his evidence, the architecture of 1441 was without
9 question one which had two stages. No question about
10 that. It said that -- first of all, declared that Iraq
11 posed a threat to international peace and security by
12 reasons of its weapons of mass destruction, et cetera,
13 recited all the already extant and still operational
14 Security Council Resolutions, declared that it was
15 operating under chapter 7, which is the basis for
16 military action -- chapter 7 at large, the basis for
17 military action; said it was in continuing material
18 breach, but then set out a second stage for determining
19 whether it was in further material breach; then, if it
20 was in further material breach, would "serious
21 consequences follow". So there was a second stage, and,
22 for sure, there was --

23 SIR LAWRENCE FREEDMAN: Just to pause there, the Americans
24 wanted "all necessary means", but they accepted "serious
25 consequences". Now, was that a concession or not?

1 Because "all necessary means" is the normal language
2 going back to 678, for military force. I know it is
3 mentioned in the preamble, but in the key operational
4 paragraph it has a lesser phrase, which could cover
5 a whole range of possibilities other than military
6 action.

7 RT HON JACK STRAW MP: It could cover a range of
8 possibilities, but it would -- just as "all necessary
9 means" can, but without any question, all the advice
10 I had was that it included military action, and I know
11 that a point was taken at an earlier session, Sir John,
12 about the fact that the resolutions in respect of Iran
13 also used serious consequences, but those resolutions
14 are specifically confined to the authority of the
15 Security Council under Article 41, and that specifically
16 excludes in terms the use of military action, whereas
17 all the resolutions in respect of Iraq, the relevant
18 resolutions, derive their authority from chapter 7 as
19 a whole, including those Articles which patently give
20 authority for military action.

21 SIR LAWRENCE FREEDMAN: The only point is that having
22 something softer than "all necessary means", or
23 admittedly allowing for a range of possibilities,
24 indicates precisely the reason why many in the Security
25 Council, the majority in the Security Council, would

1 have preferred for them to have a decision, because
2 there might be a range of material breaches and a range
3 of responses that were appropriate, whereas once you had
4 taken it away from the Security Council to have the
5 decision, then you just put it in the hands of member
6 states.

7 RT HON JACK STRAW MP: But, Sir Lawrence, the question that
8 begs is: why, given where we had got to by
9 7 November 2002, did France and Russian and China decide
10 to approve 1441, well knowing -- if I may finish -- well
11 knowing, I suggest, what was in it, what the words meant
12 and what was not in it?

13 It was open to them, having failed to gain our
14 agreement on the use of the word "decide" in operational
15 paragraph 12, to say, "Okay, we are going to veto it",
16 and indeed --

17 SIR LAWRENCE FREEDMAN: It was --

18 RT HON JACK STRAW MP: -- the whole negotiation was based on
19 the fact --

20 SIR LAWRENCE FREEDMAN: -- because they were trying to
21 compromise and hopefully wanted to maintain the unity of
22 the Security Council at the time.

23 RT HON JACK STRAW MP: We did, but everybody has their
24 bottom line and, as I say, if you then roll forward
25 a matter of 16 weeks and see what Levitte was saying,

1 Levitte's view was the same as ours. He didn't have to
2 come to that view. He volunteered this, it wasn't an
3 accident, it was his view.

4 SIR LAWRENCE FREEDMAN: I think we are going to talk about
5 that later. You have just mentioned people -- what
6 mattered to people, and Lord Goldsmith told us that what
7 finally convinced him was the fact that the Americans
8 had one red line, the decision of the Security Council
9 was not needed, and I'm quoting Lord Goldsmith again:

10 "It was, frankly, quite hard to believe that, given
11 what I had been told about the one red line that
12 President Bush had, that all these experienced lawyers
13 and negotiators in the United States could actually have
14 stumbled into doing the one thing that they had been
15 told mustn't happen."

16 So this seems to be the key to his understanding of
17 1441.

18 Now, as an experienced diplomat, do you accept that
19 negotiators, given experience, never make mistakes,
20 never stumble into things that have unintended
21 consequences?

22 RT HON JACK STRAW MP: As I say, two of you are extremely
23 distinguished historians, so ...

24 SIR LAWRENCE FREEDMAN: I can think of plenty of examples.

25 RT HON JACK STRAW MP: History is replete with errors which

1 were not thought to be errors at the time.

2 That said, the negotiations on 1441 were conducted

3 at the highest level and with -- obviously, some were in

4 private, but with the most intense scrutiny as well.

5 Every single -- Sir Lawrence, every single word and

6 comma was being crawled over, and if it was being

7 crawled over in Washington, New York and London, so it

8 was by the equally good lawyers and diplomats in Paris,

9 in Moscow and --

10 SIR LAWRENCE FREEDMAN: I think there is a more serious

11 point, which is --

12 RT HON JACK STRAW MP: No one was making a mistake --

13 SIR LAWRENCE FREEDMAN: No, I'm not --(Overtalking).

14 RT HON JACK STRAW MP: -- they knew what it said and they

15 voted for it.

16 SIR LAWRENCE FREEDMAN: Yes, but the American view of what

17 might work and what might not work was based on

18 a particular interpretation of international law, and

19 the Attorney General was very clear in all the advice he

20 is giving that the American approach to international

21 law was different from ours.

22 So it may well be -- and this is one possibility --

23 that an American interpretation of what had worked for

24 them, in terms of their view of international law, may

25 not be the same thing that would work for us, in terms

1 of our view of international law.

2 RT HON JACK STRAW MP: Well, I mean, they do have
3 a different view. The way they interpret their
4 international law is different, which why so many
5 treaties end up logjammed in the Senate and so on.

6 But can I just say this: if what we had been
7 negotiating was a resolution which required a second
8 resolution, the negotiations would have been over in
9 a week. They just would have been. People would have
10 said, "Okay, we all accept all these resolutions could
11 have happened already. We all accept that Iraq is --
12 continues to be in material breach, we have all said so
13 time and again. We agree that we should get the
14 inspectors back in and we also agree that a final
15 decision on anything else that follows from that,
16 serious consequences, anything else, should come back to
17 the Security Council for decision". That would have
18 been dead easy and it would have been over.

19 There has to be a reason, Sir Lawrence, why these
20 negotiations began in late September and went on
21 intensively, night and day, for six weeks, and the
22 reason was that, because of the Americans', so-called red
23 line, and indeed our own, that we believed that Saddam
24 had had enough final opportunities to be given just one
25 more.

1 If we had gone for a resolution which required
2 a second resolution, required a second resolution, we
3 would not have been giving him a final opportunity. We
4 would have been giving him two final opportunities and
5 the whole exercise would have degraded.

6 I really would urge Sir John and the Inquiry to take
7 on board the difference between seeking a resolution
8 which required a second resolution and seeking
9 a resolution that, as it -- which did not --

10 SIR LAWRENCE FREEDMAN: The point is only that these are
11 reasons that you have said, these are outputs of hard
12 negotiations. Lawyers, as we have heard, may be
13 advising, but, in the end, these are political
14 documents, compromises between states, and what often
15 happens in these situations is a key issue that is
16 proving difficult to resolve is resolved through
17 language that actually hasn't resolved it. It still
18 requires you to come back.

19 So if there was a clear view in the other direction,
20 that would have also settled the matter, but actually
21 what happened is a compromised view, and when you come
22 back to making sense of all of this, there is a question
23 then of how it is to be interpreted and the question
24 that has been raised, put to you, is whether
25 recollections of negotiating history can take precedence

1 over what is actually on the record and said by a whole
2 series of states in their explanations of votes
3 afterwards, which indicate that this issue was still
4 very much not decided.

5 RT HON JACK STRAW MP: Well, at one level it wasn't decided
6 because what -- and the French and Russians and Chinese
7 and the Germans, who happened to be a member of the
8 Security Council, and others, gained -- and so did we,
9 I did personally -- gained a very important prize out of
10 1441, which was that there was a two-stage process, and
11 that was really important to them.

12 We agreed with Dominic de Villepin there was going
13 to be no automaticity, and there wasn't. But what we
14 also frankly agreed -- and I don't see how anybody can
15 read the English words of 1441 differently -- was that
16 this was a two-stage process that did not require
17 a second resolution, and, if you look at the language,
18 the other Security Council partners signed up to very,
19 very strong requirements on Iraq, which they could have
20 accepted and could have followed through, and I wish
21 they had done, but failed to do so.

22 SIR LAWRENCE FREEDMAN: I want to go on to just ask you
23 one --

24 RT HON JACK STRAW MP: Sorry. Apologies for interrupting,
25 but on the issue of interpretation, Lord Goldsmith

1 explained how he thought it was reasonable to take
2 account of the negotiating history, and, as you will be
3 aware, the first reference I found in the records to the
4 Namibia advice about how to interpret Security Council
5 Resolutions was in the legal advisers' lengthy letter to
6 the Attorney's office on 9 December. That sets out very
7 clearly that what you should look at is, quotes, "of
8 discussions leading to the resolution, charter
9 provisions, and in general all the circumstances that
10 might assist in determining the legal consequences of
11 the resolution".

12 SIR LAWRENCE FREEDMAN: I'll just make two final points.
13 You can obviously respond and there is another issue
14 I want to discuss.

15 The first is that the Attorney General told us that
16 one of the difficulties he had was the lack of hard
17 evidence, that he was relying on recollections and what
18 he was told, and, secondly, that, in trying to put all
19 of this together -- I'm losing my thread. Let's just
20 start -- the first one, the lack of hard evidence.

21 RT HON JACK STRAW MP: Are you talking, Sir Lawrence --

22 SIR LAWRENCE FREEDMAN: He said -- I said the Attorney
23 General complained about the lack of hard evidence that
24 he had. He was relying on a negotiating history that
25 was not explicit and written down.

1 RT HON JACK STRAW MP: Well, not hard evidence about
2 material breach --

3 SIR LAWRENCE FREEDMAN: We are not talking about material
4 breach, we are talking about the negotiating history.

5 RT HON JACK STRAW MP: That's obviously the view of the
6 Attorney. I mean, where you are getting -- looking at
7 the negotiating history, what you are looking at is, how
8 did some words appear and how did some words not appear?
9 There was quite a lot of clear evidence about that and
10 I sought to set it out in the letter which I wrote to
11 him on 6 February, and did my very best in that to give
12 him hard evidence, because I mean this is rather too
13 important to be left to supposition and suggestion.

14 This letter to the Attorney makes clear that
15 Sir Jeremy Greenstock had also provided as much hard
16 evidence as he could. I'm slightly perplexed by that,
17 because I think -- there were --

18 SIR LAWRENCE FREEDMAN: I'm merely quoting --

19 RT HON JACK STRAW MP: I understand that, because there were
20 the telegrams, for example, the endless telephone calls
21 that I had with the key P5 partners.

22 SIR LAWRENCE FREEDMAN: I mean, just -- this is the other
23 point I was going to make -- that the Attorney General
24 himself, before he had had his intensive meetings with
25 the various negotiators, had also come to a conclusion

1 that was different from yours. It wasn't an
2 unreasonable conclusion to come to, and, as he noted in
3 his advice of March 7, it wouldn't necessarily have been
4 stood up -- sorry, the second resolution was not
5 necessary -- would not necessarily have stood up to
6 a court. If he had taken it to a court, there could
7 well have been difficulties with the view he was
8 eventually taking.

9 RT HON JACK STRAW MP: I have never suggested that the
10 alternative view was an unreasonable one. There are
11 distinguished lawyers on both sides arguing it. I just
12 happen to think that he was correct in regarding the
13 decision that he did come to in the end as the better
14 view.

15 SIR LAWRENCE FREEDMAN: We have established that there are
16 still two views. Let me just ask you one other
17 question. Do you accept the view that there is
18 a concept of an unreasonable veto with regards to the
19 Security Council?

20 RT HON JACK STRAW MP: No, I think there is a veto, and, as
21 a matter of fact, we looked at this in some detail
22 before proceeding with the second resolution and then
23 proceeding to withdraw it. I was clear, as a matter
24 of -- the law was a matter for the Attorney, but, - as
25 a matter of practice, I was clear that, since we had

1 signed up to the charter of the United Nations and
2 signed up to the veto provisions, you know, if someone
3 vetoed, someone vetoed.

4 I think the history of Security Council meetings is
5 full of people complaining of the use of the vetos, and
6 in that case --

7 SIR LAWRENCE FREEDMAN: The Attorney's advice on that was
8 absolutely consistent.

9 RT HON JACK STRAW MP: I can't remember whether the Attorney
10 advised that specifically.

11 SIR LAWRENCE FREEDMAN: He did.

12 RT HON JACK STRAW MP: But in any case, it didn't really
13 become a runner, because I thought that the argument --
14 what are you supposed to say; that vetos are reasonable
15 when they are exercised by the United Kingdom and not
16 when they are exercised by France? That's a completely
17 unsustainable argument.

18 SIR LAWRENCE FREEDMAN: So when the Prime Minister used that
19 argument in early February, did you warn him that it was
20 an unwise argument to use?

21 RT HON JACK STRAW MP: I'm trying to think whether he used
22 it publicly.

23 SIR LAWRENCE FREEDMAN: He did. Newsnight on 6 February, I
24 think it was.

25 RT HON JACK STRAW MP: I certainly minuted him later about

1 it. I can't remember exactly where I was on 6 February.
2 I am afraid that that particular comment has passed my
3 radar.
4 SIR LAWRENCE FREEDMAN: I don't think it was the only
5 occasion.
6 RT HON JACK STRAW MP: My view was clear, and that then goes
7 back to the position, the better answer, as it were, on
8 the issue of Kosovo, which Jean-David Levitte gave.
9 SIR LAWRENCE FREEDMAN: Just to conclude, because it is
10 important to understand, the diplomacy of that period is
11 that if you had pushed on with the second resolution,
12 pushed it to a vote, even if you had got nine votes and
13 then it was vetoed, it would have been unlawful then to
14 proceed with the military action?
15 RT HON JACK STRAW MP: Well, the issue of lawfulness would
16 have been a matter for the Attorney General. It
17 would -- but leave aside for the moment the issue of
18 lawfulness - I think that, in practice, it would have
19 made a decision by the British Cabinet and the British
20 Parliament in favour of military action virtually
21 impossible.
22 SIR LAWRENCE FREEDMAN: Thank you.
23 THE CHAIRMAN: I would like to ask some questions about the
24 relationship as the situation developed pre-legal advice
25 and the policy-making. Just to begin, it is established

1 that the Cabinet discussed Iraq more than 20 times over
2 the period in question up to the invasion. But was the
3 existence of international law mentioned? Did that
4 feature --

5 RT HON JACK STRAW MP: An existence of an international law?

6 THE CHAIRMAN: Yes, that there was an issue about
7 international law, the legality of any potential action?

8 RT HON JACK STRAW MP: Unquestionably, Sir John, and I mean,
9 as well as this being part of the debate that was taking
10 place in Cabinet and Cabinet Committee and internally in
11 the Parliamentary party, you couldn't open a newspaper
12 without there being a further contribution to the
13 debate -- well, there were two debates, but they were
14 merged in many ways. One was about the merits, on
15 a moral and political basis of military action against
16 Iraq, but the other was about the issue of legal action.
17 So it was part of the overall environment of debate.

