

**The Attorney-General's legal advice was sound**  
since neither Britain, nor Blair, has been indicted

by  
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## Introduction

The comments below on the Attorney-General's advice on the "legality" of British military action against Iraq in March 2003 have been provoked by reading Professor Philippe Sands' book, *Lawless World*. Two chapters of his book are devoted to considering this matter, but he merely adds to the confusion about it. What follows is my modest attempt to throw some light on it.

Professor Sands is at a disadvantage in discussing this matter, because he appears to believe that since the 1940s there has been a system of law regulating the relations between states that all states are obliged to adhere to. He writes in the preface to *Lawless World*:

"One main purpose of this book, then, is to shed some light on international law, to explain in a little more detail what the rules are, how they are made, and how they are argued when contentious issues come up." (page xviii)

However, the preface begins:

"In the 1940s the United States and Britain led efforts to replace a world of chaos and conflict with a new, rules-based system." (page xi)

There, Professor Sands omits to mention that Roosevelt and Churchill built into the architecture of the United Nations the principle that the US and UK are above the rules **for all time**. They accorded themselves permanent seats on the Security Council, the only United Nations body with any authority, and gave themselves a veto on decisions of the Council. The result is that they can engage in aggression against other states, as and when they like, without fear of a slap on the wrist by the Council, let alone being subject to economic sanctions or military action mandated by the Council.

(Stalin agreed that the Soviet Union would participate in the United Nations once Churchill explained to him that the Soviet Union would have a veto as well. Nationalist China was added to the list at the insistence of Roosevelt, and Churchill insisted that France be added as a counterweight to China.)

In fact, there is a fundamental contradiction written into the UN Charter. On the one hand, Article 2(1) states:

"The Organization is based on the principle of the sovereign equality of all its Members."

But, on the other hand, Article 23 of the Charter grants five of its Members permanent seats on the Security Council, and Article 27 gives each of them a veto over decisions of the Council. Clearly, all Members are equal, but some Members are more equal than others.

What is more, it is impossible to change this system, since the Charter cannot be amended without the consent of each of the five veto-wielding Members, none of whom is going to volunteer to give up this extraordinary privilege.

It's like having a domestic legal system that sends shoplifters to jail, but allows bank robbers to go scot-free – and gives bank robbers a veto on changing the system.

You will search in vain in Professor Sands' book to find any discussion of this fundamental flaw in the "rules-based system" established in the 1940s. Yet it is the reason why the UN system was powerless in the face of the determination of the US/UK to take military action against Iraq in March 2003, contrary to the UN Charter.

The Attorney-General declared this military action by the UK to be legal. Professor Sands spends two chapters of his book contesting this. But in practical terms all military action by the UK is a priori legal, since the UK is immune from conviction and punishment by the Security Council for carrying it out (and there's only a very small chance that any other body will bring the UK, or its political leaders, to book).

Of course, wherever possible, the UK likes to say that its military action has been mandated by the Security Council, in order to justify its actions at home and abroad, but that's war propaganda on the same plane as the Government's dossier on Iraq's weapons of mass destruction. Since the UK has a veto on the Security Council, its argument that its military action is mandated by the Council can never be challenged by the Council itself – so it can be as imaginative as it sees fit in its argument that the Council has authorised its military action.

As we will see, it has been very imaginative in its argument that its military actions against Iraq in December 1998 and March 2003 were mandated by the Security Council.

### **The Attorney-General's legal advice**

In early March 2003, before the US/UK finally abandoned their quest for a "second" Security Council resolution, the Prime Minister asked the Attorney-General, to supply him with "advice on the legality of military action" in the absence of such a resolution. This advice was contained in a 13-page document by the Attorney-General dated 7 March 2003 [\[1\]](#) (which the Government was forced to publish in full on 28 April 2005, after the summary from it was broadcast the previous evening on Channel 4 News).

This advice was equivocal about whether military action was legal, merely saying that "a reasonable case can be made" for it, but the Attorney-General stated this position unequivocally 10 days later in a written answer [\[2\]](#) in the House of Lords on 17 March 2003.

There has been a lot of controversy about the content of the Attorney-General's advice of 7 March 2003, and how the caveats in it were absent from his final view of 17 March 2003. But little attention has been paid to the most important part of the advice of 7 March 2003, which is contained in the section entitled *Possible consequences of acting without a second resolution* (paragraphs 32-35).

