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for

The Report of the Iraq Inquiry

Report of a Committee of Privy Counsellors

Volume V

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Introduction and key findings

1. This section describes:

- how advice was sought from Lord Goldsmith, the Attorney General, regarding the interpretation of UN Security Council resolution 1441 (2002) and the manner in which that advice was provided;
- the events and other influences that affected the timing of the advice;
- the written advice provided by Lord Goldsmith in January 2003;
- Lord Goldsmith's discussions with Sir Jeremy Greenstock, UK Permanent Representative to the UN in New York, in January 2003, his exchanges with Mr Jack Straw, the Foreign Secretary, in early February, and his meeting with US lawyers in February 2003;
- Lord Goldsmith's written advice of 7 March 2003;
- the legal basis on which the UK ultimately decided to participate in military action against Iraq; and
- the presentation of the Government's legal position to Cabinet and to Parliament on 17 March 2003.

2. Finally, this section sets out the Inquiry's conclusions regarding these events and the legal basis on which the UK decided to participate in military action against Iraq.

Key findings

- On 9 December, formal "instructions" to provide advice were sent to Lord Goldsmith. They were sent by the FCO on behalf of the FCO and the MOD as well as No.10. The instructions made clear that Lord Goldsmith should not provide an immediate response.
- Until 27 February, No.10 could not have been sure that Lord Goldsmith would advise that there was a basis on which military action against Iraq could be taken in the absence of a further decision of the Security Council.
- Lord Goldsmith's formal advice of 7 March set out alternative interpretations of the legal effect of resolution 1441. While Lord Goldsmith remained "of the opinion that the safest legal course would be to secure a second resolution", he concluded (paragraph 28) that "a reasonable case can be made that resolution 1441 was capable of reviving the authorisation in resolution 678 without a further resolution".
- Lord Goldsmith wrote that a reasonable case did not mean that if the matter ever came to court, he would be confident that the court would agree with this view. He judged a court might well conclude that OPs 4 and 12 required a further Security Council decision in order to revive the authorisation in resolution 678.
- At a meeting on 11 March, there was concern that the advice did not offer a clear indication that military action would be lawful. Lord Goldsmith was asked, after the meeting, by Admiral Boyce on behalf of the Armed Forces, and by the Treasury Solicitor, Ms Juliet Wheldon, in respect of the Civil Service, to give a clear-cut answer on whether military action would be lawful rather than unlawful.

- Lord Goldsmith concluded on 13 March that, on balance, the “better view” was that the conditions for the operation of the revival argument were met in this case, meaning that there was a lawful basis for the use of force without a further resolution beyond resolution 1441.
- Mr Brummell wrote to Mr Rycroft on 14 March:
 “It is an essential part of the legal basis for military action without a further resolution of the Security Council that there is strong evidence that Iraq has failed to comply with and co-operate fully in the implementation of resolution 1441 and has thus failed to take the final opportunity offered by the Security Council in that resolution. The Attorney General understands that it is unequivocally the Prime Minister’s view that Iraq has committed further material breaches as specified in [operative] paragraph 4 of resolution 1441, but as this is a judgment for the Prime Minister, the Attorney would be grateful for confirmation that this is the case.”
- Mr Rycroft replied to Mr Brummell on 15 March:
 “This is to confirm that it is indeed the Prime Minister’s unequivocal view that Iraq is in further material breach of its obligations, as in OP4 [operative paragraph 4] of UNSCR 1441, because of ‘false statements or omissions in the declarations submitted by Iraq pursuant to this resolution and failure to comply with, and co-operate fully in the interpretation of, this resolution’.”
- Senior Ministers should have considered the question posed in Mr Brummell’s letter of 14 March, either in the Defence and Overseas Policy Committee or a “War Cabinet”, on the basis of formal advice. Such a Committee should then have reported its conclusions to Cabinet before its Members were asked to endorse the Government’s policy.
- Cabinet was provided with the text of Lord Goldsmith’s Written Answer to Baroness Ramsey setting out the legal basis for military action.
- That document represented a statement of the Government’s legal position – it did not explain the legal basis of the conclusion that Iraq had failed to take “the final opportunity” to comply with its disarmament obligations offered by resolution 1441.
- Cabinet was not provided with written advice which set out, as the advice of 7 March had done, the conflicting arguments regarding the legal effect of resolution 1441 and whether, in particular, it authorised military action without a further resolution of the Security Council.
- The advice should have been provided to Ministers and senior officials whose responsibilities were directly engaged and should have been made available to Cabinet.

UNSCR 1441

3. On 8 November the United Nations Security Council unanimously adopted resolution 1441 (2002).

4. Section 3.5 includes:

- a description of the negotiation of the resolution;

- details of the legal advice offered by FCO Legal Advisers and by Lord Goldsmith during the course of those negotiations; and
- the provisions of the resolution and the statements made by Members of the Security Council on adoption.

Discussion, debate and advice, November to December 2002

Lord Goldsmith's conversations with Mr Powell and Mr Straw, November 2002

5. After resolution 1441 was adopted, Lord Goldsmith warned both No.10 and Mr Straw that he was “not optimistic” about the legal position for military action in response to an Iraqi breach without a second Security Council resolution. He offered to provide immediate advice.

6. Mr Jonathan Powell, Mr Blair's Chief of Staff, assured Lord Goldsmith that his views were known in No.10. The issue would be for consideration in the longer term in the event of a report to the Security Council of a serious breach. He suggested a meeting “some time before Christmas”.

7. Lord Goldsmith telephoned Mr Powell on Monday, 11 November and conveyed his congratulations to No.10 for having secured such a tough resolution.¹ Lord Goldsmith “mentioned the possibility of Iraq finding itself in breach of resolution 1441 at some future stage but with no second Security Council resolution”; a “matter to which he had said he would give further consideration” following his meeting with Mr Blair on 22 October.

8. Lord Goldsmith also mentioned the “Chinese whispers” that had “come to his attention ... which suggested that he took an optimistic view of the legal position that would obtain if such a situation arose”. The “true position was that he was not at all optimistic”.

9. Lord Goldsmith suggested that “against this background, it was desirable for him to provide advice on this issue now”.

10. Mr Powell noted what Lord Goldsmith said, “but was at pains” to assure him that “No.10 were under no illusion as to the Attorney's views” on that point. Mr Powell thought that as “it was most unlikely that Iraq would not in the first instance accept resolution 1441, this was an issue for consideration in the longer term, in the event that at some stage in the future we are faced with a breach by Iraq of resolution 1441 and the matter is referred to the Security Council at that time”.

11. Mr Powell proposed a meeting some time before Christmas to discuss the issue.

¹ Minute Brummell, 11 November 2002, ‘Iraq: Note of telephone conversation between the Attorney General and Jonathan Powell – Monday, 11 November 2002’.

12. Lord Goldsmith told Mr Powell that, in the meantime, he would obtain and consider the statements made by members of the Security Council when resolution 1441 was adopted.

13. Asked whether he recollected Lord Goldsmith wishing to provide written advice and being discouraged from doing so, Mr Powell told the Inquiry:

“No, he gave written advice – I don’t know if you would call it written advice, he expressed his opinions ...”

...

“On a number of occasions before 1441 and after 1441, he set out his views in writing on it, yes.”²

14. Lord Goldsmith told Mr Straw that the key question would be whether Iraq’s non-compliance amounted to a material breach and who was to make that determination.

15. Lord Goldsmith’s initial view was that, notwithstanding the deliberate ambiguity in the language of resolution 1441, the question of whether or not there was a serious breach was for the Security Council alone to answer.

16. Lord Goldsmith suggested that it would be desirable for him to provide advice on the position if, at some point in the future, Iraq “found itself” in material breach of resolution 1441 but the Security Council had not adopted a further resolution.

17. Mr Straw agreed that formal “instructions” should be prepared asking for Lord Goldsmith’s advice.

18. Mr Straw telephoned Lord Goldsmith on 12 November, suggesting that resolution 1441 “made life easier” for the Government.³

19. Lord Goldsmith agreed that it was an excellent achievement but added that he would “need to study the resolution, together with the report of the debate and the statements made”.

20. In relation to “the possibility of Iraq finding itself in breach of resolution 1441 at some future stage” but without a second resolution, Lord Goldsmith reported that he had told Mr Powell that he was “pessimistic as to whether there would be a sound legal basis ... for the use of force”. Mr Powell had suggested a meeting before Christmas to discuss the issues. Lord Goldsmith “indicated” to Mr Straw that “he would propose to give a more definitive view ... at that stage”.

²Public hearing, 18 January 2010, pages 103-104.

³Minute Brummell, 12 November 2002, ‘Iraq: Note of telephone conversation between the Foreign Secretary and the Attorney General’.

21. Mr Straw shared Mr Powell's view that it was unlikely that Iraq would refuse to accept resolution 1441. He suggested two particular issues warranted further consideration:

- First, both France and Russia had insisted that, in the event of an Iraqi breach, the matter should be referred back to the Security Council for further consideration before a decision on military action. The "UK's current understanding was that it was unlikely that, if it came to a vote, there would be any veto by France ... If there were to be any veto ... this was likely to be only by Russia."
- Secondly, Mr Straw would be "interested" in Lord Goldsmith's views on "the effect of a resolution being adopted by the House of Commons ... following the contemplated debate on Iraq". Mr Straw identified two options: a resolution endorsing 1441 and one including "an acknowledgement that there would inevitably be military action if peaceful resolution of the issue were not possible". His preference was for the former.

22. Lord Goldsmith's initial view was that, leaving aside the political advantages, a resolution of the House of Commons:

"... would not have any bearing on the position in international law as regards the lawfulness of using force against Iraq. It might be that a case could be constructed seeking to justify such action, if a number of other Parliaments in ... countries who are members of the Security Council were also to adopt such a resolution. But he thought that ... would be a rather subtle and speculative argument."

23. Mr Straw thought that military action was some way further down the track but, "if Iraq were to be found in breach" of resolution 1441, it would be "essential ... we act pretty swiftly to take military action". One of the reasons "was that there might well be a need for less military force if action was swift".

24. Lord Goldsmith "commented that, from the point of view of legality, the key question would be whether Iraq's non-compliance with resolution 1441 amounted to a material breach and who was to make this determination".

25. Mr Straw "pointed out that it was clear to him that the US – despite its bellicose rhetoric – would not wish to go to war for nothing".

26. Mr Straw "mentioned that, reading resolution 1441 again as a layman, it was pretty clear that the Security Council were basically telling Iraq – *'Comply or else'*." In response to Lord Goldsmith's observation that "the question was who was to decide the 'or else'", Mr Straw pointed out that resolution 1441 could have:

"... said in terms that it was for the Security Council to decide whether there was a material breach and what action would then ensue. However ... [it] did not ... France and Russia had accepted the US/UK argument that this should be left open and

that, while it was preferable, it was not essential for the Security Council to adopt a second resolution.”

27. Lord Goldsmith told Mr Straw it “seemed implicit” in resolution 1441 that, in the event of non-compliance, “it would be for the Security Council to decide whether Iraq” was in “material breach”.

28. Mr Straw suggested that “the reality was that members of the Security Council had had to agree and ‘coalesce’ around a particular form of words ... to the effect that, if there were to be a breach, it would be for the Security Council to meet to discuss and consider what should be done”. That “allowed for ‘a range of possibilities’, including:

- “the possibility that there would have to be a second resolution; and
- “the possibility that there might be a general consensus or desire [amongst the five Permanent Members of the Security Council] for military action, but a preference (in particular by Russia) that there should be no second resolution ...”

29. Mr Straw again suggested that:

“... it was necessary to look at the negotiating background. For example ... [President] Jaques Chirac had originally insisted on there being a ‘lock’ against the use of force unless this had been authorised by the Security Council by a second resolution. But this ... did not appear in the resolution ... [W]hat France and Russia were virtually saying was that they understood that there might well be a breach, but while they would in fact support the need for military action, they would not be able to support a resolution in terms authorising the use of force.”

30. Lord Goldsmith responded that:

“... the position remained that only the Security Council could decide on whether there had been a material breach (and whether the breach was such as to undermine the conditions underpinning the cease-fire) and/or whether all necessary means were authorised. The question of whether there was a serious breach or not was for the Security Council alone. It was not possible to say that the unreasonable exercise of the veto by a particular member of the Security Council would be ineffectual ...”

31. Mr Straw “said that there would be a danger in going for a second resolution” because, “if it were not obtained, then we would be in a worse position”. He “wondered if there was any alternative option” between a general discussion in the Security Council and the adoption of a resolution determining a material breach.

32. Lord Goldsmith said that it “could be possible for a valid determination to be made by means of a Presidential Statement”.

33. Mr Straw and Lord Goldsmith agreed that the “different options should be explored”:

“Mr Straw ... would arrange for all the details of the negotiating history ... to be sent to the Attorney General, so that the Attorney could consider further the legal position in the event that Iraq were (as expected) sooner or later to fail to comply with resolution 1441 and there were to be no second resolution.”

34. On timing, Mr Straw “thought the crunch point” would come soon after 8 December, the deadline for Iraq to make its declaration on its weapons of mass destruction (WMD) programmes. There was a “high likelihood/probability that Iraq would produce only a ‘partial declaration’, with the likelihood that soon after ... a report of Iraq’s inadequate/incomplete/inaccurate declaration would be made to the Security Council (pursuant to OP [operative paragraph] 4)”.

35. Asked about the conversations with Mr Powell and Mr Straw on 11 and 12 November 2002, Lord Goldsmith told the Inquiry:

“There is ... I see this quite a lot in government ... also the problem that sometimes the qualifications to what you have said don’t seem to be heard as clearly as you intended them to be. I have heard the expression about the ‘yes, but’ and the ‘but’ is forgotten, in another context ... [S]ometimes, therefore, you have to shout the ‘but’ rather harder than you would normally, to make sure it is not forgotten.”⁴

36. Asked whether the Chinese whispers came from No.10, Lord Goldsmith replied:

“Wherever the ‘Chinese whispers’ had been coming from, what mattered was their view, and each time I did say, ‘I want this to be understood’, the response I always got was, ‘Yes, that is understood’, and sometimes afterwards you wondered if that’s the way everyone was acting.”⁵

37. Lord Goldsmith told the Inquiry that the conversation with Mr Straw on 12 November was the point when it was agreed that he would receive a formal request for advice:

“I think there was an important moment after [resolution] 1441 when I had a conversation with Mr Straw and I hadn’t at that stage received what I would call instructions.”⁶

38. Lord Goldsmith told the Inquiry that barristers work by receiving “instructions”; that is, a request to advise, including the detail of the question and the supporting materials, often with the instructing solicitor’s views expressed. He said:

“... until I had had that, particularly the Foreign Office Legal Adviser’s point of view, and been able to analyse that, I wasn’t really in a position to give a definitive point of view ... So I think there then came this moment when it was agreed that I would

⁴ Public hearing, 27 January 2010, pages 54-55.

⁵ Public hearing, 27 January 2010, page 55.

⁶ Public hearing, 27 January 2010, page 56.

receive this request for advice and that finally came at some stage in December. Until that had arrived, I couldn't actually start to form a definitive view anyway."⁷

39. The letter of instructions for Lord Goldsmith was not sent until 9 December and did not include the point of view of Mr Michael Wood, the Foreign and Commonwealth Office (FCO) Legal Adviser.

Cabinet, 14 November 2002

40. Mr Straw told Cabinet on 14 November that, while the Security Council would need to be reconvened to discuss any breach in the event of Iraqi non-compliance, the key aspect of resolution 1441 was that military action could be taken without a further resolution.

41. That statement reflected the position Mr Straw had taken in his discussion with Lord Goldsmith on 12 November, but it did not fully reflect the advice Mr Straw had been given by the Mr Wood on 6 November or the concerns Lord Goldsmith had expressed on 12 November.

42. The advice given by Mr Wood is described in Section 3.5.

43. In the discussion of Iraq and the adoption of resolution 1441 in Cabinet on 14 November, Mr Straw stated that a "key aspect of the resolution was that there was no requirement for a second resolution before action was taken against Iraq in the event of its non-compliance, although reconvening the Security Council to discuss any breach was clearly stated".⁸

44. Lord Goldsmith was not present at that Cabinet meeting.

"Material breach" and the need for advice

45. Concerns about the differences between the UK and the US on what would constitute a material breach, the US stance of "zero tolerance" and the debate in the US on "triggers" for military action were already emerging.

46. Mr Blair and Mr Straw, and their most senior officials, were clearly aware that difficult and controversial questions had yet to be resolved in relation to:

- what would constitute a further material breach and how and by whom that would be determined;
- the issue of whether a further resolution would be needed to authorise force; and
- the implications of a veto.

⁷ Public hearing, 27 January 2010, pages 55-56.

⁸ Cabinet Conclusions, 14 November 2002.

47. Mr Geoff Hoon, the Defence Secretary, did not regard the position that “we would know a material breach when we see it” as a suitable basis for planning. Mr Hoon’s view was that agreement with the US on what constituted a trigger for military action was needed quickly.

48. The papers produced before Mr Straw’s meeting held in his Private Office on 20 November recognised that Lord Goldsmith’s advice would be needed to clarify those issues; and that it would be useful to seek Lord Goldsmith’s advice sooner rather than later.

49. There is, however, no evidence of a discussion about the right timing for seeking Lord Goldsmith’s views.

50. A debate on what might constitute a material breach and what actions by Iraq might trigger a military response had begun in the US before the adoption of resolution 1441.

The concept of “material breach”

The concept of “material breach” is central to the revival argument.

Material breach is a term derived from Article 60 of the Vienna Convention on the Law of Treaties, 1969. In that context a material breach is said to consist in a repudiation of the treaty or a violation of a provision essential to the accomplishment of the object or purpose of the treaty.

A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

A material breach of a multilateral treaty by one of the parties entitles the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part, or to terminate it either in relations between themselves and the defaulting State or entirely.

Resolution 707 (1991) was the first resolution in relation to Iraq to use the formulation, condemning:

“Iraq’s serious violation of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to cooperate with the Special Commission and the International Atomic Energy Agency, which constitutes a material breach of the relevant provisions of that resolution 687 which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region.”

51. On 7 November, reporting conversations with senior officials in the US Administration, Mr Tony Brenton, Deputy Head of Mission at the British Embassy Washington, said that the hawks in Washington saw the resolution as a defeat and warned that they would be “looking for the least breach of its terms as a justification for resuming the countdown to war”.⁹

⁹ Minute Brenton to Gooderham, 7 November 2002, ‘Iraq’.

52. Sir David Manning, Mr Blair’s Foreign Policy Adviser and Head of the Cabinet Office Overseas and Defence Secretariat (OD Sec), subsequently spoke to Dr Condoleezza Rice, President Bush’s National Security Advisor, on 15 November.¹⁰ Sir David stated that the UK and the US should not be drawn on “hypothetical scenarios” about what would constitute a material breach. Reflecting Mr Blair’s words to President Bush at Camp David on 7 September that, “If Saddam Hussein was obviously in breach we would know”, Sir David added that “the Security Council would know a material breach when it saw it”. He reported that the US Administration would continue to insist on “zero tolerance” to keep up the pressure on Saddam Hussein.

53. A paper on what might constitute a material breach, which highlighted “a number of difficult questions ... on which we will need to consult the Attorney General”, was prepared by the FCO and sent to Sir David Manning (and to Sir Jeremy Greenstock on 15 November.¹¹

54. The paper stated that “Most, if not all members of the Council will be inclined” to take the view that a “material breach” should be interpreted in the light of the Vienna Convention. Dr Hans Blix, the Executive Chairman of the UN Monitoring, Verification and Inspection Commission (UNMOVIC), had “made it clear” that he would “be using a similar definition for the purposes of reporting under OP11”. The paper stated that it was not for Dr Blix to determine what constituted a material breach, “but his decision (or not) to report to the Council and the terms in which he reports” would “be influential”.

55. The FCO paper stated that the US was “becoming more and more inclined to interpret the 1441 definition downwards” and that: “Although, some weeks ago, NSC [National Security Council] indicated that they would not regard trivial omissions in Iraq’s declaration (or minor problems encountered by the UNMOVIC) as triggers for the use of force, more recently DoD [Department of Defense] have indicated that they want to test Saddam early.” It also drew attention to President Bush’s remarks on 8 November, which it described as “zero tolerance” and his warning against “unproductive debates” about what would constitute an Iraqi violation.

56. An examination of past practice on seven separate occasions since 1991 showed that the Council had determined Iraq to be in material breach of its obligations where there seemed “to have been a conviction that an Iraqi act would seriously impede inspectors in the fulfilment of their mandate and therefore undermine an essential condition of the cease-fire”.

¹⁰ Letter Manning to McDonald, 15 November 2002, ‘Iraq: Conversation with Condi Rice’.

¹¹ Letter Sinclair to Manning, 15 November 2002, ‘Iraq: Material Breach’ attaching Paper, ‘Iraq: A Material Breach’.

57. Against that background, the FCO listed the following incidents as ones which the UK would consider to be material breaches:

- “Any incident sufficiently serious to demonstrate that Iraq had no real intention of complying”, such as “an Iraqi decision to expel UNMOVIC, or to refuse access to a particular site, parts of a site or important information”, “discovery by UNMOVIC/IAEA [International Atomic Energy Agency] of a concealed weapons programme, or of a cache of WMD material not declared ...”
- “Efforts to constrain UNMOVIC/IAEA’s operations in significant ways contrary to the provisions of SCR 1441 (2002) ... and other relevant resolutions. Systematic efforts to deter, obstruct or intimidate the interview process would need to be particularly carefully watched.”
- “Systematic Iraqi harassment of inspectors ... which jeopardised their ability to fulfil their duties ...”
- Failure to accept resolution 1441.
- “A pattern of relatively minor Iraqi obstructions of UNMOVIC/IAEA.”

58. On the last point, the FCO paper added:

“We would not take the view that a short (hours) delay in giving UNMOVIC access to a site would constitute a material breach unless there was clear evidence that the Iraqis used such a delay to smuggle information out of a site or to coach potential witnesses. But repeated incidents of such obstruction, even without evidence of accompanying Iraqi deception, would cumulatively indicate that the Iraqis were not fully co-operating, and thus cast doubt upon whether UNMOVIC would ever be able to implement its mandate properly.”

59. The FCO stated that a similar US list would “probably ... be even tougher”. “Given the opportunity” in the resolution for the US to make its own report to the Council, the UK needed “to be clear in our own minds where the dividing lines” were. The paper recommended that the UK would need to work out “where to draw our red lines” with the US; and that “in the interests of maintaining maximum Council support for use of force, we should try to persuade the Americans to focus on the more serious possible violations, or to establish a pattern of minor obstruction”.

60. The FCO did not address the issue of whether a Council decision would be needed “to determine that Iraq’s actions justify the serious consequences referred to in OP13 of 1441”. That would be “a matter on which we will need the Attorney’s views”.

61. An undated, unsigned document, headed ‘Background on material breach’ and received in No.10 around 20 November 2002, raised the need to address three, primarily legal, issues:

- the need to clarify whether OP4 “must be construed” in the light of the Vienna Convention and past practice as that suggested “a much higher bar than the US”;
- the need to seek Lord Goldsmith’s advice “on how OPs 1 and 2 (and 13) and the declaration of material breach they contain – affect the legal situation of Iraq and our authority to use force”; and specifically whether it could be argued that “1441 itself (especially OPs 1, 2 and 13 taken together) contains a conditional authority to use force ... which will be fully uncovered once that Council discussion has taken place”; and
- “What happens if a second resolution is vetoed?”¹²

62. The document appears to have drawn on the analysis in the FCO paper of 15 November.

63. On the second issue, the author wrote:

“If this [the argument that 1441 contains a conditional authority to use force] has merit (and the most we can hope for in the absence of an express Chapter VII authorisation is a reasonable argument) it would be helpful to know that now. We would not have to impale ourselves and Ministers on the difficult point of what happens if the US/UK try and fail to get an express authorisation.

“... we think London seriously needs to consider revising its thinking on 1441.

“... from the point of view of OP4 the question is ‘What does Iraq have to do to put itself beyond the protection of the law? At what point does its conduct amount to material breach?’ Innocent until proved guilty.

“But if you come at it through OPs 1 and 2 the question is ‘When has Iraq blown its last chance? (regardless of whether OP4 is ever breached)’. Compliance with OP4 is strictly irrelevant: Iraq is guilty but released on a suspended sentence/parole. This seems to us to have huge presentational angles – as well as whatever legal deductions can be made. **If we are not careful, we are in danger of losing the key advantage of the resolution and turning a provision which we thought of deleting as unnecessary into the main operational paragraph of the text ...**”

64. Someone in No.10 wrote: “Is this, tho’ a hidden trigger? (We and the US denied that there was one in 1441.)”¹³

¹² Paper [unattributed and undated], ‘Background on material breach’.

¹³ Manuscript comment on Paper [unattributed and undated], ‘Background on material breach’.

65. On what would happen in the event of a veto, the author of the document wrote that it was:

“... probably too difficult [to say] at this stage – everything depends on the circs ... But knowing the answer to the legal implications of 1441 ... would either (i) leave us no worse off than we are – if the AG [Attorney General] thinks the argument doesn’t run or (ii) radically improve the situation if the AG thinks we have a case.”

66. Mr Matthew Rycroft, Mr Blair’s Private Secretary for Foreign Affairs, commented to Sir David Manning that the document was:

“... helpful. Of course a S[ecurity] C[ouncil] discussion is needed if there is a material breach. But as the PM has said all along that discussion must be in the context of an understanding that action must follow.”¹⁴

67. On 15 November, Mr Peter Watkins, Mr Hoon’s Principal Private Secretary, sent Sir David Manning an update on military discussions with the US setting out the themes which had emerged.¹⁵ Mr Watkins registered a number of concerns including:

“Lack of clarity in US thinking about possible triggers for military action needs to be resolved quickly ...”

68. Mr Watkins added:

“To some extent, triggers are now under Saddam’s control and so cannot be slotted into any firm timetable. Moreover, what constitutes a ‘violation’ and/or ‘material breach’ remains undefined: many in the US are reduced to saying ‘we’ll know when we see it’, which is not a suitable base for planning.”

69. Mr Hoon believed that the UK response should include working “quickly to reach an agreed US/UK view on triggers ... well before we are confronted with it in practice”.

70. A copy of the letter was sent to Mr Straw’s Private Office.

71. Mr Straw held a Private Office meeting on 20 November to discuss Iraq policy with Sir Michael Jay, the FCO Permanent Under Secretary (PUS), Sir Jeremy Greenstock, Sir David Manning and Mr Peter Ricketts, FCO Political Director.¹⁶

72. Sir Jeremy told Mr Straw that he “believed we could get a second resolution provided the Americans did not go for material breach too early”. The “facts to convince nine members of the Security Council” would be needed. He thought that the Council “would not ... need much persuading”.

¹⁴ Manuscript comment Rycroft to Manning, 20 November 2002, on Paper [unattributed and undated], ‘Background on Material Breach’.

¹⁵ Letter Watkins to Manning, 19 November 2002, ‘Iraq: Military Planning after UNSCR 1441’.

¹⁶ Minute McDonald to Gray, 20 November 2002, ‘Iraq: Follow-up to SCR 1441’.

73. Sir Jeremy proposed that “When the time came”, the UK should put down a draft resolution and, “if we could show that we had done everything possible, then we would be in the best possible position if – in the end – there were no resolution”.

74. Sir David suggested that France should be invited to co-sponsor the resolution. Mr Straw agreed.

75. Sir Jeremy advised that “the real strength” of resolution 1441 lay in its first two operative paragraphs: OP1 reaffirming Iraq’s material breach up to the adoption of 1441, and OP2 suspending that material breach to give Iraq a final opportunity. Sir Jeremy stated that OP4 (and 11 and 12) were, therefore, not needed to reach the “serious consequences” in OP13. He was already using that argument in the Security Council and cautioned Mr Straw that focusing too much on OP4 brought a danger of weakening OPs 1 and 2.

76. Sir Michael Jay took a different view, advising that the UK could use all the OPs in resolution 1441. Mr Straw agreed that it would be a mistake to focus exclusively on OPs 1 and 2.

77. Given the reference to “London” and the content of Sir Jeremy’s advice to Mr Straw in the Private office meeting on 20 November, the unsigned and undated document ‘Background on material breach’ was most probably produced in the UK Mission in New York.

House of Commons debate on Iraq, 25 November 2002

78. When the House of Commons debated Iraq on 25 November, it voted to “support” resolution 1441 and agreed that if the Government of Iraq failed “to comply fully” with its provisions, “the Security Council should meet in order to consider the situation and the need for full compliance”.

79. Mr Straw assured Parliament that a material breach would need to be serious.

80. Mr Straw’s interpretation was consistent with the advice given to him by FCO Legal Advisers, and properly recognised the need for a material breach to be sufficiently serious to undermine the basis for the cease-fire in resolution 687 (1991).

81. But Mr Straw explicitly did not address the role of the Security Council in assessing whether any report of non-compliance or obstruction would amount to a material breach.

82. Mr Straw’s reference to a judgement having “to be made against the real circumstances that arise” highlighted the problem created by the drafting of that clause in OP4 of resolution 1441.

83. As Lord Goldsmith's subsequent advice confirmed, whether a specific failure to comply with the requirements placed upon Iraq by the resolution would amount to a material breach would have to be judged in the particular circumstances of Iraq's response.

84. On 25 November, the House of Commons debated resolution 1441 (2002) and the Government motion:

“That this House supports UNSCR 1441 as unanimously adopted by the UN Security Council; agrees that the Government of Iraq must comply fully with all provisions of the resolution; and agrees that, if it fails to do so, the Security Council should meet in order to consider the situation and the need for full compliance.”¹⁷

85. Mr Straw's draft opening statement was sent to No.10 for comment. Mr Powell questioned two points in the text:

- a statement that the UK would prefer a second resolution, which Mr Powell described as “not our position up to now”; and
- that we didn't “absolutely need one [a second resolution]”, which Mr Powell commented would “force the Attorney General to break cover”.¹⁸

86. Mr Blair commented that he did not “see this as such a problem”.¹⁹

87. In his opening speech, Mr Straw set out the inspection process and the answers to four “key questions” which arose from the resolution:

- What constituted a material breach? Mr Straw referred to operative paragraph 4 of the resolution, but went on to say: “As with any definition of that type, it is never possible to give an exhaustive list of all the conceivable behaviours that it covers. That judgement has to be made against the real circumstances that arise, but I reassure the House that material breach means something significant: some behaviour or pattern of behaviour that is serious. Among such breaches could be action by the Government of Iraq seriously to obstruct or impede the inspectors, to intimidate witnesses, or a pattern of behaviour where any single action appears relatively minor but the actions as a whole add up to something deliberate and more significant: something that shows Iraq's intention not to comply.”²⁰
- Who would decide what happened if there was a material breach? Mr Straw argued that if a “material breach” was reported to the Security Council, “the decision on whether there had been a material breach will effectively have been

¹⁷ House of Commons, *Official Report*, 25 November 2002, column 47.

¹⁸ Email Powell to Manning, 23 November 2002, ‘Jack's Iraq Statement’.

¹⁹ Manuscript comment Blair on Email Powell to Manning, 23 November 2002, ‘Jack's Iraq Statement’.

²⁰ House of Commons, *Official Report*, 25 November 2002, column 51.

made by the Iraqis ... there will be no decision to be made. The Security Council will undoubtedly then act.”

- Would there be a second Security Council resolution if military action proved necessary? Mr Straw stated: “the moment there is any evidence of a material breach ... there will be a meeting of the Security Council at which it is ... open for any member to move any resolution ... Our preference is for a Security Council resolution, and I hope we would move it.”
- If military action was necessary, would the House of Commons be able to vote on it and, if so, when? Mr Straw stated: “No decision on military action has yet been taken ... and I fervently hope that none will be necessary ... Any decision ... to take military action will be put to the House as soon as possible after it has been taken ... the Government have no difficulty about the idea of a substantive motion on military action ... at the appropriate time ... [I]f we can and if it is safe to do so, we will propose a resolution seeking the House’s approval of decisions ... before military action takes place.”²¹

FCO advice, 6 December 2002

88. The FCO advised on 6 December that there was no agreement in the Security Council on precise criteria for what would constitute a material breach. Each case would need to be considered in the light of the circumstances.

89. The UK position remained that deficiencies in Iraq’s declaration on its WMD programmes could not constitute a *casus belli* but if an “audit” by the inspectors subsequently discovered significant discrepancies in the declaration, that could constitute a material breach.

90. The FCO position was, increasingly, shifting from a single specific incident demonstrating a material breach, to the need to establish a pattern of non-co-operation over time demonstrating that Iraq had no intention of complying with its obligations.

91. In response to a request from Sir David Manning on 29 November, Mr Straw’s office provided advice on handling the Iraqi declaration.²² The FCO also provided a refined version of the advice in its letter to Sir David of 15 November about what might comprise a material breach.

92. That was further refined in a letter from Mr Straw’s office on 6 December responding to Sir David’s request for further advice on what would constitute a “trigger” for action.²³

93. The FCO stated that a material breach could not “be a minor violation but must be a violation of a provision essential to achieving the object or purpose of the original

²¹ House of Commons, *Official Report*, 25 November 2002, column 49.

²² Letter Sinclair to Manning, 29 November 2002, ‘Iraq: 8 December Declaration’.

²³ Letter McDonald to Manning, 6 December 2002, ‘Iraq: Material Breach’.

Gulf War [1991] cease-fire". That position had been reflected in Mr Straw's remarks in the House of Commons on 25 November. The FCO expected most members of the Security Council to take a similar view.

94. Consistent with the advice sent to Sir David on 15 and 29 November, the FCO wrote that there were two broad areas where Iraqi behaviour could amount to a material breach:

- **Non-compliance with its disarmament obligations** – if Iraq concealed WMD. Evidence might take the form of discovery of WMD material not included in the declaration or evidence which Iraq could not satisfactorily explain which clearly pointed to a concealed WMD programme (e.g. a yellowcake receipt).
- **Non-co-operation with UNMOVIC/IAEA** – if Iraq's behaviour demonstrated that it had no intention of co-operating fully with UNMOVIC in fulfilling its mandate under resolution 1441 (2002) or other relevant resolutions. Evidence might comprise a single incident such as denying access to a particular site, information or personnel. Evidence of coaching witnesses or smuggling information out of potential sites would be "pretty damning". Attempts to impede the removal and destruction of WMD or related material would potentially be a material breach.

95. The FCO view was that there would be no need for "a single specific instance". A "pattern of lower level incidents" could amount to a demonstration of non-co-operation sufficiently serious to constitute a material breach. Indications of concealment could include "a series of unanswered questions identified by UNMOVIC/IAEA which suggested a concealed WMD programme" or "failure ... to demonstrate convincingly that the WMD material identified by UNSCOM [United Nations Special Commission] in 1998 had been destroyed and properly accounted for"; "Much would depend on the circumstances and whether the incidents demonstrated deliberate non-co-operation rather than inefficiency or confusion."

96. The FCO concluded that there were:

"... bound to be grey areas over whether Iraqi failures are sufficiently serious to constitute a material breach. There is no agreement in the Council on the precise criteria. We would need in each case to look at the particular circumstances. Moreover, some incidents of non-compliance may be susceptible to remedial action by UNMOVIC/IAEA (e.g. by destroying weapons etc). In such cases, those seeking to trigger enforcement action would need to explain how such action would be necessary to enforce Iraqi compliance."

Obtaining Lord Goldsmith's opinion

Instructions for Lord Goldsmith to advise

97. On 9 December, after receipt of the Iraqi declaration, the FCO issued a formal request seeking Lord Goldsmith's advice on whether a further decision by the Security Council would be required before force could be used to secure Iraq's compliance with its disarmament obligations.

98. Mr Wood set out the "two broad views" on the interpretation of resolution 1441 and whether a further decision was required by the Security Council to authorise the use of force.

99. Mr Straw asked Mr Wood to make clear to Lord Goldsmith that his advice was not needed "now".

100. Several drafts of the instructions for Lord Goldsmith were prepared and circulated within the FCO.

101. Mr Wood sought the views of senior FCO officials on 21 November, including Sir Michael Jay and Mr Iain Macleod, the Legal Counsellor in the UK Permanent Mission to the UN in New York (UKMIS New York). He also wrote that he planned to give Mr Straw the opportunity to comment on the draft the following week.²⁴

102. Ms Cathy Adams, Legal Counsellor to Lord Goldsmith between 2002 and 2005, informed Lord Goldsmith on 29 November that the letter from Mr Wood had "been in gestation for a couple of weeks now and I understand the original draft has been subject to extensive comments from UKMIS New York".²⁵

103. Mr Stephen Pattison, Head of FCO UN Department, told the Inquiry that all those people involved in Mr Ricketts' core group saw the draft instructions, but very few officials commented from a sense that it was for the lawyers to sort out, and that officials should not give the impression of interfering.²⁶

104. Sir Michael Wood told the Inquiry:

"... I received extensive comments from UKMIS New York, conveyed to me by Iain Macleod and as I understood it, reflecting Sir Jeremy Greenstock's views. These essentially concerned the alternative arguments to which they attached importance, based in part on the negotiating history of the resolution. As I recall, I incorporated all or virtually all of UKMIS's suggestions into my letter ...

"I do not recall receiving comments on the draft from other quarters."²⁷

²⁴ Minute Wood to Ricketts, 21 November 2002, 'Iraq: SCR 1441: Letter to LSLO'.

²⁵ Minute Adams to Attorney General, 29 November 2002, 'Iraq'.

²⁶ Public hearing, 31 January 2011, pages 48-49.

²⁷ Statement, 15 March 2011, page 19.

105. Mr Wood’s letter incorporating instructions for Lord Goldsmith was sent to Ms Adams on 9 December 2002, with a copy to Mr Martin Hemming, the MOD Legal Adviser.²⁸ It briefly described the provisions of resolution 1441, the history of the negotiation and adoption of resolution 1441 and subsequent developments, and the legal background.

106. Mr Wood wrote:

“The main legal issue raised by the resolution ... is whether a further decision by the Security Council would be required before force could lawfully be used to ensure Iraqi compliance with its disarmament obligations. (This question is often put in the form ‘Is a second resolution required?’, but a further decision by the Council could take other forms, in particular it could be a statement made on behalf of the Council or its members.)”

107. Describing resolution 1441 as a “consensus text” and stating that, “as is often the case, the drafting leaves something to be desired”, Mr Wood wrote (paragraph 5 of his letter) that there were two broad views of the interpretation of resolution 1441:

- the first was that resolution 1441 “does not authorise the use of force or revive the Council’s earlier authorisation; a further Council decision is needed for that”; and
- the second was that “taking account of previous Council practice, the negotiating history and the statements made on adoption”, resolution 1441 “can be read as meaning that the Council has already conditionally authorised the use of force against Iraq; the conditions being (a) that Iraq fails to take the final opportunity if it has been offered and (b) that there is Council discussion (not necessarily a decision) under paragraph 12 of the resolution. If these conditions are met, the material breach is uncovered and (on the ‘revival of authorisation’ argument based on Security Council resolutions 678 (1990) and 687 (1991)) force can be taken to be authorised under SCR 1441.”

The revival argument

The UK justification for the use of military force against Iraq in 1993 and in December 1998 (Operation Desert Fox) relied on the concept that the use of force authorised in resolution 678 (1990) could be “revived” by a Security Council determination that Iraq was in “material breach” of the cease-fire provisions in resolution 687 (1991).

Resolution 678, adopted on 29 November 1990, demanded:

“... that Iraq comply fully with resolution 660 (1990) [which required its immediate withdrawal from Kuwait] and all subsequent resolutions”; and

“unless Iraq on or before 15 January 1991 fully” implemented those resolutions, authorised:

²⁸ Letter Wood to Adams, 9 December 2002, ‘Iraq: Security Council Resolution 1441 (2002)’.

“... Member States co-operating with the Government of Kuwait ... to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area.”

The resolution stated that the Security Council was “acting under Chapter VII of the Charter”. Chapter VII is the only part of the United Nations Charter governing the use of force, and it does so in the context of: “Action with respect to threats to the peace, breaches of the peace, and acts of aggression.”

After the suspension of hostilities at the end of February 1991, resolutions 686 and 687 of 1991 contained a number of demands which Iraq had to fulfil in relation to the cessation of hostilities and the commencement of reparations.

The obligations included provisions in relation to:

- the Iraq/Kuwait border;
- repatriation of Kuwaiti nationals and property, and the payment of compensation by Iraq;
- sanctions; and
- disarmament of WMD, and inspections.

It was expressly stated that the authority to use force in resolution 678 (1990) remained valid during the period required for Iraq to comply with those demands.

In resolution 707 of August 1991 the Security Council condemned Iraq’s serious violations of its disarmament obligations as a “material breach” of the relevant provisions of resolution 687 (1991), “which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region”.

In January 1993, two further serious incidents arose in relation to Iraq’s implementation of resolution 687 (1991). This led to the adoption of two further Presidential Statements, on 8 and 11 January, which contained a direct warning of serious consequences.²⁹ Within days the US, UK and France carried out air and missile strikes on Iraq.

In August 1992, Dr Carl-August Fleischhauer, then the UN Legal Counsel, provided advice to the UN Secretary-General on the legal and procedural basis for the use of force against Iraq.³⁰

The key elements of Dr. Fleischhauer’s advice included:

- The authorisation to use all necessary means in resolution 678 (1990) was limited to the achievement of the objectives in that resolution - “to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area” - but was not limited in time; it was not addressed to a defined group of states except for “the vague notion of ‘states cooperating with Kuwait’”, and it was clear by the words “all necessary means” that it was understood to include the use of armed force.

²⁹ Presidential Statement, S/25081, 8 January 1993; Presidential Statement, S/25091, 11 January 1993.

³⁰ Zacklin R, *The United Nations Secretariat And The Use of Force In A Unipolar World*, Hersch Lauterpacht Memorial Lectures, University of Cambridge, 22 January 2008. The advice of the UN Legal Counsel can be sought by the Secretary-General, and by the organs of the UN, but not by the Member States, who rely on their own legal advisers. It is not determinative and does not bind Member States.

- Resolution 687 (1991) permitted the conclusion that once the Security Council was satisfied that Iraq had complied with all its obligations under the resolution, the authorisation to use force would lapse. But resolution 687 (1991) did not itself terminate that authorisation, expressly or by inference. That followed from the fact that the preambular paragraphs (PPs) of resolution 687 (1991) affirmed all the Security Council's previous resolutions on Iraq, including resolution 678 (1990).
- A cease-fire is by its nature a transitory measure but, during its duration, the cease-fire superseded the ability to implement the authorisation to use force. The promise contained in the cease-fire to cease hostilities under certain conditions created an international obligation, which, as long as those conditions pertained, excluded the recourse to armed force. Under general international law the obligation created could be terminated only if the conditions on which it had been established were violated. In other words, the authority to use force had been suspended, but not terminated. A sufficiently serious violation of Iraq's obligations under resolution 687 (1991) could withdraw the basis for the cease-fire and re-open the way to a renewed use of force. That possibility was not limited by the passage of time that had then elapsed.
- Authority to use force could be revived in circumstances where a two-part pre-condition was met: the Security Council should be in agreement that there was a violation of the obligations undertaken by Iraq; and the Security Council considered the violation sufficiently serious to destroy the basis of the cease-fire.
- Those findings need not be in the form of a resolution, but could be recorded in the form of a Presidential Statement. But the content must make clear that the Council considered that the violation of resolution 687 (1991) was such that all means deemed appropriate by Member States were justified in order to bring Iraq back into compliance with resolution 687 (1991). Under no circumstances should the assessment of that condition be left to individual Member States; since the original authorisation came from the Council, the return to it should also come from that source and not be left to the subjective evaluation made by individual Member States and their Governments.

In January 1993, two further serious incidents arose in relation to Iraq's implementation of resolution 687 (1991), which led to the adoption of two further Presidential Statements on 8 and 11 January.³¹

Unlike resolution 707 (1991) and the Presidential Statements in 1992, in which the warning of serious consequences had been conveyed in indirect language, the statements in 1993 contained a direct warning of serious consequences. Within days the US, UK and France carried out air and missile strikes on Iraq.

On 14 January 1993, in relation to military action on the previous day, the UN Secretary-General was reported as having said:

"The raid yesterday, and the forces which carried out the raid, have received a mandate from the Security Council, according to resolution 678 and the cause of the raid was the violation by Iraq of resolution 687 concerning the cease-fire. So, as Secretary-General of the United Nations, I can say that this action was taken and conforms to the resolutions of the Security Council and conforms to the Charter of the United Nations."³²

³¹ Presidential Statement, S/25081, 8 January 1993; Presidential Statement, S/25091, 11 January 1993.

³² Paper FCO, 17 March 2003, 'Iraq: Legal Basis for the Use of Force'.

In essence, the statement was an explicit acknowledgement that the authority to use force in resolution 678 (1990) had been “revived”.

From June 1997, Iraq had begun to interfere with the activities of the UN Special Commission (UNSCOM), which had been established to monitor Iraq’s WMD. Reports of Iraqi failures to comply with the obligations in resolution 687 (1991) were made by UNSCOM to the UN Security Council (see Section 2.2). Several resolutions were adopted and Presidential Statements were issued condemning Iraqi actions.

In March 1998, the Security Council adopted resolution 1154, stating that the Council was acting under Chapter VII of the Charter, and stressing the need for Iraq to comply with its obligations to provide access to UNSCOM in order to implement resolution 687 (1991). It stated that “any violation would have severest consequences for Iraq”. That resolution did not, however, make a finding that Iraq was in breach of its obligations.

In October 1998, Dr Richard Butler, UNSCOM’s Executive Chairman, reported to the Security Council that Iraq had suspended its co-operation; Iraq’s decision to suspend co-operation made it “impossible for the Commission to implement its disarmament and monitoring rights and responsibilities”.³³

On 5 November, the Security Council adopted resolution 1205, condemning Iraq’s decision to cease co-operation with UNSCOM as a “flagrant violation” of resolution 687 (1991) and other relevant resolutions. In the final paragraph of the resolution the Security Council decided “in accordance with its primary responsibility under the Charter for the maintenance of international peace and security, to remain actively seized of the matter”.

Diplomatic contact between the UN and Iraq continued, as did discussions within the Security Council, but on 16 December 1998, the US and UK launched air attacks against Iraq, Operation Desert Fox.

Mr John Morris (Attorney General from 1997 to 1999), supported by Lord Falconer (as Solicitor General), advised Mr Blair in November 1997:

“Charles [Lord Falconer] and I remain of the view that, in the circumstances presently prevailing, an essential precondition of the renewed use of force to compel compliance with the cease-fire conditions is that the Security Council has, in whatever language – whether expressly or impliedly – stated that there has been a breach of the cease-fire conditions and that the Council considers the breach sufficiently grave to undermine the basis or effective operation of the cease-fire.”³⁴

108. Recognising that “final decisions” could “only be made in the light of circumstances at the time (including what transpires in the Council)”, Mr Wood addressed the provisions of the resolution and the rules for their interpretation. As regards the latter, he wrote:

“The rules for treaty interpretation set out in Articles 31 to 33 of the Vienna Convention on the Law of Treaties are a useful starting point, but these have to be applied in a way that takes into account the different nature of resolutions of the

³³ Letter Executive Chairman of UNSCOM to President of the Security Council, 2 November 1998, ‘S/1998/1032’.

³⁴ Minute Goldsmith to Prime Minister, 30 July 2002, ‘Iraq’.

Security Council. The basic principle to be derived from the Vienna Convention is that a Security Council resolution is to be interpreted in good faith in accordance with the ordinary meaning given to its terms in their context and in the light of its object and purpose.”

The Vienna Convention on the Law of Treaties Articles 31-33

“ARTICLE 31: GENERAL RULE OF INTERPRETATION

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
 - (a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;
 - (b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
 - (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
 - (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
 - (c) any relevant rules of international law applicable in the relations between the parties.
4. A special meaning shall be given to a term if it is established that the parties so intended.

“ARTICLE 32: SUPPLEMENTARY MEANS OF INTERPRETATION

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- (a) leaves the meaning ambiguous or obscure; or
- (b) leads to a result which is manifestly absurd.

“ARTICLE 33: INTERPRETATION OF TREATIES AUTHENTICATED IN TWO OR MORE LANGUAGES

When a treaty has been authenticated in two or more languages the text of each version is equally authoritative unless the parties to the treaty have agreed otherwise.

The terms of each version are presumed to have the same meaning.

If a difference in meaning should emerge, the meaning which best reconciles the texts, having regard to the objects of the treaty, shall be the meaning adopted.”

109. Referring to a number of telegrams describing the formal and informal negotiation of the resolution, Mr Wood cautioned:

“If the matter were ever brought to court, none of these records would be likely to be acceptable as *travaux préparatoires*³⁵ of the resolution, since they are not independent or agreed records, and the meetings themselves were behind closed doors.”

110. Mr Wood set out the arguments relevant to the two broad views of the interpretation of resolution 1441. For the first, Mr Wood identified the considerations which suggested that, taken as a whole, the resolution meant that, in the event of non-compliance, the Council itself would decide what action was needed.

111. In relation to the second, Mr Wood wrote: “UKMIS New York are of the view that this argument is consistent with the negotiating history, and requires serious consideration”. He set out four supporting points for the second view before identifying a number of “possible difficulties”.

112. Mr Wood concluded: “Whichever line of argument is adopted” it would “still be necessary” to address what “type of Iraqi non-compliance” would be “of a magnitude which would undermine the cease-fire”. He also re-stated the governing principles of necessity and proportionality for the use of force.

113. On receipt of Mr Wood’s letter of 9 December, Ms Adams prepared advice for Lord Goldsmith, including a full set of background papers.³⁶

114. Addressing the “two alternative views” on the legal effect of resolution 1441, Ms Adams wrote that, while Mr Wood did not “say so expressly”, she understood Mr Wood believed the first view, that resolution 1441 “does not authorise the use of force

³⁵ The expression used in the French version of the Vienna Convention in place of “preparatory work”. *Travaux préparatoires* are regarded as useful for the interpretation of treaties when the evidence as regards particular words or phrases reveals a common understanding: *Kasikili/Sedudu Island (Botswana/Namibia)* ICJ Reports 1999 at pp. 1074-1075, 1101; *Avena and Other Mexican Nationals (Mexico v. United States of America)* ICJ Reports 2004 at p. 49; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* ICJ Reports 2007 at para. 194.

³⁶ Minute Adams to Attorney General, 11 December 2002, ‘Iraq: Interpretation of Resolution 1441’.

expressly or revive the authorisation in resolution 678 (1990)", to be "the better analysis of the resolution".

115. Commenting on the way in which Mr Wood had addressed the "second view", that resolution 1441 had conditionally authorised the use of force, Ms Adams wrote: "I am not convinced that he puts the arguments in support of this view at their strongest."

116. Setting out an alternative analysis, Ms Adams wrote that "one thing is clearer following adoption" of resolution 1441:

"... the existence of the 'revival argument' did not seem to be doubted within the Security Council. The whole basis of the negotiation ... was that the words 'material breach' and 'serious consequences' were code for authorising the use of force. There is now therefore a much sounder basis for relying on the revival argument than previously.

"... [T]he question of whether resolution 1441 alone satisfies the conditions for reviving the authorisation in resolution 678 without a further decision of the Council is far from clear from the text ... It is therefore not easy to ascertain the intention of the Security Council."

117. Ms Adams continued:

"What advice you give ... may therefore depend on the view you take as to your role in advising on use of force issues. For example, you might give a different answer to the question: what is the better interpretation of resolution 1441? than to the question: can it reasonably be argued that resolution 1441 is capable of authorising the use of force without a further Council decision?"

"You have previously indicated that you are not entirely comfortable with advising that 'there is a respectable argument' that the use of force is lawful, given your quasi-judicial role in this area. Previous Law Officers have of course advised in these terms ..."

118. Ms Adams concluded:

"For my own part, I think that the first view is the better interpretation, but that the arguments in favour of the second view are probably as strong as the legal case for relying on the revival argument in December 1998 when the UK participated in Operation Desert Fox."

119. Ms Adams wrote that she understood the statement that Lord Goldsmith's advice was not "required now" reflected Mr Straw's views, and:

"While it is certainly true that definitive advice could not be given at this stage on whether a further Council decision is required (because such advice would need to take account of all the circumstances at the time, including further discussions in the Council), there is no reason why advice could not be given now on whether

resolution 1441 is capable in any circumstances of being interpreted as authorising the use of force without a further Security Council decision.”

120. Ms Adams added:

“... I think a serious issue for consideration is whether, if you were to reach the view that resolution 1441 was under no circumstances capable of being interpreted as authorising force without a further Council decision ... this should be relayed to the Foreign Office and No.10.”

121. Observing that “the Foreign Secretary (and other Ministers) have gone beyond the neutral line suggested ... stating that resolution 1441 does not ‘necessarily’ require a further Council decision”, Ms Adams suggested that if Lord Goldsmith was “not minded” to give advice: “An alternative option ... might be for me to reply to Michael [Wood]’s letter confirming that you do not propose to advise at this stage, but stressing the need for neutrality in HMG’s public line for so long as you have not advised on the interpretation of the resolution.”

122. Lord Goldsmith told the Inquiry that the instructions set out both arguments “without expressing a view between them, although I think I knew what view Sir Michael took about it”.³⁷

123. Mr Straw told the Inquiry that he had asked Mr Wood to ensure Lord Goldsmith was given a balanced view.³⁸

124. Mr Straw added that, if Sir Michael had thought there was only one view, that was “what he would have written” to Lord Goldsmith. Mr Straw stated that he:

“... had no input, as far as I recall – and we have been through the records – whatsoever in what he [Sir Michael] wrote to the Attorney General. Quite properly. I don’t think I, so far as I recall, ever saw the letter until after it had been written, and that’s entirely proper.

“If his view had been, ‘There is no doubt we require a second resolution’ ... then that’s what he should have written, but he didn’t.”³⁹

125. In his statement for the Inquiry, Mr Pattison wrote:

“With hindsight, the letter ... probably steered [Lord Goldsmith] in a particular direction: although it set out competing interpretations of SCR 1441, it was loaded in favour of one.”⁴⁰

³⁷ Public hearing, 27 January 2010, page 62.

³⁸ Public hearing, 8 February 2010, page 13.

³⁹ Public hearing, 8 February 2010, page 15.

⁴⁰ Statement, January 2011, paragraph 35.

126. Sir Michael Wood disagreed with Mr Pattison's conclusion:

"This is not so. I set out the arguments as fairly as I could, taking full account of extensive comments from UKMIS New York."⁴¹

127. Sir Michael wrote in his statement:

"I was instructed ... that the Foreign Secretary was content for me to send the letter provided I did not include in the letter a statement of my own view of the law; and provided that I made it clear in the letter that no advice was needed at present. I was not happy with these instructions ...

"There are broadly two ways for a departmental lawyer to consult the Attorney: by setting out the different possibilities, without expressing a view; or, and this is much more common and usually more helpful, by setting out the differing possibilities and giving a view. In the present case, I was instructed to do the former, though the Attorney was anyway well aware of my views."

128. In the final version of the "instructions" for Lord Goldsmith, Mr Wood wrote:

"No advice is required now. Any decisions in the future would clearly need to take account of all the circumstances, including any further deliberation in the Security Council."⁴²

129. In his statement for the Inquiry, Lord Goldsmith wrote that he had been told that it was the view of Mr Straw that the instructions of 9 December should make clear that no advice was needed at that time.⁴³

130. The Inquiry sought the views of a number of witnesses about whether Lord Goldsmith's advice should have been available at an earlier stage.

131. In his statement to the Inquiry, Sir Michael Wood wrote that he did not agree with Mr Straw's view that advice was not needed until later:

"While it may not have been essential to have advice at that time, it was in my view highly desirable ... FCO Legal Advisers were in a very uncomfortable position ... We were having to advise on whether SCR 1441 authorised the use of force without a further decision of the Security Council without the benefit of the Attorney's advice. It would have been possible for the Attorney to have given advice on the meaning of SCR 1441 soon after its adoption, since all the relevant considerations were then known, though that advice would no doubt have had to be kept under review in the light of developments."⁴⁴

⁴¹ Statement, 15 March 2011, page 19.

⁴² Letter Wood to Adams, 9 December 2002, 'Iraq: Security Council Resolution 1441 (2002)'.

⁴³ Statement, 17 January 2011, paragraph 1.12.

⁴⁴ Statement, 15 March 2011, page 20.

132. Sir Michael added that he had explained in a meeting with Lord Goldsmith “as late as January 2003” that his “position within the FCO was becoming very difficult” since he was still having to advise Mr Straw and others “without being able to refer to” Lord Goldsmith’s advice, even though he was “aware of his [Lord Goldsmith’s] thinking at that time”.

133. Sir Michael told the Inquiry:

“... it was certainly a problem for me within the Foreign Office, because I was having to react to public statements by Ministers, to prepare briefings for people, on the basis of my views, without having a definitive view from the Attorney, although I think I know what his thinking was at that time.

“So I think it was a problem in terms of giving legal advice within the Foreign Office ... in the broader sense ... it was a problem for government as a whole, because they really needed advice, even if they didn’t want it at that stage, in order to develop their policy in the weeks leading up to the failure to get the second resolution.”⁴⁵

134. Asked what he meant, Sir Michael added:

“I think it was clear to me that the Attorney would give advice when he was asked for it, and there were various stages when he was not asked for it ... [M]y impression was that there was a reluctance in some quarters to seek the Attorney’s advice too early.”⁴⁶

135. Asked whether it would have helped if his advice had been provided earlier, Lord Goldsmith told the Inquiry that he did not think so. He said he had:

“... been at pains, as you have seen, to try to make sure that those who were moulding the policy didn’t have a misunderstanding about, at least, what my view might be and I had been involved ...”⁴⁷

136. Lord Goldsmith added:

“My view was, if I thought it was necessary for a Minister to know, I would tell them, whether they wanted to hear it or not.”

137. Asked if he had been involved at the right time in terms of policy development, Lord Goldsmith stated:

“I don’t know. I don’t know what difference, if any, it would have made. My own view is that it is right that the Senior Legal Adviser, and all Legal Advisers, should be involved in the policy development, because that helps Ministers, once you

⁴⁵ Public hearing, 26 January 2010, page 39.

⁴⁶ Public hearing, 26 January 2010, page 40.

⁴⁷ Public hearing, 27 January 2010, page 101.

understand what their objectives are, to reach a way of achieving those which is lawful ...”⁴⁸

138. Asked about whether the legal issues were folded into the developing policy questions, Lord Goldsmith replied:

“I think in the event that did happen. As you have heard, on two occasions I insisted on offering a view, even though it wasn’t being asked for, to make sure the policy, as it were, took account of that.”⁴⁹

139. Ms Elizabeth Wilmshurst, a Deputy FCO Legal Adviser, identified a particular risk that arose from the lateness of the definitive advice:

“... on the process of obtaining the Law Officers’ advice, it was clearly far from satisfactory, and it seemed to have been left right until the end, the request to him for his formal opinion, as if it was simply an impediment that had to be got over before the policy could be implemented, and perhaps a lesson to be learned is that, if the Law Officers’ advice needs to be obtained, as it always does for the use of force issues, then it should be obtained before the deployment of substantial forces. For the Attorney to have advised that the conflict would have been unlawful without a second resolution would have been very difficult at that stage without handing Saddam Hussein a massive public relations advantage. It was extraordinary, frankly, to leave the request to him so late in the day.”⁵⁰

140. Asked if it would have been useful to have had the formal advice of the Attorney General during the period after resolution 1441 when the Armed Forces were preparing for military action, Mr Blair replied:

“No. I think what was important for him to do was to explain to us what his concerns were ... Peter was quite rightly saying to us, ‘These are my concerns. This is why I don’t think 1441 in itself is enough’.

“... [W]e had begun military preparations even before we got the ... 1441 resolution. We had to do that otherwise we would never have been in a position to take military action. But let me make it absolutely clear, if Peter in the end had said, ‘This cannot be justified lawfully’, we would have been unable to take action.”⁵¹

141. Asked if he had any observations on the process by which Lord Goldsmith’s advice had been obtained, Lord Turnbull, Cabinet Secretary between September 2002 and September 2005, said: “I can see that it would have been better if this had been done earlier, but the list of things for which that is true runs to many pages.”⁵²

⁴⁸ Public hearing, 27 January 2010, page 102.

⁴⁹ Public hearing, 27 January 2010, page 232.

⁵⁰ Public hearing, 26 January 2010, pages 24–25.

⁵¹ Public hearing, 29 January 2010, page 150.

⁵² Public hearing, 25 January 2011, page 25.

Lord Goldsmith's meeting with No.10 officials, 19 December 2002

142. In a meeting held at his request with No.10 officials on 19 December, Lord Goldsmith was again told that he was not at that stage being asked for advice; and that the UK was pushing for a second resolution.

143. Lord Goldsmith was also told that, when he was asked for advice, it would be helpful if he were to discuss a draft with Mr Blair.

144. As requested by Lord Goldsmith, Ms Adams set up a meeting with Mr Powell.⁵³

145. The meeting took place on 19 December.

146. A minute produced by Mr David Brummell, the Legal Secretary to the Law Officers from August 2000 to November 2004, stated that Sir David Manning and Baroness Sally Morgan, the No.10 Director of Political and Government Relations, were also present, as well as Mr Powell, and that the meeting's purpose was to provide Lord Goldsmith "with an update on developments and likely timings for any future action, rather than for the AG to provide specific legal advice".⁵⁴

147. Mr Brummell recorded that Mr Powell had sketched out three "possible scenarios":

- "Saddam Hussein does something very stupid and the weapons inspectors find some WMD, which leads to a UN ... resolution finding material breach and authorising the use of force."
- "The inspectors catch out Saddam Hussein in some way but the response of members of the Security Council is such that there is no second resolution."
- "... [T]he US become frustrated with the UN process and decide to take military action regardless, i.e. without UN support."

148. Mr Brummell wrote that Mr Powell had commented:

- "if the US and UK were to decide that military action was justified, the British Cabinet would be unanimous in their support";
- "There would be no question of the UK supporting military action" in the third scenario; and "it was unlikely that the US would proceed" in the "absence of UK support"; and
- military action could start as early as mid-February.

149. Mr Brummell reported that Sir David Manning had confirmed that the UK was pushing for a second resolution and he thought there was a "reasonably good prospect (i.e. a 50:50 or so chance)" of success. Iraq had also made the "mistake of alienating Russia" by cancelling an oil contract which "would change the political weather".

⁵³ Minute Adams to Attorney General, 11 December 2002, 'Iraq: Interpretation of Resolution 1441'.

⁵⁴ Minute Brummell, 19 December 2002, 'Iraq: Note of Meeting at No. 10 Downing Street – 4.00 pm, 19 December 2002'.

150. Sir David had also confirmed that the “basic assumption” was that Dr Blix would report any evidence of breaches to the Security Council and:

“The SC would then debate whether the reported breaches were serious or trivial. It would then be for the Security Council, in the light of that debate, to decide what action should be taken. It was noted that this would suggest that it was expected that the SC would have to express its view.”

151. Mr Brummell recorded that Lord Goldsmith had agreed that the adoption of resolution 1441:

“... which represented a ‘complex compromise’ had been a considerable achievement. He thought that a key question arose in relation to the interpretation of OP4 ... What could the phrase ‘for assessment’ mean if it did not mean an assessment as to whether the breach was sufficiently material to justify resort to use of force?”

152. Mr Brummell also recorded that there would be “a full Cabinet discussion on Iraq some time in the middle of January, i.e. before the Security Council met at the end of January”. It had been agreed that:

- Lord Goldsmith would be invited to attend Cabinet “for this purpose”;
- it would be useful for him to speak to Sir Jeremy Greenstock “to get a fuller picture of the history of the negotiation of resolution 1441”;
- Lord Goldsmith “was not being called on to give advice at this stage. But he would be giving further consideration to all these issues”; and
- it “might be helpful” if Lord Goldsmith “were to discuss a legal advice paper in draft with the Prime Minister”.

153. There is no No.10 record of the meeting.

154. Lord Goldsmith told the Inquiry that he was concerned about what was meant by the expression “for assessment” in OP 4, which seemed “to be an essential issue”.⁵⁵

155. Lord Goldsmith said:

“I wanted to understand principally what was meant by ‘for assessment’, and I also wanted to know what were the – what the answers to a number of other textual points that I raised as giving rise to questions about what was meant by 1441.”⁵⁶

⁵⁵ Public hearing, 27 January 2010, page 65.

⁵⁶ Public hearing, 27 January 2010, pages 65-66.

156. Asked if this request could have been channelled through Ms Adams to the Foreign Office Legal Advisers, Lord Goldsmith explained:

“There are a number of ways it could have been done, and I’m not sure that the Foreign Office would have been able to deal ultimately with the US side, but it could have been.”⁵⁷

157. Lord Goldsmith said:

“I wasn’t expecting to discuss it with Jonathan Powell. That wasn’t the point. I did want to discuss that with the Prime Minister, with the Foreign Secretary, who had been very closely involved in the negotiations, and this was a channel.”⁵⁸

158. Lord Goldsmith told the Inquiry that he wanted to have “from the client, you know, ‘What do you say in relation to certain of these arguments?’”⁵⁹

159. Lord Goldsmith told the Inquiry that he viewed Mr Blair as “ultimately” the client for his advice.⁶⁰

160. Asked whether the client was, at that stage, “expressing a view on how soon” the advice would be required, Lord Goldsmith told the Inquiry:

“I don’t recall. Certainly there wasn’t ... any request at that stage for final advice, but given what I said about needing to understand certain further matters ... it obviously wasn’t going to be then and there.”⁶¹

161. Asked whether the client was concerned that he should not “come in too soon” with his advice, Lord Goldsmith told the Inquiry that that question would need to be put to Mr Blair; and that Mr Powell and his very close advisers knew what Mr Blair’s mind was.⁶²

162. Asked what indications he had been given about the timing of his replies, Lord Goldsmith stated:

“I don’t recall ...

“All I was saying was I wasn’t actually in a position to provide my advice at that stage – because I hadn’t completed my researches and my enquiries – and it was agreed that I would provide a draft advice which would be something that would then enable me to raise questions which were causing me concern, so I could understand what the response to them was.”⁶³

⁵⁷ Public hearing, 27 January 2010, page 65.

⁵⁸ Public hearing, 27 January 2010, page 66.

⁵⁹ Public hearing, 27 January 2010, page 67.

⁶⁰ Public hearing, 27 January 2010, page 68.

⁶¹ Public hearing, 27 January 2010, page 68.

⁶² Public hearing, 27 January 2010, page 68.

⁶³ Public hearing, 27 January 2010, page 69.

163. Lord Turnbull told the Inquiry that he, Admiral Sir Michael Boyce, Chief of the Defence Staff (CDS), the diplomatic service and others were all clients for Lord Goldsmith's advice.⁶⁴ The characterisation of Mr Blair as the client was not "a very good description of the importance of this advice".

164. In his written statement, Lord Goldsmith cited his telephone call with Mr Powell on 11 November and the meeting on 19 December as occasions when he had been "discouraged from providing" his advice.⁶⁵

165. Asked if he was aware that Lord Goldsmith felt he was being discouraged, Mr Blair told the Inquiry:

"I think it was more that we knew obviously when we came to the point of decision we were going to need formal advice. We knew also this was a very tricky and difficult question. It was important actually that he gave this advice. I think the only concern, and I am speaking from memory here; generating bits of paper the entire time on it, but, I mean, it was obviously important that he was involved."⁶⁶

Lord Goldsmith's provisional view

Lord Goldsmith's draft advice of 14 January 2003

166. As agreed with Mr Powell on 19 December 2002, Lord Goldsmith handed his draft advice to Mr Blair on 14 January 2003.

167. The draft advice stated that a further decision by the Security Council would be required to revive the authorisation to use force contained in resolution 678 (1990) although that decision did not need to be in the form of a further resolution.

168. Lord Goldsmith saw no grounds for self-defence or humanitarian intervention providing the legal basis for military action in Iraq.

169. Lord Goldsmith's draft advice did not explicitly address the possibility, identified by the Law Officers in 1997, of other "exceptional circumstances" arising if the international community "as a whole" had accepted that Iraq had repudiated the cease-fire, but the Security Council was "unable to act".

170. The advice did, however, address both the precedent of Kosovo and the question of whether a veto exercised by a Permanent Member of the Security Council might be deemed to be unreasonable, stating that the Kosovo precedent did not apply in the prevailing circumstances of Iraq; and that there was no "room for arguing that a condition of reasonableness [could] be implied as a precondition for the exercise of a veto".

⁶⁴ Public hearing, 25 January 2011, page 28.

⁶⁵ Statement, 4 January 2011, paragraph 4.2.

⁶⁶ Public hearing, 21 January 2011, page 59.

171. Ms Adams informed Lord Goldsmith on 10 January that a meeting with Mr Blair had been arranged, at No.10's request, for noon on 14 January. There would be a full Cabinet discussion on 16 January and arrangements were being made for Lord Goldsmith to attend.

172. Ms Adams told the Inquiry she had prepared a submission analysing the arguments as she saw them and including her own view, which was essentially the same as that of Mr Wood. Lord Goldsmith then made comments on it which she adopted to produce a draft advice.⁶⁷

173. Lord Goldsmith's draft advice stated that it was "clear that resolution 1441" contained "no express authorisation by the Security Council for the use of force".⁶⁸

174. The revival argument had been relied on by the UK in the past but it would:

"... not be defensible if the Council has made it clear either that action short of the use of force should be taken to ensure compliance with the cease-fire or that it intends to decide subsequently what action is required ..."⁶⁹

175. Lord Goldsmith wrote that OP1 contained a finding that Iraq was in material breach of its obligations, but it was accepted that the effect of the "firebreak" in OP 2 was that resolution 1441 did not immediately revive the authorisation to use force in resolution 678. In his view:

"The key question in relation to the interpretation of resolution 1441 is whether the terms of [operative] paragraph 12 ... indicate that the Council has reserved to itself the power to decide on what further action is required to enforce the cease-fire in the event of a further material breach by Iraq.

"... to answer this question, it is necessary to analyse the terms of resolution 1441 as a whole ..."

176. In his analysis, Lord Goldsmith made the following observations:

- The references to resolution 678 (1990) and resolution 687 (1991) in preambular paragraphs 4, 5 and 10 of the resolution suggested "that the Council had the revival argument in mind" when it adopted the resolution.
- The reference to "material breach" in OP1 signified "a finding by the Council of a sufficiently serious breach of the cease-fire conditions to revive the authorisation in resolution 678".
- The "final opportunity" in OP2 implied that the Council had "determined that compliance with resolution 1441" was Iraq's "last chance before the cease-fire resolution will be enforced".

⁶⁷ Public hearing, 30 June 2010, pages 20-22.

⁶⁸ Minute Adams to Attorney General, 10 January 2003, 'Iraq: Resolution 1441'.

⁶⁹ Minute [Draft] [Goldsmith to Prime Minister], 14 January 2003, 'Iraq: Interpretation of Resolution 1441'.

- The first part of OP4, that false statements or omissions in the Iraqi declaration and failure to comply with and co-operate fully in the implementation of resolution 1441 would “constitute a further material breach”, suggested that the Council had “determined that any failure by Iraq to comply with or co-operate in the implementation of the resolution will be a material breach”.
- The later reference in OP4 to a requirement to report that breach “to the Council for assessment under paragraphs 11 and 12” raised the “key question” as to whether that was “merely a procedural requirement for a Council discussion (the stated US/UK position)” or whether it indicated “the need for a determination of some sort ... that force was now justified”.
- It appeared “to be accepted that only serious cases of non-compliance would constitute a material breach, on the basis that it would be difficult to justify the use of force in relation to a very minor infringement of the terms of the resolution”.
- Mr Straw had told Parliament on 25 November that a material breach would need “as a whole to add up to something deliberate and more significant: something that shows Iraq’s intention not to comply”.
- If that was the case, “then any Iraqi misconduct must be assessed to determine whether it is sufficiently serious as to constitute a material breach”.
- The question then was “who is to make that assessment”.
- In the event of a reported breach, OP12 stated that the Council would “consider the situation and the need for compliance with all relevant resolutions in order to secure international peace and security”.
- Proposals to amend OP12 “which would have made clear that a further decision was required were rejected”.
- “The previous practice of the Council and statements made during the negotiation” of resolution 1441 demonstrated that the phrase “serious consequences” in OP13 was “accepted as indicating the use of force”.

177. In the light of that examination, Lord Goldsmith identified two critical questions:

- “(a) whether it would be legitimate to rely on the revival argument; and
- (b) what are the conditions for revival.”

178. Lord Goldsmith wrote:

- He considered “in relation to OP1” that “a finding of ‘material breach’” constituted a “determination of a sufficiently serious breach of the terms of the cease-fire resolution [resolution 687] to revive the authorisation to use for[ce] in resolution 678”.
- If OP4 had stopped after the words “breach of Iraq’s obligations”, there “would have been a good argument that the Security Council was authorising the use

of force in advance if there was a failure by Iraq to comply and co-operate fully with the implementation of the resolution”.

179. Considering the words “for assessment under paragraphs 11 and 12”, which had been added at the end of OP4, Lord Goldsmith observed that they “must mean something”. He wrote that it was “hard not to read these words as indicating that it is for the Council [to] assess if an Iraqi breach is sufficiently significant in light of all the circumstances”.

180. Lord Goldsmith explained that “three principal factors” had led him to that conclusion:

- The words “for assessment” implied the “need for a substantive assessment”. The view that OP12 required “merely a Council discussion ... would reduce the Council’s role to a procedural formality, so that even if the majority of the Council’s members expressed themselves opposed to the use of force this would have no effect”.
- It was “accepted that” OP4 did “not mean that every Iraqi breach would trigger the use of force, so someone must assess whether or not the breach is ‘material’”. It was “more consistent with the underlying basis of the revival argument” to interpret OP4 as meaning that it was “for the Council to carry out that assessment”.
- He did not find the “contrary arguments concerning the meaning of ‘for assessment’ sufficiently convincing”.

181. While Lord Goldsmith described the fact that French and Russian attempts to “make it plain” that a further breach would “only be ‘material’ when assessed as such by the Council” had not been accepted as the “strongest” point in favour of the view that a determination by the Council was not required, he cautioned:

“But what matters principally in interpreting a resolution is what the text actually says, not the negotiation which preceded its adoption.”

182. Lord Goldsmith added that he did “not find much difference” between the French proposals and the final text of the resolution.

183. Addressing the Explanations of Vote (EOVs) provided when resolution 1441 was adopted on 8 November 2002, Lord Goldsmith wrote that they “did not assist greatly in determining the correct interpretation of the text of OPs 4 and 12”.

184. Lord Goldsmith concluded:

“... my opinion is that resolution 1441 does not revive the authorisation to use of [sic] force contained in resolution 678 in the absence of a further decision of the Security Council. The difference between this view of the resolution and the approach which argues that no further decision is required is narrow, but key.

“The further decision need not be in the form of a further resolution. It is possible that following a discussion under OP12 of the resolution, the Council could make clear by other means, e.g. a Presidential statement, that it believes force is now justified to enforce the cease-fire.”

185. Addressing the principle of proportionality, Lord Goldsmith emphasised that:

“Any force used pursuant to the authorisation in resolution 678:

- must have as its objective the enforcement of the terms of the cease-fire contained in resolution 687 (1990) [sic] and subsequent relevant resolutions;
- be limited to what is necessary to achieve that objective; and
- must be proportionate to that objective, i.e. securing compliance with Iraq’s disarmament objectives.

“That is not to say that action may not be taken to remove Saddam Hussein from power if it can be shown that such action is necessary to secure the disarmament of Iraq and that it is a proportionate response to that objective. But regime change cannot be the objective of military action. This should be borne in mind in making public statements about any campaign.”

186. As he had promised following the meeting on 22 October, when Mr Blair had asked about the consequences of a perverse or unreasonable veto “of a second resolution intended to authorise the use of force”, Lord Goldsmith also addressed other legal bases for military action.

187. In her minute of 14 October 2002, Ms Adams had drawn Lord Goldsmith’s attention to the Law Officers’ advice to Mr Blair in 1997 which identified the possibility that there could be:

“... exceptional circumstances in which although the Council had not made a determination of material breach it was evident to and generally accepted by the international community as a whole that Iraq had in effect repudiated the cease-fire and that a resort to military force to deal with the consequences of Iraq’s conduct was the only way to ensure compliance with the cease-fire conditions.”⁷⁰

188. Ms Adams added:

“I understand this passage was included in the advice to cover the sort of situation where the Council was unable to act. But of course the counter view would be that if the Council has rejected a resolution authorising the use of force, then under the scheme of the Charter, it cannot be said that force is legally justified.”

⁷⁰ Minute Adams to Attorney General, 14 October 2002, ‘Iraq: Meeting with David Manning, 14 October’.

189. In the “lines to take” provided for Lord Goldsmith’s meeting with Mr Blair, Ms Adams wrote:

“It is impossible to give a firm view on this now. We should certainly not plan on being able to rely on such a justification. There does not seem to [be] wide support for military action among the wider international community at present.”⁷¹

190. In his draft advice of 14 January 2003, Lord Goldsmith wrote that:

“In ruling out the use of force without a further decision of the Council, I am not saying that other circumstances may not arise in which the use of force may be justified on other legal grounds, eg if the conditions for self-defence or humanitarian intervention were met. However, at present, I have seen nothing to suggest there would be a legal justification on either of these bases.”⁷²

191. In relation to the “Kosovo Option”, Lord Goldsmith wrote that the UK had been “able to take action ... because there was an alternative legal base which could be relied on which did not depend on Council authorisation, namely intervention to avert an overwhelming humanitarian catastrophe”.

192. Lord Goldsmith did not, however, address whether any other “exceptional circumstances” could arise which might provide the basis for action against Iraq.

193. Lord Goldsmith also addressed the question of whether, in the event that, “following a flagrant violation by Iraq”, one of the five Permanent Members (P5) of the Council “perversely or unreasonably vetoed [a] further Council decision intended to authorise the use of force”, the Coalition would be justified in acting without Security Council authorisation.

194. Lord Goldsmith wrote that the scheme of the UN Charter clearly envisaged “the possibility of a P5 veto” and did “not provide that such vetoes may only be exercised on ‘reasonable grounds’”. In those circumstances, he did not believe that there was:

“... room for arguing that a condition of reasonableness can be implied as a precondition for the lawful exercise of a veto. Thus, if one of the P5 were to veto a further Council decision pursuant to OPs 4 and 12 of resolution 1441, there would be no Council authorisation for military action.”

⁷¹ Minute Adams to Attorney General, 22 October 2002, ‘Iraq: Meeting with the Prime Minister, 22 October’ attaching ‘Lines to Take’.

⁷² Minute [Draft] [Goldsmith to Prime Minister], 14 January 2003, ‘Iraq: Interpretation of Resolution 1441’.

195. Lord Goldsmith told the Inquiry that he had handed the draft paper to Mr Blair and there was some discussion, but he did not think there had been a long discussion:

“The one thing I do recall was that he [Mr Blair] said ... ‘I do understand that your advice is your advice’. In other words, the Prime Minister made it clear he accepted that it was for me to reach a judgement and that he had to accept that.”⁷³

196. No.10 did not seek Lord Goldsmith’s further views about the legal basis for the use of force until the end of February, and he did not discuss the issues again with Mr Blair until 11 March.

No.10’s reaction to Lord Goldsmith’s advice

197. Mr Powell proposed that Sir Jeremy Greenstock should be asked to suggest alternatives to Lord Goldsmith.

198. Mr Blair’s response to Mr Powell indicated that he himself was not confident that resolution 1441, of itself, provided a legal basis for the use of force. Mr Blair’s response suggested a readiness to seek any ground on which Lord Goldsmith would be able to conclude that there was a legal basis for military action.

199. Given the consistent and unambiguous advice of the FCO Legal Advisers from March 2002 onwards and Lord Goldsmith’s advice from 30 July 2002, that self-defence could not provide a basis for military action in Iraq, the Inquiry has seen nothing to support Mr Blair’s idea that a self-defence argument might be “revived”.

200. Lord Goldsmith’s draft advice stated that:

“It was proposed before Christmas that it would be worthwhile to discuss the negotiation of the resolution and particularly the genesis of the words ‘for assessment’ with Sir Jeremy Greenstock. It is not clear if and when he will be able to come to London for such a meeting.”⁷⁴

201. Mr Powell sent an undated note to Mr Blair advising: “We should get Jeremy Greenstock over to suggest alternatives to him.”⁷⁵

202. Mr Blair replied to Mr Powell:

“We need to explore, especially (a) whether we c[oul]d revive the self-defence etc arguments or (b) whether the UNSCR [sic] c[oul]d have a discussion, no resolution authorising force but nonetheless the terms of the discussion and/or decision, make it plain there is a breach.”⁷⁶

⁷³ Public hearing, 27 January 2010, page 72.

⁷⁴ Minute [Draft] [Goldsmith to Prime Minister], 14 January 2003, ‘Iraq: Interpretation of Resolution 1441’.

⁷⁵ Note [handwritten] Powell to PM, [undated and untitled].

⁷⁶ Note [handwritten] [Blair to Powell], [undated and untitled].

203. Asked whether his response to Mr Powell’s manuscript note on Lord Goldsmith’s draft advice of 14 January was mostly about Lord Goldsmith understanding the negotiating history, or whether he was keen to find an alternative that might persuade Lord Goldsmith that there was a basis for military action, Mr Blair told the Inquiry that he thought it was “both”.⁷⁷

204. Mr Blair added that he thought Lord Goldsmith himself had suggested meeting Sir Jeremy:

“So in a sense he had already raised that issue ... I think I was simply casting about ... I was saying ‘Have a look at this point. Have a look at that’, but the key thing was indeed that he was to speak to Jeremy.”

205. Mr Brummell’s record of Lord Goldsmith’s meeting with No.10 officials on 19 December records only that it would be “useful” for Lord Goldsmith to “speak to Sir Jeremy Greenstock, to get a fuller picture of the history of the negotiation of resolution 1441”.⁷⁸

206. Despite Lord Goldsmith’s draft advice, Mr Blair continued to say in public that he would not rule out military action if a further resolution in response to an Iraqi breach was vetoed.

207. He did so in his statement to Parliament on 15 January and when he gave evidence to the Liaison Committee on 21 January about taking action in the event of an “unreasonable veto”.

208. These statements were at odds with the draft advice he had received and discussed with Lord Goldsmith.

209. During Prime Minister’s Questions on 15 January, Mr Blair was asked a series of questions by the Leader of the Opposition, Mr Iain Duncan Smith.⁷⁹

210. Asked whether the Government’s position was that a second resolution was preferable or, as Ms Clare Short, the Development Secretary, had said, essential. Mr Blair replied:

“... we want a UN resolution. I have set out continually, not least in the House on 18 December [2002], that in circumstances where there was a breach we went back to the UN and the spirit of the UN resolution was broken because an unreasonable veto was put down, we would not rule out action. That is the same position that everybody has expressed, and I think it is the right position. However ... it is not merely preferable to have a second resolution. I believe that we will get one.”

⁷⁷ Public hearing, 21 January 2011, page 63.

⁷⁸ Minute Brummell, 19 December 2002, ‘Iraq – Note of meeting at No.10 Downing Street, 19 December 2002’.

⁷⁹ House of Commons, *Official Report*, 15 January 2003, columns 677-678.

211. Mr Blair emphasised that the UN route had been chosen “very deliberately” because it was “important” that Saddam Hussein was “disarmed with the support of the international community”. He hoped that the House would unite around the position that if the UN resolution was breached, “action must follow, because the UN mandate has to be upheld”. The Government’s position was that a “second UN resolution” was “preferable”, but it had:

“... also said that there are circumstances in which a UN resolution is not necessary, because it is necessary to be able to say in circumstances where an unreasonable veto is put down that we would still act.”⁸⁰

212. In his evidence to the Liaison Committee on 21 January, Mr Blair was asked about the impact of taking action without a second resolution.⁸¹

213. In his responses, Mr Blair emphasised a second resolution would be highly desirable, but argued that action should not be “unreasonably blocked”.

- It would be “easier in every respect” if there was a second resolution, but there could not be “a situation where there is a material breach recognised by everybody and yet action is unreasonably blocked”. Without that “qualification”, the discussion in the Security Council was “not likely to be as productive as it should be”.
- It would be “highly desirable” to have a second resolution.
- It would be “more difficult” to act without one, but if the inspectors said that they could not do their job properly or they made a finding that there were weapons of mass destruction, it would “be wrong” in the face of a veto “if we said ‘Right, well there is nothing we can do, he can carry on and develop these weapons.’ ... We must not give a signal to Saddam that there is a way out of this ... [It] is best done with the maximum international support but it will not be done at all if Saddam thinks there is any weakness ...” That “would be disastrous”.

214. Lord Goldsmith was asked by the Inquiry about the timing and substance of his advice to Mr Blair on the impact of a veto.⁸²

215. Lord Goldsmith wrote:

“... I do not think that there was any doubt about my view. I had been clear at the meeting with the Prime Minister on 22 October 2002, and I provided a written record of my view in David Brummell’s letter of 23 October 2002. Although I said I would consider the issue further, the sense that I conveyed was that I would look at the issue again to see if anything changed my mind. To that end, I did have a discussion

⁸⁰ House of Commons, *Official Report*, 15 January 2003, column 678.

⁸¹ Minutes 21 January 2003, Liaison Committee (House of Commons), [Minutes of Evidence], Q&A 25, 27-28, 52, 54.

⁸² Statement, 17 January 2011, paragraphs 4.1-4.7.

with John Grainger [FCO Legal Counsellor] and Michael Wood on 5 November 2002 and asked for further information ... but after this further consideration my view remained the same. If I had reached a different view, I am sure that I would have made this known, but I didn't. I decided therefore to wrap the issue up ... in my draft advice of 14 January 2003."

216. Lord Goldsmith's meeting with Mr Blair on 22 October 2002 is described in Section 3.5.

217. Asked whether that advice was draft or definitive, Lord Goldsmith wrote: "In one sense the whole of the advice of 14 January 2003 was draft", but he "was clear" that, in relation to the exercise of a veto, "that must have been understood by the Prime Minister".

218. Asked whether that was clear to Mr Blair, Lord Goldsmith wrote:

"I believe so."

219. Asked whether Mr Blair's words that it was "necessary to be able to say in circumstances where an unreasonable veto is put down that we would still act", and Mr Blair's later comments⁸³ during a *BBC Newsnight* interview on 6 February, were compatible with his advice, Lord Goldsmith replied: "No."

220. Asked if he was aware of Mr Blair's statements at the time, and, if so, what he thought of them, and what action he had taken, Lord Goldsmith replied:

"I became aware at some stage of the statements the Prime Minister made, though I cannot recall precisely when. I was uncomfortable about them, and I believe that I discussed my concerns with Jack Straw and my own staff, though I can find no record of a formal note of any such conversations. I understood entirely the need to make public statements which left Saddam Hussein in no doubt about our firmness of purpose. It was more likely that he would co-operate if he thought that there was a real likelihood of conflict. My concern was that we should not box ourselves in by the public statements that were made, and create a situation which might then have to be unravelled."⁸⁴

221. The Inquiry asked Mr Blair:

- whether he considered that what he said on 15 January and 6 February was compatible with Lord Goldsmith's advice;
- whether he had received any other legal advice on the issue;
- whether his view that action could be taken was derived from the use of force without a UNSCR in relation to Kosovo; and

⁸³ "If the inspectors do report that they can't do their work properly because Iraq is not co-operating there's no doubt ... that is a breach of the resolution. In those circumstances there should be a further resolution. If, however ... a country unreasonably in those circumstances put down a veto then I would consider action outside of that."; Statement, 17 January 2011, paragraphs 4.5-4.6.

⁸⁴ Statement, 17 January 2011, paragraph 4.7.

- given that the need to prevent an overwhelming humanitarian catastrophe would not provide the basis for action in Iraq, the legal basis on which he thought the UK would act.⁸⁵

222. In his statement for the Inquiry, Mr Blair did not address the substance of Lord Goldsmith's advice that, in the event of a veto, there would be no Security Council authorisation for the use of force.⁸⁶ He wrote:

"I never believed that action in Iraq could be on the same legal basis as Kosovo ... So I never raised Kosovo as a direct precedent. However in Kosovo, we had had to accept we could not get a UN resolution even though we wanted one because Russia had made it clear it would wield a political veto. So we, not the UNSC, made the judgement that the humanitarian catastrophe was overwhelming.

"... [I]f it were clear and accepted by a UNSC member that there was a breach of [resolution] 1441, but nonetheless they still vetoed, surely that must have some relevance as to whether a breach had occurred, and thus to revival of resolution 678 authorising force ... I was not suggesting that we, subjectively and without more, could say: this is unreasonable, but that a veto in circumstances where [a] breach was accepted, surely could not override the consequences of such a breach set out in 1441 ie they could not make a bad faith assessment."

223. Mr Blair added:

"I was aware ... of Peter Goldsmith's advice on 14 January ... but ... I was also aware that he had not yet had the opportunity to speak to Sir Jeremy Greenstock or to the US counterparty.

"I had not yet got to the stage of a formal request for advice and neither had he got to the point of formally giving it. So I was continuing to hold to the position that another resolution was not necessary. I knew that the language of 1441 had represented a political compromise. But I also knew it had to have a meaning and that meaning, in circumstances where lack of clarity was the outcome of a political negotiation, must depend on what was understood by the parties to the negotiation.

"I knew that the US had been crystal clear and explicit throughout. This was the cardinal importance of not just including the phrase 'final opportunity' which to me meant 'last chance'; but also the designation in advance of a failure to comply fully and unconditionally, as a 'material breach' – words with a plain and legally defined meaning.

"Peter's view at that time was, because of the word 'assessment' in OP4 of 1441, there should be a further decision. But I was aware that ... had been precisely and openly rejected by the US and UK when negotiating the text. That is why

⁸⁵ Inquiry request for a witness statement, 13 December 2010, Q7, page 4.

⁸⁶ Statement, 14 January 2011, pages 9-10.

his provisional advice was always going to be influenced by what was said and meant during the course of the negotiation of 1441. So I asked that he speak to Sir Jeremy Greenstock and later to the US.”

224. Asked if he had understood that his answer in Parliament was inconsistent with the legal advice he had been given, Mr Blair told the Inquiry:

“I was making basically a political point. However I accept entirely that there was an inconsistency between what he was saying and what I was saying ... but I was saying it not ... as a lawyer, but politically.”⁸⁷

225. Asked if he could really distinguish between making a political point and a legal point when presenting a legal interpretation to the House of Commons, Mr Blair told the Inquiry:

“I understand that ... I was trying to hold that line ... I was less making a legal declaration ... because I could not do that, but a political point, if there was a breach we had to be able to act ... throughout this period of time ... we were going for this second resolution. It was always going to be difficult to get it, but we thought we might ...”⁸⁸

226. Mr Blair added:

“I tried to choose my words carefully all the way through. In the two quotes you have, I chose them less carefully ...”⁸⁹

227. Mr Blair made similar points justifying the position he had taken in his discussion with President Bush on 31 January and his interview on the *BBC Newsnight* programme on 6 February.

Cabinet, 16 January 2003

228. As promised by Mr Blair on 19 December, Cabinet discussed Iraq on 16 January 2003.

229. Mr Blair told Cabinet that the strategy remained to pursue the UN course. The inspectors needed time to achieve results. If Iraq was not complying with the demands of the Security Council, a second resolution would be agreed.

230. Mr Straw stated that the UK should not rule out the possibility of military action without a second resolution. Mr Blair repeated that statement in his concluding remarks.

⁸⁷ Public hearing, 21 January 2011, page 71.

⁸⁸ Public hearing, 21 January 2011, page 74.

⁸⁹ Public hearing, 21 January 2011, page 75.

231. Mr Blair's decision to ask for Lord Goldsmith's draft advice and his invitation to Lord Goldsmith to attend Cabinet suggest that he intended the advice to inform discussion in Cabinet on 16 January.

232. But Mr Blair did not reveal that he had received Lord Goldsmith's draft advice which indicated that a further determination by the Security Council that Iraq was in material breach of its obligations would be required to authorise the revival of the authority to take military action in resolution 678.

233. As the Attorney General, Lord Goldsmith was the Government's Legal Adviser not just the Legal Adviser to Mr Blair.

234. There is no evidence that Mr Straw was aware of Lord Goldsmith's draft advice before Cabinet on 16 January, although he was aware of Lord Goldsmith's position.

235. There is no evidence that Lord Goldsmith had communicated his concerns to Mr Hoon or to any other member of Cabinet.

236. Mr Blair's decision not to invite Lord Goldsmith to speak meant that Cabinet Ministers, including those whose responsibilities were directly engaged, were not informed of the doubts expressed in Lord Goldsmith's draft advice about the legal basis of the UK's policy.

237. It may not have been appropriate for Lord Goldsmith to challenge the assertions made by Mr Blair and Mr Straw, which repeated their previous public statements, during Cabinet.

238. Notwithstanding the draft nature of his advice, it would have been advisable for Lord Goldsmith to have told Mr Straw and Mr Hoon of his concerns.

239. Lord Goldsmith could also have expressed his concerns subsequently in private. Other than his conversations with Mr Straw in early February, there is no evidence that he did so.

240. Ms Adams' brief for Lord Goldsmith for Cabinet on 16 January stated:

"In the light of our discussion yesterday, if asked for your views on the interpretation of resolution 1441, you might say that:

- "you have not given advice";
- "you are waiting for further briefing from the FCO before finalising your views (alluding to the proposed Greenstock discussion)";
- "it is therefore premature to express a view"; and

- “in any event, interpretation of resolution [1441] may be influenced by subsequent Council discussion following further Iraqi non-compliance”.⁹⁰

241. Lord Goldsmith’s manuscript comments indicated that he had reservations about the first bullet point in Ms Adams’ proposed “lines to take”.⁹¹

242. At Cabinet on 16 January, Mr Blair said that:

“... he wanted to make the United Nations route work. The inspectors were doing their job inside Iraq and he was optimistic that they would discover weapons of mass destruction and their associated programmes which had been concealed. They needed time to achieve results, including from better co-ordinated intelligence. If Iraq was not complying with the demands of the United Nations, he believed the ... Security Council would pass a second resolution.”⁹²

243. Mr Blair told his colleagues that evidence from the inspectors would make a veto of a second resolution by other Permanent Members of the Security Council “less likely”:

“Meanwhile, British and American forces were being built up in the Gulf. If it came to conflict, it would be important for success to be achieved quickly. The [military] build up was having an effect on the Iraqi regime, with internal support dwindling for President Saddam Hussein ... The strategy remained to pursue the United Nations course.”

244. Mr Blair concluded by telling Cabinet that he would be meeting President Bush at the end of the month to discuss Iraq, after Dr Blix’s report to the Security Council on 27 January.

245. Mr Straw said:

“... he was aware of anxieties about the possibility of having to diverge from the United Nations path. There was a good prospect of achieving a second resolution. Many had been doubtful about achieving the first resolution; in the event, the ... Security Council vote had been unanimous. While sticking with the United Nations route we should not rule out the possibility of military action without a second resolution. Voting decisions in the Security Council could be driven by domestic politics, not the demands of the international situation.”

246. Mr Straw added that:

“In his recent contacts with the Muslim and Arab world, all could see the benefit of Saddam Hussein’s demise. He had utterly rejected the notion that we were hostile

⁹⁰ Minute Adams to Attorney General, 15 January 2003, ‘Cabinet Meeting, Thursday 16 January: Iraq’.

⁹¹ Manuscript comment Goldsmith on Minute Adams to Attorney General, 15 January 2003, ‘Cabinet Meeting, Thursday 16 January: Iraq’.

⁹² Cabinet Conclusions, 16 January 2003.

to Islam ... Saddam Hussein had attacked his own people and his neighbours – all of whom were Muslims.”

247. Summing up the discussion, Mr Blair said:

“... the strategy based on the United Nations route was clear, although the uncertainties loomed large and there was a natural reluctance to go to war. It was to be expected that the public would want the inspectors to find the evidence before military action was taken. Pursuing the United Nations route was the right policy, but we should not rule out the possibility of military action without a second resolution. The priorities for the immediate future were:

- improved communications, which would set out the Government’s strategy and be promoted by the whole Cabinet;
- preparatory work on planning the aftermath of any military action and the role of the United Nations in that, which should in turn be conveyed to the Iraqi people so that they had a vision of a better life in prospect; and
- contingency work on the unintended consequences which could arise from the Iraqi use of weapons of mass destruction, environmental catastrophe or internecine strife within Iraq.”

Lord Goldsmith’s meeting with Sir Jeremy Greenstock, 23 January 2003

248. Ms Adams sent Sir Jeremy Greenstock a copy of Lord Goldsmith’s draft advice, stating that it indicated the view he had “provisionally formed regarding the interpretation of the resolution”; and that:

“The Attorney would welcome your comments on the view he has reached. In particular, he would be interested to know if you feel that there are any significant arguments which he has overlooked which would point to a different conclusion. The note has been passed by the Attorney to No.10, but has not been circulated more widely. I have been asked to stress that the note should not be copied further.”⁹³

249. In preparation for a meeting between Sir Jeremy and Mr Blair on 23 January to discuss negotiation of a second resolution and related issues, Mr Rycroft told Mr Blair that Sir Jeremy would explore Mr Blair’s “ideas” with Lord Goldsmith later that day.⁹⁴

250. There is no mention of the issues to be discussed with Lord Goldsmith in the No.10 record of the meeting with Sir Jeremy.⁹⁵

⁹³ Letter Adams to Greenstock, 21 January 2003, ‘Meeting with the Attorney General, 23 January’.

⁹⁴ Minute Rycroft to Prime Minister, 22 January 2003, ‘Iraq: Meeting with Jeremy Greenstock’.

⁹⁵ Minute Rycroft to Manning, 23 January 2003, ‘Iraq: Prime Minister’s Meeting with Jeremy Greenstock’.

251. Sir Jeremy Greenstock wrote to Sir David Manning on 24 January with his perspective on the discussion with Lord Goldsmith.⁹⁶

252. Sir Jeremy recorded that the “central issue” debated was whether the wording of OP4 “meant that the Council had something substantive to do in the second stage (viz determining that a breach was material and deciding on consequent action) before action could be taken on the further material breach; or whether further discussion/consideration in the Council ... sufficed”.

253. Sir Jeremy said he had told Lord Goldsmith that:

- the negotiations had “settled the wording of OPs 11-13 before a draft OP4 was ever proposed”;
- in that “tussle”, the “French/Russians/ Chinese lost (their ... EOVs were indicative in this respect) an explicit requirement for a new decision by the Council”;
- France “wanted ‘further material breach, when assessed’, and accepted with difficulty the final wording. This suggested they saw the difference between the two”;
- the US had come to the UN “to give the Security Council a further opportunity to be the channel for action”; and
- the “intention of the sponsors was that the fact of a further material breach would be established in a report from the inspectors”.

254. Sir Jeremy had argued that Lord Goldsmith’s draft advice “took insufficient account of the alternative routes to OP12 ... The fact that OP4 was a late addition was an indication that the route through OPs 1, 2, 11, 12 and 13 had separate validity.” There was “no question in the co-sponsors’ minds of ... conceding that the Council had to assess what was a breach”.

255. Sir Jeremy’s view was that “the natural interpretation of ‘assessment’ ... was that the Council would assess the options for the next steps ... after a material breach had occurred”.

256. Lord Goldsmith’s position had been to argue “the opposite case, that the late addition of ‘assessment’ ... must add something significant”.

257. Sir Jeremy identified “an intermediate interpretation, whereby the fact of the material breach particularly if reported by the inspectors as directed in OP11, automatically brought the final opportunity to an end”. Sir Jeremy suggested that “interpretation was ... given weight by the absence of clear wording in OP12 on the need for a further decision. And it had a close precedent in the US/UK action on 16 December 1998 ...”

⁹⁶ Letter Greenstock to Manning, 24 January 2003, [untitled].

258. Sir David Manning submitted the letter to Mr Blair, commenting: “To be aware that Jeremy G[reenstock] is in debate with the AG.”⁹⁷

259. A copy of Sir Jeremy’s letter was sent only to Lord Goldsmith’s office.

260. In a minute to Lord Goldsmith on 24 January, Ms Adams addressed the points made by Sir Jeremy on the textual arguments; the history of the negotiations; the precedent provided by resolution 1205 (1998); and references that had been made by Sir Jeremy to a paper submitted by Professor Christopher Greenwood Q.C., Professor of International Law, LSE, to the Foreign Affairs Committee (FAC) in October 2002.⁹⁸

261. Ms Adams concluded:

“Overall, although I don’t believe that the arguments can all be taken without challenge, I certainly think they strengthen the case for the second view and make the balance of view as to which is the better of the two alternative interpretations rather closer.”

262. Ms Adams suggested that Lord Goldsmith “might want to consider” whether he “would like to put these arguments to Michael Wood”. Although that would “probably mean disclosing to him your provisional view of the resolution and perhaps even the draft advice”.

263. Ms Adams commented to Lord Goldsmith that Sir Jeremy’s letter to Sir David Manning “helpfully sets out his view of the arguments, although I don’t think there are any points which are not covered in my minute of 24 January”.⁹⁹

264. Lord Goldsmith’s undated minute to Ms Adams, inviting her to draft a note setting out his views, suggested that he did not share Sir Jeremy’s view that the wording of OP4 was the “central issue”.¹⁰⁰

265. Lord Goldsmith wrote that Sir Jeremy’s main argument had been that there was “no need to focus on the words ‘for assessment’ in OP4 because there is a trigger in OP1 suspended by OP2 but which suspension will be lifted if Iraq ‘fails to take the final opportunity’”.

266. Lord Goldsmith wrote that he did “not consider that this argument can in fact work to create a form of automaticity if the final opportunity is not taken”. He focused on the fact that OPs 4 and 11 both led to OP12 and the need for the Security Council to meet “to consider the situation ... and the need for full compliance with all the relevant

⁹⁷ Manuscript comment Manning to PM, 25 January 2003, on Letter Greenstock to Manning, 24 January 2003, [untitled].

⁹⁸ Minute Adams to Attorney General, 24 January 2003, ‘Iraq: Resolution 1441: Sir Jeremy Greenstock’s points’.

⁹⁹ Manuscript comment Adams to AG, 27 January 2003, on Letter Greenstock to Manning, 24 January 2003, [untitled].

¹⁰⁰ Minute Attorney General to Adams, [24 January 2003], [untitled].

Security Council resolutions in order to secure international peace and security”; and that the resolution had to be read as a whole. In his view, that meant the Council had to “consider what is needed in order to secure international peace and security and, in particular, whether full compliance is necessary”. OP12 required “a determination by the Security Council of what is now required”.

267. Lord Goldsmith also addressed Sir Jeremy’s argument that resolution 1205 (1998) provided a precedent. Lord Goldsmith wrote that the point was not that the resolution validated the revival argument; he did not regard the fact that there was “strong evidence of disagreement of other States with the proposition” as “a matter of concern”. The question was “not whether such an argument exists but what are the conditions which attach to its existence”.

Mr Blair’s interview on *BBC Breakfast with Frost*, 26 January 2003

268. In an interview on 26 January, Mr Blair stated explicitly that failure to co-operate with the inspectors would be a material breach of resolution 1441.

269. In an extended interview on *BBC TV’s Breakfast with Frost* on 26 January, Mr Blair set out in detail his position on Iraq.¹⁰¹

270. Pressed as to whether non-compliance rather than evidence of weapons of mass destruction justified “a war”, Mr Blair replied that he “profoundly” disagreed with the idea that a refusal to co-operate was of a “lesser order”:

“... if he fails to co-operate in being honest and he is pursuing a programme of concealment, that is every bit as much a breach as finding, for example, a missile or chemical agent.”

271. Asked whether a second resolution was needed, required or preferred, Mr Blair replied:

“Of course we want a second resolution and there is only one set of circumstances in which I’ve said that we would move without one ... all this stuff that ... we’re indifferent ... is nonsense. We’re very focused on getting a UN resolution.

“... [Y]ou damage the UN if the UN inspectors say he’s not co-operating, he’s in breach, and the world does nothing about it. But I don’t believe that will happen ...”

Options for a second resolution

272. Intensive discussions on a second resolution took place at the end of January.

273. Ms Wilmshurst wrote to Ms Adams on 27 January with draft texts for two options for a second resolution, one expressly authorising the use of force, the other containing

¹⁰¹ *BBC News*, 26 January 2003, *Prime Minister prepares for war*.

implicit authority.¹⁰² Ms Wilmshurst wrote that no decisions had been taken on the drafts and no discussions had begun with the US, but the FCO would welcome any comments Lord Goldsmith might wish to make on the options.

274. Ms Adams replied that, having regard to the terms of resolution 1441 and the previous practice of the Council, Lord Goldsmith considered that “where the Security Council determines that Iraq had committed a sufficiently serious breach of the conditions of the cease-fire imposed by resolution 687 (1991)” to revive the authorisation in resolution 678(1990), an implicit resolution would be sufficient to revive the authorisation to use force in resolution 678.¹⁰³

275. The “critical element” was that “there has been a finding, in whatever form, by the Security Council itself”, and that “A Presidential Statement would also be sufficient”.

276. Ms Adams wrote that Lord Goldsmith did not at that stage intend to offer any detailed drafting comments on the proposed text, “given that it is likely that they will change in discussions with the US”.

277. In relation to the possibility of issuing an “ultimatum”, Lord Goldsmith’s view was that “would need to be expressed in very clear terms so there is no room for doubt whether or not Iraq had met the Council’s demands. Otherwise there is a risk of opening up a debate about whether there is a need for a further determination by the Council that Iraq had failed to comply with the new ultimatum.”

278. Ms Adams recorded that Lord Goldsmith wished to make clear that a second resolution authorising the use of force “would not give an unlimited right to use force against Iraq”. Lord Goldsmith considered that any use of force would have to be directed towards the objective of securing compliance with the disarmament obligations, which the Security Council had already determined in resolution 687(1991) and subsequent relevant resolutions were “necessary requirements for restoring international peace and security in the area”. The use of force would, moreover, have to be limited to what was “necessary to enforce those obligations, and be a proportionate response to Iraq’s breach”.

279. Ms Adams explicitly stated that Lord Goldsmith’s comments were “made without prejudice to the separate question ... of whether a second resolution is legally required”. He had also asked to be “kept closely informed of developments” and wished “to have the opportunity to comment on any draft which is to be tabled for discussion with other members of the Council”.

280. Mr Grainger wrote to Mr Macleod, to convey the substance of the advice in Ms Adams’ letter.¹⁰⁴

¹⁰² Letter Wilmshurst to Adams, 27 January 2003, ‘Iraq: Second Resolution’.

¹⁰³ Letter Adams to Wilmshurst, 30 January 2003, ‘Iraq: Second Resolution’.

¹⁰⁴ Letter Grainger to Macleod, 31 January 2003, ‘Iraq: Second Resolution’.

Lord Goldsmith's advice, 30 January 2003

281. Ms Adams had written to Sir David Manning on 28 January, recording that Lord Goldsmith had found Sir Jeremy Greenstock's letter of 24 January "a useful record of Sir Jeremy's arguments on which the Attorney is reflecting"; but that Lord Goldsmith:

"... would like to make clear, in order to avoid any doubt about his position, that the purpose of the meeting was to allow the Attorney to hear the best arguments which could be made in support of the view that resolution 1441 can be interpreted as authorising the use of force, under certain conditions, without a further Council decision. The Attorney was therefore principally in listening mode ..."¹⁰⁵

282. Ms Adams wrote that there was "one point on which Lord Goldsmith would find it helpful to have further information". Sir Jeremy's arguments had relied "heavily on the negotiating history ... and the fact that other delegations sought, but failed to obtain, certain language in OPs 4 and 12". Lord Goldsmith wanted to know "if possible, to what extent other members of the Council were aware of these bilateral discussions and therefore the significance of the language". Lord Goldsmith also wished to take up Sir Jeremy's suggestion to meet US counterparts, including to "hear their views on what is necessary in practice to trigger the authorisation to use force".

283. Ms Adams concluded that Lord Goldsmith was conscious that Mr Blair was due to meet President Bush later that week. The letter stated:

"The Prime Minister is aware of the Attorney's provisional view of the interpretation of the resolution. However, if the Attorney is to consider the arguments of his US counterparts before reaching a definitive view, he will not be in a position to finalise his advice this week. The Attorney would therefore like to know whether you see any difficulty with this and whether the Prime Minister would wish to have the Attorney's considered advice before he departs for the US."

284. Sir David Manning wrote on Ms Adams' letter that someone should respond to Lord Goldsmith's question about advice for Mr Blair in his absence.¹⁰⁶

285. Baroness Morgan commented: "not necessary before w/end".¹⁰⁷

286. Mr Rycroft recorded: "I replied by phone as Sally said."¹⁰⁸

287. A copy of Ms Adams' letter was sent to Sir Jeremy Greenstock, who responded to Lord Goldsmith's question on 29 January.¹⁰⁹

¹⁰⁵ Letter Adams to Manning, 28 January 2003, 'Iraq'.

¹⁰⁶ Manuscript comment Manning on Letter Adams to Manning, 28 January 2003, 'Iraq'.

¹⁰⁷ Manuscript comment Morgan on Letter Adams to Manning, 28 January 2003, 'Iraq'.

¹⁰⁸ Manuscript comment Rycroft on Letter Adams to Manning, 28 January 2003, 'Iraq'.

¹⁰⁹ Letter Greenstock to Manning, 29 January 2003, [untitled].

288. The points made by Sir Jeremy included:

- the early drafts of what became resolution 1441 “were discussed among members of the P5, bilaterally, and in extensive and frequent conversations at Ministerial level”;
- a text was not finally “agreed by” all members of the P5 until 7 November; and
- he had “convened meetings with the non-Permanent Members during the drafting process to make sure they were aware of developments. The significance of the proposals for what became OP 4, 11 and 12 were fully discussed on these occasions.”

289. Despite being told that advice was not needed for Mr Blair’s meeting with President Bush on 31 January, Lord Goldsmith wrote on 30 January to emphasise that his view remained that resolution 1441 did not authorise the use of military force without a further determination by the Security Council.

290. That was the third time Lord Goldsmith had felt it necessary to put his advice to Mr Blair in writing without having been asked to do so; and on this occasion he had been explicitly informed that it was not needed.

291. Lord Goldsmith had made only a “provisional” interpretation of resolution 1441, but his position was firmly and clearly expressed.

292. It was also consistent with the advice given by Mr Wood to Mr Straw.

293. Despite the message that his advice was not needed before the meeting with President Bush, Lord Goldsmith decided to write to Mr Blair on 30 January, stating:

“I thought you might wish to know where I stand on the question of whether a further decision of the Security Council is legally required in order to authorise the use of force against Iraq.”¹¹⁰

294. Lord Goldsmith informed Mr Blair that the meeting with Sir Jeremy Greenstock had been “extremely useful”, and that “it was in fact the first time that the arguments in support of the case that there is no need for a further Council decision had been put to me in detail”. He had “considered carefully” the “important points” Sir Jeremy had made. Lord Goldsmith wrote that he was “preparing a more detailed note of advice” which would set out his “conclusions in relation to those arguments”.

295. Lord Goldsmith added that he had “indicated to Sir David Manning” that he “would welcome the opportunity, if arrangements can be made in time, to hear the views of my US counterparts on the interpretation of resolution 1441”. He was “not convinced” that it would “make any difference to my view”, but he remained “ready to hear any arguments”.

¹¹⁰ Minute Goldsmith to Prime Minister, 30 January 2003, ‘Iraq’.

296. Lord Goldsmith concluded:

“... notwithstanding the additional arguments put to me since our last discussion, I remain of the view that the correct legal interpretation of resolution 1441 is that it does not authorise the use of military force without a further determination by the Security Council, pursuant to paragraph 12 of the resolution, that Iraq has failed to take the final opportunity granted by the Council. I recognise that arguments can be made to support the view that paragraph 12 of the resolution merely requires a Council discussion rather than a further decision. But having considered the arguments on both sides, my view remains that a further decision is required.”

297. Sir David Manning commented: “Clear advice from Attorney on need for further resolution.”¹¹¹

298. Mr Rycroft wrote: “I specifically said that we did not need further advice this week.”¹¹²

299. The underlining of Lord Goldsmith’s concluding paragraph quoted above is Mr Blair’s and he wrote alongside the paragraph: “I just don’t understand this.”¹¹³

300. Asked by the Inquiry why he had written to Mr Blair at that point, Lord Goldsmith told the Inquiry:

“I discovered that Mr Blair was going to see President Bush again at the end of January and there was concern again about views being expressed that I had now been persuaded by Sir Jeremy, so I did send a short minute to the Prime Minister to make sure that he didn’t think that was the case. I hadn’t been asked for it, but I sent it.”¹¹⁴

301. Asked to explain what it was he did not understand about Lord Goldsmith’s advice, Mr Blair wrote:

“When I received the advice on 30 January – which again was provisional – I did not understand how he could reach the conclusion that a further decision was required, when expressly we had refused such language in 1441.”¹¹⁵

302. Although Mr Blair commented that he did not understand Lord Goldsmith’s conclusion, it was consistent with the views Lord Goldsmith had set out in his meeting with Mr Blair on 22 October 2002, and subsequently in his conversations with Mr Powell on 11 November and 19 December and in his draft advice given to Mr Blair and discussed with him on 14 January 2003.

¹¹¹ Manuscript comment Manning on Minute Goldsmith to Prime Minister, 30 January 2003, ‘Iraq’.

¹¹² Manuscript comment Rycroft on Minute Goldsmith to Prime Minister, 30 January 2003, ‘Iraq’.

¹¹³ Manuscript comment Blair on Minute Goldsmith to Prime Minister, 30 January 2003, ‘Iraq’.

¹¹⁴ Public hearing, 27 January 2010, page 90.

¹¹⁵ Statement, 14 January 2011, page 10.

303. The issue that Lord Goldsmith was addressing in his advice to Mr Blair was not what the UK's objective had been in negotiating resolution 1441 but its legal effect in the circumstances of early 2003.

304. Mr Blair referred again to this manuscript comment in his oral evidence when recalling the No.10 meeting which had taken place on 17 October 2002, "which we then minuted out, including to Peter"; and his meeting with Lord Goldsmith on 22 October 2002.

305. Mr Blair said:

"... we had agreed on 17 October that there were clear objectives for the resolution and those objectives were, I think we actually say this very plainly, the ultimatum goes into 1441. If he breaches the ultimatum action follows. So this was the instruction given. I mean, I can't remember exactly what I said after the 22 October, but I should imagine I said "Well, you had better make sure it does meet our objectives ..."¹¹⁶

306. Mr Blair added:

"... the thing that was problematic for me throughout, and it is why I wrote ... 'I just don't understand this' is that the whole point about our instructions to our negotiators was, 'Make sure that this resolution is sufficient because we can't guarantee we are going to go back into a further iteration of this or a second resolution'."

307. Mr Blair's meeting on 17 October and the meeting between Lord Goldsmith and Mr Blair on 22 October are described in Section 3.5.

US agreement to pursue a second resolution

308. In the meeting on 31 January, President Bush agreed to support a second resolution to help Mr Blair.

309. A briefing paper prepared by the FCO Middle East Department on 30 January described the objectives for Mr Blair's meeting with President Bush as:

"to convince President Bush that:

- our strategy, though working, needs more time;
- the military campaign will be very shocking in many parts of the world, especially in its opening phase (five times the bombing of the Gulf war);
- a second UN Security Council resolution (i) would greatly strengthen the US's position, (ii) is politically essential for the UK, and almost certainly legally essential as well;

¹¹⁶ Public hearing, 21 January 2011, pages 55-56.

- we should support Saudi ideas for disarmament and regime change with UN blessing; and
- the US needs to pay much more attention, quickly, to planning on ‘day after’ issues; and that the UN needs to be central to it.”¹¹⁷

310. On the legal position, a background note stated:

“There are concerns that a second resolution authorising the use of force is needed before force may lawfully be employed against Iraq to enforce the WMD obligations in the UNSCRs. If a draft resolution fails because of a veto (or indeed because it does not receive nine positive votes), the fact that the veto is judged ‘unreasonable’ is immaterial from a legal point of view.”

311. In the meeting on 31 January, Mr Blair confirmed that he was:

“... solidly with the President and ready do whatever it took to disarm Saddam.”¹¹⁸

312. Mr Blair said he firmly believed that it was essential that we tackle the threats posed by WMD and terrorism. He wanted a second resolution if we could possibly get one because it would make it much easier politically to deal with Saddam Hussein. He believed that a second resolution was in reach. A second resolution was an insurance policy against the unexpected.

313. Mr Blair set out his position that the key argument in support of a second resolution must rest on the requirement in 1441 that Saddam Hussein must co-operate with the inspectors. Dr Blix had already said on 27 January that this was not happening; he needed to repeat that message when he reported to the Security Council in mid-February and at the end of February/early March. That would help to build the case for a second resolution.

314. Mr Blair added that there were various uncertainties:

- Saddam Hussein might claim at the eleventh hour to have had a change of heart; and
- we could not be sure that Dr Blix’s second and third reports would be as helpful as his first.

315. Mr Blair was, therefore, flexible about the timing of the second resolution. The key was to ensure that we secured it. We had taken the UN route in the expectation that the UN would deal with the Iraq problem, not provide an alibi for avoiding the tough decisions. The resolution was clear that this was Saddam Hussein’s final opportunity. We had been very patient. Now we should be saying that the crisis must be resolved in weeks, not months. The international community had to confront the challenges of WMD and terrorism now.

¹¹⁷ Paper FCO [MED], 30 January 2003, ‘Prime Minister’s visit to Camp David, 31 January: Iraq’.

¹¹⁸ Letter Manning to McDonald, 31 January 2003, ‘Prime Minister’s Conversation with President Bush on 31 January’.

316. Mr Blair argued that the second resolution:

“... was not code for delay or hesitation. It was a clear statement that Saddam was not co-operating and that the international community was determined to do whatever it took to disarm him. We needed to put the debate in a wider context. The international community had to confront the challenges of WMD and terrorism now, whether in Iraq or North Korea, otherwise the risks would only increase.”

Public statements by Mr Blair, February 2003

317. In early February, Mr Blair made public statements implying that the UK could take part in military action if a second resolution was vetoed.

318. In the House of Commons on 5 February, Mr Chris Mullin (Labour) told Mr Blair that he:

“... could not support an attack on Iraq unless it was specifically endorsed by a second resolution of the United Nations Security Council.”¹¹⁹

319. Mr Blair responded:

“I have set out my position ... on many occasions. Surely, the position has to be this: if there is a breach of the original United Nations resolution 1441, a second resolution should issue.

“That was the anticipated outcome. What resolution 1441 says is that the inspectors go into Iraq, and if they notify the facts that amount to a material breach, a second resolution should issue. That is why I believe that if the inspectors continue to say, as they are now, that Iraq is not co-operating, there will be a second resolution. The only circumstances in which I have left room for us to manoeuvre are those in which it is clear that the inspectors are finding that Iraq is not co-operating, so it is clear that Iraq is in material breach, but for some reason someone puts down what I would describe as an unreasonable and capricious use of the veto.

“I do not believe that that will happen and I hope that it will not, but I do not think that it is right to restrict our freedom of manoeuvre in those circumstances because otherwise, the original spirit and letter of resolution 1441 would itself be breached. I believe and hope that we will resolve this issue through the United Nations.”¹²⁰

320. Mr Blair gave an extended interview about Iraq and public services on *BBC TV's Newsnight* on 6 February.¹²¹

¹¹⁹ House of Commons, *Official Report*, 5 February 2003, column 270.

¹²⁰ House of Commons, *Official Report*, 5 February 2003, column 270.

¹²¹ *BBC News*, 6 February 2003, *Transcript of Blair's Iraq Interview*.

321. During the interview Mr Jeremy Paxman challenged Mr Blair on a number of issues, including whether Mr Blair would “give an undertaking” that he would “seek another UN resolution specifically authorising the use of force”.

322. Explaining his position on a second resolution, Mr Blair stated that “the only circumstances in which we would agree to use force” would be with a further resolution, “except for one caveat”. That was:

“If the inspectors do report that they can’t do their work properly because Iraq is not co-operating, there’s no doubt that under the terms of the existing United Nations resolution that that’s a breach of the resolution. In those circumstances there should be a further resolution.

“... If a country unreasonably in those circumstances put down a veto then I would consider action outside of that.”

323. Pressed whether he considered he was “absolutely free to defy the express will of the Security Council”, Mr Blair responded that he could not “just do it with America”, there would have to be “a majority in the Security Council”, and:

“... the issue of a veto doesn’t even arise unless you get a majority in the Security Council. Secondly, the choice ... is ... If the will of the UN is the thing that is most important and I agree that it is, if there is a breach of resolution 1441 ... and we do nothing then we have flouted the will of the UN.”

324. Asked if he was saying that there was already an authorisation for war, Mr Blair responded:

“No, what I am saying is ... In the resolution [1441] ... we said that Iraq ... had ... a final opportunity to comply.

“The duty of compliance was defined as full co-operation with the UN inspectors. The resolution ... say[s] ‘any failure to co-operate fully is a breach of this resolution and serious consequences i.e. action, would follow’ ... [W]e then also put in that resolution that there will be a further discussion in the Security Council. But the clear understanding was that if the inspectors say that Iraq is not complying and there is a breach ... then we have to act.

“... [I]f someone ... says ... I accept there’s a breach ... but I’m issuing a veto, I think that would be unreasonable ... I don’t think that’s what will happen. I think that ... if the inspectors do end up in a situation where they’re saying there is not compliance by Iraq, then I think a second resolution will issue.”

325. Asked whether he agreed it was “important to get France, Russia and Germany on board”, Mr Blair replied, “Yes ... That’s what I am trying to get.”

326. Asked if he would “give an undertaking that he wouldn’t go to war without their agreement”, Mr Blair replied:

“... supposing in circumstances where there plainly was [a] breach ... and everyone else wished to take action, one of them put down a veto. In those circumstances it would be unreasonable.

“Then I think it [not to act] would be wrong because otherwise you couldn’t uphold the UN. Because you would have passed your resolution and then you’d have failed to act on it.”

327. Asked whether it was for the UK to judge what was “unreasonable”, Mr Blair envisaged that would be in circumstances where the inspectors, not the UK, had reported to the Council that they could not do their job.

328. Asked if the US and UK went ahead without a UN resolution would any other country listen to the UN in the future, Mr Blair replied that there was “only one set of circumstances” in which that would happen. Resolution 1441 “effectively” said that if the inspectors said they could not do their job, a second resolution would issue: “If someone then ... vetoes wrongly, what do we do?”

329. In his evidence to the Inquiry Mr Blair explained the position he had adopted in his meeting with President Bush and subsequent public statements. He drew the Inquiry’s attention to the political implications of acknowledging publicly the legal advice he had been given while there was still an unresolved debate within the UK Government.

330. Mr Blair also emphasised that he had specifically said that action would be taken only in circumstances where the inspectors had reported that they could no longer do their job.

331. Mr Blair told the Inquiry that the main objective of the meeting on 31 January was to convince President Bush that it was necessary to get a second resolution.¹²² That “was obviously going to make life a lot easier politically in every respect”. Mr Blair added: “we took the view that that was not necessary, but, obviously, politically, it would have been far easier”.

332. Asked why he had not told President Bush that he had been advised that a further determination of the Security Council would be necessary to authorise the use of force, Mr Blair wrote in his witness statement:

“In speaking to President Bush on 31 January 2003 I was not going to go into this continuing legal debate, internal to the UK Government. I repeated my strong commitment, given publicly and privately to do what it took to disarm Saddam.”¹²³

¹²² Public hearing, 29 January 2010, pages 95-96.

¹²³ Statement, 14 January 2011, page 10.

333. Mr Blair subsequently told the Inquiry that, in the context of trying to sustain an international coalition:

“My desire was to keep the maximum pressure on Saddam because I hoped we could get a second resolution with an ultimatum because that meant we could avoid the conflict altogether, or then have a clear consensus for removing Saddam. So I was having to carry on whilst this internal legal debate was continuing and try to hope we could overcome it.”¹²⁴

334. Asked if he had felt constrained in making a commitment to President Bush by the advice Lord Goldsmith was continuing to give him, Mr Blair told the Inquiry:

“No. I was going to take the view, and I did right throughout that period, there might come a point at which I had to say to the President of the United States, to all the other allies, ‘I can’t be with you.’ I might have said that on legal grounds if Peter’s advice had not, having seen what the Americans told him about the negotiating process, come down on the other side. I might have had to do that politically. I was in a very, very difficult situation politically. It was by no means certain that we would get this thing through the House of Commons.

“... I was going to continue giving absolute and firm commitment until the point at which definitively I couldn’t ...”¹²⁵

335. Mr Blair added he had taken that position:

“... because had I raised any doubt at that time, if I had suddenly said ‘Well, I can’t be sure we have got the right legal basis’. If I started to say that to President Bush, if I had said that publicly, when I was being pressed the whole time ‘Do you need a second resolution, is it essential ...?’ ... but I wasn’t going to be in a position where I stepped back until I knew I had to, because I believed that if I started to articulate this, in a sense saying ‘Look, I can’t be sure’, the effect of that both on the Americans, on the coalition and most importantly on Saddam, would have been dramatic.”

336. Mr Blair acknowledged that holding that line was uncomfortable, “especially in the light of what Peter [Goldsmith] had said”.

337. Mr Blair told the Inquiry that President Bush:

“... knew perfectly well that we needed a second resolution. We had been saying that to him throughout ... [W]e had not had the final advice yet ...

“... I was not going to ... start putting the problem before the President ... until I was in a position where I knew definitely that I had to.”¹²⁶

¹²⁴ Public hearing, 21 January 2011, page 65.

¹²⁵ Public hearing, 21 January 2011, pages 67-68.

¹²⁶ Public hearing, 21 January 2011, pages 68-69.

338. Mr Blair added:

“If I had started raising legal issues at that point with the President, I think it would have started to make him concerned as to whether we were really going to be there or not and what was really going to happen.

“Now I would have had to have done that because in the end whatever I thought about the legal position, the person whose thoughts mattered most and definitively were Peter’s, but I wasn’t going to do that until I was sure about it.”¹²⁷

339. Subsequently, Mr Blair added that it had been “very, very difficult”. He was answering questions in the House of Commons and giving interviews and:

“... having to hold the political line in circumstances where there was this unresolved ... debate within the UK Government ...

“If I had ... in January and February said anything that indicated there was a breach in the British position ... it would have been a political catastrophe for us.”¹²⁸

340. Mr Blair told the Inquiry that these difficulties explained why he had wanted to get Lord Goldsmith “together with the Americans and resolve this once and for all”.¹²⁹

A disagreement between Mr Straw and Mr Wood

341. Mr Straw had visited Washington on 23 January and had repeated the political arguments for trying to get a second resolution.

342. In a meeting on 23 January, Mr Straw and Mr Colin Powell, US Secretary of State, discussed the inspectors’ reports due to be presented to the Security Council on 27 January, the need to “shift the burden of proof to Iraq”, and the need to ensure that there were no differences between the US and UK.¹³⁰

343. In his subsequent meeting with Vice President Dick Cheney, Mr Straw said that “the key question was how to navigate the shoals between where we were today and a possible decision to take military action”.¹³¹ The UK would be “fine” if there was a second resolution; and that it would be “ok if we tried and failed (a la Kosovo). But we would need bullet-proof jackets if we did not even try”. In response to Vice President Cheney’s question whether it would be better to try and fail than not to try at all, Mr Straw said the former.

¹²⁷ Public hearing, 21 January 2011, pages 69-70.

¹²⁸ Public hearing, 21 January 2011, pages 70-71.

¹²⁹ Public hearing, 21 January 2011, page 73.

¹³⁰ Telegram 91 Washington to FCO London, 23 January 2003, ‘Iraq: Foreign Secretary’s Lunch with US Secretary of State’.

¹³¹ Telegram 93 Washington to FCO London, 23 January 2003, ‘Foreign Secretary’s Meeting with Vice President of the United States, 23 January’.

344. Mr Wood had warned Mr Straw on 24 January that “without a further decision by the Council, and absent extraordinary circumstances”, the UK would not be able lawfully to use force against Iraq.

345. Mr Wood wrote to Mr Straw on 22 and 24 January about the terms of the discussions on a second resolution.

346. Commenting on advice to Mr Straw for his visit to Washington, Mr Wood wrote:

“The Foreign Secretary will know that the legal advice is that a second resolution authorising the use of force is needed before any force may lawfully be employed against Iraq to enforce the WMD obligations in the SCRs. If a draft resolution fails because of a veto (or indeed because it does not receive nine positive votes), the fact that the veto (or failure to vote in favour) is ‘unreasonable’ is neither here nor there from a legal point of view. Further, who is to judge what is ‘unreasonable’?”¹³²

347. In his second minute, Mr Wood expressed concern about Mr Straw’s reported remarks to Vice President Cheney.¹³³

348. Mr Wood wrote that Kosovo was “no precedent”: the legal basis was the need to avert an overwhelming humanitarian catastrophe; no draft resolution had been put to the Security Council; and no draft had been vetoed. He hoped there was:

“... no doubt in anyone’s mind that without a further decision of the Council, and absent extraordinary circumstances (of which at present there is no sign), the United Kingdom cannot lawfully use force against Iraq to ensure compliance with its SCR WMD obligations. To use force without Security Council authority would amount to the crime of aggression.”

349. Mr Straw told Mr Wood he did not accept that view and that there was a strong case for a different view.

350. Mr Straw discussed the advice with Mr Wood on 28 January.¹³⁴

351. Mr Straw wrote to Mr Wood the following day: “I note your advice, but I do not accept it.”¹³⁵

352. Quoting his experiences as Home Secretary, Mr Straw stated that, “even on apparently open and shut issues”, he had been advised: “there could be a different view, honestly and reasonably held. And so it turned out to be time and again.”

¹³² Minute Wood to PS [FCO], 22 January 2003, ‘Iraq: Legal Position’.

¹³³ Minute Wood to PS [FCO], 24 January 2003, ‘Iraq: Legal Basis for Use of Force’.

¹³⁴ Manuscript comment McDonald to Wood, 28 January 2003, on Minute Wood to PS [FCO], 24 January 2002, ‘Iraq: Legal Basis for Use of Force’.

¹³⁵ Minute Straw to Wood, 29 January 2003, ‘Iraq: Legal Basis for Use of Force’.

353. Mr Straw concluded:

“I am as committed as anyone to international law and its obligations, but it is an uncertain field. There is no international court for resolving such questions in the manner of a domestic court. Moreover, in this case, the issue is an arguable one ... I hope (for political reasons) we can get a second resolution. But there is a strong case to be made that UNSCR 678, and everything which has happened since (assuming Iraq continues not to comply), provides a sufficient basis in international law to justify military action.”

354. Mr Straw sent copies of his letter to Lord Goldsmith and to Sir David Manning as well as to senior officials in the FCO.

355. Lord Goldsmith reminded Mr Straw of the duties of Legal Advisers and that the principal mechanism for resolving an issue when a Minister challenged the legal advice he or she had received was to seek an opinion from the Law Officers.

356. Lord Goldsmith wrote to Mr Straw on 3 February stating that he was not commenting “on the substance of the legal advice in relation to Iraq”, which he would “deal with separately”, but on the points Mr Straw had made in his letter to Mr Wood of 29 January about the role of Government Legal Advisers. They had already discussed that issue, but Lord Goldsmith thought it right to record his views.

357. Lord Goldsmith wrote:

“It is important for the Government that its lawyers give advice which they honestly consider to be correct ... they should give the advice they believe in, not the advice which they think others want to hear. To do otherwise would undermine their function ... in giving independent objective and impartial advice. This is not to say ... that lawyers should not be positive and constructive in helping the Government achieve its policy objectives through lawful means and be open-minded in considering other points of view.

“But if a Government legal adviser genuinely believes that a course of action would be unlawful, then it is his or her right and duty to say so. I support this right regardless of whether I agree with the substance of the advice which has been given. Where a Minister challenges the legal advice he or she has received, there are established mechanisms to deal with this. The principal such mechanism is to seek an opinion from the Law Officers.”¹³⁶

¹³⁶ Minute Goldsmith to Foreign Secretary, 3 February 2003, [untitled].

358. Mr Straw responded on 20 February to Lord Goldsmith's letter of 3 February, acknowledging that the substantive issue – Iraq – was being dealt with separately, and stating:

“For the record, I want to make it completely clear that I fully respect the integrity of Michael Wood and his colleague legal advisers. I believe that officials always offer their best advice. At the same time Ministers must be able to raise legitimate questions about the advice they receive. As far as the implementation of Iraq UNSCRs is concerned, this is an uncertain area of law. The US, Netherlands and Australian Government legal advisers all, I understand, take the view that SCR 1441 provides legal sanction for military operations. The full range of views ought to be reflected in the advice offered by our Legal Advisers.”¹³⁷

359. Mr Straw, Lord Goldsmith and Sir Michael Wood all conceded that this correspondence was unusual.

360. Sir Michael Wood told the Inquiry why he had felt it necessary to send his note of 24 January:

“It is something I didn't normally have to do, but I did it quite frequently during this period. It was because of the statement that he was recorded as saying to the [US] Vice President [about Kosovo]. That was so completely wrong, from a legal point of view, that I felt it was important to draw that to his attention ... [W]e had a bilateral meeting at which he took the view that I was being very dogmatic and that international law was pretty vague and that he wasn't used to people taking such a firm position.”¹³⁸

361. Sir Michael emphasised that the meeting had been very amicable and that although it was quite unusual to receive a minute like the one from Mr Straw, he had not taken it amiss.

362. Ms Wilmshurst told the Inquiry that Sir Michael's view that 1441 did not authorise the use of force and that a second resolution was required was shared by all the FCO Legal Advisers dealing with the matter.¹³⁹

363. Lord Goldsmith told the Inquiry:

“I was unhappy when I saw that [Mr Straw's minute of 29 January], not because I thought it followed that Sir Michael was right and Mr Straw was wrong about the legal issue ... but I didn't like, to be honest, the sort of tone of what appeared to be a rebuke to a senior legal adviser for expressing his or her view. I have always

¹³⁷ Minute Straw to Attorney General, 20 February 2003, [untitled].

¹³⁸ Public hearing, 26 January 2010, pages 30-32.

¹³⁹ Public hearing, 26 January 2010, pages 5-6.

taken the view in Government – indeed I told Government lawyers – that they should express their views, however unwelcome they might be.”¹⁴⁰

364. Mr Straw submitted a ‘Supplementary Memorandum’ addressing this exchange before his hearing on 8 February 2010.¹⁴¹

365. Mr Straw wrote that following a “private meeting in mid-January” with Vice President Cheney:

“... the usual rather cryptic summary of my conversation was issued in a confidential FCO telegram ... Reading this Sir Michael sent me his minute of 24 January which, with my response, has been the subject of considerable interest by the Inquiry, and publicly.

“Far from ignoring this advice, as has been suggested publicly, I read Sir Michael’s minute with great care, and gave it the serious attention it deserved. So much so that I thought I owed him a formal and personal written response, rather than simply having a conversation with him.”

366. Mr Straw told the Inquiry that he had “never sent a minute like that before or since”.¹⁴²

367. Mr Straw also acknowledged that Lord Goldsmith’s letter of 3 February was “very unusual”.¹⁴³ In his view, it had been sent because Lord Goldsmith thought Mr Straw was “questioning the right of legal advisers to offer me advice”. Mr Straw had told Lord Goldsmith that he was not, and had subsequently put that in writing.

