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Monday, 31st January 2011

(10.00 am)

Evidence of MR STEPHEN PATTISON

SIR JOHN CHILCOT: Good morning, everyone, if everyone is not too large a word for this audience. This morning we welcome Stephen Pattison. Welcome. Mr Pattison was head of the United Nations department in the Foreign & Commonwealth Office from 2001-2003 where, amongst other things, he dealt with the negotiation of Resolution 1441, the draft second resolution, Resolution 1483 and the UK's discussions with the United Nations on the UN role in Iraq. Then from 2004-2007 Mr Pattison was Director of International Security at the FCO.

In both of these roles, Mr Pattison had responsibility for security sector reform and policing in Iraq. We will address these issues and one or two others this afternoon, when Mr Pattison will give evidence alongside John Buck, who was Director of the Iraq Directorate in the Foreign & Commonwealth Office, which incorporated the Iraq security sector reform unit.

Now, we recognise that witnesses give evidence based on their recollection of events and we, of course, check what we hear against the papers to which we have access and which we are still receiving and, finally, I remind each witness on every occasion, you will later be asked

1 to sign a transcript of evidence to the effect the  
2 evidence given is truthful, fair and accurate.

3 With these preliminaries out of the way, I will ask  
4 Sir Martin Gilbert to open the questions. Martin.

5 SIR MARTIN GILBERT: I'd like to begin by asking about your  
6 responsibilities in relation to Iraq, both from your  
7 time as head of the United Nations Department, UND, and  
8 also your time as Director of International Security,  
9 Foreign Office. You were head of the UND from  
10 2000-2003. Can you tell us what your responsibilities  
11 were and how much of your time you spent dealing  
12 specifically with Iraq?

13 MR STEPHEN PATTISON: Yes. Thank you very much. As head of  
14 the United Nations Department, I spent quite a lot of  
15 time on Iraq. In particular I led the coordination of  
16 the instructions that went to New York on the  
17 negotiation of Security Council Resolutions 1441 and  
18 then 1483. This was consistent with the role the United  
19 Nations Department had played in other aspects of UN  
20 business.

21 Secondly, the United Nations Department had been and  
22 continued to be involved in the monitoring of sanctions  
23 in respect of Iraq and other targets of UN sanctions in  
24 the years prior to 2002 and throughout the whole period.

25 Thirdly, the United Nations Department was

1 responsible for peace-keeping and therefore understood  
2 the way in which the UN could design and operate  
3 international peace-keeping operations.

4 Third, we had a police unit, an international police  
5 unit in the United Nations Department, which was  
6 responsible for finding UK police to participate in  
7 international policing missions. This was something  
8 which I had brought into the United Nations Department  
9 earlier, when it seemed that the UK was beginning to do  
10 a bit of international policing in various UN missions,  
11 but that the Whitehall arrangements for staffing those  
12 missions were not working terribly effectively.

13 I thought if we established a little unit in the United  
14 Nations Department with the help of someone seconded  
15 from the police forces, we would be able to offer a more  
16 streamlined service to our volunteers.

17 SIR MARTIN GILBERT: In terms of the priority of Iraq, did  
18 this change during the time, and were there other  
19 priorities that impinged at different periods?

20 MR STEPHEN PATTISON: The short answer is yes. There were  
21 other priorities, of course, in the period prior to  
22 September 2002. There were many other priorities during  
23 my time, as I said, at UND. There were lots of issues  
24 at the Security Council. There were lots of issues  
25 which mattered deeply to the UK. There were lots of

1       peace-keeping operations all over the world.

2               When we began to work seriously on Iraq at the UN in  
3       September 2002, that became without doubt our number one  
4       priority. We devoted the bulk of our resources to it.  
5       In part that reflected the fact that it was the number  
6       one priority at the UN at the time too. So in a sense  
7       we were both proactive and reactive in determining that  
8       this should be our major priority.

9       SIR MARTIN GILBERT: In your statement you set out very  
10      helpfully for us the structure of the United Nations  
11      Department and explained how it took the lead  
12      in liaising with the United Kingdom mission in New York  
13      on the negotiation of the Security Council Resolutions  
14      on Iraq.

15             You explained how during the negotiations of UNSCR  
16      1441, the key tactical decisions were taken at twice  
17      daily meetings shared by the then political director,  
18      Peter Ricketts, with input from the FCO and other  
19      departments and from other -- outside the FCO as  
20      necessary.

21             To what extent was the United Nations Department  
22      involved in formulating the policy of what the United  
23      Kingdom wanted to achieve at the UN, as opposed to  
24      advising on tactics and delivering that policy?

25      MR STEPHEN PATTISON: The policy objective of what we wanted

1 to achieve was clear to us from the start. That was we  
2 wanted a resolution which did a number of things: which  
3 brought the UN back into the picture; which moved the  
4 debate back on to disarmament; which gave a final  
5 opportunity to the international community to resolve  
6 this; but which at the same time contained authorisation  
7 to use force, if necessary.

8 In that broad parameter, I and others were  
9 contributing suggestions about exactly how we could  
10 achieve that broad policy outcome. There were a number  
11 of people contributing, as I have made clear. There  
12 were legal advisers. There were people from our Middle  
13 East department. There were people from our  
14 non-proliferation department. There was myself  
15 contributing on -- I wouldn't say just the tactics but  
16 also the interpretation and construction of a Security  
17 Council Resolution. So we had access to expertise in  
18 a number of areas.

19 I think when you look at 1441, there is quite a lot  
20 of expertise reflected in it. The inspection  
21 arrangements, for example, that 1441 outlines were the  
22 result of contributions from our non-proliferation  
23 department and our understanding of what UNSCOM --

24 SIR JOHN CHILCOT: Could you lift your voice a little?

25 MR STEPHEN PATTISON: What their understanding of UNSCOM and

1 the previous inspection regime wanted.

2 SIR MARTIN GILBERT: What was the division of  
3 responsibilities between the UND and the Iraq Planning  
4 Unit, later the Iraq Policy Unit?

5 MR STEPHEN PATTISON: The Iraq Planning Unit was set up in  
6 early February 2003. I was slightly surprised, if I am  
7 honest, when it was set up. The first I heard about it  
8 was when I was leading a UK delegation to Washington to  
9 talk about planning for post-conflict Iraq. Up until  
10 that point, I and United Nations Department had done  
11 quite a lot of work on the model of UN involvement in  
12 post-conflict Iraq. We had looked in fairness at what  
13 had happened elsewhere, at Japan and Germany after the  
14 second world war, at other examples of where the UN had  
15 intervened after a conflict, in the Balkans or in  
16 East Timor. There were a number of examples.

17 We had distilled what I regarded as the best option  
18 for Iraq, which was a role for the UN that was, broadly  
19 speaking, best described as an assistance mission, ie  
20 one that would not seek to replace an Iraqi bureaucracy,  
21 but would work alongside an Iraqi bureaucracy and  
22 alongside a coalition, in order to ensure the smooth  
23 administration of Iraq and the proper emergence of  
24 self-government for the new Iraq.

25 I put up several papers outlining quite what this

1 would look like. They were taken up by Edward Chaplin,  
2 the Director Middle East, in conversations he had with  
3 the Americans and others towards the end of 2002. As  
4 a result of that, I led a team to have a bilateral  
5 conversation with the Americans in February 2003. The  
6 person appointed to head the Iraq Policy Unit came with  
7 me on that trip, and it was actually during that trip  
8 I learned about the fact that he had just been appointed  
9 head of this unit.

10 So at any rate, I thought that this was reasonable  
11 handover, if you like, that it was clear Whitehall  
12 needed a unit that was going to focus intensively on  
13 these issues. I had done, I thought a lot of the  
14 groundwork, and it was right that someone else who was  
15 with me on that trip to Washington should take up the  
16 issues and pursue them further.

17 That was what I expected to happen, to be honest.  
18 The relationship between UND and the Iraq Planning Unit  
19 continued to be close, and it was close over a range of  
20 issues.

21 I mean, if I am honest, I did not see a lot of  
22 material coming out of that unit on post-conflict  
23 planninge worked very intensively together on the  
24 next major resolution, 1483, which did indeed set the  
25 scene for a UN presence in Iraq after the fall of

1 Saddam, and we worked on other issues related to that,  
2 the future of the Oil for Food Programme and so on.

3 Then later, a few weeks later, we worked with them  
4 on policing issues, where again, I think it's a similar  
5 sort of story. We in the United Nations department had  
6 done quite a lot of work on policing, and then when the  
7 Iraq Planning and then Policy Unit was established, it  
8 was only right they should pull that work together and  
9 make it more operational.

10 SIR MARTIN GILBERT: We will be coming on to policing later,  
11 of course.

12 We are also going to come on quite shortly to the  
13 arrangements for providing legal advice on UNSCR 1441,  
14 but can you tell us first in broad terms what the  
15 relationship was between the UN department and the FCO  
16 legal advisers, how it worked?

17 MR STEPHEN PATTISON: I would like to describe the  
18 relationship as very close. It is anecdotal, but on the  
19 day that Elizabeth Wilmshurst resigned from the Foreign  
20 Office, I took her out to lunch, a farewell lunch.  
21 Personal relations and professional relations were very  
22 close. I knew Michael Wood well and had known him for  
23 a long time and would talk to him in the corridor about  
24 these things as the negotiations developed.

25 We in the United Nations Department were very used



1 to working closely with lawyers. If you are negotiating  
2 Security Council Resolutions, even General Assembly  
3 resolutions, come to that, you need to make sure you  
4 have legal advice.

5 Most of the lawyers in the Foreign Office's legal  
6 division had spent time in New York working in our  
7 mission there, and I think it is true to say were very  
8 close to, very involved in and very knowledgeable about  
9 UN matters.

10 We also worked closely with the legal advisers on  
11 a range of other issues that the department dealt with.  
12 We dealt with the International Criminal Court, for  
13 example, which was established by the Treaty of Rome, on  
14 which Elizabeth spent a lot of time working on the  
15 working group dealing with the definition of  
16 aggression.

17 We had a number of issues where we worked very  
18 closely with them, and I would say our relations were  
19 indeed professionally very close and personally very  
20 amicable.

21 SIR MARTIN GILBERT: One last question from me. Can you  
22 tell us, was the United Nations Department involved in  
23 wider aspects of British policy towards Iraq that didn't  
24 directly involve the United Nations?

25 MR STEPHEN PATTISON: Well, there was policing, I suppose.

1 I don't know whether we regarded policing as being part  
2 of the post-conflict operation or not. There was  
3 certainly policing. There was certainly some work done  
4 on war crimes, because we dealt with war crimes and  
5 international humanitarian law. There was some work  
6 done on whether and how we would approach war crimes  
7 issues in post-conflict Iraq. There were questions of  
8 that sort.

9 If your question is about: were we involved in  
10 determining the extent to which Iraq had made a credible  
11 effort to address concerns about its WMD programme; we  
12 would not have done that, no. We would have relied on  
13 expert advice from other departments in the Foreign  
14 Office.

15 SIR MARTIN GILBERT: Thank you very much.

16 SIR JOHN CHILCOT: I will ask Sir Roderic Lyne now to pick  
17 up the questions.

18 SIR RODERIC LYNE: You set out a moment ago the policy  
19 objectives under which you were working, and I would  
20 like to ask a bit how this translated through Security  
21 Council Resolution 1441. You have put the same policy  
22 objectives in the written statement that you very  
23 helpfully gave us.

24 What was the relative weight attached to each of the  
25 three objectives that you identify in your statement?

1 MR STEPHEN PATTISON: I think they were all equally  
2 important. I think it was important to us to get the UN  
3 back in. It was important to us to address disarmament  
4 issues and it was important to us to secure a test that  
5 would give authority to use force, if necessary.

6 SIR RODERIC LYNE: Now these were all means towards an end.  
7 What was the intended end state? What was the strategic  
8 aim of the policy?

9 MR STEPHEN PATTISON: The aim of the policy was to try to  
10 bring about an Iraq about whom we had no questions  
11 concerning their weapons programmes.

12 SIR RODERIC LYNE: So was the aim to remove Iraq's weapons  
13 of mass destruction or was the aim to remove the Saddam  
14 Hussein regime in Iraq? What was the end state?

15 MR STEPHEN PATTISON: At the time I think many would have  
16 argued that it was inconceivable to do one without the  
17 other, but we were very conscious that our policy was  
18 not the policy which was sometimes described as regime  
19 change that the United States had. I think the British  
20 Government's position was much more nuanced than that  
21 phrase describes. I think it was in a sense  
22 a complicated position, partly because I think the  
23 British Government was acting out of almost idealistic  
24 motives, if I may say so.

25 The way in which I think this all started was after

1        9/11. After 9/11 there was obviously considerable  
2        concern about areas of the world which might pose  
3        a threat. There was a phrase that was current in the  
4        Foreign Office at that time which was "draining the  
5        swamp". "Draining the Swamp" was the title of a paper  
6        put up by our then planning department about how we  
7        could address areas of the world which post-9/11 might  
8        fit into the same pattern, ie areas like Afghanistan,  
9        which frankly we had not paid enough attention to before  
10       9/11, and which had then resulted in an attack on the  
11       United States.

12       The "draining the swamp" line was a bit about: let's  
13       look around and see where there might be other places  
14       that could pose similar risks. The "draining the swamp"  
15       phrase, I have to say, was dropped from the debate on  
16       this, partly because I think it actually came from  
17       a published magazine article, but it was a phrase that  
18       encapsulated --

19       SIR RODERIC LYNE: Didn't it originally come from Chairman  
20       Mao?

21       MR STEPHEN PATTISON: I think it originally did but then I  
22       think it was taken up by The Economist in the context of  
23       the post-9/11 stuff. The thought behind it, I think,  
24       was the thought which drove the then British Government  
25       into focusing very hard on Iraq.

1           Now, the point about this -- this is why I think the  
2           position is complicated for the British Government -- I  
3           am sure you will understand that in foreign policy  
4           theory -- the members of the Inquiry will certainly  
5           understand this, and I will not be able to paraphrase  
6           the distinction as cleverly as you -- but there is  
7           a distinction between realists and idealists in foreign  
8           policy theory.

9           To put it crudely, realists are focused on the balance  
10          of power and the use of power and the role of states and  
11          idealists, to put it crudely, are focused on the  
12          international community and using the international  
13          community to achieve wider global objectives and usually  
14          focused on soft power.

15          I think the British Government's position was  
16          bizarrely, if you like -- it may be difficult to  
17          understand -- it was essentially idealistic motives that  
18          resulted in the end in this realists' argument for war.

19          So I think Tony Blair's view was always that -- the  
20          idealists' view that we were doing this to make the  
21          world a safer place. We were not doing this because  
22          there was a direct threat to the UK; we were doing this  
23          because it was in the interests of the international  
24          community, and because it was in the interests of the  
25          international community, he expected the international

1 community to step up to the plate and do it.

2 That was an entirely convincing, if you like,  
3 idealists' argument. Where Mr Blair lost the idealists  
4 was when he went the next stage and said, "But if the  
5 international community is not able to step up to the  
6 plate, we are actually going to have to find some other  
7 way of dealing with this".

8 You know, you can say that in adopting that, he was  
9 moving towards the spirit of the early UN, which was  
10 intended to be a much more muscular organisation than it  
11 has subsequently turned out to be, if you like, or you  
12 can accuse him of betraying the idealists' principles,  
13 but I think that was the background that he was coming  
14 at it from.

15 So I think all these objectives were together in his  
16 and the British Government's mind. If we can do this  
17 through -- first of all, this is something that needs  
18 doing. Iraq needs sorting out. If we can do it through  
19 the UN, that is obviously the best way to handle  
20 an issue like this, because it's not an issue of  
21 self-defence. It's an issue that affects the stability  
22 of the international community. But if we can't do it  
23 through the UN, we will have to think of some other way.

