

Iraq Inquiry

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Security Council Resolution 1441

1. The Inquiry has heard various accounts of how to interpret SCR 1441. I will not repeat all the points again. I will focus on how FCO policy officials understood the Resolution at the time of its drafting.

2. Our objectives in negotiating the text were clear by early September 2002. We wanted, if possible, to secure a Resolution which:

- (i) brought the UN back into the process by putting the focus on the disarmament process (rather than follow the perceived US agenda of regime change);
- (ii) made clear that Iraq had an absolutely final opportunity to comply with UN demands, and
- (iii) contained authorisation to use force if necessary.

On (iii) I will deal with the role of the Attorney General and FCO Legal Advisers below. But my broad understanding during the negotiations was that, at a minimum, the position of previous Attorneys General required us to obtain a Resolution which contained a material breach finding and talked of the 'serious consequences' if Iraq remained in breach.

3. At the risk of stating the obvious, I think it worth pointing out that Security Council Resolutions are often the products of complex political negotiations. The result is that the texts are sometimes more nuanced than one might expect in domestic law making. For, although Security Council resolutions constitute a part of International Law, they are not made by lawmakers with an eye on how the courts will interpret them. They are made by states seeking to protect political positions as well as to make international law. They often contain important compromises, which allow states with different points of view to sign up to a final text claiming it protects their positions while knowing it gives another group of states what *they* were seeking.

4. A famous example of this is Resolution 242 on the Middle East adopted unanimously in the wake of the Six Day War in 1967. It declared that peace in the Middle East should be built on two principles:

- (i) 'Withdrawal of Israeli armed forces from territories occupied in the recent conflict', and
- (ii) Acceptance of the rights of all states in the region to live in peace within secure and recognised boundaries.

This central bargain was known as 'land for peace': Israel would give up land to secure peace with its neighbours. It sounds simple. Far from it. Resolution 242 was the product of lengthy grappling with the issue by Council members.

5. The nub of the problem was the formula used in principle (i). There was no definite article before the word 'territories'. Nor did the word 'all' appear before 'territories'. With one or other of these words, the text would have been far more explicit about what Israel should do. Without them, did it mean that Israel had to withdraw from all the land occupied in the war or only some of it? The confusion was not helped by the fact that the French version (UN texts are always produced in a number of languages) was more definite, referring to 'des territoires'. And the French Ambassador to the UN made his interpretation clear immediately the Resolution was adopted.

6. The ambiguity was, of course, deliberate. Before this particular draft was put forward there had been strenuous attempts to reach agreement on other formulae. The Soviet Union had pushed a text which explicitly called for Israel to withdraw to its pre 1967 boundaries.

7. UNSCR 1441 is even more complex. Having looked at some of the points which have been made to the Inquiry, I believe the following elements are key to understanding why policy officials thought the text gave sufficient legal authority at the time.

8. **First**, the language in OP1 affirms that Iraq 'has been and remains in material breach of its obligations'. This is a crucial finding. Those who argue that that 1441 does not give adequate legal cover are inclined to dismiss this paragraph on the grounds that the remainder of the text details the action the Council is taking to address its OP1 finding. But this is not unquestionable. The use of the word 'remains' underlines that Iraq *remains* in material breach unless it fulfils the demands in the remainder of the text.

9. At this point I would like to point out that I do not think that knowledge of the work leading up to the adoption of UNSCR 1441 is essential to understand its meaning: a careful reading of the text itself is sufficient. But the negotiating history can point up how and why certain formulations were used.

10. For example, the OP1 phrase '*has been and remains*' was deliberately inserted in the final stages of the evolution of the text by the US. It was at the time when the language in OP4, which set up a further Council consideration was being finalised. The US was concerned that the reference to *further* consideration by the Security Council should not imply that the finding in OP1 was placed in the past. If the text had said, as in previous drafts up to that point, that Iraq 'has been and is still', in material breach, the meaning would not have been so clear.

11. The point about the continuing relevance of OP 1 is reinforced by the phrase in OP2 '*while acknowledging paragraph 1 above*'. If the intention had been to say that Iraq was in material breach in OP1 but that finding was set aside as a result of OP2, the phrase 'while acknowledging OP1' would have been redundant. The precise formulation was also inserted by the US at the same time as the change to 'remains' mentioned above and for the same reasons. The previous text read simply 'notwithstanding paragraph 1' which was much less clear.