368. Mr Straw explained that his comment to Vice President Cheney about Kosovo was about military action in the absence of a Security Council resolution.

369. Mr Straw’s minute did not address the substance of Mr Wood’s advice on the Kosovo issue.

370. Mr Straw told the Inquiry that Kosovo itself was not a precedent and he fully accepted the legal basis was different.¹⁴⁴ It was relevant “only to this extent, that ... there was an effort made to gain Security Council agreement and that failed, but the military action went ahead”.

371. In his ‘Supplementary Memorandum’, Mr Straw wrote that he had reached the view that he needed to respond to Mr Wood in writing because he had been “struck by the categorical nature of the advice ... and its contrast with the very balanced and

¹⁴⁰ Public hearing, 27 January 2010, page 94.

¹⁴¹ Statement, February 2010, ‘Supplementary Memorandum by the Rt Hon Jack Straw MP’.

¹⁴² Public hearing, 8 February 2010, page 19.

¹⁴³ Public hearing, 8 February 2010, page 24.

¹⁴⁴ Public hearing, 8 February 2010, pages 21-22.

detailed advice the same Legal Adviser had proffered to the Attorney General”.¹⁴⁵ It was “incorrect to claim that there was ‘no doubt’ about the position” because two views had been set out in Mr Wood’s letter of instructions to Lord Goldsmith on 9 December 2002 and the issue “was at the heart of the debate on lawfulness”. That, “In turn and in part ... depended on the ‘negotiating history’”, of the resolution.

372. Mr Straw subsequently told the Inquiry that, if Mr Wood had thought there was “no doubt”, that was what he should have written in the instructions to Lord Goldsmith of 9 December.¹⁴⁶ The purposes of that document and Mr Wood’s minute of 24 January “were the same, to offer legal advice and ... the legal advice he had offered ... was contradictory”. In Mr Straw’s view he was “entitled to raise that”.

373. The evidence set out in this Report demonstrates that Mr Wood fully understood that Lord Goldsmith’s response to the letter of instruction of 9 December 2002 would provide the determinative view on the points at issue and he was not seeking to usurp that position.

374. Mr Wood had referred to the need to seek Lord Goldsmith’s advice on several previous occasions and it should not have been necessary to reiterate the point in every minute to Mr Straw.

375. Until Lord Goldsmith had reached his definitive view, FCO Legal Advisers had a duty to draw the attention of Ministers to potential legal risks; and Lord Goldsmith’s minute of 3 February confirmed that duty.

376. Mr Wood’s advice to Mr Straw was fully consistent with views previously expressed by Lord Goldsmith.

377. Lord Goldsmith’s response, insisting on the duty of Government lawyers to provide frank, honest and, if necessary, unwelcome legal advice without fear of rebuke from Ministers, was timely and justified.

378. In his ‘Supplementary Memorandum’, Mr Straw wrote that the:

“... decision was one for the Attorney General alone – a fact to which no reference was made nor qualification offered in the Legal Adviser’s minute to me ...”¹⁴⁷

379. Mr Straw added:

“It would surely be a novel, and fundamentally flawed, constitutional doctrine that a Minister was bound to accept any advice offered ... by a Departmental Legal Adviser as determinative of an issue, if there were reasonable grounds for taking a contrary view. Such a doctrine would wholly undermine the principles of personal Ministerial responsibility and give inappropriate power to a Department’s Legal Advisers.”

¹⁴⁵ Statement, February 2010, ‘Supplementary Memorandum by the Rt Hon Jack Straw MP’.

¹⁴⁶ Public hearing, 8 February 2010, page 16.

¹⁴⁷ Statement, February 2010, ‘Supplementary Memorandum by the Rt Hon Jack Straw MP’.

380. In the subsequent hearing, Mr Straw told the Inquiry he had responded to Mr Wood because:

“... where I disagreed with him was that he had the right over and above the Attorney General to say what was or was not unlawful ... it is a most extraordinary constitutional doctrine that, in the absence of a decision by the Attorney General about what was or was not lawful, that a Departmental Legal Adviser is able to say what is or is not unlawful.”¹⁴⁸

381. Mr Straw added:

“But in the absence of a decision by the Attorney General ... there has to be doubt. That was what I thought was strange, and, as I say, he is fully entitled to send me the note. I never challenged his right to do that, and if I may say so, there is some suggestion in the notes that I ignored the advice. I never ignore advice. I gave it the most careful attention.”¹⁴⁹

382. Sir Franklin Berman, Sir Michael Wood’s predecessor as the FCO Legal Adviser, wrote:

“I have to confess (once again) to some astonishment at seeing a former Foreign Secretary implying in recent evidence to the Inquiry that he was not bound by legal advice given to him at the highest level, but was entitled to weigh it off against other legal views as the basis for policy formulation. If Ministers begin to think that they can shop around until they discover the most convenient legal view, without regard to its authority, that is a recipe for chaos.”¹⁵⁰

383. As Lord Goldsmith remarked in his letter of 3 February, the remedy in case of dispute was to ask for his opinion, but he did not at that stage have Mr Blair’s agreement to share his draft views.

384. Mr Straw’s evidence makes clear his concern that Lord Goldsmith should not at that stage take a definitive view without fully considering the alternative interpretation advocated by Mr Straw and set out in his letter of 6 February 2003.

385. The balance of the evidence set out later in this Section suggests that neither Mr Straw nor Mr Wood had, by 29 January, seen Lord Goldsmith’s draft advice of 14 January.

386. In his ‘Supplementary Memorandum’ Mr Straw pointed out “the huge difference between the normal run of the mill legal advice on usual issues and legal advice on whether it was legal for the United Kingdom to take military action”.¹⁵¹ That was “why, on all sides, this issue was so sensitive”.

¹⁴⁸ Public hearing, 8 February 2010, page 11.

¹⁴⁹ Public hearing, 8 February 2010, page 14.

¹⁵⁰ Statement, 7 March 2011, paragraph 8.

¹⁵¹ Statement, February 2010, ‘Supplementary Memorandum by the Rt Hon Jack Straw MP’.

387. Mr Straw added that he “had an intense appreciation” of the negotiating history of resolution 1441 and “an acute understanding” of what France, Russia and China had said in their EOVs and the subsequent Ministerial meetings of the Security Council and “crucially – what they had not said”. That needed to be “weighed in the balance before a decision”.

388. Mr Straw wrote:

“Once the Attorney General had uttered on this question, that would have been the end of the matter; as on any other similar legal question. It would be wholly improper of any Minister to challenge, or not accept, such an Attorney General decision, whatever it was. But we were not at that stage.”

389. The Inquiry asked a number of witnesses to comment on Mr Straw’s assertion that international law was an uncertain field and there was no international court to decide matters.

390. Mr Straw emphasised that it meant the responsibility rested on Lord Goldsmith’s shoulders.

391. Addressing that point, Sir Michael Wood told the Inquiry:

“... he is somehow implying that one can therefore be more flexible, and that I think is probably the opposite of the case ... because there is no court, the Legal Adviser and those taking decisions based on legal advice have to be all the more scrupulous in adhering to the law ... It is one thing for a lawyer to say, ‘Well, there is an argument here. Have a go. A court, a judge, will decide in the end’. It is quite different in the international system where that’s usually not the case. You have a duty to the law, a duty to the system. You are setting precedents by the very fact of saying and doing things.”¹⁵²

392. Ms Wilmhurst took a similar view: “I think that, simply because there are no courts, it ought to make one more cautious about trying to keep within the law, not less.”¹⁵³

393. On the question of whether international law was an uncertain field, Lord Goldsmith stated:

“I didn’t really agree with what he was saying about that. There obviously are areas of international law which are uncertain, but this particular issue, at the end of the day, was: what does this resolution mean?”¹⁵⁴

¹⁵² Public hearing, 26 January 2010, pages 33-34.

¹⁵³ Public hearing, 26 January 2010, page 9.

¹⁵⁴ Public hearing, 27 January 2010, page 94.

394. In his ‘Supplementary Memorandum’, Mr Straw wrote:

“In this area of international law, recourse to the courts is not available. This means that international law must be inherently less certain, and that, given the seriousness of the issues, great care has to be taken in coming to a view. But the absence of an external tribunal means that a view has in the end to be taken by the Attorney General, on whose shoulders rests a great weight of responsibility.”¹⁵⁵

395. Asked whether there was a responsibility to be “all the more scrupulous in adhering to the law” in circumstances where there was no court with jurisdiction to rule on the use of force in Iraq, Mr Straw replied:

“Yes, of course. You have to be extremely scrupulous because it is a decision which is made internally without external determination ... but that’s a very separate point from saying that ... the correct view is on one side rather than the other. The correct view was the correct view.”¹⁵⁶

Mr Straw’s letter to Lord Goldsmith, 6 February 2003

396. In a letter of 6 February, Mr Straw took issue with a number of the provisional conclusions in Lord Goldsmith’s draft advice of 14 January.

397. Mr Straw attached great importance to concessions made by France, Russia and China (which he described as a defeat for them).

398. But Mr Straw dismissed concessions made by the UK and the US as a trade-off which merely offered other members of the Security Council “some procedural comfort”.

399. That considerably understated the importance of the concessions by all members of the P5 to create sufficient ambiguity about the meaning of the resolution to command consensus in the Security Council.

400. The UK had explicitly recognised during the negotiation of resolution 1441 that the inclusion of a provision for the Security Council to “consider” a report would create the opportunity for France and others to argue that a further decision would be required to determine whether Iraq was in material breach of resolution 1441.

401. In his letter Mr Straw did not refer to Lord Goldsmith’s minute to Mr Blair of 30 January.

¹⁵⁵ Statement, February 2010, ‘Supplementary Memorandum by the Rt Hon Jack Straw MP’.

¹⁵⁶ Public hearing, 8 February 2010, pages 26-27.

402. A minute from Ms Adams to Lord Goldsmith, in preparation for a meeting with Mr Straw on 3 February, makes clear that Lord Goldsmith planned to give Mr Straw a copy of his draft advice of 14 January and his minute to Mr Blair of 30 January.¹⁵⁷

403. Ms Adams also wrote:

“David [Brummell] has not yet been able to get hold of Jonathan Powell, despite several attempts. We do not therefore know whether No.10 is content for you to pass your draft advice to the Foreign Secretary.”

404. There is no record of the meeting on 3 February. There was no copy of Lord Goldsmith’s minute to Mr Blair of 30 January in the papers provided by the FCO to the Inquiry or anything to indicate that Mr Straw received a copy.

405. Mr Straw’s Private Office sent Mr Brummell, “as promised”, the draft of a letter from Mr Straw to Lord Goldsmith on 4 February.¹⁵⁸ The letter was also sent to Sir Christopher Meyer, British Ambassador to the US, Sir David Manning and Mr Powell.

406. In his letter of 6 February, which was unchanged from the draft, Mr Straw wrote that he had been asked by Lord Goldsmith in the last week of January if he had seen Lord Goldsmith’s draft “opinion” on Iraq.¹⁵⁹

407. Mr Straw had seen Lord Goldsmith’s draft advice, but he:

“... had not had a chance to study it in detail. This I have now done. I would be very grateful if you would carefully consider my comments below before coming to a final conclusion and I would appreciate a conversation with you as well. As you will be aware I was immersed in the line-by-line negotiations of the resolution, much of which was conducted capital to capital with P5 Foreign Ministers.”

408. Mr Straw continued:

“It goes without saying that a unanimous and express Security Council authorisation would be the safest basis for the use of force against Iraq. But I have doubts about the negotiability of this in current circumstances. We are likely to have to go for something less. You will know the UK attaches high priority to achieving a second resolution for domestic policy reasons and to ensure wide international support for any military action. This was the case the Prime Minister was making in Washington [on 31 January]. We are working hard to achieve it.”

409. Referring to his minute to Mr Wood of 29 January, Mr Straw stated that he “had been very forcefully struck by a paradox in the culture of Government lawyers, which is that the less certain the law is, the more certain in their views they become”.

¹⁵⁷ Minute Adams to Attorney General, 3 February 2003, ‘Iraq: Key Papers’.

¹⁵⁸ Letter Sinclair to Brummell, 4 February 2003, ‘Iraq: Second Resolution’.

¹⁵⁹ Letter Straw to Goldsmith, 6 February 2003, ‘Iraq: Second Resolution’.

410. Mr Straw wrote:

“Jeremy Greenstock has given you the negotiating history of OP4 and of how the words ‘for assessment’ were included. It is crucial to emphasise, as Jeremy spelt out, that the overwhelming issue between US/UK and the French/Russians/Chinese (F/R/C) was whether a second resolution was required to authorise any use of force or not. As Jeremy told you the F/R/C lost on this, and they knew they had lost. To achieve this, however, we had to show that the discussions on the first resolution would not be the end of the matter. So the trade-off ... for the F/R/C defeat on the substantive issue of a second resolution was some procedural comfort – provided in OPs 4, 11 and 12. If there were a further material breach this would be “reported to the Council for assessment in accordance with paragraphs 11 and 12 below ...””

411. Addressing Lord Goldsmith’s view that he did not “find much difference” between the French text and the final wording of OP4, Mr Straw stated that there was “all the difference in the world”. The French text¹⁶⁰ “would have given the Security Council ... the exclusive right to determine whether there had been an OP4 further material breach”. The US and UK had resisted that.

412. Mr Straw also challenged Lord Goldsmith’s view that the Council “must” assess whether a breach was material. That was “to ignore both the negotiating history and the wording. We were deliberate in not specifying who would determine that there had been a material breach.”

413. Addressing the meaning of the term “for assessment”, Mr Straw wrote that OP4 itself offered “meaning by the following words ‘in accordance with paragraphs 11 and 12 below’.” OP12 provided that the Council would “consider the situation”, which Mr Straw argued stopped short of “decide”. Assessment was not, as Lord Goldsmith had characterised it, “a procedural ‘formality’”. That would be “to parody what we had in mind; but certainly a process in which the outcome was quite deliberately at large”. The resolution had given the F/R/C:

“... further discussions and time, further reports – and an ability to influence events, in return for no automatic second resolution being necessary. And in return – a major US concession – the US/UK agreed not to rely on 1441 as an authorisation for the use of force immediately after its adoption (so called automaticity).”

414. Mr Straw concluded:

“Putting all this together, I think the better interpretation of the scheme laid out in 1441 is that (i) the fact of the material breach, (ii) (possibly) a further UNMOVIC report and (iii) ‘consideration’ in the Council together revive 678. At the very least, this interpretation, which coincides with our firm policy intention and that of our

¹⁶⁰ On 2 November, France proposed the words “shall constitute a further material breach of Iraq’s obligations when assessed by the Security Council”. See Section 3.5.

co-sponsors, deserves to be given the same weight as a view which in effect hands the F/R/C the very legal prize they failed to achieve in the negotiation of 1441.”

415. Mr Straw told the Inquiry that he had “spent some time drafting” his letter to Lord Goldsmith, and that:

“Obviously I’m pretty certain that Sir Jeremy Greenstock would have seen the draft and his legal adviser Iain Macleod, certainly Peter Ricketts ... But ... I then put it together from the negotiating history ...”¹⁶¹

Further advice on a second resolution

416. Lord Goldsmith was asked on 4 February for urgent advice on a second resolution determining that Iraq had failed to take the final opportunity offered in resolution 1441.

417. Following a number of bilateral contacts about the nature of the second resolution, Mr Grainger wrote to Ms Adams on 4 February warning that the indications were that some key Security Council members, “such as France”, might not be persuaded that the Council should adopt even an “implicit” resolution that mentioned material breach. Mr Grainger sought Lord Goldsmith’s views “as soon as possible” on the elements of a second resolution necessary to make clear that Iraq had failed to take the final opportunity provided in resolution 1441 and that serious consequences would follow.¹⁶²

418. After rehearsing the key provisions of OPs 1, 2, 4, 11, 12 and 13, Mr Grainger wrote:

“... the relationship between these various paragraphs is a matter of some complexity. It is however clear that the serious consequences which the Council has repeatedly warned Iraq it will face as a result of its continued violations of its obligations ... are to occur in the context of paragraph 12 – that is following consideration of the situation by the Council in accordance with that paragraph. The consideration ... can take place only when a report – either of a material breach under paragraph 4, or of the interference or failure to comply mentioned in paragraph 11 – has been made.

“In our view once Council consideration has taken place, a specific reference to material breach is not required in any decision by the Council: what is necessary is that the Council should conclude that the serious consequences for Iraq referred to in paragraph 13 are triggered. If the Council has considered a report under paragraph 4, the finding of material breach will be implicit. If ... the Council has considered a report under paragraph 11, it will be clear that the new enhanced inspections regime has not worked and therefore the material breach finding in paragraph 1 is still operative.”

¹⁶¹ Public hearing, 8 February 2010, page 30.

¹⁶² Letter Grainger to Adams, 4 February 2003, ‘Iraq: Second Resolution’.

419. Ms Adams responded on 6 February that Lord Goldsmith had agreed that:

“Provided the new resolution is linked back sufficiently to resolution 1441 so that it is clear that the Council has concluded that Iraq has failed to take the final opportunity granted by resolution 1441, it should be possible to rely on the finding of material breach in that resolution in order to revive the use of force in resolution 678.”¹⁶³

420. Addressing draft text suggested by Mr Grainger, Ms Adams also recorded that Lord Goldsmith:

“... has some doubts about the generality of the wording ‘Iraq has still not complied’ because not every incident of non-compliance will constitute a further material breach under OP4 of resolution 1441 (see for example statements by the Foreign Secretary to Parliament¹⁶⁴). Moreover, the Attorney recalls that Blix has indicated that only serious cases of non-compliance would be reported to the Council under OP11.”

421. Ms Adams suggested that a better minimalist version for a resolution would be one which:

“... stated simply that the Council has concluded that Iraq has failed to take the final opportunity offered by resolution 1441. This would indicate that the finding of material breach in OP1 of resolution 1441 is no longer suspended, thus reviving the authorisation to use force in resolution 678. In this case there would be no need for an operative paragraph on ‘serious consequences’ because this would follow from the terms of resolution 1441.”¹⁶⁵

Lord Goldsmith’s visit to Washington, 10 February 2003

422. Lord Goldsmith’s discussions in Washington on 10 February confirmed that the US position was that Iraq was in material breach of resolution 1441 and the conditions for the cease-fire were, therefore, no longer in place.

423. The US maintained that the Security Council had already considered that fact as required by OP12.

424. The US Administration attached importance to helping the UK find a way to join them in action against Iraq.

425. As discussed with No.10, Lord Goldsmith travelled to Washington, accompanied by Ms Adams, to meet leading US lawyers involved in the negotiation of resolution 1441 on 10 February 2003.

¹⁶³ Letter Adams to Grainger, 6 February 2003, ‘Iraq: Second Resolution’.

¹⁶⁴ House of Commons, *Official Report*, 25 November 2002, column 51.

¹⁶⁵ Letter Adams to Grainger, 6 February 2003, ‘Iraq: Second Resolution’.

426. Lord Goldsmith met Mr John Bellinger III (the NSC Legal Adviser), Judge Alberto Gonzales (Counsel to the President), Dr Rice, Mr William Taft IV (Legal Adviser at the State Department), Mr Marc Grossman (Under Secretary of State for Political Affairs) and Mr William Haynes II (General Counsel at the DoD).¹⁶⁶

427. Ms Adams' record of the discussions set out the questions which had been addressed and the US responses, including:

- Resolution 1441 contained two determinations of material breach (in OPs 1 and 4) and the US view was that the conditions of OP4 had already been met. There was, therefore, a Security Council determination of material breach by Iraq, meaning that the conditions for the cease-fire were no longer in place.
- The use of the term “material breach” had been avoided in 1998. Its use in resolution 1441 strengthened the argument that the Council intended to revive resolution 678.
- The use of the term “co-operate fully” had been retained in the resolution in order to ensure that any instances of non-co-operation would be material. In the US view, “any” Iraqi non-compliance was sufficient to constitute a material breach.
- The US recognised the UK's concerns about de minimis breaches (eg an hour's delay in getting access to a site), but considered that the situation was “well past” that point.
- The inspectors were “reporters not assessors”.
- The US would not have accepted a resolution implying that a further decision was required.
- OP12 was not a “purely procedural requirement”. The members of the Council were “under a good faith obligation to participate in the further consideration of the matter within the meaning of OP12”.
- The US had satisfied that requirement by the actions they had already taken, for example Secretary Powell's report to the Council on 5 February.¹⁶⁷

428. Mr Brenton commented that there had been “no problem lining up a good range of senior interlocutors” for Lord Goldsmith to meet, “underlining how important the Administration consider it to help the UK to be in a position to join them in action against Iraq”.¹⁶⁸

¹⁶⁶ Letter Brenton to Goldsmith, 11 February 2003, ‘Visit to Washington, January [sic] 10; Iraq’.

¹⁶⁷ Letter Adams to McDonald, 14 February 2003, ‘Attorney General's Visit to Washington, 10 January [sic]: Iraq’ attaching Minute Adams to Attorney General, 14 February 2003, ‘US Responses to Questions on Resolution 1441’.

¹⁶⁸ Letter Brenton to Goldsmith, 11 February 2003, ‘Visit to Washington, January [sic] 10; Iraq’.

429. Mr Brenton subsequently reported on 6 March that the US “had also gained the impression that we need the resolution for legal reasons: I explained the real situation”.¹⁶⁹

430. Asked by the Inquiry what he had understood “the real situation” to be, Mr Brenton said that Lord Goldsmith had not told him anything, but he had sat in on Lord Goldsmith’s conversations with the US Attorney General and “got the impression from him [Lord Goldsmith] that there was a legal case for our involvement, even if we didn’t get the second resolution”.¹⁷⁰

431. Ms Adams produced a revised draft for Lord Goldsmith on 12 February, which for the first time concluded:

“... having regard to the arguments of our co-sponsors which I heard in Washington, I am prepared to accept that a reasonable case can be made that resolution 1441 revives the authorisation to use force in resolution 678.”¹⁷¹

Agreement on a second resolution

432. Following discussion between Mr Blair and President Bush on 19 February, the UK agreed a “light draft resolution” with the US.

433. Lord Goldsmith subsequently advised that draft would be “sufficient” to authorise the use of force if it was all that would be negotiable.

434. Lord Goldsmith did not, however, accept the underpinning legal analysis offered by Sir Jeremy Greenstock.

435. Reflecting the seriousness of his concerns about the implications of recent developments, Mr Blair sent President Bush a Note on 19 February about the need for a second resolution (see Section 3.7).

436. Mr Blair proposed focusing on the absence of full co-operation and a “simple” resolution stating that Iraq had failed to take the final opportunity, with a side statement defining tough tests of co-operation and a vote on 14 March to provide a deadline for action.

437. Sir Jeremy gave Ambassador John Negroponte, US Permanent Representative to the UN, a revised “light draft resolution” on 19 February which:

- noted [draft preambular paragraph (PP) 5] that Iraq had “submitted a declaration ... containing false statements and omissions and has failed to comply with and co-operate fully in the implementation of that resolution [1441]”; and

¹⁶⁹ Telegram 294 Washington to FCO London, 6 March 2003, ‘Iraq: UN Endgame’.

¹⁷⁰ Private hearing, 17 January 2011, pages 25-26.

¹⁷¹ Note [draft] Adams, 12 February 2003, ‘Iraq: Interpretation of 1441’.

- decided [draft OP1] that Iraq had “failed to take the final opportunity afforded to it in resolution 1441 (2002)”.¹⁷²

438. Sir Jeremy reported that he had told Ambassador Negroponte that the draft “was thin on anything with which Council members could argue and would be less frightening to the middle ground”. It did not refer to “serious consequences” and that “instead of relying on OP4 of 1441”, the draft resolution “relied on OP1 of 1441, re-establishing the material breach suspended in OP2”.¹⁷³

439. Sir Jeremy added that issuing the draft would signal the intent to move to a final debate, which they should seek to focus “not on individual elements of co-operation but on the failure by Iraq to voluntarily disarm” and avoid being “thrown off course by individual benchmarks or judgement by Blix”. It should be accompanied by a “powerful statement about what 1441 had asked for” which had “been twisted into partial, procedural, and grudging co-operation from Iraq”; and that “substantive, active and voluntary co-operation was not happening”.

440. In response to a question from the US about whether the “central premise”, that the final opportunity was “now over”, would be disputed, Sir Jeremy said that:

“... was where we would have to define our terms carefully: voluntary disarmament was not happening.”

441. Ms Adams wrote to Mr Grainger on 20 February. She thanked him for drawing her attention to the telegrams from Sir Jeremy Greenstock.¹⁷⁴ She pointed out that Lord Goldsmith did “not agree with the legal analysis” in Sir Jeremy Greenstock’s first telegram. Lord Goldsmith considered:

“... that OP4 of resolution 1441 is highly relevant to determining whether or not Iraq has taken the final opportunity granted by OP2 ... Moreover, PP5 of the draft text uses language drawn from OP4 to establish the fact that Iraq has failed to comply ... the Attorney does not consider that it is accurate to say that the draft text relies on OP1 ... rather than OP4.”

442. On the draft text, Ms Adams wrote that Lord Goldsmith considered:

“... it would be preferable for any resolution to indicate as clearly as possible that the resolution is intended to authorise the use of force. The clearer the resolution, the easier it will be to defend legally the reliance on the ‘revival argument’, which ... is ... controversial. A resolution which included the terms ‘material breach’ and ‘serious consequences’ ... would therefore be desirable ... However, the Attorney has previously advised that it is not essential in legal terms for a second resolution

¹⁷² Telegram 288 UKMIS New York to FCO London, 20 February 2003, ‘Iraq: 19 February: Draft Resolution’.

¹⁷³ Telegram 287 UKMIS New York to FCO London, 20 February 2003, ‘Iraq: 19 February’.

¹⁷⁴ Letter Adams to Grainger, 20 February 2003, ‘Iraq: Second resolution’.

to include this language. Therefore, if a resolution in the form contained ... [in the advice from UKMIS New York] is all that is likely to be negotiable, he considers it would be sufficient ...”

A second resolution is tabled

443. Sir Jeremy Greenstock remained concerned about the lack of support in the Security Council and the implications, including the legal implications, of putting the resolution to a vote and failing to get it adopted.

444. A draft of a second resolution was tabled by the UK, US and Spain on 24 February. The draft operative paragraphs stated simply that the Security Council:

- “Decides that Iraq has failed to take the final opportunity afforded to it by resolution 1441.”
- “Decides to remain seized of the matter.”¹⁷⁵

445. France, Russia and Germany responded by tabling a memorandum which proposed strengthening inspections and bringing forward the work programme specified in resolution 1284 (1999) and accelerating its timetable.¹⁷⁶

446. Canada also circulated ideas for a process based on key tasks identified by UNMOVIC.¹⁷⁷

447. Sir Jeremy Greenstock advised that in circumstances where there were fewer than nine positive votes but everyone else abstained, the resolution would not be adopted and it would have no legal effect.¹⁷⁸ He found it:

“... hard to see how we could draw much legal comfort from such an outcome; but an authoritative determination would be a matter for the Law Officers. (Kosovo was different: in that case a Russian draft condemning the NATO action as illegal was heavily defeated, leaving open the claim that the action was lawful ... (or at least was so regarded by the majority of the Council).

“Furthermore, in the current climate ... the political mandate to be drawn from a draft which failed to achieve nine positive votes seems to me likely to be (at best) weak ... The stark reality would remain that the US and UK had tried and failed to persuade the Council to endorse the use of force against Iraq. And the French

¹⁷⁵ Telegram 302 UKMIS New York to FCO London, 25 February 2003, ‘Iraq: Tabling of US/UK/Spanish Draft Resolution: Draft Resolution’.

¹⁷⁶ UN Security Council, 23 February 2003, ‘Letter dated 24 February 2003 from the Permanent Representatives of France, Germany and the Russian Federation to the United Nations addressed to the President of the Security Council’ (S/2003/214).

¹⁷⁷ Letter Wright to Colleagues, 24 February 2003, [untitled] attaching ‘Non-paper: Ideas on Bridging the Divide’.

¹⁷⁸ Letter Greenstock to Manning, 25 February 2003, [untitled].

(and the Russians and Chinese) would no doubt be sitting comfortably among the abstainers ...

“My feeling ... is that our interests are better served by not putting a draft to a vote unless we were sure that it had sufficient votes to be adopted ... But we should revisit this issue later – a lot still had to be played out in the Council.”

448. Mr Blair told Cabinet on 27 February that he would continue to push for a further Security Council resolution.

449. Mr Alastair Campbell, Mr Blair’s Director of Communications between May 1997 and August 2003, wrote in his diaries that Mr Blair had had a meeting with Mr Prescott, the Deputy Prime Minister, and Mr Straw, “at which we went over the distinct possibility of no second resolution because the majority was not there for it”. Mr Blair “knew that meant real problems, but he remained determined on this, and convinced it was the right course”.¹⁷⁹

450. Mr Blair told Cabinet that he would continue to push for a further Security Council resolution.¹⁸⁰ He described the debate in the UK and Parliament as “open”:

“Feelings were running high and the concerns expressed were genuine. But decisions had to be made. The central arguments remained the threat posed by weapons of mass destruction in the hands of Iraq; the brutal nature of the Iraqi regime; and the importance of maintaining the authority of the UN in the international order. Failure to achieve a further Security Council resolution would reinforce the hand of the unilateralists in the American Administration.”

A “reasonable case”

Lord Goldsmith’s meeting with No.10 officials, 27 February 2003

451. When Lord Goldsmith met No.10 officials on 27 February he advised that the safest legal course would be to secure a further Security Council resolution.

452. Lord Goldsmith told them, however, that he had reached the view that a “reasonable case” could be made that resolution 1441 was capable of reviving the authorisation to use force in resolution 678 (1990) without a further resolution, if there were strong factual grounds for concluding that Iraq had failed to take the final opportunity offered by resolution 1441.

453. Lord Goldsmith advised that, to avoid undermining the case for reliance on resolution 1441, it would be important to avoid giving any impression that the UK believed a second resolution was legally required.

¹⁷⁹ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

¹⁸⁰ Cabinet Conclusions, 27 February 2003.

454. Mr Powell confirmed that No.10 did not wish the Attorney General's advice to "become public".

455. Lord Goldsmith did not inform Mr Straw or Mr Hoon of his change of view.

456. As their responsibilities were directly engaged, they should have been told of Lord Goldsmith's change of position.

457. At the request of No.10, Lord Goldsmith met Mr Powell, Baroness Morgan and Sir David Manning on 27 February.¹⁸¹

458. Ms Adams advised Lord Goldsmith that the purpose of the meeting was to "discuss the French veto", which she interpreted as meaning "the scope for action in the absence of a second resolution".

459. Ms Adams provided a speaking note for Lord Goldsmith, setting out the legal arguments in detail, including:

- the discussions with Mr Straw, Sir Jeremy Greenstock and the US Administration "were valuable" and had given Lord Goldsmith "background information on the negotiating history" which he had "not previously had";
- the US discussions were "particularly useful" as they gave "a clearer insight into the important US/French bilateral discussions over the terms of OP12 of resolution 1441";
- that was "relevant to the interpretation of the resolution";
- while the revival argument was "controversial", Lord Goldsmith had "already made clear" that he agreed with the advice of his predecessors that it provided "a valid legal basis for the use of force provided that the conditions for revival" were "satisfied";
- the "arguments in support of the revival argument" were "stronger following adoption of resolution 1441";
- "elements" of resolution 1441 indicated that the Security Council "intended to revive the authorisation in [resolution] 678";
- but the Council "clearly ... did not intend 678 to revive immediately";
- the procedure set out in OPs 4, 11 and 12 "for determining whether or not Iraq has taken the final opportunity" were "somewhat ambiguous";
- it was "clear" that if Iraq did not comply there would be "a further Council discussion" but it was "not clear what happens next";
- it was "arguable" that OPs 4 and 12 indicated that "a further Council decision" was "required";
- Lord Goldsmith had been "impressed" by the "strength and sincerity" of the US view that they had "conceded a Council discussion and no more";

¹⁸¹ Minute Adams to Attorney General, 26 February 2003, 'Iraq: Meeting at No.10, 27 February'.

- the difficulty of relying on the assertions of US officials that the French knew and accepted what they were voting for when there was little “hard evidence beyond a couple of telegrams recording admissions by French negotiators that they knew the US would not accept a resolution which required a further Council decision”;
- “the possibility remains that the French and others accepted OP12 because in their view it gave them a sufficient basis on which to argue that a second resolution was required (even if that was not made expressly clear)”; and
- the statements made on adoption of the resolution indicated that “there were differing views within the Council as to the legal effect of the resolution”.¹⁸²

460. Lord Goldsmith was advised to state that he remained “of the view that the safest legal course would be to secure a further Security Council resolution” which, as he had advised the FCO, need not explicitly authorise the use of force as long as it made clear that the Council had “concluded that Iraq has not taken its final opportunity”.

461. Ms Adams advised that he should further state:

“Nevertheless, having regard to the further information on the negotiating history which I have been given and to the arguments of the US administration which I heard in Washington, I am prepared to accept – and I am choosing my words carefully here – that a reasonable case can be made that resolution 1441 is capable of reviving the authorisation in 678 without a further resolution if there are strong factual grounds for concluding that Iraq has failed to take the final opportunity. In other words we would need to demonstrate hard evidence of non-compliance and non-co-operation.”

462. Lord Goldsmith was also advised:

- that a court “might well conclude” that OPs 4 and 12 did “require a further Council decision”, but that “the counter view can reasonably be maintained”;
- that the analysis applied “whether a second resolution fails to be adopted because of a lack of votes or because it is vetoed. I do not see any difference between the two cases”; and
- it was “important that in the course of negotiations on the second resolution we do not give the impression that we believe it is legally required. That would undermine our case for reliance on resolution 1441”.

463. There is no No.10 record of the 27 February meeting.

464. In his record of a telephone call from Lord Goldsmith reporting the meeting, Mr Brummell wrote that Lord Goldsmith “confirmed that he had deployed in full” the lines prepared by Ms Adams, with the exception of the reference to the fact that “on a number

¹⁸² Minute Adams to Attorney General, 27 February 2003, ‘Iraq: Lines to Take for No 10 Meeting’.

of previous occasions” the Government had engaged in military action on a legal basis that was no more than “reasonably arguable”.¹⁸³

465. Mr Brummell also wrote:

“Jonathan Powell said that he understood the Attorney’s advice in summary to mean that by far the safest way forward is to obtain a second resolution, but that, if we are unable to obtain one, it might be arguable that we do not need one, although we could not be confident that a court would agree with this.

“The No.10 representatives confirmed that the US and UK Governments were continuing with their intensive efforts to secure the passage of a second resolution, if at all possible.

“Jonathan Powell confirmed that No.10 did not wish the Attorney’s advice to become public.”

466. Mr Powell told the Inquiry that he did not really remember the meeting.¹⁸⁴

467. Lord Goldsmith told the Inquiry that he did not know why he had not informed No.10 that there was a reasonable case before 27 February. He said:

“After I came back from the United States ... I had taken the view there was a reasonable case. A draft was produced which reflected that. I don’t know why it took me until 27 February, but that may have been the first time there was a meeting. I met with Jonathan Powell, Sir David Manning and Baroness Morgan and told them that I had been very much assisted in my considerations by Jeremy Greenstock, the Americans – I may have mentioned Jack Straw as well, and I was able to tell them that it was my view that there was a reasonable case.”¹⁸⁵

468. Lord Goldsmith added:

“Obviously, I had prepared what I was going to say. Then – so I told them – and I had given them, therefore, as I saw it, and as I believe they saw it ... the green light, if you will, that it was lawful to take military action, should there not be a second resolution and should it be politically decided that that was the right course to take.”

469. Lord Goldsmith identified three main influences on his thinking which contributed to the change in his position by the end of February that a reasonable case could be made that resolution 1441 authorised the use of force without the requirement for a further resolution:

- the meeting with Sir Jeremy Greenstock on 23 January;

¹⁸³ Minute Brummell, 27 February 2003, ‘Iraq: Attorney General’s Meeting at No. 10 on 27th February 2003’.

¹⁸⁴ Public hearing, 18 January 2010, page 104.

¹⁸⁵ Public hearing, 27 January 2010, pages 130-131.

- the views of Mr Straw as expressed in his letter of 6 February 2003; and
- meetings in the US on 10 February.

470. Lord Goldsmith described the purpose of his meeting with Sir Jeremy as:

“... to get first-hand from our principal negotiator at the United Nations his observations on the negotiating history and on the text which had been agreed and his understanding of what it meant, particularly to get his comments on the textual arguments we had raised.

“... It doesn’t mean I follow it, but it is helpful to me ... because if you understand what somebody is trying to achieve, you can then often look at the document with that in mind, and then the words which are used become clearer to you.”¹⁸⁶

471. Lord Goldsmith also told the Inquiry that Sir Jeremy:

“... was very clear in saying the French, Russians lost and they knew they had lost ... and his argument was – that’s why the resolution is worded the way that it is.

...

“... It was a compromise, but compromise in this sense: that the United States had conceded a Council discussion but no more.”¹⁸⁷

472. Lord Goldsmith told the Inquiry:

“Sir Jeremy had made some good points and he had made some headway with me, but, frankly there was still work for me to do and he hadn’t got me there, if you like, yet.”¹⁸⁸

473. Mr Straw told the Inquiry that his letter of 6 February to Lord Goldsmith, was “really the sum” of what he had said.¹⁸⁹

474. Following his meetings in the US on 10 February, Lord Goldsmith was impressed by the fact that, in negotiating 1441, the US had a single red line which was not to lose the freedom of action to use force that they believed they had before 1441, and their certainty that they had not done so.

475. Asked to explain how the US belief that it had preserved its “red line” had influenced his considerations, Lord Goldsmith told the Inquiry that all his US interlocutors had spoken with one voice on the issue of the interpretation of 1441:

“The discussion involved some detailed textual questions ... On one point they were absolutely speaking with one voice, which is they were very clear that what mattered

¹⁸⁶ Public hearing, 27 January 2010, pages 75-76.

¹⁸⁷ Public hearing, 27 January 2010, page 77.

¹⁸⁸ Public hearing, 27 January 2010, page 89.

¹⁸⁹ Public hearing, 8 February 2010, page 30.

to them, what mattered to President Bush, is whether they would ... concede a veto ... that the red line was that they shouldn't do that, and they were confident that they had not ...

"... [T]he red line was 'We believe' they were saying 'that we have a right to go without this resolution. We have been persuaded to come to the United Nations' ... 'but the one thing that mustn't happen is that by going down this route, we then find we lose the freedom of action we think we now have' and if the resolution had said there must be a further decision by the Security Council, that's what it would have done, and the United States would have been tied into that.

"They were all very, very clear that was the most important point to them and that they hadn't conceded that, and they were very clear that the French understood that, that they said that they had discussed this with other members of the Security Council as well and they all understood that was the position."¹⁹⁰

476. Lord Goldsmith stated:

"It was frankly, quite hard to believe, given what I had been told about the one red line that President Bush had, that all these experienced lawyers and negotiators in the United States could actually have stumbled into doing the one thing that they had been told mustn't happen ... a red line means a red line. It was the only one, I was told, that mattered. They didn't mind what else went into the resolution, so long as it did not provide a veto, and if it required a decision then one of the Security Council members, perhaps the French, could then have vetoed action by the United States, which, up to that point, they believed they could take in any event."¹⁹¹

477. Asked whether his US interlocutors had been able to provide him with any evidence that France had acknowledged the US position, Lord Goldsmith replied:

"I wish they had presented me with more. That was one of the difficulties, and I make reference to this, that, at the end of the day we were sort of dependent upon their view in relation to that ... I looked very carefully at all the negotiating telegrams and I had seen that there were some acknowledgements of that, acknowledgements that the French understood the United States' position, at least, in telegrams that I had seen, and I was told of occasions when this had been clearly stated to the French."¹⁹²

478. Correspondence between Ms Adams and the British Embassy Washington recorded that Lord Goldsmith had asked the US lawyers if they had any evidence that the French had acknowledged that no second resolution was needed, and the US lawyers had offered to check. The subsequent reply was that, although they had

¹⁹⁰ Public hearing, 27 January 2010, pages 110-111.

¹⁹¹ Public hearing, 27 January 2010, pages 127-128.

¹⁹² Public hearing, 27 January 2010, page 112.

made their position abundantly clear to the French, the US lawyers had been unable to find a statement from the French acknowledging that a second resolution would not be needed.¹⁹³

479. Asked if he should also have sought the views of the French, Lord Goldsmith replied:

“No I couldn’t do that. I plainly could not have done that ... because, there we were, plainly by this stage, in a major diplomatic stand-off between the United States and France ... you couldn’t have had the British Attorney General being seen to go to the French to ask them ‘What do you think?’ The message that that would have given Saddam Hussein about the degree of our commitment would have been huge.”¹⁹⁴

480. Others had a different view.

481. Mr Straw told the Inquiry that if Lord Goldsmith “had asked to talk to the French, of course, we would have facilitated that ... I have no recollection of that ever being raised with me at all”.¹⁹⁵

482. Asked about Lord Goldsmith’s evidence that he could not speak to French officials about the interpretation of resolution 1441, Sir John Holmes, British Ambassador to France from 2002 to 2007, replied:

“I don’t see why he couldn’t have done, or at least somebody else ask the question on his behalf. But I think what is true is that the French were, again, very wary about ever saying what their own legal position was. They took a very strong political position about no automaticity ... but they were very careful, I don’t remember them ever actually saying what their own legal position was.”¹⁹⁶

483. Asked whether the legal position would have mattered as much to the French as it did to us, Sir John responded: “No because the automatic assumption increasingly was that they weren’t going to be part of it.”¹⁹⁷

Mr Straw’s evidence to the Foreign Affairs Committee, 4 March 2003

484. Mr Straw told the Foreign Affairs Committee on 4 March that it was “a matter of fact” that Iraq had been in material breach “for some weeks” and resolution 1441 provided sufficient legal authority to justify military action against Iraq if it was “in further material breach”.

¹⁹³ Letter Brenton to Adams, 13 February 2003, ‘Attorney General’s Visit to Washington’.

¹⁹⁴ Public hearing, 27 January 2010, page 115.

¹⁹⁵ Public hearing, 8 February 2010, page 31.

¹⁹⁶ Public hearing, 29 June 2010, page 32.

¹⁹⁷ Public hearing, 29 June 2010, page 32.

485. Mr Straw also stated that a majority of members of the Security Council had been opposed to the suggestion that resolution 1441 should state explicitly that military action could be taken only if there were a second resolution.

486. In his evidence to the FAC on 4 March, Mr Straw was asked a series of questions by Mr Donald Anderson, the Chairman of the Committee, about the legality of military action without a second resolution.¹⁹⁸

487. Asked about Mr Blair's "escape clause" and that the Government "would not feel bound to await" a second resolution "or to abide by it if it were to be vetoed unreasonably", Mr Straw replied:

"The reason why we have drawn a parallel with Kosovo is ... it was not possible to get a direct Security Council resolution and instead the Government and those that participated in the action had to fall back on previous ... resolutions and general international law ... to justify the action that was taken ... We are satisfied that we have sufficient legal authority in 1441 back to the originating resolution 660 [1990] ... to justify military action against Iraq if they are in further material breach."

488. Mr Straw added that that was "clearly laid down and it was anticipated when we put 1441 together". The Government would "much prefer" military action, if that proved necessary, "to be backed by a second resolution", but it had had to reserve its options if such a second resolution did not prove possible. That was what Mr Blair had "spelt out".

489. Asked if the Government should proceed without the express authority of the UN, Mr Straw replied:

"We believe there is express authority ... There was a ... a very intensive debate – about whether ... 1441 should say explicitly ... that military action to enforce this resolution could only be taken if there were a second resolution. That ... was not acceptable to a majority of members of the Security Council, it was never put before the ... Council. Instead ... what the Council has to do ... is to consider the situation ..."

490. Mr Straw told Sir Patrick Cormack (Conservative) that Iraq had "been in material breach as a matter of fact for some weeks now because they were told they had to co-operate immediately, unconditionally and actively". He added:

"... we are anxious to gain a political consensus, if that can be achieved ... which recognises the state of Iraq's flagrant violation of its obligations. As far as ... the British Government is concerned, that is a matter of fact; the facts speak for themselves."¹⁹⁹

¹⁹⁸ Minutes, 4 March 2003, Foreign Affairs Committee (House of Commons), [Evidence Session], Q 147-151.

¹⁹⁹ Minutes, 4 March 2003, Foreign Affairs Committee (House of Commons), [Evidence Session], Q 154.

491. Asked by Mr Andrew Mackinley (Labour) how there was going to be “proper conscious decision-making” about whether Iraq was complying, Mr Straw replied:

“... we make our judgement on the basis of the best evidence. I have to say it was on the basis of the best evidence that the international community made its judgement on 8 November. They had hundreds of pages of reports ...”²⁰⁰

Sir Jeremy Greenstock’s advice on “end game options”, 4 March 2003

492. In his advice “on the end game options”, Sir Jeremy Greenstock stated that there was little chance of bridging the gap with the French – “senior politicians were dug in too deep”; and that a French veto appeared “more of a danger than failure to get nine votes”.²⁰¹

493. Sir Jeremy identified the options as:

- “stay firm ... and go with the US military campaign in the second half of March with the best arguments we can muster if a second resolution ... is unobtainable, we fall back on 1441 and regret that the UN was not up to it ...”;
- “make some small concessions that might just be enough to get, e.g. Chile and Mexico on board”. The “most obvious step” might be “ultimatum language” making military action the default if the Council did not agree that Iraq had come into compliance with resolution 1441;
- “try something on benchmarks, probably building on Blix’s cluster document”. That “would be better done outside the draft resolution” to “avoid diluting 1441 (and avoid placing too much weight on Blix’s shoulders)”; and
- “putting forward a second resolution not authorising force”, although it was clear that Sir Jeremy envisaged there would be an “eventual use of force”.

494. Sir Jeremy commented: “In the end, it may be best just to forge ahead on present lines.”

495. Mr Ricketts told Mr Straw that he and Sir David Manning had discussed Sir Jeremy’s advice and believed that the “best package” might comprise:

- adding a deadline to the draft resolution requiring “a bit more time”. A US suggestion “that Iraq should have ‘unconditionally disarmed’ in ten days” would be “seen as unreasonable”;
- a small number of carefully chosen benchmarks “set out separately from the resolution, ideally by the Chileans and Mexicans ... We could then use the clusters document to illustrate how little compliance there had been across the board”; and

²⁰⁰ Minutes, 4 March 2003, Foreign Affairs Committee (House of Commons), [Evidence Session], Q 166.

²⁰¹ Telegram 339 UKMIS New York to FCO London, 4 March 2003, ‘Personal Iraq: End Game Options’.

- the US to make clear that it “accepted a significant UN role in post-conflict Iraq”.²⁰²

496. Mr Grainger sent a copy of Mr Ricketts’ advice to Mr Straw to Ms Adams, setting out the ultimatum language under consideration which he thought “would be entirely consistent with the advice previously given by the Attorney”, including the need for any ultimatum to be expressed in very clear terms so that there was no room for doubt about whether Iraq had met the Council’s demands.²⁰³

Mr Blair’s conversation with President Bush, 5 March 2003

497. In the light of the failure to secure support for the draft resolution of 24 February, Mr Blair proposed a revised strategy to President Bush on 5 March.

498. Despite Lord Goldsmith’s previous advice that, if a further resolution was vetoed, there would be no Council authorisation for military action, Mr Blair told President Bush that, if nine votes could be secured, military action in the face of a veto would be “politically and legally ... acceptable”.

499. Mr Blair spoke to President Bush on 5 March proposing further amendment to the draft resolution to give members of the Security Council a reason to support the US/UK approaches.²⁰⁴

500. Mr Blair said that an ultimatum should include a deadline of 10 days from the date of the resolution for the Security Council to decide that: “Unless ... Iraq is complying by [no date specified], then Iraq is in material breach.”

501. Mr Blair stated that if there were nine votes but a French veto, he thought that “politically and legally” UK participation in military action would be acceptable. “But if we did not get nine votes, such participation might be legal”, but he would face major obstacles. It would be “touch and go”.

Advice on the effect of a “veto”

502. In response to a request from Mr Straw about “whether it was possible for a Permanent Member of the Security Council to vote against a resolution while making it clear that this negative vote shall not be regarded as a ‘veto’”, Mr Wood advised that the “short answer is ‘no’”.²⁰⁵

503. Lord Goldsmith’s draft advice of 14 January stated explicitly that the exercise of a veto in relation to a further Security Council decision would mean “no Council authorisation for military action”.²⁰⁶

²⁰² Minute Ricketts to PS [FCO], 4 March 2003, ‘Iraq: UN Tactics’.

²⁰³ Letter Grainger to Adams, 4 March 2003, ‘Iraq: Second Resolution’.

²⁰⁴ Letter Rycroft to McDonald, ‘Iraq: Prime Minister’s Conversation with Bush, 5 March’.

²⁰⁵ Minute Wood to Private Secretary [FCO], 7 March 2003, ‘Iraq: Security Council Voting’.

²⁰⁶ Minute [Goldsmith to Prime Minister], 14 January 2003, ‘Iraq: Interpretation of Resolution 1441’.

504. Ms Adams described the purpose of the meeting between Lord Goldsmith and No.10 officials on 27 February as to “discuss the French veto”, and her advice dismissed the concept of an “unreasonable” veto. The advice and Lord Goldsmith’s subsequent account to Mr Brummell of the discussion did not address the question of the legality of action in the face of a veto.

505. Sir Kevin Tebbit, MOD Permanent Under Secretary, raised the absence of an agreed legal basis for military action with Sir Andrew Turnbull on 5 March.

506. Sir Kevin Tebbit wrote to Sir Andrew Turnbull on 5 March stating:

“I am sure you have this in hand already, but in case it might help, I should like to offer you my thoughts on the procedure for handling the legal basis for any offensive operations ... in Iraq – a subject touching on my responsibilities since it is the CDS [Chief of the Defence Staff] who will need to be assured that he will be acting on the basis of a lawful instruction from the Prime Minister and the Defence Secretary.

“It is not possible to be certain about the precise circumstances in which this would arise because we cannot be sure about the UN scenario involved ... Clearly full UN cover is devoutly to be desired – and not just for the military operation itself ...

“My purpose in writing, however, is not to argue the legal merits of the case ... but to flag up ... that the call to action from President Bush could come at quite short notice and that we need to be prepared to handle the legalities so we can deliver ...

“In these circumstances, I suggest that the Prime Minister should be prepared to convene a special meeting of the inner ‘war’ Cabinet (Defence and Foreign Secretaries certainly, Chancellor, DPM [Deputy Prime Minister], Home Secretary possibly, Attorney General, crucially) at which CDS effectively receives his legal and constitutional authorisation. We have already given the Attorney General information and MOD briefings on objectives and rationale, and I understand that John Scarlett [Chairman of the Joint Intelligence Committee (JIC)] is conducting further briefing on the basis of the intelligence material.

“While it is not possible to predict the timing of the event precisely ... [it] could conceivably be as early as 10 March ... in the event, albeit unlikely, that the Americans lost hope in the UN and move fast. Michael Jay may have a better fix on this, but I guess the more likely timing would be for Security Council action around the weekend of 15/16 March, and therefore for a meeting after that.”²⁰⁷

507. Copies of the letter were sent to Sir Michael Jay and Sir David Manning.

508. Sir Michael commented that both Adml Boyce and General Sir Mike Jackson, Chief of the General Staff, had told him that they would need “explicit legal

²⁰⁷ Letter Tebbit to Turnbull, 5 March 2003, [untitled].

authorisation". Sir Kevin's proposal "would be one way of achieving this: though the timetable looks a bit leisurely".²⁰⁸

509. Sir David Manning advised Mr Blair, through Mr Powell, that he should have an early meeting to discuss the issues.²⁰⁹

510. Mr Blair agreed.²¹⁰

Cabinet, 6 March 2003

511. At Cabinet on 6 March, Mr Blair concluded that it was for the Security Council to determine whether Iraq was co-operating fully.

512. Summing up the discussion at Cabinet on 6 March, Mr Blair said it was "the responsibility of the Chief Inspectors to present the truth about Saddam Hussein's co-operation with the United Nations, so that the Security Council could discharge its responsibilities in making the necessary political decisions". The UK was "lobbying hard in favour of the draft Security Council resolution". It was the duty of Saddam Hussein to co-operate fully, "and it was for the Security Council to determine whether that had been the case".²¹¹

513. A revised resolution was tabled in the Security Council on 7 March (See the Box below).

514. Mr Straw asked, on behalf of the UK, US and Spain as co-sponsors, for a revised draft of the second resolution to be circulated.²¹²

UK/US/Spanish draft resolution, 7 March 2003

The draft resolution recalled the provisions of previous Security Council resolutions on Iraq and noted that:

- The Council had "repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations"; and
- Iraq had "submitted a declaration ... containing false statements and omissions and has failed to comply with, and co-operate fully in the implementation of, that resolution".

The draft stated that the Council:

- "Mindful of its primary responsibility under the Charter ... for the maintenance of international peace and stability;

²⁰⁸ Manuscript comment Jay to Ricketts, 5 March 2003, on Letter Tebbit to Turnbull, 5 March 2003, [untitled].

²⁰⁹ Manuscript comment Manning to Powell and Prime Minister, 6 March 2003, on Letter Tebbit to Turnbull, 5 March 2003, [untitled].

²¹⁰ Manuscript comment Prime Minister to Manning, on Letter Tebbit to Turnbull, 5 March 2003, [untitled].

²¹¹ Cabinet Conclusions, 6 March 2003.

²¹² Telegram 378 UKMIS New York to FCO London, 7 March 2003, 'Iraq: Draft Resolution'.

- Recognising the threat Iraq's non-compliance with Council resolutions and proliferation of weapons of mass destruction and long-range missiles poses to international peace and security;
- Determined to secure full compliance with its decisions and to restore international peace and security in the area;
- Acting under Chapter VII ...;
- Reaffirms the need for full implementation of resolution 1441 (2002);
- Calls on Iraq immediately to take the decisions necessary in the interests of its people and the region;
- "Decides that Iraq will have failed to take the final opportunity afforded by resolution 1441 (2002) unless, on or before 17 March 2003, the Council concludes that Iraq has demonstrated full, unconditional, immediate and active co-operation in accordance with its disarmament obligations under resolution 1441 (2002) and previous relevant resolutions, and is yielding possession to UNMOVIC and the IAEA of all weapons, weapon delivery and support systems and structures, prohibited by resolution 687 (1991) and all subsequent resolutions, and all information regarding prior destruction of such items; and
- "Decides to remain seized of the matter."

Lord Goldsmith's advice, 7 March 2003

515. Lord Goldsmith submitted formal advice to Mr Blair on 7 March, in which he noted that he had been asked for advice on the legality of military action against Iraq without another resolution of the Security Council, further to resolution 1441.²¹³

516. Lord Goldsmith identified three possible bases for the use of military force. He explained that neither self-defence nor the use of force to avert overwhelming humanitarian catastrophe applied in this case.

517. As regards the third basis, he wrote that force may be used:

"... where this is authorised by the UN Security Council acting under Chapter VII of the UN Charter. The key question is whether resolution 1441 has the effect of providing such authorisation ..."

518. He wrote:

"As you are aware, the argument that resolution 1441 itself provides the authorisation to use force depends on the revival of the express authorisation to use force given in 1990 by Security Council Resolution 678."

²¹³ Minute Goldsmith to Prime Minister, 7 March 2003, 'Iraq: Resolution 1441'.

519. Lord Goldsmith posed and answered two questions. First, he considered whether the revival argument was a sound legal basis in principle. Second, he considered the question of whether resolution 1441 had the effect of reviving the authority to use military force in resolution 678 (1990).

The revival argument – a sound basis “in principle”

520. Lord Goldsmith set out the basic principles of the revival argument and described how, in January 1993 (following UN Presidential Statements condemning particular failures by Iraq to observe the terms of the cease-fire resolution) and again in December 1998 (for Operation Desert Fox), following a series of Security Council resolutions, notably 1205 (1998), the use of force had relied on the revival argument.

521. He wrote:

“Law Officers have advised in the past that, provided the conditions are made out, the revival argument does provide a sufficient justification in international law for the use of force against Iraq.”

522. Having referred to the opinion, expressed in August 1992, by then UN Legal Counsel, Carl-August Fleischauer, as supportive of the UK view, Lord Goldsmith continued:

“However, the UK has consistently taken the view (as did the Fleischauer opinion) that as the cease-fire conditions were set by the Security Council in resolution 687, it is for the Council to assess whether any such breach of those obligations has occurred.

“The US have a rather different view: they maintain that the fact of whether Iraq is in breach is a matter of objective fact which may therefore be assessed by individual Member States. I am not aware of any other state which supports this view. This is an issue of critical importance when considering the effect of resolution 1441.”

523. Lord Goldsmith concluded:

“The revival argument is controversial. It is not widely accepted among academic commentators. However, I agree with my predecessors’ advice on this issue. Further, I believe that the arguments in support of the revival argument are stronger following adoption of resolution 1441.”

524. Lord Goldsmith explained that this was because of the terms of the resolution and the negotiations which led to its adoption. He noted that PPs 4, 5 and 10 of the resolution recalled “the authorisation to use force in resolution 678 and that resolution 687 imposed obligations on Iraq as a necessary condition of the cease-fire”; that OP 1 provided that Iraq had been and remained in material breach of relevant resolutions including resolution 687; and that OP13 recalled that Iraq had been “warned repeatedly” that “serious consequences” would “result from continued violations of its obligations”.

525. Lord Goldsmith noted:

“... Previous practice of the Council and statements made by Council members during the negotiation of resolution 1441 demonstrate that the phrase ‘material breach’ signifies a finding by the Council of a sufficiently serious breach of the cease-fire conditions to revive the authorisation in resolution 678 and that ‘serious consequences’ is accepted as indicating the use of force.”

526. Lord Goldsmith wrote:

“... I disagree, therefore, with those commentators and lawyers who assert that nothing less than an explicit authorisation to use force in a Security Council resolution will be sufficient.”

The revival argument – the effect of resolution 1441 (2002)

527. Having accepted the validity of the revival argument Lord Goldsmith addressed the question of whether resolution 1441 was sufficient to revive the authorisation in resolution 678 without an assessment by the Security Council that the basis of the cease-fire established in resolution 687 had been destroyed.

528. Lord Goldsmith wrote:

“In order for the authorisation to use force in resolution 678 to be revived, there needs to be a determination by the Security Council that there is a violation of the conditions of the cease-fire and that the Security Council considers it sufficiently serious to destroy the basis of the cease-fire. Revival will not, however, take place, notwithstanding a finding of violation, if the Security Council has made clear either that action short of the use of force should be taken to ensure compliance with the terms of the cease-fire, or that it intends to decide subsequently what action is required to ensure compliance.”

529. He continued:

“Notwithstanding the determination of material breach in OP1 of resolution 1441, it is clear that the Council did not intend that the authorisation in resolution 678 should revive immediately following the adoption of resolution 1441, since OP2 of the resolution affords Iraq a ‘final opportunity’ to comply with its disarmament obligations under previous resolutions by co-operating with the enhanced inspection regime described in OPs 3 and 5-9. But OP2 also states that the Council has determined that compliance with resolution 1441 is Iraq’s last chance before the cease-fire resolution will be enforced.”

530. On that basis, Lord Goldsmith expressed the view that:

“OP2 has the effect therefore of suspending the legal consequences of the OP1 determination of material breach which would otherwise have triggered the revival

of the authorisation in resolution 678. The narrow but key question is: on the true interpretation of resolution 1441, what has the Security Council decided will be the consequences of Iraq's failure to comply with the enhanced regime."

531. Lord Goldsmith told the Inquiry:

"... without a firebreak, they [members of the Security Council] understood from past practice, from what happened in 1998 after resolution 1205, that the United States and the United Kingdom, and perhaps other states, would have then taken that as saying 'We now have the authority of the United Nations to move today'."²¹⁴

532. Lord Goldsmith identified OPs 4, 11 and 12 as the provisions relevant to the question of whether or not Iraq had taken the final opportunity:

"It is clear from the text of the resolution, and is apparent from the negotiating history, that if Iraq fails to comply, there will be a further Security Council discussion. The text is, however, ambiguous and unclear on what happens next."

533. On that question, Lord Goldsmith identified and summarised the "two competing arguments":

- "that provided there is a Council discussion, if it does not reach a conclusion, there remains an authorisation to use force"; or
- "that nothing short of a further Council decision will be a legitimate basis for the use of force".

The first line of argument

534. The first line of argument maintained that, provided there was a Council discussion, whether conclusive or not, there remained an authorisation to use force.

535. It relied on the following steps:

- Iraq had been found to be in material breach of relevant resolutions including resolutions 678 and 687. Its violations were therefore, in principle, sufficient to revive the authorisation to use force in resolution 678.
- Iraq had been given a final opportunity to comply and had been warned that it would face serious consequences if it did not do so.
- OP4 of resolution 1441 had the effect of determining in advance that any false statements by Iraq in its declaration and failure by Iraq at any time to comply with and co-operate fully in the implementation of the resolution would constitute a further material breach and would thus revive the authority which had been suspended without any further determination by the Security Council.

²¹⁴ Public hearing, 27 January 2010, page 84.

- It was necessary, however, for the Security Council to meet “to consider the situation.
- As the resolution had not specified that the Security Council should “decide” what action should be taken, such a meeting would provide an opportunity for further action by the Security Council, but it was not essential that it reach a decision. Once the procedural requirement was satisfied, the authority to take military action in resolution 678 was, once again, fully revived.

The second line of argument

536. The second line of argument focused, by contrast, on the words in OP4 (“and will be reported to the Council for assessment in accordance with paragraphs 11 and 12 below”) and on the requirement in OP12 for the Security Council to “consider the situation and the need for full compliance with all of the relevant Council resolutions in order to secure international peace and security”. According to the second line of argument, these provisions implied a return to the Security Council for a decision.

537. Lord Goldsmith wrote that one view in support of the second line of argument was that the wording of OP4 “indicated the need for an assessment by the Security Council of how serious any Iraqi breaches [were] and whether any Iraqi breaches [were] sufficiently serious to destroy the basis of the cease-fire”. He pointed out that this had been the position taken by Mr Straw when he told Parliament on 25 November that “material breach means something significant; some behaviour or pattern of behaviour where any single action appears relatively minor but the action as a whole adds up to something more deliberate and significant: something that shows Iraq’s intention not to comply”. If that was so, the question was by whom such an assessment was to be carried out. Lord Goldsmith noted that, according to the UK view of the revival argument, it could only be the Security Council.

538. Lord Goldsmith set out the counter position as:

“If OP4 means what it says: the words ‘co-operate fully’ were included specifically to ensure that any instances of non-co-operation would amount to material breach. This is the US analysis of OP4 and is undoubtedly more consistent with the view that no further decision of the Council is necessary to authorise force, because it can be argued that the Council has determined in advance that any failure will be a material breach.”

539. Lord Goldsmith advised that the critical issue was, nonetheless, what was to happen when a report came to the Security Council under OP4 or OP11. “In other words”, he wrote, “what does OP12 require”.

The significance of OP12

540. Lord Goldsmith noted that the language of OP12 was a compromise and was unclear. But it did provide that there should be a meeting of the Council “to consider the situation and the need for compliance in order to secure international peace and security”.

541. Thus, Lord Goldsmith observed, the Security Council was provided with an opportunity to take a further decision expressly authorising the use of force or, “conceivably, to decide that other enforcement measures should be used”. If it did not do so, however, he stated that the “clear US view” was that “the determination” of material breach in OPs 1 and 4 would remain valid, thus authorising the use of force without a further decision.

542. Lord Goldsmith wrote that his view was:

“... that different considerations apply in different circumstances. The OP12 discussion might make clear that the Council view is that military action is appropriate but that no further decision is required because of the terms of resolution 1441. In such a case, there would be good grounds for relying on the existing resolution as the legal basis for any subsequent military action. The more difficult scenario is if the views of Council members are divided and a further resolution is not adopted either because it fails to attract 9 votes or because it is vetoed.”

543. Lord Goldsmith rehearsed the arguments for and against the view that, in those circumstances, no further decision of the Security Council was needed to authorise the use of force.

544. He identified the principal argument in favour of this interpretation to be that the word “consider” had been chosen deliberately and that French and Russian proposals to amend this provision so that the Security Council should be required to “decide” what was to happen had not been accepted.

545. Lord Goldsmith wrote that he had been impressed by the strength and sincerity of the views of the US Administration on this point. At the same time, “the difficulty” was that the UK was “reliant” on US “assertions” that France and others:

“... knew and accepted that they were voting for a further discussion and no more. We have very little evidence of this beyond a couple of telegrams recording admissions by French negotiators that they knew the US would not accept a resolution which required a Council decision. The possibility remains that the French and others accepted OP12 because in their view it gave them a sufficient basis on which to argue that a second resolution was required (even if that was not made expressly clear).”

546. Lord Goldsmith added:

“A further difficulty is that, if the matter ever came before a court, it is very uncertain to what extent the court would accept evidence of the negotiating history to support a particular interpretation of the resolution, given that most of the negotiations were conducted in private and there are no agreed or official records.”

547. Lord Goldsmith identified three arguments in support of the view that a further decision was needed:

- The word “assessment” in OP4 and the language of OP12 indicated that the Council would be assessing the seriousness of any Iraqi breach.
- There was special significance in the words “in order to secure international peace and security” reflecting the responsibility of the Security Council under Article 39 of the UN Charter and it could be argued that the Council was to exercise a determinative role on the issue.
- Any other construction reduced the role of the Security Council to a formality.

548. Lord Goldsmith wrote:

“Others have jibbed at this categorisation, but I remain of the opinion that this would be the effect in legal terms of the view that no further resolution is required. The Council would be required to meet, and all members of the Council would be under an obligation to participate in the discussion in good faith, but even if an overwhelming majority of the Council were opposed to the use of force, military action could proceed regardless.”

549. Lord Goldsmith pointed out that the statements made by Security Council members on the adoption of resolution 1441, which might be referred to in circumstances when the wording of the resolution was not clear, were not conclusive. He wrote:

“Only the US explicitly stated that it believed that the resolution did not constrain the use of force by States ‘to enforce relevant United Nations resolutions and protect world peace and security’ regardless of whether there was a further Security Council decision. Conversely, two other Council members, Mexico and Ireland, made clear that in their view a further decision of the Council was required before the use of force would be authorised. Syria also stated that the resolution should not be interpreted, through certain paragraphs, as authorising any State to use force.”

Other arguments rejected**550.** Lord Goldsmith rejected the argument that it was possible to establish that Iraq had failed to take its final opportunity through the procedures in OPs 11 and 12 without regard to the words “for assessment” in OP4. He accepted that the words “and shall be reported to the Council for assessment in accordance with paragraphs 11 and 12” were

added at a late stage, but noted that it was substituted for other language “which would clearly have had the effect of making any finding of material breach subject to a further Council decision”. He wrote:

“It is clear ... that any Iraqi conduct which would be sufficient to trigger a report from the inspectors under OP11 would also amount to a failure to comply with and co-operate fully in the implementation of the resolution and would thus be covered by OP4. In addition, the reference to paragraph 11 in OP4 cannot be ignored. It is not entirely clear what this means, but the most convincing explanation seems to be that it is a recognition that an OP11 inspectors’ report would also constitute a report of a further material breach within the meaning of OP4 and would thus be assessed by the Council under OP12.”

551. Addressing whether the differences between the US and UK objectives had any impact on the interpretation of resolution 1441, Lord Goldsmith wrote:

“I have considered whether this difference in the underlying legal view means that the effect of the resolution might be different for the US than for the UK, but I have concluded that it does not affect the position. If OP12 of the resolution, properly interpreted, were to mean that a further Council decision was required before force was authorised, this would constrain the US just as much as the UK. It was therefore an essential negotiating point for the US that the resolution should not concede the need for a second resolution. They are convinced that they succeeded.”

Lord Goldsmith’s conclusions

552. In paragraphs headed “Summary”, Lord Goldsmith set out his conclusions.

553. He wrote that the language of resolution 1441:

“... leaves the position unclear and the statements made on adoption of the resolution suggest that there were differences of view within the Council as to the legal effect of the resolution. Arguments can be made on both sides.

“A key question is whether there is ... a need for an assessment of whether Iraq’s conduct constitutes a failure to take the final opportunity or has constituted a failure fully to co-operate within the meaning of OP4 such that the basis of the cease-fire is destroyed. If an assessment is needed of that sort, it would be for the Council to make it.

“A narrow textual reading of the resolution suggests that sort of assessment is not needed, because the Council has pre-determined the issue. Public statements, on the other hand, say otherwise.”

554. Lord Goldsmith wrote that he remained “of the opinion that the safest legal course would be to secure the adoption of a further resolution to authorise the use of force”, and that he had “already advised” that he did “not believe that such a resolution need be

explicit in its terms” if it established that the Council had “concluded” that Iraq had “failed to take the final opportunity offered by resolution 1441”.

555. Lord Goldsmith added:

“Nevertheless, having regard to the information on the negotiating history which I have been given and to the arguments of the US Administration which I heard in Washington, I accept that a reasonable case can be made that resolution 1441 is capable in principle of reviving the authorisation in 678 without a further resolution.”

556. Lord Goldsmith added that that would:

“... only be sustainable if there are strong factual grounds for concluding that Iraq has failed to take the final opportunity. In other words, we would need to be able to demonstrate hard evidence of non-compliance and non-co-operation. Given the structure of the resolution as a whole, the views of UNMOVIC and the IAEA will be highly significant in this respect. In the light of the latest reporting by UNMOVIC, you will need to consider extremely carefully whether the evidence ... is sufficiently compelling to justify the conclusion that Iraq has failed to take the final opportunity.”

557. Lord Goldsmith wrote:

“In reaching my conclusions, I have taken account of the fact that on a number of previous occasions, including in relation to Operation Desert Fox in December 1998 and Kosovo in 1999, UK forces have participated in military action on the basis of advice from my predecessors that the legality of the action under international law was no more than reasonably arguable.

“But a ‘reasonable case’ does not mean that if the matter ever came before a court I would be confident that the court would agree with this view. I judge that, having regard to the arguments on both sides, and considering the resolution as a whole in the light of the statements made on adoption and subsequently, a court might well conclude that OPs 4 and 12 do require a further Council decision in order to revive the authorisation in resolution 678. But equally I consider that the counter view can reasonably be maintained.

“However, it must be recognised that on previous occasions when military action was taken on the basis of a reasonably arguable case, the degree of public and Parliamentary scrutiny of the legal issue was nothing like as great as it is today.”

558. Lord Goldsmith’s advice of 7 March did not present the “reasonable case” as stronger or “better” than the opposing case.

559. Nevertheless, in making that judgement, Lord Goldsmith took responsibility for a decision that a reasonable case was sufficient to provide the legal basis for the UK Government to take military action in Iraq.

560. Lord Goldsmith told the Inquiry that it was:

“... very clear that the precedent in the United Kingdom was that a reasonable case was a sufficient lawful basis for taking military action ... I checked this at the time, because this is what I had been told by my officials – it was the basis for the action in Kosovo, it was also the basis for the action in 1998 ... as a matter of precedent it was standard practice to use the reasonable case basis for deciding on the lawfulness of military action.”²¹⁵

561. Lord Goldsmith added that he was saying that it was “the right test to use”, and that:

“... as a matter of precedent it was standard practice to use the reasonable case basis for deciding on the lawfulness of military action.”

562. Asked to explain the meaning of the word “reasonable”, Lord Goldsmith told the Inquiry:

“It means a case which not just has some reasoning behind it, put in practical terms, it is a case that you would be content to argue in court, if it came to it, with a reasonable prospect of success. It is not making the judgment whether it is right or wrong ...”²¹⁶

563. Asked whether the reference in his 7 March advice to action being taken in Iraq in Operation Desert Fox in 1998 and in Kosovo in 1999 on the basis that the legality of the action was “reasonably arguable” was a “somewhat lesser standard” than others that he might have liked to present, Lord Goldsmith replied that the distinction he was making:

“... was between the authority based on the assessment that there was a reasonable case that it was lawful, to authority which is based upon having balanced all the arguments and come down on one side or the other, is it, in fact, lawful?”²¹⁷

564. Lord Goldsmith added:

“I had originally been not that instinctively in favour of this ‘reasonable case’ approach, but these precedents were helpful, because, although Kosovo was a different legal basis, the point was that the British Government had committed itself to military action on the basis of legal advice that there was a reasonable case. That was the precedent. It had been pressed upon me that that was the precedent in the past.

²¹⁵ Public hearing, 27 January 2010, page 97.

²¹⁶ Public hearing, 27 January 2010, pages 97-98.

²¹⁷ Public hearing, 27 January 2010, pages 169-170.

“I can see ... that, with hindsight, I was being overly cautious in expressing it in this way, but that was the precedent that had been used and I went along with it. Not ‘I went along with it’, I followed the same practice.”²¹⁸

565. Asked about his advice to Mr Blair that he could not be confident that a court would agree with the view that there was a “reasonable case”, Lord Goldsmith replied:

“I think ... I’m explaining what I mean by ‘reasonable case’, and this is – if you like – the ‘yes, but’ point. I wanted to ... underline to the Prime Minister that I was saying that reasonable case is enough. I’m saying it is a reasonable case. So that is the green light ... but I want to underline, ‘Please don’t misunderstand, a reasonable case doesn’t mean of itself that, if this matter were to go to court, you would necessarily win’. ‘On the other hand, the counter view can reasonably be maintained’.”²¹⁹

566. Ms Adams told the Inquiry that, when she arrived in Lord Goldsmith’s office, one of her predecessors had already put together a file of previous Law Officers’ advice on the use of force over the last “ten years or so” which “contained all the key advice on the revival argument”.²²⁰ In her view, “it was self-evident from this file, that there had been a number of occasions when the Law Officers had ... endorsed ... military action on the basis of a reasonable case”.

567. Addressing Lord Goldsmith’s reference to precedent, Ms Adams stated:

“It wasn’t a precedent in the sense of something that had to be followed; it was a precedent in the sense of something which had, as a matter of fact, taken place.”²²¹

568. Asked if the term “reasonable case” had a meaning in international law, Ms Adams told the Inquiry that it did not, it was:

“... one which can be reasonably argued. Obviously, it has to have a reasoned basis to it because otherwise it is not going to be reasonable to a court. There has to be a reasonable prospect ... of success for this argument, but it doesn’t mean to say it is the better legal opinion. That would be my interpretation.”²²²

569. The Inquiry has seen the advice from the Law Officers on the use of force described by Ms Adams, in which the formulation “respectable legal argument” is used.

570. Asked whether there was any significant difference between a “reasonable case” and a “respectable legal argument”, Lord Goldsmith wrote that he preferred the former, though he treated “respectable case” as amounting to the same test in practice, and “certainly not a higher test”.²²³

²¹⁸ Public hearing, 27 January 2010, pages 170-171.

²¹⁹ Public hearing, 27 January 2010, pages 173-174.

²²⁰ Public hearing, 30 June 2010, page 43.

²²¹ Public hearing, 30 June 2010, page 45.

²²² Public hearing, 30 June 2010, page 45.

²²³ Statement, 4 January 2011, paragraph 6.1.

571. Asked how his “characterisation of his 7 March advice as a ‘green light’” sat with his explanation that a “reasonable case does not mean that if the matter came before a court” he “would be confident that the court would agree”, Lord Goldsmith wrote:

“I was relying on the precedent established in previous cases that a reasonable or respectable case was sufficient. Precedent in the Law Officers’ department is commonly followed. However I was careful to explain what I meant by the phrase ‘reasonable case’ and to highlight in my advice all the difficulties in interpreting the effect of the resolution.”²²⁴

572. Lord Goldsmith added that, after delivering his advice of 7 March, he had:

“... continued to reflect on the position and on 13 March 2003 concluded that the better view was there was a lawful basis for the use of force without a further resolution.”

573. Asked how his “characterisation of his 7 March advice as a ‘green light’” sat “with the number of difficulties with the argument that no further Security Council determination” was needed which he had identified but not resolved in that advice, Lord Goldsmith wrote:

“I was well aware of the contrary arguments and had set them out in detail in my advice. They could not be resolved because the language of the resolution lacked clarity and the statements made on adoption revealed differences of view within the Council on the legal effect of the resolution. The issue for me therefore was to consider whether the argument that the resolution authorised the use of force was of sufficient weight to reach the threshold of certainty that my predecessors had concluded was necessary. I concluded that it was and I knew that therefore I was giving a ‘green light’.”²²⁵

574. Asked how his view – that a “reasonable case” was sufficient to decide on the lawfulness of military action – reflected the framework of the UN Charter and the prohibition on the use of force except in self-defence or where clearly authorised by the Security Council in the circumstances set out in Chapter VII of the Charter, Lord Goldsmith wrote:

“A ‘clear’ or ‘certain’ basis for the use of force will always be preferable to a ‘reasonable’ or ‘respectable’ one. That is why I argued in my advice of 7 March 2003 that the safest legal course would be to secure the adoption of a further resolution to authorise the use of force ... If we had achieved the second resolution that would have provided more certainty – although even then it is still likely to have been in terms relying on the revival of the original 1990/91 authorisation which would not have satisfied all international lawyers. We had however previously engaged

²²⁴ Statement, 4 January 2011, paragraph 6.3.

²²⁵ Statement, 4 January 2011, paragraph 6.4.

in the use of force on the basis of a reasonable or respectable case that action is authorised by a UNSCR or self defence or humanitarian intervention and my understanding was and is that this is a sufficient basis.”²²⁶

Other matters dealt with in Lord Goldsmith’s 7 March advice

575. Lord Goldsmith reiterated the categorical advice, previously expressed in his 14 January draft, that there were no grounds for arguing that “an unreasonable veto” would permit the US and UK to ignore such a veto.

576. Addressing the effect of an “unreasonable” veto, Lord Goldsmith stressed:

“The analysis set out above applies whether a second resolution fails to be adopted because of a lack of votes or because it is vetoed. As I have said before ... there are no grounds for arguing that an ‘unreasonable veto’ would entitle us to proceed on the basis of a presumed Security Council authorisation. In any event, if the majority of world opinion remains opposed to military action, it is likely to be difficult on the facts to categorise a French veto as ‘unreasonable’.”

577. Lord Goldsmith stressed the importance of the circumstances at the time a decision was taken.

578. Addressing the importance of circumstances, Lord Goldsmith concluded:

“The legal analysis may, however, be affected by the course of events over the next week or so, e.g. the discussions on the draft second resolution. If we fail to achieve the adoption of a second resolution, we would need to consider urgently at that stage the strength of our legal case in the light of the circumstances at that time.”

579. Lord Goldsmith recognised that there was a possibility of a legal challenge.

580. Lord Goldsmith set out the possible consequences of acting without a further resolution, in particular the ways in which the matter might be brought before a court, some of which he described as “fairly remote possibilities”.

581. Lord Goldsmith outlined the potential risks of action before both International and UK Courts, concluding:

“... it would not be surprising if some attempts were made to get a case of some sort off the ground. We cannot be certain that they would not succeed. The GA route [the General Assembly of the United Nations requesting an advisory opinion on the legality of the military action from the International Court of Justice] may be the most likely ...”

²²⁶ Statement, 4 January 2011, paragraph 6.5.

582. Sir Michael Wood had provided advice on the possibility of legal challenge in October 2002.²²⁷

583. Lord Goldsmith stressed the importance of the principle of proportionality in the use of force during the campaign.

584. Addressing the principle of proportionality, Lord Goldsmith stressed that the lawfulness of military action depended not only on the existence of a legal basis, but also on the exercise of force during the campaign being proportionate.²²⁸

585. Lord Goldsmith wrote that any force used pursuant to the authorisation in resolution 678 must have as its objective the enforcement of the terms of the cease-fire contained in resolution 687 and subsequent relevant resolutions; be limited to what is necessary to achieve that objective; and must be a proportionate response to that objective. That was “not to say that action may not be taken to remove Saddam Hussein from power if it can be demonstrated that such action is a necessary and proportionate measure to secure the disarmament of Iraq. But regime change cannot be the objective of military action.”

586. Asked if he thought that the matter would be closed by his 7 March advice, Lord Goldsmith told the Inquiry:

“... at the time, I thought it was, because I thought I had given the green light in February, I was following precedent in giving the green light again, and I thought, therefore, the issue was closed, and therefore, if, politically, the decision was taken wherever it needed to be taken in the United Kingdom, and no doubt the United States, about military action, then that would be it.

“... [R]ecognising that things could change, I said ... we would need to ... assess the strength of the legal case in the light of circumstances at the time if there were a failure to obtain the second resolution ...”²²⁹

587. Mr Straw, Mr Hoon, Dr John Reid, Minister without Portfolio, and the Chiefs of Staff had all seen Lord Goldsmith’s advice of 7 March before the No.10 meeting on 11 March, but it is not clear how and when it reached them.

588. Other Ministers whose responsibilities were directly engaged, including Mr Gordon Brown, the Chancellor of the Exchequer, and Ms Short, the International Development Secretary, and their senior officials, did not see the advice.

²²⁷ Minute Wood to PS [FCO], 15 October 2002, ‘Iraq’.

²²⁸ Minute Goldsmith to Prime Minister, 7 March 2003, ‘Iraq: Resolution 1441’.

²²⁹ Public hearing, 27 January 2010, pages 175-176.

Media coverage during the weekend of 8 and 9 March

589. An article in the *Financial Times* on Saturday 8 March referred to an interview with Lord Archer, Solicitor General from 1974 to 1979, that was to be broadcast the following day on *GMTV's Sunday* programme.²³⁰ The article stated that Lord Archer would reject the position “that resolution 1441 provided sufficient legal authority” for military action. It also stated that civil servants were understood to be putting pressure on Sir Andrew Turnbull to show them the Attorney General’s advice.

590. On 9 March, an article in the *Sunday Times* warned that there would be “a rebellion” of up to 200 Labour MPs if Mr Blair proceeded to military action without a second UN resolution authorising military action.²³¹

591. The article stated:

“Conservatives urged the Government to say whether Lord Goldsmith, the Attorney General, had given legal approval for military action to be taken under any circumstances.”

592. In an interview broadcast in the late evening of 9 March as part of the *BBC Radio 4 Westminster Hour* programme, Ms Short was asked if she would resign if there was no mandate from the UN for war.²³² She said:

“Absolutely. There’s no question about that.

“If there is not UN authority for military action or if there is not UN authority for the reconstruction of the country, I will not uphold a breach of international law or this undermining of the UN and I will resign from the Government.”

593. Ms Short’s comments were widely reported in the media on 10 March.

Government reaction to Lord Goldsmith’s advice of 7 March

Mr Straw’s statement, 10 March 2003

594. Mr Straw made a statement to the House of Commons on 10 March 2003.

595. On 10 March, in an oral statement to the House of Commons, Mr Straw reported on his attendance at the ministerial meeting in the Security Council on 7 March (see Sections 3.7 and 3.8).²³³

596. In response to a question from Mr Michael Ancram, Deputy Leader of the Opposition and Shadow Secretary of State for Foreign and Commonwealth Affairs, as

²³⁰ *Financial Times*, 8 March 2003, *Warning over ‘unlawful’ war*.

²³¹ *Sunday Times*, 9 March 2003, *200 Labour MPs revolt over war*.

²³² *The Independent*, 10 March 2003, *Short will quit if Britain goes to war without UN resolution*.

²³³ House of Commons, *Official Report*, 10 March 2003, columns 22-24.

to what the Government's position would be in the event that three Permanent Members of the Security Council vetoed a second resolution, Mr Straw replied:

“We have made it clear throughout that we want a second resolution for political reasons, because a consensus is required, if we can achieve it, for any military action. On the legal basis for that, it should be pointed out that resolution 1441 does not require a second resolution.”²³⁴

597. Asked by Mr Simon Thomas (Plaid Cymru) to remind the House “exactly of which part of resolution 1441 authorises war”, Mr Straw said:

“I am delighted to do so. We start with paragraph 1, which says that the Security Council ‘Decides that Iraq has been and remains in material breach of its obligations under relevant resolutions, including resolution 687 ... in particular through Iraq’s failure to cooperate with United Nations inspectors and the IAEA, and to complete the actions required under paragraph 8 to 13 of resolution 687’.

“We then go to paragraph 4, in which the Security Council ‘Decides that false statements or omissions in the declarations submitted by Iraq pursuant to this resolution and failure by Iraq at any time to comply with, and co-operate fully in the implementation of, this resolution shall constitute a further material breach of Iraq’s obligations’ – Obligations of which it is now in breach. We turn to operative paragraph 13, in which the Security Council ‘Recalls, in that context, that the Council has repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations’.”²³⁵

Mr Blair’s meeting with Lord Goldsmith, 11 March 2003

598. Mr Blair discussed the legal basis for the use of military force, and the need to avoid a detailed discussion in Cabinet, in a bilateral meeting with Lord Goldsmith on 11 March.²³⁶

599. There is no record of that discussion in either the No.10 or Attorney General’s papers sent to the Inquiry.

600. In his statement for the Inquiry, Lord Goldsmith confirmed that the meeting had taken place at 0930 but he could not recall the detail of the discussion. He added that it “would have been my first meeting” with Mr Blair since he had submitted his advice of 7 March: “I expect that I would have gone over the main points of my advice with him.”²³⁷

²³⁴ House of Commons, *Official Report*, 10 March 2003, column 24.

²³⁵ House of Commons, *Official Report*, 10 March 2003, column 34.

²³⁶ Minute Rycroft to Prime Minister, 11 March 2003, ‘Iraq Military: 1300 Meeting’.

²³⁷ Statement, 4 January 2011, pages 13-14.

601. Asked about the conclusions of the meeting with Lord Goldsmith, Mr Blair wrote:

“I did see him briefly, I think, on 11 March 2003 before the meeting with the other Cabinet members. I cannot recall the specific content of the discussion but most likely it would have been about his coming to Cabinet to explain his decision.”²³⁸

602. In the edition of his diaries published in 2012, Mr Campbell wrote that Lord Goldsmith:

“... had done a long legal opinion and said he did not want TB to present it too positively. He wanted to make it clear he felt there was a reasonable case for war under 1441. There was also a case to be made the other way and a lot would depend on what actually happened. TB also made clear that he did not particularly want Goldsmith to launch a detailed discussion at Cabinet, though it would have to happen at some time, and Ministers would want to cross-examine. With the mood as it was, and with Robin [Cook] and Clare [Short] operating as they were, he knew that if there was any nuance at all, they would be straight out saying the advice was that it was not legal, that the AG was casting doubt on the legal basis for war. Peter Goldsmith was clear that though a lot depended on what happened, he was casting doubt in some circumstances and if Cabinet had to approve the policy of going to war, he had to be able to put the reality to them. Sally [Morgan] said it was for TB to speak to Cabinet, and act on the AG’s advice. He would simply say the advice said there was a reasonable case. The detailed discussion would follow.

“... Peter G[oldsmith] told TB he had been thinking of nothing else for three weeks, that he wished he could be clearer in his advice, but in reality it was nuanced.”²³⁹

Mr Blair’s meeting, 11 March 2003

603. On 11 March, Ministers discussed legal issues, including holding back for a few days the response to a US request for the use of UK bases.

604. They also discussed the viability of the military plan.

605. Mr Blair held a meeting on 11 March with Mr Prescott, Mr Hoon, Lord Goldsmith and Admiral Boyce. Mr Straw attended part of the meeting.²⁴⁰ Sir Andrew Turnbull, Mr Powell, Mr Campbell, Baroness Morgan, Sir David Manning and Mr Rycroft were also present.

606. Prior to the meeting, Mr Straw’s Private Office wrote to No.10 on 11 March reporting that the US was pressing for a response “as soon as possible” to a letter to Mr Straw delivered by the US Ambassador on 5 March. It had formally requested the UK

²³⁸ Statement, 14 January 2011, page 11.

²³⁹ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

²⁴⁰ Letter Rycroft to McDonald, 11 March 2003, ‘Iraq: Legal and Military Aspects’.

Government's agreement to the use of RAF Fairford, Diego Garcia and, possibly, other UK bases for military operations against Iraq.²⁴¹

607. In the letter the FCO advised that “under international law, the UK would be responsible for any US action in breach of international law in which the UK knowingly assisted”. The draft response was “premised on a decision that UNSCR 1441 and other relevant resolutions” provided “the authority for action”.

608. Mr Desmond Bowen, Deputy Head of the Overseas and Defence Secretariat in the Cabinet Office, advised Sir David Manning in a minute that the request was to be discussed at Mr Blair's meeting with Lord Goldsmith, Mr Straw and Mr Hoon on 11 March. He understood that Mr Straw and Mr Hoon had copies of Lord Goldsmith's advice of 7 March.²⁴²

609. Ms Adams advised Lord Goldsmith that she understood “the principal purpose of the meeting to be to discuss the ad bellum issue”.²⁴³

610. An hour before the meeting took place, MOD Legal Advisers provided questions for Mr Hoon to raise at the meeting, explaining:

“... some in the FCO – whether having read the AG's letter or not, I don't know – are beginning to believe that the legal base is already OK. It seems to us – and I have discussed this with Martin Hemming – that the position is not yet so clear.”²⁴⁴

611. The document provided for Mr Hoon stated:

“Questions for the Attorney General

“If no 2nd resolution is adopted (for whatever reason), and the PM decides that sufficient evidence exists that Iraq has failed to take the final opportunity to comply offered by 1441, is he satisfied that the currently proposed use of force would be lawful under international law?

“Comment: The AG's minute to the PM is equivocal: he says ‘a reasonable case can be made’ [for the revival argument] but also says that his view is that ‘different considerations apply in different circumstances’ [meaning the nature of the Security Council discussions under OP12]. He ends his summary thus: ‘If we fail to achieve the adoption of a second resolution we would need to consider urgently at that stage the strength of our legal case in the light of circumstances at the time’.

²⁴¹ Letter Sinclair to Rycroft, 11 March 2003, ‘US Request to use Diego Garcia and RAF Fairford for Possible Operations Against Iraq’.

²⁴² Minute Bowen to Manning, 11 March 2003, ‘US Use of British Bases’.

²⁴³ Minute Adams to Attorney General, 11 March 2003, ‘Iraq: Meeting at No.10, 1PM’.

²⁴⁴ Email DG OpPol-S to SofS-Private Office-S[MOD], 11 March 2003, ‘Urgent for Peter Watkins’ attaching Paper ‘Questions for the Attorney General’.

“If the answer is yes to the above, can it be assumed that the Attorney will be able to confirm formally at the time that CDS’s order to implement the planned operation would be a lawful order (anybody subject to military law commits an offence if he disobeys any lawful command).

“Comment: Notwithstanding the current uncertainties, when it comes to the crunch, CDS will need to be assured that his orders are lawful. As the Attorney points out in his letter, ‘on previous occasions when military action was taken on the basis of a reasonably arguable case, the degree of public and Parliamentary scrutiny of the legal issue was nothing like as great as it is today’.”

612. A minute from Mr Rycroft to Mr Blair described confirmation of the viability of the overall military plan as the “main purpose of the meeting”.²⁴⁵

613. The record of the meeting on 11 March stated that Mr Blair had started by addressing the legal basis for military action. He stated that Lord Goldsmith’s “advice made it clear that a reasonable case could be made” that resolution 1441 was “capable of reviving” the authorisation of resolution 678 (1990), “although of course a second resolution would be preferable”.²⁴⁶

614. Other points recorded by Mr Rycroft included:

- Admiral Boyce said he “would need to put a short paragraph in his directive to members of the Armed Forces”.
- The paragraph “should be cleared with the Attorney General”.
- The UK would send the US a positive reply on its request to use Diego Garcia and RAF Fairford “in a day or two, with the usual conditions attached”.
- Mr Hoon and Adm Boyce advised that “once we had given our approval, the US might give very little notice before the start of the campaign”.
- Sir Andrew Turnbull asked whether a legal basis for military action was required for civil servants, as well as for members of the Armed Forces.
- Mr Hoon asked whether the Attorney General’s legal advice was ever disclosed.
- Mr Blair asked for a quick study into the precedents for that.
- Adm Boyce told the meeting that he was “confident that the battle plan would work”.
- Mr Blair stated that “we must concentrate on averting unintended consequences of military action. On targeting, we must minimise the risks to civilians.”

615. A letter, formally confirming the UK’s agreement to US use of Diego Garcia and RAF Fairford for operations to enforce Iraqi compliance with the obligations on WMD

²⁴⁵ Minute Rycroft to Prime Minister, 11 March 2003, ‘Iraq Military: 1300 Meeting’.

²⁴⁶ Letter Rycroft to McDonald, 11 March 2003, ‘Iraq: Legal and Military Aspects’.

laid down in resolution 1441 and previous relevant resolutions, was sent to Dr Rice on 18 March.²⁴⁷

616. Mr Campbell wrote in his diaries that:

- Mr Hoon had “said he would be happier with a clearer green light from the AG”.
- Mr Blair had been “really irritated” when Sir Andrew Turnbull had “said he would need something to put round the Civil Service that what they were engaged in was legal”. Mr Blair was “clear we would do nothing that wasn’t legal”.
- Lord Goldsmith had provided “a version of the arguments he had put to TB, on the one hand, on the other, reasonable case”.
- Mr Hoon had advised that the response to the “US request for the use of Diego Garcia and [RAF] Fairford” should be that it was “not ... automatic but had to go round the system”. Mr Blair had said he “did not want to send a signal that we would not do it”.
- Mr Hoon and Mr Straw were telling Mr Blair that the US could act as early as that weekend, and “some of our forces would have to be in before”.²⁴⁸

Mr Straw’s minute to Mr Blair, 11 March 2003

617. Mr Straw advised Mr Blair that the UK and US should not push the second resolution to a vote if it could not secure nine votes and be certain of avoiding any vetoes.

618. Mr Straw suggested the UK should adopt a “strategy” based on the argument that Iraq had failed to take the final opportunity offered by resolution 1441, and that the last three meetings of the Security Council met the requirement for Security Council consideration of reports of non-compliance.

619. Mr Straw wrote to Mr Blair on 11 March setting out his firm conclusion that:

“If we cannot gain nine votes and be sure of no veto, we should not push our second resolution to a vote. The political and diplomatic consequences for the UK would be significantly worse to have our ... resolution defeated (even by just a French veto alone) than if we camp on 1441. [UN Secretary-General] Kofi Annan’s comments last evening have strengthened my already strong view on this. Getting Parliamentary approval for UK military action will be difficult if there is no second resolution: but in my view marginally easier by the strategy I propose.”²⁴⁹

²⁴⁷ Letter Manning to Rice, 18 March 2003, [untitled].

²⁴⁸ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

²⁴⁹ Minute Straw to Prime Minister, 11 March 2003, ‘Iraq: What if We Cannot Win the Second Resolution?’.

620. Mr Straw set out his reasoning in some detail, making clear that it was predicated on a veto only by France. That was “in practice less likely than two or even three vetoes. The points made included:

- The upsides of defying “the” veto had been “well aired”. It would “show at least we had a ‘moral majority’ with us”.
- In public comments he and Mr Blair had kept their “options open on what we should do in the event that the resolution does not carry within the terms of the [UN] Charter”. That had “been the correct thing to do”. “In private we have speculated on what to do if we are likely to get nine votes, but be vetoed” by one or more of the P5.
- Although in earlier discussion he had “warmed to the idea” that it was worth pushing the issue to a vote “if we had nine votes and faced only a French veto”, the more he “thought about this, the worse an idea it becomes”.
- The intensive debate over Iraq in the last five months had shown how much faith people had in the UN as an institution; and that “far from having the ‘moral majority’ with us ... we will lose the moral high ground if we are seen to defy the very rules and Charter of the UN on which we have lectured others and from which the UK has disproportionately benefitted”.
- The “best, least risky way to gain a moral majority” was “by the ‘Kosovo route’ – essentially what I am recommending. The key to our moral legitimacy then was the matter never went to a vote – but everyone knew the reason for this was that Russia would have vetoed. (Then, we had no resolution to fall back on, just customary international law on humanitarianism; here we can fall back on 1441.)”
- The veto had been included in the UN Charter “for a purpose – to achieve a consensus”. The UK could not “sustain an argument (politically, leave aside legally) that a distinction can be made between a ‘reasonable’ and an ‘unreasonable’ veto”. That was a completely subjective matter.
- The “three recent meetings of the Council more than fulfil the requirement for immediate consideration of reports of non-compliance. So we can say convincingly that the process set out in 1441 is complete. If we push a second resolution to a veto, then the last word on the Security Council record is a formal rejection of a proposal that Iraq has failed to take its final opportunity.”

621. Mr Straw advised that it would be “more compelling in Parliament and with public opinion to take our stand on the basis of 1441, and the overwhelming evidence that Iraq has not used the four months since then to co-operate ‘immediately, unconditionally and actively’”; and that the UNMOVIC [clusters] document would be “a material help in making that case”.

622. Mr Straw advised Mr Blair that he interpreted Mr Annan's "important" statement on 10 March:

"... essentially as a gypsies' warning not to try and then fail with a second resolution. If the last current act of the Security Council on Iraq is 1441, we can genuinely claim that we have met Kofi's call for unity and for acting within (our interpretation of) the authority of the Security Council."

623. There was no reference in the minute to President Chirac's remarks the previous evening.

624. Mr Straw advised Mr Blair that it would not be possible to decide what the Parliamentary Labour Party (PLP) and the House of Commons would agree until deliberations in the Security Council had concluded. If a second resolution was agreed it would be "fine", but that was "unlikely". He added:

"I sensed yesterday that sentiment might be shifting our way; but we would need to be very clear of the result before putting down a resolution approving military action. We could not possibly countenance the risk of a defeat ...

"But it need not be a disaster for you, the Government, and even more important for our troops, if we cannot take an active part in the initial invasion, provided we get on the front foot with our strategy.

"I am aware of all the difficulties of the UK standing aside from invasion operations, not least given the level of integration of our forces with those of the US. But I understand that the US could if necessary adjust their plan rapidly to cope without us ... [W]e could nevertheless offer them a major UK contribution to the overall campaign. In addition to staunch political support, this would include:

- intelligence co-operation;
- use of Diego Garcia, Fairford and Cyprus, subject to the usual consultation on targeting;
- as soon as combat operations are over, full UK participation in the military and civilian tasks, including taking responsibility for a sector and for humanitarian and reconstruction work. We could also take the lead in the UN on securing the ... resolution to authorise the reconstruction effort and the UN role in it which the US now agree is necessary."

625. Mr Straw concluded:

"We will obviously need to discuss all this, but I thought it best to put it in your mind as event[s] could move fast. And what I propose is a great deal better than the alternatives. When Bush graciously accepted your offer to be with him all the way, he wanted you alive not dead!"

626. Mr Straw's minute was not sent to Lord Goldsmith or Mr Hoon.

627. Mr Straw's Private Office had separately replied on 11 March to a request from Sir David Manning for advice on the implications of the argument that a French veto would be unreasonable.²⁵⁰

628. In the reply, the FCO advised that there was "no recognised concept of an 'unreasonable veto'"; and warned that: "In describing a French veto as 'unreasonable' we would therefore be inviting others to describe any future vetoes as 'unreasonable' too." That could have implications in other areas "such as the Middle East". In addition, "describing the veto as unreasonable would make no difference to the legal position". There was "no implied condition" in the UN Charter that a veto was valid "only" if it was reasonable. There was "already pressure at the UN to abolish veto rights". And pressure could be expected to increase "if the argument that certain vetoes were 'unreasonable' – and could therefore be ignored – gained ground".

629. The UK was "on record as saying that the veto should only be used with restraint and in a manner consistent with the principles of the Charter".

Prime Minister's Questions, 12 March 2003

630. During Prime Minister's Questions on 12 March, Mr Blair stated that the UK would not do anything which did not have a proper legal basis.

631. In PMQs on 12 March Mr Blair focused on efforts to secure a second resolution and the importance for the UN of being seen to act in response to Saddam Hussein's failure to co-operate as required by resolution 1441 and of achieving unity in the international community.²⁵¹

632. Mr Charles Kennedy, Leader of the Liberal Democrats, asked if the Attorney General had advised that a war in Iraq would be legal in the absence of a second resolution authorising force; Mr Richard Shepherd (Conservative) asked why a UN resolution was required; and Mr John Randall (Conservative) asked if Mr Blair would publish the legal advice.

633. In response, the points made by Mr Blair included:

- As he had "said on many occasions ... we ... would not do anything that did not have a proper legal basis".
- Resolution 1441 provided the legal basis and the second resolution was "highly desirable to demonstrate the will of the international community".
- It was not the convention to publish legal advice but it was "the convention to state clearly that we have a legal base for whatever action we take, and ... we must have such a base".

²⁵⁰ Letter Owen to Manning, 11 March 2003, 'Iraq: Security Council: Use of vetoes'.

²⁵¹ House of Commons, *Official Report*, 12 March 2003, columns 280-290.

634. In response to a question from Mr Kennedy about whether Mr Annan had said that action without a second resolution would breach the UN Charter, Mr Blair stated that Mr Annan had said that it was “important that the UN comes together”. Mr Blair added that it was:

“... complicated to get that agreement ... when one nation is saying that whatever the circumstances it will veto a resolution.”

635. Mr Kennedy wrote to Mr Blair later that day repeating his request that Mr Blair should publish Lord Goldsmith’s advice.²⁵² A copy of the letter was sent to Lord Goldsmith.

Sir Jeremy Greenstock’s discussions in New York, 12 March 2003

636. A UK proposal for a side statement setting out possible tests for Iraq attracted little support amongst Security Council members.

637. Sir Jeremy Greenstock suggested early on the afternoon of 12 March that in the Security Council that day the UK should:

- table a revised draft resolution explaining that the UK was “setting aside the ultimatum concept” in operative paragraph 3 of the draft of 7 March “because it had not attracted Council support”;
- distribute a side statement with tests for Saddam Hussein, “explaining that the text was a national position to which the UK wanted as many Council Members as possible to adhere to maintain the pressure on Saddam”; and
- state that the deadline of the 17 March by which it had been proposed that Iraq should demonstrate full, immediate and active co-operation in accordance with resolution 1441 was “being reviewed”.²⁵³

638. Sir Jeremy favoured using the open debate in the Security Council later that day to explain the UK move, adding: “At no point will I signal, in public or in private, that there is any UK fallback from putting this new text to a vote within 24-36 hours.”

639. Sir Jeremy reported that he had explained the gist of the plan to Ambassador Negroponte who was briefing Secretary Powell for a conversation with President Bush.

640. Sir Jeremy had spoken to Mr Annan and had explained the UK concept of a side statement and tests which Saddam Hussein could meet “within the tight deadline we would offer (ideally 10 days)” if he “was serious about disarming”. Council members “should be able to agree the concept we were offering as a way out of the current impasse”.²⁵⁴

²⁵² Letter Kennedy to Prime Minister, 12 July 2003, [untitled].

²⁵³ Telegram 419 UKMIS New York to FCO London, 12 March 2003, ‘Iraq: Second Resolution’.

²⁵⁴ Telegram 427 UKMIS New York to FCO London, 13 March 2003, ‘Iraq: Call on the Secretary-General, 12 March’.

641. Sir Jeremy reported that he had stressed that the UK's objective "was the disarmament of Iraq by peaceful means if possible". The "aim was to keep a united Security Council at the centre of attempts to disarm Iraq", but calls for a "grace period for Iraq" of 45 days or longer were "out of the question". The UK would not amend the draft resolution tabled on 7 March:

"... until it was clear that the new concept had a chance of succeeding. If the Council was interested, we might be able to move forward in the next day or so; if not, we would be back on the 7 March text and my instructions were to take a vote soon."

642. Sir Jeremy and Mr Annan had also discussed press reporting of Mr Annan's comments (on 10 March), "to the effect that military action without a Council authorisation would violate the UN Charter". Mr Annan said that he had been:

"... misquoted: he had not been attempting an interpretation of 1441 but merely offering, in answer to a specific question, obvious thoughts about the basic structure of the Charter. Nevertheless the Council was seized of the Iraq problem and working actively on it. It had not yet reached a decision to authorise force; how ... could it be right for some Member States to take the right to use force into their own hands?"

643. Sir Jeremy reported that he had "remonstrated that the Council was in paralysis: at least one Permanent Member had threatened to veto 'in any circumstances'. The Council was not shouldering its responsibilities."

644. Asked what the UK would do if it failed to get even nine votes, Sir Jeremy said:

"... we would have to consider the next steps; but we believed we had a basis for the use of force in existing resolutions (based on the revival of the 678 authorisation by the material breach finding in OP1 of 1441, coupled with Iraq's manifest failure to take the final opportunity offered to it in that resolution) ... OP12 ... did not in terms require another decision. This was not an accidental oversight: it had been the basis of the compromise that led to the adoption of the resolution."

645. Sir Jeremy reported that he had "urged" Mr Annan "to be cautious about allowing his name to be associated too closely with one legal view of a complicated and difficult issue".

646. At Mr Annan's suggestion, Sir Jeremy subsequently gave the UN Office of Legal Affairs a copy of Professor Greenwood's memorandum to the FAC of October 2002 and Mr Straw's evidence to the FAC on 4 March 2003.

647. Mr Straw's evidence to the FAC is referred to in more detail in Section 3.7.

648. Sir Jeremy reported that Mr Annan had said "several times" that he "understood" what Mr Straw and Mr Blair "were trying to do, and expressed sympathy for the tough situation you found yourselves in". Sir Jeremy reported that Mr José Maria Aznar, the Spanish Prime Minister, was "in a similar predicament". The "US did not

always realise how comments intended by US politicians for US domestic audiences seriously damaged the position of their friends in other countries". In a conversation with President Chirac on 12 March, Mr Annan had "found him 'tough but not closed' to possible compromises".

649. On the same day Mr Straw informed Mr Igor Ivanov, the Russian Foreign Minister, that the UK was about to table a revised resolution, omitting the paragraph from the 7 March draft which contained the deadline of 17 March for Iraq to demonstrate that it had taken the final opportunity offered in resolution 1441 to comply with its obligations.²⁵⁵

Mr Blair's conversation with President Bush, 12 March 2003

650. In a telephone call with President Bush on 12 March Mr Blair proposed only that the US and UK should continue to seek a compromise in the UN, while confirming that he knew it would not happen. He would say publicly that France had prevented a resolution.

651. Much of the discussion focused on managing UK politics.

652. Mr Blair recognised that it would not be possible to agree a compromise in the Security Council before 17 March and that the US would not extend the deadline.

653. Mr Blair sought President Bush's help in handling the debate in the House of Commons planned for Tuesday 18 March, where he would face a major challenge to win a vote supporting military action.

654. Mr Blair wanted:

- to avoid a gap between the end of the negotiating process and the Parliamentary vote in which France or another member of the Security Council might table a resolution that attracted a Council majority; and
- US statements on the publication of a Road Map on the Middle East Peace Process and the need for a further resolution on a post-conflict Iraq.

655. On the afternoon of 12 March Mr Blair and President Bush discussed the latest position and discussions with Chile and Mexico.²⁵⁶

656. The conversation and discussions between Mr Straw and Secretary Powell about US concerns about UK diplomatic activity are addressed in more detail in Section 3.8.

²⁵⁵ Telegram 46 FCO London to Moscow, 12 March 2003, 'Iraq: Foreign Secretary's Conversation with Russian Foreign Minister, 12 March'.

²⁵⁶ Letter Rycroft to McDonald, 12 March 2003, 'Iraq: Prime Minister's Telephone Conversation with President Bush, 12 March'.

657. The UK subsequently circulated a draft side statement setting out the six tests to a meeting of Security Council members in New York on the evening of 12 March.²⁵⁷ The draft omitted an identified date for a deadline and included the addition of a final clause stating:

“The United Kingdom reserves its position if Iraq fails to take the steps required of it.”

658. Sir Jeremy Greenstock commented that the initiative had resulted in:

- genuine expressions of warmth from the [undecided 6] for taking them seriously;
- recognition that the UK had made a real effort to find a way through for the Council;
- discomfiture of the negative forces, who sounded plaintive and inflexible in their questioning;
- finally, a bit of time. I can keep this going at least until the weekend.”²⁵⁸

659. But:

- The UK had not achieved “any kind of breakthrough. The French, Germans and Russians will undoubtedly home in on the preambular section of the draft resolution and on the whiff of ultimatum in the side statement”.
- There were “serious questions about the available time”, which the US would “not help us to satisfy”.

Cabinet, 13 March 2003

660. Mr Blair told Cabinet on 13 March that work continued in the UN to obtain a second resolution and, following the French decision to veto, the outcome remained open.

661. Mr Blair indicated that difficult decisions might be required and promised a further meeting at which Lord Goldsmith would be present.

662. Mr Straw told Cabinet that Iraq continued to be in material breach of resolution 1441 and set out his view of the legal position.

663. Mr Straw told Cabinet that there was “good progress” in gaining support in the Security Council.

664. Mr Blair told Cabinet on 13 March that work continued in the UN to obtain a second resolution. The UK had presented proposals for six “tests”, “endorsed by Dr Blix”, to judge whether Saddam Hussein had decided to commit himself to disarmament. Satisfying those tests would not mean that disarmament was complete, but that the

²⁵⁷ Telegram 429 UKMIS New York to FCO London, 13 March 2003, ‘Iraq: UK Side-Statement’.

²⁵⁸ Telegram 428 UKMIS New York to FCO London, 13 March 2003, ‘Iraq: UK Circulates Side-Statement: Part 2’.

first steps had been taken. The non-permanent members of the Security Council were uncomfortable with a situation where, “following the French decision to veto”, the Permanent Members were “not shouldering their responsibilities properly”. The “outcome in the Security Council remained open”. If the United Nations process broke down, difficult decisions would be required and there would be another Cabinet meeting at which the Attorney General would be present.²⁵⁹

665. Mr Straw said that, although there were differences between members of the Security Council, “none was saying that Iraq was complying with its international obligations”; and that it “followed that Iraq continued to be in material breach” of those obligations.

666. On the legal basis for military action, Mr Straw said that he “was already on record setting out the position to the Foreign Affairs Committee”. Mr Straw rehearsed the negotiating history of the resolution 1441, stating that:

- “the French and Russians had wanted a definition of what would constitute a material breach, but had settled for the facts being presented to the Security Council”;
- “they had also wanted a statement that explicit authorisation was required for military action and instead had settled for further consideration by the Security Council ...”; and
- failure by Iraq to comply with resolution 1441 “revived the authorisations existing” in resolutions 678 (1990) and 687 (1991).

667. Mr Straw noted that the Government’s supporters had “a clear preference” for a second resolution but it “had not been seen as an absolute necessity”. There had been “good progress” in New York in “gaining the support of uncertain non-permanent members of the Security Council, including Mexico and Chile”.

668. Quoting from her diary, Ms Short wrote that she had asked for “a special Cabinet with the Attorney General present” and this had been agreed. She also reported saying, “if we have UN mandate, possible progress on Palestine/Israel and try with the second resolution process, it would make a big difference”. She was “hopeful of progress”.²⁶⁰

669. Ms Short had been advised by Mr Suma Chakrabarti, the DFID Permanent Secretary, that she should focus her intervention in Cabinet on the need for “a proper decision-making process”, which would be “important both in substance and ... for the politics”. In his view, there were two key points to make:

“Cabinet needs to discuss now the legal opinion of the Attorney General and how to make it public. This is vital for Ministers, our Armed Services and the Civil Service.

²⁵⁹ Cabinet Conclusions, 13 March 2003.

²⁶⁰ Short C. *An Honourable Deception: New Labour, Iraq and the Misuse of Power*. The Free Press, 2004.

“As soon as we are clear on the second resolution (whether it fails to get the necessary votes or is not put to a vote), Cabinet should meet again for a discussion on the politics and to put a proposition to Parliament for immediate debate.”²⁶¹

670. Mr Campbell wrote in his diaries that Lord Williams of Mostyn, the Leader of the House of Lords, had “said there would be a debate [in Cabinet] on the legality” and Ms Short had said Lord Goldsmith should be present. Mr Blair had “said of course he would”.²⁶²

The continuing public debate

Media reports, 13 March 2003

671. On 13 March, several newspapers commented on the exchanges which had taken place in the House of Commons the previous day.

672. A leading article in *The Guardian* exhorted Mr Blair to “re-engage with Mr Chirac” and stated that he should:

“... come clean about the legal advice that has been given to the Government by the Attorney General. Either the Attorney has advised that to wage war in defiance of a vetoed UN resolution is acceptable under international law, or he has advised that it is not. The difference is very important and the public has a right to know what has been advised. To say nothing is merely to sow suspicion. In the Commons yesterday, Mr Blair said that Britain was determined to act ‘on a proper legal basis’. That has all the sound of a weasel formulation”.²⁶³

673. In the same edition, the political editor referred to the exchanges in Parliament and to a radio interview in which Mr Kenneth Clarke (Conservative) had stated that the advice of the Law Officers had been made available on previous occasions.²⁶⁴

674. Articles in the *Financial Times* and *The Times* referred to the questions asked by Mr Kennedy and to the request that Lord Goldsmith’s advice should be published.²⁶⁵

Parliamentary calls for a statement

675. In Parliament on 13 March, several MPs called for a statement on the Attorney General’s advice regarding the legal basis for military action.

²⁶¹ Minute Chakrabarti to Secretary of State [DFID], 12 March 2003, ‘Cabinet’ 13 March 2003: Iraq’.

²⁶² Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

²⁶³ *The Guardian*, 13 March 2003, *The need to get real: Blair is in denial about Iraq options*.

²⁶⁴ *The Guardian*, 13 March 2003, *Threat of war: Publish advice on legality of war, opponents urge No.10*.

²⁶⁵ *Financial Times*, 13 March 2003, *Iraq Crisis Blair Under Pressure*; *The Times*, 13 March 2003, *Resolute Blair insists that he will stay the course*.

676. MPs raised the issue of the Attorney General’s advice later that day when Mr Robin Cook, Leader of the House of Commons, described the business of the House in the week to follow.

677. Mr Eric Forth (Conservative) asked:

“Given that there is an increasing belief that the Attorney General’s advice may well be against military action by this country, certainly if that takes place without United Nations cover, may we please have a statement in the House by the Solicitor General ... as to the position with regard to the advice being given to the Prime Minister and the Government by the Attorney General on the legality of military action in Iraq?”²⁶⁶

678. Welcoming Conservative support for Mr Kennedy’s request for access to the Attorney General’s advice, Mr Paul Tyler (Liberal Democrat) stated:

“... is it not right that the Law Officers are answerable to Parliament, not to the Government of the day. Surely it must be an exceptional circumstance when very important issues of international law are being challenged in the way implied by the Secretary-General of the United Nations? Should there not be a second Security Council resolution, is it not absolutely essential that the Law Officers make a statement prior to any debate in this House?”²⁶⁷

679. Several MPs made reference to the authoritative work *Parliamentary Practice* by Erskine May (see Box below).

Erskine May

Thomas Erskine May’s *Parliamentary Practice* is an authoritative source of information and guidance on Parliamentary practice and procedure and British constitutional law.

The 22nd edition, current in 2001, contained the following paragraph entitled “Law officer’s opinions”:

“The opinions of the law officers of the Crown, being confidential, are not usually laid before Parliament, cited in debate or provided in evidence before a select committee, and their production has frequently been refused; but if a Minister deems it expedient that such opinions should be made known for the information of the House, he is entitled to cite them in the debate.”²⁶⁸

680. Mr Andrew Mackay (Conservative) asked:

“... is it not very important indeed that the Prime Minister should let us see this legal advice, ahead of the debate next week?”²⁶⁹

²⁶⁶ House of Commons, *Official Report*, 13 March 2003, column 430.

²⁶⁷ House of Commons, *Official Report*, 13 March 2003, column 430.

²⁶⁸ Erskine May T. *Parliamentary Practice, 22nd Edition*. Butterworths, 1977.

²⁶⁹ House of Commons, *Official Report*, 13 March 2003, column 437.

681. Referring to the fact there were precedents for the disclosure of the Law Officers' advice, Mrs Alice Mahon (Labour) said: "In these circumstances – these exceptional circumstances – it is absolutely vital that we get that advice."

682. Mr Andrew Mitchell (Conservative) said that the Prime Minister "should bring into the public domain the advice that has been given by the Attorney General".²⁷⁰

683. Mr Robert Wareing (Labour) asked:

"Is it not imperative that we have a statement about the advice given by the Attorney General? Members of Parliament who vote for an aggressive war launched by America and its collaborators and may be culpable and may be committing an offence if the Attorney General's advice were that Britain was going against international law."²⁷¹

684. Further calls for a statement were made during points of order by Mr William Cash, the Shadow Attorney General, Mr John Burnett (Liberal Democrat), Mr Mark Francois (Conservative) and Ms Lynne Jones (Labour).²⁷²

The legal basis for military action

Lord Goldsmith's change of view, 13 March 2003

685. Lord Goldsmith informed his officials on 13 March that, after further reflection, he had concluded earlier that week that on balance the "better view" was that there was a legal basis for the use of force without a further resolution.

686. Lord Goldsmith reached this view after he had been asked by both Admiral Boyce and Ms Juliet Wheldon, the Treasury Solicitor, to give a clear-cut answer on whether the "reasonable case" was lawful rather than unlawful.

687. This view was the basis on which military action was taken.

688. Mr Martin Hemming had written to Mr Brummell on 12 March stating:

"It is clear that legal controversy will undoubtedly surround the announcement of any decision by the Government to proceed to military action in the absence of the adoption of a further resolution by the UN Security Council. The CDS is naturally concerned to be assured that his order to commit UK Armed Forces to the conflict in such circumstances would be a lawful order by him. I have informed the CDS that if the Attorney General has advised that he is satisfied that the proposed military action by the UK would be in accordance with national and international law, he [CDS] can properly give his order committing UK forces.

²⁷⁰ House of Commons, *Official Report*, 13 March 2003, column 438.

²⁷¹ House of Commons, *Official Report*, 13 March 2003, column 440.

²⁷² House of Commons, *Official Report*, 13 March 2003, columns 444 and 446.

“In view of the rapidly developing situation, I thought that the Attorney would wish to know what I have said on this question.”²⁷³

689. Lord Goldsmith met Mr Brummell and Ms Adams at 1300 on 13 March.²⁷⁴

690. In a minute approved by Lord Goldsmith, Mr Brummell wrote that Lord Goldsmith had told him that:

“... he had been giving further careful consideration to his view of the legal basis for the use of force against Iraq ... It was clear ... that there was a sound basis for the revival argument in principle ...

“The question was whether the conditions for the operation of the revival doctrine applied in this case. The Attorney confirmed that, after further reflection, he had come to the clear view that on balance the better view was that the conditions for the operation of the revival argument were met in this case, i.e. there was a lawful basis for the use of force without a further resolution beyond resolution 1441.”²⁷⁵

691. Addressing the key provisions of resolution 1441, Mr Brummell reported that Lord Goldsmith had stated:

“... the crucial point ... was that OP12 did not stipulate that there should be a further decision of the SC before military action was taken, but simply provided for reports of any further breaches by Iraq to be considered by the SC. In the absence of a further decision by the SC, the Attorney General thought that the better view was that resolution 1441 itself revived resolution 678 and provided the legal basis for use of force. (It was, moreover plain that Iraq had failed to take the final opportunity afforded to it and continued to be in material breach: not a single member of the SC considered that Iraq had complied.)”

692. Lord Goldsmith had:

“... fully taken into account the contrary arguments. In coming to his concluded view ... he had been greatly assisted by the background material he had seen on the history of the negotiation of resolution 1441 and his discussions with both Sir Jeremy Greenstock and the US lawyers ...”

693. Lord Goldsmith’s view was:

“It was apparent from this background material that members of the Council were well aware that a finding of material breach by the SC was tantamount to authorising the use of force (through the operation of the revival doctrine). It was for this very reason that the French had been keen to avoid the finding of a material breach

²⁷³ Letter Hemming to Brummell, 12 March 2003, ‘Iraq – Position of the CDS’.

²⁷⁴ Diary extract Attorney General, 13 March 2003.

²⁷⁵ Minute Brummell, 13 March 2003, ‘Iraq: Legal Basis for Use of Force – Note of Discussion with Attorney General Thursday, 13 March 2003’.

and had argued for the fire-break provision in OP2, so as to prevent automaticité. And in relation to OP12 it was evident that the French, who had pressed hard for a reference to a 'decision' (as a pre-condition to use of force), appreciated that, as the final text provided only for the SC to 'consider' Iraq's further breaches, the way was left open for the operation of the revival argument in the event that the SC did not come to any decision."

694. Lord Goldsmith had:

"... explained that in his minute of 7 March he had wanted to make sure that the Prime Minister was fully aware of the competing arguments. He was clear in his own mind, however, that the better view was that there was a legal basis without a second resolution. He had come to this concluded view earlier in the week."

695. Lord Goldsmith and Mr Brummell agreed that:

- It would be proper for Mr Brummell to confirm to Mr Hemming that the proposed military action would be in accordance with national and international law.
- It would be necessary to prepare a statement setting out the Attorney's view of the legal position which could be deployed at Cabinet and in Parliament the following week.

696. Mr Brummell wrote to Mr Hemming on 14 March to "confirm" that Lord Goldsmith was "satisfied that the proposed military action by the UK would be in accordance with national and international law".²⁷⁶

697. Copies of the letter were sent to the Private Offices of Mr Hoon, Admiral Boyce and Sir Kevin Tebbit, as well as to Mr Desmond Bowen (Cabinet Office) and Ms Wheldon.

698. Gen Jackson told the Inquiry that the Chiefs of Staff had seen Lord Goldsmith's advice of 7 March.²⁷⁷

699. In his memoir, Gen Jackson wrote that the Chiefs of Staff had discussed the issue of the legal basis for military action and "collectively agreed that we needed to be sure of the ground".²⁷⁸ Adm Boyce had "on behalf of us all, sought the Attorney General's assurances on the legality of the planned action" and the Chiefs had accepted his advice.

700. Gen Jackson told the Inquiry that a similar assurance had been sought and received in relation to military action in Kosovo in 1999.²⁷⁹

²⁷⁶ Letter Brummell to Hemming, 14 March 2003, 'Iraq – Position of the CDS'.

²⁷⁷ Public hearing, 28 July 2010, page 36.

²⁷⁸ Jackson M. *Soldier: The autobiography of General Sir Mike Jackson*, Bantam Press, 2007.

²⁷⁹ Public hearing, 28 July 2010, page 38.

701. Lord Goldsmith told the Inquiry that he had reached his “better view” after he had received a letter from the Ministry of Defence stating that Adm Boyce needed “a yes or no answer” on whether military action would be lawful and, as requested by Sir Andrew Turnbull, a visit from Ms Wheldon asking the same question on behalf of the Civil Service.²⁸⁰

702. Lord Boyce told the Inquiry:

“... the propriety and/or the legality of what we were about to do was obviously a concern of mine, not least of it, since, somewhat against my better instincts, we had signed up to the ICC [International Criminal Court]. I always made it perfectly clear to the Prime Minister face-to-face, and, indeed, to the Cabinet, that if we were invited to go into Iraq, we had to have a good legal basis for doing so, which obviously a second resolution would have completely nailed.”²⁸¹

703. Lord Boyce added:

“... that wasn’t new, it was something which I had told the Prime Minister that I would need at the end of the day, long before March. This is back in January when we started to commit our forces out there, and, as you say, I received that assurance. This was an important issue, particularly because of the speculation in the press about the legality or otherwise and, as far as I was concerned particularly for my constituency, in other words, soldiers, sailors and airmen and their families had to be told that what they were doing was legal. So it formed the first line of my Operational Directive which I signed on 20 March, and it was important for me just to have a one-liner, because that was what was required, as far as I was concerned, from the Government Law Officer, which, as you say, I received.”²⁸²

704. Lord Goldsmith told the Inquiry:

“... there were a number of things which happened after 7 March. It was becoming clear, though it hadn’t yet become definitive, that the second resolution was going to be very difficult to obtain.

“... But most importantly ... I had been presented with a letter which had come from the Ministry of Defence, which reflected the view of CDS, and which was ... calling for this clear view, a yes or no answer, as I think he has put it.

“At about the same time, I also received a visit from Juliet Wheldon ... the Treasury Solicitor. I understood her to be speaking on behalf of the Civil Service, and, indeed, from what I now know, I suspect, believe, she would at least have been encouraged to do that by the Cabinet Secretary on behalf of the Civil Service.

²⁸⁰ Public hearing, 27 January 2010, pages 184-5.

²⁸¹ Public hearing, 3 December 2009, page 82.

²⁸² Public hearing, 3 December 2009, pages 88-89.

“Both of them in a sense were saying the same thing. They were saying, ‘We are potentially at risk personally if we participate’, or, in the case of the Civil Service, ‘assist in war, if it turns out to be unlawful, and therefore, we want to know whether the Attorney’s view is yes or no, lawful’.

“That seemed to me to be actually a very reasonable approach for them to take ...”²⁸³

705. Lord Goldsmith told the Inquiry that he:

“... very quickly saw that actually this wasn’t satisfactory from their point of view. They deserved more ... than my saying there was a reasonable case.

“So, therefore it was important for me to come down clearly on one side of the argument or the other, which is what I proceeded to do.”²⁸⁴

706. Lord Goldsmith added:

“... until the Civil Service and the ... Services said they wanted this clear view, I was working ... I take full responsibility for this, but it was with the approval of my office on the basis that saying there was a reasonable case was a green light. It was sufficient for the Government, and if the Cabinet and, as it turns out, the House of Commons, took the view that it was the right thing to do, then we had done enough to explain what the legal basis was and to justify it.

“But when they came with their request, I then saw that actually that wasn’t fair on them.”

707. Asked how the case had suddenly become stronger, Lord Goldsmith replied:

“It is the decision you make about it. You make a judgment. You say ‘I’m asked to advise whether there is a reasonable case’, and you examine all the evidence and you say, ‘Yes there is a reasonable case’. You don’t need to go any further, and in that respect, I can see with hindsight, that I was being overly cautious.

“Then somebody says to you, ‘Actually, I don’t want to know whether you say there is a reasonable case, I want to know whether or not you consider that it will be lawful.’

“Well, I regard that as a different question and you then have to answer it.”²⁸⁵

708. Asked why he was able to give the Armed Forces a more certain answer without providing more legal arguments, Lord Goldsmith replied:

“Well, not on the basis of more legal argument, but on the basis of asking a different question. This is, in a sense, why I’m saying ‘with hindsight’. I would have liked to

²⁸³ Public hearing, 27 January 2010, pages 183-184.

²⁸⁴ Public hearing, 27 January 2010, page 171.

²⁸⁵ Public hearing, 27 January 2010, page 172.

have known before the following week that what the Armed Services and the Civil Service expect was not what had been the precedent given in the past that they wanted more, they wanted an unequivocal answer. Had I known that, then I would have approached the question differently, and I'm simply saying that I was cautious in not going further than I needed to do on 7 March."²⁸⁶

709. Asked whether the difficulties in the Security Council had made it more important to know if there was a sufficient legal basis for military action, Lord Goldsmith replied: "Yes."²⁸⁷

710. Asked whether Mr Blair had asked him to come up with a definitive position, Lord Goldsmith told the Inquiry:

"I don't recall it that way. The way it may have been seen by others or interpreted by others or recollected by others, I don't know, but I don't recall the Prime Minister asking for that, no, definitely not."²⁸⁸

711. Asked whether the huge pressure on the Government, including Mr Blair's personal future, had weighed on him, Lord Goldsmith said:

"The consequences for the Government did not ... What did matter to me, of course, was the United Kingdom as a country and the people that we would have been asking to take part in this with a potential personal responsibility, and I did believe it was right to respond to the request from the head of the Armed Services ... That weighed with me."²⁸⁹

712. Asked whether the possibility of troops who had been deployed to the area being withdrawn as a consequence of his advice weighed upon him Lord Goldsmith said:

"No. Those sorts of consequences are not what the lawyer has to take into account. What the lawyer has to do is to weigh up the arguments and evidence carefully and reach what he believes is the correct legal view, whatever the consequences may be."²⁹⁰

713. The Inquiry asked Mr Blair what discussions he or others under his instruction had with Lord Goldsmith between 7 March, when he had received Lord Goldsmith's formal advice, and 13 March. Mr Blair said:

"I can't recall any specific discussions that I had. I don't know whether others would have had with him before 13 March, but essentially what happened was this: he gave legal advice, he gave an opinion saying, 'Look, there is this argument against it, there is this argument for it. I think a reasonable case can be made' and obviously

²⁸⁶ Public hearing, 27 January 2010, page 173.

²⁸⁷ Public hearing, 27 January 2010, page 187.

²⁸⁸ Public hearing, 27 January 2010, page 189.

²⁸⁹ Public hearing, 27 January 2010, pages 190-191.

²⁹⁰ Public hearing, 27 January 2010, page 191.

we then had to have a definitive decision, and that decision is: yes, it is lawful to do this or not.”²⁹¹

714. Asked if it had been of considerable relief to him when Lord Goldsmith came to the better view that resolution 1441 authorised the use of force without a further resolution, Mr Blair replied:

“Yes, and the reason why he had done that was really very obvious, which was that the Blix reports indicated quite clearly that Saddam had not taken the final opportunity.”²⁹²

Preparing the legal case

715. Lord Goldsmith had several meetings on the afternoon of 13 March.

716. The primary purpose of the meetings appears to have been discussion of the arrangements for preparing statements on the legal basis for action for Cabinet and Parliament.

717. A team was established to help Lord Goldsmith to explain in public the legal basis “as strongly and unambiguously as possible”.

718. By the afternoon of 13 March, the UK and the US were discussing announcing the withdrawal of the draft resolution in the Security Council on 17 March and a planned debate in the House of Commons on 18 March.

719. Mr Brummell recorded that Lord Goldsmith had agreed on 13 March to explore whether Professor Greenwood:

“... could be instructed now, for the purpose of assisting in the development of the legal arguments in support of the view that there was a sound legal basis for the use of force without a second resolution. This would be useful both in terms of preparing the public statement of the legal position and in terms of being ready to meet any legal challenge at short notice.”²⁹³

720. A postscript to Mr Brummell’s note indicated that Lord Goldsmith had spoken to Professor Greenwood “later that morning”, who confirmed that he shared Lord Goldsmith’s analysis of the legal position and that “he also considered that the better view was that a second resolution was not legally necessary”.

721. Ms Adams wrote to Professor Greenwood “following” his “conversation with the Attorney General this morning”, requesting his “assistance in drawing up a paper setting out the legal arguments which may be made in support of the view that military action

²⁹¹ Public hearing, 29 January 2010, page 156.

²⁹² Public hearing, 29 January 2010, page 158.

²⁹³ Minute Brummell, 13 March 2003, ‘Iraq: Legal Basis for Use of Force – Note of Discussion with Attorney General Thursday, 13 March 2003’.

may be taken against Iraq to enforce the terms of the UNSCR in the absence of a further resolution of the Security Council”.²⁹⁴

722. Ms Adams stated that there were two issues to consider:

- “Is the revival argument valid?”; and
- “Is resolution 1441 sufficient?”

A “conference” with Lord Goldsmith had been arranged for 1630 that afternoon.

723. Lord Goldsmith met Lord Mayhew, the Conservative Attorney General from 1987 to 1992, late on the afternoon of 13 March.²⁹⁵

724. Lord Goldsmith told the Inquiry that Lord Mayhew had asked for the meeting because he had wanted, and been given, Lord Goldsmith’s view; and that in the debate on the legality of the use of force in Iraq in the House of Lords on 17 March, Lord Mayhew had professed himself in agreement with Lord Goldsmith’s view.²⁹⁶

725. Lord Goldsmith’s meeting with Lord Mayhew was followed by one with Mr Straw, which Mr Brummell also attended.²⁹⁷

726. In what was described as a “lengthy meeting”, Lord Goldsmith was reported to have said that “having decided to come down on one side (1441 is sufficient), he had also decided that in public he needed to explain his case as strongly and unambiguously as possible”.²⁹⁸ A legal team under Professor Greenwood was “now working” on that. Mr Straw arranged for Mr Macleod and Mr Patrick Davies, one of his former Private Secretaries, to join the team.

727. Mr Straw’s request that the team should produce a draft letter explaining the legal position for him to send to the Chairman of the Foreign Affairs Committee (FAC) had been agreed. Mr Straw’s Private Office also recorded that Lord Goldsmith had said “he thought he might need to tell Cabinet when it met on 17 March that the legal issues were finely balanced”.

728. The record stated that Mr Straw had responded by saying that Lord Goldsmith:

“... needed to be aware of the problem of leaks from ... Cabinet. It would be better, surely, if the Attorney General distributed the draft letter from the Foreign Secretary to the FAC as the basic standard text of his position and then made a few comments. The Attorney General agreed.”

²⁹⁴ Letter Adams to Greenwood, 13 March 2003, ‘Iraq: Resolution 1441’.

²⁹⁵ Diary extract Attorney General, 13 March 2003.

²⁹⁶ Public hearing, 27 January 2011, page 197.

²⁹⁷ Diary extract Attorney General, 13 March 2003.

²⁹⁸ Minute McDonald, 17 March 2003, ‘Iraq: Meeting with the Attorney General’.

729. Lord Goldsmith told the Inquiry that the main thrust of the meeting with Mr Straw on 13 March was planning for what was going to happen.²⁹⁹

730. Asked if the record of the meeting on 13 March made by Mr Straw’s Private Office reflected his recollection of the decision on how to present his legal advice to Cabinet, Lord Goldsmith replied:

“It isn’t actually. There wasn’t any question of distributing the longer FAC document as my opinion. That wasn’t at all what I was going to do.”³⁰⁰

731. A note on the Attorney General’s file listed the “further material to be assembled”, as discussed by Lord Goldsmith and Mr Straw, as “evidence showing” that Iraq was “in further material breach”, as:

- Any examples of false statements/omissions and (significant) non-co-operation reported to Security Council pursuant to OP4 of SCR 1441.
- Any examples of Iraqi interference reported by Blix or ElBaradei [Dr Mohamed ElBaradei, the Director General of the IAEA] to the Council pursuant to OP11.
- For these purposes, we need to trawl through statements from the draft Command Paper on Iraqi non-compliance which is to be published.
- See attached FCO paper Iraqi non-compliance with UNSCR 1441 of 13 March 2003.”³⁰¹

Lord Goldsmith’s meeting with Lord Falconer and Baroness Morgan, 13 March 2003

732. The last meeting in Lord Goldsmith’s diary on 13 March was with Lord Falconer, who in March 2003 was the Minister of State in the Home Office responsible for Criminal Justice, and Baroness Morgan.

733. Lord Goldsmith informed Lord Falconer and Baroness Morgan of his clear view that it was lawful under resolution 1441 to use force without a further UN resolution.³⁰²

734. Asked to comment on press allegations to the effect that he had been “more or less pinned to the wall at a Downing Street showdown with Lord Falconer and Baroness Morgan who allegedly had performed a pincer movement” on him, Lord Goldsmith told the Inquiry that that was:

“... absolute complete and utter nonsense. I had not spoken to Lord Falconer about this issue before. When I saw them [on 13 March] I, of course, had reached my

²⁹⁹ Public hearing, 27 January 2010, page 198.

³⁰⁰ Public hearing, 27 January 2010, page 213.

³⁰¹ File note [on Attorney General’s files], [undated], ‘Iraq Further Material to be Assembled (as discussed by the Attorney General and Foreign Secretary on 13 March 2003)’.