This section addressed the question that every client needs to have his lawyer answer, namely, what are the chances of me being done if I follow your advice? In this instance, would the UK get

convicted of aggression? And would the Prime Minister himself face a trial for “the planning, preparation, initiation or waging of a war of aggression” as happened to Hermann Goering at Nuremberg? As we will see, the Attorney-General’s answers were: there’s very little chance of it.

Academic lawyers in their thousands may protest that taking military action against Iraq was illegal because it lacked proper authorisation by the Security Council, but it is of no consequence in the real world when there is no possibility of the UK, or its political leadership, being convicted for taking such action. It is meaningless to describe an action as illegal if there is no expectation that the perpetrator of the action will be convicted by a competent judicial body. In the real world, an action is legal unless a competent judicial body rules that it is illegal.

As a veto-wielding member of the Security Council, the UK had no need to worry that the Security Council would bring it to book for its action. The Attorney-General didn’t need to remind the Prime Minister of this basic fact, but he did point out a number of ways the UK, or the Prime Minister himself, might conceivably become the subject of court action.

### **International Court of Justice**

First, he suggests (paragraph 32) that the UN General Assembly might ask the International Court of Justice (ICJ) for an Advisory Opinion on the legality of such military action, as it did in respect of the Wall that Israel is constructing on the West Bank. The General Assembly can make such a request by majority vote – permanent members of the Security Council haven’t got a veto. But, as its name implies, such an opinion is merely advisory and, while it would have been a political embarrassment to the US/UK if such a request had been made and a worse embarrassment if the ICJ had declared the action to be aggression contrary to the UN Charter, they would have ignored it, just as Israel has ignored the Advisory Opinion on the Wall.

In certain circumstances, the ICJ can entertain a complaint of aggression. For example, if both parties to the complaint have accepted the “compulsory jurisdiction” of the ICJ (see [\[3\]](#)). Thus, in 1984, Nicaragua took the US to the ICJ over a variety of US acts of aggression, both directly and through its aid to the Contras, including the laying of mines in Nicaraguan territorial waters. But, although the ICJ found against the US, and although by Article 94 of the UN Charter member states undertake

“to comply with the decision of the International Court of Justice in any case to which it is a party”,

the US simply ignored the Court ruling (and never paid Nicaragua the \$2 billion compensation laid down by the Court), and vetoed attempts by the Security Council to enforce it. So, it is impossible to hold a permanent member of the Security Council to account through the ICJ.

To avoid future embarrassment about being convicted by the ICJ, the US subsequently withdrew its acceptance of the ICJ’s “compulsory jurisdiction”, and therefore the ICJ would not have entertained a complaint about its aggression against Iraq.

But, as the Attorney-General warned, since the UK has accepted the ICJ’s “compulsory jurisdiction”, it was theoretically possible that the ICJ would entertain a complaint about the UK’s aggression. However, Iraq itself could not make such a complaint since it hadn’t accepted the “compulsory jurisdiction” of the ICJ and therefore another state that had would have to do so. It was unlikely that the ICJ would accept such a case. Even if it did, and even if it found the UK guilty of aggression, like the US in the Nicaragua case, the UK could ignore the outcome, and veto any attempt to enforce the ruling.

## **International Criminal Court**

Paragraph 33 of the Attorney-General's "advice" deals with the possibility of legal action by the International Criminal Court (ICC), which came into being on 1 July 2002. As the Attorney-General points out, the bottom line is that the ICC

"has no jurisdiction over the crime of aggression and could therefore not entertain a case concerning the lawfulness of any military action".

So the Prime Minister has nothing to worry about from the ICC, even though the UK has ratified the treaty, as have about a hundred other states. Another hundred states approximately have not, for example, the US, Russia, China and Israel.

Article 5 of the Rome Statute [\[4\]](#) setting up the ICC specifies the crimes for which individuals, not states, can be prosecuted by the ICC. These are genocide, war crimes, and crimes against humanity, all of which are defined in the Statute. The theory is that the ICC will only initiate prosecutions when states fail to do so, although, under Article 13(b), the Security Council may refer "a situation in which one or more of such crimes appears to have been committed" to the ICC (as it has done in respect of Darfur).