24 I think if you look at the public lines that  
25 Mr Blair espoused over that period, you will see

1       fundamentally the idealist position which I just  
2       described, I think was his, and was his conviction, and  
3       he comes back to it right at the end in March 2003, but  
4       I think there were times, to be honest, when the British  
5       Government's direction tilted in the other direction  
6       towards a more realist view.

7               Some would say the interpretation of the dossier on  
8       weapons of mass destruction, where the press interpreted  
9       it as Brits being 45 minutes from doom and nothing was  
10      done to correct that, was a kind of tilting towards  
11      a more realist interpretation.

12             But I think the fundamental position that the  
13      government had was, as I say, an idealist one, that this  
14      was the international community's responsibility and the  
15      international community should do something about it.

16   SIR RODERIC LYNE:   So you say the British Government's  
17      line was more sophisticated and more nuanced, say, than  
18      that of the Americans, and you have just set out a range  
19      of its sophistication, but if we come down to brass  
20      tacks, to mix the metaphors a little bit further,  
21      essentially draining the swamp, or whatever you call it,  
22      Iraq needs sorting out, leads one to the proposition  
23      that the strategy was that you needed to remove Saddam's  
24      regime.

25             Was that the strategy under which -- and Mr Blair

1       has described it quite pithily as change of heart or  
2       change of regime -- he quoted to us the other day from  
3       his interview with Jeremy Paxman, in which he said:

4                "In April of 2002 I certainly endorsed the policy of  
5       doing everything we can to get rid of Saddam Hussein if  
6       at all possible. Everything we can including military  
7       means."

8                Was that the understanding that you and the other  
9       people around Peter Ricketts' table at your regular  
10      meetings on Iraq understood to be the strategic  
11      objective of the British Government's policy?

12   MR STEPHEN PATTISON: No. The short answer is no. Our  
13      understanding of the objective was that we were trying  
14      to resolve the Iraq problems. We were trying to resolve  
15      the questions about weapons of mass destruction.

16   SIR RODERIC LYNE: There are two different problems when you  
17      say "the Iraq problems". Weapons of mass destruction is  
18      one aspect of the problem, but the regime, as the  
19      government made clear in its many statements including  
20      about human rights and its record and so on, its threat  
21      to external partners -- neighbours, was a wider problem.  
22      So what was the strategic aim?

23   MR STEPHEN PATTISON: I don't think we went to war because  
24      of Saddam's human rights record. That was never part of  
25      the legal justification for going to war or, if you



1           like, the policy justification for going to war.

2   SIR RODERIC LYNE: But you did talk about the idealistic  
3           idea of trying to make the world a better place,  
4           including Iraq, and that was very clearly set out in the  
5           argument for the action that was taken.

6   MR STEPHEN PATTISON: Yes, but the reason that Iraq was  
7           a problem for the international community was because of  
8           its defiance of the UN insistence that it give  
9           a credible account of its weapons programme. Yes, there  
10          were human rights issues, but those were not the issues  
11          that had dominated the UN's agenda with Iraq for the  
12          best part of eight or nine years.

13                The reason Iraq was a problem and Saddam was  
14          a problem was because of his defiance of the UN, because  
15          we did not feel we had any kind of certainty about  
16          exactly what his capabilities were, what his intentions  
17          were, where the regime was going in terms of developing  
18          its weapons programmes.

19                That was why as long ago as Blair's Chicago speech,  
20          he mentioned Saddam as a problem.

21   SIR RODERIC LYNE: So if you had to sum up the strategy in  
22          one sentence, how would you have summed it up, the  
23          strategic objective of the government's policy in 2002,  
24          autumn?

25   MR STEPHEN PATTISON: Was to resolve once and for all the

1           outstanding questions about Iraq's WMD programmes.

2       SIR RODERIC LYNE:   Just the WMD programmes.   So that's what

3           you were working on?

4       MR STEPHEN PATTISON:   Uh-huh.

5       SIR RODERIC LYNE:   So the description Mr Blair was giving,

6           of which I just quoted one bit from him that he requoted

7           the other day, did not match what you thought you were

8           working on in the Foreign Office?

9       MR STEPHEN PATTISON:   I think the presentation that Mr Blair

10           and others gave of Iraq during that period was indeed

11           not focused solely on what we were working on in the

12           Foreign Office, but the presentation was designed to get

13           across to a wider public the nature of Saddam's regime

14           and the sort of character of the regime we were dealing

15           with.

16       SIR RODERIC LYNE:   The Cabinet Office's paper, now

17           declassified, of July 2002, entitled "Iraq: Conditions

18           for Military Action, a Note by Officials", recorded

19           that:

20               "The Prime Minister had told President Bush at

21           Crawford in April that the UK would support military

22           action to bring about regime change provided that

23           certain conditions were met."

24           Three conditions were then listed:

25               "Efforts to construct a coalition and shape public

1 opinion."

2 That was the first. The Israel/Palestine crisis was  
3 quiescent was the second. The third, and the one  
4 obviously relating to your department was:

5 "The options for action to eliminate Iraq's WMD  
6 through the UN weapons inspectors have been exhausted."

7 Now, that makes it sound as if the United Nations  
8 was a way station along the route to regime change.  
9 Mr Blair told us in his evidence fairly recently,  
10 referring to Resolution 1441, that:

11 "From July onwards the approach was instead of  
12 action immediately, ultimatum with the UN sanction."

13 "ultimatum with the UN sanction" was the way he put  
14 it to us in direct quotation.

15 Was Resolution 1441 intended to be an ultimatum as  
16 a prelude to military action? Was that your  
17 understanding of what you were aiming for?

18 MR STEPHEN PATTISON: I think it was intended to be a strong  
19 signal that unless Iraq took the final opportunity to  
20 resolve the outstanding questions, force would be used,  
21 yes. I think over that period, summer 2002 until the  
22 adoption of 1441, I think the position evolved quite  
23 considerably. In the summer of 2002, there was talk  
24 about trying to get some sort of ultimatum to Iraq  
25 before force was used.

1           That changed really when during the summer there was  
2           a lot of talk in the United States about regime change.  
3           There was a lot of anxiety in British Government about  
4           it. Mr Blair persuaded Bush to go the UN route, and the  
5           Americans in a significant shift, I think, of policy  
6           agreed to go the UN route. Once they agreed to go the  
7           UN route, they were accepting that, if I may say so, the  
8           UN might not just be a way station on the way to removal  
9           of Saddam; that there was just an outside chance this  
10          might work.

11          Now I come back to the point. First of all, most  
12          people at the time thought it unconceivable that Saddam  
13          would survive the kind of transparency about his weapons  
14          programme which we were insisting on, but we did feel  
15          very strongly that if there was an outside chance of  
16          getting transparency about his programmes before the use  
17          of force, we should go the extra mile to do it, and we  
18          did it in the discussions over the second resolution and  
19          the lengths to which we were prepared to go to identify  
20          benchmarks that would determine whether Saddam was  
21          seriously interested in cooperating or not.

22        SIR RODERIC LYNE: So the UN route was intended to lay down  
23          an ultimatum, but there was, as you said, considered to  
24          be just a chance that he might back down under the force  
25          of that ultimatum, but it wasn't really intended the UN

1 route was likely to -- it wasn't thought the UN route,  
2 through a period of inspections and so on, was likely  
3 actually to resolve the problem. That was not our  
4 expectation?

5 MR STEPHEN PATTISON: We had had nearly ten years of trying  
6 to deal with Iraq through UN inspections.

7 SIR RODERIC LYNE: So that's why we didn't expect it?

8 MR STEPHEN PATTISON: You would be very optimistic if you  
9 thought it was going to work, but equally we had never  
10 got to the point before where we were so close to using  
11 force against Iraq and there had to be an outside chance  
12 --

13 SIR RODERIC LYNE: The point we were coming to and, of  
14 course, the build-up towards the use of force was now to  
15 some extent underway, particularly in the United States,  
16 did that affect thoughts about how much time he should  
17 be given to comply or not comply with the ultimatum?

18 MR STEPHEN PATTISON: I personally was not aware of that  
19 dimension. Of course I was aware of the fact that the  
20 Americans were building up their military force prior to  
21 an invasion, but that did not seem to me to be really  
22 driving our timetable.

23 Now, there is an issue over the moment when we gave  
24 up trying to get the second resolution. My view is that  
25 that second resolution would have been impossible to

1 obtain on the terms we wanted it. We can discuss this  
2 in more detail. At the time I do remember thinking  
3 maybe if we had gone on another couple of weeks, we  
4 would have reached the absolute end of the road, and  
5 I do remember being slightly surprised that we were not  
6 pursuing this right to the end of the road, but I have  
7 to say, the background to that was my sense that it was  
8 getting increasingly difficult, if not impossible, to  
9 secure the second resolution, but we were not aware --  
10 I was not aware that the military timetable was what was  
11 dictating the pace of these things other than in the  
12 most general terms that we all knew there was an  
13 American build-up.

14 SIR RODERIC LYNE: We will come back to the second  
15 resolution a bit later on. I would just like to explore  
16 a little bit the process under which we handled the  
17 negotiations on 1441.

18 You have described the twice daily meetings chaired  
19 by Peter Ricketts on Iraq, and said that the output of  
20 those meetings was to agree on the advice to be given to  
21 the UK mission to the UN on how to handle that day's  
22 negotiations on the text that then became 1441. How did  
23 the outcome from the meeting, the instructions to New  
24 York, how was that communicated to UKMIS?

25 MR STEPHEN PATTISON: Almost always we would send written

1 instructions to them, mostly in the form of a telegram,  
2 what was then known as an e-gram. That would be backed  
3 up by various telephone conversations. Peter Ricketts,  
4 I think, was on the telephone probably to Sir Jeremy  
5 Greenstock every day talking more about the background  
6 to the kinds of instructions we were sending. There  
7 would be correspondence with other members of the  
8 mission in New York. There was a desk officer who was  
9 handling Iraq in New York who would be in touch with me  
10 for background information about what lay behind the  
11 instructions they were receiving.

12 SIR RODERIC LYNE: So you had a sort of a written  
13 instruction but a lot of oral elaboration on the  
14 telephone, toing and froing.

15 Did you have a consistent group of people who were  
16 copied in on the written instructions? Presumably the  
17 oral conversations would not all have been written down.  
18 There wasn't time. Was it the same group of people  
19 copied in?

20 MR STEPHEN PATTISON: The short answer is yes. The process  
21 for drafting instructions would normally be at the end  
22 of the meeting, I would do the first draft of the  
23 instructions. I would then clear them with all of those  
24 who had been at the meeting, and then when the  
25 instructions were finally cleared and sent off, they

1        would have been subsequently distributed the final  
2        instructions to a whole range of other departments,  
3        including across Whitehall as well.

4    SIR RODERIC LYNE:    Are you surprised that only one telegram  
5        of instructions during these negotiations from the  
6        records shown to us appears to contain legal advice  
7        explicitly?

8    MR STEPHEN PATTISON:    Well, I think it depends what you mean  
9        by "explicitly". I think there is only one which says  
10       "the legal view is such and such", but legal advice was  
11       incorporated into all the instructions we sent. We did  
12       not normally practise making a distinction between legal  
13       and, if you like, policy advice. That would have been  
14       totally inappropriate. We tried to put together  
15       instructions which contained within them legal advice.  
16       There is indeed one which says explicitly, "the legal  
17       view is this", and that was, as you will appreciate,  
18       a very important part of our legal adviser's concerns.  
19       So I think that is why that highlights the legal view.

20    SIR RODERIC LYNE:    So when you drafted the telegram of  
21       instructions, you drafted it within the framework of the  
22       legal advice, having had a legal adviser, I think  
23       normally John Grainger, around the table in the  
24       Peter Ricketts' meeting?

25    MR STEPHEN PATTISON:    Yes, and I would show John Grainger



1           the draft of the telegram before it went to make sure he  
2           was content with it.

3   SIR RODERIC LYNE:   He would sometimes send you written  
4           advice?

5   MR STEPHEN PATTISON:   Yes, yes.

6   SIR RODERIC LYNE:   We have seen a number of notes of those  
7           written advice from him to you. In none of those notes  
8           does he advise that the draft then in contemplation, for  
9           example, 23rd September or 31st October, would authorise  
10          the use of force. In his later notes to you, he clearly  
11          advises that the draft does not authorise the use of  
12          force.

13               Was that advice reflected in the instructions that  
14               you then drafted to New York? Were you telling them  
15               they were working on a draft that didn't achieve one of  
16               the three objectives that you had set out?

17   MR STEPHEN PATTISON:   The short answer is yes, but when John  
18           Granger and others were saying the text does not  
19           authorise the use of force, the standard position on the  
20           interpretation of 1441 has been the resolution itself  
21           did not authorise the use of force without the issue  
22           coming back to the Security Council. We could have  
23           a long debate about the precise terms in which it was  
24           supposed to come back and what the Council was supposed  
25           to do, but the standard view was that certainly there

1           had to be further action at the UN before force was  
2           authorised.

3   SIR RODERIC LYNE:   What were the legal advisers telling you  
4           about the nature of that further action at the UN? Were  
5           they telling you that there had to be a Security Council  
6           decision on the determination of a further material  
7           breach?

8   MR STEPHEN PATTISON:   One of the corridor conversations  
9           I had with Michael Wood, I remember during this period,  
10          resulted in Michael Wood telling me he didn't understand  
11          the resolution. It was unclear. It was complex. His  
12          view, I think, was, as I have said, that the material  
13          breach finding in the first paragraph was overtaken by  
14          the rest of the resolution, that the issue had to come  
15          back to the Council, and that when the resolution said  
16          "comes back to the Council for consideration", it was  
17          unclear what that meant.

18          The view I was getting mostly from John Grainger was  
19          that whilst that was the standard legal adviser's  
20          approach, all of this was ad referendum to whatever the  
21          Security Council decided to do with the draft text when  
22          it was put to them and then, of course, also ad  
23          referendum to the view of the Attorney General when the  
24          text was put to him to determine the legality or  
25          otherwise of British participation in military action.

1           So Granger's view, I think, was -- I really  
2           shouldn't be speaking for him -- my understanding was he  
3           was trying to help us prepare the best possible text  
4           within the constraints of what he knew was  
5           Michael Wood's position, but deferring final judgment  
6           until the Security Council had opined on adoption and  
7           subsequently the Attorney General had expressed his  
8           view, once the text was finalised.

9   SIR RODERIC LYNE: But he didn't at any point advise you  
10          before the adoption of 1441 that the draft did authorise  
11          the use of force?

12   MR STEPHEN PATTISON: Well, not in the sense I have  
13          described. The issue had to come back to the Council.  
14          Now there was and is a debate about whether if the issue  
15          came back to the Council, would 1441 be sufficient  
16          authorisation for the use of force? John Grainger's  
17          view on that was never entirely clear to me. I am not  
18          aware of him ever saying that there would have to be  
19          a subsequent Security Council Resolution as such.

20   SIR RODERIC LYNE: But Michael Wood was saying that?

21   MR STEPHEN PATTISON: Michael Wood's view was certainly  
22          clear on that, yes, yes.

23   SIR RODERIC LYNE: He was the Foreign Office legal adviser,  
24          the highest legal authority in the Foreign Office.

25   MR STEPHEN PATTISON: Yes, yes.

1 SIR RODERIC LYNE: I just want to come back to that in  
2 a minute, but before I do, just a question about what we  
3 were seeking in the resolution.

4 As the drafts were being developed, were we seeking  
5 a freestanding authorisation for the use, if it became  
6 necessary, of force, or were we seeking to draft  
7 a resolution with the objective of reviving the  
8 authorisation from previous resolutions?

9 MR STEPHEN PATTISON: Well, I think, if I may say so, the  
10 two are the same, because the only basis on which we  
11 could conceivably have got authorisation to use force  
12 was on the basis of the so-called revival argument.

13 So the resolution sought to make clear that Iraq was  
14 in material breach of the ceasefire terms and that, as  
15 had been accepted in previous cases, if Iraq was in  
16 material breach of the ceasefire terms, those terms no  
17 long applied, and the original authorisation to use  
18 force following Iraq's invasion of Kuwait still stood.