³⁰² *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, paragraph 381.

opinion, I communicated it to my officials, to the Foreign Secretary and as it happens to Lord Mayhew as well. There was no question of them performing a pincer movement.”³⁰³

735. Lord Goldsmith told the Inquiry:

“I told them the conclusion that I had reached, and I think briefly why, and I think we then went on to discuss – I think by that stage it was known that there was going to be a debate the following Monday in the House of Lords, and I think we discussed something about how that debate would be dealt with, the debate on the legality issue, I think a Liberal Democrat Peer put down a motion.”³⁰⁴

736. Asked for a statement about the purpose of her involvement in a number of meetings with Lord Goldsmith throughout the period before 18 March 2003, Baroness Morgan wrote that the purpose of the meetings was to share information.³⁰⁵ Her role was to explain her perception of the Parliamentary and political mood. She was aware of claims that she had somehow exerted pressure on the Attorney General to alter his advice to provide a legal justification for military action, but wished to state without equivocation that such allegations were untrue:

“... at no point during any discussion at which I was present did I witness any effort to engage with Lord Goldsmith as to the correctness of his legal analysis. I am certain there was never any attempt by me, or by anyone else present, at any of the four meetings to challenge the Attorney’s legal analysis **or otherwise to influence the Attorney’s legal opinion.**”

737. On 15 March, Baroness Morgan informed Mr Campbell by email that the Attorney General would “make clear during the course of the week that there [was] a sound legal basis for action should that prove necessary”.³⁰⁶

Mr Blair’s conversation with President Bush, 13 March 2003

738. On 13 March, Mr Blair and President Bush discussed withdrawing the draft resolution on 17 March followed by a US ultimatum to Saddam Hussein to leave within 48 hours. There would be no US military action until after the vote in the House of Commons on 18 March.

739. Mr Blair and President Bush discussed the prospects for a vote in the House of Commons and a ‘Road Map’ for the Middle East on 13 March.³⁰⁷

³⁰³ Public hearing, 27 January 2010, page 201.

³⁰⁴ Public hearing, 27 January 2010, page 202.

³⁰⁵ Statement, 5 August 2011, pages 2-4.

³⁰⁶ Email Morgan to Campbell, 15 March 2003, ‘AG’.

³⁰⁷ Letter Cannon to McDonald, 13 March 2003, ‘Iraq and MEPP: Prime Minister’s Conversation with Bush, 13 March’.

740. On the UN draft resolution, Mr Blair commented that the “haggling over texts in New York was frustrating and muddied the waters. But it was buying the vital time we needed this weekend.”

741. A discussion on the military timetable was reported separately.³⁰⁸ It was envisaged that the withdrawal of the resolution on 17 March would be followed by a speech from President Bush which would give Saddam Hussein an ultimatum to leave within 48 hours. President Bush would call for freedom for the Iraqi people and outline the legal basis for military action.

742. There would be no military action before a vote in the UK Parliament on 18 March. President Bush would announce the following day that military action had begun. The plan was for the main air campaign to begin on 22 March.

Confirmation of Mr Blair’s view

The exchange of letters on 14 and 15 March 2003

743. On 14 March, Lord Goldsmith asked for confirmation of Mr Blair’s view that Iraq had “committed further material breaches as specified in [operative] paragraph 4 of resolution 1441”.

744. Mr Brummell wrote to Mr Rycroft on 14 March:

“It is an essential part of the legal basis for military action without a further resolution of the Security Council that there is strong evidence that Iraq has failed to comply with and co-operate fully in the implementation of resolution 1441 and has thus failed to take the final opportunity offered by the Security Council in that resolution. The Attorney General understands that it is unequivocally the Prime Minister’s view that Iraq has committed further material breaches as specified in [operative] paragraph 4 of resolution 1441, but as this is a judgement for the Prime Minister, the Attorney would be grateful for confirmation that this is the case.”³⁰⁹

745. In his response on 15 March, Mr Rycroft recorded that it was Mr Blair’s “unequivocal view that Iraq is in further material breach of its obligations, as in OP4 of UNSCR 1441”.

746. Mr Rycroft replied to Mr Brummell on 15 March:

“This is to confirm that it is indeed the Prime Minister’s unequivocal view that Iraq is in further material breach of its obligations, as in OP4 of UNSCR 1441, because of ‘false statements or omissions in the declarations submitted by Iraq pursuant

³⁰⁸ Letter Cannon to McDonald, 13 March 2003, ‘Iraq: Military Timetable’.

³⁰⁹ Letter Brummell to Rycroft, 14 March 2003, ‘Iraq’.

to this resolution and failure to comply with, and co-operate fully in the implementation of, this resolution’.”³¹⁰

747. Lord Goldsmith gave evidence to the Inquiry about the purpose of this exchange of letters.

748. Lord Goldsmith told the Inquiry:

“... if this ever came to court ... we would have to persuade a court of our interpretation of 1441, but they would also say, ‘What’s the evidence that they [Iraq] did actually fail?’, and I was saying, at that stage, there needs to be strong factual evidence of failure.”³¹¹

749. Lord Goldsmith described a briefing from Mr John Scarlett focused on the question of Iraqi compliance:

“... the clear intelligence, the clear advice I was being given by him was that Saddam Hussein in Iraq had not complied with the resolution, not just that there were specific elements of ... serious non-co-operation, including, for example, intimidation of potential interviewees ...”³¹²

750. Asked what his opinion was on the weight of the intelligence, Lord Goldsmith replied:

“At the end of the day ... like any lawyer who is dependent upon the facts from his client - I was dependent upon the assessment by the Government which had all the resources it had ... and that was why I particularly wanted to be sure ... the week before the events, that the Prime Minister, who did have access to all that information, was of the view that there had been a failure.”³¹³

751. Lord Goldsmith stated that the UK Government did not have to decide whether there had been a material breach, because:

“... the pre-determination had been made [by the Security Council in resolution 1441] that if there was a failure, it would be a material breach ... we had to decide whether there was a failure but, if there was a failure, then the Security Council’s pre-determination would come in and clothe that with the character of material breach.”³¹⁴

752. Addressing the purpose of seeking Mr Blair’s views, Lord Goldsmith stated:

“First of all, because it did depend upon the failure, it was important to point out you need to be satisfied about that and secondly, I wanted the Prime Minister,

³¹⁰ Letter Rycroft to Brummell, 15 March 2003, ‘Iraq’.

³¹¹ Public hearing, 27 January 2010, pages 162-163.

³¹² Public hearing, 27 January 2010, page 163.

³¹³ Public hearing, 27 January 2010, page 164.

³¹⁴ Public hearing, 27 January 2010, page 167.

consciously and deliberately to focus on that question. I wanted it to be a question that he would really apply his mind to. Forgive me for even suggesting that he wouldn't have done. That wasn't the point. That he should have focused his mind on whether there was, in fact, a failure, and that was the purpose of saying, 'I want this in writing', it was so there was a really conscious consideration of that."³¹⁵

753. Lord Goldsmith later stated:

"I think I'm saying two things. First of all, I wasn't actually saying there needed to be a declaration by him [Mr Blair]. I was saying 'You need to be satisfied. You need to judge that there really is a failure to take the final opportunity. You need to judge that on the basis of the resources, the intelligence and the information that you have got' ... This was going to be a very controversial decision, whichever way it went. There would be a lot of scrutiny. We had had sort of legal actions bubbling up already. So, 'whereas in the past a reasonable case was sufficient, you can expect a degree of scrutiny on this occasion'."³¹⁶

754. Lord Goldsmith told the Inquiry that he had received Mr Blair's view orally, but thought it was important to have it in writing.³¹⁷

755. In his statement, Lord Goldsmith wrote:

"I was asking the Prime Minister to confirm that Iraq had submitted false statements or omissions in its declarations submitted pursuant to the resolution and had failed to comply with and co-operate fully in the implementation of resolution [1441] so that the authority to use force under resolution 687 revived."³¹⁸

756. In response to the question whether Mr Blair could decide if Iraq was in further material breach of resolution 1441, Lord Goldsmith wrote: "No."³¹⁹

757. Lord Goldsmith added:

"Only the Security Council could decide whether or not a particular failure or set of failures by Iraq to meet an obligation imposed by the Security Council resolution had the quality of being a 'material breach' of resolution 687."³²⁰

³¹⁵ Public hearing, 27 January 2010, page 168.

³¹⁶ Public hearing, 27 January 2010, page 175.

³¹⁷ Public hearing, 27 January 2010, pages 210-211.

³¹⁸ Statement, 4 January 2011, paragraph 5.1.

³¹⁹ Statement, 4 January 2011, paragraph 5.2.

³²⁰ Statement, 4 January 2011, paragraph 5.3.

758. Lord Goldsmith's view that resolution 1441 authorised the use of force relied on the conclusion that OP4:

"... constituted a determination in advance that if the particular set of circumstances specified in it arose, so that Iraq failed to take the final opportunity it had been given, that would constitute a further material breach.

"The resolution therefore constituted authority for the use of force provided that such a factual situation had occurred, namely that Iraq had failed to comply with and co-operate fully in the implementation of the resolution. In that event a Council discussion would need to take place.

"I had concluded that in any such Council discussion the assessment contemplated by OP4 was not an assessment of the quality of the breaches, since the Council had already resolved that any failure on Iraq's part would constitute a material breach, but rather an assessment of the situation as a result of those breaches having occurred ... Accordingly, the Council did not need to conclude that breaches had taken place (though I believe that at the discussion no member of the Security Council took the view that they had not occurred).

"Nonetheless the authorisation in resolution 678 could not revive unless in fact breaches had occurred. We needed therefore to be satisfied that this factual situation existed, and to be in a position if necessary to justify that to a court. That was why I said ... that there would have to be strong factual grounds for concluding that Iraq had failed to take the final opportunity."³²¹

759. Lord Goldsmith wrote:

"As I explained giving my oral evidence, this was an issue on which I wanted the Prime Minister consciously and deliberately to focus, hence my request for written confirmation that he had reached this view."³²²

Mr Blair's view

760. *The Review of Intelligence on Weapons of Mass Destruction* ('The Butler Report') records it was:

"... told that, in coming to his view that Iraq was in further material breach, the Prime Minister took account both of the overall intelligence picture and of information from a wide range of other sources, including especially UNMOVIC information."³²³

³²¹ Statement, 4 January 2011, paragraphs 5.6-5.7.

³²² Statement, 4 January 2011, paragraph 5.7.

³²³ *Review of Intelligence on Weapons of Mass Destruction* ["The Butler Report"], 14 July 2004, HC 898, paragraph 385.

761. Mr Blair told the Liaison Committee on 21 January 2003 that, if the reported breach was a pattern of behaviour rather than conclusive proof would require “more considered judgement”.³²⁴

762. As the Inquiry indicates in Sections 3.7 and 3.8, Mr Blair and his advisers in No.10 had been very closely involved, particularly since the beginning of March, in examining the reports of the UN weapons inspectors and had access to advice from the JIC on the activities of the Iraqi regime.

763. In his 7 March advice Lord Goldsmith had advised that Mr Blair “would have to consider extremely carefully whether the evidence of non-co-operation and non-compliance by Iraq [was] sufficiently compelling to justify the conclusion that Iraq had failed to take its final opportunity”.

764. But Mr Blair did not seek and did not receive considered advice from across government specifically examining whether the evidence was “sufficiently compelling” to provide the basis for a judgement of this magnitude and seriousness.

765. In mid-March, UNMOVIC was reporting increased co-operation, and the IAEA had confirmed that Iraq had no nuclear weapons or nuclear weapons programmes.

766. The Inquiry has not seen any evidence of consideration of whether the reports by UNMOVIC and the IAEA to the Security Council during January to March 2003 constituted reports to the Council under OP11 of resolution 1441; or whether the subsequent Security Council discussions constituted “consideration” as required by OP12.

767. There was clearly no majority support in the Security Council for a conclusion that the process set in hand by resolution 1441 had reached the end of the road.

768. Asked if he had been working from the definition of material breach set out by Mr Straw in November 2002, Mr Blair told the Inquiry:

“Yes, absolutely.”³²⁵

769. Asked about the process that he had followed before giving the determination requested by Lord Goldsmith, Mr Blair told the Inquiry:

“We went back over the Blix reports and it was very obvious to me, particularly on the subject of interviews, that they weren’t co-operating. They were co-operating more, as you rightly say. They started to give out a little bit more, but there was

³²⁴ Minutes, Liaison Committee (House of Commons), 21 January 2003 [Minutes of Evidence], Q&A 24.

³²⁵ Public hearing, 21 January 2011, page 111.

absolutely nothing to suggest that this co-operation was full, immediate and unconditional. It was actually not full, not immediate. In fact, even Blix himself said it wasn't immediate even on 7 March and was not unconditional.

"In addition to that I had I think JIC Assessments as well ... where it was clear that Saddam was putting heavy pressure internally on people not to co-operate ..." ³²⁶

770. The Inquiry asked Mr Blair whether the process had involved only No.10 or if he had consulted more widely, Mr Blair stated:

"I am sure I would have spoken to Jack [Straw] particularly at the time ... I don't recollect ... This literally was the whole time a conversation ... [O]ur view was that he [Saddam Hussein] was not co-operating in the terms of 1441, and that ... remains my view today that he wasn't, and that he ... never had any intention of doing that.

"Now it is correct ... that he was offering up more, but ... even in February he wasn't offering up what they were asking him." ³²⁷

771. Asked whether he was comfortable with the situation whereby the Prime Minister confirmed the existence of a further material breach at a time when the head of the IAEA had reported there was no nuclear programme and the head of UNMOVIC was reporting improved co-operation. Mr Straw replied:

"Yes ... and if I had not been I wouldn't have stayed in the Cabinet ..." ³²⁸

772. Mr Straw added that the two tests in OP4 were "conjunctive" not "disjunctive", and that:

"What OP4 talks about is false statements or omissions in the declarations. Well, the declaration was incomplete. There was no question about that. And ...

"... They did fail to comply fully. The obligation on them was not to comply a bit ... The obligation on Iraq was to comply fully. It is a positive obligation on them, not a negative one, not to disregard the whole of the resolution, and they had failed to do that." ³²⁹

773. The Government motion tabled for the debate on 18 March included provisions asking the House of Commons to:

- note that in the 130 days since resolution 1441 was adopted Iraq had not co-operated actively, unconditionally and immediately with the weapons inspectors, and had rejected the final opportunity to comply and is in further

³²⁶ Public hearing, 21 January 2011, pages 111-112.

³²⁷ Public hearing, 21 January 2011, pages 112-113.

³²⁸ Public hearing, 2 February 2011, page 86.

³²⁹ Public hearing, 2 February 2011, page 87.

material breach of its obligations under successive mandatory UN Security Council resolutions; and

- note the opinion of the Attorney General that, Iraq having failed to comply and Iraq being at the time of resolution 1441 and continuing to be in material breach, the authority to use force under resolution 678 has revived and so continued that day.³³⁰

774. In his speech Mr Blair did not address the events that had taken place since the declaration “as the House is familiar with them”. He stated that “all members” of the Security Council “accepted” the Iraq declaration was false. He added:

“That in itself, incidentally, is a material breach. Iraq has taken some steps in co-operation but, no one disputes that it is not fully co-operating.”³³¹

775. Mr Blair did not address how, in the absence of a consideration in the Security Council, the UK Government had reached the judgement that Iraq had failed to take its final opportunity.

776. The debate in the House of Commons and the details of Mr Blair’s speech are described in Section 3.8.

Mr Blair’s conversation with President Bush, 15 March 2003

777. In his discussion with President Bush on 15 March, Mr Blair proposed that the main message from the Azores Summit should be that this was the final chance for Saddam Hussein to demonstrate that he had taken the strategic decision to avert war; and that members of the Security Council should be able to sanction the use of force as Iraq was in material breach of its obligations.

778. When Mr Blair spoke to President Bush on 15 March, he said that the “main message” for the Azores Summit “should be that this was a final chance for the UN to deliver, and that countries should be able to sanction the use of force as Iraq was in material breach”.³³²

779. Mr Blair spoke to Mrs Margaret Beckett, Secretary of State for the Environment, Food and Rural Affairs, before her appearance on the *BBC’s The World at One* on 16 March.³³³

780. Asked why he was not putting the second resolution to the vote, Mr Blair explained that losing a vote “... might cause legal difficulties”. Mr Annan was “very keen to avoid

³³⁰ House of Commons, *Official Report*, 18 March 2003, column 760.

³³¹ House of Commons, *Official Report*, 18 March 2003, column 762.

³³² Letter Rycroft to McDonald, 15 March 2003, ‘Iraq and Middle East: Prime Minister’s Telephone Conversation with President Bush, 15 March’.

³³³ Minute No.10 [junior official] to Matthews, 17 March 2003, ‘Note for File’.

that outcome since he believed it would make it harder for the UN to move forward after the conflict”.

781. Mr Blair told Mrs Beckett that Lord Goldsmith would make it clear that “existing UN resolutions provided a legal base for military action”, in Cabinet, “which would probably be on Monday afternoon”.

The presentation of the Government’s position

FCO paper, ‘Iraqi Non-Compliance with UNSCR 1441’, 15 March 2003

782. The FCO finalised a paper providing examples of Iraq’s failure to comply with the obligations in resolution 1441 on 15 March.

783. The FCO paper, produced by officials in the FCO but drawn largely from official reports and statements by UN inspectors, examined the extent of Iraq’s non-compliance with the obligations placed upon it by the United Nations Security Council in resolution 1441.³³⁴

784. In a note of a conversation on 14 March with Ms Kara Owen, an official in Mr Straw’s Private Office, Mr Brummell recorded that he had made the following points on Lord Goldsmith’s behalf regarding the FCO paper being prepared:

- “Demonstration of breaches of UNSCR 1441 are critical to our legal case. Therefore we must be scrupulously careful to ensure that the best examples of non-compliance are referred to.”
- “It would be distinctly unhelpful to our legal case if the examples of non-compliance ... were weak or inadequate; and it would be difficult – indeed it would be too late – to seek to add further (better) examples ‘after the event’.”
- The FCO needed to check the document they were preparing “very carefully” and subject it to “the tightest scrutiny”.
- The document should include “a caveat ... acknowledging that the examples of non-compliance ... were not exhaustive but illustrative”.
- The submission to Mr Straw should reflect those points.³³⁵

785. Mr Brummell’s record of his conversation with Ms Owen on 14 March also stated that he had been informed that the FCO paper would be sent out with a letter from Mr Blair to Ministerial colleagues on 17 March, “after Cabinet”. Mr Blair’s letter would also contain a “one page” summary of the legal position, which was “news” to Mr Brummell. A subsequent conversation with Mr Rycroft had “confirmed that it would be helpful if” Lord Goldsmith’s staff would draft that summary.

³³⁴ Paper FCO, 15 March 2003, ‘Iraqi Non-Compliance with UNSCR 1441’.

³³⁵ Minute Brummell, 14 March 2003, ‘Iraqi Non-Compliance with UNSCR 1441: Note of Telephone Conversation with Kara Owen’.

786. The FCO paper, 'Iraqi Non-Compliance with UNSCR 1441', was finalised on 15 March and published on 17 March (see Section 3.8).³³⁶

Sir Jeremy Greenstock's discussions in New York, 16 March 2003

787. Sir Jeremy Greenstock consulted colleagues in New York on 16 March to consider whether the Security Council could agree an ultimatum to Saddam Hussein.

788. Sir Jeremy reported that he had agreed with his US and Spanish colleagues to tell the press during the following "late morning" that there was no prospect of putting the resolution to a vote, and blaming France.

789. After the Azores Summit on 16 March, Sir David Manning spoke to Sir Jeremy Greenstock to ask him to phone his Security Council colleagues that evening to establish whether there had been any change in their positions on the draft resolution.³³⁷

790. Reporting developments in New York on 16 March, Sir Jeremy Greenstock wrote that, following the conclusion of the Azores Summit, the UK Mission in New York had spoken to all Security Council colleagues with the message that:

"... there was now a short time left to consider whether the Council could agree at last on an ultimatum to Saddam which, if he did not fulfil it, would result in serious consequences. If their respective governments were in a position to engage in such a discussion, I would need to hear it as early as possible on 17 March. When asked (as the majority did), I said that I had no (no) instructions as to whether to put the text ... to a vote ..."³³⁸

791. Sir Jeremy commented that the French and Russians did not like the message. Mr Jean-Marc de La Sablière, French Permanent Representative to the UN, had claimed that the French had moved significantly over the last two days as President Chirac's interview would show. The "undecided 6" were "only slightly more positive".

792. Sir Jeremy also reported that he had agreed with his US and Spanish counterparts to tell the press during the "late morning" of 17 March that there was "no prospect of putting our resolution to the vote, casting heavy blame on the French". The key elements of the statement should be:

"(a) the Azores summit had called for a last effort to see if the Council could unite around an ultimatum;

³³⁶ Paper FCO, 15 March 2003, 'Iraqi Non-Compliance with UNSCR 1441'.

³³⁷ Letter Manning to McDonald, 16 March 2003, 'Iraq: Summit Meeting in the Azores: 16 March'.

³³⁸ Telegram 452 UKMIS New York to FCO London, 17 March 2003, 'Iraq: Developments on 16 March'.

- (b) having contacted every member it was clear that Council consensus was not possible within the terms of 1441, given the determination of one country in particular to block any ultimatum;
- (c) we would therefore not be pursuing a vote;
- (d) the Azores communiqué had made clear the positions of our governments on the way forward.”

793. Sir Jeremy had informed Mr Annan and Dr Blix that he would be receiving final instructions “eg on whether to stop pursuing the resolution on the morning [Eastern Standard Time] of 17 March”.

794. Sir Jeremy asked for instructions and comments on a draft statement, writing: “I have assumed you will want to be fairly strong on the French.”

Preparing the legal argument

795. A team of lawyers assembled in Lord Goldsmith’s chambers over the weekend of 15/16 March to prepare arguments and documents to deploy in support of the Government’s position.

796. Mr Macleod told the Inquiry that Lord Goldsmith and Ms Harriet Harman (the Solicitor General), Professor Greenwood, Mr Brummell, Ms Adams, Mr Wood, Mr Grainger, Mr Davies and himself were present.³³⁹

797. Sir Michael Wood explained the team’s role to the Inquiry:

“Firstly there was the drafting of the Parliamentary answer. Secondly there was the drafting of the longer note that the Foreign Secretary sent to members of Parliament, the so-called Foreign Office note, but it was drafted at the Attorney’s ...

“I think I was more or less on the sidelines, because my views were known, but I probably did read through the drafts and no doubt in my usual way made editorial suggestions and the like, but I don’t think I had a major part in the preparation of those questions of ... the Parliamentary Question and the longer FCO note ... I should stress that by that stage, as I saw it, we were in the advocacy mode as opposed to the advisory decision-making mode. This was a matter of presentation: how is this to be presented in public?”³⁴⁰

798. Mr Macleod told the Inquiry that the team had produced:

“... essentially a collection of documents to help the Attorney and the Ministers with a difficult explanation in Parliament. Technically difficult rather than politically difficult.”³⁴¹

³³⁹ Public hearing, 30 June 2010, page 63.

³⁴⁰ Public hearing, 26 January 2010, pages 59-60.

³⁴¹ Public hearing, 30 June 2010, page 64.

799. Asked if he agreed with Sir Michael's description that the team was in an advocacy mode, Mr Macleod replied:

"Yes ... The decision had already been made in the sense that we knew what the Attorney's view was. The question was how to help present it in a way that would be easy to present, easy to understand, because ... the full advice of 7 March is a fairly complex, dense legal document and you needed something else which brought out the key points which could be used in Parliament and in other places."³⁴²

800. Ms Adams told the Inquiry:

"I think the understanding of everybody sitting round the table on 16 March was not that the Attorney General was giving legal advice to Parliament through that statement but he was setting out a view of the legal position coming back to the difference between the earlier cases, where there had been legal advice from Law Officers saying there is a reasonable case, what had happened on those occasions was not that the Attorney General had gone to Parliament and said 'This is lawful because there is an overwhelming humanitarian catastrophe', or 'Because there is a revival', it had been the Government Minister in the Foreign Office or the Ministry of Defence."³⁴³

801. On the morning of Monday 17 March, preparations for Cabinet later that day and Parliamentary debates the following day were put in place.

802. Lord Goldsmith set out his view of the legal basis for military action in a Written Answer on 17 March 2003.

803. In parallel, Mr Straw wrote to the Chairman of the Foreign Affairs Committee with a copy of Lord Goldsmith's Answer and an FCO paper which addressed the legal background.

804. Mr Straw also wrote to Parliamentary colleagues drawing their attention to the documents being published and the statements issued at the Azores Summit the previous day.

Lord Goldsmith's Written Answer, 17 March 2003

805. Lord Goldsmith replied on the morning of Monday 17 March to a Written Question tabled by Baroness Ramsey of Cartvale (Labour):

"To ask Her Majesty's Government what is the Attorney General's view of the legal basis for the use of force against Iraq."³⁴⁴

³⁴² Public hearing, 30 June 2010, page 65.

³⁴³ Public hearing, 30 June 2010, pages 51-52.

³⁴⁴ House of Lords, *Official Report*, 17 March 2003, column 2WA.

806. The text of Lord Goldsmith's response is set out in the Box below.

Text of Lord Goldsmith's Written Answer of 17 March 2003

"Authority to use force against Iraq exists from the combined effect of resolutions 678, 687 and 1441. All of these resolutions were adopted under Chapter VII of the UN Charter which allows the use of force for the express purpose of restoring international peace and security:

1. In resolution 678 the Security Council authorised force against Iraq, to eject it [Iraq] from Kuwait and to restore peace and security in the area.
2. In resolution 687, which set out the cease-fire conditions ... the Security Council imposed continuing obligations on Iraq to eliminate its weapons of mass destruction in order to restore international peace and security in the area. Resolution 687 suspended but did not terminate the authority to use force under resolution 678.
3. A material breach of resolution 687 revives the authority to use force under resolution 678.
4. In resolution 1441 the Security Council determined that Iraq has been and remains in material breach of resolution 687, because it has not fully complied with its obligations to disarm under that resolution.
5. The Security Council in resolution 1441 gave Iraq 'a final opportunity to comply with its disarmament obligations' and warned Iraq of the 'serious consequences' if it did not.
6. The Security Council also decided in resolution 1441 that, if Iraq failed at any time to comply with and co-operate fully in the implementation of resolution 1441, that would constitute a further material breach.
7. It is plain that Iraq has failed so to comply and therefore Iraq was at the time of resolution 1441 and continues to be in material breach.
8. Thus the authority to use force under resolution 678 has revived and so continues today.

Resolution 1441 would in terms have provided that a further decision of the Security Council to sanction force was required if that had been intended. Thus, all that resolution 1441 requires is reporting to and discussion by the Security Council of Iraq's failures, but not an express further decision to use force."³⁴⁵

807. Ms Harman repeated Lord Goldsmith's Written Answer in the House of Commons as a pursuant answer to Mr Blair's response on 14 March to a Question from Mr Cash, asking Mr Blair if he would "make a statement on the legal basis for military intervention against Iraq".³⁴⁶

³⁴⁵ House of Commons, *Official Report*, 17 March 2002, column WA2.

³⁴⁶ House of Commons, *Official Report*, 17 March 2002, columns 515-516W.

808. Mr Blair had replied on 14 March:

“There is a longstanding convention, followed by successive Governments and reflected in the Ministerial Code, that legal advice to the Government remains confidential. This enables the Government to obtain frank and full legal advice in confidence, as everyone else can.

“We always act in accordance with international law. At the appropriate time the Government would of course explain the legal basis for any military action that may be necessary.”³⁴⁷

809. Mr Straw sent a copy of Lord Goldsmith’s Written Answer to Mr Anderson, the Chairman of the Foreign Affairs Committee, on the morning of 17 March, together with an FCO paper giving “the legal background in more detail”.³⁴⁸

810. The Inquiry asked Ms Adams whether she agreed that the Attorney General was not giving a Law Officer’s advice on 17 March. Ms Adams replied:

“He was essentially asserting the Government’s view of the legal position, which was based on his advice ... I think that [using the Attorney General to make the public statement on the legal position] may have been a mistake.”³⁴⁹

811. Mr Macleod had expressed a similar view:

“There is a question whether it was right to place on the Attorney General the onus of explaining the legal position publicly, so that he became perceived as the arbiter of whether the war should take place or not. The general practice on other legal issues is that the Attorney does not present the Government’s legal position: that is left to the Minister with policy responsibility for the issue under discussion. That is what was done in relation to Kosovo or Iraq in 1998.”³⁵⁰

812. Sir Michael Wood explicitly endorsed Mr Macleod’s view.³⁵¹

813. Lord Goldsmith told the Inquiry:

“... there was a huge interest in what my view was in relation to the legality of war, and I had had, for example, almost weekly calls from the Shadow Attorney General [Mr Cash], who had both been telling me what his view was, which was that it was lawful, and saying ‘You will have to tell Parliament what your view is in relation to this’.

³⁴⁷ House of Commons, *Official Report*, 14 March 2002, column 482W.

³⁴⁸ Letter Straw to Anderson, 17 March 2003, ‘Iraq: Legal Position Concerning the Use of Force’ attaching PQ and Paper FCO, 17 March 2003, ‘Iraq: Legal Basis for the Use of Force’.

³⁴⁹ Public hearing, 30 June 2010, page 52.

³⁵⁰ Statement, 24 June 2010, paragraph 33.

³⁵¹ Statement, 15 March 2011, page 25.

“Normally, a Law Officer’s opinion is not disclosed. It was in fact, impossible in these circumstances not to disclose what my conclusion was, because the clamour to know ... would have been frankly impossible to avoid. So I knew that I would have to make some sort of statement as to what my position was. So that is the point about the Parliamentary answer.”³⁵²

814. Parliamentary Questions and Parliamentary Committees after 2003 sought to probe whether Lord Goldsmith’s Written Answer to Baroness Ramsey on 17 March constituted the Attorney General’s advice, and by implication, whether the Government had waived, in the case of the legal advice on the basis of military action in Iraq, the convention that neither the fact that the Attorney General had advised nor the content of that advice were disclosed.³⁵³

815. In his responses, Lord Goldsmith was always very careful to point out that Baroness Ramsey had asked for, and he had provided, his view of the legal basis for the use of force, not his advice.³⁵⁴

816. The FCO paper, ‘Iraq: Legal Basis for the Use of Force’, stated that the legal basis for the use of force in Iraq was the revival of the authorisation in resolution 678.³⁵⁵

817. Specifically, the paper stated that in resolution 1441:

“... the Security Council has determined –

- (1) that Iraq’s possession of weapons of mass destruction (WMD) constitutes a threat to international peace and security;
- (2) that Iraq has failed – in clear violation of its legal obligations – to disarm; and
- (3) that, in consequence, Iraq is in material breach of the conditions for the ceasefire laid down by the Council in SCR 687 at the end of hostilities in 1991, thus reviving the authorisation in SCR 678.”

818. Referring to the Security Council’s power under Chapter VII of the Charter to authorise States to take military action, the paper set out the occasions during the 1990s when action had been taken on the basis that Iraq’s non-compliance had broken the conditions of the cease-fire in resolution 687 and the authority to use force in resolution 678 had been “revived”, as the “legal background” to resolution 1441.

³⁵² Public hearing, 27 January 2010, pages 198-199.

³⁵³ House of Lords, *Official Report*, 6 November 2003, column 129WA; House of Lords, *Official Report*, 28 February 2005, column 1WA; House of Lords, Constitution Committee, *Minutes of Evidence*, 22 March 2006, Q41; House of Lords, Constitution Committee, *Minutes of Evidence*, 22 March 2006, Q41, Q241.

³⁵⁴ House of Lords, *Official Report*, 6 November 2003, column 129WA; House of Lords, *Official Report*, 28 February 2005, column 1WA; House of Lords, Constitution Committee, *Minutes of Evidence*, 22 March 2006, Q41; House of Lords, Constitution Committee, *Minutes of Evidence*, 22 March 2006, Q41, Q241.

³⁵⁵ Paper FCO, 17 March 2003, ‘Iraq: Legal Basis for the Use of Force’.

819. The FCO paper stated that the preambular paragraphs of resolution 1441:

- confirmed “once more” by the reference to resolution 678 “that that resolution was still in force”;
- “recognised the threat which Iraq’s non-compliance ... posed to international peace and security”; and
- “recalled” that resolution 687 “imposed obligations on Iraq as a necessary step for the achievement of its objective of restoring international peace and security”.³⁵⁶

820. The paper stated that operative paragraph one (OP1) of resolution 1441 decided that “Iraq ‘has been and remains in material breach’ of its obligations” and, paraphrasing the resolution, added:

“The use of the term ‘material breach’ is of the utmost importance because the practice of the Security Council during the 1990s shows that it was just such a finding of material breach by Iraq which served to revive the authorisation of force ...

“On this occasion, however, the Council decided (paragraph two) to offer Iraq a ‘final opportunity to comply with its disarmament obligations’. Iraq was required to produce an accurate, full and complete declaration of all aspects of its prohibited programmes (paragraph three), and to provide immediate and unrestricted access to UNMOVIC and IAEA (paragraph five). Failure by Iraq to comply with the requirements of SCR 1441 was declared to be a further material breach of Iraq’s obligations (paragraph four), in addition to the continuing breach identified in paragraph one. In the event of a further breach (paragraph four), or interference by Iraq with the inspectors or failure to comply with any of the disarmament obligations under any of the relevant resolutions (paragraph 11), the matter was to be reported to the Security Council. The Council was then to convene ‘to consider the situation and the need for full compliance with all of the relevant Council resolutions in order to secure international peace and security’ (paragraph 12). The Council warned Iraq (paragraph 13) that ‘it will face serious consequences as a result of its continued violations of its obligations’.”

821. The paper stressed that the authority to use force did not revive immediately and there had been “no ‘automaticity’”. The provision “for any failure by Iraq to be ‘considered’ by the Security Council” did not:

“... mean that no further action can be taken without a new resolution. Had that been the intention, it would have provided that the Council would decide what needed to be done ... not that it would consider the matter. The choice of words was deliberate; a proposal that there should be a requirement for a decision by the Council ... was

³⁵⁶ Paper FCO, 17 March 2003, ‘Iraq: Legal Basis for the Use of Force’.

not adopted. Instead the members of the Council opted for the formula that the Council must consider the matter before action is taken.

“That consideration has taken place regularly since the adoption of resolution 1441. It is plain, including from UNMOVIC’s statement to the Security Council, its Twelfth Quarterly Report and the so-called ‘Clusters Document’, that Iraq has not complied as required ... Whatever other differences there may have been in the Security Council, no member of the Council questioned this conclusion. It therefore follows that Iraq has not taken the final opportunity offered to it and remains in material breach of the disarmament obligations which, for twelve years, the Council has insisted are essential for the restoration of peace and security. In these circumstances, the authorisation to use force contained in resolution 678 revives.”

822. On 17 March, Mr Straw wrote to all Parliamentary colleagues with a copy of the FCO paper on Iraq’s non-compliance, a copy of his letter to the Chairman of the Foreign Affairs Committee, and copies of the statements made at the Azores Summit the previous day.³⁵⁷

823. Mr Straw wrote that the FCO paper on non-compliance stated that Iraq had “failed to comply fully with 14 previous UN resolutions related to WMD” and assessed Iraq’s “progress in complying with relevant provisions of UNSCR 1441 with illustrative examples”.

824. To supplement the Command Paper of UN documents published in February (CM 5769) Mr Straw also published a further Command Paper (CM 5785) with UN documents from early March.³⁵⁸

Cabinet, 17 March 2003

825. A specially convened Cabinet at 1600 on 17 March 2003 endorsed the decision to give Saddam Hussein an ultimatum to leave Iraq and to ask the House of Commons to endorse the use of military action against Iraq to enforce compliance, if necessary.

826. Mr Blair told his colleagues that he had called a meeting of Cabinet because “an impasse” had been reached at the United Nations.³⁵⁹

827. The Government had tried its “utmost”, and had “tabled a draft ... resolution, amended it, and then been prepared to apply tests against which Iraq’s co-operation ... could be judged”. Although the UK had been “gathering increasing support from members of the Security Council”, the French statement “that they would veto a

³⁵⁷ Letter Straw to Parliamentary Colleagues, 17 March 2003, [untitled] attaching Statement, 16 March 2003, ‘A Vision for Iraq and the Iraqi People’; Statement, 16 March 2003, ‘Commitment to Transatlantic Solidarity’; Paper FCO, 15 March 2003, ‘Iraqi-Non Compliance with UNSCR 1441’.

³⁵⁸ Command Paper (CM 5785), 17 March 2003, ‘Iraq – UN Documents of early March 2003’.

³⁵⁹ Cabinet Conclusions, 17 March 2003.

resolution in all circumstances had made it impossible to achieve a new ... resolution". France, with Russia in support, "were not prepared to accept" that if Saddam Hussein "did not comply with the United Nations obligations, military action should follow". The UK was in a situation it had "striven to avoid": "There would be no second resolution and military action was likely to be necessary ... to enforce compliance by Saddam Hussein with Iraq's obligations."

828. Mr Blair stated that the US "had now undertaken to produce a 'Road Map' for the Middle East Peace Process, once the new Palestinian Prime Minister's appointment had been confirmed". That would "open the way to a full and final settlement within three years". The US "had also confirmed" that it "would seek a UN mandate for the post-conflict reconstruction of Iraq", and that: "Oil revenues would be administered under the UN's authority."

829. Mr Blair stated:

"A lot of work was needed to repair the strains which had arisen internationally over the past few weeks. He regretted that the international community had sent mixed messages to Saddam Hussein, whose regime could have been disarmed peacefully if confronted by international solidarity. The blockage we had encountered in the United Nations impeded any progress."

830. Mr Straw said that Mr Blair:

"... had persuaded President Bush ... to go down the United Nations route in order to achieve the maximum authority for the disarmament of Iraq, but the diplomatic process was now at an end."

831. Mr Straw added:

"Progress had been made towards forging a consensus before the French and Russians had indicated their intention to veto any Security Council resolution proposed which indicated that military action would follow Saddam Hussein's failure to comply. His assessment was that President Chirac of France had decided to open up a strategic divide between France and the United Kingdom; the row in Brussels in late 2002 had been manufactured. Effectively, one member of the Security Council had torpedoed the whole process."

832. Mr Straw concluded:

"... the one chance now remaining to Saddam Hussein was to seek exile. If that course failed, the Government would seek the support of the House of Commons for military action against Iraq. There would be a substantive motion in a debate now scheduled for Tuesday [18 March]."

833. Lord Goldsmith told Cabinet that he had answered a Parliamentary Question in the House of Lords that day "on the authority for the use of force against Iraq"; and

that Mr Straw had also sent a document “on the legal basis” to the Foreign Affairs Committee.

834. The minutes record that Lord Goldsmith informed Cabinet that:

“Authority existed from the combined effect of United Nations Security Council resolutions 678, 687 and 1441, all of which were adopted under Chapter VII of the United Nations Charter. The latter allowed the use of force for the express purpose of restoring international peace and security ... resolution 1441 determined that Iraq had been and remained in material breach of ... resolution 687 and gave Iraq a final opportunity to comply with its disarmament obligations, warning of serious consequences if it did not do so. It was plain that Iraq had failed so to comply and therefore continued to be in material breach. The authority to use force under ... resolution 678 was revived as a result ... [R]esolution 1441 did not contain a requirement for a further ... resolution to authorise the use of force.”

835. The points made during discussion included:

- The attitude of France “had undermined the mechanism of the United Nations to enforce the will of the international community”.
- The Government’s supporters “needed a comprehensive statement to explain the position”: a second resolution “had been politically desirable but not legally essential”.
- “It was important to focus on Saddam’s failure to comply, and to avoid the impression that the failure to gain a further ... resolution was the issue”.

836. Mr Prescott stated that Mr Blair:

“... had played a major role in upholding the credibility of the United Nations. French intransigence had thwarted success in taking the United Nations process to its logical conclusion. Nevertheless, the use of force against Iraq was authorised by existing ... resolutions.”

837. Mr Blair concluded:

“... the diplomatic process was now at an end. Saddam Hussein would be given an ultimatum to leave Iraq; and the House of Commons would be asked to endorse the use of military action against Iraq to enforce compliance, if necessary.”

838. Cabinet “Took note.”

839. Mr Cook’s decision to resign from the Government was announced during Cabinet, which he did not attend.³⁶⁰

³⁶⁰ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

840. Lord Goldsmith told the Inquiry that he had attended Cabinet:

“... ready to answer any questions which were put to me and to explain my advice. Certainly the view I took was that producing my answer to Parliament would be a good framework for explaining to them what the legal advice was, and I would have been happy to answer the questions which were put to me. I was ready, fully briefed, ready to debate all these issues.

“What actually happened was that I started to go through the PQ [Parliamentary Question], which had been handed out as this framework. Somebody, I can’t remember who it was, said ‘You don’t need to do that. We can read it.’ I was actually trying to use it as a sort of framework for explaining the position, and there was a question that was then put. I do recall telling Cabinet, ‘Well there is another point of view, but this is the conclusion that I have reached’, and then the discussion on the legality simply stopped, and Cabinet then went on to discuss all the other issues, the effect on international relations, domestic policy, and all the rest of it.

“So the way it took place was that I was ready to answer questions and to deal with them and in the event that debate did not take place.”³⁶¹

841. Lord Turnbull told the Inquiry that there was:

“... a kind of tradition which says you rely on the Attorney General to produce definitive advice. Once he has done it, you don’t say, ‘I don’t think much of that’. His job is to produce the version we can all work on.”³⁶²

842. Mr Blair told the Inquiry:

“The whole purpose of having the Attorney there ... was so that he could answer anybody’s questions ...”³⁶³

843. Ms Short told the Inquiry that she thought that Lord Goldsmith had:

“... misled the Cabinet. He certainly misled me, but people let it through ... I think now we know everything we know about his doubts and his changes of opinion and what the Foreign Office Legal Advisers were saying and that he had got this private side deal that Tony Blair said there was a material breach when Blix was saying he needed more time. I think for the Attorney General to come and say there is an unequivocal legal authority to go to war was misleading.”³⁶⁴

³⁶¹ Public hearing, 27 January 2010, pages 214-215.

³⁶² Public hearing, 13 January 2010, page 69.

³⁶³ Public hearing, 29 January 2010, page 233.

³⁶⁴ Public hearing, 2 February 2010, page 24.

844. Addressing the evidence given to the Inquiry by Lord Goldsmith and Mr Blair, Ms Short stated:

“I see that both Tony Blair and he [Lord Goldsmith] said the Cabinet were given the chance to ask questions. That is untrue.”³⁶⁵

845. Asked what she was trying to discuss and why she was not able to do so, Ms Short told the Inquiry that she had asked for a meeting with Lord Goldsmith but:

“There was a piece of paper round the table. We normally didn’t have any papers, apart from the agenda. It was the PQ answer, which we didn’t know was a PQ answer then, and he started reading it out, so everyone said ‘We can read’ ... and then ... everyone said, ‘That’s it’. I said, ‘That’s extraordinary. Why is it so late? Did you change your mind?’ And they all said ‘Clare!’

“Everything was very fraught by then and they didn’t want me arguing, and I was kind of jeered at to be quiet. That’s what happened.”³⁶⁶

846. Asked if she then went quiet, Ms Short replied:

“If he won’t answer and the Prime Minister is saying, that’s it, no discussion, there is only so much you can do ... the Attorney, to be fair to him, says he was ready to answer questions, but none was allowed.”³⁶⁷

847. Ms Short added that she had later asked Lord Goldsmith, “How come it was so late?”, and that he had replied, “Oh, it takes me a long time to make my mind up.”³⁶⁸

848. Mr Campbell wrote that Ms Short had asked Lord Goldsmith “if he had any doubts”. Lord Goldsmith had replied that “lawyers all over the world have doubts but he was confident in the position”.³⁶⁹

849. Dr Reid told the Inquiry: “everyone was allowed to speak at these [Cabinet] meetings. I don’t recognise some descriptions of some of the least quiescent of my colleagues claiming to have been rendered quiescent ...”³⁷⁰

³⁶⁵ Public hearing, 2 February 2010, page 28.

³⁶⁶ Public hearing, 2 February 2010, pages 28-29.

³⁶⁷ Public hearing, 2 February 2010, page 29.

³⁶⁸ Public hearing, 2 February 2010, pages 29-30.

³⁶⁹ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

³⁷⁰ Public hearing, 3 February 2010, page 75.

850. Addressing Ms Short's evidence that she had been "kind of jeered at", Mr Straw told the Inquiry:

"... that's not my recollection. Obviously if that's what she felt ... but this was a very serious Cabinet meeting. People weren't, as I recall ... going off with that kind of behaviour. We all understood the gravity of the situation."³⁷¹

851. Asked if he recognised Ms Short's description of events, Lord Boateng, who was Chief Secretary to the Treasury from 2002 to 2005, told the Inquiry that he did not.³⁷²

852. Ms Short sent a letter to colleagues in the Parliamentary Labour Party the following morning, explaining her reasons for deciding to support the Government.³⁷³ She wrote that there had been "a number of important developments over the last week", including:

"Firstly, the Attorney General has made clear that military action would be legal under international law. Other lawyers have expressed contrary opinions. But for the UK Government, the Civil Service and the military, it is the view of the Attorney General that matters and this is unequivocal."

853. Asked at what point he had initiated the process of working out what he was going to tell the Cabinet, and how much, Lord Goldsmith told the Inquiry:

"So far as Cabinet is concerned, I can't remember at what stage I was told the Cabinet was going to meet and I was going to be asked to come to Cabinet on that occasion. I think it would have been the second occasion ever that I had attended Cabinet."³⁷⁴

854. Asked how it was decided that he would present the advice to Cabinet in the way he did, and whether that decision was taken in discussion with Mr Blair or with Mr Straw, Lord Goldsmith told the Inquiry that it was his decision:

"... the point for me was to determine how to express my view to Parliament, and the Parliamentary answer then seemed to be a convenient way, as a framework really, for what I would then say to Cabinet about my view on legality."³⁷⁵

855. Asked if anyone asked him to restrict what he said to Cabinet, Lord Goldsmith replied: "No."³⁷⁶

856. Asked why, given the concerns of the Armed Forces and the Civil Service, Cabinet had not taken the opportunity to discuss the finely balanced legal arguments,

³⁷¹ Public hearing, 8 February 2010, page 61.

³⁷² Public hearing, 14 July 2010, page 7.

³⁷³ Short C. *An Honourable Deception: New Labour, Iraq and the Misuse of Power*. The Free Press, 2004.

³⁷⁴ Public hearing, 27 January 2010, page 199.

³⁷⁵ Public hearing, 27 January 2010, page 200.

³⁷⁶ Public hearing, 27 January 2010, page 200.

Lord Goldsmith stated that a number of the Cabinet Ministers present had seen his 7 March advice, although things had moved on since then.

857. Lord Goldsmith added that the issues were well known in Parliament, but Cabinet did not want to debate them:

“... thinking about it afterwards, I could sort of understand that ... for this reason: that actually debating the legal question with the Attorney General was a slightly sterile exercise ... because they could have put to me, ‘What about this and what about that?’ and I would have answered them, but what mattered, I thought, was that they needed to know whether or not this had the certificate, if you like, of the Attorney General. Was it lawful? That was a necessary condition. Then they would need to consider whether it was the right thing to do ... So they were looking at the much bigger question of ‘Is it right?’ not just ‘Is it lawful?’.”³⁷⁷

858. Asked for his view on the proposition that there was never a full discussion in Cabinet about his opinion which was “caveated and was finely balanced”, Lord Goldsmith replied that his advice was:

“... caveated in one respect ... It takes the central issue of the interpretation of 1441 and identifies that there are two points of view, and then I have come down in favour of one of them.

“The Cabinet, I’m sure knew that there were two points of view because that had been well-travelled in the press. The caveat was you need to be satisfied that there really has been a failure to take the final opportunity. That, of course, was something which was right in the forefront of Cabinet’s mind, I have no doubt, and I’m sure was mentioned by the Prime Minister and the Foreign Secretary and others in the course of the debate. I would expect so.”³⁷⁸

859. Asked whether Cabinet should have had a discussion of Lord Goldsmith’s fuller opinion before they came to a decision Lord Turnbull stated: “I think what they needed was “yes” or “no”, and that’s what they got.”³⁷⁹

860. Asked if he thought that his Cabinet colleagues would have wished to have a discussion of the considerations in Lord Goldsmith’s full advice, Mr Hoon replied:

“I’m not sure that it would be appropriate for Cabinet to have that kind of discussion, because, in the end, what you would be inviting people to do was to speculate on the legal judgment that the Attorney General had reached, and it is not the same as having a political discussion about options or policies.

³⁷⁷ Public hearing, 27 January 2010, pages 216-217.

³⁷⁸ Public hearing, 27 January 2010, pages 218-219.

³⁷⁹ Public hearing, 13 January 2010, page 69.

“This is someone whose decision is that this was lawful, and I can’t see how Cabinet could look behind that and have the kind of discussion that you are suggesting. This was not policy advice. This was not, ‘On the one hand ... and on the other hand, we might take this course of action’. What he was saying is that this was lawful in his judgment, and I can’t see how we could have had a sensible discussion going beyond that.”³⁸⁰

861. Mrs Beckett told the Inquiry:

“Peter Goldsmith came to Cabinet. He made it clear what was his view. It was open to people to ask questions ... I was never the slightest bit surprised to learn that in earlier iterations he had drawn attention to, ‘On the one hand ... on the other hand’ ... that’s what lawyers do.”³⁸¹

862. Mr Straw was asked whether it would have been better if Cabinet had had Lord Goldsmith’s full opinion, whether he had persuaded Lord Goldsmith to present only the (PQ) answer, whether it was incumbent on Cabinet to satisfy itself that it was be aware of the arguments, and why Lord Goldsmith had reached his conclusion. He told the Inquiry:

“I did that, partly for the reasons I have explained ... but also, because we were concerned about leaks, and ... what the military wanted to know wasn’t the process by which a decision had been arrived at.”³⁸²

863. Asked whether he had been given the opportunity to look at the full legal opinion of 7 March, Dr Reid told the Inquiry:

“I was given the opportunity, but I didn’t particularly want to look at some long ‘balancing’ legal opinion, I wanted to know ‘is what we are about to do lawful, or is it illegal?’ ... [A]s far as I was aware, the constitutional convention and legality in Great Britain for the Cabinet is dependent on the judgment of the Attorney General.”³⁸³

864. In a statement he sent the Inquiry before his second hearing on 8 February 2010, Mr Straw wrote that, in the absence of the ability to secure an authoritative determination of the law from the courts, “a great weight of responsibility” rested on the shoulders of the Attorney General, and that his role was to determine whether the UK Government could consider the merits of taking military action.³⁸⁴

865. Mr Straw was asked whether Cabinet could meet its responsibilities to address the key moral as well as political issues, as stated by Mr Straw in his ‘Supplementary

³⁸⁰ Public hearing, 19 January 2010, page 70.

³⁸¹ Public hearing, 26 January 2010, pages 53-55.

³⁸² Public hearing, 8 February 2010, pages 62-63.

³⁸³ Public hearing, 3 February 2010, page 76.

³⁸⁴ Statement, February 2010, ‘Supplementary Memorandum by the Rt Hon Jack Straw MP’, page 5.

Memorandum' for the Inquiry, without being fully alive to the fact that the legal issues were finely balanced. Mr Straw replied:

“The Cabinet were fully aware that the arguments were finely balanced. It was impossible to open a newspaper without being fully aware of the arguments.”³⁸⁵

866. In response to the point that newspaper articles were not legal advice, Mr Straw added:

“With great respect, we had lawyers from both sides arguing the case in the public print. So it was very clear ... that there were two arguments going on. One was about the ... moral and political justification, and that, in many ways, in the public print, elided with arguments about whether it was lawful ... no one in the Cabinet was unaware of the fact that there had been and was a continuing and intense legal debate about the interpretation of 1441 ... But the issue for the Cabinet was: was it lawful or otherwise?

“... [W]hat was required ... at that stage was essentially a yes/no decision from the Attorney General, yes/no for the Cabinet, yes/no for the military forces. It was open to members of the Cabinet to question the Attorney General ... it wasn't necessary to go into the process by which Peter Goldsmith had come to his view. What they wanted to know was what the answer was.”³⁸⁶

867. Mr Straw told the Inquiry:

“... any member of the Cabinet could easily have asked about the finely balanced nature [of the legal arguments] ... [T]he finely balanced arguments are part of the process by which he came to that decision.

“... He was going through all the arguments ...

“But there is nothing unusual about legal decisions being finely balanced ... [W]hat Cabinet wanted ... and needed to know ... was what was the decision.

“Nobody was preventing anybody from asking the Attorney ... what the position was. In the event they chose not to. A number of lawyers were around the table. The legal issues had been extremely well aired in public, the press, and people were briefed anyway.”³⁸⁷

868. Asked for an assurance that Cabinet was sufficiently informed, separately and collectively, to share responsibility for the risks a decision to invade Iraq entailed, “including risks, individual and collective, to Crown Servants, and ... themselves”, Mr Straw replied: “yes”.³⁸⁸

³⁸⁵ Public hearing, 8 February 2010, page 59.

³⁸⁶ Public hearing, 8 February 2010, pages 59-60.

³⁸⁷ Public hearing, 8 February 2010, pages 62-63.

³⁸⁸ Public hearing, 8 February 2010, page 64.

869. Mr Straw added:

“... we were being publicly bombarded with the arguments, and arguments about the consequences. We received detailed legal advice, for example, from CND saying why it was unlawful and what the personal consequences would be.

“So everybody understood what the issues were and the level of responsibility, personal and individual ...”³⁸⁹

870. Mr Straw also stated that Cabinet “was more involved in this decision” because members of Cabinet had to “explain themselves in the House of Commons as well as publicly and to their constituency parties”.

871. Asked if he was fully satisfied with the advice that was given to Cabinet about the legality of the conflict, Mr Brown told the Inquiry that Lord Goldsmith’s role was to give Cabinet advice, and that “he was certain about the advice he gave” but it was Cabinet’s job to “make our decisions on the basis, not simply of the legal advice, but the moral, political and other case for taking action”.³⁹⁰

872. Asked if he had been aware that Lord Goldsmith had earlier taken a different view, Mr Brown replied that he was not aware of the details and that he had not been involved in previous discussions with Lord Goldsmith. Mr Brown added:

“We had this straightforward issue. We were sitting down as a Cabinet, to discuss the merits of taking action once the diplomatic avenues had been exhausted, unfortunately, and we had to have straightforward advice from the Attorney General: was it lawful or was it not? His advice in the Cabinet meeting was unequivocal.”³⁹¹

873. Asked if he had seen Lord Goldsmith’s advice of 7 March, Mr Brown replied:

“As I understand it, the constitutional position is very clear, that before a decision of such magnitude is made, the Attorney General has to say whether he thinks it is lawful or not. That was the straightforward question that we had to answer. If he had answered equivocally ... then of course there would have been questions, but he was very straightforward in his recommendation.

“To me, that was a necessary part of the discussion about the decision of war, but it wasn’t sufficient, because we had to look at the political and other case that had to be examined in the light of the period of diplomacy at the United Nations.”³⁹²

³⁸⁹ Public hearing, 8 February 2010, page 66.

³⁹⁰ Public hearing, 5 March 2010, page 50.

³⁹¹ Public hearing, 5 March 2010, page 51.

³⁹² Public hearing, 5 March 2010, pages 51-52.

874. After further questioning, Mr Brown told the Inquiry:

“I think in retrospect, people, as historians ... will look at it very carefully ... and what was said between different people at different times and what were the first ... second ... and the third drafts. But the issue for us was very clear ... Did the Attorney General, who is our legal officer who is responsible for giving us legal advice ... have a position ... that was unequivocal? And his position on this was unequivocal.

“... [I]t laid the basis on which we could take a decision, but it wasn't the reason that we made the decisions. He gave us the necessary means ... but it wasn't sufficient in itself.”³⁹³

875. Asked if his view would have changed if he had known that 10 days before the Cabinet discussion Lord Goldsmith's position had been equivocal, Mr Brown stated:

“I don't think it would have changed my view, because unless he was prepared to say that his unequivocal advice was that this was not lawful, then the other arguments that I thought were important ... the obligations to the international community, the failure to honour them, the failure to disclose, the failure to discharge the spirit and letter of the resolutions, particularly 1441 ... But it seemed to me the Attorney General's advice was quite unequivocal.”³⁹⁴

876. Asked whether Cabinet was able to take a genuinely collective decision or if it was being asked to endorse an approach at a time when the die had effectively been cast, Mr Brown replied:

“I have got to be very clear. I believed we were making the right decisions for the right cause. I believed I had sufficient information before me to make a judgement ... I wasn't trying to do the job of the Foreign Secretary or trying to second guess something that had happened at other meetings. I was looking at the issue on its merits and ... I was convinced of the merits of our case.”³⁹⁵

877. Asked if he thought he should have seen the full legal advice, Lord Boateng said:

“On reflection, I think it would have been helpful if we had seen it. I think we would have had a fuller debate and discussion and I think that we ought to have been trusted with it, frankly. But be that as it may, we weren't, and we therefore acted upon the best legal advice we had. I don't think, if we had seen the full opinion, we would necessarily have come to a different conclusion. I think it would have been helpful if we had seen it. We didn't.”³⁹⁶

³⁹³ Public hearing, 5 March 2010, pages 53-54.

³⁹⁴ Public hearing, 5 March 2010, page 54.

³⁹⁵ Public hearing, 5 March 2010, pages 55-56.

³⁹⁶ Public hearing, 14 July 2010, page 11.

878. Mr Blair told the Inquiry that, in respect of Lord Goldsmith's legal opinion:

"... the key thing really was ... Cabinet weren't interested in becoming part of the legal debate, they just wanted to know, 'Is the Attorney General saying it is lawful or not?'"³⁹⁷

879. Mr Blair stated that the legal issues were "one aspect" of the Cabinet discussion, but Cabinet was "really focused on the politics".³⁹⁸

880. Asked whether Cabinet should have weighed up the legal risk, Mr Blair replied:

"I think they were weighing the risks up for the country, but ... in respect of the law ... I don't think members of the Cabinet wanted to have a debate ... Peter was there and could have answered any questions they had, but their basic question to him was: is there a proper legal basis for this or not and his answer was, 'Yes.'

"... the reason why we had Peter there ... he was the lawyer there to talk about it."³⁹⁹

881. In a letter written to Lord Goldsmith in March 2005, Ms Short stated that the way the legal advice had been presented to Cabinet was a breach of the Ministerial Code.⁴⁰⁰

882. In 2003, the relevant provision of the Ministerial Code stated:

"When advice from the Law Officers is included in correspondence between Ministers, or in papers for the Cabinet or Ministerial Committees, the conclusions may if necessary be summarised but, if this is done, the complete text of the advice should be attached."⁴⁰¹

883. Lord Goldsmith told the Inquiry:

"... the Ministerial Code, which talks about providing the full text of the Attorney General's opinion, is actually dealing with a quite different circumstance. That's dealing with the circumstance where a Minister comes to Cabinet and says 'I have got clearance from the Attorney General. He says this is all right, or she says this is all right'. In those circumstances, the Ministerial Code requires that the full text should be there rather than just the summary. You can summarise it but you need to produce the full text as well.

³⁹⁷ Public hearing 21, January 2011, page 232.

³⁹⁸ Public hearing 21, January 2011, page 233.

³⁹⁹ Public hearing 21, January 2011, page 234.

⁴⁰⁰ Letter Short to Goldsmith, March 2005. Previously available on the website of Clare Short MP and referred to the public hearing of Clare Short, 2 February 2010, at page 41, and discussed during the Select Committee on Public Administration, 10 March 2005, Q240 *et sequitur*.

⁴⁰¹ Cabinet Office. *Ministerial Code: A code of conduct and guidance on procedures for Ministers*, 2001.

“I was there. I was therefore in a position to answer all questions. I was in a position to say that my opinion was that this was lawful. I did manage to say – I did say that there was another point of view, but they knew that very well in any event.”⁴⁰²

884. Lord Turnbull confirmed that in his view the requirements of the Ministerial Code had not been breached because Lord Goldsmith was present in person, rather than another Minister reporting his advice.⁴⁰³

885. Asked about the fact that Lord Goldsmith’s advice of 7 March had raised the issue of the exposure of Ministers and Crown servants, both military and civil, to risk, Mr Brown told the Inquiry:

“I knew ... that the Permanent Secretary to the Civil Service [sic] and the military Chiefs [of Staff] had required, as they should, clear guidance ... So I knew that they were satisfied that they had got the legal assurances that were necessary.”⁴⁰⁴

Mr Straw’s statement to the House of Commons, 17 March 2003

886. In his Statement to the House of Commons on the evening of 17 March, Mr Straw stated that the Government had reluctantly concluded that France’s actions had put a consensus in the Security Council on a further resolution “beyond reach”.

887. As a result of Saddam Hussein’s persistent refusal to meet the UN’s demands, Cabinet had decided to ask the House of Commons to support the UK’s participation in military operations should they be necessary to achieve the disarmament of Iraq “and thereby the maintenance of the authority of the United Nations”.

888. Mr Straw stated that Lord Goldsmith’s Written Answer “set out the legal basis for the use of force”.

889. Mr Straw drew attention to the significance of the fact that no-one “in all the discussions in the Security Council and outside” had claimed that Iraq was in full compliance with its obligations.

890. Mr Straw made a statement to the House of Commons at 8.24pm.⁴⁰⁵

⁴⁰² Public hearing 21 January 2011, pages 217-218.

⁴⁰³ Public hearing, 13 January 2010, page 68.

⁴⁰⁴ Public hearing, 5 March 2010, pages 65-66.

⁴⁰⁵ House of Commons, *Official Report*, 17 March 2003, columns 703-705.

891. Referring to the statement issued at the Azores Summit calling on all members of the Security Council to adopt a resolution challenging Saddam Hussein to take a strategic decision to disarm, Mr Straw told the House of Commons:

“Such a resolution has never been needed legally, but we have long had a preference for it politically.”

892. Mr Straw stated that there had been “intense diplomatic activity to secure that end over many months, culminating in the last 24 hours”. Despite “final efforts” by Sir Jeremy Greenstock the previous evening and his own conversations with his “Spanish, American, Russian and Chinese counterparts that morning”, the Government had:

“... reluctantly concluded that a Security Council consensus on a new resolution would not be possible. On my instructions, Sir Jeremy Greenstock made a public announcement to that effect at the United Nations at about 3.15 pm UK time today.”

893. Mr Straw continued that, since the adoption of resolution 1441 in November 2002, he, Mr Blair and Sir Jeremy Greenstock had “strained every nerve” in search of a consensus “which could finally persuade Iraq by peaceful means, to provide the full and immediate co-operation demanded by the Security Council”.

894. Mr Straw stated that it was significant that “in all the discussions in the Security Council and outside” no-one had claimed that Iraq was “in full compliance with the obligations placed on it” and:

“Given that, it was my belief, up to about a week ago, that we were close to achieving a consensus that we sought on the further resolution. Sadly, one country then ensured that the Security Council could not act. President Chirac’s unequivocal announcement last Monday that France would veto a second resolution containing that or any ultimatum ‘whatever the circumstances’ inevitably created a sense of paralysis in our negotiations. I deeply regret that France has thereby put a Security Council consensus beyond reach.”⁴⁰⁶

895. Mr Straw told the House of Commons that the proposals submitted by France, Germany and Russia for “more time and more inspections” sought to “rewrite” resolution 1441. They “would have allowed Saddam to continue stringing out inspections indefinitely, and he would rightly have drawn the lesson that the Security Council was simply not prepared to enforce the ultimatum ... at the heart of resolution 1441”.

896. Mr Straw pointed out that “in the event of non-compliance” Iraq should, as OP13 spelt out, expect “serious consequences”. Mr Straw stated:

“As a result of Saddam Hussein’s persistent refusal to meet the UN’s demands, and the inability of the Security Council to adopt a further resolution, the Cabinet has decided to ask the House to support the United Kingdom’s participation in

⁴⁰⁶ House of Commons, *Official Report*, 17 March 2003, columns 703-705.

military operations, should they be necessary, with the objective of ensuring the disarmament of Iraq's weapons of mass destruction, and thereby the maintenance of the authority of the United Nations.”

897. Mr Straw confirmed that Parliament “would have an opportunity to debate our involvement in military action prior to hostilities” the following day; and that the debate would be on a substantive motion “proposed by the Prime Minister and Cabinet colleagues”. He also drew the attention of the House to Lord Goldsmith's Written Answer, which “set out the legal basis for the use of force against Iraq”, and the documents provided earlier that day.

898. Mr Straw concluded:

“Some say that Iraq can be disarmed without an ultimatum, without the threat or the use of force, but simply by more time and more inspections. That approach is defied by all our experience over 12 weary years. It cannot produce the disarmament of Iraq; it cannot rid the world of the danger of the Iraq regime. It can only bring comfort to tyrants and emasculate the authority of the United Nations ...”

899. Mr Straw's statement was repeated in the House of Lords that day by Baroness Symons during a debate on the legality of the use of armed force in Iraq initiated by Lord Goodhart (see Section 3.8).⁴⁰⁷

900. In answer to the responses from Lord Howell of Guildford and Lord Wallace of Saltaire, Baroness Symons stated that she believed:

“... the legality of the position is indeed settled. I do not think we have ever had such a clear statement from the Attorney General at a juncture like this ... I believe that this Government have gone further than any other Government to put that advice into the public arena, and the Law Officer with his principal responsibility has given a clear statement of his opinion ...

“... [W]e have already put into the public arena a full history of the United Nations Security Council resolutions ... That is in Command Paper 5769. We have also published a full statement on the legal basis – a fuller statement than that which my noble and learned friend gave in answer to ... Baroness ... Ramsey ...”⁴⁰⁸

⁴⁰⁷ House of Lords, *Official Report*, 17 March 2003, columns 97-103.

⁴⁰⁸ House of Lords, *Official Report*, 17 March 2003, columns 101-102.

901. Responding to points made in the debate by Lord Goodhart and Lord Howell about the absence of Lord Goldsmith, Baroness Symons stated in her speech closing the debate:

“The Attorney General has been more open-handed than any of his predecessors in publishing his advice in the way that he has. Furthermore ... the Foreign Secretary has also tried to help ... by circulating a further paper.”⁴⁰⁹

902. Baroness Symons added that, “In recognition of the enormous importance of this issue”, Lord Goldsmith had “decided to disclose his view of the legal basis for the use of force”. That was:

“... almost unprecedented. The last time a Law Officer’s views were disclosed concerned the Maastricht Treaty in 1992. It is right that what has happened today remains the exception rather than the rule.”

Conclusions

The timing of Lord Goldsmith’s advice on the interpretation of resolution 1441

903. Following the adoption of resolution 1441, a decision was taken to delay the receipt of formal advice from Lord Goldsmith.

904. On 11 November Mr Powell told Lord Goldsmith that there should be a meeting some time before Christmas to discuss the legal position.

905. On 9 December, formal “instructions” to provide advice were sent to Lord Goldsmith. They were sent by the FCO on behalf of the FCO and the MOD as well as No.10.

906. The instructions made it clear that Lord Goldsmith should not provide an immediate response.

907. When Lord Goldsmith met Mr Powell, Sir David Manning and Baroness Morgan on 19 December, he was told that he was not, at that stage, being asked for his advice; and that, when he was, it would be helpful for him to discuss a draft with Mr Blair in the first instance.

908. Until 7 March 2003, Mr Blair and Mr Powell asked that Lord Goldsmith’s views on the legal effect of resolution 1441 should be tightly held and not shared with Ministerial colleagues without No.10’s permission.

909. Lord Goldsmith agreed that approach.

⁴⁰⁹ House of Lords, *Official Report*, 17 March 2003, columns 117-118.

910. Lord Goldsmith provided draft advice to Mr Blair on 14 January 2003. As instructed he did not, at that time, provide a copy of his advice to Mr Straw or to Mr Hoon.

911. Although Lord Goldsmith was invited to attend Cabinet on 16 January, there was no discussion of Lord Goldsmith's views.

912. Mr Straw was aware, in general terms, of Lord Goldsmith's position but he was not provided with a copy of Lord Goldsmith's draft advice before Cabinet on 16 January. He did not read it until at least two weeks later.

913. The draft advice of 14 January should have been provided to Mr Straw, Mr Hoon and the Cabinet Secretary, all of whose responsibilities were directly engaged.

914. Lord Goldsmith provided Mr Blair with further advice on 30 January. It was not seen by anyone outside No.10.

915. Lord Goldsmith discussed the negotiating history of resolution 1441 with Mr Straw, Sir Jeremy Greenstock, with White House officials and the State Department's Legal Advisers. They argued that resolution 1441 could be interpreted as not requiring a second resolution. The US Government's position was that it would not have agreed to resolution 1441 had its terms required one.

916. When Lord Goldsmith met No.10 officials on 27 February, he told them that he had reached the view that a "reasonable case" could be made that resolution 1441 was capable of reviving the authorisation to use force in resolution 678 (1990) without a further resolution, if there were strong factual grounds for concluding that Iraq had failed to take the final opportunity offered by resolution 1441.

917. Until that time, No.10 could not have been sure that Lord Goldsmith would advise that there was a basis on which military action against Iraq could be taken in the absence of a further decision of the Security Council.

918. In the absence of Lord Goldsmith's formal advice, uncertainties about the circumstances in which the UK would be able to participate in military action continued, although the possibility of a second resolution remained.

919. Lord Goldsmith provided formal written advice on 7 March.

Lord Goldsmith's advice of 7 March 2003

920. Lord Goldsmith's formal advice of 7 March set out alternative interpretations of the legal effect of resolution 1441. He concluded that the safer route would be to seek a second resolution, and he set out the ways in which, in the absence of a second resolution, the matter might be brought before a court. Lord Goldsmith

identified a key question to be whether or not there was a need for an assessment of whether Iraq's conduct constituted a failure to take the final opportunity or a failure fully to co-operate within the meaning of OP4, such that the basis of the cease-fire was destroyed.

921. Lord Goldsmith wrote (paragraph 26): "A narrow textual reading of the resolution suggested no such assessment was needed because the Security Council had pre-determined the issue. Public statements, on the other hand, say otherwise."

922. While Lord Goldsmith remained "of the opinion that the safest legal course would be to secure a second resolution", he concluded (paragraph 28) that "a reasonable case can be made that resolution 1441 was capable of reviving the authorisation in resolution 678 without a further resolution".

923. Lord Goldsmith wrote that a reasonable case did not mean that if the matter ever came to court, he would be confident that the court would agree with this view. He judged a court might well conclude that OPs 4 and 12 required a further Security Council decision in order to revive the authorisation in resolution 678.

924. Lord Goldsmith noted that on a number of previous occasions, including in relation to Operation Desert Fox in Iraq in 1998 and Kosovo in 1999, UK forces had participated in military action on the basis of advice from previous Attorneys General that (paragraph 30) "the legality of the action under international law was no more than reasonably arguable".

925. Lord Goldsmith warned Mr Blair (paragraph 29):

"... the argument that resolution 1441 alone has revived the authorisation to use force in resolution 678 will only be sustainable if there are strong factual grounds for concluding that Iraq failed to take the final opportunity. In other words, we would need to be able to demonstrate hard evidence of non-compliance and non-cooperation ... the views of UNMOVIC and the IAEA will be highly significant in this respect."

926. Lord Goldsmith added:

"In the light of the latest reporting by UNMOVIC, you will need to consider extremely carefully whether the evidence of non-cooperation and non-compliance by Iraq is sufficiently compelling to justify the conclusion that Iraq has failed to take its final opportunity."

927. Mr Straw, Mr Hoon, Dr Reid and the Chiefs of Staff had all seen Lord Goldsmith's advice of 7 March before the No.10 meeting on 11 March, but it is not clear how and when it reached them.

928. Other Ministers whose responsibilities were directly engaged, including Mr Brown and Ms Short, and their senior officials, did not see the advice.

Lord Goldsmith's arrival at a "better view"

929. At the meeting on 11 March, Mr Blair stated that Lord Goldsmith's "advice made it clear that a reasonable case could be made" that resolution 1441 was "capable of reviving" the authorisation of resolution 678, "although of course a second resolution would be preferable". There was concern, however, that the advice did not offer a clear indication that military action would be lawful.

930. Lord Goldsmith was asked, after the meeting, by Adm Boyce on behalf of the Armed Forces, and by the Treasury Solicitor, Ms Juliet Wheldon, in respect of the Civil Service, to give a clear-cut answer on whether military action would be lawful rather than unlawful.

931. On 12 March, Mr Blair and Mr Straw reached the view that there was no chance of securing a majority in the Security Council in support of the draft resolution of 7 March and there was a risk of one or more vetoes if the resolution was put to a vote.

932. There is no evidence to indicate that Lord Goldsmith was informed of their conclusion.

933. Lord Goldsmith concluded on 13 March that, on balance, the "better view" was that the conditions for the operation of the revival argument were met in this case, meaning that there was a lawful basis for the use of force without a further resolution beyond resolution 1441.

The exchange of letters on 14 and 15 March 2003

934. Mr Brummell wrote to Mr Rycroft on 14 March:

"It is an essential part of the legal basis for military action without a further resolution of the Security Council that there is strong evidence that Iraq has failed to comply with and co-operate fully in the implementation of resolution 1441 and has thus failed to take the final opportunity offered by the Security Council in that resolution. The Attorney General understands that it is unequivocally the Prime Minister's view that Iraq has committed further material breaches as specified in [operative] paragraph 4 of resolution 1441, but as this is a judgment for the Prime Minister, the Attorney would be grateful for confirmation that this is the case."

935. Mr Rycroft replied to Mr Brummell on 15 March:

"This is to confirm that it is indeed the Prime Minister's unequivocal view that Iraq is in further material breach of its obligations, as in OP4 of UNSCR 1441,

because of ‘false statements or omissions in the declarations submitted by Iraq pursuant to this resolution and failure to comply with, and co-operate fully in the interpretation of, this resolution’.

936. It is unclear what specific grounds Mr Blair relied upon in reaching his view.

937. In his advice of 7 March, Lord Goldsmith had said that the views of UNMOVIC and the IAEA would be highly significant in demonstrating hard evidence of non-compliance and non-co-operation. In the exchange of letters on 14 and 15 March between Mr Brummell and No.10, there is no reference to their views; the only view referred to was that of Mr Blair.

938. Following receipt of Mr Brummell’s letter of 14 March, Mr Blair neither requested nor received considered advice addressing the evidence on which he expressed his “unequivocal view” that Iraq was “in further material breach of its obligations”.

939. Senior Ministers should have considered the question posed in Mr Brummell’s letter of 14 March, either in the Defence and Overseas Policy Committee or a “War Cabinet”, on the basis of formal advice. Such a Committee should then have reported its conclusions to Cabinet before its members were asked to endorse the Government’s policy.

Lord Goldsmith’s Written Answer of 17 March 2003

940. In Parliament during the second week of March, and in the media, there were calls on the Government to make a statement about its legal position.

941. When Lord Goldsmith spoke to Mr Brummell on 13 March, they agreed that a statement should be prepared “setting out the Attorney’s view of the legal position which could be deployed at Cabinet and in Parliament the following week”.

942. The message was conveyed to No.10 during the morning of 15 March that Lord Goldsmith “would make clear during the course of the week that there is a sound legal basis for action should that prove necessary”.

943. The decision that Lord Goldsmith would take the lead in explaining the Government’s legal position to Parliament, rather than the Prime Minister or responsible Secretary of State providing that explanation, was unusual.

944. The normal practice was, and is, that the Minister responsible for the policy, in this case Mr Blair or Mr Straw, would have made such a statement.

Cabinet, 17 March 2003

945. Cabinet was provided with the text of Lord Goldsmith's Written Answer to Baroness Ramsey setting out the legal basis for military action.

946. That document represented a statement of the Government's legal position – it did not explain the legal basis of the conclusion that Iraq had failed to take "the final opportunity" to comply with its disarmament obligations offered by resolution 1441.

947. Lord Goldsmith told Cabinet that it was "plain" that Iraq had failed to comply with its obligations and continued to be in "material breach" of the relevant Security Council resolutions. The authority to use force under resolution 678 was, "as a result", revived. Lord Goldsmith said that there was no need for a further resolution.

948. Cabinet was not provided with written advice which set out, as the advice of 7 March had done, the conflicting arguments regarding the legal effect of resolution 1441 and whether, in particular, it authorised military action without a further resolution of the Security Council.

949. Cabinet was not provided with, or informed of, Mr Brummell's letter to Mr Rycroft of 14 March; or Mr Rycroft's response of 15 March. Cabinet was not told how Mr Blair had reached the view recorded in Mr Rycroft's letter.

950. The majority of Cabinet members who gave evidence to the Inquiry took the position that the role of the Attorney General on 17 March was, simply, to tell Cabinet whether or not there was a legal basis for military action.

951. None of those Ministers who had read Lord Goldsmith's 7 March advice asked for an explanation as to why his legal view of resolution 1441 had changed.

952. There was little appetite to question Lord Goldsmith about his advice, and no substantive discussion of the legal issues was recorded.

953. Cabinet was not misled on 17 March and the exchange of letters between the Attorney General's office and No.10 on 14 and 15 March did not constitute, as suggested to the Inquiry by Ms Short, a "side deal".

954. Cabinet was, however, being asked to confirm the decision that the diplomatic process was at an end and that the House of Commons should be asked to endorse the use of military action to enforce Iraq's compliance. Given the gravity of this decision, Cabinet should have been made aware of the legal uncertainties.

955. Lord Goldsmith should have been asked to provide written advice which fully reflected the position on 17 March, explained the legal basis on which the UK could take military action and set out the risks of legal challenge.

956. The advice should have addressed the significance of the exchange of letters of 14 and 15 March and how, in the absence of agreement from the majority of members of the Security Council, the point had been reached that Iraq had failed to take the final opportunity offered by resolution 1441.

957. The advice should have been provided to Ministers and senior officials whose responsibilities were directly engaged and should have been made available to Cabinet.

SECTION 6.1

DEVELOPMENT OF THE MILITARY OPTIONS FOR AN INVASION OF IRAQ

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Introduction and key findings

1. This Section addresses the UK planning for a military invasion of Iraq and the decisions:

- on 31 October 2002 to offer ground forces to the US for planning purposes for operations in northern Iraq; and
- in December to deploy an amphibious force, including 3 Commando Brigade.

2. This Section does not address:

- The decision in mid-January 2003 to deploy a divisional headquarters and three combat brigades for potential operations in southern Iraq and the commitment of those forces to a combat role in the initial stages of the invasion of Iraq. That is addressed in Section 6.2. That Section also sets out the principles of international humanitarian law (IHL) governing the conduct of military operations, including control of targeting decisions.
- The campaign plan for the invasion which is addressed in Section 8.
- The roles and responsibilities of the Defence Secretary, the Chief of the Defence Staff (CDS), the Permanent Under Secretary (PUS), and other key military officers and civilians, and the way in which advice was prepared for Ministers and decisions taken in the MOD in 2002 and 2003. They are set out in Section 2.
- The decisions on the wider UK strategy and options in relation to Iraq which are necessary to understand the wider context surrounding military deployments. Those are addressed in Section 3.
- The UK's assessments of Iraq's chemical, biological, nuclear and ballistic missile programmes and its intentions to retain and conceal its weapons of mass destruction (WMD) capabilities. They are addressed in Section 4.
- The consideration of the legal basis for military action, which is addressed in Section 5.
- The preparations to equip the force for operations in Iraq, and the implications of the decisions between mid-December 2002 and mid-January 2003 to increase the size of UK combat forces and be ready to take an earlier role in the invasion in support of US forces. They are addressed in Section 6.3.
- The funding for the operation, which is addressed in Section 13.
- The planning and preparations for the UK military contribution post-conflict, including decisions on the UK's Area of Responsibility (AOR) for UK military forces. They are addressed in Sections 6.4 and 6.5.

Key findings

- The size and composition of a UK military contribution to the US-led invasion of Iraq was largely discretionary. The US wanted some UK capabilities (including Special Forces) to use UK bases, and the involvement of the UK military to avoid the perception of unilateral US military action. The primary impetus to maximise the size of the UK contribution and the recommendations on its composition came from the Armed Forces, with the agreement of Mr Hoon.
- From late February 2002, the UK judged that Saddam Hussein's regime could only be removed by a US-led invasion.
- In April 2002, the MOD advised that, if the US mounted a major military operation, the UK should contribute a division comprising three brigades. That was perceived to be commensurate with the UK's capabilities and the demands of the campaign. Anything smaller risked being compared adversely to the UK's contribution to the liberation of Kuwait in 1991.
- The MOD saw a significant military contribution as a means of influencing US decisions.
- Mr Blair and Mr Hoon wanted to keep open the option of contributing significant forces for ground operations as long as possible, but between May and mid-October consistently pushed back against US assumptions that the UK would provide a division.
- Air and maritime forces were offered to the US for planning purposes in September.
- The MOD advised in October that the UK was at risk of being excluded from US plans unless it offered ground forces, "Package 3", on the same basis as air and maritime forces. That could also significantly reduce the UK's vulnerability to US requests to provide a substantial and costly contribution to post-conflict operations.
- From August until December 2002, other commitments meant that UK planning for Package 3 was based on providing a divisional headquarters and an armoured brigade for operations in northern Iraq. That was seen as the maximum practicable contribution the UK could generate within the predicted timescales for US action.
- The deployment was dependent on Turkey's agreement to the transit of UK forces.
- Mr Blair agreed to offer Package 3 on 31 October 2002.
- That decision and its potential consequences were not formally considered by a Cabinet Committee or reported to Cabinet.
- In December 2002, the deployment of 3 Commando Brigade was identified as a way for the UK to make a valuable contribution in the initial stages of a land campaign if transit through Turkey was refused. The operational risks were not explicitly addressed.
- Following a visit to Turkey on 7 to 8 January 2003, Mr Hoon concluded that there would be no agreement to the deployment of UK ground forces through Turkey.
- By that time, in any case, the US had asked the UK to deploy for operations in southern Iraq.

MOD Defence Planning Assumptions

3. The Armed Forces' capacity to deploy and sustain expeditionary operations was determined by decisions in the 1998 *Strategic Defence Review*.

4. Defence Planning Assumptions (DPAs) were developed by the MOD to convert policy into detailed guidance that could be used by military planners.¹ They outline the levels of activity the Armed Forces plan to be able to undertake, and the contexts in which they are expected to operate. They are used to identify and resource the planned force structure, capabilities and equipment of the Armed Forces.

5. The DPAs extant in 2002-2003 were those defined in the 1998 *Strategic Defence Review* (SDR 98). It identified eight **Missions** which the Armed Forces could be expected to undertake, which were further divided into 28 **Military Tasks**. The Planning Assumptions defined the required level of forces, or **scale of effort**, allocated to each Military Task.

6. In relation to the ability to deploy forces to deal with overseas crises, SDR 98 stated that the objective was to “be able to make a reasonable contribution to multi-national operations” in support of the UK’s “foreign and security policy objectives”. On that basis “broad benchmarks” had been set for planning that the UK should be able to:

“– respond to a major international crisis which might require a military effort and combat operations of a similar scale and duration to the Gulf War when we deployed an armoured division, 26 major warships and over 80 combat aircraft.

“or

“– undertake a more extended overseas deployment on a lesser scale (as over the last few years in Bosnia) while retaining the ability to mount a second substantial deployment – which might involve a combat brigade and appropriate naval and air forces – if this were made necessary by a second crisis. We would not, however, expect both deployments to involve war fighting or to maintain them simultaneously for longer than six months.”²

7. SDR 98 determined that the UK’s land forces should include two “deployable divisions” and six deployable brigades, three “armoured” and three “mechanised”, together with two “lighter and more specialised deployable brigades, an airmobile brigade and the Royal Marine Commando Brigade”.³

¹ Ministry of Defence, *Strategic Defence Review*, July 1998.

² Ministry of Defence, *Strategic Defence Review*, July 1998, page 23.

³ Ministry of Defence, *Strategic Defence Review: Supporting Essays*, July 1998. Supporting Essay 6, Future Military Capabilities.

8. The principal scales of effort defined in SDR 98 were:

- **small scale:** “a deployment of battalion size or equivalent” such as the Royal Navy ARMILLA patrol in the Gulf, the British contribution to United Nations Forces in Cyprus (UNFICYP), and the Royal Air Force operations enforcing the No-Fly Zones (NFZs) over northern and southern Iraq;
- **medium scale:** “deployments of brigade size or equivalent” for warfighting or other operations, such as the UK contribution in the mid-1990s to the NATO-led Implementation Force (IFOR) in Bosnia;
- **large scale:** deployments of division size or equivalent, the “nearest recent example” being the UK contribution to the 1991 Gulf Conflict, “although on that occasion the British division deployed with only two of its three brigades”. That was “the maximum size of force we would plan to be able to contribute to peace enforcement operations, or to regional conflicts outside the NATO area”; and
- **very large scale and full scale:** all the forces that would be made available to NATO to meet a major threat such as significant aggression against an ally. The difference between the two reflected the time available for preparation – “warning time”, and the size of the threat.

9. The Planning Assumptions also defined:

- **endurance:** the likely duration of individual Military Tasks. The force structure for each Service needed to be able to sustain tasks for the required period, including where necessary by rotating individual units deployed and, where units were deployed on operations, allowing units a period of respite between each deployment as set out in the “Harmony Guidelines”⁴ of each Service.
- **concurrency:** the number of operations of a given scale of effort and duration that could be sustained by the force structure. SDR 98 concluded that “not to be able to conduct two medium scale operations at the same time would be an unacceptable constraint on our ability to discharge Britain’s commitments and responsibilities. It would, for example, oblige us to withdraw from an enduring commitment such as Bosnia in order to respond to a second crisis.”⁵

10. The Defence Strategic Plan (DSP), a confidential MOD document, included greater detail than was published in the SDR report.⁶ It identified specific readiness criteria in relation to operations against Iraq, stating:

“... we need to maintain the ability to respond within short warning times to an Iraqi threat, and to build up forces thereafter. This again requires us to hold capabilities needed to mount a medium scale deployment at high readiness (30 days). For a

⁴ Harmony guidelines are explained in Section 16.1.

⁵ Ministry of Defence, *Strategic Defence Review: Supporting Essays*, July 1998. Supporting Essay 6, Future Military Capabilities.

⁶ Ministry of Defence 1998, ‘Defence Strategic Plan 1998’.

large scale deployment we need to plan on a framework division being ready within 90 days.”

11. The Defence White Paper 1999 stated:

“The assumptions made in the SDR were not intended to be an exact template for everything we have been called on to do. They were intended rather as a guide to the long term development of our forces without prejudicing the size of an actual commitment in particular contingencies ... But the SDR provided us with a demonstrably sound and robust basis for planning and operations of all kinds.”⁷

12. General Sir Mike Jackson, Chief of the General Staff from February 2003 to August 2006, told the Inquiry that the Planning Assumptions were:

“... not just a bit of [an] intellectual experiment ... they drive force structures, they drive stocks, they drive equipment.”⁸

The possibility of military invasion emerges

The impact of 9/11

13. After the attacks on the US on 9/11, the UK was concerned that the US might take immediate military action against Iraq.

14. The discussion in the UK about what to do about Iraq in the wake of the attack on the US on 9/11 and the “war against terrorism”, and the limitations on what the UK knew about US thinking and military operations, is addressed in Section 3.1.

15. The UK took the view that the status quo on Iraq was no longer acceptable and that Iraq’s defiance of the international community would need to be addressed. But the UK sought to steer the US away from unilateral military action.

16. Mr Blair spoke to President Bush by telephone on 3 December 2001.⁹ The conversation was primarily about the position in Afghanistan.

17. In a discussion on future options in relation to Iraq, Mr Blair told President Bush that Sir David Manning, Mr Blair’s Foreign Policy Adviser and Head of the Overseas and Defence Secretariat (OD Sec), and Sir Richard Dearlove, Chief of the Secret Intelligence Service (SIS), would be in Washington later that week. That would be an opportunity to share thinking on “how the next phase might proceed”.

18. The record of the conversation was sent to Mr Hoon’s Private Secretary and Admiral Sir Michael Boyce, Chief of the Defence Staff (CDS), amongst others.

⁷ Ministry of Defence, *Defence White Paper*, 20 December 1999.

⁸ Public hearing, 28 July 2010, page 7.

⁹ Letter Tatham to McDonald, 3 December 2001, ‘Telephone Conversation with President Bush’.

19. Mr Blair sent President Bush a paper, 'The War Against Terrorism: The Second Phase', on 4 December.¹⁰

20. The paper comprised an overview of the possible approaches to potential terrorist threats in seven countries¹¹ and a 'Strategy for Confronting Islamic Extremism' in moderate Muslim states.

21. In relation to Iraq, the key points were:

- Iraq was a threat because: "it has WMD capability; is acquiring more; has shown its willingness to use it; and can export that capability". Iraq was in breach of UN Security Council resolutions 687 (1991), 715 (1991) and 1284 (1999) and Saddam Hussein supported certain Palestinian terrorist groups and used terror tactics against Iraqi dissidents.
- Any link to 11 September and Al Qaida (AQ) was "at best very tenuous".
- Although "people want to be rid of Saddam", international opinion outside the US and the UK would "at present" be "reluctant" to support immediate military action.

22. Mr Blair suggested that a "strategy for regime change that builds over time" was needed "until we get to the point where military action could be taken if necessary" without losing international support and "facing a choice between massive intervention and nothing".

23. **Although the UK was aware in December 2001 that the US was conducting a full review of all its options, there are no indications in the papers seen by the Inquiry that the UK was aware that President Bush had commissioned General Tommy Franks, Commander in Chief US Central Command (CENTCOM), to look at military options for removing Saddam Hussein; and that that would include options for a conventional land invasion.**

24. Mr Kevin Tebbit, the MOD Permanent Under Secretary (PUS), visited Washington from 6 to 7 December where his meetings with a range of contacts included discussions on Afghanistan and the next stage of the "war against terrorism".¹²

25. While he was in Washington, an attempt was made by a senior Republican close to the Pentagon to persuade Mr Tebbit that the Iraqi National Congress (INC) could be a force to be reckoned with which would be sufficient to cause an Iraqi response and enable the US to take supportive military action.¹³

¹⁰ Paper Blair [to President Bush], 4 December 2001, 'The War Against Terrorism: The Second Phase'.

¹¹ Indonesia, Iran, Iraq, Philippines, Somalia, Syria and Yemen.

¹² Telegram 1684 Washington to FCO London, 8 December 2001, 'Tebbit's Visit to Washington: Wider War Against Terrorism'.

¹³ Minute Wilson to PS/CDI, 13 December 2001, 'Iraq: Is there a "Northern Alliance"?'.

26. Mr Tebbit commissioned an analysis of that thesis, which he expected would “show it to be flawed”.

27. On 19 December, Mr Geoff Hoon, the Defence Secretary, held a meeting with Adm Boyce, Mr Tebbit and others, to discuss the sustainability of operations in the No-Fly Zones and implications for plans for the defence of Kuwait, in the light of reduced patrolling following the invasion of Afghanistan.¹⁴

28. Mr Hoon asked, in the context of the changed political environment since 9/11, for further advice “detailing the current state of operations over Iraq and the political and military implications of continuing with the current patrolling patterns” and “options for future action together with their political, legal and military implications”. The options could be part of “a discrete operation” or “a wider campaign”, and could range from fewer patrols, maintaining current operations, to an incremental increase and “a significant large scale operation”.

29. It is now public knowledge that President Bush had asked for military options for action in Iraq to be reviewed in autumn 2001; and that he had been briefed by Gen Franks on 28 December 2001 and 7 February 2002.

30. The MOD had some knowledge of that debate, but it was not fully aware of all aspects of the discussions.

31. Admiral the Lord Boyce told the Inquiry that “there was no contingency planning or thinking about Iraq, so far as the Ministry of Defence was concerned, in 2001”.¹⁵

32. Lord Boyce subsequently told the Inquiry that discussions between the UK and US about the conduct of joint operations to enforce the No-Fly Zones had continued.¹⁶

33. Lord Boyce stated:

“We were flatly saying we are not considering or contemplating military action in Iraq. We were really quite strongly against that. We were certainly not doing any thinking about ... military adventures into Iraq in the early part of 2002, other than maintaining our No-Fly Zone capabilities and so forth.”¹⁷

34. General Sir John Reith, Chief of Joint Operations (CJO) from August 2001 to May 2004, told the Inquiry that CENTCOM had had plans in place for the invasion of Iraq after 1991.¹⁸

¹⁴ Minute Williams to Cholerton, 21 December 2001, ‘Iraq’.

¹⁵ Public hearing, 3 December 2009, page 5.

¹⁶ Public hearing, 27 January 2011, page 2.

¹⁷ Public hearing, 27 January 2011, page 6.

¹⁸ Private hearing, 15 January 2010, page 4.

35. Sir Kevin Tebbit told the Inquiry that he had been “quite surprised” when later on the US “started planning as quickly as they did in Iraq, that they were doing so before they sorted out Afghanistan”.¹⁹

36. The MOD view in late January 2002 about the wisdom of taking any military action was cautious. It identified an opportunity to influence US thinking, which was far from settled.

37. On 24 January 2002, Dr Simon Cholerton, Assistant Director in Secretariat (Overseas) (Sec(O)), wrote to Mr Hoon, setting out the risks of taking action against Iraqi air defences in response to Iraqi violations in the No-Fly Zones.²⁰ That would require careful handling to avoid being seen as the next phase of “the war on international terrorism”.

38. Dr Cholerton discussed the possibility of wider action against Iraq. He emphasised that neither the MOD nor the FCO had seen any “detailed US planning”. Work on policy options, at both military and political levels, was continuing in the US but “little, if anything has been shared with the UK”.

39. The case against Iraq, as “a candidate for ‘Phase 2’ in the GWOT [Global War on Terrorism]”, would be based on the threat to US national security posed by Iraq’s weapons of mass destruction programme in the absence of any evidence of Iraqi involvement in the 9/11 attacks. US thinking was far from settled and there “should be a window of opportunity to influence the US position”.

40. Dr Cholerton also advised that the “initial assessment of the efficacy (never mind the legality) of military action to effect regime change is that it is poor”. He drew attention to the work commissioned by Mr Tebbit in December 2001, which had addressed the strengths and weaknesses of the INC. That had concluded that there was “no Northern Alliance equivalent ... who could take advantage of precision bombing” in Iraq.

41. Mr Hoon told the Inquiry that the “long experience of patrolling the No-Fly Zones” was “a significant factor” in subsequent discussions about military intervention in Iraq:

“There was increasing concern about the risks involved in these operations and the consequences for example if a British or American aircraft was shot down. It was certainly speculated at the time that this could lead to military intervention to rescue downed personnel; and that such operations could lead to a wider engagement.”²¹

¹⁹ Private hearing, 6 May 2010, page 4.

²⁰ Minute Cholerton to APS/Secretary of State [MOD], 24 January 2002, ‘Iraq: No Fly Zones’.

²¹ Statement, 2 April 2015, paragraph 11.

President Bush's "axis of evil" speech and the UK response

42. President Bush's State of the Union speech on 29 January 2002 referred to Iraq, Iran and North Korea as "an axis of evil, arming to threaten the peace of the world".²²

43. The speech prompted a major public debate on both sides of the Atlantic about policy towards Iraq.

44. The UK's response, discussions between No.10 and the White House, and the advice commissioned by No.10, including a paper analysing the options on Iraq and a paper for public consumption setting out the facts on WMD, are addressed in Section 3.2.

45. Sir David Manning was assured by Dr Condoleezza Rice, President Bush's National Security Advisor, that no decisions would be taken before the planned meeting between Mr Blair and President Bush at Crawford in early April.²³

46. No.10 commissioned a number of papers to inform preparations for Mr Blair's meeting with President Bush.²⁴

47. By late February, US military action to achieve regime change in Iraq later that year was seen as a serious possibility.

48. The Chiefs of Staff were informed on 19 February that:

"A sustained bombing campaign combined with internal opposition forces plus US covert action would not be sufficient to effect a regime change. Any ground invasion if it was perceived to be against the Sunni hegemony rather than that of Saddam himself, would incur greater resistance ... [T]he US would not be in a position to project such a force until autumn 02. Basing in the region would be problematic ...

"US intent appeared to be to stem the creeping tide of WMD. Given that neither arms control or leverage were working, a line had to be drawn on the issues and in the case of Iraq, the line had been reached ... The US also had to consider the possibility of Saddam retreating to the North of Iraq and the consequences that this could have to maintaining another leader in Baghdad ... COS [Chiefs of Staff] needed to be more in tune with US planning and on message when speaking to their colleagues abroad. COS therefore requested regular updates as the FCO/MOD/US dialogue unfolded."²⁵

49. The thinking in the MOD at the time, about the position in Iraq and the US military options, is set out in more detail in the Defence Intelligence Staff (DIS) paper issued on 5 March, which is addressed later in this Section.

²² The White House, 29 January 2002, *The President's State of the Union Address*.

²³ Letter Manning to McDonald, 14 February 2002, 'Conversation with Condi Rice: Iraq'.

²⁴ Public hearing, 19 January 2011, page 34.

²⁵ Minutes, 19 February 2002, Chiefs of Staff meeting.

JIC ASSESSMENT, 27 FEBRUARY 2002: 'IRAQ: SADDAM UNDER THE SPOTLIGHT'

50. The Joint Intelligence Committee (JIC) Assessment of 27 February reached the view that, without direct intervention on the ground, the opposition would be unable to overthrow Saddam Hussein's regime.

51. If he was unable to deter a US attack, Saddam Hussein would "go down fighting and could adopt high risk options".

52. At the request of the JIC, an Assessment, 'Iraq: Saddam Under the Spotlight', was produced on 27 February.²⁶ It addressed "Saddam's threat perceptions and internal position: whether he is secure, what opposition he faces, and what he is doing to try and avoid the internal and international threats he faces".

53. The Key Judgements included:

- "Saddam fears a US military attack which would threaten his regime by bringing about the disintegration of his military and security apparatus. A force on the scale of Desert Storm (1991) would constitute such a threat."
- Saddam Hussein would permit the return of weapons inspectors if large-scale military action was believed to be imminent, but he would seek to frustrate their efforts.
- "The Special Republican Guard (SRG) remains closely tied to Saddam's regime and is likely to resist any attempt to overthrow him. The Republican Guard ... would be relatively resilient under attack but its loyalty in dire straits is more open to question than the SRG. Other elements of the Iraq military are more liable to crack if subjected to a strong attack."
- The "opposition" was "militarily weak and riven by factional differences. They will not act without visible and sustained US military support on the ground. A coup or military revolt is only a remote possibility."

54. The JIC also judged that Saddam Hussein did not believe such an attack was inevitable.

55. Elaborating the final Key Judgement, the Assessment stated:

"Overall we judge that, **unaided, the Iraqi opposition is incapable of overthrowing the Iraqi regime; in the present circumstances a coup or military revolt remains only a remote possibility.** With outside help short of direct intervention on the ground, the opposition would still be unable to succeed. Spontaneous mass uprisings might be more important if the regime's control wavered, but this is not in prospect; however, it might hasten the regime's downfall in conjunction with a massive US attack."

²⁶ JIC Assessment, 27 February 2002, 'Iraq: Saddam Under the Spotlight'.

56. The JIC considered that the Kurds and Shia “would not show their hand until US resolve to overthrow Saddam” was “absolutely clear”. There was “no obvious leader” among those groups who was “capable of unifying the opposition” and had “credibility and popular appeal inside Iraq”. No likely replacement for Saddam Hussein from within the regime had been identified, but the JIC stated that, in the event of internal change, it was “likely that any successor would be autocratic and drawn from the Sunni military elite”.

THE MOD PERSPECTIVE

57. The MOD advised Mr Hoon that the UK should not rule out military action against Iraq; and that it should think through the options in more depth to improve the “prospects for influencing the US towards a successful outcome”.

58. Mr Simon Webb, MOD Policy Director, sent Mr Hoon advice on 27 February on how the UK might approach the three countries referred to by President Bush as an “axis of evil”.²⁷

59. Mr Webb recommended that the UK should acknowledge that the countries posed “increasing” risks to international stability; and that the US should be persuaded to explain why. The UK should:

“Encourage a broad-based approach ranging from diplomacy to challenge inspections and levers on suppliers.

“Not rule out UK participation in military action against Iraq [...] if that is the only way to stem the tide of WMD proliferation and a worthwhile and legal option exists at the time.”

60. Mr Webb also stated that it was important to distinguish between two strands: the “direct risks from proliferation” and the “potential association with international terrorism”.

61. In the context of the response from European partners, Mr Webb advised:

“... it would be wiser for the UK to take a more complex position supporting the underlying concerns but advocating a greater mix of possible approaches. No.10 have started to take this line over the last week but we need to think through the options in more depth. In this way we have better prospects of influencing the US towards a successful outcome. Above all we should encourage the US to explain the issues more effectively ...”

62. Mr Webb’s detailed advice on the risks from Iraq’s WMD is addressed in Section 4.1.

²⁷ Minute Webb to PS/Secretary of State [MOD], 27 February 2002, ‘Axis of Evil’.

63. Mr Webb asked Mr Hoon for approval for the overall approach he had set out, on which he would “be working with the Cabinet Office” before Mr Blair’s meeting with President Bush in early April.

64. Mr Webb stated:

“If specific military options start to be considered in the US, we would of course seek his [Mr Hoon’s] guidance on whether the UK should participate in planning.”

65. Mr William Ehrman, FCO Director International Security, who had been shown a draft of Mr Webb’s advice, raised a number of questions, and asked for a briefing for himself and Mr William Patey, FCO, Head, Middle East Department (MED), on what the MOD considered to be the “valid options for military operations in some specific scenarios against Iraq”.²⁸ Mr Ehrman underlined the potential legal difficulties, including differences between the UK and the US on the question of whether a determination that Iraq was flouting UNSCRs could be made without collective Security Council authorisation.

66. A DIS paper on the possible US military options for removing Saddam Hussein was issued on 5 March.

67. The paper provides insights into some of the judgements in the JIC Assessment of 27 February, the Cabinet Office Options Paper of 8 March, and the thinking within the MOD which informed subsequent analysis and military planning, including uncertainty about what regime might replace Saddam Hussein.

68. At the request of Air Marshal Joe French, Chief of Defence Intelligence (CDI), the DIS produced a paper examining “US military” options for removing Saddam Hussein over the next 12 months on 5 March.²⁹ That did not “look at longer-term options, such as a covert action programme designed to achieve regime overthrow”. The paper did, however, consider Saddam Hussein’s options and likely intentions as he was “well aware of the possibility of action against him”.

69. Addressing the feasibility of action to topple Saddam Hussein, the paper stated that:

- Perception of US intent was critical to all three broad options for regime change.
- Assassination or direct targeting of Saddam Hussein and the senior regime leadership was “unfeasible”.
- Sustained airstrikes alone would not convince the Iraqi populace of US determination to overthrow the regime. Airstrikes and a widespread insurgency with US covert action on the ground was a “feasible option”, but it would not “guarantee success”.

²⁸ Letter Ehrman to Webb, 27 February 2002, ‘Axis of Evil’.

²⁹ Paper DIS, 5 March 2002, ‘Politico Military Memorandum, Removing Saddam’.

- Internal forces could only remove Saddam Hussein with the involvement of a Sunni strongman; but such an individual would be acting to preserve Sunni hegemony. That was “unlikely to be acceptable to Kurdish and in particular, Shia insurgents”.
- The UK intelligence community had consistently assessed that “the only viable, long term successor to Saddam will come from within the Sunni security/military structure”. He would be “unlikely to command popular support” and would be “forced (and probably inclined) to run Iraq along autocratic lines”. Iraq would “remain a unitary state”, but its long-term problems “would not disappear with Saddam”.
- A “sustained air campaign combined with a ground invasion” would topple the regime.

70. Addressing Iraq’s defences, the DIS wrote:

- The disposition of Iraqi forces was “defensive”.
- Saddam Hussein would not take offensive action against the Kurds – he knew that would “definitely provoke US action”.
- Equipment was “increasingly obsolescent” and US air supremacy was “certain”. Key units might fight, “but the regime could fall quickly”.
- “If softened by an air campaign, and facing US ground forces”, the collapse of Iraqi Regular Army (RA) units “could be as swift as it was in 1991, particularly given the lack of a viable air force. The regime would quickly lose control of the South ...”
- If the RA and the Republican Guard Forces Command (RGFC) “decided that they [were] defending the Iraqi homeland and Sunni dominance rather than just Saddam Hussein” they were “more likely to offer a tenacious and protracted resistance”.

71. Addressing the possibility of Iraq using WMD, the DIS wrote that it had “no definitive intelligence” on Iraq’s concepts for the use of WMD:

“Iraq did not employ WMD against coalition forces ... [in 1991], nor against the subsequent internal uprisings. We judge that Saddam wished to avoid regime-threatening retaliation from the coalition. Hence the use of WMD will be linked to perception of regime survivability. Were the regime in danger of imminent collapse, Saddam might consider use of WMD against internal opposition, US forces or Israel.”

72. Other points made by the DIS included:

- The US would need three to four months to assemble a force capable of taking military action. It was “conceivable” that it could be ready to begin the first phase of an air campaign in May (when the UN was next due to review Iraq) “but late summer would be better, not least to avoid ground operations in the summer heat”.

- Turkey would be wary of any regime change plan that encouraged or created the conditions in which Kurdish separatism may grow in strength. It wanted a stable, unitary and secular Iraq.
- Iraq would remain a unitary state but many of the structural problems would remain and: “We should also expect considerable anti-Western sentiment among a populace that has experienced ten years of sanctions.”
- “A US attempt to create a more equitable long-term distribution of power in Iraq would require massive and lengthy commitment. Modern Iraq has been dominated politically, militarily and socially by the Sunni. To alter that would entail re-creation of Iraq’s civil, political and military structures. That would require a US-directed transition of power (ie US troops occupying Baghdad) and support thereafter. Ten years seems a not unrealistic time span for such a project.”

73. The paper was sent to Mr Hoon, the Chiefs of Staff, Sir Kevin Tebbit,³⁰ Mr Webb, Lieutenant General Sir Anthony Pigott, Deputy Chief of the Defence Staff (Commitments), and a small number of other individuals. It was also sent to Mr John Scarlett, the Chairman of the JIC, the Assessments Staff, Mr Tom Dodd, OD Sec, Dr Amanda Tanfield, FCO Head of Iraq Section, Middle East Department, and SIS.

74. The paper was subsequently included in the pack of reading material on Iraq for Mr Blair, sent to No.10 by Mr Scarlett on 1 August (see Section 3.4).

75. On 6 March, the Chiefs of Staff were informed that Iraq was “sliding rapidly up the scale of interest and a degree of strategic planning was essential at some point in the near future, given the lead times necessary to shape pol/mil thinking effectively”.³¹

76. The Chiefs of Staff agreed that Air Chief Marshal Sir Anthony Bagnall, Vice Chief of the Defence Staff (VCDS), who was chairing the meeting in CDS’s absence, should “refresh” work on Urgent Operational Requirements (UORs) to ensure that it was not left “too late”.

77. The process of identifying and agreeing UORs to equip UK forces deployed to Iraq later in 2002 is addressed in Section 6.3.

78. Discussions with the Treasury on funding for operations in Iraq are addressed in Section 13.

CABINET, 7 MARCH 2002

79. Cabinet on 7 March was assured that no decision to launch military action had been taken and “any action would be in accordance with international law”.

³⁰ Sir Kevin Tebbit was appointed KCB in the 2002 New Year Honours List.

³¹ Minutes, 6 March 2002, Chiefs of Staff meeting.

80. Mr Blair and other Ministers had not received any considered, cross-government advice on the policy issues or options before the Cabinet discussion.

81. The Cabinet Office 'Iraq: Options Paper' of 8 March was prepared as a background paper by relatively junior officials. It contained no recommendation and was not intended to provide the basis for decisions. It was not formally considered and approved by senior officials.

82. From late February 2002, Mr Blair and Mr Jack Straw, the Foreign Secretary, began to set out the argument that Iraq was a threat which had to be dealt with in articles in the press and public statements which are described in Section 3.2.

83. In addition, a briefing paper on Iraq for the Parliamentary Labour Party (PLP) was prepared, at Mr Straw's request, by his Special Adviser, Dr Michael Williams.³²

84. Mr Straw's Private Office signed a letter to members of Cabinet on 6 March suggesting that they might find the paper on Iraq "useful background".³³

85. In Cabinet on 7 March (see Section 3.2), several Ministers expressed concern about the possibility of US military action against Iraq and its implications.

86. Cabinet was assured that no decision to launch military action had been taken and "any action would be in accordance with international law".

87. Mr Blair concluded that the right strategy was to engage the US Government closely to shape policy and its presentation.

THE CABINET OFFICE 'IRAQ: OPTIONS PAPER'

88. A collection of "background briefs" in preparation for his meeting with President Bush in early April was sent to Mr Blair on 8 March.³⁴

89. The papers included a Cabinet Office 'Iraq: Options Paper',³⁵ together with two FCO papers, 'Iraq: Legal Background'³⁶ and the 'Military Action against Iraq: Attitudes of Selected Third Countries'.³⁷ The Cabinet Office paper and its origins are addressed in detail in Section 3.2.

³² Statement, Lord Williams of Baglan, 9 January 2011, page 5.

³³ Letter Sedwill to Rycroft, 6 March 2002, 'Iraq: Cabinet Discussion'.

³⁴ Minute Manning to Prime Minister, 8 March 2002, 'Briefing for the US'.

³⁵ Paper Cabinet Office, 8 March 2002, 'Iraq: Options Paper'.

³⁶ Paper FCO, [undated], 'Iraq: Legal Background'.

³⁷ Paper Foreign and Commonwealth Office, March 2002, 'Military Action against Iraq: Attitudes of Selected Third Countries'.

90. The Cabinet Office paper did not make any recommendations but analysed two broad options: toughening the existing containment policy, and regime change by military means. The points made in the paper included:

- An improved containment policy would make a sanctions regime more attractive and reduce Iraq's illicit revenues. The return of the inspectors would also allow greater scrutiny of Iraq's WMD programme and security forces.
- Some of the difficulties with the existing policy would, however, still apply and the US had lost confidence in containment.
- The only certain means to remove Saddam Hussein and his elite was to invade and impose a new government. That would be a new departure which would require the construction of a coalition and a legal justification.
- Internal regime change in Iraq was likely to result in government by another Sunni military strongman.
- If the US and others committed to nation-building for many years, "a representative broadly democratic government" was possible but the paper concluded it would be Sunni-led.
- The use of overriding force in a ground campaign was the only option to offer confidence that Saddam Hussein would be removed and bring Iraq back into the international community.
- No legal justification for an invasion currently existed.
- A staged approach, establishing international support, should be considered.

91. Dr Cholerton sent a copy of the Cabinet Office and FCO papers to Mr Hoon on 8 March.³⁸

92. Dr Cholerton advised that the text had not been agreed by the MOD and that, at the request of the Cabinet Office, the paper had not been circulated within the MOD. Copies of the minute and papers were sent only to Adm Boyce, Sir Kevin Tebbit, Mr Webb and Mr Desmond Bowen, MOD Director General Operational Policy.

93. Mr Hoon asked for further advice on the US legal justification for both a military attack on Iraq and regime change in Iraq, and how practicable action was against states breaking sanctions.³⁹

94. Dr Cholerton's response of 26 March:

- set out the MOD's understanding of the UK and US legal position; and
- the difficulties of controlling trade between Iraq and its neighbours and other countries in the region.⁴⁰

³⁸ Minute Cholerton to APS/SofS [MOD], 8 March 2002, 'Iraq: OD Secretariat Options Paper'.

³⁹ Minute Williams to Cholerton, 12 March 2002, 'Iraq: OD Secretariat Options Paper'.

⁴⁰ Minute Cholerton to APS/SofS [MOD], 26 March 2002, 'Iraq: OD Secretariat Options Paper'.

95. Military liaison officers with CENTCOM in Tampa, Florida, focused on operations in Afghanistan and the No-Fly Zones over Iraq, were aware that a policy of 'NOFORN' (no disclosure of information to anyone who was not a US citizen; a foreigner) planning on Iraq was under way. Rumours about CENTCOM planning on Iraq had been reported to Lt Gen Pigott on 8 March:

"It is clear that planning is being conducted, and enablers are being put in place for a major air and land campaign in Iraq. It is clear that no political decisions have yet been made. Furthermore, temperatures over the summer and an apparent 6 month+ timescale for reconstitution of ... stocks suggest a start date not before Oct[ober] 02."⁴¹

96. General Reith told the Inquiry that he had "about 40 people ... working with CENTCOM, about 20 as embedded staff and 20 with my liaison team."⁴²

97. The UK's deployments to Afghanistan in early 2002 are addressed in the Box below.

Deployments to Afghanistan in early 2002

The United Nations Security Council adopted resolution 1386 on 20 December 2001.⁴³ That recognised that the responsibility for providing security and law and order throughout Afghanistan resided with the Afghans themselves. The resolution noted the reported request from the Afghan authorities for a United Nations authorised international security force, and authorised the establishment of an International Security Assistance Force (ISAF) in Afghanistan for six months. It also welcomed the UK offer to lead in organising and commanding the Force.

ISAF's role was to assist the Afghan Interim Authority in the maintenance of security in Kabul and its surrounding areas.⁴⁴ The British contribution was known as Operation VERITAS.⁴⁵

The Force was initially commanded by Major General John McColl and became fully operational from 18 February 2002.⁴⁶ The UK provided an infantry battlegroup based in Kabul and, until March 2002, a subordinate headquarters provided by 16 Air Assault Brigade.

On 18 March, the Force comprised more than 4,600 personnel from 18 nations, including some 1,600 UK troops deployed on Operation VERITAS.

In addition, and in response to a formal US request for forces to join military operations against Al Qaida and the Taliban, Mr Hoon announced the separate deployment of a further battlegroup, built around 45 Commando Royal Marines, of up to 1,700 personnel

⁴¹ Minute Reith to DCDS(C), 8 March 2002, 'CENTCOM Planning on Iraq'.

⁴² Private hearing, 15 January 2010, page 2.

⁴³ UN Security Council resolution 1386 (2001).

⁴⁴ UN Security Council Press Release, 20 December 2001, *Security Council Authorises International Security Force for Afghanistan; Welcomes United Kingdom's Offer to be Initial Lead Nation*.

⁴⁵ The National Archives, [undated], *Operation Veritas – British Forces*.

⁴⁶ House of Commons, *Official Report*, 18 March 2002, columns 38-39.

which would be ready to commence offensive operations by mid-April. The battle group would join a US-led brigade for military operations. The Brigadier commanding 3 Commando Brigade and his headquarters would also deploy to join the headquarters of CENTCOM at Bagram airbase.

Mr Hoon stated that the operation was being conducted in self-defence in accordance with the UN Charter, “against those elements of Al Qaida and the Taliban that continue to threaten the United Kingdom and other countries”.⁴⁷ It was the “largest military deployment for combat operations since the Gulf Conflict” in 1991.⁴⁸

The deployment was discussed in Cabinet on 21 March.⁴⁹

Mr Blair concluded that:

“... the troops were supported by the majority of the people in Afghanistan and would not be seeking to occupy territory, there was substantial United States air cover and there were troops from several Coalition partners involved. There was no parallel with the occupation of Afghanistan by the Soviet Union. The total number of British forces engaged in operations related to Afghanistan was substantial, but still only one-tenth of the number deployed during the 1991 Gulf War.”

Turkey took over lead responsibility for ISAF on 20 June 2002.⁵⁰

The same day, Mr Hoon confirmed that the Task Force based on the 45 Commando battlegroup would return to the UK on successful completion of Operation JACANA.⁵¹

Drawdown was completed on 31 July 2002.⁵²

MR HOON'S ADVICE, 22 MARCH 2002

98. Mr Hoon wrote to Mr Blair on 22 March emphasising the importance of a counter-proliferation strategy in the Middle East.

99. On Iraq, Mr Hoon advised that the UK should support President Bush and be ready to make a military contribution; and that UK involvement in planning would improve the US process. One of Mr Blair's objectives at Crawford should, therefore, be to secure agreement to the UK's participation in military planning.

100. Mr Hoon also stated that a number of issues would need to be addressed before forces were committed, including the need for a comprehensive public handling strategy to explain convincingly why such drastic action against Iraq's WMD was needed now.

⁴⁷ House of Commons, *Official Report*, 18 March 2002, column 43.

⁴⁸ House of Commons, *Official Report*, 18 March 2002, column 40.

⁴⁹ Cabinet Conclusions, 21 March 2002.

⁵⁰ UN Security Council resolution 1444 (2002).

⁵¹ House of Commons, *Official Report*, 20 June 2002, column 407.

⁵² The National Archives, [undated], *Operation Veritas*.

101. As the detailed analysis in Section 4.1 shows, the assumption that Saddam Hussein had retained some WMD and the ability to use it and that he was now actively seeking to enhance those capabilities, despite the disarmament obligations imposed by the UN Security Council after the Gulf Conflict in 1991, was deeply embedded in UK thinking by March 2002.

102. That was reinforced by the JIC Current Intelligence Group (CIG) Assessment of the status of Iraq's WMD programmes issued on 15 March to aid policy discussions on Iraq.⁵³

103. In the context of a discussion about US concerns, relating to Al Qaida's pursuit of WMD, the need for action to deal with the threat posed by Iraq and the potential link between terrorism and WMD, Mr Blair told Vice President Dick Cheney on 11 March that it was "highly desirable to get rid of Saddam" and that the "UK would help" the US "as long as there was a clever strategy".⁵⁴

104. Policy discussions with the US during March, including Mr Blair's discussion with Vice President Cheney and Sir David Manning's visit to Washington, are addressed in Section 3.2.

105. Mr Hoon discussed Mr Webb's advice of 27 February at a meeting on 19 March, at which AM French "and others" were present.⁵⁵

106. In relation to the options for military action, Mr Hoon was advised that, if a UK contribution to US military action against Iraq were to be sought, it:

"... might be a 'division minus', ie the largest of the options [for the deployment of UK ground forces] foreseen in the SDR [1998 Strategic Defence Review]."⁵⁶

107. Mr Hoon was also told that a "key issue would be the size of any continuing military presence required to sustain a post-Saddam regime".

108. Mr Hoon requested advice on the "likely resilience of Iraq's resistance to a ground operation".

109. Mr Hoon concluded that, if the US were to pursue a military option and seek UK involvement, "it would clearly be undesirable" for the UK to find itself "facing a plan about which we had reservations". It would, therefore, be "advantageous to seek representation in the UN planning process". He would write to Mr Blair suggesting he should raise that possibility in his discussions with President Bush.

⁵³ CIG Assessment, 15 March 2002, 'The Status of Iraqi WMD Programmes'.

⁵⁴ Letter Manning to McDonald, 11 March 2002, 'Conversation between the Prime Minister and Vice President Cheney, 11 March 2002'.

⁵⁵ Minute Watkins to Policy Director, 20 March 2002, 'Axis of Evil'.

⁵⁶ The Planning Assumptions, agreed in SDR 1998 and described earlier in this Section, stated that the UK should be able to deploy a division of up to three brigades in response to crises outside the NATO area. During the Gulf Conflict in 1991, the UK deployed an armoured division comprising two combat brigades; 4 Brigade and 7 Armoured Brigade (Ministry of Defence, *Statement on the Defence Estimates – Britain's Defence for the 90s*, July 1991, Cm 1559).

110. In the context of advice about Iraq's ability to develop a nuclear weapon (see Section 4.1), AM French commented in a minute to Mr Webb that, "Despite the work going on in the Pentagon", he could "not see a significant possibility of a large-scale military attack on Iraq taking place this year".⁵⁷

111. In AM French's view, the US would be "taking a calibrated approach":

- "The 'axis of evil' could be considered as the start of an IO [information operations] campaign."
- "The US would respond to international opinion by giving UNMOVIC [UN Monitoring, Verification and Inspection Commission] another chance, but with a much more intrusive regime."
- The IO campaign was "part of a move to foment opposition to Saddam Hussein inside Iraq".
- "The US would consider the selective use of military force, air strikes, to aid a coup, which must come from inside the country."
- "If all the above fail then consideration would have to be given to large-scale military action."
- Large-scale military action would come "into play quickly should Iraq be shown to be complicit in terrorist attacks using WMD".

112. The minute was also sent to Adm Boyce.

113. In response to Mr Hoon's request at his meeting on 19 March, the DIS advised that a ground offensive from Kuwait through Basra and coalition destruction of regime security organs in southern Iraq, calls for a democratic Iraq, or the attempted imposition of a government in exile, were all likely to increase resistance to a coalition attack.⁵⁸ As long as he was seen as defending Sunni hegemony in Iraq, that was Saddam Hussein's greatest strength.

114. Mr Hoon sent a minute to Mr Blair on 22 March, which included Mr Hoon's assessment that Saddam Hussein was "only one unpleasant dimension" of the "key strategic problem" of the spread of WMD, and that a more active counter-proliferation strategy was needed for the region as a whole. That is addressed in Sections 3.2 and 4.1.⁵⁹

115. In relation to possible military action, Mr Hoon identified three factors that the UK should keep in mind in considering how to support President Bush:

- The US already has heavy land forces in the region ... [and] is planning on the basis that it would take 90 days to deploy all necessary forces to the region; it would take us longer.

⁵⁷ Minute CDI to Policy Director, 21 March 2002, 'Iraq – Nuclear Weapons'.

⁵⁸ Minute PS/CDI to PS/SofS [MOD], 26 March 2002, 'Axis of Evil: Iraq'.

⁵⁹ Minute Hoon to Prime Minister, 22 March 2002, 'Iraq'.

- Despite 10 years of searching, no one has found a credible successor to Saddam.
- If a coalition takes control of Baghdad (especially without catching Saddam), it will probably have to stay there for many years.”

116. Mr Hoon wrote that the UK “should support President Bush and be ready for a military contribution” in Iraq. The UK had “made some progress at getting inside the Pentagon loop”, but he cautioned that the UK was:

“... not privy to detailed US planning, either strategically across the region or on Iraq. Before any decision to commit British forces, we ought to know that the US has a militarily plausible plan with a reasonable prospect of success compared to the risks and within the framework of international law. Our involvement in planning would improve their process – and help address our lead time problem. It would enable either CDS to reassure you that there is a sound military plan or give you a basis to hold back if the US cannot find a sensible scheme ... I suggest one of your objectives at Crawford should be to secure agreement to the UK’s participation in US military planning ...”

117. Finally, Mr Hoon proposed that Mr Blair might raise with President Bush “the need for a comprehensive public handling strategy, so that we can explain convincingly why we need to take such drastic action against Iraq’s WMD now”.

118. Mr Hoon’s letter was copied to Mr Straw and to Sir Richard Wilson, the Cabinet Secretary.

119. Lord Boyce told the Inquiry:

“The point of asking for access ... was if the Americans were going to start ... down a route of planning for military operations in Iraq, and if the Prime Minister was going to indicate ... that might be something ... we would be involved in, then the earlier we got involved ... the earlier we would get an understanding of what might be required of us.”⁶⁰

120. Sir Kevin Tebbit told the Inquiry that “there was no such thing at that stage as military planning”. It was “quite clear” that some in the US were pushing for military action to deal with WMD proliferation, “not just against Iraq, but against other countries too”. The “background papers” produced for Mr Blair’s visit to Crawford were “policy papers rather than military planning documents”. Those papers helped to inform Mr Blair’s thinking but there were “no recommendations”.⁶¹

121. Mr Hoon told the Inquiry that, if there was a possibility of the US taking military action to which the UK might make a military contribution, the MOD:

⁶⁰ Public hearing, 27 January 2011, page 4.

⁶¹ Public hearing, 3 December 2009, pages 7-9.

“... needed to be inside the process, both to influence it, but equally to understand what was happening, so that if, later on, there was such a request, we knew the nature of that request and why it had been made.”⁶²

122. On 25 March, Mr Straw wrote to Mr Blair setting out the risks which could arise from discussions with President Bush, but suggesting the “case against Iraq and in favour (if necessary) of military action” might be made in the context of seeking regime change as an essential part of a strategy of eliminating Iraq’s WMD, rather than an objective in its own right.⁶³

123. Mr Straw’s minute, which is addressed in Section 3.2, does not appear to have been sent to anyone outside No.10.

Mr Blair’s meeting at Chequers, 2 April 2002

124. Mr Blair discussed the need for a strategy to remove Saddam Hussein and possible US military action in a meeting at Chequers on 2 April.

125. The meeting was clearly intended to inform Mr Blair’s approach in his discussion with President Bush.

126. Mr Blair’s meeting at Chequers on 2 April is addressed in Section 3.2. No formal record was made of the discussion, or who was present.

127. Accounts given by participants suggest that Adm Boyce, Sir Kevin Tebbit (representing Mr Hoon who was unable to attend), Lt Gen Pigott, Lieutenant General Cedric Delves (senior UK liaison officer at CENTCOM), Sir Richard Dearlove, Mr Jonathan Powell (Mr Blair’s Chief of Staff), Sir David Manning and Mr Scarlett were present.

128. In relation to the military advice provided at the meeting, Lt Gen Pigott produced a set of briefing slides at the meeting.⁶⁴ They identified a provisional end state for military action against Iraq which was defined as:

“A law-abiding Iraq which is reintegrated in the international community, that does not threaten its neighbours, or global security.”

129. The slides prepared for Lt Gen Pigott also contained elements related to Afghanistan, the need to eliminate international terrorism as a force in international affairs and a series of questions in relation to the goals and approach of any military action in Iraq, including that, if the US wanted the UK to be involved in any military action, the UK would need to be involved in the planning.

⁶² Public hearing, 19 January 2010, page 16.

⁶³ Minute Straw to Prime Minister, 25 March 2002, ‘Crawford/Iraq’.

⁶⁴ Email DCDS(C)/MA2 to CDS REGISTRY-5 and PS/PUS [MOD], 28 March 2002, ‘Iraq Briefing Slides’.

130. Dr Cholerton provided Sir Kevin Tebbit with advice including a copy of the Cabinet Office 'Iraq: Options Paper' and Mr Webb's minute of 27 February.⁶⁵ Dr Cholerton wrote:

"... we believe that the key issue for the PM to raise with President Bush is the outcome the US would seek from any military action: would it simply be [to] control Iraq's WMD, remove Saddam from office (in the knowledge that a successor regime may well continue with Iraq's WMD programmes) or is it necessary to install a replacement regime? The answer to this question will be key to military planning; how action would fit into the framework of international law and help hugely in subsequent work to influence US policy."

131. Lord Boyce initially told the Inquiry:

"We had started thinking of what our capability would be. I was not involved in the briefing of the Prime Minister just before going to Crawford."⁶⁶

132. In his later statement, Lord Boyce said:

"There was a meeting with the Prime Minister on 2 April just prior to his visit to Crawford to discuss, amongst other things such as Afghanistan, a wide range of options about how to deal with Iraq, from containment and sanctions to conceptual military action. There was no discussion on the detail of military action or military options."⁶⁷

133. Adm Boyce told the Inquiry that his "presence at Chequers on that particular occasion was simply if there were questions coming up about what could be done militarily, what was our capability should we be asked to do something"; and that "no particular preparations were made for that" meeting.⁶⁸

134. Mr Hoon told the Inquiry that Sir Kevin Tebbit had attended the meeting on his behalf, and that he "knew that there were quite detailed discussions about what was going to happen at Crawford".⁶⁹

135. The MOD has been unable to locate any record of Sir Kevin's report to, or discussion with, Mr Hoon.⁷⁰

136. Mr Blair wrote in his memoir that Admiral Boyce and:

"... [Lt Gen] Pigott who had studied the military options, gave a presentation. They warned it could be a bloody fight and take a long time to remove Saddam. The US

⁶⁵ Minute Cholerton to PS/PUS [MOD], 8 April 2002 [sic], 'Iraq: Meeting with Prime Minister at Chequers'.

⁶⁶ Public hearing, 3 December 2009, pages 10-11.

⁶⁷ Statement Boyce, 27 January 2011.

⁶⁸ Public hearing, 27 January 2011, page 3.

⁶⁹ Public hearing, 19 January 2010, page 18.

⁷⁰ Letter MOD Iraq Inquiry Unit to Iraq Inquiry Secretariat, 23 May 2012, [untitled].

were engaged in preliminary planning, but it was hard to read where they were going with it. We needed to get alongside that planning and be part of it ...”⁷¹

137. The most detailed account of the meeting is in the diaries of Mr Alastair Campbell, Mr Blair’s Director of Communications and Strategy. He described the meeting as:

“... a repeat of the smaller meeting we’d had on Afghanistan. Boyce ... mainly set out why it was hard to do anything ...

“TB [Tony Blair] wanted to be in a position to give GWB [President Bush] a strategy and influence it. He believed Bush was in the same position as him, that it would be great to get rid of Saddam and could it be done without terrible unforeseen circumstances? ...

“We were given an account of the state of Iraqi forces, OK if not brilliant, the opposition – hopeless – and Saddam’s ways – truly dreadful. CDS appeared to be trying to shape the meeting towards inaction, constantly pointing out the problems, the nature of the [US] Administration, only Rumsfeld and a few others knew what was being planned, TB may speak to Bush or Condi [Rice] but did they really know what was going on? ... He said apart from Rumsfeld, there were only four or five people who were really on the inside track.

“... but CDS would keep coming back to the problems ... General Tony Pigott did an OK presentation which went through the problems realistically but concluded that a full-scale invasion would be possible, ending up with fighting in Baghdad. But it would be bloody, could take a long time. Also, it was not impossible that Saddam would keep all his forces back. He said post-conflict had to be part of conflict preparation. The Americans believed we could replicate Afghanistan but it was very, very different ... Cedric [Delves] ... said Tommy Franks was difficult to read because he believed they were planning something for later in the year, maybe New Year. He basically believed in air power plus Special Forces. CDS said if they want us to be involved in providing force, we have to be involved in all the planning, which seemed fair enough.

“TB said it was the usual conundrum – do I support totally in public and help deliver our strategy, or do I put distance between us and lose influence?

“We discussed whether the central aim was WMD or regime change. Pigott’s view was that it was WMD. TB felt it was regime change in part because of WMD but more broadly because of the threat to the region and the world ... [P]eople will say that we have known about WMD for a long time ... [T]his would not be a popular war, and in the States fighting an unpopular war and losing is not an option.

⁷¹ Blair T. *A Journey*. Hutchinson, 2010.

“C [Dearlove] said that the Presidential Finding, based on an NSC [National Security Council] paper, made clear it was regime change that they wanted ... There was a discussion about who would replace Saddam and how could we guarantee it would be better. Scarlett said it couldn't be worse ...”⁷²

138. Sir Richard Dearlove's evidence on the meeting and a press report about the Presidential Finding are described in Section 3.2.

Mr Blair's meeting with President Bush at Crawford, April 2002

139. When Mr Blair met President Bush in early April, the US was not ready to agree UK access to US military planning.

140. Lt Gen Pigott and Mr Bowen travelled to Washington on 2 April primarily to discuss Afghanistan-related matters.⁷³

141. Lt Gen Pigott also took the opportunity to ask what the US aims were for Iraq, and whether they were centred on regime change, WMD or both. He was reported as indicating some:

“... close-hold interagency thinking was beginning in London ... We [the UK] would welcome some engagement with the US on these broad questions. Discussion of military plans was for later.”⁷⁴

142. US officials were reported to have given a mixed response to his approach.

143. Mr Peter Watkins, Mr Hoon's Principal Private Secretary, sent a report of the visit to Sir David Manning, on 4 April.⁷⁵

144. Mr Watkins wrote:

“The impression they formed was that serious debate of the issues, let alone options, had not got off the ground ... (The Chairman [of the US Joint Chiefs of Staff, General Richard Myers] would presumably have to persuade Donald Rumsfeld [US Secretary of Defense] of the desirability of this joint activity.) Mr Hoon strongly endorses the need to get close to Pentagon thinking on the possible approaches in order to get the framework right before any military planning starts. He hopes that the President and Prime Minister can agree to set this Pentagon/MOD work in hand.”

⁷² Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

⁷³ Public hearing, 7 December 2009, page 5.

⁷⁴ Telegram 461 Washington to FCO London, 4 April 2002, 'US Policy on Iraq: Visit of Lt Gen Pigott'.

⁷⁵ Letter Watkins to Manning, 4 April 2002, 'Iraq'.

145. Sir David Manning added in a manuscript comment: "... further request from Geoff Hoon that you should persuade Bush to include us in the US military planning process."⁷⁶

146. In a separate minute to Mr Blair, Sir David wrote:

"We need to start US/UK military planning (ie access for UK military planners in Washington and CENTCOM – the point CDS [Adm Boyce] made at Chequers)."⁷⁷

147. Mr Blair met President Bush at Crawford, Texas, on 5 and 6 April. The discussion and Mr Blair's subsequent statements – in a press conference with President Bush, the speech at College Station on 7 April, in Parliament on 10 April, and to Cabinet on 11 April – are addressed in Section 3.2.

148. A three-page record of the discussions on Iraq was circulated on a secret and strictly personal basis by Sir David Manning in a letter to Mr Simon McDonald, Mr Straw's Principal Private Secretary, which was sent only to Mr Watkins (for Mr Hoon), Admiral Boyce, Sir Michael Jay (FCO Permanent Under Secretary), Sir Richard Dearlove, Sir Christopher Meyer (British Ambassador to the US) and Mr Powell.⁷⁸

149. In relation to military action, Sir David Manning recorded that the meeting on Saturday morning was informed that:

- There was no war plan for Iraq.
- Thinking so far had been on a broad, conceptual level.
- A very small cell in Central Command in Florida had recently been set up to do some planning and to think through the various options.
- When the US had done that, US and UK planners would be able to sit down together to examine the options.
- The US and UK would work through the issues together.

150. Sir David recorded that Mr Blair and President Bush had discussed:

- the need to enhance not diminish regional stability;
- who might replace Saddam Hussein if action was taken to topple him;
- the impact of a moderate, secular regime in Iraq on other countries in the region;
- the need to manage public relations with great care;
- putting Saddam Hussein on the spot over UN inspections and seeking proof of the claim that he was not developing WMD; and

⁷⁶ Manuscript comment Manning on Letter Watkins to Manning, 4 April 2002, 'Iraq'.

⁷⁷ Minute Manning to Prime Minister, 4 April 2002, 'Crawford Checklist'.

⁷⁸ Letter Manning to McDonald, 8 April 2002, 'Prime Minister's Visit to the United States: 5-7 April'.

- the timing of possible military action. If a decision was taken to use military action, that would not take place before late 2002/early 2003.

151. Mr Blair said that it was important to go back to the United Nations and to present that as an opportunity for Saddam Hussein to co-operate.

152. Sir David Manning also recorded that, following a further conversation with President Bush, Mr Blair had concluded that President Bush wanted to build a coalition, and that had led him to dismiss pressure from some on the American right.