12. The **second** key point is that the consequences of Iraq's being in material breach are underlined in several places in the text including in the preambular paragraphs and in OP 13's reference to 'serious consequences' (which had been used earlier in SCR 1154 (see below) and was well understood by members of the Council to mean use of force).

13. The **third** key point is that even if you assume that OP1 is 'overtaken' by the rest of the text, there is a second material breach finding in OP4. The Inquiry has heard views on what the Council was supposed to do to follow up OP4 at a subsequent meeting. OP12 talks of a future Council meeting to 'consider the situation'. Anyone familiar with UN texts would immediately recognise that 'consider' must have been chosen deliberately instead of words like 'decide'. The Inquiry has heard already from those who have pointed out how hard the French tried in the course of negotiations to secure a much clearer decision from the Council at the second stage. Towards the end the French even tried to build on the word 'consider' by suggesting that at its future meeting the Council should consider 'the steps needed' for full compliance. The US turned this down.

14. As a policy official, it seemed to me that, taken together, the above points offered two avenues to claiming legal authority (belt and braces): on the one hand OP1 established a continuing material breach, in a context in which the consequences were clear. In addition OP4 made clear that failure by Iraq to comply would be a further breach. OP 12 gave the Council a further opportunity to be involved but did not require the Council to take any further decision. This suited UK objectives of a resolution which contained a material breach finding and warned of the 'serious consequences' (which everyone understood to mean use of force).

The 'Firebreak'

15. Much has been made of the fact that OP2 was supposed to provide a 'firebreak', or, in a broadly similar vein, that 1441 contained no 'automaticity'. These metaphors need to be seen in context. The worry in the international community in the months preceding the adoption was that the US would launch an attack on Iraq on the basis of its own unilateral doctrine of pre-emptive self defence, or 'regime change' to give it its more popular label. The UNSC did not want to be dragged into rubberstamping such a doctrine. This is broadly what states feared when they spoke of automaticity.

16. There was also a specific concern during the negotiations – especially in France – that the text, as it stood before the insertion of OP2, might be taken (by the US) to mean that a relatively small omission in the Declaration required of Iraq would be a justification for war. So, 1441 provided for a clear pause between its adoption and the start of any military action against Iraq, during which a final effort would be made to resolve the Iraq problem without use of force. OP2 signals that the material breach finding in OP1 will not result in enforcement action until this last opportunity has been explored.

The Politics of SCRS

17. A question for those who come to these issues fresh must surely be that, if the Council knew they were signing up to possible use of force, why is the text not more explicit? Why for example does it not say if Iraq does not comply then 'all necessary means' are authorised?

18. This brings me back the point made at the outset: that Security Council Resolutions are as much political and they are legal documents. UNSC Members were very wary of US intentions. In the course of the negotiations the main complaint from the Russians was that the text contained 'multiple' triggers for use of force. In the end the two stage process envisaged in 1441 combined with the use of long established codes signalling the use of force produced a text which they and others could accept. It gave the US (and UK) what we wanted, while allowing others to say they had not rubber stamped a reckless US policy of regime change.

19. French views on this are interesting. The Inquiry has heard that Ambassador Levitte – the French Ambassador to the UN during the negotiations - told us in the course of our efforts to get a second resolution that we did not need one: 1441 provided sufficient legal authority. He made the same point in public to the US Council on Foreign Relations in March 2003. And during the negotiations, when the French remained concerned about the material breach finding in OP1 the French Foreign Minister accepted that there would have to be what he called 'ambiguity'.

20. And when the military operation started no one on the Council sought to introduce a Resolution condemning its illegality.

21. In a previous session of the Inquiry a question arose about the UK/US giving up an early formula which sought explicit authorisation for the use of force. When we saw the first US draft (early September) our feeling in the FCO was that it aimed too high, precisely because it had explicit language in it. We knew from e.g. the negotiation of SCR1205 that other formulae were possible which would achieve our objective and which would be understood and accepted by the Council. So, we could afford to give up the explicit authorisation provided we had in the text other important elements e.g. a reference to Chapter VII, 'material' breach', serious consequences, and the points noted above. From my recollection, it is important to note that there was no trade off between our giving up a more explicit formula and the French giving up their push to have the Council make a second decision when the issue returned to it.

