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Focus

**British Prime Minister
opening address to
Parliament, 18 March
2003**

“We have to act within the terms set out in Resolution 1441. That is our legal base.”

“But, of course, in a sense, any fair observer does not really dispute that Iraq is in breach and that 1441 implies action in such circumstances.”

**UK position: UK
Government's Legal Basis
for Military Action, 17
March 2003**

“2. In resolution 687 [...] 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.”

The UK position: Resolutions 678, 687 and 1441 as bases for the use of force against Iraq

From the inception of the debate about a possible war against Iraq, the United Kingdom took a firm stand next to the United States. Although the UK defended its stance against the Baghdad regime by invoking massive violations of human rights, the possession of weapons of mass destruction, the dictatorial regime, etc. it argued its legal position differently from the US, notably invoking a series of UN resolutions.

According to the UN Charter there are two exceptions to the prohibition of the use of force: collective security, which means that the Security Council adopts a resolution expressly authorising States to use force, or self-defence.

One of the most credible arguments expounded by the UK is that the use of force is warranted by resolution 1441 as well as several other UN resolutions adopted by the Security Council in the last decade. The UK argues that, on numerous occasions, Iraq clearly violated resolution 1441, which requires from Iraq full, unconditional and immediate compliance. UNMOVIC submitted reports pointing to countless hurdles posed by the Iraqi government when it was searching for prohibited weapons but also citing improved co-operation from Iraq. Whether Iraq is in material breach of article 1441 is highly debatable as the Security Council could not agree upon it. Strengthening the UK position, resolution 1441 reiterates the fact that the Iraqi authorities have been in material breach of 17 separate UN resolutions since April 1991 and, in the view of the British Prime Minister, “1441 gave a final opportunity” to Iraq.

The salient question is whether resolution 1441 allows the use of force if its provisions are not fully respected by Iraq. Since the UK tried till the end to convince the members of the Security Council to pass a second resolution setting a ultimatum to Iraq, it appears that the UK saw a need to obtain the backing of the Security Council.

It is submitted that nothing in resolution 1441, or any other UN resolution, authorises the use of force without a further resolution giving clear authority to do so.

Resolution 1441 warns Iraq that “it will face serious consequences” if it is found in material breach of this resolution. The government's case depends almost entirely on the interpretation of this very ambiguous expression. The words “all necessary means” which are traditionally found in all resolutions expressly entitling States to use force against another State (e.g. Iraq in 1991, Rwanda, Somalia, Haiti) have not been used in 1441. In addition, the argument that resolution 1441 implicitly authorises the use of force is hardly compelling. Several members of the Security Council explained their vote in favour of resolution 1441 precisely because it was not a trigger for authorising force.

What's more the UK claims that it is even possible to go back as far as 1991 to justify military intervention. The UK relies on resolutions 678, authorising the allied forces to repel the Iraqi troops from Kuwait and 687, passed at the end of the military operation against Iraq in April 1991. The UK claims that the clear authorisation to use force spelled out in resolution 678 was suspended and not terminated by resolution 687 which linked the cease-fire to disarmament. If Iraq does not disarm, then the allied forces are allowed to resume the hostilities. However, as Saddam Hussein has accepted the presence of weapons inspectors and mostly given them unrestricted access, it is slightly more difficult to argue that Iraq is in breach of the cease-fire agreement. This brings us back to the discussion whether Iraq violated resolution 1441.

In conclusion, it is submitted that resolution 1441 taken alone or combined with resolutions 678 and 687 does not justify the use of force by the United Kingdom against Iraq.

Responsibility

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