153. The record contained no reference to any discussion of the conditions which would be necessary for military action.

154. Mr Blair told Cabinet on 11 April that regime change in Iraq was greatly to be desired but no “plans” for achieving that had been tabled during his discussions with President Bush at Crawford.⁷⁹

155. A minute from Mr Powell on 11 April suggested to Mr Blair:

“... in particular we need to bank his agreement that our military can be involved in joint planning once they have got pa[s]t the conceptual stage.”⁸⁰

156. A letter from Sir Christopher Meyer to Sir David Manning on 15 May indicated that Mr Blair and President Bush had also discussed the first quarter of 2003 as a timeframe for action against Saddam Hussein.⁸¹

157. Mr Powell told the Inquiry that he did not “recall ... any sort of discussion of military options” at Crawford.⁸²

158. Asked what Mr Blair had told him about his discussions with President Bush at Crawford, Mr Hoon replied:

“I don’t think he told me anything directly. I saw a record of the meeting ...”⁸³

159. Subsequently Mr Hoon stated:

“My recollection of those events is that ... we were a little disappointed after Crawford that we hadn’t immediately received a request from the United States to send someone to Tampa.”⁸⁴

160. Mr Blair told the Inquiry that he had told President Bush the UK would be with him “in confronting and dealing with this threat”.⁸⁵

⁷⁹ Cabinet Conclusions, 11 April 2002.

⁸⁰ Minute Powell to Prime Minister, 11 April 2002, ‘Follow up to Bush’.

⁸¹ Letter Meyer to Manning, 15 May 2002, ‘Your visit to Washington’.

⁸² Public hearing, 18 January 2010, page 24.

⁸³ Public hearing, 19 January 2010, pages 29-30.

⁸⁴ Public hearing, 19 January 2010, page 35.

⁸⁵ Public hearing, 29 January 2010, page 43.

161. Mr Blair subsequently confirmed that included if it came to military action.⁸⁶

162. Mr Blair also said that there had been “a general discussion of the possibility of going down the military route”.⁸⁷

163. Asked whether the UK would have made the request to be involved in US planning if military action had not been regarded as a serious possibility, Lord Boyce told the Inquiry:

“... it behoves any responsible military planner to make sure he is considering all the options that might come in the future. If the Americans were going to go down the route of taking military action in Iraq ... it was very important for us to understand what was going on at the earliest possible stage rather than being brought in at a late stage where we wouldn't have had any opportunity to say what our capabilities are or how we would shape our capabilities ... to fit in with whatever plan was being produced.”⁸⁸

Initial consideration of UK military options

MOD contingency planning in April and May 2002

164. After Crawford, the MOD began seriously to consider what UK military contribution might be made to any US-led military action and the need for a plausible military plan for the overthrow of Saddam Hussein's regime.

165. The MOD's initial thinking focused on the deployment of an Army division.

166. Mr Hoon was advised that Cabinet-level agreement to decisions to deploy UK Armed Forces to Iraq would be required.

167. In early April, thinking in the MOD on possible options for a UK contribution to military operations in Iraq moved into a higher gear.

168. Following the meeting at Chequers on 2 April, Sir Kevin Tebbit asked Mr Trevor Woolley, MOD Director General Resources and Plans, on 3 April 2002 for advice on the implications of deploying a “Division minus (25-30,000 with enablers)” to Iraq.⁸⁹

169. Sir Kevin's request, the advice he received, the fact that a division would require a minimum of six months lead time and ideally longer, and arrangements for Urgent Operational Requirements (UORs), are addressed in Section 6.3.

⁸⁶ Public hearing, 29 January 2010, page 48.

⁸⁷ Public hearing, 29 January 2010, page 59.

⁸⁸ Public hearing, 27 January 2011, page 7.

⁸⁹ Minute Tebbit to DG RP, 3 April 2002, 'Iraq Pre-contingency Mind Clearing'.

MR WEBB'S ADVICE, 12 APRIL 2002

170. Following Mr Blair's visit to Crawford, Mr Hoon discussed Iraq with Adm Boyce and Sir Kevin Tebbit on 8 April.⁹⁰

171. Mr Hoon "emphasised that no decisions had been taken on military action" but it was "important that No.10 and others understood the practical steps and (additional) costs which would be involved". Therefore as a "precaution against the possibility that military action might have to be taken at some point in the future", exploratory work should be put in hand, conducted "on a very close hold", to provide:

- "... a clearer picture of the potential specific military options – including the possible UK involvement"; this should indicate the "likely scales of effort and force generation/deployment timelines".
- "Clarification of what military capability we could deliver on the basis of the ... budgets for 2002/03 and what more might be required to deliver the options" identified.
- "Identification of the additional specific equipment requirements (UORs) necessary to deliver these options ... Equipment – rather than personnel – was likely to be on the critical path in terms of deployment timelines."

172. Mr Hoon asked to discuss the emerging findings and "the 'think piece'" the following week.

173. On 12 April, following consultation with Sir Kevin Tebbit and Adm Boyce, Mr Webb sent Mr Hoon a think piece entitled "Bush and the War on Terrorism".⁹¹ Mr Webb's minute provided formal advice on the possible scale of any UK military contribution and a draft letter to Mr Blair.

174. Mr Webb's paper explored potential end states for military action in Iraq in the context of Mr Blair's "commitment to regime change ('if necessary and justified')" in his speech at College Station on 7 April.

175. Mr Webb added:

- "Commitment on timing has been avoided and an expectation has developed that no significant operation will be mounted while major violence continues in Israel/Palestine".
- "Both Crawford and contacts with the Pentagon confirm that US thinking has not identified either a successor or a constitutional restructuring to provide a more representational regime:
 - "Various ideas for replacements have been aired over the years and none so far look convincing ..."

⁹⁰ Minute Watkins to PSO/CDS & PS/PUS [MOD], 8 April 2002, 'Iraq'.

⁹¹ Minute Webb to PS/Secretary of State [MOD], 12 April 2002, 'Bush and the War on Terrorism'.

176. Mr Webb’s view was that “the prospects for finding a stable political solution” were “poor in the short term”; and that a coalition might be left “holding the ring for a significant period”. Securing a mandate for a UN interim administration “could be tricky” so there would be a “need to cater for some kind of sponsored interim administration”.

177. Mr Webb added that “without proper access to US planning”, the options were “speculative” but:

“Potential US scenarios could embrace:

- A. A clandestine/Special Forces operation on a limited scale ...
- B. A local revolution, possibly supported by SF and a major air campaign (on a Northern Alliance analogy, though the circumstances are very different).
- C. A major military operation to secure centres of power such as Baghdad ...”

178. Mr Webb advised that the US had “sufficient forces to undertake a military operation ... without anyone else’s help”; but:

“To achieve a successful regime change, the UK would need to be actively involved (one might also argue that the Prime Minister has effectively committed us).”

179. If the US mounted a major military operation, a UK contribution of only Special Forces, cruise missiles and/or air support “would be seen as only token ... confer no significant influence on US planning (and would be adversely contrasted with Britain’s contribution during the [1990/91] Gulf War).”

180. Setting out the MOD’s thinking on military issues, Mr Webb wrote:

- “The fundamental building block for [a UK contribution to] a major US ground force operation is a division. Only on that scale (requiring 3 brigades as our planning base) would UK have significant influence over how the operation was developed and conducted: an independent brigade does not fit into the US structure and would in any case need substantial divisional scale enablers in order to be safe for high intensity operations ... Such a deployment would be at the extreme end of the UK’s capacity after the SDR: it was the scenario against which the ‘large’ option was scaled.”
- The UK “should seek only to make a respectable large contribution that we can sustain properly”.⁹²

⁹² In a handwritten amendment to the draft letter Lt Gen Pigott suggested amending the sentence “Without access to US planning, which is only now beginning ...” to “Without formal access to US planning ...” He also recommended inserting “a 3 brigade division” in the description of the potential UK force contribution of a division.

181. Mr Webb added:

“... there could be advantage in the MOD doing some discreet internal strategic estimating. This should help us think through what would be the key strategic objectives and the end states and the ‘centre of gravity’ of the situation we need to tackle ... When the time came for discussion with the US, our pre-thinking and ability to offer a well thought-through force contribution (up to a division, though obviously less if possible) would give us clout: and also a respectable position from which to judge whether their proposals offer adequate return for risk.”

182. On the way forward, Mr Webb wrote:

“Despite the massive scale of commitment, there are arguments that preventing the spread of WMD should be given the highest priority in coming years ... [I]t remains the greatest risk to Middle East and international stability in the medium-term; and in the long-term countries like Iraq and Iran are on course to threaten Europe and UK direct. It is arguable that preventing this spread by making an example of Saddam Hussein would do more for long-term stability than all the displaced [military] activities combined ...

“By demonstrating our capacity for high intensity warfare at large scale the UK would also send a powerful deterrence message to other potential WMD proliferators and adversaries.

“... There would come a point at which preparations could apply some valuable pressure on Saddam; or be seen as a natural reaction to prevarication over inspections. In general ... until that point ... we should keep a low profile ...”

183. Mr Webb concluded:

“Even these preparatory steps would properly need a Cabinet Committee decision, based on a minute from the Defence Secretary. The FCO are content for activity to be centred on MOD, to preserve the best prospect for dialogue with US DOD [Department of Defense] ...”

184. At a meeting on 18 April to discuss Mr Webb’s minute, Mr Hoon found the analysis “generally persuasive”; but asked for further work to examine the feasibility of making a smaller contribution.⁹³ He sought options “short of participation in a full ground offensive”.

185. Mr Hoon said that more thought needed to be given to the legal aspects as:

“Prima facie, the best legal foundation for any operation to displace Saddam’s regime was that it would remove the threat posed by his WMD. However it was

⁹³ Minute Watkins to Policy Director, 18 April 2002, ‘Iraq’.

conceivable that any new Iraqi regime – and, in particular, one led by another ‘strong man’ – would wish to have WMD to meet the perceived regional threat from Iran ...”

186. Mr Hoon stated that he was content for thinking to continue, but decided it should be kept on “a very close hold until Ministers agreed otherwise”. For him, “the key question was: how far ahead of a decision to deploy would we have to start any necessary preparatory action”.

187. Mr Webb explained to the Inquiry that the way he had posed the issues in his minute was a means of finding out from Mr Hoon if he knew or could find out what the position was:

“This was commissioned as a think piece. But ... my duty is to say to my Secretary of State, you need, we need to have a feel for whether the Prime Minister has committed us here, because it affects what we do next.”⁹⁴

188. Mr Webb added that he had not got an explicit response on that point.

189. Mr Hoon did not formally write to Mr Blair setting out possible options for a UK contribution to military operations until 31 May.

190. Lord Boyce told the Inquiry that after Crawford the MOD “started ramping up our ... thinking on ... what we could provide”.⁹⁵

191. Sir Kevin Tebbit told the Inquiry that it should not assume that the MOD was looking for the military option at that point. Rather, if the military was to be in a position to produce a military option “at a much later date”, a “very long planning process [was] required” and it had to start thinking about the issues “as early as possible”. The work was “very, very preliminary ground clearing”.⁹⁶

192. Sir Kevin subsequently told the Inquiry that, to produce a large scale option on the ground, serious planning had to start six months earlier.⁹⁷ The military papers and records would “indicate clarity of intent, when in fact what there was, was a determination to provide the politicians with the option”.

ESTABLISHMENT OF THE “PIGOTT GROUP”

193. The MOD established an informal inter-departmental group of senior officials, the “Pigott Group”, to identify the issues which might need to be addressed if military action was taken in Iraq.

194. The discussions of the Group were not recorded.

⁹⁴ Private hearing, 23 June 2010, page 11.

⁹⁵ Public hearing, 3 December 2009, page 11.

⁹⁶ Public hearing, 3 December 2009, pages 14-16.

⁹⁷ Private hearing, 6 May 2010, pages 10-11.

195. Lt Gen Pigott told Mr Hoon on 18 April that a small, senior group had been put together “including ... representatives from other interested Departments” to “brainstorm the options”.⁹⁸

196. Mr Peter Ricketts, FCO Political Director, described the role of the group, which became known as the “Pigott Group”, to Mr Straw on 25 April as to think about the issues that would be involved in any military operation in Iraq.⁹⁹ Its establishment was:

“... a sensitive exercise. Participation is being tightly restricted and paperwork will be kept to the minimum.”

197. Mr Ricketts advised Mr Straw that the first meeting of the Group had discussed how the objective or “end state” of a military operation should be defined. That is addressed in Section 3.3.

198. The minute stated that senior officials from the Cabinet Office and the Agencies, as well as the FCO, would be involved.

199. Sir Peter Ricketts told the Inquiry that the role of the Pigott Group was to discuss “the implications of military planning for other departments’ activities” rather than to “discuss military planning as such”.¹⁰⁰

200. Lord Boyce told the Inquiry that the Group “was constrained, to a very small group of people ... in London in the MOD, it didn’t actually go outside into any of the outposts ... in the MOD”.¹⁰¹

201. Lt Gen Pigott told the Inquiry that the role of the Group was:

“... to do some scoping work ... Not to do ... planning ... What could we be dealing with here? What might be the big issues? ... the what, when, where. What were they beginning to look like ...”¹⁰²

202. Mr Tom McKane, Deputy Head of OD Sec from September 1999 until early September 2002, told the Inquiry that the Group “met a number of times in the early summer” of 2002.¹⁰³ The meetings were “not minuted” and were “very informal ... the focus was on precisely what was the US emerging plan”. At that stage there was “great uncertainty about that”, and British access to American thinking had been “pretty limited”.

203. Mr Webb told the Inquiry that the Group had worked out the shape of the options which he had then discussed with Mr Douglas Feith, US Under Secretary of Defense for Policy.¹⁰⁴

⁹⁸ Minute Watkins to Policy Director, 18 April 2002, ‘Iraq’.

⁹⁹ Minute Ricketts to Private Secretary [FCO], 25 April 2002, ‘Iraq Contingency Planning’.

¹⁰⁰ Public hearing, 1 December 2009, pages 20-21.

¹⁰¹ Public hearing, 3 December 2009, page 11.

¹⁰² Public hearing, 4 December 2009, pages 17-18.

¹⁰³ Public hearing, 19 January 2011, page 60.

¹⁰⁴ Private hearing, 23 June 2010, page 15.

204. The Strategic Planning Group (SPG), a planning team working for Lt Gen Pigott, supported the Pigott Group.

205. Lieutenant General Sir James Dutton, Adm Boyce's liaison officer to the Chairman of the US Joint Chiefs of Staff until the middle of March 2002 and subsequently head of the SPG until taking up his appointment as Commander, 3 Commando Brigade in July 2002, told the Inquiry that, in view of his recent experience in Washington as CDS's liaison officer, he had been asked to lead the team, reporting weekly to Lt Gen Pigott.¹⁰⁵

206. Lt Gen Dutton said that the work was best described as "prudent military contingency planning on what we might be able to do if there were a political directive to do so". Force packages were not yet being discussed:

"If there were to be a political decision made to do something in Iraq, what might the Americans do, what might we be able to do ... if that decision were made and ... how would the various bits of Whitehall contribute to that and what might be the longer-term aim. So it was very much conceptual thinking ..."

MOD ADVICE TO MR HOON, MAY 2002

207. The MOD advised Mr Hoon in early May that the US had decided to pursue regime change. The question was when. The MOD thought it could be at "the turn of the year".

208. The US was likely to continue to hold the UK military at arm's length until options had been considered by President Bush.

209. Lt Gen Pigott identified two key issues which would need to be addressed: the impact of the potential courses of action and the contribution the UK might make.

210. Gen Franks visited the UK as part of a wider overseas visit in late April 2002.

211. Mr Hoon's diary indicates that he met Gen Franks at RAF Brize Norton on 25 April.¹⁰⁶

212. The MOD has not been able to locate any record of the discussion.¹⁰⁷

213. The discussion on Iraq at the Chiefs of Staff meeting attended by Gen Franks and Air Marshal Brian Burridge, Deputy Commander in Chief Strike Command, on 26 April was recorded separately and circulated on very limited distribution.¹⁰⁸

¹⁰⁵ Public hearing, 12 July 2010, pages 4-5.

¹⁰⁶ Diary, SofS [MOD], 25 April 2002.

¹⁰⁷ Letter MOD Iraq Inquiry Unit to Iraq Inquiry Secretariat, 23 May 2012, [untitled].

¹⁰⁸ Minute SECCOS to PS/SofS [MOD] and others, 30 April 2002, 'Record of CINCCENTCOM meeting with COS – 26 April 2002'.

214. The minute of the discussion records that the Chiefs of Staff were told that the US was thinking deeply about Iraq and possible contingencies; but was not currently planning a military operation to overthrow the Iraqi regime. There were a significant number of questions about the use of force including timing and the need for proof of WMD and a legal underpinning.

215. Recent difficulties with the No-Fly Zones were also discussed.

216. Mr Jim Drummond, Assistant Head of OD Sec (Foreign Policy), who attended the Chiefs of Staff meeting, advised Sir David Manning that:

“... the mood [in the US government] was ‘when not if’, but the list of unintended consequences was long and policy makers were still grappling with them ... Activity in Washington mirrored that in London. Small groups of senior staff thinking through strategy options.”¹⁰⁹

217. Air Chief Marshal Sir Brian Burridge told the Inquiry that Gen Franks had visited London in “mid-May”; and that he had said something about Iraq along the lines of “it is not if but when, and that was really the first time I had heard him say anything with that degree of certainty”.¹¹⁰

218. From the records of the 26 April Chiefs of Staff meeting, the Inquiry concludes ACM Burridge was recalling that discussion. There is no evidence that Gen Franks was in London in mid-May.

219. Lt Gen Pigott told the Inquiry: “I had an extremely close relationship with the key players in the joint staff. It was very much professional friends over the years”. If approached, they would say: “Yes ... we are doing a bit more on this”, but that was “not the American Government”, it was “an individual senior officer in the American Government”.¹¹¹

220. Major General David Wilson, who replaced Lt Gen Delves as Senior British Military Adviser (SBMA) at CENTCOM in April 2002, told the Inquiry that he received no information about Iraq planning when he arrived:

“Nothing. I didn’t find anything, because the shutters were firmly down. I and my people were in the foreign exclusion category ... there was no sort of nodding and winking, that’s the way it was.”¹¹²

¹⁰⁹ Minute Drummond to Manning, 26 April 2002, ‘Meeting with General Franks’.

¹¹⁰ Public hearing, 8 December 2009, page 6.

¹¹¹ Public hearing, 4 December 2009, page 11.

¹¹² Public hearing, 4 December 2009, pages 8-9.

221. Lt Gen Dutton told the Inquiry:

“... we were all interested to know whether there was any planning going on for other potential operations. I used to ask that question of the J-3, General Newbold ... and he would be quite honest in saying that they were doing staff checks for any number of contingencies and, if asked specifically about Iraq, he would not deny that they were looking at what they could do, if asked ...”¹¹³

222. Lt Gen Pigott sent Mr Hoon an update on the work of the SPG on 10 May.¹¹⁴**223.** Lt Gen Pigott stated:

“Any thinking we do about joining the US in military operations against the Iraqi regime needs to be informed by our thinking in two key areas: the impact of potential courses of action open to a coalition and the capability the UK might contribute to such a coalition.”

224. The SPG had concluded that the US had decided to pursue regime change; the question was when, including whether to pursue weapons inspections before a military build-up. The MOD’s “best guess” was that the recommendation would be for action at “the turn of the year” but it did not expect to be “exposed” to US planning until advice had been put to President Bush, probably in late May. The UK would “need to be ready to discuss Iraq with the Americans as soon as they share planning with us”.

225. Work had been commissioned on the capabilities the UK might aim to provide within periods of three to four and six to eight months; setting out the key decision and deployment points.

226. Lt Gen Pigott suggested that this could lead to “a note to the Prime Minister setting out these and the financial implications of taking contingency action now”. The advantage of characterising this work as “contingency planning and considering generic force packages” was that it offered “the possibility of wider debate and scrutiny in the department than would be available if we were to consider specific courses of action, for operational security reasons”. The work needed to be supported by “thinking on what ‘end state’ HMG is seeking to achieve and about the legal basis on which action would be taken forward”.

227. Mr Hoon noted Lt Gen Pigott’s advice and asked for a meeting to discuss the work and when it would be appropriate to convene a meeting with Mr Blair and Mr Straw.¹¹⁵

228. In a letter the same day as Lt Gen Pigott’s update on wider issues, which is addressed in Section 3.3, Mr Webb told Mr Ricketts:

¹¹³ Public hearing, 12 July 2010, pages 2-3.

¹¹⁴ Minute DCDS(C) to APS/Secretary of State [MOD], 10 May 2002, ‘Iraq’.

¹¹⁵ Minute Williams to DCDS(C), 13 May 2002, ‘Iraq’.

“... we have proposed to the Defence Secretary we take forward rapidly two distinct pieces of work, one on military *contingency planning* ... and the other on *coalition options* which will need to factor in legal considerations. Rather than submitting our Ministers’ conclusions to the Attorney General for his approval, we should prefer the usual approach of his putting advice to colleagues as part of a collective decision.”¹¹⁶

229. The letter was sent to Lt Gen Pigott, Sir David Manning and SIS.

230. By mid-May, the perception that the UK might provide an armoured division for military operations had already gained currency in the US.

231. There is no evidence that such a suggestion had been authorised.

232. In the absence of an agreed avenue for dialogue between the US and UK and the sensitivities about the issue on both sides of the Atlantic in the spring of 2002, informal conversations between the US and UK military and between civilian officials to explore each other’s positions to inform thinking and the development of advice to Ministers were unavoidable.

233. Mr Webb visited Washington in mid-May and discussed draft objectives for a military operation with US officials (see Section 3.3).¹¹⁷

234. Mr Webb explained the UK military timelines as:

“... 7 to 9 months for a major contribution of division minus plus air wing etc, shorter for a smaller package. If they [the US] wanted UK participation this would have to be factored in.”

235. Mr Webb also reported his impression that momentum in Washington “had flagged” since his last substantive discussions in February.

236. In the context of those discussions, Mr Webb told the Inquiry:

“... once you get into the level of military planning, it doesn’t make a big difference whether your policy is to remove WMD, and that means Saddam has to go, or whether you are going to change the regime and take the opportunity to remove WMD ... [I]t’s very important in legal and policy terms ...”¹¹⁸

237. In preparation for Sir David Manning’s visit to Washington, Sir Christopher Meyer sent a personal letter to Sir David on 15 May.¹¹⁹

¹¹⁶ Letter Webb to Ricketts, 10 May 2002, [untitled].

¹¹⁷ Letter Webb to Ricketts, 16 May 2002, ‘Iraq: Objectives’.

¹¹⁸ Private hearing, 23 June 2010, page 16.

¹¹⁹ Letter Meyer to Manning, 15 May 2002, ‘Your Visit to Washington’.

238. In relation to military planning, Sir Christopher reported that he had been told by a senior official in the State Department that:

- The timeframe discussed between Mr Blair and President Bush was still valid: the first quarter of next year was “realistic” for action against Saddam Hussein.
- CENTCOM was hearing from British military sources that we were contemplating contributing an armoured division.

239. In discussions with Dr Rice on Iraq, Sir David Manning was assured that the UK would be brought into the planning process at a very early stage, once such planning got under way.¹²⁰

240. One significant and potentially awkward fact emerged from a meeting with Mr Richard Armitage, US Deputy Secretary of State, when Sir David Manning was told that a report that “a UK officer at Tampa had said that the UK would provide an armoured division” was “dropped into the conversation” of the most senior US policy-makers.¹²¹

241. On the record of the meeting in the Chief of the Defence Staff files, a handwritten comment to Adm Boyce said: “This could unstitch your line with the PM tomorrow.”¹²²

242. Mr Hoon’s Private Office sent a note to Adm Boyce’s office on 21 May, recording that the Defence Secretary was “surprised and concerned” by this report:

“Given the very close hold under which contingency planning for Iraq has been conducted and the fact that no options have yet been presented to Ministers, the Secretary of State would be grateful for any light which can be thrown upon this story. Is the UK team in Tampa party to the current work on Iraq?”¹²³

243. Adm Boyce’s office replied that “the UK team in Tampa is not party to current MOD work on Iraq” and:

“... our investigations indicate that there has been no authenticated or officially recorded message passed to General Franks, or anyone else at Tampa, that the UK ‘would’ provide a division. We can only assume that this is speculation based on UK’s contribution to the Gulf War 1991 which has been misinterpreted.”¹²⁴

244. A manuscript note to Mr Hoon on the document states “we can assume the point has been made”.

¹²⁰ Letter Rycroft to McDonald, 18 May 2002, ‘David Manning’s Visit to Washington, 17 May; Iraq’.

¹²¹ Letter Rycroft to McDonald, 18 May 2002, ‘David Manning’s Visit to Washington, 17 May Iraq’.

¹²² Manuscript comment [unattributed] on Letter Rycroft to McDonald, 18 May 2002, ‘David Manning’s Visit to Washington, 17 May Iraq’.

¹²³ Minute Williams to PSO/CDS, 21 May 2002, ‘David Manning’s Visit to Washington 17 May – Iraq’.

¹²⁴ Minute Shirreff to APS/Secretary of State, 31 May 2002, ‘David Manning’s Visit to Washington 17 May – Iraq’.

245. Sir Kevin Tebbit wrote on his own copy of the document “Rubbish!”¹²⁵

246. Asked about his meeting with Mr Armitage and the fact that Mr Armitage had been told that Mr Blair had discussed with President Bush at Crawford the question of a British armoured division taking part in the invasion, Sir David Manning told the Inquiry: “Yes I didn’t know that.”¹²⁶

247. Asked, in the context of an offer of a division, whether the military planners were getting ahead of the policy, Sir David Manning told the Inquiry that he was “surprised they had said that”. It “didn’t seem logical”; Mr Blair had refused in July to indicate what the military contribution might be.¹²⁷

248. Lord Boyce told the Inquiry: “Let me absolutely assure you that no-one was authorised to make such an offer. In fact, quite the contrary.”¹²⁸ He added: “we were unable to find out who this person was. So I don’t believe there was such a person.”

249. Two key strands of MOD thinking had clearly emerged by the end of May 2002.

250. First, work on options in the MOD focused on identifying the maximum contribution the UK could make to any US-led operation in Iraq, even though the UK was still unsure about the objectives and validity of the plan, the legal basis for action or the precise role the UK would play.

251. Second, the desire to secure “strategic influence” across all environments of a military campaign.

252. The record of Mr Blair’s meeting with the Chiefs of Staff on 21 May, when a range of wider defence issues was discussed, noted on Iraq: “The two main questions were: Do the US have a sensible concept? If so how could the UK contribute?”¹²⁹

253. A paper produced by the SPG on 24 May, ‘Contingency Thinking: Force Generation and Deployment for the Gulf’, was sent to the Chiefs of Staff and a limited number of named MOD addressees.¹³⁰

254. The aim of the paper was to provide sufficient information:

“... to judge what the UK’s maximum level of commitment could be in the event of a contingent operation against Iraq, together with appropriate costs and timings, and to provide data on other smaller coherent force packages as a comparator.”

¹²⁵ Manuscript comment Tebbit and Hoon on Minute Shirreff to APS/Secretary of State [MOD], 31 May 2002, ‘David Manning’s visit to Washington 17 May – Iraq’.

¹²⁶ Private hearing, 24 June 2010, page 38.

¹²⁷ Private hearing, 24 June 2010, page 40.

¹²⁸ Public hearing, 27 January 2011, pages 19-20.

¹²⁹ Note Rycroft, 21 May 2002, ‘Prime Minister’s Meeting with Chiefs of Staff’.

¹³⁰ Paper [SPG], 24 May 2002, ‘Contingency Thinking: Force Generation and Deployment for the Gulf’.

255. The paper identified a number of key assumptions:

- Any operation would be US led and might involve other active coalition partners, but would be “predominantly enabled by US/UK forces”.
- The UK would provide only coherent, self-supporting force packages ... and would operate within the framework of a coalition concept of operations.
- The UK would scale its contribution so that the force would “make a meaningful difference to a coalition effort” and would not be a “token contribution that attracts no influence or provides insignificant combat power. A small scale of effort would therefore only be appropriate if the coalition concept of operations demanded small scale contributions.”
- Operations would not commence before autumn 2002.
- Decisions would not be taken incrementally because that would “add to timelines by making force generation increasingly complex and costly”.
- Enhancements would be needed to enable units to operate in the Gulf. That would expose preparations from an early stage given the significant number of contracts that would be required with industry.
- It might be necessary to maintain force elements in theatre for policing, stabilisation or humanitarian operations. That had the potential to add considerably to the costs and commitments burden, depending on the end state of the campaign.

256. Three broad levels of effort in line with the MOD’s DPAs were examined:

- the maximum the UK could provide (a large scale contribution);
- a “credible” medium scale package; and
- a small scale package.

257. Reflecting the UK’s existing military commitments and the most recent MOD budgetary planning round, the SPG advised that the UK could realistically produce a “maximum contribution ... at the lower end of large scale ... medium scale (minus) for maritime (about 10 major warships), and medium scale for air (about 60 fast jets)”.

258. The force mix might not be evenly balanced (in terms of scale of effort) across the sea, land and air environments; but the UK would “always seek to achieve strategic influence across the three environments such that UK influence is in place throughout the joint environment”.

259. Also on 24 May, the emerging findings from the SPG analysis were presented to Mr Hoon to report to Mr Blair before a planned meeting with Secretary Rumsfeld in early June.¹³¹

¹³¹ Minute DCDS(C) to PS/Secretary of State [MOD], 24 May 2002, ‘Iraq’.

260. Lt Gen Pigott advised that, “until there is greater visibility and clarity of US intent our work on potential approaches to an Iraq campaign remains speculative; this work is advancing but will lack definition until we engage with the US”. There were “potential differences in US and UK views on the outcomes” being sought “in terms of governance and WMD”.

261. In relation to “military contingency planning”, the “key assumption” was that the largest US-led coalition would be “along the lines of Desert Storm and that the UK would want to contribute”.

262. Three broad options (“force packages”) had been identified, which were “illustrative of the maximum potential ... contribution” that the UK might be able to make available for any offensive operations within given time periods:

- a. **Three months’ warning:** Deployment of a medium scale joint force – 10 warships including a carrier, an armoured brigade, about 60 fast jets and associated support. That was described as at risk of being a “token contribution”. The cost, including “essential” UORs for equipping the force, was estimated at £500m-£800m. A brigade, rather than a division, would require integration into an allied formation, which would “substantially” reduce the UK’s influence on control of the campaign. That would be “less than our Gulf War contribution” and “would be dwarfed by the likely scale of the overall effort”.
- b. **Six months’ warning:** Deployment of a large scale, war-fighting force in addition to the medium scale maritime and air components, which would be “comparable to the 1990/1991 conflict”, and “confer significant influence on the control of the campaign”. Though the land element would be “capable of limited independent war-fighting” there would be sustainability issues. Large numbers of vehicles could become “unserviceable” and there would be reliance on others to supply ammunition and other stock. There would not be enough time for “the procurement and fitting of *all* UOR equipment considered to be essential for operations in the Gulf (such as the desertisation of all armoured vehicles)”, which would generate further operational risks and result in the degradation of the “credibility of the UK’s contribution as [the] campaign unfolded”. That option would require the call-out of 5,000-10,000 reservists and cost £800m-£1.1bn. A decision would need to be taken immediately for operations to begin in December 2002.
- c. **Nine months’ warning:** The force package would be the same as (b) but would be better prepared and carry fewer risks, as a result of additional training and equipment. The package would have “enough capability and sustainability to be a credible contribution to any coalition”. The cost would be £100m higher because of a greater volume of UORs.

263. Deployment and campaign costs would be additional to the costs identified for each option.

264. Lt Gen Pigott explained that current commitments in Afghanistan and subsequent recovery and deployment times would “limit the UK’s ability to contribute significantly to any offensive operations in the region until November at the earliest”.

265. If it was “likely that the UK would wish to contribute” to US action “when the call came”, there was a “need to consider what action” was needed “now to reduce risks and as far as possible readiness times”.

266. Mr Hoon was asked to agree further work to refine contingency planning, to be submitted in mid-June; and was informed that “proper preparations” would require wider involvement in the MOD and discreet approaches to industry.

267. In a meeting with Sir Kevin Tebbit, ACM Bagnall, Mr Webb, Mr Bowen, and others, on 27 May, Mr Hoon agreed that the best approach would be to explain the practical constraints the UK faced in assembling a useful force package to Secretary Rumsfeld.¹³²

268. Mr Hoon told the Inquiry that he had thought the land option “quite a big ask, given our extensive involvement in Afghanistan at the time”; “it was undoubtedly the case” that the UK would be “taken more seriously if we were making a substantial contribution”, and that that influence would extend to shaping the policy.¹³³

Meeting with Secretary Rumsfeld, 5 June 2002

269. In preparation for a visit to the UK by Secretary Rumsfeld on 5 June, Mr Hoon wrote to Mr Blair on 31 May.

270. Mr Hoon advised that he and Mr Straw had agreed a preliminary objective to guide planning. Instead of calling directly for the elimination of Iraq’s WMD capability, it called on Iraq to abide by its international obligations on WMD. The objective did not explicitly mention regime change.

271. UK contingency planning had concluded that, for the UK to have influence on US planning, a significant military contribution would be needed. That was defined as at “division level” for land forces.

272. To take planning further, greater clarity on US thinking was needed.

273. Mr Hoon also identified that exposing the constraints on the UK’s ability to contribute forces before the end of 2002 could reduce its influence.

274. On 31 May, in advance of a visit by Secretary Rumsfeld, Mr Hoon wrote to Mr Blair, stating that there had been “no take up” of the offer “to help the US in its planning”, and setting out the “preliminary conclusions” from the MOD’s contingency planning.¹³⁴

¹³² Minute Watkins to MA/DCDS(C), 28 May 2002, ‘Iraq’.

¹³³ Public hearing, 19 January 2010, pages 19-20.

¹³⁴ Minute Hoon to Prime Minister, 31 May 2002, ‘Iraq’.

275. The minute was also sent to Mr Gordon Brown, the Chancellor of the Exchequer, Mr Straw and Sir Richard Wilson.

276. Mr Hoon wrote that he and Mr Straw had agreed a “preliminary objective” to “guide the work”:

“A stable and law-abiding Iraq within its present borders, co-operating with the international community, no longer posing a threat to its neighbours or international security, abiding by its international obligations on WMD.”

277. The MOD had looked at what it might be able to contribute “were the US to assemble a coalition along the lines of that assembled for Operation Desert Storm”, the US-led operation (to liberate Kuwait) in 1990-1991. The “key message” from that work was:

“... if we wish to be able to contribute meaningfully to any operation our Armed Forces would need plenty of warning time, much more than we think the US would need themselves. We are clear that, for the UK to have influence on detailed planning, the US would require a significant contribution to any large-scale operation. Our own analysis indicates that this would have to be at division level for land forces. (It is possible that the objective could be achieved by a more rapid blow, but we cannot count on that.)”

278. Mr Hoon also stated that “to plan properly” the UK needed to know:

- “what outcome” the US was seeking;
- “when the US might wish to take action”; and
- how long the US saw itself remaining in Iraq.

279. Mr Hoon added that the UK needed “to clarify the policy basis and legal justification for any action”.

280. Mr Hoon identified that the visit by Secretary Rumsfeld would provide the opportunity to clarify US thinking but the UK faced a dilemma:

“On the one hand, if we discuss the detail and timescales of a potential UK military contribution to a US-led coalition, it could send a misleading signal that we have decided to support a specific line of military action. (Such a signal could be used in Washington by the supporters of military action to promote their cause.) Equally if we are not clear with the US at this stage about our military constraints, we face the danger of our not being able to bring anything meaningful to the table at the right time and the consequent loss of influence that would bring. Finally, it could be precisely our readiness to participate that would allow you to counsel the President against proceeding if no convincing plan were to emerge.”

281. Mr Hoon recommended that rather than “simply” generally probing Secretary Rumsfeld on Washington thinking:

“... there would be more mileage in raising practicalities. I would make clear that our conditions for involvement in military action remain as you have set them out ...”

282. Mr Hoon added:

“Further, by raising in general terms, that our contingency planning has shown we need plenty of warning in order to be able to contribute to military action I would reinforce the need for the UK to be exposed fully to US thinking as soon as possible.”

283. Mr Blair wrote alongside the last point: “No, that will send a wobbly message.”¹³⁵

284. Mr Blair and Mr Hoon met Secretary Rumsfeld on 5 June.¹³⁶

285. Mr Blair’s statement that the UK would be with the US in any military action, and that would best be done by ensuring a broad coalition and avoiding unintended consequences, and wider issues of the policy towards Iraq, are addressed in Section 3.3.

286. Secretary Rumsfeld indicated that the US would begin discussions with the UK “at the military level” so that the UK was “informed of – and ‘to the extent appropriate’ involved in – US military planning”.

287. Mr Hoon spoke to Secretary Rumsfeld again on 17 June and asked him if he was in a position to authorise contact between General Myers and Adm Boyce on Iraq planning.¹³⁷

SPG paper, 13 June 2002

288. A paper identifying a concept for a campaign plan, with three illustrative military options, was prepared for a Chiefs of Staff discussion on 18 June.

289. The paper demonstrates that thinking was still at a very early stage, but it provides a useful insight into the assumptions being made at that time by the most senior official and military personnel who had access to the Pigott Group thinking.

290. As this Report shows, many of those assumptions underpinned subsequent policy advice.

¹³⁵ Manuscript comment Blair on Minute Hoon to Prime Minister, 31 May 2002, ‘Iraq’.

¹³⁶ Letter Rycroft to Watkins, 5 June 2002, ‘Prime Minister’s Meeting with Rumsfeld, 5 June: Iraq’.

¹³⁷ Minute Watkins to DG Op Pol, 17 June 2002, ‘Iraq: Telephone Call with Rumsfeld’.

291. One key assumption was that, although the objective for Iraq agreed by Mr Straw and Mr Hoon did not mention regime change, that would be necessary to secure the objective.

292. Other key elements of the thinking included the need to build international support for the UK effort, and judgements about Saddam Hussein's likely actions which were reflected in later JIC Assessments.

293. In preparation for a "Strategic Think Tank on Iraq", to be held by the Chiefs of Staff on 18 June, the SPG produced a paper on 13 June which, in the absence of access to US planning, identified key judgements encapsulating the thinking at the time in relation to components of a possible concept for military operations.¹³⁸

294. The "**Military/Strategic Implications**" and "**Key Judgements**" identified by the SPG included:

- Regime change was "a necessary step" to achieving the end state identified by the UK, and there was "no point in pursuing any strategy which does not achieve this".
- "Once it is obvious that the US is committed to regime change, she will have to prevail", so the UK needed to "plan for the worst case" and "be prepared to execute [that plan] if required".
- There was a "need to acknowledge" that there would be a post-conflict phase "with an associated commitment, manpower and finance bill", with "a spectrum of commitment where the worst case is a long period with a large bill".
- A "much more detailed level of intelligence" was required.
- "Although Iraq's nuclear capability (essentially a 'dirty' bomb)" could not be "dismissed", the "main threat" was from chemical and biological weapons.
- If regime survival was at stake, Saddam Hussein would "almost certainly use WMD, so there would be no deterrent equation as in 1991".
- "Establishing and maintaining support", from the international community and Iraq's neighbours, would be "the Coalition CoG [Centre of Gravity]".

295. The paper examined each of the components of the concept, including:

- Reviewing the internal politics in Iraq and the options for regime change. Iraq was "potentially fundamentally unstable", and "currently held together by the strong security apparatus", which would require "considerable force to break". Once it was broken, the regime would "shatter" because of its minority appeal.

¹³⁸ Minute MA1/DCDS(C) to PSO/CDS, 13 June 2002, 'Supporting Paper for COS Strategic Think Tank on Iraq – 18 Jun' attaching Paper. The paper was circulated to the Offices of the Chiefs of Staff, Sir Kevin Tebbit, Air Marshal French, Mr Webb and Mr Bowen.

- A judgement that:
 - The possibilities for a replacement regime were “very difficult to assess” and the UK “must be clear on what we do not want”.
 - It would be “difficult to apply force with sufficient precision to ensure a pre-determined outcome”.
- Removing the threat posed by Iraq’s WMD was “essential”. That would mean changing the “regime to one that renounces WMD”, or completely destroying Iraq’s capability and “remove [the] will to regenerate the capability, which implies regime change”. That would need “much better granularity of intelligence”.
- Managing the regional dimension would require the “footprint and duration” of the military operation to be minimised, “commensurate with assets to manage unintended consequences”.
- Identifying three phases leading to regime change:
 - **Phase 1:** While Saddam Hussein was unsure of the Coalition’s intentions, he would avoid providing a “casus belli”. He was “unlikely to take any significant military action” but it was “possible” that he would take other actions, including accelerating WMD development and weaponisation and admitting inspectors then obstructing or expelling them.
 - **Phase 2:** If Saddam Hussein was convinced the Coalition was determined to overthrow his regime, his response would be “unpredictable, ranging from benign/conciliatory ... to military aggression”, including pre-emptive attacks and the possible use of WMD, and mining “SPODs [Sea Points of Disembarkation] or approaches”. That phase would provide Saddam Hussein’s “best chance ... to fracture the will of the Coalition” and “speed and agility” would be “needed once the decision to act has been taken”.
 - **Phase 3:** In a conflict phase, Saddam Hussein would go “into full regime (and personal) survival mode, with no holds barred”. The most difficult action for the Coalition to deal with would be if Saddam withdrew to and defended urban areas. The Coalition plan would need to minimise that possibility which supported the idea of a “surprise attack”. The most dangerous response for the Coalition would be a WMD attack on Israel.
- Identifying the key “strategic and military principles” which would affect the design of the campaign:
 - an aim that was “clear and both publicly explainable and defensible”;
 - a choice of options given Saddam’s unpredictability; and
 - surprise and an aim to “**maximise strategic uncertainty** in Saddam’s mind”.
- Creating political, military and regional conditions which would “keep Saddam off balance” whilst preparatory activities were under way.
- The need to identify and prepare possible force packages.

296. The paper also set out three illustrative options for a military campaign, with a very high-level assessment of their advantages and disadvantages:

- **“Air and SF [Special Forces] Precision Strike”**: with the aim of generating “a ‘knock out’ blow of key installations and facilities” that would “shatter the regime and cause its downfall”. The option had “gained high level enthusiastic backing in Washington” although that might “now be waning”. It was “unlikely to be chosen as a discrete option” but elements would form parts of the other two options.
- **“Strategic ‘Coup de Main’”**: once “Saddam’s regime had been ‘squeezed’ by all the means at the Coalition’s disposal” – political, diplomatic, legal and economic – air assault forces would be used to seize “key regime power centres (mainly in Baghdad)” and “NBC weapons, sites and command and control nodes”. The option was “Politically attractive” but militarily “high risk” and would need strategic surprise.
- **“Conventional ‘Heavy Punch’”**: “essentially the re-run” of the 1991 Gulf Conflict, which provided the “safer military option”.

297. The MOD has been unable to locate any record of the “Think Tank” discussion.¹³⁹

298. Subsequent revisions of the paper before the end of 2002 are addressed later in this Section.

299. The development of SPG thinking on post-conflict issues is addressed in Section 6.4.

300. Mr McKane wrote to Sir David Manning describing the discussion at the “Think Tank” as “preparatory to military talks with the US ... at which Tony Pigott and Desmond Bowen would represent the UK”.¹⁴⁰

301. Mr McKane stated that he had been struck by two points:

“There is a huge amount of work to be done if the UK is to be in a position to participate in any operation against Iraq ...”

“We may need to confront the legal base for military action sooner rather than later. The MOD say that the US will not admit the UK to detailed joint planning unless we are able to agree that regime change is a legitimate and legal objective.”

302. Mr McKane recommended that Sir David should reply to Mr Hoon’s letter of 31 May seeking “further and better particulars on the time-lines and precisely what decisions incurring significant expenditure would be required now in order to keep open the possibility of a large scale deployment in six months time”.

¹³⁹ Letter MOD Iraq Inquiry Unit to Iraq Inquiry Secretariat, 23 May 2012, [untitled].

¹⁴⁰ Minute McKane to Manning, 18 June 2002, ‘Iraq’.

303. Sir David Manning commented to Mr Powell: “We certainly need much greater precision from MOD.”¹⁴¹

304. Mr Powell replied that he believed there was “a danger of getting ahead of ourselves here unless this is absolutely necessary to get us into detailed military planning with the US”. He recommended discussing the issue with Mr Blair.¹⁴²

305. Sir David Manning asked Mr McKane to “confirm that it is now absolutely necessary to get into the detailed planning with the US”. He added: “I suspect it is if we are to have a voice.”¹⁴³

306. Mr McKane’s advice on the legal issue and the UK position on the objective of regime change are addressed in Section 3.3.

Ministerial consideration of UK policy – July 2002

Formal military planning begins

307. The US agreed to discussions on military planning in late June.

308. Mr Blair asked for advice on the steps that would be needed to keep open the option of a making a large scale military contribution by the end of the year.

309. Gen Myers confirmed that he had received a “green light to set up the necessary mechanism for a UK input into Iraq planning” on 19 June.¹⁴⁴

310. Sir David Manning responded to Mr Hoon’s letter of 31 May on 25 June, recording that Mr Blair had:

“... asked for further advice on precisely what steps would have to be taken now, including financial commitments ... to keep open the possibility of deploying a large scale force by the end of the year – bearing in mind that we may not get six months’ warning”.¹⁴⁵

311. Sir David wrote that it was “encouraging that following the Rumsfeld visit, our military planners have now been invited to discussions with the US”. He added:

“It will be important, as the Defence Secretary acknowledged in his minute, to make clear the conditions for UK involvement in military action set out by the Prime Minister ...”

¹⁴¹ Manuscript comment Manning on Minute McKane to Manning, 18 June 2002, ‘Iraq’.

¹⁴² Manuscript comment Powell on Minute McKane to Manning, 18 June 2002, ‘Iraq’.

¹⁴³ Manuscript comment Manning on Minute McKane to Manning, 18 June 2002, ‘Iraq’.

¹⁴⁴ Minute Shirreff to PS/SofS [MOD], 27 June 2002, ‘Iraq Planning’.

¹⁴⁵ Letter Manning to Watkins, 25 June 2002, ‘Iraq’.

312. Mr Watkins wrote to Sir David Manning on 26 June reporting that the US was understood to be seeking:

- the removal of the Hussein regime;
- the neutralisation of WMD within Iraq;
- the elimination of a safe haven for terrorists;
- an acceptable new government.”¹⁴⁶

313. Mr Watkins stated that the US goals:

“... broadly align with the objective previously agreed by the Foreign and Defence Secretaries ... although Mr Hoon understands that Mr Straw, rightly, sees removal of Saddam as a way point – if necessary and justified – to the final outcome rather than an objective in its own right.”

314. Mr Watkins indicated that a small MOD team would be going to Washington and CENTCOM HQ in Tampa, Florida “immediately”.

315. The letter concluded that Mr Hoon believed Ministers would need clarity on:

- whether the Prime Minister’s conditions are likely to be met;
- the viability of the proposed military action;
- the policy and legal framework in which military action is justified;
- overall, whether the prospective outcome looked worth the risks, costs and losses.”

316. The draft planning order from CENTCOM was released to the Permanent Joint Headquarters (PJHQ) on 25 June.¹⁴⁷ Lt Gen Reith was briefed by a US officer from CENTCOM on the state of US planning on 26 June.

317. Gen Reith told the Inquiry that he had been phoned by Maj Gen Wilson “on 4 or 5 June to say that we had been offered the opportunity to participate in the American planning for a potential invasion of Iraq”.¹⁴⁸ He had informed Lt Gen Pigott the following day. It was not until 25 June that he “got authority [through MOD] for planning with CENTCOM, but without commitment” and he “didn’t start any formal planning until 25 June”.

318. Lt Gen Pigott, AM French and Mr Bowen visited Washington and CENTCOM from 27 to 29 June 2002.¹⁴⁹

¹⁴⁶ Letter Watkins to Manning, 26 June 2002, ‘Iraq’.

¹⁴⁷ Minute Fry to MA/DCDS(C), 26 June 2002, ‘Comments on US Planning for Possible Military Action Against Iraq’.

¹⁴⁸ Private hearing, 15 January 2010, pages 7-8.

¹⁴⁹ Minute Fry to MA/DCDS(C), 26 June 2002, ‘Comments on US Planning for Possible Military Action Against Iraq’.

319. Before they left, Major General Robert Fry, Deputy Chief of Joint Operations (Operations) (DCJO(Ops)), provided a paper commenting on US planning, which at that stage offered two basic approaches:

- a “running start”, with extra forces being deployed as the initial attacks were under way, which would have the advantage of surprise and allow for operations as early as October 2002; and
- a “generated start” allowing full deployment before the beginning of operations, which was expected to require three months longer.

320. Maj Gen Fry wrote that the “running start” option carried considerably more risk and would be “much more manoeuvrist” than the type of operations which had been conducted in 1991. A number of issues for the UK were identified, including: the role and timing for a UK contribution; the need for very early decision-making; how to integrate into a complex US plan; levels of risk; UK participation in US exercises; and the likely US expectations that would result from UK involvement in the planning process.

321. On 1 July, Mr Watkins advised Mr Hoon on Mr Bowen’s visit to Washington.¹⁵⁰ Mr Bowen had reported that the Americans had a plan, including taking Baghdad, which they were confident would deliver regime change, but there was no clear direction on timing. That would be affected by the decision on whether to choose a “running start”. The plan would be heavily dependent on basing and overflight rights in the region and beyond. The view in Tampa was that it was very early in the planning process and too soon to talk about the UK’s contribution.

322. Mr Bowen’s view was that the US military were looking to the UK for a second opinion on their military planning, contributions in kind and influence with Washington on the overall campaign plan. The US military would want “the usual niche capabilities (Nimrod, etc). Whether we provide any more is up to you [Mr Hoon].”

323. Similar conclusions were reported by Maj Gen Wilson to Lt Gen Reith on 30 June.¹⁵¹ He wrote that UK influence and counsel was “almost as important, if not more so than what we would actually bring to the campaign militarily”; although he also cautioned that “UK ability to significantly influence operational design, if so minded, is limited”.

324. Maj Gen Wilson told the Inquiry: “... what I remember was said ... I think by General Abizaid, who was then the Director of Joint Staff in the Pentagon ... ‘We need your advice. We need your counsel ...’”¹⁵²

¹⁵⁰ Minute Watkins to Secretary of State [MOD], 1 July 2002, ‘Iraq’.

¹⁵¹ Minute Wilson to Reith, 30 June 2002, ‘Contingency Planning for Iraq – Report on DCDS(C) Visit to US 27-29 Jun 02’.

¹⁵² Public hearing, 4 December 2009, page 15.

325. Mr Bowen sought agreement for PJHQ to send a six-man team to Tampa to join US planning on 2 July.¹⁵³

326. Mr Hoon agreed the deployment, but asked Adm Boyce to ensure, before the team's departure, that Gen Myers:

“... understands when they meet tomorrow in Brussels that this is on the basis that no political decisions have been taken in the UK on our participation in an operation; and then follow up in writing.”¹⁵⁴

327. On 3 July, Adm Boyce met Gen Myers.¹⁵⁵ Gen Myers was reported to have “sympathised” with the UK government's condition, and agreed that Adm Boyce would write formally to him to reiterate the point.

328. Adm Boyce and Gen Myers discussed a northern option. There were differences of view within the US military about a possible attack from the North although the importance of control of the northern oilfields was recognised. Adm Boyce took the view that Gen Myers “showed his petticoat” in so far as he indicated that that was where the UK might be involved.

329. Adm Boyce also reported that “it appeared that military planning was taking place in a political void”.

330. On 4 July, Adm Boyce wrote to Gen Franks, stating:

“My Defence Secretary wishes me to record that our involvement in planning is on the basis that no political decisions have been taken in the UK on our participation in an operation against Iraq.”¹⁵⁶

331. Maj Gen Wilson informed the Inquiry that action through Turkey would have required the participation of the US European Command (EUCOM) in addition to CENTCOM.¹⁵⁷

332. Lord Boyce told the Inquiry: “It was made absolutely clear that every time we spoke to the Americans that no commitment was guaranteed until a political tick had been received.”¹⁵⁸

333. Lord Boyce added that:

“The reaction of the Americans was always ‘Yes, I hear what you say but come the day, we know you will be there’, until right towards the end.”

¹⁵³ Minute Bowen to PS/SofS [MOD], 2 July 2002, ‘Iraq’.

¹⁵⁴ Minute Watkins to DG Op Pol, 2 July 2002, ‘Iraq’.

¹⁵⁵ Minute MA/CDS to PS/SofS [MOD], 3 July 2002, ‘CDS Discussion with CJCS, General Myers – 3 Jul 02’.

¹⁵⁶ Letter CDS to CJCS, 4 July 2002, [untitled].

¹⁵⁷ Public hearing, 4 December 2009, page 6.

¹⁵⁸ Public hearing, 27 January 2011, page 21.

JIC ASSESSMENT, 4 JULY 2002: 'IRAQ: REGIME COHESION'

334. A JIC Assessment on 4 July addressed regime cohesion in Iraq and how it would respond under pressure or attack.

335. Although it had only fragmentary intelligence about how the regime would deal with an attack including ground forces, the JIC assessed on 4 July that only massive military force would be guaranteed to topple Saddam Hussein

336. The JIC judged that disintegration of the regime would be most likely if Iraqi ground forces were being comprehensively defeated; if top military officers could be persuaded that their fate was not irrevocably tied to that of Saddam Hussein; or if Saddam were to be killed.

337. At the request of the MOD, the JIC issued an Assessment of “how cohesion of the Iraqi regime is maintained and how the regime would fare under pressure or attack” on 4 July.¹⁵⁹

338. The minutes of the JIC discussion of the draft paper described it as:

“... an important paper with a specific focus. It would be of interest to Ministers more because of its context, with decisions yet to be taken about what to do with Iraq, than because of its analysis, which was familiar rather than novel.

“Its key message was that although Saddam Hussein’s regime was remarkably resilient to pressure ... the demonstration of a real and overwhelming international determination and ability to remove the regime through military force was the likeliest way to bring it down ...

“Experience in Afghanistan had shown that generating expectations and influencing people’s perceptions of what might happen had considerable capacity to effect real and rapid change ...

“The paper needed to analyse and describe in more detail the nature of Saddam’s support ... The motives for each set of supporters were different ... These mattered because under pressure the different groups would behave differently.

“UK policy makers, and military planners, would be keen before too long to identify the point at which self-interested loyalty for Saddam might turn into disillusionment, fragility and fragmentation.”¹⁶⁰

¹⁵⁹ JIC Assessment, 4 July 2002, ‘Iraq: Regime Cohesion’.

¹⁶⁰ Minutes, 3 July 2002, JIC meeting.

339. The JIC's Key Judgements were:

- Only massive military force would be guaranteed to topple Saddam. The regime expects a US attack [...].
- The clear prospect of a major attack would put the regime under unprecedented pressure. But regime cohesion is unlikely to collapse in the absence of a large scale invasion.
- Saddam relies on a mixture of patronage and extreme fear to retain power and contain opposition. Real loyalty and support for his regime is confined to the top of the hierarchy.
- The Special Republican Guard (SRG) and the Republican Guard Forces Command (RGFC) are more reliable than the Regular Army (RA). All would initially fight a US-led attack. Once the regime was perceived as doomed the military's will to fight on would be sorely tested.
- Regime disintegration would be most likely if Iraqi ground forces were being comprehensively defeated; if top military officers could be persuaded that their fate was not irrevocably tied to that of Saddam; or if Saddam himself were to be killed. Military units are more likely to suffer mass desertions than revolt as coherent units.”¹⁶¹

340. The Assessment also stated:

“Saddam and his regime have proved durable ...

“The Iraqi military are aware of their vulnerability to air power, probably their greatest weakness; their main way of mitigating this is through dispersal, including into urban areas [...] We have only fragmentary intelligence indicating how the regime might deal with an all-out attack including ground forces. **But we assess that only massive military force could be guaranteed to topple Saddam.**”

341. Addressing the policy implications of the Assessment, the JIC stated: “Saddam and his regime must be convinced that any move to topple him is serious and likely to succeed before they begin to feel the pressure.”

Mr Hoon's proposal for a collective Ministerial discussion

342. In early July, Mr Hoon proposed a collective Ministerial discussion, which Mr Straw supported.

343. On 2 July, Mr Watkins reported to Sir David Manning that “US military thinking is quite well advanced”, but US planners were assuming offensive operations to overthrow Saddam Hussein “in a policy void”.¹⁶² The US “end-state to be achieved after conflict”

¹⁶¹ JIC Assessment, 4 July 2002, ‘Iraq: Regime Cohesion’.

¹⁶² Letter Watkins to Manning, 2 July 2002, ‘Iraq’.

had not been identified, and there seemed to be no “overarching campaign strategy for dealing with Iraq”.

344. An updated plan would be briefed to President Bush in August, and the US planning was designed “to put CENTCOM in a position to be able to activate their plan from August 2002 onwards”. A “de facto invitation to the UK and Australia to participate” was “now on the table”. The plan would require availability of bases and support from Kuwait, Jordan and Turkey.

345. Mr Watkins reported that Mr Hoon intended to respond positively to the invitation for a small number of British planners to join US planning teams; that was “essential in helping to inform the MOD’s own thinking” so that Mr Hoon could make recommendations. But Mr Hoon was:

“... very conscious that decisions about a military contribution cannot be made in the absence of a coherent and integrated strategic framework. An agreed strategy will be key to taking matters forward, not simply to provide justification for military action, but to clarify timelines; to incorporate the Prime Minister’s conditions for UK participation; and to establish the framework for an information campaign. The draft public document, which you are currently considering, would ultimately form an important part of that campaign. He suggests that the Prime Minister may like to call an early meeting of a small group of colleagues to consider how best to get the US to address the strategic, as opposed to the narrowly military, dimension. The freestanding military option is not a viable political proposition.

“Meanwhile, officials from the MOD, FCO and Cabinet Office should do some more homework urgently to put the Prime Minister and you in a better position to influence the President’s and Condi Rice’s thinking ... before the updated CENTCOM plan is briefed to the President in the course of August. Mr Hoon will also review the possibilities for contact with the US Defense Secretary.”

346. The preparation and content of the draft public document on Iraq referred to by Mr Watkins, the “dossier”, is addressed in Sections 4.1 and 4.2.

347. The Treasury’s reaction to Mr Hoon’s minute is addressed in Section 13.

348. Mr Straw wrote to Mr Blair on 8 July supporting Mr Hoon’s suggestion for an early Ministerial meeting.¹⁶³

349. Mr Straw stated that the report of US planning had raised several points which concerned him, including:

- There was “no strategic concept for the military plan”. US military planning had “so far taken place in a vacuum”.

¹⁶³ Minute Straw to Prime Minister, 8 July 2002, ‘Iraq: Contingency Planning’.

- “The support of key allies such as Kuwait cannot be counted on in the absence of some serious ground-work by the US.”
- “The key point is how to get through to the Americans that the success of any military operation against Iraq – and protection of our fundamental interests in the region – depends on devising in advance a coherent strategy which assesses the political and economic as well as the military implications.”

350. The advice from Mr Hoon and Mr Straw, and No.10’s reaction to the proposal for a Ministerial meeting, are addressed in Section 3.3.

351. Sir Kevin Tebbit wrote to Mr Hoon on 3 July setting out his concerns about the absence of a political context for the military plan and the dilemma for the UK that being drawn into US planning potentially posed.¹⁶⁴

352. Sir Kevin concluded that the UK could not count on a military campaign being unlikely or, if the US went ahead, that the UK could avoid being linked to the campaign.

353. Sir Kevin advised that a “credible political plan”, which addressed the conditions for UK participation and moved American planning into acceptable channels and slowed it down, was needed. That is set out in more detail in Section 3.3.

354. Sir Kevin Tebbit’s minute was sent after Mr Watkins’ letter to Sir David Manning had been sent. Mr Watkins marked the letter to Mr Hoon observing that the MOD did not know the views of Secretary Powell or Dr Rice; and there was a risk “that the PM’s conditions will be simply sidelined”.¹⁶⁵

355. Sir Kevin Tebbit told the Inquiry that getting involved in US planning in late June and early July had posed a dilemma because:

“... it was clear ... even at that stage, if one begins discussions with the United States on the military track, albeit without commitment, it becomes increasingly difficult to keep options open absolutely completely ... [W]e made it clear to them that our participation ... was purely to inform British Government thinking ...

“On the one hand, if one is drawn into discussion of timescales and details, we might give misleading signals of support for military action that was not present at that stage.

“On the other hand, if we continued to stand aside, it might be too late for us to influence events or meet the political requirement which might be placed on us.”¹⁶⁶

356. On 9 July, Sir Christopher Meyer advised that President Bush would have a military plan on his desk before he went on holiday in August.

¹⁶⁴ Minute Tebbit to Secretary of State [MOD], 3 July 2002, ‘Iraq’.

¹⁶⁵ Manuscript comment Watkins on Minute Tebbit to Secretary of State [MOD], 3 July 2002, ‘Iraq’.

¹⁶⁶ Public hearing, 3 December 2009, pages 20-21.

357. On 9 July, Sir Christopher Meyer reported speculation in the US media and a number of recent discussions in Washington.¹⁶⁷

358. In a press conference on 8 July, President Bush had not attempted to challenge the veracity of a story about leaked military plans. Sir Christopher's contacts suggested that the aim was to have a reworked military plan on President Bush's desk before he went on holiday in August.

The MOD's assessment of US military plans

359. In mid-July, the MOD still had only scant information about US military plans and the Chiefs of Staff identified a number of areas of concern which needed to be addressed.

360. Political guidance was needed on how to implement the UK's intent and convey that intent to the US.

361. The SPG had pointed out that, once military forces were deployed, the US would have to see its policy through to a successful conclusion.

362. But that point does not seem to have been pursued in relation to what that might mean for UK policy.

363. Lt Gen Pigott issued 'Initial Planning Guidance for Possible Military Operations in Iraq' to Lt Gen Reith, AM French, the Director Special Forces, Air Commodore Mike Heath (Director Targeting and Information Operations), and Brigadier Andrew Stewart, the Army's Director of Overseas Military Activity, on 8 July.¹⁶⁸ The guidance considered the preparation of military strategic options ranging from regional influence to large scale war-fighting and assessed the CENTCOM plan.

364. Lt Gen Pigott made clear that the planning and contingency work conducted so far had not been subject to legal scrutiny. He also asked for "actionable intelligence" on WMD and an understanding of Saddam Hussein's options and the regime's fault lines and fragility.

365. A revised version of the SPG paper, 'UK Military Strategic Thinking on Iraq', was produced on 11 July for a "Strategic Think Tank" on Iraq the following week.¹⁶⁹

366. Much of the thinking underpinning the paper was unchanged but there were some significant additions, including:

- The US was aware of the dangers of failure and was planning for the "worst case".

¹⁶⁷ Telegram 926 Washington to FCO London, 9 July 2002, 'Iraq: US views'.

¹⁶⁸ Minute DCDS(C) to Various, 8 July 2002, 'Initial Planning Guidance for Possible Military Operations in Iraq'.

¹⁶⁹ Paper [SPG], 11 July 2002, 'UK Military Strategic Thinking on Iraq'.

- The UK was not “well-balanced” to match US ability to escalate action rapidly and, if UK forces were to be deployed alongside the US, there was a “need to match US planning aspirations”.
- WMD, the composition and methods of the current Iraqi regime, and where the fracture lines existed in the current regime, were identified as the areas where a “much more detailed level of intelligence” was required.
- The UK “must accept” that it was “likely that our visibility of WMD may even deteriorate as Saddam prepares for conflict”.
- Any replacement regime would need to renounce WMD.
- A much more detailed analysis of the need for international support and the risks associated with the position of individual countries was required. Turkey would be a “critical” ally and would “call for a delicate political balance” which would “require ... military support”. Ensuring Turkey’s support would require identification of “credible political carrots”, enhanced military aid and “effective military links to Kurdish guerrilla groups”.
- Iraq provided a “balance” to Iran and needed “either ... to retain significant military capability or international guarantees”. The paper also asked whether Iran would be the “next candidate of axis of evil?”
- Saddam Hussein’s “best chance” would be “to prevent the deployment of coalition forces as once committed by presence, the US can only see the operation through to success ...”
- Information operations would play a key part in Phases 2 and 3 of the campaign.
- Taking military action during “Window 1” would require management of consequences after military action, “**Strike then Shape**”. “Window 2” would be “more deliberate”, and was characterised as “**Shape then Strike**”.
- There was a definition of possible UK contributions as Packages 1, 2 and 3 and the initial, high-level identification of key shortfalls in readiness.
- There was the identification of a fourth, “**Siege**” option for a military campaign, which would entail “seizing one or more pieces of territory (probably in the North and South) and, in effect, laying siege to the regime”. That had “received some support in the Press and from academics”. It could achieve the end state “with little fighting, but the political risks” were “high”.

367. PJHQ submitted an assessment of the CENTCOM plan on 12 July, which identified the possible scope and scale of a UK contribution as:

- enablers, including Special Forces;
- support of the US “Main Effort” through Kuwait with armoured forces up to a division (minus) and/or light forces at brigade strength; and

- a discrete contribution in geographical or functional terms – a second axis in the north, which needed more work to establish if it was feasible.¹⁷⁰

368. The paper outlined the two possible windows for military action:

- Window One between October 2002 and March 2003; and
- Window Two between October 2003 and March 2004.

369. The second was the preferred UK option, but PJHQ acknowledged that it was “undoubtedly less attractive to the US”.

370. The Chiefs of Staff were asked for guidance on the direction and nature of future planning.

371. Maj Gen Wilson advised Lt Gen Reith on 16 July that the UK was expected to present a statement of intent at a US CENTCOM planning conference in Tampa, Florida on 1 to 2 August.¹⁷¹

372. Maj Gen Wilson reported that it was expected that the UK capability “offered” would “deliver the northern option”, together with Special Forces, air (especially tankers), ships, command and control architecture and enablers. He concluded that there were “more questions than answers, with too many issues of substance either not yet addressed or ‘assumed away’”:

- On WMD use, the view remained that Saddam Hussein’s “ability to deliver ‘capability’ is unproven and widespread use thought unlikely”.
- Although there was “reasonable information upon which to target”, it remained “a critical information shortcoming”.
- It was not clear whether detailed work had been done to assess Iraqi “red lines”. There was uncertainty over what Israel would do by way of retaliation if attacked.
- The “Baghdad Stronghold” scenario was acknowledged but considered a “possibility rather than an eventuality”.

373. In relation to the recent announcement of a Turkish election on 3 November, Maj Gen Wilson reported that had “unsettled” the US, and US military planners had been asked to “assess the feasibility of plans in a ‘no Turkey scenario’”. He added:

“Whether it [the ‘no Turkey scenario’] becomes a show-stopper remains to be seen.”

374. Maj Gen Wilson’s advice was seen by Adm Boyce.¹⁷²

¹⁷⁰ Paper PJHQ, 12 July 2002, ‘An Analysis of the CENTCOM Plan for Military Action Against Iraq’.

¹⁷¹ Minute Wilson to CJO, 16 Jul 2002, ‘Planning for Iraq – Record of Conversation with CENTCOM J3’.

¹⁷² Manuscript comment [unattributed] on Minute Wilson to CJO, 16 July 2002, ‘Planning for Iraq – Record of Conversation with CENTCOM J3’.

375. A briefing note prepared by Lt Gen Pigott for Adm Boyce focused on:

- the question of whether there was a winning concept;
- the comparative advantages and disadvantages of operations between October 2002 and March 2003 or one year later;
- the possible UK contribution; and
- the way ahead.¹⁷³

376. Lt Gen Pigott advised that the UK assessments of the plan were based on “scant information”, and that the key areas of concerns on the US plan included:

- a mismatch in the end states of the US and UK;
- the lack of a strategic framework;
- potentially optimistic assumptions about assessments of Iraqi weaknesses;
- insufficient knowledge of the WMD threat in many important respects; and
- a question about “to what extent” kinetic means could deliver strategic ends.

377. Lt Gen Pigott’s view was that the UK should encourage thinking to move towards action in 2003-2004 rather than in 2002-2003, which “had a better chance of success” given the challenges “including political red cards”. That was: “Not a recipe for delay, indeed quite the reverse.” It would be difficult for the UK to send land forces to participate in a “running start” but the UK thinking was “taking us towards a ‘distinctive’ (Package 3) role”. For any significant contribution, force preparation would need to start “now”.

378. The advice from Lt Gen Pigott and the SPG was discussed in a restricted Chiefs of Staff meeting on 17 July.¹⁷⁴

379. At the meeting, Adm Boyce emphasised the privileged nature of the UK access to US planning and the need for operational security. The points made in the discussion included:

- One key judgement which would affect planning would be whether an initial push would trigger regime collapse.
- Although the use of UK bases was critical to the US plan there was, from the UK viewpoint, no viable context within which it could participate in military action: “The legal basis was particularly fraught with difficulty.”
- A running start “was not currently viable for the UK without significant risk”.
- A UK contribution in the North that did not require integration into US land forces would “fix” Iraqi divisions in northern Iraq, “open up a second front, and safeguard the critical northern oilfields”.

¹⁷³ Minute DCDS(C) to DPSO/CDS, 17 July 2002, ‘Iraq: Summary of Key Issues’.

¹⁷⁴ Minutes, 17 July 2002, Chiefs of Staff (Restricted) meeting.

- It might take “up to nine months” to produce a division (minus), “although this was understood to be the ‘sensible worst case’”.
- Timings were critical and the UK could not wait to see if Window 2 was the preferred US option.
- There was a key judgement to be made about whether the UK should wait for an approach from the US, “or be more forward leaning and factor a UK ‘offer in principle’ into US planning at an early stage”.
- Iraq’s chemical and biological (CB) warfare capability and intent was a significant issue, “even a limited CB employment could cripple the battle plan”.

380. Adm Boyce concluded that “the UK needed greater visibility of US intent in a number of areas”. For the immediate future, “political guidance on how best to start implementing UK intent and to convey that intent to the US” was needed.

381. In preparation for a meeting to be held on 18 July, Mr Bowen outlined the MOD thinking in a minute to Mr Hoon on 17 July.¹⁷⁵

382. Mr Bowen drew attention to the US concepts of “running” and “generated” starts. He advised that the indications were that the US favoured the “running start” option (which could see US operations beginning during the course of 2002). That would achieve “strategic surprise”, but it went against “our expectation of [a] Desert Storm-style build up over months”.

383. Mr Bowen suggested:

“In the meantime, as we begin to explore possible UK contributions we need to identify what preparation – such as procurement for **urgent operational requirements** – could usefully begin now ...”

384. A minute from Mr Hoon’s Private Office to Mr Hoon stated that the Chiefs of Staff, notably General Sir Mike Walker, Chief of the General Staff, had been very sceptical about the US plan, which was seen as “optimistic in a number of areas”, including:

- the speed of advance over large distances;
- confidence that the regime would implode without direct action against the seat of power or Iraqi leaders;
- reliance on the isolation rather than the capture of Baghdad;
- little consideration of the practicality of the plan in a chemical/biological environment; and
- the lack of focus on the northern areas.¹⁷⁶

¹⁷⁵ Minute DG Op Pol to PS/Secretary of State [MOD], 17 July 2002, ‘Iraq’.

¹⁷⁶ Minute [Williams] and [Watkins] to SofS [MOD], 17 July 2002, ‘Meeting on Iraq 18 Jul 02 1145’.

385. The Chiefs of Staff had concerns about the difficulties for any land operations posed by the timescales and logistics. That would need to be “set against the Prime Minister’s desire to be supportive”.

386. Mr Hoon’s Private Office was concerned about the weakness of the coalition elements and post-conflict plans, and advised Mr Hoon that his meeting should focus on what would “allow participation in planning to continue”.

387. The MOD has been unable to locate any record of Mr Hoon’s meeting on 18 July.¹⁷⁷

388. The DIS reported on 22 July that the US was “no better off than we are about actionable intelligence on WMD.”¹⁷⁸ Sites formerly used for the production of WMD were known, but there was “little intelligence on whether they are currently in use or on possible new locations”. The whereabouts of potential storage sites was “a top priority but no significant success was reported”.

Mr Blair’s meeting, 23 July 2002

CABINET OFFICE PAPER, ‘IRAQ: CONDITIONS FOR MILITARY ACTION’

389. The Cabinet Office paper ‘Iraq: Conditions for Military Action’ was issued on 19 July, to inform Mr Blair’s 23 July meeting with Mr Straw, Mr Hoon, Lord Goldsmith (the Attorney General) and key officials to discuss Iraq.

390. The purpose of the Cabinet Office paper was to identify the conditions which would be necessary before military action would be justified and the UK could participate in such action; and to provide the basis for a discussion with the US about creating those conditions.

391. The Cabinet Office paper stated that Mr Blair had said at Crawford that the UK would support military action to bring about regime change, provided certain conditions were met.

392. The Cabinet Office paper, ‘Iraq: Conditions for Military Action’, was issued on 19 July to those who would be attending a meeting to be chaired by Mr Blair on 23 July.¹⁷⁹

393. Ministers were invited to note the latest position on US military planning, the timescales for possible action, and to agree:

- The objective for military action, as set out in Mr Hoon’s minute to Mr Blair of 31 May, of “a stable and law-abiding Iraq within the present borders, co-operating with the international community, no longer posing a threat to

¹⁷⁷ Letter MOD Iraq Inquiry Unit to Iraq Inquiry Secretariat, 23 May 2012, [untitled].

¹⁷⁸ Minute DCDI to PSO/CDS, 22 July 2002, ‘Iraqi Capabilities’.

¹⁷⁹ Paper Cabinet Office, 19 July 2002, ‘Iraq: Conditions for Military Action’.

its neighbours or to international security, and abiding by its international obligations on WMD”.

- To “engage the US on the need to set military plans within a realistic political strategy”, which included “identifying the succession to Saddam Hussein and creating the conditions necessary to justify government military action, which might include an ultimatum for the return of UN weapons inspectors to Iraq. This should include a call from the Prime Minister to President Bush ahead of the briefing of US military plans to the President on 4 August.
- The establishment of a Cabinet Office-led ad hoc group of officials to consider the development of an information campaign to be agreed with the US.

394. The paper stated that US military planning for action against Iraq was “proceeding apace” but it lacked a political framework: “In particular, little thought has been given to creating the political conditions for military action, or the aftermath and how to shape it.”

395. It seemed “unlikely” that the UK’s objective could be achieved while Saddam Hussein’s regime remained in power. The US objective was “unambiguously” the “removal of Saddam Hussein’s regime, followed by elimination of Iraqi WMD”. The view of UK officials was that it was by “no means certain” that one would follow from the other: even if regime change was “a necessary condition for controlling Iraq’s WMD”, it was “certainly not a sufficient one”.

396. The paper stated that “certain preparations would need to be made and other considerations taken into account”. It contained a series of sections addressing the conditions which would be “necessary for military action and UK participation, including:

- “a viable military plan”; and
- “a positive risk/benefit assessment”.

397. In relation to military planning, the paper stated:

- **The Chiefs of Staff were not yet able to assess whether the military plans were “sound”; although a “decision in principle” might be needed “soon”.**
- **Ministers were invited to “note” the potentially long lead times for equipping UK forces to undertake operations in Iraq, and asked to agree that the MOD could bring forward proposals for procurement of equipment.**

398. The Chiefs of Staff had advised that there were a number of questions which would need to be answered before US military plans could be assessed as “sound”. Those included:

- the realism of a “Running Start”;
- the willingness of Iraqi forces to fight; and

- the potential impact of Iraqi attacks using chemical or biological weapons.¹⁸⁰

399. Without an overt military build-up, a “Running Start” military action could begin as early as November, with air strikes and support for opposition groups and small-scale land operations, while further ground forces built up to overwhelm Iraqi forces “leading to the collapse of the Iraqi regime”. A “Generated Start” following a military build-up could begin as early as January 2003. That was also judged to be the latest date for the start of military operations unless action was “deferred until the following autumn”.

400. The “UK’s ability to contribute forces depended on the details of US military planning and the time available to prepare and deploy them”. The MOD was “examining how the UK might contribute to US-led action”. Options ranging from deployment of a division to making bases available had been identified. US plans assumed the use of British bases in Cyprus and Diego Garcia. Unless “publicly visible” decisions were taken “very soon”, the UK would not be able to send a division in time for an operation in Iraq in January 2003.

401. A “decision in principle” might be “needed soon on whether and in what form the UK takes part in military action”.

402. Ministers were invited to “note the potentially long lead times involved in equipping UK Armed Forces to undertake operations in the Iraqi theatre”; and to “agree that MOD should bring forward proposals for the procurement of Urgent Operational Requirements under cover of the lessons learned from Afghanistan” and the “outcome” of the 2002 Spending Review.

403. Mr McKane advised Sir David Manning separately that the paper covered US military plans “only in headline form” on the grounds that Mr Blair would “wish to receive a short oral brief from CDS”.¹⁸¹

404. The planning and preparations for equipping UK forces are addressed in Section 6.3.

405. **The Cabinet Office paper was written in order to support a Ministerial discussion about the approach the UK should take to the US on Iraq. It identified the issues the UK should be trying to get the US to address before it embarked on military action to secure regime change in Iraq in a way the UK would find difficult to support.**

¹⁸⁰ Paper Cabinet Office, 19 July 2002, ‘Iraq: Conditions for Military Action’.

¹⁸¹ Minute McKane to Manning, 19 July 2002, ‘Iraq’.

406. It was not written to provide a broader and more fundamental analysis of the policy choices which the UK Government might at that time have considered, and their consequences, including:

- whether military action would be the best way to secure the UK's objective;
- the longer-term consequences and obligations which were likely to arise from military action.

407. The wider issues addressed by the paper are set out in Section 3.3.

MOD ADVICE FOR MR HOON

408. Following his minute of 3 July and a visit to Washington on 18 to 19 July, Sir Kevin Tebbit advised that the US Administration as a whole was increasingly united in the view that military action would be taken against Iraq to bring about regime change and remove WMD risks.

409. Sir Kevin Tebbit visited Washington from 18 to 19 July.¹⁸²

410. Sir Kevin advised Mr Hoon that the US Administration as a whole was increasingly united in the view that military action would be taken against Iraq to bring about regime change and remove WMD risks. He reported an “air of unreality” given the enormity of what was envisaged and the absence of a policy framework and detailed planning.

411. Sir Kevin Tebbit also wrote to Sir David Manning before the Ministerial discussion on 23 July.¹⁸³

412. The advice for both Mr Hoon and Sir David is addressed in Section 3.3.

413. In the light of uncertainty about the timing of possible military operations, Adm Boyce had directed that planning for deployment of land forces should concentrate on two packages: a “supporting/enabling package” and a northern option, comprising a division with two combat brigades (a division-minus).

414. MOD officials privately expressed strong reservations about military action to Mr Hoon stating that there was no objective justification for a pre-emptive attack either now or in the immediate future.

415. Mr Hoon was advised that the legal framework could constrain the UK's ability to support US action.

¹⁸² Telegram 970 Washington to FCO London, 20 July 2002, ‘Iraq: Sir K Tebbit's Visit to Washington, 18-19 July’.

¹⁸³ Letter Tebbit to Manning, 22 July 2002, ‘Iraq’.

416. In preparation for the meeting on 23 July, Mr Bowen advised Mr Hoon that the meeting would discuss the Cabinet Office paper of 19 July, and the agenda was expected to cover:

- US planning and timescales;
- objectives of any military action;
- the strategic policy framework;
- the potential UK contribution; and
- an information campaign.¹⁸⁴

417. Mr Bowen advised that it was “still too early to be definitive” about whether the US had a winning military concept; but that it was “likely” that the answer to that question would be “yes’ with certain conditions”. The key point for Mr Blair to note was that US action could take place “very quickly, as early as November”.

418. Agreeing the objective for military action would be “useful”, but it begged the question of the “*strategic policy framework* in which to take military action in pursuit of that objective”. “In particular a framework” was “required to set the conditions for military action including the necessary justification in international law”. That was “important because it may well constrain our ability to support US action”.

419. Adm Boyce had directed that UK planning should concentrate on two “packages”:

- a supporting/enabling package, including basing, maritime and air assets, in which the “the only land contribution would be Special Forces”; and
- a discrete land contribution of a “division (minus)” for operations in northern Iraq.

420. Those two packages had been chosen “because they effectively represent maximum practical UK contributions to US-led operations for either early or later action”. Schematic timelines showing decision dates and readiness which could be achieved were provided.

421. Mr Bowen advised that the “indications from the US” were that it did “not expect a ground force contribution from the UK for operations out of Kuwait”; and that “providing land forces to integrate with the US main effort in the South” had “been discounted because of the severe difficulties we would face due to interoperability; deployment time and geographic constraints affecting logistics in particular”.

422. Work was “now being tailored” to a UK contribution from the north, although it was “difficult to see how meaningful operations could be achieved outside the framework of a multi-national force such as the ARRC [Allied Rapid Reaction Corps] with the support of other allies”.

¹⁸⁴ Minute Bowen to PS/Secretary of State [MOD], 22 July 2002, ‘Iraq: Meeting with the Prime Minister’.

423. A speaking note stated that the key points for the meeting with Mr Blair were:

- US military planning was “gathering pace”.
- The “mood and timetable” pointed to “this winter for action, although an alternative would be in 2003/4”.
- There was a “need for early guidance on UK military involvement and preparatory work”.
- Engagement between Mr Blair and President Bush was “needed now to assess US willingness to establish [a] strategic framework, followed by UK decision-making before summer break”.

424. The “Line to Take” offered to Mr Hoon included:

- It was “too early to judge” if the US military plan was a winning concept and the Chiefs of Staff were “not yet convinced”. The question of whether the US had a winning concept could be answered as planning developed. The UK view was that pressure should be “applied from South, West and North”.
- The US would like to establish the scale of UK involvement. Subject to the legal framework, the US expected Diego Garcia, Cyprus, air enablers, maritime force and Special Forces as a minimum. There was a “Developing expectation” of a division size force in the North with Turkey and other allies.
- Decisions were “needed urgently” if UK forces were to be involved “this winter”. A large land force contribution needed “preparatory action immediately” and would not be complete until “March/April”.

425. Commenting on Mr Bowen’s advice, Mr Watkins wrote that: “Large scale involvement in a US thrust from Kuwait would be impracticable”; and that a division (minus) option “would require immediate action on UORs etc and early decisions (October) on reserves”. The latter would “definitely be visible”.¹⁸⁵

426. In relation to a discrete “Land Contribution”, Mr Watkins wrote:

“Apart from being ‘involved’, the military utility (and risks) of this option are not clear.”

427. Mr Watkins added to the speaking note a suggestion that Mr Hoon should seek an understanding that the costs of UORs would be met from the Reserve.

428. Mr Watkins also offered Mr Hoon a “Private Office distillation of where we think most of your key advisers – Chiefs, PUS etc (with possible exception of Simon Webb) – are coming from”. That set out strong reservations about military action, including that there was no objective justification for a pre-emptive attack either now or in the immediate future.¹⁸⁶

¹⁸⁵ Manuscript comment Watkins on Minute Bowen to PS/Secretary of State [MOD], 22 July 2002, ‘Iraq: Meeting with the Prime Minister’.

¹⁸⁶ Note (handwritten) Watkins to SofS [MOD], 22 July 2002 attaching ‘Iraq: Summary’.

429. Mr Watkins' note is described in more detail in Section 3.3.

430. Adm Boyce was advised that the UK should agree to explore the northern option with the US, including being prepared to consider offering to lead land forces.

431. Separate advice from Lt Gen Pigott for Adm Boyce stated that the choice was “between ‘Embedded’ and ‘Distinctive’” options.¹⁸⁷ The former were “fine” for maritime and air components, but the latter were “better” for land and Special Forces, “largely for logs [logistic]/deconfliction reasons”.

432. Lt Gen Pigott also wrote that strategic thinking on a “Northern Axis” was “still immature” in relation to “Timelines/Practicality?”.

433. On the “Way Forward”, the UK should:

- “Agree [the] Intent” to offer enablers, maritime and air forces at medium scale, and “up to” a division (minus) to US planners, “with provisos on deployment/employment clearly spelt out”.
- “Agree to explore” the “Northern Option” with the US “as a matter of urgency”. The UK should also:
 - “Be prepared to consider Framework Nation lead of a Land Component within this option.”
 - “Be prepared ... to scope possible role for HQ ARRC.”
- “Agree to scope” Special Forces involvement.
- “Agree to Implement” invisible UORs now, and be prepared to advise Ministers later on visible UORs.
- “Agree to identify” other essential preparations for submission to Ministers “against “Window 1 timelines”.

434. Mr Blair’s meeting on 23 July did not take firm decisions.

435. The record of the meeting stated that the UK should work on the assumption that it would take part in any military action and Admiral Boyce could tell the US that the UK was considering a range of options.

436. Mr Blair commissioned further advice and background material on all the issues.

437. Mr Blair discussed Iraq with Mr Straw and Mr Hoon, Lord Goldsmith, Sir Richard Wilson, Adm Boyce, Sir Richard Dearlove, Sir Francis Richards (Director of the Government Communications Headquarters (GCHQ)), Mr Scarlett, Mr Powell,

¹⁸⁷ Minute DCDS(C) to DPSO/CDS, 22 July 2002, ‘Iraq: Update on Key Issues’.

Baroness Morgan (Director of Political and Government Relations), Mr Campbell and Sir David Manning, on 23 July.¹⁸⁸

438. The discussion in the meeting and the actions that followed are addressed in Section 3.3.

439. In relation to military planning, the record of the meeting produced by Mr Matthew Rycroft, Mr Blair's Private Secretary for Foreign Affairs, stated:

- Mr Scarlett summarised the intelligence and latest (4 July) JIC Assessment: "Saddam's regime was tough and based on extreme fear. The only way to overthrow it was likely to be by massive military action." Saddam was "worried and expected an attack", but he was "not convinced" that an attack would be "immediate or overwhelming".
- Sir Richard Dearlove reported that there was "a perceptible shift in attitude" in Washington: "Military action was now seen as inevitable." President Bush "wanted to remove Saddam, through military action, justified by the conjunction of terrorism and WMD".
- Adm Boyce reported that Secretary Rumsfeld and President Bush would be briefed by CENTCOM planners in early August. The US was examining two military options, and saw the "UK (and Kuwait) as essential". The three main options for UK involvement were:
 - “(i) Basing in Diego Garcia and Cyprus plus [...] SF [Special Forces] squadrons.
 - (ii) As above, with maritime and air assets in addition.
 - (iii) As above, plus a land contribution of up to 40,000 perhaps with a discrete role in northern Iraq entering from Turkey, tying down two Iraqi divisions.”
- Mr Hoon said that the US had already begun "spikes of activity" to put pressure on the regime. In his view, January was the most likely timing for military action.
- Mr Straw stated that it "seemed clear" that President Bush had "made up his mind to take military action, even if the timing was not yet decided".
- Lord Goldsmith warned that the desire for regime change was not a legal basis for military action. Self-defence and humanitarian intervention could not be the basis for military action in this case.
- Mr Blair had stated: "The two key issues were whether the military plan worked and whether we had the political strategy to give the military plan the space to work."
- Adm Boyce did not yet know if the US battleplan was "workable". There were "lots of questions", for example "the consequences if Saddam Hussein used WMD on day one, or if Baghdad did not collapse and urban warfighting began".

¹⁸⁸ Minute Rycroft to Manning, 23 July 2002, 'Iraq: Prime Minister's Meeting, 23 July'.

- Mr Straw “thought the US would not go ahead with a military plan unless convinced it was the winning strategy”, but there “could be US/UK differences” on the political strategy.
- Mr Scarlett assessed that “Saddam would allow the inspectors back in only when he thought the threat of military action was real”.
- Mr Hoon stated that if Mr Blair wanted UK military involvement, an early decision would be required. Mr Hoon cautioned that “many in the US did not think it was worth going down the ultimatum route”. It would be important for Mr Blair “to set out the political context” to President Bush.

440. In relation to the military option, Mr Rycroft recorded that the meeting concluded:

- “• We should work on the assumption that the UK would take part in any military action. But we needed a fuller picture of US planning before we could take any firm decisions. CDS should tell the US military that we were considering a range of options.
- The Prime Minister would revert on the question of whether funds could be spent in preparation for this operation.
- CDS would send the Prime Minister full details of the proposed military campaign and possible UK contributions by the end of the week.”

441. Mr Rycroft sent a separate letter to Mr Straw’s Private Secretary on 23 July, which very briefly summarised the action points for the FCO, the MOD and the Cabinet Office.¹⁸⁹

442. In his memoir, Mr Blair recorded that Adm Boyce had made it pretty clear at the meeting that “he thought the US had decided on it [military action], bar a real change of heart by Saddam”.¹⁹⁰

443. In his account of the meeting, Mr Campbell wrote that Mr Blair had “said he needed to be convinced ... of the workability of the military plan.”¹⁹¹

444. Mr Hoon told the Inquiry that he did not have a specific recollection of the meeting but he did not recall it as a key meeting, rather it was part of an “iterative process”.¹⁹²

445. Mr Hoon subsequently wrote that there was “a very full discussion of the relevant issues” at the meeting, and that:

“Arguments both for and against UK involvement as well as relevant legal opinions were set out and recorded in the minutes of the meeting. All of the reservations set out in the summary prepared by my Private Office were fully debated in the meeting.

¹⁸⁹ Letter Rycroft to McDonald, 23 July 2002, ‘Iraq Prime Minister’s Meeting, 23 July: Follow Up’.

¹⁹⁰ Blair T. *A Journey*. Hutchinson, 2010.

¹⁹¹ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

¹⁹² Public hearing, 19 January 2010, pages 20-21.

At such a meeting I would not have thought it necessary to repeat arguments already made by others ... unless there was some specific benefit in doing so.”¹⁹³

446. In his Note to President Bush of 28 July on the strategy on Iraq, Mr Blair suggested a build-up of military forces in the Gulf in the autumn as a signal of intent to encourage international support and demoralise Iraq.

447. Mr Blair’s Note to President Bush on 28 July and his and Sir David Manning’s subsequent discussions with President Bush are addressed in Section 3.3.

448. Mr Blair’s Note of 28 July began:

“I will be with you, whatever. But this is the moment to assess bluntly the difficulties. The planning on this and the strategy are the toughest yet. This is not Kosovo. This is not Afghanistan. It is not even the Gulf War.

“The military part of this is hazardous but I will concentrate mainly on the political context for success.”¹⁹⁴

449. In a section setting out the elements of a strategy to secure a political coalition, if not necessarily a military one, Mr Blair wrote:

“It goes without saying that the Turks and Kurds need to be OK. Strangely I think they are going to be the easiest, despite the Turkish elections. They both want our help badly and will play ball if offered enough.”

450. In a section headed “**The Military Plan**”, Mr Blair wrote:

“Finally, obviously, we must have a workable military plan. I don’t know the details yet, so this is first blush.

“The two options are running start and generated start.

“The first has the advantage of surprise; the second of overwhelming force. My military tell me the risks of heavy losses on the running start make it very risky. Apparently it involves around 15-20,000 troops striking inside Iraq, with heavy air support. The idea would be to catch the regime off balance, strike hard and quickly and get it to collapse. The obvious danger is [that] it doesn’t collapse. And there is the risk of CW being used.

“For that reason, a generated start seems better. It could always be translated into a more immediate option, should Saddam do something stupid. Also, the build-up of forces in such numbers will be a big signal of serious intent to the region and help to pull people towards us and demoralise the Iraqis. This option allows us to hammer his air defences and infrastructure; to invade from the South and take the oilfields; to

¹⁹³ Statement Hoon, 2 April 2015, paragraph 13.

¹⁹⁴ Note Blair [to Bush], 28 July 2002, ‘Note on Iraq’.

secure the North and protect/stabilise the Kurds. Then effectively with huge force we go on to Baghdad.”

451. Mr Blair concluded:

“We would support in any way we can.

“On timing, we could start building up after the break. A strike date could be Jan/Feb next year. But the crucial issue is not when, but how.”

Definition of UK force “Packages”

MOD advice, 26 July 2002

452. In response to Mr Blair’s request for full details of the proposed military campaign and possible UK contributions, the MOD advised No.10 on 26 July:

- US military planning was still evolving and the Chiefs of Staff were not yet able to judge whether the US had a winning concept.
- Three possible options were identified but no recommendation was made about which option should be selected.
- The largest option comprised the deployment of a division, but the MOD was also examining the possibility of deploying an additional light brigade and providing the framework for a UK-led Corps headquarters.

453. Mr Hoon expressed caution about both the robustness of the estimates of the timescales for a UK deployment and the impact of Operation FRESCO – potential industrial action by the Fire Brigades Union in the autumn.

454. Mr Hoon’s view was that the UK should present its options to the US positively, but without commitment at that stage.

455. Mr Blair was advised that no decision was needed at that stage.

456. The three options identified by the MOD, which made no explicit reference to possible post-conflict commitments, provided the broad framework for discussions until the end of 2002.

457. Following Mr Blair’s meeting on 23 July, Mr Watkins commissioned further work, including a paper on all aspects of the military options for Mr Hoon to send to Mr Blair in time for his weekend box: a paper on military preparations, including the impact of the firefighters’ strike; and a draft script for Maj Gen Wilson to use at the CENTCOM meeting on 1 to 2 August.¹⁹⁵

¹⁹⁵ Minute Watkins to PSO/CDS, 23 July 2002, ‘Iraq’.

458. Maj Gen Fry provided PJHQ advice on 25 July, including a paper entitled ‘Discrete UK northern options through Turkey’.¹⁹⁶ That stated that the US would not be able logistically to sustain simultaneous assaults from the north and south, and that the “northern approach therefore remains a possibility for a self-sustaining UK force package as part of the overarching US campaign plan”.

459. The paper identified that the objective could be to either “defeat” or to “fix” Iraqi forces. The basic UK package would be an armoured division with two “square” brigades.

460. Maj Gen Fry advised:

“... what is beginning to emerge in the development of our work is the need for a possible post-conflict stabilisation force in order to meet the grand strategic end state of a new acceptable government.”

461. Maj Gen Fry suggested that there would be a need for a three-star headquarters, including to co-ordinate air assets.

462. The development of thinking on force levels in a post-Saddam Hussein Iraq is addressed in Sections 6.4 and 6.5.

463. Mr Bowen sent Mr Hoon’s Private Office a fuller analysis of the options for a UK contribution on 25 July.¹⁹⁷ He advised that:

- Some British contributions, such as making available Diego Garcia and the Cyprus bases or employing air and maritime forces already engaged in operations against Iraq, could be achieved quickly.
- It would take another couple of months to increase forces to medium scale.
- “To meet probable US time-scales” it would “not be possible to deploy a fully prepared, fully sustainable armoured division for war-fighting.” A fully prepared and sustained armoured division (one which could fight a significant Iraqi force) would take 10 months.
- Deployment of an armoured division (minus) would only be possible “within six months of a decision to deploy”, and would have “limited sustainment and reach”.

464. The limited UK capability available after six months, with no more than 10 days ammunition and limited reach, could not mount a deliberate attack on large-scale Iraqi forces. The potential strategic advantage would be that the “actual deployment, even the preparation, should have an impact on the Iraqi regime and prevent single focus attention on the US forces in the South”. So long as it did not have to engage in all-out

¹⁹⁶ Minute Fry to MA/DCDS(C), 25 July 2002, ‘Developing Work on UK Options for Operations Against Iraq’.

¹⁹⁷ Minute Bowen to PS/Secretary of State [MOD], 25 July 2002, ‘Iraq – Potential UK Contribution’.

“war-fighting”, it could be enough to “sow the seeds of uncertainty in the minds of the decision-makers in Baghdad”.

465. “In several significant ways,” the northern option was “very attractive”. It offered the UK the “opportunity to make a discrete contribution to the operation, but it also offers an opportunity to integrate other allies into the operation”. It would, however, be “highly challenging” and would require “not only Turkish acquiescence, but also full Turkish support along the line of communication”. That would require US involvement.

466. Because “a good proportion of UK maritime and air assets” would be integrated into the wider US effort, the force in the North would need to be confident that support from the US would be available “as and when required”. That was an issue that remained to be explored.

467. Mr Bowen also reported that CENTCOM understood the strategic benefit of a UK-led “northern effort”, but it was “not yet clear how important it is to their overall plan”.

468. Mr Bowen advised Mr Hoon that it was “also assessed as militarily unwise to integrate anything less than a division into the US land component”, and that “it would be militarily unattractive to commit UK land forces to US operations from Kuwait.”

469. On 26 July, the MOD provided advice on options for a UK contribution to US-led military operations in Iraq in a letter to Mr Rycroft.¹⁹⁸

470. The MOD advised that US military planning was “in full swing but it was still evolving”. The concept was for an attack launched by forces deployed in Kuwait and from other Gulf States and from ships in the Gulf and elsewhere. The plan was “neither fully developed nor finalised”. The Chiefs of Staff were “not yet able to judge whether this is a winning concept”. Greater clarity would be needed “before any UK option could be recommended”.

471. The MOD stated that it was “clear that the US plan of attack from the South” did not “need British land forces”:

“... in the time available there is very little scope for the preparation and integration of British land forces into the US order of battle; moreover the logistic space available in Kuwait, with five divisions worth of equipment and logistics support entering through only one airhead and a single port would already be confined ...”

472. Adm Boyce had recommended three options:

- **Package 1:** an “in-place support package” using forces already in the region.
- **Package 2:** an “enhanced support package” comprising Package 1 with additional air and maritime forces. This package could include forces that would be “of particular interest to the US because of their own deficiencies, e.g. mine

¹⁹⁸ Letter Watkins to Rycroft, 26 July 2002, ‘Iraq’.

clearance vessels and air-to-air refuellers for their carrier-based aircraft". While no conventional land forces could meet the timescales for the deployment of maritime and air forces "Special Forces could be deployed very rapidly to match US timescales and priorities. This is likely to be very attractive to US planners, and their contribution to success would be significant."

- **Package 3:** a "discrete UK package" based on deployment of an armoured division which the MOD envisaged would be used in northern Iraq, in addition to the forces in Package 2. The MOD stated that a force that was "credible" would be required: "Even to create uncertainty in the mind of Saddam", and the contribution of a division "would probably require command and control at Corps level. The UK might consider providing an armoured division either as part of a US-led Corps or as part of a larger coalition force possibly led by the UK using the framework of the NATO Allied Rapid Reaction Corps [ARRC]."¹⁹⁹

473. The MOD advised:

"... it would take **six months** for the whole division to be in place and then with such limited sustainment and reach that it would be unsuitable for a deliberate attack on large-scale Iraqi forces. An optimum capability for a sustained campaign inside Iraq could take about [...] to achieve".

474. The MOD also stated that the "deployment of a light brigade with an air mobile capability" was "an additional possibility". That:

"... would have the task of securing the deployment area in Turkey ahead of the arrival of the full division and preparing for operations short of armoured war fighting. These could involve a role in the Kurdish Autonomous Zone if it were subject to the threat of an Iraqi attack and/or post-conflict operations following the defeat of Iraqi forces. The actual deployment of forces, even their preparation, should have an impact on the Iraqi regime and prevent its single-focus attention on the US forces in the South."

475. The MOD highlighted problems with:

- the concept of a "Running Start";
- the fragility of the logistic chains; and
- vulnerability to chemical or biological weapons.

476. The MOD stated that "thinking about dealing with the aftermath of a successful attack remains sketchy".

477. Finally, the MOD drew attention to the funding which would be required once a decision in principle was made to participate in military activity.

¹⁹⁹ Letter Watkins to Rycroft, 26 July 2002, 'Iraq'.

478. Mr Hoon attached “two large caveats” to all three options:

- First, the timescales were “best planning estimates” and made “sweeping assumptions” about basing, transit routes and overflights. They also assumed that funding would be available to improve sustainability and implement UORs.
- Secondly, if the armed forces were required to provide 18,000-20,000 people for an emergency fire service in the event of a nationwide firefighters’ strike (Op FRESCO) and the US started military action in winter 2002/3, only the in-place support package and Special Forces would be available.

479. Mr Hoon had commissioned further work with a view to expediting what would need to be done once a decision in principle had been taken. UK representatives at a CENTCOM planning meeting the following week would be instructed “to set our options positively but without committing us to any specific ones”. The MOD would write again as soon as there was “greater clarity about the US plan, such that the Chiefs can update their assessment of it (and the risks involved) and the Defence Secretary can make recommendations about the best option to pursue”.

480. Copies of the letter were sent to Mr Straw’s and the Cabinet Secretary’s Private Offices, and to Mr Scarlett.

481. The advice was sent to Mr Blair on 31 July, as one of several “background papers” he had commissioned at his meeting on 23 July “for summer reading”.²⁰⁰

482. Mr Rycroft commented to Mr Blair:

“The military are not yet ready to make a recommendation on which if any of the three options to go for. Nor can they yet judge whether the US have a winning concept. They are continuing to work with the US military. You do not need to take decisions yet.”

483. Sir David Manning told the Inquiry that Mr Blair had said that:

“... he didn’t want to take any decision or accept any of these options. I think in retrospect ... this was because ... this was the time ... when we were pressing for the Americans to consider the UN route. I think he didn’t want to give any signal that he was keen to think about a military alternative ...”²⁰¹

484. A minute from Mr Hoon’s Private Office on 31 July stated:

“The question of whether funds could be expended in preparation for an operation in Iraq is being considered separately elsewhere.”²⁰²

²⁰⁰ Minute Rycroft to Prime Minister, 31 July 2002, ‘Iraq: Background Papers’.

²⁰¹ Public hearing, 30 November 2009, page 36.

²⁰² Minute Watkins to Sec(O)1a, 31 July 2002, ‘Iraq – Enhancements Required for Possible UK Contribution’.

485. Discussions about expenditure, on UORs and other preparations for military action are addressed in Sections 6.3 and 13.1.

Developments during August 2002

486. A minute to Sir David Manning on 1 August advised that, with US assets returning from Afghanistan, the coalition was “reasserting control over all the southern No-Fly Zone”.²⁰³

487. **At a meeting on 2 August, the UK informed CENTCOM that, while no decision had been taken for action in Iraq, the most obvious option for a UK land contribution was through Turkey. The UK needed more information on what effect was desired and further guidance on the political context.**

488. Mr Hoon received a submission from PJHQ on 26 July outlining themes Maj Gen Wilson might use at the CENTCOM meeting on 2 August.²⁰⁴

489. When Adm Boyce spoke to both Gen Franks and Gen Myers on 29 July, about Afghanistan and Iraq, he stressed that the UK’s input to planning on Iraq was heavily bound with caveats.²⁰⁵

490. The record of the discussions reported US interest in both UK participation in the North and the potential contribution from HQ ARRC.

491. On 30 July, an MOD official provided Mr Hoon with a “best estimate” of the equipment enhancements that might be necessary in order to deliver the potential UK force packages.²⁰⁶

492. The official reported that there was a shortfall of essential NBC equipment for Packages 1 and 2 that would be required to treat casualties in the event of an Iraqi biological attack. The MOD had “low confidence” that it could be obtained within six months. It could take “up to nine months” to procure certain stocks from industry but further work was needed to identify other possible sources.

493. For Package 3, the MOD had “lower confidence” in the ability to deliver measures for tanks “for the fully sustained war-fighting role”, which it judged “would take around ten months”. There would also be a shortfall in NBC protection and biological detectors if Package 3 were to be adopted. Further work was being done to see how quickly this could be acquired.

²⁰³ Minute Dodd to Manning, 1 August 2002, ‘Iraq’.

²⁰⁴ Minute PJHQ Hd of J9 Pol/Ops to PS/Secretary of State [MOD], 26 July 2002, ‘Iraq: Themes for Maj Gen Wilson’s talk to the CENTCOM Component Commander’s Conference’.

²⁰⁵ Minute DPSO/CDS to PS/Secretary of State [MOD], 29 July 2002, ‘Telecons CDS/Gen Franks (CINCCENTCOM)/Gen Myers (CJCS) – 29 Jul 02’.

²⁰⁶ Minute Sec(O)1a to PS/SofS [MOD], 30 July 2002, ‘Iraq – Enhancements Required for Potential UK Contribution’.

494. The 30 July advice and the response are addressed in Section 6.3.

495. Responding to a request from MOD officials for urgent approval to widen the group involved in contingency planning to improve the estimates of the time and costs of enhancements likely to be needed to support military operations, Mr Hoon concluded that that would be premature.²⁰⁷

496. On 30 July, in a meeting with Adm Boyce, Sir Kevin Tebbit, Lt Gen Pigott and Mr Bowen, Mr Hoon discussed the line that Maj Gen Wilson should take in the CENTCOM meeting the following day.²⁰⁸

497. Mr Hoon acknowledged that “striking the right tone and balance ... was difficult. Ministers would wish the SBMA [Maj Gen Wilson] to be positive without, at this stage, committing the UK to any specific contribution”. The draft provided by PJHQ on the northern option “risked over committing us”.

498. Mr Hoon concluded that Maj Gen Wilson should warn the US of the political difficulty created by the need, in “the absence of pre-positioned assets”, for a move of UK armour to Turkey, which “would have to take place early and be very visible”.

499. After considerable debate, an agreed text was sent to Maj Gen Wilson on 1 August, and forwarded to Mr Hoon’s Office for information.²⁰⁹

500. Maj Gen Wilson’s address emphasised that the UK fully understood and sympathised “with the US position on Iraq, and Saddam Hussein”, and shared US “concerns about leaving him to develop his WMD aspirations” and the potential threat he posed.²¹⁰ The UK was “deeply appreciative of the opportunity to ... contribute towards the US ... planning process” and had been “working hard to identify forces” that could “in principle” be made available to support the US plan. But he was “bound to reiterate” that the UK had “made no decision in favour of action in Iraq” beyond its involvement in enforcing the No-Fly Zones.

501. Maj Gen Wilson offered “observations” on the US plan, including:

- The UK would be able to build on existing activity and be in support of the US “from Day One”. The “fullest possible deployment of maritime, air and SF” could be operational “relatively quickly”.
- In relation to land options in the South, “once the logistic in-load has begun” it was “going to be very busy in the South”. While it would be “wrong” to make “any definitive judgements” until planning was complete, it was difficult to see how the

²⁰⁷ Minute Watkins to Sec(O)1a, 31 July 2002, ‘Iraq – Enhancements Required for Possible UK Contribution’.

²⁰⁸ Minute Watkins to DG Op Pol, 30 July 2002, ‘Iraq’.

²⁰⁹ Email PJHQ-J9-Hd(Pol/Ops)(s) to SOFS-Private Office, 01 Aug 2002, ‘CENTCOM Iraq Planning – A UK Perspective’.

²¹⁰ Paper Wilson, [1 August 2002], ‘CENTCOM Iraq Planning – A UK Perspective’.

“UK could contribute”. In the time available under “current planning”, “integration would also be difficult”.

- The UK knew that the US had “been looking at how else land forces might be used”, which raised the issue of “Turkey and the ... ‘northern option’”. “To maximise the military prospects of success” that “must be an essential part of your [the US] plan ... Indications are that Saddam is expecting something to happen in the North. Why disappoint him and make his decision process easier?”

502. Maj Gen Wilson added that there would be difficulties “particularly for the UK”.

- First, it would need “active Turkish support and engagement, not just acquiescence”, and there “may be scepticism in UK about whether active Turkish engagement could be delivered”.
- Second, the UK “could probably not get there as quickly ... as you might want us”.

503. Before the UK Government could agree to exploring a military contribution seriously, it was likely to need:

- a much more refined mission, with a better understanding of the effects required; and
- a better understanding of the level of US support that will be available.”

504. It could be possible to achieve “certain military effects in the North ... without pitched battles with the Iraqis”, but defeating Iraqi forces on the way to securing the northern oilfields would “probably” require a “heavy Division”, and it was “doubtful that that would be possible” within US timescales. The UK had:

“... thought about North, but we have now taken our thinking about as far as it can go without more detail from you. What we now need from you is to know what you really want; and most importantly more on what effect you would want us to achieve.”

505. Maj Gen Wilson offered “three other observations”:

- Unless political and legal issues were resolved, it would be “difficult to even deliver basic support”.
- The UK Government would “find it easier to engage politically” if the campaign was multi-national and, if a multi-national force was considered for the northern option, “that might be a role for the UK-led Allied Rapid Reaction Corps”. Multi-nationality brought “complications”, but the use of the ARRC HQ would bring advantages, including that it had “already been focused on the region for years” which could “help save deployment time” and could “achieve the combat power for certain tasks more quickly than a purely UK force”.

- It would be “helpful ... to have a better feel for the ‘post-conflict’ thinking and aftermath management”. The experience of Afghanistan had shown it was “as important to win the peace” as it was to win the war. That was “fresh” in the UK’s mind, and it was “undoubtedly true that both UK politicians and ... military colleagues would like to know what we are getting ourselves into in the longer term”.
- Maj Gen Wilson concluded that the “involvement of significant UK land forces” would be a “challenge”. The UK agreed “that the most obvious option” was “through Turkey”; but more information was needed on what effect was desired and “further guidance” was needed “on the political context”.

506. Maj General Wilson stated that he could not stress too much that he “would have been shot” if he had extended his brief. There had been “no questions” and he had been “the last to speak”.²¹¹ Asked about the reaction to his talk, Maj Gen Wilson told the Inquiry: “Probably ‘yoo-hahs’ and a few of those delightfully American idiosyncrasies.”

507. Lt Gen Reith reported that Gen Franks saw great value in a northern axis led by the UK, but UK preparations needed to begin.

508. Between 5 and 7 August, Lt Gen Reith visited the US Army Central Command (ARCENT) HQ and CENTCOM.²¹²

509. Lt Gen Reith reported to ACM Bagnall:

“The indicators point to CENTCOM being ready to commence operations from about mid-Nov 02, with the main attack to launch from early Jan 03. Gen Franks is keen for strong UK participation. He sees great value in an axis from TU [Turkey] led by UK.”

510. There was, however, concern about Turkey’s position. If an attack was not possible from the north then the Kurdish oilfields would still need to be secured from the south. Lt Gen Reith reported that Gen Franks had suggested that could also be a “worthwhile discrete task for the UK”. There was a general readiness to provide US support if that would make it possible for UK forces to arrive earlier.

511. Lt Gen Reith concluded:

“With the US clock ticking, from an operational perspective, we ought to start our own. We need political and financial approval as soon as is feasible to prepare, but without committal to deploy. Without this the PM’s choices will be limited and he may not be able to fulfil what are clearly high US expectations.”

512. Lt Gen Pigott issued military planning guidance on 8 August.

²¹¹ Public hearing, 4 December 2009, pages 13-14.

²¹² Minute Reith to MA/VCDS, 8 August 2002, ‘Visit to ARCENT/CENTCOM 5-7 Aug 02’.

513. Reporting on a meeting held by Lt Gen Pigott on 8 August, Mr Drummond informed Mr McKane that the US seemed:

“... undecided on the importance of a front in the North ... He [Gen Franks] seems to think that a campaign mounted from the South could be sufficient but it would require more resources ... MOD will continue with their planning during August using small teams.”²¹³

514. Lt Gen Pigott issued updated planning guidance for possible military operations in Iraq to Lt Gen Reith and MOD staff on 8 August.²¹⁴

515. Significant points in the guidance included:

- MOD’s “planning posture” was “on the basis of being ‘as positive as possible’ but without implying premature political commitment”. Ministers had “not yet authorised any expenditure” on force preparation.
- The impact of Op FRESCO needed to be factored into planning.
- Maintenance of operational security was “**critically important**”. Mr Hoon’s “Intent and Direction” [that only named individuals could be involved] was “very clear” and the implications were “understood and accepted”.
- PJHQ should focus its effort on the issues which would inform judgements on whether there was a “Winning Mil Strategic Concept/Plan”, including:
 - a military plan within an integrated political strategy;
 - intelligence that was “good enough to give high confidence” that the elimination of WMD, the replacement of the regime, post conflict operations and minimising unintended consequences, could be achieved;
 - the strategy for the North was “joined up”;
 - an information campaign was “in place and effective”;
 - the “Coalition dimension” being “adequately covered”;
 - CBRN judgements affecting combat operations were “sound”; and
 - arrangements for logistics, “correlation of forces” and “rear” operations were “sound”.
- PJHQ should “Continue to scope” Package 3 scenarios with the US whilst making it clear that was “currently without firm commitment”.

516. Updates were to be provided for the Chiefs of Staff “Think Tank” on 6 September.

517. The decision to confine planning to a named list of individuals in the MOD and PJHQ respectively (the “Centurion” and “Warrior” groups), and the detailed planning for UORs which began on 22 August, is addressed in Section 6.3.

²¹³ Minute Drummond to McKane, 8 August 2002, ‘Iraq’.

²¹⁴ Minute Pigott to Reith and others, 8 August 2002, ‘Updated Guidance for Possible Military Operations (Iraq)’.

518. The MOD reported on 12 August that President Bush had authorised preparatory military activities.

519. The MOD continued to warn No.10 against any assumption that the UK could take the lead in the North within the timelines being considered by the US.

520. A meeting of the US National Security Council was held on 5 August to review what Vice President Cheney described as “the latest iteration of the war plan”.²¹⁵

521. Gen Franks described his strategic objective as regime change and his operational objectives as securing the oilfields and water infrastructure, while preventing Iraq’s use of long-range missiles and WMD.²¹⁶

522. A letter from Mr Hoon’s Private Office to No.10 on 12 August reported that President Bush had authorised preparatory military activities costing US\$1bn and that an inter-agency process in Washington had been launched.²¹⁷

523. The MOD reported the emergence of a “hybrid option”, combining elements of both the generated and running start plan. The US could be in a position to take action in November and there was:

“... growing enthusiasm in the US for action in northern Iraq led by the UK ... we will need to guard against US assumptions of UK leading ground operations in northern Iraq ... General Franks has indicated his interest in seeing the UK lead such forces.”

524. Sir David Manning wrote alongside the point above: “An idea our own MOD are v. keen on; may be some ventriloquism here”.²¹⁸

525. The MOD advised that the projected timelines for the deployment of a UK division, “albeit with limited sustainment and reach”, bore “no relation to the timescale of US plans”. It might be possible to reduce deployment times if the US provided support, but the UK would need time for preparation.

526. The MOD concluded:

“It will be important, therefore, in the coming weeks, to guard against any assumption that the UK will take the lead from the north or could do so on the basis of current US timelines. Apart from the impossibility of making military commitments in advance of political decisions, there are practical constraints, one of which is the potential requirement to provide emergency cover during any fire strike in the autumn – not so far revealed to the US.”

²¹⁵ Cheney D & Cheney L. *In My Time: A Personal and Political Memoir*. Simon & Schuster, 2011.

²¹⁶ Franks T & McConnell M. *American Soldier*. HarperCollins, 2004.

²¹⁷ Letter Davies to Wechsberg, 12 August 2002, ‘Iraq: US Contingency Planning’.

²¹⁸ Manuscript comment Manning on Letter Davies to Wechsberg, 12 August 2002, ‘Iraq: US Contingency Planning’.

JIC ASSESSMENT, 21 AUGUST 2002: 'SADDAM'S DIPLOMATIC AND MILITARY OPTIONS'

527. A JIC Assessment of 21 August concluded that in a conflict Saddam Hussein would order missile strikes and the use of CBW against coalition Forces, supporting regional states and Israel.

528. The JIC had little intelligence on Iraq's CBW and little insight into how it would fight. Its conclusions reflected the Committee's own judgements.

529. At the request of the MOD, the JIC issued an Assessment on 21 August considering "what diplomatic options Saddam has to deter, avert or limit the scope of a US-led attack".²¹⁹ It also considered his "military options for facing a US-led attack" and how his analysis about each course of action might "change as an attack becomes increasingly imminent".

530. The JIC examined Iraq's options for the short term, whether Saddam Hussein might seize the initiative, how Iraq might respond to a US military build-up, Saddam's options in "war" – including the use of missiles and WMD and "alternative scenarios and at the death".

531. The JIC's Key Judgements on the military options were:

- Much as Saddam Hussein would like to seize the initiative before a US attack, his options remained limited. He was "likely to be cautious about using force early. But the closer and more credible an attack seemed, the more risks he will be willing to take, perhaps including deniable terrorist attacks, most likely in the Gulf region – though we cannot exclude a threat to the UK."
- "Early on in any conflict, Saddam would order missile attacks on Israel, coalition forces and regional states providing the US with bases."
- "Saddam would order the use of CBW against coalition forces at some point, probably after a coalition attack had begun. Once Saddam was convinced that his fate was sealed, he would order the unrestrained use of CBW against coalition forces, supporting regional states and Israel."
- "Iraq would probably try to ride out air strikes while conserving its ground forces. Iraq's likely strategy for a ground war would be to make any coalition advance as slow and costly as possible, trying to force the coalition to fight in urban areas."
- "There is a significant potential for Saddam to miscalculate, either by escalating a crisis at an early stage, or by making concessions too late in the day to avert an attack."

²¹⁹ JIC Assessment, 21 August 2002, 'Iraq: Saddam's Diplomatic and Military Options'.

532. In relation to Saddam Hussein's options for seizing the initiative, the Assessment stated:

- A “concerted attempt” to bring down an aircraft in one of the No-Fly Zones was “a possibility”.
- A pre-emptive attack on the Kurds or Kuwait was judged “unlikely”.
- Saddam Hussein “would probably ... order preparations for a campaign of **terrorism and sabotage** in the region”.
- “... we know that Iraqi Special Forces and other organisations, such as the ‘Saddam Fedayeen’, also possess the capability to conduct sabotage or terrorist attacks.”
- It was “possible that Iraqi terrorist attacks could be conducted against other [non-military] interests or the leadership and economic (e.g. oil industry) targets of regional States”.
- The JIC did not “know enough about Iraqi capabilities to discount the threat outside the region, including within the UK, though previously Iraqi attempts to mount terrorist attacks, or engage proxies to do so on their behalf, have been largely ineffective”.

533. In relation to missile attacks, the Assessment stated:

- “Saddam would probably order missile attacks ...”
- Attacks on Israel would be an attempt to attract Israeli retaliation and thus widen the war, split the Coalition and arouse popular opinion in the Arab States.
- Missiles “could be armed with chemical or biological warfare (CBW) agents”.
- “Saddam might be deterred at least initially by the threat of Israeli nuclear retaliation.”
- Attacks on coalition forces in Kuwait would require Iraq to deploy short-range missiles into the “No Drive Zone”.²²⁰
- A pre-emptive missile attack on Israel was “less likely because it would show Iraq had been lying about its retention of long range missiles”.

534. The Assessment stated that the JIC had:

“... little insight into how the Iraqi military might plan to fight any ground war ... At present we have little evidence to judge whether Iraq sees urban or guerrilla warfare as feasible options. Iraqi effectiveness would be mitigated by problems of command and control, inadequate training and poor morale. We doubt that guerrilla activity would be very effective; urban warfare is more plausible ...”

535. The judgements about Saddam Hussein's potential use of chemical and biological weapons are addressed in Section 4.2. The firmness of those judgements, which bear

²²⁰ Resolution 949 (1994) imposed a “No Drive Zone” in Iraq south of the 32nd parallel.

similarities to the assumptions in the 13 June SPG paper, reflected the views of the members of the Committee.

536. The judgements were incorporated in a revised SPG paper produced on 4 September.

537. The assessment of Saddam Hussein's diplomatic options is addressed in Section 3.4.

THE IMPACT OF OPERATION FRESCO

538. From late July it was clear that the possible requirement to provide cover in the event of a nationwide firefighters' strike (Op FRESCO) would limit the UK's ability to deploy ground forces.

539. The MOD continued, however, to promote the advantages of the northern option to both UK Ministers and US military planners.

540. In August UK military planning actively focused on identifying the maximum contribution which the UK might be able to offer to the US.

541. The MOD advised No.10 on 28 August that if Op FRESCO was implemented in full, the UK would be able to provide only a brigade for land operations; and that the US should be informed.

542. During the period leading up to the invasion of Iraq a dispute over pay and conditions with the Fire Brigades Union led to a requirement for an MOD contingency plan, Op FRESCO, to provide a replacement fire-fighting capability to which some 19,000 Service Personnel were assigned.²²¹

543. Military advice about the UK's ability to generate ground forces changed radically between the end of July and the end of August. The evidence clearly demonstrates the focus on identifying the "maximum effort" and giving the UK a combat role in ground operations.

544. Mr Hoon was sceptical about the wisdom of that approach and sought to ensure that No.10 was given a more balanced perspective.

545. No.10 was warned on 26 July about the potential impact of a firefighters' strike on the UK's ability to deploy land forces for operations in Iraq.²²²

546. On 22 August, in the context of a predicted discussion between the US and Turkey on a possible northern option, ACM Bagnall commented to Air Vice Marshal Clive Loader, Assistant Chief of the Defence Staff (Operations) (ACDS(Ops)), that a MOD meeting held on 21 August had concluded:

²²¹ Report MOD, *Operations in Iraq: First Reflections*, July 2003.

²²² Letter Watkins to Rycroft, 26 July 2002, 'Iraq'.

“... we will need to decide whether we wish to influence US planning in developing any northern option. This may well be necessary sooner rather than later.”²²³

547. The MOD has been unable to provide any record of the meeting on 21 August.²²⁴

548. On 27 August, Dr Cholerton sent Mr Hoon an update on Iraq-related developments, including the potential impact of Op FRESCO.²²⁵

549. Dr Cholerton reviewed recent political and diplomatic developments and its understanding of US planning, including that:

“Operations in Northern Iraq are increasingly seen by the US planners as highly desirable and an important addition to the campaign plan. The overwhelming effect of simultaneous action against Saddam is one of the principal features of the campaign design. It is increasingly accepted that action in the North would play an important part in that; adding a significant additional complication he will have to overcome.”

550. In relation to the UK’s ability to deploy forces while supporting Op FRESCO, Dr Cholerton advised that “a more refined set of force packages”, which would be “more flexible in composition” was being developed; and that the position was “significantly better” than the MOD had reported to No.10 on 26 July. Further work had shown it would be possible to produce Package 2 if a firefighters’ strike lasted no longer than three months. That package could include substantial maritime and air capabilities and Special Forces. The ability to deploy a Royal Marine Commando Group after October 2002 was included in an Annex showing an “illustrative” Package 3.

551. If negotiations with the Fire Brigades Union broke down and a decision was taken to begin full-scale training for Op FRESCO, it would not be possible to deploy a division, but it would be possible to release forces for a single brigade tailored to operational needs. That would fall well short of the contribution required to enable the UK to carry out a “discrete” role in the North.

552. A smaller contribution could raise “some of the integration issues which led the Chiefs of Staff to view our offering conventional land forces for operations in southern Iraq as impractical”. The UK would, however, continue to “explore ideas of how such a contribution could be made to work alongside other potential partners and drawing heavily on US goodwill and resources”.

553. There were suspicions that US planners continued to believe that the UK could deliver a division if it were supported by the US, although there were “signs” that it was “looking at the provision of US forces” if the UK could not provide a division. A draft

²²³ Minute VCDS to ACDS(Ops), 22 August 2002, ‘Iraq Planning – US Briefing to Turks’.

²²⁴ Letter MOD Iraq Inquiry Unit to Iraq Inquiry Secretariat, 1 November 2012, [untitled].

²²⁵ Minute Cholerton to PS/Secretary of State [MOD], 27 August 2002, ‘Iraq’.

planning directive to EUCOM, who would be responsible for the northern option, tasked it to provide logistic support for a division-sized force, either coalition or US only.

554. Dr Cholerton advised Mr Hoon that it would be “important to guard against any false assumptions the US might make about the UK’s potential contribution to any military action”. The UK should explain the consequences of Op FRESCO to the US once a decision had been taken to commence training.

555. In relation to forthcoming US/Turkish discussions in Washington, the UK had made it clear to the US that:

“... in advance of UK political decisions, it would be wrong to discuss potential UK participation in ground operations from Turkey with the Turkish General Staff.”

556. Commenting on a draft of the advice to Mr Hoon, a civilian in PJHQ had pointed out that “a discrete UK option need not necessarily mean a northern attack through Turkey”.²²⁶

557. On 28 August, the MOD’s revised assessment of the implications of Op FRESCO was set out in a letter to Sir David Manning.²²⁷

558. The MOD also stated that Mr Hoon:

“... considers it particularly important that we guard against any false assumptions that the US might make about the UK’s potential contribution to any military action ... Explaining the impact ... to the US would ... serve to focus US planners on the real practical limitations we would face, were political decisions taken to join the US in military action.”

559. Sir David Manning commented to Mr Powell that he was not clear where the Fire Brigades issue stood; and that he would be “grateful for a word ab[ou]t what to say to Washington and when”.²²⁸

PJHQ ADVICE, 30 AUGUST 2002

560. PJHQ reported on 30 August that Land Command believed it would be able to deploy a division.

561. PJHQ also identified the risks associated with the northern option.

562. On 30 August, Lt Gen Reith submitted an update on the timelines for deploying a division (minus) to Lt Gen Pigott.²²⁹

²²⁶ Email PJHQ–J9-HD(Pol/Ops) to VCDS/PS, 23 August 2002, ‘PJHQ Comment on Iraq Submission’.

²²⁷ Letter Williams to Manning, 28 August 2002, ‘Iraq – Potential UK Contribution and a Fire Strike’.

²²⁸ Manuscript comment Manning to Powell, 30 August 2002, on Letter Williams to Manning, 28 August 2002, ‘Iraq – Potential UK Contribution and a Fire Strike’.

²²⁹ Minute Reith to DCDS(C), 30 August 2002, ‘Operations Against Iraq Deployment Timeline of a UK Division (-) through Turkey’.

563. On the same day, Maj Gen Fry provided advice for the Chiefs of Staff, reviewing planning for operations in Iraq as requested by Lt Gen Pigott on 8 August.²³⁰

564. Maj Gen Fry reported that the US was now working on a “hybrid option”, which contained elements of both the running and generated start. The “importance of the development of an axis in the North is now fully recognised”, and a contingency plan was being developed to commit significant US forces, possibly in addition to any coalition contributions.

565. The most significant development was that Land Command now believed it could deploy HQ ARRC, HQ 1st (UK) Armoured Division, one triangular brigade, 16 Air Assault Brigade and a logistic brigade some 124 days after a political decision to allow overt preparations for deployment. There would be some risk to the UK’s ability to deploy forces in 2004:

“... the overall penalties ... would be severe, some roulement tour lengths would be extended to 12 months and the generation of armoured and mechanised HR [High Readiness] forces in [20]04 would be put at risk.”

566. Maj Gen Fry advised that:

- “The northern approach offers the opportunity for greatest effect but probably carries the highest risk.”
- If a northern option for a land package was not viable, a western approach through Jordan could offer “very similar effects at less risk”.
- “A timely effect in the South could probably only be achieved by the ARG [Amphibious Ready Group] in support of the US MEF [Marine Expeditionary Force].”

567. The risks of the northern approach were listed in an Annex as:

- The need to be deployed in time to secure parts of the oilfields around Kirkuk from Iraqi destruction.
- The weather from January to March could severely restrict air operations.
- The distance to be travelled overland would be more than 1,000km.
- The terrain would constrain manoeuvre and considerable US engineer support would be needed to cross the river Tigris.
- Long lines of communication and challenges to sustainability.

568. The paper invited the Chiefs of Staff to agree that potential UK force contributions could be exposed to US planners to inform the CENTCOM planning conference scheduled for 23 September; and that, if the UK was “to retain a claim to leadership

²³⁰ Minute Fry to DCDS(C), 30 August 2002, ‘PJHQ Update on Planning for Operations Against Iraq’.

in the North then we must participate in the forthcoming CENTCOM/EUCOM recess in Turkey”.

569. On 31 August, Maj Gen Wilson reported to Adm Boyce that “CENTCOM clearly hope the UK will run with” the northern option.²³¹ He advised:

“Whilst I am continually reinforcing the UK policy line to US colleagues in CENTCOM (discreet planning and scoping, but without political endorsement or commitment), the demands of US operational planning necessitate input on UK planning data and separately, our intent for key evolutions [activities] such as ground recesses to Turkey and [Exercise] Internal Look. In terms of expectation management, and without over stating it as seen from here, the time for putting more UK military cards on the CENTCOM/EUCOM tables (caveated as necessary) is fast approaching.”

570. Maj Gen Wilson also reported that he had been asked about Op FRESCO, and its potential impact on the UK’s ability to contribute to Iraq, which he had “played long”.

Preparations for Mr Blair’s meeting with President Bush, Camp David

571. Despite military advice that the UK might be able to deploy HQ ARRC and “division-scale forces”, Mr Hoon advised continued caution about the UK’s ability to deploy land forces.

572. No decision on a possible UK military contribution to US operations was taken before the meeting with President Bush, but the MOD advised that there could be a need for tough decisions within two weeks.

573. Mr Blair decided that the UK should not inform the US about the potential impact of Op FRESCO at that stage.

574. The discussions between the UK and US on the policy on Iraq, Mr Blair’s press conference in Sedgefield on 3 September, and the decision that he and President Bush would meet at Camp David on 7 September following a meeting of the National Security Council which would have been briefed by Gen Franks, are addressed in Section 3.4.

575. In response to the MOD advice of 28 August, Mr Blair’s view, as reported on 3 September by Sir David Manning, was for “nothing to be said to the US about Op FRESCO for the moment”.²³² Mr Blair hoped it would be possible to discuss the issues with Mr Hoon the following week before he flew to Washington.

576. Reporting an MOD meeting on 3 September to Mr Straw, Mr Stephen Wright, FCO Deputy Under Secretary Defence and Intelligence, stated that, in the MOD’s view, the Pentagon’s plans had not firmed up significantly during August.²³³ It was still working on

²³¹ Minute Wilson to PSO/CDS, 31 August 2002, ‘SBMA SITREP 29’.

²³² Letter Manning to Williams, 3 September 2002, ‘Iraq – Potential UK Contribution and a Fire Strike’.

²³³ Minute Wright to Private Secretary [FCO], 4 September 2002, ‘Iraq: Military Planning’.

the basis of a December to February window for military action. Because of continuing uncertainties, including over Turkey, the MOD did not feel able to advise Ministers whether the US had a “winning concept”.

577. Mr Wright also wrote that the MOD “sense a mounting desire on the part of US military planners to learn more about the possible levels of UK force commitments”.

SPG PAPER, 4 SEPTEMBER 2002

578. A revised version of the SPG paper ‘UK Military Strategic Thinking on Iraq’ was produced on 4 September.²³⁴ The paper contained significant new analysis about the US intentions and their implications for UK planning.

579. The SPG assessed that the US had “sufficient combat power to destabilise, and overthrow the current Iraqi regime” by itself, but it required a “minimum coalition” to provide basing and transit, including use of UK bases in Cyprus and Diego Garcia. The paper also set out the current CENTCOM concept and plan, including an assessment that “shaping operations” (described as including a “series of activities designated as spikes by the US”, which were “intended to progressively increase the level and tempo of military activity”) had “already begun” and the UK was “implicated in their conduct”.

580. A number of key issues would “need to be resolved” to evaluate the design of the campaign. Those included:

- avoiding a tactical victory at the cost of strategic failure;
- determining the “strategic effect” the UK was seeking from participation in the campaign;
- demonstrating “US/UK solidarity (delivering the Special Relationship)”;
- adding “value through sharing the planning burden, and acting as a moderating influence” on the US; and
- demonstrating that the UK was “an active, determined and capable nation by making an operationally significant contribution, in a discrete role that satisfies a clear military objective”.

581. The potential UK strategic objectives identified by the SPG were to:

- Stand alongside the US as a junior partner, sharing both the strategic and operational risks and burdens, to:
 - preserve the Atlantic Alliance; and
 - encourage the US to continue to exercise its power via established international bodies and norms.

²³⁴ Paper [SPG], 4 September 2002, ‘UK Military Strategic Thinking on Iraq’.

- Remove the threat that any Iraqi regime may pose to the UK, UK interests and regional stability through its failure to comply with international law and agreements. That implied:
 - verifiable destruction of Iraq's WMD capability; and
 - establishing a regime that had the trust of the international community.
- Reintegrate Iraq into the international community.
- Support and where possible enhance regional stability. That implied:
 - preventing the establishment of a Shia dominated Islamic fundamentalist state; and
 - ensuring the impact of military operations was “at the very minimum ... neutral in terms of regional stability”.
- Prevent the Iraqi regime from perpetrating further humanitarian disasters.
- Enhance the security of the UK's long-term economic interests, including oil supplies.

582. The SPG defined the UK's “Military Strategic Objectives” as:

- provide US Commanders “with support necessary for the execution of [the] approved campaign plan, focusing first on delivery of critical capabilities”;
- assist the US to create conditions to deny Iraq's ability to use its WMD;
- create conditions for a changed Iraqi regime;
- create conditions to strengthen regional security and stability; and
- assist US forces in securing Iraq's oil infrastructure and production facilities.

583. Other key points in the paper included:

- No clear picture had “yet emerged” on how the US planned to “effect ... regime change (other than ... military defeat and subsequent elimination of Saddam Hussein”.
- Iraq was experienced with chemical weapons and had experimented with biological weapons. There was “every reason” to believe they would be used if regime survival was threatened.
- US and UK policies on a “deterrent response to Iraqi first use of WMD” needed to be reviewed.
- There was a need to determine what would constitute “success for an inspection regime”.
- Package 3 was defined as including “UK Force Elements with a discrete role in the North, within an integrated US-led campaign”.
- The risk analysis was based on the provision of a division (minus).
- An illustrative force package included a Royal Marine Commando Group which would be available after October as part of the maritime element, an armoured

division including two square armoured brigades, and a light “Air Assault capable” brigade.

584. The SPG advised that, in the absence of clear post-conflict plans, the potential scale of the UK military engagement remained unknown. In the worst case, the UK needed to be prepared for “a substantial long-term commitment”.

585. The SPG’s conclusions on post-conflict issues are addressed in Section 6.4.

586. The SPG concluded that the “key **military** question” which had to be addressed was: “Is there a winning military concept and plan?”

587. The paper set out lists of the conditions that would need to be met for the UK to answer yes, and the reasons why the UK should not offer to participate in the CENTCOM plan.

588. The Chiefs of Staff met on 4 and 6 September, but no discussion of the military options for Iraq is recorded in the minutes.²³⁵

MOD ADVICE, 6 SEPTEMBER 2002

589. Sir David Manning asked the MOD for advice in preparation for Mr Blair’s meeting with President Bush at Camp David on 7 to 8 September.²³⁶

590. An initial draft of the advice, submitted by Dr Cholerton, described the meeting at Camp David as “to discuss Iraq”, the possibility of an ultimatum to Iraq on the return of weapons inspectors, and Mr Blair’s candid reference the previous day to regime change and the planned publication of a dossier (see Section 3.4).²³⁷

591. Dr Cholerton advised that further work in PJHQ and Land Command suggested it might be possible to generate “up to ‘division scale’ forces ... 4 months after an overt political decision” as well as HQ ARRC; and that the Chiefs of Staff would look at whether the US military plan would deliver the UK’s desired end state.

592. Dr Cholerton advised that Mr Blair “should be cautious in discussing UK’s ability to contribute to military capability” with President Bush.

593. Mr Hoon requested further advice on the costs of the packages and the number of personnel involved.²³⁸

²³⁵ Minutes, 4 September 2002, Chiefs of Staff meeting; Minutes, 6 September 2002, Chiefs of Staff meeting.

²³⁶ Minute Williams to DG Op Pol, 4 September 2002, ‘Iraq – Update for the Prime Minister’.

²³⁷ Minute Cholerton to PS/Secretary of State [MOD], 4 September 2002, ‘Iraq’.

²³⁸ Minute Cholerton to PS/Secretary of State [MOD], 5 September 2002, ‘Iraq’.

