

A confidential record of a meeting between President Bush and Tony Blair before the invasion of Iraq, outlining their intention to go to war without a second United Nations resolution, will be an explosive issue for the official inquiry into the UK's role in toppling Saddam Hussein.

The memo, written on 31 January 2003, almost two months before the invasion and seen by the Observer, confirms that as the two men became increasingly aware UN inspectors would fail to find weapons of mass destruction (WMD) they had to contemplate alternative scenarios that might trigger a second resolution legitimising military action.

Bush told Blair the US had drawn up a provocative plan "to fly U2 reconnaissance aircraft painted in UN colours over Iraq with fighter cover". Bush said that if Saddam fired at the planes this would put the Iraqi leader in breach of UN resolutions.

The president expressed hopes that an Iraqi defector would be "brought out" to give a public presentation on Saddam's WMD or that someone might assassinate the Iraqi leader. However, Bush confirmed even without a second resolution, the US was prepared for military action. The memo said Blair told Bush he was "solidly with the president".

The five-page document, written by Blair's foreign policy adviser, Sir David Manning, and copied to Sir Jeremy Greenstock, the UK ambassador to the UN, Jonathan Powell, Blair's chief of staff, the chief of the defence staff, Admiral Lord Boyce, and the UK's ambassador to Washington, Sir Christopher Meyer, outlines how Bush told Blair he had decided on a start date for the war.

Paraphrasing Bush's comments at the meeting, Manning, noted: "The start date for the military campaign was now pencilled in for 10 March. This was when the bombing would begin."

Last night an expert on international law who is familiar with the memo's contents said it provided vital evidence into the two men's frames of mind as they considered the invasion and its aftermath and must be presented to the Chilcott inquiry established by Gordon Brown to examine the causes, conduct and consequences of the Iraq war.

Philippe Sands, QC, a professor of law at University College London who is expected to give evidence to the inquiry, said confidential material such as the memo was of national importance, making it vital that the inquiry is not held in private, as Brown originally envisioned.

In today's Observer, Sands writes: "Documents like this raise issues of national embarrassment, not national security. The restoration of public confidence requires this new inquiry to be transparent. Contentious matters should not be kept out of the public domain, even in the run-up to an election."

The memo notes there had been a shift in the two men's thinking on Iraq by late January 2003 and that preparing for war was now their priority. "Our diplomatic strategy had to be arranged around the military planning," Manning writes. This was despite the fact Blair that had yet to

receive advice on the legality of the war from the Attorney General, Lord Goldsmith, which did not arrive until 7 March 2003 - 13 days before the bombing campaign started.

In his article today, Sands says the memo raises questions about the selection of the chair of the inquiry. Sir John Chilcott sat on the 2004 Butler inquiry, which examined the reliability of intelligence in the run-up to the Iraq war, and would have been privy to the document's contents - and the doubts about WMD running to the highest levels of the US and UK governments.

Many senior legal experts have expressed dismay that Chilcott has been selected to chair the inquiry as he is considered to be close to the security services after his time spent as a civil servant in Northern Ireland.

Brown had believed that allowing the Chilcott inquiry to hold private hearings would allow witnesses to be candid. But after bereaved families and antiwar campaigners expressed outrage, the prime minister wrote to Chilcott to say that if the panel can show witnesses and national security issues will not be compromised by public hearings, he will change his stance.

Lord Guthrie, a former chief of the defence staff under Blair, described the memo as "quite shocking". He said that it underscored why the Chilcott inquiry must be seen to be a robust investigation: "It's important that the inquiry is not a whitewash as these inquiries often are."

This year, the Dutch government launched its own inquiry into its support for the war. Significantly, the inquiry will see all the intelligence shared with the Dutch intelligence services by MI5 and MI6. The inquiry intends to publish its report in November - suggesting that confidential information about the role played by the UK and the US could become public before Chilcott's inquiry reports next year.

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