SCRs 1154 and 1205

22. SCR 1441 was not the first time the Council had adopted a resolution which was held to authorise the use of force without explicitly saying so. UNSCR1205 (which is structurally not dissimilar to SCR1441) was used by the US and UK as the legal basis for Operation Desert Fox.

23. The Inquiry has asked why SCR 1441 does not refer to Security Council Resolutions 1154 and 1205.

24. SCR 1205 was an important Resolution. It was adopted shortly after Iraq had decided to end cooperation with UN Inspectors in October 1998. Like SCR1441 it was adopted under Chapter VII. It condemned Iraq's decision, as a 'flagrant violation of Resolution 687' (the ceasefire resolution). It called for its reversal and decided, in a standard formula to 'remain seized of the matter'. The UK at the time took this Resolution as a justification for the use of force against Iraq on the grounds that Iraq's action broke the terms of the ceasefire and revived the authority to use force. I believe that in reaching his view the then Attorney General said that the reference in the preamble to Resolution 1154 was important. SCR 1154 had in its operative paragraphs stressed that Iraq's compliance with its obligations in relation to inspections was 'necessary for the implementation of resolution 687...but that any violation would have serious consequences for Iraq.' (OP3). In the UK's view at the time, taken together these two resolutions established the principle that failure by Iraq to cooperate with inspectors amounted to a violation of the ceasefire terms and thus revived the use of force authorisation.

25. It was not necessary to refer to these Resolutions in SCR 1441 because SCR 1441 set out the same argument itself. Its preambular paragraphs spelt out in more detail that in either of the aforementioned SCRs that Iraq had not met its obligations under SCR 687 (the ceasefire Resolution), and explicitly recalled that by adopting SCR 687 the Council declared that 'a ceasefire

would be based on acceptance by Iraq of the provisions of (SCR 687)' Its Operative Paragraph 13 '*recalled*' (ie implicitly acknowledging its previous decisions as in SCR 1154), 'that the Council has repeatedly warned Iraq that it will face serious consequences...'

26. During the course of the negotiation the Russians raised the question of which Resolutions to mention in the preamble. They of course wanted to ensure that there were no more 'hidden triggers' in the preamble. This prompted the US to look again at the specific list. But there was never any question of our thinking that 1154 and 1205 needed to be included.

FCO Arrangements for the 1441 Negotiations

27. United Nations Department (UND) in the FCO took the lead at official level in liaising with our mission in New York on the negotiations. But several other Departments were involved at every stage. This meant we had access to technical expertise e.g. on weapons proliferation. The key tactical decisions were taken at twice daily meetings chaired by the then Political Director, Peter Ricketts. The core group involved in Peter Ricketts's meetings included the Director Middle East, the Head Middle East Department, Representatives of Non Proliferation Department, Legal Advisers, the Iraq Planning Unit (once it started) and others as necessary, including from outside the FCO e.g. the Assessments Staff and No 10.

28. Peter Ricketts was the main link to senior officials in other Departments and to Ministers.

29. The main output of the meetings was agreement on the advice to give to our Mission in New York on how to handle that day's negotiations on the text of UNSCR 1441. But UND was obviously not the sole channel of FCO communication to our UN Mission: the Permanent Representative was in regular telephone contact with Peter Ricketts. And, as the Inquiry is aware, negotiations were conducted on several key fronts simultaneously, through numerous telephone calls among the key Foreign Ministers themselves as well as through Ambassadors in New York. The Ricketts group was the hub which brought these areas of activity together.

30. At that time, as I recall, United Nations Department comprised some 20 staff grouped into sections as follows: Political Section (which dealt with Security Council issues), Peacekeeping Section, Sanctions Section, Economic, Social Policy and Finance Section, International War Crimes Section, and International Policing Unit (see below). There were two Deputy Heads and one Head. We were stretched most of the time, but not oppressively so.

