

GORDON BROWN'S INTERVENTION

Propping up Tony Blair during the election campaign, the British Chancellor Gordon Brown said that the Cabinet had fully discussed the legal issues before the war, including the need—if the Iraq invasion was to be legal—for there to be ‘clear proof of Iraq’s noncompliance with UN weapons inspectors’. This was established to the Cabinet’s satisfaction, said Mr Brown.

Mr Brown said ‘a string of documents laid before cabinet made clear that Iraq was not complying with its obligations.’ He mentioned three sets of documents.

Firstly, ‘a report by Hans Blix’—the cluster document discussed above, which only posed questions, and proved nothing about Iraqi compliance.

Next was ‘a report by Mr Straw’ <<http://tinyurl.com/8tblj>> which contains Dr Blix’s 7 March statement (already noted) that there was a ‘welcome’ ‘acceleration of initiatives’ by the Iraqis; an earlier inspectors’ report of 28 February which says much the same thing; and a 7 March report from the chief nuclear inspector saying that ‘in the past three weeks, possibly as a result of ever-increasing pressure by the international community, Iraq has been forthcoming in its co-operation’.

Finally, Mr Brown invoked ‘another document that showed Iraq had failed six tests imposed by the UK to judge whether it was complying.’ On the other hand, Baghdad was never actually asked to carry out the ‘six tests’—by the UK, the US or the UN. **The tests were not set.**

In fact, **Iraq could not have fulfilled two of the tests**, which involved yielding up ‘all anthrax stocks’, and ‘all mobile biological and chemical weapons laboratories.’ The CIA/Iraq Survey Group has established that these items did not exist in Iraq in March 2003. (ISG Report, Vol. 3, Biological Warfare, annex C—this is a 54Mb pdf download <<http://tinyurl.com/5nef9>>)

Despite these complications, ‘Mr Brown said all these papers established clearly that Iraq had failed to comply with demands.’ (*FT*, 29 April, p. 2) Liar.

CONCLUSION

In his 7 March advice, Lord Goldsmith said the Government’s legal argument would ‘only be sustainable if there are strong factual grounds for concluding that Iraq has failed to take the final opportunity’ to disarm. Ministers may lie, but the fact is that on 17 March, inspectors were ready to define Iraq’s ‘final opportunity’, and Baghdad showed every sign of preparing to take it. That opportunity was denied by the criminal invasion of Iraq.

(A longer discussion of these issues is available on <www.j-n-v.org>.)

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REWRITING HISTORY

Iraq, The Attorney General’s Legal Advice, And The Betrayal Of The Inspectors JNV Anti-War Briefing 80 (25 May 2005)

INTRODUCTION

On 27 April 2005, the British Government was finally forced to publish the secret advice it was given by the Attorney General Lord Goldsmith on 7 March 2003 on the legality of the impending war on Iraq. <www.j-n-v.org>

Crucially, in his secret 7 March legal opinion (but not in his 17 March public statement), Lord Goldsmith said that if there was no second UN Security Council resolution authorising war against Iraq, war might still be legal if there was what he called ‘hard evidence’ of Iraqi ‘non-compliance and non-cooperation’ with its disarmament obligations.

In his 7 March opinion, Lord Goldsmith also identified a central role for UN weapons inspectors in determining the legality of military action.

Despite these firm findings, the lack of any such ‘hard evidence’ of non-compliance or non-cooperation, and the publicly-delivered view of the inspectors at the time that military action was not justified, Tony Blair still committed British troops to war on 19 March 2003.

The Attorney General’s advice is not significant because of its legal merit. It has little, if any. The war was illegal, as the vast majority of international lawyers argued at the time.

What is significant about the 7 March legal opinion is that it was so clearly flouted and ignored by Tony Blair in his decision to go to war, and that even now new lies are being spun to obscure this fact.

CHANGED CIRCUMSTANCES

Lord Goldsmith put his name to two legal opinions: the secret opinion on 7 March (now published) which was cautious and qualified, and a statement on 17 March (published at the time) which said unequivocally that war was legal, despite the lack of a UN Security Council Resolution authorising war.

After the 7 March advice was published, the Government justified the change in the Attorney General’s stance by stating that between 7 and 17 March there were ‘changed circumstances’, justifying war.

Circumstances did indeed change: between 7 and 17 March, inspectors reported **increasing** cooperation by Iraq on inspections and disarmament.

The Attorney General’s position on 7 March was that war would only be

legal if **'strong factual grounds'** could be provided by the UN weapons inspectors that 'Iraq had failed to take the final opportunity [to disarm]'.

