



FOREIGN SECRETARY

1. I refer to your note of 29 January to Michael Wood, which you copied to me. I would like to comment, not on the substance of the legal advice in relation to Iraq, which is a matter I will deal with separately, but on the points you make regarding the role of Government legal advisers. We have already discussed this, but I thought it right to record my views on the point.

2. It is important for the Government that its lawyers give advice which they honestly consider to be correct: that is what they are there for. I regularly see Government lawyers at all levels and I make a practice of emphasising to them that they should give the advice which they believe in, not the advice which they think others want to hear. To do otherwise would undermine their function as a legal adviser in giving independent, objective and impartial advice. This is not to say, of course, that lawyers should not be positive and constructive in helping the Government achieve its policy objectives through lawful means and open-minded in considering other points of view. But if a Government legal adviser genuinely believes that a course of action would be unlawful, then it is his or her right and duty to say so. I support this right regardless of whether I agree with the substance of the advice which has been given.

3. Where a Minister challenges the legal advice he or she has received, there are established mechanisms to deal with this. The principal such mechanism is to seek an opinion from the Law Officers.

4. I am copying this minute to Michael Wood, Sir David Manning and Sir Michael Jay.

AS

The Rt Hon the Lord Goldsmith QC
3 February 2003