594. On 5 September, Mr Hoon discussed the draft letter to No.10 with Adm Boyce, Sir Kevin Tebbit, Lt Gen Pigott, Maj Gen Fry and Mr Ian Lee, who had replaced Mr Bowen as MOD Director General Operational Policy.²³⁹

595. The note of the meeting recorded that they concluded there was now slightly more clarity on the window for military action (then considered to be between December 2002 and May 2003), and the possibility of a simultaneous entry into Iraq from the north and south. The Chiefs of Staff were not yet in a position to determine if the US had a winning concept, and were focused on the ability to mount an operation from the north.

596. Mr Hoon pointed to the complication resulting from the shift in the diplomatic context, which raised the question of the “necessity or otherwise to move assets” while the UN process was under way “and before Parliament returned in mid-October”. That “was especially acute for Package 3”. A requirement to support Op FRESCO “effectively precluded our offering a fully capable fighting division”. That meant that the UK should assume that the US would deploy its 4th Infantry Division to the North. It would be difficult to integrate UK forces with that Division; the Chiefs of Staff would “consider whether we could offer some land force components of a larger coalition” force in the North. Even Package 2 would require early decisions on UORs, including desertisation of equipment.

597. In Mr Hoon’s view, the draft advice for No.10 underplayed “the scale of the contribution provided by Package 2 and the degree of influence which it would give us on US military planning”.

598. Mr Blair discussed the UK’s military contribution with Mr Hoon on 5 September.²⁴⁰ Mr Straw was also present.

599. Mr Watkins recorded that Mr Blair, Mr Hoon and Mr Straw had discussed the packages, and that Mr Hoon had highlighted the benefits of Package 2. “No decisions were taken” and Mr Blair “did not expect President Bush to commit himself imminently to a military campaign”.

600. Mr Watkins also recorded that Mr Hoon had met Mr Brown to discuss the options and alert him to the likely costs of Package 2.

601. There was no No.10 record of the meeting.

602. Mr Lee provided a revised letter to No.10, advising caution because the advice had been “assembled in a short space of time from a necessarily limited group”.²⁴¹

603. Mr Watkins responded that Mr Hoon had asked for the letter to be recast to explain more fully why the UK was not able to offer a fully capable division; and that the

²³⁹ Minute Watkins to DG Op Pol, 5 September 2002, ‘Iraq’.

²⁴⁰ Minute Watkins to DG Op Pol, 5 September 2002, ‘Iraq’.

²⁴¹ Minute Lee to APS/Secretary of State [MOD], 5 September 2002, ‘Iraq: Update for the Prime Minister’.

possibility of a land “Task Force” should be more heavily caveated as Mr Hoon remained “of the view that we should not offer now more than we are certain we can deliver”.²⁴² Mr Hoon also asked for a reference to be included to the fact that a land task force would “lend itself to involving other countries should they so wish”. He would consider the text again the following day.

604. On 6 September, Mr Watkins wrote to Sir David Manning, providing an update on US military planning and “the factors informing decisions on any UK military contribution”.²⁴³ He cautioned that the MOD’s assessment was “necessarily provisional”, partly because the US plan was still evolving, and partly because there had not yet been “detailed joint planning with the US”.

605. The MOD had identified three options ranging from minimum to maximum effort. That included a further revision of the impact of Op FRESCO, which meant that:

“Were we to throw in everything we are likely to have, the UK could potentially generate up to a divisional headquarters, an armoured brigade, 16 Air Assault Brigade and a logistic brigade”.

606. The MOD was also “examining whether a Royal Marine Commando Group could form part of Package 2 [the air and maritime forces packages]”.

607. A land task force would “offer significant capability to a US-led northern force, although it would not be fully suitable for involvement in decisive war-fighting operations”. It would also require switching units assigned to Op FRESCO training, and visible activity such as the call-out of “hundreds of key Reservist personnel”. A decision to commit all those elements (some 40,000 personnel, of whom 10,000 could be Reservists) would have “wide-ranging downstream consequences”.

608. The MOD cautioned “against betting the whole store in this way on one operation”, and urged continued caution in discussing “the scale of UK’s ability to contribute military capability”.

609. Mr Watkins stated that, “even were [Op] FRESCO to end soon, we could not provide a self-standing division within US timescales” of having an offensive capability in place in the Gulf by December/January. He continued:

“There would simply not be enough time to carry out the preparations we would need to make. We would not have enough time to engage industry in order to improve sustainability (ammunition, etc) and implement UORs to optimise forces for the theatre and interoperability with the US.”

²⁴² Minute Watkins to DG Op Pol, 5 September 2002, ‘Iraq – Update for the Prime Minister’.

²⁴³ Letter Watkins to Manning, 6 September 2002, ‘Iraq: Military Planning’.

610. The MOD reported that US planners increasingly considered operations from Turkey were “integral to the success of the campaign plan” (earlier drafts said “key”), although the US Joint Chiefs of Staff had yet to be briefed on this plan.

611. The MOD also drew attention to the “sketchy” post-conflict plans and the importance of keeping in mind the US timetable when identifying the potential contribution the UK might offer and the influence it was hoped to bring.

612. The MOD advice concluded that, should “US military preparations continue at their current pace, we will face some early tough decisions within two weeks of your return from Camp David”.

613. Copies of the letter were sent to the Private Offices of Mr Straw and Sir Andrew Turnbull, who became Cabinet Secretary in September 2002, and to Mr Desmond Bowen, who succeeded Mr McKane as Deputy Head of OD Sec.

614. On 5 September, Lt Gen Pigott’s staff also provided Adm Boyce with a list of key questions he might pose to Gen Myers and the Supreme Allied Commander Europe (SACEUR, a NATO post held by a US commander, who also commands EUCOM), to inform the UK’s thinking and assess the merits of US plans.²⁴⁴

615. The questions included:

- the robustness of the plan to withstand a CBRN attack and the lines of communications to withstand asymmetric attack;
- whether the northern axis was fundamental to the US plan;
- if the US required a UK ground forces presence, would it be prepared to wait;
- US views on the length of post-conflict engagement;
- regional reactions; and
- the best and worst post-conflict outcome they envisaged.

616. The MOD has been unable to find a record of Adm Boyce’s discussions.²⁴⁵

617. On 5 September, Maj Gen Wilson told Maj Gen Fry that Gen Franks was “comfortable” with having US troops under UK command; and that he saw “more political attraction in UK, rather than the US leading ‘in the North’”.²⁴⁶

618. Lt Gen Pigott accompanied Mr Blair on his visit to Camp David.²⁴⁷

²⁴⁴ Email DOMAAD(ME) to CDS/PSO, 5 September 2002, ‘CDS Questions on Iraq for SACEUR/CJCS’.

²⁴⁵ Letter MOD Iraq Inquiry Unit to Iraq Inquiry Secretariat, 23 May 2012.

²⁴⁶ Minute Wilson to DCJO (Ops), 5 September 2002, ‘Iraq Contingency Planning’.

²⁴⁷ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

Attack in Iraq, 5 September 2002

In response to hostile acts against Coalition aircraft monitoring the southern No-Fly Zone, US aircraft, with UK aircraft in support, attacked an Iraqi air defence facility in western Iraq on 5 September, prompting press speculation that it was a prelude to Special Forces attacks and more general military action.²⁴⁸

The outcome of the meeting at Camp David

619. Mr Blair cautioned President Bush about his assumption that the UK would be ready to lead a strike into northern Iraq. But he told President Bush that the UK would take a significant military role if it came to war with Iraq.

620. Mr Blair told Mr Hoon that he had been alarmed by the US expectations that the UK would lead the northern axis and there should be no visible preparations for a month or so. But Mr Hoon was not sent a copy of Sir David Manning's record of the discussions at Camp David.

621. Mr Blair met President Bush and Vice President Cheney at Camp David on 7 September.²⁴⁹

622. Before his meeting with Mr Blair, President Bush held a meeting of his National Security Council at Camp David which was given a briefing by Gen Franks, who introduced his concept of a campaign comprising five simultaneous "operational fronts" in Iraq.²⁵⁰

623. The meeting between Mr Blair and President Bush, the press conference which preceded it, and President Bush's decision to take the issue of Iraq to the UN, are addressed in Section 3.4.

624. In relation to the discussion at Camp David on military action, Mr Blair said that he was in no doubt about the need to deal with Saddam Hussein; and that the likelihood was that this would mean military action at some point:

"If it came to force, we could hope that we would secure the relatively quick overthrow of Saddam. But even if we did, we would, still be faced with the big issue of what followed his departure."²⁵¹

²⁴⁸ *Daily Telegraph*, 6 September 2002, *100 jets join attack on Iraq*.

²⁴⁹ Minute Manning to Prime Minister, 8 September 2002, 'Your Visit to Camp David on 7 September: Conversation with President Bush'.

²⁵⁰ Franks T & McConnell M. *American Soldier*. HarperCollins, 2004.

²⁵¹ Minute Manning to Prime Minister, 8 September 2002, 'Your Visit to Camp David on 7 September: Conversation with President Bush'.

625. President Bush and Mr Blair discussed the prospects for a military campaign, including the possibility of leaving Saddam Hussein “bottled up” in Baghdad.

626. Sir David Manning recorded that Mr Blair expressed caution about the US assumption that the UK would be ready to lead a strike from Turkey into northern Iraq and provide two thirds of the force. But Mr Blair had emphasised that the UK would indeed take “a significant military role” if it came to war with Iraq.

627. Mr Hoon was not sent Sir David Manning’s record of Mr Blair’s discussion with President Bush.²⁵²

628. Mr Blair telephoned Mr Hoon on the evening of 8 September, to give him a read-out of his discussions with President Bush and Vice President Cheney, and the US position on the UN route, in advance of Mr Hoon’s visit to the US.²⁵³

629. Mr Rycroft recorded that Mr Blair said:

“... he had been alarmed that [President] Bush had understood that the UK would be ‘leading the invasion’ from the North of Iraq. This required very careful handling. Having received the military advice, the Prime Minister’s view was that we could not offer Package 3 in the timescale required and given the constraints of Operation Fresco. But we might be able to offer Package 2, plus some further elements. There should be no visible preparations for a month or so.”

630. A minute from Mr Hoon’s office to Sir David Manning on 12 September reported that, following the discussion, Mr Hoon had taken “a small number of decisions”, related to participation in US planning and exercises “necessary to keep these options open”.²⁵⁴ They included:

- a reconnaissance visit to Turkey;
- preparations for participation in Exercise Internal Look, a US exercise to develop command arrangements for any future military operation against Iraq, including a visit to Qatar, pending a final decision on participation; and
- participation in a CENTCOM planning conference starting on 23 September, at which it would be necessary to define, without commitment, the detail of any military involvement.

631. Sir David Manning commented to Mr Powell and Mr Rycroft: “Looks OK”.²⁵⁵

²⁵² Minute Manning to Prime Minister, 8 September 2002, ‘Your Visit to Camp David on 7 September: Conversation with President Bush’.

²⁵³ Minute Rycroft to Manning, 9 September 2002, ‘Iraq: Military Contribution’.

²⁵⁴ Letter Williams to Manning, 12 September 2002, ‘Iraq: Contingency Actions’.

²⁵⁵ Manuscript comment Manning on Letter Williams to Manning, 12 September 2002, ‘Iraq: Contingency Actions’.

632. There is no evidence which explains how President Bush was advised that the UK would play a leading role in the North in the event of an invasion. The most likely routes would have been the briefings from Gen Franks on 5 August or the briefing of the National Security Council before Mr Blair's arrival at Camp David on 7 September.

633. The Inquiry can only conclude that the US understanding was based on military discussions over the summer; and that it would have reinforced the messages that had been reported in the late spring of 2002.

JIC Assessment, 9 September 2002

634. The JIC issued an Assessment of Iraq's possession of chemical and biological weapons and possible scenarios for their use on 9 September.

635. Following Mr Blair's meeting on 23 July, Sir David Manning asked Mr Scarlett for further advice on Saddam Hussein's military capabilities and intentions, in particular in relation to the possible use of chemical and biological agents.²⁵⁶

636. The JIC Assessment was issued on 9 September.²⁵⁷ The Key Judgements stated:

- “• Iraq has a chemical and biological weapons capability and Saddam is prepared to use it.
- Faced with the likelihood of military defeat and being removed from power, Saddam is unlikely to be deterred from using chemical and biological weapons by any diplomatic or military means.
- The use of chemical and biological weapons prior to any military attack would boost support for US-led action and is unlikely.
- Saddam is prepared to order missile strikes against Israel, with chemical or biological warheads, in order to widen the war once hostilities begin.
- Saddam could order the use of CBW weapons in order to deny space and territory to Coalition forces, or to cause casualties, slow any advance, and sap US morale.
- If not previously employed, Saddam will order the indiscriminate use of whatever CBW weapons remain available late in a ground campaign or as a final act of vengeance. But such an order would depend on the availability of delivery means and the willingness of commanders to obey.”

637. The Assessment and the basis for its judgements are addressed in Section 4.2.

²⁵⁶ Minute Manning to Blair, 24 July 2002, 'Iraq'.

²⁵⁷ JIC Assessment, 9 September 2002, 'Iraqi Use of Chemical and Biological Weapons – Possible Scenarios'.

Decisions to offer ground forces to the US for planning purposes

MOD planning for a UK land contribution, September 2002

638. Reflecting the discussion with Mr Blair on 8 September, Mr Hoon told Secretary Rumsfeld on 11 September that the UK would not want to offer more than it could deliver and was therefore expecting to offer maritime and air assets for any military campaign.

639. MOD planning for a land contribution and discussions with the US continued.

640. Lt Gen Reith continued to report a military perception that the US wanted a UK-led force in the North.

641. In preparation for Mr Hoon's meeting with Secretary Rumsfeld on 11 September, Dr Cholerton provided a list of questions seeking clarification on a number of issues.²⁵⁸ He identified Turkey's attitude and the US perspective on the northern option as "the key points" on which "more clarity" was needed from the US.

642. In a meeting with Mr Hoon on 11 September, Secretary Rumsfeld raised the firefighters' strike.²⁵⁹ Mr Hoon explained that, partly for this reason but also because "movement of UK ground force assets could become visible prematurely in relation to the diplomatic/UN process", the UK would not want to offer more than it could deliver and was therefore expecting to offer maritime and air assets for any military campaign.

643. On 12 September, Lt Gen Reith submitted further advice to Lt Gen Pigott on "the UK component options available to contribute to US action in decisive operations against Iraq".²⁶⁰

644. Lt Gen Reith provided a detailed analysis of the individual components which could contribute to the operation and the assumptions surrounding them. He understood that the Chiefs of Staff were now content with the UK Special Forces, air and maritime contributions. He focused on the land component, where a decision was "now required". A number of factors were considered, of which "US requirements" were judged to be the "most important".

645. Lt Gen Reith identified a spectrum of options from the deployment of a Royal Marine Commando Group with the Amphibious Response Group for operations in the

²⁵⁸ Minute Cholerton to APS/SofS [MOD], 9 September 2002, 'Iraq – Defence Secretary's Meeting with Rumsfeld'.

²⁵⁹ Letter Williams to Manning, 13 September 2002, 'Iraq: Meeting with Donald Rumsfeld: 11 September 2002'.

²⁶⁰ Minute Reith to DCDS(C), 12 September 2002, 'Potential UK Contribution to US Operations Against Iraq'.

Gulf to a divisional headquarters with a square armoured brigade and 16 Air Assault Brigade for operations in northern Iraq. The emphasis was on options to be used in the North, although Lt Gen Reith stated:

“... a contribution could still be offered (albeit under significant constraints) for use ... in the South, if movement through Tu[rkey] became politically unacceptable.”

646. Lt Gen Reith recommended an option to deploy a UK divisional HQ and an armoured brigade comprising three battalions or regiments (a “triangular” brigade) alongside a US brigade:

“This option best balances the key requirements of providing a worthwhile military contribution, with appropriate political profile, although above the target figure of 20,000.”

647. Adm Boyce asked in a manuscript comment:

“How is this conclusion reached? There is no analysis of the pluses and minuses of the options and the extent to which they meet essential criteria.”²⁶¹

648. Lt Gen Reith also wrote: “It is perceived that CENTCOM would prefer the land operation in the North to be commanded at the tactical level by the UK.”²⁶²

649. Adm Boyce questioned in a manuscript comment: “Has he asked for this or is it an assumption?”²⁶³

650. Lt Gen Reith submitted revised advice on 13 September, which recommended the deployment of a square brigade comprising two armoured regiments and two armoured infantry battalions.²⁶⁴ He also stated that Gen Frank’s “strong preference” was for the UK “to provide the tactical lead for the North”.

651. There was no explanation in the paper for the revised recommendation.

652. Knowledge of the consideration of military options continued to be kept to a very tight group of people and the sensitivities about potential leaks remained.

653. Mr Drummond alerted Sir David Manning on 16 September to a prospective request from the MOD on military options. He had advised that the “PM would want first sight”; and that No.10 would advise on circulation.²⁶⁵

²⁶¹ Manuscript comment Boyce on Minute Reith to DCDS(C), 12 September 2002, ‘Potential UK Contribution to US Operations Against Iraq’.

²⁶² Minute Reith to DCDS(C), 12 September 2002, ‘Potential UK Contribution to US Operations Against Iraq’.

²⁶³ Manuscript comment Boyce on Minute Reith to DCDS(C), 12 September 2002, ‘Potential UK Contribution to US Operations Against Iraq’.

²⁶⁴ Minute Reith to DCDS(C), 13 September 2002, ‘Potential UK Contribution to US Operations Against Iraq’.

²⁶⁵ Minute Drummond to Manning, 16 September 2002, ‘Iraq: Pigott Meeting’.

654. In response to the minute which Mr Drummond had classified “Confidential”, Sir David Manning commented: “Please ensure all minuting is Secret and Personal – and keep circulation to [the] barest minimum.”²⁶⁶

655. Although significant concerns were identified about the viability of an operation through Turkey, the northern option remained the preference of the Chiefs of Staff.

656. Military planners also advised that deployment of anything above a small scale land force would commit the UK to three medium scale operations.

657. In the event of the deployment of UK land forces, there was a judgement to be made on whether the UK military should be engaged in the conflict or post-conflict phase. Both would be difficult to sustain.

658. Adm Boyce noted that it was “inconceivable” that the UK military would not contribute “in some manner” to post-conflict tasks.

659. A commentary on the military options, seeking judgements and decisions from the Chiefs of Staff to inform Ministerial decisions, was prepared by the SPG on 19 September.²⁶⁷

660. The SPG reported that US military planners and the Joint Staff in Washington had made it clear that the UN process would “not derail their current planning timelines” although it was clear that “political developments may yet overtake the military’s contingency work”.

661. The SPG identified continuing uncertainties in the potential shape and timing of a campaign and the Chiefs of Staff view was that it was not “yet” a winning concept:

- The northern option was not yet “firmly established as a viable axis” because of uncertainties about Turkey and the logistic feasibility of the operation. The Chiefs of Staff would “wish to assess whether there is yet sufficient operational emphasis being placed upon it for the UK to commit forces”.
- The [US] timelines determining UK “deadlines” were based on offering President Bush “the earliest opportunity for action, as opposed to ‘the last safe moment’ for a decision”.
- There was no clear articulation of post-conflict scenarios and their demands.
- The UN track might “delay rather than advance decisions on the legality of any potential action”.

²⁶⁶ Manuscript comment Manning on Minute Drummond to Manning, 16 September 2002, ‘Iraq: Pigott Meeting’.

²⁶⁷ Paper SPG, 19 September 2002, ‘Iraq Package Options – Military Strategy Commentary’.

662. A Royal Marine Commando Group deployed with the Amphibious Response Group offered “a high readiness, flexible **small scale land contribution**” which presented “an opportunity for ‘boots on the ground’ if the UK decision [was] not to commit beyond Package 2”.

663. The SPG identified the land element of Package 3 as on “the critical path for both UK and US planning”. It was clear from contacts with the US that there was:

“... an expectation of UK ground force commitment, and although there is a genuine willingness to facilitate our being there, this is not without limit.”

664. The section headed “Conflict vs Post-conflict” asked whether, if UK forces were to participate in the military campaign, “our effort should be against the need to meet US short-term planning for combat, or the equally demanding and pressing need for preparations for the post-conflict phase”. It continued:

“Conflict phase. Commitment to this phase may carry with it inherent risks with regard to post-conflict engagement with little choice on role, timing, location, or future extraction. An alternative approach that offers a UK lead, or UK participation in the post-conflict phase may be equally attractive to the US as our commitment to a land role in the conflict phase.

“Post-Conflict. Given the wide range of possible post-conflict scenarios these forces would have to be combat capable forces at high readiness, and in all probability with key elements forward deployed during the conflict phase. The length and scale of our post-conflict commitment will determine our ability to fulfil a range of other operations, and most notable our Balkan commitment. An enduring medium scale commitment in Iraq would preclude continued medium scale engagement in the Balkans.

“Strategic Balance. We are currently committed to two medium scale land operations (FRESCO and the Balkans), and a land commitment to Iraq at anything above small scale will commit us to **three medium scale** land operations. Although with a full Package 3 commitment to the conflict phase we retain the SLE [Spearhead Land Element], our ability to deploy and sustain even a small scale force package has yet to be determined, and anything above this Scale of Effort will be impossible ... Recovery and recuperation will also be key to our judgements as to which phase to commit to. Hard and fast judgements are not possible, however, commitment of Package 3 will have an effect for at least two years.”

665. The SPG concluded:

“Assuming that UK land participation is a requirement, there is a judgement to be made on whether we should be engaged in the conflict or post-conflict phases. Both would be difficult to sustain.”

666. The SPG recorded that the Chiefs of Staff had:

“... already voiced clear reservations over the integration of substantial UK land forces in the southern theatre. Therefore, if we are to be engaged in combat operations the US and UK military preference is that we should be in northern Iraq.”

667. The SPG identified a number of concerns, including:

- The “evident” complexities of the command relationship between CENTCOM and EUCOM, “against the need to deliver a compliant Turkey”.
- The inability to conduct a detailed reconnaissance created a “significant risk”.
- Northern Iraq was “a difficult area politically”. Turkey still remembered the UK’s role in creating an Iraq which included Mosul “and its associated oilfields”. The Kurds remembered the UK’s assistance in Op HAVEN [in 1991], but were “equally quick to remember that it was the RAF that effectively suppressed a number of Kurdish revolts”. There was a “real danger that post conflict the UK, simply through our force location, would retain the ‘lead’ in the North, thereby splitting our lines of communication [with other forces in the Gulf] ... and placing us in an intractable position for some time”.

668. The SPG confirmed that there was “broad agreement between MOD and PJHQ staffs” on the option recommended by PJHQ.

669. Also on 19 September, the Chiefs of Staff discussed a draft submission to Mr Hoon circulated by Lt Gen Pigott.²⁶⁸

670. The minutes of the COS discussion recorded that “a simultaneous advance of forces in the southern and northern axes [would be] key to overwhelming the Iraqi decision making process”; and that Gen Franks “strongly favoured a UK-led force in the North” as an alternative to deploying a US infantry division.

671. A “Package 4” was being developed “to address the inevitable post-conflict tasks”. Adm Boyce commented that it was “inconceivable that the UK would not contribute in some manner, to those tasks”.

672. Lt Gen Reith strongly recommended offering a limited version of Option 3: a land option of a divisional headquarters and a square armoured brigade (with four battalions or regiments) operating alongside a US formation.

673. Gen Walker expressed some misgivings. Although the force package was about right, he “did not believe the plan as currently envisaged, to be a viable concept”. He was concerned about the semi-autonomous nature of the UK forces and integration with the US as envisaged, the lack of an operational reserve, assumptions on Iraq combat capability, and the reliance on air power.

²⁶⁸ Minutes, 19 September 2002, Chiefs of Staff meeting.

674. Lt Gen Reith stated that it would be “easier, militarily, to ratchet down than ratchet up any forces offered”, but the “COS acknowledged that it might be unattractive politically,²⁶⁹ to deliver less than that which had initially been offered”.

675. The Chiefs of Staff agreed that the package recommended by Lt Gen Reith was a viable option, subject to resolving the constraints which had been identified; and that an armoured brigade represented the smallest force that could act autonomously.

676. Lt Gen Reith told the Inquiry:

“I got a briefing on the northern option from my own staff on the 18 September, having done operational analysis on it, and it was clear that we couldn’t do it on our own, even with a full division.”²⁷⁰

677. When Mr Hoon discussed the options with his most senior advisers later that day, Adm Boyce told him that there was “clearer [US] understanding of the importance of operations in northern Iraq to ‘fix’ Iraqi forces”.²⁷¹ Gen Franks had indicated that it would be “helpful if the UK could provide in the North an armoured brigade and a 2-star tactical lead” which would command US forces.

678. Adm Boyce added that the Chiefs of Staff had continuing doubts about whether the US had a winning concept.

679. When Package 3 was discussed, Mr Hoon requested clarification of the length of time necessary to deploy a land contribution.

680. Adm Boyce said that early decisions would be needed on UORs, reserves and units which were allocated to Op FRESCO. Package 3 would also require a “£1bn premium”, which “could exhaust the Reserve”.

681. Mr Hoon agreed that, subject to No.10’s agreement, Lt Gen Reith would be able to indicate to CENTCOM, for planning purposes and with the caveat that no final political decision had been taken, that two separate UK contributions could potentially be available:

- Package 2, which offered a “significant and useful contribution to any US led action”; and
- Package 3 as a possible add-on, with guidance that the US should also plan without it.

682. Mr Hoon also asked for a detailed breakdown of the estimated costs of UORs for a meeting with Mr Brown on 23 September.

²⁶⁹ The Inquiry considers this to be a reference to the potential impact on US/UK relations, not a comment on the views of politicians.

²⁷⁰ Private hearing, 15 January 2010, page 23

²⁷¹ Minute Watkins to PSO/CDS, 19 September 2002, ‘Iraq: Potential UK Contribution to any US-led Action’.

683. On 20 September, the MOD sought Mr Blair’s agreement to offer Package 3 as a “possible add-on” to CENTCOM “for planning purposes”.

684. On 20 September, Mr Watkins wrote to Sir David Manning, advising that two issues needed quickly to be addressed:

- what potential UK force contribution should be presented to a US planning conference the following week; and
- whether to replace army units already allocated to Op FRESCO so that they would be available if a land force contribution was approved.²⁷²

685. The MOD proposed that the air and maritime package with Special Forces (Package 2), should be presented as a potential UK contribution at the CENTCOM planning conference; and that further work was under way on whether the UK might also offer a Commando Group of around 1,700 Royal Marines for early operations in southern Iraq. It would need to be established whether that could be sustained in parallel with ground operations in the North.

686. The MOD had also considered the provision of a divisional headquarters together with an armoured brigade to operate with the US (Package 3). That would be “more complicated”, but the Chiefs of Staff regarded that as the “minimum sensible” ground contribution to operations in the North. It would entail a commitment of around 28,000 service personnel in addition to the 13,000 in Package 2, and the call-out of around 6,000 Reservists – a decision that would need to be taken and announced in mid-October.

687. Mr Watkins told Sir David that Mr Hoon felt it would be “premature” to offer a ground contribution on the same basis as Package 2:

“... we should indicate to CENTCOM that we are still considering this option and that they should model two plans in parallel, one including the UK land force contribution and one without it.”

688. Mr Watkins also wrote that a “publicly visible measure” to remove units from Op FRESCO would be needed to keep the option of a ground force open. Mr Hoon recommended that Mr Blair’s statement to the House of Commons, which had been recalled to debate Iraq on 24 September (see Section 3.5), would provide the opportunity to make clear “as part of the Government’s policy that the will of [the] United Nations must ultimately be backed up by the threat of force”, and that the Ministry of Defence would be taking some prudent contingency measures to avoid foreclosing military options.

689. Some public acknowledgement that MOD was involved in contingency work would also allow “discreet discussions” to begin with industry. That was “increasingly

²⁷² Letter Watkins to Manning, 20 September 2002, ‘Iraq: Potential UK Contribution to Any Military Action’.

urgent” and if it was not acknowledged publicly, there was “a clear risk of the information leaking, leading to accusations that we have been less than open with Parliament”.

690. The letter made no reference to a possible UK contribution to post-conflict military operations.

691. Copies of Mr Watkins’ letter were sent to the Private Offices of Mr Straw, Mr Brown and Sir Andrew Turnbull, and to Mr Bowen.

692. Mr Blair and Sir David Manning had reservations about the viability and costs of the MOD proposal.

693. Sir David Manning advised Mr Blair:

“The possibility that the military could make a land contribution in the North is a surprise. Until recently we were being told that covering the firemen’s strike (Operation FRESCO) would make this impossible. Now, suddenly it isn’t. The (militarily mouth-watering) prospect of being given tactical leadership of the campaign in the North ... may have something to do with this volte face.”²⁷³

694. Sir David advised Mr Blair to “register extreme caution” and to address a number of questions; in particular:

- How this was suddenly possible?
- What confidence there was that the Turkish angle would be sorted out?
- Whether the UK could sustain the numbers and, if so, for how long?

695. Sir David advised that Mr Blair should:

- give the MOD the “go ahead” provided the conditions they had identified were met, including that CENTCOM should “produce a parallel plan without a UK contribution” which “may well not be forthcoming”; and
- agree to the replacement of key units allocated to OP FRESCO.

696. Mr Blair wrote:

“As discussed. Be careful of this Land idea ...”²⁷⁴

697. In a meeting with Mr Hoon on 23 September, Mr Blair agreed limited contingency preparations for a land option, but asked for publicity to be minimised.

698. Following the discussion, the MOD informed the US that the UK was still considering a land option.

²⁷³ Minute Manning to Prime Minister, 22 September 2002, ‘Iraq: Possible UK Military Contribution’.

²⁷⁴ Manuscript comment Blair on Minute Manning to Prime Minister, 22 September 2002, ‘Iraq: Possible UK Military Contribution’.

699. That was not the No.10 understanding of what had been agreed.

700. In the context of the many issues which were being addressed on 23 September 2002,²⁷⁵ the Inquiry has seen no evidence to indicate that the difference of view about what Mr Blair and Mr Hoon had agreed was anything other than a genuine misunderstanding.

701. Mr Blair discussed the issues with Mr Hoon on 23 September.²⁷⁶

702. Following that meeting, Mr Watkins informed officials in the MOD that:

“The Prime Minister is content for us to proceed broadly as set out in my letter of 20 September. The Prime Minister remains very cautious about the viability of Package 3, not least because of its implications for our ability to meet other contingencies and the significant cost premium entailed. In the light of this, Mr Hoon believes that it is all the more necessary heavily to caveat this possibility in contacts with the US. We should emphasise that it is at the limits of what we could offer and that – because of other potential demands on our Armed Forces including FRESCO – we cannot be sure that we could deliver it. The US must therefore examine carefully how they would plan the campaign in the absence of such a contribution.”

703. The packages that might be offered to the US were to be conveyed in terms cleared with Mr Hoon’s Private Office.

704. Mr Blair had also confirmed that he was content to reallocate units from Op FRESCO and agreed that his statement on 24 September would contain a reference to the need for preparedness.

705. Mr Watkins made no reference to any discussion of post-conflict issues.

706. Sir David Manning’s record of the meeting on 23 September, issued on 25 September, stated that Mr Blair had agreed that “we should present Package 2 as a potential contribution at the CENTCOM Planning Conference” and: “We should not be shy about presenting this as a significant and valuable offer.”²⁷⁷

707. Sir David also recorded that Mr Blair had agreed that units for Op FRESCO should be replaced to maintain the possibility of a land force contribution, with minimum publicity. Mr Blair did not, however, want “any suggestion” that the UK might offer “a major land contribution to a Force in northern Iraq. We should not surface this possibility at the [US] Planning conference.”

²⁷⁵ Preparations for publication of the WMD dossier and Statement/debates in Parliament on 24 September 2002.

²⁷⁶ Minute Watkins to DG Op Pol, 23 September 2002, ‘Iraq: Meeting with the Prime Minister: 23 September’.

²⁷⁷ Letter Manning to Watkins, 25 September 2002, ‘Iraq: Potential UK Contribution to Any Military Action’.

708. By the time Sir David Manning had produced his record of the discussion between Mr Blair and Mr Hoon, the MOD had already acted.

709. Mr Hoon's Office replied to No.10 immediately stating:

“Separately and heavily caveated, we have indicated to CENTCOM that we are still considering a Land option ... we agreed that the UK involvement ... should continue on this basis. Defence staffs will continue actively to ensure that US expectations remain realistic.”²⁷⁸

710. Sir David Manning commented to Mr Powell: “Just about OK” and referred to being “bounced” by the MOD.²⁷⁹

CABINET, 23 SEPTEMBER 2002

711. Neither the content nor the terms of the UK's offer to the US were considered by Ministers collectively.

712. On 23 September, Cabinet was told that there would be a future discussion of military options.

713. On 23 September, Cabinet was informed that the question of military action would arise “only if inspections were thwarted again”.²⁸⁰

714. Cabinet was not given any information about the options under consideration. Mr Blair concluded: “If military action was required, the job could be done. There would be a discussion about the military options.”

715. Ms Clare Short, the International Development Secretary from 1997 to 2003, told the Inquiry that Mr Blair had told her in September 2002 that he hadn't had a presentation on the military options; in her view that was “one of the many misleading things he said”.²⁸¹

716. As the evidence in this Section shows, Mr Blair had been offered advice on the nature of the options for a UK contribution to US-led military action from April onwards, but in September the MOD's thinking on the role it might be able to play was still evolving. The debate at that stage was about the assumptions the US should make in its planning.

²⁷⁸ Letter Williams to Manning, 25 September 2002, 'Iraq: Potential UK Contribution to Any Military Action'.

²⁷⁹ Manuscript comment Manning to Powell on Letter Williams to Manning, 25 September 2002, 'Iraq: Potential UK Contribution to Any Military Action'.

²⁸⁰ Cabinet Conclusions, 23 September 2002.

²⁸¹ Public hearing, 2 February 2010, page 15.

Parliamentary debates, 24 September 2002

The dossier, *Iraq's Weapons of Mass Destruction. The Assessment of the British Government*, was published on 24 September 2002.²⁸²

Both Houses of Parliament were recalled from recess on 24 September 2002 to debate the case for effective action in respect of the threat posed by Iraq.

Mr Blair's statement to Parliament on the publication of the dossier on 24 September and the subsequent questions and answers lasted for 90 minutes.²⁸³

During his statement, which focused on the history of Iraq's weapons of mass destruction programme, its breach of United Nations resolutions and its attempts to rebuild that illegal programme, Mr Blair stated that "there must be genuine preparedness and planning to take [military] action" if diplomacy failed.²⁸⁴

Mr Blair's statement was followed in the House of Commons by a nine-hour debate.

There was also a debate in the House of Lords.

Mr Blair's statement and the debates in both Houses of Parliament are described in Section 3.5.

The content of the dossier and Mr Blair's statement are addressed in Section 4.2.

CHIEFS OF STAFF MEETING, 25 SEPTEMBER 2002

717. When the Chiefs of Staff discussed Iraq planning on 25 September, Adm Boyce emphasised that:

"... expectation management with respect to UK caveats had to be taut. Package 2 ... was a formidable contribution in its own right and Package 3, given its importance to the US, was not just a 'nice to have'."²⁸⁵

718. The Chiefs of Staff also discussed the post-conflict phase, "Phase IV". It was recognised that this Phase "would not have a clear-cut start" and that we should "guard against any accusation that the "US does the war-fighting while the UK does the peacekeeping". Not being involved in Package 3 at all "would be difficult to manage". The Chiefs commissioned the SPG to "scope the issues within Phase 4" (see Section 6.4).

719. Mr Ehrman reported that Adm Boyce had:

- directed that the Chiefs of Staff should meet every Wednesday to discuss Iraq; and
- said that it should be made clear to the US that they must deliver Turkey.²⁸⁶

²⁸² *Iraq's Weapons of Mass Destruction. The Assessment of the British Government*, 24 September 2002.

²⁸³ House of Commons, *Official Report*, 24 September 2002, columns 1-23.

²⁸⁴ House of Commons, *Official Report*, 24 September 2002, column 6.

²⁸⁵ Minutes, 25 September 2002, Chiefs of Staff meeting.

²⁸⁶ Minute Ehrman to Chaplin, 26 September 2002, 'Iraq: Military Planning'.

720. On 26 September, Lt Gen Pigott wrote to Lt Gen Reith with guidance to “summarise the current baseline on ... options and to flag up the key issues”, on which addressees and their staff could draw on in discussion with US contacts.²⁸⁷

721. Lt Gen Pigott cautioned that aftermath and “Home Base” requirements were still to be addressed and “could impact on the final shape” of the force packages he was describing.

722. Lt Gen Pigott identified that there was:

“... much work to be done if there is to be any prospect of a significant UK Land option from the North within current time windows ... Until we have a much better feel for all the factors ... we should be very cautious of giving US Commanders the impression that we can deliver something which events, most of them outside our control, simply preclude.”

723. Lt Gen Pigott concluded:

“Package 3 must at the moment have considerable caveats, and every effort must be made to dampen expectations that it can be delivered.”

724. Sir Kevin Tebbit told the Inquiry:

“It was indeed decided that we would not expose the full large-scale option to the US at that point because of concerns about the UN process, because ... lack of clarity ... persisted, as to whether the Turks would actually provide the necessary facilities for the northern option which was the one mainly under consideration.”²⁸⁸

725. Lord Boyce initially told the Inquiry:

“I think that Package 2 would have disappeared as being a favoured option in about September, because the large-scale option was obviously more difficult to prepare, so our focus was on that.”²⁸⁹

726. Asked whether he was aware of the size of the UK contribution that was on the table in September 2002, Lord Boyce subsequently told the Inquiry:

“Package 2 was on the table then. No authorisation had been given by the Prime Minister or Defence Secretary to say that we could offer anything more than that. In fact, we were explicitly not saying that we were prepared to make available any land commitment, let alone a division commitment.”²⁹⁰

²⁸⁷ Minute DCDS(C) to CJO, 26 September 2002, ‘Iraq – Potential Scale of UK Force Contribution for Use in UK/US Contingency Planning’.

²⁸⁸ Public hearing, 3 December 2009, page 36.

²⁸⁹ Public hearing, 3 December 2009, page 35.

²⁹⁰ Public hearing, 27 January 2011, pages 22-23.

SPG PAPER, 30 SEPTEMBER 2002

727. The SPG advised on 30 September that:

- **A coercive strategy, “Force on Mind”, was “the key instrument of military power” during a conflict prevention phase.**
- **Overt preparations for the use of military force were strategic elements of that strategy.**
- **The northern option was seen as strategically fundamental by the UK but was not seen as operationally fundamental by CENTCOM.**
- **More clarification was needed of the likely tasks for UK land forces and planning was still constrained by uncertainties about Turkey.**
- **The UN route and the timetable for inspections might not be compatible with the US timetable for the pursuit of regime change, which might pose a potential fault line between the US and UK.**

728. A further version of the SPG paper ‘UK Military Strategic Thinking on Iraq’ was produced on 30 September.²⁹¹

729. The paper stated that Ministerial statements highlighted a twin track approach to achieving the UK’s “End State” for Iraq:

- Achieving a “significant change” in the “behaviour and posture” of the current regime, “with respect to WMD, and other UNSCRs, **to prevent conflict**”.
- If the regime failed “to change its behaviour voluntarily”, then it would “be **compelled to change its posture** through the application of force”. If that resulted in regime change it would be “an unsought, but added benefit”.

730. That was underpinned by a revised section on the principles for the campaign, which stated that the UK was “executing a strategic **Force on Mind** campaign” in which influence was “targeted against decision makers and their will to fight”. During a conflict prevention phase, that was “the key instrument of military power”:

- The crisis had reached the point where “constant coercive pressure” was “needed to keep up forward momentum”.
- “Overt Force Generation and Force Preparation activities” were “strategic elements” in applying pressure.
- A “clear and unified declaration of intent” from “a wide and solid coalition” would deliver the most powerful message to Saddam Hussein.

²⁹¹ Paper [SPG], 30 September 2002, ‘UK Military Strategic Thinking on Iraq’.

731. Other additions to the previous draft included:

- The section on potential UK strategic objectives in the 4 September draft was replaced by draft campaign objectives produced by the Cabinet Office, which are addressed in Section 6.4.
- As well as assisting the US to secure Iraq's oil infrastructure and production facilities, the section on "Potential UK Military Strategic Objectives" identified three additional tasks in the event of conflict:
 - ensuring that Israel's security was not threatened by Iraqi action;
 - ensuring Iraqi sovereignty post-conflict; and
 - minimising damage to Iraqi infrastructure.
- Draft objectives for a northern option, which were being considered by the Pentagon, were set out for the first time.
- The elements of an information campaign.
- A statement that the northern option was "only viable if Turkey can be delivered". There was "a lack of clarity in the US" about whether that was "achievable within current planning timelines". The need for "accurate assessments of likely success in delivering key states for the coalition (especially Turkey)" was one of the "conditions" for a "winning concept". A northern option was seen by the UK as strategically "fundamental" but was not seen as "operationally" fundamental by CENTCOM.
- A much expanded section on post-conflict planning.
- The identification of a possible scenario in which Saddam attempted "to distract coalition forces by a deliberate and sustained attack in the North, using all methods available to him (including CBW)".
- An updated analysis of the US plan and whether it constituted a winning concept, including that a division-size force would be needed for the North; but the tasks still required "**more clarification**". EUCOM planning was "**much further behind**" than CENTCOM planning for the South and was "**still constrained**" by the "**inability to properly engage with Turkey**".
- The UN route and the timetable for UN inspections might "**not be compatible**" with the US end state, which was focused primarily on regime change. That was "**a potential fault line in the UK/US relationship**". The UK might face a "**choice of following the US or the UN route**".

Concerns about Turkey

The JIC Assessment, 'Iraq: Regional Attitudes', issued on 19 April 2002, addressed regional attitudes to military action and how much support or opposition they might offer (see Section 3.3).²⁹² It stated that “**Turkey**, as a NATO ally, would probably provide basing if asked, despite its reservations, [...]”

The FCO recognised that there could be difficulties with Turkey. In an internal minute of 30 July 2002, Mr Ricketts wrote:

“Turkey is a special case. Would have to give active support for military operation, even if only the use of the airfields. Quite possibly a much more direct role. But the timing is exceptionally difficult: no Government until after 3 November. The Cyprus talks quite likely to fail, leading to a major train wreck with the EU at Copenhagen [EU Summit in December 2002]. The Turks are bound to use their strategic importance on Iraq as leverage. The UK cannot deliver what the Turks will want from the EU ... The US ... will have to work the Turkey case hard: it cannot be left to the Brits.”²⁹³

At the request of the MOD, the JIC reconsidered the judgements in its 19 April Assessment on 5 August 2002.²⁹⁴ That is addressed in Section 3.4.

In relation to Turkey, the JIC judged:

“Turkey would be willing to provide basing for a US-led attack on Iraq.”

The Assessment stated:

“The Turkish Government has been reluctant to see an attack on Iraq. [...] The exact extent of this Turkish help would have to be negotiated. Turkey would demand to be kept fully informed of US planning [...]”

The FCO and Mr Peter Westmacott, British Ambassador to Turkey, exchanged views on whether or not the UK should engage in direct talks with Turkey.²⁹⁵

Mr Bowen wrote to Sir David Manning:

“We are not committed to the northern option and our early participation in talks with the Turks may give the wrong impression.”²⁹⁶

Sir David replied that he strongly agreed.²⁹⁷

A separate manuscript comment recorded that Sir David had asked the MOD to consult him about plans for consulting Turkey.²⁹⁸

²⁹² JIC Assessment, 19 April 2002, 'Iraq: Regional Attitudes'.

²⁹³ Minute Ricketts to Chaplin, 30 July 2002, 'Iraq'.

²⁹⁴ JIC Assessment, 5 August 2002, 'Iraq: Regional Attitudes and Impact of Military Action'.

²⁹⁵ Letter Oakden to Westmacott, 30 September 2002, 'Iraq/Turkey'; Letter Westmacott to Oakden, 1 October 2002, 'Iraq/Turkey'.

²⁹⁶ Manuscript comment Bowen to Manning, 1 October 2002, on Letter Westmacott to Oakden, 1 October 2002, 'Iraq/Turkey'.

²⁹⁷ Manuscript comment Manning to Bowen, 1 October 2002, on Letter Westmacott to Oakden, 1 October 2002, 'Iraq/Turkey'.

²⁹⁸ Manuscript comment Bowen on Letter Oakden to Westmacott, 30 September 2002, 'Iraq/Turkey'.

The MOD request to offer ground forces

732. The offer of Package 2 was not enough to address growing MOD concerns that the caveats on Package 3 were leading the US to discount the contribution in its planning, closing off the option for UK ground forces to participate in the combat phase.

733. Concerns were expressed at the Chiefs of Staff meeting on 2 October about the risk of irreparable damage to US/UK relations as a result of continuing uncertainty about a UK land contribution.

734. Adm Boyce was clear that should not be allowed to happen.

735. The UK's involvement post-conflict might be more onerous than war-fighting.

736. Elements of the "Force on Mind" strategy were still being discussed.

737. On 30 September, Lt Gen Reith provided an "illustrative critical decision and event matrix on timings", to provide a critical path for deploying Packages 2 and 3.²⁹⁹ Timings within the matrix were "illustrative only". That included:

- decisions in the week beginning 7 October to begin the UOR process for priority equipments, nomination of a National Contingent Commander (NCC), and a decision on UK participation in Exercise Internal Look;³⁰⁰
- beginning overt preparations, including call-up of Reserves, by the end of October; and
- deploying the Amphibious Ready Group (ARG) and beginning pre-deployment training for the land component by the end of November.

738. Lt Gen Reith advised that the timelines assumed a US Presidential decision, on whether to take military action, on 6 January 2003. He also stated that it was anticipated that UN inspectors would begin work in mid-December, and were required to submit an initial report two months later. That "could offer the US a trigger to begin operations" which "could come forward" if a "strongly worded" resolution was adopted.

739. Lt Gen Reith separately sought endorsement of the command and control (C2) arrangements for potential operations in Iraq and the nomination of the individuals who would potentially fill key posts in time for them to participate in Exercise Internal Look.³⁰¹ That included the identification of the UK NCC, who would be collocated with CENTCOM's Forward HQ in Qatar.

²⁹⁹ Minute Reith to MA/DCDS(C), 30 September 2002, 'Planning for Iraq – Critical Decision and Event Matrix'.

³⁰⁰ Internal Look was a CENTCOM exercise planned for December 2002 which would be a mission rehearsal for possible future military operations against Iraq.

³⁰¹ Minute Reith to DCDS(C), 30 September 2002, 'Warrior Command and Control Architecture and Preparations for Exercise Internal Look'.

740. Lt Gen Reith also advised that, while it was “too early to judge” how Phase IV operations would be structured, it was “likely” that it would be “conducted under US leadership, with territorial sectors allocated to national or multi-national formations, perhaps akin to the Balkans model”. The UK could be asked “to provide formation[s] such as HQ ARRC, a UK Div HQ, or UKAMPHIBFOR [UK Amphibious Force] to oversee national or multi-national 1* formations”.

741. The Chiefs of Staff met on 2 October to discuss Iraq planning.³⁰²

742. Adm Boyce identified 15 October as a critical date for decisions, linked to whether or not to participate in Exercise Internal Look, when the “fudge option” would no longer be available. Some decisions might be delayed until the end of October, but that was an “absolute end stop”.

743. The Chiefs of Staff “required a sitrep” which set out the key issues:

- Turkey’s position and its implications;
- an appraisal of whether the northern option was essential and the UK’s participation;
- an explanation of the UK’s “coercive strategy and the Force on Mind gambit”;
- the “need to maintain the impetus on UNSCRs [UN Security Council resolutions] using optimal, visible measures balanced against the resulting adverse PR”;
- the “unpredictable consequences” that might arise from the “Saddam factor”, including his reaction to the spikes in US military activity and response options;
- Special Forces options; and
- the linkage between CENTCOM’s Exercise Internal Look and UK force planning.

744. The minutes recorded:

“Keeping options open would be difficult if relations with the US, including those outside military circles, were not to suffer irreparably as a consequence and CDS was adamant that this should be avoided if at all possible. There were also implications for Force on Mind if the UK was perceived to be weakening its stance. Phase IV considerations needed to be clearly understood, given that the inevitable UK involvement might result in an even greater burden than war-fighting per se.”

745. The Chiefs of Staff agreed that:

- Advice should be sent to Mr Hoon by 11 October.
- Lt Gen Reith should provide a paper “on land component options other than the northern option”.

³⁰² Minutes, 2 October 2002, Chiefs of Staff meeting.

- Lt Gen Reith's recommendations on the command and control structures for potential operations in Iraq and preparations for Exercise Internal Look.
- There was a requirement to identify UK headquarters that might be required to contribute to "follow on" operations.

746. The first paper that the MOD had been able to find on land options other than the northern option was produced by Lt Gen Reith on 18 November. That is addressed later in this Section.

747. Mr Drummond reported to Sir David Manning that the discussion at the Chiefs of Staff meeting had addressed the:

"... importance of 'force on mind' as part of the campaign. The US was already using this tactic to good effect. We were not yet, because no decisions have been taken about the extent of our engagement in a possible military campaign. I said that the attention was focused on getting the right UNSCR, which would be the priority for the next few days."³⁰³

748. Mr Drummond also reported that there was:

"A strong wish to do the northern Option 3. The military judgement was that this should be tactically possible. Not to do it would damage our relations with the US and might leave us with the even more onerous task of peacekeeping (Option 4). I rehearsed the Prime Minister's view that Option 2 would be a very substantial contribution."

749. There was "acceptance" that the US should lead on "persuading" Turkey, but a wish that the UK would be able "to engage early" if the northern option was pursued. There had been a "suggestion" that the US might be planning a northern option without the UK; and that Turkey might find the presence of British troops "difficult to contemplate".

750. On the basis of their perception of the US timetable, the Chiefs of Staff agreed on 9 October to seek a non-public Ministerial decision in principle to offer Package 3 to the US, ideally by 21 October.

751. The Chiefs of Staff recognised that UK withdrawal after Exercise Internal Look would have unpalatable diplomatic consequences.

752. On 8 October, Brigadier William Rollo, a member of Maj Gen Fry's staff, reported to Adm Boyce's Private Office that the US was likely to deploy its 4th Infantry Division in the North, "irrespective of subsequent UK decisions".³⁰⁴ He also reported signs of Turkish nervousness.

³⁰³ Minute Drummond to Manning, 2 October 2002, 'Chiefs Meeting'.

³⁰⁴ Minute Rollo to PSO/CDS, 8 October 2002, 'Iraq Update on Warrior Planning'.

753. Draft advice to Mr Hoon was discussed at the Chiefs of Staff meeting on 9 October.³⁰⁵

754. The Chiefs of Staff were informed that there seemed to be “increasing flexibility” in Washington over the timing of military activity and that “the weather would not be a limiting factor”. That might affect UK decision-making.

755. Ministers “should be left in no doubt” that the northern option was a “fundamental part of US planning”. From the Army’s “perspective, Package 3 would guarantee long-term strategic influence with the US”.

756. Air Chief Marshal Sir Peter Squire, Chief of the Air Staff, commented that Package 2 “did not entail a loss of influence”, and sought “visibility of fallback options in the South”.

757. In the context of predicted US discussions with Turkey on 21 October and reported indications from US military contacts that planning for one scenario whereby the US acted with the UK and another where it acted alone was “rapidly becoming untenable”, the Chiefs of Staff considered that:

“Ministers needed to be advised that a non-public ‘decision in principle’ to contribute was required, ideally by 21 October. In practice, because of the unpalatable diplomatic consequences of the UK’s withdrawal after the completion of Ex[ercise] Internal Look ... 15 Oct[ober] was also a key date.”

758. Lt Gen Reith “observed that a meaningful discussion about, or leverage on, US planning with Gen Franks would not be possible until a decision (in principle) regarding the UK contribution had been made.”

759. In addition, to maintain the UK’s options, a call-out of some Reserves by the end of October might be required. That and visible action on UORs “would contribute to the ‘force on mind’ campaign”. A successful coercion strategy was “key to the process”.

760. The minutes also record the view that “it would be important to guard against the perception in the US that the UK’s decision was a matter of legitimacy as opposed to a problem with mobilisation and public perception”.

761. The Chiefs of Staff directed that the advice to Mr Hoon should be amended to reflect the discussion, including:

- the timing of US discussions with Turkey;
- a “decision in principle” on Package 3; and
- more explanation of the timelines for decision taking.

³⁰⁵ Minutes, 9 October 2002, Chiefs of Staff meeting.

762. Lt Gen Reith was also asked to provide a paper considering southern options for UK involvement if Turkey denied the northern option.

763. Reporting on the meeting to Sir David Manning, Mr Bowen wrote:

“The military are pressing for a decision on whether the UK should be offering, with caveats, Package 3 ... The argument for doing so is that the Americans now need to know in principle whether they should plan on our participation and that ... our acceptability as a major player in the North needs to be broached early with the Turks.

“The conclusion ... was that the MOD should seek a positive decision in principle ... [that] would expose to the US ... the time lag ... between a decision to deploy and deployment on the ground. The key decision to proceed in practice would be taken later ...”³⁰⁶

764. Mr Bowen added that the MOD had underlined:

“... that diplomacy ought to be backed by the threat of the use of force. In the game of coercion, military planning and preparation can have a beneficial effect in achieving a peaceful outcome. Moreover, in case the diplomatic track is brought to a halt, we should endeavour to reduce the gap between that point and the enforcement action we threaten. This would involve us being more up-beat about our contingency planning, without moving into war-mongering mode.”

765. Mr Bowen also wrote that:

- A decision in principle in favour of Package 3 would help the UK to influence US thinking to a greater extent than had been possible up to that point, “especially in relation to the aftermath of any military action”.
- In “making a decision in principle, without final commitment, we would stress that this reflected the UK political situation and was not specifically linked to authorisation through the UN”.
- While it could be argued that agreeing in principle to provide Package 3 was “no different” from the position on Packages 1 and 2, there was “no doubt” that a commitment to deploy land forces was “a different matter from deployments in the air or at sea”.

766. The MOD would be writing to No.10, and Mr Hoon was seeking a meeting with Mr Blair on 17 October to discuss the issue.

767. Sir David Manning commented to Mr Powell: “A foretaste of the line MOD will argue next week”.³⁰⁷

³⁰⁶ Minute Bowen to Manning, 9 October 2002, ‘Iraq: Chiefs of Staff Meeting’.

³⁰⁷ Manuscript comment Manning to Powell, 10 October 2002, on Minute Bowen to Manning, 9 October 2002, ‘Iraq: Chiefs of Staff Meeting’.

768. Adm Boyce agreed with Gen Franks on 10 October that planning should proceed on the assumption that Package 3 would be available.

769. Adm Boyce spoke to Gen Franks on 10 October, stressing that Package 2 was “not an insignificant contribution”.³⁰⁸ The option of a UK operation in the South was being looked at if the northern option “fell away”.

770. Gen Franks observed that a deployment in the South would be “very sequential because of the narrow entry front”.

771. Adm Boyce told Gen Franks that the way ahead on Package 3 was “too close to call”. In relation to the difficulties that posed for US planning, Adm Boyce was told that it was easier for the US to plan on having Package 3 rather than not having it. They agreed that “interests would be best served” by planning on the assumption that Package 3 would be available.

772. The arguments in favour of offering Package 3 to the US and for immediate clarification of the UK’s position were set out in advice for Mr Hoon, agreed by Adm Boyce, on 11 October.

773. The need for a decision on the potential UK contribution to any US-led action against Iraq was set out in an urgent minute to Mr Hoon, from Mr David Johnson, Head of a newly created Iraq Secretariat in the MOD,³⁰⁹ on 11 October.³¹⁰

774. Mr Hoon was invited to note the increasing difficulty of maintaining the feasibility of Package 3 as long as its status was “unconfirmed”. He was asked to either rule it out or move it to the same status as Package 2.

775. Mr Johnson told Mr Hoon that the US needed to know where the UK stood very soon:

“In addition to pressure from US planners, it is in our interests to be clearer about our level of engagement, against the background of a series of key planning events from mid-October onwards.”

776. Mr Johnson advised that the UN position was “a key element of the continuing strategic uncertainty”. The UN inspections team was not expected to be fully operational before mid-February, but Iraqi non-co-operation “could occur at any point”, including a refusal to accept the UN resolution. The “most likely scenario” was that “potential triggers for military action” were “moving to the right” but, “both the need to be ready for the worst case and the strategy of conflict prevention” pointed in the same direction: “continuing and visible military preparations”. The main focus of US planning

³⁰⁸ Minute PSO/CDS to PS/SofS [MOD], 11 October 2002, ‘Record of a Discussion Between CDS and CINCCENT: 10 Oct 02’

³⁰⁹ Created on 30 September 2002.

³¹⁰ Minute Johnson to PS/Secretary of State [MOD], 11 October 2002, ‘Iraq: UK Contingency Planning’.

was “preparation to allow the commencement of offensive action in January (with contingency planning for an earlier start should that prove necessary)”.

777. Mr Johnson stated that the northern option was:

“... now seen as fundamental by US military planners, both in the Pentagon and in CENTCOM. There is an important role for the UK to play if we so wish. But if we decide not to play this role, the US will have to mobilise other US forces ... The caveats we have so far attached to Package 3 have thus resulted in the US having to work on two separate plans, compounding what is already a complex process ... CENTCOM ... need a clear statement of the UK commitment, within the overall understanding that all the packages are subject to a general political caveat.”

778. Mr Johnson advised that the need for the UK to clarify its position “will become increasingly acute”; and that:

“From a purely national perspective, the lead-times for putting Package 2 and Package 3 in place mean that some publicly visible decisions ... need to be taken well in advance of any deployment ... But we do need to be prepared to take these decisions.”

779. Gen Franks had told the UK that he would continue to run two plans “to preserve the possibility of incorporating Package 3”. But the longer the US worked on that basis “the more disgruntled they will be if we subsequently rule Package 3 out”.

780. Mr Hoon was given details of the decisions needed on both Packages 2 and 3 and their costs. Package 2, which included a Commando Group based in HMS Ocean, would cost some £464m-500m, excluding movement costs, ammunition and other consumables, and post-operational recuperation. On the same basis, Package 3 was estimated to cost an additional £508m.

781. Mr Johnson advised Mr Hoon that, in coming to a decision, Ministers would “need to take into account”:

- The impact of visible decisions. In addition to their role in ensuring the viability of a UK contribution: “Overt preparations on the scale of Package 3 may make an impact on Saddam’s perception of the seriousness of Coalition intent ... They might also encourage key figures in the Iraqi regime to reflect further on whether their best interests continue to be served by Saddam’s leadership ... these measures would reinforce the coercive ‘force on mind’ approach that has already borne fruit”.
- Cost. The costs of either package would be significant – Package 2 “could be not far short of £1bn”; Packages 2 and 3 together “could be between £1.5bn and £2bn”.
- US expectations. The MOD had been “careful to manage” US expectations but a decision to rule out Package 3 would “inevitably disappoint” the US,

with “knock-on effects”, which the UK would need to work hard to minimise. A decision to rule out Package 3 would need to be taken “very soon”.

Adm Boyce recommended that, “unless a definite decision is taken to say ‘no’ now to Package 3, we must commit appropriate effort to [Exercise] Internal Look”.

- Burden-sharing. Package 2 could “justifiably” be presented as a “substantial contribution” but Package 3 would be “significantly more substantial” and “a vivid sign of a willingness to share the risks”. The shortcomings in the US tactical plan for the northern option “could be resolved if we were fully able to engage in planning and to flex resources to make it work”.
- Impact on readiness and capability for other tasks. Either package would impinge on the UK’s ability to respond to contingency operations, but Iraq was “the central issue” and there might be “a trade-off between committing to a military campaign and committing to an enduring follow-up operation”. A six-month war-fighting operation was “consistent with the Defence Planning Assumptions”.
- Aftermath management and the long term. US thinking on the “Day After” was “under-developed at present”, but there was “likely to be a need for a substantial, potentially long-enduring commitment of forces. Assuming that military action had taken place under a UN umbrella, it is likely that the US would look to Allies and the UK to play a major role in this, perhaps including providing a framework capability through the ARRC. We clearly have an interest in minimising the risk of a long lasting commitment ... in a part of the world that will not be retention-positive for our personnel: in terms of Defence Planning Assumptions, a ... medium scale PSO [peace support operation] in Iraq would only be manageable if our commitments elsewhere ... were capped at small scale. The more substantial our contribution to military action in the first place, the more plausibly we will be able to argue that we have done our bit.”
- Turkey. Turkey’s attitude to UK forces might “remain uncertain for some time”. It was “possible that some or all of Package 3 might be able to play a role in the South (although space constraints might [have an] impact on timing)”.
- Wider context. In the context of securing influence, the MOD had “been taking soundings over what gives us influence over US campaign planning”. It was “clear that sharing risk – political and military” was “crucial to having a voice in how a military operation” was planned, and it also provided “a locus to influence the wider overall campaign”. There was “thus a longer-term and strategic dimension to the issue of Package 3: not joining will reduce the influence we have over planning”, including a change in the US “perceptions of the UK as a partner longer-term fostering a tendency to see us as a specialist in Peace Support Operations rather than a war-fighting ally, with potential knock-on effects on other areas of close bilateral cooperation (intelligence, nuclear, missile defence, equipment and network-centric capability, etc)”. Contributing

Package 3 would mean that the UK Government would “be well placed to be more vigorous in pressing its views especially on better regional handling and ‘day after’ planning”. If those components were not properly planned, a military operation might “not offer a worthwhile return”. The UK “could and should offer a contribution on the understanding that these dimensions must be better addressed”.

- Army morale. “If the Army does not participate in the biggest combat operation for over a decade, and particularly if it is subsequently committed to a potentially enduring aftermath task, this may foster a perception that the Army is no longer regarded as a war-fighting force (particularly if they are deployed on Op FRESCO duties) and may have knock-on effects on recruitment and retention. It will clearly present a leadership challenge. This should not be a critical factor in reaching decisions ... but it is an issue which the Secretary of State will wish to have in mind.”

782. Mr Johnson advised Mr Hoon that:

“A firm commitment in principle to Package 3 should give us better involvement in US thinking, especially in Washington, about the most realistic timings for military action. We may find that we have more time ... but this is only likely to emerge progressively if at all. So if Ministers wished to place any caveats on the timescales or circumstances in which they are prepared to take the subsidiary decisions, we would have to make these clear to the US at the outset.”

783. There would be:

“... a case for presenting visible deployment decisions more assertively, arguing that they are an essential ingredient of a successful coercive strategy. This might not persuade journalists to present them as anything other than a ‘countdown to war’. But we would be less vulnerable to accusations of proceeding to war by stealth ...”

784. Mr Johnson stated that Adm Boyce had seen and approved the minute.

MR HOON’S MINUTE, 15 OCTOBER 2002

785. Mr Hoon wrote to Mr Blair on 15 October setting out the arguments for telling the US that it could plan on the assumption that the UK would make a land contribution.

786. At a meeting on 14 October, Mr Hoon asked for more work, in preparation for a meeting with Mr Blair on 17 October, on:

- a clear presentation of the key dates for visible activities, including the call-out of Reserves;
- the relationship between this activity and the likely diplomatic process;

- the impact of UK decisions on the Coalition; and
- a draft letter to Mr Alan Milburn, the Health Secretary, on the impact on the National Health Service.³¹¹

787. Mr Hoon wrote to Mr Blair on 15 October, seeking a decision that week on whether to tell the US they could assume a UK land contribution in addition to the air, maritime and Special Forces package already offered for planning purposes.³¹² In any event, there would be a need to be more robust in public about the need for essential military preparation.

788. In the context of the potential US timetable, and the need to maintain pressure on Saddam Hussein, Mr Hoon added:

“Indeed, Saddam has conceded ground so far only because diplomacy has been backed by the credible threat of force. We must maintain and reinforce this effect.”

789. The reasons for urgency included:

- a week-long CENTCOM conference, which started that day, during which the US military wanted to finalise their plans;
- discussions with Turkey; and
- the need to start visible preparations, including the call-up of Reserves.

790. Mr Hoon told Mr Blair that either Package 2 or Package 3 “would be a viable military contribution”, but in describing the Packages, Mr Hoon added:

- The number of visible “boots on the ground” in Package 2 would be “small”, which “could lead to some criticism here and elsewhere that UK support for the operation was half-hearted. The US may be disappointed that we are not offering more; the likely political reaction is more difficult to judge ...”
- Package 3 would provide a “major element of the northern line of attack”, which was judged “essential”. Without UK land forces, the US would have to redeploy its forces from the South. UK forces “could therefore help both to shorten the campaign and secure a more decisive outcome”.
- Package 3 “would have more impact” and “might provide a framework for integrating elements from other countries into a land force”.
- “There was “likely to be a substantial and continuing post-conflict stabilisation task in Iraq”. If the UK did not contribute Package 3, it might be “more vulnerable to a US request to provide a substantial force for this potentially open-ended task”.

³¹¹ Minute Williams to Head of Sec(Iraq), 14 October 2002, ‘Iraq: UK Contingency Planning’.

³¹² Minute Hoon to Prime Minister, 15 October 2002, ‘Iraq: UK Military Options’ attaching Paper Ministry of Defence, 14 October 2002, ‘Iraq: UK Contingency Planning’.

791. Mr Hoon wrote:

“A critical – and the least quantifiable – factor in weighing the two packages must be the impact on our strategic relationship with the US. In principle, both packages could strengthen that relationship: Package 2 alone should easily surpass any other conceivable non-US contribution, except perhaps that of Turkey.”

792. Mr Hoon stated that, while he had “sought to dampen” Secretary Rumsfeld’s expectations of any sizeable land contribution, there might be disappointment that the UK was “not prepared to put significant numbers of ground troops in harm’s way”. That might translate into a cooler view towards our privileged links.

793. Mr Hoon added:

“A further factor which cannot be entirely discounted is the negative reaction of many of our own military personnel – particularly in the Army – if we do not provide a land contribution. This could find its way into the media which would be quick to draw unfavourable comparisons between our contribution to this campaign and the Gulf Conflict in 1990/91.”

794. Mr Hoon stated that an offer of Package 3 “must be subject to conditions”:

- The UK would be dependent on US help to secure Turkey’s agreement to the UK deployment.
- The UK “must be fully involved in developing the final plan on which a final decision to deploy would be based”.
- The UK would want US help to reconstitute stocks, particularly of smart weapons.

795. A detailed MOD paper attached to Mr Hoon’s minute set out the factors Ministers would “need to take into account” in coming to a decision and the detailed composition of the force packages, which was largely based on Mr Johnson’s minute to Mr Hoon of 11 October.

796. Mr Hoon also sent his minute to Mr Brown, Mr Straw and Sir Andrew Turnbull.

797. The Chiefs of Staff meeting on 16 October was informed that a Ministerial decision on the likely UK contribution was expected the following day.³¹³

798. Lt Gen Pigott provided updates on US planning and UK strategy.

799. Adm Boyce commented that the UK position on support for US action “had to be clear”, and that a “distinction between supporting the US with basing in Diego Garcia and the deployment of personnel into any battlespace was academic”.

³¹³ Minutes, 16 October 2002, Chiefs of Staff meeting.

NO.10'S QUESTIONS

800. Sir David Manning's private advice to Mr Blair expressed scepticism about a number of the arguments in Mr Hoon's minute.

801. Sir David Manning made a number of comments expressing scepticism about some of the arguments employed:

- In response to the argument that overt preparations would reinforce a strategy of coercion, Sir David wrote: "The opposite is also possible i.e. Saddam will conclude that we are interested only in [war]; he will therefore not co-operate."
- US expectations of UK ground troops had been "fuelled because MOD almost certainly aroused great expectations early on – without political authority".
- Sir David questioned whether the MOD had carefully managed US expectations, writing: "Have we? US only know about Package 3 because we talked it up."
- The UK would be "vulnerable" to a request for substantial forces post-conflict whether it provided Package 3 or not.
- Sir David did not "buy" the MOD argument that failure to offer Package 3 would change the US perception of the UK as a long-term partner.
- Adm Boyce was "worried" about managing the impact on army morale if it did not participate in combat operations.³¹⁴

802. In addition, Sir David provided detailed advice for the Prime Minister on 16 October, flagging concerns about whether the assumptions underpinning the package were robust, and about domestic handling issues.³¹⁵

803. Sir David summarised the key arguments in favour of Package 3 as:

- “• It would be a strong signal of our intent and would increase the pressure on Saddam;
- It is what the US is hoping for;
- It would buy us influence in the conduct of the military campaign against Iraq;
- US gratitude would make Washington correspondingly more inclined to be generous to us in other areas ...
- It would reduce the risk that we would be expected to contribute large numbers of troops to help administer Iraq after hostilities;
- The British Army would like it; and would be correspondingly demoralised if no use were made of their war-fighting capability.”

³¹⁴ Manuscript comment Manning to Powell on Minute Hoon to Prime Minister, 15 October 2002, 'Iraq: UK Military Options' attaching Paper Ministry of Defence, 14 October 2002, 'Iraq: UK Contingency Planning'

³¹⁵ Minute Manning to Blair, 16 October 2002, 'Iraq: UK Military Options'.

804. Sir David commented that he thought some of those arguments were “pretty dubious”:

- It was “not clear” whether Saddam Hussein would be much affected by signals of British military intent; “it was US intent that bothered him”.
- The problem of US expectations on Package 3 might have been “self-generated”. His “guess” was that the UK military had “been pretty forward leaning in their contacts with their US opposite numbers”.
- He doubted that the UK “would have much say in the management of the military campaign”.
- He was “not much persuaded by the argument about US gratitude: it should not be a key factor in our decision”.
- He was “not much persuaded either, that if we help with the war-fighting, we shall be spared the post-conflict washing up. It didn’t work like that in Afghanistan. Experience shows that once you are in, you’re in deep, without queues of grateful countries waiting to take over when the shooting stops.”
- “Army morale would have to be managed: we needn’t fight every war.”

805. Sir David suggested that Mr Blair should explore with Mr Hoon:

- What had changed since the summer when Mr Blair had been advised that the UK could not deploy Package 3, and whether the new assumptions were “really safe and robust”?
- Whether the UK could “bank on Turkish assurances given to the US about access, bases and supply”?
- Whether the UK would be able to fight in a “CBW environment”, and “in summer temperatures if necessary”?
- Whether it made sense to commit the UK so heavily to Iraq and how the UK would respond to a sudden crisis elsewhere?
- Whether Package 3 was affordable?

806. Sir David concluded:

“In sum, the MOD paper is special pleading for Package 3. You [Mr Blair] may want to go this route to signal your determination; and for US solidarity reasons. But there are risks and difficulties that need to be thoroughly explored; and there will be costs which are only sketchily dealt with here – and which might balloon.

“Personally, I doubt whether there is a strong military case for Package 3. The US would like us along, but could certainly do the job without UK land forces. This is a political call.”

807. Mr Blair responded: “This is a v. tough call”; and that he would “need to speak to the senior military in detail” before he committed to Package 3.³¹⁶

808. Asked about his comments on army morale, Sir David Manning explained, to the Inquiry that he thought morale should not be a reason for participating in a land invasion.³¹⁷

THE FCO PERSPECTIVE

809. The FCO advised Mr Straw to question some of Mr Hoon’s arguments.

810. Mr Edward Oakden, Head of FCO Security Policy Department, advised Mr Straw to question whether the decision really had to be made that week.³¹⁸

811. Mr Oakden wrote:

- Without a UN resolution preparations would look like UK determination to pursue the military option, “instead of backing the diplomatic route with a credible threat of force” and that it would be worth drawing out the MOD’s thinking.
- Postponing the decision until a UN Security Council resolution had been agreed seemed “likely to make a real difference to how a move to military preparations would be viewed, both domestically and internationally”.
- Third countries, including Turkey, would be unwilling to support preparation or participation until a legal basis was found.
- Once the forces were deployed, there would be no going back until Saddam Hussein was disarmed: “Pulling out without achieving this would cause severe strains with the US and serious harm to UK credibility. So the prospect is for a longish haul, with the UN inspectors likely to take some time to find what will be well-concealed WMD. We should look very hard before our first public leap.”
- “Many senior Turks still [believed that] the UK” had “a secret agenda to create a Kurdish homeland in Northern Iraq”; and memories of the UK’s efforts to dismember Turkey in the 1920s remained “surprisingly vivid”. The UK should let the US conduct negotiations with Turkey.
- The MOD’s suggestion that the UK could trade a more active role in fighting for “a smaller military role during reconstruction” seemed “optimistic”: “On the contrary, if we have fought without international legal sanction, we could be left on our own with the US.”

812. Mr Oakden concluded that the MOD had rightly highlighted real concern about longer-term damage to the US/UK relationship “if for the first time in recent memory the UK decides not to join the US on the ground”, or if it complicated US military planning and put US timelines at risk. But he questioned whether that concern was at the military,

³¹⁶ Manuscript comment Blair on Minute Manning to Blair, 16 October 2002, ‘Iraq: UK Military Options’.

³¹⁷ Private hearing, 24 June 2010, page 99.

³¹⁸ Minute Oakden to Private Secretary [FCO], 16 October 2002, ‘Iraq’.

“rather than the political level”. He suggested further talks with the US at a senior political level “if the Chiefs judge there is a real danger of US disaffection”.

813. Mr Westmacott reported on 16 October that he had been told by a senior Turkish official that Turkey assumed that, if the UK decided it wanted to join the US in making military deployments in or through Turkey in support of a UN resolution, it would let Turkey know in good time.³¹⁹ Without Security Council authorisation, it was “quite possible” that Turkey would refuse to co-operate. Constitutionally the Turkish Parliament had to give its consent, and the constitution stated that it could only do so in the context of international legitimacy.

US Congressional authorisation for the use of force

On 10 and 11 October, the House of Representatives and the Senate passed a joint resolution authorising the use of military force against Iraq.³²⁰

Signing the joint resolution on 16 October, President Bush stated that it symbolised the united purpose of the nation and expressed the considered judgement of Congress.³²¹ Congress had authorised the use of force but he had not ordered that use, and he hoped that would not become necessary.

More detail is provided in Section 3.5.

Mr Blair’s meeting, 17 October 2002

814. Mr Blair concluded that, while he wanted to keep the option of Package 3 open, the UK must not commit itself at that stage.

815. Mr Blair, Mr Straw and Mr Hoon met on 17 October to discuss the latest developments on the UN negotiations and the military options.³²² Adm Boyce, Mr Powell, Mr Campbell, Baroness Morgan, Sir David Manning and Mr Rycroft were also present.

816. Mr Rycroft recorded that Mr Hoon and Adm Boyce had “set out the options, as in the Defence Secretary’s minute” of 15 October. Adm Boyce had “put the military arguments for agreeing to Package 3. But if we were to end up agreeing on Package 2, it would be better to tell the US now”. Mr Straw had said “that the international case for Package 3 was strong”.

817. Mr Blair “took these points” but:

“... remained concerned about the costs. He concluded that he wanted to keep open the option of Package 3. But we must not commit to it at this stage.”

³¹⁹ Teleletter Westmacott to Oakden, 16 October 2002, ‘Possible Military Action Against Iraq: Turkish Policy’.

³²⁰ Almanac of Policy Issues, 15 October 2002, *Congressional Resolution Authorizing Force Against Iraq*.

³²¹ The White House, 16 October 2002, *President Signs Iraq Resolution*.

³²² Letter Rycroft to Watkins, 17 October 2002, ‘Iraq: UK Military Options’.

818. The meeting also “agreed that there must be no leaks and no public announcements (for instance any notices to Reserves) until after the first UN resolution had passed and after a further discussion” with Mr Blair.

819. Copies of Mr Rycroft’s record of the discussion on military options were sent to the Private Offices of Mr Hoon, Mr Straw, Mr Brown and Sir Andrew Turnbull, and to Mr Bowen.

820. The discussion on the progress and direction of negotiations on a draft UN resolution, which had reached a critical stage, was recorded separately and is addressed in Section 3.5.

821. In his diaries, Mr Campbell wrote that Adm Boyce had said that he would have a real problem with the Army if they were not properly involved and that Mr Blair would have far greater influence with the US if the UK was there on the ground.³²³ Gen Franks really needed to know what our answers may be. Mr Blair had said it was not no, but it was not yet yes. He wanted more work done analysing the cost.

822. Mr Watkins told officials in the MOD that Mr Blair “did not wish to rule out Package 3 at this stage but wished to give the matter further consideration”: “In terms of our internal MOD planning, the position therefore remains essentially unchanged.”³²⁴

The UK’s draft strategic objectives

The preliminary objective for UK policy in Iraq agreed by Mr Straw and Mr Hoon in May, and recorded in Mr Hoon’s minute to Mr Blair of 31 May 2002 (see Section 3.3), was revised in October.

Mr Bowen sent Sir David Manning draft strategic policy objectives for Iraq on 4 October, explaining that “Whitehall would find it helpful” to agree objectives “for the present phase of activity” and, “in particular, it would help us in formulating an information strategy”.³²⁵

The Cabinet Office draft stated that the UK’s prime objective was:

“... to rid Iraq of its weapons of mass destruction (WMD) and their associated programmes and means of delivery, including prohibited ballistic missiles (BM) ... in accordance with United Nations Security Council resolutions ... an expression of the will of the international community, with which Iraq has persistently failed to comply, thereby perpetuating the threat to international peace and security.”³²⁶

Other objectives included the desired end-state for Iraq, to which the words “and providing effective and representative government for its own people” had been added to the text agreed by Mr Straw and Mr Hoon earlier in the year.

³²³ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

³²⁴ Minute Watkins to DG Op Pol, 17 October 2002, ‘Iraq: UK Military Options’.

³²⁵ Minute Bowen to Manning, 4 October 2002, ‘Iraq: Strategic Policy Objectives’.

³²⁶ Minute Bowen to Manning, 4 October 2002, ‘Iraq: Strategic Policy Objectives’.

The draft also identified the immediate priorities for the UK, including that continuing to “make military plans and preparations in case military action” was required to “force compliance with UNSCRs”.

Mr Lee sent a copy of the draft to Mr Hoon’s Private Office, commenting that, while the text was “helpful”, it did not “go far enough in providing direction for current military activity and an information strategy”.³²⁷ Mr Lee did not expect the draft to move forward until there was a clear UN position.

Sir David Manning informed members of the Ministerial Committee on Defence and Overseas Policy on 22 October that Mr Blair had agreed draft UK strategic objectives for Iraq.

The draft objectives agreed by Mr Blair were unchanged from those proposed by Mr Bowen on 4 October.³²⁸

The draft objectives underpinned subsequent policy statements both to explain the UK’s position and to maintain the pressure on Saddam Hussein to comply with the demands of the international community.

The UK’s objectives were formally announced by Mr Straw on 7 January 2003.³²⁹

Mr Blair’s decision to offer Package 3 to the US, 31 October 2003

823. The Chiefs of Staff meeting on 23 October was informed that time was running out if the UK wanted to keep open the option of deploying ground forces in the combat phase of any military operations.

824. Adm Boyce directed that a further submission should be made to Mr Hoon.

825. An update from Lt Gen Reith to Lt Gen Pigott on 21 October, entitled ‘The Northern Axis – Current Thinking’, advised that, while the UK’s “preferred option remain[ed] leadership of the Northern Axis”, an independent British command was now unlikely.³³⁰ He also advised that the package would need to be reinforced with a second formation to establish a “genuine manoeuvre capability”; and that analysis had indicated that “additional forces would be required for such tasks as protection of LOCs [Lines of Communication] and handling of EPW [Enemy Prisoners of War]”.

826. The timelines for action were discussed at the Chiefs of Staff meeting on 23 October.³³¹

827. The Chiefs of Staff were informed that there was “no discernible position on UK forces” in Turkey. Lt Gen Reith suggested that a UK tactical lead on the northern option

³²⁷ Minute Lee to PS/Secretary of State [MOD], 7 October 2002, ‘Iraq: Strategic Policy Objectives’.

³²⁸ Letter Manning to McDonald, 22 October 2002, ‘Iraq’ attaching Cabinet Office Paper ‘Iraq: Strategic Policy Objectives’.

³²⁹ House of Commons, *Official Report*, 7 January 2003, column 4-6WS.

³³⁰ Paper CJO to MA/DCDS(C), 21 October 2002, ‘The Northern Axis – Current Thinking’.

³³¹ Minutes, 23 October 2002, Chiefs of Staff meeting.

was possible and desirable but now “in the balance and time was running out”. The end of October deadline for UK decisions was “inextricably” tied to military action from the first week of January. If the US start date was later, then the timetable for UK decisions could be later.

828. Adm Boyce was “not prepared at this juncture, to recommend that the UK offer a Package 3 type contribution that would arrive some time after the US [Main Effort] of end-Feb”. He directed that further advice should be provided to Mr Hoon on the options for UK participation.

829. A report of the meeting from Mr Oakden observed that Adm Boyce understood the interaction between the United Nations Security Council resolution and a decision on Package 3, but “was emphatic that the UK forces had to be there for the start, or not at all”.³³²

830. Mr Bowen reported the discussion to Sir David Manning, pointing out that the “the US did not think that land forces in Turkey were ruled out, but they certainly had not been ruled in either”.³³³ Following the Turkish elections in early November, it could be 45 days before a new government was formed. Mr Bowen concluded by stating that “the key question about Turkish attitudes is far from resolved”.

831. Mr Bowen also reported that the MOD wanted a structure that would allow them to “integrate offers of coalition participation” and was concerned about the risk that someone else might take on that role.

CABINET, 24 OCTOBER 2002

832. Cabinet was informed on 24 October that negotiations on the UN resolution continued and progress was “slow”.

833. Mr Blair said that Iraq would continue to be discussed at Cabinet, “including in due time the military options”.

834. A draft resolution agreed by the US and UK was tabled in the Security Council on 23 October 2002.³³⁴

835. Mr Straw told Cabinet on 24 October that discussions with the Permanent Members of the Security Council and with others continued on a resolution on Iraq. It was a long drawn-out process and progress was slow.³³⁵

³³² Minute Oakden to Ehrman and Private Secretary [FCO], 23 October 2002, ‘Iraq Military Planning’.

³³³ Minute Bowen to Manning, 24 October 2002, ‘Chief of Staff Meeting on 23 October’.

³³⁴ Telegram 2031 from UKMIS New York to FCO London, 23 October 2002, ‘Iraq: Draft Resolution of 23 October’.

³³⁵ Cabinet Conclusions, 24 October 2002.

836. Mr Blair stated that Iraq would continue to be discussed in Cabinet, “including in due time the military options”. The Government must “keep its options open in responding to future developments” after a resolution was achieved.

837. The negotiations on the draft resolution are addressed in Section 3.5.

MOD CONCERNS ABOUT THE US PERSPECTIVE

838. The MOD continued to argue that keeping open the option of a land contribution and being able to influence the US planning process required a clearer statement of the UK position.

839. Mr Johnson asked Mr Hoon on 25 October to note the “increasing difficulty of keeping options open” because:

- The US could not “continue much longer with the uncertainty” over the UK contribution.
- A UK contribution on the scale of Package 3 would “cease to be viable within the current US timetable on or around 31 October if no public acknowledgement is made” of the need for preparatory work on the availability of Reserves.³³⁶

840. Mr Johnson also asked Mr Hoon to consider the “need to re-establish with the US at the highest level whether their planning timetable [was] likely to change”.

841. Mr Johnson advised that there might be constitutional difficulties in Turkey over hosting foreign forces in the absence of a UN resolution. It seemed “increasingly likely” that the “substantial” US forces would be committed to the North, and that they might “wish to exercise overall leadership there”. Uncertainty about the UK contribution complicated the issues for the US and limited the UK’s ability to influence the developing plan. Gen Franks remained “wedded to a UK role, not least as a possible framework for integrating contributions from other potential coalition members”.

842. Adm Boyce would raise questions about the US timetable with Gen Myers and there might be “a case for following up at a political level”. But, unless the US accepted later dates, a decision to permit preparatory action on Reserves would be needed if UK options were not to be closed off.

843. A meeting for Mr Hoon to discuss the issues with Adm Boyce had been arranged for 28 October.

844. Mr Watkins commented to Mr Hoon that there were potential tensions between the military and inspection timetables; and that there was “as yet ... little irritation with our fence sitting at senior military level in the US”.³³⁷

³³⁶ Minute Johnson to PS/Secretary of State [MOD], 25 October 2002, ‘Iraq: Sitrep’.

³³⁷ Manuscript comment Watkins on Minute Johnson to PS/Secretary of State [MOD], 25 October 2002, ‘Iraq: Sitrep’.

845. The meeting between Adm Boyce and Gen Myers added weight to the view that US timelines were slipping, in part because of the UN process. There was “some sympathy with the UK position”.³³⁸

846. CENTCOM was described as “coming round” to the northern option. That would depend on Turkey’s co-operation. Gen Myers was reported to have:

- accepted Adm Boyce’s “point that some overt preparations would send an entirely appropriate signal to Saddam immediately after” adoption of the UN resolution, “rather than doing nothing until actual signs of resolution-bending”;
- recognised the value a UK divisional HQ “might bring in providing a ‘home’ for any coalition contributions”; and
- stated that “Much planning” was taking place in the US on post-conflict considerations.

847. The record of the meeting was sent to Sir David Manning, who commented to Mr Powell that it was “Evidence” that US plans were “now slipping” and that it put the UK decision “in context”.³³⁹

848. The minutes of the Chiefs of Staff meeting on 28 October recorded that:

“The US understood the reasons why the UK could not commit while the UNSCR was under discussion.”

849. While US military staff “continued to work to planning timelines prescribed” by President Bush in August 2002:

“Senior US officials had begun to acknowledge that there could be a requirement for these timelines to be altered. It would be important for the UK to try to influence a shift of several weeks rather than incremental shifts that mirrored the delay in the signing of the UNSCR.”³⁴⁰

850. The minutes stated that the UK’s ability to influence the US was diminishing as time advanced, “particularly as the US had now decided to commit” the 4th Infantry Division to the northern axis. Adm Boyce directed that “UK planning for either a western or southern axis was not to commence ahead of a political decision on UK commitment”.

851. The minutes also stated that “it would be important to emphasise within forthcoming submissions that, although Package 3 might be considered expensive, the alternative of committing to op[erations] during the aftermath would also require considerable resources”.

³³⁸ Minute MA/CDS to PS/Secretary of State [MOD], 29 October 2002, ‘CDS Bilateral Meeting with Gen Myers – US CJCS – 26 Oct 02’.

³³⁹ Manuscript comment Manning on Minute MA/CDS to PS/Secretary of State [MOD], 29 October 2002, ‘CDS Bilateral meeting with Gen Myers – US CJCS – 26 Oct 02’.

³⁴⁰ Minutes, 28 October 2002, Chiefs of Staff meeting.

852. On 29 October, Mr Bowen reported to Sir David Manning that the Chiefs of Staff were pressing for a decision in principle on Package 3.³⁴¹

853. Mr Bowen stated that Gen Franks understood the UK position, “including the political dimension” and had “directed that planning should proceed on the basis of US forces only operating out of Turkey” and that the 4th Infantry Division would be “the main combat formation”. Package 3 “would still be welcome as an addition and could have the particular task of integrating other coalition members’ contributions”.

854. Mr Bowen added:

“The MOD argue that they are being excluded from detailed planning and their influence in discussing issues like the aftermath is diminishing.”

855. Mr Bowen commented that some of the assumptions behind the MOD case were “fragile”. The planning date of early January was “no more than a military [planning] assumption”, and the willingness of Turkey to accept any ground forces was “still in doubt”. But the military needed to make such assumptions if they were to “get on with the job of planning complex operations for extremely uncertain scenarios”.

856. Mr Bowen wrote that the MOD would be arguing that:

- It was to the UK’s disadvantage to be excluded from planning for the northern option.
- The “Turkish dimension” needed to be fully explored if the UK was to be involved.
- A commitment in principle did not lock the UK into a commitment in practice.
- The UK leadership of other coalition members’ involvement could be prejudiced.

857. The MOD would concede that notification of the Reserves “could be postponed, on the basis that a commitment in principle would enable them to cause the US military to re-examine the assumptions with a view to negotiating a more realistic date”.

858. In addition to Sir David Manning’s questions about the implications of offering Package 3, whether it would be “realistic to think we could backtrack from a decision in principle” and whether the UK understood what it would be getting into, Mr Bowen identified the need to consider costs, “the overall profile” the UK wished to adopt, and the need to factor in slippage in the timetable at the UN and Turkish decisions.

859. Mr Bowen viewed the US decision to earmark the 4th Infantry Division as “helpful” because it showed it was “committed strategically” and would “take the lead”, but he added that Turkey’s position might mean that nothing would come of the northern axis.

³⁴¹ Minute Bowen to Manning, 29 October 2002, ‘Iraq: Whether to Offer Package 3 to the US?’

860. Mr Bowen wondered whether:

“A way through this ... would be to make a commitment in principle to Package 3, but on the basis that we cannot accept the current planning assumption date for a Presidential decision. That would force the US military to exclude us or have a serious discussion about the realism of their timetable ...”

861. Mr Bowen also suggested that the offer of Package 3 might be made “dependent on US leadership in the North and willing co-operation by the Turks”.

862. Mr Bowen wrote that pressure on Saddam Hussein needed to be maintained. “Continued planning” together with activities that were “necessary to prepare for action” would “all play their part” in that. The UK should be “persuading the international community and our domestic audience that proper preparation for war” was “the best way to avoid it”.

863. Mr Bowen concluded:

“Overall, I fear we are enmeshed in a military planning cycle which operates out of synch with the political track. But it is only planning. Provided we enter the right caveats and get a realistic re-think about the timelines ... I think there is advantage in our being involved in planning for the North (unless the political view is definitely that we should confine ourselves to the sea and air packages).”

864. The MOD advised Mr Blair on 29 October that its influence on US planning was reducing and the option to deploy UK ground forces was at risk of being excluded by default. The only way to avoid that was to offer Package 3 to the US for planning on the same basis as Package 2.

865. Package 3 could also significantly reduce the UK’s vulnerability to US requests to provide a substantial and costly contribution to post-conflict operations.

866. Mr Watkins wrote to Sir David Manning on 29 October, to report that “US military planning [was] continuing, but increasingly assuming no UK Land contribution”; and that an option for a “significant UK land contribution” could be “sensibly kept open only by placing it on a similar basis” to Package 2.³⁴²

867. The MOD advised that it had “become clear over the past few days” that the US military had begun planning on the assumption that the UK would “not contribute ground forces and consequently, will not pursue the question of UK involvement with Turkey”. The US had also decided to commit the 4th US Infantry Division:

“... which would mean that the option of the UK commanding the operation from the North at divisional level has gone. This does not necessarily mean that we could not

³⁴² Letter Watkins to Manning, 29 October 2002, ‘Iraq: UK Military Options’.

resurrect the option of a land contribution especially should timescales change. But it does mean that the prospect of a significant UK ground role in the North and our ability to influence that part of the US plan is reducing daily ...”

868. The MOD advised that preparatory work on Reserves would need to go forward soon unless the US timetable changed. The UK had taken “discreet soundings” on whether the US timetable was realistic:

“The sense amongst US military planners is that the realistic starting date for the current plan is now slipping. But this does not have political endorsement, and we do not know when or if President Bush will be prepared to signal a later timetable, given the importance of sustaining pressure on Saddam and US domestic political considerations.”

869. The uncertainty about whether the slippage would be “a matter of days or something more substantial” left two questions to be addressed.

870. First, in relation to a land contribution, the MOD stated that Package 3 was:

“... for practical purposes being excluded by default. If we are to keep the option open, and continue to have the strongest military cards to underpin our political influence, the Defence Secretary believes that we should indicate to the US that they should plan on the assumption that the land contribution would be available, subject to final political approval ... This can be done without publicity. It is also worth noting that, while Package 3 is significantly more expensive in itself than Package 2, making it available could significantly reduce our vulnerability to US requests to provide a substantial (and costly) contribution to post-conflict stabilisation operations.”

871. Second, Mr Hoon was concerned that he would appear disingenuous if he failed on 4 November to answer oral questions about the Reserves, were an announcement then to be made shortly thereafter.

872. Mr Watkins concluded that Mr Hoon recognised:

“... that these issues ... cannot be disentangled easily from the political climate and the fate of the UNSCR negotiations which are currently in the balance. But, equally, he is concerned that we should continue to contribute to maintaining the pressure on the Iraqis which has so far shown some level of success.”

873. Copies of the letter were sent to the Private Offices of Mr Straw and Mr Brown, and to Mr Bowen.

874. On 30 October, Mr Watkins advised Mr Hoon to press for a decision to offer Package 3, on the same basis as Package 2, but on the understanding that the offer was subject to clarification of the Turkish position.³⁴³

875. Mr Watkins added:

“Paradoxically, clarifying the status of Package 3 puts us in a stronger position to persuade the US that this timetable is no longer realistic ...”

876. Mr Watkins wrote that Mr Hoon might want “to counsel against any simplistic suggestions” that Turkey, and the Turkish General Staff, could be persuaded to co-operate.

JIC ASSESSMENT, 30 OCTOBER 2002: ‘TURKEY: ATTITUDE TO AN IRAQ CAMPAIGN’

877. The JIC assessed on 30 October that Turkey would support a US-led military campaign and that its opposition to UK forces could be overcome with US pressure.

878. At the request of the MOD, the JIC issued an Assessment of Turkey’s attitude to any international campaign against Iraq, including Turkey’s interests in Iraq, on 30 October.³⁴⁴

879. The JIC judged that Turkey did not want a war against Iraq, but it would support a US-led military campaign. Turkey appeared:

“... opposed to UK troops. Such resistance is probably surmountable, but only by US pressure. Turkey will prefer international legitimacy for the campaign and require guarantees on the territorial integrity of Iraq.”

880. The Assessment recounted Turkish concerns about the impact of war, including:

- regional instability, including if Israel was drawn in;
- the domestic impact of a possible outflow of Kurdish refugees; and
- the economic impact of war.

881. The JIC attributed Turkish sensitivity to UK military involvement in the region to its role in the creation of Iraq in the 1920s and stated that: “The involvement of UK troops in aiding Kurds after the 1991 Gulf War aroused suspicion of UK partiality towards the Kurds.”

³⁴³ Minute Watkins to Secretary of State [MOD], 30 October 2002, ‘Iraq: Meeting with Prime Minister: 31 October’.

³⁴⁴ JIC Assessment, 30 October 2002, ‘Turkey: Attitude to an Iraq Campaign’.

MR BLAIR'S MEETING, 31 OCTOBER 2002

882. On 31 October Mr Blair agreed that the MOD could offer Package 3 to the US on the same basis as Package 2.

883. Sir David Manning commented to Mr Blair that Mr Watkins' letter of 29 October was: "Further pressure from MOD on Package 3. This is based on military planning cycle ... not the UN/Political realities."³⁴⁵

884. Sir David asked:

- Is the timing realistic any more?
- Would the Turks have us?
- Could we backtrack if we gave a firmer commitment?
- Can we afford Package 3?

885. Sir David also wrote alongside the MOD argument that Package 3 would reduce the UK's vulnerability to a US request for a substantial post-conflict contribution: "This supposes we w[ou]ld agree to such costly requests."

886. Mr Powell wrote a manuscript note to Mr Blair stating:

"The military are making another effort to bounce you into a decision on option 3 ... US timelines are slipping and we do not have to decide yet."³⁴⁶

887. On 31 October, Mr Blair, Mr Straw, Mr Hoon and Adm Boyce discussed the MOD wish to offer Package 3 to the US for planning purposes.³⁴⁷

888. Adm Boyce stated that US planning was proceeding on the assumption that there would not be a UK land contribution. The US was "unwilling to approach the Turks about a possible UK contribution until they had a firmer indication" of likely UK commitment. If the "UK wanted to keep open the option of a land contribution and be able to influence the planning process", the US needed to be told that the land package could be assumed on the same basis as the other two packages. That "would not be a final commitment to a UK land contribution".

889. Adm Boyce and Mr Hoon added that the US timetable was slipping beyond the possible early January start date:

"As a result the earlier tight timelines on warning UK Reservists no longer applied ... a warning notice would not be required until the middle of November."

³⁴⁵ Manuscript comment Manning on Letter Watkins to Manning, 29 October 2002, 'Iraq: UK Military Options'.

³⁴⁶ Note (handwritten) Powell to Prime Minister, [undated], 'Iraq: Troops'.

³⁴⁷ Letter Wechsberg to Watkins, 31 October 2002, 'Iraq: Military Options'.

890. Mr Blair asked about the additional costs of Package 3 and whether they had been discussed with the Treasury.

891. The record of the meeting does not indicate whether Mr Blair’s question about the cost of Package 3, and whether that had been discussed with the Treasury was answered.

892. Adm Boyce was reported to have said that “he believed that if we made a major financial contribution through Package 3, we would be under less pressure to finance a big share of the post-conflict reconstruction effort”.

893. Mr Rycroft recorded that Mr Blair concluded that the MOD should tell the US that the UK was “prepared to put Package 3 on the same basis as Package 2 for planning purposes, in order to keep the option open; but that no warning should be issued to the Reservists at this stage”. Mr Blair “should be consulted again before any such warning was issued”.

894. Copies of the record of the meeting were sent to the Private Offices of Mr Hoon, Mr Straw and Mr Brown, to Adm Boyce, and to Mr Bowen.

895. The MOD discussions with the Treasury on the costs of the military options and Mr Brown’s involvement are addressed in Section 13.

Why did the UK Government decide to offer ground forces?

896. The decision to offer Package 3 was, as Sir David Manning advised Mr Blair, a “political call”.

897. In military terms, the US did not need UK ground forces to launch an invasion of Iraq.

898. Lord Boyce told the Inquiry that the US did not need a ground force contribution from the UK:

“... if they had chosen to go on their own, they could have done so. They had the capability and the numbers to do so.”³⁴⁸

899. According to Sir David Manning, the military importance of the UK contribution was:

“... quite an important contribution, but not decisive.

“The Americans could have done this operation without us. We always knew that ... But nevertheless, I’m sure they were grateful to have a sizeable British contribution when, in the end, it came to military action.”³⁴⁹

³⁴⁸ Public hearing, 3 December 2009, page 37.

³⁴⁹ Public hearing, 30 November 2009, pages 38-39.

Why did the UK offer a divisional headquarters and an armoured brigade?

900. The MOD started in spring 2002 from the assumption that if military action was required, the UK should participate; and that its contribution would be on a similar scale to the UK contribution to the US-led operation Desert Storm, the liberation of Kuwait in 1991. It stressed the importance of making a contribution which would be seen by the US as commensurate with the UK's capabilities and the demands of the campaign.

901. In addition, from the outset of the planning process, the military leadership was looking for a discrete UK role in ground operations. This reflected their concerns about the difficulty of integrating forces from different nations for ground operations.

902. That led to the identification of Package 3, which was described as a UK division, although its size, shape and component parts changed significantly over time.

903. From late July onwards, the need to provide cover for a potential strike by the Fire Brigades Union, which was equivalent to a medium scale operation, meant that the UK would have been unable to deploy a division of either two or three brigades within the timescales envisaged by US military planning.

904. Military planners concentrated on identifying the maximum practicable contribution the UK would be able to generate within the potential timescales for US action.

905. From August until December 2002, UK planning was based on providing a divisional headquarters and one armoured brigade for operations in northern Iraq.

906. Asked how the UK's options had been evaluated, Mr Hoon told the Inquiry that the assessment of the UK's contribution had been approached "in terms of what actually was achievable"; it had been "assumed that we would want to be helpful to the United States ... and, therefore, how would we go about offering as much as was consistent with all the other pressures that we faced".³⁵⁰

907. Mr Hoon added:

"My sense was that, generally speaking, the Prime Minister wanted us to be involved to the maximum extent that was possible ... The Prime Minister was, generally speaking, anxious to do what the United Kingdom could to help."³⁵¹

³⁵⁰ Public hearing, 19 January 2010, page 53.

³⁵¹ Public hearing, 19 January 2010, page 56.

908. Mr Hoon stated that Mr Blair “would have accepted” if there were practical reasons why the UK could not offer Package 3, but his “assumption” was that “Downing Street” wanted to offer a land contribution “if it could be done”.³⁵²

909. Sir Kevin Tebbit told the Inquiry that the Chiefs of Staff’s view was that the UK contribution had to be “large enough to be able to integrate ourselves properly with the Americans”; and the UK “shouldn’t be put in the position of expecting somebody else to defend us or sustain us”.³⁵³

910. Asked by the Inquiry if he had a sense that the military were agitating to make sure that they had a role, Sir David Manning replied that he needed to be “very careful” about that. He had not seen any papers suggesting that and it seemed to him that the military adopted different positions at different times.³⁵⁴ In the “spring/summer of 2002”, the military wanted Mr Blair to understand the limits on what they could deliver. But, by autumn 2002, he sensed that “reluctance” had “shifted to an enthusiasm for taking part”, and the “pressure” was to offer Package 3.

911. Asked by the Inquiry whether the US had requested a particular military scale of contribution from the UK, Mr Blair said:

“No. He [President Bush] very much left this to us, to decide what we wanted to do, but I had taken a view that this was something that, if it was right to do, actually it mattered to have Britain there ...”³⁵⁵

912. The military arguments for the UK offering to lead a division in the North reflected discussions with the US and the UK military assessment of the requirements of the operation.

913. Lt Gen Fry told the Inquiry there had been a view that converging axes from north and south, and avoiding logistic congestion in Kuwait and the risks associated with transit through the Gulf, made “eminent military sense”. The northern option offered tactical advantages. He had been “slightly more sanguine” about the length of the lines of communication through Turkey than some of his colleagues. There would also have been more freedom of manoeuvre and fewer bridging operations in the North.³⁵⁶

914. Lt Gen Fry told the Inquiry that the co-ordination of ground manoeuvre operations was difficult and dangerous, and it was best to separate land forces from different states so far as that was possible.³⁵⁷

³⁵² Public hearing, 19 January 2010, page 57.

³⁵³ Private hearing, 6 May 2010, page 70.

³⁵⁴ Private hearing, 24 June 2010, page 100.

³⁵⁵ Public hearing, 29 January 2010, page 61.

³⁵⁶ Public hearing, 16 December 2009, pages 14-15.

³⁵⁷ Public hearing, 16 December 2009, page 14.

915. Lt Gen Fry emphasised that thinking had been driven by the tactical advantages of “a certain degree of national independence” and the avoidance of the need to co-ordinate ground operations, not national ambition.³⁵⁸

What was the UK’s desire to influence the US seeking to achieve, and was it a determining factor in the decision?

916. The importance of influencing the US was stated repeatedly in the papers produced by the MOD between the spring and autumn of 2002.

917. Most MOD witnesses suggested that the scale of the UK contribution would have an impact on the degree of influence it would be possible to exert on the US, and in particular on military planning.

918. General Sir Mike Jackson, Commander in Chief Land Command in 2002, told the Inquiry that it was important to have a substantial land component to influence US planning and its execution.³⁵⁹

919. Asked by the Inquiry if there was a direct relationship between the size of the contribution and the degree of influence the UK would have, Gen Jackson replied that it was not “a linear relationship”, but there was firm connection.³⁶⁰

920. Asked by the Inquiry why the UK was “so keen to send a division”, Lord Boyce replied:

“I think it was only by having something of that particular size that we thought we would have a reasonable influence on how the Americans were going to conduct the campaign.”³⁶¹

921. Sir Kevin Tebbit told the Inquiry:

“... unless and until we had ground force commitments, we did not have the inside track on planning or influence on the day after or the general conduct of affairs, including ... holding the Americans to a multi-lateral track and ... exhausting the arms control route and trying to deal with this through disarmament.”³⁶²

³⁵⁸ Public hearing, 16 December 2009, page 21.

³⁵⁹ Public hearing, 28 July 2010, page 9.

³⁶⁰ Public hearing, 28 July 2010, page 10.

³⁶¹ Public hearing, 3 December 2009, page 38.

³⁶² Public hearing, 3 December 2009, page 46.

922. Sir Kevin added that one of the lessons of the UK experience in the 1990-1991 Gulf Conflict was that:

“In 1990, we learned that, once we committed ourselves to a ground force contribution, the planning process opened completely ... and we were able to influence it, and that experience ... still influenced the way we thought ...”³⁶³

923. Sir Kevin subsequently stated that the lesson the UK had drawn from the 1991 Gulf Conflict was that only “ground forces in significant numbers” really secured influence; and that demonstrating commitment would put the UK in a better position to influence US behaviour “and the way in which Saddam and his regime perceived the seriousness of our position”.³⁶⁴

924. Lt Gen Fry told the Inquiry that “the larger the contribution we made, the more influence we felt we would have over American planning and the ability to shape things in the future”.³⁶⁵

925. Asked in what specific areas it was thought, in the second half of 2002, British influence could apply, Lt Gen Fry replied:

“... we felt at a tactical level we might be able to influence the Americans in certain ways ... about the conduct of operations, and to a certain extent that was true. I don’t think we ever fundamentally influenced their level of military ambition or necessarily even their scheme of manoeuvre, but I think we did assist and shape their views in some ways.

“But I think ... the full benefit that this should have given the UK was never going to be visible to me, because it seems to me that it was the military contribution ... which brought the influence which should then have been deployed at governmental and diplomatic levels.”³⁶⁶

926. The debate in the MOD suggests that there was no unanimity about whether significant ground forces were required to influence the US or that could be achieved by the forces within Package 2.

927. On 9 October, ACM Squire stated that Package 2 would “not entail a loss of influence”.

928. On 15 October Mr Hoon wrote: “In principle, both packages could strengthen that relationship: Package 2 alone should easily surpass any other conceivable non-US contribution, except perhaps that of Turkey.”

³⁶³ Public hearing, 3 December 2009, page 46.

³⁶⁴ Private hearing, 6 May 2010, pages 69-70.

³⁶⁵ Public hearing, 16 December 2009, page 6.

³⁶⁶ Public hearing, 16 December 2009, pages 57-58.

929. Gen Reith told the Inquiry that he was not sure that it had been necessary to provide significant numbers to secure influence. It was the UK's "niche capabilities" and the quality of the advice it provided to US commanders that gave the UK influence.³⁶⁷

930. The advice to Mr Hoon and Mr Blair did not distinguish clearly between a desire and ability to influence US military planning on the one hand and wider and more strategic objectives on the other.

931. There was a perception that the UK would be able to influence, and if necessary delay, the timing of the military campaign. That was initially seen as desirable to give more time for inspections and the strategy of coercion to work and to build domestic and international support for action.

932. A later timescale was also desirable if UK ground forces were to be ready to participate in combat operations.

933. The argument that the UK would be unable to influence the conduct of the US military campaign without a significant and active role in combat operations is self-evidently true. The key question is, however, whether the influence achieved was commensurate with the scale of the UK contribution.

934. The degree to which the UK was able to influence the planning and conduct of the military campaign is difficult to determine, as Section 8 states.

935. The extent to which the offer of Package 3 rather than Package 2 was driven by the view that it would materially affect the UK's ability to influence the US at the political level, or that it would have a lasting impact on the strategic relationship between the US and UK is debatable.

936. Mr Blair regarded the decision as a strategic choice for the UK. He told the Inquiry: "If you are there with a bigger force alongside the Americans than otherwise, then, of course, you will be more intimately involved, but that's not really the reason."³⁶⁸

937. Asked whether he saw a correlation between the size of the UK contribution and its influence with the US, Mr Jonathan Powell told the Inquiry that he did not think that was true.³⁶⁹

938. Asked by the Inquiry whether he thought offering Package 3 had been essential, Mr Powell replied: "No"; the two reasons which had "militated in favour" of that decision were:

³⁶⁷ Private hearing, 15 January 2010, page 57.

³⁶⁸ Public hearing, 29 January 2010, page 62.

³⁶⁹ Public hearing, 18 January 2010, page 91.

- First, the military wanted to participate at a command level and thought that standing by the US was important to the relationship with the US military “on which they crucially depended”.
- Second, Mr Blair “felt that, if we were going to do it, we should be with the Americans properly”.³⁷⁰

939. Sir David Manning told the Inquiry that the reasons for participating in a land invasion “should be for state reasons, for political reasons”.³⁷¹ In his view, what the US particularly wanted was use of bases, “Cyprus and Diego Garcia”, Special Forces and aircraft.

940. Sir David Manning acknowledged that the relationship between the size of the UK contribution and the degree of influence it bought was “not a wholly spurious argument”.³⁷² There had been Defence Reviews which:

“... argued that we must be capable of fighting with the Americans in hot wars, and if we suddenly show we can’t do that, we are not willing to do that, that changes the perspective.”

941. But Sir David added that was, in his view, not a “clinching argument” in relation to Iraq. The UK’s “willingness to take our fair share had been very clear in Afghanistan”. He did not feel that the UK’s “influence was likely to suffer particularly if we said there’s a limit to what we can do”.

942. Sir Kevin Tebbit told the Inquiry that the decision “was not a narrow military issue”; it should be considered in the context of Mr Blair’s policy that the disarmament of Saddam Hussein was the most important single thing to do at that stage. In that broader context, it was, therefore:

“... very valid for us to seek to make a significant contribution ... to international stability.”³⁷³

943. Mr Hoon told the Inquiry that in his view it had been “recognised ultimately” that the decision on Package 3 “was a political judgement for the Prime Minister, in terms of the wider picture of the kind of things we had been discussing in terms of influence and coherence”.³⁷⁴

944. Mr Hoon’s minute of 15 October suggested that Mr Blair should attach conditions to the offer of Package 3. There is no indication that the UK did so.

³⁷⁰ Public hearing, 18 January 2010, pages 90-91.

³⁷¹ Private hearing, 24 June 2010, page 99.

³⁷² Private hearing, 24 June 2010, pages 101-102.

³⁷³ Public hearing, 3 December 2009, pages 39-40.

³⁷⁴ Public hearing, 19 January 2010, pages 50.

What factors influenced the timing of the decision?

945. The uncertainties about the US timetable for military action, including the impact of the timetable for inspections following adoption of a UN resolution, made it hard to identify a precise date by when decisions on preparations would have had to have been taken.

946. The MOD was, however, anxious about the need to make timely preparations to equip, train and deploy the agreed force package if it was to keep the option of a land contribution on the table.

947. Package 3 in October 2002 was based on a square armoured brigade, which constituted only a medium scale capability, but the deployment of a divisional headquarters and the demands of the northern option for logistic support increased the number of personnel it was estimated would be required to a total of 28,000, including 7,700 Reserves.

948. Lt Gen Pigott had advised Mr Hoon on 24 May that three months' warning would be needed to deploy a medium scale joint force, and six months' warning would be needed to deploy a large scale war-fighting land force. The latter would be better prepared and carry fewer risks if nine months warning was available.

949. Sir Kevin Tebbit told the Inquiry:

“... if politicians wanted certain options, you had to have enough time to prepare ...”³⁷⁵

950. In the event, as Section 6.2 shows, the size and shape of the UK contribution changed very significantly in January when the decision was made to deploy for operations in southern Iraq. The roles for two of the three UK brigades were not decided until March 2003.

951. The Government's stated objective was to keep the option of a significant UK land contribution open.

952. In the MOD's advice to Mr Hoon, and in his advice to Mr Blair, a range of arguments were set out of differing weight and significance in support of the MOD position that a decision was needed in October 2002 to offer significant ground forces to the US for planning purposes on the same basis as the forces in Package 2 if the UK was to have a significant role in ground combat operations.

953. The timing of the decision on 31 October to offer ground forces to the US on the same basis as Package 2 appears to have been driven primarily by the MOD advice of 29 October that the option of UK participation in ground operations through Turkey was at risk of being excluded from CENTCOM's

³⁷⁵ Public hearing, 3 December 2009, page 49.

planning by default, and Adm Boyce's advice in Mr Blair's meeting on 31 October that US planning was proceeding on the basis that there would not be a UK land contribution.

954. Mr Hoon's oral evidence to the Inquiry suggested that the US had given the impression that, in the absence of a firm decision, it was discounting a UK contribution.

955. Mr Hoon told the Inquiry that, in October, the UK had:

"... pretty much assumed that the Americans had discounted the prospect of ... [Package 3] and were planning without our involvement, simply because we had not taken the decisions that were required in the timescale that was at that stage required."³⁷⁶

956. Mr Hoon stated:

"... by October ... we had had this discussion on several occasions ... my understanding, by the middle of October, was that the Americans were assuming we wouldn't be there ... on the land [option] ... So essentially ... what I was really saying to the Prime Minister was, 'You have got to decide. You have got to decide whether we are going to offer this third option and this package of an armoured division on the land' ... eventually ... probably as late as the very end of October, that decision was then taken."³⁷⁷

957. Evidence about CENTCOM's position in documents at the time, including Adm Boyce's discussion with Gen Franks on 10 October, Mr Johnson's advice to Mr Hoon of 25 October, and Mr Bowen's report of the Chiefs of Staff discussion on 26 October, indicated that CENTCOM continued to plan on the basis that the UK might offer a land contribution.

958. The US Administration wanted UK support and bases for political as well as military reasons.

959. It is not clear what specific information caused Adm Boyce and Mr Hoon to advise in late October 2002 that the US was planning on the basis there would be no UK land contribution.

Were the post-conflict implications for the UK, of a significant role on the ground in an invasion of Iraq, properly addressed?

960. The MOD advice and Mr Hoon's minute of 15 October argued that a combat role would be time limited, and that it would help the UK avoid a significant and protracted military involvement in Iraq post-conflict.

³⁷⁶ Public hearing, 19 January 2010, page 36.

³⁷⁷ Public hearing, 19 January 2010, pages 45-46.

961. As Sir David Manning foresaw in his advice of 16 October, however, far from reducing the risk of significant commitments post-conflict, contributing ground forces created significant obligations and responsibilities for the UK post-conflict.

962. Mr Hoon told the Inquiry that there was a sense that it was better to be in Iraq at the beginning of any operation, rather than go in later for a peacekeeping operation without having prior experience and information.³⁷⁸ There were also concerns that would require more troops for longer.

963. Sir Kevin Tebbit confirmed that one of the arguments for offering land forces for combat operations was that the MOD had not wanted “to get caught in the role of follow-on forces because then we could find ourselves even more bogged down and under even greater pressure to stay for longer than we felt ... sensible”.³⁷⁹ The UK had been caught anyway, although Sir Kevin suggested that taking part in the invasion had made it easier to reduce UK force levels after the conflict than it would have been if the force had deployed only for post-conflict tasks.

964. The recognition of that responsibility in the planning for post-conflict operations is addressed in Sections 6.4 and 6.5.

Did the need to maintain the Army’s morale influence the decision?

965. The MOD and No.10 both raised the question of whether there could be an issue of managing morale if the Army was not involved in combat operations.

966. The balance of the evidence suggests that none of the key decision-takers regarded that as a decisive factor in the decision, which would clearly have been inappropriate.

967. Mr Campbell wrote in his diaries that, at the meeting on 31 October, Adm Boyce had said that some inside the Army were irritated not to be more involved.³⁸⁰ Mr Campbell commented that Adm Boyce was “hard to read, sometimes giving the impression none of them wanted anything to do with this, then at others giving the impression they all wanted to be off to the front line”.

968. In his book, *The New Machiavelli*, Mr Powell wrote that Adm Boyce had told No.10 that the Armed Forces wanted to participate on the ground at “division strength with their own command”; and that it would damage morale if they were restricted to a mere supporting role from sea and air while the Americans and others carried out the ground campaign.³⁸¹

³⁷⁸ Public hearing, 19 January 2010, page 47.

³⁷⁹ Private hearing, 6 May 2010, page 56.

³⁸⁰ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

³⁸¹ Powell J. *The New Machiavelli: How to wield power in the modern world*. The Bodley Head, 2010.

969. Asked if the argument was that it would sustain morale in the Army had been a factor in the decision, Mr Powell told the Inquiry:

“The military indicated to us that it would be important for morale that we were involved properly, yes.”³⁸²

970. Asked about Mr Powell’s evidence to the Inquiry on morale, General the Lord Walker, Chief of the General Staff from April 2000 to February 2003, told the Inquiry that that was “not something” he had had “any anxiety about”. There might have been “expressions of exasperation” at the “lower levels” in the Army if it was not involved, but it was not an issue as far as he was concerned.³⁸³

971. Asked how important the issues of morale and the standing of the British Army had been in terms of not wanting to be left out of a major campaign, Gen Jackson told the Inquiry that, if it had gone ahead without a land component, he thought “the army would have been, to put it mildly, rather disappointed”.³⁸⁴

972. Asked if the issue had been discussed by the Army Board, Gen Jackson stated that he could not remember precisely, but he had “very little doubt that the Army Board’s view would have been as I have just outlined”. He had been “mystified” in relation to the thinking behind the “opening offer”, but over the autumn [of 2002] a “more balanced contribution came into being”.

973. Asked whether the impact of Army morale had been a factor which had been put to him, and through him to Mr Blair, Mr Hoon replied:

“I don’t recall the argument being put to me in quite those terms. I ... was well aware of the tremendous qualities of our Armed Forces and their desire to be used and ... participate.

“So there was a sense, particularly amongst the Army, that they didn’t want to be left out. But ... I wouldn’t have regarded that ... as something that you put on the table and say it was a major factor in the decision-making.”³⁸⁵

974. Mr Hoon added that there was a sense that the Army “wanted to play their part”, and that made the decision easier because they were saying “if necessary we can play our part”.

975. Mr Hoon’s own comments on that point in the minute he sent to Mr Blair, which differed from the MOD position, approved by Adm Boyce, set out in Mr Johnson’s advice of 11 October, supports that position.

³⁸² Public hearing, 18 January 2010, page 91.

³⁸³ Public hearing, 1 February 2010, page 7.

³⁸⁴ Public hearing, 28 July 2010, pages 10-12.

³⁸⁵ Public hearing, 19 January 2010, pages 48-49.

976. Mr Straw told the Inquiry:

“The interesting thing ... was that from an early stage it was the Chief of the Defence Staff who had argued very strongly that if we were going to get involved in the military action, the Army had to be there, because they would be unhappy and cross if they weren’t. I don’t trivialise the way it was put across ... So we could have provided facilitation and then go[ne] in afterwards, which would not have meant standing down the troops we had in theatre and it was essentially what the Spanish and the Italians did.”³⁸⁶

977. Asked about the weight he had attached to Adm Boyce’s advice on morale, Mr Blair told the Inquiry that he had asked:

“... the military for their view, and their view in this instance was that they were up for doing it and that they preferred to be right at the centre of things ... that was my view too. I thought, if it was right for us to be in it, we should be in it there alongside our principal ally, the United States.”³⁸⁷

978. Mr Blair wrote in his memoir that in late 2002, Adm Boyce had “said he would have a real problem with the Army if they were not fully involved”.³⁸⁸

979. Asked about Mr Blair and Mr Powell’s comments, Lord Boyce told the Inquiry that, “of course the Army would want to be engaged in a war”.³⁸⁹ If they had been unable to deploy because of the firefighters’ strike and:

“... everybody else went to war you can imagine how they would have felt. They are trained to fight. They are the most professional army in the world. They would be sitting around and hosing down houses while the Marines, the Navy and Air Force would be busy. What do you think they would think? They would be disappointed they weren’t involved. So yes. It would have been untruthful of me not to represent that to the Prime Minister which I did.

“It was not a factor of saying if you don’t do this the Army are going to mutiny or to want to go home or whatever. Of course not. It would be wrong not to have apprised him of the fact that the Army would be dismayed if they weren’t engaged ... particularly having been as successful as they had been during Desert Storm in 1991.”

980. Asked whether, in relation to Package 3, the Chief of the General Staff had been reluctant to take on “yet another commitment” or was “nervous about being left

³⁸⁶ Public hearing, 2 February 2011, pages 105-106.

³⁸⁷ Public hearing, 29 January 2010, pages 60-61.

³⁸⁸ Blair T. *A Journey*. Hutchinson, 2010.

³⁸⁹ Public hearing, 27 January 2011, pages 31-32.

out”, Lord Boyce told the Inquiry he did not “recall ... any reluctance”; “it was just a professional judgement ... an option which he could deliver”.³⁹⁰

Were the other risks of offering ground forces fully identified and considered?

981. The decision to offer ground forces (Package 3) to the US for planning purposes was a significant step. Once the offer was made, it would have been difficult to withdraw. This constrained the UK’s subsequent policy choices.

982. There is no evidence that the extent to which the offer of Package 3 might constrain the UK’s future choices was a factor in Mr Blair’s decision.

983. The risks associated with the decision, and with other options, were not examined by senior Ministers in a collective discussion on the basis of coherent inter-departmental analysis and advice.

984. The decision to offer Package 2 – UK maritime and air forces, Special Forces and niche capabilities – to the US for planning purposes in September 2002 was relatively uncontroversial and was not seen as exposing the UK to significant risk.

985. The offer of significant forces for ground operations for planning purposes was not the same as a decision to commit the forces to military operations, but it did raise more difficult issues of both a practical and political nature.

986. The advice for Mr Hoon and Mr Blair in October 2002, however, did not explicitly address a number of crucial strategic issues which had previously been identified, including:

- the implications of the mismatch between US and UK strategic objectives;
- the risk of having to make a choice between the US and the UN route because of tension between the US military timetable and that for UN inspections;
- the degree to which offering Package 3 and deeper engagement in US planning might constrain future choices more than the offer of Packages 1 and 2; and
- the potential damage to the UK/US relationship if the UK subsequently decided it would not participate in military action.

987. Sir Kevin Tebbit had set out his concerns in his minute to Mr Hoon of 3 July and his letter to Sir David Manning of 19 July.

988. The issues had also been identified in the papers prepared for the Chiefs of Staff.

989. While it would theoretically have been open to the UK to withdraw the offer at any time, the Chiefs of Staff themselves considered, on 9 October, that a UK withdrawal

³⁹⁰ Public hearing, 3 December 2009, pages 48-49.

after Exercise Internal Look, in December 2002, would have unpalatable diplomatic consequences.

990. Mr Hoon's minute of 15 October was sent to Mr Straw, Mr Brown and Sir Andrew Turnbull, and Mr Watkins' advice of 29 October was sent to the Private Offices of Mr Straw and Mr Brown and to Mr Bowen. The issues were discussed in two meetings chaired by Mr Blair, on 17 October and 31 October, at which Mr Straw was present as well as Mr Hoon and Adm Boyce.

991. In the context of questioning about the Government's decision-making machinery and whether Mr Blair was being given military advice which addressed the implications and challenges, Sir David Manning stated that he was sure that the MOD was "intent on giving him the best advice they possibly could about the military commitment".³⁹¹

992. Mr Blair had expressed his concerns about cost and Treasury officials had raised the issues with Mr Brown, but Mr Brown was not at the meetings on 17 and 31 October.

993. As Section 7 sets out, decisions of this importance, which raise a number of challenging questions, are best addressed by a Cabinet Committee. Collective and regular consideration by a small group of senior Ministers, whether or not formally designated as a Cabinet Committee, would have been able to explore more thoroughly:

- what the UK was seeking to achieve;
- how its national interests might best be served;
- the options available and their advantages, disadvantages and risks; and
- whether offering Package 3 to the US at that time was the best option in the circumstances.

994. There would also have been advantages in ensuring the MOD analysis was examined by a small group of senior officials before advice for Ministers was finalised.

995. Mr Blair had told Cabinet on 24 October that "military options" would be discussed in due time. Cabinet did not discuss military action until 17 March 2003.

UK pursuit of the northern option

Discussions with the US about Turkey's position

996. Following the agreement to offer Package 3 to the US, the UK military preference for land operations remained in the North although, by early November, the US was suggesting that the UK should look at other options.

997. On 31 October, Mr Hoon telephoned Secretary Rumsfeld to inform him of the decision to offer Package 3 and that a UK contribution might comprise a divisional HQ,

³⁹¹ Public hearing, 30 November 2009, page 52.

an armoured brigade, artillery and logistic support for an operation in the North.³⁹² That was, “of course, all subject to final political decisions here on recourse to military action”. Mr Hoon asked to be alerted to any slippage in US military planning timetables.

998. Referring to the potential difficulties with Turkey, Secretary Rumsfeld asked if UK forces would be available for operations in the South. Mr Hoon replied that the UK was open to ideas but had so far focused on the North because the US would have plenty of their own forces in the South and space would be limited.

999. Sir David Manning flew to Washington on 31 October for talks with Dr Rice, Mr Colin Powell, US Secretary of State, and Mr Armitage.

1000. Sir David advised Mr Blair that he had told Dr Rice that the UK “continued to plan for a possible UK military role in northern Iraq, if the shooting started”.³⁹³

1001. Sir David wrote that they had discussed:

- Whether a UK military force would be permitted to transit through Turkey.
- The fact that “the UN inspection timetable was now out of sync with the timetable for possible military action beginning in early January”. He had asked “whether we might now be looking at the second of the original ‘windows’ ie a campaign next winter rather than this”. That had not been ruled out but the conversation had shifted to the prospects for internal regime change sparing the need for military action. The best chance of securing that was “a very tough UN resolution accompanied by threatening military preparations, in the hope that Saddam’s system would implode under the strain”.

1002. Other issues discussed, including Sir David’s suggestion of “a new wariness at the heart of the [US] Administration”, are addressed in Section 3.5.

1003. Mr Rycroft reported a “strong impression” that the US expected “Turkish objections to a UK military presence to be insistent and difficult to overcome”. There had been a mixed response to the question of whether the US would be prepared to expend political capital helping the UK.³⁹⁴ Mr Rycroft added:

- Mr Armitage had told Sir David that the US would do “whatever is necessary” to get the UK into Turkey.
- Secretary Powell had told Sir David Manning on 1 November that he was unsure about Turkey’s real position and had “lots of military questions” about the northern route.

³⁹² Minute Watkins to DG Op Pol, 31 October 2002, ‘Iraq: UK Military Options’.

³⁹³ Minute Manning to Prime Minister, 3 November 2002, ‘Visit to Washington: Talks with Condi Rice’.

³⁹⁴ Letter Rycroft to McDonald, 1 November 2002, ‘Iraq: US views, 1 November’.

- “Less encouragingly”, Dr Rice had implied that the US would not be prepared to expend much political capital in securing Turkey’s agreement to a UK deployment through Turkey.

1004. The British Embassy in Washington reported on 1 November that it has been made abundantly clear to the US Administration that there were likely to be difficulties in mounting UK operations through Turkey, and the NSC and Secretary Rumsfeld had accepted this. Some senior voices in the US Administration were strongly advising the UK to consider other options.³⁹⁵

1005. In Washington on 5 November, Sir Kevin Tebbit pressed senior officials in the State Department, Pentagon and NSC to press the Turkish Government on UK military deployments in Turkey.³⁹⁶

1006. Sir Kevin argued that a UK contribution in the North “made the greatest political and military sense”, and that Turkish misgivings about a Kurdish state and lack of support for Turkey’s EU candidacy were “misplaced”. He had explained that all the UK’s planning had “thus far been predicated on the northern route” and the UK “had not considered alternatives”. He believed other options “would present both political and military problems”. The military package the UK was considering had been “tailored” to that role and “was not something that could be fitted in anywhere”.

1007. Senior members of the US Administration offered differing views on the strength of Turkey’s concern. Those in the Pentagon and NSC suggested that the UK should look at other options. One official in the NSC suggested that, if it was not feasible for the UK to operate from the South or West, it was “imperative” that the UK should tell the US “as clearly as possible”.

1008. Sir David Manning and Mr Powell were concerned by the position Sir Kevin had taken.

1009. Mr Powell asked: “Why on earth has he gone down this track?”³⁹⁷

1010. Sir David replied: “I wish I knew. The MOD seem to have their own agenda. I can only assume they are mad keen still on their northern option (Package 3).”³⁹⁸

1011. Mr Powell wrote that he would talk to Mr Hoon.³⁹⁹

³⁹⁵ Telegram 1429 Washington to FCO London, 1 November 2002, ‘Iraq: Military Planning’.

³⁹⁶ Telegram 1446 Washington to FCO London, 6 November 2002, ‘Iraq: Military Planning’.

³⁹⁷ Manuscript comment Powell on Telegram 1446 Washington to FCO London, 6 November 2002, ‘Iraq: Military Planning’.

³⁹⁸ Manuscript comment Manning on Telegram 1446 Washington to FCO London, 6 November 2002, ‘Iraq: Military Planning’.

³⁹⁹ Manuscript comment Powell on Telegram 1446 Washington to FCO London, 6 November 2002, ‘Iraq: Military Planning’.

Military planning for the northern option

1012. When the Chiefs of Staff met on 6 November they noted that there were two options for the employment of a UK land force in the North: either integration in a division under US command or the formation of a separate division, for which the UK would provide the HQ and a square brigade, possibly sweeping up Coalition partners.⁴⁰⁰

1013. The meeting was also informed that:

- The total UK contribution “currently remained Medium Scale” and it did not follow that the UK contribution would increase in the event that Op FRESCO was no longer required.
- Ministers had “yet to be exposed” to work on a “Force-on-Mind and media strategy” to cover the period immediately after the UN resolution was adopted.
- Package 3 had been “well received by the US”.
- Until further notice, discussions on UK deployment through Turkey would be “taken forward through the US”.

1014. The Chiefs of Staff also considered a short paper produced by PJHQ on the practicalities of conducting military operations during an Iraqi summer.⁴⁰¹ The paper concluded that military operations would be possible but at reduced tempo and with increased risk.

1015. The Chiefs of Staff noted the advice and asked for a revised paper within a month.⁴⁰²

1016. Sir David Manning sent Mr Blair the MOD paper and Mr Bowen’s minute summarising its contents.⁴⁰³ Sir David also wrote that he had sought Secretary Powell’s views when he had been in Washington the previous week.

SPG PAPER, 6 NOVEMBER 2002

1017. A fifth version of the SPG paper ‘UK Military Strategic Thinking on Iraq’ was produced on 6 November.⁴⁰⁴ This set out three “broad Courses of Action (COA) to deliver the end state”:

- **Diplomatic & Coercion:** a UN resolution and inspections. The UK Government’s main effort (“ME”) was creating and sustaining the resolution of the international community. Saddam Hussein would need to be convinced that the international community was “serious, but equally that compliance” would “reap its rewards” and he was “not in a zero sum game”. The SPG judged

⁴⁰⁰ Minutes, 6 November 2002, Chiefs of Staff meeting.

⁴⁰¹ Minute Reith to PSO/CDS and SECCOS, 5 November 2002, ‘Warfighting in Iraq in the Summer’.

⁴⁰² Minutes, 6 November 2002, Chiefs of Staff meeting.

⁴⁰³ Manuscript comment Manning to Prime Minister, 8 November 2002, on Minute Bowen to Manning, 8 November 2002, ‘Iraq: Fighting in the Summer’.

⁴⁰⁴ Paper [SPG], 6 November 2002, ‘UK Military Strategic Thinking on Iraq’.

that a coercive strategy “**must offer carrots as well as sticks**” to “**achieve a change**” in the behaviour of the Iraqi regime “**without conflict**”. It also required a “**continued credible threat of force**”.

- **Diplomatic/Force:** UN inspections failed “at some point” and the international community resorted to the use of force “with UN authorisation”.
- **Force:** Early failure of the UN route and either no UN resolution or an inadequate one and a US-led Coalition resorting to the use of force without a UN mandate.

1018. The section on post-conflict issues had been substantially revised. It stated that the “lasting impression of Coalition legitimacy and success” would be “determined by the nature of the Iraqi nation” that emerged after the conflict. That had the potential to “prove the most protracted and costly” phase of the campaign.

1019. In its summary of the implications of the post-conflict phase for military planning, the paper stated:

- “• The impact of any enduring commitment on other operations would be significant. A recommendation on the size of force the UK is prepared to commit must be prepared, at least for the key six months following any operation ...
- Planning for Resolution Phase operations must be complete before the start of offensive operations. Any UK land force HQ must have the capacity to conduct offensive and Resolution Phase operations concurrently.
- ... clarity on post-Resolution Phase and likely UK contribution will be needed before operations commence.”

1020. The post-conflict issues raised by the SPG are addressed in Section 6.4.

1021. A new section addressed the problems the Coalition would face if Saddam Hussein adopted a “Fortress Baghdad” strategy. The SPG stated that the Coalition could not “engage in drawn out urban conflict”:

“Loss of tempo, rising casualties and humanitarian efforts would undermine Coalition will to continue and rapidly alienate regional supporters.”

1022. The SPG proposed:

- maintaining the moral and legal high ground by minimising civilian casualties, collateral damage and own casualties;
- trying to avoid fighting in built up areas and to “guard and bypass” towns and cities, including denying access to Baghdad, during offensive operations;
- attempting decapitation of the regime;
- isolation of security forces still loyal to the regime and subversion through “aggressive” information and psychological operations;
- dominating the rest of the country and implementing the “resolution phase”;

- “when ready”, conducting “operations to complete the defeat of the surviving loyal elements”; and
- ensuring that a “massive humanitarian aid effort” was available “to provide life support to non-combatants”.

1023. Other new points identified in the paper included:

- Draft objectives for a northern option remained under consideration by the Pentagon.
- The UK was “seeking to place” force generation and preparation efforts “in an appropriate framework to determine their effect and timing” in the “Force on Mind campaign”.
- The adoption of the UN track meant that the timing of a military operation might “shift to the point of failure of UN processes” and might be required in “hot months”. The SPG’s initial assessment was that the UK would “**be able to continue operations**” but it was “feasible that, at some point”, the risk might “**become unacceptable**”.
- Mitigation measures were being identified to address the risk of attacks using chemical and biological weapons and residual hazards after the military campaign.
- The CENTCOM plan included “sequential ground attack into Iraq from SE Turkey to coincide with the main effort attack of V Corps forces in the South ... the northern option ... built upon the 4th Infantry Division of the US Army”. That might “include UK Package 3 forces pending political decision”. Command and control procedures and the likelihood of delivering a Corps Headquarters for the force had “yet to be determined”.

1024. The preference for the northern option was stressed by Major General Robin Brims, the General Officer Commanding (GOC) 1st (UK) Armoured Division, when he met Lieutenant General David McKiernan, Commander, Coalition Forces Land Component Command, on 10 November.⁴⁰⁵ Although possible operations in the South were discussed, Maj Gen Brims reported that Lt Gen McKiernan and his superiors wanted UK forces to be used in the North.

1025. Brigadier Albert Whitley was deployed to Lt Gen McKiernan’s HQ in Kuwait in early November as Senior British Land Advisor (SBLA).⁴⁰⁶ He was “involved in planning for UK military action and participation” and asked by Lt Gen McKiernan, in the absence of a dedicated Corps headquarters, to lead a joint UK/US team to plan an attack from Turkey.

1026. On 11 November, Maj Gen Fry asked for more guidance on the likely Phase IV tasks for the UK; and whether he should assume that a general role in Phase III

⁴⁰⁵ Minute GOC 1(UK) Armd Div to CJO, 10 November 2002, ‘Meeting with Lt Gen McKiernan (CFLCC)’.

⁴⁰⁶ Statement Whitley, 25 January 2011, page 3.

implied involvement in Phase IV.⁴⁰⁷ If so, he asked where the UK would want to be. After highlighting some of the advantages and disadvantages of the North and South, he asked whether the UK would be prepared to be involved in operations against Baghdad.

1027. The MOD has been unable to locate any response to this request.⁴⁰⁸

Adoption of resolution 1441

Resolution 1441 was adopted on 8 November 2002.⁴⁰⁹

The content of the resolution and the Explanations of Vote provided by the members of the Security Council are addressed in Section 3.5.