18 THE CHAIRMAN: But the debate, insofar as it addressed the
19 issue of international law, the legality -- the
20 potential outcome, not the desired or necessary outcome,
21 at that time -- was there reported to Cabinet, was there
22 available to Cabinet, legal advice? The Attorney had
23 not determined and the thing hadn't come to the point,
24 but there was legal advice in existence. Were the
25 Cabinet, do you recall, aware --

1 RT HON JACK STRAW MP: I don't recall Cabinet, as a whole,
2 receiving legal advice on the matter. There was -- as
3 I say, the Cabinet were fully aware about the -- what
4 had happened before July 2002 and, as I said earlier,
5 Sir John, the issue of whether action in the absence of
6 a first resolution was lawful rather became eclipsed by
7 the fact that it wasn't going to be practical or
8 possible in any event.

9 But then, once President Bush had declared for the
10 UN route, you know, everybody understood that that was
11 in order both to obtain legal -- potential legal
12 authority for military action, if it proved necessary,
13 as well as political authority, both, and as I say, the
14 two tended to be part of the same argument.

15 THE CHAIRMAN: Yes. The Attorney General appears on the
16 scene, as it were, only once or twice in the period up
17 to 1441. If there was legal advice streaming through to
18 Cabinet ministers, or Cabinet ministers in
19 Cabinet Committee, the only available advice at the time
20 was your own legal advisers' advice. So I just wondered
21 what kind of promulgation that got, what awareness there
22 was of it.

23 RT HON JACK STRAW MP: It didn't get promulgation one way or
24 the other. I mean, the ministers who were directly and
25 day-to-day involved in the diplomacy, which was the

1 Prime Minister, myself, the Defence Secretary
2 principally, were obviously fully aware of the legal
3 issues.

4 But, Sir John, I find nothing unusual whatsoever
5 about the fact that there was not a sort of stream of
6 legal advice -- legal advice coming to Cabinet on this,
7 because I don't believe that has ever been the case.
8 I mean, what -- so far as domestic law is concerned --
9 these matters are decided in one way, as far as
10 international law, they are decided in another, and what
11 Cabinet wants to know from the Attorney is, at or close
12 to the point where the decision has to be made, is this
13 lawful or isn't it lawful? Indeed, that was explained by
14 him.

15 THE CHAIRMAN: As a side observation, of course,
16 Jeremy Greenstock had had his own legal advice drawn
17 from the Foreign Office legal advisers' team in the
18 course of negotiating 1441, so there was, as it were,
19 legal advice in putting to that part of the political
20 process the diplomatic process.

21 RT HON JACK STRAW MP: Without question, and he did have his
22 own legal counsel. He was a legal counsellor in the
23 Foreign Office working in New York and he played a very
24 important role in the negotiations and drafting of 1441
25 and, after that, in its interpretation.

1 THE CHAIRMAN: Then there is the question -- and I'm still
2 try to pursue this theme of the extent to which legal
3 advice, opinion, wisdom, was folding into the developing
4 legal, political diplomatic negotiation.

5 I think it is as late at November that the Attorney
6 General said that he hadn't been asked formally to
7 advise, but he had seen enough the then current draft of
8 1441 to be doubtful whether it worked as a freestanding
9 draft, so he was both part in and part not in the
10 drafting process.

11 RT HON JACK STRAW MP: Yes, he -- and I think there is
12 a note of a meeting that I had with him quite early on,
13 where he said that. That was, Sir John, as has already
14 been brought out, has already -- yes, there is a note of
15 a conversation I had with him on 12 November 2002 --

16 THE CHAIRMAN: I was going back a little bit before.

17 RT HON JACK STRAW MP: -- which has been declassified, and
18 I made some suggestions on the telephone about the
19 negotiating history. But, at that stage, no decision
20 was required. The resolution was only four days old and
21 I certainly earnestly hoped, and so did the
22 British Government, that the requirements of 1441 would
23 work to bring this to a peaceful conclusion.

24 THE CHAIRMAN: I was actually talking about that rather
25 earlier stage in the drafting process --

1 RT HON JACK STRAW MP: I'm sorry --

2 THE CHAIRMAN: -- 18 October.

3 RT HON JACK STRAW MP: -- I thought you said November. I'm

4 so sorry.

5 THE CHAIRMAN: But I think the point is taken.

6 The issue that arises out of it, I suppose, is, as

7 1441 is being so skilfully and determinedly negotiated,

8 is it clear that, by the final moment, despite legal

9 doubts earlier in the drafting process, 1441 was fully

10 sufficient and self-sustaining by itself?

11 RT HON JACK STRAW MP: Well, it was to everybody negotiating

12 it --

13 THE CHAIRMAN: Yes.

14 RT HON JACK STRAW MP: -- without any question. Of course,

15 you have to -- picking up a point that Sir Lawrence

16 made, you have to make compromises, but what you seek to

17 do is to compromise on matters where you think it is

18 safe to compromise, not on things you think it is unsafe

19 to compromise, and, as I say, in some -- one area, which

20 was OP4, we agreed to strengthen it. I say,

21 I personally was extremely happy about that because

22 I wanted the test for further material breach to be

23 a high bar, not to be a low bar.

24 THE CHAIRMAN: Just two other points on that particular

25 theme, one is -- which I think we discussed a bit in the

1 first session, but it is whether leaving open -- and
2 indeed pursuing a second resolution, despite having
3 concluded that 1441 was self-sufficient, carried the
4 risk -- clearly it did -- that it would be seen to
5 undermine the self-sufficiency of 1441. Otherwise, why
6 were we doing it, and the answer we know, I think, but
7 you might remind us.

8 RT HON JACK STRAW MP: Well, there was a risk of doing that
9 and certainly more than a risk, had we pursued it to
10 a vote where it was then vetoed.

11 The argument, of which I was in full support, indeed
12 advocated, was that if -- it was much preferable to seek
13 and gain a second resolution. I mean, I thought -- and
14 I still think -- that, had we been able to persuade the
15 P5 partners, particularly France, of the draft second
16 resolution that we put forward, that the Saddam regime
17 would have collapsed very quickly and I think military
18 action would probably not have been necessary, because
19 it would have gone down like a pack of cards. So that
20 was my very strong view. It also would have preserved
21 the unity of the Security Council and the UN.

22 Now, there was always that risk. As I say, I think
23 I still believed that it was -- that degree of risk was
24 worth taking, because I think it would have looked
25 extremely odd if we had not sought to gain a second

1 resolution, given the fact that nobody was arguing that
2 Iraq was other than in further material breach, and
3 that -- that is really important. There was argument
4 about further material breach. By that stage, no one
5 was arguing within our system, as far as I'm aware, that
6 further material breach revived the original
7 Security Council Resolutions 678 and 687.

8 THE CHAIRMAN: The other question is really the then
9 Prime Minister's view about the relationship between
10 evolving legal advice and evolving policy, and he told
11 us, in effect, that it was right to call the Attorney
12 General in when the policy was settled, otherwise, what
13 could he advise on.

14 That doesn't suggest the development of policy
15 within the developing legal advice as it goes along. Do
16 you think that, with hindsight, at any rate, when the
17 issue is as big as this, both legal and policy, it is
18 better to fold the legal -- developing legal view into
19 the developing policy as it goes forward, rather than --
20 as Mr Blair certainly said, it is only when you settle
21 the policy can you get a sensible piece of advice.

22 RT HON JACK STRAW MP: I think -- obviously the whole
23 purpose of this Inquiry is to seek lessons learned.
24 I think it would have been better if it had proved
25 possible for there to have been a definitive view at an

1 earlier stage, and for a number of reasons, that -- and
2 it is -- it is fair to say -- and -- that -- as
3 I mentioned earlier in answer to Baroness Prashar, that
4 the original set of instructions to the Attorney was
5 sent on 9 December. That was actually pretty timeously,
6 given the fact that the resolution only went through on
7 8 November, and then a huge amount of work had to be
8 done by the legal advisers to put together those
9 instructions. They maybe could have done it a week
10 earlier.

11 In terms of the final view, I think, with the
12 benefit of hindsight, it would have been better if
13 a final view one way or another could have been arrived
14 at at an earlier stage, for a number of reasons, not
15 least of which would have been that it would have
16 separated in people's minds that what the Attorney was
17 there for was to decide whether or not military action
18 was an option, not whether -- to make the political
19 or -- and moral judgment about whether it was necessary
20 at that stage.

21 Now, his only decision, as he made clear -- and he's
22 an extremely good and assiduous lawyer -- his only
23 decision was whether lawfully it was an option, because
24 in March there was such a situation, we were all under such
25 intense pressure. I understand why the contrary

1 impression was given. So the short answer to your
2 question, Sir John, is yes.

3 THE CHAIRMAN: Thank you. It would have had the
4 incidental -- can I call it the incidental benefit? But
5 the very last minute need to give the armed forces and
6 the other servants of the Crown a definitive "yes" or
7 "no" piece of advice would not have been so cramped in
8 time terms.

9 RT HON JACK STRAW MP: I accept that, and we all have to
10 learn lessons from this.

11 THE CHAIRMAN: Well. I think I would like to ask another
12 small clutch of questions before we break for a bit.

13 Now, this goes to the 17 March Cabinet and the legal
14 advice available to it and in what form. We have all
15 seen the declassified Foreign Office note, which records
16 Lord Goldsmith as saying that he might need to tell the
17 Cabinet when it met on the 17th, four days later, that
18 the legal arguments were finely balanced, and you said
19 really, better to distribute to the Cabinet your draft
20 effort to the Foreign Affairs Select Committee and make
21 a few comments.

22 Lord Goldsmith came to the Cabinet, he told us,
23 ready to discuss issues, if they came up, and
24 Clare Short told us that she asked for a discussion, but
25 was, I think she said, in quotation marks "shouted

1 down", it didn't happen. You have said in your helpful
2 second memorandum that really the Cabinet needed to know
3 where it stood in legal terms in order to address
4 the key moral as well as political issues.

5 Could it actually do that without being fully alive
6 to the fact that the legal arguments were finely
7 balanced, despite the fact the Attorney had come down on
8 one side of that balance?

9 RT HON JACK STRAW MP: Well, the Cabinet were fully aware
10 that the arguments were finely balanced. It was
11 impossible to open a newspaper without being fully aware
12 of the balance of the arguments.

13 THE CHAIRMAN: Though that, of course, is not legal advice.

14 RT HON JACK STRAW MP: With great respect, we had lawyers
15 from both sides arguing the case in the public print.
16 So it was very clear, with respect, that it was --
17 I mean, there were two arguments going on. One was
18 about the justification, the moral and political
19 justification, and that, in many ways, in the public
20 print, elided with arguments about whether it was lawful
21 or not, but I mean, no one in the Cabinet was unaware of
22 the fact that there had been and was a continuing and
23 intense legal debate about the interpretation of 1441
24 and all the rest of it, as well as a moral and political
25 debate. But the issue for the Cabinet was: was it

1 lawful or otherwise?

2 I just want to say this about legal advice at that
3 stage: what was required -- indeed you raised it
4 a moment ago -- at that stage, was essentially a yes/no
5 decision from the Attorney General, yes/no for the
6 Cabinet, yes/no for the military forces. It was open to
7 members of the Cabinet to question the Attorney General,
8 although -- I mean, obviously I was completely inserted
9 anyway into the argument, so it didn't arise in my case,
10 but the Cabinet was composed of some very strong-minded
11 people: John Prescott, Gordon Brown, David Blunkett,
12 Charles Clarke, Margaret Beckett. None of these were
13 wilting violets, as has sometimes been suggested, but
14 their judgment was, I think -- and Margaret Beckett and
15 John Reid brought this out -- that it wasn't necessary
16 to go into the process by which Peter Goldsmith had come
17 to his view. What they wanted to know was what the
18 answer was.

19 Can I just say this about Clare? Clare herself had
20 said, just a week before, when she gave an interview to
21 the BBC, to Andrew Rawnsley -- and I quote this:

22 "I mean" -- I quote the sentence in full according
23 to the BBC website:

24 "I mean the proposition in the resolution is that
25 Saddam Hussein has to be completing absolutely finally on

1 disarmament, or, without another UN process, military
2 action can be triggered."

3 It is not absolutely clear from the context, but
4 I have -- since the second resolution has fallen away by
5 that stage, I think the only way of reading that is that
6 she was acknowledging that that was the proposition in
7 1441.

8 The other thing was what she said to you -- because
9 I checked on this, because I was surprised -- was that
10 she said -- she didn't say she was "shouted down",
11 she said, "I was kind of jeered at", and I have to say,
12 and obviously that is -- I don't challenge her
13 recollection, but that's not my recollection. Obviously
14 if that's what she felt, but the Cabinet -- this was
15 a very serious Cabinet meeting. People weren't, as
16 I recall, anyway, going off with that kind of behaviour.
17 We all understood the gravity of the decision.

18 THE CHAIRMAN: I would like to come back to that just before
19 we close with a short question, but, before that,
20 I think Baroness Prashar had one.

21 BARONESS USHA PRASHAR: Mr Straw, you are right to say that
22 this was a very controversial decision and there was, of
23 course, debate raging in the media about the legality or
24 otherwise of law and the two distinct views. Isn't it
25 for that reason that it would have been better if the

1 Cabinet had had the full opinion, the balanced finely
2 opinion that Lord Goldsmith wanted to present, but you,
3 according to the documents we have seen, persuaded him
4 not to do so, to present just the answer that you gave
5 to the Foreign Affairs Committee? Because, was it not
6 incumbent on the Cabinet to be aware of the arguments
7 and why Lord Goldsmith had come to that conclusion?

8 RT HON JACK STRAW MP: I did that, and this says on the
9 notes for the reasons I have explained partly -- but,
10 also, because we were concerned about leaks, and through
11 that there is an issue of the position of the military
12 as well. As I say, what the military wanted to know
13 wasn't the process by which a decision had been arrived
14 at --

15 BARONESS USHA PRASHAR: I'm not talking about the process,
16 I'm talking about the finely balanced judgments that he
17 came to, because given the context in which this debate
18 was taking place, you know, would it not have been
19 better for them to have the full opinion?

20 RT HON JACK STRAW MP: As I say, any member of the Cabinet
21 could easily have asked about the finely balanced
22 nature. With respect, I don't think there is any
23 difference between what you are saying and what I'm
24 saying, because the finely balanced arguments are part
25 of the process by which he came to that decision.

1 That's what he was setting out in that lengthier letter
2 of 7 March. He was going through all the arguments,
3 just as Michael Wood had gone through all the arguments
4 on 9 December of 2002, saying, "On the one hand ... and
5 on the other ..."

6 But there is nothing unusual at all about legal
7 decisions being finely balanced. If you read any law
8 report from the senior courts, they go, "On the one hand
9 ... and on the other", page after page, after page, and
10 then they come to a decision and say what Cabinet wanted
11 to know, and needed to know, which was what was the
12 decision.

13 Nobody was preventing anybody from asking the
14 Attorney, including Clare Short, what the position was.
15 In the event, they chose not to. A number of lawyers were
16 around the table. The legal issues had been extremely
17 well aired in, public, the press, and people were briefed
18 anyway.

19 BARONESS USHA PRASHAR: But you persuaded the Attorney
20 General just to give a brief one, because you were
21 concerned about leaks, and if leaks were the main
22 concerns --

23 RT HON JACK STRAW MP: It was one of my main concerns and
24 that was the point that was brought out in my record of
25 my conversation with the Attorney.

1 THE CHAIRMAN: Closing question, and it is a serious one,
2 not a debating point at all. We have the position of
3 the Chief of Defence Staff and head of the Civil Service
4 needing a decision, but they were not making the
5 decision, the Cabinet was, you collectively, were.

