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From: Matthew Rycroft  
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PRIME MINISTER

cc: Jonathan Powell  
David Manning  
Sally Morgan  
Anna Wechsberg  
Razi Rahman  
Danny Pruce

### IRAQ: INDICTING SADDAM

Ann Clwyd is likely to raise with you this morning the attached written proposal from Clare Montgomery of Matrix Chambers. She argues that the UK should (a) assert jurisdiction over hostage-taking crimes committed by Saddam and Tariq Aziz against UK nationals in 1990, and (b) promote the formation of an ad hoc tribunal to deal with Saddam after he leaves office.

On (a), we await the Attorney-General's considered view. It will almost certainly be negative, as it was when he considered this last time round, on the grounds that there was almost no prospect of a successful prosecution so it would be a waste of police resources.

On (b), the attached FCO advice will I'm afraid not enhance your view of Government lawyers. It argues that it would not be right to seek to set up an International Criminal Tribunal for Iraq along the Yugoslavia/Rwanda models now, and that instead we should wait until Saddam has fallen before considering a tribunal or truth and reconciliation commission.

We are pushing back on both, to ensure that the advice takes account of the bigger picture. But in the meantime, your line with Ann Clwyd should be that

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you have read Clare Montgomery's piece. You are interested both in the proposal of indicting Saddam/Aziz and in setting up an International Criminal Tribunal on Iraq. You have asked for proper legal advice on both:

- (a) On the first, the Attorney General is considering the Montgomery argument carefully. Clearly there would be practical difficulties in obtaining a successful prosecution. But you might be prepared to override these if there were a clear benefit to be had from such a prosecution.
- (b) On the second, it is essential that we take a strong line on human rights in Iraq (as we did in the dossier). We are considering whether we should propose the establishment of an International Criminal Tribunal for Iraq, or some other mechanism, to ensure that Saddam and others guilty of the most horrendous crimes can be brought to justice.

*Matthew Rycroft*

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