19 So yes, the resolution was seeking, if you like, to  
20 get or to provide fresh authorisation for the use of  
21 force, but it was doing so in terms of the revival  
22 argument.

23 SIR RODERIC LYNE: So the Ricketts' group was clear all  
24 along it was the revival argument we were working on?

25 MR STEPHEN PATTISON: Yes.

1 SIR RODERIC LYNE: Wouldn't the revival argument have been  
2 strengthened if the resolution had included in its  
3 preamble references to Security Council Resolutions 1154  
4 and 1205, and precisely for the reasons that you have  
5 yourself given in the last sentence of paragraph 24 of  
6 your witness statement?

7 MR STEPHEN PATTISON: I think the issue of putting those two  
8 resolutions in this has come before the Inquiry before.  
9 My view is that 1441 was self-standing in the sense that  
10 1441 explained the revival argument. 1154 and 1205 had  
11 not been uncontroversial resolutions, and the feeling  
12 was if we sought to put in the revival argument, in  
13 a sense from scratch in this text, we were laying before  
14 the Council exactly what the arguments were.

15 SIR RODERIC LYNE: We were trying to conceal our argument  
16 from the Council whilst slipping it into the resolution?

17 MR STEPHEN PATTISON: I don't think there's any question of  
18 concealing it from the Council. I think every member of  
19 the Council understood perfectly well what was going on.

20 SIR RODERIC LYNE: Then why didn't we put those references  
21 in if they knew it perfectly well?

22 MR STEPHEN PATTISON: As I say, I think the references would  
23 have been unnecessary, because the text itself explains  
24 the revival argument.

25 SIR RODERIC LYNE: We were not trying to defer to Russian

1           pressure not to have what they called, I think, hidden  
2           triggers in the resolution?

3   MR STEPHEN PATTISON: No, we were not trying to defer to  
4           Russian pressure not to have hidden triggers, certainly  
5           not in respect of this, if you see what I mean. The  
6           resolution in the end in our view did authorise the use  
7           of force. I don't know whether the Russians would  
8           describe that as a hidden trigger. I think it would be  
9           unreasonable of them to do so. In terms of the  
10          decisions whether to include these references to earlier  
11          resolutions, we were not trying to sidestep Russian  
12          concerns about hidden triggers.

13   SIR RODERIC LYNE: If I can come back to Michael Wood's  
14          view, at the end or -- yes, at the end of the process on  
15          6th November, Michael Wood wrote a minute to the Foreign  
16          Secretary, copied to you and to Iain Macleod in New  
17          York, which said that:

18                "Resolution 1441 does not itself authorise the use  
19                of force or revive the authorisation to use force given  
20                in Security Council Resolution 678."

21                He goes on to say:

22                "If the Council is unable to take a decision at the  
23                second stage, whether because there are insufficient  
24                votes for another resolution or a resolution is vetoed,  
25                there will be nothing to point to by way of revival of

1 the authorisation to use force given in 678."

2 So he's effectively saying there very clearly that  
3 there has to be a further decision to make the revival  
4 argument stand up.

5 Did that reflect the position that you had  
6 understood it up to this point, and was it clear to Iain  
7 Macleod and Jeremy Greenstock in New York that this was  
8 the firm position of the Foreign Office's legal adviser?

9 MR STEPHEN PATTISON: I certainly understood that to be his  
10 position and had done for some time. I am reasonably  
11 confident that both Iain Macleod and Jeremy Greenstock  
12 would have understood that to be the legal adviser's  
13 opinion. Iain Macleod had a different opinion on the  
14 interpretation of the text, as, of course, did United  
15 States' lawyers. My view at the time was that having  
16 got this resolution adopted, the final arbiter would be  
17 the Attorney General.

18 SIR RODERIC LYNE: The Attorney General had already started  
19 giving some views. On 18th October -- this is well  
20 before the resolution was adopted -- he telephoned the  
21 Foreign Secretary and he told him that the latest draft,  
22 which was, broadly speaking, the draft that was  
23 subsequently adopted, did not provide authorisation for  
24 the use of force. You saw a copy of the record of that  
25 conversation.

1           Was that a bit of a bombshell, if not for you, then  
2           at least for Iain Macleod in New York, who you were  
3           saying held a different view? What discussions took  
4           place after the Attorney General had intervened and said  
5           very clearly, "You are not going to achieve what you are  
6           seeking to achieve"?

7   MR STEPHEN PATTISON: I don't know whether this was  
8           a bombshell for Iain Macleod. I had no discussion with  
9           Iain Macleod about his view on this. His contacts with  
10          the Foreign Office were entirely with legal advisers, as  
11          was proper and appropriate at the time.

12   SIR RODERIC LYNE: So you assumed that he was debating this  
13          issue directly from New York, legal adviser to legal  
14          adviser.

15   MR STEPHEN PATTISON: Yes, yes.

16   SIR RODERIC LYNE: They have told us otherwise. They have  
17          told us that the channel for instructions came through  
18          the telegrams, and Jeremy Greenstock also said his  
19          instructions came in the form of telegrams signed  
20          "Straw", which you said were drafted by you, and that  
21          the legal advisers were not having a direct negotiation  
22          about this. You assumed they were.

23   MR STEPHEN PATTISON: I did assume they were. It is  
24          certainly true to say the instructions to New York came  
25          on a different channel, but I assumed that the legal



1 advisers were talking to each other offline, privately,  
2 in telephone conversations. Grainger's minutes -- at  
3 least one of Grainger's minutes was copied directly to  
4 Jeremy Greenstock. There is, as you said earlier, at  
5 least one telegram which says "the legal adviser's view  
6 is such and such". Jeremy was in regular contact with  
7 people in the Foreign Office. I am surprised if the  
8 mission in New York wasn't aware that Iain Macleod's  
9 views were not endorsed by the Foreign Office legal  
10 adviser.

11 SIR RODERIC LYNE: He told us in evidence that he was not  
12 aware of that particular bit of advice from the Attorney  
13 General and that it would have had an impact:

14 "There would have had to have been some quite  
15 serious analysis with London but also with Washington of  
16 where we were going."

17 MR STEPHEN PATTISON: Well, I am surprised that -- Jeremy  
18 must have had regular conversations with Peter Ricketts.  
19 I can't tell you what happened in those conversations,  
20 but I would have thought that the evolution of the  
21 Attorney General's view was a subject in them, but  
22 I can't prove it, obviously.

23 SIR RODERIC LYNE: Just so we can be completely clear about  
24 this, if the Attorney General and the Foreign Office  
25 legal advisers take a position and the legal adviser in

1           the mission in New York takes a different position,  
2           which position predominates? Which is the British  
3           Government's policy?

4   MR STEPHEN PATTISON: Obviously it is the Attorney General's  
5           view.

6   SIR RODERIC LYNE: Obviously the Attorney General's.

7   MR STEPHEN PATTISON: Yes.

8           SIR RODERIC LYNE: Is it not strange, therefore, that the  
9           mission in New York were finalising this negotiation in  
10          ignorance of the Attorney General's position on this,  
11          and thought they had achieved an outcome which the  
12          Attorney General said they hadn't achieved?

13   MR STEPHEN PATTISON: Yes, I agree with you, that's strange.

14   SIR RODERIC LYNE: This is a point that we are obviously  
15          seeking to clarify. It is one of the gaps or the  
16          discrepancies in evidence, which is why I am seeking  
17          your assistance on it.

18                Lord Goldsmith in his witness statement also told us  
19          that if he had been asked about the addition of the  
20          words "for assessment" to operative paragraph 4, he  
21          would have said they were problematic. He would have  
22          argued for their removal. He said this gave him a real  
23          difficulty.

24                Do you recall what legal advice was sought about the  
25          insertion of the words "for assessment" into operative

1 paragraph 4?

2 MR STEPHEN PATTISON: No, I don't, and the words -- if I  
3 were to identify some of the -- "ambiguity" isn't quite  
4 the word -- but some of the ambiguities in the text of  
5 1441, obviously that word "assessment" would be one of  
6 them.

7 I cannot now recall, to be honest, whether our legal  
8 advisers had made an issue of that prior to the adoption  
9 of the text.

10 One thing I would say about it is that whatever it  
11 means, the finding that a subsequent lack of cooperation  
12 by Iraq would be a further material breach is already  
13 contained in this resolution. So whatever "assessment"  
14 meant, it presumably would not have meant the question  
15 of whether a further lack of cooperation from Iraq  
16 constituted a material breach, because it says:

17 "... omissions in the declaration and lack of  
18 cooperation shall constitute a further material breach  
19 and will be reported to the Council for assessment."

20 So whatever the word "assessment" meant, it  
21 presumably did not mean an assessment of whether this  
22 was a material breach.

23 SIR RODERIC LYNE: It seems to take us into areas of deep  
24 ambiguity, and indeed, one of the points that witnesses  
25 have made to us is precisely how ambiguous the

1 resolution was. I'd like to clarify what your  
2 understanding was of the position that 1441 left us in.

3 Was it your belief that by adopting 1441, the  
4 Security Council had established a position whereby  
5 force was from that point authorised, or was it still  
6 a question of whether 1441 authorised the use of force,  
7 depending on what happened when the Security Council met  
8 to "consider", is the word in the text under "operative  
9 12".

10 MR STEPHEN PATTISON: My view was that the resolution  
11 itself authorised the use of force. What was necessary  
12 for that authorisation to come into effect was failure  
13 by Iraq to cooperate and comply and subsequent  
14 consideration in the Council.

15 When those two events had taken place, the  
16 authorisation contained in this resolution could be  
17 invoked.

18 SIR RODERIC LYNE: The subsequent discussions in the Council  
19 in your view then did constitute that degree of  
20 consideration?

21 MR STEPHEN PATTISON: This is one of the areas where we were  
22 in wholly uncharted territory as to what the nature of  
23 those discussions ought to be. When you look at the  
24 text, the text envisages, if I may say so, a quite  
25 different sequence of events from what took place in

1       some ways. It envisages a report by Blix, by UNMOVIC of  
2       lack of cooperation. It envisages a situation, for  
3       example, where inspectors could not get in or there was  
4       something that was seriously hampering the inspectors'  
5       effort. It also envisages a situation where the  
6       inspectors are in, but actually there is not full  
7       cooperation designed to clarify the outstanding WMD  
8       issues.

9               Blix and the IA inspector are invited to report to  
10       the Council on these things. Their reports, of course,  
11       actually did not say categorically under the terms of  
12       OP4 or OP11, whatever it is, "I am making a report that  
13       addresses precisely those things". None of their  
14       reports ever said that.

15              So in a sense this resolution envisaged a situation  
16       which actually did not arise in the Council. What we  
17       had instead were reports from Blix and others and those  
18       reports made quite clear the lack of cooperation we were  
19       getting from Iraq. I don't think there was a single  
20       member of the Council who disputed that. I think even  
21       when the hostilities started there wasn't a single  
22       member of the Council who said, "but Iraq is in  
23       compliance with this text".

24              So though in a sense no-one ever came to the Council  
25       and said, "I am making a report under OP11 or under OP4

1       and this is what I am saying", it was widely understood  
2       at the Council that these reports did not paint  
3       a picture of cooperation required under the terms of  
4       this resolution and that, therefore, the situation  
5       envisaged in OP4 or OP11, a report of non-cooperation  
6       was, in effect, happening.

7       SIR RODERIC LYNE: They too were ambiguous. I think we will  
8       come back to that later on, because they also did not  
9       reach a definitive point where they were reporting  
10      a final report of having concluded their work and found  
11      non-cooperation. They gave a signal somewhere along the  
12      middle. We will come back to that, I think, later on.

13         In your statement you say that everyone was aware  
14      that alternative legal interpretations were possible.  
15      The evidence that we have had is that during the  
16      negotiation of the resolution, you didn't have  
17      alternative legal interpretations within the corpus of  
18      the Foreign Office legal advisers. All of the senior  
19      London-based lawyers, and, of course, including the  
20      Attorney General, were giving the same interpretation,  
21      which was that the resolution per se did not authorise  
22      the use of force.

23         Have we missed something here? Were you actually  
24      being given different views from different quarters?

25      MR STEPHEN PATTISON: Well, there were certainly alternative

1 views held by Iain Macleod we have mentioned. There  
2 were alternative views held by the United States and  
3 there was, of course, an alternative view held by the  
4 Foreign Secretary.

5 SIR RODERIC LYNE: But the legal advisers and the Foreign  
6 Office were all of one view on this at the time and the  
7 Attorney General was taking the same view.

8 MR STEPHEN PATTISON: I think, broadly speaking, that is  
9 right. As I have said, I do think John Grainger's view  
10 was slightly more measured in the sense that he was  
11 saying, "This is what I think probably is the case, but  
12 this will have to be ad referendum to the Attorney  
13 General".

14 SIR RODERIC LYNE: I quoted earlier from the advice that he  
15 was minuting to you, which seems fairly clear.

16 Iain Macleod told us that it was puzzling that  
17 people had decided just to continue allowing UKMIS to  
18 negotiate a text which was unfit for purpose, given that  
19 it was a key criterion for the resolution that there  
20 should not need to be a further decision in the Security  
21 Council.

22 Of course, the Attorney General and Michael Wood  
23 were taking the view that a further decision was needed.  
24 Also, he was surprised that as we were negotiating side  
25 by side with the United States, that this discrepancy of

1 views hadn't been fed into every conversation between  
2 the Foreign Secretary and Colin Powell, who had many  
3 conversations about the resolution.

4 Cathy Adams, who was working at the time for the  
5 Attorney General, told us that in her view definitive  
6 legal advice from the Attorney General could at least  
7 have influenced the explanation of vote in a way that  
8 reinforced the UK's position.

9 What consequence do you feel that the failure to  
10 resolve the legal position during the negotiation of  
11 1441 had?

12 MR STEPHEN PATTISON: Well, I think it would have been  
13 better, as I say in my advice, if there had been much  
14 closer contact with the Attorney General during the  
15 course of the negotiation, including not only with  
16 lawyers but also with policy officials, which I think  
17 would have helped.

18 I think what you describe as a failure to resolve  
19 the legal position is, if I may say so, a slightly odd  
20 point, because eventually, of course, the Attorney  
21 General's view was that 1441 could provide a legal basis  
22 for the use of force. I think there were always people  
23 in the office who thought that that interpretation was  
24 a possible interpretation, as it were, despite what  
25 Michael Wood and the Attorney General's early view was



1 on the text. I have alluded to people, mentioned people  
2 who I think had an alternative view.

3 Now, once we had adopted 1441, I think the way into  
4 your question is what did we think we had achieved?  
5 Certainly we had achieved an awful lot in terms of  
6 getting the UN back and getting disarmament back as the  
7 main issue in this saga, but once we had adopted 1441,  
8 most of us did think we would be heading for a second  
9 resolution, and that with the unanimous support that  
10 1441 had given us, we would follow, if you like, the  
11 procedures set out here to a conclusion that would lead  
12 in a resolution by the Council.

13 I think we always understood that the resolution was  
14 important, but may not be essential in our legal case,  
15 but once we had got this text, we expected to be able to  
16 get a second text -- a second resolution adopted unless  
17 there was a very significant change of heart on the part  
18 of Iraq.

19 So in that sense, I think we wanted a second text to  
20 reinforce our position politically and, if you like,  
21 legally, but that we understood that maybe a reasonable  
22 case could be made for relying on 1441 if we couldn't  
23 get a second text.

24 SIR RODERIC LYNE: So assuming you would go for a second  
25 resolution, but, as you said, it would not be essential,

1           were you therefore assuming that the Attorney General  
2           and Michael Wood would change their position, because if  
3           they didn't change their position, it would be  
4           essential?

5   MR STEPHEN PATTISON: I think we were assuming a variety of  
6           things could happen. One is that Iraq wouldn't comply  
7           at all, in which case there would be an absolutely clear  
8           material breach. Then what if we couldn't get  
9           a resolution in the Security Council, a second one?  
10          What if a resolution was vetoed? What if for whatever  
11          reason, despite a clear material breach, we couldn't get  
12          one? Then we would have to go back to this text and see  
13          whether this did give us sufficient legal authority.  
14          That was the sort of thing.