6 I just want to have your assurance that in your
7 judgment the Cabinet that met on 17 March was
8 sufficiently informed, sufficiently aware, that it was
9 content to share responsibility for the risks which were
10 carried by the decision to invade, including risks,
11 individual and collective, to Crown servants, and,
12 indeed, to themselves, that you were content that they
13 were sufficiently informed to make that judgment
14 separately and collectively.

15 RT HON JACK STRAW MP: What was the last --

16 THE CHAIRMAN: Separately and collectively.

17 RT HON JACK STRAW MP: Yes, I'm very clear about that, and
18 I would like to, if I may -- and the answer to that is
19 yes, full stop, Sir John.

20 I would like to say why, and it is for this reason,
21 that we had made a decision -- Robin Cook and I, as it
22 happened, had persuaded the then Prime Minister back in,
23 I think, the earlier part of 2002, that, if there was
24 any question of military action, this had to be endorsed
25 in advance and in terms by the House of Commons. It was

1 the first time a decision had been made like that in
2 principle.

3 That -- I mean, Robin and I were both on the same
4 page on this, and we both made the case, he as Leader of
5 the House, and I, having been Foreign Secretary --
6 a good friend -- I, as Foreign Secretary, and we did
7 that with great clarity about what the consequences
8 would be.

9 The first and obvious consequence would be that it
10 would be the House of Commons that made the decision but
11 this then had all sorts of further consequences for the
12 decision-making process in government, because -- you
13 know, sometimes people have drawn a comparison with
14 Suez. These are absolutely chalk and cheese. There's
15 no conceivable way in which Suez could have taken place
16 if Anthony Eden had been required to go to the House of
17 Commons and explain what he was doing. Impossible.

18 It meant that -- and there were four key debates on
19 Iraq from September through to March 18th. Three of
20 those were on substantive resolutions. For each of
21 those, there was intense debate, not only -- well,
22 certainly within the Parliamentary party. So I had
23 to -- as Chris Mullin brings out in his --
24 interestingly, in his diary, I was backwards and
25 forwards making the case before all sorts of meetings of

1 the Parliamentary party, formal ones and informal ones,
2 so were all my Cabinet colleagues, and we were being
3 publicly bombarded with the arguments, and arguments
4 about the consequences. We received detailed legal
5 advice, for example, from CND saying why it was unlawful
6 and what the personal consequences would be.

7 So everybody understood what the issues were and
8 understood the level of responsibility, personal and
9 individual responsibility, on them, and whilst I'm happy
10 to make some remarks after tea about whether the process
11 could have been more formal, which I think it should
12 have been, within the Cabinet system, it is simply
13 untrue to say that Cabinet government had broken down.
14 Far from it. Cabinet was more involved in this decision
15 because it had to be, because members of the Cabinet
16 then had to go and explain themselves in the House of
17 Commons as well as publicly and to their constituency
18 parties.

19 THE CHAIRMAN: Thank you. We will take a break now for tea
20 and come back in, say, 10 minutes.

21 RT HON JACK STRAW MP: Fine.

22 (3.30 pm)

23 (Short break)

24 (3.40 pm)

25 THE CHAIRMAN: Let's resume, if I may, and I'll ask

1 Sir Lawrence Freedman to open the questions for us.

2 SIR LAWRENCE FREEDMAN: I'm going to talk about the

3 diplomacy, the final diplomacy -- we had some discussion

4 about this last time --

5 RT HON JACK STRAW MP: Yes.

6 SIR LAWRENCE FREEDMAN: -- particularly around the role of

7 Dr Blix, but there are other issues I hope you can talk

8 about this time.

9 Can I start by confirming that you knew that

10 military action was planned by the United States for the

11 middle of March come what may? You were copied in

12 presumably to reports of conversations between the

13 Prime Minister and the President?

14 RT HON JACK STRAW MP: Yes, I mean, I don't think there was

15 any key document that I should have seen that I didn't.

16 I can't be certain. The reason I slightly raised my

17 eyebrows, Sir Lawrence, is because the original

18 intention of the United States, as I think you are

19 aware, and you have had evidence of this, was to take

20 military action much earlier and we kept pushing the

21 date to the right.

22 SIR LAWRENCE FREEDMAN: But by the start of February, it was

23 pretty settled. There was a bit of leeway but not very

24 much.

25 RT HON JACK STRAW MP: What was settled was that, if they

1 were going to take military action, then it would be in
2 mid to late March or thereabouts, and that was an issue
3 on which I talked to Secretary Powell, not in his then
4 current role, but in his previous role as senior
5 military chief of the States and asked him how long
6 troops could be kept in a state of readiness, that many
7 troops. He said for a short period, but not very long.

8 But can we also be clear that the United States,
9 since they had agreed to the UN route and had also
10 agreed that we should seek a second resolution, had not
11 made a final decision that they would go to war come
12 what may, and as you will be aware, right until the
13 last, the coalition was saying, "We will take yes for
14 an answer from Saddam", and actually, if he had left and
15 then shown cooperation, that would have been the end of
16 it.

17 SIR LAWRENCE FREEDMAN: Are you sure on that? You mentioned
18 you had regular conversations with Colin Powell. I'm
19 not asking you to quote him directly, but did you ever
20 get any reason from him to believe that the US timetable
21 could be extended significantly?

22 RT HON JACK STRAW MP: Well, the -- it was a -- you could
23 get it -- it was -- well, start again. We had had it
24 extended through a significant part of February and then
25 through March, first of all. The impression I got from

1 him -- I'm not quoting him, this is simply my
2 impression -- was that you might be able to extend it
3 from the point of view of military alone for a short
4 while, a week to ten days, but for all sorts of
5 operational reasons, it would have been difficult to
6 sustain it for longer.

7 That said, had we got the second resolution to which
8 the US were fully signed up, and it included those six
9 benchmarks in it, had they been complied with, and they
10 were designed so they could be complied with, there
11 wouldn't have been military action.

12 SIR LAWRENCE FREEDMAN: We will come to whether that was
13 plausible. Was there any point where Powell said to you
14 that, even if Iraq complied, President Bush had already
15 made a decision that he intended to go to war?

16 RT HON JACK STRAW MP: Even if they complied, he had made
17 that decision?

18 SIR LAWRENCE FREEDMAN: Yes.

19 RT HON JACK STRAW MP: Certainly not to the best of my
20 recollection, and I don't recall that ever being said in
21 any other circumstance, even if they complied, because
22 President Bush had, as it were, set the parameters for
23 this diplomacy backed by the threat, if necessary, of
24 the use of force, but it was never a strategy which
25 said, "We are going to make up a series of excuses and,

1 whatever then happens, we are going to take military
2 action". That was never a strategy.

3 SIR LAWRENCE FREEDMAN: So you are saying that Powell never
4 suggested to you that the President's mind was so made
5 up on the need for military action that he was unlikely
6 to be influenced even by a positive report from
7 Hans Blix on Iraqi compliance?

8 RT HON JACK STRAW MP: As I say, I would have to check the
9 record of many, many conversations I had with
10 Secretary Powell, and bear in mind that I quite
11 frequently spoke to him two or three times in the day
12 and this was every day for months and they were very
13 private conversations. I was also quite separately
14 aware of, as it were, the "noises off" from the neo-cons
15 in Washington. But they were not going to be able to
16 make the final decision.

17 SIR LAWRENCE FREEDMAN: Nor was Colin Powell.

18 RT HON JACK STRAW MP: Nor, indeed, was Colin Powell. That
19 was a matter for the President, and, of course, huge
20 preparations for military action were taking place. But
21 the other thing -- leave aside the speculation about
22 what decision President Bush would have made and, of
23 course, after this, I will trawl through my record --

24 SIR LAWRENCE FREEDMAN: I was going to suggest you might
25 want to look through your conversations and check.

1 RT HON JACK STRAW MP: I will go through the records,
2 because I think you are trying to tell me something, but
3 leave that aside, had the -- when we got the second
4 resolution -- let's take two scenarios, one where we got
5 a second resolution. It had clear benchmarks in it.
6 There would be no possibility whatever of the
7 United Kingdom taking part in military action whilst
8 that -- a second resolution was satisfactorily being met
9 in terms by Iraq, and I think, within the United States
10 itself, where the war was controversial in any event,
11 its prospect, that would have engulfed a President in
12 a terrible storm, and quite right too.

13 Now, if you then take the other possibility, which,
14 at one level, was a greater possibility, had Dr Blix
15 come along and said, "They are now complying", so, as it
16 were, the tests in OP4 were met, that would have been
17 the end of the matter too and as I say, it is worth
18 bearing in mind that an awful lot of people in the
19 States as well as here opposed the war, President Obama
20 most famously.

21 SIR LAWRENCE FREEDMAN: Not famously at the time, but
22 famously since.

23 RT HON JACK STRAW MP: He was by no means alone and it was
24 a matter of very intense debate there.

25 SIR LAWRENCE FREEDMAN: Please do check, because --

1 RT HON JACK STRAW MP: I will.

2 SIR LAWRENCE FREEDMAN: I don't think the suggestion is what
3 the British position would have been, it is whether the
4 President's own mind was made up in a particular
5 direction.

6 At any rate, from what you have said, is it fair to
7 say that, even though you were trying to avoid war
8 through diplomacy, you were racing against the clock?
9 This could not --

10 RT HON JACK STRAW MP: It couldn't go on forever, but -- and
11 of course this was one of the big issues, was about
12 time. This was debated intensively at the Security
13 Council meeting on 7 March 2003, where part of the
14 argument by Dominique de Villepin and his -- those, as it
15 were, on that side, was we needed more time.

16 My argument was; "we are trying to provide more time
17 in the second resolution", but this has been going on,
18 I said, for 12 years. We have got I don't know how many
19 resolutions which require Iraq to comply. So how much
20 time is more time?

21 Of course, the great danger, which we felt we faced,
22 was that, if you didn't bring this to a conclusion one
23 way or another quite quickly, then the whole strategy of
24 diplomacy backed by the threat, and, if necessary, the
25 use of force, would fall away, and that's what Saddam

1 wanted.

2 SIR LAWRENCE FREEDMAN: So the issue was how much more

3 time --

4 RT HON JACK STRAW MP: Yes.

5 SIR LAWRENCE FREEDMAN: -- not whether it could go on

6 indefinitely?

7 Now, we discussed last time why you thought Dr Blix

8 should have perhaps been a little more forthright in

9 what he was saying about Iraq's continuing military

10 breach, but I just want to focus today on the

11 consequences of the fact that he did not -- he did not

12 say the things that you might have expected him to say.

13 His line was always not to say that Iraq was fully

14 cooperating, but that progress was being made, things

15 were happening, and that he never suggested he was

16 unable to continue with his work, and, of course,

17 crucially, no significant stocks of chemical and

18 biological weapons had been found.

19 I just want to get your assessment of what effect

20 this presentation -- these presentations from Dr Blix --

21 what effect they were having on the rest of the Security

22 Council. Was it encouraging a view that his team should

23 be given more time to see if they could make further

24 progress?

25 RT HON JACK STRAW MP: The honest truth is the Security

1 Council was divided on this. We had been united in the
2 autumn of 2002 until Christmas in the earlier year and,
3 as I said to the Inquiry, Sir John, when I previously
4 gave evidence, I was really pretty optimistic that we
5 would be able to avoid --

6 SIR LAWRENCE FREEDMAN: That was at the turn of the year?

7 RT HON JACK STRAW MP: That was at the turn of the year.

8 The thing then became polarised, and if you want me to
9 put a date on it, it is 20 January 2003, at the Security
10 Council meeting which the French presidency of the
11 Security Council had called, in fact, to discuss
12 counter-terrorist measures, but -- I don't --

13 SIR LAWRENCE FREEDMAN: You describe this in your first
14 memorandum.

15 RT HON JACK STRAW MP: As I say -- it is quite important,
16 you know, if I was, as it were, writing an historical
17 essay about this and offering some reflections on what
18 happened to the personal chemistry, which you kind of
19 ignore, in terms of international relations. They had
20 been good, and, as I say, my purely personal relations
21 with Dominique de Villepin remained good, but
22 Secretary Powell -- and I -- but also people in the
23 American system who were trying to argue for
24 a diplomatic process felt that the rug had been pulled
25 out from under them by the way in which that Security

1 Council meeting had been conducted, and particularly
2 what had been said afterwards at a press conference, and
3 that made life difficult. It was quite hard to get
4 things back after that.

5 SIR LAWRENCE FREEDMAN: I think that's understood as part of
6 the context that the issues with the French had been
7 there for some time. I appreciate that the permanent
8 members were divided, but, of course, the issue was the
9 non-permanent members, the swing of six that has been
10 talked about.

11 You mentioned last time that, while opinion in the
12 Security Council was becoming more difficult, opinion in
13 Parliamentary Labour Party Cabinet, had become somewhat
14 more favourable. So I assume that is an indication that
15 you did sense that opinion in the Security Council was
16 becoming more of the view that there was no harm in
17 providing more time to see if the inspectors could move
18 things further along.

19 RT HON JACK STRAW MP: What was happening, Sir Lawrence, was
20 this: that we had the Security Council meeting on
21 14 February, then there was a further UNMOVIC report, as
22 I recall, at the end of February, but a limited one, and
23 then we had the last meeting of that sequence on
24 7 March, and I have already set out for you my
25 astonishment that Hans Blix decided to withhold from the

1 Council --

2 SIR LAWRENCE FREEDMAN: You have mentioned that.

3 RT HON JACK STRAW MP: -- this document, but that raised

4 very serious questions about his approach and his lack

5 of openness with the Council.

6 We had been working really the last week of February

7 for a second resolution and obviously we had to

8 ensure --

9 SIR LAWRENCE FREEDMAN: Can I just interrupt? Given what

10 was going on in the Security Council, given that what

11 had previously been said -- and I refer again to the

12 Prime Minister's interview on Newsnight on 6 February --

13 the assumption had been that a second resolution would

14 follow a clear statement from Dr Blix that the Iraqis

15 were not cooperating. But you haven't had that. His

16 suggestion was that it wasn't satisfactory but it was

17 getting better. Why did you push for a second

18 resolution at this time?

19 RT HON JACK STRAW MP: Well, with respect -- we can go down

20 the highways and byways of 1441 --

21 SIR LAWRENCE FREEDMAN: I'm not asking -- this is

22 a diplomatic and political question.

23 RT HON JACK STRAW MP: -- but 1441 did not require the

24 determinant of whether there was a further material

25 breach under OP4.

1 SIR LAWRENCE FREEDMAN: It allowed a member state to say
2 that as well. I'm just going back politically -- not
3 a question of legally, politically -- the
4 Prime Minister, and things you said as well, suggested
5 that the logical sequence would be one in which Dr Blix
6 would say we are being obstructed, we can't make any
7 progress and a second resolution would go down.

8 Of course, it was always open to a member state to
9 say there was material breach, but it made the
10 conditions for a second resolution less favourable, so
11 the question really is, given that you didn't think one
12 was absolutely necessary, why bother, why the rush at
13 that point?

