

DECLASSIFIED

~~CONFIDENTIAL~~

1 AG V6 23/1  
2 SG  
3 DB DB 27/1

From: Michael Wood  
Legal Adviser

Date: 22 January 2003

cc: PS/PUS  
Mr Ricketts  
Mr Ehrman  
Mr Chaplin  
Mr Gray  
Ms Tanfield

To see. The reference to "the legal advice" is intended as a reference to Michael's own advice.

CA 22/1

PS

### IRAQ: LEGAL POSITION

1. I have only just seen the "key issues" paper submitted for the Secretary of State's visit to Washington. Under the heading "Second SCR" this states:

"In domestic political terms we need [a second SCR] more than ever. If evidence of non-co-operation is clear enough, should be achievable... or at least any veto will appear unreasonable."

2. The Foreign Secretary will know that the legal advice is that a second resolution authorizing the use of force is needed before force may lawfully be employed against Iraq to enforce the WMD obligations in the SCRs. If a draft resolution fails because of a veto (or indeed because it does not receive nine positive votes), the fact that the veto (or failure to vote in favour) is "unreasonable" is neither here nor there from a legal point of view. Further, who is to judge what is "unreasonable"? I therefore recommend that the reference to any veto appearing unreasonable be omitted from the line to take.

M. C. Wood

M C Wood  
Legal Adviser

~~CONFIDENTIAL~~

DECLASSIFIED