If such grounds were not evident to Lord Goldsmith on 7 March, the UN inspectors gave the **opposite** evidence between 7 and 17 March.

JACK STRAW'S INTERVENTION

On BBC Radio's *Today* programme (28 April), British Foreign Secretary Jack Straw said that 'the evidence of Iraq's continuing further material breach, its failure to comply with its clear obligations **mounted**' after 7 March, 'not least in that 173-page document' presented by Dr Hans Blix, chief UN weapons inspector, to the Security Council late on 7 March.

Mr Straw stated that 'the whole burden of what Dr Blix was saying before the Security Council in January-February and March the 7th of 2003 was frankly different' from his recent anti-war remarks. Dr Blix's 173-page document did not say in 173 pages, 'By the way, Saddam is in compliance.'

Mr Straw said of Dr Blix: 'What he did say is, "Here are 29 separate chapters of unresolved disarmament questions dealing with the disarmament obligations in respect of the Iraqi government."'.

MOUNTING EVIDENCE

Contrary to Mr Straw's assertions, when we turn to Dr Blix's 7 March statement to the Security Council, his last such statement before the 17 March ultimatum, we find the 'whole burden' of his remarks is indeed anti-war. <www.unmovic.org>

In his 7 March statement, referring to the voluntary destruction by Baghdad of al Samoud missiles, Dr Blix famously said: 'The destruction undertaken constitutes **a substantial measure of disarmament** - indeed, **the first since the middle of the 1990s**. We are not watching the breaking of toothpicks. Lethal weapons are being destroyed.'

Referring to other forms of Iraqi cooperation, Dr Blix said, 'What are we to make of these activities? One can hardly avoid the impression that, after a period of somewhat reluctant cooperation, there has been **an acceleration of initiatives from the Iraqi side since the end of January.**'

Dr Blix said that '**the numerous initiatives**' now taken by the Iraqi side could not be described as 'immediate' cooperation, or as 'cover[ing] all areas of relevance'. However, he said, '**They are nevertheless welcome**'.

In other words, far from there being '**mounting**' evidence of Iraq's 'failure to comply with its clear obligations', as Jack Straw claimed, the reverse was the case. **Iraqi compliance and cooperation were increasing, not decreasing.**

THE CLUSTERS DOCUMENT

As for the 173-page 'cluster document' presented to the Security Council, Mr Straw well knows that this was not an indictment of Iraq, but described itself as a compendium of all 'the questions [about Iraq's weapons] that are deemed outstanding and unresolved'.

Questions could be unresolved because of a **lack of evidence** that a weapon or component had been destroyed, or '**in a few cases**, because of evidence that conflicts with Iraq's account.' On 27 Jan. 2003, Dr Blix said of the documents used to compile the document: 'These reports **do not contend that weapons of mass destruction remain** in Iraq, but nor do they exclude that possibility.' <<http://www.un.org/Depts/unmovic/Bx27.htm>>

The document was not new and 'mounting' evidence of Iraq's failure to comply with its obligations. It was a historical survey of areas where there was a 'lack of evidence' about Iraqi compliance, which had to be cleared up.

KEY REMAINING DISARMAMENT TASKS

True, the cluster document did not say 'Saddam is in compliance'. Nor did it say 'Saddam is **not** in compliance.' The real significance of the cluster document is that it was to be the basis for drawing up inspection priorities: for devising the 'key remaining disarmament tasks' to be completed by Iraq.

The cluster document invoked by Mr Straw, and the 'key remaining disarmament tasks' were actually essential to drawing up a programme of work for the Iraqi authorities (and for the inspectors) which could clarify for once and for all (a) *whether Iraq possessed weapons of mass destruction* and/or (b) *whether Iraq was prepared to fully cooperate with the UN weapons inspectors.*

TORPEDOING THE INSPECTORS

The inspectors' draft work programme, containing the 'key remaining disarmament tasks', was given to the Security Council on 17 March 2003, just before the inspectors were shut down and ordered out of Iraq by George W. Bush in his ultimatum to Saddam Hussein. <<http://tinyurl.com/7ob3>>

Jack Straw, Tony Blair and the British Government have never acknowledged the fact that the inspections were about to enter a final and decisive phase on 17 March, a final and decisive phase lasting only **months**.

Hans Blix addressed this question on 7 March: 'How much time would it take to resolve the key remaining disarmament tasks? ... Even with a proactive Iraqi attitude, induced by continued outside pressure, it would still take some time to verify sites and items, analyse documents, interview relevant persons, and draw conclusions. **It would not take years, nor weeks, but months.**' <<http://tinyurl.com/e455k>>