US REQUEST FOR SUPPORT FROM ALLIES

1028. The US asked the UK and other allies for military support on 15 November.

1029. The US formally requested UK and other allies' support on 15 November on the grounds that "planning for potential military action is both necessary to increase the pressure on Iraq to comply with the will of the international community and prudent in the event it again refuses to do".⁴¹⁰

1030. The US request, which was handed to Mr Hoon on 18 November, included:

- "full access, basing and overflight at bases in Britain, Diego Garcia and Cyprus";
- an armoured division (minus);
- special operations forces;
- "Royal Navy and Air Force units, including maritime patrols and aircraft";
- explosive ordnance disposal;
- "Financial/material resources for a military campaign and for post-conflict efforts";
- "constabulary forces and humanitarian assistance as part of post-conflict stability efforts"; and
- "nuclear/biological/chemical defense assets".

1031. Mr Hoon replied to the US request on 26 November.⁴¹¹

⁴⁰⁷ Minute DCJO(Ops) to ACDS(Ops), 11 November 2002, 'COS COA Paper: Military Strategic Guidance'.

⁴⁰⁸ Letter MOD to Iraq Inquiry, 1 November 2012, [untitled].

⁴⁰⁹ UN Security Council resolution 1441 (2002).

⁴¹⁰ Letter Williams to McDonald, 18 November 2002, 'Iraq – US Request for UK Support' attaching Paper, 15 November 2002, 'Request for UK Support'.

⁴¹¹ Letter Hoon to Farish, 26 November 2002, [untitled] attaching Paper [undated], 'United Kingdom Response to United States Government Talking Points delivered on 18 November 2002'.

1032. The key points were that the UK:

- Assured the US “of its continued determination to see the disarmament of Iraq, by peaceful means if at all possible, but by force if necessary”.
- Applauded “the leadership shown by the US Administration” and congratulated it on the “successful negotiation ... of resolution 1441”. The unanimity of the Security Council had sent “a powerful message from the international community to Iraq” which would be “strongly reinforced by the US Administration’s initiative to build and sustain the widest possible support for any further action that may prove necessary”.
- Confirmed that the “forces and facilities listed in the US request” were “available as a basis for planning” and were those that the UK “would expect to make available”. Military staff and officials would “remain ready to ... engage fully in further detailed planning and development of military options, including refinement of the potential UK contribution within the broad scale of effort ... indicated”.

1033. Mr Hoon commented that the issue of UK support to military action had “been the subject of bilateral work for some time” and he had, therefore, not repeated the detail. He was “very grateful for the excellent access” given to the UK and was “keen to maintain the close co-operation” that had “already been established”.

PJHQ’S PROPOSAL TO EXPLORE OPTIONS IN THE SOUTH

1034. After the adoption of resolution 1441, significant questions about Turkey’s position remained.

1035. Mr Westmacott reported that a Turkish statement on 8 November had welcomed the adoption of resolution 1441 and that it hoped Iraq would comply quickly; and that there was relief that the resolution made “war a little less likely”.⁴¹²

1036. PJHQ reported on 11 November that Maj Gen Fry was concerned that the difficulties with Turkey had not been fully acknowledged.⁴¹³ The paper being developed for the Chiefs of Staff should, therefore, examine both northern and southern options.

1037. No discussion of Iraq is recorded in the minutes of the Chiefs of Staff Committee on 13 November.⁴¹⁴

⁴¹² Telegram 416 Ankara to FCO London, 12 November 2002, ‘Iraq: UNSCR 1441: Turkish Reactions’.

⁴¹³ Email MA/DCJO to MA1/DCDS(C), 11 November 2002, ‘Meeting with Lt Gen McKiernan’.

⁴¹⁴ Minutes, 13 November 2002, Chiefs of Staff meeting.

1038. Mr Hoon was advised on 14 November that:

“While it seemed likely that Turkey would accept US forces, negotiations would be protracted. The extent to which the US would press the Turks on our behalf was not clear.”⁴¹⁵

1039. The “public posture on specific military preparations” should remain “low key”.

1040. Lt Gen Reith proposed that options in the South should also be explored.

1041. The paper considering options for a UK land contribution, submitted by Lt Gen Reith to the Chiefs of Staff on 18 November, advised that many of the assumptions behind the force levels in Package 3 offered to the Americans for planning purposes were no longer valid.⁴¹⁶ The US had “embraced the wider significance of the North” and allocated a US division to that axis, but it had withdrawn the offer of a US armoured brigade operating under UK command. The northern option would require a Corps level (three-star) HQ, which had “yet to be found”; and there was a US aspiration that the UK would contribute to and lead any “three-star” HQ in the North. The uncertainties about Turkish co-operation were also “a concern, preventing reconnaissance and creating logistic uncertainty”.

1042. PJHQ had, therefore, “developed” four potential courses of action “in line with current US thinking: one in the North and three in the South, which were “feasible, although they [would] all require provision of an additional manoeuvre brigade”.

1043. In the South, the UK would operate under US command. The paper expanded on the advantages and disadvantages of each course of action, including whether they offered a “high profile and worthwhile role” for the UK.

1044. Lt Gen Reith wrote:

“Without Turkish co-operation, UK forces may be either excluded from participation or, if agreement is reached late, have their ability to participate in the early stages of the campaign in the North compromised. This would impact on the strategic simultaneity the plan is designed to achieve. To date, UK policy has been to allow the US to act as the principal interlocutors ... The results ... have left our position uncertain.

“... If a decision is not made soon, the UK may need to engage directly with Tu[rkey] to achieve resolution.”

1045. Lt Gen Reith recommended discounting options of integrating a UK brigade within a US division in the North and a UK division operating independently of the US. He suggested that it would be “feasible” for the UK and US to construct a Corps

⁴¹⁵ Minute Watkins to DG Op Pol, 14 November 2002, ‘Iraq: Ministerial Briefing’.

⁴¹⁶ Minute CJO to DCDS(C), 18 November 2002, ‘Options for the UK Land Contribution’.

headquarters and that: “Command at 3-star level would restore the UK lead in the North, and also indicate tacit agreement for ownership of the northern Area of Operations (AO) in Phase IV.”

1046. Lt Gen Reith advised that the northern option:

“... could result in UK long-term leadership of the region during post-conflict operations: a position which the US would appear to favour. It would be a challenging area to control and develop, particularly in preserving regional stability between the Turks, Kurds and Sunnis. Whilst the UK has the necessary experience and capability, the challenges do need to be assessed in line with UK strategic guidance.”

1047. In relation to operations in the South, the paper identified three options for a UK division:

- Operating as a “manoeuvre formation” within US V Corps.
- Operating as a “manoeuvre formation” within US I Marine Expeditionary Force (MEF).
- Operating as a “second echelon force” within US V US Corps.

1048. The paper considered that:

- Command and Control arrangements would be “less complex than in the North”.
- The “shortened and simplified LOC [lines of communication] make all southern COA attractive ... However, it should be recognised that US plans are well advanced in the South, there is very limited logistic space available ... deployment would require considerable synchronisation with the US.”
- “A post-conflict positioning of the UK division in the South could be attractive. The range of problems appears less-complex and diverse, the long-term force structure requirements could be reduced and local conditions are likely to be more conducive to development and influence. The northern ... Gulf ... is also a traditional area of UK influence.”

1049. Lt Gen Reith concluded:

- Four options were “achievable” and offered “worthwhile tasks”, but the UK needed to “reduce risk in its timetable for deployment and RSOI [Reception, Staging, Onward Movement and Integration]”.
- All four feasible options would require “a UK division with integral capability for manoeuvre”.
- The northern option offered “a high profile and worthwhile role for the UK”.

- Without confirmation of Turkey's support, the UK would "need to continue planning for a southern option as well". The roles envisaged in the South were "worthwhile but less high profile" and there was an "implicit ... risk of the UK engagement in operations in Baghdad" in two of the three options.

1050. The Chiefs of Staff were asked to indicate which course of action in the South they would prefer, and were reminded to consider "where we wish to be at the end of Phase III, as this could impact directly on any UK involvement in Phase IV".

1051. The Inquiry has not seen any detailed analysis underpinning Lt Gen Reith's conclusion that southern Iraq would be more manageable in the post-conflict period than the North.

MOD ADVICE FOR NO.10, 19 NOVEMBER 2002

1052. The MOD told No.10 on 19 November that the option of a military campaign launched on 6 January 2003 appeared to have lapsed, and the timelines were "uncertain".

1053. Mr Hoon recommended that the UK should press the US for clarity on the Turkish position.

1054. If the UK had to "fall back" on a role in the South, it would be looking for a role in the invasion rather than providing follow-on forces.

1055. MOD concerns about the importance of post-conflict operations and the need for work on the implications for the UK approach to the campaign are addressed in Section 6.4.

1056. Following the visits to the US by Sir Kevin Tebbit and Adm Boyce and in advance of the NATO Summit in Prague on 21 November and the planned debate on Iraq in the House of Commons on 25 November, Mr Watkins sent Sir David Manning an update on military discussions with the US.⁴¹⁷ He set out the themes which had emerged and registered a number of concerns, including the need to press the US to clarify Turkey's position.

1057. Mr Watkins wrote that there was a need to "continue military preparations to underpin the diplomacy/inspection track, without bringing forces to an unsustainable level of readiness". There was "a sense ... that the realistic timetable for action was slipping" but there had been "no US political endorsement of any later date for planning purposes".

1058. Mr Watkins advised that the US continued to describe the northern front "as an essential part of the plan", but there was no clear agreement with Turkey "who had declined to be definitive pending the appointment of a new Government". The US might

⁴¹⁷ Letter Watkins to Manning, 19 November 2002, 'Iraq: Military Planning after UNSCR 1441'.

be “in for a long and expensive negotiation” and it was clear that the US priority would be “to secure basing” for its “own ground forces”.

1059. Mr Hoon believed that the UK should “up the ante” with the US, and: “Press for clarity on the Turkish position, one way or the other ...”

1060. Mr Hoon wanted Sir David Manning to:

“... reinforce with Condi Rice the need for the President to try to unblock this. If we do have to fall back on a southern role we should try to ensure that it is as part of the main effort rather than as follow-on forces.”

1061. Addressing UK military preparations, Mr Watkins wrote that the option of a military campaign launched on 6 January 2003 seemed to have “effectively lapsed” and the timelines were “uncertain”. The US military position was described as “get ready, but not too ready”, because they did “not want to bring too large a force to too high a pitch of readiness”.

1062. Mr Hoon recommended continuing with military preparations to keep options open, and suggested that the debate in the House of Commons on 25 November provided an opportunity to make some public reference to them.

1063. There was “a sense in the US” of “two broad timelines in play, implying two different plans”. The first was a “high-impact event to which the US might feel the need to respond quickly at short notice”. The second was a decision that a material breach had occurred which would be followed by a “more deliberative build-up to military action”.

1064. Each scenario was “problematic”:

- The first would effectively hand the initiative to Saddam Hussein; it might provoke a rapid response, but that could not be decisive because it could not involve sufficient land forces to take control of Iraq, “unless ... it leads ... to regime collapse, a scenario in which the US seem to invest quite a lot of hope”.
- The second would give Saddam Hussein time which he “might be able to exploit diplomatically and militarily”. A deliberate campaign “would require some 60-90 days’ build-up, and the time will soon come when the question has to be confronted of whether it is sensible to contemplate fighting in the summer”. A “common understanding” needed to be reached with the US and plans “shaped accordingly”.

1065. Addressing the issue of “Timetable and Triggers”, Mr Watkins wrote:

“To some extent, triggers are now under Saddam’s control and so cannot be slotted into any firm timetable. Moreover, what constitutes a ‘violation’ and/or ‘material breach’ remains undefined: many in the US are reduced to saying ‘we’ll know when we see it’, which is not a suitable base for planning.”

1066. The MOD was also concerned that:

“Lack of clarity in US thinking about possible triggers for military action needs to be resolved quickly, particularly in relation to the No-Fly Zones.”

1067. If a Coalition aircraft was shot down, it would, “under long-standing plans, trigger a massive US response”, which the US might use to trigger a wider campaign.

1068. Mr Hoon recommended working “quickly to reach an agreed US/UK view on triggers ... well before we are confronted with it in practice”, and explaining to the US that hostility in the No-Fly Zones should be met only by “self-defence responses”.

1069. Mr Watkins also drew attention to the importance of planning for the “aftermath” of military action: “This needs to guide thinking on the conflict phase, for all sorts of reasons”. Mr Hoon believed that the UK should: “Continue trying to influence US thinking on the aftermath, recognising that this is not something which can be neatly separated from any conflict phase”.

1070. Copies of Mr Watkins’ letter were sent to the Private Offices of Mr Straw and Mr Brown, and to Mr Bowen.

1071. The discussion within the UK Government on the timetable and triggers for military action following the adoption of resolution 1441 is addressed in Sections 3.6 and 5.

UNCERTAINTIES ABOUT THE NORTHERN OPTION

1072. Adm Boyce decided on 20 November that it would be premature to discuss alternative options with the US while the UK was still trying to force a decision from Turkey. The northern option remained the firm preference of the Chiefs of Staff.

1073. The Chiefs of Staff also asked Lt Gen Reith to look at the option of providing two UK brigades.

1074. On 20 November, the Chiefs of Staff considered the options identified by Lt Gen Reith on 18 November.⁴¹⁸

1075. The Chiefs of Staff were informed that the US had offered the UK a light brigade, but that was not suitable for the operation in the North. Lt Gen Reith would examine other options including the provision of two UK triangular brigades.

1076. Adm Boyce asked for:

- further advice on the northern force structure, including the employment of the ARRC; and
- “... further clarification on timelines before considering the Southern COAs.”

⁴¹⁸ Minutes, 20 November 2002, Chiefs of Staff meeting.

1077. Adm Boyce “was also clear that while the main effort was to force a decision from Tu[rkey] ... the time was not right to open up alternative planning options with the US”.

1078. The Chiefs of Staff also discussed:

- the debate on potential triggers for military action;
- the possibility of the rapid collapse of the Iraqi regime without military action; and
- the need to respond quickly to the formal US request for UK forces. That would be “unspecific” and would refer to further discussions in December.

1079. In CENTCOM, Maj Gen Wilson continued to tell his colleagues that the UK was “North, North and North”, “but that it would be imprudent to dismiss other options if the Turkish door were to remain closed indefinitely”.⁴¹⁹

1080. On 21 November, Mr Blair confirmed that the UK would provide military support to the US if that was necessary.

1081. Mr Blair met Mr Recep Tayyip Erdoğan, Leader of the Adalet ve Kalkınma Partisi Justice and Development Party (AKP), in London on 20 November.⁴²⁰ Mr Blair congratulated Mr Erdoğan on his election victory, and in the context of discussions on a range of issues, including UK support for EU membership for Turkey, the record of the meeting states they agreed the UK and Turkey “should keep in close contact over Iraq”.

1082. In his bilateral discussion with President Bush at the NATO Summit in Prague on 21 November, Mr Blair confirmed that the UK would support the US militarily if necessary.⁴²¹

1083. In response to a request for his views on military planning, Mr Blair said there was a need to be ready for military action early in the New Year and as soon as possible after it became clear that there was a material breach.

1084. In a meeting with Mr Hoon, Secretary Rumsfeld suggested that the UK should look at using its forces elsewhere than the North.⁴²²

1085. Mr Hoon replied that “deploying our forces to, say, Kuwait would affect our timelines”.

1086. The meeting agreed Adm Boyce’s suggestion that the UK “should keep planning with CENTCOM for a northern operation, while looking at possible fallbacks”.

⁴¹⁹ Minute Wilson to CJO, 20 November 2002, ‘Iraq Contingency Planning and Related Issues’.

⁴²⁰ Letter Rycroft to Sinclair, 20 November 2002, ‘Turkey: Prime Minister’s Meeting with Erdoğan, 20 November’.

⁴²¹ Letter Rycroft to McDonald, 21 November 2002, ‘Prime Minister’s Meeting with President Bush, 21 November’.

⁴²² Minute Watkins to DG Op Pol, 22 November 2002, ‘Bilateral with Donald Rumsfeld: 21 November 2002’.

1087. Mr Hoon also sought clarification of the potential US response if Iraq shot down an aircraft, reminding Secretary Rumsfeld of the UK interpretation of the legal constraints on any response.

House of Commons debate, 25 November 2002

The House of Commons voted on 25 November to “support” resolution 1441 and agreed that, if the Government of Iraq failed “to comply fully” with its provisions, “the Security Council should meet in order to consider the situation and the need for full compliance”.⁴²³

Mr Blair’s statement to the House of Commons on 25 November and the subsequent debate on Iraq, which was opened by Mr Straw, are addressed in Section 3.6.

Before the debate, Mr Hoon agreed with Mr Blair and Mr Straw that, when he closed the debate, he should address the state of contingency planning, including the potential requirement for the call-up of military reserves. That would:

“... be done in a low-key way, making clear that this was precautionary planning and that the context was our continued hope that Iraq would disarm peacefully in co-operation with the inspectors.”⁴²⁴

In his speech closing the debate, Mr Hoon stated:

“Neither Britain nor the United States is looking for a pretext for military action, which is always a grave step, and which will certainly be a last resort. No member of the Government will risk British lives unnecessarily.”⁴²⁵

Mr Hoon stated that continuing with “the prudent preparations and planning necessary for military action” was the “only responsible course”. But that did “not mean a commitment to take such action in any circumstances”. It did mean that appropriate steps were being taken “to ensure that British forces” were “ready”, and that they had “the training, equipment and support” that they would need “to undertake military action, should it prove necessary”.⁴²⁶

Addressing the US request to “a number of countries” for “support in the event that military action proves necessary”, Mr Hoon stated:

“Although no decision has been made to commit UK forces to military action, discussions with the US will continue so that an appropriate British contribution can be identified should it prove necessary.

“... There is no inevitability about military action. The US is clear about the fact that the issue is Iraqi disarmament ...

“Those who have accused the US of unilateralism should consider carefully. The US Government have followed an impeccably multilateral approach, first in building unanimous Security Council support for resolution 1441 and now in seeking to build broad-based support for military action should it be required ... within the limits

⁴²³ House of Commons, *Official Report*, 25 November 2002, column 132.

⁴²⁴ Letter Rycroft to Watkins, 22 November 2002, ‘Iraq, Military Planning After UNSCR 1441’.

⁴²⁵ House of Commons, *Official Report*, 25 November 2002, column 123.

⁴²⁶ House of Commons, *Official Report*, 25 November 2002, column 124.

imposed by these uncertainties, we have been considering the contribution we might be able to make if military action ultimately becomes necessary.

“At this stage it would be inappropriate to go into details of the size and shape of forces that might be involved, for two specific reasons. First, as events unfold and time passes, plans will inevitably evolve. It would be misleading to describe specific force packages today as if they had some permanent and definitive status ... Secondly, as I am sure the House appreciates, I have no intention of assisting Saddam Hussein’s contingency planning.”⁴²⁷

1088. By late November, there was growing recognition that the delay was likely to affect the UK’s readiness to deploy ground forces in time to participate in the initial stage of the US plan; and that Turkey’s agreement might not be forthcoming.

1089. Maj Gen Fry’s advice, submitted to Adm Boyce on 22 November, suggested that it would take some four months from the order to deploy for the northern option (whether Package 2 or 3), and more than five months for the southern option.⁴²⁸

1090. Maj Gen Fry provided a discussion paper on the potential UK response to a Running Start to military operations on 25 November.⁴²⁹ He asked the Chiefs of Staff to confirm if it wished the UK to be involved in early action against Iraq and the extent to which the UK should seek to match US timelines for the northern axis.

1091. The paper stated that the UK’s ability to match US timelines for Package 3 and the Amphibious Ready Group was “in doubt”, but the UK position was “recoverable” if a range of measures were “taken in the near future to reduce the overall risk and time”. Early notification of the forces involved and availability of civilian shipping were identified as the most critical measures.

1092. Maj Gen Fry wrote that much of the information had been provided orally and the paper lacked some of the detail which would normally be required by the Chiefs of Staff.

1093. In a manuscript comment to Adm Boyce, one of his staff wrote that:

- The UK “could look v. silly if we could not take part in a running start”.
- There was: “No argument for not starting” preparations for the call-out of Reserves.

⁴²⁷ House of Commons, *Official Report*, 25 November 2002, columns 126-127.

⁴²⁸ Minute DCJO(Ops) to PSO/CDS, 22 November 2002, ‘Potential Operations in Iraq – Northern and Southern Timelines’.

⁴²⁹ Paper DCJO(Ops) [to COSSEC], 25 November 2002, ‘The UK Response to a Running Start for Combat Operations – COA2’.

- The deployment of the Amphibious Ready Group was “still to be decided”. Demand for logistics and support helicopters “concurrent with Package 3” would “detract from main effort for dubious military effect”.⁴³⁰

1094. In his manuscript comments Adm Boyce indicated his agreement with the first two comments above, and wrote “Yes” alongside the request for confirmation that the UK should be involved in early action.⁴³¹

1095. The Chiefs of Staff meeting on 27 November was informed that:

“If the UK wished to match US timelines and UK political expectations, Ministerial approval for a more forward leaning military posture was required.”⁴³²

1096. Maj Gen Fry stated that neither the ARG, which was “an integral part” of the US plan, nor Package 3 could meet US aspirations for a Running Start. PJHQ had identified a series of measures which would allow them to “close towards or match US timelines”.

1097. The Chiefs of Staff invited PJHQ to refine its advice with a view to seeking convergence with US timelines.

1098. A “Post Meeting Direction” instructed PJHQ to provide advice “on the advantages and disadvantages of deploying the ARG”, including deploying “manoeuvre elements” [Royal Marines] and the implications for chartered shipping.

1099. In Adm Boyce’s absence, the meeting was chaired by ACM Bagnall.

1100. The MOD informed No.10 on 29 November that the US political strategy remained unclear but CENTCOM was seeking to reduce the lead time between a political decision and military action.

1101. A gap was developing between the readiness of US and UK forces, which would need visible action to address.

1102. If Turkey did not agree to UK forces, more political guidance would be needed before the MOD could go far in developing other options.

1103. Sir David Manning wrote to Mr Watkins on 27 November, requesting a note for Mr Blair on the progress of US planning.⁴³³ He asked: “Are our Chiefs of Staff content with the US plans and ready to support them?” He also asked how the UK would participate if the northern option was not available.

⁴³⁰ Manuscript comment [unattributed] to CDS on Minute DCJO(Ops) to COSSEC, 25 November 2002, ‘The UK Response to a Running Start for Combat Operations – COA2’.

⁴³¹ Manuscript comment CDS on Minute DCJO(Ops) to COSSEC, 25 November 2002, ‘The UK Response to a Running Start for Combat Operations – COA2’.

⁴³² Minutes, 27 November 2002, Chiefs of Staff meeting.

⁴³³ Letter Manning to Watkins, 27 November 2002, ‘Iraq: Military Planning’.

1104. Advice to Mr Hoon on a draft response noted that it:

“... deliberately does not answer directly the question, (which looks like a hospital pass), whether the COS [Chiefs of Staff] are content with the US plans and ready to support them ... CENTCOM ... is keeping options open. It is probably misleading to think of the US as having firm plans ... We also need to beware of allowing the tail to wag the dog. What we need to know first is whether the US government has a political plan and strategy with which HMG is content.”⁴³⁴

1105. The MOD advised Sir David Manning on 29 November that it was “misleading to talk of firm ‘plans’”, not just because of unresolved practical issues such as Turkish co-operation, but also because the US political strategy remained “unclear”.⁴³⁵

1106. There had been “a significant shift in US military planning” as CENTCOM sought to “reduce the lead times between a political decision and military action”. Secretary Rumsfeld had signed a number of deployment orders to take effect in early January, and the US was “increasingly moving beyond pure planning into at least some actual forward deployments”. That would have the advantages of improving the prospects of any “running start” operation, and provide better options for a rapid stabilisation mission in the event that the Iraqi regime suddenly collapsed, while keeping open the possibility of more deliberate build-up before the summer of 2003.

1107. A “gap” between the UK’s readiness and that of the US was:

“... now beginning to develop ...

“... the employment of the amphibious element (yet to be endorsed by the Chiefs of Staff) of Package 2 and the additional land contribution in Package 3 are falling increasingly behind their US counterparts in terms of readiness.”

1108. As any steps to close that gap would require “further visible activity”, Ministers would “need to consider how far they are prepared to go and how they would present such steps publicly, against a background of continuing uncertainty, including on Turkey”.

1109. The MOD stated that US planning on the North remained “very much work in progress”, but it was “clear that a UK-led division could play a significant role, both during and immediately after conflict”: “But the foundation for this – Turkish acceptance of a UK force – is not in place.”

1110. If Turkey was ruled out:

“... we would need to discuss here and with the US what other role we could play; in particular, whether ... they would be prepared to adjust their timings and sequencing

⁴³⁴ Minute Johnson to PS/Secretary of State, 29 November 2002, ‘Iraq: Military Planning – Interim Response to Sir David Manning’.

⁴³⁵ Letter Watkins to Manning, 29 November 2002, ‘Iraq: Military Planning’.

in such a way as to allow a UK force to play a role in the main effort. But we are conscious that the current Package 3 was constructed and agreed on the premise of playing a role in the North, and more political guidance would be needed before we could go far in developing other options.”

1111. On 3 December, Mr Straw was warned that Turkey might not be able to meet all requests for support.

1112. Mr Paul Wolfowitz, the US Deputy Secretary of Defense, met Mr Hoon on 2 December in London.⁴³⁶

1113. The record of the meeting noted that it would be difficult to secure the UK’s passage through Turkey, although there were some indications that might be possible as long as UK forces did not linger long in northern Iraq. Mr Hoon was reported to have said that would suit the UK as they wished to get forces in and out quickly.

1114. At a separate meeting with Sir Kevin Tebbit and Adm Boyce the same day, Mr Wolfowitz asked if there would be a delay if UK forces were switched to the South.⁴³⁷ Adm Boyce:

“... responded that there was no plan for the South, and that if [Gen] Franks wanted [the] UK in [the] South, he would have to articulate what the scope and task would be. All that could be said with any confidence was that a time premium would have to be paid.”

1115. In a meeting in Ankara on 3 December, Mr Straw told Mr Abdullah Gül, the Turkish Prime Minister, that the UK would probably make similar requests to the US for Turkish support.⁴³⁸ Mr Straw was warned that the Turkish Government would need the permission of Parliament to allow foreign troops on Turkish soil and that Turkey might not be able to meet all requests; if the UK were planning to send forces it must talk to Turkey.

1116. Mr Westmacott observed that there was “no doubt that Turkish co-operation would be hard to obtain in the absence of a new SCR [Security Council Resolution] specifically authorising military action”.⁴³⁹

⁴³⁶ Letter Watkins to McDonald, 2 December 2002, ‘Meeting with Wolfowitz – 2 December 2002’.

⁴³⁷ Minute SECCOS to PSO/CDS and PS/PUS, 2 December 2002, ‘Visit to UK of US Deputy Secretary of Defense – Record of MOD/FCO/Cabinet Office Roundtable Meeting – 2 Dec 02’.

⁴³⁸ Telegram 457 Ankara to FCO London, 3 December 2002, ‘Iraq: Foreign Secretary’s Meeting with Turkish Prime Minister, Ankara, 3 December’.

⁴³⁹ Telegram 462 Ankara to FCO London, 4 December 2002, ‘Iraq: Foreign Secretary’s Visit to Ankara: Overview’.

JIC Assessment, 6 December 2002: 'Iraq: Military Options'

1117. A JIC Assessment of Iraq's military options on 6 December confirmed that a massive coalition ground force would be required to be certain of toppling Saddam Hussein and highlighted the possibility of Iraqi attacks on Coalition Forces in the event of a phased start to a military campaign.

1118. At the request of the MOD, the JIC evaluated Iraq's military capabilities and "what military options Iraq has, and which it is likely to pursue a) during Coalition air strikes and b) during a Coalition ground attack".⁴⁴⁰

1119. In the JIC discussion on 4 December, the draft was described as "an important paper which highlighted the gaps in our knowledge". The judgements were based "largely on a mixture of observation and past experience", but the Assessment "did not quite do justice to the intelligence"; the judgements "could be made more confidently". The Assessment needed to bring out more clearly the risks of a phased attack and unpack the risks involved in possible scenarios, such as the possible use of CBW before Coalition Forces were properly assembled and urban fighting: "Nothing short of a massive deployment would guarantee overthrowing the regime."⁴⁴¹

1120. In the Assessment issued on 6 December, the JIC's Key Judgements were:

- Saddam Hussein would "initially seek international pressure to halt Coalition [military] action". If that failed, he would "seek to inflict serious casualties on Iraq's neighbours and on coalition forces in order to undermine the Coalition's will to fight on".
- Saddam Hussein "would use chemical and biological weapons (CBW) if he faced defeat. He might also use them earlier in a conflict, including against coalition forces, neighbouring states and his own people. Israel could be his first target."
- Iraq had "contingency plans to weather coalition air strikes while maintaining government control over the country. Iraq's integrated air defence system would be overloaded by an all-out Coalition attack and would quickly become far less effective ..."
- "A ground attack might fracture Saddam's regime, but only a massive Coalition force is guaranteed to topple him. The smaller the initial Coalition force, the more likely Iraqi forces are to resist. A phased Coalition attack could allow Iraq to claim military successes."
- "If the Special Republican Guard and Republican Guard [RG] remained loyal and effective they could inflict serious casualties on Coalition Forces in urban warfare."

⁴⁴⁰ JIC Assessment, 6 December 2002, 'Iraq: Military Options'.

⁴⁴¹ Minutes, 4 December 2002, JIC meeting.

- “Other Iraqi responses might include seizing hostages as ‘human shields’; using non-lethal BW in a deniable manner; suicide attacks; or a ‘scorched earth’ policy with the aim of creating a humanitarian or environmental catastrophe. At some point, motivated by revenge, Saddam would seek to inflict the maximum damage on his enemies, whether Iraqi or outsiders.”⁴⁴²

1121. The JIC stated that the paper was “not intended to be a comprehensive review of all Iraq’s options”.

1122. The JIC assessed that Saddam Hussein knew that “an Iraqi military victory over a US-led Coalition was implausible”. If attacked, he would “initially seek international pressure to halt Coalition action”. If this failed, he would seek to “drag out the fighting” and “would be increasingly likely to use chemical or biological weapons ... to undermine the Coalition’s will”.

1123. The assessment of Iraq’s ballistic missiles and chemical and biological weapons is addressed in Section 4.3.

1124. The JIC assessed Iraq’s options during Coalition air strikes and during a ground campaign.

1125. On the former, the Assessment stated that:

- Iraq had “contingency plans to weather Coalition air strikes while maintaining government control”, but its air defence system would be overloaded by a Coalition attack.
- Iraqi airforce and naval capabilities were “very limited”.
- Iraq might attack Kurdish areas before a ground attack started for a number of reasons, including to “divert Coalition air effort” and to “engage in ground fighting earlier than it had planned”. Iraq’s ground options “would be severely limited” once the Coalition had established control of the air.

1126. A ground attack might fracture Saddam Hussein’s regime, but the JIC continued to judge that “only massive military force would be guaranteed to topple Saddam”. If the Coalition pursued a phased campaign (the “rolling attack”), the JIC stated that Saddam Hussein would have a number of options. He would “probably seek an opportunity to inflict casualties” including on internal “enemies” and he would “take advantage of every opportunity to cause the Coalition political problems”. The JIC judged that the smaller the initial Coalition force, the more likely Iraqi forces were to resist.

1127. The JIC anticipated that the Iraqi army could establish positions within urban areas, but “most R[egular] A[rmy] defences are likely to be constructed further forward, nearer Iraq’s borders, or along key roads and at junctions”. Physical barriers, “water barriers (created by flooding or by the destruction of bridges), minefields, or possibly

⁴⁴² JIC Assessment, 6 December 2002, ‘Iraq: Military Options’.

even CBW-contaminated areas”, could be created “to channel Coalition Forces into urban areas or ‘kill zones where artillery, or CBW, would be used”.

1128. Iraq’s “strategy would rely heavily on a static defence, largely because the Iraqi military’s ability to conduct manoeuvre warfare is very limited, even in the R[epublican G[uard]”. If Iraqi defensive positions were:

“... left behind the front lines by a rapid coalition advance, many RA units would probably surrender rather than fight ... [P]rovided that the security and military organisations central to the regime’s survival ... remained effective, Saddam would accept the sacrifice of virtually any forces or territory ... Provincial cities would be defended, but ultimately ... only Baghdad would be politically vital, as its capture would be a final symbol of defeat of the regime. Although Iraqi forces would look for the opportunity to counter-attack, only a few RA units and the RG would be capable of doing so ... And we judge that Saddam would not be willing to risk the RG units held around Baghdad except in a final defence ...”

1129. The JIC identified that other Iraqi responses might include:

- seizing foreign hostages as “human shields”;
- CBW terrorism;
- using non-lethal BW agents in a deniable manner;
- suicide attacks; and
- a “scorched earth” policy with the aim of creating a humanitarian or environmental catastrophe.

1130. The JIC identified the policy implications as:

- “If an attack does not precipitate regime collapse and if Saddam’s key forces remain loyal, they could inflict damage and casualties on coalition forces, the Iraqi people or Iraq’s neighbours.”
- “A slow-start Coalition would increase these risks.”
- “Clear messages to the Iraqi military might reduce their willingness to obey orders to use CBW, but we cannot rely on this being the case.”

1131. A handwritten note from Sir David Manning to Mr Blair drew the Prime Minister’s attention to the risks of a phased attack – the “ugly start”.⁴⁴³

⁴⁴³ Note (handwritten) Manning to Prime Minister, 7 December 2002, ‘Iraq: Military Options’.

Agreement to visible preparations for military action starting in January

1132. On 5 December, the MOD sought Mr Blair's agreement for further and visible preparations to preserve its ability to be ready for an air campaign and amphibious operations by early March.

1133. In response to the instructions issued during and after the Chiefs of Staff meeting on 27 November, Lt Gen Reith submitted a paper outlining steps for aligning the UK's Force Packages with US timelines, for consideration by the Chiefs of Staff on 4 December.⁴⁴⁴ He warned that action was required or the UK might only be able to offer Package 2, without the Amphibious Task Group; and that Package 3 might have to be reconfigured. Other preparatory action would be needed "if we do not wish to miss the boat".

1134. The Chiefs of Staff noted on 4 December that decisions on visible preparations would be required by 7 December to meet a mid-February timetable for a political decision in the US.⁴⁴⁵

1135. A member of OD Sec reported to Sir David Manning that "it was clear from the discussion" that the US was planning for "a hybrid (or 'ugly') start to any military campaign".⁴⁴⁶ Gen Franks was "moving as many assets into theatre as quickly as is logistically possible, with a view to being in a position to launch military action from the middle of February".

1136. Mr Watkins wrote again to Sir David Manning on 5 December, setting out what the UK would need to do to be able to react in the timescales implied by its assessment of the US plans.⁴⁴⁷

1137. Summarising the letter, Mr Watkins wrote:

"... to keep options open for significant UK military participation ... we need to press ahead with further preparations. None of these would constitute a final commitment to military action and the initial ones can be done without further parliamentary announcement. But many of them would be visible, and our presentational posture will need to become more forward leaning."

1138. The US had "no formal position on the date by which they must be ready to act". It had a wide range of options, but assuming that a political decision to take military action on 15 February (known as "P Day"), the MOD expected the air campaign and amphibious operations to start in early March. The main ground effort would commence about 60 days after the decision, ie mid-April. The US military intention was to minimise

⁴⁴⁴ Minute CJO to COSSEC, December 2002, 'Operations in Iraq – Alignment with US Timelines'.

⁴⁴⁵ Minutes, 4 December 2002, Chiefs of Staff meeting.

⁴⁴⁶ Minute OD Sec [junior official] to David Manning, 4 December 2002, 'Iraq: Military Planning'.

⁴⁴⁷ Letter Watkins to Manning, 5 December 2002, 'Iraq: Military Planning'.

the lead times for operations to allow the maximum time for the “UN/diplomatic process to unfold”. The MOD warned that US forces would reach a peak of readiness in February and that a “use it or lose it” argument might come into play in Washington.

1139. Turkey remained “a key uncertainty”. The MOD understood that basing for US land forces had not yet been agreed, but “preparatory activity (reconnaissance visits, etc)”, looked “like at least an amber light”. The Pentagon had told the MOD that Turkey had given “neither a definite Yes nor a definite No” to UK forces. Mr Straw had received a “similar response ... with some suggestion that their position might depend on the details of any UK request” (in his discussions on 3 December). Turkey and the UK “ought to” have bilateral discussions.

1140. The MOD was considering with the FCO the “best approach to securing Turkish agreement, taking into account our wider interests”. The MOD judged that there was unlikely to be any progress until after the meeting of the European Council in Copenhagen (12 to 13 December). Action could include a visit by Mr Hoon accompanied by Adm Boyce, who had “developed a good rapport with his opposite number”, and Sir Kevin Tebbit who would draw on “his extensive experience of Turkey”.

1141. It was “increasingly difficult, for both US and UK staffs, to plan and prepare in the abstract without knowing where the UK land package will be based”. While there were risks that Turkey could “interpret ... UK preparations as taking their acquiescence for granted”, the UK could not wait for an answer from Turkey if it wished “to remain aligned with US planning”. Although those preparations were “not particularly tied” to a northern option, there were presentational risks such as the media concluding that the UK was “all dressed up with no place to go”.

1142. The MOD stated that the steps required to bring the additional air and naval forces in Package 2 into line with US timescales were “relatively limited”, but a “significant readiness gap” was developing between US and UK “amphibious and land forces”.

1143. The actions proposed by the MOD included:

- Deploying additional naval forces for “maritime interdiction operations, force protection, defensive mine warfare and logistics support” around 22 January 2003.
- Nominating and informing units in the ATG and bringing their readiness to five days’ Notice to Move from the beginning of January and chartering four ships to support the ATG by 19 December, with the intention that it would deploy around 16 January.
- Bringing the RAF elements of Package 2 to 10 days’ Notice to Move or less on 27 December, and pre-positioning weapons and equipment in Turkey on 30 December.

- Commencing initial preparations, procurement and training for “earmarked elements” of the “land package” the following week and placing holding contracts on commercial shipping by 17 December.
- Planning for the mobilisation of Reserves “without actually proceeding to call-out”.

1144. At that stage:

- CENTCOM’s plans for the North required “the lead Division, currently 1 (UK) Armoured Division” to cross into Turkey in mid-April, “followed by the US 4th Infantry Division”. The option needed more work, including the possibility of a US brigade being seconded to the UK, “so the precise composition of the UK land package will have to be kept under review”. But as it had “the longest lead-time of all”, action to improve its readiness could not be delayed if the UK was “to have any chance of being ready from mid-February onwards”.
- The ATG comprised a Royal Marine Commando Group and HM Ships Ocean and Ark Royal, two destroyers or frigates, three Landing Ships Logistic (LSL) and support ships, which would operate (with the US) to conduct operations in the Northern Gulf and ashore from the beginning of the air campaign.

1145. The MOD warned that the steps would become visible and that the “current low-key” media handling which was “operating at the limits of credibility, would need to be replaced with a rather more pro-active approach”. The preparations would also need to be “viewed in the wider political context ... not least the progress of inspections and their reports to the UNSC, and the continuous assessment of Iraqi compliance”.

1146. The letter concluded that, unless the UK was “prepared now to foreclose military options”, Mr Hoon believed “that we need to proceed with the further preparatory steps” identified. That was “a question of cocking the pistol, not firing it” and the timelines would be adjusted if the US “were to shift its focus to later in 2003”. But the UK could not “afford to lose any more time if we are to have a chance of re-aligning our readiness with that of US forces”.

1147. Copies of the letter were sent to the Private Offices of Mr Straw and Mr Brown, and to Mr Bowen.

1148. In relation to Turkey, Sir David Manning commented:

“Recent indications on other channels are that Turks are very reluctant to budge on UK forces.”⁴⁴⁸

1149. During Oral Questions in the House of Commons on 9 December, Mr Hoon confirmed that the UK had responded to the US approach seeking support; and that

⁴⁴⁸ Manuscript comment Manning on Letter Watkins to Manning, 5 December 2002, ‘Iraq: Military Planning’.

preparations were continuing to enable UK forces “to participate in military action should that be required”.⁴⁴⁹

1150. Mr Hoon also assured the House that:

“... no military decisions whatsoever have been taken on military action against Iraq. That situation will be reported to the House should it change.”

1151. Gen Reith told the Inquiry:

“I ... briefed Geoff Hoon ... early in the week that we had until Friday to go to trade for ships; otherwise, we wouldn't meet the window that the Americans were potentially looking at before the real heat of the summer came in, in 2003. He said to me ‘You have been telling me ... week by week that we have to do this, and now you are telling me you are giving me another deadline.’ I said, ‘this is the deadline’. He said ‘You know, we need to keep our options open’ ... I said ‘Well, actually if we don't go to trade by the end of this week, then we don't have any options, we are not going’. He then went to the Prime Minister and we were then authorised to go to trade.”⁴⁵⁰

1152. On 10 December, Mr Johnson advised Mr Hoon on the options in the event of an “ugly start” and land force options if Turkey did not agree to transit.⁴⁵¹

1153. The land force options were:

- UK forces with the US main effort in the South;
- a follow-on force after the US main effort in the South;
- ground forces only for the aftermath; and
- not providing ground forces at all.

1154. Mr Johnson advised that only the first option would provide “the sort of high profile role in war-fighting on the ground which we have previously judged important”.

1155. Mr Johnson also wrote that there were limits to what could be done to improve readiness before a clear political decision. Calling out Reservists and deploying some force elements and equipment as soon as they were available would start “to use up some of our one-shot capabilities”. That:

“... would cause us problems if it turned out that the campaign was not going to start until later in the year. Deploying early also runs the risk of finding later that we are in the wrong locations.”

⁴⁴⁹ House of Commons, *Official Report*, 9 December 2002, columns 13-14.

⁴⁵⁰ Private hearing, 15 January 2010, pages 35-36.

⁴⁵¹ Minute Johnson to PS/Secretary of State [MOD], 10 December 2002, ‘Iraq: Military Planning – Briefing for Meeting with Prime Minister on 11 December’.

1156. Sir Kevin Tebbit commented that advice to Mr Hoon rather underplayed “the issues surrounding the Amphibious Force and the point that they will probably be there earlier for an ‘ugly’ [start] than ground forces”.⁴⁵²

1157. Sir David Manning drew Mr Blair’s attention to the uncertainties if operations started before mid-February or Turkey refused to agree to the transit of UK troops.

1158. Sir David Manning advised Mr Blair that the “two key working assumptions” were that “US forces must be ready to move by 15 February”, and that they would be “able to transit Turkey”.⁴⁵³ The February date was “a guess”, but it fitted with what he had been told by Dr Rice “about putting pressure on Saddam and resolving the Iraqi issue sooner rather than later”. Sir David’s view was that Turkey would probably agree to the transit of US forces “in the end” but it was “not at all certain that agreement to US transit will extend to [the] UK”.

1159. Sir David recommended that Mr Blair authorise the MOD to proceed, although he commented that the letter was “silent on two major uncertainties”:

- what would happen if Saddam provoked a start earlier than 15 February; and
- whether there was a Plan B for UK forces in the event that Turkey refused transit.

1160. Sir David also raised concerns about the MOD’s media handling strategy which he thought they should discuss with Mr Campbell.

1161. Sir David proposed that Mr Blair should discuss the issues with Mr Hoon and possibly Adm Boyce after his (Sir David’s) return from Washington:

“In particular, they [the MOD] need to explain how we handle ‘ugly’ start; and what we do if the Turks won’t let us deploy for the northern option.”

1162. Mr Blair authorised the preparatory steps requested, including those relating to land forces, but asked that there should be “no change in media handling until a media strategy has been drawn up and agreed with No.10”.⁴⁵⁴

1163. Mr Blair also asked for a meeting with Mr Hoon explicitly to discuss how the UK “would handle a possible ‘ugly start’, and what our options would be for UK land forces if Turkey refused transit”.

1164. Mr Campbell’s advice on a media strategy is addressed in Section 3.6.

⁴⁵² Manuscript comment Tebbit on Minute Johnson to PS/Secretary of State [MOD], 10 December 2002, ‘Iraq: Military Planning – Briefing for Meeting with Prime Minister on 11 December’.

⁴⁵³ Minute Manning to Prime Minister, 6 December 2002, ‘Iraq: Military Planning’.

⁴⁵⁴ Letter Rycroft to Watkins, 9 December 2002, ‘Iraq: Military Planning’.

Iraqi declaration, 7 December 2002

In response to resolution 1441, Iraq submitted a declaration of its WMD and missile programmes on 7 December.

The evaluation of the declaration is addressed in Sections 3.6 and 4.3.

1165. Mr Blair was advised on 11 December that there was impatience in the US Administration and it “looked intent on military action in February/March”.

1166. Sir David Manning and Sir Richard Dearlove had a joint meeting with Dr Rice and Mr George Tenet, the Director of Central Intelligence, in Washington on 9 December.⁴⁵⁵

1167. Sir David reported to Mr Blair that Dr Rice had “made no effort to hide the fact that the Administration would now be looking to build the case for early military action ... probably mid/late February as we suspected”. But she had “denied that military planning was dictating the timetable”.

1168. Mr Blair agreed that visible preparations for military action could begin in January 2003.

1169. Mr Blair, Mr Hoon, Adm Boyce, Sir David Manning and Sir Richard Dearlove met on 11 December.⁴⁵⁶

1170. In relation to military planning and the issues raised in Mr Watkins’ letter of 5 December, Mr Rycroft recorded that:

- Mr Hoon and Adm Boyce had “updated” Mr Blair “on US and UK military planning, including on the need to align the readiness of US and UK forces”.
- Mr Blair “was content that military preparations from January would become increasingly visible. These should be presented as sensible contingency preparations against the possibility that Iraq would not comply with UNSCR 1441.”

1171. The record of the meeting does not refer to any discussion of the options if Turkey refused transit for UK land forces.

1172. In his diaries, Mr Campbell wrote:

“We went over the various military options. It would be possible to do something fairly quickly but TB didn’t believe GWB wanted ‘an ugly start’ ... Geoff was very

⁴⁵⁵ Minute Manning to Prime Minister, 11 December 2002, ‘Iraq’.

⁴⁵⁶ Letter Rycroft to Watkins, 11 December 2002, ‘Iraq: Military Preparations’.

much on the Rumsfeld end of the market at the moment. CDS was a bit more engaged. David felt that the US were in a very different position.”⁴⁵⁷

1173. Mr Hoon’s Private Office wrote to Mr Rycroft on 12 December, recommending a more pro-active media strategy to explain the military preparations.⁴⁵⁸ That included a proposal for a background briefing for defence correspondents and a briefing for “talking heads” on 17 December.

Agreement to a role for the Royal Marines in the initial stages of an invasion

1174. Notwithstanding continuing uncertainties over Turkey’s position, PJHQ advised on 9 December that ground operations might begin sooner than had previously been anticipated and sought endorsement for a role for the Amphibious Task Group early in the campaign.

1175. The possibility of deploying a Royal Marine Commando Group was first identified by Maj Gen Fry on 30 August 2002 when he advised that “a timely effect in the South could probably only be achieved by the ARG in support of the US MEF [Marine Expeditionary Force]”.⁴⁵⁹

1176. Advice submitted to the Chiefs of Staff on 19 September stated:

“Within the maritime element of Package 2 the Amphibious Ready Group with an embarked Commando offers a high readiness, flexible small scale land contribution ... [T]his force package can be sustained throughout, provided it is integrated with USMC [US Marine Corps] forces, and does not proceed beyond a point from which it can be sustained from ... afloat resources. This clearly restricts its operational utility, but does present an opportunity for ‘boots on the ground’, if the UK decision is not to commit beyond Package 2.”⁴⁶⁰

1177. Mr Watkins informed No.10 on 20 September that further work, on whether it would be possible to include a Commando Group in Package 2, was under way.⁴⁶¹

1178. By the middle of October, the Commando Group had been incorporated into Package 2.⁴⁶²

1179. On 9 December, Lt Gen Reith put forward a proposal seeking COS “endorsement for” an early role for the Amphibious Task Group in operations against Iraq.⁴⁶³

⁴⁵⁷ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

⁴⁵⁸ Letter Williams to Rycroft, 12 December 2002, ‘Iraq: Military Planning – Presentational Strategy’.

⁴⁵⁹ Minute Fry to DCDS(C), 30 August 2002, ‘PJHQ Update on Planning for Operations Against Iraq’.

⁴⁶⁰ Paper SPG, 19 September 2002, ‘Iraq Package Options – Military Strategy Commentary’.

⁴⁶¹ Letter Watkins to Manning, 20 September 2002, ‘Iraq: Potential UK Contribution to Any Military Action’.

⁴⁶² Minute Johnson to PS/Secretary of State [MOD], 11 October 2002, ‘Iraq: UK Contingency Planning’.

⁴⁶³ Minute CJO to COSSEC, 9 December 2002, ‘Contingent Operations by the UK Amphibious Task Group’.

1180. Lt Gen Reith stated that it “would bring considerable strategic exposure for the UK at the earliest stage of the campaign”. It “was consistent with UK objectives” and provided “valuable strategic, operational and presentational effect”.

1181. Lt Gen Reith advised that US ground operations against Iraq in the South were “now planned to commence simultaneously with the air campaign” and the US intention was to establish a second Sea Point of Disembarkation at Umm Qasr. This was “essential” to allow the rapid build-up of forces. The US plan entailed securing the “oil nodes”, the capture of Umm Qasr and the al-Faw peninsula, and clearance of mines in the Khawr Abd Allah (KAA) waterway.

1182. The plan had been developed with UK input, was “well advanced”, and was “heavily reliant” on the UK to achieve its aims. The ATG “would be based around” 40 Commando Group and the plan envisaged a two company helicopter-borne amphibious assault capability. The ATG’s landing craft would “provide flexibility” a “simultaneous ... surface assault”, but it was “more likely to be used for logistic support”.

1183. On 11 December, Maj Gen Fry advised the Chiefs of Staff that:

“The operation had important economic and environmental strands as well as being militarily essential. UK participation would enable the operation to complete 10 days sooner than if the US went alone and would ensure UK participation in land operations at P+ a few days, well ahead of the Main Effort in the North at P+60 ... For the operation to go forward, the areas of risk that needed to be managed were SH [support helicopters] and Medical ... The SH risk was not to be underestimated, but should be managed by sequencing ... Until the TU [Turkey] question was resolved, an operation in the North was a complete uncertainty and, by accepting risk on SH, the ATG task would ensure UK land participation.”⁴⁶⁴

1184. The Chiefs of Staff agreed that committing the ATG would ensure the UK’s participation in operations, although there would be risks if support helicopters were needed for operations in both the North and South.

1185. Adm Boyce directed that a submission to Mr Hoon should be prepared “summarising CJO’s paper in accordance with his instructions”.

1186. Mr Hoon’s agreement to planning for a discrete British role in securing a bridgehead in the initial stages of a military campaign was sought on 11 December.

1187. Adm Boyce briefed Mr Hoon on the planning for deployment of the ATG and development of a discrete British role in seizing a bridgehead.⁴⁶⁵

⁴⁶⁴ Minutes, 11 December 2002, Chiefs of Staff meeting.

⁴⁶⁵ Minute Bowen to Manning, 11 December 2002, ‘Iraq: CDS Briefing of Mr Hoon’.

1188. The details of the proposal were set out in a minute to Mr Hoon's Private Office on 11 December.⁴⁶⁶

1189. Mr Hoon was advised that the ATG would "make a significant difference to the viability of the US plan". US ground operations were "now planned" to begin simultaneously with the air campaign, and that a second point of disembarkation was required "to enhance logistic flow and to prevent Iraqi destruction of key oil production and distribution nodes". That required the capture of Umm Qasr and the al-Faw Peninsula and the clearance of mines from the Khawr Abd Allah waterway. US planning for the operation had "developed with UK input", and was "well advanced". Unless the role was undertaken by the ATG, the US would have to "divert other forces, at a cost of several days' delay and increased risk", including a "strategic delay" to US follow-on operations in Basra and crossing the Euphrates, and an increased risk of the destruction of oil supplies.

1190. Iraqi options for defending the peninsula and hampering Coalition maritime forces included land-based anti-ship missiles, some artillery and mortar capability. An Iraqi troop presence of some 2,000-3,000 could "in theory be reinforced by the Iraqi 51st Mechanised Division based at az-Zubayr and al-Basra" but the US plan was "designed to prevent such reinforcement being attempted". If it were attempted, "coalition forces should be able to defeat it with ease".

1191. Mr Hoon was advised that the ATG would be "based around 40 Commando Group embarked in HMS Ocean, supported by HMS Ark Royal" and other ships. The force would be commanded by a Royal Navy officer, "who would command both the amphibious and MCM elements of the ATG". It "was possible, subject to further work" that US forces "could be placed under UK command".

1192. Mr Hoon was also advised that:

- "Previous concerns that it might not be possible to support the ATG concurrently with other elements of the UK force packages ... have been assuaged. Although supporting resources will be stretched, the stretch is judged to be manageable."
- Further work was "looking at the possibility of making a second RM Commando available for follow-on or aftermath operations".

1193. Mr Hoon was asked to:

- note that the Chiefs of Staff had endorsed securing the al-Faw Peninsula and mine clearance operations as "a role for the ATG, judging that it would be consistent with UK objectives and provide valuable strategic, operational and presentational effect"; and

⁴⁶⁶ Minute Johnson to PS/Secretary of State [MOD], 11 December 2002, 'Iraq Military Planning: Amphibious Task Group'.

- agree that “subject to the usual caveat that no political decision has been taken to commit UK forces, US/UK planning should proceed on the assumption that the ATG would undertake this role”.

1194. Sir Kevin Tebbit pointed out the need to identify the operational risks.

1195. When he saw the advice, Sir Kevin Tebbit, who had not been present at the Chiefs of Staff discussion on 11 December, wrote:

“What sort of risk assessment is being prepared? I assume the S of S [Mr Hoon] is aware that these would be lead elements in an operation where we are unlikely to have the benefit of surprise or of choice of territory (I assume the Iraqis will be aware that this is where we would have to go, more or less?) We need to make sure that the operational risks are stated in a clear and balanced way.”⁴⁶⁷

1196. Details of the proposal were sent to Mr Blair on 12 December. The operational risks were not explicitly addressed.

1197. Mr Hoon’s Private Office wrote to No.10 on 12 December stating that the maritime contribution set out in Mr Hoon’s letter of 15 October included an ATG; and that “as the US military plan has developed, it is clear that there is an important role for this Group”.⁴⁶⁸ Mr Hoon had “mentioned this” to Mr Blair on 11 December.

1198. The MOD stated that the ATG, and 40 Commando Group Royal Marines, would play a key role “on Day 1 of offensive operations”, for operations:

“... possibly of high intensity and could bring forward the decisive employment of armoured forces by up to 10 days. It also reduces the risk of destruction of oil infrastructure and the associated environmental damage. It has strategic and operational effect, and provides an opportunity for UK land involvement even if agreement cannot be obtained from Turkey for the northern option.”

1199. Details of the proposal, set out in an Annex to the letter, largely reflected the MOD’s advice to Mr Hoon, but it did not address the likely Iraqi defences.

1200. Copies of the letter were sent to the Private Office of Mr Straw and to Mr Bowen in the Cabinet Office.

1201. After the Chiefs of Staff discussion on 18 December, Lt Gen Reith was directed to add HQ 3 Commando Brigade and a second Royal Marine Commando to the Amphibious Task Group.⁴⁶⁹

⁴⁶⁷ Manuscript comment Tebbit on Minute Johnson to PS/Secretary of State [MOD], 11 December 2002, ‘Iraq Military Planning: Amphibious Task Group’.

⁴⁶⁸ Letter Williams to Manning, 12 December 2002, ‘Iraq: Military Planning – Amphibious Task Group (ATG)’.

⁴⁶⁹ Minute Reith to CDS, 19 December 2002, ‘Land Options Paper – Revised’ attaching CJO Paper ‘Land Options – Revised’.

1202. Mr Hoon announced contingency preparations and the planned deployment of a naval task group on 18 December.⁴⁷⁰

1203. At Cabinet on 19 December, Mr Hoon informed his colleagues that it was “increasingly necessary to make visible preparations” and that “a naval task group led by HMS Ark Royal would depart for exercises”. The US had not yet finalised its military planning but it was “already building up a formidable force and would be ready to use it”.⁴⁷¹

1204. The Cabinet Conclusions contain no reference to the deployment of the ATG, the deployment of a Royal Marine Commando Group, or the role they might play.

1205. Mr Blair said that “there would be an opportunity to discuss Iraq in the New Year”.

1206. Mr Straw’s report to Cabinet on 19 December, on Iraq’s declaration in response to resolution 1441 and the next steps for the weapons inspectors, are addressed in Section 3.6.

1207. In a minute on 30 December, primarily dealing with land options, Mr Hoon was informed that: “Unless otherwise instructed, the Amphibious Task Group (ATG) will begin to deploy from 16 January ...”⁴⁷²

1208. The deployment of the ATG was announced on 7 January 2003.⁴⁷³

1209. The deployment of 3 Commando Brigade was seen as a way for the UK to make a valuable contribution to the land campaign if transit through Turkey was refused.

1210. When 3 Commando Brigade deployed into action, however, the landings did not go entirely as planned. That is addressed in Section 8.

Mr Hoon’s statement, 18 December 2002

1211. Mr Hoon made a further statement on contingency preparations for military operations against Iraq to Parliament on 18 December.⁴⁷⁴

1212. Mr Hoon reported that he had “authorised a range of steps to improve readiness”. He also referred to the planned deployment of a naval task group in early 2003 to the Gulf and Asia-Pacific region for visits and exercises. That was “a routine deployment” that happened about every three years, but it remained “available for a range of potential operations if required”. The task group would be led by HMS Ark Royal and a nuclear-powered submarine would be “assigned to the group for part of its deployment”.

⁴⁷⁰ House of Commons, *Official Report*, 18 December 2002, columns 845-6.

⁴⁷¹ Cabinet Conclusions, 19 December 2002.

⁴⁷² Minute Johnson to PS/Secretary of State [MOD], 30 December 2002, ‘Iraq: Update’.

⁴⁷³ House of Commons, *Official Report*, 7 January 2003, columns 23-25.

⁴⁷⁴ House of Commons, *Official Report*, 18 December 2002, columns 845-6.

“In addition, a mine countermeasures group” would deploy ahead of the group “to undertake a series of exercises and port visits in the Gulf region”.

1213. Mr Hoon added that the UK was also considering the deployment of “additional maritime forces early in the new year to ensure the readiness of a broad range of maritime capabilities, should they be required”.

Continued pursuit of the northern option

1214. Mr Hoon was advised on 11 December not to push the issue with Turkey until early January, and that the UK was likely to face increasing US pressure to look at other options.

1215. Mr Bowen, who had attended the briefing for Mr Hoon on 11 December, reported to Sir David Manning that Adm Boyce had informed Mr Hoon that the absence of a northern front was not now regarded as a showstopper.⁴⁷⁵ He added that “the one certainty appears to be that an extra 45 days must be allowed for deployment if planning were to switch from the North to the South”.

1216. Further advice on Turkey, including options for high level UK visits and actions after the Copenhagen Summit was provided for Mr Hoon on 11 December.⁴⁷⁶

1217. Mr Johnson wrote that: “We need clarity as soon as possible” because if the response was positive it would take some time to “thrash out all the practical details” and, if the response was negative, alternatives needed to be considered.

1218. Mr Johnson advised that: “We should not push the issue hard until the Turks have said Yes to the US request”. Mr Hoon’s visit scheduled for 6 to 8 January looked like the right opportunity. If Mr Hoon did decide to “push the issue hard” then “experience (eg over ISAF) suggests that only high-level engagement is likely to make a difference”.

1219. On “handling” Turkey, Mr Johnson stated that the northern option “came from our strategic analysis in the first place” and that deployment timelines were: “45 days’ [sic] shorter than to the South (though we could in theory solve this problem by buying up more sealift)”. Assuming a political decision was made on 15 February, “air elements” would be in action from early March and the main ground effort from mid-April. Although the UK would want to pre-position air weapons at the end of the year, it “would not need to deploy additional air and ground forces until 15 February”. Turkey was less likely to help the UK than the US.

⁴⁷⁵ Minute Bowen to Manning, 11 December 2002, ‘Iraq: CDS Briefing of Mr Hoon’.

⁴⁷⁶ Minute Johnson to PS/Secretary of State [MOD], 11 December 2002, ‘Iraq: Military Planning – Turkey Handling’.

1220. Addressing the option of dropping the northern option and telling the US that the UK wanted to switch to the South, Mr Johnson's minute stated:

- Advantages: Reduces risk of wasting our time and getting bogged down in negotiation. Improves chances of getting into the South in time for February/March.
- Disadvantages: Although General Franks has said that he will fit us into the South if required, we have no US political guarantee that they will fix it, or that they will give us a role in the main effort. And it would perhaps be odd to rule Turkey out when we have not asked them the question ourselves."

1221. The minute advised that the US priority would be getting its own forces into Turkey. The UK was "likely to come under increasing US pressure to look at going elsewhere". As time passed, the US might "feel less bound to try and meet our preferences for a substantial role in the South".

1222. Sir Kevin Tebbit commented on a draft of the note that "depending on how Copenhagen goes, plus CDS soundings of [General Hilmi] Özkök [Chief of the General Staff of the Turkish Armed Forces]", Mr Hoon would need to visit and that he would probably accompany him.⁴⁷⁷

1223. Sir Kevin wrote that European forces on Turkish soil would be "harder" for them than US forces, although Turkey was "better disposed" towards the UK. Other issues included the impact on Turkey's relations with the Kurds and the UK's attitude to the Kurds in 1920-32.

SPG PAPER, 13 DECEMBER 2002

1224. The SPG paper of 13 December concluded that a medium scale land contribution would be the maximum the UK could provide concurrently with Op FRESCO and provided a new analysis on urban operations.

1225. On 13 December, the SPG produced a sixth version of the 'UK Military Strategic Thinking on Iraq' paper.⁴⁷⁸

1226. The paper stated that a contribution at medium scale "in each environment (Package 3)" would be "the maximum achievable concurrently with Op FRESCO". It would take 129 days for deployment to Turkey to be completed. The UK was "likely to be two months late for 1st echelon operations unless resources [were] committed now".

1227. The need for a "coercive" information operations campaign to "help create the conditions for Iraqi regime collapse" had been added to the list of UK Military Strategic

⁴⁷⁷ Manuscript comment Tebbit on Email Sec(O)-Iraq-S to DG OpPol-S, 10 December 2002, 'Draft note on Turkey Strategy for SofS'.

⁴⁷⁸ Paper [SPG], 13 December 2002, 'UK Military Strategic Thinking on Iraq'.

Objectives, underpinned by a section identifying the objectives and themes of such a campaign.

1228. The paper included a new analysis on urban operations in Iraq, which were described as “the ‘vital ground’ of any campaign against Iraq”. In contrast with the analysis in the previous version of the paper, the SPG stated that it would “not be possible, or desirable” for land operations “to avoid towns and cities”, where: “Any factional conflict following regime collapse or during the aftermath” was likely to take place. Baghdad would be “a special case”.

1229. Addressing the Coalition response, the paper stated that it could not:

“... engage in drawn out urban conflict since it lacks the experience training and specialist equipment to do so without heavy casualties. Such casualties, combined with loss of tempo and humanitarian effects may undermine coalition will to continue by alienating home, international and regional supporters.”

1230. The paper identified the need to understand the “infrastructure, culture, population, terrain, threats” in cities and commented that the US had invested thousands of man hours in analysing Baghdad, “but that relatively little work has been done on Tikrit, a city more likely to be the responsibility of those on the northern axis”.

1231. The SPG identified information operations and physical separation and the control of movement into and out of cities as “key conditions” for engagement.

1232. The paper also added an objective to develop a “broad military alliance against Iraq”.

1233. The SPG identified the post-conflict phase as “strategically decisive” and called for it to be “adequately addressed” in any winning concept. That is addressed in Section 6.4.

Proposals to increase ground combat forces and options for the South

1234. Adm Boyce decided on 18 December that the option of a division with two brigades should be developed for deployment in the North.

1235. Options for enhancing the Amphibious Task Group and deploying a second light brigade and follow-on forces should also be developed for the South.

1236. Submitting a paper on “Land Options” on 16 December, Lt Gen Reith stated: “The UK must now confirm its land contribution in order that final and detailed planning can take place.”⁴⁷⁹

⁴⁷⁹ Minute Reith to COSSEC, 16 December 2002, ‘Land Options for the UK’ attaching Paper CJO, ‘Land Options for the UK’.

1237. The Chiefs of Staff were invited to agree that participation in the land campaign was “consistent with UK objectives” and to endorse the “approach to the delivery of a heavy or light land package”.

1238. Lt Gen Reith advised that a UK contribution from the North remained the preferred course of action; but the “constraints of Op FRESCO dictate that the best force package available is based on a divisional headquarters and a single high readiness UK brigade”, with a second brigade provided by the US. The disadvantage would be that it would lack manoeuvre capability.

1239. The UK could not deploy a heavy force to the South quickly enough to meet the expected US timeline for the start of offensive operations, and “a UK contribution for Phase 3 combat operations could only be achieved by light forces”.

1240. Lt Gen Reith added:

“The UK could mount two light brigades, potentially commanded at divisional level, although the US would prefer to deploy them separately under US control.”

1241. Lt Gen Reith advised the Chiefs of Staff that the heavy and light force options were “mutually exclusive”; and that a decision on which to deploy was “wholly dependent on confirmation of the Turkish position and must be made no later than 15 Jan[uary] ... to allow the light force to be generated in time”.

1242. In the detailed paper, Lt Gen Reith stated that the US plan for the northern axis had “enhanced the role of the UK division” and the UK’s tactical analysis confirmed that a minimum of two brigades would be required for the northern option.

1243. The constraints of Op FRESCO and the likely US timetable meant that the best option the UK could provide comprised a divisional headquarters, an armoured brigade of four battlegroups, a manoeuvre support task force (MSTF) built around a second brigade headquarters with combat support elements, and the 2nd Light Cavalry Regiment offered by the US. That would require the deployment of “circa 30,000” UK personnel.

1244. If Turkey did not co-operate and the UK still wished “to make a significant and early contribution to operations against Iraq”, the UK could deploy two light brigades and possibly a divisional headquarters for the southern axis.

1245. One light brigade would be based on an expanded ATG, comprising the Headquarters of 3 Commando Brigade and “up to three battalions”. The headquarters and one commando group (based on 40 Commando Group) could be in place by the end of February. The remaining units would be deployed by air.

1246. A second brigade would be based on 16 Air Assault Brigade, with up to three battalions.

1247. There was also a possibility of deploying additional high readiness forces and the US had asked for additional logistics support.

1248. If a decision was taken by 15 January, UK combat forces could be in the theatre by late March.

1249. The disadvantages of that option would be that the UK would “potentially, not hold its own area of responsibility or operate at the divisional level of command”, and 16 Air Assault Brigade would need to be extracted from Op FRESCO duties.

1250. On 18 December, Lt Gen Reith informed the Chiefs of Staff that:

- The US had identified 15 February as the optimum date for combat operations and was seeking to bring together the start of the air and ground campaigns.
- The US campaign plan had: “changed to an information operation supported by manoeuvre rather than vice versa. The centre of gravity was now the oilfields rather than Baghdad. Securing the oilfields would provide a means of funding Phase IV operations and the rebuilding of the infrastructure. It would also help avert an environmental disaster ...”⁴⁸⁰

1251. In discussion of the “Land Options” paper, Gen Walker took the view that a UK division operating alone in the North “represented the most sensible military solution, but accepted that Op FRESCO commitments precluded it from being taken in its present form”; it was likely to be available only for Phase IV operations.

1252. The Chiefs of Staff endorsed Lt Gen Reith’s request to take forward exploratory work on options for the South.

1253. The Chiefs of Staff also discussed a paper by Maj Gen Fry on the provision of a UK stabilisation force in the event of early military or regime collapse leading to a “loss of control”.⁴⁸¹

1254. Maj Gen Fry defined “early collapse” as the collapse of the Iraqi regime less than 60 days after the political decision to take military action (“P Day”), and “loss of control” as “the period between the collapse of the Iraqi regime and the establishment of an effective alternative providing law and order and security”.

1255. The paper stated:

“Rapid intervention by the Coalition may be required to stabilise the situation, including support to an interim government. Current Package 3 deployment timelines would limit the arrival of sufficient and appropriate UK military capability in time. Consequently there is a need to develop a contingency plan that would enable

⁴⁸⁰ Minutes, 18 December 2002, Chiefs of Staff meeting.

⁴⁸¹ Paper DCJO(Ops) [MOD], 16 December 2002, ‘Provision of a UK Stabilisation Force’.

the UK to gain an early footprint on the ground, providing influence in theatre and achieving strategic impact.”

If the collapse happened after more than 60 days, the UK land component would have reached full operating capability and would deal with the situation.

1256. Maj Gen Fry advised that, in order to provide a quick response, the stabilisation force was “likely to be light” and its role limited to “wider peacekeeping and ‘stabilisation’ tasks”. Those included controlling and denying access to WMD, security at key locations, disarmament and demobilisation. The paper set out a number of options for different scenarios.

1257. At the Chiefs of Staff meeting, Lt Gen Reith commented that any stabilisation force would depend on timing and availability of resources, and that there was a synergy between the southern option and a stabilisation force.

1258. The minutes of the Chiefs of Staff meeting included a “Post Meeting Note” stating that the commitment to Operation FRESCO might be reduced by “some 2,000 personnel”, and:

- The option recommended by Lt Gen Reith was not the preferred northern option, and a force package based on two UK high readiness brigades, each with three battlegroups, should be developed further, with the aim of providing a second manoeuvre “element”, within a manpower ceiling of about 33,000.
- Options for enhancing the Amphibious Task Group, and additional options for the South which would consider the utility of a second light brigade and the deployment of follow-on forces, should also be developed.⁴⁸²

MOD ADVICE TO NO.10, 19 AND 20 DECEMBER 2002

1259. The MOD provided an update on the military thinking for No.10 on 19 December and further background material the following day.

1260. No.10 was informed that:

- **Control of Iraq’s oilfields rather than control of Baghdad was seen as the strategic key to the control of Iraq.**
- **Keeping options open was likely to require visible steps early in the New Year, including call-out of Reserves and high profile maritime deployments.**
- **An early conclusion on whether the UK could deploy through Turkey was needed to define the land option.**

1261. In response to a request for an update on US military thinking, Mr Hoon’s Private Office wrote to Sir David Manning on 19 December to inform him that the beginning of

⁴⁸² Minutes, 18 December 2002, Chiefs of Staff meeting.

US ground operations would be synchronised as closely as possible with the beginning of air operations, which it was judged would lead to the rapid collapse of much potential opposition.⁴⁸³

1262. In addition, the US was now thinking of “an information operation supported by manoeuvre, rather than a manoeuvre operation supported by information operation”. Control of Iraq’s oilfields (North and South), rather than control of Baghdad, was seen as the strategic key to control of Iraq. It would prevent the Iraqi regime from using oil as a weapon to cause a humanitarian and environmental catastrophe.

1263. It would also be essential to fund reconstruction. The US now recognised that stabilisation and reconstruction of up to two thirds of Iraq would need to begin before the military campaign had concluded. This was “bringing home to the US military the need for more planning effort to be devoted to ‘aftermath’ issues now”.

1264. Copies of the letter were sent to the Private Offices of Mr Straw and Mr Brown, and to Mr Bowen.

1265. The US plan for a military campaign, including that the Coalition would not fight for Baghdad in the initial phase of combat operations, is addressed in Section 8.

1266. The MOD had not yet reached a conclusion on the alternative options if Turkey refused transit.

1267. Mr Straw told Secretary Powell that, in the light of reports about the latest US military planning, the UK was “anxious about whether this was the right approach”.⁴⁸⁴

1268. In response to a request for background material on US and UK military thinking and preparations, Mr Watkins wrote to Sir David Manning on 20 December.⁴⁸⁵

1269. Mr Watkins highlighted “the continuing emphasis in US military planning on squeezing every possible day out of their timelines, both in preparation for and in the prosecution of any campaign”. As a result, the UK assumptions about detailed timings were “potentially subject to acceleration at short notice”. Keeping options open was:

“... likely to require visible steps early in the New Year ... including a first call-out of reserves in the first half of January and high profile maritime deployments around the middle of the month.”

1270. An early conclusion on whether the UK could deploy through Turkey “and thus on the shape of the UK land contribution” was also needed.

1271. Mr Watkins concluded that there would be “an increasingly pressing need to satisfy ourselves that the US has an overarching political strategy with which the

⁴⁸³ Letter Williams to Manning, 19 December 2002, ‘Iraq: Evolving US Military Thinking’.

⁴⁸⁴ Letter McDonald to Manning, 19 December 2002, ‘Iraq: Conversation with Colin Powell, 19 December’.

⁴⁸⁵ Letter Watkins to Manning, 20 December 2002, ‘Iraq: Christmas Reading’.

Government is content". If that envisaged military action in the timescales to which US military planners were working, there would be a need to address campaign objectives. That would be "necessary to fill the current gap between" the UK's "existing policy objectives and the likely nature of any US-led military operations, the scale and intensity of which should not be underestimated".

1272. The MOD provided seven annexes with more detailed information.

1273. Annex A addressed "Evolving US military thinking".

1274. Annex B, addressing UK military preparations, stated that there was a need to identify and address shortfalls in manpower and equipment in units nominated for operations, and that they would require significant training.

1275. In addition, the MOD:

- had approached the market to charter shipping; and
- was making preparations for call-out of Reserves.

1276. Annex C provided a snapshot of current UK and US force levels in the region and a projection of the probable build-up of forces based on Package 3 as currently endorsed and the ATG with 3 Commando Brigade. The ATG was now planned to be in theatre by mid-February and would transit the Suez canal 15 days earlier than previously planned; 7 Armoured Brigade could be in theatre by mid-March, but deployment of the full Package 3 would take a further 30 days.

1277. Annexes D and E, setting out the UK force packages originally approved by Ministers and an update on the ATG, stated that the MOD had strengthened the amphibious element of the force to include the Headquarters of 3 Commando Brigade, which would command both UK and US forces, and earmarked 42 Commando Group, to deploy by air after the ATG if required. The ATG was due to depart from the UK from 16 January. HMS Ark Royal would deploy as a second helicopter landing platform without its fast jets.

1278. Sir David was told the options for the land contribution were "under review"; and that: "There are some large and difficult issues here."

1279. Annex F was a "short note" on the options. It described Package 3, "previously endorsed by Ministers for planning purposes" as "a divisional HQ commanding a single square armoured brigade with appropriate divisional and logistic support", and that the MOD had assumed "for some time" the US would provide a similar brigade. The US had "now decided" to offer a lighter regiment, but that would mean the UK-led division would be "unbalanced, and its mission ... more risky".

1280. The MOD was “therefore” looking at alternatives, which would take account of:

- The scope for releasing sufficient units from Op FRESCO to allow “Package 3 to be reconfigured for operations in the North as a division of two brigades”.
- “Options for embedding a single ... brigade in a US division (North or South)”.
- Options for the South where further work was needed to assess whether an armoured formation could be delivered “within US timelines, and to consider alternatives involving lighter forces”.

1281. The MOD could not be “fully confident” that it had “a conclusion on these choices”.

1282. Annex G was a copy of the 13 December SPG paper, ‘UK Military Strategic Thinking on Iraq’, which identified the post-conflict phase as strategically decisive.

1283. Sir David commented to Mr Blair that not all of the information in Mr Watkins’ letter of 20 December had “yet appeared in the *Sunday Telegraph*”, which carried a story on 22 December that the Royal Marines would lead a sea-borne invasion of southern Iraq.⁴⁸⁶

1284. Mr Hoon had raised concerns about the leak with Sir Kevin Tebbit; and Mr Watkins had asked the MOD to review – and prune back – its distribution lists.⁴⁸⁷

MOD ADVICE TO MR HOON, 20 DECEMBER 2002

1285. Mr Hoon was informed on 20 December that UK plans were being reviewed in the light of changes in US plans and there might be a need for early decisions.

1286. The military’s preferred option would be to deploy two UK brigades for the northern option although that would require 4,000-5,000 more personnel and changes to Op FRESCO.

1287. A “heavy” brigade would not be able to arrive in the South until mid-April, but would have “particular utility for post-conflict operations”.

1288. Mr Hoon was reported to be reluctant to take any risks with Op FRESCO.

1289. Adm Boyce discussed Iraq with General Joseph W Ralston, Commander EUCOM, on 19 December.⁴⁸⁸

1290. Gen Ralston indicated that planning activity in Turkey was being delayed pending receipt of political clearance to proceed by the Turkish military. Gen Ralston expected

⁴⁸⁶ Manuscript comment Manning on Letter Watkins to Manning, 20 December 2002, ‘Iraq: Christmas Reading’.

⁴⁸⁷ Minute Watkins to PS/PUS [MOD], 23 December 2002, ‘Sunday Telegraph Article: 22 December 2002’.

⁴⁸⁸ Minute MA/CDS to PS/SofS [MOD], 20 December 2002, ‘CDS visit to SHAPE – EUCOM Issues’.

that it would be more difficult to get clearance for a UK deployment through Turkey than for a US one.

1291. In response to a question from Gen Ralston about whether the UK would contribute forces for deployment through Turkey, Adm Boyce said that “the critical path was for the US to negotiate access with Turkey first”.

1292. On 19 December, Lt Gen Reith submitted a revised paper on the land options, to the Chiefs of Staff for discussion in a meeting chaired by Adm Boyce the following afternoon.⁴⁸⁹

1293. Lt Gen Reith reported increased US optimism that the Iraqi regime would collapse “early” and a desire to achieve the “closest possible coincidence” between the start of the air and ground campaigns. That would require earlier readiness for ground forces. There was some scepticism about the practicality of achieving a target date of mid-February in the North, but an attack in the North might begin “much earlier than has previously been expected”, which Lt Gen Reith recommended the UK should aim to meet.

1294. The North remained the favoured option for UK land operations. Package 3 had been expanded to comprise a divisional HQ, two brigades, each with three battlegroups, and a total force level of 32,000. That would mean penalties for Op FRESCO.

1295. The paper also identified an option of contributing a single brigade, of four battlegroups, to a US formation before deployment of the full division. That would need about 25,000 personnel.

1296. In the South, 16 Air Assault Brigade and 3 Commando Brigade could initially operate under the command of a US division. For the former, units would need to be withdrawn from Op FRESCO. Both brigades were seen as having options for war-fighting and stabilisation roles. Preparations for the deployment of 16 Air Assault Brigade would depend on a decision not to deploy a division in the North no later than 15 January, “the last safe moment for a decision to switch the main effort from a northern axis”.

1297. Lt Gen Reith advised that a “heavy” brigade could not arrive in the South before the middle of April and further time would be needed for readiness and integration. It would have “particular utility for post-conflict operations”.

1298. If a UK division was deployed to the North, 1 (UK) Div HQ would take command; for other options, 3rd (UK) Mechanised Division would take the lead.

1299. Lt Gen Reith also recorded that he had been directed to add 42 Commando and HQ 3 Commando Brigade to the Amphibious Task Group.

⁴⁸⁹ Minute Reith to CDS & various, 19 December 2002, ‘Land Options Paper – Revised’ attaching Paper CJO, ‘Land Options – Revised’.

1300. Mr Johnson alerted Mr Hoon to the potential need for early decisions on 20 December.⁴⁹⁰

1301. Mr Johnson wrote that Package 3 was being reviewed in the light of changes in US force plans. Adm Boyce, Gen Walker and Lt Gen Reith recommended that an option with two UK brigades each with three battlegroups should be the preferred option; although it would require 4,000-5,000 more personnel than the “currently endorsed package of 28,000”, and a change to Op FRESCO plans.

1302. Mr Hoon was advised “we should have reached a conclusion on Turkey by the middle of January”. An alternative option of deploying one brigade of four battlegroups to be integrated within the US 4th Infantry Division had also been identified. Planning could be calibrated to allow a switch to that option if the deployment of a division was ruled out.

1303. The work on possible options in the South was not addressed in the minute.

1304. In preparation for a telephone conversation with Adm Boyce on 22 December, Mr Watkins sent Mr Hoon a handwritten minute setting out the background to Mr Johnson’s minute, which had been received late on 20 December following a meeting between Adm Boyce and Lt Gen Reith.⁴⁹¹

1305. Mr Watkins advised that:

- Mr Johnson’s minute did not seek any decisions, but Adm Boyce was “looking for a steer” on whether to call in staff over Christmas to prepare for deployments in the first few days of January, “rather than mid-January as currently assumed”.
- There was “some suspicion about the provenance of the information about US intentions”, which had come from CENTCOM. Mr Watkins’ own contacts with Secretary Rumsfeld’s office suggested that political decisions about visible US actions had not yet been taken. There was a risk, not for the first time, of the UK getting ahead of the US Government’s position.
- Deploying equipment before the planned visit to Ankara risked “a diplomatic own goal”.
- The UK Government’s communications plan assumed a start date of 7 January.
- Mr Blair would be on holiday abroad until 5 January.

1306. In a separate minute produced by one of his Private Secretaries the previous evening, Mr Hoon was advised that military “plans seem to be changing very rapidly and

⁴⁹⁰ Minute Johnson to PS/Sof S [MOD], 20 December 2002, ‘Iraq: Early Decisions’.

⁴⁹¹ Minute (handwritten) Watkins to SofS [MOD], 21 December 2002, ‘Iraq: CDS Phone Call: 22 December’.

incoherently without any real reference to the UN or political timetable”.⁴⁹² Mr Hoon might ask Adm Boyce a number of questions, including:

- When a decision on Turkey was needed?
- Whether it was “still worth pursuing Turkey given the difficulty the US” was having?
- Whether there was “a worthwhile role for any heavy forces” if Turkey was not available.
- “When do we bite the bullet and rule out the heavy land option? Or are we content to march them up to the top of the hill just for force on mind? How would we cope with the morale implications?”

1307. Mr Hoon would “need to see properly considered and realistically argued submissions” if early decisions were needed.

1308. The record of the conversation with Adm Boyce stated that, in relation to the work on land options, Mr Hoon was reluctant to take any risks with Op FRESCO’s capability.⁴⁹³

1309. Mr Hoon was content, for planning purposes, with the assumption that an initial tranche of Reservists would be called out on or about 9 January. That would “be subject to clearance from No.10 in due course”. He also wanted to avoid any clearly visible increase in activity “over and above what he [had] foreshadowed in his Statement in the House [of Commons] on 18 December before 6 January”, because of the “need to balance the diplomatic and military tracks”.

1310. Mr Hoon noted that further advice on preparations would be provided and that it would be helpful to have a clearer sense of the US planning timetable.

Planning Directive for Lt Gen Reith, 30 December 2002

Adm Boyce issued a Planning and Preparation Directive on 30 December.⁴⁹⁴ That gave Lt Gen Reith: “authority to undertake the necessary preparations, including reductions in Notice to Move and overt training, in order that UK forces identified for potential operations in Iraq are in all aspects ready for Coalition military operations”, including ensuring 16 Air Assault Brigade was ready for operations.

The Directive stated: “The codeword for the preparatory phase of this operation, and if UK forces are subsequently required to commit to action in the execution phase, is TELIC.”

On Phase IV, it stated:

“Delivering HMG’s [Her Majesty’s Government’s] declared end state is likely to require UK engagement in follow-on operations but the possible scale and duration

⁴⁹² Minute Williams to SofS [MOD], 20 December 2002, ‘Military Planning for Iraq’.

⁴⁹³ Minute Watkins to Hd Sec (Iraq), 23 December 2002, ‘Iraq: Early Decisions’.

⁴⁹⁴ Paper CDS, 30 December 2002, ‘CDS Planning and Preparation Directive for Operation TELIC’.

of ‘aftermath operations’ are uncertain and are in urgent need of clarification from US planners at all levels.”

Formal planning for the southern option began on 3 January when Maj Gen Brims, was briefed on the concept by PJHQ.⁴⁹⁵ Major General Wall, Chief of Staff to the UK National Contingent Commander and, subsequently, GOC 1 (UK) Div, wrote that initial planning with the US 1st Marine Expeditionary Force (1 MEF) was conducted in Atlanta in early January, which enabled Maj Gen Brims to start to shape the order of battle and build the division as a formation.

The Planning and Preparation Directive was superseded by a first version of the Execute Directive on 4 March 2003.

Mr Hoon’s statement, 7 January 2003

1311. On 7 January, Mr Hoon announced the decision to deploy additional maritime forces, including an amphibious capability and an order to enable the call-out of Reservists.

1312. That was presented as a necessary part of a policy of maintaining the pressure on Saddam Hussein to persuade him to disarm. Mr Hoon stated that no decision had been taken to commit UK forces to military action.

1313. The Government’s policy objectives for Iraq were also published on 7 January.

1314. Mr Hoon wrote to Mr Blair on 3 January alerting him and other colleagues to the need to take and make public decisions on the call-out of Reservists.⁴⁹⁶ He planned an announcement to the House of Commons on 7 January as part of a broader statement on Iraq strategy.

1315. Mr Watkins wrote to Sir David Manning later that day to inform him that Mr Hoon would also want to announce the need for significant force movements, including the deployment of the Amphibious Task Group.⁴⁹⁷ Mr Watkins recorded that the MOD had “confirmed to the US that the Group now includes HQ 3 Commando Brigade and 42 Commando, together with 40 Commando as originally planned”.

1316. Mr Straw made a Written Ministerial Statement on the Government’s policy objectives for Iraq to the House of Commons on 7 January 2003. In his later oral statement, Mr Hoon commended the objectives to the House of Commons.⁴⁹⁸

⁴⁹⁵ Report Wall, 6 October 2003, ‘Post Operation Report – Version 2 Operation TELIC’.

⁴⁹⁶ Letter Hoon to Prime Minister, 3 January 2003, ‘Iraq: Call-out of Reserves’.

⁴⁹⁷ Letter Watkins to Manning, 3 January 2003, ‘Iraq: Update on Military Planning and Draft Statement’.

⁴⁹⁸ House of Commons, *Official Report*, 7 January 2003, columns 23-25.

1317. Mr Hoon also announced arrangements for the first call-out of Reservists in support of possible operations against Iraq and the deployment of “a number of additional vessels and units later this month, which will represent a significant amphibious capability”, including the headquarters 3 Commando Brigade, and 40 and 42 Commandos “with all supporting elements”.

1318. Mr Hoon concluded:

“None of that means that the use of force is inevitable ... no decision has been taken to commit those forces to action ... But ... as long as Saddam’s compliance with ... resolution 1441 is in doubt ... the threat of force must remain and it must be a real one.”

1319. Mr Straw’s and Mr Hoon’s statements are addressed in more detail in Section 3.6.

The end of the northern option

1320. By the beginning of January 2003, uncertainty about Turkey’s agreement to the deployment of ground forces had reached a critical point.

1321. Mr Hoon and Mr Blair were advised that there were considerable uncertainties about the UK role in US plans if Turkey refused transit for ground forces.

1322. Mr Westmacott reported on 23 December 2002 that the Turkish media was reporting US requests for a full Turkish commitment to preparations for military action; and that no decisions appeared to have been taken. There was little public support in Turkey for a war with Iraq.⁴⁹⁹

1323. On 24 December, Mr Straw and Secretary Powell discussed the fact that 80 percent of the Turkish public were against any co-operation with the US/UK on ground troops.⁵⁰⁰

1324. Mr Straw and Secretary Powell spoke twice on 30 December.

1325. In their first conversation, Secretary Powell asked where a Turkish refusal to the deployment of UK forces would leave the UK.⁵⁰¹ Mr Straw replied: “in some difficulty” but he knew there were contingency plans. He would “get back” to Secretary Powell.

1326. Mr Straw and Secretary Powell also discussed the possibility that the military would be ready to take action but there would be no casus belli.

⁴⁹⁹ Telegram 481, Ankara to FCO London, 23 December 2002, ‘Turkey/Iraq: More US Pressure’.

⁵⁰⁰ Letter Straw to Manning, 24 December 2002, ‘Conversation with Powell: Iraq’.

⁵⁰¹ Telegram 671 FCO London to Washington, 30 December 2002, ‘Iraq: Foreign Secretary’s Conversation with US Secretary of State, 30 December’.

1327. In their second conversation Mr Straw told Secretary Powell that:

“Following the latest news from Turkey, we could provide an amphibious task force in the South. We might also put in an armoured brigade in the South.”⁵⁰²

1328. Mr Straw also cautioned that the armoured brigade would take an extra 45 days to arrive.

1329. Mr Hoon was advised on 30 December that it seemed increasingly unlikely ground forces would be allowed to operate from Turkey and that the ground forces options were under review.⁵⁰³

1330. The US was reviewing the military plan “and considering what role a UK ground force could play in the South”. Mr Johnson stated:

“We had of course offered the existing land package on the assumption that it would operate in the North. Ministers have not endorsed any assumptions about a possible role in the South, which is more likely to be for follow-on, or aftermath, tasks.”

1331. Mr Hoon was advised that, at present, there was “no clear role for any [of the options being examined] in the South”; the UK needed “first to hear from the US ... what possible roles they may now envisage for UK land forces.

1332. Mr Westmacott advised on 31 December that despite a series of meetings in Christmas week, there were still no decisions although the Turkish Parliament had approved the renewal of the authority for US and UK aircraft to continue to operate from Incirlik over the northern No-Fly Zone.⁵⁰⁴ In his view it was unlikely that Turkey would be forthcoming on Iraq during Mr Hoon’s planned meeting the following week. Turkey was likely to wait until after Dr Blix’s report to the UN Security Council on 27 January before consulting Parliament.

1333. On 2 January 2003, Mr Westmacott advised that he had not detected any particular hostility to a UK military presence: “The key point was that Turkey would rather not have any of us.” Mr Hoon’s visit should help to clarify the picture.⁵⁰⁵

⁵⁰² Letter Straw to Manning, 30 December 2002, ‘Iraq: Conversation with Colin Powell, 30 December’.

⁵⁰³ Minute Johnson to PS/Secretary of State [MOD], 30 December 2002, ‘Iraq: Update’.

⁵⁰⁴ Telegram 483 Ankara to FCO London, 31 December 2002, ‘Iraq: More Turkish Prevarication Despite US pressure’.

⁵⁰⁵ Telegram 1 Ankara to FCO London, 2 January 2003, ‘Iraq: Turkish Options’.

1334. In his letter of 3 January about the announcement of the ATG deployment on 7 January, Mr Watkins alerted Sir David Manning to the need to reconsider options for the UK's ground contribution because of doubts about transit through Turkey.⁵⁰⁶ He advised:

“It may ... be necessary to take decisions next week to give us time to train additional units for Operation FRESCO ... freeing up units that, under new plans, might deploy to the South.

“In the meantime, we are continuing with preparations to enable a ground force contribution of at least an armoured brigade (and its Divisional HQ) to deploy as soon as possible.”

1335. In his minute of 3 January on the way ahead on Iraq over the next few weeks, which is addressed in Section 3.6, Mr Straw informed Mr Blair that Turkey would not allow US or UK troops through on the ground and that was “leading CENTCOM to re-think”; and that “must have an impact on the robustness of the overall plan, and the timelines”.⁵⁰⁷

1336. Mr Straw's minute was not sent to Mr Hoon.

1337. On 3 January, Sir David Manning and Dr Rice discussed the possibility of a military attack without the northern option.⁵⁰⁸ In the light of the previous advice about its importance, Sir David said that he was “uneasy”.

1338. In an update on Iraq for Mr Blair on 3 January, which is also addressed in Section 3.6, Sir David Manning wrote that he was worried that US strategy was in danger of being driven by the tempo of military planning which assumed decisions in mid-February.⁵⁰⁹ A “long hard look at the current state of the military planning” was needed: “Too much looks like hurried improvisation, half thought out strategy”, which assumed that Saddam Hussein would collapse “in short order”.

Mr Hoon's visit to Turkey, January 2003

1339. After Mr Hoon's visit to Ankara on 7 and 8 January 2003, the UK formally ruled out the northern option.

1340. Mr Hoon, Sir Kevin Tebbit, Lt Gen Pigott and Mr Lee visited Turkey on 7 to 8 January to “discuss a range of topics, including Iraq”.⁵¹⁰

1341. Mr Hoon told Secretary Rumsfeld on 7 January that he would emphasise the importance of the northern approach for a successful military campaign during his visit

⁵⁰⁶ Letter Watkins to Manning, 3 January 2003, 'Iraq: Update on Military Planning and Draft Statement'.

⁵⁰⁷ Minute Straw to Prime Minister, 3 January 2003, 'Iraq – Plan B'.

⁵⁰⁸ Letter Manning to McDonald, 3 January 2003, 'Iraq: Conversation with Condi Rice'.

⁵⁰⁹ Minute Manning to Prime Minister, 3 January 2003, 'Iraq'.

⁵¹⁰ Letter Watkins to Manning, 7 January 2003, 'Iraq: Conversation with Rumsfeld'.

to Ankara.⁵¹¹ The US and UK were discussing possible roles for UK forces in the South. The UK was “ready to play a significant role there, provided it made sense in terms of the overall plan”.

1342. Mr Westmacott’s overview of the visit reported that although Turkish interlocutors had spelled out their concerns, they had given “tentative agreement to the start of military planning talks”.⁵¹²

1343. The British Embassy Ankara reported that Mr Hoon had told all his interlocutors that “the UK, like Turkey, wanted a peaceful outcome to the crisis if possible; but our best chance of achieving it lay in making a credible show of coalition readiness to use force if necessary”.

1344. The UK “understood” Turkish concerns:

“... about legitimacy (which we shared), domestic and regional politics. But we needed to start high level military planning talks now if Saddam Hussein was to get the message. We and the United States were also convinced that, if military action proved necessary, it would be quicker, cleaner, and more effective if it was done with the support and facilitation of Turkey. A northern route land forces option ... with a thrust from the South, made the most sense ... UK military involvement was under consideration.”

1345. Mr Hoon was advised to lodge a formal request.

1346. Records of the meetings in Ankara on 8 January circulated by Mr Watkins demonstrated that Mr Hoon had argued that the UK objectives published on 7 January were similar to Turkey’s objectives:

“... we too wished to avoid war. But we had to demonstrate the seriousness of our intent ... Visible military preparations might make war less likely.”⁵¹³

1347. The UK was in close touch with CENTCOM on a possible land package and Adm Boyce was “ready to come out to discuss the details”.

1348. The Turkish response was guarded. It had a number of concerns about the political, economic and humanitarian consequences of military action. All chances for a peaceful resolution had to be exhausted. There was no public support for a war and, therefore, no guarantee of Parliamentary support.

1349. Mr Hoon wrote to the Turkish Defence Minister on 9 January seeking confirmation of approval for early military planning talks.⁵¹⁴

⁵¹¹ Letter Watkins to Manning, 7 January 2003, ‘Iraq: Conversation with Rumsfeld’.

⁵¹² Telegram 8 Ankara to FCO London, 8 January 2003, ‘Defence Secretary’s Visit to Ankara: Overview’.

⁵¹³ Letters Watkins to Manning, 9 and 10 January 2003, ‘Defence Secretary’s Visit to Ankara: 8 January 2003’.

⁵¹⁴ Telegram 19 Ankara to FCO London, 15 January 2003, ‘Follow-up to Defence Secretary’s Visit’.

1350. When Adm Boyce visited Turkey in late January, Mr Westmacott reported that there were no instructions to reply to Mr Hoon's letter.⁵¹⁵

1351. At Cabinet on 9 January Mr Hoon reported his visit to Turkey and the sensitivities about actions involving Iraq.⁵¹⁶

1352. Other issues discussed are addressed in Section 3.6.

1353. Mr Blair told Cabinet that there would be an "in-depth" discussion on Iraq the following week.

1354. Adm Boyce updated Gen Myers on the outcome of the visit on 9 January and outlined the UK's "commitment to operations in southern Iraq."⁵¹⁷

1355. The report of the discussion also stated that the US could stay poised for military operations for 3-4 months.

1356. On 11 January, Mr Straw discussed the Turkish position with Secretary Powell, including the need to avoid Turkey being drawn into any conflict in Iraq and the practicalities of the northern option.⁵¹⁸

1357. Reporting from the British Embassy Washington showed that similar concerns about permission had been discussed during Mr Ricketts' visit.⁵¹⁹

1358. Sir Kevin Tebbit told the Inquiry that it was not until early January that the northern option was "absolutely blocked off" after he and Mr Hoon went to Ankara "to make one final effort to clarify what was going on", including to secure "overflight rights for aircraft and supplies".⁵²⁰ But it had become "increasingly difficult to rely on the northern option" from late November into December.

1359. Mr Hoon told the Inquiry that his awareness of the difficulties with Turkey grew "towards the end" of 2002.⁵²¹ The UK had been alerted to the likely attitude of Turkey by Secretary Powell. When Mr Hoon had visited in early January 2003 he had had "a very rapid history lesson"; "all they were talking about was what had happened in the 1920s and Britain could not entirely be trusted".

1360. Mr Hoon stated that he did not think the decision to abandon the northern option was taken until after his visit to Ankara, when he formed the view that "we would never

⁵¹⁵ Telegram 33 Ankara to FCO London, 24 January 2003, 'CDS's Call on Turkish CHOD: Iraq'.

⁵¹⁶ Cabinet Conclusions, 9 January 2003.

⁵¹⁷ Minute Zambellas to PS/Secretary of State [MOD], 10 January 2003, 'CDS Telephone call to CJCS: 9 Jan 03'.

⁵¹⁸ Letter Straw to Manning, 13 January 2003, 'Iraq: Conversation with Colin Powell, 11 January'.

⁵¹⁹ Telegram 46 Washington to FCO London, 14 January 2003, 'Iraq: US Military Planning'.

⁵²⁰ Public hearing, 3 December 2009, pages 55-56.

⁵²¹ Public hearing, 19 January 2010, pages 58-60.

get an agreement from Turkey. That was the point at which we took the decision ... the actual decision didn't come until I came back from Turkey."⁵²²

1361. Mr Hoon added that the US did not abandon hope of securing Turkey's agreement to the deployment of 4th Infantry Division until much later, and that it had stayed in the eastern Mediterranean until after the start of the invasion.⁵²³

1362. Sir Kevin Tebbit told the Inquiry: "I went with Geoff Hoon to Ankara ... to ... finally see whether we could achieve agreement with the Turks."⁵²⁴

1363. Sir Kevin Tebbit told the Inquiry:

"I felt slightly embarrassed, to be absolutely honest, because having been head of chancery in the Embassy in Ankara for three and a half years, I thought I knew my Turks. I thought they were going to be supportive, and I of all people should have realised that the idea of the Brits going into Kurdistan ... re-awoke some very sensitive Turkish nationalist memories of how we behaved in the 1920s when they felt we were flirting with the idea of a Kurdistan as part of a way of dismantling the Ottoman empire."

...

"So we miscalculated there, and I have to say, I should have known better myself."⁵²⁵

1364. Sir Kevin added:

"I think we thought we could provide reassurances that would overcome the Turkish objections, and unfortunately the Turks were reasonably polite and accommodating to let us feel that might actually be the case."⁵²⁶

1365. Sir Kevin confirmed that he was referring to both military and civilian views:

"The problem was also they had an election, and there was a certain amount of chaos in Turkey about the stability of their arrangements, and I – we were encouraged to think that even at the last moment there might be a vote which would enable us to go there."

1366. In response to a question about whether he recalled that the views of the FCO and the Embassy in Ankara were not dissimilar from his own, Sir Kevin told the Inquiry that he did not:

"... recall being out on a personal limb ... [M]y sense was that we were getting mixed messages, and that we need to clarify the situation, not that we were being

⁵²² Public hearing, 19 January 2010, page 60.

⁵²³ Public hearing, 19 January 2010, pages 60-61.

⁵²⁴ Private hearing, 6 May 2010, page 15.

⁵²⁵ Private hearing, 6 May 2010, pages 15-16.

⁵²⁶ Private hearing, 6 May 2010, page 16.

told by everyone that it was not on. Had that been the case, we would have stopped much earlier.”⁵²⁷

1367. At the time he gave evidence, Sir Kevin had not had the telegrams from Ankara drawn to his attention.⁵²⁸

1368. Sir Kevin confirmed that there had been a majority vote in the Turkish Parliament but that it was not sufficiently large to approve the deployment.⁵²⁹

1369. In relation to Mr Hoon’s visit in January 2003, Mr Lee told the Inquiry:

“As I recall ... that was a sort of last throw of the dice really, that everyone else had tried, hadn’t had an outright ‘no’, but hadn’t had any sort of encouragement either. So we should try this. He [Hoon] should go, speak to his opposite numbers, as many people as possible in the Turkish hierarchy, and see what the result would be. The outcome of that visit was, I think, the realisation dawned that Turkey was not going to agree. So things moved on, away from the northern option.”⁵³⁰

Should the UK have addressed an alternative to the northern option earlier and more seriously?

1370. The need for a northern axis for any invasion of Iraq was suggested to the US by the UK military in July 2002.

1371. The MOD’s preference for a discrete role in northern Iraq was identified in July 2002 and it remained the preferred option until the end of the year.

1372. The evidence set out in this Section catalogues the advice, offered by PJHQ to the MOD and the MOD advice to Mr Hoon and Mr Blair between July and December 2002, on the strategic rationale for both northern and southern axes of attack in an invasion of Iraq, and the advantages of the northern option from the UK’s perspective.

1373. The proposal reflected long-held and legitimate judgements about the difficulties which could arise during operations if ground forces at a brigade level or below were embedded within US structures.

1374. A briefing note for Mr Hoon on 11 December 2002 explicitly confirmed that the northern option “came from our strategic analysis in the first place”.⁵³¹

⁵²⁷ Private hearing, 6 May 2010, pages 17-18.

⁵²⁸ Private hearing, 6 May 2010, page 17.

⁵²⁹ Private hearing, 6 May 2010, page 18.

⁵³⁰ Private hearing, 22 June 2010, pages 29-30.

⁵³¹ Minute Johnson to PS/Secretary of State [MOD], 11 December 2002, ‘Iraq: Military Planning – Turkey Handling’.

1375. Asked when during the summer of 2002 the idea that the UK would lead on the northern option had arisen, Lord Boyce told the Inquiry that it:

“... was a fairly early part of the planning process, that we’d come from Turkey. We weren’t going to lead it ... we’d have been part of the American force ...”⁵³²

1376. Asked where the idea had originated, Lord Boyce told the Inquiry that it was “to a certain extent American-driven” but there was a dormant “NATO plan to go through Turkey” that could have been “dusted off and re-shaped to deal with this particular operation”.⁵³³

1377. Lt Gen Fry told the Inquiry that he had “previous [experience] ... in ... Kurdistan” where he had been deployed in 1991.⁵³⁴ He had taken the view, at the time “and ... still”, that the northern option offered “demonstrable military advantage”. That included less significant geographical challenges and more freedom of manoeuvre.

1378. Gen Reith recalled that the UK had suggested a second axis from the north to fix the six to eight Iraqi divisions lined up along the edge of the Kurdish zone and prevent them moving south, although he could not recall the exact timing.⁵³⁵

1379. Gen Reith told the Inquiry:

“What happened with the northern option was that, when we had suggested it to them [the US], they then came back and said to us, ‘Well, perhaps the UK could do the northern option as a discrete entity.’”⁵³⁶

1380. Mr Hoon told the Inquiry that his recollection was that the possibility of an attack on two axes to divide the Republican Guard had been identified and discussed before Lt Gen Pigott’s visit to CENTCOM at the end of June; and that Lt Gen Pigott had persuaded the US military to consider a northern option.⁵³⁷

1381. Mr Hoon told the Inquiry that he was “pretty confident” that the UK had “persuaded” the US “about the northern option”.⁵³⁸

1382. By late October 2002, the US had adopted a northern axis as an essential element of its campaign plan and decided to allocate its 4th Infantry Division to that task.

1383. The MOD’s initial aspiration was to lead the operation from the North. But, by late October 2002, the US had adopted a northern axis as an essential element

⁵³² Public hearing, 3 December 2009, page 22.

⁵³³ Public hearing, 3 December 2009, page 50.

⁵³⁴ Public hearing, 16 December 2009, pages 14 and 17.

⁵³⁵ Private hearing, 15 January 2010, page 14.

⁵³⁶ Private hearing, 15 January 2010, page 23.

⁵³⁷ Public hearing, 19 January 2010, pages 22-23.

⁵³⁸ Public hearing, 19 January 2010, page 43.

of the campaign plan and decided to allocate its 4th Infantry Division to that task. That precluded a UK lead.

1384. Asked if the UK never talked about leading it, Lord Boyce replied: “No, and it would remain on the table right until January 2003.”⁵³⁹

1385. Asked whether the northern option was the UK’s preference or something the US “very much wanted” the UK to do, Lord Boyce told the Inquiry that it was “probably a bit of both”. If Turkey had agreed, it would have been a “sensible way” of deploying a UK division alongside the US 4th Division.⁵⁴⁰

1386. Asked whether given the southern No-Fly Zone had been more difficult than the northern one, the UK had been more comfortable operating in the North, Lord Boyce replied that was:

“... correct and it’s also true that we felt we would be more compatible with the [US] 4th Infantry Division than with other American divisions ...”⁵⁴¹

1387. Lord Boyce added that they were also concerned about the relatively small area of Kuwait for the entry of forces, and that it depended “hugely on the host nation support”, although he acknowledged that the latter was also true for Turkey.⁵⁴²

1388. Lord Boyce subsequently told the Inquiry:

“... we thought that the North made sense to fix the Iraqi forces in that part of the country, to do what we could to secure the oilfields before they got trashed by Saddam Hussein and also to do what we could to preserve the Kurdish state up there and make sure there was not an assault on the Kurds from either the Turks or the Iraqis.

“So it appeared to be a neat option ...”⁵⁴³

1389. Asked for the reasons why the military advice appeared to stress the North rather than the South, Sir Kevin Tebbit told the Inquiry that he did not think there had been a “particular UK dimension”:

- The UK had “particular concerns” about the consequences if Saddam Hussein moved his troops into the Kurdish area. He did not recall that directly influencing military planning, but it was “recognised very actively” at the political level.
- The UK had a military interest in the operation of the northern No-Fly Zone.

⁵³⁹ Public hearing, 3 December 2009, page 22.

⁵⁴⁰ Public hearing, 3 December 2009, pages 23-24.

⁵⁴¹ Public hearing, 3 December 2009, page 53.

⁵⁴² Public hearing, 3 December 2009, page 54.

⁵⁴³ Public hearing, 27 January 2011, page 13.

- It was “clear in [the] planning” that it was very important to secure the northern oilfields to prevent Saddam causing a humanitarian and environmental disaster and to preserve the resources for rebuilding Iraq.⁵⁴⁴

1390. Sir Kevin added:

“So there were very strong reasons for a force to ... fix the North, and strong reasons therefore, for the UK to regard that as an appropriate role for us to help with.”

1391. Mr Hoon told the Inquiry that part of the practical problem was that the Kuwaiti border with Iraq was “relatively short” and, unlike the conflict in 1991, Coalition Forces could not cross the Saudi border. That meant “a lot of soldiers were being funnelled through a relatively narrow area”. He had been concerned that those forces would be “highly vulnerable” to chemical and biological weapons.⁵⁴⁵

1392. The judgement that southern Iraq was the most likely area for the first use of chemical or biological weapons against Coalition Force, and against the local population, was contained in the JIC Assessment of 19 February 2003, ‘Southern Iraq: ‘What’s In Store?’.⁵⁴⁶

1393. Asked by the Inquiry in May 2010 about the benefits of the northern option as he had understood them, Sir Kevin replied they were:

- the need to “shut the door” to prevent Saddam Hussein retreating north;
- to “avoid what would otherwise be a very politically difficult situation with the Kurds and the Turks”;
- squeezing from both directions provided “a much better way of outmanoeuvring your opponent”;
- concerns about “a real bottleneck through Kuwait”; and
- the Kurdish Autonomous Zone was a “fairly stable area”, which “looked rather easier than fighting one’s way or helping to fight one’s way up Iraq”.⁵⁴⁷

1394. Sir Kevin recognised that the mountainous terrain in south-eastern Turkey and the length of the logistics supply lines would have posed challenges, but he thought Adm Boyce and “a lot of military men would have liked” to have had the northern option.⁵⁴⁸

1395. Lt Gen Reith expressed reservations about the relative advantages and disadvantages of the northern option in November.

⁵⁴⁴ Public hearing, 3 December 2009, pages 51-53.

⁵⁴⁵ Public hearing, 19 January 2010, page 62.

⁵⁴⁶ JIC Assessment, 19 February 2003, ‘Southern Iraq: What’s In Store?’.

⁵⁴⁷ Private hearing, 6 May 2010, pages 13-14.

⁵⁴⁸ Private hearing, 6 May 2010, page 14.

1396. Gen Reith told the Inquiry that the North was “quite a difficult area” and “over time, and particularly with the Turkish elections, and ... my sense of a lack of enthusiasm by the Turks ... for me, as the planner, it became less and less attractive as an option”.⁵⁴⁹

1397. Gen Reith added:

“... I was unhappy with the logistic support required and the tenuous lines of communication to actually get our logistic support to our forces.

“It was very, very tight ... it was very mountainous ... we were going to have to use the river Tigris as our protection on our left flank ... it wasn't an attractive military option for what would have been, at best, a division plus.”⁵⁵⁰

1398. Gen Reith told the Inquiry that discussions started with the US about where in the South a land package might best be employed after his paper of 18 November. He added that the Americans moved from thinking that the UK would definitely be going to the North to “maybe we [the UK] should be doing the South”.⁵⁵¹

1399. Other evidence given to the Inquiry suggested that the relative advantages and disadvantages of the northern and southern options might have been more balanced than some of the briefing offered to Mr Hoon and Mr Blair suggested.

1400. Gen Jackson told the Inquiry that the “relative logistic challenge” of the southern option was “probably logistically simpler” than the northern option.⁵⁵²

1401. Asked about his assessment of the risks and liabilities for the UK when he saw that the position was shifting from the North to the South, Lord Boyce told the Inquiry:

“Timing would have been one ... our transit ... was going to take slightly longer. There was ... a risk of the actual logistic effort but that was mitigated by the fact the Americans were going to help us ... desertification of some of the kit ... required some effort ... But the Americans ... were particularly helpful in making room for us in Kuwait ...”⁵⁵³

1402. Lord Boyce added that “substantial effort” had already been made on the southern option and that working alongside the Amphibious Task Group helped the logistics support, and:

“... whatever risks there were in switching to the South, in many senses were outweighed by some of the benefits ...”⁵⁵⁴

⁵⁴⁹ Private hearing, 15 January 2010, page 25.

⁵⁵⁰ Private hearing, 15 January 2010, page 27.

⁵⁵¹ Private hearing 15 January 2010, pages 34-35.

⁵⁵² Public hearing, 28 July 2010, page 18.

⁵⁵³ Public hearing, 27 January 2011, pages 23-24.

⁵⁵⁴ Public hearing, 27 January 2011, pages 24-25.

1403. Asked about the assessment of the Iraqi opposition, Lord Boyce told the Inquiry that he had not thought that Iraq's fighting capability was going to be "any more challenging than ... in the North".⁵⁵⁵

1404. Lord Boyce added that "one of the advantages" of the South which emerged "as the battle plans started to develop" was that "we were to be given an area of operations ... which would ... make it a cleaner operation" for the UK than working alongside the US 4th Infantry Division:

"Our job ... as we saw it, was going to be to fix the Iraqi or defeat the Iraqi divisions in the South to make sure the Americans had untrammelled progress towards the North without having to worry about their rear or their flank ... That gave us a very clear mission ..."

1405. Lord Boyce told the Inquiry:

"Our feeling was that actually it [the South] might be ... an easier place to deal with than the North, or further north I mean, because ... the vast majority of the people in the South were Shia as opposed to the more heavy or original mix of Sunnis further north where we thought there would be problems between the Sunnis and Shia once the country – once we got past war end. Therefore, we were dealing with one sector which hopefully would be working together ... and would be cooperative ... as we tried to ... regenerate the country after the fighting was over."⁵⁵⁶

1406. In oral evidence, witnesses offered different views about their perception of Turkey's position in late 2002 and early January 2003.

1407. Maj Gen Wilson had reported on 17 July 2002 that US planners had been asked to look at plans for a scenario without Turkey.

1408. DSF 1 told the Inquiry that he had informed Lt Gen Pigott "in about November" that UK ground forces were "not going through Turkey".⁵⁵⁷

1409. The Inquiry asked Sir Richard Dearlove at what stage he judged that the Turkish route would not be possible.⁵⁵⁸ He told the Inquiry that "in the summer some time" it was "clear that the Turkish General Staff ... were not going to agree to a British military deployment through Turkey".

1410. Sir Richard added:

"... in the autumn, it became clear that there was going to be no British military deployment through Turkey. The Turkish generals ... were not going to change their minds."

⁵⁵⁵ Public hearing, 27 January 2011, pages 25-26.

⁵⁵⁶ Public hearing, 27 January 2011, pages 26-27.

⁵⁵⁷ Private hearing, 2010, page 19.

⁵⁵⁸ Private hearing, 16 June 2010, pages 44-45.

1411. Asked if he had offered any advice to the military, Sir Richard replied:

“... I would have reported that instantly ... I was in touch frequently. Mike Boyce and I were regularly talking to each other. But ... it was evident. It would have been evident on the attaché military channels at about the same time.”

1412. Asked why, when he had taken the view in October 2002 that Turkey was not likely to agree to the deployment of UK forces, the MOD had persisted, Sir David Manning replied:

“Yes, but ... I was wrong about a lot of military things. So there’s no reason why I should have been right about this one. I think probably ... because the Americans were telling our military, don’t worry, we will fix it, and ... certainly the Americans themselves were surprised at how difficult the Turks proved to be ...”⁵⁵⁹

1413. Lord Boyce told the Inquiry that the decision on 8 January 2003, to switch to the South:

“... wasn’t a sort of cold shock for everybody ... The Prime Minister, the Cabinet and clearly the Secretary of State for Defence had ... been exposed to the ... contingency planning we were doing, should we have to go South.”⁵⁶⁰

1414. Subsequently Lord Boyce told the Inquiry:

“We imagined in the very early stages that because there was a NATO plan giving access to come through Turkey to go towards Iraq, but that was something which should not present a great difficulty. Certainly when I spoke to the Chief of the Turkish General Staff, General Özkök, in the very early days, September/October or so, there didn’t appear – well, he didn’t seem to think it would be a particular problem.”⁵⁶¹

1415. Lord Boyce added that “we rather thought” Gen Özkök “had more power than he probably did”, or was prepared to exercise after the Turkish election of a new Government. The MOD “persevered for probably longer than we should have done in trying to get a route through Turkey”.⁵⁶²

1416. Asked whether there had been cautionary advice from the FCO about Turkey’s position, Lord Boyce told the Inquiry:

“I can’t recall at any time being told to back off. As you said, we pressed on and we pressed on until the bitter end when we had to make a final decision.”⁵⁶³

⁵⁵⁹ Private hearing, 24 June 2010, page 103.

⁵⁶⁰ Public hearing, 3 December 2009, page 92.

⁵⁶¹ Public hearing, 27 January 2011, page 13.

⁵⁶² Public hearing, 27 January 2011, pages 14-15.

⁵⁶³ Public hearing, 27 January 2011, page 15.

1417. Lord Boyce stated that the US:

“... started giving us warnings ... around late October/November ... that we were probably pushing against a closed door, but we still even then carried on believing we might do it, because ... that particular option seemed to be the more sensible one ... if we were going to commit a large-sized landforce, because ... Kuwait is a small country.”⁵⁶⁴

1418. Asked about Sir Richard Dearlove’s evidence, Lord Boyce told the Inquiry that he could not recall talking to him about the issue but Gen Özkök was “certainly not saying ‘Don’t bother to darken my door again’”.⁵⁶⁵

1419. The northern option remained the primary focus for UK planning until early January.

1420. The Inquiry accepts the strategic rationale for a northern axis, including the aspiration to provide a framework which would allow other nations to make a military contribution.

1421. There are questions, however, about whether the UK should have given serious consideration to the alternatives for the UK, and discussed them with the US, at an earlier stage.

1422. The UK recognised, from July 2002 onwards, that the proposed northern option for UK land forces depended on Turkey’s agreement to the transit of foreign forces; and that might be difficult to obtain. There were serious doubts about whether the Turkish Government would permit the transit of UK (or US) troops.

1423. Before the election of a new Government in Turkey, the JIC assessed on 30 October 2002 that Turkey’s opposition could be overcome with US pressure.

1424. The UK received mixed messages from Washington and Ankara during the autumn of 2002.

1425. The warning signs that Turkey might well refuse to permit the deployment of UK forces led both Lt Gen Reith and the US Administration to suggest that the UK should develop alternatives to the northern option.

1426. The UK decided US assistance would be essential for securing Turkey’s agreement and that the US should take the lead in talks with the Turkish Government elected in November 2002.

1427. The position taken by Mr Hoon, Sir Kevin Tebbit and Adm Boyce in discussions with the US Administration about the UK commitment to the northern

⁵⁶⁴ Public hearing, 27 January 2011, pages 15-16.

⁵⁶⁵ Public hearing, 27 January 2011, page 16.

option may in part have been driven by tactical considerations, and the need to maintain the maximum pressure on the US to pursue agreement for the deployment of UK ground forces with Turkey.

1428. Mr Blair had asked on 6 December 2002 for advice on the options for UK land forces if Turkey refused transit.

1429. Adm Boyce did not instruct Lt Gen Reith to develop options for the South until 18 December 2002.

1430. Mr Hoon was advised that the decision on a switch to the South could be taken after his visit to Ankara in January 2003.

1431. From late July until late December 2002, Adm Boyce advised Ministers that the UK was not in a position to generate the forces necessary to conduct combat operations at divisional level without US support.

1432. Until the middle of December 2002, Ministerial decisions and military planning and preparations were based on advice that the deployment of a single combat brigade, with four battalions, in a northern option and the possible deployment of a Royal Marine Commando Group to southern Iraq, were the maximum which could be deployed given the requirements of Op FRESCO and the timescale for military operations envisaged by the US.

1433. When the US asked the UK to deploy to the South, there was little time to:

- prepare and consider a detailed analysis of the options before decisions were taken; and
- plan for and implement the deployment for operations which at that stage it was anticipated might start by early March.

1434. The implications of the switch to the South in mid-January and the increase of the combat force to three brigades for equipping the forces deployed are addressed in Sections 6.2 and 6.3.

SECTION 6.2

MILITARY PLANNING FOR THE INVASION, JANUARY TO MARCH 2003

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Introduction and key findings

1. This Section addresses:

- the decision in mid-January 2003 to deploy a divisional headquarters and three combat brigades for potential operations in southern Iraq;
- the commitment of those forces to a combat role in the initial stages of the invasion of Iraq; and
- the principles of international humanitarian law (IHL) governing the conduct of military operations, including discussions on delegation of authority for targeting decisions during the air campaign.

2. This Section does not address:

- the campaign plan for the invasion, which is addressed in Section 8;
- the roles and responsibilities of the Secretary of State for Defence, the Chief of the Defence Staff (CDS), the Permanent Under Secretary (PUS) in the Ministry of Defence (MOD), and other key military officers and civilians, and the way in which advice was prepared for Ministers and decisions taken in the MOD in 2002 and 2003, which are set out in Section 2;
- the decisions on the wider UK strategy towards Iraq which are necessary to understand the wider context surrounding military deployments. Those are addressed in Section 3;
- the UK's assessment of Iraq's weapons of mass destruction (WMD) in late 2002 and early 2003, which is addressed in Section 4.3;
- the consideration of the legal basis for military action, which is set out in Section 5;
- the preparations to equip the force for operations in Iraq, and the implications of the decisions between mid-December 2002 and mid-January 2003 to increase the size of UK combat forces and be ready to take an earlier role in the invasion in support of US forces, which are addressed in Section 6.3;
- the funding for the operation, which is addressed in Section 13; and
- the planning and preparations for the UK military contribution post-conflict, including decisions on the UK's Area of Responsibility (AOR) for UK military forces, which are addressed in Sections 6.4 and 6.5.

Key findings

- The size and composition of a UK military contribution to the US-led invasion of Iraq was largely discretionary. The US wanted some UK capabilities (including Special Forces), to use UK bases, and the involvement of the UK military to avoid the perception of unilateral US military action. The primary impetus to maximise the size of the UK contribution and the recommendations on its composition came from the Armed Forces, with the agreement of Mr Hoon.
- The decisions taken between mid-December 2002 and mid-January 2003 to increase the combat force deployed to three brigades and bring forward the date on which UK forces might participate in combat operations compressed the timescales available for preparation.
- The decision to deploy a large scale force for potential combat operations was taken without collective Ministerial consideration of the decision and its implications.
- The large scale force deployed was a one-shot capability. It would have been difficult to sustain the force if combat operations had been delayed until autumn 2003 or longer, and it constrained the capabilities which were available for a UK military contribution to post-conflict operations.

The switch to the South

3. The initial planning for a military invasion of Iraq and the decision on 31 October 2002 to offer ground forces to the US for planning purposes are addressed in Section 6.1.
4. The main planning assumption throughout 2002 was that the UK would provide air and maritime forces in support of US operations in southern Iraq, but that UK ground forces would be deployed through Turkey for operations in northern Iraq.
5. As Section 6.1 sets out, there was no certainty that Turkey would agree to the UK deployment.
6. Mr Blair had also been considering a number of issues over the Christmas holiday in 2002. On 4 January 2003 he produced a long note to officials in No.10 on a range of issues.¹
7. On military preparations, Mr Blair wrote that there was a need to make sure that the military plan was “viable”; and that he needed a meeting and the “military’s assurance that the plan can work. This is no small undertaking.”
8. Other points in the note are addressed in Section 3.6.

¹ Note Blair [to No.10 officials], 4 January 2003, [extract ‘Iraq’].

CENTCOM's proposal for a UK Division in the South

9. At the beginning of 2003, the US asked the UK to provide ground forces in the South.

10. Major General Albert Whitley, Senior British Land Adviser and Deputy Commanding General (Post Hostilities), told the Inquiry that, after General Tommy Franks, Commander in Chief US Central Command (CENTCOM), had decided not to move the US 4th Infantry Division south, he had discussed with Lieutenant General David McKiernan, Commander, Coalition Forces Land Component Command (CFLCC), on 28 December 2002 whether it would be possible to use UK forces in the South to augment US forces.²

11. On 5 January, Brigadier Whitley prepared a paper for the Permanent Joint Headquarters (PJHQ) on “the imperatives for timely decision making for the commitment of UK Land Forces” to the US Operational Plan.³

12. Brigadier Whitley explained that uncertainties about whether Turkey would allow transit of ground forces had led US and UK planners, on 28 December, urgently to concentrate on developing robust operations from the south. He recorded that “even if the UK were ... granted transit through Turkey ... the complexity and scope of the problem ... from a purely operational view point, would not be welcomed”.

13. Instead, Lt Gen McKiernan “would welcome the commitment of a UK division in the South from the start of the operation”. That would allow him to merge Phases II and III of the campaign and both of the major subordinate US commands, V Corps and 1 Marine Expeditionary Force (1 MEF), to strike north fast. The UK mission would be to “seize, secure and control” the rear area and right flank of the operation and provide a coherent transition to Phase IV (post-conflict) operations in captured territory without loss of US combat forces. That would include securing infrastructure such as Umm Qasr and the Rumaylah oilfields, and fixing Iraqi forces in the Basra area. The UK Area of Operations (AO)⁴ was likely to be bounded by the Iraq/Kuwait border, the US V Corps/1 MEF boundary, Jalibah air field and the Euphrates, an area about the same size as Kuwait (approximately 17,800 sq km).

14. Brigadier Whitley reported that the US saw the involvement of a UK division in this role as “so important ... they will do anything to assist within their power providing there is time to do so”. In his view, that would allow the UK force to be “less balanced in its capability than our doctrine and philosophy demand because the US will provide key support particularly in fires and air defence”.

² Statement, 25 January 2011, pages 6-7.

³ Paper Comd SBLA, 5 January 2003, ‘Decision Imperatives’.

⁴ Definitions and usage of the terms Area of Operations (AO) and Area of Responsibility (AOR) are given in Section 6.4.

15. The plan would require the UK to:

“... weave together three disparate levels of formation (1 MEF, 1(UK) Armd Div [1st (UK) Armoured Division], a Cdo Bde [Commando Brigade], an AA [Air Assault] Bde and an armd bde [armoured brigade]) neither of which ... have trained nor operated together in recent history. Their mission rehearsal starts 8 Feb[ruary] 03 ... under the full gaze of the rest of the Coalition, and they had better be ready for it.”

16. Brigadier Whitley observed that time was “running out”. The US was “desperate to see a UK inflow and logistics plan” and there was:

“... no time left to probe UK/US capabilities in the formal and, perhaps methodical manner that has been done to date. Now is the time for ruthless, hard-hitting planning ... The UK is an issue they [the US] are eager to address – as each day passes now this issue is snowballing and soon (probably by 12 Jan 03) it will be difficult to control inside the planning timelines.”

17. Brigadier Whitley recommended “most strongly”:

- “that any opportunity for worthwhile UK involvement of land forces in the North has come and gone”;
- that “UK tailored forces of a divisional headquarters, 3 Cdo Bde RM [3 Commando Brigade Royal Marines], 16 AA Bde [16 Air Assault Brigade] and the necessary logistic C2 [Command and Control] and CSS [Combat Service Support] is committed to the South”; and
- “Acceptance, in principle, of a UK Area of Operations and mission in an area of southern Iraq bounded in the north by the Euphrates.”

18. Brigadier Whitley concluded:

“The effect of timely decisions on the above on our own ability to successfully conduct operations and on our US allies cannot be underestimated.”

19. The MOD has been unable to locate any later version of Brigadier Whitley’s advice.⁵

20. The US request was based on a number of key assumptions, including that the UK wanted a significant role in combat operations and that it wanted to operate at divisional level with a divisional Area of Responsibility (AOR).

21. The military response was immediate and positive and led to a recommendation to deploy large scale ground forces to the South.

22. Deploying UK ground forces to southern Iraq constituted a step change for the UK, providing it with a far more prominent role in the operational plan.

⁵ Letter MOD to Iraq Inquiry, 1 November 2012, [untitled].

- 23. By the time decisions on the UK role were taken in March 2003, the UK contribution had become central to the military campaign.**
- 24.** The Chiefs of Staff had an initial discussion of the proposal that the UK should provide a division for military operations in southern Iraq on 6 January 2003.⁶
- 25.** Lieutenant General John Reith, Chief of Joint Operations (CJO), reported a US view that there was a “90 percent probability of no access” for UK ground forces through Turkey. The delay had led Lt Gen McKiernan to conclude that he could place only one division through a northern route into Iraq, and his preference was for that to be the US 4th Infantry Division. Gen Franks had directed Lt Gen McKiernan to plan on UK ground forces being integrated in the South.
- 26.** Lieutenant General Sir Anthony Pigott, Deputy Chief of the Defence Staff (Commitments), reported that he had been given a different steer by the Pentagon as recently as one hour before the meeting. Lieutenant General George Casey, Director of the Joint Staff, had “indicated that the UK’s military position had not at all been a hindrance and had revealed that the northern axis remained of fundamental strategic significance to the Campaign. It was possible that although the US military might have been content to disengage the UK from the North, the political machine might not be so inclined.”
- 27.** Admiral Sir Michael Boyce, Chief of the Defence Staff (CDS), directed that the ambiguity should be resolved but it was “essential” to maintain “constructive ambiguity” in Iraq over the potential for a northern threat”.
- 28.** It was also “agreed that the time was now right” for a direct approach to Turkey at the political level; and that it would be important to make separate requests for the forces in Packages 2 and 3.
- 29.** Lt Gen Reith described his latest paper on the land options, which was “based on a US offer for the UK to operate at division strength (HQ 1(UK) Armd Div; ATG [Amphibious Task Group]; 7 Bde [7 Armoured Brigade]; and 16 Air Asslt Bde) in a discrete AOR in the South”. That plan “appeared to offer strategic influence to the UK, especially in the move to Phase IV ...”
- 30.** The US offer of significant logistic support would “allow the UK to commit fewer personnel but with an increased combat capability necessary because of the nature of the task”.
- 31.** Lt Gen Reith requested decisions by 8 January, including approval to cease planning for the northern option and to reallocate Operation FRESCO⁷ training.

⁶ Minutes, 6 January 2003, Chiefs of Staff meeting.

⁷ The use of military forces to provide cover in the event of a strike by the Fire Brigades’ Union.

32. General Sir Michael Walker, Chief of the General Staff, noted that the new plan still had to constitute “a winning concept”.

33. Mr Paul Johnston, Head of FCO Security Policy Department, reported the developments to the Private Office of Mr Jack Straw, the Foreign Secretary.⁸

34. Mr Johnston recorded that there was still some possibility that Turkey might say yes to land forces at the “last moment”. In response to concern from Gen Walker that, if Saddam Hussein thought there would be no attack from the North he might move his more effective troops to the South, Mr Johnston had suggested it would be helpful for Turkey to retain “constructive ambiguity” to keep the pressure on Saddam Hussein “and thus make a military option in practice less likely”. Adm Boyce had “strongly agreed” and stated that the point should be included in the briefing for Mr Geoff Hoon, the Defence Secretary.

35. Mr Johnston wrote that the three brigades “would be ready for action by 10 March”. That reflected US planning assumptions of an “air campaign beginning on 3 March and the land campaign on 19 March”. The MOD’s initial assessment was that the southern option offered “significant strategic exposure with minimum military risk. The Iraqi forces likely to be confronted were ‘incapable of manoeuvre’ and morale was assessed to be low.”

36. Mr Johnston commented that Sir Kevin Tebbit, MOD Permanent Under Secretary (PUS), and Gen Walker:

“... both noted that the southern option for the UK was part of an overall concept significantly different to that on which Ministers had so far been consulted.”

37. Mr Johnston added that the MOD would “make a strategic assessment of the pros and cons before the next Chiefs’ meeting, to inform the consequent advice to Ministers”.

38. Mr Jim Drummond, Assistant Head (Foreign Affairs) of the Cabinet Office Overseas and Defence Secretariat (OD Sec), reported to Sir David Manning, Head of OD Sec and Mr Blair’s Foreign Policy Adviser:

“All of this was new to the Chiefs but greeted with some enthusiasm. They saw advantages in a relatively discrete UK operation with fewer risks than the northern route. The UK would be well placed for the transition to Phase IV (peacekeeping) and in control of Iraq’s access to the sea and 75 percent of its oil. The disadvantages were also that the UK could be left in an area with lots of media attention and sitting on the oil fields so vulnerable to the charge that we were only in it for the oil.”⁹

39. A paper from Lt Gen Reith submitted after the discussion reported that Lt Gen McKiernan lacked combat power in the South during the early stages of the campaign

⁸ Minute Johnston to Private Secretary [FCO], 6 January 2003, ‘Iraq: Chiefs of Staff Meeting, 6 January’.

⁹ Minute Drummond to Manning, 7 January 2003, ‘Chiefs of Staff Meeting’.

and the US had “stated a requirement for a divisional HQ, two light brigades, and a single armoured brigade”.¹⁰

40. Lt Gen Reith advised that the risks to a UK division were “minimal” and that the “geographical area proposed would allow the UK to set the standard in the aftermath”. It would be “strategically placed to exert maximum influence during Phase IV”.

41. Lt Gen Reith described the US plan as based on four assumptions:

- “The UK desires a significant role in land combat operations, now in the South as the only viable alternative to the North.”
- “The UK wishes to operate at divisional level, with a divisional area of responsibility (AO).”
- “Recognition that the UK logistic liability should be minimised.”
- “The UK experience in wider peacekeeping, and subsequent ability to conduct early Phase IV – post conflict – operations.”

42. Lt Gen Reith advised that the UK had yet to “conduct a formal tactical estimate on the proposed mission”; but a “formation capable of armoured manoeuvre” was required potentially to protect the right flank of 1 MEF during its advance north and to secure Basra International Airport and fix Iraqi forces in Basra City.

43. Lt Gen Reith added that the UK “may be asked to take control of key points in the City during Phase IV, having isolated it during Phase III. Should troops to task not allow this operation to take place, CFLCC [Coalition Forces Land Component Commander, Lt Gen McKiernan] accepts that the final securing of Basra would be a corps task.”

44. Lt Gen Reith recommended the deployment of a divisional headquarters and three brigades to the South; and that the armoured brigade should comprise four battlegroups.

45. PJHQ also identified the need to begin thinking about the practical consequences of the proposal for the UK’s post-conflict role, including the need for more support from other government departments.

46. On 7 January, Mr Paul Flaherty, MOD Civil Secretary in PJHQ, set out PJHQ’s thoughts on preparations for Phase IV in a minute to Mr Ian Lee, MOD Director General Operational Policy.¹¹ In the absence of an agreed US inter-agency position on Phase IV planning, the CENTCOM commanders’ conference in Tampa, Florida on 15 and 16 January was likely to have a significant impact on US policy-making.

¹⁰ Minute Reith to COSSEC, 6 January 2003, ‘Op TELIC – Southern Option’ attaching Paper ‘Op TELIC Southern Option – Revised’.

¹¹ Minute Flaherty to DG Op Pol, 7 January 2003, ‘Op TELIC: Preparing for Phase IV’.

47. Phase IV planning was likely to be particularly important:

“... if, as now appears likely, the UK were to take on the first Phase IV AOR in southern Iraq. We would, in effect be setting the standard for the rest of Phase IV work. (And, of course, CJO [Lt Gen Reith] is, in any case charged in CDS’ Directive¹² with planning humanitarian assistance in theatre should it become necessary.)

“From our point of view ... we have to begin thinking very soon about the practical consequences on the ground of taking on the AOR. These include issues such as: food, water, displaced persons, oil (including accounting for its use), potential Iranian incursions, pollution as well as, in the slightly longer term, security sector reform and reconstruction. Some, if not all of this will of course either determine, or more properly ought to be determined by, strategic considerations of post-conflict Iraqi structures.”

48. Mr Flaherty explained that PJHQ intended to establish a team charged with “developing planning for Phase IV implementation” as soon as possible, which would aim to take into account the lessons of the Balkans and Afghanistan. PJHQ was “in a reasonably good position to link up with US military thinking”, but would need more support from other government departments to help produce “a fully joined up approach”.

49. The MOD Strategic Planning Group (SPG) advised that forces committed to a southern option in addition to the Amphibious Group would demonstrate a UK commitment to all phases of an operation and, crucially, the aftermath, and provide additional leverage in the planning phases.

50. The UK would gain a potential veto, but exercising it would strain UK/US relations.

51. The role envisaged, of stabilising the South as US forces moved north, had the advantage of a reduction in the probable need for high intensity war-fighting.

52. The analysis underpinning the SPG’s conclusions did not appear to include any assessment of the conditions likely to be encountered or the tasks to be performed in either northern or southern Iraq during Phase IV.

53. On 7 January, the SPG produced a paper analysing the advantages and disadvantages of changing to a southern option and the risks of a campaign without a northern axis.¹³

¹² An explanation of the Chief of Defence Staff’s Directive is provided in Section 8.