It is true that the Article 5 also mentions "the crime of aggression" but the founding conference couldn't agree on a definition. As a consequence, Article 5 says:

"The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations."

(Article 121 specifies the procedure for amending the Statute, and Article 123 says that there is to be a review conference 7 years after the Statute came into force, that is, in 2009).

It would be nice to see a future Tony Blair prosecuted by the ICC for the crime of aggression, but it's not going to happen. Britain, and the other permanent members of the Security Council, which are immune from sanction by the Security Council for aggression, are not going to make their leaders liable to prosecution for the crime of aggression at the ICC.

Theoretically, of course, whether or not the invasion itself constituted aggression, the ICC could prosecute individual British personnel for conduct in Iraq, but as the Attorney-General points out,

"the ICC would only be able to exercise jurisdiction over UK personnel if it is considered that the UK prosecuting authorities were unable or unwilling to investigate and, if appropriate, prosecute the suspects themselves".

## **Domestic courts**

Finally (paragraph 34), the Attorney-General has a few words to say about the remote possibility of legal action in domestic courts. In November 2002, CND had failed to get the domestic courts to intervene to stop military action, and he expresses confidence that, if another such case were brought, the courts would again "decline jurisdiction".

He points to two other possibilities for action in the domestic courts: an attempted prosecution for murder on the grounds that military action is unlawful, and an attempted prosecution for the crime

of aggression. However, he reckoned that the possibility of the domestic courts accepting jurisdiction in these instances was “remote”.

### **Proposed action legal**

So, in his advice of 7 March 2003, the Attorney-General assured the Prime Minister that it was very little chance that the UK, or the Prime Minister himself, would be brought to book, if the UK engaged in military action against Iraq. In a practical sense, what the Prime Minister proposed to do was legal, since no competent judicial body was going to declare it illegal. The Attorney-General’s written answer of 17 March 2003 stated this bluntly, without the caveats in his earlier advice.

When the advice came into the public domain in April 2005, criticism was heaped on the Attorney-General’s head for this. But what was the Attorney-General supposed to do? Say that the proposed action might be legal and might not be? He had to come down one way or another and, since there was little or no likelihood that the UK, or the Prime Minister, would be convicted of aggression if the proposed action went ahead, it made sense to declare the action legal.

It is true that to back this up he presented a completely implausible argument that the military action was authorised by the Security Council in resolution 678, passed on 29 November 1990, for an entirely different purpose, but that’s a different issue (which I examine below). To secure support for the action, at home and abroad, it would have been better if the Security Council had explicitly authorised military action against Iraq for the purposes of disarming it, in which case the Attorney-General would have had a more plausible argument for declaring the action was authorised by the Security Council.

Although the controversy surrounding the Attorney-General’s advice added to the public feeling that Blair had been less than honest in the lead up to the invasion of Iraq, it didn’t matter much in the end – and, crucially, no judicial body has found the UK, or the Prime Minister, guilty of the crime of aggression.

Professor Sands is fooling himself when he writes in *Lawless World*:

“... questions surrounding the Attorney-General’s advice continued to fester right up until the general election of May 2005 when it became a defining issue and caused a significant drop in the Labour Party vote.” (p 200)

### **The 678 revival**

The Attorney-General came in for dog’s abuse from international lawyers, including Professor Sands, for the argument that the proposed action was authorised by the Security Council. But, as we will see, it is a variant of the one used for years by the Foreign Office to justify taking military action against Iraq, for example, to argue that Operation Desert Fox – the bombing of Iraq in December 1998 – was authorised by the Security Council.

The basic argument, set out in the leaked Foreign Office document *Iraq: Legal Background* [\[5\]](#) from March 2002, is as follows:

“Following its invasion and annexation of Kuwait, the Security Council authorised the use of force in resolution 678 (1990); this resolution authorised coalition forces to use all necessary means to force Iraq to withdraw, and to restore international peace and security in the area. This resolution gave a legal basis for Operation Desert Storm, which was brought to an end by the cease-fire set out by the Council in resolution 687 (1991). The conditions for the cease-fire in that resolution (and subsequent resolutions) imposed obligations on Iraq with regard to the elimination of WMD

and monitoring of its obligations. Resolution 687 (1991) suspended but did not terminate the authority to use force in resolution 678 (1990).

