

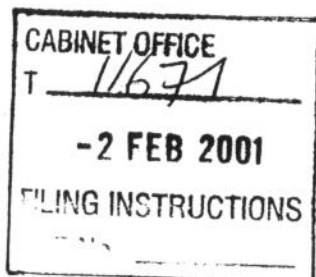


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THE LEGAL SECRETARIAT TO THE LAW OFFICERS
ATTORNEY GENERAL'S CHAMBERS
9 BUCKINGHAM GATE
LONDON SW1E 6JP

William Patey Esq
Middle East Department,
Foreign and Commonwealth Office
London SW1A 2AH



2 February 2001

Dear William,

IRAQ

Thank you for your letter of 31 January which we received late on Wednesday and which I submitted to the Attorney General for his immediate consideration on his return to London yesterday evening.

The Attorney recalls the previous advice of the Law Officers that, in assessing whether a respectable legal argument can be made that force is justified on grounds of overwhelming humanitarian necessity, a fundamental condition is whether there is a convincing argument, generally accepted by the international community as a whole, of extreme humanitarian distress on a large scale, requiring immediate and urgent relief.

In considering the legal justification for the use of force in relation to the No Fly Zones last year, the Attorney General took careful note of your assessment that without the zones further oppression would result, on a scale comparable to that which led to a grave humanitarian crisis and to the establishment of the zones in 1991 and 1992. **He emphasised at that time the need to keep constantly in view the precarious nature of the legal basis for UK and US action in the No Fly Zones.**

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The Attorney has since then repeatedly underlined the need the keep under review the lawfulness of UK and US activities in the NFZs and requested an update of the humanitarian situation in both the north and south of Iraq. He has not however received, amongst the written materials submitted to him, a clear and definitive assessment of whether, in the event UK and US operations in the Southern No Fly Zone were to cease, extreme humanitarian distress would result on a scale comparable to that which led to grave humanitarian crisis and to the establishment of the zones in 1991 and 1992. The Attorney General stresses that he is entitled to look to the Departments with policy responsibility in these areas to provide him with a clear and definitive assessment on this point.

The Attorney is profoundly concerned that, in the absence of a clear and definitive assessment, he is not in a position to take a view as to the legal arguments regarding the continuing operations by UK forces in the no fly zones. He stresses that in these circumstances it is absolutely imperative that he receives at the very earliest opportunity a clear and definitive view, endorsed at the highest level, as to the assessment of the humanitarian consequences that will ensue in the event that such operations cease.

I note that you are urgently Ministers on this matter and the Attorney has asked that this letter and earlier correspondence should be brought to their attention.

I am copying this letter to John Sawers (No 10); Tom McKane (Cabinet Office); Michael Wood (FCO Legal Adviser); Martin Hemming (MOD Legal Adviser); Simon Webb (DG Op Pol MOD); and Jon Day (Assessments Staff).

Yours sincerely,

David Brummell

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