15   SIR RODERIC LYNE: To use your "what if?", what if when you  
16          went back to it the Attorney General and Michael Wood  
17          stuck to their interpretation of it? Where would that  
18          have left you?

19   MR STEPHEN PATTISON: I think there would have been no  
20          question but that the UK would not have participated in  
21          the use of force had the Attorney General said that this  
22          text did not give us the authority.

23   SIR RODERIC LYNE: But we continued driving towards that  
24          objective, building up our forces and so on. So there  
25          seems to have been an assumption that we were going to

1       be able to resolve this legal conundrum, that it was not  
2       going to stand in the way. We had not sorted it out at  
3       this stage, but we went on in the direction that led to  
4       military action. So you must have been working under  
5       an assumption that the problem one way or another was  
6       going to get sorted?

7   MR STEPHEN PATTISON: Well --

8   SIR RODERIC LYNE: You collectively, the government.

9   MR STEPHEN PATTISON: The short answer is yes. There are  
10       two things about the build-up of force though. One is,  
11       of course, our hope remained that the show of force  
12       would turn Iraq back even at this last stage. I don't  
13       think at any time did we assume that what we were going  
14       through was a cynical process.

15   SIR RODERIC LYNE: There was a hope that Saddam would have  
16       a change of heart.

17   MR STEPHEN PATTISON: Yes.

18   SIR RODERIC LYNE: But not an expectation.

19   MR STEPHEN PATTISON: Yes, I think that's probably right.

20   SIR RODERIC LYNE: I am more or less paraphrasing what Tony  
21       Blair has said to us more than once.

22   MR STEPHEN PATTISON: I think that's probably right.  
23       I think some of us, certainly I, thought it quite likely  
24       he wouldn't want to stand up to the forces being  
25       arranged against him and that he would seek some way

1 out.

2 SIR RODERIC LYNE: If he didn't have a change of heart, our  
3 assumption was we would go ahead and deal with him  
4 through military force, but at the conclusion of 1441  
5 and indeed for two months beyond that, you had  
6 a situation in which you didn't have a clear legal path  
7 to do so unless the Attorney General and Michael Wood's  
8 position somehow was either changed or stepped around.

9 MR STEPHEN PATTISON: Yes. That's absolutely true. The  
10 "but" is this: When I first joined the Foreign Office,  
11 the general view under international law was that the  
12 use of force was illegal except in two circumstances.  
13 One was in self-defence and one was when authorised by  
14 the Security Council. That position pertained for  
15 a very long time. To that quite simple position was  
16 added a complicating factor in respect of the  
17 intervention in Kosovo, where the British Government  
18 argued that customary international humanitarian law  
19 could be invoked to justify the use of force in  
20 circumstances where it was not in self-defence and had  
21 not been authorised by the Security Council.

22 My point about making that is that even in an area  
23 as fundamental as the use of force, we had seen in the  
24 last few years prior to 2002-2003 a shift, if you like,  
25 a new paradigm, a sort of, let me call it flexibility in

1 the way in which we were interpreting international law.

2 That was what Mr Blair was building on in his  
3 Chicago speech, when he was trying to establish  
4 a position which would have required the Council to  
5 authorise the use of force, again, in circumstances  
6 other than self-defence, and in circumstances other than  
7 envisaged hitherto in the Council, in circumstances in  
8 which we needed to take action to deal with overwhelming  
9 humanitarian crises or recalcitrants like Saddam  
10 Hussein.

11 So we were operating against the background of,  
12 I think, slightly more uncertainty even in this area  
13 about the use of force than the British Government had  
14 ever been used to in the last, as I say, 20 or 30 years.  
15 Certainly Mr Blair's strong position, as we discussed  
16 earlier, was that if the Security Council was unable to  
17 take what seemed to him its proper responsibilities,  
18 that should not be used as an excuse for people to do  
19 nothing.

20 Now, I admit this was taking us into uncharted  
21 territory --

22 SIR RODERIC LYNE: Territory for which you didn't have cover  
23 from your legal advisers.

24 MR STEPHEN PATTISON: Territory for which we didn't have  
25 cover from our legal advisers but none of us knew --

1 SIR RODERIC LYNE: That's the point I was seeking to be  
2 clear about, and you knew that at the time.

3 MR STEPHEN PATTISON: Yes.

4 SIR RODERIC LYNE: In our explanation of vote we didn't make  
5 it explicit that in our view 1441 itself authorised the  
6 use of force and that there wasn't a need for a further  
7 resolution.

8 Why did we decide not to do so?

9 MR STEPHEN PATTISON: The short answer is: this was not, to  
10 my recollection, the subject of any discussion with me  
11 at all, and I remember seeing Jeremy Greenstock's  
12 remarks, and I will be frank. I thought at the time  
13 that Negroponte, the American, had done a better job of  
14 conveying his position.

15 SIR RODERIC LYNE: So Jeremy's EOJ was not based on  
16 instructions from London?

17 MR STEPHEN PATTISON: I don't know the answer to that. I  
18 don't recall drafting any instructions or sending him  
19 instructions. Whether they were based on conversations  
20 on material which I have forgotten and have not been  
21 able to find, I can't tell you for sure, but I will say  
22 I do remember being slightly surprised by them, and  
23 I thought at the time that actually Jeremy was being  
24 politically very adroit, because the role we had played  
25 at the Council, and I think we hoped to continue to



1 formal instructions and which you refer to in your  
2 statement? You saw the letter in draft. Can you say  
3 a little about the drafting process that was involved in  
4 it, the policy people and the legal people?

5 MR STEPHEN PATTISON: Yes. I think from recollection, all  
6 of those people involved in what I have described as the  
7 Peter Ricketts' core group were shown the letter in  
8 draft that Michael Wood wanted to send to the Attorney  
9 General. The Foreign Secretary certainly saw the  
10 letter. I think that's probably all who saw it.

11 Of those who saw it, very few of us officials  
12 commented at all on it.

13 SIR JOHN CHILCOT: The first draft came from Michael Wood?

14 MR STEPHEN PATTISON: Yes. Well, the first draft I saw came  
15 from Michael Wood. I don't know whether he had, as it  
16 were, done everything himself from the beginning.

17 The Foreign Secretary certainly commented. I think  
18 the Foreign Secretary made -- how can I put it -- a few  
19 minor but actually quite important comments on the text,  
20 but did not seek to change the basic thrust of the  
21 argument. As I say, as far as I remember, no other  
22 official commented other than on the most trivial  
23 aspects.

24 I think that was out of a genuine sense that we  
25 wanted the lawyers to sort this out and that this was



1 not something where we wanted to give the impression  
2 that officials were trying to interfere with what the  
3 legal view was. We had negotiated this text 1441. We  
4 had involved legal advice at every stage and in all the  
5 instructions that went to New York, if there was  
6 uncertainty about it, we needed the lawyers to find  
7 a way through.

8 That was the letter that was sent. As I have said,  
9 I think with hindsight that letter, while it describes  
10 an alternative reading of 1441, I think the way in which  
11 the letter is drafted, it is absolutely clear that  
12 Michael Wood's view was that 1441 was not sufficient.

13 SIR JOHN CHILCOT: But the comments that came in after that  
14 initial draft circulated sought to achieve a more even  
15 balance between competing interpretations --

16 MR STEPHEN PATTISON: I would say very slightly. I would  
17 say only very slightly. I am trying to recall now.  
18 I just can't recall them without the manuscript version  
19 in front of me, but there is a version with the Foreign  
20 Secretary's comments on it, and he makes one or two  
21 points which are, I think, designed to play up the  
22 authority given under 1441, but no-one sought, if you  
23 like, to redress the balance of the letter and say  
24 "Actually, there are two equally valid views", or  
25 whatever, or "The United States have a totally different

1 view of this". No one sought to make dramatic changes  
2 to its argument of that sort.

3 SIR JOHN CHILCOT: Looking at the text of the letter as it  
4 was sent to the Attorney General, would you have  
5 expected it to influence his mind in terms of whether or  
6 not there was sufficient authority for 1441?

7 MR STEPHEN PATTISON: Yes, yes.

8 SIR JOHN CHILCOT: In the direction of doubt?

9 MR STEPHEN PATTISON: Absolutely, yes.

10 SIR JOHN CHILCOT: I think that's probably enough on that.  
11 We want to get to the meat of it. I will turn to  
12 Sir Lawrence Freedman.

13 SIR LAWRENCE FREEDMAN: Thank you. I'd like to go back to  
14 something that's not in 1441 but which you sought to  
15 include in the second resolution. You say in your  
16 statement that by January 24th, when you were looking at  
17 the second resolution, this would (a) either set a date  
18 by which the final opportunity afforded Iraq under 1441  
19 would expire or (b) set a date by which Iraq must  
20 complete specified tasks.

21 Now, it is quite normal for UN resolutions to  
22 include timetables. For example, 1284, which set up  
23 UNMOVIC, did include a timetable. Was there any  
24 discussion in 1441 of a timetable?

25 MR STEPHEN PATTISON: I am trying to think. I don't

1       remember. There may have been, to be absolutely honest.  
2       There may have been, but I do remember quite clearly the  
3       arguments against timetables. The arguments against  
4       a timetable were always that in the past what we had  
5       seen were timetables, as you say, in 1284, and then  
6       Saddam doing just enough to persuade some members of the  
7       Council that actually he was sort of trying a bit  
8       harder, but in the end the main purposes of the  
9       resolution, including 1284, were not fulfilled.

10       So there was some wariness about putting in  
11       timetables, because that, the fear was, would give  
12       Saddam more opportunity to manipulate the Council.

13       SIR LAWRENCE FREEDMAN: When you describe this view, was  
14       this a view within the UK or was it a discussion with  
15       the United States?

16       MR STEPHEN PATTISON: I think it was certainly a view within  
17       the UK. I would imagine the US shared it, because this  
18       is the sort of thing on which they were even more  
19       hawkish than we.

20       SIR LAWRENCE FREEDMAN: You described before the break the  
21       expectations that were around about how things would  
22       develop, including that a second resolution would come  
23       almost naturally as part of the sequence of events, and,  
24       therefore, the statements about how we understood the  
25       resolution and the necessity for a second resolution was

1 more about preserving an option in case we didn't go  
2 through the expected sequence of events. Is that fair?

3 MR STEPHEN PATTISON: Yes.

4 SIR LAWRENCE FREEDMAN: You have also indicated that the  
5 sequence of events included quite strong statements to  
6 be expected from UNMOVIC, from Dr Blix, about  
7 anticipated Iraqi non-cooperation.

8 MR STEPHEN PATTISON: Yes.

9 SIR LAWRENCE FREEDMAN: So you are assuming to some extent  
10 at this point that history would almost repeat itself,  
11 that what had been Saddam's past practice would in all  
12 probability follow this time round as well?

13 MR STEPHEN PATTISON: The short answer is yes. I mean, it  
14 is the hope versus expectation argument, I think.  
15 Although we hoped it would be different this time,  
16 no-one could be confident that it would be.

17 SIR LAWRENCE FREEDMAN: Of course, in December 1998, the  
18 head of UNSCOM, Richard Butler, had given such a  
19 determination of Iraqi non-cooperation which led to  
20 Desert Fox. So that was the sort of model in your mind?

21 MR STEPHEN PATTISON: In a sense, yes. I don't think  
22 anybody thought Hans Blix was a Richard Butler, if I can  
23 say that. I mean, Richard Butler was a very different  
24 character from Hans Blix.

25 The point about Hans Blix, he was very thoughtful --

1       sorry. I don't want it to be misinterpreted as saying  
2       Richard Butler was not this at all. But Blix was very  
3       thoughtful, neutral country, long experience of looking  
4       certainly at atomic weapons programmes and how they  
5       could be concealed. He had less experience of  
6       biological and chemical, but certainly had a lot of  
7       experience in this area.

8       I think if you look at certainly his first reports  
9       to the Council and subsequent reports to the Council in  
10      2003, actually, they are pretty clear that he was not  
11      getting the cooperation he expected, and, then, of  
12      course, he finds the Al Samoud missiles.

13      I think we thought that Blix was a very good,  
14      reliable, objective person you could have reporting back  
15      on what was happening and the problems he was  
16      encountering.

17      SIR LAWRENCE FREEDMAN: Jumping ahead a bit, but if you look  
18      at the reports from Blix, 27th January, 14th February,  
19      7th March, in a sense there's more cooperation coming  
20      each time from Saddam. So as a backdrop to the  
21      discussions on the second resolution, this was clearly  
22      going to change the atmospherics within the Security  
23      Council?

24      MR STEPHEN PATTISON: It clearly did. It absolutely did.

25      I think the atmospherics between the adoption of 1441

1       and our efforts to get a second resolution were changed  
2       by the changing tone of Blix's presentations to the  
3       Council. I mean, the first one is pretty hard-hitting.  
4       The others recognise that there has been some progress.

5             I think at the end, of course, Blix still had  
6       a whole list of unanswered questions, the unanswered  
7       questions we all had. I do come back to the point that  
8       no-one on the Council thought Iraq was in compliance  
9       with the terms of 1441.

10            I also come back to the point I did just make. You  
11       know, the problem with dealing with Saddam was this  
12       history of his manipulation of the Council and the fact  
13       that if Blix was coming back reporting, "Yes, there's  
14       been a little bit more here", members of the Council  
15       would seize on that, as they did, to argue that more  
16       time should be given. Our experience of previous  
17       attempts to deal with Saddam suggested that actually if  
18       you gave him more time, there was very little chance of  
19       his ever fully complying with the Council's demands.

20   SIR LAWRENCE FREEDMAN: The difficulty with that argument  
21       was that in process terms, if not necessarily  
22       substantively, there was more than trivial progress.  
23       You were having inspections -- you were having  
24       interviews without minders being there by the end. You  
25       were having the reconnaissance aircraft in place. There

1        was quite a lot going on, and of course the Al Samoud  
2        missiles as well, which suggested actually the progress  
3        was more significant than had been possible in the past,  
4        so that doing enough by Saddam seemed to be much more  
5        than he had done in the past?

6    MR STEPHEN PATTISON: Well, he hadn't done anything like  
7        enough in the past. So the short answer is doing  
8        enough, yes, it was going to be much more than in the  
9        past. What we were looking for, if you like, was that  
10       complete change of heart. This is why we had marshalled  
11       military force and were serious about a credible threat  
12       of force on this occasion. We weren't going to do that  
13       ever again. So this was really his last opportunity.

14       The strong feeling was that whatever he was doing,  
15       it was not enough in the sense that we were not having  
16       access to all the people we wanted. We weren't seeing  
17       all the documents, particularly documents relating to  
18       destruction, that we wanted. We were not interviewing  
19       people in Cyprus and places like that that we wanted.  
20       You know, the list of the six benchmarks we had in the  
21       end were things that we felt would have genuinely  
22       changed the equation if suddenly Saddam had delivered on  
23       them.

24    SIR LAWRENCE FREEDMAN: I want to come back to that in  
25       a moment, because, as you say, what's interesting is

1       there was not at the end an agreement between us and  
2       Dr Blix about how this could be taken through.

3             Can we just go back to the actual decision-making on  
4       the second resolution? What you have described is  
5       an assumption that there would be a second resolution.  
6       Did this assumption turn into preparation without there  
7       being much of an actual decision that we should go for  
8       one?

9   MR STEPHEN PATTISON: I wouldn't have put it like that.

10       I mean, I think it was clear by the end of January that  
11       we were going to give serious consideration to a second  
12       resolution. We began to look at various options. You  
13       know, the first option was to reaffirm the material  
14       breach finding. We rapidly concluded that that was more  
15       than the Council would bear and was not necessary,  
16       because we thought we'd had that finding already in  
17       1441.

