

AG saw on 28/8.

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Foreign &
Commonwealth
Office

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London SW1A 2AH



Dear James

Iraq: Ultimatum

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

Strategic Considerations

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

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

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Content

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

"Flagrant Violation" or "Material Breach"?

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

The Wording of the Ultimatum

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

Legal Cover?

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

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

Yours etc

Simon

(Simon McDonald)
Principal Private Secretary

Sir David Manning KCMG
10 Downing Street

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