“In the UK’s view a violation of Iraq’s obligations which undermines the basis of the cease-fire in resolution 687 (1991) can revive the authorisation to use force in resolutions 678 (1990). As the cease-fire was proclaimed by the Council in resolution 687 (1991), 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 assessment of a breach is for individual member States. We are not aware of any other State which supports this view.

“The authorisation of the use of force contained in resolution 678 (1990) has been revived in this way on certain occasions. For example, when Iraq refused to cooperate with the UN Special Commission (UNSCOM) in 1997/8, a series of SCRs [Security Council resolutions] condemned the decision as unacceptable. In 1205 (1998) the Council condemned Iraq’s decision to end all cooperation with UNSCOM as a flagrant violation of Iraq’s obligations under 687 (1991), and restated that the effective operation of UNSCOM was essential for the implementation of the Resolution. In our view these resolutions had the effect of causing authorisation to use force to revive, which provided the legal basis for Operation Desert Fox.”

Is this meant to be taken seriously? Of course, not. It’s legalistic hocus-pocus to justify UK aggression against Iraq.

If you take this hocus-pocus seriously, at any time since the first disarmament resolution was passed in April 1991, **every** state in this world (for example, Iran) had Security Council authority to take military action against Iraq to enforce Security Council disarmament resolutions.

The US apparently took this view unconditionally. Britain attached the proviso that the Security Council must have passed a resolution saying that Iraq was in breach of these disarmament resolutions.

This nonsense led to the situation in December 1998 and March 2003 when the US/UK took military action against Iraq in order, they say, to enforce the will of the Security Council, even though on both occasions the Council was opposed to military action.

### **No military action for disarmament**

The plain truth is that the Security Council **never** authorised military action against Iraq in order to enforce disarmament resolutions.

The first disarmament resolution, 687 [\[6\]](#), passed on 3 April 1991 after Iraq had been expelled from Kuwait, **did** authorise military action (in paragraph 4), but only to expel Iraq from Kuwait, if it re-entered Kuwait.

If, as the Foreign Office document above contends, 687 was a ceasefire resolution that suspended, but did not terminate, the authority to use force in 678 [\[7\]](#), there would have been no need to include a further authority to use force in 687. The inclusion of this new authority is a proof positive that the Security Council did **not** consider that the authority in 678 was merely suspended, and would revive if Iraq violated the cease-fire by, for example, re-entering Kuwait.

In fact, 687 brought about a permanent ceasefire and terminated the authority to use force in 678. This is clear from examining 687 in conjunction with resolution 686 [\[8\]](#), passed a month earlier on 2 March 1991. The latter established a provisional ceasefire, but in paragraph 4 explicitly states that the authorisation for the use of force in 678 remains in effect. No similar provision is present in 687.

Obviously, therefore, whereas the Security Council did intend the authorisation of force in 678 to remain in effect until Iraq signed a permanent ceasefire, it did **not** intend the authorisation of force in 678 to remain in effect until Iraq fulfilled the disarmament provisions of 687. A permanent ceasefire came into force with Iraq's acceptance of 687 on 6 April 1991 and, with that, the authorisation for the use of force in 678 died.

Furthermore, in the final paragraph of 687, the Security Council explicitly reserved unto itself the responsibility for overseeing the implementation of 687:

“[The Security Council] Decides to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area.”

In other words, it doesn't give the US/UK (or Iran) authority to take military action to enforce 687, whenever they take the notion – which is the crux of the British hocus-pocus on this matter.

### **Operation Desert Fox**

In March 2002, the Security Council had not declared Iraq to be in breach of its disarmament resolutions since it passed 1205 on 5 November 1998. Following its passage, a US/UK bombing campaign was called off at the last minute when Iraq re-admitted UN inspectors, having been promised that a sustained period of Iraqi co-operation with the inspectors would lead to a “comprehensive review” of the disarmament process.

However, the bombing campaign went ahead a month later (as Operation Desert Fox), after Richard Butler, the head of UNSCOM, produced an unjustifiably negative report on Iraq's co-operation (see my pamphlet *Iraq: Lies, Half-truths & Omissions* [9], Annex D, which also presents cast iron proof that the US was determined that Iraq was never going to be declared disarmed and economic sanctions lifted, while Saddam Hussein was in power).