18             So we then began to look at options broadly around  
19       the formula saying that Saddam had failed to take the  
20       last opportunity. Then there were various variations of  
21       that formula, you know, that Saddam would have failed to  
22       take the last opportunity if he didn't do certain  
23       things, or the Council would be prepared to conclude  
24       that he had failed to take the last opportunity unless  
25       certain things happened. There were various options



1       around that.

2               The texts we put out with the US and the Spanish --  
3       the first one was the simple one, "You failed to take  
4       the last opportunity", and then there were these various  
5       other variants of it.

6   SIR LAWRENCE FREEDMAN: Before we go to other texts, can we  
7       just be clear, who was "we" in this context? Was this  
8       the Ricketts' group as before?

9   MR STEPHEN PATTISON: Essentially, yes, it was the Ricketts  
10       group. I think on the second resolution, there was  
11       a distinct difference in that people from Number 10 were  
12       playing a much larger part in all of this than they had  
13       in 1441.

14   SIR LAWRENCE FREEDMAN: Would that be David Manning mainly?

15   MR STEPHEN PATTISON: David Manning, yes, but mostly, I  
16       think, Matthew Rycroft.

17   SIR LAWRENCE FREEDMAN: It is still not clear to us from the  
18       papers when actually a formal decision was taken, which  
19       was the purpose of my question. Can you pinpoint a date  
20       when, "Ah, now, we will definitely go for a second  
21       resolution"?

22   MR STEPHEN PATTISON: "I can't" is the short answer. It was  
23       not clear to me from my looking at the papers either  
24       exactly when we decided to go for a second resolution.  
25       As I say, by the end of January, by 24th January, we are

1 looking at texts, and at that stage I think we are  
2 looking at texts with UKMIS New York and we are just  
3 exploring various formulae, but I cannot now remember  
4 precisely the date on which we decided to go for this  
5 and make public the fact that we were going for a second  
6 resolution.

7 SIR LAWRENCE FREEDMAN: When did you get a sense of the  
8 American administration were formally committed to  
9 a second resolution?

10 MR STEPHEN PATTISON: I am not sure that the American  
11 administration was ever formally committed to a second  
12 resolution, to be honest. I think they were -- they  
13 were willing to let us have a go at trying to get  
14 a second resolution. They certainly did not see a legal  
15 necessity for it and they, I think, obviously feared  
16 that it would only result in more complication at the UN  
17 Security Council.

18 SIR LAWRENCE FREEDMAN: Did you see a report of the meeting  
19 between President Bush and Prime Minister Blair at the  
20 end of January when this issue was discussed?

21 MR STEPHEN PATTISON: I can't honestly remember, I am sorry  
22 to say.

23 SIR LAWRENCE FREEDMAN: I mention it because that appears to  
24 be the point at which there was an understanding,  
25 though, as you suggest, the Americans weren't

1 particularly enthusiastic, they would go along for the  
2 sake of Prime Minister Blair. Maybe that was the point  
3 at which a decision was taken, but you don't have any  
4 recollection of the turn of the month as being  
5 a critical point in this?

6 MR STEPHEN PATTISON: No, I don't, and my perception -- my  
7 observation that the Americans weren't really interested  
8 in this - doesn't derive from anything I read that the  
9 Americans had said, or that Bush had said to Mr Blair.  
10 It derives simply from my pretty rapid realisation that  
11 the Americans just weren't pulling their weight on this  
12 any more. It was absolutely clear, because, you know,  
13 absent American involvement in some of this, it was  
14 going to be very hard to get a second resolution at the  
15 Council and that was my concern.

16 SIR LAWRENCE FREEDMAN: From the documents we see, there is  
17 certainly a suggestion by the Americans that they would  
18 take quite strong positions with members of the Security  
19 Council to get them on line. Were you aware of those  
20 promises and suggestions?

21 MR STEPHEN PATTISON: Yes, yes. The sort of -- yes,  
22 offline deals and arrangements. When I talk about  
23 effort, it is not that I really mean. There was talk of  
24 that. I didn't think that would ever deliver what we  
25 wanted, to be absolutely honest. You can have

1 a slightly cynical view of the way in which the UN  
2 works, but this was one of the major issues of principle  
3 and some of the countries on the Council were countries  
4 that were famous for taking positions of principle at  
5 the UN. Mexico in particular is a country that --  
6 whatever its relations with the United States, has  
7 always put very high value on maintaining what it  
8 describes as a fairly principled position at the UN.

9 So there was this talk of other deals, but what we  
10 weren't seeing, I don't think, was serious American  
11 engagement in the negotiation in trying to find  
12 a formula that would work. As I have said, and as  
13 I think is clear, Security Council Resolutions are  
14 often incredibly complicated, because they do reflect  
15 different points of view. But they need someone to be  
16 there distilling that complexity into a text that  
17 everyone can live with, and we didn't see the Americans  
18 involved in that at all.

19 SIR LAWRENCE FREEDMAN: Do you think that could have  
20 resulted from a sort of general American attitude to the  
21 UN itself, and I believe perhaps going back to  
22 November 1990, UN Resolution 678, that a muscular  
23 approach by the United States could deliver votes and  
24 that is all that would be necessary? They didn't really  
25 have to get into the nuances and subtleties of

1 a resolution?

2 MR STEPHEN PATTISON: That may be. I think they had got  
3 into the nuances and subtleties of 1441, you know, right  
4 up to their necks, actually. I think that whole process  
5 had been enervating and exhausting for them. We know,  
6 I think, that Secretary Powell had expended a lot of his  
7 own personal and political capital trying to get that  
8 far. He was up against very strongly held different  
9 views in the US administration.

10 As I say, I think the US conclusion was they saw no  
11 legal reason for it. I think when they came round, if  
12 you like, to trying to do what they could, it was because  
13 they saw the political reason for it in the UK. I think  
14 they felt eventually that the political dynamics here  
15 were such that, you know, they were prepared to do  
16 something to try to get a second resolution, but I don't  
17 think they were ever 100 per cent committed to try to  
18 negotiate it.

19 SIR LAWRENCE FREEDMAN: You say in your statement that HMG's  
20 motives were primarily political to shore up flagging  
21 political support in the UK:

22 "At the same time we knew that a second resolution  
23 would achieve wider foreign policy goals, namely of  
24 keeping the international community together, of keeping  
25 the UN centre stage and of increasing the last minute

1 pressure on Saddam."

2 Now, whatever might have been achieved if we had got  
3 a second resolution, the effort which obviously didn't  
4 succeed in the end, certainly kept the UN centre stage,  
5 but it hardly kept the international community together.  
6 In fact it turned out to be extremely divisive.

7 When you were discussing how to take this forward,  
8 were you aware that the risk that this would aggravate  
9 differences in the Security Council rather than  
10 reconcile them was quite serious?

11 MR STEPHEN PATTISON: Let me say a couple of things about  
12 that. I think I contest the view that our willingness  
13 to negotiate the second resolution was likely to  
14 aggravate the differences of view in the Council.  
15 Actually, I think the UK got some credit from other  
16 members of the Council for being willing to have a go at  
17 this. It is the point I was making earlier about the UK  
18 being seen to be different from the US in all of this.  
19 Our willingness to negotiate, have a look at a second  
20 resolution, and our willingness to keep the focus on  
21 disarmament tasks, I think was quite widely respected  
22 and seen as something very different from the US's  
23 approach.

24 Don't forget it is only -- it is very shortly after  
25 the war in May that we do manage to bring the UN back

1       together again in 1483, which, considering how  
2       controversial the intervention in Iraq was, was actually  
3       quite an achievement. I think the UK can take some  
4       credit for that by having been seen to have gone the  
5       extra mile to keep the UN involved.

6       The dynamics at the Council over the second  
7       resolution did turn - ugly is not really the word --  
8       one of the key things we had not reckoned on was the  
9       strength of French opposition, what would be French  
10      opposition to what we were doing. I think this was  
11      something we had not estimated at all, if I am frank.  
12      In fact, my recollection is that right up until close to  
13      the end, our expectation was that France, for all the  
14      trouble we had had negotiating 1441, would actually be  
15      with us, and we were surprised by the strength of French  
16      reaction when it came to the second resolution.

17      You know, we can talk about the French veto a bit if  
18      you like, but what seems to have happened is that -- I  
19      am sure Jeremy has told you this -- my understanding is  
20      that he was told by his French opposite number at the  
21      very beginning of March that they were likely to veto  
22      the resolution. That's before we had even put in the  
23      benchmarks.

24      The text they were talking about then, I think I am  
25      right in saying, was the UK/US/Spanish text. It was

1 a very short statement that Iraq had failed to take the  
2 final opportunity afforded by 1441. The French were  
3 reporting that their opposition was so strong, they would  
4 veto. In fact Jeremy reported from New York at that  
5 time that he thought a French veto was more likely than  
6 failure to get nine votes, nine votes needed to adopt  
7 a Security Council resolution. That was 1st March.

8 Then we changed the text and we put in benchmarks  
9 and we looked at alternative formulae. Then, of course,  
10 you get the well-known Chirac press conference where he  
11 talks about voting no and all the ambiguities over that  
12 and in what circumstances, but I think that Chirac  
13 comment has to be seen against the background that we  
14 had already had a strong signal from France at the  
15 beginning of the month that a veto was on the cards.  
16 That was not something we had reckoned with, to be  
17 honest.

18 SIR LAWRENCE FREEDMAN: I would like to follow through on  
19 this French issue.

20 Jack Straw told us the division with the French was  
21 evident on 20th January. There was a quite famous  
22 meeting in New York called by the French presidency when  
23 the divisions between the United States and France on  
24 whether there should be war over this issue became  
25 apparent.



1           So whereas it is true that the readiness of France  
2           to veto may only became apparent later on, the fact that  
3           this could lead to a big argument within the Security  
4           Council, one would thought was evident even as you were  
5           starting to draft initially on 24th January?

6   MR STEPHEN PATTISON: I think this is the point, if I may  
7           say so, of Security Council drafting. You try to find  
8           a text that brings people together. The whole point  
9           about the complexity of Security Council documents is  
10          that they are documents that try to preserve the  
11          integrity of countries that have taken quite strong  
12          positions, but, nevertheless, agree that by adopting  
13          this resolution you can move the process forward a bit.

14          So I don't think the fact that -- I think it was  
15          Villepin on 20th January -- what he was saying, it was  
16          pretty strong. But I think what that would have  
17          registered with us at the time was, "We need to be quite  
18          clever in how we put this text together", not, "We had  
19          better back off immediately", because backing off  
20          immediately for all sorts of reasons would not have been  
21          tactically sensible. We still thought, I think, there  
22          was a good chance of getting a second resolution.

23   SIR LAWRENCE FREEDMAN: Did you have any discussions with  
24          French opposite numbers about how a second resolution  
25          acceptable to the French government might be put

1           together?

2   MR STEPHEN PATTISON: No. I don't recall personally having

3           any of those discussions. The discussions with the

4           French were primarily in New York and, in my view,

5           primarily between Jeremy Greenstock and the French

6           Ambassador to the United Nations, and then, of course,

7           between the Foreign Secretary and Villepin personally.

8           Obviously there was a little bit between political

9           directors but not much, I don't think.

10   SIR LAWRENCE FREEDMAN: You don't recall any instructions

11           going from London to New York suggesting that Jeremy

12           Greenstock might explore in New York what a second

13           resolution acceptable to France might look like?

14   MR STEPHEN PATTISON: I don't recall any, no, and I think it

15           would have been unusual for us to have handled it in

16           that way, to be honest, partly because, as I'm sure you

17           know, the French had been very difficult over 1441.

18           There were all sorts of moments when the French wanted

19           changes that we resisted. They wanted to put OP1 of

20           1441 in the past tense. They wanted to say, "The

21           Council must come back to consider measures, to consider

22           next steps". There were various -- there were lots of

23           things where at every twist the French were trying to

24           push their position a little bit further forward.

25           So I don't think we would have tactically thought it

1 right to go to France and say, "What will you accept?"  
2 at this stage. I think our tactics were right in the  
3 circumstances to produce a text ourselves, to indicate  
4 that we were open to suggestions, but that this was, if  
5 you like, the bottom line. The bottom line was that the  
6 Council must be willing to accept that Saddam had missed  
7 his final opportunity.

8 The French -- the point about the French veto was  
9 actually that the French turned out to be unwilling to  
10 enter into negotiations on that basis. That, I think,  
11 was something we had not reckoned with and was  
12 disappointing.

13 SIR LAWRENCE FREEDMAN: You say in your statement:

14 "However, we have heard that Ambassador Levitte, the  
15 French ambassador to the UN, during the negotiations  
16 told us in the course of our efforts to get a second  
17 resolution that we did not need one. 1441 provided  
18 sufficient legal authority. He made the same point in  
19 public to the US Council on Foreign Relations in March  
20 2003."

21 I just want to unpack this a little bit as to what  
22 the French position here was. One interpretation is  
23 what the French did not want to do was to give the  
24 Americans the authority of the Security Council to go to  
25 war, but that was not the same as saying that going to

1 law would be illegal because of what you referred to  
2 earlier, with the Kosovo precedent, that as a great  
3 power, France also could see how it might be important  
4 to maintain the ability to act without Security Council  
5 approval. Do you accept that there is a difference here  
6 in what they might have been after?

7 MR STEPHEN PATTISON: No, I do understand. I don't think  
8 that -- that wasn't my impression of the French  
9 position. I think my impression of the French position  
10 was they were concerned that 1441 provided legal  
11 authority for intervention. I think -- it is very  
12 instructive to look at other people's explanations and  
13 votes on adoption. You know, France did not say that  
14 any military activity subsequent to this resolution  
15 would be illegal or, on the basis of this resolution,  
16 would be illegal. They were very careful to chose their  
17 words, as you would expect, very carefully.

18 My reading of the negotiation of 1441 is that the  
19 French accepted in the course of the negotiations that  
20 this resolution would be sufficient to authorise the use  
21 of force. Even very early negotiations with them on  
22 1441, the French would not accept a material breach  
23 finding at all, because they well understood that this  
24 code, if you like, the material breach finding with  
25 serious consequences could be interpreted as the legal

1 basis for war. So they were very concerned about that.  
2 They didn't succeed in getting those key things out of  
3 the text. So I think they thought that 1441 contained  
4 all the legal authority that was needed to justify use  
5 of force.

6 When we began to run a second resolution, they  
7 worried that the second resolution would somehow  
8 associate them, I think, not the UN -- I don't think  
9 they were particularly concerned with the UN -- but  
10 them, France, much more closely with the decision to use  
11 force. That was something they were not prepared to  
12 endorse.

13 One can speculate as to the reasons why. France's  
14 position on Iraq in the years before this at the Council  
15 had always been distinctly different from the position  
16 that we and the United States took. They were more  
17 difficult over streamlining the sanctions regime. You  
18 know, they had their own interests in Iraq, I think it  
19 is fair to say, and they did not want to be pushed into  
20 a position of getting any closer to endorsing it than  
21 they had in 1441.

22 They were very concerned about the Germans, who had  
23 come out very strongly in the German elections in  
24 September 2002, come out very strongly against the  
25 United States' regime change position. The French were

1       very concerned, I think, not to get too far away from  
2       the Germans as well, and they were looking to the  
3       future. They were looking to the future of their  
4       relationship with Iraq. French foreign policy quite  
5       often looks at countries rather than governments. They  
6       say, "Yes, we hate Saddam as much as you do, but  
7       actually our main concern is to preserve a basis for our  
8       future relationship with a new Iraq".

9       SIR LAWRENCE FREEDMAN: That's very interesting. Whether or  
10       not the French were concerned to associate themselves or  
11       the Security Council more generally with American  
12       action, indicates that bringing the issue to a head  
13       through a second resolution would put them on the spot?

14       MR STEPHEN PATTISON: Yes.

15       SIR LAWRENCE FREEDMAN: The evidence seems to be that that's  
16       what they wished to avoid. Their warning at least to  
17       the Americans was, "If you put us on the spot, we will  
18       have to say no". That was there some time before March.

