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A: Ashdown

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

4 September 1990

I enclose a letter to the Prime Minister from Mr. Paddy Ashdown M.P. about the legal basis for use of force to secure Iraq's withdrawal from Kuwait, should that option be considered.

I think that the Prime Minister will wish to reply before the debate on Thursday, for which she will in any case need a form of words. I should be grateful for a draft reply prepared in close consultation with the Law Officers.

I am copying this letter and enclosure to Elisabeth Wilsmhurst (Law Officers' Department) and Simon Webb (Ministry of Defence).

C. D. POWELL

Richard Gozney, Esq.,
Foreign and Commonwealth Office.

The Rt Hon Paddy Ashdown MP



HOUSE OF COMMONS
LONDON SW1A 0AA

Rt Hon Margaret Thatcher MP
Prime Minister
House Of Commons
LONDON
SW1A 0AA

Our ref :- CEMC//Iraq/
Date :- 3 September 1990

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See Ashdown
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Dear Prime Minister,

Thank you for your letter of 31 August.

I take it from your letter that the aims of the British Government in deploying forces in the Gulf are those and only those covered by the UN Security resolutions. If those resolutions are fully complied with, then the British Government would consider that this operation had been successfully concluded and could be terminated. Would you confirm that this is correct?

Secondly I take it from the last paragraph of your letter that at least and until the UN changes its resolutions, the British Government's policy is to follow sanctions, and sanctions alone, in pursuit of its aims. Of course any expansion of hostilities initiated by Iraq would require the full weight of military response of which the multinational force is capable. But I presume from your statement that it is not the British Government's intention, either alone or in co-operation with others, to initiate offensive action unless this were covered by further UN Security Council resolutions. Would you please confirm that this, too, is correct?

I note that your letter mentions Article 51 of the UN Charter; I understand that you indicated yesterday that this would provide cover for further military action. But Article 51 lays down that "nothing in the present Charter should impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security" (my underlining).

It seems to me that Article 51 therefore does not, as you claim, provide you with the scope of action you suggest, since the Security Council has already taken the steps which it believes necessary to maintain international peace and security: by passing the five UN resolutions on Kuwait.

If further action is required, it is up to the Security Council to decide this, not an individual member or members. What are HMG's reasons for not accepting this interpretation of Article 51?

Yours Sincerely

Paddy Ashdown