14 RT HON JACK STRAW MP: Well, because there wasn't any doubt
15 by the beginning of March of further material breach and
16 that was based not least on what Dr Blix was telling the
17 Security Council, including what he told the Security
18 Council after we met on 7 March, and I set that out --
19 or the Foreign Office, with my approval, set this out --
20 in this detailed memorandum, which I published to the
21 Commons --

22 SIR LAWRENCE FREEDMAN: Again, I'm not arguing --

23 RT HON JACK STRAW MP: So there was no -- yes, of course
24 there was a timescale here. If you are going to make
25 a reality of the threat of force, there is bound to be

1 a timescale. There always is. But I come back to the
2 point that we tried extremely hard to get a second
3 resolution, which was not a rebarbative one but was capable
4 of being accepted by the Council and also capable of
5 being complied with by Saddam without a huge --
6 a terrible loss of face. We just wanted him to comply.

7 Indeed, given what we now know, it remains -- well,
8 a matter of huge surprise that he was so adamant about
9 not complying with it.

10 SIR LAWRENCE FREEDMAN: He also had a problem in the --
11 I discussed with Mr Blair that -- and again, I think
12 I can quote statements you made in the Commons on
13 this -- the basic non-compliance was that he was
14 believed to have weapons of mass destruction. His basic
15 problem was that he didn't, and that it was extremely
16 difficult then for him to prove it, because he was
17 actually -- would have to prove something that wasn't
18 the case, and that nobody in the United States
19 government, or very few, would have believed anything in
20 which -- still insisted that there were no weapons of
21 mass destruction. There was a basic problem there.

22 RT HON JACK STRAW MP: We don't know, and he ended up with
23 a much bigger problem, let me say, by --

24 SIR LAWRENCE FREEDMAN: Absolutely, but it was a question of
25 whether it was credible to believe -- whether anything

1 that could have been said would have been credibly
2 believed at the time.

3 RT HON JACK STRAW MP: My answer to that is yes. First of
4 all -- and it needs to be said again and again -- the
5 view that he had weapons of mass destruction was the
6 view of the whole of the Security Council. This was not
7 about British intelligence or anything like that. That
8 was the view and it was based on what people knew, not on
9 what they speculated, and what had happened in the past.

10 Secondly, OP4 set out the terms of material breach:
11 "full statements or omissions in the declarations and
12 failure by Iraq to comply with and cooperate fully with
13 the implementation of the resolution". These were
14 actually tests which, without humiliating Saddam, were
15 very easy for him to comply with, and he might have had,
16 given the fact that, as it turned out, not that he had
17 no weapons of mass destruction, and it is certainly not
18 the case he had no intention of building up his
19 programmes, he did, but obviously it appears that there
20 was less there than everybody thought. But that's the
21 first limb of the OP4.

22 The second is about failure by Iraq to comply with
23 and cooperate fully, and I accepted that that "and" is
24 conjunctive. So there are two limbs to this test. It
25 is dead easy for him to comply with that. For example,

1 had he allowed people to be interviewed -- now,
2 Sir Lawrence, you said that Dr Blix did not want them to
3 be interviewed outside. The Security Council Resolution
4 said that they could be interviewed outside or inside.
5 I never heard Dr Blix saying they could be interviewed
6 outside, but, in any event, the resolution was very
7 clear in saying that Saddam had to allow these people to
8 be interviewed freely without tape recorders, without
9 security agents over them.

10 If he had done that and then there had been an
11 emerging story that told us something different from the
12 assumptions of 1441, that would have been the end of the
13 matter for us.

14 SIR LAWRENCE FREEDMAN: What you are saying may well be
15 true.

16 RT HON JACK STRAW MP: With great respect, it is not to be
17 dismissed.

18 SIR LAWRENCE FREEDMAN: Nor am I dismissing it. What I'm
19 trying to assess is the political situation which you
20 faced at the time in the Security Council.

21 There is a practical matter as to whether it would
22 have been possible at this stage for Dr Blix to say
23 anything that would have convinced the Americans that
24 there was nothing there, and I have mentioned already
25 the experience of Dr El-Baradei, who did give them

1 a clean bill of health on the nuclear side and
2 Vice-President Cheney said he just didn't agree.
3 RT HON JACK STRAW MP: I didn't say that.
4 SIR LAWRENCE FREEDMAN: No, but you were a partner in
5 coalition with the United States. Let's just look at
6 the second resolution that you were trying to get
7 through, and this was a second -- there were two
8 versions of this resolution. So let's just concentrate
9 on the second one.
10 Now, as I understand it, this was a reverse veto, in
11 other words, the Security Council would actively have to
12 decide that Saddam was cooperating. So if he didn't,
13 the default was that Saddam had failed to take his final
14 opportunity to comply. That's correct. Other Security
15 Council members were concerned about the very short
16 timing that you were offering Saddam to demonstrate the
17 cooperation. Was there any willingness by the
18 United States at this stage -- we are now talking about
19 around about 7 March -- to offer more time?
20 THE CHAIRMAN: Excuse me, the reverse veto, you nodded.
21 RT HON JACK STRAW MP: Yes, I'm sorry, I haven't got the
22 text in front of me, but a familiar concept. Subject,
23 Sir John, to checking the record. Okay? I have brought
24 quite a lot with me. There are cupboards of documents
25 that I have read and I couldn't bring every single one

1 with me.

2 A parenthetical point, Sir Lawrence, but important.

3 Dr Blix thought that WMD were there. He said so. He

4 said so on the record in his book.

5 SIR LAWRENCE FREEDMAN: He started off saying that on

6 20 February. He said to the Prime Minister, "Wouldn't

7 it be absurd and paradoxical if 250,000 troops invaded

8 Iraq and there were no weapons of mass destruction?"

9 RT HON JACK STRAW MP: But in his book which he wrote in

10 2004 --

11 SIR LAWRENCE FREEDMAN: No, that's based on the record, and

12 he said it was based on the record which we have seen.

13 So he was becoming more sceptical at this stage.

14 RT HON JACK STRAW MP: He didn't say so, is the answer.

15 SIR LAWRENCE FREEDMAN: He did say so to the Prime Minister.

16 RT HON JACK STRAW MP: Five of those six benchmarks came

17 from him. I had a conversation with him at the Security

18 Council. He produced them from his pocket. So --

19 SIR LAWRENCE FREEDMAN: Again, the question I asked you was

20 about time --

21 RT HON JACK STRAW MP: -- he consulted the inspectors --

22 SIR LAWRENCE FREEDMAN: The question I asked was about time.

23 It was whether or not the United States showed any

24 willingness, on 7 March, to give you more time.

25 RT HON JACK STRAW MP: Some is the answer, but not much.

1 SIR LAWRENCE FREEDMAN: So the key country was Chile. Chile
2 wanted 45 days. They weren't able to offer the 45 days
3 that Chile might have required.

4 Did other Security Council members who were swing on
5 this tell you that one of their problems was that
6 American behaviour in public statements gave them no
7 reason to believe that the Americans would ever agree
8 that Saddam was complying?

9 RT HON JACK STRAW MP: There was a big problem that we
10 faced, which was not from President Bush or
11 Secretary Powell, who were directly involved in the
12 diplomacy, or Condoleezza Rice, but from -- I use this
13 term -- the neo-cons.

14 SIR LAWRENCE FREEDMAN: There is a key official you haven't
15 mentioned which is Secretary Rumsfeld.

16 RT HON JACK STRAW MP: Well, Don Rumsfeld, Paul Wolfowitz --
17 I'm happy to mention them, if you want me to go through
18 the list, I'm trying to be short, but you know who I'm
19 talking about.

20 SIR LAWRENCE FREEDMAN: I do.

21 RT HON JACK STRAW MP: They made the negotiating environment
22 much more difficult, much more difficult. There is no
23 question about that. But I still actually believe that
24 we could have got a second resolution and got into
25 a decent argument, a debate to secure one, as we had

1 done before 1441, had it not been for President Chirac
2 saying he was going to veto come what may.

3 I know people go in for a technical examination
4 advantages of what "Quelque soit les circonstances"
5 means, but it seems to me to mean one thing. It means
6 "Whatever the circumstances". There is no dubiety about
7 that. Or, what he meant by "le soir", which means, "Well,
8 I'm talking this evening, like I'm talking today, this
9 is what it means", but even if you were to... what that
10 did is really harden the market against any kind of
11 deal, and Dominique de Villepin was also working the
12 phones to ensure particularly the African states did not
13 agree to anything. So that made our life very
14 difficult.

15 SIR LAWRENCE FREEDMAN: Sir Roderic will be taking you
16 through some of this textual exegesis --

17 RT HON JACK STRAW MP: There is plenty else we can go on to
18 talk about.

19 SIR LAWRENCE FREEDMAN: -- because the French view is
20 important. What I'm trying to talk about is what was
21 influencing the other members of the Security Council.

22 Just take a loyal member, Bulgaria, whose vote had
23 always been assumed to be in the bag. Were they telling
24 you that, as their own public opinion was becoming more
25 anxious about the drift of events, it was actually

1 becoming much harder to justify their vote in favour of
2 what was seen as an authorising vote for war?

3 RT HON JACK STRAW MP: I think they were. The truth was
4 that this was not making life easy for any of us. It
5 was unhelpful. But I don't believe it would have been
6 the final decision by the way of the President, for the
7 reasons that I have discussed.

8 But I fully understand the point you are making,
9 Sir Lawrence.

10 SIR LAWRENCE FREEDMAN: So the basic difficulty which we are
11 really just pointing to here is that you were facing
12 a deadline, you were trying to get something through.
13 Looking at the papers, there is no doubting the efforts
14 and energy that went into that effort, but, as
15 Sir Jeremy Greenstock said to us, you never really at
16 any time had the nine votes in the bag that would force
17 back to the French the question of whether they needed
18 to veto or not.

19 RT HON JACK STRAW MP: Yes, we thought we did, but it was
20 like a frustration dream. You thought you had those
21 votes and they slipped away, and once we had got to
22 10 March, despite the very valiant efforts of
23 Jeremy Greenstock and colleagues in New York and, let me
24 say, the rest of us, trying to put together this
25 alliance with a small "a", it simply fell away is the

1 answer.

2 SIR LAWRENCE FREEDMAN: My final question really is: do you
3 think, if you had been given another two months or
4 another month, you would actually have been able to work
5 something out that would have been a much more credible
6 basis for allowing the inspectors to work, putting the
7 six tests to Iraq?

8 RT HON JACK STRAW MP: Well, I think that the reason why
9 Iraq failed to comply was partly because, as we now
10 know, but nobody knew at the time -- they didn't have
11 much to produce -- but I regard that as subsidiary
12 because they never cooperated even when they had loads
13 to produce. They covered up a whole biological weapons
14 programme successfully for four years. So the rest of
15 the world could be forgiven for thinking that they did
16 have something.

17 But the second reason was they thought if they
18 diddled about they would be able to split the
19 international community, and, in their terms, get away
20 with it, which is what they had done successfully for
21 12 years, and that was a dilemma facing us.

22 Of course, there was then -- where we would be now?
23 I think there is -- had that happened, leave aside the
24 2010 question, I mean, the 2003/2004 question is that
25 Saddam would have been re-emboldened there and then.

1 SIR LAWRENCE FREEDMAN: So in a way, the problem for
2 British diplomacy in all of this was that you were
3 caught between two allies going in completely different
4 directions. You had the Americans pressing forward, the
5 French pulling back, and we, in the end, could not
6 reconcile the two.

7 RT HON JACK STRAW MP: Yes, and I deeply regret the fact
8 that relations like that -- relations deteriorated with
9 France, because they are an extremely important ally and
10 we have far more in common with France and there is
11 a far higher level of collaboration with France on the
12 military and diplomatic front than virtually any other
13 country, apart from the United States. Had all three
14 managed to come together. We could have got the rest of
15 the world together. So it was a really important
16 situation and difficult.

17 SIR LAWRENCE FREEDMAN: I think on this point I shall hand
18 over to Sir Roderic.

19 THE CHAIRMAN: Roderic? Thank you.

20 SIR RODERIC LYNE: Time is pressing and we have got quite
21 a lot of ground after the invasion I would like to
22 cover. So I would just like to look at the end-game
23 briefly to make sure we are clear about the handling of
24 it.

25 On 10 March, before Chirac spoke, we didn't have in

1 the bag nine positive votes in the Security Council.

2 I think you have just agreed that.

3 RT HON JACK STRAW MP: I think that's true.

4 SIR RODERIC LYNE: The two critical ones that we tried to
5 get were Chile and Mexico, and President Lagos of Chile
6 was asking for more time, I think, and President Bush
7 was not willing to give more time, except for a few days
8 at the most.

9 RT HON JACK STRAW MP: The alignments of this were, if I say
10 so, very complicated, but -- and I think it was Mr Blair
11 who brought this out, it may have been somebody else,
12 but our judgment was that we thought that the three
13 African states were highly likely to support
14 a resolution. The problem was between -- with Chile and
15 Mexico and President Fox and President Lagos looking
16 over their other shoulders at the other one.

17 My own view is -- not that -- in the absence of the
18 Chirac "veto" statement on 10 March, we would have got
19 their support, but it would have been much more probable
20 and, Sir Roderic, you will know from your long
21 experience that, with these negotiations, you can
22 sometimes get a ball rolling and things go in the correct
23 direction and other times they just fall apart, and this
24 was a critical moment and -- 10 March, as it happened.

25 SIR RODERIC LYNE: So at the time Chirac spoke, a French

1 vote against wouldn't have actually been a veto, because
2 there weren't nine positive votes and Chirac's statement
3 didn't really represent a change in the position the
4 French had taken all along, because they had never
5 supported this timing, this sort of second resolution.

6 RT HON JACK STRAW MP: I don't accept that, I am afraid. It
7 was a very public statement.

8 SIR RODERIC LYNE: But a statement of a position that you
9 had understood to be the French position for a long
10 time. You had been discussing early on the likelihood
11 of a French veto.

12 RT HON JACK STRAW MP: Of course we had been discussing it,
13 but we were involved in a diplomatic negotiation
14 crucially with the four P5 partners because we had to
15 deal with the United States as well, but France was
16 critical in this.

17 It is one thing, if you want to make an assessment,
18 as one does internally, "We think that so and so is
19 going to veto", that is one thing, but then you try to
20 work out how you get them not to veto, how you get them
21 to support you, which is what happened over 1441.

22 It is quite another thing if the head of state and
23 government of the country you are dealing with stands up
24 and says, "Whatever the circumstances, we are going to
25 veto", and that had consequences, not just for France's

1 behaviour, but also for the other non-P5 members of the
2 Security Council, because their leaders then thought,
3 "If France is going to veto anyway, what's the point of
4 us sticking our necks out". So that was the difficulty.

5 SIR RODERIC LYNE: Basically, you think he pulled the rug
6 from under your feet at this point?

7 RT HON JACK STRAW MP: It felt like it.

8 SIR RODERIC LYNE: But you still continued, the following
9 day, trying to get Chile?

10 RT HON JACK STRAW MP: We did, of course.

11 SIR RODERIC LYNE: President Lagos of Chile was not telling
12 you that President Chirac's statement had made it
13 pointless for him to go on negotiating?

14 RT HON JACK STRAW MP: As far as I know, no, but, as I say,
15 he had his own problems.

16 SIR RODERIC LYNE: But it would be fair to say that the
17 French position, which all along had not been in favour
18 of the second resolution, was not the only reason why we
19 were unable to get it, because the problem was we had
20 never got nine positive votes in favour.