19       MR STEPHEN PATTISON: I am sorry. I am only aware of them  
20       actually saying they would veto at the very beginning of  
21       March, but I don't know whether they had said it before.

22       SIR LAWRENCE FREEDMAN: The spectacles at the Security  
23       Council each time Blix gave a report indicated that they  
24       were hardly acting in sympathy with the line that we  
25       were taking in the search for a second resolution well

1 before the start of March.

2 MR STEPHEN PATTISON: Yes, that's true, but one of the  
3 dynamics of the Security Council is that sometimes you  
4 bring people to a decision point and you ask them to  
5 really face up to the consequences of the position they  
6 are taking. What we would have needed from France,  
7 assuming we had got nine positive votes, would have been  
8 an abstention. If they felt strongly, they could have  
9 abstained with a strong explanation of vote. They could  
10 have made that position clear and we could still have  
11 got a resolution with nine votes.

12 My argument is that actually once it became clear  
13 that the Security Council, or the permanent members of  
14 the Security Council were very divided on this, the  
15 chances of getting nine votes from the non-permanent  
16 members diminished immediately.

17 SIR LAWRENCE FREEDMAN: When would you date that from?

18 MR STEPHEN PATTISON: It's hard to date it. I mean, I think  
19 when we launched the -- when did we launch -- we  
20 launched the UK/Spanish/US text towards the end of  
21 February. I think we still thought there was a chance,  
22 but a week later, to be honest, if Levitte is telling  
23 us -- sorry -- the French Ambassador at the UN is  
24 telling us that he has it on high authority that France  
25 would veto, he is probably saying the same to other

1 members of the Council as well. So by 1st March, word  
2 is clearly going round that the Council is very  
3 seriously divided on this issue.

4 SIR LAWRENCE FREEDMAN: In terms of the timetable you have  
5 indicated, the start of March you are getting a clear  
6 indication. 10th March, you have the famous Chirac  
7 statement. Yet it was only on 17th March that we  
8 announced that we are not going to carry on pursuit of  
9 the second resolution and a vote. So when did we  
10 actually decide to abandon this? Why didn't we carry on  
11 pursuing the draft resolution after 17th March?

12 MR STEPHEN PATTISON: I don't know the answer to that, to be  
13 honest. To be honest, I was slightly surprised when we  
14 decided not to pursue the resolution. Despite what the  
15 French had said, my personal view was that we should  
16 have given a bit more time to try to work out whether  
17 a second resolution was at all possible on the lines we  
18 were then exploring. I was slightly surprised at the  
19 decision that we were not going to pursue it any  
20 further.

21 I say that; I was not optimistic that we were ever  
22 going to get this resolution, but I did think there was  
23 a bit more life left in the negotiations. A number of  
24 outcomes were possible: we might have got nine votes and  
25 the French might have vetoed. Now, the legal



1 consequences of that would have been again subject to  
2 the most careful scrutiny, but in a sense, that was  
3 always part of the Blair position. If someone vetoes  
4 a resolution which otherwise has nine positive votes,  
5 you are in a slightly different position than if you  
6 haven't gone through that process.

7 So I will be honest, I had an open mind and  
8 I thought we should have continued a little bit along...

9 SIR LAWRENCE FREEDMAN: Presumably you are aware of the  
10 discussion that the Attorney General had had over the  
11 issue of an unreasonable veto, the concept of  
12 an unreasonable veto, which is what you are suggesting  
13 might have been the outcome of pushing the issue to  
14 a vote?

15 MR STEPHEN PATTISON: Let me say this. I think the  
16 government would have wanted to argue this was  
17 an unreasonable veto. I am not saying whether that  
18 argument would have been justified, but in circumstances  
19 where we put a resolution to the vote, and it had been  
20 vetoed by France, I am sure that's what the government  
21 would have wanted to argue.

22 SIR LAWRENCE FREEDMAN: You have a lot of experience of the  
23 UN. Are you aware of the general difficulty with the  
24 argument of an unreasonable veto? In a sense, to the  
25 majority of the members of the Security Council, any

1 veto is unreasonable.

2 MR STEPHEN PATTISON: I know. It is an untested argument.

3 Well, it is a completely untested argument, but it was

4 something that was being talked about.

5 SIR LAWRENCE FREEDMAN: But were you aware of the Attorney

6 General's view, which was a constant, that

7 an unreasonable -- that a resolution vetoed would not

8 provide authorisation to go to war.

9 MR STEPHEN PATTISON: Yes, of course. There is no question

10 of that. A vetoed resolution would not provide

11 authorisation to go to war. Absolutely right.

12 SIR LAWRENCE FREEDMAN: So we would have been in even more

13 uncharted waters if we pushed the issue to a vote and it

14 had been vetoed, even if we had got nine votes?

15 MR STEPHEN PATTISON: The short answer is yes. The legal

16 position would have been subject to much more careful

17 scrutiny, had we done that.

18 SIR JOHN CHILCOT: But the veto would not, of course, have

19 applied retrospectively to 1441, whatever the effect of

20 1441 on its own was?

21 MR STEPHEN PATTISON: Yes, but you run the risk, if you put

22 it to veto, of giving the impression that you thought

23 1441 was insufficient, and that the second resolution,

24 which you had implied was necessary to give

25 authorisation to war, had been vetoed and had failed. Of

1 course, much of that crucially depended on what the  
2 second resolution would have said, and this was partly  
3 why we were so careful to have formulae which did not,  
4 in our view, detract from the legal authority under  
5 1441. So the resolution, as I say, the basic thrust of  
6 it would have said simply, "Iraq has failed to take the  
7 final opportunity afforded under 1441". It would have  
8 said nothing more about the legality of the use of  
9 force.

10 SIR LAWRENCE FREEDMAN: One of the issues, and you alluded  
11 to this earlier, was time. The clusters document did  
12 represent a way forward. Dr Blix has told us that. It  
13 is possible to see how this would be a way of resolving  
14 the issue. How it would have worked out in practice, of  
15 course, is now hard to know. When this was discussed,  
16 say, with the Chileans, they couldn't see how a week was  
17 long enough.

18 We also know, and Mr Blair confirmed when we saw him  
19 recently, that they had asked for a lot more time from  
20 the Americans, but this wasn't available. So how  
21 critical do you think that particular issue, that it  
22 might have been possible if a few months rather than  
23 a week had been on offer?

24 MR STEPHEN PATTISON: Do you mean it might have been  
25 possible to avoid hostilities?

1 SIR LAWRENCE FREEDMAN: Yes, or you would have at least got  
2 a second resolution -- you would have at least got, say,  
3 Chilean and Mexican support.

4 MR STEPHEN PATTISON: I come back to the point I made  
5 earlier, that the history of dealing with Iraq at the UN  
6 has been a history of Iraq manipulating the Council and  
7 getting off the hook of the Council's demands. I am not  
8 sure there was any reason to believe in 2003 that more  
9 time would have changed that traditional Iraqi  
10 behaviour.

11 SIR LAWRENCE FREEDMAN: Would more time have given them  
12 a chance to forge more of a consensus within the  
13 Security Council behind a second resolution with the  
14 benchmarks and with a deadline.

15 MR STEPHEN PATTISON: I'm not sure, to be honest. When I  
16 say I am not sure, I don't think so is what I am trying  
17 to say, because I think the positions of those countries  
18 that were leading, if you like, the opposition to  
19 a second resolution, I don't think really depended on  
20 more time, frankly. I think for various reasons, let's  
21 say France, let's say Mexico certainly, would have always  
22 been very reluctant to have endorsed more explicitly  
23 than in 1441 the use of force.

24 Again, my strong suspicion is that Saddam would have  
25 done just enough to give them the arguments not to do

1           so.

2       SIR LAWRENCE FREEDMAN: I'm trying to reconcile this with  
3       the possibility of getting the nine votes, because you  
4       would certainly have needed Mexico and Chile if you were  
5       going to do that. So, as Jeremy, of course, told us, he  
6       never thought we ever had nine votes in the bag. I am  
7       not quite clear what you thought then was the state of  
8       play in March. You don't think it would have made any  
9       difference to our attempts to get nine votes if the  
10      Americans had offered extra time.

11     MR STEPHEN PATTISON: Well, you couldn't be confident that  
12      it would. That's my point. You couldn't be confident  
13      that it would. In my view the most likely outcome would  
14      have been Saddam would have done a few more things and  
15      we would have come back and the Mexicans and others  
16      would have said, "Well, there's been a little bit more  
17      progress. Maybe we should give even more time".

18     SIR LAWRENCE FREEDMAN: Just finally, we asked Sir Jeremy  
19      Greenstock about his public statement at the end of the  
20      process:

21             "One country in particular has underlined its  
22      intention to veto any ultimatum, no matter what the  
23      circumstances."

24             In his report in a telegram that he had agreed with  
25      Negroponte, the US Ambassador, and later with the

1 Spanish:

2 "... that we will tell the press during the morning  
3 of 17th March that we have concluded that there is no  
4 prospect of putting our resolution to the vote, casting  
5 heavy blame on the French."

6 We asked Sir Jeremy whether the agreed line, to cast  
7 heavy blame on the French, had been  
8 a Greenstock/Negroponte idea, or whether he was acting  
9 on instructions and he replied he was acting on  
10 instructions.

11 What's your understanding of HMG's instructions on  
12 this point?

13 MR STEPHEN PATTISON: I don't recall us sending him specific  
14 instructions on this, but it is certainly the case that  
15 there was a feeling in Whitehall that certainly the  
16 Chirac press conference had, if you like, clarified the  
17 position in that it was absolutely -- it seemed  
18 increasingly clear after that that there was very little  
19 prospect of being able to get a second resolution.  
20 Prior to that, we were still looking at maybe we could  
21 get nine votes. As I say, I think on 1st March, Jeremy  
22 was reporting a French veto seemed more likely than  
23 a failure to get nine votes. Prior to the French  
24 statements, we still thought there was a chance of  
25 getting nine votes. The French statement in a sense

1           pulled the rug from under us on all of that.

2           To that extent, it meant that it was pointless going  
3           on with further efforts. So to that extent, we  
4           highlighted the French statement as a reason why we  
5           should -- we could not sensibly pursue these  
6           negotiations.

7   SIR LAWRENCE FREEDMAN: Where did the inspiration for that  
8           come from?

9   MR STEPHEN PATTISON: I don't know where that came from.

10   SIR LAWRENCE FREEDMAN: Okay. Thanks very much.

11   SIR JOHN CHILCOT: I think we'd like to turn to the  
12           aftermath now. I will ask Baroness Prashar to pick this  
13           one up.

14   BARONESS USHA PRASHAR: Thank you. Can we begin by looking  
15           at some of the assumptions that underpinned the  
16           aftermath planning? In your statement you say that:

17           "The preferred option was a light UN administration  
18           and this was based on the view generally held at the  
19           time that Iraq was in many ways an efficiently run state  
20           with a functioning civil service. My belief was that  
21           the technocrats who had served Saddam would switch  
22           easily into serving a new administration."

23           What evidence did you have to substantiate the  
24           assumption that Iraq was an efficiently run state with  
25           a functioning civil service?

1 MR STEPHEN PATTISON: Well, as you know, we had no embassy  
2 there. So we were not getting ambassadorial reports,  
3 but I think that view that Iraq was an efficiently run  
4 state was widely held. I mean, it is something that was  
5 subsequently echoed by Mark Malloch Brown in spring of  
6 2003 when he was the head of UNDP.

7 Our view generally was that, you know, this was  
8 a regime that was in very tight control of its people,  
9 its information, its procedures. It had used that  
10 control to terrible effect on a number of occasions, but  
11 there was in that sense a functioning civil service.

12 I compare it with countries that we described as  
13 failed or failing states at the time that were a big  
14 part of our concern, countries at the time certainly  
15 which included Sierra Leone, would have included  
16 East Timor when we first managed to secure independence  
17 for East Timor. These were countries where the state  
18 functions did not work well. We did not think Iraq was  
19 in that category at all. We thought Iraq, as I say, had  
20 a reasonably well functioning state bureaucracy. That's  
21 not to say that it wouldn't need changing. Of course it  
22 would need changing. It would need changing in a whole  
23 variety of ways.

24 First of all, we would need to make absolutely  
25 certain that it functioned in a way which avoided



1 discrimination between different ethnic groups, that it  
2 functioned in a way that re-addressed human rights  
3 issues, that it functioned in a way that gave us clarity  
4 over what had happened over WMD. All those things would  
5 need to be addressed but the assumption was there were  
6 people who were there who could make it function.

7 BARONESS USHA PRASHAR: Are you suggesting that that  
8 information came mainly from the United Nations? You  
9 said that Mark Malloch Brown told you that. Did you  
10 yourselves have any information in the Foreign Office  
11 itself --

12 MR STEPHEN PATTISON: Our Middle East department researchers  
13 had tried to follow Iraq as best they could during the  
14 years when we didn't have an embassy there. I don't  
15 know, to be honest, how accurate or reliable their  
16 information was, but insofar as we could form our own  
17 view from a distance with no-one there, we did have  
18 researchers in the Foreign Office who would do that for  
19 us.

20 BARONESS USHA PRASHAR: You were also given that  
21 understanding by the United Nations who you were talking  
22 to.

23 MR STEPHEN PATTISON: Yes. That was a --

24 BARONESS USHA PRASHAR: That was on the assumption of  
25 comparing with other countries. Is that right?

1 MR STEPHEN PATTISON: Yes. We never explicitly said, "Can  
2 you compare Iraq with Sierra Leone on the scale of its  
3 ability to function properly?" but much of the debate at  
4 the time at the UN was about failed states and what on  
5 earth we could do to do more to secure and prop up  
6 failed states, particularly failed states that have been  
7 in conflict, like Sierra Leone.

8 So when we went to the UN, and there was a sense  
9 that the UN was doing some under-the-radar planning, and  
10 we talked to the UN about the kind of UN mission we  
11 envisaged post-conflict, which was a very light mission,  
12 an assistance mission, designed to assist rather than  
13 run a country, we found that the UN were very much on  
14 the same page.

15 BARONESS USHA PRASHAR: I mean, my understanding is that  
16 planning for the aftermath was based on an assumption  
17 that there will be sort of three stages: military  
18 government, transition to a civilian-led administration,  
19 and then a proper Iraqi administration.

20 Was this assumption shared by the United States? Is  
21 that what they were thinking of?

22 MR STEPHEN PATTISON: I think the short answer is yes,  
23 although I think the assumption that post-conflict Iraq  
24 would go through three stages is an assumption that was  
25 not there at the very beginning.

1           When I first started to look at these issues in  
2           autumn 2002, I was certainly not aware of anyone having  
3           done any thinking of that sort. Even right through  
4           until, you know, 2003, May 2003, our hope was very much  
5           for a UN personality to head the interim arrangements in  
6           Iraq.

7           The basic choice we faced, even as late as May 2003,  
8           was whether the coalition was going to run Iraq and set  
9           up -- sorry.

10       BARONESS USHA PRASHAR: We will come to that. I really want  
11       to talk about early on.

12       MR STEPHEN PATTISON: Very early on, there was no awareness  
13       that there was going to be these three stages, no.

14       BARONESS USHA PRASHAR: In the discussion you were having  
15       with the United States, were you able to identify what  
16       their assumptions were, because you did visit the United  
17       States in February.

18       MR STEPHEN PATTISON: I went there in February. The short  
19       answer is no, but the focus of my discussion was on a UN  
20       role. Now, the Americans were implacably hostile at  
21       that stage to the sort of UN role which I was advocating  
22       for post-conflict Iraq. They, in my view, seemed to  
23       rely very much on the coalition and the Iraqis  
24       themselves being able to continue the smooth functioning  
25       of the country. They had not --

1 BARONESS USHA PRASHAR: You were aware of the fact that the  
2 United States did not want the UN to have a prominent  
3 role, but you still continued to plan on the assumption  
4 that they would want the United Nations to have  
5 a prominent role. Is that fair?

