

War critics astonished as US hawk admits invasion was illegal

Oliver Burkeman and Julian Borger in Washington

International lawyers and anti-war campaigners reacted with astonishment yesterday after the influential Pentagon hawk Richard Perle conceded that the invasion of Iraq had been illegal.

In a startling break with the official White House and Downing Street lines, Mr Perle told an audience in London: "I think in this case international law stood in the way of doing the right thing."

President George Bush has consistently argued that the war was legal either because of existing UN security council resolutions on Iraq—also the British government's publicly stated view—or as an act of self-defence permitted by international law.

But Mr Perle, a key member of the defence policy board, which advises the US defence secretary, Donald Rumsfeld, said that "international law . . . would have required us to leave Saddam Hussein alone", and this would have been morally unacceptable.

French intransigence, he added, meant there had been "no practical mechanism consistent with the rules of the UN for dealing with Saddam Hussein".

Mr Perle, who was speaking at an event organised by the Institute of Contemporary Arts in London, had argued loudly for the toppling of the Iraqi dictator since the end of the 1991 Gulf war.

"They're just not interested in international law, are they?" said Linda Hugl, a spokeswoman for the Campaign for Nuclear Disarmament, which launched a high court challenge to the war's legality last year. "It's only when the law suits them that they want to use it."

Mr Perle's remarks bear little resemblance to official justifications for war, according to Rabinder Singh QC, who represented CND and also participated in Tuesday's event.

Certainly the British government, he said, "has never advanced the suggestion that it is entitled to act, or right to act, contrary to international law in relation to Iraq".

The Pentagon adviser's views, he added, underlined "a divergence of view between the British government and some senior voices in American public life [who] have expressed the view that, well, if it's the case that international law doesn't permit unilateral pre-emptive action without the authority of the UN, then the defect is in international law".

Mr Perle's view is not the official one put forward by the White House. Its main argument has been that the invasion was justified under the UN charter, which guarantees the right of each state to self-defence, including pre-emptive self-defence. On the night bombing began, in March, Mr Bush reiterated America's "sovereign authority to use force" to defeat the threat from Baghdad.

The UN secretary general, Kofi Annan, has questioned that justification, arguing that the security council would have to rule on whether the US and its allies were under imminent threat.

Coalition officials countered that the security council had already approved the use of force in resolution 1441, passed a year ago, warning of "serious consequences" if Iraq failed to give a complete accounting of its weapons programmes.

Other council members disagreed, but American and British lawyers argued that the threat of force had been implicit since the first Gulf war, which was ended only by a ceasefire.

"I think Perle's statement has the virtue of honesty," said Michael Dorf, a law professor at Columbia University who opposed the war, arguing that it was illegal.

“And, interestingly, I suspect a majority of the American public would have supported the invasion almost exactly to the same degree that they in fact did, had the administration said that all along.”

The controversy-prone Mr Perle resigned his chairmanship of the defence policy board earlier this year but remained a member of the advisory board.

Meanwhile, there was a hint that the US was trying to find a way to release the Britons held at Guantanamo Bay.

The US secretary of state, Colin Powell, said Mr Bush was “very sensitive” to British sentiment. “We also expect to be resolving this in the near future,” he told the BBC.