21 RT HON JACK STRAW MP: Well, we thought we had -- when we --
22 a statement of absolute fact, we never got nine positive
23 votes in favour of it, but we thought we had those lined
24 up, because we had the four in Europe plus the US. We
25 had Spain, Bulgaria, UK, US. You had the three

1 Africans, seven. You had Chile and Mexico, nine. So
2 that's --

3 SIR RODERIC LYNE: We never had --

4 RT HON JACK STRAW MP: We were also talking to Pakistan at
5 the time.

6 SIR RODERIC LYNE: But we never had Chile and Mexico?

7 RT HON JACK STRAW MP: We thought we could get them.

8 SIR RODERIC LYNE: You hoped, at this stage, after a lot of
9 effort you could get them, but you had made a lot of
10 effort and so far you hadn't got them?

11 RT HON JACK STRAW MP: No, as a statement of absolute
12 fact --

13 SIR RODERIC LYNE: Okay. So it was not just the French who
14 were the problem. On 11, 12 and 13 March, did we not
15 get a number of messages from France including, on the
16 13th, a phone call from Villepin to you, arguing that we
17 had misinterpreted Chirac's words, that he was referring
18 to not voting for this resolution at this time, and the
19 French were arguing that this should not be interpreted
20 as meaning that the French were never going to vote for
21 a resolution.

22 RT HON JACK STRAW MP: Well, of course that's the case, and
23 you asked me --

24 SIR RODERIC LYNE: So there is more than one interpretation
25 of his words possible, even though you have already said

1 last time, and this time, that you very clearly were of
2 one view of what he was saying?

3 RT HON JACK STRAW MP: You, I think, have seen, so far, the
4 record that remains classified, and so have I since
5 I was last here, and as you will see from this, because
6 you asked me about this, there was a good deal of
7 diplomatic traffic between London and Paris in the
8 period from 7 March right through -- and that continued
9 post the 18th. The -- and I -- I have the telegram.

10 The difficulty was that -- I mean, our judgment was
11 that, by this stage, there were some suggestions from
12 the French system that President Chirac may have gone
13 too far and made -- further than he intended. The
14 problem was he had said it in a more public way than --
15 you know, there was no more public way you could have
16 said it, and it wasn't a narrow chance comment to
17 a journalist, it was with the full panoply of the
18 President of the Republic of France.

19 So during the conversation, I explained these
20 difficulties to Dominique de Villepin. I talked about the
21 opinions of our benchmarks and then said -- closed this
22 by saying there should be a discussion of these issues
23 at head of government level, because, by this stage, it
24 had gone beyond Foreign Ministers. So that was the
25 situation and there was no lack of trying by us.

1 SIR RODERIC LYNE: So Chirac spoke on the 10th. On the
2 11th, we continued trying to get the Chileans, and then,
3 on the 12th, did we reach a point where Number 10 and
4 the White House effectively concluded that we weren't
5 going to get Chile and Mexico on board and weren't going
6 to get a compromise at the United Nations?

7 RT HON JACK STRAW MP: It was about that date.

8 SIR RODERIC LYNE: About the 12th.

9 RT HON JACK STRAW MP: You have the records in front of you,
10 I do not have.

11 SIR RODERIC LYNE: Now, at that point, did we agree that we
12 would continue trying to set out the tests, the
13 benchmarks, let the UN process go on for a few more days
14 to show that we were reasonable? So we had basically
15 given up, but we weren't going to announce that we had
16 given up for a few more days.

17 RT HON JACK STRAW MP: It wasn't about appearance. It was
18 about reality. My recollection is that those
19 discussions went through until the 14th, which was
20 a Friday, and, as Sir Jeremy Greenstock spelt out in
21 evidence, it was on the Friday that we accepted we
22 weren't to get a second resolution.

23 SIR RODERIC LYNE: Yes. Was it also agreed between
24 Number 10 and the White House on the afternoon of the
25 12th that we would, between us, say it was the French

1 who prevented us from securing a resolution?

2 RT HON JACK STRAW MP: I haven't got the record in front of
3 me, but it hadn't required a discussion between the
4 Prime Minister and the President for me to say that what
5 President Chirac had said had created great
6 difficulties, because that was true.

7 I can't remember when I saw that record, but it was
8 just a fact of life that -- sorry, if I may say, the
9 truth was that difficult negotiations to get nine votes
10 had been rendered close to impossible by
11 President Chirac's intervention. Now, query whether he
12 meant it to the extent that he did, but he never took
13 back those words.

14 SIR RODERIC LYNE: Also, query whether this was the only
15 reason we weren't getting it, but you will have heard
16 that Clare Short the other day referred to what became
17 the agreed line among ministers, which was to blame this
18 on the French. Do you think she was exaggerating?

19 RT HON JACK STRAW MP: I mean -- it wasn't an agreed line to
20 blame the French, this was a matter of fact. Can I just
21 say this: that Clare had access to the same information,
22 to some extent more than other ministers. She evidently
23 and seriously considered the issues very carefully. She
24 voted for the military action on 18 March. She didn't
25 vote against it, and she voted for it knowing full well

1 what the consequences would be. So I assume that,
2 whatever --

3 SIR RODERIC LYNE: That's a separate point.

4 RT HON JACK STRAW MP: I think that her retrospective
5 comments about what President Chirac said or didn't say,
6 that needs to be set against the weight that everybody
7 gave to the position at the time; however much she
8 objected to the comments about
9 President Chirac, the truth was that this wasn't
10 sufficient for her not to go into the voting lobbies;
11 and that was a free choice by her made, openly.

12 SIR RODERIC LYNE: If we look at what you said in the House
13 of Commons on 17 March, you said:
14 "We had been close to achieving consensus."
15 You then said that:
16 "One country then ensured that the Security Council
17 could not act."
18 Now, isn't that a bit unfair to the French, given
19 that we had not managed to get Chile and Mexico on
20 board -- let's leave the Africans out of it -- it wasn't
21 just the French who made it impossible for us to act.

22 RT HON JACK STRAW MP: I didn't say we'd got a consensus.

23 SIR RODERIC LYNE: No, you said "close to achieving
24 a consensus".

25 RT HON JACK STRAW MP: I think we were. As I say, it is

1 a bit like a frustration dream in retrospect, but we
2 were close to it.

3 SIR RODERIC LYNE: But it is not fair to say that one
4 country ensured that the Security Council could not act,
5 when we only had four votes in the bag.

6 RT HON JACK STRAW MP: With the greatest of respect, it was.
7 We needed nine votes. The truth was that we were pretty
8 confident about getting the three Africans, but, as
9 I say, Presidents Lagos and Fox were looking over each
10 other's shoulders, and if we had been able to get
11 President Lagos and President Fox, and we came close to
12 it, I think Mr Blair explained the level of
13 communication that had been established so he could talk
14 to Lagos -- I mean, very close, we were not deluding
15 ourselves -- then I am pretty confident that the votes
16 of the three African countries would have lined up as
17 well. So that would have been the nine votes.

18 So my point to the House of Commons on the 17th was
19 accurate. I didn't say we had a consensus. I said we
20 were close to it. I don't think there is any question
21 at all, as a matter of analysis, but that
22 President Chirac: (a) knew what he was doing when he
23 said that; and (b) that the effect of that was
24 effectively to abort the chance of success. There is no
25 doubt about that.

1 SIR RODERIC LYNE: So you don't think that if the Americans
2 had been prepared to concede the more time that
3 countries like Chile wanted, that Blix wanted, that if
4 you had had more time you would have been able to secure
5 a Security Council Resolution?

6 RT HON JACK STRAW MP: I certainly accept, Sir Roderic, as
7 I said earlier, that if a way had been found of inviting
8 the neo-cons in Washington to take a long holiday
9 without a telephone, that the whole of the negotiations
10 would have been easier, but we had to put up with that.

11 So I'm not suggesting that -- only one set of
12 difficulties --- but if you are asking me what happened on
13 10 March, in circumstances everybody else understood, my
14 answer is that on that day the particular difficulty
15 which led to the negotiations being aborted was the
16 French intervention. We still tried for four days after
17 that to overcome it.

18 SIR RODERIC LYNE: I think your point about the neo-cons
19 sort of underlines the fact that in March you found
20 yourself in a crunch, because your objective, as you
21 stressed in your witness statements and in your earlier
22 evidence all the way through, was to achieve disarmament
23 with the clear authority of the Security Council and, if
24 possible, without conflict.

25 The American administration's stated objective was

1 to change the regime in Iraq, and they didn't feel that
2 further UN authorisation for that was required. At this
3 point, these two objectives came to a crunch and time
4 ran out for your diplomacy.

5 RT HON JACK STRAW MP: In terms of -- the American objective
6 for regime change had gone back to President Clinton.

7 SIR RODERIC LYNE: Yes, we have been through all of that.

8 RT HON JACK STRAW MP: We have been through all of that.
9 They were signed up to this strategy set out in 1441.
10 My strong belief was that it could have worked
11 peacefully. You, Sir John, and your colleagues, will
12 come to a view about why it didn't, but I still believe
13 that it could have worked.

14 SIR RODERIC LYNE: Just to clear up one tiny point that
15 I think has appeared in the press, there have been
16 suggestions somewhere that you wrote a last-minute
17 letter to the Prime Minister, literally on the eve of
18 conflict, of some kind or another. We haven't found
19 anything in our papers.

20 Would you like to just confirm that you didn't write
21 a sort of eve of conflict personal letter to the
22 Prime Minister?

23 RT HON JACK STRAW MP: I did not, no. This has been in the
24 papers for about seven years and I keep saying I didn't
25 write anything like that.

1 SIR RODERIC LYNE: You wrote a letter that we referred to
2 earlier about 11 March, but you didn't write after that?
3 RT HON JACK STRAW MP: You have all the secrets of the
4 confessional.
5 SIR RODERIC LYNE: No, you gave us some very full files.
6 RT HON JACK STRAW MP: You have every single piece of paper
7 that I ever wrote to the Prime Minister and many other
8 people.
9 THE CHAIRMAN: I think, given the time, we might take
10 another short break at this point, no more than ten
11 minutes.
12 (4.25 pm)
13 (Short break)
14 (4.34 pm)
15 THE CHAIRMAN: Let's resume again and Baroness Prashar will
16 ask the questions.
17 BARONESS USHA PRASHAR: Thank you very much.
18 Mr Straw, we are now going to move on to the
19 planning for the aftermath. I want to start by
20 understanding, when did you appreciate that we could not
21 assume that the UN would take over the lead or a major
22 role in post-invasion Iraq?
23 RT HON JACK STRAW MP: Well, formally, on 19 March 2003, the
24 day after the invasion, because Sir Jeremy Greenstock
25 had a conversation with Kofi Annan --

1 BARONESS USHA PRASHAR: But --

2 RT HON JACK STRAW MP: -- sorry, if I can finish -- and

3 Kofi Annan spelt out that the UN -- and I paraphrase

4 here, but I have got a clear recollection of the

5 telegram and the note that was sent -- wasn't willing to

6 take over the kind of peace-making -- peacekeeping role.

7 We wanted to ensure that there was a partnership with

8 the UN, and that, indeed, was what we finally secured in

9 1438, but it was very clear, say from the day after

10 the -- well, virtually the day before the big military

11 action took place, which was the 20th, the day after our

12 decision, that the UN, for reasons we fully understood,

13 would not be in the sole lead on Iraq.

14 BARONESS USHA PRASHAR: But am I right in thinking that,

15 before the invasion, our planning assumption was that

16 the UN would take a lead role, but the Americans were

17 not so keen on the UN taking a lead role?

18 RT HON JACK STRAW MP: The Americans were never so keen on

19 the UN role, and this was just something we had to

20 manage the whole time. But -- and Baroness, it depends

21 what you mean -- I'm not being casuistical here, it

22 depends what you means by "lead role".

23 A military invasion was going to mean that it would

24 be the military literally in occupation, with a small

25 "o", of the territory, and in that situation and in the

1 situation where the preceding regime had collapsed, the
2 only source of authority, with a small "a", was going to
3 be the military. It was ever thus in an immediate
4 post-major-conflict situation and everybody understood
5 that.

6 There was then an issue of how we best involved the
7 UN, and, you know, inevitably, this was going to be the
8 subject of many discussions and iterations and we
9 finally achieved that with 1483 towards the end of May.

10 BARONESS USHA PRASHAR: But it is true that we wanted
11 a greater role for the UN than the United States?

12 RT HON JACK STRAW MP: Yes, but where we arrived at -- bear
13 in mind 1483 was unanimous or with the usual Syria
14 voting against, but I think it was unanimous -- was,
15 I think, in a position that was relatively satisfactory
16 in what was becoming a not altogether satisfactory
17 situation, but President Bush had spoken about a vital
18 role for the UN.

19 BARONESS USHA PRASHAR: But that was afterwards. I'm
20 talking about sort of planning, you know, for the
21 aftermath, because I think in Washington the planning
22 switched to the Department of Defense. When did you
23 become aware of that, that the planning for the
24 aftermath had switched to a different department?

25 RT HON JACK STRAW MP: The problem in Washington was this:

1 Secretary Powell -- so, whose experience before he
2 became a diplomat was entirely military -- had the most
3 acute understanding about what was required in
4 a post-immediate-conflict situation, and he said to me
5 on many occasions that, of course, as I have just
6 explained, the military would have to be the authority,
7 with a small "a", in Iraq in the immediate situation
8 just as they had been, he said, in Germany or Japan and
9 General MacArthur was a general.

10 That was never the issue in Washington. The issue
11 was the extent of the collaboration between the
12 Department of Defense and the State Department, and
13 then, once they had established a level of authority in
14 Iraq, who then within the American system, not called
15 the shots, but made the key political decisions which
16 obviously had military consequences as well; for
17 example, in respect of de-Ba'athification.

18 What broke down, in that it began mid to
19 late February 2003, was the extent to which the
20 State Department were going to be involved. That was
21 the problem. I had been reassured up to that time
22 with -- for good reason, that the State Department would
23 be, as it were, an equal partner in what the Americans
24 were going to do and that would have made a profound
25 difference. They had done a huge amount of work. They

1 had had a lot of experience of nation building.
2 I recall Colin Powell speaking to a lunch of the 15,
3 after one or other of the Security Council meetings, and
4 talking about their nation building. I think it is on
5 the record that they got this Study of Iraq Group. All
6 the work was there.

7 But then there was a dreadful internal battle in
8 Washington and the Department of Defence reckoned they
9 could do the lot, with consequences which were adverse.

10 BARONESS USHA PRASHAR: Were you having discussions with
11 Colin Powell before the invasion, and did you ever
12 discuss having a joint plan between the US and the UK?

13 RT HON JACK STRAW MP: Yes, and as you have already heard
14 evidence, Sir John -- I mean, I had endless discussions
15 with Colin Powell -- the -- and we have been talking
16 about this -- I mean, going -- Colin Powell had to me,
17 going right back to the previous February/March.
18 Obviously everybody was alive to the fact that with the
19 inherent military power of the United States, plus
20 support which was significant by allies like us,
21 militarily it was perfectly possible to remove the
22 Saddam regime. Leave aside issues of legality and
23 morality, just in terms of military terms, that could be
24 done. The question as big as that was what happened
25 next.

1 So a lot of discussions are there and, as you have
2 had evidence, Sir John, early in 2003 senior officials
3 like Edward Chaplin and others, went to Washington to
4 talk about the process.

5 BARONESS USHA PRASHAR: But again, we were told by Tim Cross
6 and Edward Chaplin that the assumptions that the US were
7 making were very optimistic. So their planning was
8 based on very optimistic assumptions that it would be
9 fine, they would be greeted in the streets and so on,
10 but given the fact that our personnel were there, why
11 did we fail to exert influence over the post-conflict
12 planning?

