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His Excellency Aleksander Kwasniewski
President
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15th March 2004

Your Excellency,

Re: Legality of Iraq War

As you may well be aware, the anniversary of the Iraq War is coming up at the end of this week. One year later, the legality of this war remains highly questionable. In May 2003 we wrote to you and other members of the so-called “Coalition of the Willing” that supported the United States-led invasion of Iraq in March 2003. The Bush administration led this invasion under its new doctrine of preventive war as laid out in the US National Security Strategy, published in September, 2002.

We noted at the time that the doctrine of preventive war was a clear break with the principles of the United Nations Charter and international law, which have for nearly sixty years constituted an international consensus that the use of military force outside the provisions of the Charter and international law is illegal and illegitimate. Secretary-General Kofi Annan, many governments, the International Commission of Jurists, and hundreds of legal experts stated strongly and clearly prior to the war that the attack on Iraq would be illegal and in breach of the United Nations Charter.¹

The point of our letter, dated May 2003, was to ascertain the position of your government, which had declared itself a member of the “Coalition of the Willing”, with respect to the doctrine of preventive war and its compatibility with the United Nations Charter. The replies that we received, as well as public statements by many Coalition governments, relied on existing Security Council resolutions on Iraq and weapons of mass destruction, justifying the invasion on the basis of the ‘fact’ that Iraq had not complied with the international community’s demand to rid itself of such weapons.

This ‘fact’ seems now almost certainly to be untrue, and there is a growing body of evidence that this was well known to at least the US and UK governments at the time. No weapons of mass destruction have been found, and the overwhelming body of evidence is that Iraq was in compliance with the relevant Security Council Resolutions.

¹ See attached list of list of some of these legal analyses, showing that the US/UK/Australian legal position is without foundation.

In light of these developments, we respectfully pose the following questions once again:

- (1) Does your country support the Bush doctrine of preventive war?
- (2) Does your country adhere to the provisions and principles of the United Nations Charter, and in particular articles 2(3), 2(4) and 51?
- (3) Does your country consider itself bound by the 4th Geneva Convention, Hague Regulations and Hague Convention for the Protection of Cultural Property and provisions of Protocol I to the Geneva Convention?

It is becoming clear that the legal position taken by the US, UK and other Coalition governments is completely without foundation. What has now emerged is the appearance that the US, UK and Australian governments ignored contrary legal advice from impartial lawyers, and instead adopted an unsupportable legal analysis to justify the invasion. The reality that permanent members of the Security Council acted not only illegally but also in full knowledge of the illegal nature of their actions is sobering and must be addressed to restore the integrity of our international institutions.

We respectfully request your government to take the following steps to help redress this dangerous situation.

Greenpeace is calling on all states to:

- Renounce the Bush doctrine of preventive war and the unilateral use of force outside the remit of the UN Charter;
- Return to adherence to multilateralism, international law and implementation of treaty obligations as the only true means to achieve real security for nations and their people;
- Ensure that non-proliferation and disarmament principles are applied universally and without discrimination.

We would be grateful, if you could confirm to us whether your country is willing to take these important steps.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Leipold', written in a cursive style.

Gerd Leipold
Executive Director
Greenpeace International

Legal issues references

A summary of online legal opinions and other legal reference material on preventive war, the illegality of the Iraq war and post war analyses available on the internet follow. This summary does not include analyses in scholarly journals.

Material on Preventive War

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Articles About the Illegality of the Iraq War

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<http://www.globeandmail.com/servlet/story/RTGAM.20030320.ulaww0320/BNStory/International> Lawyers Committee on Nuclear Policy, International Appeal by Lawyers and Jurists against the "Preventive" Use of Force. The "preventive" use of force currently being considered against Iraq is both illegal and unnecessary. <http://www.lcnp.org/global/LawyersandJuristsAppeal.htm>.

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 43 Australian legal experts said the war against Iraq would be a fundamental violation of international law and the United States doctrine or pre-emptive self-defence contradicts the cardinal principle of the modern international legal order and the primary rationale for the founding of the UN after World War II. <http://www.smh.com.au/articles/2003/02/25/1046064028608.html>

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Prof. Vaughan Lowe, BBC mock judicial review, 19 December 2003.
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Links

Links to Opinions on Legality of War Against Iraq:

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