Under the stewardship of Robin Cook, the UK justified Operation Desert Fox by asserting that the suspended authority in 678 to take military action was revived by 1205's finding that Iraq was in breach of disarmament resolutions.

Before the bombing took place, UN inspectors had to be withdrawn for their own safety, and understandably Iraq didn't let them back in afterwards. Clearly, therefore, if Iraq was in breach of disarmament resolutions in December 1998, it must have been still in breach from then on, at least until it readmitted UN inspectors. Logically, therefore, the authority to take military action in 678 was still operative in March 2002 (and indeed had been operative since December 1998).

But the Foreign Office document was very reluctant to conclude that Security Council authority existed for military action in March 2002, saying:

“A more difficult issue is whether we are still able to rely on the same legal base for the use of force more than three years after the adoption of resolution 1205 (1998). Military action in 1998 (and on previous occasions) followed from specific decisions of the Council; there has now not been any significant decision by the Council since 1999. Our interpretation of resolution 1205 was controversial anyway; many of our partners did not think the legal basis was sufficient as the authority to use force was no[t] explicit. Reliance on it now would be unlikely to receive any support.”

(In the minutes of the famous Downing Street meeting on 23 July 2002 [\[10\]](#), the Attorney-General sang from the same hymn sheet, saying that “relying on UNSCR 1205 of three years ago would be difficult”).

This rather gives the game away, revealing that the existence of authority for military action is not an objective fact derived from Security Council resolutions, as claimed earlier, and that “our partners” had other opinions. Apparently, “our partners” didn’t believe the hocus-pocus we advanced about having Security Council authority for bombing Iraq in December 1998.

The bombing then was solely a US/UK affair, so the opinion of “our partners” didn’t matter. This time, however, the Foreign Office was hoping to involve “our partners” in military action against Iraq and more explicit authority for the use of force from the Security Council was desirable. “Our partners” were not going to join in on the basis of our previous hocus-pocus.

More explicit authority was also desirable for domestic purposes, in order “to manage a press, a Parliament and a public opinion that was very different than anything in the States” (to use David Manning words in his memo to the Prime Minister on 14 March 2002 [\[11\]](#)).

And so, in the spring of 2002, the British Government decided that it would be best to take the matter back to the Security Council and seek more explicit authority for military action. By September 2002, the US had agreed to this course of action. Unhappily for them, resolution 1441 [\[12\]](#) didn’t provide explicit authority in any circumstances – even if Iraq refused to admit inspectors, which it didn’t.

### **Back to revival argument**

At this point, it looks as if the UK abandoned hope of explicit authorisation and accepted that it would have to fall back on the hocus-pocus that the authority in 678 could be revived if the Security Council declared Iraq to be in breach of its disarmament obligations. But here 1441 was a double-edged sword. On the one hand, in paragraph 1 it asserted that

“Iraq has been and remains in material breach of its obligations under relevant resolutions, including resolution 687 (1991)”

But, on the other hand, in paragraph 2 it gave Iraq

“a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council”

So 1441 could hardly be taken as an immediate trigger for the supposed revival of 678 authority for military action. Furthermore, paragraph 4 stated 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 cooperate fully in the implementation of, this resolution shall constitute a further material breach of Iraq’s obligations and will be reported to the Council for assessment in accordance with paragraphs 11 and 12 below.”

This gave the definite impression that it was up to the Security Council to decide what should be done after “assessment” by it of any non-compliance by Iraq reported to it.

### **“Second” resolution**

This was not what the UK wanted. The hocus-pocus about 678 authority for military action reviving ideally required a clear statement by the Security Council that Iraq was in breach of its disarmament

obligations. This is what the UK tried to get in the so-called “second” resolution [\[13\]](#). The draft of this had only one operative paragraph, which said:

“[The Security Council] Decides that Iraq has failed to take the final opportunity afforded to it by resolution 1441(2002)”

But, only 4 out of the 15 members of the Security Council supported this, even though it didn’t explicitly authorise military action. At the time, of course, it was assumed that, if passed, it would have given a Security Council green light to military action, and certainly the UK would have used it to assert that 678 authority for military action had been revived.