13 RT HON JACK STRAW MP: In Washington?

14 BARONESS USHA PRASHAR: Yes.

15 RT HON JACK STRAW MP: Well, we sought to exert influence
16 over post-conflict planning, but it wasn't -- what was
17 lost out was not the United Kingdom, but the interests
18 of the State Department. That was the big difficulty.
19 We got caught up in internal administration politics.

20 This didn't become completely clear until after the
21 invasion, and Tim Cross, I think, brings that out in his
22 memorandum, and, as I think he says -- I could turn up
23 the quotation, but words to the effect that it wasn't
24 until he was out in Kuwait that he realised the extent
25 of the lack of planning. That was also true for me.

1 BARONESS USHA PRASHAR: That's not what he said. He said on
2 his way to Kuwait he stopped in London and had
3 discussions with Clare Short, with Alastair Campbell,
4 I think he saw Edward Chaplin, and he also said to us
5 that he was submitting lots of reports, but he wasn't
6 sure that they were being read or who was taking any
7 note of them.

8 RT HON JACK STRAW MP: But this was post the major invasion?

9 BARONESS USHA PRASHAR: That's right.

10 RT HON JACK STRAW MP: I don't think we disagree on that.

11 BARONESS USHA PRASHAR: But what advice did you receive in
12 the run-up to the conflict about the scale of the task
13 we would be taking on and FCO's capabilities to deal
14 with those responsibilities?

15 RT HON JACK STRAW MP: We had a lot of advice and I think
16 you are familiar with it. I think you have got access
17 to the documentation. From about mid-October, I think
18 the problems that DFID had felt that they were under, in
19 terms of lack of involvement, which did not in any case
20 come from the Foreign Office --

21 BARONESS USHA PRASHAR: We are aware of that. I'm talking
22 about FCO's -- what advice were you receiving, as
23 Foreign Secretary, about FCO's capabilities?

24 RT HON JACK STRAW MP: A lot of advice. I haven't got it in
25 front of me, but you will have seen it, Baroness, and we

1 were all extremely concerned to ensure that the process
2 worked and I made a speech about the post-war situation
3 on -- I think it was 1 April of 2003, so before the
4 military action was over, talking about what we were
5 proposing to do and so on, and that we had four key
6 tasks. Some parts --

7 BARONESS USHA PRASHAR: I'm really talking about the
8 planning and the thinking before. The speech you made
9 was after the event. This is about the planning --

10 RT HON JACK STRAW MP: I couldn't have made the speech after
11 the event --

12 BARONESS USHA PRASHAR: I'm talking about planning --

13 RT HON JACK STRAW MP: -- without -- Baroness --

14 BARONESS USHA PRASHAR: -- I'm talking about planning before
15 the event.

16 RT HON JACK STRAW MP: The reason I mentioned the speech was
17 because I couldn't have made the speech after the event
18 unless there had been planning before the event. That's
19 my point, with respect.

20 As I say, you have received a great deal of
21 documentation about the level of planning that went in
22 before the event. That was why Edward Chaplin and
23 others went over to Washington. I had various meetings
24 with them. You will have seen the record of these
25 meetings.

1 BARONESS USHA PRASHAR: For example, I think it was
2 Lord Turnbull who said to us the fact that we agreed to
3 a large package in terms of military package, that made
4 us into a joint occupying power. If we had agreed for
5 a lesser package, that wouldn't have been the case.
6 Were those implications understood and were there
7 discussions in your department, what that meant for you,
8 for your staff, at the FCO?
9 RT HON JACK STRAW MP: I have no reason to think they
10 weren't.
11 BARONESS USHA PRASHAR: You have no reason to think they
12 weren't?
13 RT HON JACK STRAW MP: No, I have no reason to think they
14 weren't understood. I mean, the fundamental problem, if
15 I may say so, was not a lack of planning in London.
16 There will be lessons learned on that side, of course,
17 because military action never, ever goes exactly as
18 intended, nor does its aftermath. That's just because
19 there are so many variables thrown up.
20 But the fundamental problem was the breakdown in
21 co-ordination in Washington between the Department of
22 Defense and the State Department, and my point about
23 Tim Cross -- and I will find the reference afterwards,
24 Sir John -- was that he -- I'm pretty certain it was
25 him, but it may have been somebody else, but it

1 certainly reflects my own view.

2 I did not believe that the difficulties in relations
3 between the State Department and the Department of
4 Defense, of which I was well aware, would have, however,
5 the very adverse consequences that they did, because the
6 Americans, although they are famous for having these
7 great public disagreements, but also, usually, the show
8 is okay on the night, and this was not the case.

9 Post-war by July, it was all right, sort of, up to that point.

10 BARONESS USHA PRASHAR: But it is evident, having heard you
11 earlier, that much of your time in late 2002 and early
12 2003 was spent negotiating with the UN. So you didn't
13 have sufficient time to give to planning, but who had
14 the responsibility to ensure that effective planning was
15 taking place within the FCO?

16 RT HON JACK STRAW MP: Well, it is certainly true, you know,
17 my overwhelming priority was to bring this to a peaceful
18 resolution, and so I spent my time doing the diplomacy
19 and I was backwards and forwards. The period
20 in September/October/early November was spent dealing
21 with the negotiation of 1441, and then, from January --

22 BARONESS USHA PRASHAR: But my question is: who had the
23 responsibility?

24 RT HON JACK STRAW MP: The senior officials, most of whom
25 you have met. We also worked collaboratively with DFID,

1 and I may just say, Sir John, that, when I became
2 Foreign Secretary in early June 2001, it was kind an
3 open secret that relations between DFID and my
4 predecessor had not been all that good, and I sought to
5 improve relations with DFID, and I think -- generally,
6 I think the view is that I succeeded. I was greatly
7 assisted in that by the fact that Michael Jay, who
8 became the Permanent Undersecretary at the beginning of
9 2002, had himself started his career in the predecessor
10 of DFID and knew the issue of overseas aid and was
11 trusted by DFID people.

12 BARONESS USHA PRASHAR: So would you say that you were being
13 given well judged and timely advice on the post-conflict
14 situation?

15 RT HON JACK STRAW MP: I didn't feel I wasn't. Obviously,
16 with the benefit of hindsight, we got some things right
17 and some things not so right, but I go back, Baroness,
18 to saying that the difficulty, I suggest, that was faced
19 was not principally to be found in London; it was to be
20 found in Washington, and we had to, however, carry the
21 consequences.

22 BARONESS USHA PRASHAR: True, up to a point, but then why
23 did we fail to anticipate the extent of the sectarian
24 strife, the likelihood of the insurgency and the hostile
25 interference we may get from Iran and Al-Qaeda? I mean

1 you know, if you were being given that advice, we should
2 have anticipated some of these difficulties.

3 RT HON JACK STRAW MP: We certainly anticipated some of
4 these things. What we particularly anticipated was
5 a humanitarian disaster, which turned out not to be the
6 case, and I think Clare referred to that, but that was
7 partly as a result of good planning. I think we need to
8 be clear about what was reasonably successful. The
9 second point is this: that, for a period, although there
10 were problems, the situation in Iraq was -- and the sure
11 problems with ORHA was -- for a post-immediate-conflict
12 situation was manageable.

13 I mean, I went to Baghdad in early July of 2003
14 and -- as well as to Basra, but I went to Baghdad.
15 I was able to drive around, albeit in an armoured car,
16 but not an armoured tank, through the streets, without
17 any problem at all. The British base was in the old
18 embassy, the one --

19 BARONESS USHA PRASHAR: We are going to come --

20 RT HON JACK STRAW MP: Hang on a second --

21 BARONESS USHA PRASHAR: Sir Martin Gilbert is going to cover
22 that, but can I just --

23 RT HON JACK STRAW MP: Okay. What I'm saying is you asked
24 why didn't we anticipate everything. We anticipated
25 a great deal and, to begin with, notwithstanding the

1 problems of ORHA, the environment we found was similar
2 to that which we anticipated. It was later, from early
3 mid-July, that things deteriorated.

4 BARONESS USHA PRASHAR: But in the early stages, there were
5 concerns about ORHA. There was a view that it was
6 planning in a vacuum, they were concerned about its
7 role, its intentions, our relationship with it, our
8 influence on it, the presentation of the issues.

9 I mean, there were all those issues in the early stages.

10 RT HON JACK STRAW MP: Yes, sorry, that was a separate point
11 though from that about whether we had anticipated
12 things. We had anticipated a lot of what we found in
13 Iraq. Full stop. The thing we -- we had anticipated
14 the problem of a humanitarian crisis sufficiently well
15 that, on the whole, we were able to avoid that, which
16 was good.

17 What we had not anticipated was the extent of the
18 inefficacy of ORHA, and when I went to Kuwait --

19 BARONESS USHA PRASHAR: But given the fact that Tim Cross
20 had been there, he had been giving information back, and
21 yet, not enough steps were taken because they were so
22 concerned about ORHA and its preparations.

23 RT HON JACK STRAW MP: With respect, Tim Cross doesn't say
24 that about me, and I went to Kuwait on 12 April.

25 BARONESS USHA PRASHAR: I'm talking about earlier, because

1 in terms of planning, when Tim Cross was at ORHA
2 working --

3 RT HON JACK STRAW MP: From Washington?

4 BARONESS USHA PRASHAR: Yes.

5 RT HON JACK STRAW MP: I see. What, before the invasion?

6 BARONESS USHA PRASHAR: That's right.

7 RT HON JACK STRAW MP: There was a great deal of work taking
8 place. I can't comment specifically on the traffic.
9 What I can tell you is that, when I went to Kuwait and
10 met Tim Cross and ORHA on 12 April, he makes a point of
11 saying in his narrative that I devoted a lot of time to
12 listening to what he and his colleagues had to say.
13 I was absolutely shocked by what I saw in ORHA and
14 I came back and communicated that.

15 BARONESS USHA PRASHAR: Can I come back to arrangements in
16 Whitehall? Because the Iraq Planning Unit was set up
17 rather late, and it was, I understand, set up at the
18 suggestion of the Cabinet Office and not the FCO.

19 Was it really a planning unit or was it just looking
20 at policy?

21 RT HON JACK STRAW MP: It was a planning unit. We'd got
22 a lot of standing arrangements --

23 BARONESS USHA PRASHAR: Why didn't the FCO take the lead?
24 Why was it set up at the suggestion of the
25 Cabinet Office?

1 RT HON JACK STRAW MP: I think it was very sensible for the
2 Cabinet Office to set it up, because you needed
3 co-ordination across Whitehall. It would have been
4 inappropriate for it to have been set up by the
5 Foreign Office.

6 BARONESS USHA PRASHAR: It wasn't even suggested by the FCO.
7 It was a suggestion of the Cabinet Office.

8 RT HON JACK STRAW MP: I can't be certain where the
9 suggestion came from. Whenever we had a conflict of
10 this kind, a unit would be set up and I don't think
11 there is any copyright in the idea of having a unit,
12 everybody knew that's what you do.

13 BARONESS USHA PRASHAR: Then why did you not set up
14 a committee under a ministerial leadership rather than
15 a sort of small FCO unit with limited clout? Because it
16 was Tim Cross again who said:
17 "I just felt this wasn't being taken seriously
18 enough. There was no minister of Cabinet rank
19 reporting back and writing this day to day."

20 RT HON JACK STRAW MP: I saw that. Are you saying he was
21 saying that before the invasion? Because, once the
22 invasion had taken place, the machinery of government
23 became significantly more formal, and I regarded that as
24 a good thing. But, so far as before that is concerned,
25 with respect, Baroness, it is not for a Foreign

1 Secretary to set up a Cabinet Committee. That's
2 a matter for the Prime Minister and -- at the suggestion
3 of the Cabinet Secretary, but there was a huge amount of
4 collaboration taking place between the Foreign Office,
5 DFID and the Ministry of Defence, a huge amount, and --
6 I know that there was something of an issue between DFID
7 and the MoD, but I have read all the evidence very
8 carefully. I also know what was going on. We worked
9 very hard with DFID to respect DFID and -- but also its
10 expertise, to be as collaborative as possible.

11 BARONESS USHA PRASHAR: But you would agree that the
12 planning arrangements could have been better and more
13 adequate than they were?

14 RT HON JACK STRAW MP: There are -- I mean, in a better
15 world, things could have been better. I think -- so far
16 as -- as I say, the UK is concerned, we did reasonably
17 well. However well we had done, the fundamental problem
18 we faced was the dysfunctionality in Washington.

19 BARONESS USHA PRASHAR: Thank you.

20 THE CHAIRMAN: Thank you. Could we turn to
21 Sir Martin Gilbert. Martin?

22 SIR MARTIN GILBERT: Although in UNSCR 1483, when you were
23 designated the joint occupying power for the whole of
24 Iraq, the decision-making power, in effect, was in
25 Baghdad, not in our hands, but in those of the

1 Americans, and, in a view you have stressed yourself,
2 not in the hands of the State Department with whom you
3 had had considerable discussion about the aftermath, but
4 with the Department of Defense.

5 How did you weigh the risks of our taking
6 responsibility and whether we had the means to exercise
7 that responsibility in an effective way?

8 RT HON JACK STRAW MP: I thought that we were bound to take
9 responsibility, Sir Martin, because we were an occupying
10 power and it was going to be very difficult for us to
11 sort of draw a boundary and say, "We are the occupying
12 power in the south and the Americans are the occupying
13 power everywhere else". In practice, although we were
14 overwhelmingly in the south, we weren't just in the
15 south.

16 So my view was that this responsibility went with
17 the decision we had made to take military action. There
18 it was. We were the joint occupying powers and I think,
19 though I can't be certain, that that was also the
20 direction of the legal advice. But we were occupying
21 powers and we had to put up with that. We had to take
22 our responsibilities.

23 SIR MARTIN GILBERT: It then comes to a question of
24 influence, and, essentially, how do you account in the
25 circumstance where 1483 made it clear that our

1 responsibility was for the whole of Iraq, not just the
2 south -- how do you account for our lack of influence,
3 and particularly over these two crucial decisions that
4 were made by the Americans, de-Ba'athification and the
5 disbandment of the army, which appeared to be made in
6 Washington without consultation with us?

7 RT HON JACK STRAW MP: How do I account for them? Rather
8 poorly is the answer. They should have been made with
9 consultation, and jointly, and if they had been made,
10 different decisions, in my view, would have followed
11 through because I think that the single greatest errors
12 that were made post-war were the errors of taking
13 de-Ba'athification too far and the disbandment of the
14 army and a failure to pay it and all sorts of things
15 then followed.

16 SIR MARTIN GILBERT: At what point did we learn that this
17 had been decided? Was it after the event or close on
18 the event?

19 RT HON JACK STRAW MP: Well, it was -- I can't give you
20 a precise date, Sir Martin, without checking the
21 records. I mean we knew pretty much at the time, but,
22 bluntly, too late to be able to change the policy, and
23 I think we have talked to -- I know you have. You have
24 talked to Sir John Sawers and Sir Jeremy Greenstock, who
25 were our representatives in Baghdad working alongside

1 the Americans.

