

ATTORNEY GENERAL

IRAQ: MEETING WITH THE FOREIGN SECRETARY

1. You are due to see the Foreign Secretary for a short meeting on Iraq at 5:15pm today at the Foreign Office. I will also attend. (I will meet you there). As you will recall, the main purpose of the meeting was to make clear to the Foreign Secretary that he should not take it for granted that "it will be alright on the night".

2. I attach by way of background papers:

A: the draft resolution

B: Michael Wood's latest advice to the Foreign Secretary

C: the UK's draft EOV (still subject to change)

D: further information from the FCO on the legal effect of a veto

E: the Foreign Secretary's draft statement to the Commons this afternoon

F: your advice of 29 July

G: David Brummell's letter to David Manning of 23 October following your meeting with the PM

H: LSLO record (not shared with FCO) of your conversation with Foreign Secretary on 18 October

I: set of previous resolutions

J: further legal background papers.

3. The UK/US draft resolution has now been tabled in the Security Council. A vote is expected by the end of the week. The draft at **Flag A** may change further during discussion so you are still not in a position to give a definitive view of what it means (and of course we will need to wait and see what statements are made on adoption.) The FCO view remains that this version of the resolution does not authorise the use of force: see **Flag B**. However, I think it would be worth making a careful analysis of the text once adopted. At first glance it strikes me that OP1bis (the new "final opportunity" paragraph) may be helpful to an argument that if Iraq fails to comply the authorisation in resolution 678 revives even if the Council does not adopt a second resolution.

4. John Grainger has written (**Flag D**) with the further information you requested about the legal effect of a P5 veto. It seems clear that there is no question of arguing that vetoes must be exercised on "reasonable grounds", as you told the PM. One question does remain, however, (which is not addressed in John's letter) and that is whether there could be any case for relying on the "exceptional circumstances" paragraph of the previous Law Officers' advice. That is not simply a question of there being an "unreasonable" veto, as is clear from Michael

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Wood's advice at Flag B. His advice, while obviously sceptical, does not entirely exclude the possibility that there may be circumstances in which this could be relied upon.

CA.

CATHY ADAMS
7 NOVEMBER 2002

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