31. We worked closely with the FCO Legal Advisers. This may seem odd given the perception that the FCO lawyers were unhappy with what was going on. But a member of Legal Advisers attended virtually all the Peter Ricketts meetings and was involved in clearing all our key papers including our instructions to New York. At the beginning (early September 2002) Michael Wood attended the group. But he quickly delegated the role to another experienced, middle ranking lawyer with whom I was in regular contact. My impression was that the latter perfectly understood Michael Wood's reservations, but that he was prepared to help construct the best possible text to put both to the Security Council and to the Attorney General.

32. He also ensured we were aware of the argument set out by Michael Wood very early in the negotiations (and which I believe is debatable) that the 'material breach' finding in OP1 was overtaken by the remainder of the text. But he did so in a more measured way than Michael: for example, in an early minute (23 September) he told us that the mere recital of material breach was 'probably' (i.e. not definitely) insufficient to authorise use of force since the rest of the resolution aimed to resolve this issue.

33. The middle ranking lawyer's advice was always reflected in our instructions to New York. It is also clear from the papers, that, on occasion, his views were sent direct to the Permanent Representative in New York (eg John Grainger's minute of 4 October 2002). We were all aware that alternative legal interpretations were possible (as Jack Straw and Ian Macleod have explained).

The Attorney General's View

34. The first point to underline is that, as a policy official, it was always absolutely clear to me that if the Attorney General concluded that SCR 1441 did not offer sufficient legal grounds there would be no question of the UK providing troops to fight alongside the US.

35. I did not see any of the correspondence from the Attorney General, and details of the evolution of his position were not shared with me at the time. But I was told in general terms that he had questioned the use of SCR1441 as the legal basis for the use of force. In Clare Short's evidence to the Inquiry she said that she felt sorry for the Attorney General facing the pressures he did, because he was an expert in commercial law and unfamiliar with UNSC issues and the use of force. When I heard of the Attorney General's misgivings, my reaction was much the same. I wondered if he was getting a clear picture of how the Council worked and what we thought we had achieved. With hindsight, the letter to his office from Michael Wood probably steered him in a particular direction: although it set out competing interpretations of SCR 1441, it was loaded in favour of one. At the time, policy officials left the text of the letter to Michael Wood: although he shared drafts with key officials, few of us commented on it out of a sense I believe that

none of us wanted to 'interfere' with the lawyers and the AG reaching their own conclusions.

The Second Resolution

36. It was always clear to me that in working for a 'Second Resolution' in early 2003 HMG's motives were primarily political: to help shore up flagging political support in the UK. At the same time we knew that a second resolution would achieve wider foreign policy goals, namely of keeping the international community together, of keeping the UN centre stage (including for post conflict reconstruction - see below) and, of course, of increasing the last minute pressure on Saddam in the hope of averting conflict. We knew that the right sort of second resolution would also help strengthen the legal case, but at the same time we expected to be able to rely on the legal authority of SCR1441. In fact, one of our concerns in discussing a second resolution was not to do anything which, if we tried and failed, would appear to weaken the authority we had under SCR 1441.

37. I believe the Inquiry has already heard accounts of the options we looked at. I will not repeat them all here. But it might be helpful to underline a couple of things.

38. First, we accepted early in the process that an *explicit* authorisation to use force would probably not be acceptable to France and probably Russia (whom we would have to persuade not to veto). But there was nothing unusual in this: as we have seen, previous Iraq resolutions had used various non explicit formulae. We were also concerned that any general ultimatum might only lead to Iraq to make minimal improvements in its cooperation with the aim of splitting the Council and dragging things out as it had in the past.

39. We started to look at *implicit* formulae in mid January. By January 24 we were looking at looking at two options (a) set a date by which the final opportunity afforded Iraq under 1441 would expire, or (b) set a date by which Iraq must complete specified tasks. In essence it was variants of these two approaches which dominated our thinking from then until March, although we explored many different formulae.

40. By 10 February we knew the prospects were difficult. By 15 February we looked again at setting Iraq specific tasks. Blix seemed to be on board for this. He had spoken about selecting benchmarks himself. He accepted that Iraq might claim the tasks were impossible but believed he could judge whether Iraq was providing active cooperation. Eventually this approach turned into the 'benchmarks' idea with 'benchmarks' chosen because they were things which would genuinely help Blix get better information, like making 30 scientists available for interview etc. But on 18 March we informed the Council that we would not pursue it. We said the support was not there

given the French talk of a veto. The same day Blix produced a paper identifying twelve tasks.