¹³ Paper [SPG], 7 January 2003, ‘Operation TELIC – Military Strategic Analysis of Pros/Cons of Adopting a Southern Land Force Option’.

54. The SPG stated that the UK was “highly unlikely to be able to deploy a conventional land force through Turkey”. If the UK wanted to contribute land forces which would meet the US planning timetable, a reassessment of the force packages was necessary.

55. The paper recorded that early work on a “Winning Concept” had “illustrated” that a military campaign to achieve the UK’s strategic goals would need to be “quick and successful”. The uncertainty over Turkey raised questions about whether the military plan would be able to achieve the effects in the North which the SPG considered remained central to delivering a winning concept. If they were not achieved, forces operating in the South were “likely to be at greater risk” of:

- chemical warfare (CW)/biological warfare (BW) attack;
- stiffer conventional resistance; and
- potential unconventional operations/civilian resistance.

56. The preferred role for the UK in the South would be to provide a “relief in place for US forces in the early phases of a campaign” to release US combat forces to fulfil other tasks.

57. In the time available, the UK could generate four possible force packages:

- the Amphibious Task Group (ATG);
- the ATG and an armoured brigade;
- the ATG and a light brigade; and
- the ATG and both an armoured and a light brigade.

58. The SPG advised that, if the UK committed to a southern option over and above the ATG, it would “demonstrate UK commitment to all phases” of an operation and “crucially in the aftermath”. That would provide Ministers with “additional leverage” in the planning phases. Further commitment to US planning and operational effort would make UK forces “integral to success in current US concept”. The UK would, therefore, “gain a potential veto, but exercising it would strain UK/US relations for some time to come”.

59. The SPG also stated that US combat power would deliver military success, but strategic victory would be “successful delivery of aftermath and limiting unintended consequences”.

60. Adopting a southern option had the potential to:

“Provide UK with leading role in key areas of Iraq (free of Kurdish political risks) in aftermath, and thus provide leverage in aftermath planning efforts, especially related to:

- Humanitarian effort
- Reconstruction of key infrastructure
- Future control and distribution of Iraqi oil.”

61. The advantages of three brigades operating in the South included:

- A “more balanced and robust formation, able to respond independently to changes in the tactical situation”.
- “Increased military influence”.
- “Reduction in probable need for high intensity warfighting”.
- Shorter and less complex lines of communication (LoC) than concurrent UK operations in the North and South.
- A reduced requirement for Combat Support (CS)/Combat Service Support (CSS).
- Early establishment of a discrete AOR and less demanding command and control.
- The “opportunity to exercise command” in a discrete southern AOR.
- UK forces would no longer be “required to manoeuvre alongside digitised US formations”.
- It would allow a “balanced transition to Phase IV”.
- Less demanding command and control and the UK would be unlikely to need to call on UK resources from the Allied Rapid Reaction Corps (ARRC) Headquarters.

62. The disadvantages identified included:

- There was no detailed UK operational planning and more information was required on threat and scale of tasks “eg Basra”.
- The timeline would be “very demanding” with “no margin for error”.
- 16 Air Assault Brigade was not yet included in the UOR requests.
- There would be no time for many elements of the land force to complete in-theatre training or integration prior to commitment to action. That was described as challenging and carrying considerable risk, but it was deemed to be “acceptable”.

63. Adoption of the southern option would mean:

“UK will have made an early commitment to aftermath that will probably demand a commitment for a number of years. This would be hard to avoid in any event, and engagement in South offers significant advantages over possibly being fixed in North with Kurds.”

64. The paper did not explicitly identify the risk of Shia unrest or Iran’s attitude to Coalition Forces in southern Iraq.

65. The SPG concluded:

“UK is at a strategic decision point ... given the convergence of US military preparation and timelines, continued Turkish prevarication, and the need to maintain pressure on the Iraqi regime to deliver ...

“From a review of all the factors the downside military risk of UK disengaging from the Northern Land Option is outweighed by the upside benefits of the proposed engagement in the South.”

66. The SPG recommended that the Chiefs of Staff should agree Lt Gen Reith’s recommendation for a force package to be deployed to the South.

67. Adm Boyce directed that Ministerial approval should be sought for Lt Gen Reith’s recommended option while noting that a formal request from the US would be needed.

68. At their meeting on 8 January, the Chiefs of Staff noted that there was still a need for the US formally to request that any UK ground forces be switched to the South.¹⁴

69. Adm Boyce also observed that it was “inconceivable that the UK would not play a part in Phase IV operations, which could be enduring”. He added:

“There remained a need to test the plan as a winning concept, but against that caveat ... the plan recommended in the paper represented a sensible military option with a valuable task, and that the option should be taken forward.”

70. Other points made in the discussion included:

- “The shift in focus from North to South argued for the provision of a comprehensive force package able to react to a wide range of tasks ...”
- “The plan was operationally sound but there were strategic implications that would have to be considered. It was possible that UK forces would become a lynchpin for the US campaign. This could place the UK in a difficult position ... conversely, the strategic influence it would offer the UK would be significant.”

71. The Chiefs of Staff agreed Lt Gen Reith’s recommendations and selected the option of deploying the Divisional HQ and three brigades. Ministerial approval would be sought in two stages:

- a submission seeking approval to make the necessary forces available and to deploy certain enabling elements; and
- a further approval to deploy the main force and to release 16 Air Assault Brigade from Op FRESCO.

¹⁴ Minutes, 8 January 2003, Chiefs of Staff meeting.

72. Lt Gen Reith advised:

“Phase IV would need to begin at the same time as any offensive operations. There was a need for PJHQ to take ownership of Phase IV planning, which should include OGD [other government department] input. The US were standing up JTF-4 [Joint Task Force 4, the post-conflict planning unit in CENTCOM], which would be responsible for US Phase IV planning; UK staff were to be embedded.”

73. Co-ordination of Phase IV planning from mid-January is addressed in Section 6.5.

74. Reporting on the meeting to Mr Straw’s Private Office, Mr William Ehrman, FCO Director General Defence and Intelligence,¹⁵ recorded that he had stressed:

“... there should be no assumption of a political decision to authorise force in the near future ... If Ministers agreed the deployment proposed, it needed to be clear that it was part of force on mind, and it should not set sail with a use it or lose it presumption. Sustainability needed to be in any plan ... Chiefs accepted these points.”¹⁶

75. Mr Desmond Bowen, Deputy Head of OD Sec, reported the discussion to Sir David Manning.¹⁷

76. The military planning assumed a “decision date of 15 February and the start of hostilities in very early March”. The UK was being offered an amphibious role at the start of hostilities. Thereafter, US forces would move north while the UK “took on stabilisation of a southern sector which would eventually include Basra”.

77. Mr Bowen concluded:

“While we are now getting more clarity about the shape of US military intentions in an attack on Iraq, and the potential UK role, precious little thought has gone into aftermath planning ... if the UK is to take on an area of responsibility for stabilisation operations, a lot of preparatory work is needed urgently. MOD have in mind to engage ... FCO, DFID & DTI [Foreign and Commonwealth Office, Department for International Development and the Department for Trade and Industry] on this.”

78. Sir David Manning sent Mr Bowen’s report to Mr Jonathan Powell, Mr Blair’s Chief of Staff. Sir David wrote that he had asked Adm Boyce to cover the issues when he briefed Mr Blair – with the Chiefs of Staff – the following week. Mr John Scarlett, the Chairman of the Joint Intelligence Committee (JIC), should also be asked to attend.¹⁸

¹⁵ The post was previously titled Deputy Under Secretary Defence and Intelligence.

¹⁶ Letter Ehrman to Private Secretary [FCO], 8 January 2003, ‘Iraq: Military Aspects’.

¹⁷ Minute Bowen to Manning, 8 January 2003, ‘Iraq: Chiefs of Staff Meeting on 9 [sic] January’.

¹⁸ Manuscript comment Manning to Powell, 10 January 2003, on Minute Bowen to Manning, 8 January 2003, ‘Iraq: Chiefs of Staff meeting on 9 [sic] January’.

79. Mr Powell replied: “I assume you are drawing up a lot of difficult questions to put to the Chiefs.”¹⁹

MOD advice to No.10 on deployment to the South

80. The MOD alerted No.10 on 8 January to the proposed deployments to the South, which would be crucial to the US plan.

81. Addressing the perceived advantages and disadvantages, the MOD stated that the South offered a high profile role which was achievable within US timelines and offered the UK a significant voice in US decisions.

82. The disadvantages included the impact on the US if the UK subsequently decided not to participate in military operations.

83. A letter from Mr Hoon’s Private Office to Sir David Manning on 8 January reported the US proposal and the potential roles in the South for UK forces.²⁰

84. The MOD advised that the US judged time was too short to deploy both a US and UK division through Turkey and that: “Inevitably the US priority” was to “keep alive the possibility of deploying their own division ... to maintain the strategic benefit of a northern axis”.

85. After describing the proposed roles for three brigades, the MOD stated:

“On a first reading, there are a number of attractions. This would be a high-profile role for UK ground forces at the beginning of any campaign, in an area in which the threat (barring WMD use) is likely to be limited. When combined with the offer of US logistic support ... this has the potential to allow a significant reduction in the overall number of Reservists we might require. Our initial assessment suggests that we could achieve deployment within current US timelines, and sustain such a force in theatre potentially for some time, allowing political flexibility over timing. The proposed UK role in the South should enable US forces to reach further, faster, whilst providing a coherent transition to aftermath operations – an area of acknowledged UK expertise – in territory captured early in the campaign. It would demonstrate at the very beginning of ground operations that this is a Coalition, rather than a US-only, campaign ...

“On the other hand, there may be some disadvantages. The proposed UK role would be crucial to the US plan in the South. Whilst this would give us a significant voice in decision-making, it would also increase the military impact on the US on any eventual UK decision not to participate in an operation: clearly, this would place us in a very awkward position if the US seemed likely to want to proceed in

¹⁹ Manuscript comment Powell on Minute Bowen to Manning, 8 January 2003, ‘Iraq: Chiefs of Staff Meeting on 9 [sic] January’.

²⁰ Letter Williams to Manning, 8 January 2003, ‘Iraq: UK Land Contribution’.

circumstances with which we were not content ... Wider questions about the overall US plan still need to be answered, particularly as long as their ability to achieve the necessary strategic effect in the North remains uncertain. And we need to look further at the detail of what is proposed, before reaching a firm view on its military and political merits.”

86. The plan assumed a “final UK Divisional Area of Responsibility, including for aftermath operations would be an area bounded by the Iraq/Kuwait border in the south, Jalibah airfield in the west, the Euphrates in the north, and the Shatt al-Arab waterway in the east – a largely Shia area of some 1,600 sq km.”²¹

87. The MOD said further advice would follow “next week”. In the meantime, Mr Hoon had authorised the release from Op FRESCO of some units from 16 Air Assault Brigade, and other measures, “to keep military options open”.

88. At Cabinet on 9 January, Mr Hoon told his colleagues that no decisions had been taken to launch military action.²² Nor had the US finalised its military planning. Some changes to forces assigned to Op FRESCO, to provide an emergency fire-fighting capability during the firefighters’ strike, would be necessary to keep options open.

89. Mr Blair concluded that the future behaviour of Saddam Hussein in responding to UN pressure was “unpredictable”. The UK was “right to continue with its military preparations”. It should also maintain the focus on the fight with international terrorism and preventive measures at home. Media reports of a rift within the Cabinet were “nonsense”. Cabinet the following week would “provide the opportunity for an in-depth discussion of Iraq”.

90. Lord Turnbull, Cabinet Secretary from 2002 to 2005, told the Inquiry that “the presentation to ... Cabinet was still – nothing was inevitable. We are pressing the UN option. No decisions on military action, whereas you can see that, at another level, the decisions on military action were hardening up quite considerably.”²³

91. Sir Kevin Tebbit advised Mr Hoon on 14 January about the potential damage to key aspects of the wider US/UK relationship in the foreign and security field if the UK failed to participate in a US-led military operation.

92. Sir Kevin Tebbit wrote to Mr Hoon on 14 January drawing out how the US “would react if HMG failed to go along with the United States in the event that they decided to use military force against Iraq without a further enabling UNSCR [United Nations Security Council resolution]”.²⁴ While it was “unwise to attempt to calibrate precisely”

²¹ The figure of 1,600 sq km was used repeatedly in policy and briefing papers during January and February 2003. This was mistaken. It should have been approximately 16,000 sq km.

²² Cabinet Conclusions, 9 January 2003.

²³ Public hearing, 25 January 2011, page 15.

²⁴ Minute Tebbit to Secretary of State [MOD], 14 January 2003, ‘Iraq: What If?’.

it was “reasonable to expect that there would be significant damage”. This would be greater than if the UK had behaved like some other countries.

93. Sir Kevin feared:

“... that having valued profoundly the way we have stood shoulder-to-shoulder with them so far, the US will feel betrayed by their partner of choice ...

“... the damage to our interests and influence would be felt most immediately and strongly in the foreign policy and security field, although other areas of the relationship could not be immune.”

94. The minute set out the risks to the UK’s interests and influence, which have not been declassified.

95. Sir Kevin concluded that:

- military intervention could have a “benign outcome”;
- there would be advantages from “being there at the outset”; and
- being a “key part” of the US-led Coalition would “enable us [the UK] to continue to act as a force for good ...”

96. The minute was sent only to Mr Hoon.

97. Mr Peter Watkins, Mr Hoon’s Principal Private Secretary, suggested to Mr Hoon that the minute provided thoughts “if required” for Cabinet on 16 January. He believed that the key point was that a UK “betrayal” could result in “damage to our interests globally”.²⁵

98. The evidence given to the Inquiry about the context for that minute, and the question of whether an earlier document from Sir Kevin Tebbit – identifying concerns about both a number of aspects of the policy on Iraq and the implications of the proposed change to the UK’s military contribution, and suggesting the need for discussion in Cabinet – was given to Mr Hoon is addressed later in this Section.

99. By mid-January, the military plan had still not been finalised.

100. Adm Boyce warned of the potential dangers associated with “catastrophic success” and the need to plan for Phase IV.

101. The Chiefs of Staff were informed that the UK might be asked to take on additional tasks if they had the capacity to accept them.

102. At the meeting of the Chiefs of Staff on 15 January, Adm Boyce:

“... underscored the potential dangers associated with ‘catastrophic success’ and the implicit need to develop thinking for aftermath management. In planning for

²⁵ Manuscript comment Watkins on Minute Tebbit to Secretary of State [MOD], 14 January 2003, ‘Iraq: What If?’.

Phase IV, the UK was adopting a twin track approach: the FCO and Cabinet Office were leading the top-down strand, and PJHQ was leading the bottom up effort. The challenge which lay ahead was matching the two pieces of work ... The UK concept at the strategic level was to develop a model that could be offered to the US. It was assessed that the US was still working to an unrealistic assumption that their forces would be 'welcomed with open arms' by the Iraqi people during Phase IV operations, and there was an opportunity for the UK to lead the aftermath debate."

103. Major General Robert Fry, Deputy Chief of Joint Operations (Operations) (DCJO(O)), gave the Chiefs of Staff an oral update on the land package and plan, air basing options and targeting issues.²⁶

104. The Chiefs of Staff were told that the plan would not be finalised until after Major General Robin Brims, General Officer Commanding (GOC) 1 (UK) Div, had met US commanders, which was likely to be at the end of January. They agreed that the "specified" tasks would be "uncontentious and achievable".

105. The Chiefs of Staff also noted that the UK AO "was a disproportionately important piece of real estate".

106. In his report to Sir David Manning, Mr Bowen stated that the meeting had discussed the current state of planning "at length".²⁷ He wrote that the tasks for the UK forces were:

- The initial "clearance" of the al-Faw Peninsula and the "opening" of Umm Qasr port.
- 16 Air Assault Brigade and 7 Armoured Brigade would then secure the allocated area of responsibility.
- The "capture" of Basra "was not part of the Division's task".
- The "weight of the initial air attack would be designed to shock the Iraqi leadership and military into submission" and the campaign was "meant to achieve quick results".
- The UK was expected to be responsible for its area within five days from the start of ground operations.

107. Mr Johnston reported to Mr Straw that the MOD would seek approval from Ministers and Mr Blair later that week.²⁸ He wrote:

"... there would be heavy impact bombing from day one ... regime targets ... would, feature early in the campaign. This was designed to achieve regime collapse as quickly and painlessly as possible ... the Chiefs recognised that there would be presentational and legal issues. Further work is being urgently done on this ..."

²⁶ Minutes, 15 January 2003, Chiefs of Staff meeting.

²⁷ Minute Bowen to Manning, 15 January 2003, 'Iraq: Chiefs of Staff Meeting on 15 January'.

²⁸ Minute Johnston to Private Secretary [FCO], 15 January 2003, 'Iraq: Chiefs of Staff: 15 January'.

108. Mr Johnston also reported that PJHQ had:

“... noted that US planning, which continued to develop, implied that there might be additional tasks for the UK ... This might involve the UK being invited ... to do early seizure operations. The UK force package would not be configured to conduct such tasks. Chiefs accepted this, but noted that, politically, it would not be easy to refuse the US when the time came if UK forces had broadly the right capacity.”

109. Mr Blair and Mr Hoon, No.10 officials and Mr Scarlett were briefed on the proposals to deploy a UK division to the South on 15 January.

110. Mr Blair was informed that the MOD would be seeking an urgent decision on the way ahead by the end of that week.

111. Most of the questions identified by No.10 for discussion, particularly those on post-conflict issues and costs, required cross-departmental advice and collective consideration.

112. There is no indication that other departments were consulted formally by the Chiefs of Staff, the MOD or No.10 before the meeting on 15 January.

113. Nor were they consulted before Mr Blair’s decision on 17 March to deploy troops.

114. Advice and a draft letter to No.10 were forwarded to Mr Hoon’s Private Office on 15 January informing him that the Chiefs of Staff endorsed the proposed role in southern Iraq and the deployment of HQ 1 (UK) Div, 7 Armoured Brigade and 16 Air Assault Brigade in addition to the Amphibious Task Group (ATG).²⁹

115. Mr Hoon was advised that a number of wider issues remained to be resolved before it could be concluded that the US plan represented a winning concept. Those included:

- the legal basis for operations against Iraq;
- the “ability of the US to develop an overall winning concept which delivers the strategic effects required in the North”; and
- “a credible plan for the aftermath”.

116. Mr Blair met Mr Hoon, the Chiefs of Staff and others³⁰ to discuss planning for Iraq on the evening of 15 January.³¹

²⁹ Minute Johnson to PS/Secretary of State [MOD], 15 January 2003, ‘Iraq: UK Land Contribution’.

³⁰ Baroness Morgan, Sir David Manning, Mr Scarlett, Mr Jonathan Powell, Mr Campbell and Mr Rycroft attended from No.10/Cabinet Office. Mr Adam Ingram, the Minister of State for the Armed Forces, Sir Kevin Tebbit, Lt Gen Pigott, Air Marshal French, Maj Gen Fry and Mr Lee also attended.

³¹ Minute MA/DCJO(Ops) to MA/CJO, ‘Briefing to Prime Minister’ attaching Briefing [unattributed and undated], ‘Brief to PM – 1715 Wed 15 Jan’ and slide presentation.

117. No other Cabinet Ministers were present, and the FCO was not represented.

118. The meeting was scheduled to last for one hour: a 15 minute presentation from Adm Boyce setting out the state of contingent military planning, the proposed UK contribution and the timescales for decision, in the context of current armed forces activity and deployment in the UK and elsewhere in the world, followed by a 45 minute discussion.

119. The presentation to Mr Blair included a briefing on the operational plan from Maj Gen Fry.

120. The briefing for Mr Blair from Mr Matthew Rycroft, Mr Blair's Private Secretary for Foreign Affairs, informed him that the Chiefs of Staff were likely to say that they were "giving up" on getting Turkey's approval for a northern option.³² The MOD wanted a decision by the weekend as preparations would become visible by the following Tuesday.

121. As suggested by Mr Powell, Mr Rycroft provided a list of "some difficult questions" for Mr Blair to put to the Chiefs, including:

- "Do the US have a winning military concept?"
- "Are we confident we can do our part?"
- "Are we sure we have properly thought through the changes forced on us by Turkey's no?"
- "Will he [Saddam Hussein] use WMD?"
- "What military involvement do you foresee in the aftermath?"
- "Will we be running Basra?"
- "Will the targeting in the campaign take account of the need to run (parts of) Iraq ...?"
- "Is it fully costed?"
- "Where will the money come from?"

122. As well as the No.10 record of the discussion, several accounts of the meeting were produced by MOD participants.

123. Mr Rycroft produced a minute noting that Mr Blair would receive formal advice on the land package the following day, and stating that Mr Blair wanted further advice on a number of issues.³³

³² Minute Rycroft to Prime Minister, 14 January 2003, 'Iraq: Military Planning: Meeting with Chiefs of Staff'.

³³ Letter Rycroft to Watkins, 15 January 2003, 'Iraq: Military Planning'.

124. Mr Watkins summarised the content of Mr Rycroft’s letter and Mr Hoon’s views in a minute to Mr Lee commissioning further work on the issues so that the MOD would be able to respond to No.10 “by the end of the month”.³⁴

125. The Secretary to the Chiefs of Staff Committee (SECCOS) produced a record of the discussion, circulated within the MOD on 22 January, which was described as complementing the record of the discussion produced by No.10.³⁵

126. An “unofficial” PJHQ account, with the scripts and presentation slides used, was prepared and sent to Lt Gen Reith, who was in the Middle East at a CENTCOM Commanders’ Conference.³⁶

127. Adm Boyce advised Mr Blair that the military plan would work.

128. There was no recorded discussion of either the risks of the amphibious operation in the initial phase of an attack or the readiness of UK forces.

129. Adm Boyce’s briefing notes identified that the US had seen “UK participation as essential from the outset”.³⁷ The US had “accommodated our constraints at every turn to ensure we are part of their coalition and to guarantee a serious military task for our forces. In fact, the current plan ... makes them a **lynchpin crucial to success of the overall plan.**” The UK would, however, rely heavily on US enabling assets.

130. A “convincing, coherent military build-up” leaving Saddam Hussein in no doubt about the consequences of non-compliance with UNSCR 1441 (“**force on mind**”) was the best way of applying pressure.

131. Gen Franks was working to produce a “loaded and cocked” winning capability from 15 February with the US able to commence an air campaign and some ground offensive operations (possibly including the UK) from 3 March and the main effort starting within two weeks on 19 March, although the US was looking to bring that forward.

132. The UK’s interest was to be “ready to engage from the outset”, and the briefing stated that US “timelines” had driven the UK’s. If the UK was to match the US timetable, the MOD would need permission by 17 January to be ready to start deploying land force equipment from 24 January. The deployment to the Gulf would add 3,000 miles to their journey and port access in Kuwait would be limited.

133. Mr Blair was advised that the UK could maintain its ability to use the forces deployed for six months, but if they were not used it could then take up to a year before they would be in a position to take action.

³⁴ Minute Watkins to DG Op Pol, 16 January 2003, ‘Iraq: Military Planning’.

³⁵ Minute SECCOS to PS/Secretary of State [MOD], 22 January 2003, ‘Record of the Meeting Between the Prime Minister and Chiefs of Staff to Discuss Op TELIC: 15 Jan 03’.

³⁶ Minute MA/DCJO(Ops) to MA/CJO, 15 January 2003, ‘Briefing to the Prime Minister’.

³⁷ Minute MA/DCJO(Ops) to MA/CJO, 15 January 2003, ‘Briefing to the Prime Minister’ attaching Briefing [unattributed and undated], ‘Brief to PM – 1715 Wed 15 Jan 03’.

134. Mr Blair was reported to have said that he hoped that it “won’t come to this” and that this “will happen mid-February to early March”. Mr Blair’s final comment was that this was the “best chance we have got”; it was his “strong view that we wouldn’t be looking much past the end of February before seeing this take place”.

135. Adm Boyce’s briefing notes identified “two essential points” in relation to whether or not the US had a winning concept:

- The need for Saddam Hussein to believe that force would be overwhelming and that he could not survive in power, while, in parallel, giving genuine hope to Iraqis who opposed his regime that an end was possible.
- Coalition military action would need to be “swift” to avoid a “drawn out campaign ... becoming a **battle of attrition conducted against backdrop of dwindling public support**”; to prevent Saddam using “**spoiling tactics** such as use of WMD, or causing an ecological disaster by torching the oil fields”; and “**to minimise the risk of unintended consequences**”.

136. Adm Boyce’s briefing notes offered no indication of the MOD’s view on whether the objectives could be met.

137. The PJHQ record of the meeting reported that Mr Blair had asked “will it [the military plan] work?”³⁸

138. Adm Boyce “stated that it would”; he had increasing confidence in the plan “since TU [Turkey] had become more engaged in discussions” about allowing US forces to attack from the north.

139. Asked whether success would be the collapse of the Iraqi regime or the fall of Baghdad:

- Adm Boyce was reported to have explained to Mr Blair “the problem of ‘catastrophic success’ whereby the regime collapsed at the very outset” before the Coalition was ready.
- Mr Hoon’s view was reported to have been that the media would view the fall of Baghdad as the culmination of military operations.

140. PJHQ also reported that Mr Blair had:

- focused on the importance of a simultaneous air and ground campaign; and
- asked about the cohesion of the regime and its chances of maintaining control.

141. Mr Blair was concerned about the implications if Saddam Hussein sought to put in place a “Fortress Baghdad” strategy and possible pre-emptive use of WMD.

³⁸ Minute MA/DCJO(Ops) to MA/CJO, 15 Jan 2003, ‘Briefing to the Prime Minister’.

142. Mr Blair was concerned about the plans in place if Saddam Hussein retreated to Baghdad.³⁹

143. Mr Blair asked for further advice on:

- which Coalition Forces were expected to reach Baghdad, and how quickly;
- a full analysis of the risk that Saddam Hussein would concentrate on “Fortress Baghdad”;
- an account of how the US planned to deal with that if it arose; and
- what they would do if there was inter-communal fighting in the city.⁴⁰

144. In addition to the defence of Baghdad, Iraqi use of WMD and burning the oilfields were discussed as some of the worst outcomes of military action, and that “planning was well advanced to counter” both those contingencies.⁴¹

145. In response to his question about the chances of Saddam Hussein using WMD, Mr Blair was told that “intelligence left no ambiguity over Saddam’s willingness to use WMD if he judged the time was right, but that as his WMD were currently concealed from the UNMOVIC [United Nations Monitoring, Verification and Inspection Commission] it would take some time for it to be constituted ready for action.”

146. Air Marshal Sir Joe French, Chief of Defence Intelligence (CDI), stated that the Coalition’s ability to detect Iraqi preparations in relation to theatre ballistic missiles was “good, and such detections would likely trigger operations”.

147. Mr Blair asked:

“... military planners to test further their predictions of Saddam’s likely responses to attack, and how we would counter them. In particular, this should cover Saddam’s possible pre-emptive use of WMD ...”

148. Mr Blair was reported to have asked for: “Contingency plans to be developed to counter potential ‘unexpected consequences’.”

149. Mr Hoon subsequently asked that the work on predicting Saddam Hussein’s possible responses to military action should be taken forward in the context of a comprehensive “red teaming” of the military plan to identify all conceivable risks to its success.⁴²

150. The first report of the “Red Team” set up by the Defence Intelligence Staff (DIS) was not produced until mid-February. That is addressed later in this Section.

³⁹ Minute SECCOS to PS/Secretary of State [MOD], 22 January 2003, ‘Record of the Meeting Between the Prime Minister and Chiefs of Staff to Discuss Op TELIC: 15 Jan 03’.

⁴⁰ Letter Rycroft to Watkins, 15 January 2003, ‘Iraq: Military Planning’.

⁴¹ Minute SECCOS to PS/Secretary of State [MOD], 22 January 2003, ‘Record of the Meeting Between the Prime Minister and Chiefs of Staff to Discuss Op TELIC: 15 Jan 03’.

⁴² Minute Watkins to DG Op Pol, 16 January 2003, ‘Iraq: Military Planning’.

151. Mr Blair and Mr Hoon were concerned about the impact of the air campaign and the need to minimise casualties.

152. Mr Blair and Mr Hoon were told that the campaign would depend on “immediate effect” rather than “weight of effort”.⁴³

153. Mr Blair was concerned about the scale of the bombing campaign on Baghdad and the risk of collateral damage and civilian casualties.⁴⁴ The briefing acknowledged that the intensity of the campaign “raised difficult issues over political control of the targeting process”.

154. The PJHQ record noted that, “interestingly”, it was Mr Hoon who had urged Mr Blair “to exercise a degree of restraint” on President Bush, whom Mr Hoon had “described as ‘going for it’”.⁴⁵ Mr Hoon was concerned to ensure that there was no “irreversible damage” to Iraq.

155. Mr Blair and Mr Hoon were also concerned that “destruction of Iraq’s communications infrastructure could reduce the speed at which the population assimilated the hopelessness of resistance, and that hard-core elements could fight on autonomously”.⁴⁶ The Coalition would “need to consider how news of the regime’s collapse would flow quickly through the country”.

156. Mr Blair was concerned to ensure that bombing targets were proportionate and chosen to minimise civilian casualties, and asked to see a list of targets which UK air forces might be asked to attack, with a commentary on their military importance and risk of casualties.⁴⁷

157. Forwarding that request to Mr Lee, Mr Watkins added a requirement to provide a list of targets “which would be attacked by [US] aircraft operating from Diego Garcia (or other UK airfields) or with other UK support”.⁴⁸

158. The guidance on targeting subsequently agreed by the Government after discussions with Lord Goldsmith is addressed later in this Section.

159. Mr Blair asked for further work on post-conflict issues.

⁴³ Minute MA/DCJO(Ops) to MA/CJO, ‘Briefing to Prime Minister’ attaching Briefing [unattributed and undated], ‘Brief to PM – 1715 Wed 15 Jan 03’.

⁴⁴ Minute SECCOS to PS/Secretary of State [MOD], 22 January 2003, ‘Record of the Meeting Between the Prime Minister and Chiefs of Staff to Discuss Op TELIC: 15 Jan 03’.

⁴⁵ Minute MA/DCJO(Ops) to MA/CJO, 15 Jan 2003, ‘Briefing to the Prime Minister’.

⁴⁶ Minute SECCOS to PS/Secretary of State [MOD], 22 January 2003, ‘Record of the Meeting Between the Prime Minister and Chiefs of Staff to Discuss Op TELIC: 15 Jan 03’.

⁴⁷ Letter Rycroft to Watkins, 15 January 2003, ‘Iraq: Military Planning’.

⁴⁸ Minute Watkins to DG Op Pol, 16 January 2003, ‘Iraq: Military Planning’.

160. The PJHQ record provided the fullest account of the discussion of post-conflict issues. Issues raised by Mr Blair included:

“Worst Case. The PM wanted to know what CDS thought was the worst case scenario. After much discussion about destroying the oil infrastructure, use of WMD and hunkering down in Baghdad and fighting it out, it was felt that the worst case was internecine fighting between Sunni and Shia, as well as the Kurds/Turks/Iraqis.

“Aftermath. This led on to a general discussion on aftermath, with the PM asking what the Iraqi view on it was. CDS stated that the thinking on this issue was ‘woolly’ at this stage, with work only just beginning. The PM stated that the ‘Issue’ was aftermath – the Coalition must prevent anarchy and internecine fighting breaking out.”⁴⁹

161. Mr Blair asked the MOD to look at three things:

- We need to be clear on what we are offering the Iraqi people and senior members of the regime (those below the top 100 on the list⁵⁰) – removal of the senior hierarchy or minimising resistance or what?
- Aftermath. We have to develop a feasible plan.
- Look at the unexpected – think through the big ‘what ifs’; oil, WMD, internecine fighting – and develop a strategy.”

162. The author of the PJHQ record added some “personal observations”, including:

“The PM came across as someone with strong convictions that this should, and will, go ahead. He accepted the military advice being given to him, although he still sought reassurance that all aspects had been looked into and that plans are drawn up to deal with the unexpected or perceived worse cases. It is clear from the three areas that he asked further work to be done on that the Phase IV part of the plan is critical.”

163. Mr Blair also asked for further advice on the outcome of the post-conflict talks scheduled for Washington the following week, given the need for “much greater clarity about US intentions” for the aftermath of a military operation.⁵¹

164. Mr Watkins told Mr Lee:

“... we will clearly need to use all our regular contacts with the US, in both CENTCOM and the Pentagon. If appropriate, this is an issue that Mr Hoon could

⁴⁹ Minute MA/DCJO to MA/CJO, 15 January 2003, ‘Briefing to Prime Minister’.

⁵⁰ The Inquiry has not seen any indication of what was meant by “the top 100 on the list”. It is likely that it was a precursor to the list of 55 Iraqis featured on the “deck of cards” issued by the US military in April 2003.

⁵¹ Letter Rycroft to Watkins, 15 January 2003, ‘Iraq: Military Planning’.

himself raise with Rumsfeld [Mr Donald Rumsfeld, US Secretary of Defense] in their next regular phone call next week.”⁵²

165. The subsequent advice and discussions on post-conflict issues are addressed in Section 6.5.

166. Asked whether Ministers were given a paper or briefing on the operational risks and what might go wrong, Lord Boyce told the Inquiry:

“Certainly as far as the defence Ministers were concerned, they were aware of what our plans were and what the pluses and where might be the pinch points on any plan and what we were doing to ensure those were mitigated as far as possible.”⁵³

167. Asked how the risks had been described to Ministers, Lord Boyce replied:

“... it would have been done in the normal sort of way. You would have done threat assessments, worked out what the potential opposition forces might be, their dispositions, what our capability was matched against that. Some of the risk ... was mitigated by the fact that we were going to be operating in our own area ... while the American forces drove for Baghdad ...

“There were additional problems ... for example, the importance of making a very fast entry to secure the oilfields ... which were different than we had in the North.”⁵⁴

168. Sir Kevin Tebbit told the Inquiry that a “full briefing” had been provided to Ministers “as to whether there was indeed a winning concept now”; subject to the resolution of questions on the legal base and post-conflict issues.⁵⁵

169. Sir Kevin added that issues such as managing targeting to minimise the risks to civilians and intensive fighting within Baghdad, “were considered very carefully”.⁵⁶

170. Asked how the various risks had been highlighted to Ministers, Gen Reith told the Inquiry that PJHQ had “produced various papers, looking at each aspect in terms of risk”, including casualty predictions.⁵⁷

171. Lt Gen Fry told the Inquiry that there had been “a growing and ... demonstrable requirement for something that could act as a flank guard to American ... manoeuvre”, and the “lack of ... combat power” resulting from the decision to hold the US 4th Infantry Division in the Mediterranean had “created an opportunity into which British forces subsequently fitted”.⁵⁸

⁵² Minute Watkins to DG Op Pol, 16 January 2003, ‘Iraq: Military Planning’.

⁵³ Public hearing, 3 December 2009, page 92.

⁵⁴ Public hearing, 3 December 2009, pages 93-94.

⁵⁵ Public hearing, 3 December 2009, page 96.

⁵⁶ Public hearing, 3 December 2009, page 97.

⁵⁷ Private hearing, 15 January 2010, pages 55-56.

⁵⁸ Public hearing, 16 December 2009, page 26.

172. Asked to explain why the force levels had grown and were larger than had been deployed in 1991, Lord Boyce replied that he could not answer that question: “The package was being shaped to deal with the task that we thought we might encounter.”⁵⁹

173. Lord Boyce told the Inquiry that he had expressed concern to Mr Blair at the briefing on 15 January, which “was more about the immediate aftermath, immediately after the fighting phase, what would we need to do to provide security in the first instance, but also to provide what we saw as being the most immediate problem would be a humanitarian problem”.⁶⁰

174. Sir Kevin thought that “the large-scale option was a natural consequence of what we could do or what we would plan to do”. There was “also a military view about the sense of critical mass under national command that works well, which would have been a feature of the Chiefs’ of Staff considerations”. He did “not at all” sense “the military machine was forcing the political hand”.⁶¹

175. In his subsequent hearing, Sir Kevin Tebbit agreed that, when the decision was taken, Ministers did not have “a full appreciation of the implications, politically, militarily and security-wise”.⁶²

176. Mr Scarlett subsequently reported additional aspects of PJHQ’s thinking to Sir David Manning.

177. Mr Scarlett followed up some of the points raised at Mr Blair’s briefing from the MOD in a separate briefing from Maj Gen Fry and reported his discussions to No.10.⁶³

178. The points Mr Scarlett recorded included:

- The fact that “it will not be possible to disaggregate UK targeting from overall US effort” was made “forcefully” to him.
- The “difficulty for Saddam of matching up his CB [chemical biological] warheads to missiles after previous efforts to conceal them” was “stressed”.
- It was “certainly not clear ... how Baghdad will be brought under control and Saddam finished off”.
- Maj Gen Fry “thought it very possible” that the US would “eventually” ask the UK “to lead the assault to capture the bridgehead before moving aside to let the Americans through for a clean start”.

⁵⁹ Public hearing, 27 January 2011, page 35.

⁶⁰ Public hearing, 27 January 2011, page 83.

⁶¹ Public hearing, 3 February 2010, pages 39-40.

⁶² Private hearing, 6 May 2010, page 29.

⁶³ Minute Scarlett to Rycroft, 16 January 2003, ‘Iraq: Military Planning’.

Cabinet, 16 January 2003

179. As promised by Mr Blair on 19 December 2002 and 9 January 2003, Cabinet discussed Iraq on 16 January 2003.

180. Despite Mr Blair's promise that military options would be discussed and the imminence of the formal decision to offer a significant land contribution, Cabinet was not briefed on the substance of the military options or the circumstances in which force would be used.

181. Cabinet did not discuss the strategic implications of making a military contribution.

182. Mr Blair said that:

“... he wanted to make the United Nations route work. The inspectors ... needed time to achieve results ... If Iraq was not complying with the demands of the United Nations, he believed the ... Security Council would pass a second resolution.”⁶⁴

183. Mr Blair subsequently stated:

“Meanwhile, British and American forces were being built up in the Gulf. If it came to conflict, it would be important for success to be achieved quickly. The build up was having an effect on the Iraqi regime, with internal support dwindling for President Saddam Hussein ... The strategy remained to pursue the United Nations course.”

184. Mr Blair concluded by telling Cabinet that he would be meeting President Bush to discuss Iraq at the end of the month, after Dr Blix's report to the Security Council on 27 January.

185. The discussion in Cabinet on 16 January of the wider policy is addressed in Section 3.6.

186. Lord Turnbull told the Inquiry that he:

“... wouldn't have expected Cabinet to get into the business of land forces through the north or the south ... I think they would probably have recognised that that was quintessentially the business of a smaller group. So none of them suggested a serious change of direction.”⁶⁵

187. In a statement for the Inquiry, Mr Hoon wrote that, to the best of his recollection, Cabinet on 16 January:

“... was devoted entirely to the efforts to secure a second resolution, and was the subject of an unusually wide-ranging discussion.”⁶⁶

⁶⁴ Cabinet Conclusions, 16 January 2003.

⁶⁵ Public hearing, 13 January 2010, page 60.

⁶⁶ Statement, 2 April 2015, page 5.

188. Mr Blair had:

“... made it very clear that he wanted to focus all of his Government’s efforts on securing that second resolution.”

189. Mr Hoon was:

“... quite confident at that stage that he [Mr Blair] would not have welcomed any efforts to discuss the military options in relation to Iraq. In the absence of Prime Ministerial agreement to such a discussion, it would not have taken place.”

190. Mr Hoon wrote:

“Nevertheless because I thought colleagues should be aware at this juncture about the military preparations under way, and because this had not been discussed at the Cabinet meeting on 16 January on the second resolution, I arranged for a paper on this subject to be circulated.”

191. The absence of any collective discussion of the military options, despite Mr Blair’s promises, is addressed later in this Section.

192. Mr Blair’s decision not to reveal that he had been advised that a further determination by the Security Council that Iraq was in material breach of its obligations would be required to authorise the revival of the authority to take military action, or to invite Lord Goldsmith, the Attorney General, to speak at Cabinet on 16 March, is addressed in Section 5.

The decision to deploy ground forces, 17 January 2003

193. Mr Hoon wrote to Mr Blair on 16 January seeking agreement to the “key role in southern Iraq” proposed by the US for the UK:

“Important questions remain to be resolved ... But the role proposed for the UK is a sensible and significant one, and I recommend that with certain qualifications, we accept it. We need to decide quickly.”⁶⁷

194. Mr Hoon added that equipment and personnel would need to be moved early the following week and that, if Mr Blair agreed, he proposed:

“... to announce the composition and deployment of the force in an oral statement on Monday 20 January.”

195. Mr Hoon set out the proposed UK contribution as discussed in the briefing the previous day, including that the provision of US logistic support would enable the UK to “make compensating reductions in our force, which would number around 26,000 rather than the 28,000 originally envisaged” for the deployment of a single armoured brigade

⁶⁷ Letter Hoon to Blair, 16 January 2003, ‘Iraq: UK Land Contribution’.

through Turkey. He estimated that the requirement for Reservists was “unlikely to be much above 3,000, compared to the 7-8,000 we originally expected”.

196. Mr Hoon wrote that the proposed role for the UK was “essentially as described in my Office’s letter of 8 January”:

- “During initial US ground operations the ATG ... would “conduct the Umm Qasr/al-Faw operation as already planned.”
- “Approximately ten days later HQ 1 [(UK)] Armoured Division with 16 Air Assault Brigade would relieve US forces in an area south of Basra and the Euphrates, including the Rumaylah oilfields, enabling the US to press on further north.”
- “Whilst US forces conduct decisive ground operations to isolate Baghdad, HQ 1 [(UK)] Armoured Division with 7 Armoured Brigade could protect the right flank of the US 1st Marine Expeditionary Force as it advances north. This would include securing Basra International Airport and isolating (but not entering) Basra itself.”

197. Mr Hoon added that the US was looking at possible additional tasks, but the UK would take a cautious approach: “We do not intend that our force should bite off more than it can chew, given its reliance on US logistic support.”

198. Mr Hoon stated that, as he and Mr Blair had discussed, a number of issues still needed “finally to be resolved” before the UK could “conclude that the overall US plan represent[ed] a winning concept”. Those included the “legal basis for any operation” and the “credibility of plans for the aftermath”. The US was addressing the “strategic importance of fixing Iraqi forces” in the North.

199. The concept for the campaign was “radically different from that employed in the 1990-1991 Gulf Conflict”. It depended on “the achievement of overwhelming effect” to attack the cohesion of the Iraqi regime and deterring opposition rather than the “application of overwhelming force”. Much depended on achieving “shock and awe” at the outset through the “application of largely US air power to targets throughout Iraq”.

200. Mr Hoon stated that the plan would need further development to address a number of “specific challenges (oilfields, displaced persons, handling Iran etc.), but no insurmountable problems have been identified”. The threat from conventional Iraqi forces was assessed as “limited, in part because of the expected effects of US air power”.

201. The timescales for possible action would mean that some risk would have to be taken on the fitting of Urgent Operational Requirements (UOR) equipment, but that risk was “considered acceptable”.

202. Mr Hoon wrote that:

“The proposed final [UK] Area of Responsibility is a coherent one with largely natural geographical boundaries ... and includes economic infrastructure critical to Iraq’s future, including much of its oil reserves, critical communications nodes, a city (Basra) of 1.3 million people and a port (Umm Qasr) the size of Southampton. Although the establishment of UK control over this area will require careful presentation to rebut any allegations of selfish motives, we will be playing a vital role in shaping a better future for Iraq and its people.”

203. Map 3 in Annex 4 of the Report shows the proposed AOR and the effect of subsequent decisions to expand.

204. Commenting on the point, originally made in the letter from his Private Office to Sir David Manning on 8 January, that the UK’s proposed role would “make us even more important to the US plan than we were before”, Mr Hoon wrote that was:

“... to some extent a double-edged sword. By making us more integral to the US plan, it would add to the difficulties if US and UK intentions should diverge. But this is a sharpening of an existing risk – bearing in mind US reliance on Diego Garcia, for instance – rather than the creation of a new one.”

205. Mr Hoon wrote that Mr Blair had identified three big issues in the discussion the previous day:

- the “nature of the proposition” that was being put “to the Iraqi people including those in the governing apparatus who are not considered beyond the pale, and the way in which that would be conveyed to them without damaging operational security and losing the element of surprise”;
- the need “now that we have a proposed Area of Responsibility” to work on that “with greater clarity”. The forthcoming visit of a Whitehall team to Washington (see Section 6.5) was identified as “an opportunity to mould US thinking”; and
- making sure the UK had the “best possible contingency plans for worst-case scenarios”.

206. Mr Hoon said he had put work in hand to address those issues.

207. Mr Hoon set out the latest estimates for the costs of military operations and the actions and timetable for implementation:

“CENTCOM assume that, unless Saddam changes his behaviour, a political decision to take military action may be made in mid-February. Air and ground operations could begin in early March, with the main effort by ground forces beginning in mid-March (although they still aspire to bring the main effort forward).”

208. The UK headquarters would need to be “deployed and readied in Kuwait ... by the end of January, 16 Air Assault Brigade by the beginning of March, and 7 Armoured

Brigade by mid-March”. That would be followed by a period of Force Integration Training – preparation and rehearsal alongside US forces – before they would be properly prepared to conduct operations.

209. Mr Hoon stated that the force package was “broadly what the media already expect”, but the “high visibility of the measures involved” would “require a reasonably candid explanation”. He set out the advantages of the “earliest possible announcement”.

210. Mr Hoon recommended that the UK should “inform the US that we agree that planning should assume the contribution of the proposed UK land force package to carry out the role the US has requested, subject to:

- (i) the overall caveat that a further political decision would be required to commit UK forces to any specific operation
- (ii) US assistance in facilitating the bed-down of UK forces, and provision of logistic support
- (iii) further work to develop a satisfactory plan for the aftermath.”

211. Copies of the letter were sent to Mr Brown, Mr Straw and Sir Andrew Turnbull.

212. The UK’s assessment of Iraq’s conventional military capability and decisions on targeting are addressed later in this Section.

213. The risks taken on procurement of equipment and its deployment to the front line are addressed in Section 6.3.

214. The absence of advice on what might constitute a satisfactory plan for the aftermath or on the risks associated with deploying UK forces before decisions had been made on the scope or duration of their post-conflict role is addressed in Section 6.5.

215. On 17 January, Mr Blair agreed the deployment of large scale UK ground forces, comprising the HQ 1 (UK) Div and three combat brigades.

216. Commenting on Mr Hoon’s letter to Mr Blair, Sir David Manning wrote:

“As briefed to you yesterday ...

“Are you content with the recommendations ...?”

“These seem right, subject to your views on an announcement on Monday 20 January. This is bound to have significant impact. In any event, I assume you will want to see a draft.”⁶⁸

217. On 16 January, Mr Straw raised his concerns that the momentum in Washington was to do something soon after the report from Dr Hans Blix, Executive Chairman of

⁶⁸ Manuscript comment Manning, 16 January 2003, on Letter Hoon to Blair, 16 January 2003, ‘Iraq: UK Land Contribution’.

UNMOVIC, to the UN on 27 January, and it was being assumed that Mr Blair would be with President Bush.⁶⁹

218. Mr Straw recommended that Mr Blair should speak to President Bush.

219. Mr Straw's advice and the subsequent discussions with the US are addressed in Section 3.6.

220. Mr Straw wrote to Mr Blair on 17 January, flagging up three major issues: targeting; the response to any Iraqi use of WMD; and the need for greater clarity on thinking and plans for the aftermath.⁷⁰

221. Mr Straw advised that:

“... much greater clarity is required about US thinking and plans for the aftermath. How long would UK forces be expected to stay in the area of responsibility proposed for them? What would be their role in what form of administration, not least in Basra ...? We need in particular far greater clarity on US thinking on management of the oilfields. As you know, we have sizeable differences of view from many in the US Administration who envisage Iraq being a US military governorate for an extended period of time. A UK team will be discussing this issue with the US next week. It will be putting hard questions, and highlighting our own view that there needs to be a move to UN administration, with Coalition Forces remaining responsible for security, as soon as possible.”

222. Sir David Manning commented to Mr Blair:

“Good questions. But I don't think they affect your decision in principle.”⁷¹

223. Mr Blair replied, “agreed”.⁷²

224. Following a telephone conversation, Sir David replied to Mr Watkins late on 17 January that Mr Blair was “content to proceed on the basis of the Defence Secretary's recommendations”, and that he would be grateful “if you and the FCO would now take things forward as proposed”.⁷³

225. Mr Hoon's Private Office informed key officials of Mr Blair's decision, and that Mr Hoon had approved:

- That the US be informed that its planning should assume the contribution of the proposed UK land force package to carry out the role requested, subject to:

⁶⁹ Letter Straw to Manning, 16 January 2003, 'Iraq: Conversation with Colin Powell, 16 January'.

⁷⁰ Minute Straw to Prime Minister, 17 January 2003, 'Iraq: UK Land Contribution'.

⁷¹ Manuscript comment Manning, 17 January 2003, on Minute Straw to Prime Minister, 17 January 2003, 'Iraq: UK Land Contribution'.

⁷² Manuscript comment Blair on Minute Straw to Prime Minister, 17 January 2003, 'Iraq: UK Land Contribution'.

⁷³ Letter Manning to Watkins, 17 January 2003, 'Iraq: UK Land Contribution'.

- the overall caveat that a further political decision would be required to commit UK forces to any specific operation;
- US assistance would be provided in certain specified areas; and
- further work was needed on the plan for the aftermath.
- Approaches should be made to appropriate countries for basing and assistance.
- The deployment of the land package could begin from early the following week.
- Further advice should be provided before the end of January on additional Reservists required.⁷⁴

226. On 17 January, when Adm Boyce met General Richard Myers, Chairman of the US Joint Chiefs of Staff, he reported the position on UK planning, including that, with Op FRESCO, more than 50 percent of the UK Armed Forces were committed to operations and “the issue of UK conventional ground forces via Turkey was ‘parked’ for now”.⁷⁵

227. Mr Blair had focused on four issues:

- targeting legality and proportionality;
- “what-ifs” against Saddam Hussein’s reactions;
- dealing with Baghdad; and
- “above all, aftermath – especially in the context of catastrophic success”.

228. Adm Boyce was told that a task force for the aftermath, with a one-star commander, was being trained by Joint Forces Command (JFCOM) but that should change to a three-star multi-national command.

229. Sir David Manning commented to Mr Jonathan Powell:

“Whatever political pressure for early action, US military clearly can wait a few more weeks. I think they should. We need more time to try to get the hard evidence.”⁷⁶

230. The decision to deploy ground forces was announced on 20 January.

231. Mr Hoon announced the deployment of UK ground forces, which would “include the headquarters of 1 (UK) Armoured Division with support from 7 Armoured Brigade, 16 Air Assault Brigade and 102 Logistics Brigade”, in an oral statement in Parliament on 20 January.⁷⁷ The package comprised “approximately 26,000 personnel”, in addition to 3 Commando Brigade “with around 4,000” personnel including its support elements which he had announced on 7 January.

⁷⁴ Minute Williams to Head of Sec (Iraq), 17 January 2003, ‘Iraq: UK Land Contribution’.

⁷⁵ Minute Parker to PS/Secretary of State [MOD], 17 January 2003, ‘CDS Meeting with General Myers, US CJCS, 17 Jan 2003’.

⁷⁶ Manuscript comment Manning to Powell on Minute Parker to PS/Secretary of State [MOD], 17 January 2003, ‘CDS Meeting with General Myers, US CJCS, 17 Jan 2003’.

⁷⁷ House of Commons, *Official Report*, 20 January 2003, columns 34-46.

232. Mr Hoon stated that it was “a high readiness, balanced and flexible force package, bringing together a wide range of capabilities”; and that he and the Chiefs of Staff were “confident” that it was “the right group of forces for the tasks that may be necessary”.

233. Mr Hoon concluded that none of the steps being taken represented “a commitment of British forces to specific military action”, and that:

“A decision to employ force has not been taken, nor is such a decision imminent or inevitable. I must also emphasise ... that the deployment of forces on this scale is no ordinary measure.

“While we want Saddam Hussein to disarm voluntarily, it is evident that we will not achieve that unless we continue to present him with a clear and credible threat of force. That is why I have announced these deployments, in support of the diplomatic process to which we remain fully committed. It is not too late for Saddam Hussein to recognise the will of the international community and respect United Nations resolutions. Let us hope that he does so.”

234. Mr Hoon declined to provide any further details of the planning for military action.

235. In response to a question about post-conflict planning, Mr Hoon stated: “Certainly consideration is being given to aftermath issues and the question of humanitarian relief. Obviously, we will design force packages to ensure that we have soldiers in place who can deal with those issues as and when they arise.”⁷⁸

The absence of collective Ministerial consideration of the decision to deploy UK forces

236. The proposal to deploy UK ground forces to southern Iraq constituted a step change in the UK contribution to the US plan and made it critical to the success of the military campaign.

237. Mr Hoon’s letter of 16 January seeking agreement to the deployment was sent to Mr Brown, Mr Straw and Sir Andrew Turnbull.

238. It did not, however, address the wider implications of the decision for Cabinet colleagues.

239. It was clear, from the discussions on 15 January and Mr Hoon’s advice to Mr Blair of 16 January, that committing UK forces was likely to mean that the UK would become responsible, as the Occupying Power in the immediate aftermath of military operations, for a significant area of southern Iraq.

240. That would have implications for the responsibilities of the FCO and DFID.

241. It also had major financial implications.

⁷⁸ House of Commons, *Official Report*, 20 January 2003, column 37.

242. Ministers did not seek, and were not given, considered inter-departmental advice on the implications of the decision.

243. Nor, despite it being a decision which was likely to have major implications for the UK lasting many years, was there a collective Ministerial discussion before the decision was taken.

244. Nor was Cabinet informed of the proposals and given an opportunity to discuss them before the decision was announced.

245. Sir Kevin Tebbit told the Inquiry that he had advised Mr Hoon, in either late December 2002 or early January 2003, that it would be timely to take stock of UK policy in the light of concerns, including:

- **uncertainties about whether it would be possible to agree a second resolution;**
- **the need to push the UK conditions;**
- **the impact on the US/UK strategic relationship if the UK did not act with the US;**
- **the implications of a bigger military role in the South; and**
- **planning for post-conflict Iraq was not robust.**

246. Sir Kevin also stated that he had advised Mr Hoon that he should seek a full Ministerial discussion of the issues.

247. Sir Kevin Tebbit's private minute to Mr Hoon on 14 January, drawing out how the US "would react if HMG failed to go along with the United States in the event that they decided to use military force against Iraq without a further enabling UNSCR", is addressed earlier in this Section.⁷⁹

248. Sir Kevin told the Inquiry in December 2009 that:

"... by ... the end of 2002 – when it is becoming clear that the northern option wasn't going to work and we might take a bigger role in the South, and, therefore, the stakes for the UK would be greater, at that stage it wasn't entirely clear whether we were going to achieve all of our conditions ...

"I certainly discussed these issues very fully with ... [Mr Hoon] as to whether this was indeed the right point to take broader stock of where we were going and make absolutely certain that the Government was satisfied with the course. Not to say that I wasn't, it is just [to say] that I felt it was quite important for Ministers to be absolutely clear ... what the prospects might be."⁸⁰

⁷⁹ Minute Tebbit to Secretary of State [MOD], 14 January 2003, 'Iraq: What If?'.
⁸⁰ Public hearing, 3 December 2009, pages 80-81.

249. In subsequent evidence to the Inquiry in February 2010, Sir Kevin added that the shift to the South, which “took place progressively” from mid-December to mid-January 2003, “was a very significant shift” and he had “felt that it was important to reappraise, to pause, to take stock as to what was going on”.⁸¹

250. Sir Kevin told the Inquiry that he had “certainly” written to Mr Hoon; and that he thought he had written “a personal note” which he had been unable to find before the hearing. That had expressed his:

“... concerns that we were ... being led into a possible military action, where we might not actually have secured our objectives; in other words, we wouldn’t have disarmed Saddam by the diplomatic route. We might not get a second resolution. We hadn’t got post-conflict planning as well pinned down with the United States as any of us wanted at that stage.”⁸²

251. Asked if he had had a response, Sir Kevin stated that he had “discussed this” with Mr Hoon and he thought they “were very much of one mind that this did need to be thought through very carefully”.⁸³

252. Sir Kevin told the Inquiry that Mr Hoon had asked him to produce a “note on the transatlantic relationship”:

“One of the issues at that stage was that we had gone so far, by the end of December, with the United States in planning – not just because we wanted to be with the United States, but because I knew the Government believed in what it was doing – that to have gone back at that point and decided not to proceed in circumstances where we hadn’t disarmed Saddam ... would have been particularly difficult for our relationship with the United States.”⁸⁴

253. Asked whether at that stage there was no going back and no room for reassessment, Sir Kevin replied:

“There was never an unconditional commitment at all. I think that when one begins to engage in military planning, one takes a risk that, if one doesn’t see it through in a way that was designed to achieve the effect of disarming Saddam Hussein diplomatically, or the use of force ...”⁸⁵

254. Sir Kevin added that, if the UK had backed down “without any of those conditions being met”, that would have carried “its own damage”.

⁸¹ Public hearing, 3 February 2010, page 24.

⁸² Public hearing, 3 February 2010, pages 24-25.

⁸³ Public hearing, 3 February 2010, page 25.

⁸⁴ Public hearing, 3 February 2010, pages 25-26.

⁸⁵ Public hearing, 3 February 2010, page 26.

255. In the context of securing the UK's strategic objectives, Sir Kevin told the Inquiry that his concern in his advice to Mr Hoon in December:

"... was the risk, as one feels in one's dark moments, that maybe we are not going to get any of these criteria achieved. It wasn't looking as if Saddam was going to back down and really comply. It wasn't looking as if the Americans were not going to pursue the military course if compliance failed. There was a clear sense of impatience, I think in Washington.

"The planning for post-conflict didn't seem to me to be very robust ...

"So those concerns were ones which led me to say to ... [Mr Hoon] at the point when we were also not going to get our northern option and were moving to a southern one, which seemed to me to be very significant, that this is the time to reappraise and to think hard before going forward. It wasn't that I was against going forward."⁸⁶

256. Asked whether, by January 2003, it was too late to reappraise the position because the UK was committed politically to the US and military preparations were going into high gear, Sir Kevin replied that he did not "think it was too late".⁸⁷

257. Sir Kevin added:

"... by the end of 2002, not to have proceeded ... without ... very strong reasons, such as Saddam ... actually meeting the conditions, would have given us a real problem ...

"... [H]aving indicated an intention, with conditions, to work with the United States on the military track, to have gone back on that point would have carried risks and doubts."

258. In May 2010, Sir Kevin Tebbit told the Inquiry:

"... by Christmas 2002/3, I was very concerned that the penalties of breaking with the Americans, even if our conditions were not fully met, were going to be very severe."⁸⁸

259. Asked about the penalties, Sir Kevin replied:

"I think the penalties of having gone so far by that stage on a joint venture ... were very awkward ... I felt it would be helpful for Ministers to pause around January in 2002/3, when we were being presented with a completely different plan, and when it wasn't clear necessarily that our conditions were going to be met, that there was a risk that the Americans might proceed without a second resolution, which we

⁸⁶ Public hearing, 3 February 2010, pages 35-36.

⁸⁷ Public hearing, 3 February 2010, pages 36-37.

⁸⁸ Private hearing, 6 May 2010, page 11.

regarded as absolutely essential. There was a risk that Saddam wasn't going to disarm. There was a risk that we were not going to get the broad Coalition that we wanted, and I ... felt at that stage it was quite important to consider all the issues, including the cost of not proceeding with the Americans."⁸⁹

260. Sir Kevin stated that he was "reconstructing events on the basis of personal recollection".⁹⁰ He had:

"... recorded my concerns and the message was very clear: we need to work harder at making sure our conditions are fully understood and taken up by the US Administration."

261. Sir Kevin Tebbit told the Inquiry in February 2010 that he thought Ministers had had a discussion about the issues, but he was "not sure about the detail".⁹¹

262. Asked whether he had seen a point at which the Government at the most senior decision-making levels had fully reviewed and thrashed out the whole range of its options, Sir Kevin Tebbit replied that he "never saw that process taking place" and that he was not "party to those discussions in No.10".⁹²

263. Sir Kevin added that, in the second half of January, he had sensed "that was the point when Ministers were coming to major decision point", and "it was also the point where Hoon was recommending the southern option to Government". His "understanding was that there was a pretty full discussion".⁹³

264. In May 2010, Sir Kevin Tebbit told the Inquiry:

"Over Christmas I recall being concerned that ... suddenly we were looking at a different option, the South, which we hadn't been planning for.

"... I was very concerned before things went further it would be very good for Ministers to sit down and really discuss this fully ... I wrote my concerns to Geoff Hoon in a private note, manuscript ... advising him that I really thought he ought to talk to his colleagues ... and look at it in the round again and pause. I was very concerned that the machine seemed to be moving, and I don't just mean the military machine. I just mean the process seemed to be going on without a full Ministerial discussion.

"Geoff Hoon said to me ... I understand, I think that's very important. He said, I just want a note from you on one aspect, and that is the US/UK relationship and the implications of not proceeding, how important is this to us in bilateral terms. So I wrote him a note purely on that issue, as a sort of aide memoire, for one part

⁸⁹ Private hearing, 6 May 2010, pages 11-12.

⁹⁰ Private hearing, 6 May 2010, page 12.

⁹¹ Public hearing, 3 February 2010, page 25.

⁹² Public hearing, 3 February 2010, page 37.

⁹³ Public hearing, 3 February 2010, pages 38-39.

of the discussion he was going to have with his colleagues. Looking at the record, it looks as if that's the only thing I was bothered about, and that gives a slightly misleading impression.

"I think he did have those discussions with colleagues. The record is not entirely clear, but Ministers clearly had a very serious discussion in the period 16-18 January, but it doesn't seem to have been a formal meeting."⁹⁴

265. Sir Kevin added:

"In my own calculations, I didn't feel particularly comfortable about it. I mean, we are talking about this purely from the point of view of how important we were to the Americans.

"... [M]y own evidence may seem certainly slanted because of the way in which the documents were around and have fallen, and I can't find the note that I wrote to Geoff Hoon over Christmas.

"I think we need to remember ... The main purpose of our military build-up was to help convince them [Saddam Hussein and the Iraqis] that we were in deadly earnest ... and that they would do much better to pursue the UN route and disarm and allow the inspectors back, and then none of this military action would be necessary.

"So the most important objective ... was ... to have a real impact on Iraqi perceptions ... It was not the most important thing to actually have impact on American perceptions. That was obviously a vital thing, but ... a secondary issue. It wasn't the first thing I thought about.

"... [I]n that sense it didn't make much difference whether we were going to the North or the South, but frankly I thought the North would have more effect on Iraqi perceptions if we could have achieved it ..."⁹⁵

266. Asked whether there was any high level discussion across Whitehall of the issues he had raised in his minute of 14 January, Sir Kevin replied:

"No, I don't think so ... the context is important here. My discussion with Geoff Hoon before that was much wider, and it covered the whole range of issues in terms of what were our basic interests and what were we trying to achieve, and the risks of carrying on without a full Ministerial discussion.

"He [Mr Hoon] simply asked me personally to give him my fullest view about the nature of the US/UK relationship in all its aspects, not to consult anyone, entirely privately, because he wanted to have all the information that might be necessary at his fingertips, should he get into the type of discussion with his colleagues.

⁹⁴ Private hearing, 6 May 2010, pages 19-20.

⁹⁵ Private hearing, 6 May 2010, pages 21-22.

I provided him with that. Frankly I was quite embarrassed to see the thing on file because it was intended purely as an aide memoire for him personally.”⁹⁶

267. Asked if he could provide a short note of his recollection of the contents of his manuscript note, Sir Kevin told the Inquiry:

“... I think it is very difficult, because I couldn’t do it honestly, I don’t think.”

“... I did worry we were walking into something without thinking carefully about it ...

“... [M]y advice was saying ... in the circumstances, we have got to a stage where it is better all round for us to continue, but continue to push hard for our conditions, rather than to pull out, because I couldn’t think of a good reason for pulling out in the circumstances we were in, because we hadn’t exhausted the track, we hadn’t ... given up trying to bring allies with us, trying to build coalitions, trying to achieve success through the diplomatic route, and therefore there was no grounds, in my view, for pulling out. Were we to think of doing so, there could be lots of damage ... to our bilateral relationship with the Americans.

“That doesn’t mean to say that if we decided in March 2002 we weren’t going to have anything to do with this at all, there would be damage to our relationship. It would have been much smaller, I think, at that stage. It was being at the point that we were by late December, we would have needed very good reasons for not continuing, and it didn’t seem to me at that stage that those reasons existed.

“Nevertheless, my main concern at that point was to provoke the Ministers to have a full discussion, rather than simply to say the American relationship is so important, you should just carry on regardless.”⁹⁷

268. Mr Hoon told the Inquiry that he did not receive advice from Sir Kevin Tebbit about the need for a Cabinet discussion.

269. In a statement for the Inquiry, Mr Hoon wrote that he:

“... was never advised either formally or informally by ... Sir Kevin Tebbit, to the effect that there should be a discussion among Cabinet colleagues about the proposed UK deployment to the South of Iraq.”⁹⁸

270. Referring to Sir Kevin’s oral evidence in February and May 2010 about a private handwritten note suggesting a Cabinet discussion, Mr Hoon stated:

“If he did send such a note, I did not receive it. There is no record of it anywhere. Had I received such a note ... I would have marked it to say that it had been read, together with any further comment or question I might have had ... [I]t would have

⁹⁶ Private hearing, 6 May 2010, pages 24-25.

⁹⁷ Private hearing, 6 May 2010, pages 25-26.

⁹⁸ Statement, 2 April 2015, pages 4-5.

been recorded and filed by my Private Office. That is precisely what happened in respect of a private note I did ask Sir Kevin for in respect of the risks to our wider relationship with the US of not being involved on the ground in Iraq [Sir Kevin's minute of 14 January 2003] ... If it was important to have such a discussion amongst Cabinet colleagues, I would have expected to receive formal advice to that effect."

271. There is no dispute about the fact that Mr Hoon and Sir Kevin Tebbit discussed the potential impact on US/UK relations if the UK were to be unable to act alongside the US if military action was taken; and that Sir Kevin was asked to produce private advice for Mr Hoon.

272. Sir Kevin Tebbit's advice of 14 January covered only potential damage to the US/UK strategic relationship because that was what Mr Hoon had asked him to do.

273. The evidence from Mr Hoon and Sir Kevin is clear on that point.

274. The Inquiry cannot, however, resolve the differing accounts provided by Sir Kevin Tebbit and Mr Hoon about the circumstances of that request; and whether Sir Kevin had advised Mr Hoon that Ministers should pause and take the opportunity for a full discussion of the UK's options.

275. The Inquiry accepts the evidence that Sir Kevin prepared a note over Christmas 2002 as he told the Inquiry; and that Mr Hoon did not receive it.

276. Given the nature of the advice, and the importance of the issues it addressed, the Inquiry would have expected a document of the nature described by Sir Kevin Tebbit to have been preserved in both his Private Office and Mr Hoon's, notwithstanding the fact that it was handwritten.

277. No handwritten note from Sir Kevin Tebbit to Mr Hoon was included amongst the papers first disclosed to the Inquiry by the MOD.

278. Although the Inquiry specifically asked the MOD to search for such a document, including contacting Mr Hoon's and Sir Kevin's Private Secretaries at the time, it has not been found.

279. Sir Kevin Tebbit clearly had concerns in early 2003 about the implications of a switch in the UK military focus from the North to the South of Iraq.

280. At the Chiefs of Staff meeting on 6 January 2003 he had noted that the option being discussed was significantly different from that on which Ministers had been consulted.⁹⁹

281. Sir Kevin's recollection of the document he had written is detailed. The Inquiry has no reason to question his evidence.

⁹⁹ Minute Johnston to Private Secretary [FCO], 6 January 2003, 'Iraq: Chiefs of Staff Meeting, 6 January'.

282. Similarly, if Mr Hoon had received a handwritten document of the nature described by Sir Kevin, the Inquiry considers it is more likely than not that he would have remembered it, even after a number of years. The Inquiry therefore accepts that Mr Hoon did not receive it.

283. There is no evidence that Sir Kevin spoke about the need for a collective discussion with Sir Andrew Turnbull or with other Permanent Secretary colleagues.

284. Regardless of whether or not Mr Hoon was provided with specific advice about the need for a collective discussion, it should have been clear to him from the advice he did receive, which is set out in this Section and Section 6.1, that a significant change of direction was proposed and that there were major issues to be addressed.

285. Sir Kevin Tebbit would have been right to advise in January that Ministers should have paused for a full discussion of the policy on Iraq, the risks of success and failure, the advantages and disadvantages of different options, and the implications of the decisions taken.

286. As Section 7 sets out, decisions of this importance, which raise a number of challenging questions, are best addressed by a Cabinet Committee on the basis of considered inter-departmental advice.

287. Such a collective discussion should then have been reported to Cabinet before the deployment was announced.

288. As Section 9.4 shows, Cabinet did discuss the decision to deploy to Helmand in May 2006, in January of that year.

289. The absence of planning and preparations for the UK role after the conflict is addressed in Section 6.5.

Planning military operations

Military discussions with the US

290. In mid-January, Lt Gen Reith and Gen Franks discussed the role UK forces might play in combat operations.

291. Gen Franks wrote in his memoir that in January, only a small group of senior CENTCOM officers knew “significant aspects of the evolving concept” and only four people had the “full picture”.¹⁰⁰

292. On 17 January, Major General David Wilson, Senior British Military Adviser at CENTCOM, reported to Lt Gen Reith on a conference chaired by Gen Franks for

¹⁰⁰ Franks T. & McConnell M. *American Soldier*. HarperCollins, 2004.

CENTCOM commanders, key staff and Coalition partners from 15 to 16 January in Tampa, Florida.¹⁰¹ Gen Franks had described the event as “likely to be the last chance for such a gathering to take place. It therefore had to be conclusive”.

293. Lt Gen Reith told the Inquiry that he had had a conversation with Gen Franks on 16 January:

“... I told him that we still obviously weren’t committed necessarily to execution, but that the Prime Minister had approved a composite, one-division package. So that was the mix, that we eventually ended up with.”¹⁰²

294. At that meeting, Lt Gen Reith and Gen Franks had discussed Phases II and III and Gen Franks had “agreed that 3 Commando Brigade would be the best capability to attack into the al-Faw Peninsula”.

295. Lt Gen Reith told the Inquiry that Gen Franks’ feeling was that 7 Armoured Brigade 16 Air Assault Brigade could “probably secure the oilfields”, releasing the US 3rd Infantry Division and I Marines Division for “the main effort. So we would then have a discrete box in southern Iraq”.

296. Asked whether the UK was still suggesting that the US should have two sets of plans in case the UK could not contribute, Lt Gen Reith told the Inquiry:

“I told him that the Prime Minister had agreed to the package, and so therefore ... I’m making an assumption that he now expected us to participate.”¹⁰³

297. Maj Gen Wilson reported that “Phase IV responsibilities became a little clearer” at the Commanders’ Conference. Gen Franks had demanded that JTF-4 deploy as soon as possible to Kuwait and had welcomed Lt Gen Reith’s offer to embed four UK personnel in it. Gen Franks had also directed that “key Phase IV players should visit the Pentagon to ensure that planning was joined up”.¹⁰⁴

298. In his record of the meeting with Gen Franks, Lt Gen Reith explained that UK staff embedded in JTF-4 would have “reach-back” to the Phase IV planning team in PJHQ, giving the UK “considerable influence over US planning”.¹⁰⁵ He reported that Gen Franks had “agreed that we could plan on [the] UK having responsibility for the Basra region in Phase IV and would welcome our setting the standard for other nations. Clearly this will need Ministerial approval in due course.”

¹⁰¹ Minute Wilson to MA/CJO, 17 January 2003, ‘CENTCOM Component Commanders’ Conference: 15-16 Jan 03’.

¹⁰² Private hearing, 15 January 2010, pages 40-41.

¹⁰³ Private hearing, 15 January 2010, page 42.

¹⁰⁴ Minute Wilson to MA/CJO, 17 January 2003, ‘CENTCOM Component Commanders’ Conference: 15-16 Jan 03’.

¹⁰⁵ Minute Reith to PSO/CDS, 17 January 2003, ‘Discussion with General Franks – 16 Jan 03’.

299. Gen Reith told the Inquiry he had also told Gen Franks that he was “unhappy with the way the planning was going” because the US was “going into shock and awe” and the UK “had been very much the custodians of ‘Let’s worry about Phase IV’”.¹⁰⁶

300. Gen Reith said he had made that point to Gen Franks because the US were going to have a fairly extended air campaign followed by land entry as they had done in the 1991 Gulf Conflict. Gen Reith told the Inquiry he had said that “the oilfields were absolutely essential” for Phase IV:

“... to provide revenue for Iraq for its reconstruction, and therefore, we needed to secure the oilfields rather than have them destroyed. I also made the point to him that the more china that we broke, the more we would have to replace afterwards. So I left him with those thoughts, and ... between that meeting and obviously when we went in, they changed the phasing of the plan so that there was an early land entry.”

301. Major General Peter Wall, Chief of Staff to Air Marshal Brian Burridge and later GOC 1 (UK) Div from May 2003 to January 2005, wrote in his post-operation report that the HQ 1 (UK) Div plans team deployed to Kuwait on 19 January and “became embedded” in the 1 MEF Operational Planning Team.¹⁰⁷ The remainder of the Command Group, including Maj Gen Brims, arrived a week later to review 1 MEF options and start developing the Divisional plan.

302. Maj Gen Brims issued an initial Operational Order on 31 January, which described the Division’s mission as “to defeat enemy forces, secure key oil infrastructure and seize Umm Qasr port to prevent or mitigate environmental disaster and enable humanitarian operations. Subsequently the Div is to relieve 1st [US] MarDiv ... to support its rapid movement N[orth]”.¹⁰⁸

303. The UK and Australia participated in talks on post-conflict issues in Washington on 22 January. The briefing prepared for Mr Lee, the senior MOD member of the UK delegation, included outline assumptions for UK force contributions under four post-conflict phases. It cautioned that, in the absence of a US decision on timelines, these were only illustrative.¹⁰⁹ The suggested UK land force contribution under each phase was:

- US military administration (0-6 months): war-fighting forces (large scale);
- Coalition administration (6-12 months): large scale reducing to medium;
- civil administration (12-24 months): medium scale reducing to small; and
- full Iraqi governance (24 months plus): small scale reducing to advisory teams.

¹⁰⁶ Private hearing, 15 January 2010, pages 42-43.

¹⁰⁷ Report Wall to HQ 3 Cdo Bde, 6 October 2003, ‘Post Operation Report – Version 2 Operation Telic’.

¹⁰⁸ Operational Order 001/03, 31 January 2003, ‘Base OpO 001/03 for Op TELIC’.

¹⁰⁹ Minute Sec(O)4 to DG Op Pol, 21 January 2003, ‘Visit to Washington – Iraq Aftermath’.

304. The briefing included questions to which “we must first have answers” if the UK was to contribute along those lines, including whether the US envisaged “sectorisation” as in Bosnia or “central locations and force projection” as in Afghanistan as the model for Phase IV Coalition force structure. If sectorisation, would the US provide additional forces in the UK sector to perform humanitarian tasks for which UK capacity was limited?

305. After the talks, Mr Lee reported to Mr Hoon that, on the plus side, the US was beginning to take the post-conflict planning seriously and was willing to work with the UK and Australia in the various working groups, but there was little time left.¹¹⁰

306. Mr Lee recommended that Mr Hoon raise post-conflict planning in his next phone conversation with Secretary Rumsfeld, in terms that it was a vital issue that needed “to be sorted now because it affects both the UK decision to commit to hostilities ... and also international support”, and that there was a need for clarity on “who is responsible to whom for what on day after planning and then execution”.

307. Those talks and their outcome are addressed in more detail in Section 6.5.

JIC Assessment, 29 January 2003: ‘The Emerging View from Baghdad’

308. The JIC assessed on 29 January that retaining WMD was a vital Iraqi interest and that Saddam Hussein was unlikely to agree to relinquish power or go into exile.

309. The JIC predicted that once military action began, widespread lack of loyalty to the regime would become clear and a hard-fought professional defence of Baghdad was “unlikely”.

310. The JIC Assessment of 29 January 2003 sustained its earlier judgements on Iraq’s ability and intent to conduct terrorist operations.

311. At the request of the FCO, the JIC produced an Assessment on 29 January reviewing developments in Iraq from the viewpoint of the Iraqi regime, particularly Saddam Hussein, and possible Iraqi moves in the coming weeks.¹¹¹ The Assessment addressed both the possible response to the obligations set out in resolution 1441 (see Section 3.6) and Iraq’s potential responses to the military build-up and military action.

312. The Key Judgements included:

- “Saddam does not appear to realise the severity of the military attack he faces. Senior Iraqi officials, although increasingly convinced of the inevitability of a US-led attack, are unlikely to be telling Saddam about their concerns.”

¹¹⁰ Minute Lee to PS/Secretary of State [MOD], 23 January 2003, ‘Aftermath: Visit to Washington’.

¹¹¹ JIC Assessment, 29 January 2003, ‘Iraq: The Emerging View from Baghdad’.

- “Saddam has not lost control or the capacity for rational tactical decisions. He continues to maintain regime cohesion, primarily through intimidation. He is unlikely to agree to relinquish power or to go into exile. He still believes he has a chance of averting military action or, once military action begins, forcing the Coalition to cease hostilities before his regime collapses.”
- “Once military action has begun, widespread lack of loyalty to the regime will become clear. Iraqis may not welcome Coalition Forces, but most will at least acquiesce in Coalition military activity to topple the regime, as long as civilian casualties are limited. A hard fought professional defence of Baghdad is unlikely, although elite military and security elements closely identified with the regime may fight until their positions become untenable.”
- “Saddam probably believes he has some strong political and military cards to play, even in the face of an inevitable attack ... He may use human shields, fire CBW against Coalition Forces, launch a pre-emptive attack on the Kurds, Coalition Forces building up in Kuwait or Israel, or sabotage Iraqi oil wells and water supply.”

313. The Assessment stated that: “Given the high level of uncertainty over Saddam’s response once he recognises his survival is at stake, we will need to plan for a wide range of humanitarian crises, including a possible humanitarian role for Coalition Forces.”

314. The Assessment also stated:

- Iraqis believed that the West was “squeamish about casualties”. The JIC continued to judge that Iraq’s capability to conduct terrorist attacks was “limited, especially outside the Gulf region”.
- The JIC had “previously judged that terrorism could be attempted against Coalition Forces during a military build-up if Saddam believed that an attack was inevitable”. There had been “no indication that Iraq was behind the recent attack on US contractors working for the US military in Kuwait”. That had, however, highlighted “the vulnerability of the large numbers of Coalition Forces concentrated in an area as small as Kuwait”.
- Iraq might well “seek to use its influence over some smaller militant Palestinian groups to encourage them to strike at US and Coalition interests in the Middle East in the event of a Coalition attack”. There were “also uncorroborated reports of Iraq assembling teams in various countries to attack UK and US interests in the event of war against Iraq”.
- “Despite the presence of terrorists in Iraq with links to Al Qaida”, there was “no intelligence of current co-operation between Iraq and Al Qaida”.
- There had been “no clear indication of any plan for a pre-emptive military strike against the Kurds, neighbouring countries or Israel”. Saddam would have “little incentive to launch such a strike while the Iraqi strategy focuses on convincing UNMOVIC that Iraq does not have WMD holdings”, but it might “become

an attractive option in the face of imminent Coalition military action". There was "unlikely" to be any advance warning of an attack on the Kurds. The JIC judged that "a pre-emptive limited artillery strike on Kuwait using CBW could be launched in as little as two hours". Preparations for an attack on Israel were "likely to be, more extensive and to stretch Iraqi capabilities to the limit".

- There were indications of "plans to sabotage oil fields to prevent them falling into Coalition hands".
- There were "continuing Iraqi military defensive preparations, including deployments and reinforcements of military units in the South, West and along the border of the Kurdish autonomous zone" which appeared to be "directed against the threat of both an internal uprising and external attack". That included "possibly 1,000 troops on the al-Faw peninsula, apparently in response to the Coalition build-up in Kuwait".
- Iraq's options for redeployment in the South were "limited": "Any significant redeployment in the South would risk triggering a Coalition attack by breaching the Southern No-Drive Zone." The regime did not "trust the Republican Guard enough to deploy them in Baghdad, except possibly as a last resort, leaving them exposed beyond the capital's boundaries".
- The regime was "maintaining 'business as usual': anybody thinking of deserting will face serious consequences [...] we may not see clear signs of dissent or defection until the regime is about to fall".
- The JIC judged that "most Iraqis will welcome the departure of Saddam. A few reports suggest that some Iraqis may fight to defend their homeland from what they see as external aggression [...] Overall we judge that while Iraqis may not welcome military forces, they will at least acquiesce in Coalition military action to topple the regime, as long as civilian casualties are limited ... [M]orale in much of regular army is low and ... many soldiers are reluctant to fight. But as long as Iraqi security officers remain with military units and able to enforce discipline, fear of execution is likely to keep regular units at their posts."
- Saddam Hussein was "already placing military targets in residential areas to score a propaganda victory in the event of a Coalition air campaign".
- "In the face of an attack, or even before hostilities if he judged that an attack was imminent" Saddam Hussein might take a number of actions, including seeking to "inflict high enough casualties on any Coalition ground forces, perhaps in Kuwait, including through use of CBW, to halt a Coalition attack and to swing public opinion in the West against hostilities".
- "Once hostilities were under way", Saddam might also "seek to cause an international outcry over the level of Iraqi or Coalition casualties"; and "pursue a scorched earth policy, including the destruction of oil wells and poisoning the water supply".

315. The JIC Assessment ended by stating that Saddam Hussein still believed he had “a chance of averting military action” or “forcing the Coalition to cease hostilities” before his regime collapsed.

316. The minutes of the JIC discussion of the draft Assessment recorded that:

“... it was difficult to predict if and when Saddam might launch pre-emptive strikes, but the paper should try and make a judgement on possible timescales. The trigger would probably be set when Saddam concluded that his fate was sealed, rather than any movements by Coalition Forces. Most of the Iraqi military would probably crumble quickly under attack. Saddam would maintain his hold of power until then, and there were no indications of possible coups beforehand. Whilst the Iraqi public might welcome the end of Saddam’s regime, they were also concerned about the human costs of fighting.”¹¹²

317. On 30 January, Mr Scarlett wrote to Sir David Manning with some “personal observations on the overall intelligence picture”.¹¹³

318. Mr Scarlett wrote:

“... as we get closer to the deadline, it is increasingly likely that the regime will hold until the invasion actually occurs. I am very comfortable with this assessment. A pre-invasion implosion (eg assassination or successful coup) cannot be excluded.”

319. Mr Scarlett suggested that, once an invasion was under way, Saddam Hussein:

“... knows the weaknesses of the Regular Army and does not expect them to resist effectively. He may genuinely have better hopes for the Republican Guard and place some reliance on their ability to delay the occupation of Baghdad and other cities. In his mind, he may not need such delay to last for long.”

320. Mr Scarlett wrote that, “given the perceived inability of his enemies to take significant casualties or setbacks”, some of the potential moves that Saddam Hussein could make, as highlighted in the JIC Assessment, “might make to give us pause even after a military operation begins”. Mr Scarlett wrote that those moves must be taken seriously. He noted in particular:

- “Attempted use of CBW and missiles ... immediately before an attack or (in Kuwait and southern Iraq) in the early stages of the attack itself.” That would be “very difficult to pull off”, but “even a small number of short range artillery rockets getting through would have a disproportionate effect” and it was “not unreasonable for Saddam to think it would give us second thoughts”.
- “CBW armed Al Hussein [ballistic missile] attack on Israel. Again very difficult to achieve, but the benefits of success are obvious.”

¹¹² Minutes, 29 January 2003, JIC meeting.

¹¹³ Minute Scarlett to Manning, 30 January 2003, ‘Iraq: JIC Assessment and Personal Observations’.

- “A move against the Kurds either immediately before or after a Coalition invasion ...”

321. Mr Scarlett reminded Sir David that the JIC had judged, “over many months”, that “once the invasion starts Saddam’s regime is likely to prove brittle and fold quickly”. It was therefore correct to prepare a military strategy to “make this ‘quickly’ very quick indeed”.

322. Mr Scarlett wrote that circumstances required the UK to look carefully for areas in which things might go wrong. The remaining questions in his mind, other than the potential use of CBW and revenge tactics, were:

- Tough resistance from individual military units capable at least in the available time of inflicting significant casualties on the attacking force.
- Uprisings against regime forces or general blood letting especially in southern cities such as Basra. This is our proposed Area of Operations (AOR). If you have an AOR, you cannot disclaim responsibility for what happens within it.
- The end game in Baghdad especially the fate of Saddam himself ... how do we ensure that Saddam’s power in his own capital is truly broken ...?”

Mr Blair’s meeting with President Bush, 31 January 2003

323. In preparation for Mr Blair’s meeting with President Bush on 31 January, the MOD drew attention to the implications which any delay in military action beyond the spring would have for its ability to provide a major contribution to military action, and the need for the US and UK to have agreed military objectives.

324. The MOD briefing of 29 January comprised a general update and sections on targeting, “aftermath”, and Saddam Hussein’s options, including “Fortress Baghdad”.¹¹⁴

325. The MOD “line to take” suggested for Mr Blair was that, if military operations were to be delayed beyond April/May, the UK would “struggle to put together this scale of force again for the autumn, especially if the fire strike continues. So militarily we could bear some delay but not too much.”

326. The background briefing for Mr Blair advised that, if operations were not initiated in the spring, the UK would “face some awkward choices”. Some “key elements of the UK contribution were unique” – including the Commando Brigade, the Assault Brigade and a specialist helicopter carrier ship. The MOD suggested:

“If operations were not going to start until the autumn, we would need to consider bringing some forces back to the UK in the meantime. Our ability to provide a major contribution later in the year will also be severely constrained if the fire strike continues beyond the spring.”

¹¹⁴ Letter Williams to Rycroft, 29 January 2003, ‘Prime Minister’s Briefing – Iraq’.

327. The MOD also advised Mr Blair that agreement on the objectives for a military campaign would be needed.

328. In relation to targeting, the “line to take” offered to Mr Blair was that the UK was “working up our strategic objectives for a military campaign. We need to relate this to the legal base we establish.” It was: “Very important that UK and US objectives are aligned soon and in advance of commitment to action so that we can come to a clear and common understanding on **targeting issues** and the **information campaign**.” That would need “careful handling domestically”.

329. The detailed advice from the MOD on targeting is set out later in this Section as part of the consideration of planning for the air campaign.

330. The background briefing for Mr Blair explained that the current thinking was that the objectives would be published “close to, or at the start of hostilities”. The MOD explained that the military objectives would enable it to “satisfy” itself “that they represent[ed] minimum use of force as required by international law”, and to use the CDS Directive to indicate “what military missions are legitimate, including ... what targets we can legitimately attack from the air; and plan Information Operations”.

331. A “publicly agreed set of aligned military objectives”, being prepared by the Cabinet Office, would enable the UK to participate in a “joined up **information operations campaign**”.

332. Mr Drummond sent Mr Rycroft a minute setting out a “few OD Sec points, just in case they slip through the briefing” provided by the FCO and MOD.¹¹⁵ Those included the need to agree joint military campaign objectives for publication “shortly before any conflict starts” and that the UK should offer a draft.

333. The development of objectives for the military campaign is addressed later in this Section.

334. A document entitled ‘Countdown’ set out a checklist of issues for Mr Blair’s discussion with President Bush.

335. A document entitled ‘Countdown’ appears in the No.10 files for 30 January 2003.¹¹⁶ The document comprised six sections, including:

- “Military Questions.” Whether there were sound plans – in the event that Saddam Hussein used WMD, attacked Israel, or destroyed oil wells – to keep rival groups and tribes apart; and to avoid civilian casualties.

¹¹⁵ Minute Drummond to Rycroft, 28 January 2003, ‘Iraq: US Visit’.

¹¹⁶ Note [Blair to Bush], [30 January 2003], ‘Countdown’.

336. When Mr Blair met President Bush on 31 January, it was clear that the window for peaceful disarmament would only be a few weeks. The military campaign could begin around 10 March.

337. Mr Blair and President Bush had a two hour meeting in Washington on 31 January followed by a press conference and an informal dinner.¹¹⁷ The discussions are addressed in Section 3.6.

338. On military planning, Mr Blair and President Bush discussed the possibility that Iraqi forces would fold quickly. Mr Blair asked about planning for the post-conflict period. In his view a UN badge would be needed. That would help with the humanitarian problems. Mr Blair and President Bush discussed an initial military occupation, how to handle the dilemma of managing the transition to civil administration and the nature of an Iraqi government.

339. Mr Blair concluded that the US and UK needed to prepare to organise on a “war footing”, working very closely together “particularly on our public communications”.

340. Sir David Manning recorded that it was clear that the window of opportunity would be only a few weeks. Otherwise the US would take military action. The military campaign could begin “around 10 March”, and earlier if Dr Blix’s report on 14 February was tough. The timing was “very tight”.

341. The Inquiry asked Mr Blair at what point he had concluded that the US “had definitely decided on military action in March 2003”.¹¹⁸

342. In his statement for the Inquiry, Mr Blair wrote:

“It was clear from continuing discussion with the US in late 2002/early 2003 that March was the likely date for military action. That firmed up as it became plain that there was no significant shift in the attitude of Saddam. The December Declaration ... was incomplete, as Blix noted ... His first report was to the effect that there was not full compliance, essentially around interviews. There were various possible alternatives to military action surfacing, including proposals for Saddam peacefully to give up power.”¹¹⁹

Planning for an air campaign

THE UK CONTRIBUTION TO AN AIR CAMPAIGN

343. On 31 January, Mr Hoon wrote to Mr Blair, advising him that he intended to announce the agreed air package on 6 February.¹²⁰

¹¹⁷ Letter Manning to McDonald, 31 January 2003, ‘Iraq: Prime Minister’s Conversation with President Bush on 31 January’.

¹¹⁸ Statement Request for Rt Hon Tony Blair, 13 December 2010, page 6.

¹¹⁹ Statement, 14 January 2011, page 11.

¹²⁰ Letter Hoon to Prime Minister, 31 January 2003, ‘Iraq: Announcement of Air Package’.

344. Mr Hoon wrote:

“You will recall that we agreed the air package for planning purposes in September. With some small adjustments at the margins, the planned package now comprises 118 fixed-wing aircraft, including those routinely based in theatre in support of the No-Fly Zones.”

345. Mr Hoon told Mr Blair that, because there remained “some uncertainty” over basing arrangements for some elements of the package, he would speak of “up to” 118 aircraft rather than providing a firm number. He added that the US was also “wrestling with some of the same uncertainties”.

346. On 6 February, Mr Hoon told Parliament that the UK already maintained a “significant presence” in the Middle East of “around 25 aircraft and 1000 personnel”.¹²¹ He announced that, in the event of operations against Iraq, it was envisaged that the UK would increase its presence to “around 100 fixed-wing aircraft supported by around 7,000 personnel” in the “days and weeks ahead”.

347. In addition, the Joint Helicopter Command would “deploy a very substantial proportion of its equipment and personnel”. Its contribution would consist of 27 Puma and Chinook support helicopters and “about 1,100 people”.

348. In response to a question from Mr Bernard Jenkin (Conservative), Mr Hoon said that UK forces would be “in the Gulf for as long as it takes to disarm Iraq and the regime of Saddam Hussein”.¹²²

THE PRINCIPLES OF INTERNATIONAL HUMANITARIAN LAW

349. The principles of international humanitarian law (IHL) governing military operations are set out in the Box below.

350. The guidance issued to the Armed Forces on the application of IHL during military operations is addressed in more detail later in this Section.

Overview of international humanitarian law

International humanitarian law (IHL) is also known as the Law of Armed Conflict (LOAC) or the Law of War. IHL is part of international law and governs the conduct of armed conflict, sometimes referred to as *jus in bello*. It is distinct from the law governing the resort to armed conflict, *jus ad bellum*, which derives from the United Nations Charter (see Section 1.1).

IHL aims to limit the effects of armed conflicts for humanitarian reasons. It aims to protect persons who are not or are no longer taking part in the hostilities, the sick and wounded, prisoners and civilians, and to define the rights and obligations of the parties to a conflict

¹²¹ House of Commons, *Official Report*, 6 February 2003, columns 455–456.

¹²² House of Commons, *Official Report*, 6 February 2003, column 457.

in the conduct of hostilities.¹²³ It derives mainly from the four 1949 Geneva Conventions and their Additional Protocols, and from the 1907 Hague Regulations, but also from other international conventions and protocols covering specific areas, as well as from customary law; that is, those rules derived from the established practice of states.

The cardinal principles of humanitarian law are authoritatively set out in an advisory opinion of the International Court of Justice:

“The first is aimed at the protection of the civilian population and civilian objects and establishes the distinction between combatants and non-combatants; States must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets. According to the second principle, it is prohibited to cause unnecessary suffering to combatants: it is accordingly prohibited to use weapons causing them such harm or uselessly aggravating their suffering. In application of that second principle, States do not have unlimited freedom of choice of means in the weapons they use.”¹²⁴

The key elements of LOAC which apply to targeting of military objectives during a conflict are set out in the 1977 Protocol Additional to the Geneva Conventions of 1949 (Protocol I). The main principles can be summarised as:

- **Distinction.** The parties to the conflict must at all times distinguish between the civilian population and combatants, and between civilian objects and military objectives, and shall direct their operations only against military objectives (Article 48).
- **Proportionality.** Military objectives must not be attacked if the attack is likely to cause civilian casualties or damage which would be excessive in relation to the concrete and direct military advantage anticipated (Article 57:2:b).
- **Military Necessity.** Offensive operations must be limited to those which are necessary i.e. only those which are required to secure a definite military advantage. If there is a choice between targets for obtaining a similar military advantage, the objective to be selected shall be that the attack on which may be expected to cause the least danger to civilian lives and civilian objects (Article 57:3).
- **Feasible Precautions.** In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects. Those who plan or decide upon an attack must take a number of specified precautions, focusing on the principles outlined above (Article 57).

PRELIMINARY DISCUSSIONS ON TARGETING

351. To allow planning to proceed, the MOD sought Lord Goldsmith’s views in early February on the considerations that should apply to the selection of targets during an air campaign.

¹²³ International Committee of the Red Cross, 29 October 2010, *The ICRC’s mandate and mission*; International Committee of the Red Cross, 29 October 2010, *War and international humanitarian law*.

¹²⁴ Report ICJ, 1996, *Legality of the Threat or Use of Nuclear Weapons*, pages 226 and 257.

352. The MOD set out its position on targeting in advice prepared for Mr Blair’s meeting with President Bush on 31 January.¹²⁵

353. The MOD advised that, although detailed assessments of civilian casualties resulting from the air campaign could be produced on a “target-by-target” basis, the target set was not yet sufficiently well defined to allow an estimate to be produced for the air campaign as a whole. Analysis based on estimated civilian casualties during operations over Iraq between 1998 and 1999 suggested that the civilian casualties for an air campaign would be around 150 killed and 500 injured.

354. No assessment had been produced of civilian casualties arising from “urban operations in Basra”. Experience from World War II suggested that between 200 and 2,000 civilians could be killed in urban operations in Basra, depending on “circumstances, duration and the degree to which civilian casualties are minimised”.

355. On 3 February, Mr Hoon’s Private Office wrote to Lord Goldsmith’s Office with a paper on the UK’s military campaign objectives. It was intended to form a basis for discussion of possible targets during an air campaign at a meeting with Lord Goldsmith and Mr Straw the following day.¹²⁶

356. The paper set out three potential options for disarming Iraq:

- Enforced inspections – military force being used to support UNMOVIC inspectors on the ground.
- Enforced destruction (air) – a sustained campaign of selective targeting using precision guided weapons and other aerial bombing techniques against known weapons sites.
- Enforced dismantling/destruction (land) – ground operations enabling the international community to take control of WMD sites.

357. Each option provided a rationale within which specific targeting or other legal issues could be considered.

358. The paper concluded by stating that the first two options would not deliver the UK’s objectives. The third option would require an integrated air and ground campaign to meet any military resistance from the Iraqi Armed Forces and to minimise risk to Coalition Service Personnel. The paper stated:

“But the key driver of resistance to Coalition operations is the Iraqi regime itself. Not only would removal of the regime potentially bring the need for military action to an early conclusion, the prospect of a new and representative administration in Iraq

¹²⁵ Letter Williams to Rycroft, 29 January 2003, ‘Prime Minister’s Briefing – Iraq’ attaching Briefing MOD, [undated], ‘Targeting and Military Objectives’.

¹²⁶ Letter Williams to Brummell, 3 February 2003, ‘Potential Operations in Iraq: Military Objectives and Campaign’ attaching Paper ‘The Disarmament of Iraq’.

would minimise the potential for Iraqi reversion to a WMD programme once military action was complete.”

359. The paper also set out the elements of the US plan and addressed whether they were necessary and proportionate. It concluded that the current US Concept of Operations could “achieve a conventional military defeat, but that the use of force in achieving this aim is potentially proportionate and necessary”.

360. At that stage, Mr Hoon and MOD officials did not know Lord Goldsmith’s views on whether resolution 1441 provided a legal basis for military action without a further authorisation by the Security Council (see Section 5).

361. The record of the meeting between Lord Goldsmith, Mr Hoon and Mr Straw stated that Mr Hoon had said a way of approving individual and generic targets should be found “beforehand”, along with a method of handling emergent targeting needs during the course of the campaign.¹²⁷

362. Lord Goldsmith was clear that, in such an integrated campaign, it was “practically impossible to make a distinction” between UK and US operations. That significantly increased the legal task and reinforced the necessity for a robust audit trail. Scrutiny was to be expected.

363. Lord Goldsmith said it would be important to tackle difficult targets early but he was “open to an approach where straightforward targets could be packaged”.

364. Mr Hoon asked whether it was “possible to clear easy packages early in order to make a start on the large numbers of targets” which had to be addressed. Air Commodore Mike Heath, Head of the Directorate of Targeting and Information Operations (DTIO), outlined how full collateral considerations could not be taken into account “until very shortly before the operation”.

365. Lord Goldsmith welcomed the broad approach outlined in the paper:

“It correctly identified the regime as a target, but was currently too tentative in identifying it as a necessary target ... The conclusion at the end of the paper that this campaign was “potentially proportionate” was insufficiently robust and a more explicit conclusion was required.”

366. Mr Straw asked that more work be done to clearly identify the controlling elements of the regime.

367. Mr Blair agreed that the overall strategy of the air campaign was to contribute to the collapse of the Iraqi regime or at least prevent it from using WMD.

¹²⁷ Letter Williams to McDonald, 5 February 2003, ‘Potential Operations in Iraq: Military Objectives and Campaign’.

368. Mr Blair also underlined the importance of minimising civilian casualties.

369. The assessments made by the Government before, and during, initial combat operations of the number of Iraqi civilian casualties are addressed in Section 17.

370. Mr Blair was briefed on the targeting aspects of an air campaign by Mr Hoon, Adm Boyce and Air Cdre Heath on 6 February.¹²⁸

371. Mr Blair agreed “the overall strategy of the air campaign, creating an overwhelming effect so that the regime collapsed or at least was disabled from using WMD in a conflict, leading to the overall objective of Iraqi disarmament”. He underlined the importance of “minimising the number of civilian casualties and ensuring that all targets were appropriate and proportionate” and that consideration should be given to “how best to explain publicly the scale and nature of the campaign”.

372. Mr Blair asked for a note explaining the rationale behind the targets chosen for the proposed air campaign, and an assessment of the likely accuracy of the campaign.

373. Mr Watkins provided that advice on 10 February.¹²⁹ He wrote that the plan was to mount near simultaneous attacks of air, ground and information operations:

“The air campaign has been crafted to ensure success ... without going beyond what is necessary to achieve specific military campaign objectives. It will appear to involve overwhelming force – but it is not intended to turn Iraq into a wasteland. The targets have been selected for the effect that their disabling or destruction would have on the regime rather than to inflict physical damage. The target sets therefore mostly represent only a fraction of those that could be attacked in each category ... This approach should minimise the number of civilian and potentially military casualties; ease the issues of reconstitution in the aftermath of conflict; and facilitate the earliest possible military withdrawal.”

374. Target sets for the air campaign included “all those facilities which would enable the regime to activate and deploy WMD”.

375. The land campaign would begin in the first few days but precise timings were not known. Mr Watkins wrote that “whether the UK brigades will become heavily engaged in fighting will very much depend on the effectiveness of the air campaign and initial US land operations”.

Objectives for the military campaign

376. The UK shared its draft military campaign objectives with the US in mid-February.

¹²⁸ Letter Rycroft to Watkins, 6 February 2003, ‘Iraq: Prime Minister’s Meeting, 6 February’.

¹²⁹ Letter Watkins to Rycroft, 10 February 2003, ‘Iraq: The Military Campaign’.

377. Sir David Manning described the objectives to Dr Rice as compatible with but not identical to US objectives.

378. It was recorded at the Chiefs of Staff meeting on 29 January that political and military synchronisation and timing “remained fluid”.¹³⁰ The Cabinet Office was preparing a revised paper on the UK’s objectives that “sought to align the UK and US positions that currently differed”.

379. The minutes recorded that Adm Boyce noted that the issues of timing and objectives were urgent and that the US might “leave the UK with little warning of military action”.

380. The current timelines indicated that US ground forces would not be available in the North before the third week in March, “although there was still a coercive effect to be achieved by continuing to pursue the option”.

381. CENTCOM continued planning to mitigate against a decision by President Bush to act earlier than the planning assumptions: “However, the preparedness of US ground forces was behind schedule; as a result A day [Assault Day] was moving towards G day [the day that the ground campaign would begin] rather than G to A.”

382. Mr Bowen sent Sir David Manning a copy of the latest draft of the objectives on 29 January.¹³¹ He wrote:

“It will be important before the Coalition embarks on military action to ensure that we share the same military objectives with the US, otherwise the strategic direction of the campaign risks falling apart. After your return from the US I suggest we discuss how best to do this.”¹³²

383. Mr Bowen explained to Sir David Manning that the objectives “flow from our policy objectives published on 7 January”. They had not been agreed by departments, although Ministers had seen them and were “generally content”.

384. The main tasks of the Coalition were listed as:

- remove the current Iraqi regime;
- overcome the resistance of the Iraqi security forces;
- deny the Iraqi regime the use of weapons of mass destruction;
- identify and secure the sites where weapons of mass destruction and their means of delivery are located; and
- secure essential economic infrastructure, including for utilities and transport, from sabotage and wilful destruction by Iraqis.”

¹³⁰ Minutes, 29 January 2003, Chiefs of Staff meeting.

¹³¹ Letter Bowen to Manning, 29 January 2003, ‘Iraq: Military Campaign Objectives’ attaching Paper [unattributed and undated], ‘Iraq: Military Campaign Objectives’.

¹³² Letter Bowen to Manning, 29 January 2003, ‘Iraq: Military Campaign Objectives’.

385. On 11 February, Mr Bowen sent Sir David Manning a revised draft of the UK’s military campaign objectives, incorporating comments from Mr Straw and Whitehall departments.¹³³ The draft stated:

“The UK’s overall objective for the military campaign is to create the conditions in which Iraq disarms in accordance with its obligations under UNSCRs and remains so disarmed in the long term.”

386. The Coalition’s main tasks in support of that objective were to:

- a. overcome the resistance of the Iraqi security forces;
- b. deny the Iraqi regime the use of weapons of mass destruction now and in the future;
- c. remove the Iraqi regime, given its clear and unyielding refusal to comply with the UN Security Council’s demands;
- d. identify and secure the sites where weapons of mass destruction and their means of delivery are located;
- e. secure essential economic infrastructure, including for utilities and transport, from sabotage and wilful destruction by Iraqis; and
- f. deter wider conflict both inside Iraq and the region.”

387. The UK’s wider political objectives in support of the military campaign and the immediate military priorities in the aftermath of hostilities are addressed in Section 6.5.

388. The MOD comments on the draft objectives focused on whether they provided “enough top cover to derive appropriate CDS and targeting directives to enable us to work in coalition with the US”.¹³⁴

389. On 12 February, the Chiefs of Staff noted that work on the UK objectives paper had been concluded, but not finally endorsed. The paper would be “ready for release at the start of any offensive campaign”.¹³⁵

390. Mr Hoon discussed the objectives with Secretary Rumsfeld in Washington on 12 February.¹³⁶

391. Sir David Manning sent a copy to Dr Condoleezza Rice, President Bush’s National Security Advisor, on 14 February.¹³⁷ He explained that the UK military campaign objectives were “compatible but not identical” to ‘Iraq: Goals, Objectives, Strategy’ (a US document handed to Sir David by Dr Rice on 31 January – see Section 6.5).

¹³³ Minute Bowen to Manning, 11 February 2003, ‘Iraq: Military Campaign Objectives’ attaching Paper Cabinet Office, February 2003, ‘Iraq: Military Campaign Objectives’.

¹³⁴ Letter Lee to Bowen, 4 February 2003, ‘Iraq: Military Campaign Objectives’.

¹³⁵ Minutes, 12 February 2003, Chiefs of Staff meeting.

¹³⁶ Letter Manning to Rice, 14 February 2003, ‘Iraq: Military Campaign Objectives’.

¹³⁷ Letter Manning to Rice, 14 February 2003, ‘Iraq: Military Campaign Objectives’.

392. Sir David explained that the UK and US were committed to ridding Iraq of WMD and recognised the need to remove the current Iraqi regime if military action proved necessary, but the UK document avoided references to “liberation”. No firm decision had been taken, but the likelihood was that the UK would publish its objectives if and when military action was decided.

393. After discussion with Lord Goldsmith, a final version of the military campaign objectives was placed in the House of Commons Library by Mr Hoon on 20 March.

The Phase IV plan

394. During February, UK officials became increasingly concerned about the risk that the UK might agree to take responsibility for a geographical sector of Iraq before the implications had been examined.

395. The UK would not make a commitment to administer a division-sized area in the medium to long term.

396. The first detailed estimate of the type (but not the size) of force required to deliver different tasks was in Lt Gen Reith’s draft Concept of Operations for Phase IV of 25 March. That is addressed in Section 8.

397. On 14 February, Mr Ehrman reported to Mr Peter Ricketts, FCO Political Director, that at a “[Sir David] Manning meeting” on post-conflict issues, Sir David had “expressed strong concern that junior CENTCOM planners seemed to be dreaming up an ever larger area of Iraq for the UK to administer”.¹³⁸ The Chiefs of Staff had advised Mr Blair that it would be easier for the UK to play a smaller post-conflict role if it was part of a Coalition fighting force; the opposite now seemed to be the case.

398. Sir David had said that:

“[Mr Richard] Armitage [US Deputy Secretary of State] was talking of military administration for two years. The Pentagon seemed to be more sensible, talking of six months. Did we [the UK] not need to reduce our 40,000 troops to around 5,000 by the end of six months? And who would pay for all this? Some on the US side seemed to be saying: you pay for what you administer.”

399. Mr Ehrman informed Mr Ricketts that Sir David Manning had asked the MOD:

“... to get the best information they could, at a senior level, on what size of sector was really being proposed for the UK; and FCO, with MOD, then to let No.10 have views on the issues which would be involved in its administration, and how we would seek to deal with these.”

¹³⁸ Minute Ehrman to Ricketts, 14 February 2003, ‘Iraq: Day After’.

400. On 17 February, the inter-departmental Iraq Planning Unit (IPU), based in the FCO, sent Mr Ehrman a paper on sectorisation as part of his briefing for a meeting on post-conflict issues, including sectorisation, chaired by Lt Gen Pigott.¹³⁹ The paper, not yet agreed with the MOD, recommended that the UK should make clear to the US that it was unwilling to take responsibility for a sector for more than 60 days unless its presence was authorised by the UN and there was to be an early move to a UN transitional administration. The paper is described in Section 6.5.

401. The IPU paper's broad assumption in favour of administration of a small sector for a short period was reflected in the guidance for UK officials attending the US inter-agency Rock Drill on post-conflict issues on 21-22 February.¹⁴⁰

402. On 19 February, the Chiefs of Staff discussed post-conflict planning in the context of the forthcoming Rock Drill.¹⁴¹

403. Before the meeting, MOD officials recommended that the Chiefs of Staff agree a set of assumptions about "the scale, posture and duration" of post-conflict UK military operations in order to inform IPU preparations for the Rock Drill.¹⁴²

404. Officials recommended that the Chiefs of Staff:

- "a. **Agree** the assumption that our aim should be to reduce to a medium scale post-conflict TELIC¹⁴³ commitment as soon as possible and pursue discussions with the US and potential Coalition allies (to determine our AOR and burden sharing) that will facilitate this.
- b. **Note** that without a UN mandate for occupation (not necessarily the same thing as a second UNSCR) finding Coalition partners will be more difficult and that the UK may face an enduring commitment that will be difficult to sustain and damaging to the long-term health of the Armed Forces.
- c. **Agree** that in discussions with the US, the scale and nature of UK involvement is made conditional on satisfactory UN involvement.
- d. **Agree** the assumption that the UK will administer a sector of Iraq; within the constraint imposed by the maximum level of commitment being medium scale; this would correspond to the UK's *initial* AO, *not* one of the somewhat larger sectors currently being considered in US planning.

¹³⁹ Minute Iraq Planning Unit [junior official] to Ehrman, 17 February 2003, 'Iraq: General Pigott's Meeting: Sectorisation and UN Involvement' attaching Paper [unattributed and undated], 'A UK Geographical Sector of Iraq?'

¹⁴⁰ Minute Chilcott to Private Secretary [FCO], 20 February 2003, 'Iraq: Day-After (Phase IV)' attaching Paper [unattributed and undated], 'Iraq Day After: Guidance for Officials at US ROCK Drill'.

¹⁴¹ Minutes, 19 February 2003, Chiefs of Staff meeting.

¹⁴² Minute Chorley to COSSEC, February 2003, 'Iraq Aftermath – Medium to Long Term UK Military Commitment'.

¹⁴³ Operation TELIC was the name given to the UK's military operation in Iraq.

- e. **Note** that some US thinking now sees a role for HQ ARRC as a follow-on HQ for post-conflict Iraq ...
- f. **Agree** that if the political gains are sufficient, we should entertain a role in Iraq for HQ ARRC – **but note** that a countrywide military remit for HQ ARRC (ie as HQ CJTF-I) risks the UK assuming too great a proportion of the responsibility for the stability and security of Iraq from the US ...”

405. The MOD warned that:

“Once fully deployed the level of our commitment to Op TELIC will be large scale across all three services. Unless very significant risk is to be placed on the deployed force, and UK forces more widely, the force must be reduced to medium scale by October/November this year; this implies that the reduction must begin by July/August. Factors that drive this conclusion are:

- a. A large scale commitment can only be sustained with the callout of certain trade groups of reserves, who have already been mobilised in toto.
- b. There will be severe disruption of the Formation Readiness Cycle and Operational Commitments Plot that will have deleterious effects on training and wider capability in the medium to long term.
- c. A longer deployment at large scale would imply a breach of Harmony Guidelines¹⁴⁴ for a very significant number of Service Personnel which may lead to a marked reduction in morale, retention and, eventually recruitment ...

“Once reduced to medium scale – all other things being equal – it would be possible to maintain a medium scale commitment to Iraq indefinitely ... though this would, of course, constrain our ability to take on other new tasks. Such a commitment would, however, be extremely expensive ...”

406. In “pure military terms”, assuming that there was a “rapid and successful conclusion to the conflict *and a permissive environment*”, the UK would only be able to “support” the proposed AOR in southern Iraq until August. Beyond that there would need to be “substantial Coalition support”. Without it, the UK could be left with “an unsustainable commitment”. The area currently proposed included “a very substantial proportion of the Iraqi population, a substantial oilfield content and responsibility for key religious sites”.

407. At the Chiefs of Staff meeting on 19 February, Lt Gen Reith reported that Mr Blair wanted:

“... an exemplary aftermath but [was] not committed to any particular size of UK AOR pending further advice on objectives, capability and capacity to sustain. It was ... unclear who the US anticipated placing as sector leaders given that few other

¹⁴⁴ Harmony Guidelines are explained in Section 16.1.

nations would be able to support the task within three months. Therefore, there may be an unsupportable expectation that the UK would control a relatively large area. Pragmatically, however, aftermath operations would commence locally whenever and wherever hostilities ceased, not necessarily coincident with any plan.

“The FCO view was that other nations should be involved as soon as possible and that early commitment to any nascent US sector plan should be avoided ...

“The UK line to take at the Rock Drill would be the commitment in principle to the immediate involvement in aftermath ops but not yet to any long-term plan, noting the PM’s wish to exert maximum influence in aftermath planning. Clarity was needed on the proposed command chain in Phase IV and whose political and legal authority would prevail.”¹⁴⁵

408. The Chiefs of Staff agreed that humanitarian operations formed an essential part of the overall campaign, not least as a force protection measure, and should therefore attract Treasury contingency funding. Adm Boyce directed that humanitarian assistance be covered in the joint FCO/MOD position paper on post-conflict issues for the Rock Drill, which should make clear the potential for conflict and post-conflict phases to run in parallel from an early stage.

409. Adm Boyce summarised the key points of the discussion on post-conflict preparations, including:

- The Rock Drill should be used “to secure maximum [UK] influence without early commitment to detail”.
- A “UN-approved international civilian administrator” would be required.
- UK Phase IV activity should centre on the region around Basra.
- The UK military commitment should be “scaled down from large to medium in the autumn”.¹⁴⁶

410. Lord Boyce told the Inquiry:

“... the initial expectation was that we would be there for a while, without defining exactly what it was. But we certainly weren’t expecting, the day after achieving success, to start drawing down our numbers; we were expecting to be there for a considerable period of time.”¹⁴⁷

¹⁴⁵ Minutes, 19 February 2003, Chiefs of Staff meeting.

¹⁴⁶ This is the only reference to reducing troop numbers “in the autumn” seen by the Inquiry. All subsequent references are to a reduction “by the autumn”.

¹⁴⁷ Public hearing, 3 December 2009, page 101.

411. Lord Boyce explained: “I thought we would be there for three or four years at least, and said so at the time.” He added:

“The theoretical planning against the Defence Planning Assumptions is you don’t do this sort of operation for an extended period longer than about six months. But it never seemed to me very likely that we would be out [of] there in six months.”

412. Asked about the assumption that the UK contingent would reduce to “Brigade level” or “medium scale”, Lord Boyce replied:

“For the job that we would have to do in the Basra area, it might have been that a Brigade size might have been sufficient, as conditions pertained in the middle of 2003.”¹⁴⁸

413. On 20 February, Mr Dominick Chilcott, Head of the IPU, sent Mr Straw an IPU guidance note for officials taking part in the Rock Drill.¹⁴⁹

414. Mr Chilcott’s covering minute to Mr Straw stated:

“There is barely any mention of the UN in the CENTCOM plans we have seen for Phase IV (post-conflict) to date. But there are gaps in the plan, which is still fluid and which we have the opportunity to influence. We shall encourage the US players at the Rock Drill to draw the conclusion that the job of administering Iraq is too large even for the US to undertake, that putting together a large Coalition – drawing on Arab countries – is the key to success, and that this can only be achieved by getting UN authorisation for Phase IV.”

415. The attached guidance note stated that the UK and US agreed that “there must be a phased approach to the ‘day after’”. For the UK, that meant “(a) military administration, (b) a UN transitional administration and (c) handover of power to a new Iraqi government”. The US referred to “stabilisation”, “recovery” and “transition to security”.

416. On sectorisation, the guidance stated:

- “• UK will have, in the very short term, to administer the area where its forces are at the end of hostilities. No commitment to administer divisional size area in the medium to longer term. More likely a small area around Basra.
- No commitment to administering any part of Baghdad.
- Where we are involved in administration, will want to be so in an exemplary fashion.”

417. The guidance stated that the UK force would reduce from large scale (three brigades plus) to medium scale (one brigade plus), “if possible by the autumn”.

¹⁴⁸ Public hearing, 3 December 2009, page 102.

¹⁴⁹ Minute Chilcott to Private Secretary [FCO], 20 February 2003, ‘Iraq: Day-After (Phase IV)’ attaching Paper [unattributed and undated], ‘Iraq Day After: Guidance for Officials at US ROCK Drill’.

418. Mr Stephen Pollard, Head of MOD Overseas Secretariat (Sec(O)), showed the IPU paper to Mr Hoon the same day.¹⁵⁰ He explained that a more detailed cross-government paper, setting out potential UK involvement in Iraq in the short, medium and long term, would be prepared after the Rock Drill.

419. The first paper matching that description was the ‘UK Vision for Phase IV’ sent to No.10 on 26 February, described in Section 6.5. Section 6.5 also describes how sectorisation remained unresolved after the Rock Drill and how the UK was unclear about how large its AOR was likely to be during the stabilisation phase.

Iraq’s response to an invasion

420. A JIC Assessment on 10 February warned of the possibility of terrorist attacks against Coalition Forces in Iraq, during and after conflict.

421. On 10 February, at the request of the MOD and the FCO, the JIC produced its second Assessment on the potential terrorist threat in the event of conflict in Iraq.¹⁵¹

422. The earlier Assessment, produced on 10 October 2002, is described in Section 3.5.

423. The Assessment’s Key Judgements included:

- “Al Qaida associated terrorists in Iraq and in the Kurdish Autonomous Zone in Northern Iraq could conduct attacks against Coalition Forces and interests during, or in the aftermath of, war with Iraq.”
- “In the event of imminent regime collapse, Iraqi chemical and biological material could be transferred to terrorists including Al Qaida ...”

424. The Assessment is considered in more detail in Section 3.7.

425. The JIC judged on 19 February that Iraqi conventional forces in southern Iraq could rapidly be defeated and that southern Iraq was “the most likely area for the first use of CBW against both Coalition Forces and the local population”.

426. On 19 February, at the request of OD Sec, the JIC issued an Assessment, ‘Southern Iraq: What is in Store?’, of the situation in southern Iraq and what might happen before, during and after any Coalition military action.¹⁵²

427. In the discussion of the draft Assessment, the points made by the members of the JIC included:

- It was an “important paper for informing planning following a Coalition attack”.
- Saddam Hussein “might target oilfields but whether he would try fundamentally to destroy the wells was not known”. It would be “useful to have more

¹⁵⁰ Minute Pollard to PS/Secretary of State [MOD], 20 February 2003, ‘Iraq: Day After’.

¹⁵¹ JIC Assessment, 10 February 2003, ‘International Terrorism: War with Iraq’.

¹⁵² JIC Assessment, 19 February 2003, ‘Southern Iraq: What’s in Store?’.

information on Saddam's options given the efforts which would be needed for reconstruction of the oilfields".¹⁵³

- Saddam was "likely to use CBW first in southern Iraq, if anywhere". The implications needed further discussion in the final Assessment "to bring out the scale of the potential humanitarian crisis", which would, in the initial period, need to be dealt with by Coalition troops.

428. The JIC's Key Judgements were:

- The Iraqi forces currently guarding southern Iraq are a relatively weak first line of conventional defence. They face rapid defeat. There is little evidence so far that the Iraqis are preparing for a hard-fought defence of Basra and other urban centres.
- Southern Iraq is the most likely area for the first use of CBW against both Coalition Forces and the local population.
- Coalition Forces will face large refugee flows, possibly compounded by contamination and panic caused by CBW use. They may also face millions of Iraqis needing food and clean water without an effective UN presence and environmental disaster from burning oil wells.
- Iran does not have an agreed policy on Iraq beyond active neutrality. Nevertheless Iran may support small-scale cross-border interventions by armed groups to attack the Mujahideen e-Khalq (MEK). The Islamic Revolutionary Guards Corps (IRGC) will continue to meddle in southern Iraq. Iranian reactions to a Coalition presence in Southern Iraq remain unclear but are unlikely to be aggressive.
- Post-Saddam the security situation in the south will be unpredictable. There is a high risk of revenge killings of former regime officials. Law and order may be further undermined by settling of scores between armed tribal groups.
- Popular support for any post-Saddam administration in the South will depend on adequately involving the Shia in the government of Iraq as a whole as well as engaging the remains of the state bureaucracy in the South, local tribal leaders and Shia clerics in local government."

429. The Assessment stated that there was "limited intelligence on the particular conditions of southern Iraq". It had, therefore, "Where possible tried to show how southern Iraq may differ from other parts of the country" and "to give as full a picture as possible of the conditions there". It had also "referred to intelligence describing conditions prevailing throughout the country".

¹⁵³ Minutes, 19 February 2003, JIC meeting.

430. The JIC stated that:

“Unlike central and northern Iraq the regular army is not reinforced in the South by divisions of the elite Republican Guard, which are forbidden by UNSCR 949 [1994] from moving into the No-Drive Zone south of the 32nd parallel.”

431. The JIC stated that the regime was “particularly concerned about the lack of loyalty of the Shia” who constituted the “majority of conscripts in the regular army”. The absence of the Republican Guard coupled with low morale, poor equipment and limited training of the Regular Army led the JIC to conclude that the forces guarding southern Iraq were “**a relatively weak first line of conventional defence. They face rapid defeat in the face of a massive military onslaught.**”

432. There were indications that a division of the Regular Army had redeployed “southwards” to al-Qurnah, “a key town located at a strategic road junction”, and that elements of another had deployed to the al-Faw Peninsula “in mid-January, apparently to counter a possible amphibious landing there”. The JIC knew “little about Iraqi plans for the defence of Basra, but there is as yet no sign of preparations for a hard-fought defence of this or other urban centres in southern Iraq”. There was no mention in the Key Judgements that the al-Faw Peninsula had been reinforced.

433. The Assessment stated that reporting indicated that Saddam Hussein’s regime had “contingency plans for a regional military command structure”, and that he had:

“... appointed his cousin Ali Hassan al-Majid [Chemical Ali] as regional commander of the southern sector ... (covering the provinces of Basra, Dhi Qar, Maysan and Muthanna) with authority over all forces in the area. Iraq practice in the Iran/Iraq war suggests this would include tactical control over CBW. Ali is a loyal member of Saddam’s inner circle. He was a brutal Governor of occupied Kuwait in 1990-91. He also played a leading role in suppressing the Shia uprising in 1991 and Kurdish rebels in the late 1980s (using chemical weapons against the Kurds). His appointment may reflect an Iraqi leadership view that a particularly loyal and ruthless figure is needed to take command in the South in a crisis, both to suppress the Shia and to maintain discipline among the Iraqi forces.”

434. The JIC Assessment stated:

“The relative weakness of Iraqi forces in the South and the fact that those forces will face the brunt of a Coalition attack mean **southern Iraq is the most likely area for the first use of CBW against both Coalition Forces and the local population.**”

435. The Assessment added that one report from August 2002 had indicated that there were:

“... Iraqi plans to use CBW in southern Iraq to cause mass casualties among the Shia in the event of a US-led attack. The regime would seek to pin the blame for the resulting high-level of casualties on the Coalition.”

436. In its Assessment of 19 February 2003, the JIC stated that: “Reporting has previously indicated that the regime is concerned about a Shia uprising in the South after the outbreak of hostilities.” Recent reporting had confirmed its judgements that the Shia would be:

“... cautious in opposing Saddam until they see the regime is finished and its capability to retaliate is substantially weakened. The experience of 1991 will be a major influence ... Even if the initial severity of any Coalition attack makes clear that the regime is finished, the Shia may still fear what the regime could do to them in its dying days ... Overall we judge **there will be no immediate, unified Shia response to a Coalition attack.**”

437. The Assessment stated that:

“Given the Shia in southern Iraq have borne the brunt of regime oppression since 1991, there is a high probability of revenge killing of Ba’ath officials, both Sunni and Shia. This could be particularly widespread and bloody, if the regime collapses quickly and few Ba’ath officials have the chance to escape ... the extent of any further breakdown of law and order is difficult to predict. But there will be large numbers of armed groups and some potential for tribal score settling ... Overall there is a risk of a wider breakdown as the regime’s authority crumbles. There are no indications ... of Shia preparations for an all-out civil war against Sunni Iraqis.”

438. The JIC also assessed:

“We know very little about the Iraqi Shia. [...] they are not politically organised above the local, tribal level and there are no clear candidates for overall Shia leadership. They are very diverse, straddling the urban/rural and secular/Islamist divides. They have had little opportunity to discuss their preferred political arrangements. Shia politics post-Saddam therefore look highly unpredictable.”

439. In relation to Iraq’s response, the Assessment stated that there was:

“... no conclusive intelligence on Iraqi plans but they could:

- defend oil wells against attack;
- set fire to them to stop production, cause pollution and disrupt Coalition Forces; and
- cause long-term, possibly irreparable, damage to prevent others from benefitting from future production.

“The potential environmental disaster, coupled with the possible use of CBW ... could cause widespread panic and contamination. This could result in hundreds of thousands of displaced persons and refugees, many needing immediate help.

“... [I]nterruption of food supplies ... could boost the number of refugees and displaced persons throughout Iraq ... Tackling such problems in southern Iraq will

be complicated by possible CBW contamination ... The UN will be particularly badly placed if a humanitarian disaster occurs in the South while fighting continues in close proximity.”

440. The points in the Assessment on the post-Saddam Hussein political and security landscape are set out in Section 6.5.

441. The Assessment also warned that: “The establishment of popular support for any post-Saddam administration cannot be taken for granted.” The factors that could undermine it included:

- “damage to holy sites”;
- “major civilian casualties”;
- “heavy-handed peace enforcement”; and
- “failure to rapidly restore law and order”.

442. In an Assessment issued on 26 February of how Iraq would respond in northern Iraq to a Coalition attack, the JIC judged:

“The Iraqi regime would be willing to use CBW against the Coalition and the Kurds.”¹⁵⁴

443. The Assessment made clear that that judgement was a continuation from earlier Assessments.

444. The International Institute for Strategic Studies (IISS) published an Adelphi Paper,¹⁵⁵ *Iraq at the Crossroads: State and Society in the Shadow of Regime Change*, in January 2003.¹⁵⁶ It included a number of contributions addressing what might happen in the event of a military invasion of Iraq which had originally been prepared for a one-day workshop, ‘Iraqi Futures’, held in October 2002.

445. Key points which were raised in relation to a military invasion of Iraq are set out in the Box below.

¹⁵⁴ JIC Assessment, 26 February 2003, ‘Iraq: Prospects in the North’.

¹⁵⁵ The IISS website describes the Adelphi series as “the principal contribution of the IISS to policy-relevant original research on strategic studies and international political concerns”.

¹⁵⁶ Dodge T & Simon S (eds). *Iraq at the Crossroads: State and Society in the Shadow of Regime Change*. IISS Adelphi Paper 354. Oxford University Press, January 2003.

Iraq at the Crossroads: State and Society in the Shadow of Regime Change

Mr David Ochmanek, a senior analyst at RAND and a former member of the US Air Force and a Deputy Assistant Secretary of Defense for Strategy in the Pentagon from 1993 to 1995, concluded that a robust invasion force would be needed because Saddam Hussein's troops were "unlikely to crack unless faced with an overwhelming adversary".¹⁵⁷

Dr Toby Dodge, a Research Fellow at the ESRC Centre for the Study of Globalisation and Regionalisation, University of Warwick, wrote that the Iraqi regime had sacrificed the military efficiency of the Iraqi armed forces to ensure they did not pose a threat to Saddam Hussein's continued rule. That meant that although conventional military opposition to an invasion might be short lived, a coup launched against the regime from within the security services would happen, if at all, in the final moments of any war. The military campaign would be fought in the cities of Iraq, primarily Baghdad, against a background of intense media coverage.

Dr Faleh A. Jaber, an Iraqi sociologist based in London, argued that the Iraqi Army might react in ways comparable to 1991 with sections opting for mutiny, some surrendering and others fighting to defend the Government. A coup was unlikely unless the US succeeded in attracting a considerable segment of the "ruling tribal alliance" to its side.

In a separate essay, Dr Jaber concluded that, in the light of the inherent weakness of organised political parties in the South, the response to an invasion could range from sustained, organised or disorganised rebellions to mob-like violence or gangster-like retribution. That would help bring Ba'athist rule to an end, but could also bring forward unfettered chaos.

Several contributors to the Adelphi Paper warned of the potential for violent disorder in post-conflict Iraq (see Section 6.5).

446. Mr Blair read the Adelphi Paper in mid-February and asked a number of questions, including:

- What is our military's assessment of the likely consequences of an attack on Iraq; ie how many casualties; how quickly the collapse?
- Why do we not think the SRG [Special Republican Guard] will dig in, inside Baghdad and fight a guerrilla campaign?
- What is the prospect of a pre-emptive BW or CW attack on our troops in Kuwait, and are we certain we are adequately prepared and our troops protected?
- Why will the 2,000 key individuals and the 26,000 SRG personnel ... not fight to the death, given the hatred of them by ordinary Iraqis?"¹⁵⁸

¹⁵⁷ Dodge T & Simon S (eds). *Iraq at the Crossroads: State and Society in the Shadow of Regime Change*. IISS Adelphi Paper 354. Oxford University Press, January 2003.

¹⁵⁸ Letter Rycroft to McDonald, 20 February 2003, 'Iraq: Political and Military Questions'.

447. Mr Blair's questions about post-conflict issues, including how to prevent the Shia "rising up to take over from the Sunnis", are addressed in Section 6.5.

448. In its response on 24 February, the MOD advised that the US plan was to achieve "overwhelming effect very early in the campaign" and to dislocate the regime (by decapitating command and control and disrupting communications), supported by the deployment of ground forces into Iraq and their move "towards Baghdad".¹⁵⁹ The MOD stated that, apart from the practical consequences of those elements of the plan, they should "remove any doubt in Iraqi minds about the Coalition's determination to remove the regime". It was "therefore possible that the regime will collapse ... in the first few days. Nonetheless it is impossible to predict ... and US planning assumes up to 125 days of decisive ground operations".

449. The SRG would be "the final line of defence in inner Baghdad ... [and] may have tactical control of CBW within the city". Security elements close to the regime might "fight until their position becomes untenable". Lack of training and the attitude of the population might "mitigate the SRG's ability to mount a protracted guerrilla campaign". There were fewer SRG personnel in Baghdad than the Adelphi Paper estimated; and "their capability to mount any form of organised resistance ... is minimal".

450. Iraq retained "the capability (through a variety of means) pre-emptively to deliver CBW against Coalition Forces in Kuwait. The question is one of intent." There was "no intelligence" to indicate that the regime was "currently planning a pre-emptive strike". In the MOD view, that was "highly unlikely whilst Saddam believes war can be averted". If he was convinced that war was "inevitable and imminent", that "might make a pre-emptive move more attractive" but it was "more likely that Saddam would deploy CBW after the onset of the campaign". The planned levels of Nuclear Biological Chemical (NBC) defence equipment "should enable all troops to withstand initial BW or CW attack" (see Section 6.3).

451. On the potential number of casualties, the MOD stated:

"This question is easier to ask than to answer. Casualty estimation is an imprecise and contextual process, requiring a significant number of assumptions to be made for it to take place at all. Whilst the range of outcomes of a specific engagement in which both sides choose to fight may be predicted with reasonable confidence, forecasting which engagements will take place, in what sequence and under what conditions is much less certain."

452. The MOD explained that it was harder still to take account of low-probability, high-impact events, such as a successful chemical or biological attack. In the worst foreseeable case, a surprise chemical attack could result in up to 100 individuals being killed and over 200 needing medical treatment.

¹⁵⁹ Letter Watkins to Rycroft, 24 February 2003, 'Iraq: Political and Military Questions'.

453. Estimates of potential UK casualties from a ground campaign, excluding Special Forces casualties and casualties incurred through fighting in urban areas, were between 30 and 60 individuals killed and between 120 and 200 individuals wounded.

454. The total Iraqi land battle casualties were assessed as “in the order of 500-1,200 killed and 2,000-4,800 wounded”. Detailed assessments of likely casualties from the air campaign, including civilian casualties, could only be made on a “target-by-target” basis and this work was “in hand”. The MOD stated:

“Iraqi civilian casualties from anything other than the air campaign are likely to be relatively few, unless Coalition Forces become engaged in fighting in urban areas.”

455. The MOD estimates were based on assumptions that:

- Iraqi forces would not suffer a rapid, total collapse at the start of the campaign;
- the campaign would last 30 days; and
- the US and UK operational plans did not change in any significant way.

The Red Team

On 15 January, Mr Hoon had asked for work on predicting Saddam Hussein’s possible responses to military action to be taken forward in the context of a comprehensive “red teaming” of the military plan to identify all conceivable risks to its success.

The “Red Team” was established within the Defence Intelligence Staff (DIS) and was led by Major General Andrew Ridgway, the Chief of Defence Intelligence (designate).¹⁶⁰ Its purpose was:

“... to provide COS [Chiefs of Staff] and key planners within the MOD and Whitehall with an independent view of current intelligence assumptions and key judgements, to challenge if appropriate and to identify areas where more work may be required.”

Papers were copied to the Chiefs of Staff, PJHQ, the MOD, the FCO, the IPU and the JIC. There is no evidence that they were seen in No.10.

The first Red Team report was issued on 28 February.¹⁶¹ Its key judgements drew heavily on earlier JIC Assessments and included:

- the need for Coalition Forces to assume immediate responsibility for law and order to avoid other forces stepping into an internal security vacuum;
- that most Iraqis would initially view the Coalition as a liberating force, but support was likely to erode rapidly if the interim administration was not acceptable to the population and it could not see a road map towards a pluralist, representative Iraqi-led administration; and

¹⁶⁰ Minute MOD [junior official] to APS2/SofS [MOD], 25 February 2003, ‘Iraq: Red Teaming in the DIS’.

¹⁶¹ Minute PS/CDI to APS2/SofS [MOD], 28 February 2003, ‘Iraq Red Team – Regional Responses to Conflict in Iraq and the Aftermath’ attaching Paper, DIS Red Team, ‘Regional Responses to Conflict in Iraq and the Aftermath’.

- the risk of creating fertile ground for Al Qaida, which could deliberately cause civilian casualties to undermine the establishment of a representative Iraqi-led administration.

The report stated that Al Qaida:

“... seeks removal of Western presence/influence from the Gulf and wants to see the US/UK operation go badly. AQ are currently in some disarray but will wish to take the opportunity presented by the US/UK operation to re-establish credibility and encourage widespread anti-Western activity in the region. However:

- Initially AQ shared a common goal with the Coalition: regime change. Once completed, goals will diverge rapidly and UK/US forces will present a rich target for terrorist attack.
- AQ feared the establishment of a pluralist, representative Iraqi government as it undermines their argument that Muslims can only achieve self-determination in a unitary Islamic theocracy. They could deliberately cause civilian casualties to undermine the Coalition’s position.”

Debate on the UK role in combat operations

456. By 21 February, HQ 1 (UK) Div and 3 Commando Brigade were fully deployed and at full operating capability and 16 Air Assault Brigade was expected to be deployed within days.

457. Discussions had begun with the US about a more substantial role for 7th Armoured Brigade, which was expected to be fully deployed in Kuwait by 10 March.