2 You will know from their evidence that they felt
3 very frustrated about the situation in which we found
4 ourselves.

5 SIR MARTIN GILBERT: Were you able to initiate influence on
6 the Americans after --

7 RT HON JACK STRAW MP: As I say, my direct channel to the
8 Americans was Secretary Powell. That's who formally
9 I dealt with. So, as I think, Sir Martin, as the record
10 shows, I talked to Secretary Powell about this and
11 Sir David Manning talked to Condoleezza Rice, and the
12 Prime Minister to President Bush, but, by that stage,
13 it appeared to have been a *fait accompli* with serious
14 consequences.

15 May I just say that everybody accepted there had to
16 be a degree of de-Ba'athification, but what we had
17 wanted was a greater level of intelligence applied,
18 distinguishing between who was in the Ba'ath Party
19 because they had to be because they wanted to make
20 a living, and who was in the Ba'ath Party because they
21 were enthusiasts. When I had been in Kuwait in the
22 middle of April, I had had a conversation with
23 General Tommy Franks and he had said to me that his view
24 was you should take anybody apart from those who were
25 obviously bad into the system, and then vet them

1 subsequently, and if they -- and I remember him saying,
2 if they didn't pass muster, didn't pass the vetting,
3 then you'd kick them out. But what you didn't do was
4 wholly to degrade the administration in advance, and
5 I thought, not least because he was the senior army
6 officer on the American side, that that's what would
7 happen, but, in the event, it wasn't.

8 SIR MARTIN GILBERT: Could I turn now to the south?

9 Previous witnesses have told us with some emphasis that
10 they underestimated the resources we would need for the
11 role we took on in the south and that the resources were
12 not provided to carry out what had originally been hoped
13 would be an exemplary role.

14 Sir Peter Ricketts, for example, told us there was
15 an underestimate of the number of people and the cost of
16 the role we found ourselves playing in the south. Were
17 you able to secure sufficient resources, and how did you
18 do that when the gaps and deficiencies became known?

19 RT HON JACK STRAW MP: As the problem of resources emerged,
20 then I discussed it with the Permanent Secretary,
21 Sir Michael Jay, Peter Ricketts or vice versa, and then
22 there was the usual process of finding the people and
23 then getting the money from the Treasury.

24 SIR MARTIN GILBERT: Were you satisfied with the way --

25 RT HON JACK STRAW MP: In the end, yes. It is an eternal

1 verity about relations between spending departments and
2 the Treasury, you have to have a negotiation, but in the
3 end -- and actually quite quickly -- they responded with
4 the money and there were quite a lot of letters on the
5 file about that.

6 SIR MARTIN GILBERT: Were you surprised or concerned that
7 this had not been anticipated?

8 RT HON JACK STRAW MP: To a degree, Sir Martin, but it goes
9 back to the issue of what happened in the immediate
10 aftermath. I mean, we thought certain things would take
11 place and we were prepared for those. As I say,
12 a long-running military campaign did not happen because
13 the Saddam regime collapsed much more quickly. We
14 managed -- the humanitarian crisis, on the whole, didn't
15 happen, for other reasons, and then the -- but
16 because -- in my view, partly because of over-extensive
17 de-Ba'athification and disbandment of the Iraqi
18 military, you had a security vacuum, and that then, if
19 you have a vacuum, it is going to be filled, and it
20 began to be filled, above all, by Sunni insurgents, who
21 in turn sought to provoke the Shia, whom they felt
22 threatened by, because the Shia were a majority, and
23 there were also all sorts of scores that were being paid
24 off after 30 years of tyranny.

25 THE CHAIRMAN: Thank you, Martin. Lawrence?

1 SIR LAWRENCE FREEDMAN: There is one very specific question
2 I would like to ask you first and then pick up where you
3 have left off with the nature of the developing
4 violence. But as part of that, which is the particular
5 issue of kidnappings, and we have had evidence from
6 Edward Chaplin on the problems created by -- issues
7 about the kidnapping and murder of Kenneth Bigley and
8 Margaret Hassan, and we will obviously try to find out
9 what we can about this, but I would just be interested
10 in your point of view from the Foreign Office about the
11 policy issues and practical issues raised by events of
12 this kind.

13 RT HON JACK STRAW MP: The first thing to say is that when
14 there was a kidnapping of a British citizen, in Iraq --
15 or I may say anywhere else, but let's deal with Iraq --
16 the whole of the Foreign Office and I took it incredibly
17 seriously and it became a major, and, for me, a personal
18 priority.

19 Let me -- the two cases are similar, obviously,
20 because they took place in Iraq and with equally
21 appalling consequences. They are different in other
22 respects, just because of the nature of the kidnappings.

23 So with the kidnapping of Ken Bigley, a great deal
24 of work was done. Inevitably, there is a lot of detail
25 about what happens when there is a kidnapping, which

1 I cannot possibly go into in public. I think one of the
2 frustrations that the families feel is that it is not
3 possible, and it remains impossible, to explain to them
4 the full extent of the involvement by all the parts of
5 the British system when there is a kidnapping, but it is
6 very intense.

7 So far as Kenneth Bigley's death is concerned, when
8 we finally got news that he had been killed, I travelled
9 to Liverpool to talk to the family and subsequently
10 attended a memorial service in the Anglican cathedral
11 and have remained in touch, let me say, with the family.

12 So far as Margaret Hassan's kidnapping is concerned,
13 as I say, it is different, but I made myself available
14 to the family and -- I mean, I have always done that
15 where there has been this kind of violence. I do in my
16 current position, I did as Home Secretary.

17 So that was really -- and you know, it was of the
18 highest priority for everybody.

19 SIR LAWRENCE FREEDMAN: There is a policy issue which always
20 comes up in these cases, which is whether you sanction
21 any sort of discussion or negotiation and what attitude
22 you take, and I appreciate details are difficult, but,
23 as a general policy view, what was the
24 British Government's --

25 RT HON JACK STRAW MP: The policy which I think is the

1 correct one, is not to pay ransoms, because I think
2 that, if you were to, more British citizens would be put
3 at risk and more British citizens would be killed.

4 But in terms of what you say to intermediaries, then
5 within that overall framework you communicate with the
6 intermediaries, maybe with the kidnappers themselves
7 directly, in any way that you can secure a satisfactory
8 outcome, because that's the priority, and nobody stands
9 on their dignity in this, if I may put it in that way.

10 SIR LAWRENCE FREEDMAN: It is difficult to do this in open
11 session, but it is something that the Inquiry is
12 concerned about.

13 RT HON JACK STRAW MP: Of course.

14 SIR LAWRENCE FREEDMAN: Can I just then move back to the
15 question that you were talking about before, where you
16 gave an analysis, which I think many people would
17 accept, about the way that the violence developed?

18 Tony Blair told us, and I'm quoting:

19 "People did not believe that you would have Al-Qaeda
20 coming in from outside, and people did not believe that
21 you would end up in a situation where Iran would try to
22 destabilise the country."

23 Just starting with Al-Qaeda, was that your view as
24 well?

25 RT HON JACK STRAW MP: Well, as we know, there was no

1 evidence whatever that Saddam Hussein was linked to
2 Al-Qaeda. What then happened in this security vacuum,
3 which had its -- and this didn't really have
4 a manifestation until July, with a number of attacks,
5 and then, of course, most awfully, on 19 August, with
6 the attack on the UN building, and the murder of
7 de Mello -- was that Sunni extremists and insurgents,
8 probably encouraged by Al-Qaeda, then sought to exploit
9 that situation.

10 So did we anticipate it? I think, not to the extent
11 that it happened, no.

12 SIR LAWRENCE FREEDMAN: I just want to quote two things.
13 First, yourself, when you were talking to the
14 Security Council on 5 February, where you drew attention
15 to the "deeply worrying reports" -- that's a quote --
16 about the presence of Al-Zarqawi in Iraq.

17 RT HON JACK STRAW MP: We thought he was there. It was not
18 a trivial point. I think he was there.

19 SIR LAWRENCE FREEDMAN: Secondly -- and this is in contrast
20 with the view that this was a big surprise, and
21 Sir David Omand's evidence, where he cited the
22 assessment of 19 February, that the risk in the south
23 was of unpredictability, high risk of revenge killings,
24 settling of scores, tribal attacks, and you have
25 mentioned all those things, but it went on in March to

1 warn that Al-Qaeda might have, in fact, have established
2 deeper cells in Iraq to be activated after a coalition
3 operation. So you were aware of that.

4 Again, I think you have almost given us the answer:
5 to some extent it was the performance of the coalition
6 and the immediate aftermath of the war that created the
7 opportunities for these sleeper cells really to make
8 their impact.

9 RT HON JACK STRAW MP: We obviously knew about the potential
10 risk. They were going to fill a vacuum, and things like
11 the failure to secure the ammunition dumps of the Iraqi
12 army, which was significant, other matters like that,
13 and I have already made my points about
14 de-Ba'athification and the failure to pay the Iraqi
15 army -- I mean, if you don't pay an army, consequences follow.
16 You do not have to be that imaginative to work out what
17 they are going to be.

18 SIR LAWRENCE FREEDMAN: I'm interested in how you respond to
19 the view that has been put to us that a war that had
20 been intended to cut off opportunities for terrorists
21 provided them instead with new opportunities to cause
22 terrible pain and to challenge the west.

23 RT HON JACK STRAW MP: I don't think it provided
24 a opportunity to challenge the west. What essentially
25 happened was that this was internal to Iraq, with -- but

1 it -- extremists on the Sunni side who saw their power,
2 which they had enjoyed for 30 years, going, and also, as
3 part of that, becoming intensely angry that the Shia, on
4 whom they had always looked down, were quite likely,
5 when democracy took over, to be the dominant force in
6 Iraq and you have also -- as you know, Sir Lawrence, got
7 to take account of the historic enmity, especially in
8 that part of the world, between the Shia and the Sunni.

9 SIR LAWRENCE FREEDMAN: This part of it does seem to me to
10 have potentially been more predictable. The
11 Prime Minister mentioned to us that -- the
12 Prime Minister of the time mentioned to us that he had
13 asked for a briefing on the dangers of sectarian
14 violence. Can you remember when that was?

15 RT HON JACK STRAW MP: Sorry, I can't remember offhand, but
16 there was -- look, there was plenty of material about
17 this and we had a number of detailed meetings with
18 experts on Iraq. No, I mean, we would have to have
19 a really serious ignorance of the region not to
20 realise --

21 SIR LAWRENCE FREEDMAN: So you realised that this was likely
22 to be --

23 RT HON JACK STRAW MP: Of course. Not least from the fact
24 that Saddam had serious problems in the south with the
25 Shia, as well as in the north. It was inherently

1 unstable.

2 SIR LAWRENCE FREEDMAN: Just to conclude this, because the
3 sort of questions that we need to ask, just looking at
4 Iran, you will have seen we have had evidence from
5 Sir Jock Stirrup and from Lord Walker, both of whom
6 essentially say that, though interference by the
7 Iranians was an aggravating factor, the essential
8 challenge was a political one internally within the Shia
9 community of Basra, and then this morning the Committee
10 was told by General McColl that at the beginning when he
11 arrived, there was -- in sort of April 2004, there was
12 a feeling that there wasn't a big Iranian issue, but
13 by October there was.

14 So again, it is the same point, that the problem was
15 that the difficulties in the security situation in the
16 immediate aftermath created opportunities that others
17 were able to exploit?

18 RT HON JACK STRAW MP: Yes, I think it is simplistic to
19 regard Iran as the bogeyman in respect of the problems
20 in Iraq. My view about Iran is this -- and I just
21 precede this by saying that I have -- ever since
22 Prime Minister Blair asked me to go to Iran, I have
23 sought to develop an understanding of a -- limited -- of
24 the nature of that society and its history and its very
25 singular society and a very singular history, with much

1 greater involvement by the United Kingdom and definition
2 against the United Kingdom than anybody here properly
3 understands.

4 The factor you have to remember about Iran is that
5 they very rarely have a single objective.

6 SIR LAWRENCE FREEDMAN: Sorry, you were just talking before
7 about Iran, because --

8 RT HON JACK STRAW MP: Iran, I'm talking about Iran.

9 SIR LAWRENCE FREEDMAN: You said "Iraq".

10 RT HON JACK STRAW MP: I am sorry, I meant Iran. Sorry.

11 What you have to remember about the way the Iranian
12 administration deals with things, the way the Iranian system
13 responds, is that it is rarely with a single objective.
14 I mean, it is a very complicated system to deal with,
15 but it is the same when you try to negotiate with them.

16 My view is that their long-term strategic objective
17 for Iraq was actually the same as the United Kingdom.
18 Their objective for Iraq was to secure a stable,
19 peaceful and democratic Iraq in which the Shia were able
20 to enjoy majority rights, and, crucially, in which the
21 Shia in Iran were able to go to the holy sites of Najaf
22 and Karbala to worship at those holy shrines, and people
23 forget that most holy shrines for the Shia, for the Shia
24 in Iran, as well as in Iraq, were in Iraq.

25 So they had an interest in stability, but they had

1 a second objective, which was that they did not want the
2 west, particularly the United States and the
3 United Kingdom, to have a comfortable time in Iraq.
4 They were extremely exercised about the fact that, as of
5 21 March 2003, you had the Americans and allies in
6 Afghanistan on one side, and you had the Americans and
7 allies in Iraq on the other.

8 SIR LAWRENCE FREEDMAN: That concern might have been
9 aggravated by being lumped together with Iraq and
10 North Korea as part of the "Axis of Evil".

11 RT HON JACK STRAW MP: I said that in evidence a few days
12 weeks ago. I am in no doubt at all that, in terms of
13 handling Iran, a profound mistake was made by the
14 American administration in lumping Iran together with
15 Iraq and North Korea. I could never understand why
16 President Bush had done it.

17 North Korea, on any basis, was a rogue state. Iraq
18 we know was in defiance of Security Council Resolutions
19 and the rest of the history. Iran had not invaded any
20 other country. There was an emerging issue in terms of
21 its nuclear dossier, but nothing else, and it had been
22 the subject of this appalling Iran/Iraq war of which
23 everybody understands that Iraq was the aggressor and
24 the Iranians lost hundreds of thousands of people in
25 that war.

1 Moreover, the Khatami government was seeking to
2 reach out to the west in the aftermath of 9/11. They
3 couldn't stand Al-Qaeda any more than we could.
4 They couldn't stand the Taliban any more than we could.
5 They had to put up with the Taliban running their
6 next-door neighbour on the east.

7 So as part of this "reaching out", one aspect of that is
8 that I go there. He takes -- it is quite a courageous
9 thing to do in the complicated system which is Iran, and
10 then, come the end of January 2002, the rug's pulled
11 from here. Now, cooperation carried on and, for
12 example --

13 SIR LAWRENCE FREEDMAN: I think what you are saying is very
14 clear.

15 RT HON JACK STRAW MP: Okay.

16 SIR LAWRENCE FREEDMAN: I think we have got enough on our
17 plate with Iraq in some senses, without getting into
18 Iran.

19 RT HON JACK STRAW MP: You are asking me --

20 SIR LAWRENCE FREEDMAN: I think it is important for a reason
21 that it has been put to us, not least by Mr Blair, that
22 this was more than an aggravating factor. I think what
23 you have demonstrated very clearly for us is that there
24 were very particular and significant tensions in the
25 relationship with --

1 RT HON JACK STRAW MP: Yes. Look, I don't want to minimise
2 the damage that some sections of the Iranian regime
3 indirectly caused in the south, and there are British
4 soldiers who lost their lives as a result of IEDs, which
5 almost certainly were provided, or their design was
6 provided, by elements of the Iranian system, and that
7 goes to my point about the second objective.

