

*this is given under  
UN authority for post conflict  
occupation tasks  
and politically as well*

*Foreign Secretary as  
signature.*

*i'd be happy to  
receive further advice  
from Michael Wood, or tell him,  
IRAQ POST-CONFLICT about whether I should  
lobby Powell on  
progress. J 1/3*

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From: Michael Wood  
Legal Adviser

Date: 28 February 2003

cc: PS/PUS

Edward Chaplin

Philippa Drew

Heads: MED

UND

Iraq Planning Unit

1. I refer to your minute of 27 February.

2. The legal basis for the occupation of Iraq by coalition forces in a post-conflict phase would depend initially on the legal basis for the use of force. That legal basis is likely to be Security Council authorisation for military action to enforce Iraq's WMD obligations under SCRs. But the longer an occupation went on, and the further the tasks undertaken departed from this objective, the more difficult it would become to justify an occupation in legal terms.

3. Without a Security Council mandate for the post-conflict phase, the status of occupying forces would be that of belligerent occupants, who would have the rights and responsibilities laid down by international humanitarian law, as set out in particular in the Hague Regulations of 1907 and the Geneva Conventions of 1949.

// The rights of belligerent occupants are quite limited. I attach papers by my colleagues John Grainger (on the general international law position and on rights as regards oil) and Gavin Hood (on the justice sector) to show the sorts of difficulties which we would soon encounter.

4. FCO Legal Advisers are closely involved in the establishment of our policy on the post-conflict phase. This stresses the need for rapid UN involvement, and in particular for UN authorisation of, if possible, the presence of and the activities to be undertaken by the coalition. The Foreign Secretary will know of the efforts that we are making to persuade the US of the merits of our position. We understand that they are almost ready to share with us a draft of the so-called third resolution.

*M.C. Wood*

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