6 MR STEPHEN PATTISON: The question resolves itself around  
7 the meaning of the word "prominent", to be perfectly  
8 honest. There are various ways in which the UN could  
9 have been usefully involved in post-conflict Iraq from  
10 the beginning. If you map out what had happened in UN  
11 operations across the world, there were all sorts of  
12 models. You know, in East Timor the UN had essentially  
13 been running the country. In Kosovo it was very  
14 similar.

15 None of the models are exactly identical, but in  
16 both of those essentially you have a UN administration.

17 In Bosnia you had a different administration under  
18 the high representative, with a lot of UN involvement in  
19 the peace-keeping and security sector reform side. In  
20 Afghanistan you had, I think, probably quite a light UN  
21 involvement, the UN assistance mission in Afghanistan  
22 and the word "assistance mission" was chosen quite  
23 carefully, but even in Afghanistan you had at the top of  
24 it at the very beginning a figure, Brahimi, who played  
25 a strong role in the emergence of the Afghan government

1 post-conflict.

2           So you have these models, and I think we were never  
3 talking to the Americans about the UN taking on the  
4 whole of the administration of Iraq, but we were talking  
5 to them about a range of other possibilities. What we  
6 really wanted in the end was a UN role in the political  
7 process, which seemed to us absolutely crucial, to make  
8 sure that the emerging Iraqi interim authority wasn't  
9 seen as a coalition stooge. We wanted a commitment that  
10 the UN would be involved in the subsequent development  
11 of self-governing arrangements for Iraq. We wanted the  
12 UN to be involved in administering certain activities.  
13 The Oil for Food Programme was absolutely key. We  
14 wanted international oversight of the use to which the  
15 oil money was put. We could have gone on.

16           We also wanted an international peacekeeping  
17 presence if we could have got it. We thought it  
18 desirable for the UN to have more direct involvement in,  
19 let's say, the ministries of justice or defence and  
20 security than in, let's say, the ministry of health.

21           So there were various models. The question of  
22 prominence -- sorry -- can I just say that we always  
23 thought despite the fact that the US were very hostile  
24 to the UN, I think we still thought and I think we were  
25 proved right by 1483, that it was worth arguing for a UN

1           role in some of the most prominent bits of what was  
2           going to happen in Iraq post-conflict.

3   BARONESS USHA PRASHAR: In developing these models, were you  
4           doing this in consultation with the UN? Was it  
5           something you were doing on your own, in consultation  
6           with USC? Can you just tell me how the dynamics were  
7           working?

8   MR STEPHEN PATTISON: We did this entirely in-house. We did  
9           this sort of thing entirely in the United Nations  
10          Department with the assistance of a few departments in  
11          the Foreign Office. We did it very much in a sense from  
12          scratch. As I said, I looked at what had happened in  
13          Germany and Japan at the end of the Second World War.  
14          We looked at what had happened in other UN operations.

15                We, the United Nations Department, began to feed  
16          those ideas into the Foreign Office in the autumn of  
17          2002. As I said, they were taken up by Edward Chaplin.  
18          He started to have some discussions. Then I had some  
19          discussions with the Americans. Then we established the  
20          Iraq Planning Unit.

21   BARONESS USHA PRASHAR: What was the response of the United  
22          Nations to your thinking? What were they telling you?  
23          Were they keen to take on this role? I mean, what was  
24          their response to your advice?

25   MR STEPHEN PATTISON: The short answer is they were very

1       receptive to our talking about these issues with them.  
2       I should be clear: we didn't have a very extensive  
3       dialogue with the UN Secretariat on this, because the  
4       fact that the UN was doing any post-conflict planning  
5       was immensely sensitive, particularly when they first  
6       started to look at it in late September I think it was  
7       2002.

8               So it was very much one of those conversations where  
9       we would go in and check that the UN was doing some  
10      thinking and that that thinking was on sensible lines.  
11      It seemed clear that their thinking was on the same sort  
12      of lines.

13             Since I have drafted my statement, I have come  
14      across another reference to a conversation we had with  
15      the UN in I think February 2003. They, the UN, were  
16      coming at it -- the UN Secretariat -- I need to be  
17      careful who we are talking about here -- the UN  
18      Secretariat -- not the member states obviously -- the UN  
19      Secretariat were coming at it, if I may say so, from  
20      exactly the same point of view that I was coming at it  
21      from, from essentially the experience of other UN  
22      operations; the realisation that if we did not need  
23      a very heavy UN presence, let's not plan for it, because  
24      these things are very difficult to arrange, organise and  
25      resource-intensive.

1                   Our model was the experience of Afghanistan, where we had  
set up

2                   a UN mission alongside a military coalition,  
3                   the NATO coalition, had been endorsed by the UN Council  
4                   at the same time as the Council established the UN  
5                   mission that ran alongside it and alongside the Afghan  
6                   government.

7                   So I was not surprised when the UN Secretariat's  
8                   people's views were coming out in very much the same  
9                   place as ours.

10       BARONESS USHA PRASHAR: What about the United States,  
11                   because, you know, they were reluctant, but you still  
12                   developed these models? Did you still think they could  
13                   be persuaded at that stage?

14       MR STEPHEN PATTISON: The short answer is yes. I thought  
15                   they could be persuaded to go for a UN involvement that  
16                   would, as I say, give the UN some sort of role in the  
17                   political process and some of the other things  
18                   I've mentioned even if they, the US minds, were closed  
19                   to planning for it in February.

20                   The US view -- and this will come as no surprise --  
21                   the US, of course, has traditionally been very hostile  
22                   to the United Nations. I think from the conversation  
23                   I had with them in Washington in February their position  
24                   on the UN was very ideologically driven. Yes, they were  
25                   able to point out some of the UN's inefficiencies in



1       running operations. No-one would dispute that there are  
2       inefficiencies around UN operations. Of course there  
3       are. You don't get the UN in in a sense to do it more  
4       efficiently. You get the UN in to do it differently.  
5       That's what I was trying to argue.

6             My view, following the conversations I had had in  
7       Washington, was that we needed to take this to a much  
8       higher level if we were going to get anywhere with the  
9       Americans. The next stage was meant to be -- well, the  
10      Americans in fairness then took it to Condoleezza Rice,  
11      who was then at the NSC, and she reported back to us --  
12      it was reported back to us there remained misgivings  
13      about too big a UN role.

14            Then my advice was that this needed to be raised at  
15      a much higher level and we needed to think very  
16      carefully about how we were going to influence the US on  
17      this. I am not going to say that would have been easy.  
18      It is not easy to change the minds of a superpower when  
19      the superpower's mind is made up on something as  
20      ideologically sensitive as this, but my belief is  
21      I think there was a chance that we could have persuaded  
22      them and in the end we did in 1483.

23   BARONESS USHA PRASHAR: Given that we knew the United States  
24      wasn't very keen and, of course, you hoped to influence  
25      them, did we not have a plan B in case the United States

1        didn't want the United Nations to have a role? Did we  
2        think of having a plan B for reconstruction?

3        MR STEPHEN PATTISON: Here I think I am afraid we have to  
4        face the fact that if the US didn't want the UN, we, the  
5        UK, were a very small part of the US effort. I think  
6        our view was the US would have to sort this out somehow  
7        themselves. If we were not going to use the UN, there  
8        was no other multilateral route link we were ever going  
9        to use to do this.

10       This goes on to the summer when it came to policing.  
11       There was a suggestion from the United States that we  
12       use I think an organisation called the OSCE, the  
13       Organisation for Security and Cooperation in Europe, to  
14       do policing, or even the EU actually at one point. This  
15       gets on to policing, which we are coming on to later.

16       It was obviously completely ridiculous to think  
17       these organisations would touch it. Only the UN could  
18       have done this. The EU, NATO, these other  
19       organisations, forget it. None of them could have gone  
20       anywhere near it. So if we weren't going to use the UN,  
21       it would have had to have been a US operation with a bit  
22       of UK input.

23       BARONESS USHA PRASHAR: In other words, what you are telling  
24       me is, "We didn't think it was worth having a plan B,  
25       but our assumption was if the UN did not get involved,

1           it would have to be the US who would sort it out"?

2   MR STEPHEN PATTISON: I think what I'm saying is that the US  
3           sorting it out was plan B. I don't think there was any  
4           alternative. We couldn't have worked up anything  
5           cleverer than those two alternatives.

6   BARONESS USHA PRASHAR: Okay. Can I now move on to Security  
7           Council Resolution 1483? What I really want to  
8           establish is what discussion, if any, was there before  
9           the UK agreed to be named a joint occupying power?

10           Before I get into that I'd just like to ask one  
11           question first. On 7th April 2003, following  
12           a discussion with the Attorney General, Jack Straw wrote  
13           to the Prime Minister suggesting that UK agree a formal  
14           memorandum of understanding with the US specifying the  
15           need for consultation and joint decision-making.

16           At that stage is it right that Australia were also  
17           seeking to be parties to the memorandum of  
18           understanding?

19   MR STEPHEN PATTISON: This is something in which I was not  
20           personally closely involved, I'm afraid.

21   BARONESS USHA PRASHAR: So you wouldn't deal with it?

22   MR STEPHEN PATTISON: I think this would have been dealt  
23           with by the Iraq Planning Unit and our legal advisers.  
24           I have a recollection that Australia was interested at  
25           some stage in this, but that is only my recollection

1           years after the event.

2   BARONESS USHA PRASHAR: Okay. As you are well aware, the US

3           refused to sign the MOU and that was clear by 15th May.

4           The UK went on to be named as a joint occupying power

5           with the United States, which was adopted on 22nd May,

6           and Australia didn't become a joint occupying power.

7           What discussion took place on whether the US (sic)

8           should be named as a joint occupying power?

9   SIR JOHN CHILCOT: The UK.

10   MR STEPHEN PATTISON: The UK. I'll be honest. I don't

11           remember any. That doesn't mean it didn't happen, but I

12           don't remember.

13   BARONESS USHA PRASHAR: You said earlier that you got

14           involved in 1483.

15   MR STEPHEN PATTISON: Yes, yes, but 1483 --

16   BARONESS USHA PRASHAR: But you're not aware of what

17           discussion --

18   MR STEPHEN PATTISON: Yes, but I will be honest. I don't

19           remember any discussion about linking the UK to the US

20           as joint occupying powers.

21           Now I was quite involved in 1483, but 1483 is a vast

22           resolution and it covers a whole range of issues, as you

23           can see. What we did was to draw on expertise from

24           a whole range of people.

25           So, for example, on that issue if the text had come

1 in saying "UK/US", it would almost certainly have been  
2 sent to the Ministry of Defence and to our lawyers, I am  
3 sure the Ministry of Defence lawyers and the Iraq  
4 Planning Unit for their views on it. I don't remember  
5 it being an issue in my involvement with that  
6 resolution, to be honest.

7 BARONESS USHA PRASHAR: So you can't remember when the  
8 decision was actually taken for us to become a joint  
9 occupying power?

10 MR STEPHEN PATTISON: No, I can't remember that. I have to  
11 say in the research I have tried to do subsequently to  
12 prepare for this I have come across no reference to that  
13 discussion in the papers I have unearthed in the Foreign  
14 Office.

15 SIR JOHN CHILCOT: 1483 itself notes the letter of 8th May  
16 from the United States to the United Kingdom.

17 MR STEPHEN PATTISON: Yes, yes.

18 SIR JOHN CHILCOT: So it was before that.

19 MR STEPHEN PATTISON: Yes, yes.

20 BARONESS USHA PRASHAR: So was there ever any discussion the  
21 UK should not be named as occupying power or to confirm  
22 that we should only be an occupying power in the south  
23 of Iraq?

24 MR STEPHEN PATTISON: I am sorry. I can't answer that for  
25 you.

1 BARONESS USHA PRASHAR: You have no idea about that at all?

2 MR STEPHEN PATTISON: I can't answer that for you  
3 adequately.

4 BARONESS USHA PRASHAR: Can we then move on to the question  
5 of the negotiations and the impact, because several  
6 witnesses have told the Inquiry how the lack of clarity  
7 over the legality of possible UK and US engagement had  
8 undermined aftermath planning.

9 Carolyn Miller told us that this was a greater  
10 constraint than the lack of clarity over the United  
11 Nations' role.

12 Were you aware that this legal ambiguity was a major  
13 constraint on planning?

14 MR STEPHEN PATTISON: How can I put it? I think my own view  
15 was that there was not enough planning for the  
16 aftermath. I have said in my statement I think the Iraq  
17 Planning Unit was too little, too late. I felt that in  
18 my department we had actually done quite a lot within  
19 the constraints of trying to work out what a UN system  
20 would be like, but in terms of looking at, you know,  
21 what we might find when we got there, what bits of Iraq  
22 might be functioning or might not be functioning, which  
23 turned out to be absolutely key issues, I will be  
24 honest, I did not see a lot of thought given to that  
25 prior to the conflict.

1 I am not convinced that was because of the  
2 uncertainty of the legal position. Some of it may have  
3 been because of the uncertainty over whether in the end  
4 there would be conflict, but my own view is that, as  
5 I was doing in the United Nations Department, it was  
6 perfectly sensible for officials to plan on the strong  
7 likelihood there would be conflict. That is what  
8 I think officials should be doing.

9 I know there is a view that DFID, the Department for  
10 International Development, was not, if I can put it this way,  
pulling  
11 their weight in this area because of their misgivings  
12 about what was happening in various ways. I will be  
13 honest. I am not sure that criticism is entirely fair.

14 First, I am personally not sure that it was the role  
15 of DFID to plan for the administration of Iraq  
16 post-conflict. Secondly, I think DFID did do quite  
17 a lot, an awful lot actually, in an area which then  
18 turned out to be of less concern, the immediate  
19 humanitarian relief of the Iraqi population  
20 post-conflict.

21 So although I am saying I don't think enough was  
22 done in this area, I am not convinced that was because  
23 people thought about it and then thought, "Well, this is  
24 legally rather questionable. We had better not do  
25 anything more". I don't think -- I am not aware of any

1 debate along those lines.

2 BARONESS USHA PRASHAR: So you think there were other  
3 constraints other than the legal situation?

4 MR STEPHEN PATTISON: Well, other reasons I think.

5 BARONESS USHA PRASHAR: Other reasons?

6 MR STEPHEN PATTISON: Yes, yes, yes.

7 BARONESS USHA PRASHAR: Do you think it would have helped if  
8 the Security Council Resolution 1483 had been passed  
9 earlier?

10 MR STEPHEN PATTISON: Well, the short answer is no, I don't  
11 think it would have helped. I personally think 1483 was  
12 passed about as fast as it could have been passed, given  
13 the range and complexity of the issues it dealt with.  
14 I don't think that the failure to pass 1483 earlier  
15 necessarily can be used as, if you like, an excuse for  
16 not having planned for the aftermath better.

17 BARONESS USHA PRASHAR: Can I just ask another question? It  
18 is about how it worked in practice. There was  
19 an expectation after the resolution was passed that the  
20 UK and USA would work with the United Nations and the  
21 Iraqi interim administration.

22 What discussions were there during the negotiations  
23 regarding how these responsibilities would be discharged  
24 in practice?

25 MR STEPHEN PATTISON: You mean the different



1           responsibilities between the coalition and the Iraqi --

2   BARONESS USHA PRASHAR: And the United Nations and the Iraqi

3           interim administration, because there was an expectation

4           there would be consultation and so on. Was there any

5           discussion how that would work in practice?

6   MR STEPHEN PATTISON: The short answer is there was not much

7           detailed discussion. The idea we had was there would be

8           a sort of consultative group involving all those parties

9           that would try to work out policy on certain key issues.

10          This was broadly speaking the model we had had

11          elsewhere, that there would be a sort of, if you like,

12          a cabinet that consisted of coalition representatives,

13          Iraqi technocrats and the UN that would oversee major

14          policy decisions, but the negotiations we had on this

15          got into no further detail than that broad outline.

16   BARONESS USHA PRASHAR: No discussions about the

17          practicalities?

18   MR STEPHEN PATTISON: No.

19   BARONESS USHA PRASHAR: Can you recall who was actually

20          responsible for ensuring that the UK delivered its

21          responsibilities?