458. The MOD provided No.10 with an update on military preparations on 21 February.¹⁶² It stated:

- The National Contingent HQ was fully deployed in Qatar and at full operating capability.
- The Maritime Contingent Commander and his staff were deployed in Bahrain. All ships were at sea, mostly in the Gulf.
- HQ 1 (UK) Div was fully deployed in Kuwait and was at full operating capability. Its support elements would not reach full operating capability until ships transporting elements of equipment arrived in theatre in early March.
- The deployment of 3 Commando Brigade was complete, with all units at full operating capability.
- The deployment of 16 Air Assault Brigade to Kuwait was due to be completed “within the next couple of days”.

¹⁶² Minute Williams to Manning, 21 February 2003, ‘Iraq: Update’ attaching Paper [undated], ‘Iraq: Defence Update 21 Feb 03’.

- The “main body” of 7 Armoured Brigade personnel was expected to arrive in Kuwait between 25 February and 10 March. An initial capability of two armoured battlegroups would be complete in theatre by 3 March, with the “vast majority” of their equipment in place by 9 March. They would have full operating capability by 20 March.
- Deployment of aircraft had “only just begun”.

459. The MOD wrote that “the precise timing of the commencement of the land campaign” had not been finalised. Land operations were expected to begin in “the first few days” of the campaign.

460. While the overall US plan remained as briefed to Mr Blair, its details might “yet develop in important ways”. Much of that revolved around timings; if the current uncertainty over the deployment of US land forces through Turkey was not resolved, it could “require changes to the plan in the South to compensate for lack of ‘Northern effects’”.

461. The latest “in a succession of US deadlines for Turkish agreement” on land forces was 22 February, “after which (they say) they would send their 4th Infantry Division south”.

462. The US was “looking at a number of variations on the current plan”. If implemented, those might give UK forces “(particularly 7 Armoured Brigade) a more substantial role than under the current plan”. The MOD stated:

“No commitment to any changed plan will be given to the US, even in principle, without Ministerial approval.”

463. The MOD wrote that Saddam Hussein remained focused on averting a US attack and it was only once he had determined that was “unavoidable and imminent” that he would consider pre-emptive options. Saddam Hussein currently had the capability to pre-emptively:

- Militarily re-occupy the Kurdish Autonomous Zone within 72 hours. A humanitarian crisis would result.
- Mount a limited CBW strike on Coalition Forces/civil populace of Kuwait. In the very worst case this could be effected within hours of a decision to do so.
- Mount a limited CBW strike on regional neighbours (most likely Israel). Again in the very worst case this could happen within hours of a decision.”

464. The MOD’s ability to provide “unambiguous intelligence” warning of those events would be minimal.

465. The MOD was content that the current draft of campaign objectives offered “a coherent basis for UK participation” but recognised that a legal basis for the use of force was needed before the objectives could come into effect. It also required

Lord Goldsmith's endorsement of the MOD's assessment that the US military plan represented minimum use of force, and a handling plan for announcing the objectives.

466. Gen Franks told Mr Blair that he expected the conflict to be over in weeks rather than months.

467. Mr Blair stated that there was a need for a strategy that destroyed the regime but minimised civilian casualties.

468. Mr Blair met Gen Franks on 25 February.¹⁶³ Mr William Farish, US Ambassador to the UK, Mr Powell, Sir David Manning and Adm Boyce were also present.

469. Gen Franks told Mr Blair that threats came, in ascending order, from:

“... the Iraqi Army, which would offer little resistance; the Republican Guard, located between 25 and 100 km from Baghdad; and the Special Republican Guard (SRG) stationed in downtown Baghdad to defend the regime itself. In Baghdad, there were the highest risks of collateral damage and civilian casualties, including those caused by the use of human shields.”

470. Gen Franks told Mr Blair that any campaign against Iraq would be “over in weeks rather than months” and that “the force available was equal to the task”. Resources were “robust and capable in the west and south, and in the air, and information management was getting better”. The northern front was problematic “because of the Turks”.

471. Mr Blair asked if Gen Franks had “any idea” of the scale of likely civilian casualties and “underlined our preference for a short conflict”.

472. Gen Franks replied that:

“... during the 43 days of the Gulf War, 3,300 targets had been attacked. Plans for this campaign envisaged attacking 1,500 targets in the first 96 hours. Some 11 percent of weapons did not hit their precise target. So we must expect some civilian casualties. But the intensity of the initial attack was key to reducing the duration of the conflict.”

473. Gen Franks said that dual-use facilities, where civilians worked alongside military personnel, “were a real problem”; they raised the risk of civilian casualties and the destruction of infrastructure that could delay reconstruction.

474. Adm Boyce stated that civilian casualties were likely to be in the “low hundreds”. Gen Franks stated that ways to minimise civilian casualties were being explored.

475. Mr Blair concluded that “we must set out our strategy: to destroy the regime but minimise civilian casualties”.

¹⁶³ Letter Cannon to Owen, 25 February 2003, ‘Iraq: Prime Minister's Meeting with General Franks’.

476. There was also a discussion about the role of the UN in a post-Saddam Hussein administration (see Section 6.5.)

477. When Mr Hoon met Gen Franks, he stated that the UK was keen for a serious and substantial role for UK forces.

478. Gen Franks told Mr Hoon that it was “not yet necessary to clarify the final plan”. He “understood the strategic requirement for a UK profile”.

479. The same day, Gen Franks had attended a working breakfast hosted by Adm Boyce and briefed the Chiefs of Staff.¹⁶⁴ Sir David Manning, Sir Richard Dearlove and Mr Watkins were also present.

480. Mr Watkins sent a record of the meeting to Mr Hoon (who was due to meet Gen Franks in Qatar on 26 February), stating that Gen Franks had said the US would “make the call on Turkey tomorrow” and that while the ability to deploy “heavy armour” from the North would have been helpful, it was not critical.

481. Mr Watkins advised Mr Hoon to press Gen Franks on the precise utilisation of UK forces in Phase III (the conflict phase of operations): “Politically and constitutionally, Ministers need to know this and in good time.”

482. Mr Hoon and Air Marshal Brian Burridge, UK National Contingent Commander (NCC), met Gen Franks in Qatar on 26 February.¹⁶⁵

483. The record of the meeting reported that there was a chance to get a northern option in place through the Parliamentary process in Turkey, but sadly the Parliamentary debate had been suspended.

484. Gen Franks had said there were now 195,000 US troops in the region and, when that figure rose to 250,000 in mid-March, he would be ready to support any “policy decision”.

485. Gen Franks believed that it would “be possible to reach an agreement” on targeting. He recognised the difficulties associated with dual-use targets but there could be “serious military consequences” if they shied away from some of the communication facilities. Mr Hoon explained he would have “no problem clearing the targets where there was a definite military advantage”.

486. Mr Hoon had noted the “proportionally very significant investment which the UK had made to the force build up” and “was keen for a serious and substantial role for British forces”.

¹⁶⁴ Minute Watkins to Secretary of State [MOD], 25 February 2003, ‘Meeting with General Franks: 26 February’.

¹⁶⁵ Minute Williams to DG Op Pol, 27 February 2003, ‘Secretary of State’s Call on General Franks (CENTCOM) – 26 February 2003’.

487. Gen Franks had said that “the British forces with whom he had talked had made this clear to him”. There were a variety of roles which could be assigned to units under his command and “it was not yet necessary to clarify the final plan”. He would be in a better position to do so in seven to 10 days (5 to 8 March).

488. Mr Hoon asked whether the UK role would only be determined after offensive action had started. Gen Franks said that was not the case but he had to have early flexible options in case there was a requirement to move before the armour was ready. He “understood the strategic requirement for a UK profile in any operation”.

489. On 28 February, Mr Hoon’s Private Office sent Sir David Manning an update on military planning.¹⁶⁶ With respect to post-conflict operations, it warned that the UK was “currently at risk of taking on a very substantial commitment” that it would have “great difficulty in sustaining beyond the immediate conclusion of conflict”. That is addressed in detail in Section 6.5.

490. On 4 March, Lt Gen Reith advocated an expanded combat role for UK forces to the Chiefs of Staff.

491. On 4 March, Lt Gen Reith sent the Chiefs of Staff two papers setting out proposals for employing UK land forces on combat missions with or without “a dedicated ‘UK box’” based on “the agreed 1(UK) Div AO”.¹⁶⁷

492. Lt Gen Reith explained that a “UK box” would “allow UK forces to move first in a ground offensive and thereby set the conditions for the ‘exemplary performance’ in Phase IV”, but US resistance to the creation of a UK box would “probably only be overcome by high level intervention”.

493. Lt Gen Reith asked the Chiefs of Staff whether, in those circumstances, he should “explore integration of UK niche elements into US planning on a task, time and space limited basis”, or whether “the ‘exemplary performance’ for Phase IV should override opportunities to make a significant contribution to Coalition Phase III operations”.

494. In the first of the two papers, Lt Gen Reith set out:

- 1 (UK) Div’s mission was likely to be “to attack to defeat enemy forces within boundaries, secure key oil infrastructure and seize Umm Qasr port to prevent or mitigate environmental disaster and enable humanitarian operations”. Subsequently the UK division would relieve US forces to support their rapid movement north.

¹⁶⁶ Letter Williams to Manning, 28 February 2003, ‘Iraq: Military Planning and Preparation’ attaching Paper [unattributed], 28 February 2003, ‘Iraq: Military Planning Update – 28 February 2003’.

¹⁶⁷ Minute Reith to COSSEC, 4 March 2003, ‘Op Telic Employment of UK forces’ attaching Paper CJO, 3 March 2003, ‘Op TELIC Land Options for 1(UK) Armoured Division – Update’ and Paper CJO, 4 March 2003, ‘Op TELIC Land Options for 1(UK) Armoured Division – Alternative Options’.

- 3 Commando Brigade would seize the oil infrastructure on the al-Faw Peninsula, Umm Qasr port, and set the conditions for Coalition mine countermeasures operations and the clearance of the Khawr Abd Allah waterway.
- 16 Air Assault Brigade and 7 Armoured Brigade would relieve US forces: 16 Air Assault Brigade would assume responsibility for the security of the Rumaylah oilfields and 7 Armoured Brigade would be responsible for the isolation of Basra, securing az-Zubayr, and the protection of oil infrastructure within its boundaries.
- Security of Basra International Airport and Basra itself were described as “be prepared to” tasks.

495. Lt Gen Reith commented:

“Critically, this plan only really sees 3 Cdo Bde being committed to combat operations with the net effect ... that the balance of the UK land element may be largely involved in Phase IV operations unless there is some form of egress from Basra or movement to the south or west by 6 Armd Div [Iraqi forces].”

496. Lt Gen Reith summarised that the plan:

“... probably doesn’t appropriately reflect the level of our commitment of ground forces. Moreover, the whole issue of teeing soldiers up for combat operations must, potentially, be difficult on the basis of the tasks currently on offer for 7 and 16 Bdes. In other words, whilst the task is eminently manageable, it probably represents, for the Army, a poor return, militarily, on the forces committed.”

497. Lt Gen Reith addressed the advantages and disadvantages of “UK ownership of its full AO from the start”. Under the existing Base Plan, the UK AO would expand into space vacated by US forces as they moved north and UK forces would not be able to shape their own Phase IV AOR. Lt Gen Reith explained that one of the contingency plans already worked up by the Land Component Command (LCC) assumed full UK ownership of its AO from the start. It would see all three UK brigades “potentially being committed to combat operations and being responsible for defeating all enemy forces ... This plan also allows UK forces to shape the AO in Phase III for Phase IV by employing an appropriate balance of kinetic and non-kinetic effect.”

498. Lt Gen Reith concluded: “There can be no doubt at all that this represents a far better option for UK forces than the Base Plan”.

499. In the second paper, Lt Gen Reith explained that his forthcoming meetings with Lt Gen McKiernan and others would “almost certainly be the last chance that the operational commanders will have to discuss the plan face to face before ground operations commence”. US commanders were likely to press him on UK land contributions beyond the provisions in the Base Plan.

500. Lt Gen Reith put forward two options:

- “National focus with limited operational exposure.” The Base Plan, involving “operations within the AO as presently defined, concentrating on making the early transition from Phase III to Phase IV, with an end state defined as ‘exemplary performance’ in Phase IV within Basra region”. One advantage of the Base Plan was that it preserved UK combat power “for the major Phase IV task in the AO (Basra, for example is a city of 1.5m people and may not be a benign environment)”.
- “Coalition focus with unconstrained operational exposure.” This approach reflected a number of contingency plans (CONPLANS) in different stages of development and involved “selective deployment of UK formations where their capabilities are most efficiently used, consistent with the requirement to service the Basra AO”. Among the disadvantages of this approach was a reduction in the number of troops available for Phase IV operations in the UK AO, which “may impact on our ability to produce exemplary early effect during Phase IV”.

501. Lt Gen Reith concluded:

“US commanders are likely to press on branch planning and UK land contributions beyond the provisions of the Base Plan.

“The situation is changing: the potential for a UK Box remains my aspiration but is in practical terms receding ...

“In discussing the campaign, and subject to their [the Chiefs of Staff] agreement, CJO [Chief of Joint Operations, Lt Gen Reith] will balance the desire to husband our land forces for Phase IV in our own AO, against the possible Coalition requirement to take a greater part of the Phase III effort, with the risks this implies in terms of the ease with which we transition to Phase IV.”

502. The Chiefs of Staff discussed the papers on 5 March.¹⁶⁸ They rejected the proposal for a UK box.

503. In Lt Gen Reith’s absence, Maj Gen Fry sought guidance from the Chiefs of Staff on offering “UK ‘niche’ contributions beyond the provisions of the Base Plan” in the context of the requirement to deliver an exemplary Phase IV.

504. The Chiefs of Staff noted that until the arrival of US 4th Infantry Division, the UK would be providing “a disproportionately high percentage of the combat power in the South and that it would disadvantage the Coalition campaign to ring-fence UK land forces in a national boundary”. A more flexible approach would be needed and a “balance had to be struck between achieving closure to Phase III and the delivery of an ‘exemplar’ Phase IV”.

¹⁶⁸ Minutes, 5 March 2003, Chiefs of Staff meeting.

505. Adm Boyce directed Lt Gen Reith to “push for a ‘niche’ role for the UK ... and make it clear that the UK was ready to be asked to contribute further in order to exploit any operational opportunities that arose during the campaign”, subject to US logistics support and assurances that UK forces would be “relieved-in-place” as soon as possible for Phase IV activities in the South.

506. Discussing a draft of a Ministerial note on Phase IV operations, the Chiefs of Staff noted that delivering an exemplary Phase IV required “the concomitant resources and OGD [Other Government Departments] commitment”. Adm Boyce stressed that Phase IV could not be delivered by military activity alone.

507. Adm Boyce directed that the Ministerial note should include indicative numbers to give a better understanding of what was being provided in terms of medium scale and large scale commitment. The minutes recorded:

“It was also important to emphasise that MOD commitments should be guided by DPAs [Defence Planning Assumptions], which provided for large scale up to 6 months. Medium scale was to be considered a divisional HQ plus a bde [brigade] of troops. Undertaking such an operation for longer would break harmony guidelines and was likely to lead to the Department’s failure to meet its PSA [Public Service Agreement] targets.”

508. The MOD advised Mr Blair on 6 March that the UK might play additional “cutting edge” roles in combat operations.

509. On 6 March, Mr Watkins informed Sir David Manning that the MOD’s assumption that UK land forces would “hold ground behind the advancing US formations” had been “overtaken by events”.¹⁶⁹ The “continuing impasse over Turkey” could result in the UK playing “additional ‘cutting edge’ roles”.

510. Both 3 Commando Brigade and 16 Air Assault Brigade had achieved their full operating capability and 7 Armoured Brigade was expected to do so “by about 18 March”. Although the timing of the start of military action remained uncertain, “a sizeable proportion of the UK land package” was now likely to be in a position to participate in combat operations from the start of the ground campaign.

511. Mr Watkins wrote:

“As a result, 1(UK) Div is now likely to represent a higher and more significant proportion of the overall combat power available in the early stages of the ground campaign.”

512. Mr Hoon and the Chiefs of Staff judged that “it would not be wise at this late stage to seek a major revision to the US plan”, but that it could make better use of some of the

¹⁶⁹ Letter Watkins to Manning, 6 March 2003, ‘Iraq: Options for Employment of UK Land Forces’.

niche capabilities in 1 (UK) Div. Mr Hoon had agreed that the UK should encourage US commanders to identify a niche role.

513. The US was looking at a number of variations to its plan, including involving 7 Armoured Brigade in “decisive manoeuvre operations beyond south-eastern Iraq” and “possibly in a decisive phase around Baghdad”. That would raise a number of issues, including for post-conflict operations:

“At the beginning of Phase IV ... operations, 1(UK) Division would initially find itself spread across two different areas at once. While 7 Armoured Brigade was engaged in combat operations around Baghdad, 1(UK) Division would have only its two light brigades available to deal with any immediate problems in south-eastern Iraq. At the very least we would need US assurances that they would facilitate rapid re-adjustment at the earliest opportunity, to allow 7 Armoured Brigade to rejoin the rest of 1(UK) Division.”

514. Mr Watkins explained that Mr Hoon and the Chiefs of Staff had therefore agreed that the UK “should not actively seek this sort of wider role, but that we should be prepared to consider any unsolicited US requests on their merits”. The MOD would produce further advice on the outcome of discussions with the US, but warned it was likely that “decisions may need to be made very rapidly”.

515. In early March, Lt Gen Reith discussed the expansion of the UK combat role with US commanders. He continued to advise the Chiefs of Staff to extend the UK AO.

516. Lt Gen Reith visited the Middle East from 5 to 7 March where he discussed optimising the use of 1 (UK) Div combat power “in some detail” with General John Abizaid, Gen Franks’ Deputy Commander (Forward), and then with Lt Gen McKiernan.¹⁷⁰

517. The record of the visit stated that Lt Gen Reith “offered” two options for UK forces to play a role in later operations:

- using 7 Armoured Brigade to provide additional combat power to either 1 MEF or 5 Corps in their advance on Baghdad; or
- 16 Air Assault Brigade to be deployed forward by air to the Baghdad area to “assist in developing stability in case of sudden regime collapse”.

518. A manuscript note on Maj Gen Fry’s copy of the record stated:

“CDS was most unhappy ... COS [Chiefs of Staff] & SofS [Secretary of State] riding instructions were to not offer anything outside the UK AO but be receptive to requests (‘request mode rather than push mode’). CDS wanted to talk to CJO

¹⁷⁰ Minute Dutton to PSO/CDS, 7 March 2003, ‘CJO Visit to Middle East 5-7 Mar 03’.

[Lt Gen Reith] immediately – but will close the loop on Saturday [8 March]. In the meantime this note is being kept away from Ministers' offices.”¹⁷¹

519. General Sir Mike Jackson, Chief of the General Staff, visited UK forces in Kuwait between 6 and 8 March and was involved in Lt Gen Reith's discussion with Lt Gen McKiernan.¹⁷²

520. In his report to Adm Boyce, Gen Jackson offered two observations on the Phase III plan:

- that the UK's "limited role" was "by no means ideal given the considerable capabilities" inherent within 1 (UK) Div; and
- "just how little combat power the US have on the ground" now that 4th Infantry Division could not deploy in time to influence the outcome. "Holding a little under one third of the available coalition armour, 1 (UK) Armoured Division has combat power that may prove decisive for operations around Baghdad."

521. Gen Jackson added that it was for that reason that US forces had "made very clear their wish" to use 7 Armoured Brigade for subsequent tasks. That would be discussed at the Chiefs of Staff meeting that week.

522. On what might happen after combat operations, Gen Jackson wrote:

"... I judge that, realistically, it will be some time before Coalition partners join US and British forces in any real strength, if at all. I draw two conclusions from this: first, that as much as possible of Iraq's administrative and military structure should be preserved; and second, that we should beware rapid US drawdown on the American assumption that UK (perhaps through the ARRC) will form the focus for an international force that in the event fails to materialise.

"... GOC 1 Div [Maj Gen Brims] made it clear to me that in clarifying his role in Phase IV, he needed simply to know what his title was, to whom he would be responsible, and how quickly a civil administrator would be appointed. While he judges that Basra has adequate short-term food stocks, it will urgently need water, electricity and medical supplies ... Only the ICRC has humanitarian stocks in position ... there was little confidence within 1 Div that DFID has a coherent plan in place. I support GOC 1 Div's intent to manage Phase IV with as light a touch as possible, but it will be important to establish the rule of law quickly – the question, as in Kosovo, will be whose law?"

523. Gen Jackson concluded:

"We are ready not just to demonstrate solidarity with our Coalition partner, but to contribute considerable and potentially decisive combat power to achieve rapid

¹⁷¹ Minute MA/CJO to PSO/CDS, 7 March 2003, 'CJO Visit to Middle East 5-7 Mar 03'.

¹⁷² Minute CGS to CDS, 10 March 2003, 'CGS Visit to Op TELIC'.

success in Phase III. Rapid success will set the conditions for Phase IV, which in turn will determine the overall success of the enterprise.”

DEVELOPMENT OF PHASE IV PLANNING

524. On 6 March, Mr Blair chaired the first Ministerial meeting convened solely to address humanitarian and other post-conflict issues.

525. Officials recommended that the UK should not seek responsibility for general administration of a geographical area of Iraq in the medium term and pressed Ministers to take an urgent decision on the issue.

526. No decision was taken.

527. After Cabinet on 6 March, Mr Blair chaired a meeting on post-conflict issues with Mr Brown, Mr Hoon, Ms Clare Short (International Development Secretary), Baroness Symons (joint FCO/DTI Minister of State for International Trade and Investment), Sir Michael Jay (FCO Permanent Under Secretary) and “other officials”.¹⁷³

528. The annotated agenda and the meeting are described in more detail in Section 6.5.

529. With the invasion possibly only weeks away, the IPU explained that US and UK planning assumed that, in the “medium term after the conflict”, Coalition Forces would be “re-deployed into six or seven geographical sectors in order to provide a secure environment for the civil transitional administration to conduct humanitarian assistance and reconstruction work”. The US expected the UK Division in Iraq to be responsible for a geographical sector, which would be very expensive and carry wider resource implications. The UK Division would probably be based in or near Basra, with the size of its AOR depending on a number of factors, including the permissiveness of the environment and the size of the Division in relation to the rest of the Coalition.

530. The annotated agenda stated:

“Ministers need urgently to take a view on this before the military planning assumptions become a fait accompli.”

531. The questions Ministers were asked included:

- To choose between options for a medium-term post-conflict military presence. The Chiefs of Staff believed it would be necessary to reduce the UK’s military contribution from about 45,000 to 15,000 in the “medium term (by the autumn)” to “avoid long term damage to the Armed Forces”. At the same time, the US expected the UK to contribute forces “for the security of a geographic area ... over the medium term”. The IPU considered it “reasonable to assume that a

¹⁷³ Letter Cannon to Owen, 7 March 2003. ‘Iraq: Post-Conflict Issues’.

brigade should be able to manage a single, well-populated province” the size of Basra, but there were four options available:

- a brigade responsible for security in a single province;
 - a UK divisional headquarters could take responsibility for security, under Coalition command, in a wider area of Iraq (US planners envisaged Basra, Maysan, Dhi Qar and Wasit being a single sector), supported by Coalition partners, which, the paper recognised, could be difficult to find;
 - deployment of the ARRC in addition or as an alternative to a brigade; or
 - withdrawal of all forces in the medium term, although it was warned that would be politically difficult.
- Whether to follow the US plan, which had to be right, to administer Iraq as a whole and not seek general UK responsibility for the administration of any geographic area in the medium term. In any area where the UK took responsibility for security, it could, with a UN mandate, also take on wider responsibility for reconstruction (including humanitarian assistance and aspects of civil administration), but that would “very likely be beyond the resources of the UK alone and have implications for domestic Departments”.

532. MOD advice to Mr Hoon was explicit about the inadequacy of those preparations.

533. The MOD briefing for Mr Hoon stated:

“... any UK involvement in the administration of post-conflict Iraq will necessarily require a significant civilian administrative and specialist component; this component has not yet been identified or resourced by OGDs. **This is the key issue. The success of civil administration will be essential to Iraq’s long term future. The UK military cannot do this on their own.**

“... [T]he current Defence Planning Assumption is that UK forces can only sustain large scale operations for a period of six months without doing long term damage to capability. This implies that UK forces reduce to a medium scale (i.e. roughly one brigade) post-conflict TELIC commitment.

“... US planning is currently tending to assume UK involvement in Phase IV at a level that is the maximum, if not higher than, that we can sustain. **If Ministers wish to set limits on the UK’s Phase IV contribution they should be set now so that US planning can be adjusted ...**

“... [A]s US planning stands, the UK will need substantial support from other nations. There are no arrangements yet in place formally to gather such support. Such support will be largely contingent on a *suitable* second/third UNSCR and a UN mandate for the occupation of Iraq. The FCO need to build on their recent ‘market

survey' to identify candidates and persuade them to shorten the time it will take them to deploy."¹⁷⁴

534. Possible levels of UK commitment to Phase IV were set out in an annex:

- i. **Maximum payoff (and maximum cost):** Tackle a problem area (eg Basra) with a UK two-star lead (subsequently becoming a multinational HQ). A UK Brigade in the SE sector. HQ ARRC taking on the CJTF(I) role early for six months. UK involvement (but not military) in a reconstruction pillar. This would be contingent on US burden sharing ...
- ii. **Regional (+):** The SE Sector with a UK two-star lead (subsequently becoming a multinational HQ). A UK Brigade in the SE sector. No HQ ARRC but UK involvement (including military) in a reconstruction pillar and a significant staff contribution to CJTF-I.
- iii. **Regional:** The SE Sector with a UK two-star lead (subsequently becoming a multinational HQ). A UK Brigade in the SE sector.
- iv. **Regional (-):** A UK Brigade in the SE sector – not UK led. UK involvement (including military) in a reconstruction pillar.
- v. **Regional (- -):** A UK Brigade in the SE sector – not UK led."

535. Mirroring the urgency expressed in the IPU Annotated Agenda, the MOD warned that, in the absence of settled UK policy on the scale or duration of the UK contribution to post-conflict Iraq, that contribution risked being determined "by decisions being taken by CENTCOM now".

536. The MOD identified a number of specific concerns, including:

- US plans envisaged the UK having responsibility for security in one of seven sectors. The UK had neither agreed formally nor challenged the US assumption. Nor had other departments scoped what non-military UK contributions could be sustained. The UK was "currently at risk of taking on an unsustainable task if there is no further Coalition contribution to the occupation of Iraq".
- If the UK did lead a military sector, there was a risk of the UK military being "intimately involved" in the civil administration, "not a role they would seek". There was "a pressing need to identify civil capacity across the international civil admin effort, including to support civil administration in a UK military sector".
- The UK was "carrying some risk of early humanitarian assistance failures in the UK AO".

¹⁷⁴ Minute Sec(O)4 to PS/Secretary of State [MOD], 6 March 2003, 'Iraq: Aftermath – Medium to Long Term UK Military Commitment'.

537. The policy considerations included:

- the degree to which the UK wanted to stand “shoulder to shoulder” with the US – “a fundamental political judgement ... where are the UK’s red lines?”; and
- the UK’s attitude to the future of Iraq. “Does the UK wish to become intimately involved in reconstruction and civil administration? This is not a military task ... but it will both affect and be affected by the level of military engagement. It will also have significant resource implications, across government.”

538. The briefing concluded with a section on the worst case scenario:

“Much of the above is predicated on best-case assumptions for the progress of a conflict (swift, short and successful), the condition of Iraq post-conflict (infrastructure not greatly damaged by fighting, limited internecine conflict) and the degree of international buy-in with civil and military resources, including cash (considerable and UN endorsed). The Secretary of State may wish to take the opportunity of this meeting to remind his colleagues that there is at least a credible possibility that none of these conditions will obtain.

“Even if there is a second (and possibly third) UNSCR this is no guarantee of broad-based international buy-in into Phase IV ... [T]here is a real possibility of the UK (along with the US and a few forward leaning smaller military nations) being committed to Phase IV engagement without international burden sharing and without an immediate exit strategy. At its worst this could expose the UK to an enduring large scale military commitment (20-30,000 in theatre) – and the commensurate civil support required to contribute to the rebuilding of Iraq ... The potential consequences are severe ... This is not the most likely risk, but it is one that increases the further the outcome post-conflict is from a UN-mandated solution.”

539. In the speaking note for Mr Hoon attached to the brief, officials highlighted concerns about the tendency of discussion of the post-conflict phase, and the IPU annotated agenda, to focus on the military contribution:

“A military presence will be a necessary but not a sufficient condition for success in Iraq. **A large, organised and properly funded humanitarian assistance plan (supported by DFID) is needed from the outset.**”

540. Mr Nicholas Cannon, Mr Blair’s Assistant Private Secretary for Foreign Affairs, briefed Mr Blair that Ministers needed to make progress on three interlinked issues: the humanitarian response; the UN mandate; and whether the UK should take on a geographical sector in Iraq.¹⁷⁵ Basra was “the obvious choice” if the UK decided to take on one of seven geographical sectors in Iraq.

¹⁷⁵ Minute Cannon to Prime Minister, 5 March 2002, ‘Iraq: Post-Conflict Issues’.

541. The conclusions of the meeting on 6 March included:

- DFID and the MOD should draw up a plan for immediate humanitarian action in the UK AO.
- Planning for a medium-term post-conflict action should continue on the assumption that a UN mandate would be forthcoming.
- The FCO should prepare a Phase IV plan with other departments, including the key decisions for Ministers to take.
- The Phase IV plan should cover sectorisation.

542. The “UK overall plan for Phase IV” was shown to Mr Blair on 7 March.¹⁷⁶ Much of the plan, prepared by the IPU, was drawn from the Annotated Agenda prepared for the meeting on 6 March.¹⁷⁷ That is addressed in Section 6.5.

Commitment to military action

543. On 7 March, Mr Lee sent Mr Hoon’s Private Office a “critical decision checklist”, setting out the issues which needed to be resolved before forces could be committed to action.¹⁷⁸ Those included:

- legal authority for use of military force;
- Parliamentary approval;
- confirmation that the military plan was viable and the risks acceptable;
- agreement of host nations to conduct offensive operations from their territory;
- provision of resources for immediate humanitarian assistance;
- targeting policy and delegation;
- agreement with the US on Phase IV assumptions; and
- finalisation of military campaign objectives.

544. Mr Lee asked No.10 to be notified using the checklist.

545. Adm Boyce decided on 10 March that UK forces should focus on achieving the UK objectives in its planned AO.

546. The Chiefs of Staff were concerned that Lt Gen Reith’s recommendation to allow operations further north would overstretch UK resources in both the combat and post-combat phases.

547. Lt Gen Reith sent the Chiefs of Staff an update on military planning options on 10 March.¹⁷⁹ It reflected the undertaking (in Mr Watkins’ letter to Sir David Manning of

¹⁷⁶ Minute Rycroft to Prime Minister, 7 March 2003, ‘Iraq: Weekend Papers’.

¹⁷⁷ Minute Rycroft to Prime Minister, 7 March 2003, ‘Iraq: Weekend Papers’.

¹⁷⁸ Minute Lee to PS/Secretary of State [MOD], 7 March 2003, ‘Critical Decision Checklist’.

¹⁷⁹ Minute Reith to COSSEC, 10 March 2003, ‘Iraq – Military Planning Options Update’ attaching Paper CJO, 10 March 2003, ‘Iraq Military Planning Options – An Update’.

6 March) that the MOD would provide further advice on the outcome of discussions with the US.

548. Lt Gen Reith wrote that the update also followed discussion among the Chiefs of Staff about “a less constrained approach to operations such that [the] UK can make a decisive contribution to Phase III operations, without impacting on the strategic goal of an exemplary Phase IV plan”.

549. Lt Gen Reith recommended that the Chiefs of Staff agree that:

- with UK forces likely to be at Full Operating Capability (FOC) before any committal to combat, UK combat elements could enhance the US plan;
- NBC (nuclear, biological and chemical) and specialist engineer elements be released to US forces for use during the seizure of the Rumaylah oilfields;
- the Joint Commander be authorised to allow 1 (UK) Div to operate north of the current planned UK AO, no further than Al Amara, “if this enhances 1 MEF’s ability to achieve its mission, on the understanding that the Division will only exploit forward as far as security and transition to Phase IV within the current AO allows”; and
- plans should be developed with the US for subsequent use of UK forces in the event of sudden regime collapse or if decisive additional combat power were required.

550. In the attached paper, Lt Gen Reith advised:

“Further opportunities to support a Coalition main effort also exist and will be event driven ... Whilst each scenario will differ, there will be occasions where an imperative for Phase III success could drive us to balance risk between supporting the main effort and our Phase IV exemplary action. Further work is needed in this area.”

551. Lt Gen Reith outlined the plan to extend the UK AO to the north at the Chiefs of Staff meeting on 10 March.¹⁸⁰ He explained that the “current UK AO could potentially result in enemy forces around Basra interfering with Phase IV operations”. There was “a clear military task to ensure that enemy forces in the areas outside the current UK AO were unable to interfere with the UK Main Effort”.

552. On 10 March, the Chiefs of Staff discussed Lt Gen Reith’s paper. It endorsed the NBC and specialist roles as time limited tasks within the UK’s AO.

553. Lt Gen Reith highlighted potential roles for UK forces in the event of sudden regime collapse. Adm Boyce directed Lt Gen Reith to develop options and brief the Chiefs of Staff accordingly.

¹⁸⁰ Minutes, 10 March 2003, Chiefs of Staff meeting.

554. The Chiefs of Staff were “concerned that extending the AO would overstretch Phase III and Phase IV resources and potentially detract from the Main Effort in the UK AO”.

555. Adm Boyce directed Lt Gen Reith “to proceed with the main effort, of an exemplary Phase IV, in the original AO (Southern AO) with operations in the Northern AO as required to achieve a speedy and successful Phase III and to shape Phase IV”.

556. AM BurrIDGE wrote in his Hauldown Report on 8 May:

“Our overriding consideration was for the GOC [Maj Gen Brims] to condition his own AO, in preparation for stability operations (Phase IV), rather than inherit circumstances [created by others] ...”¹⁸¹

557. Lt Gen Reith’s advice of 11 March for the Chiefs of Staff on the gaps in UK and US planning for post-conflict operations, including the absence of a detailed UK/US policy on the role of the military in maintaining law and order and detaining civilians, is addressed in Section 6.5.

Mr Blair’s meeting, 11 March 2003: agreement to the military plan

558. Sir Kevin Tebbit raised the absence of an agreed legal basis for military action with Sir Andrew Turnbull on 5 March.

559. Sir Kevin Tebbit wrote to Sir Andrew Turnbull on 5 March, stating:

“I am sure you have this in hand already, but in case it might help, I should like to offer you my thoughts on the procedure for handling the legal basis for any offensive operations ... in Iraq – a subject touching on my responsibilities since it is the CDS [Chief of the Defence Staff] who will need to be assured that he will be acting on the basis of a lawful instruction from the Prime Minister and the Defence Secretary.

“It is not possible to be certain about the precise circumstances in which this would arise because we cannot be sure about the UN scenario involved ... Clearly full UN cover is devoutly to be desired – and not just for the military operation itself ...

“My purpose in writing, however, is not to argue the legal merits of the case ... but to flag up ... that the call to action from President Bush could come at quite short notice and that we need to be prepared to handle the legalities so we can deliver ...

“In these circumstances, I suggest that the Prime Minister should be prepared to convene a special meeting of the inner ‘war’ Cabinet (Defence and Foreign Secretaries certainly, Chancellor, DPM [Deputy Prime Minister], Home Secretary possibly, Attorney General, crucially) at which CDS effectively receives his legal and constitutional authorisation. We have already given the Attorney General information

¹⁸¹ Report BurrIDGE to CJO, 8 May 2003, ‘NCC Operation Telic Hauldown Report: 07 Feb 03 – 08 May 03’.

and MOD briefings on objectives and rationale, and I understand that John Scarlett is conducting further briefing on the basis of the intelligence material.

“While it is not possible to predict the timing of the event precisely ... [it] could conceivably be as early as 10 March ... in the event, albeit unlikely, that the Americans lost hope in the UN and move fast. Michael Jay may have a better fix on this, but I guess the more likely timing would be for Security Council action around the weekend of 15/16 March, and therefore for a meeting after that.”¹⁸²

560. Copies of the letter were sent to Sir Michael Jay and Sir David Manning.

561. Sir Michael commented that both Adm Boyce and Gen Jackson had told him that they would need “explicit legal authorisation”.¹⁸³ Sir Kevin’s proposal “would be one way of achieving this: though the timetable looks a bit leisurely”.

562. On 5 March, the US requested the UK Government’s agreement to the use of British bases in the UK and overseas.

563. On 5 March, the US requested the UK’s permission to use Diego Garcia and RAF Fairford for operations against Iraq.¹⁸⁴

564. Mr Straw’s Private Office wrote to No.10 on 11 March reporting that the request followed “a series of informal requests and notifications” over the past few weeks to FCO and MOD officials.¹⁸⁵ Both departments had taken the view that a more formal request should be made “to remind the US that any use by the US forces of British bases or Diego Garcia must be on the basis of joint decision, as laid down under existing agreements”.

565. The US had formally requested the UK Government’s agreement to the use of RAF Fairford, Diego Garcia and, possibly, other British bases for military operations against Iraq. It was now pressing for a response “as soon as possible”.

566. The FCO advised that “under international law, the UK would be responsible for any US action in breach of international law in which the UK knowingly assisted”. The draft response was “premised on a decision that UNSCR 1441 and other relevant resolutions” provided “the authority for action”.

567. On 7 March, Lord Goldsmith sent Mr Blair formal advice on the legality of military action against Iraq without another resolution of the Security Council, further to resolution 1441.

¹⁸² Letter Tebbit to Turnbull, 5 March 2003, [untitled].

¹⁸³ Manuscript comment Jay to Ricketts, 5 March 2003, on Letter Tebbit to Turnbull, 5 March 2003, [untitled].

¹⁸⁴ Letter Sinclair to Rycroft, 11 March 2003, ‘US request to use Diego Garcia and RAF Fairford for possible operations against Iraq’.

¹⁸⁵ Letter Sinclair to Rycroft, 11 March 2003, ‘US request to use Diego Garcia and RAF Fairford for possible operations against Iraq’.

568. Lord Goldsmith's advice of 7 March, which set out his reasoning in considerable depth, is addressed in detail in Section 5.¹⁸⁶

569. Lord Goldsmith's conclusions are summarised in the Box below.

Lord Goldsmith's advice, 7 March 2003

Lord Goldsmith identified three possible bases for the use of military force. He explained that neither self-defence nor the use of force to avert overwhelming humanitarian catastrophe applied in this case.

Lord Goldsmith concluded that he remained "of the opinion that the safest legal course would be to secure the adoption of a further resolution to authorise the use of force", and that he had "already advised" that he did "not believe that such a resolution need be explicit in its terms" if it established that the Security Council had "concluded" that Iraq had "failed to take the final opportunity offered by resolution 1441".

Lord Goldsmith added:

"Nevertheless, having regard to the information on the negotiating history which I have been given and to the arguments of the US Administration which I heard in Washington, I accept that a reasonable case can be made that resolution 1441 is capable in principle of reviving the authorisation in 678 without a further resolution."

Lord Goldsmith added that that would:

"... only be sustainable if there are strong factual grounds for concluding that Iraq has failed to take the final opportunity. In other words, we would need to be able to demonstrate hard evidence of non-compliance and non-co-operation. Given the structure of the resolution as a whole, the views of UNMOVIC and the IAEA [International Atomic Energy Agency] will be highly significant in this respect. In the light of the latest reporting by UNMOVIC, you will need to consider extremely carefully whether the evidence ... is sufficiently compelling to justify the conclusion that Iraq has failed to take the final opportunity."

570. Lord Goldsmith stressed, in paragraph 36 of his advice, that the lawfulness of military action depended on the question of proportionality as well as the existence of a legal basis:

"Any force used pursuant to the authorisation in resolution 678:

- must have as its objective the enforcement [of] the terms of the cease-fire contained in resolution 687 [1991] and subsequent relevant resolutions;
- be limited to what is necessary to achieve that objective; and
- must be a proportionate response to that objective, ie securing compliance with Iraq's disarmament obligations."

¹⁸⁶ Minute Goldsmith to Prime Minister, 7 March 2003, 'Iraq: Resolution 1441'.

571. Lord Goldsmith continued:

“That is not to say that action may not be taken to remove Saddam Hussein from power if it can be demonstrated that such action is a necessary and proportionate measure to secure the disarmament of Iraq. But regime change cannot be the objective of military action. This should be borne in mind in considering the list of military targets and in making public statements about any campaign.”

572. Mr Hoon wrote to Lord Goldsmith on 10 March forwarding two papers:

- one on targeting considerations (addressed later in this Section); and
- a second, ‘Disarming Iraq’, written to underpin “the choice of military tasks in the Government’s draft campaign objectives”.¹⁸⁷

573. On 11 March, Ministers discussed legal issues, including holding back for a few days the response to a US request for the use of UK bases, and the viability of the military plan.

574. Mr Blair held a meeting on 11 March with Mr Prescott, Mr Hoon, Lord Goldsmith and Adm Boyce.¹⁸⁸ Mr Straw attended part of the meeting. Sir Andrew Turnbull, Mr Powell, Mr Alastair Campbell (Mr Blair’s Director of Communications and Strategy), Baroness Morgan (Mr Blair’s Director of Political and Government Relations), Sir David Manning and Mr Rycroft were also present.

575. Mr Blair was advised beforehand that the main purpose of the meeting was to confirm viability of the overall military plan.¹⁸⁹ Suggested questions for Mr Blair to raise included:

- Did the US have a winning concept?
- Did he agree with Mr Hoon that: specialist roles should be secured for the UK; the UK area should be extended northwards; and options should be explored for reinforcing US forces?
- What conditions should UK forces expect in Basra?
- How would the US “reorganise” if UK forces were not involved?

576. Mr Bowen advised Sir David Manning that the US request for the use of UK bases was to be discussed at Mr Blair’s meeting with Lord Goldsmith, Mr Straw and Mr Hoon on 11 March.¹⁹⁰ He understood that Mr Straw and Mr Hoon had copies of Lord Goldsmith’s advice.

577. As Section 5 makes clear, Mr Straw, Mr Hoon, Dr John Reid, Minister without Portfolio and Labour Party Chair, and the Chiefs of Staff had all seen Lord Goldsmith’s

¹⁸⁷ Letter Hoon to Goldsmith, 10 March 2003, ‘Iraq: Targeting Policy’ attaching Paper ‘Disarming Iraq’.

¹⁸⁸ Letter Rycroft to McDonald, 11 March 2003, ‘Iraq: Legal and Military Aspects’.

¹⁸⁹ Minute Rycroft to Prime Minister, 11 March 2003, ‘Iraq Military: 1300 Meeting’.

¹⁹⁰ Minute Bowen to Manning, 11 March 2003, ‘US Use of British Bases’.

advice of 7 March before Mr Blair's meeting on 11 March, but it is not clear how and when it reached them.

578. Ms Cathy Adams, Legal Counsellor in the Legal Secretariat to the Law Officers, advised Lord Goldsmith that she understood "the principal purpose of the meeting to be to discuss the ad bellum issue".¹⁹¹

579. An hour before the meeting took place, MOD Legal Advisers provided questions for Mr Hoon to raise at the meeting, explaining:

"... some in the FCO – whether having read the AG [Attorney General]'s letter or not, I don't know – are beginning to believe that the legal base is already OK. It seems to us – and I have discussed this with Martin Hemming [the MOD Legal Adviser] – that the position is not yet so clear."¹⁹²

580. The document provided for Mr Hoon stated:

"Questions for the Attorney General

"If no 2nd resolution is adopted (for whatever reason), and the PM decides that sufficient evidence exists that Iraq has failed to take the final opportunity to comply offered by 1441, is he satisfied that the currently proposed use of force would be lawful under international law?

"Comment: The AG's minute to the PM is equivocal: he says 'a reasonable case can be made' [for the revival argument] but also says that his view is that 'different considerations apply in different circumstances' [meaning the nature of the Security Council discussions under OP12]. He ends his summary thus: 'If we fail to achieve the adoption of a second resolution we would need to consider urgently at that stage the strength of our legal case in the light of circumstances at the time'.

"If the answer is yes to the above, can it be assumed that the Attorney will be able to confirm formally at the time that CDS's order to implement the planned operation would be a lawful order (anybody subject to military law commits an offence if he disobeys any lawful command).

"Comment: Notwithstanding the current uncertainties, when it comes to the crunch, CDS will need to be assured that his orders are lawful. As the Attorney points out in his letter, 'on previous occasions when military action was taken on the basis of a reasonably arguable case, the degree of public and Parliamentary scrutiny of the legal issue was nothing like as great as it is today'."

¹⁹¹ Minute Adams to Attorney General, 11 March 2003, 'Iraq: Meeting at No.10, 1PM'.

¹⁹² Email DG OpPol-S to SofS-Private Office-S [MOD], 11 March 2003, 'Urgent for Peter Watkins' attaching Paper 'Questions for the Attorney General'.

581. The record of the meeting on 11 March reported that Mr Blair had started by addressing the legal basis for military action.¹⁹³ He stated that Lord Goldsmith's "advice made it clear that a reasonable case could be made" that resolution 1441 was "capable of reviving" the authorisation of resolution 678 (1990), "although of course a second resolution would be preferable".

582. Adm Boyce and Mr Hoon described the military plan, the proposed UK involvement, possible Iraqi tactics, and responses to them. Adm Boyce was "confident that the battle plan would work". The record stated that Mr Blair asked a number of questions and confirmed he was "in general content with it".

583. Mr Blair stated that "we must concentrate on averting unintended consequences of military action. On targeting, we must minimise the risks to civilians."

584. Other points recorded by Mr Rycroft included:

- Adm Boyce said he "would need to put a short paragraph in his directive to members of the Armed Forces".
- The paragraph "should be cleared with the Attorney General".
- The UK would send the US a positive reply to its request to use Diego Garcia and RAF Fairford "in a day or two, with the usual conditions attached".
- Mr Hoon and Adm Boyce advised that "once we had given our approval, the US might give very little notice before the start of the campaign".
- Sir Andrew Turnbull asked whether a legal basis for military action was required for civil servants, as well as for members of the Armed Forces.
- Mr Hoon asked whether the Attorney General's legal advice was ever disclosed.
- Mr Blair asked for a quick study into the precedents for that.

585. Mr Campbell wrote in his diaries that:

- Mr Hoon had "said he would be happier with a clearer green light from the AG".
- Mr Blair had been "really irritated" when Sir Andrew Turnbull had "said he would need something to put round the Civil Service that what they were engaged in was legal". Mr Blair was "clear we would do nothing that wasn't legal".
- Lord Goldsmith had provided "a version of the arguments he had put to TB, on the one hand, on the other, reasonable case".
- Mr Hoon had advised that the response to the "US request for the use of Diego Garcia and [RAF] Fairford" should be that it was "not ... automatic but had to go round the system". Mr Blair had said he "did not want to send a signal that we would not do it".

¹⁹³ Letter Rycroft to McDonald, 11 March 2003, 'Iraq: Legal and Military Aspects'.

- Mr Hoon and Mr Straw were telling Mr Blair that the US could act as early as that weekend, and “some of our forces would have to be in before”.¹⁹⁴

586. Mr Hemming wrote to Mr David Brummell, the Legal Secretary to the Law Officers, on 12 March stating:

“It is clear that legal controversy will undoubtedly surround the announcement of any decision by the Government to proceed to military action in the absence of the adoption of a further resolution by the UN Security Council. The CDS is naturally concerned to be assured that his order to commit UK Armed Forces to the conflict in such circumstances would be a lawful order by him. I have informed the CDS that if the Attorney General has advised that he is satisfied that the proposed military action by the UK would be in accordance with national and international law, he [CDS] can properly give his order committing UK forces.

“In view of the rapidly developing situation, I thought that the Attorney would wish to know what I have said on this question.”¹⁹⁵

587. Lord Goldsmith and Mr Brummell agreed that:

- It would be proper for Mr Brummell to confirm to Mr Hemming that the proposed military action would be in accordance with national and international law.
- “[It] would be necessary to prepare a statement setting out the Attorney’s view of the legal position which could be deployed at Cabinet and in Parliament the following week.”¹⁹⁶

588. Mr Brummell wrote to Mr Hemming on 14 March to “confirm” that Lord Goldsmith was “satisfied that the proposed military action by the UK would be in accordance with national and international law”.¹⁹⁷

589. Copies of the letter were sent to the Private Offices of Mr Hoon, Adm Boyce and Sir Kevin Tebbit, as well as to Mr Bowen and Ms Juliet Wheldon, the Treasury Solicitor.

590. Lord Boyce told the Inquiry:

“... the propriety and/or the legality of what we were about to do was obviously a concern of mine, not least of it, since, somewhat against my better instincts, we had signed up to the ICC [International Criminal Court]. I always made it perfectly clear to the Prime Minister face-to-face, and, indeed, to the Cabinet, that if we were invited

¹⁹⁴ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

¹⁹⁵ Letter Hemming to Brummell, 12 March 2003, ‘Iraq – Position of the CDS’.

¹⁹⁶ Minute Brummell, 13 March 2003, ‘Iraq: Legal Basis for Use of Force – Note of discussion with Attorney General Thursday, 13 March 2003’.

¹⁹⁷ Letter Brummell to Hemming, 14 March 2003, ‘Iraq – Position of the CDS’.

to go into Iraq, we had to have a good legal basis for doing so, which obviously a second resolution would have completely nailed.”¹⁹⁸

591. Lord Boyce added:

“... that wasn’t new, it was something which I had told the Prime Minister that I would need at the end of the day, long before March. This is back in January when we started to commit our forces out there, and, as you say, I received that assurance. This was an important issue, particularly because of the speculation in the press about the legality or otherwise and, as far as I was concerned particularly for my constituency, in other words, soldiers, sailors and airmen and their families had to be told that what they were doing was legal. So it formed the first line of my Operational Directive which I signed on 20 March, and it was important for me just to have a one-liner, because that was what was required, as far as I was concerned, from the Government Law Officer, which, as you say, I received.”¹⁹⁹

592. The background to Lord Goldsmith’s response and the subsequent discussions on the legal basis for military action are addressed in Section 5.

593. Following Mr Blair’s meeting, the MOD provided details of the military plan and proposed that commanders should be given discretion to make further contributions outside the agreed UK AO.

594. Mr Watkins sent Sir David Manning an outline of the military plan for Iraq and advice on the decisions needed on the development of the UK’s role.²⁰⁰

595. Mr Watkins wrote:

“The US Concept of Operations can achieve a conventional military defeat, and the use of force to secure regime change offers the best route to achieve Iraq’s disarmament consistent with the principle of the minimum use of force ... Overall, the plan represents a robust basis for the committal of UK forces.

“We should confirm to the US our willingness – subject to decisions by UK commanders at the time – to contribute specialist capabilities (NBC, engineering and bridging) to facilitate their advance from the South, and to a limited expansion northwards of our Area of Operations during the conflict phase: we need to confirm this by mid-week. We should continue to explore other options for contributing to the US decisive main effort, but without commitment at this stage.

¹⁹⁸ Public hearing, 3 December 2009, page 82.

¹⁹⁹ Public hearing, 3 December 2009, pages 88-89.

²⁰⁰ Letter Watkins to Manning, 11 March 2003, ‘Iraq: the Military Plan’.

“Following further military-to-military discussions in theatre, the Defence Secretary [Mr Hoon] believes that it is timely to take stock of the US plan and take decisions on the further development of the UK role within it.”

596. Mr Watkins wrote that the original US plan envisaged the US 4th Infantry Division seizing the Kirkuk oilfields, but that plan had been “compromised by Turkish delays”. The US plan in the North therefore remained “fragile”.

597. Mr Watkins advised that the commitment of specialist NBC, engineering and bridging capabilities “would reinforce key gaps in US capability and facilitate a rapid US advance, without detriment to the tasks required of UK forces in our Area of Operations”.

598. On the expansion of the UK AO northwards, Mr Watkins explained:

“The US Land Component Commander has ... developed a plan that would expand the UK Area of Operations by up to 150km up to and beyond al-Amara [in Maysan province] (but short of al-Kut [in Wasit province]) ...

“The case for pushing a UK formation northwards will ultimately have to be judged at the time. Clearly it will depend to some extent on what is happening in the Basra area. It is also the case that an exemplary Phase IV operation depends on a satisfactory conclusion to the conflict phase. The Defence Secretary therefore judges that the senior UK operational commander (the Chief of Joint Operations [Lt Gen Reith]) should be authorised to expand the Phase III Area of Operations northwards if that is required to achieve a satisfactory outcome to Phase III. The focus for the UK in Phase IV should, however, remain the South-Eastern Area of Operations as currently understood.”

599. Mr Watkins explained that, given delays in the deployment of some US forces, there were certain scenarios in which the US might need the additional combat power that the UK land component could provide:

“In circumstances where the situation in the UK’s existing Area of Operations was benign, and where Iraqi forces had generally collapsed, it might be possible for 1 (UK) Division to provide forces to contribute to decisive US action in addition to the specialist contributions and the northward expansion described above. The Defence Secretary believes that the Chief of Joint Operations should be authorised to participate in planning discussions with the US without commitment, and on the understanding that any decision to commit UK forces to reinforce the US in decisive action would be a matter for Ministers.”

600. Mr Watkins explained that, on that basis, Mr Hoon judged:

- The “first priority” should be for the UK to confirm its willingness to contribute specialist capabilities to facilitate the US advance from the South.
- Second, “provided that UK commanders judge[d] this sensible in the circumstances at the time”, the UK should be “forward-leaning” on the

idea of extending the UK Area of Operations north during the conflict phase. If that was required to achieve a satisfactory conclusion to Phase III, on which “an exemplary Phase IV depends”.

- Third, the UK “should be prepared to continue exploring options for reinforcing US forces at decisive points ... but without commitment at this stage”.

601. Mr Hoon spoke to Secretary Rumsfeld that evening, setting out the risks to starting operations at the time of a full moon and the political implications of not giving the second resolution sufficient time to secure votes (see Section 3.8).²⁰¹

602. The MOD reported that Secretary Rumsfeld had said Gen Franks was looking at how to “work around” a position in which the UK could not participate in military action but which assumed that the UK would be available for post-conflict activities. Mr Hoon had responded that the UK would not want to be in that position and restated the case for waiting a few more days.

603. In a subsequent press briefing, Secretary Rumsfeld said that it was unclear what the UK role would be in the event that a decision was made to use force: “until we know what the resolution is, we won’t know the answer to what their role will be”.²⁰²

604. Secretary Rumsfeld subsequently clarified his comments, saying that he had “no doubt of the full support of the United Kingdom for the international community’s efforts to disarm Iraq”.²⁰³ Obtaining a second resolution was important to the UK and the US was “working to achieve that”. He added:

“In the event that a decision to use force is made, we have every reason to believe that there will be a significant military contribution from the United Kingdom.”

605. In his memoir, Mr Blair wrote that Secretary Rumsfeld had been “trying to be helpful”, but it had not helped and “by then the military were absolutely determined, rightly, that they would be part of the action from the outset, and took amiss any sense that we might be in the second rank”.²⁰⁴

606. In the entry for 11 March in the edition of his diaries published in 2012, Mr Campbell wrote that the incident was “indicative of the difficulties” of working with the US.²⁰⁵ Secretary Rumsfeld’s clarification was the result of a further telephone call from Mr Hoon “making it clear that we were with them”.

²⁰¹ Letter Watkins to Manning, 11 March 2003, ‘Iraq: Call to Donald Rumsfeld’.

²⁰² US Department of Defense, 11 March 2003, ‘DoD New Briefing – Secretary Rumsfeld and Gen. Myers’.

²⁰³ *BBC News*, 12 March 2003, *Text of Donald Rumsfeld remarks*.

²⁰⁴ Blair T. *A Journey*. Hutchinson, 2010.

²⁰⁵ Campbell A & Hagerty B. *The Alastair Campbell Diaries. Volume 4. The Burden of Power: Countdown to Iraq*. Hutchinson, 2012.

607. Adm Boyce also spoke to Gen Myers on 11 March.²⁰⁶ He reported that, following his visits to Op TELIC theatre, and discussions with commanders, units were ready and people would be deployed by 19 March.

608. Gen Myers indicated that he had told Gen Franks to work the “no UK option”.

609. The minutes from the Chiefs of Staff meeting on 12 March stated that Secretary Rumsfeld had spoken publicly about the possibility of the US commencing action “without the UK at her side”.²⁰⁷ The political decision to commit UK forces to Phases III and IV had “not yet been made, though planning continued as directed by HMG”.

610. In response to the request for a statement on the basis for his assurance to Mr Blair that the US plan for the invasion represented a “winning concept”, Lord Boyce wrote:

“The threat was carefully assessed, including taking into account the possible deployment of CW/BW weapons by Saddam, and measured against the capability of the Coalition Forces. There was complete confidence from CENTCOM and ourselves that Iraqi forces could be defeated.”²⁰⁸

611. Lord Boyce’s statement in respect of Phase IV is addressed in Section 6.5.

612. Asked whether Ministers had a clear sense of how important the UK contribution had become to the campaign plan, Lord Boyce told the Inquiry: “I think so ...”²⁰⁹

613. Lord Boyce added that his personal view was that the US could not have begun the military campaign without the UK contribution: Secretary Rumsfeld’s comments that the US could manage on its own were right, but the US would not have managed on its own on 19 March.²¹⁰

614. Lord Boyce told the Inquiry:

“... as far as the fighting phase is concerned we were satisfied we were there. As far as the aftermath planning was concerned, we thought we had something which was going to cope with, as far as our imagination allowed us to look; our imaginations didn’t basically go wide enough ... to what actually transpired when the time came.”²¹¹

DIS Memorandum, 11 March 2003: ‘Basra: Post-Saddam Governance’

615. The DIS produced a Memorandum on the “post-Saddam” political and security environment Coalition Forces were likely to encounter in Basra City on 11 March.²¹²

²⁰⁶ Minute Zambellas to CDS, 12 March 2003, ‘Record of CDS/CJCS Telephone Call: 11 Mar 2003’.

²⁰⁷ Minutes, 12 March 2003, Chiefs of Staff meeting.

²⁰⁸ Statement, 7 January 2011.

²⁰⁹ Public hearing, 27 January 2011, page 62.

²¹⁰ Public hearing, 27 January 2011, page 63.

²¹¹ Public hearing, 27 January 2011, page 99.

²¹² Paper DIS, 11 March 2003, ‘Basra: Post Saddam Governance’.

616. The Memorandum included an assessment of the likely reaction in the first 72 hours after a Coalition attack. The DIS stated that, while judging the overall attitudes of the populace to the regime was “fraught with difficulty”, “there seems little doubt that the vast majority of Basra’s inhabitants are opposed to the regime and would welcome its removal”.

617. Reflecting on the lessons of the 1991 uprising and that, in 2003, the “circumstances might be very different”, the DIS identified “several noteworthy characteristics”:

- **“Total collapse of the Security forces and civil administration:** Though there was some fierce fighting ... security forces within the city ... quickly collapsed ... Within days (even hours) Basra became an administrative and governmental vacuum.”
- **“Lack of political or popular leadership:** ... With no real religious leadership within Basra City and with the majority of rural tribal leaders unwilling to lend support to the urban uprising there was ... no one to curb the worst excesses of the populace.”
- **“Popular targeting of regime installations:** ... typically ransacked and burnt to the ground.”
- **“Reprisals against regime associated personnel:** ... Much anecdotal reporting and academic accounts identify Basra (along with Karbala) as the site of the worst excesses of the uprising, with summary executions and indiscriminate massacres of security personnel.”
- **“General collapse of law and order:** ... the insurrection in Basra soon descended into general anarchy, with looting a major feature ... [W]anton destruction of public buildings and even the pillaging of museums occurred in Basra.”
- **“Entry of Iranian backed Iraqi groups:** It seems apparent that Iranian backed Shia groups (including forces linked to the Supreme Council for the Islamic Revolution in Iraq, SCIRI) entered the environs of Basra on the second or third day of the uprising ... they also pursued an Islamic revolutionary agenda – destroying examples of ‘unislamic’ practice ...”

618. Addressing the likely reaction of the civil populace in 2003, the DIS stated that it had “no definitive intelligence” but there were “a number of scenarios that might occur”, possibly simultaneously in the city. Those included:

- **“Spontaneous civil uprising:** ... either before or during Coalition engagement with Iraqi forces in Basra governorate is unlikely ... [R]ecollections of 1991 ... are likely to lead to an extremely cautious reaction ...”
- **“Reprisals:** ... only high ranking regime personnel and those associated with particularly repressive behaviour would be targeted ...”

- **“Resistance activity:** ... Both SCIRI ... and the Dawa Party would appear to have well-established urban support networks ... and have over the years committed numerous acts of sabotage and assassination ... Equally we assume that urban support structures for the rural based Shia opposition ... may well exist. The Iraqi Communist Party might also retain an underground presence. We have little idea of the size or capability of such groups but many resistance networks might try to seize controls of local neighbourhoods within the southern cities ... once the regime has collapsed ... Many of these groups have access to considerable weaponry including small arms and RPGs [Rocket Propelled Grenades].”

619. The DIS stated that some of the groups “may pursue an agenda inimical to Coalition interests ... and might resent Coalition presence”; and that criminals and opportunists “looking to exploit the situation would supplement resistance groups pursuing an ‘anti-Saddam’ agenda”.

620. The DIS also warned that:

“The continued activity of armed groups will set a dangerous precedent for Basra’s future political landscape. We must expect political groupings with a religious (Shia) agenda and Iranian backing to emerge very quickly within Basra (and across southern Iraq) ... [I]t would be highly destabilising for such groups to base their political influence on their control of armed elements. The armed wings of such groups will need to be disarmed or disbanded.”

621. The DIS also warned that it expected the civil police “at least initially” to “disappear from view”, and that many of the population were “fearful of a generalised breakdown in law and order”. Disarming the populace “might be interpreted as running contrary to cultural norms and could be resisted”.

622. The DIS had “no intelligence on regime planning to mount an urban defence of Basra City” but stated that “individual or localised resistance could occur”. It also identified the forces which were likely to be at the disposal of the regime. Those are set out in Section 8.

623. The DIS advice on reactions to subsequent Coalition control of Basra, including the assessment that UK forces would be “required in the city to provide security”, is addressed in Section 6.5.

624. General Franks wrote in his memoir that:

“Intel[ligence] estimated that the vast majority of Basra’s population of almost one million Shiites would remain neutral, neither helping nor hindering, while the British dealt with the Ba’athist leadership of the garrison.”²¹³

²¹³ Franks T & McConnell M. *American Soldier*. HarperCollins, 2004.

JIC Note, 13 March 2003: 'Saddam's Plan for Baghdad'

625. In its meeting on 12 March, the JIC discussed a letter on the defence of Baghdad circulated to members by Mr Julian Miller, Chief of the Assessments Staff, on 6 March.²¹⁴

626. In addition to the points already covered, the JIC concluded that the paper "should also say something about the possibility of CB use".

627. A JIC Note issued on 13 March set out the JIC's understanding of Iraqi military preparations in Baghdad, and an initial view of their potential effectiveness.²¹⁵

It judged that:

- The Iraqi regime expected the Regular Army only to delay any Coalition attack en-route to Baghdad. It wanted to "drag out fighting and play for time, hoping that international pressure will force the Coalition to halt its attack and come to a negotiated settlement, leaving Saddam in power".
- Much of the Republican Guard (RG), including Iraq's best-equipped military units, was based around Baghdad. That was roughly 35,000 of the RG's 75,000 troops, with 600 of Iraq's best tanks and 900 other armoured vehicles. Defensive positions had been prepared 15-25 km to the west and south of the city. "Less significant preparations" had been made to the north and the east. Those defences had "clear vulnerabilities" and were "not sufficient to stop a Coalition assault".
- Iraqi security and militia organisations, backed by RG special forces brigades, were responsible for the inner city. Together they "could muster at least 10,000 men in Baghdad, possibly many more". There was "no evidence of a systematic fortification of the city for use by large-scale conventional ground forces" but surviving RG forces could retreat into Baghdad and "quickly prepare ad-hoc fall-back positions. Even a few thousand lightly armed troops could require disproportionate time and resources to overcome, with significant risk of Coalition and civilian casualties."
- Iraq's plans for Baghdad depended on the "morale and cohesion of its forces, including the ability of the authorities to continue exercising effective command and control". Intelligence "strongly" suggested that morale was already low.

628. The JIC did not know whether Saddam Hussein would remain in Baghdad. Baghdad was the best defended area and the best place for him to influence events. Saddam Hussein was "very security-conscious". Until there was "intense fighting" in Baghdad, the JIC assessed that Saddam Hussein would be able to move around Baghdad without detection.

²¹⁴ Minutes, 12 March 2003, JIC meeting.

²¹⁵ Note JIC, 13 March 2003, 'Saddam's Plan for Baghdad'.

629. The JIC stated that it had “previously judged that Saddam would be willing to use chemical and biological warfare (CBW) against the Coalition and the Iraqi population”.²¹⁶

630. The JIC assessed that it was “likely that, even if it had not done so already, the regime would use CBW in the defence of Baghdad if it could”. That “would depend on the survival of leadership command and control, and of some delivery means, such as artillery”. Intelligence indicated that the Special Republican Guard and Special Security Organisation retained “control over CBW munitions” and that the regime had “been distributing protective CBW clothing and medical supplies for treating exposure to nerve agents to units around Baghdad”.

Two additional UK units deployed

On 10 March, Mr Hoon was asked to agree two additional UK deployments:

- 1st Battalion The Duke of Wellington’s Regiment, to guard Prisoners of War as a consequence of the plan for UK units to provide “reliefs-in-place of US ground forces”;²¹⁷ and
- 202 Field Hospital (Volunteer), to increase the number of field hospitals from two to three in response to concerns that the medical capability could be “overwhelmed early in the course of operations”.²¹⁸

Mr Hoon announced both deployments on 13 March, stating that they would provide 1 (UK) Div with “further flexibility to respond to a range of possible tasks and circumstances”.²¹⁹

631. Mr Blair agreed the military plan on 13 March.

632. Mr Blair held a further meeting to discuss the military plan and timetable with Mr Prescott, Mr Straw, Mr Hoon and Adm Boyce on 13 March.²²⁰ That discussed the timing of the start of the military campaign and formal approval of the military plan set out in Mr Watkins’ letter of 11 March.

633. There was “a discussion about the timing of the end of the UN process ... and the start of military action”. It was agreed that Mr Blair would pursue the timing issues with President Bush.

²¹⁶ Note JIC, 13 March 2003, ‘Saddam’s Plan for Baghdad’.

²¹⁷ Minute Johnson to APS/SofS [MOD], 10 March 2003, ‘Iraq: Reinforcement of 1 (UK) Division for Handling Prisoners of War’.

²¹⁸ Minute Johnson to APS/SofS [MOD], 10 March 2003, ‘Iraq: Retention of a Third Field Hospital’.

²¹⁹ House of Commons, *Official Report*, 13 March 2003, columns 19-20WS.

²²⁰ Letter Manning to Watkins, 14 March 2003, ‘Iraq: The Military Plan’.

634. Adm Boyce advised that:

“... the full moon meant that a later start date [...] would certainly be preferable, but that the projected date was not a show stopper. The US military shared the preference for a later date, but had been told to accept the earlier date.”

635. Sir David Manning confirmed Mr Blair’s approval for the plan in a letter to Mr Watkins the following day.²²¹

636. On 17 March, Mr Watkins replied to a separate letter from Sir David Manning of 14 March, asking whether the MOD was confident that the military planning took full account of the risks and problems identified in the JIC Assessment of Saddam Hussein’s plans to defend Baghdad.²²²

637. Mr Watkins wrote that it “largely confirms the analysis” in the MOD advice of 28 February. In particular, it underlined the Iraqi regime’s “dilemma” about whether to withdraw the RG’s heavy armour into Baghdad. The US intention was to make it difficult for heavy units to reinforce the light forces providing the inner-city defence. The Special Republican Guard was not trained to mount a guerrilla campaign.

638. Mr Watkins also wrote that:

“The setting alight of oil-filled trenches has the potential to cause some delay. As with Iraqi use of CBW, there is not much – apart from information operations – we can do to stop the Iraqis doing it. But their effect on Coalition Forces is likely to be limited ... As the JIC paper notes, this tactic may be a two-edged sword ... because it is unlikely to encourage loyalty amongst the local population ... But we must be willing to recognise that the regime is likely to be willing to inflict extreme suffering on its own population and seek to blame the Coalition.

“A key variable is the extent to which the regime’s orders will be obeyed and the impact of the early campaign on Iraqi forces’ will to fight. If necessary, General Franks is prepared to mount an air assault to create an enclave within the city from which operations could be mounted to combat resisting forces. As we noted on 28 February, in the worst case this could be a messy and protracted process.”

639. Sir David Manning commented: “I take it that this amounts to a statement that MOD have taken account of the factors/risks identified in the JIC paper.”²²³

²²¹ Letter Manning to Watkins, 14 March 2003, ‘Iraq: The Military Plan’.

²²² Letter Watkins to Manning, 17 March 2003, ‘JIC Paper: Saddam’s Plan for Baghdad’.

²²³ Manuscript comment Manning on Letter Watkins to Manning, 17 March 2003, ‘JIC Paper: Saddam’s Plan for Baghdad’.

640. ACM Burrige told the Inquiry that the “Republican Guard had been planned to form a ring around Baghdad”. Saddam Hussein could also use weapons of mass destruction and:

“... irregular warfare ... to try and draw us into urban warfare.

“He had developed the view ... that western militaries don’t do urban warfare. He had also developed the view that large numbers of civilian casualties – he had a Grozny [Chechnya] vision in mind [unfinished sentence]

“The idea that the world’s media would show this terrible destruction which, in his rather warped perception, would put him on the moral high ground ...

“What we didn’t know was to what extent he would front load those southern cities, Basra in particular, and we subsequently recognised he put small elements of the Republican Guard in amongst the Ba’ath militia the Al Quds and people such as that, to ... make them militarily more effective and ... to put the frighteners on the 51 Division people who had effectively melted away, and they were coerced into getting back into their equipment.”²²⁴

641. ACM Burrige also told the Inquiry:

“Be under no illusion we believed that he did have tactical battlefield weapons with chemical or biological tips. He had used them previously ...

“So – but what we did know was that this wasn’t the same as fighting through the central front in Warsaw Pact days when the entire battle space would be drenched in chemical agents. This was relatively limited. This was the sort of capability that normally you would choose to manoeuvre around, rather than have to consider a complete change of tactic ...

“So – and we were happy with the level of individual protection, and I take from that not only suits, and it is well recorded that had some of the suits were out of their perceived shelf life. They had to be tested and extended, and the same with canisters, inoculation programmes and the taking of NAPS [nerve agent pre-treatment] tablets. So we were clear what we were up against, and we were contented that we could deal with that element of risk.”²²⁵

Cabinet, 17 March 2003

642. A specially convened Cabinet at 1600 on 17 March 2003 endorsed the decision to give Saddam Hussein an ultimatum to leave Iraq and to ask the House of Commons to endorse the use of military action against Iraq to enforce compliance, if necessary.

²²⁴ Public hearing, 8 December 2010, pages 38-39.

²²⁵ Public hearing, 9 December 2009, pages 44-45.

643. Mr Blair told his colleagues that he had called the Cabinet because “an impasse” had been reached at the United Nations.²²⁶

644. The Government had tried its “utmost”, and had “tabled a draft ... resolution, amended it, and then been prepared to apply tests against which Iraq’s co-operation ... could be judged”. Although the UK had been “gathering increasing support from members of the Security Council”, the French statement “that they would veto a resolution in all circumstances had made it impossible to achieve a new ... resolution”. France, with Russia in support, “were not prepared to accept” that if Saddam Hussein “did not comply with the United Nations obligations, military action should follow”. The UK was in a situation it had “striven to avoid”: “There would be no second resolution and military action was likely to be necessary ... to enforce compliance by Saddam Hussein with Iraq’s obligations.”

645. The points made during discussion included that, in conducting military operations, it would be important to show “we wished to protect civilians, seek the surrender of Iraqi conscripts, and protect religious and cultural sites”.

646. Mr Blair concluded that:

“... the diplomatic process was now at an end. Saddam Hussein would be given an ultimatum to leave Iraq; and the House of Commons would be asked to endorse the use of military action against Iraq to enforce compliance, if necessary.”

647. The Cabinet: “Took note.”

648. The discussion in Cabinet is addressed in Section 3.8.

The ultimatum to Saddam Hussein

649. In an “Address to the Nation” at 8pm Eastern Standard Time on 17 March, President Bush stated that “the final days of decision” had been reached and issued an ultimatum giving Saddam Hussein and his sons 48 hours to leave Iraq.²²⁷

650. In a message to Iraqis, President Bush stated:

“If we must begin a military campaign, it will be directed against the lawless men who rule your country and not against you ... The day of your liberation is near.

“... It is not too late for the Iraqi military to act with honor and protect your country by permitting the peaceful entry of Coalition Forces to eliminate weapons of mass destruction ...”

²²⁶ Cabinet Conclusions, 17 March 2003.

²²⁷ The White House, 17 March 2003, *President says Saddam Hussein must leave within 48 hours*.

651. President Bush explicitly warned all Iraqis against destroying oil wells or using weapons of mass destruction: “War crimes will be prosecuted. War criminals will be punished.”

652. The British Embassy Washington reported that a White House spokesman had “amplified” the President’s statement and said that, if Saddam were to comply with the deadline and go into exile, US troops would still enter Iraq in order to pursue and disarm WMD; and that he hoped the international community would consider prosecuting Saddam Hussein for war crimes even in the case of exile.²²⁸

653. Separately, the Embassy reported that President Bush had decided to publish the names of nine Iraqis who were regarded as either war criminals or having decisive command and control responsibilities.²²⁹

Debates in Parliament, 18 March 2003

654. Debates on Iraq took place in both the House of Commons and the House of Lords on 18 March 2003 (see Section 3.8).

655. The Government motion for the debate included an invitation to the House of Commons to:

- note the opinion of the Attorney General that, Iraq having failed to comply and Iraq being at the time of resolution 1441 and continuing to be in material breach, the authority to use force under resolution 1441 had revived and so continued that day;
- believe that the United Kingdom must uphold the authority of the United Nations as set out in resolution 1441 and many resolutions preceding it, and therefore support the decision of Her Majesty’s Government that the United Kingdom should use all means necessary to ensure the disarmament of Iraq’s weapon’s of mass destruction;
- offer wholehearted support to the men and women of Her Majesty’s Armed Forces on duty in the Middle East; and
- in the event of military action require that, on an urgent basis, the United Kingdom should seek a new Security Council resolution that would affirm Iraq’s territorial integrity, ensure rapid delivery of humanitarian relief, allow for the earliest possible lifting of UN sanctions, an international reconstruction programme, and the use of all oil revenues for the benefit of the Iraqi people and endorse an appropriate post-conflict administration for Iraq, leading to a representative government which upholds human rights and the rule of law for all Iraqis.²³⁰

²²⁸ Telegram 359 Washington to FCO London, 19 March 2003, ‘US/Iraq: Update, 18 March’.

²²⁹ Telegram 353 Washington to FCO London, 18 March 2003, ‘Iraq: Top Crooks’.

²³⁰ House of Commons, *Official Report*, 18 March 2003, column 7604.

The final preparations for conflict

656. On 18 March, Sir David Manning wrote to Dr Rice, formally confirming the UK's agreement to US use of Diego Garcia and RAF Fairford for "operations to enforce compliance by Iraq with the obligations on weapons of mass destruction laid down in UNSCR 1441 and previous relevant resolutions".²³¹

657. The CDS Directive to Lt Gen Reith, the UK Commander Joint Operations for Operation TELIC, was issued at 2300 on 18 March. Operations would not begin before 1800 the following day.²³²

658. At the first Ad Hoc Meeting on Iraq on 19 March, Mr Scarlett provided an update on the intelligence picture "highlighting Iraqi military deployments and the poor morale of Iraqi forces".²³³

659. Adm Boyce stated that the "British forces were balanced and ready for action"; and that the "US military were well advanced in their preparations for immediate humanitarian relief".

660. The minutes of the Chiefs of Staff meeting on 19 March reported that military planners were looking at accelerating the plan "in anticipation of an early collapse of the Iraqi 51st Division in the South".²³⁴

661. Adm Boyce also informed the Chiefs of Staff that he had signed and issued the Execute Directive for Op TELIC, the military operation against Iraq, to Lt Gen Reith earlier that day.²³⁵

662. The Directive set out: the situation and legal basis for operations; the UK Government's political, strategic and military objectives; the concept of operations and detailed instructions for the mission.²³⁶

663. The details in respect of combat operations are set out in Section 8.

664. The provisions on IHL and on targeting and Rules of Engagement are addressed later in this Section.

665. The instructions for the post-conflict phase are described in Section 6.5.

²³¹ Letter Manning to Rice, 18 March 2003, [untitled].

²³² Letter Watkins to Manning, 18 March 2003, 'Iraq: Military Operations'.

²³³ Minutes, 19 March 2003, Ad Hoc Meeting on Iraq.

²³⁴ Minutes, 19 March 2003, Chiefs of Staff meeting.

²³⁵ Minutes, 19 March 2003, Chiefs of Staff meeting.

²³⁶ Directive CDS to CJO, 18 March 2003, 'Chief of Defence Staff Execute Directive to the Joint Commander Operation TELIC, Edition 2'.

666. Shortly before midnight on 19 March, the US informed Sir David Manning that there was to be a change to the plan and US air strikes would be launched at 0300 GMT on 20 March.²³⁷

667. Early on the morning of 20 March, US forces crossed into Iraq and seized the port area of Umm Qasr.²³⁸

668. The invasion of Iraq is addressed in Section 8. The continuing discussions about the planning and preparations for a post-conflict Iraq and the UK's role in that are addressed in Section 6.5.

669. The Military Campaign Objectives were published on 20 March.²³⁹ They are addressed in Section 8.

670. Lord Goldsmith's approval had been sought for the document.²⁴⁰

671. The final version reflected Lord Goldsmith's request for a number of amendments.²⁴¹

JIC Note, 19 March 2003: 'Saddam: The Beginning of the End'

672. The record of the JIC discussion on 19 March stated that the draft Note, 'Saddam: The Beginning of the End', "tried to answer some difficult questions about Saddam's likely actions as the endgame approached, but the picture was moving fast and predictions remained difficult". Saddam was "likely to go out fighting". The JIC also asked that the Note be reordered "to include judgements on Iraq's CBW intentions, possibly against a Shia uprising; Saddam's intentions in each of the three main geographical areas of Iraq; threats to the oilfields; regime and military cohesion in the light of army desertions; Saddam's ability to maintain control ... and the defence of Baghdad. The Daily Updates needed to record developments in these areas."²⁴²

673. The JIC Note produced on the same day stated that the Iraqi regime was making its final preparations for war.²⁴³ Saddam Hussein had publicly activated his regional command structure on 15 March and Iraq's military and security services were "on the highest state of alert". The JIC stated that "Saddam's scope for extreme and unpredictable action" was increasing as the prospect of an attack increased. The timing and sequence of his next moves were "already highly uncertain".

²³⁷ Letter Manning to McDonald, 20 March 2003, 'Iraq'.

²³⁸ Ministry of Defence, *Operations in Iraq: Lessons for Future*, December 2003.

²³⁹ House of Commons, *Official Report*, 20 March 2003, column 1087.

²⁴⁰ Letter Bowen to Brummell, 14 March 2003, 'Iraq: Military Campaign Objectives' attaching Paper, March 2003, 'Iraq: Military Campaign Objectives'.

²⁴¹ Letter Brummell to Bowen, 16 March 2003, 'Iraq – Military Campaign Objectives'.

²⁴² Minutes, 19 March 2003, JIC meeting.

²⁴³ Note JIC, 19 March 2003, 'Saddam: The Beginning of the End'.

674. The JIC judged:

“There are indications that regime cohesion is under increasing pressure, but no sign that it will collapse before military action begins. Reporting suggests desertion rates are rising in the Republican Guard (RG), up to some 20 percent. One report also indicates that members of the RG are waiting for an attack to begin before escaping. Media reporting shows small numbers of Iraqi soldiers already offering to surrender. The regime proved able, however, to restore stability rapidly after limited anti-regime protests in mid-March.”

675. The JIC assessed that Saddam Hussein was focusing on the defence of Baghdad:

“Imagery indicates elements of the Special Republican Guard (SRG) have been deployed near to Saddam International airport and SRG security units have been dispersed in central Baghdad. One report indicated SRG had also been deployed in the northern outskirts of Baghdad in the direction of Tikrit. Imagery indicates Republican Guard units deploying to the South, West and East 30km outside the capital, apparently to concealment sites for protection against air strikes.”

676. The JIC judged that Iraq had “a useable CBW capability, deliverable using artillery, missiles and possibly unmanned aerial vehicles”. While a report in mid-March had indicated that Iraq’s chemical weapons had not been assembled, there was intelligence to suggest that Iraq planned to use them. Reporting also suggested that Iraq could try to blame civilian deaths resulting from CBW use on the Coalition.

677. The JIC added that:

- “Intelligence on the timing of CBW use is inconsistent [...]”
- Intelligence on the deployment of CBW was “sparse”.
- “Uncorroborated reporting” suggested the “delivery of CW shells to Republican Guard units ... south of Baghdad”.
- There was “no evidence” that ballistic missiles destroyed by Coalition air action in February “were equipped with CBW warheads”, but the JIC could not be sure that it “would receive indications prior to an attack”.
- Saddam Hussein retained “ultimate control of CBW use”, but there were suggestions that he had “contingency plans to devolve military decision making, including CBW, to regional commands, if communications are cut with Baghdad”.
- Saddam Hussein “might take this decision early, once the severity of the initial attack becomes clear or in the face of Kurdish or Shia uprisings”, although the possibility of Saddam offering concessions to remain in power “would argue against pre-emptive attacks and devolving control”.
- An “early strategic U-turn, once Saddam realises the intensity of the attack ... and the risk of losing control of his CBW capability” could not be ruled out, and he might “then order early CBW attacks”.

- The JIC continued to judge that “in the face of death and the destruction of his regime”, Saddam would “try to wreak as much havoc as possible”, but his ability to do so could be limited.
- There was a “further risk ... that CBW could become available to extremist groups either as a last vindictive act by Saddam, or through the loss of control in the final days of his regime”.

678. In his account of the campaign, Gen Franks wrote on 20 March:

“For the past two days we had been receiving increasingly urgent Intelligence reporting that Republican Guard units in Baghdad had moved south to the city of al-Kut – and that they had been issued mustard gas and an unknown nerve agent.”²⁴⁴

Joint minute on the UK military contribution to post-conflict Iraq

679. Most of the issues raised at Mr Blair’s meeting on 6 March, including sectorisation, remained unresolved as the invasion began.

680. On 19 March, Mr Straw and Mr Hoon informed Mr Blair that:

- the UK would not be expected to contribute resources to anything other than security during the first phase of the US post-conflict plan;
- it would be premature to take a view on the merits of sectors for the following phase; but
- it would help the US and military planners to agree on the UK’s medium-term contribution.

681. The minute concluded with a warning that Coalition partners were thin on the ground. If the campaign did not go well, there would not be many who were prepared or able to take part.

682. Mr Straw and Mr Hoon considered only the UK’s military presence in Iraq. They made no reference to the civilian contribution.

683. Sir Kevin Tebbit expressed concern about the transition from a primarily military effort to longer-term civilian-led reconstruction. It would be necessary to work hard to avoid dependence on the Armed Forces to carry out civilian tasks.

684. Mr Straw and Mr Hoon sent Mr Blair a joint minute on the UK military contribution to post-conflict Iraq on 19 March.²⁴⁵

²⁴⁴ Franks T & McConnell M. *American Soldier*. HarperCollins, 2004.

²⁴⁵ Minute Straw and Hoon to Prime Minister, 19 March 2003, ‘Iraq: UK Military Contribution to Post-Conflict Iraq’.

685. The draft was subject to “intensive consultations at official level in the MOD and FCO”.²⁴⁶

686. In the FCO, Mr Ricketts sent the draft to Mr Straw’s Private Office with the comment:

“This is a clear note on a crucial issue. If the Secretary of State [Mr Straw] could OK it (I showed him a slightly earlier draft this morning) it can go to No.10 tonight, for discussion at the PM’s meeting at 0830 on 20 March.”²⁴⁷

687. In the MOD, the draft was cleared by Adm Boyce and Sir Kevin Tebbit.

688. Sir Kevin commented:

“In terms of our military capacity, with an eye to the aftermath, it would clearly be preferable to confine ourselves to SE Iraq and not bite off more than we can chew. I accept, however, that we should be prepared, initially, for our forces to be fairly widely dispersed across Iraq, depending on how Phase III goes, because without successful Phase III, Phase IV becomes harder, if not academic. The trick will be to be able to regroup in a smaller area of SE Iraq once hostilities are ended.

“I also agree that we should be clear about our medium/long term scale of military commitment. While we are putting all we can into the war effort, we should plan ahead to stay broadly within ... [Strategic Defence Review guidelines].”²⁴⁸

“What concerns me most is the process of transiting from a primarily military effort to the civil-led longer term humanitarian and reconstruction phase. Recent history does not offer too much encouragement and we shall have to work hard to avoid ‘dependence culture’ on the Armed Forces to do things which should be for civil departments – initially through aid, subsequently through Iraqi own efforts. The politics of the issue do, I believe, point in the same direction. To meet the PM’s wish for us to play an exemplary role, we shall need to remember that memories of the UK in the region from the 1920s are not all positive, and we should make clear our desire to hand over and withdraw on the right basis as early as we can.”²⁴⁹

²⁴⁶ Minute Chilcott to Private Secretary [FCO], [undated], ‘Iraq: The UK’s Military Contribution to Post-Conflict Iraq’.

²⁴⁷ Manuscript comment Ricketts to Private Secretary [FCO], [undated], on Minute Chilcott to Private Secretary [FCO], [undated], ‘Iraq: The UK’s Military Contribution to Post-Conflict Iraq’.

²⁴⁸ It is not clear whether Sir Kevin Tebbit referred to the SDR or the Defence Planning Assumptions. The MOD has been unable to provide a version of Sir Kevin Tebbit’s manuscript note including the missing words.

²⁴⁹ Manuscript comment Tebbit on Email DCMC CRISIS 04-S to CDS/PSO-S, 19 March 2003, ‘Joint Defence and Foreign Secretaries Minute to PM on “Sectors”’.

689. In their joint minute, Mr Straw and Mr Hoon warned that some issues “could confront us as early as next week” and invited agreement to five propositions:

- “(a) The maximum size of task that UK forces would contribute to in the early days should not exceed our overall military capability. A focus in the South-East of Iraq would be reasonable.
- (b) The UK contribution to such a task in advance of a Security Council resolution would be limited to the facilitation of humanitarian assistance and a secure environment and the elimination of WMD.
- (c) We therefore need to agree urgently with the US a realistic authorising Security Council resolution for post-conflict Iraq.
- (d) We should agree urgently a plan with the US to help us find military partners to enable us to draw down and, in due course, design an exit strategy.
- (e) In broad terms the MOD will need to draw down its scale of effort to nearer a third of its commitment by the autumn.”²⁵⁰

690. Mr Straw and Mr Hoon gave little detail of what UK forces would be required to do immediately after the invasion:

“Much will depend on how the campaign develops, but in the first few weeks we should expect Coalition Forces to be spread across Iraq. The expectation is that UK forces will end up in southern Iraq, loosely centred on Basra. However, we should be prepared for elements of our forces to be dispersed fairly widely across Iraq ...

“US military planning continues to be fluid. But it envisages Coalition Forces re-deploying into a more tailored security framework as soon as the situation permits. The military task will be to facilitate a secure environment (including law and order, deterring adventurism and a variety of military-technical tasks) to enable immediate humanitarian relief to be conducted ...

“The expectation is that UK forces would be responsible for a task focused on Basra and other key military objectives in the South-East of Iraq, which could include 20 percent of the Iraqi population. This task is broadly proportionate to the size of the UK’s contribution to overall Coalition land forces ...

“In parallel, and under the overall military command, the US plan to bring in a transitional administration²⁵¹ to co-ordinate immediate civil relief and humanitarian assistance. The transitional administration is making plans for allocating its limited resources, including provision of public sector salaries, on a nation wide, Coalition basis. There is no expectation that the UK would be asked to contribute any

²⁵⁰ Minute Straw and Hoon to Prime Minister, 19 March 2003, ‘Iraq: UK Military Contribution to Post-Conflict Iraq’.

²⁵¹ A footnote explained: “The Office of Reconstruction and Humanitarian Assistance (ORHA) becomes the transitional administration once it is established inside Iraq.” ORHA’s role is described in more detail in Section 6.5.

resources to anything other than security. So there is no suggestion that the UK would be left to foot the bill for the civil administration or the costs of humanitarian relief and reconstruction in any area.”

691. Mr Straw and Mr Hoon reported that US planning remained “sensibly flexible” once the initial phase was over and “a major part of Iraq has been stabilised”. They advised that US planning:

“... recognises that parts of Iraq will be more permissive than others and that security could well be provided through something other than sectors. It would be premature now to take a view on the merits of sectors for this stage. We are well placed to influence US thinking with a number of military officers and officials embedded within their military headquarters and in ITCA [International Transitional Civil Authority]. **It would be helpful for them, and for military planners generally, to agree what our scale of effort should be in our medium-term contribution to Iraq.**”

692. Mr Straw and Mr Hoon advised that it would be necessary to reduce the UK military contribution “to nearer a third by no later than the autumn in order to avoid long-term damage to the Armed Forces” and to remain within current Defence Planning Assumptions: “If Ministers wanted us to, we would need decisions now so that we would be able to recommend what would have to give elsewhere.” Scaling down to nearer a third would limit the UK contribution thereafter to “a maximum of around one brigade, a two-star headquarters and possibly a contribution to higher level command and control”. They recommended telling the US now, for planning purposes, that this was the upper limit of the UK contribution.

693. Mr Straw and Mr Hoon also recorded that the ARRC [Allied Rapid Reaction Corps] featured in current CENTCOM planning as a multi-national headquarters that could play a role in post-conflict Iraq, but would be the subject of a separate paper (see Section 9.1).

694. Mr Straw and Mr Hoon ended with a section on “**Setting the conditions for success**”. The conditions in which UK forces operated needed to be conducive to success. There needed to be a resolution authorising international activity in the post-conflict period; and:

“We should also let the US know the key importance of internationalising the security arrangements now so that we can reduce our commitment as set out above. And we would expect US support in building a wider Coalition to operate alongside our forces, allow us to draw down and eventually to provide us with an exit strategy.”

695. Mr Straw and Mr Hoon concluded:

“We should be realistic about the limited prospects of our finding any genuine military capability to help us take this task on. New ... Coalition partners are thin

on the ground and, if the post-conflict phase does not go well, there will not be many nations who will be prepared or able to take part.

“And finally, we shall need to return to this issue once we are clear how the campaign is developing and look at our wider contribution in the round.”

696. The Cabinet Office took a different position on whether it would be “premature” to take a view on the merits of sectors.

697. Before the joint minute from Mr Straw and Mr Hoon reached No.10, Mr Drummond advised Mr Rycroft that “we need Ministers to decide on sectors”. The joint minute and sectors should be on the agenda for the Ad Hoc Meeting on Iraq (the “War Cabinet”) on 20 March.²⁵²

698. Mr Drummond suggested that Ministers would want to agree the proposals in the joint minute:

“... provided they are satisfied that:

- UK Forces will be capable of providing security for an area around Basra including about 20 percent of Iraq’s population.
- How long will we have this responsibility, and what is the exit strategy (benign security environment created, UK forces replaced by others). Will we be able to limit ‘our area’ to say Basra by the autumn, when we want to withdraw two-thirds of our troops?
- That the assertion that the transitional administration will handle civil administration including humanitarian reconstruction issues is correct: This is clearly the plan, but it must be doubtful that ORHA [the Office of Reconstruction and Humanitarian Assistance] will have the capacity, and therefore the troops on the ground may be called on to help. The UK certainly doesn’t have civilian capacity to help govern 20 percent of Iraq.”

699. The invasion of Iraq began overnight on 19/20 March 2003. Military operations during the invasion are described in Section 8.

700. Discussion of the issues raised in the joint minute from Mr Straw and Mr Hoon continued after the start of the invasion and is addressed in Sections 6.5 and 8.

701. The transition from conflict (Phase III) to post-conflict (Phase IV) military operations began immediately Coalition troops started to occupy Iraqi territory.

702. When that transition began, the Government had not taken firm decisions on the nature or duration of the UK’s military commitment in post-conflict Iraq or on the extent of the UK’s AOR. There had been no systematic analysis of the UK’s

²⁵² Minute Drummond to Rycroft, 19 March 2003, ‘Iraq Ministerial Meeting’.

military or civilian capacity to fulfil its likely obligations in the South in a range of circumstances, including:

- in the prolonged absence of an authorising resolution;
- in the absence of additional Coalition partners;
- in a hostile security environment with low levels of Iraqi consent; and
- over different timescales, in particular the medium and long term.

703. Each of those issues had been identified as a potential risk to UK strategic objectives in Iraq, but no detailed contingency plans or preparations were in place to mitigate those risks.

Guidance to the Armed Forces on the application of international humanitarian law

704. Guidance on the principles and application of international humanitarian law (IHL) was disseminated to those engaged at all levels in military action through a number of different mechanisms.

705. The CDS Directive to CJO on 18 March 2003, the 'Execute Directive to the Joint Commander for Operation TELIC', set out: the situation and legal basis for operations; the UK Government's political, strategic and military objectives; the concept of operations and detailed instructions for the mission.²⁵³ It included a paragraph to the effect that all military operations, by UK forces and from UK territory, were to be conducted in accordance with the UK's Obligations under the Law of Armed Conflict (otherwise known as IHL) and UK national law.

706. The principles of IHL are set out in the Box earlier in this Section, 'Overview of international humanitarian law'.

707. The CDS Directive also contained a number of annexes, including a Targeting Directive and a draft Rules of Engagement (ROE) profile, although at the time of issue that had not yet been authorised by Ministers.

708. ROE are explained in the Box below.

²⁵³ Directive CDS to CJO, 18 March 2003, 'Chief of Defence Staff Execute Directive to the Joint Commander Operation TELIC, Edition 2'.

Rules of Engagement

Rules of Engagement (ROE) are defined by the MOD as “directions for operational commands that set out the circumstances and limitations under which armed force may be applied by UK forces to achieve military objectives for the furtherance of UK government policy”.²⁵⁴ They are the means by which Ministers provide political direction and guidance to commanders on the application of force, within identified legal constraints, and they have specific Ministerial authority.

The ROE Compendium, Joint Service Publication 398, is divided into 21 “Rules”, each of which addresses a different type of action (and each has a number of options ranging from prohibition, through qualified permissions, to unrestricted use of the capability).²⁵⁵ The Compendium thus offers a menu of options from which a “ROE profile” can be selected (and, if necessary, amended) and authorised by Ministers for each operation.

An ROE profile is issued “as a set of parameters to inform commanders of the limits of constraint imposed or of freedom permitted when carrying out their assigned tasks ... In passing orders, subordinate commanders at any level must always act within the ROE received but they are not bound to use the full extent of the permissions granted.” The profile is also disseminated as appropriate to subordinate commanders.

The ROE profile for Operation TELIC, issued to the Joint Commander on 18 March 2003, rehearsed the legal basis relied upon by the UK in taking military action against Iraq and approved by the Attorney General.²⁵⁶ It stated that Iraq “has failed to comply with the terms of Resolution 1441” and was “in further material breach of its obligations”. The UK Government had concluded that military action was necessary to enforce Iraqi compliance with UNSCRs 678, 687 and 1441, and it was “therefore necessary” to remove the current regime from power “in order to create the conditions in which Iraq could be disarmed in accordance with its obligations”.

All military operations were “to be limited to what is necessary to create those conditions”; and all military action was to be carried out in accordance with the Law of Armed Conflict, “which requires that at all stages the principles of distinction, proportionality, and military necessity are to be applied to the use of minimum force”.

709. ROE for sites of religious or cultural significance are addressed later in this Section.

710. The content of the CDS Directive was further disseminated through Directives from the CJO to the National Contingent Commander (NCC) and to the three UK Contingent Commanders for Maritime, Land and Air.²⁵⁷ The CJO Directive included copies of the ROE and Targeting Directives. Each Commander was reminded that he was to ensure that UK personnel complied with IHL and with national ROE.

²⁵⁴ JSP 398, 2000, ‘United Kingdom Compendium of National Rules of Engagement’.

²⁵⁵ JSP 398, 2000, ‘United Kingdom Compendium of National Rules of Engagement’.

²⁵⁶ Directive CDS to CJO, 18 March 2003, ‘Chief of Defence Staff Execute Directive to the Joint Commander Operation Telic, Edition 2’.

²⁵⁷ Directive Reith to Burrige, 19 March 2003, ‘Joint Commander’s Directive to the UK National Contingent Commander Operation TELIC’.

711. Each of the Directives contained a paragraph on Prisoners of War and detainees, reminding the recipient that they had a legal liability to acquaint themselves with the Geneva Conventions and Protocols, and that they were responsible for ensuring that all members of UK contingents and components complied with them. The Directive also referred to the requirement that any handling of Prisoners of War and detainees must be conducted strictly in accordance with the provisions of JWP-1-10, the Joint Warfare Publication on the handling of Prisoners of War.

712. In addition to the Directives issued to senior commanders, all personnel deployed were issued with an aide memoire on the Law of Armed Conflict, setting out the basic rules of the Law of Armed Conflict in simple language and in a portable form so all service personnel could carry them on their person.²⁵⁸

Guidance on targeting

713. On 13 March, the MOD Legal Adviser sought Lord Goldsmith's views on a draft Targeting Directive.

714. On 10 March, Mr Hoon wrote to Lord Goldsmith with a draft of the 'Disarming Iraq' paper which underpinned the choice of military tasks in the Government's draft campaign objectives.²⁵⁹

715. Mr Hoon also provided a second paper on targeting considerations. Potential targets were examined by category with a description of the intelligence surrounding it, its military necessity, targeting considerations and a suggested level to which authority would be delegated for decisions on attacks.

716. Delegation was based on an assessment of the likely civilian casualties, categorised as:

- “• ... no civilian structures within [...] metres of aim point; casualty estimate: LOW [...].
- ... assessment of whether any civilian objects in weapon effect radius; casualty estimate: LOW or MEDIUM [...].
- ... assessment using attack specific data; civilian casualty estimate: LOW; MEDIUM or HIGH [...].”

717. One category was “Regime Leadership Targets”, including Presidential Palaces, and comprised “secure facilities” from where regime leaders could exercise command and control. The targets were designed to prevent Saddam Hussein from governing Iraq and deny him command and control of the Iraqi Armed Forces, including use of WMD.

²⁵⁸ Aide Memoire on the Law of Armed Conflict JSP381, version extant in September 2004 published by the Baha Mousa Inquiry.

²⁵⁹ Letter Hoon to Goldsmith, 10 March 2003, 'Iraq: Targeting Policy' attaching Paper 'Disarming Iraq' and Paper 'Operation TELIC: Targeting Consideration'.

718. The paper stated that, to be effective, all targets identified as being active, or historically used as regime command centres, must be disabled. Issues of proportionality were to be “judged against the proportionality of the entire set [...] against the military necessity of achieving denial of WMD use”.

719. Mr Hoon wrote that the targeting paper would “form part of the guidance to senior military commanders” to whom authority was delegated and that they would “take decisions based on the same target clearance process” that was used for Ministerial decisions on targeting and “on the basis of the legal advice available directly to them”.

720. The paper informed, but was “not a substitute” for, the Targeting Directive, which formed part of the CDS Directive to the CJO for Op TELIC.

721. The paper stated that any delegation would be exercised in accordance with international law and with the benefit of legal advice. Mr Hoon wrote that agreement of the paper was “independent of any overall decision to authorise the use of force” and would have no impact on the UK’s operational policy until such a decision was taken.

722. On 13 March 2003, an official sent AM Burrige a 2001 policy paper entitled ‘Joint Targeting and Battle Damage Assessment for UK Forces’, which was described as the “benchmark” for the process by which target authorisation and delegation should be conducted.²⁶⁰

723. The paper provided comprehensive guidance on definitions and principles of targeting, and contained detailed annexes on:

- legal considerations for “targeteers”;
- guidance on calculation of collateral damage predictions and casualty estimates;
- process maps for decision-making;
- a pro forma targeting checklist; and
- guidance on Battle Damage Assessment.

724. The paper stated that IHL principles were:

- the need to be satisfied that the target was required to fulfil a military objective;
- that all reasonable steps had been taken to avoid and in all cases minimise collateral damage to civilians and civilian objects; and
- that the anticipated military advantage outweighed the expected collateral damage.

²⁶⁰ Minute Harris to UK NCC, 13 March 2003, ‘Targeting Lexicon’ attaching Paper, 23 January 2001, ‘Joint Targeting and Battle Damage Assessment for UK Forces’.

725. On 13 March, Mr Hemming wrote to Ms Adams with a draft of the Targeting Directive and the CDS Directive.²⁶¹ He wrote that some assumptions “may need adjustment” in the light of Lord Goldsmith’s advice, and of Ministers’ and Adm Boyce’s views.

726. Mr Hemming wrote that, in particular, Mr Hoon had “not yet formed a view about the nature and extent of any delegation in relation to the targeting of key regime individuals”. He added: “We expect to know his views shortly.”

727. The Targeting Directive attached to Mr Hemming’s letter set out a number of designated target sets that would not require the application of the UK’s collateral damage estimation methodology, including a category of “Regime Leadership Personnel”. That category included Saddam Hussein, Uday Hussein and Qusay Hussein.

728. Mr Hemming explained the process through which the Targeting Directive would work:

- Mr Hoon would approve the authorisation proposal.
- Adm Boyce would issue the Directive to Lt Gen Reith.
- Lt Gen Reith would pass authority to AM BurrIDGE and sub-delegate authority to Air Vice Marshal Glenn Torpy, Air Contingent Commander, for particular categories of targets.

729. There were nine legal advisers integrated into the clearance process: three at each level for the relevant commander. Each lawyer had the ability to seek advice from further up the command chain and each legal office was overseen by the next legal office in the chain of command.

730. Mr Hemming wrote that the Targeting Directive was kept “under constant review” and targets authorised by AM BurrIDGE or AVM Torpy would be reported to, and monitored by the DTIO on a daily basis. The DTIO would report to Adm Boyce and Ministers.

731. Lord Goldsmith emphasised that Mr Hoon would need to satisfy himself that adequate arrangements were in place to ensure that targets fully complied with the UK’s obligations under IHL.

732. Lord Goldsmith also asked to receive daily reports on the targets attacked.

733. Ms Adams replied to Mr Hemming on 19 March with Lord Goldsmith’s views in the light of a further briefing he had received on 17 March.²⁶²

²⁶¹ Letter Hemming to Adams, 13 March 2003, ‘Iraq Targeting’ attaching Paper ‘Op TELIC – Targeting Directive’.

²⁶² Letter Adams to Hemming, 19 March 2003, ‘Iraq: Targeting Directive’.

734. Lord Goldsmith said it was for Mr Hoon “to decide, on the basis of military and political advice, the extent to which he should delegate his authority to approve targets”. However, “given the heightened scrutiny of the proposed campaign”, Lord Goldsmith emphasised that Mr Hoon needed to satisfy himself that adequate arrangements were in place to ensure that targets approved under the delegated authority would fully comply with the UK’s obligations under IHL.

735. Lord Goldsmith saw no legal objection in principle to delegation “provided that”:

- the scope of the delegation was clearly defined (to protect the position of the relevant commander);
- clear instructions were given that the commander to whom authority was delegated was required to comply with IHL;
- Mr Hoon was satisfied that arrangements had been made to ensure that the commander to whom authority had been delegated had access both to adequate legal advice on IHL and technical advice from UK targeteers trained in the requirements of IHL; and
- the public record, “especially in Parliament”, reflected the reality of the target clearance process and the fact of delegation.

736. Lord Goldsmith considered it “unwise” to delegate authority to attack targets that would raise “significant legal issues” or which were “politically sensitive”. Those targets should remain subject to “appropriate political control”.

737. Mr Hoon needed to be satisfied that arrangements were in place “to do everything feasible to avoid accidental harm to refugees, humanitarian convoys and other civilians”. Lord Goldsmith stressed the need to ensure that attacks on airports or air fields did not impede the delivery of humanitarian assistance.

738. Ms Adams wrote that Lord Goldsmith had considered the process of approving targets under delegated authority, including the arrangements for the provision of legal advice, as explained in Mr Hemming’s letter.

739. Lord Goldsmith believed that the proposed delegation in the Targeting Directive was “acceptable” subject to seven points where he suggested amendments or clarification.

740. One of those points was Lord Goldsmith’s understanding that the Targeting Directive would be issued “for the time being without delegated authority to attack individual members of the Iraqi regime”.

741. Such targets were likely to be “highly politically sensitive” and Mr Hoon should consider very carefully whether to delegate authority for those targets. If Mr Hoon were minded to do so, Lord Goldsmith requested further briefing on the considerations Mr Hoon believed would justify the targeting of specific individuals and recommended that Mr Straw was involved in any consideration of the issue.

742. Lord Goldsmith also asked to receive copies of the daily reports on targets attacked under delegated authority.

743. On 20 March, Lord Goldsmith advised Mr Hoon that he would need to consider whether an individual was a legitimate military target and proportionality in considering delegation of authority to attack Iraqi leadership targets.

744. On 20 March, Lord Goldsmith wrote to Mr Hoon with advice about the points he should address in considering whether to delegate authority to target particular individuals in the Iraqi regime.²⁶³ The letter followed a meeting the previous evening between Mr Hoon, Lord Goldsmith and Mr Straw.

745. Lord Goldsmith referred to his previous advice that Mr Hoon must be satisfied that adequate arrangements were in place to ensure that targets approved under the delegated authority complied with the UK's obligations under IHL. The delegation granted for the campaign was "extremely wide" and AM Burrige had "been granted authority to authorise attacks which, collectively, could cause significant civilian casualties".

746. Lord Goldsmith wrote:

"While I recognise the need for some delegation, given the likely speed and extent of the campaign, I think it right to note that when we met in Jack [Straw]'s office in the House on 4 February I proposed a system under which we could have personally approved more targets identified for the first stage of the campaign. Given the degree of public interest in the IHL aspects of the campaign, you will of course have to be prepared to justify publicly and in Parliament the decision to delegate authority to approve targets in the event of any controversial incidents."

747. Lord Goldsmith set out two issues that Mr Hoon should consider in deciding whether to delegate authority for "individual leadership targets".

748. First, Mr Hoon must be satisfied that targeting a particular individual was a legitimate military objective under IHL. There were two circumstances in which individuals might be a legitimate target:

- if they were a member of the armed forces of Iraq within the meaning of Article 43 of the 1st Additional Protocol to the Geneva Conventions (AP1); or
- civilians "for such time as they take a direct part in the hostilities" under Article 5(13) of AP1.

749. The assessment of whether an individual fell under either category of being a legitimate target was "a question of fact to be made on the basis of the actual status, functions and activities of the person concerned". An individual's constitutional position could not by itself justify the conclusion that he was a member of the Armed Forces.

²⁶³ Letter Goldsmith to Hoon, 20 March 2003, [untitled].

750. Lord Goldsmith said that in relation to the “three ‘dramatic’ targets”, Mr Hoon would need to be satisfied that there was “sufficient evidence to justify the conclusion that they actively participate in military command and control”. It was not enough “to assess that a person is likely, if certain circumstances occur, to take over military command and control”. Article 51(3) AP1 did not allow for the pre-emptive targeting of civilians.

751. Second, having established that an individual was a legitimate target, Mr Hoon should consider “the question of proportionality”.

752. The proportionality assessment would need to be considered at the time an attack was authorised, based on the place where the person was suspected to be and having regard to IHL.

753. Lord Goldsmith had “no doubt” that AM Burridge would consider carefully whether any proposed attack was proportionate:

“But given the sensitivity of targeting individuals and the distinct possibility that an attack may not succeed (either because the intelligence was wrong or because the individual moved on before the strike took place), my advice is that you should consider carefully the possibility of giving guidance to the commander on how he is to assess proportionality in relation to these targets. You should bear in mind in this context the delegation proposed in your letter would give Air Marshal Burridge authority to authorise an attack on any of the three key individuals which would cause unlimited civilian casualties, no matter where the individual was located. So, for example, an attack on such an individual could be authorised without reference to Ministers if intelligence suggested he were in a school, hospital, mosque or densely populated residential area of Baghdad.”

754. Lord Goldsmith advised that there were a number of points to consider in deciding what guidance Mr Hoon might give, including:

- What was “the concrete military advantage of killing each particular individual?”
- If Mr Hoon was prepared to contemplate the delegation of authority with a high estimate of casualties, was it feasible to place an upper limit on the casualties which might be caused by an attack?
- Since the extent of the military advantage was likely to change as the campaign progressed, it would be important to keep the delegation under constant and careful review.

755. Following further exchanges with Lord Goldsmith, Mr Hoon replied on 7 April confirming the delegations to AM Burridge and that they would be kept under constant review.

756. On 28 March, Dr Simon Cholerton, MOD Assistant Director Iraq (Secretariat), advised Mr Hoon on the considerations raised by Lord Goldsmith.²⁶⁴ Dr Cholerton was to meet Mr Hoon later that day.

757. Dr Cholerton wrote that the MOD had previously thought it unlikely that time-sensitive intelligence on the whereabouts of key individuals would be available to enable a Coalition attack specifically directed at an individual. That position had changed since the campaign “began in earnest” and significant resources were being devoted to obtaining further intelligence. AM Burrige was “now very keen” to establish the UK position “as soon as possible”.

758. Dr Cholerton advised that the MOD was satisfied that all named individuals were legitimate objectives under IHL; they were either members of the Iraqi Armed Forces or assessed to be taking a direct part in hostilities.

759. In providing guidance for assessing the proportionality of an attack, Dr Cholerton wrote that the MOD could place strict limits upon AM Burrige, such as an upper limit on the number of civilian casualties as suggested by Lord Goldsmith. He added:

“Alternatively, we could remind the NCC [AM Burrige] in guidance that these factors should be taken into account in coming to any decision, and suggest an overall limit on civilian casualties of no more than [...].”

760. Dr Cholerton assured Mr Hoon that the military justification for the targets would be reviewed on “a day by day basis” and he would be advised “as soon as there was any significant change with the position”.

761. Later that day, Dr Cholerton sent a second piece of advice to Mr Hoon following their meeting with Air Cdre Heath and Mr Hemming.²⁶⁵ Mr Hoon had asked how delegation could be varied according to the location of the individual.

762. Dr Cholerton set out an approach which discriminated between the categories of site where the target was believed to be located:

- “military location”;
- “special location” – such as medical facilities, places of religious worship, historic and cultural sites, places of mass recreation and educational establishments “and other child centred facilities”; and
- “non-military location” – described as “any place or premises that are neither a military location or a special location”.

²⁶⁴ Minute Cholerton to PS/Secretary of State [MOD], 28 March 2003, ‘Op TELIC: Targeting Individuals’.

²⁶⁵ Minute Cholerton to APS/Secretary of State [MOD], 28 March 2003, ‘Op TELIC: Targeting Individuals’.

763. Dr Cholerton recommended that Mr Hoon should delegate target clearance authority to AM Burridge:

- For Category A individuals in a military location with potentially HIGH numbers of civilian casualties [...] or in a non-military location with potentially MEDIUM numbers of civilian casualties [...].
- For Category B individuals in a military location with potentially MEDIUM numbers of civilian casualties or in a non-military location with potentially LOW numbers of civilian casualties [...].

764. That delegation was on condition that Mr Hoon was “informed as soon as possible of the planned attack” and, if at all possible, before it took place.

765. The names of the individuals listed under either category would be provided separately.

766. Dr Cholerton recommended, where targets were “outside the above casualty ceilings” or were located at a “special location”, that Mr Hoon delegated unlimited authority to AM Burridge. That was subject to the condition that Mr Hoon “*must* be informed” of his decision to attack in advance, and that the attack could only take place after AM Burridge had received confirmation that Mr Hoon had not overruled his decision.

767. In deciding whether or not to overrule AM Burridge’s decision, Mr Hoon would be provided with details about the target’s identity, location and an estimate on the number of civilian casualties.

768. If Mr Hoon was content, that approach would be set out in an annex to the CDS Directive and AM Burridge would not be able to delegate those responsibilities further.

769. Mr Hoon wrote to Lord Goldsmith on 29 March, setting out the approach recommended by Dr Cholerton.²⁶⁶ On whether the named individuals were legitimate targets, Mr Hoon wrote:

“I have satisfied myself that the individuals we were considering who are not formally members of the Iraqi Armed Forces are taking a direct part in hostilities by their senior functions in the Iraqi military command structure. Each of them is therefore in principle a legitimate target who may, subject to the proportionality test, be lawfully attacked.”

770. An Annex was attached to the letter setting out the two categories of individuals. Category A was entitled “dramatic” and comprised Saddam, Qusay and Uday Hussain. Category B was entitled “significant” and listed four senior members of the Iraqi Armed Forces.

²⁶⁶ Letter Hoon to Goldsmith, 29 March 2003, ‘Iraq: Targeting Individuals’ attaching Paper ‘Iraq: Personalities’.

771. Lord Goldsmith responded on 30 March, highlighting areas where Mr Hoon's approach might require clarification.²⁶⁷

772. Lord Goldsmith noted that "military location" had been defined using the language of Article 52(2) AP1, which defined a "military objective", but without the second limb of that definition.²⁶⁸ It was not therefore the case that all military locations would necessarily be military objectives. Lord Goldsmith added:

"In any event, the location is not the objective; the objective is the individual. It is not obvious why as a matter of law there should be a higher (civilian) casualty limit for your category of "military location" as defined."

773. Lord Goldsmith asked if it had been intended that military locations could include dual-use facilities, which could fall under the current definition. If that was not the case, Lord Goldsmith recommended revising the definition to refer to locations which were considered part of the military infrastructure.

774. In relation to attacks on individuals believed to be in a location which was not itself a military objective, Lord Goldsmith wrote that Mr Hoon would need to be able to demonstrate that he was not making a civilian object, such as a school, the object of the attack: "Attacks must be limited to strictly military objectives (in this case the individual): see Additional Protocol 1, Article 52."

775. Lord Goldsmith noted paragraph 1979 of the International Committee of the Red Cross (ICRC) Commentary to Article 51(3), which suggested that the attacks must be carried out "with means which are not disproportionate in relation to the objective, but are suited to destroying only that objective". While it was "not entirely clear" what the commentary meant, it was indicative that "any decision to attack one of the individual leaders", if it caused substantial loss of civilian life, would be "legally and politically controversial", especially if the attack failed to take out the individual leader targeted.

776. Those points also had to be considered in addition to the requirement that "incidental civilian loss/damage should not be excessive in relation to the military advantage". Lord Goldsmith wrote that there could otherwise be a "strong risk" of the UK being accused of directing attacks at the civilian population and objects in breach of IHL. He advised that consideration applied "even more strongly in relation to any attacks which you might be asked to approve on individuals believed to be in 'special locations', since many of these locations are entitled to special protection under IHL and it may be prohibited to commit acts of hostility directed against them".

²⁶⁷ Letter Goldsmith to Hoon, 30 March 2003, 'Iraq: Targeting Individuals'.

²⁶⁸ Article 52(2) AP1 provides that: "In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage."

777. On AM Burridge’s authority outside the delegated limits, Lord Goldsmith wrote that Mr Hoon had “not delegated authority” because effectively AM Burridge could not proceed without Mr Hoon’s approval. He added:

“It does not seem entirely clear why you have not said this in terms, particularly given the need for clarity in the scope of any delegation in order to protect the position of the commander (which I emphasised in my earlier advice).”

778. Lord Goldsmith wrote that his understanding was that Mr Hoon would not seek his advice on the lawfulness of the attack, given the time-sensitive nature of such targets:

“This is a matter for you. However, the judgement as to whether such attacks are lawful is likely to be a very difficult one to make. You will therefore wish to satisfy yourself that the legal position has been fully considered, bearing in mind that you could ultimately be held legally responsible for any such decision.”

779. Mr Hoon replied on 7 April, confirming that he had decided to continue with the delegations as he had set out in his letter of 29 March but that he would keep them under constant review.²⁶⁹

780. Mr Hoon confirmed that he appreciated the distinction between military location and military objective, acknowledging that it could include dual-use facilities. He added that, in deciding on the delegation for Category A targets, he had considered that any high number of casualties at a military location “would be somewhat less controversial than at any other sort of location”. He had hoped that this was in keeping with Lord Goldsmith’s suggestion that he should consider placing limitations on the circumstances in which attacks might be authorised by considering their locations.

781. Mr Hoon wrote that the process whereby he could overrule AM Burridge’s decisions was created because Mr Hoon could not take advice “in the normal way in the time available”. He explained:

“... I can overrule the National Contingent Commander’s decision, but I cannot take it for him. Air Marshal Burridge only refers to me when he has already decided that he believes an attack should go ahead, and that it would be lawful based upon the legal advice available to him. As you are aware, we have already tested this mechanism and Brian Burridge is in no doubt about the position: the decision to attack remains his.”

782. Mr Hoon concluded that the position remained different for matters outside AM Burridge’s other delegations. Those would continue to be referred to Mr Hoon and he would take Lord Goldsmith’s advice in the normal way.

²⁶⁹ Letter Hoon to Goldsmith, 7 April 2003, ‘Iraq: Targeting Individuals’.

783. In his post-operation report, AM Burrridge drew attention to the risks which might have arisen because directives on targeting and ROE were only issued shortly before operations began.

784. AM Burrridge produced his post-operation report on 8 May 2003.²⁷⁰ On lessons identified, he wrote that the MOD was “understandably reluctant to press for legal advice at the highest level on issues relating to the *jus in bello* before the Attorney General had advised on the *jus ad bellum*”. The impact was “that a significant number of assumptions had to be made in the planning process which, had they been wrong, might have had a serious impact upon the conduct of the operation”.

785. AM Burrridge continued:

“Several key directives (ROE and Targeting in particular) were issued only shortly before operations began, and certainly too late for safe implementation had they contained significant changes. While the traditional Law of Armed Conflict provided at least the hymn sheet, many questions remained outstanding, and some of the staffing issues (such as targeting delegations) betrayed a corporate difficulty in coming to terms with the prospect of war-fighting operations of this scale and character. Of particular importance was the juxtaposing of the ROE and Targeting Directives, which has probably never been more significant. The final ROE profile was received in my Headquarters two hours before operations commenced.”

786. AM Burrridge wrote that the UK’s history over the last 12 years of “peacekeeping in relatively benign environments” had reduced its ability to “exercise military judgment guided only by the principles of LOAC”. That had “manifested itself at every level, not only during the lengthy consideration of where targeting delegations should lie, but also at the tactical level where complaints of over-regulation were followed by complaints of insufficient guidance”.

787. In the period leading up to operations, and even in the early stages of combat, AM Burrridge stated that the questions asked across all three environments revealed that “the lack of further guidance was at first disconcerting”. That lesson was “quickly and successfully learned, that responsibility should rest at the lowest level and that military commanders respond well to the freedoms given to them despite the attendant responsibilities”.

788. Witnesses to the Inquiry emphasised the care which had been exercised in establishing the legal framework for military operations and the authority delegated to UK commanders.

²⁷⁰ Report Burrridge to CJO, 8 May 2003, ‘NCC Operation Telic Hauldown Report: 07 Feb 03 – 08 May 03’.

789. Mr Bowen told the Inquiry that the MOD had “very clear rules” about undertaking operations and tasks within a legal framework.²⁷¹ He stated:

“On every occasion there will be a legal opinion. On many occasions when we are operating in coalition with others, we find ourselves having to say to coalition partners, because we are closely engaged with them, that is not an acceptable target or this has to be done in a different way. That is a dialogue that goes on absolutely constantly and nobody in the Ministry of Defence has any difficulty about conveying that view, that legal view. And if it means that an operation or an undertaking has to be aborted, then that’s what happens. There is no question of ... saying ‘Oh well, there is a greater good to be served by working with a coalition’. The answer is you don’t do it because it is illegal, and that’s not something that there is any chance taken on.”

790. Speaking about its distinction to the US system, ACM Sir Brian Burridge set out the UK approach to targeting to the Inquiry:

“We are absolutely doctrinally rigid. We use a template called strategy to task to target. So that we can show an audit trail, and are required to show an audit trail, from any target back to the strategy, thereby passing through all the aspects of the law of armed conflict such as discrimination, military necessity, et cetera. We are required to do that for our Law Officers in this country and we go through that process with every target.”²⁷²

791. ACM Burridge said that US colleagues were “new to that as a discipline” but recognised its value because “it made the dialogue with the international community a little easier”.

792. ACM Burridge added:

“ ... in being the conscience, as it were, quite often there will be nuances even amongst the same operational team on the front bench at CENTCOM. So someone who is able to say actually, to me, it looks a bit like this – and I do remember on a couple of occasions saying ‘General, that may look okay in Washington, but let me just tell you how it might look in London, or more so, Berlin or Paris or wherever.’ It is not to say they needed reining in, it is just to get these nuances right they needed the input from someone perhaps whose perspective was a little different.”

793. Lt Gen Sir Robert Fry told the Inquiry that Sir Brian Burridge had been able to influence the US “in terms of tactical engagement, targeting, the nitty gritty of operational combat on a regular basis”.²⁷³

²⁷¹ Public hearing, 7 December 2009, pages 56-57.

²⁷² Public hearing, 8 December 2009, pages 13-14.

²⁷³ Public hearing, 16 December 2009, page 33.

794. Mr Hoon told the Inquiry that the campaign was “very much about creating an effect on the ground and making clear to the Iraqi people that our target was Saddam Hussein and his regime, rather than ... a more conventional military attack on the country as a whole”.²⁷⁴

795. Mr Hoon said that “in the early phase” he saw “pretty much every target that was going to be attacked” but did not know whether the attack would actually take place.²⁷⁵

796. Asked about lessons learned in relation to targeting, Mr Hoon told the Inquiry that he learned how accurate modern weapons were because he had initially been “fairly cautious” in his approach to targeting:

“If I was told that there was a civilian facility alongside a military one, we had quite a debate. Saddam Hussein had some – at least 50 palaces located around the country that he would move from one to the other, and we had quite a debate about, if we hit one of these targets, what about the people who worked there? Were they necessarily part of the regime?”²⁷⁶

797. Lord Goldsmith told the Inquiry that he was satisfied with the assurances he received about targeting issues.²⁷⁷ He described how he approached it with care, asked questions, and was satisfied about the basis of the decisions which had been made.

798. DSF1 told the Inquiry that AM Burrige had the same delegated authority for collateral damage as the US Secretary of Defense, and that the UK system had delegated “a lot more authority” to the NCC than the US had.²⁷⁸

799. Air Chief Marshal Sir Glenn Torpy, UK Air Contingent Commander in 2003, was asked if he had been satisfied with the delegations afforded to commanders for targeting. He told the Inquiry:

“I think we made very significant progress in the run-up to the second Gulf War building on the experience we had had during the No-Fly Zones, the first Gulf War, and the Secretary of State ... realised that the only way to maintain the tempo of the campaign was to delegate responsibility down to the lowest possible level. So I had a delegation. Brian Burrige had a delegation, and I thought it worked very effectively, and we cleared a lot of targets before the campaign even started.”²⁷⁹

800. Lord Boyce told the Inquiry:

“We had a differing view from the Americans and the Americans came more to our way in terms of the proportionality, legality, collateral damage and all those sorts of

²⁷⁴ Public hearing, 19 January 2010, page 76.

²⁷⁵ Public hearing, 19 January 2010, pages 77-78.

²⁷⁶ Public hearing, 19 January 2010, page 79.

²⁷⁷ Public hearing, 27 January 2010, pages 222-223.

²⁷⁸ Private hearing DSF1, page 21.

²⁷⁹ Public hearing, 18 January 2011, page 12.

things. We shaped quite a lot of the American thinking in terms of how one should actually not trash the joint and try to leave something at the end for us to regenerate from; which was very much the view – the view of some Americans was you reduce it [sic] rubble and sort it out afterwards. That was not our view.”²⁸⁰

Sites of religious and cultural significance

801. UK forces deployed in Iraq were given clear guidance about the need to preserve sites of religious or cultural significance.

802. The ROE profile for Op TELIC included clear guidance on the approach to sites of religious or cultural significance:

“Offensive action must be directed only against military objectives ... All feasible precautions are to be taken to avoid, and in any event to minimise, loss of civilian life and damage to civilian objects, particularly sites of religious or cultural significance and specially protected objects.”²⁸¹

803. The UK’s legal obligations are set out in the Box below.

Legal obligations for the preservation of religious, historic and cultural property

Whilst the Law of Armed Conflict Provision (LOAC) has sought, generally, to mitigate the impact of armed conflict, specific rules have been agreed in international treaties with the object of protecting civilian property and objects with religious, historic or cultural significance in particular.

Both the 1907 Hague and the 1949 Geneva Conventions include such provision.

Article 27 of the 1907 Hague Convention IV (Respecting the Laws and Customs of War on Land), provides:

“In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes”.²⁸²

²⁸⁰ Public hearing, 27 January 2011, page 33.

²⁸¹ Directive CDS to CJO, 18 March 2003, ‘Chief of Defence Staff Execute Directive to the Joint Commander Operation Telic, Edition 2’.

²⁸² The Hague, 18 October 1907, ‘Convention respecting the Laws and Custom of War on Land’ and Annex ‘Regulations concerning the Laws and Customs of War on Land’.

Article 5 of The 1907 Hague Convention IX (Concerning Bombardment by Naval Forces in Time of War) provides:

“In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic purposes, historic monuments, hospitals and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes.”

Further protection for historic monuments and places of worship is provided by Article 53 of First Protocol to the Geneva Conventions of 1949, which states that, without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, and of other international instruments, it is prohibited:

- “(a) to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;
- (b) to use such objects in support of the military effort;
- (c) to make such objects the object of reprisals.”²⁸³

The First Protocol to the Geneva Conventions, according to its terms, entered into force on 7 December 1978. It was ratified by the UK on 28 January 1998.

In 1954 the terms of the Convention for the Protection of Cultural Property in the Event of Armed Conflict were agreed at an Intergovernmental Conference at the Hague (“the 1954 Hague Convention”).

Under the terms of the Convention “Cultural property” was defined in Article 1 as comprising:

- “(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books, and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of [such] property...”;
- “(b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
- (c) centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b) ...”

²⁸³ Protocol Additional (1) to the Geneva Conventions, Article 53, 12 August 1949.

Parties to the 1954 Hague Convention agree:

- to make provision in times of peace for the protection of cultural property from the foreseeable effects of armed conflict;
- “to respect cultural property situated within their own territory as well as within the territory of other [parties to the Convention] by refraining from any use of the property and its immediate surroundings for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property.

The 1954 Hague Convention imposes explicit obligations on Occupying Powers to support “competent national authorities” of an occupied country to safeguard and preserve its cultural property and where those competent national authorities are unable to do so, to take “as far as possible, and in close cooperation with those authorities, the most necessary measures of preservation”.

The First Protocol to the 1954 Hague Convention, also agreed in 1954, contains provisions banning the export of cultural property from occupied territory and requiring the restitution of such property removed in contravention of the terms of the Convention.

The Second Protocol to the Convention contains further reinforcing provisions:

- Article 9 imposes, without prejudice to the provisions of the Convention, an express obligation to prohibit and prevent any illicit export or other removal or transfer of cultural property or unauthorised excavation of it;
- Article 15, includes provisions requiring parties to the Convention to impose criminal sanctions on persons who, in violation of the Convention and the Protocol, make cultural property the object of attack, use cultural property in support of military action, or cause extensive damage to, vandalise, or steal such property.

The 1954 Hague Convention and the First Protocol, according to their terms, entered into force on 7 August 1956. The Second Protocol entered into force in on 9 March 2004.

The UK, US and Iraq signed the Convention in 1954. Iraq ratified the treaty in 1967: the US in 2009. The UK has not, to date, ratified the Convention or the First Protocol and it has not signed the Second Protocol.

In 1998 the UK signed, and in 2002, ratified the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Parties to the 1970 UNESCO Convention agree to outlaw and take measures to prevent the unlawful import, export or transfer of ownership of cultural property.

On 30 December 2003, the UK enacted the Dealing in Cultural Objects (Offences) Act 2003, which made it an offence for any person to dishonestly deal in a cultural object ‘tainted’ as defined in the Act.

Under the terms of the Act, a cultural object is “tainted” if its removal or excavation from a building, structure or monument of historical, architectural or archaeological interest, (including any site comprising the remains of a building, structure or of any work, cave or excavation) constituted an offence under the law of the UK or any other country or territory.

804. On 18 February 2003, Mr George Lambrick, Director of the British Council for Archaeology, wrote to Dr Lewis Moonie, MOD Parliamentary Under Secretary of State and Minister for Veterans.²⁸⁴ The letter was primarily about an ongoing maritime heritage issue but Mr Lambrick also raised concerns about the steps being taken to minimise potential damage to cultural sites in Iraq.

805. Mr Lambrick asked that the Government take steps to ratify the 1954 Hague Convention “as soon as possible and – at the very least – that Government should declare its commitment to abide by the provisions of the Convention in any forthcoming conflict”.

806. Dr Moonie replied on 20 March, acknowledging that Mr Lambrick had also written to Mr Hoon along similar lines.²⁸⁵

807. Dr Moonie stated that the UK had signed but not yet ratified the 1954 Hague Convention or its protocols but hoped “to be in a position to do so soon”. He added that although the Convention was yet to be ratified, the UK remained “fully committed to the protection of cultural property in time of armed conflict in accordance with international law”.

808. Dr Moonie wrote:

“In all our military planning, no matter the campaign, very careful attention is applied to ensure that we do all we can to minimise the risk of damage to all civilian sites and infrastructure. Of course damage to infrastructure inflicted by Iraqi forces cannot be ruled out, and it remains a priority concern for the Coalition to address this threat.”

809. The Inquiry received a joint written submission from 13 heritage and cultural organisations on 17 February 2010 which addressed the problems faced by UK forces with respect to safeguarding the cultural heritage in Iraq.²⁸⁶

810. The submission stated that archaeological and cultural heritage experts had made numerous attempts to alert political and military personnel engaged in the anticipated invasion of Iraq “on both sides of the Atlantic” about the importance of cultural sites. It stated that “because no UK government department had taken responsibility for cultural heritage matters, most such letters were met with little or no response”.

811. The submission stated that, on 2 February 2003, Dr Peter Stone, an archaeological and cultural heritage expert from the University of Newcastle, was approached informally by a serving officer in the Royal Navy seeking help to identify archaeological sites in Iraq that might require protection in the event of a conflict.

²⁸⁴ Letter Lambrick to Moonie, 18 February 2003, ‘The Sussex’.

²⁸⁵ Letter Moonie to Lambrick, 20 March 2003, [untitled].

²⁸⁶ Paper UNESCO and 12 others, 17 February 2010, ‘The Problems Faced by British Forces with Respect to Safeguarding the Cultural Heritage in Iraq’.

812. The MOD told the Inquiry that the Royal Navy officer was part of the Defence Intelligence Human Factors (DI-HF branch), which was part of DTIO.²⁸⁷

813. Professor Stone wrote later in his book, *The Destruction of Cultural Heritage in Iraq*, that he worked with Professor Roger Matthews, Director of the British School of Archaeology in Iraq, and Dr Neil Brodie, a specialist in the illicit trade of antiquities, to provide the MOD with an itemisation of the locations and details of the most important historic sites in Iraq.²⁸⁸

814. Professor Stone wrote that those sites were added to the British military maps for the conflict and British Military Field Orders identified them as places to be avoided. Professor Stone reported that the list was also drawn to the attention of Lord Goldsmith, who provided advice on the legality of potential targets, and was also shared with Coalition partners.

815. Mr Hoon told the House of Commons on 3 April 2003 that:

“The Coalition is taking every precaution to avoid damage to the holy sites in Najaf and Karbala. By contrast, we know that Saddam Hussein has plans to damage these sites and blame the Coalition. Indeed his forces have used the site at Najaf as a defensive position, firing on United States forces, who commendably did not return the fire.”²⁸⁹

816. On 12 April, Mr Jacques Chirac, the French President, and Mr Bashar al-Assad, the Syrian President, raised the looting of culturally significant sites, including museums and archaeological remains, in conversations with Mr Blair.²⁹⁰ That is addressed in Section 9.1.

817. Mr Hoon’s Private Office sent a paper to No.10 on 14 April in response to the concerns raised on 12 April about culturally significant sites.²⁹¹ It stated that both the US and the UK had stressed their commitment to protecting sites such as mosques, medical facilities, heritage sites and schools:

“The Coalition consulted widely before the commencement of the military campaign, including with the archaeological community. A comprehensive list was established that included such Iraqi sites, and was designed to ensure that these were avoided as far as possible during the bombing campaign. We are confident that minimal damage has been done to Iraqi religious, cultural and archaeological sites a result of Coalition activity.”

²⁸⁷ Minute DI-HF to DJEP Public Inquiries Head, 17 September 2010, ‘Iraq Inquiry: Protection of Cultural Artefacts’.

²⁸⁸ Stone PG & Farchakh Bajjaly J. *The Destruction of Cultural Heritage in Iraq*. The Boydell Press, 2008.

²⁸⁹ House of Commons, *Official Report*, 3 April 2003, column 1069.

²⁹⁰ Letter Lloyd to Owen, 12 April 2003, ‘Iraq: Prime Minister’s Conversation with President Chirac’; Letter Lloyd to Owen, 12 April 2003, ‘Iraq: Prime Minister’s Conversation with President Bashar’.

²⁹¹ Letter Williams to No.10, 14 April 2003, ‘Protection of Significant Sites in Iraq’ attaching Paper ‘Protection of Significant Sites in Iraq’.

818. In September 2003, the Department for Culture, Media and Sport (DCMS) produced a review of its involvement in the preparations for the Iraq conflict.²⁹²

819. Referring to Dr Stone's involvement in identifying sites of cultural heritage significance, the review stated that DCMS had only become aware of Dr Stone's work "after the event". DCMS recommended that:

"In any future such cases DCMS should be consulted and kept in the loop since inevitably DCMS Ministers will be questioned subsequently about any damage which occurs to cultural heritage sites."

820. The review stated that "by and large" it seemed that instructions to avoid targeting historic sites and buildings were heeded by the Coalition Forces. The most important heritage sites were undamaged in the fighting and their special status appeared to have been respected.

821. The Inquiry has not addressed individual targeting decisions.

822. Robust systems and processes were put in place for taking targeting decisions, and targeting decisions were properly supported by legal advice.

823. Ministers were concerned about the consequences of the air campaign and the selection of targets and were proactive in their review of the guidance.

824. The final versions of Directives and ROE were sent at a very late stage in the preparations for military operations, but the Inquiry is satisfied that comprehensive guidance was available to those taking decisions.

825. International humanitarian law principles and considerations were properly emphasised, and explained in easily comprehensible terms.

826. There was consultation with archaeological experts (in particular Professor Stone), but the Inquiry questions whether the approach taken by the MOD to secure expert advice in advance of the conflict could be said to constitute "wide consultation". It considers that DCMS should have been asked for advice.

²⁹² Report DCMS, [undated but approved on 9 September 2003], 'Iraq: A Review of DCMS Involvement: April-July 2003'.