

British Invasion of Iraq was Illegal: Former Government Lawyer

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LONDON (AFP) – The invasion of Iraq in 2003 was illegal, a former top British government lawyer told a public inquiry into the war Tuesday, three days before the appearance of ex-prime minister Tony Blair.

“I considered that the use of force against Iraq in March 2003 was contrary to international law,” Michael Wood, chief legal advisor to the Foreign Office between 1999 and 2006, told the Chilcot inquiry in London.

“In my opinion, that use of force had not been authorised by the Security Council, and had no other legal basis in international law.”

Wood said he told ministers of his concerns but was brushed aside, and in the end the government’s top lawyer, attorney general Peter Goldsmith, gave the green light for military action.

The focus of the Chilcot inquiry, which began in November, has turned to the legality of the war ahead of the appearance of Blair, who took Britain into the conflict alongside then US president George W. Bush despite strong opposition.

Blair partly justified the March 2003 invasion by citing Iraqi leader Saddam Hussein’s continued defiance of United Nations Security Council resolutions on weapons of mass destruction (WMD).

Goldsmith gave his approval just days before war, saying UN resolution 1441 passed in November 2002 provided a legal base for military action.

Some critics charge that he was pressured into this view, that the conflict was in fact illegal and Blair should be prosecuted accordingly.

Two weeks before the invasion, Goldsmith said a case could be made for war under 1441 but it would be “safest” to get a second UN resolution explicitly authorising force.

When attempts to achieve this collapsed, he gave the go-ahead.

But Wood said 1441 made clear it was up to the UN Security Council to decide whether Saddam had complied with their demands — not individual states — and no such decision had been made.

A Dutch commission made this point this month when it declared that the invasion had “insufficient legitimacy under international law”.

Wood said he challenged the British government’s view in January 2003 after then foreign secretary Jack Straw told the US vice president Dick Cheney that it would be “ok” if no second UN resolution were obtained.

He wrote to Straw saying there was “no doubt” that without further Security Council action or any major developments, “the UK cannot lawfully use force against Iraq” — but the minister brushed his concerns aside.

“He (Straw) 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,” Wood said.

Wood’s testimony supports that of his former deputy, Elizabeth Wilmshurst, who resigned before the invasion because she believed it was illegal.

Wilmshurst told the inquiry Tuesday that all the Foreign Office lawyers had been “entirely of one view” and she believed Goldsmith was with them, until he delivered his legal opinion on March 7, 2003.

“The formal advice wasn’t asked until the very last moment, when really it would have been very, very difficult for him to give a different view without giving a major public relations advantage to Iraq,” she said.

Goldsmith is due to appear before the inquiry on Wednesday.

Critics of the invasion say Blair, who gives evidence Friday, should be prosecuted for violating international law.

Philippe Sands, professor of law at University College London, told AFP he may be vulnerable under the international crime of aggression, although this is not enforceable in English courts or the International Criminal Court.

“It is a bit of a stretch, but the possibility cannot be excluded,” he said, adding: “At the very least Mr Blair may wish to exercise some care in making his international travel arrangements.”

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