22   MR STEPHEN PATTISON: In Iraq?

23   BARONESS USHA PRASHAR: Uh-huh, in the context of the

24          Security Council Resolution.

25   MR STEPHEN PATTISON: Well, I think we would have looked to

1           our representative in Iraq who had been appointed  
2           immediately after the conflict as the focal point for  
3           ensuring that the UK's views were fully represented in  
4           discussions between the coalition and the Iraqi interim  
5           authority and the UN.

6   BARONESS USHA PRASHAR: Did you play any role in your team  
7           ensuring that the UK reported back to the United Nations  
8           Security Council, because this was a requirement? Were  
9           you part of the team that had the responsibility?

10   MR STEPHEN PATTISON: No. I think at that stage we would  
11           have expected what was then called the -- by then called  
12           the Iraq Policy Unit, which was actually running our  
13           Iraq policy, we would have expected them to have taken  
14           on responsibility of ensuring that any obligations under  
15           this resolution were fulfilled.

16   BARONESS USHA PRASHAR: But you yourself had no  
17           responsibility for that?

18   MR STEPHEN PATTISON: No.

19   BARONESS USHA PRASHAR: Clare Short in her resignation  
20           letter said that the negotiations for the Security  
21           Council Resolution 1483 had been conducted in a secret  
22           way. Do you recognise that description?

23   MR STEPHEN PATTISON: As I have said in my statement, at the  
24           beginning of the negotiations DFID officials were  
25           involved. As the negotiations progressed, the view was

1           that if we were going to reach an agreement with the  
2           United States on some of the key issues, we would not be  
3           able to obtain in the text everything which I think DFID  
4           wanted. Eventually DFID were not involved in the final  
5           negotiations.

6   BARONESS USHA PRASHAR: They were not involved simply  
7           because they were not getting all they wanted as part of  
8           the negotiations?

9   MR STEPHEN PATTISON: I wouldn't put it as "simply because",  
10          to be honest. I think the relations between -- this is  
11          an issue which affects relations between members of the  
12          Cabinet I think and was obviously a very key issue at  
13          the time, and my impression is that Clare Short's  
14          position in the Cabinet was increasingly uncomfortable,  
15          and it was primarily as a result of that that the  
16          decision was taken to proceed to the final stage of  
17          negotiations without close DFID involvement.

18   BARONESS USHA PRASHAR: So you are saying that the DFID  
19          officials were not involved either?

20   MR STEPHEN PATTISON: They were involved at an earlier  
21          stage, but not at the very end.

22   BARONESS USHA PRASHAR: So they would not have been fully  
23          aware of what the responsibilities were going to be,  
24          because they were not involved?

25   MR STEPHEN PATTISON: I don't think that's necessarily the

1 case. I think once the resolution was adopted it would  
2 have been well-known to DFID and it would have been the  
3 blueprint, if you like, for what we were going to do in  
4 Iraq across a whole host of areas after May 22nd.

5 BARONESS USHA PRASHAR: So, just to get the picture clear,  
6 there was involvement at the early stages, and when  
7 disagreements began to emerge, then they were not kept  
8 informed?

9 MR STEPHEN PATTISON: I wouldn't put it like that. I would  
10 put it there was involvement at the early stages. When  
11 it was clear that Clare Short's position in Cabinet was  
12 I think more uncomfortable than one might have expected,  
13 which was towards the end of the negotiation of this  
14 resolution, a decision was taken not to involve them.

15 BARONESS USHA PRASHAR: Once we got the resolution who was  
16 responsible for ensuring the staff deployed to Iraq  
17 understood the responsibilities and all the implications  
18 of the resolution?

19 MR STEPHEN PATTISON: That would have been primarily the  
20 Iraq Policy Unit, which I think spent quite a lot of its  
21 early days briefing and making the arrangements for UK  
22 staff to be deployed to Iraq. UND continued for a while  
23 at least to work on policing, and we continued to try to  
24 make sure that the police we sent to Iraq understood  
25 their roles and responsibilities among a whole lot of

1           other things.

2   BARONESS USHA PRASHAR:   IPU would have also been briefing  
3           staff going out from DFID and MoD and so on?

4   MR STEPHEN PATTISON:   Yes, yes.

5   BARONESS USHA PRASHAR:   So they had responsibility across  
6           Whitehall?

7   MR STEPHEN PATTISON:   I can't promise they briefed everyone  
8           who went out from the MoD, but that was their general  
9           purpose and I know they spent an awful lot of time  
10          working with people who were going to go out there.

11   BARONESS USHA PRASHAR:   Okay.   Thank you.

12   SIR JOHN CHILCOT:   I'd like before we close -- and I will  
13          invite you to say if you have any other reflections on  
14          this morning's subject matter before we do close -- I  
15          have one question on international humanitarian law.

16                You mentioned earlier this morning that your UN  
17          Department was also responsible for some aspects of  
18          international humanitarian law, and I wonder what the  
19          main issues in that field especially concerning Iraq  
20          were at the time you were dealing with it?

21   MR STEPHEN PATTISON:   Well, I think there were a number.

22          One was, of course, the Geneva conventions and Hague  
23          regulations.   We were in that sense responsible for the  
24          Geneva conventions and responsible for trying to ensure  
25          that what we, the UK, did and our troops did was

1 consistent with those regulations.

2 The other was the whole question of the possibility  
3 of war crimes trials in Iraq where -- I mean, there were  
4 two issues I remember. One was we addressed the  
5 question of were we going to set up some kind of  
6 tribunal to try senior Iraqis for let's call it war  
7 crimes, although there is a big debate about exactly  
8 what they might have been, and what format that tribunal  
9 might have taken.

10 There were certain issues that, if you like, flowed  
11 from that. I mean, there was a moment when -- I think  
12 it was a hope; again it falls into the area of hope  
13 rather than expectation -- there was a hope that Saddam  
14 would go into exile and there was a moment when I think  
15 the Foreign Secretary had said on a radio programme that  
16 Saddam's going to exile -- I am not quoting him now --  
17 he had sort of said that would be a welcome thing and  
18 may draw a line under the whole activity.

19 We looked quite hard at the implications of his  
20 going into exile and whether we could actually just let  
21 him walk away from this or whether there were  
22 international humanitarian law issues related to acts  
23 he'd done in the past, genocidal acts or whatever, that  
24 we would want to continue to pursue him for. So those  
25 were the sorts of issues we dealt with on international

1 humanitarian law related to Iraq, yes.

2 SIR JOHN CHILCOT: You mentioned the Hague regulation and  
3 Geneva convention. What kind of issues were in your  
4 mind looking ahead to the possibility of armed  
5 intervention in that sphere?

6 MR STEPHEN PATTISON: Well, I think we were very aware and  
7 our legal advisers made us very aware of both the limits  
8 and responsibilities of occupying powers under the  
9 Geneva convention and the Hague regulations.

10 I mean again, as you would expect, there was some  
11 difference between us and the Americans on some of this.  
12 We took a very clear view about the nature of our  
13 responsibilities and their limitations. The Americans,  
14 as you would expect, were slightly more flexible.

15 I remember them saying at one stage that they thought --  
16 because there was an issue of whether an occupying power  
17 can change the government of a country it is occupying.  
18 The Americans at one stage -- I am not going to say this  
19 was their considered opinion, but they were certainly  
20 flirting with it -- they were saying, "If the Iraqis  
21 choose themselves to change the government while we are  
22 there, that's okay". They were taking a much more  
23 flexible view of it. We were saying, "No, we can't do  
24 that. We have to hold the fort until a proper act of  
25 self-governance can take place".

1 SIR JOHN CHILCOT: Did this set of considerations lead to  
2 active instructions or advice, and I am thinking, for  
3 example, of the role the Ministry of Defence and the  
4 armed services had to play on the ground, looking ahead  
5 to that?

6 MR STEPHEN PATTISON: Certainly not from us. I certainly  
7 don't think we would have regarded it as our job to be  
8 advising the Ministry of Defence on the international  
9 obligations of their troops.

10 SIR JOHN CHILCOT: So essentially it was a matter of  
11 reflecting what the United Kingdom's obligations would  
12 be as an occupying power and later under 1483 as a joint  
13 occupying power --

14 MR STEPHEN PATTISON: Yes.

15 SIR JOHN CHILCOT: -- and how we would discharge those. In  
16 practice did that generate any real difficulties?

17 MR STEPHEN PATTISON: No, I'm not aware of any real  
18 difficulties. I think our view and the view of the  
19 Foreign Office generally was if this was what the Geneva  
20 conventions and Hague regulations said, this is what we  
21 could do and no other.

22 SIR JOHN CHILCOT: There was a sufficiently wide, deep  
23 understanding across the British governmental system of  
24 what those responsibilities were, that it didn't  
25 require, as it were, formal statements of the duties and



1 obligations?

2 MR STEPHEN PATTISON: I can't really speak for across the  
3 British governmental system. I think, if I'm honest,  
4 there were -- let me put it this way. I do not remember  
5 much effort by the Cabinet Office to consolidate  
6 positions across the British government system.

7 I remember thinking this was actually a bit unusual,  
8 because in most of the crises and other issues in which  
9 I had been involved by and large the Cabinet Office  
10 would be at the centre of it. There would be meetings.  
11 There would be papers.

12 Yes, we saw a couple of papers from the Cabinet  
13 Office, not on this issue I hasten to add, but on day  
14 after planning issues. They were not terribly well  
15 thought out. We submitted amendments and nothing more  
16 was heard.

17 So I think there is a bit of a gap in how some of  
18 these threads were pulled together across Whitehall.  
19 I can't tell you whether people in the Ministry of  
20 Defence were fully aware of the rights and  
21 responsibilities under Geneva conventions.

22 Certainly the people in the Foreign Office,  
23 including the people in the Iraq Policy Unit, that were  
24 responsible for running at least the policy and briefing  
25 people going out to Iraq, they were fully aware of it.

1 SIR JOHN CHILCOT: You mentioned the Cabinet Office's actual  
2 or potential role at the centre, but the Foreign Office  
3 is throughout this period the lead department in  
4 Whitehall.

5 MR STEPHEN PATTISON: Yes, I suppose that's true. I mean,  
6 I don't think we lead on military planning. Someone  
7 else was doing that, but we were leading certainly on  
8 all the areas we talked about today.

9 SIR JOHN CHILCOT: Thank you. I will just ask my colleagues  
10 if they have any final questions to put. Lawrie?

11 SIR LAWRENCE FREEDMAN: Just one. You mentioned in the late  
12 stages of 1483 the decision was taken to exclude DFID.  
13 I just want to check where that came from. Was it from  
14 the Foreign Secretary?

15 MR STEPHEN PATTISON: Yes.

16 SIR JOHN CHILCOT: Thank you. Martin?

17 SIR MARTIN GILBERT: No.

18 SIR JOHN CHILCOT: Well, can I ask if you have any further  
19 reflections on this morning's tract of territory that we  
20 have covered, because there will be another opportunity  
21 at the end of the afternoon?

22 MR STEPHEN PATTISON: I think I've said everything I wanted  
23 to say.

24 I might just go back to some of the issues around  
25 legality and to emphasise a point I tried to make

1 earlier, that in all the instructions that went to New  
2 York, our legal adviser in the Foreign Office had seen  
3 them, and if they made comments, those comments were  
4 incorporated.

5 I'd like to make a second point, which is that in  
6 a blizzard of negotiations New York was on the phone to  
7 various people in London very regularly. My hunch is  
8 they knew more about what was happening in Whitehall  
9 than many of us in Whitehall actually did.

10 I suppose finally I hope I have managed to convey  
11 the impression which I think the families deserve to  
12 hear that this was not something that was entered into  
13 lightly, that there was an awful lot of work going on in  
14 preparation for this conflict.

15 SIR JOHN CHILCOT: Thank you. With that, my thanks to our  
16 witness this morning and for your statement, which has,  
17 of course, been published.

18 We will resume this afternoon at 2 o'clock, when  
19 Mr Pattison will continue to evidence, but in company  
20 with John Buck from the Foreign Office as the Director  
21 of Iraq.

22 Thanks to those who have sat here this morning.

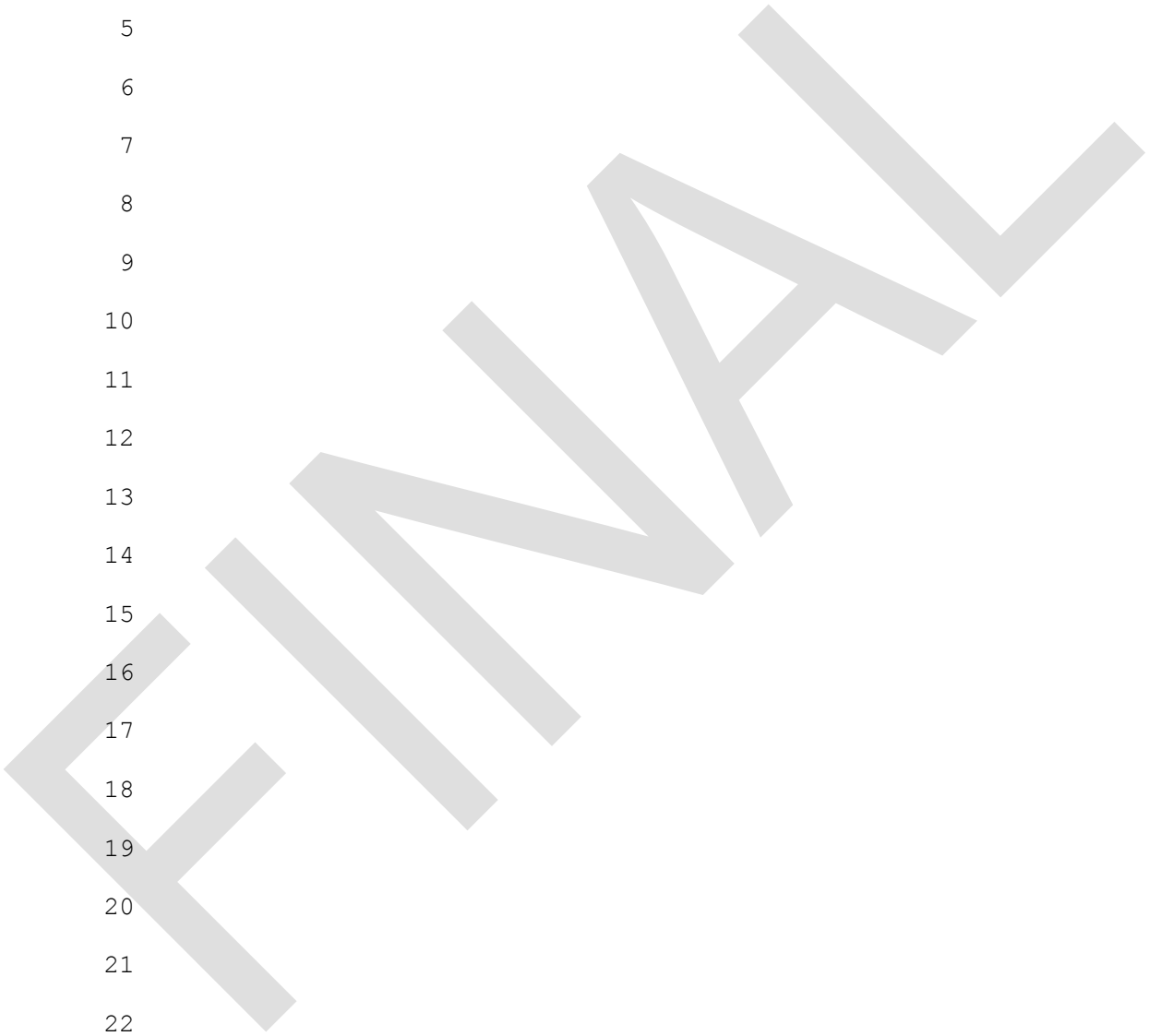
23 Thank you.

24 (12.45 pm)

25 (Hearing concluded)

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