41. The attempt to secure a Second Resolution failed in my view because (i) Council Members did not want to get any closer than in 1441 to supporting military action (ii) the US were not pushing as hard as they had pushed SCR1441 (iii) there was open disagreement among the Permanent Members of the Council with France taking an increasingly public position of opposition to any 'Second Resolution'. (This was important because, traditionally, non-Permanent Members of the Council would follow the Permanents' lead on Iraq.)

Post Conflict Planning

42. I began looking at post conflict issues on October 2002. At the time it did not seem to me that anyone was thinking about these things. My Department's chief interest was in the question of whether we should work for a UN role in post conflict Iraq, and if so what shape that role should take. By 3 October I had outlined two broad options (in an email to the FCO Department then interested in these angles, the Department for Strategy and Innovation):

(i) a UN 'lite' operation on the lines of operations in Afghanistan and Cambodia where the bulk of the Iraq administration would remain in place, under a primarily technocratic Iraqi Council of National Unity, whose decisions would be subject to approval by a shadow UN administration to ensure that they conformed to key human rights and disarmament principles. I acknowledged that defence, internal security, and disarmament might need to be fully taken over by the UN. And I noted that the Coalition could be best placed to take over internal security and defence (but they would need a sizeable police presence).

(ii) full UN administration on the Kosovo or East Timor model with the UN given full lawmaking powers. Key to both options was the idea that while either the UN, or Iraqis with UN shadowing, 'ran' the country, work could begin on establishing the framework for the future constitutional structure of Iraq. This should involve getting key Iraqis together to agree on basic principles first.

43. My preferred option was (i) – a 'lite' UN administration. This was based on the view generally held at the time that Iraq was in many ways an efficiently run state, with a functioning civil service etc. My belief was that the technocrats who had served Saddam would switch easily into serving a new administration. I argued that UN involvement in post conflict Iraq would 'hold the ring' until oil revenues could start flowing again and new constitutional decisions had been taken. A UN role would provide credibility and

impartiality: it would enable the Iraqis to retain maximum sovereignty, thus minimising the risk of a backlash against the coalition. It would also be essential to secure a reconstruction role for the UN Agencies (essentially UNDP and UNHCR) and to canvass for wider international contribution to a UN mandated peacekeeping force.

44. These ideas informed FCO thinking on the issue over the next few months. The Middle East Directorate took up the ideas and Edward Chaplin held trilateral US, UK, Australian discussions on them in, I think, December 2002.

45. The UN was thinking on the same lines. Inevitably any planning by the UN had to be done quietly: they did not want to give the impression that the outcome of the SCR 1441 process was a foregone conclusion. But on October 30 2002 UKMIS New York were told that the UN's Department of Peacekeeping had done some preliminary contingency planning and hoped to be able to move quite quickly into post conflict Iraq on the basis of UN involvement on models somewhere between that of Kosovo and Afghanistan. They were talking of holding a deployment exercise in January 2003. By 21 March 2003 UKMIS reported that when Clare Short was in NY to talk about humanitarian assistance and reconstruction for UN, Mark Malloch Brown – then head of UNDP – said a UN role should be light because UN capacity was limited *and because the Iraqis were extremely competent in their own right.*

46. But the US were not keen on UN involvement. On 5 February I lead a UK team to Washington to talk about a post conflict role for the UN. I argued for strong UN involvement with a 'lite' touch and even presented elements for a draft UNSC Resolution outlining what this might look like. There would be a UN administrator, the UN would be involved in the political process, there would be a Joint Implementation Board involving the coalition and Iraqis and the UN etc. The reaction from the US officials whom I met at the National Security Council was extreme caution, if not outright opposition to any significant UN involvement. The senior Director there told us this would have to be raised with Dr Rice. The next day he called the British Charge at the Embassy to say the US view was firm: there was no question of any high profile UN role in administering Iraq. My view was that any further work on this would have to be on the No10- White House Channel

47. On the very day I went to Washington it was announced that the FCO had decided to set up an Iraq Planning Unit in Middle East Directorate under Dominic Chilcott (who accompanied me on my trip). They would now take the lead on post conflict planning. It was not unusual for the FCO to create special units like this: one had been established for Afghanistan shortly after 9/11. On that occasion two people from UNDP who had been closely involved in peacekeeping and other relevant UN areas, had been asked to join the Unit, thus enabling the Afghan Unit to combine UN expertise with geographical know how.

