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ICJ DEPLORES MOVES TOWARD A WAR OF AGGRESSION ON IRAQ

The ICJ today expressed its deep dismay that a small number of states are poised to launch an outright illegal invasion of Iraq, which amounts to a war of aggression. The United States, the United Kingdom and Spain have signalled their intent to use force in Iraq in spite of the absence of a Security Council Resolution. There is no other plausible legal basis for this attack. In the absence of such Security Council authorisation, no country may use force against another country, except in self-defence against an armed attack.

"This rule was enshrined in the United Nations Charter in 1945 for a good reason: to prevent states from using force as they felt so inclined", said ICJ Secretary-General Louise Doswald-Beck.

A war waged without a clear mandate by the Security Council would constitute a flagrant violation of the prohibition of the use of force. Security Council Resolution 1441 does not authorise the use of force. Upon its adoption, France, Russia and China, three permanent members of the Security Council, issued a declaration indicating that the Resolution excludes such authority. The bottom line is that nine members of the Security Council, including the five permanent members, need to actively approve the use of force - such support is blatantly lacking.

According to ICJ Legal Adviser Ian Seiderman: "The present regime in Iraq is certainly responsible for widespread and systematic human rights violations over the years. However, this reprehensible human rights record does not by itself provide a legal basis for resort to war. The appropriate method of addressing such gross abuses is to treat them as international crimes and to use and strengthen enforcement mechanisms, such as the International Criminal Court."

The competency of the Security Council to authorise the use of force is not unlimited. It may only do so to "maintain or restore international peace and security". As States resisting the use of force at this moment understand, the determination upon whether there is a present threat to international peace and security must be based on sufficient objective criteria. The evidence presented by states pressing for war is less than convincing.

The ICJ therefore strongly urges the Governments of the United States, the United Kingdom, Spain and other countries, even at this late hour, to reconsider their policy choices and desist from the unlawful use of force against Iraq.

For further information, please contact Louise Doswald-Beck or Ian Seiderman at +41-22-979-3800

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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