However, despite President Bush twisting arms and threatening (and bugging the UN offices of recalcitrant members), the Security Council refused to endorse the “second” resolution. So, the standard version of the revival hocus-pocus, set out in Foreign Office document in March 2002, had to be modified to permit another authority to determine if Iraq was in breach.

To be on the safe side, the authority chosen was the UK government – in other words, the UK adopted the US position that “the assessment of a breach is for individual member States”.

(Because of this, Elizabeth Wilmshurst resigned her post as deputy chief legal adviser at the Foreign Office on 18 March 2003, but the standard hocus-pocus as set out in the Foreign Office document above had obviously been acceptable to her.)

#### **The Attorney-General’s answer**

This brings us to the Attorney-General’s written answer of 17 March 2003 [\[2\]](#). The first three paragraphs are the standard hocus-pocus about the revival of 678 authority to take military action. The next three give an accurate summary of the effect of 1441:

“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 cooperate fully in the implementation of resolution 1441, that would constitute a further material breach.”

The seventh and eighth are the ones that matter:

“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.”

#### **Prime Minister certifies**

The Butler Report [\[14\]](#) published in July 2004 revealed that paragraph 7 was the product of an exchange of letters between the Attorney-General and the Prime Minister. As explained in the Report (paragraphs 383-5), the Attorney-General wrote formally to the Prime Minister on 14 March 2003 seeking confirmation that

“... it is unequivocally the Prime Minister’s view that Iraq has committed further material breaches as specified in paragraph 4 of resolution 1441.”

Happily, the Prime Minister knew something that the UN inspectors and the Security Council didn’t know and was able to reply the next day, saying:

“... 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 by Iraq to comply with, and co-operate fully in the implementation of, this resolution’.”

With that, the 678 authority to take military action against Iraq, originally given in November 1990 to expel Iraq from Kuwait, revived and, hey presto, the upcoming US/UK aggression was said to be authorised by the Security Council. By the same reasoning, any state, for example, Iran, could have taken military action against Iraq with the full authority of the Security Council at any time since 1991, if it certified that Iraq was in breach of its disarmament obligations. It’s like allowing a serial killer to decide his own guilt or innocence.

Only, veto-wielding members of the Security Council (or very good friends of veto-wielding members) dare justify aggression with such ludicrous hocus-pocus and act upon it. They know that they are immune from even the mildest censure by the Security Council, let alone economic sanctions or military action, to make them desist from their aggression.

### **Military occupation authorised**

In this instance, far from censuring the US/UK for aggression, the Security Council rushed to endorse the product of the US/UK aggression – the military occupation of Iraq. It was as if the members of the Council were uncomfortable at having fallen out with the US/UK about the invasion and were seeking to get back in their good books as quickly as possible.

Security Council resolution 1483 [\[15\]](#), passed on 22 May 2003, authorised the US/UK to govern Iraq for the indefinite future and to sell its oil, and spend the proceeds. The latter was important, because, without it, the US/UK as occupying powers would have been in an uncertain legal position in selling Iraqi oil – occupying powers are not supposed to steal the resources of the state they occupy. The resolution was sold as a generous act which, after more than 12 years, ended economic sanctions: it did; it had to, in order that the US/UK could sell Iraqi oil, and spend the proceeds.

Six months later, the Council went further and authorised the US/UK occupying forces to use force to put down resistance to the occupation. This authority was given in resolution 1511 [\[16\]](#), passed on 16 October 2003, paragraph 13 of which says:

“[The Security Council] ... authorizes a multinational force under unified command [aka the occupying forces under US command] to take all necessary measures [ie use force] to contribute to the maintenance of security and stability in Iraq”

This licence to kill was renewed in resolution 1546 [\[17\]](#) passed in 8 June 2004, before the “handover” to the “interim” Iraqi government, appointed by the US and headed by Ayad Allawi.

Fallujah was flattened, twice, with the blessing of the Security Council.

The mandate of 1546 was scheduled to expire on 31 December 2005, but was extended at the request of the Iraqi government to 31 December 2006 by the passage of Security Council resolution 1637 [\[18\]](#) on 11 November 2005.

The Prime Minister and Foreign Secretary are quite correct when they say that the presence of British troops in Iraq is authorised by the Security Council.

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