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(U) Problems and Prospects of "Justifying" War With Iraq

(C) Many, if not most, countries allied with or friendly toward the United States--especially in Europe--harbor grave doubts about the advisability of reported US plans for an all-out attack on Iraq. Though many of these reservations may be pragmatic, politically motivated, or even pusillanimous, to the publics of the countries concerned some are seen as matters of principle. The seven principles of traditional "just war" theory provide a framework for organizing critiques of presumed US plans for Iraq. Foreign critics tend to see the principles of "last resort," "justifiable cost," and "openness to peaceful resolution" as the most tenuous justification for an attack on Iraq.

(U) Principles of just war

(U//SBU) Traditional just war theory is based mainly on the work of Dutch jurist Hugo Grotius, circa 1600. It is generally understood as comprising seven principles: just cause of conflict; competent authority to initiate conflict; last resort (peaceful means exhausted); justifiable cost; openness to peaceful resolution; prospect of success; and just means involving discrimination and proportionality. Many objections to and reservations about the perceived US advocacy of all-out war with Iraq, involving overthrow and replacement of the current regime, can be subsumed under one or more of these principles. Arguments of those criticizing putative US justifications are summarized below.

(U) Just cause

(U//SBU) *There must be a just reason for starting a war or initiating large-scale conflict between states.* Purely aggressive war has long been understood to be illegitimate. The scope, scale, intensity, and destructiveness of modern military action and technology are seen as effectively delegitimizing any justification for wars of aggrandizement. Only wars of defense currently are perceived as just. Preemptive wars of defense, however, require careful justification. In particular, the certainty and imminence of the alleged threat(s) require persuasive evidence.

(U//SBU) Most countries are convinced of--or at least will not openly discount--the dangers that would be posed by Iraqi possession of capabilities to produce and employ weapons of mass destruction (WMD--including nuclear, chemical, and biological weapons). But many countries insist that persuasive, if not conclusive, evidence of current Iraqi capabilities and intentions is required to justify a contention that Iraqi WMD poses such a grave and imminent threat to international peace and security (read: to the United States) that a preemptive attack can be justified on defensive grounds.

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(U//SBU) Countries holding this view will want Washington to present such evidence.

(U) Competent authority

(U//SBU) *Only duly constituted civil authority--generally a legitimate government--can rightfully initiate war or large-scale conflict, owing to the scale and depth of responsibilities involved in causing destruction and suffering affecting a large segment of society.* There is no question that the government of a sovereign, democratic power such as the United States is a competent authority in this regard--especially if the United States follows its constitutionally mandated procedures for a formal declaration of war.

(U//SBU) But the existence of the UN Security Council and its Charter-mandated responsibilities for international peace and security, combined with the precedent of using UNSC resolutions to justify previous large-scale military operations against Iraq, creates a strong public presumption that the Security Council must authorize any future major hostilities with Iraq. If an additional UNSC resolution is not sought and obtained for such hostilities, many countries may never regard another war with Iraq as legitimate or justifiable.

(U) Last resort

(U//SBU) *A modern war is considered just only if it is a last resort after all peaceful means of resolution have been tried and have failed.* In the case of Iraq, assuming that the imminence of the WMD threat is the central justification for defensive preemption, every reasonable effort to employ UN inspectors to determine the state of Iraqi capabilities and eliminate them must first be exhausted. Much of the international community perceives the United States to be uninterested in any resumption of UN inspections.

(U) Justifiable cost

(U//SBU) *The damage, destruction, and suffering brought about by war must be shown to be worth the goals and objectives thought to be reasonably foreseeable--and achievable--as a result of going to war.* Protracted, large-scale urban warfare in Iraq, now seen as a likely prospect if major hostilities commence, would wreak enormous damage on civil infrastructure and inflict great suffering on Iraqi civilians. Other countries probably will demand a persuasive explanation of how this can be avoided or significantly mitigated before they will support military action. Committed, credible, long-term postwar reconstruction plans would have to be part of any persuasive presentation. Otherwise, the prospect of the complete destruction of Iraqi society would be seen as unjustified.

(U//SBU) The idea of justifiable cost also underlies pragmatic concerns in many countries about the terrorism, violent protest, and other forms of severe domestic instability that might ensue on their soil as a result of an all-out attack on Iraq.

(U) Openness to peaceful resolution

(U//SBU) *During the course of a conflict, participating countries should remain open to peaceful means of resolving it.* Categorical demands for the overthrow of the Iraqi regime are likely to be seen by other countries as an unjustifiable requirement for unconditional surrender. Many countries are disinclined to rule out completely yet another "deal" with Saddam Hussein, presumably under much

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tighter conditions and constraints than currently prevail, perhaps involving his effective removal from power but retention in a figurehead role. Absent US willingness to consider such an approach, other countries probably would demand some kind of formal indictment, by a duly constituted tribunal with appropriate international jurisdiction, for war crimes or crimes against humanity.

(U) Prospect of success

(U//SBU) *A reasonable chance of achieving a war's aims is required to justify the conflict.* Obviously the United States, whether alone or in coalition with other countries, has the capability to defeat Iraq to any degree that it chooses. But in view of perceived uncertainties about the cost and course of all-out conflict with Iraq, other countries want to know if the United States would commit to finish the job—for example, even in the face of large numbers of US casualties and even if the war dragged on for a long time.

(U//SBU) The aftermath of a war with Iraq would raise numerous pragmatic concerns relating to the prospect of success as a principle. There is widespread doubt that Washington has a viable plan to install and sustain a successor regime in Iraq. Worry also prevails that the entire region would become even more unstable and unfriendly to Western countries and other industrialized democracies. Countries in the region also are anxious about refugee inflows. Numerous other, less specific concerns about possible unintended consequences further exacerbate the doubts that dominate thinking almost everywhere abroad.

(U) Just means

(U//SBU) *A just war must be conducted by just means, especially in discriminating between combatants and noncombatants and limiting the destruction as much as possible while achieving legitimate military objectives.* US precision-guided munitions are now widely seen as fully providing the capability for discrimination and proportionality. But this perception can work against the United States when targeting errors, accidents, and baiting by disinformation lead to widely publicized civilian deaths. Saddam's well-documented use of Iraqi civilians as human shields will complicate actual operations, and other countries—especially potential coalition partners—will want to learn in detail about how the United States plans to cope with inevitable civilian hostage contingencies.

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