48. The Cabinet Office and MoD seemed to me strangely silent on post conflict issues (although others in the FCO may have been closer to them). The first sign of Cabinet Office involvement that I recall was a draft paper of 11 February on Winning the Peace. UND's comments on the draft repeatedly emphasised the importance of a UN role. I recall no series of meetings or discussions of these issues chaired by the Cabinet Office involving all Whitehall expertise, (as might have been expected).

Security Council Resolution 1483

49. The FCO contribution to the negotiation of SCR 1483 was prepared in a similar way to that for SCR 1441. UND took the lead in liaising with UKMIS New York . But there were major contributions from the Iraq Planning Unit and from Legal Advisers. DFID were involved at the outset. No 10 also played a role. We worked with a different Legal Adviser from the one who had advised on SCR 1441. The new Adviser was more conversant with the issues addressed in SCR 1483, including Geneva Convention issues.

50. Work began in early March. What we (and the US) needed was a UNSC mandate for a Transitional Administration in Iraq. In the UK, the Attorney General was clear that we needed a UNSCR authorising establishment of Iraqi Interim Authority and empowering actions which would not be possible under the Geneva Conventions and Hague Regulations. This remained one of our major objectives. But the text – and our objectives - evolved during negotiations.

51. Politically, our objectives were to secure a text which would reunite the Council, bring the UN back in, and set the stage for what we hoped would be wider international involvement in post conflict Iraq including by UN Agencies and the International Financial Institutions.

52. By end March we were looking at a draft US resolution which, among other things, appointed a UN Special Coordinator for Iraq who would support coordination of humanitarian assistance, economic reconstruction, capacity building of police force etc. We had not given up our objective of a more central UN role and argued that the Special Coordinator should have a role in the political process. We thought it unwise to have an Iraqi Interim Administration set up by the Coalition with no involvement of the UN Coordinator. And we wanted the Iraqi Interim Administration to have specific responsibilities. More broadly we thought the balance between role of coalition and of UN was not quite right: e.g. policing and justice we thought should be with the UN, ditto DDR (Disarmament, Demobilisation and Reintegration of armed forces).

53. And it became clear that other Iraq issues needed to be dealt with too. These included issues related to how the UN had handled Iraq in the past (

the Oil For Food Programme, the lifting of sanctions, etc). At first the US wanted to go for a series of resolutions as issues arose rather than an omnibus one i.e. a 'principles resolution would appoint a UN humanitarian coordinator and underline the Coalition's respect for Iraq sovereignty and territorial integrity. A second resolution would rollover the OFF arrangements. Others would deal with Sanctions lift, and welcoming the creation of the IIA.

54. In contrast, our view was that other UNSC members might be suspicious of this unless they had a clear overall picture at outset. The Russians (with contracts outstanding) would want to know how we proposed to deal with the oil sector. UNSC members were asking for a 'global vision'.

55. An important UK objective in the final text was to secure international oversight of oil contracts and international supervision of an Iraqi development fund.

56. The US made changes to address our issues as we worked on the text during April and May. By 6 May our focus was on the role of the UN Special Representative, and on securing transparency of arrangements for use of oil funds. We gained ground on most of our points (reflected in the final text).

57. In the course of drafting UNSCR 1483 a number of UNSC members proposed to include language on respect for the Geneva Conventions etc. We had no difficulty with this. In the course of Council discussion of the proposed amendment it was made clear - by the French - that a reference in the text to Geneva etc would not detract from the Resolution's main purpose of giving new authority to the Coalition. We instructed Sir Jeremy Greenstock to make particular reference to our agreement to operate in accordance with the Geneva Conventions etc in his Explanation of Vote on adoption of the Resolution.