8 SIR LAWRENCE FREEDMAN: We have had evidence on that.
9 I think the issue, clearly, which is the one that we're
10 concerned with, is the issue of the way that the overall
11 diplomacy was managed leading into this conflict with
12 Iraq.

13 THE CHAIRMAN: I think we are coming to the close. I have
14 got a couple of questions on decision-making and then
15 a final question.

16 So first of all on machinery of government and on
17 process. From all the evidence we have had heard, from
18 you and others, and all that we have read, you were the
19 only minister, as Foreign Secretary, to have been kept
20 fully informed throughout by the Prime Minister and by
21 Number 10. You were the only one privy to the then
22 Prime Minister's exchanges with the President and to the
23 evolution of the Attorney General's advice indeed.

24 You have described the decision to go to war as the
25 most serious and difficult of your political life, and

1 the question that arises is should it have been shared,
2 this very difficult decision, in practice and through
3 the time, by more than two ministers in full possession
4 of the facts, the Prime Minister and yourself. If one
5 was thinking of constructing a Cabinet Committee for
6 that purpose through mid-2002 through to the decision,
7 you probably would have included the Defence Secretary,
8 the Deputy Prime Minister, Chancellor and probably the
9 Development Secretary, possibly with the Attorney taking
10 a hand.

11 Now, do you think that, with hindsight and looking
12 ahead as a lesson, a larger group than two would have
13 made for a more effective and better delivered process?

14 RT HON JACK STRAW MP: Yes. Could I -- my very clear
15 recollection, Sir John, was that the Defence Secretary
16 was very heavily involved. I accept he wasn't as
17 involved in the diplomacy but I wasn't as involved in
18 the military planning.

19 But anyway I understand the point you are making and
20 I would answer it, if I may, in this way. I'm somebody
21 who is at the more formal end of the spectrum about how
22 government should be conducted, so if it had been down
23 to me, yes, I would have set up a formal
24 Cabinet Committee at an early stage, and I also was
25 giving advice to the Prime Minister in the summer of

1 2003 about how he ought to improve the Cabinet Committee
2 structures and in particular at the point of
3 intersection between Cabinet Committees, which, where
4 they exist, worked all right, and the Cabinet, which was
5 not being used to arbitrate on decisions. So that's
6 what I would have done. Query who the key ministers
7 would have been.

8 But I add two caveats to this. One is that a large
9 part of the work that I did with the Prime Minister was
10 sort of day by day, hour by hour, and it is very
11 intensive and, yes, I accept the case for it being
12 moderated by Cabinet Committee, but, I mean, an awful
13 lot of the traffic was directly operational, just as it
14 is, for example, in respect of other matters. I mean,
15 the failure of Railtrack, for example -- I wasn't
16 involved in that, I couldn't have been, it was a minute
17 by minute discussion -- or some other difficult issues
18 on the financial side.

19 The second point I would make is that I don't think
20 it would have made a difference to the substance of the
21 outcome. I think the substance of the outcome would
22 have been the same. You have had evidence from a number
23 of my then Cabinet colleagues, apart from Clare Short,
24 explaining that they didn't feel out of the loop, and
25 they weren't and not least because they couldn't be

1 because of the imperative of us going to the House of
2 Commons. There is no way we could have kept people out
3 of the loop. It was not in any sense my instinct.

4 But if we had had a more formal process, would that
5 have then made it more legitimate and that led to fewer
6 questions in this Inquiry? Almost certainly yes.

7 THE CHAIRMAN: Thank you. I think that leads to my last
8 question on this topic, which is really the same
9 question from a different starting point.

10 Both the former Prime Minister and his staff have
11 described to us, and elsewhere, repeatedly, that the big
12 decisions were reflecting his personal judgment on what
13 was right, right in a number of senses.

14 As the policy developed through 2002 into 2003,
15 there is a possible critique that the government got
16 locked into that set of personal judgments and that,
17 therefore, the amount of challenge, formal processes
18 like risk assessment and stress-testing and stuff, but
19 mainly and more particularly challenge at the top
20 official and political level, exploration of possible
21 alternatives at crucial moments, didn't happen or didn't
22 happen to the extent it could have and should have. Is
23 that critique justified?

24 RT HON JACK STRAW MP: I don't think it is as a matter of
25 fact. You have all the records of my communication with

1 the Prime Minister. He was not short of challenging
2 advice from me all the way through, I mean right from
3 the beginning of 2002, saying, as it were, "Hang on
4 a second, have you thought of this? Have you thought of
5 that?" I add that that doesn't remove my responsibility
6 for the final decision, which I spelt out at the end of
7 the last session in my memorandum. But others were
8 there too, saying to the Prime Minister, as it were,
9 "Hang on a second," including David Manning, a very
10 distinguished diplomat, and Jonathan Powell for two, to
11 my certain knowledge.

12 As I say, while I think it would have been better if
13 there had been a small subcommittee of the Defence and
14 Overseas Policy Committee -- and I think that should
15 have met too, just on a regular basis because that's
16 why -- if you have these committees, they ought to
17 meet -- that does not mean that there was not serious
18 discussion in Cabinet. You know, we discussed it in
19 Cabinet over 27 times; there was the most intense
20 discussion. There were the meetings of ministers, the
21 small, ad hoc with a small "a", small "h", meetings,
22 which took place from September, which almost invariably
23 had more than two ministers present.

24 The reason why, Sir John, there has to be a --
25 a group is going to be relatively tight is mainly

1 because other people have other things to do -- and that
2 is not a trivial point; they have got their jobs to get
3 on with -- but (b) because diplomacy is fast-moving and
4 has to be kept confidential, and that's a very important
5 factor in this.

6 THE CHAIRMAN: Thank you. I'm coming now to our final
7 question, which is, of course, in two parts, but we,
8 right from the beginning of this Inquiry, and not least
9 in our discussions with families who have lost family
10 members, were to find answers to the why questions: why
11 Iraq and why in 2003, why now.

12 Taking the "why" question first, you have taken us
13 through, as other witnesses have, the four countries in
14 the Axis of Evil, and each of them differed from the
15 others, but Iraq by no means at the top and quite often
16 at the bottom of the list. So on the "why" question,
17 was Iraq the United Kingdom's choice of target because
18 it was the United States' choice of target rather than
19 in its own right, on any merits?

20 RT HON JACK STRAW MP: No, I think it was both, is the
21 answer. That's the serious answer to that question. It
22 was both because it was also the United States' choice
23 but also because we had been very heavily involved in
24 Iraq, going back to the first Gulf War and subsequently,
25 and because there was profound concern here, as well as

1 in the United States and across the world, about the
2 effect of leaving rogue states in long-term defiance of
3 the United Nations and the authority of the
4 United Nations simply being diminished and undermined.

5 So that was the reason, and as I said to you,
6 Sir John, when I came before, North Korea was being
7 dealt with separately. Libya, interestingly, we knew
8 what they were doing. We wanted a strategy and the
9 strategy fell into place straight after Iraq. I'm
10 absolutely clear that we would not have got the peaceful
11 disarmament of a huge nuclear weapons capability in
12 Libya had it not been for Iraq. Now, that is not
13 a justification for Iraq and it is no comfort to those
14 who have lost loved ones in Iraq, whose anger and grief
15 I understand, but it is nonetheless, I think, accurate.

16 THE CHAIRMAN: Thank you.

17 Well, the other part of the question, of course, is
18 the "when" question. Why now, in March 2003? And there
19 is no need, I think, for us to go over much of the
20 evidence you have given us in two sessions, and many
21 other witnesses. But the plain fact is that, apart from
22 the momentum of planning and preparation, there were
23 large bodies of opinion in the United Nations, UNMOVIC
24 itself, who did not accept that diplomacy was exhausted
25 by the middle of March, and there was nothing in the

1 actual situation which said that the threat from Saddam,
2 the threat of fusion with terrorism and WMDs, was
3 imminent. So what was it that made action that large,
4 in the broadest political sense, justified as well as
5 inevitable?

6 RT HON JACK STRAW MP: What made it justified -- I don't
7 take the view that things are always inevitable. I
8 mean, there were human decisions made, so it wasn't
9 inevitable. We could have decided otherwise, as far as
10 the United Kingdom is concerned. So it wasn't
11 inevitable; it was a decision we made, a judgment.

12 It followed from 9/11, the intense focus on rogue
13 states, which is not academic; Al-Qaeda had developed
14 their extraordinary capability in Afghanistan. There
15 was profound concern about the continuing destabilising
16 effect of the Saddam regime on that region and on
17 international peace and security. We then got 1441, and
18 I know people sometimes think that I'm a record stuck in
19 a track on this, for which I apologise, but it was of
20 huge importance, 1441, because it was the whole of the
21 international community coming together to say what it
22 felt about Iraq -- a threat to international peace and
23 security because of its weapons of mass destruction,
24 proliferation and its defiance of Security Council
25 Resolutions, and that was France and Germany and China

1 and all these other countries, as well as the
2 United Kingdom and the US -- then setting out very clear
3 requirements on Iraq, each of which could have been met.
4 I mean, you know, why else would we have put them there?
5 They weren't there as tricks, and, for example, Russia
6 had a huge and continuing interest in a legitimate
7 commercial relationship with Iraq. It didn't want to
8 see that wrecked; it wanted to see Iraq stabilised so it
9 could go on.

10 So we set those out. As I said before, and I was on
11 the record, saying at the beginning of January 2003,
12 I thought there was a greater chance than not of
13 resolving it peacefully. It turned out not to be, and
14 then the issue was what did we do. Having embarked
15 on a strategy of trying to resolve this by force of
16 diplomacy backed by the potential or reality of the
17 force of arms, my view was that that needed to be
18 followed through because the consequences for
19 international authority would be far more adverse than
20 following it through. It will be for future historians
21 to say whether that judgment is correct, and there are
22 many lessons to be learnt.

23 And I, to repeat, understand the anger that is felt
24 by a great many people in this country about the action
25 which we took. It is very controversial. It divided

1 parties, it divided communities, it divided families.
2 It has led to huge heart ache by those who lost loved
3 one there, and I hope they will accept my sincerity when
4 I say that I grieve for them, and I do, albeit that
5 I want to explain why I believe it was the appropriate
6 decision to be made, and I think it is perfectly
7 possible to say both.

8 The last thing I would say is this: the purpose of
9 the action was not regime change. I had hoped that we
10 would resolve it peacefully and we would just have to
11 manage Saddam after that but he would have been
12 disabled. But that having happened, I think there are
13 few in Iraq, despite the bloodshed, who would now say that
14 they want to go back to what existed before
15 20 March 2003. But you have got the beginnings of
16 a properly functioning democracy. Crucially, you have
17 got the Shia and the Kurds being able to exercise
18 political rights, which they never could before.

19 Thank you very much.

20 THE CHAIRMAN: Thank you. I know time presses on you, and
21 we have overrun and thank you for allowing it to. In
22 a moment I need to make a statement for three or
23 four minutes, but not about this witness session; there
24 will be no need at all for you to remain.

25 RT HON JACK STRAW MP: I think I ought to remain for three

1 or four minutes.

2 THE CHAIRMAN: In that case, do you have any final comment
3 beyond those --

4 RT HON JACK STRAW MP: No, no, sorry, that's the -- thank
5 you very much, Sir John, you have been very tolerant.

6 THE CHAIRMAN: Well, this is a general statement. Today we
7 are almost at the end of the Iraq Inquiry's first round
8 of public hearings. We will hear from the current
9 Prime Minister and Foreign Secretary and International
10 Development Secretary in a few weeks' time, but given
11 the considerable interest in the Inquiry and its
12 approach, and to prevent any unnecessary
13 misunderstandings, my colleagues and I have decided to
14 set out the current position as the Inquiry sees it.

15 We are here to establish a reliable account of the
16 United Kingdom's involvement in Iraq, based on all the
17 evidence, and identify lessons for governments facing
18 similar circumstances in future.

19 Now, we are committed to being open and transparent
20 about how we are approaching our task and the
21 information we are receiving.

22 This is the first Inquiry of its kind in this
23 country to have hearings broadcast on television and
24 streamed on the internet, and tens of thousands of
25 people have been watching the evidence sessions on our

1 website. So far there have been nearly three quarters
2 of a million hits on the website and people have access
3 to more than 150 hours of video recordings, as well as
4 thousands of pages of transcripts of the evidence, as
5 well as the documents that have been declassified during
6 the hearings.

7 The initial hearings served two purposes. The
8 first phase, largely before Christmas, set out to
9 establish the narrative account of the United Kingdom's
10 involvement in Iraq. In the last four weeks we have
11 focused much more on the major decision-makers,
12 politicians and senior officials, military and civilian,
13 to examine why and how they made their decisions.

14 Conducting the Inquiry in this way has allowed us to
15 hear a range of different perspectives about the same
16 events. The evidence we have been given so far has
17 provided a much more detailed account of the
18 United Kingdom's military action against Iraq and
19 subsequent commitments than has previously been brought
20 together in public.

21 But these public hearings are only the most perhaps
22 obvious aspect of our work; they are only one element of
23 our Inquiry, though they are an essential one, and the
24 great bulk of our evidence is in tens of thousands of
25 government documents, many of them highly classified.

1 They allow us to shine a bright light into seldom-seen
2 corners of the government machine, revealing what really
3 went on behind the scenes before, during and after the
4 Iraq conflict, and they form the central core of this
5 Inquiry's work.

6 The Inquiry is still receiving more documents every
7 week and we have no reason to believe that any material
8 is being deliberately withheld. We have published a
9 small number of those documents during the hearings but
10 I should emphasise, and I want to emphasise: our access
11 to the documents is unrestricted. Publishing a limited
12 number of them is a separate matter.

13 Over the next few months we shall examine all the
14 evidence we have received, including those documents.
15 They will enable us to see where the evidence joins
16 together and where there are gaps, if there are, and
17 only then can we decide what further evidence we need,
18 the issues and points which need to be clarified and the
19 identity of witnesses we may wish to question in the
20 next round of public hearings in the summer.

21 In the meantime, we will be holding a number of
22 meetings and seminars with a range of individuals,
23 British and non-British, who, we believe, will be able
24 to provide relevant information and insights, and these
25 could include, for example, veterans from Iraq, the

1 campaign, officials from the former American
2 administration. We also hope to visit Iraq later in the
3 year. Now, we cannot take formal evidence as such from
4 foreign nationals but we can, of course, and will have
5 discussions with them.

6 We shall also need a limited number of private
7 hearings, to get to the heart of some very sensitive
8 issues which are essential for our understanding, and
9 the terms under which we shall hold hearings in private
10 have been published on our website, and we will in due
11 course publish as much of that evidence as we can.

12 Now, the Inquiry has broken new ground and a great
13 deal has been achieved since the launch at the end
14 of July. We aim to complete our report, if at all
15 possible, by the end of the year.

16 I would like to thank all those members of the
17 public who have taken the time to be present at the
18 hearings and I would also like to thank the
19 Queen Elizabeth 11 conference centre for hosting us so
20 well, to Bowtie for ensuring that our proceedings are
21 filmed and transmitted, and lastly but by no means least
22 to our tireless stenographer and editor from
23 Merrill Legal Solutions. You have worked so hard to
24 keep up with the witnesses and the committee each day
25 and provide complete transcriptions for publication each

1 evening.

2 And with those words of thanks, most sincerely
3 meant, I would like to draw this hearing to an end.

4 Thank you all very much.

5 (5.40 pm)

6 (The Inquiry adjourned)

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