Policing

58. UND's involvement in Policing matters was essentially operational. Since 1997 UND had lead a Whitehall system to identify, train and deploy UK civilian police, including MOD Police in international policing or peacekeeping operations overseas. Obtaining sufficient UK police officers to take part in international policing was always a struggle. We needed to get the cooperation of Chief Police Officers. And we needed to find ways of attracting volunteers i.e. by assuring them that their UK careers would not suffer if they dropped out of sight for a while etc . We cast the net as wide as we could, including canvassing recently retired Officers.

59. In most cases the overseas requirement was for armed police, which ruled out most UK officers. So we focussed on getting UK officers into niche roles where their expertise would add to the international police force's skills, rather than into front line executive policing.

60. On all this, UND liaised closely with Home Office, ACPO and MOD Police. There were also secondments to UND from the police (MOD or ACPO). The broader question of Security Sector Reform in Iraq was not handled by UND but by the Iraq Planning/Policy Unit.

61. As conflict looked inevitable (February) UND began to consider a possible UK contribution to what we imagined would be an international peacekeeping/police force for Iraq. Policing in post conflict situations usually took two forms: (i) executive policing to fill a vacuum or (ii) international monitoring/training of a local police force. The Kosovo police mission had 4446 police for a country of 2m people, Iraq would therefore need 50k police, if we were to contemplate a similar scale executive mission. This was not something any single state could take on (if it turned out to be necessary). It would have to be done by the UN if at all. We made this clear to the US in early 2003.

62. After the fall of Saddam and the deterioration in the security situation, policing became a key issue. In my view the MoD should have been prepared for this: their role ought surely to have included planning to secure Iraq after the fall of Saddam.

63. Nevertheless when the crisis hit, UND moved quickly. On 8 April I told Peter Ricketts that we could get the small number we had trained to Iraq in about a week (MOD police). But we needed to approach DFID about a proper study of police reform. We arranged for Paul Kernaghan to visit . His assessment was crucial. ORHA (later CPA) had established a Justice Unit which was already proposing to lead a study of the issues raised by Paul. We wanted to second a police officer to it. We arranged the secondment of 3 policing experts to CPA (their assessment was completed on 30 May). On 6 June I hosted a Whitehall policing meeting because no one else was doing so. There were key question about whether to establish an international police mission and who would fund it etc. We agreed these questions would be addressed by the Security Sector Reform expert and police officer already offered to the coalition. In June we sought to create a pool of 200 police with immediate deployment of 100. In July we recruited Mssrs Brand (for Baghdad) and White (for Basra).

64. But the policy on policing had rightly been taken up by the Iraq Planning/Policy Unit. The main role for UND continued to be the operational one : e.g. training, briefing, rotation, medicals, uniforms, equipment, transportation, liaison arrangements, mission support (informing families etc), funding, including reimbursing salaries to lending forces, etc. And deploying UK police was not straightforward: all UK overseas police officers are volunteers, ACPO and the Home Office would only agree to deployment when certain conditions were met (security, in mission support structure) and the funding had to be identified.

65. I left UND in June 2003 to Head the Hutton Inquiry Unit in the FCO. I then spent a year at Harvard. When I returned to the FCO in September 2004 Iraq was handled by its own FCO Directorate. As Director International Security I had little or no involvement in Iraq issues.

Lessons Identified

66. I offer some brief thoughts below:

- (a) No Attorney General can be an expert in all areas of law. Advice to him on unfamiliar issues should be from a variety of sources including from policy officials.
- (b) The FCO's Iraq Planning Unit was too little too late. It did not have the expertise to ask and address the key questions about post conflict reconstruction. The Unit seems to have recognised early that US planning was inadequate, but did little to tackle this.
- (c) Whitehall needs to be able to move faster to mobilise resources for post conflict operations. This is supposed to be handled now by the Post Conflict Stabilisation Unit.
- (d) Debaathification and the demobilisation of the Iraq army were mistakes. We did not have people in theatre who had much experience of post conflict situations. I understand the point made by those who say the Baathist Civil Servants and military deserted quickly. But we should have planned to reassure them that they could stay in place until Iraq's future had stabilised.

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