



House of Commons
Foreign Affairs Committee

Foreign Policy Aspects of the War against Terrorism

Seventh Report of Session 2003–04



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Volume I

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The Foreign Affairs Committee

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Conclusions and recommendations

Iraq

1. We conclude that the violence in Iraq stems from a number of sources, including members of the former regime, local Islamists, criminal gangs and al Qaeda. Iraq has become a 'battle ground' for al Qaeda, with appalling consequences for the Iraqi people. However, we also conclude that the Coalition's failure to bring law and order to parts of Iraq created a vacuum into which criminal elements and militias have stepped. We recommend that the Government give all possible assistance to the Iraqi government in its efforts to step up security so that the quality of life of ordinary Iraqis may be improved and the country may continue along its path towards democracy. (Paragraph 20)
2. We conclude that the insufficient number of troops in Iraq has contributed to the deterioration in security. We further conclude that the failure of countries other than the US and United Kingdom to send significant numbers of troops has had serious and regrettable consequences, not only for Iraqis but also in terms of the burden placed on United Kingdom resources and perceptions of the legitimacy of operations in Iraq. We commend the Government for its work achieving diplomatic consensus around UNSCR 1546. It is disappointing that so many countries have decided against committing forces to Iraq. We recommend that the Government renew its efforts to encourage other countries, including Islamic countries, to send troops to Iraq. (Paragraph 26)
3. We conclude that the increase in the use of private military or security companies in Iraq and Afghanistan in the last two years has added to the case for regulation of these companies, where appropriate, by the British Government. We recommend that the Government either bring forward legislation to introduce a regulatory regime for private military companies, or explain in full its reasons for not doing so. (Paragraph 31)
4. We conclude that the Government's condemnation of the Iranian Government's treatment of the British servicemen recently detained in Iran is wholly justified. We recommend that in its response to this Report the Government set out what it is doing to ensure the return of the marine equipment and weapons still held by the Iranian authorities. (Paragraph 34)
5. We commend the Government for its work assisting the formation of the Iraqi security forces. However, we conclude that the Iraqi police and army remain a long way from being able to maintain security. We recommend that in its response to this Report the Government set out what it regards as the minimum and optimum numbers of Iraqi armed forces, police, Civil Defence Corps and border police; what is the timetable envisaged for achieving these numbers; and what is being done to meet that timetable. (Paragraph 41)
6. We recommend that the Government set out in its response to this Report its understanding of how the United Kingdom's role in Iraq has altered following the

transfer of sovereignty and the signing into law of provisions for emergency measures. (Paragraph 43)

7. We are very concerned that key information on intelligence and on alleged human rights violations by British personnel was withheld from senior FCO officials and from Ministers. We welcome the assurances given by the Permanent Under-Secretary and we recommend that in its response to this Report the FCO set out in detail what measures have been put in place to ensure that sensitive or important information is (a) shared between Departments of State as appropriate, (b) always passed to an appropriate senior official level in the FCO and (c) always put to Ministers if of policy or presentational significance. (Paragraph 54)
8. We conclude that the provision of basic services in Iraq is not yet satisfactory and that the failure to meet Iraqi expectations, whether realistic or not, risks damaging the credibility of the United Kingdom in Iraq and Iraqi goodwill towards it. We recommend that in its response to this Report, the Government set out the current level of water and electricity provision, the targets for the coming year, and what steps it is taking to achieve these targets. We further recommend that the Government set out what steps it is taking following the handover of sovereignty in the Basrah area to assist reconstruction efforts and to ensure Iraqi involvement in these efforts, together with an update on the disbursement of funds pledged to Iraq. (Paragraph 64)
9. We note the progress made by the Iraqi judiciary and commend the Government for its role in assisting this. We conclude that the judiciary, and in particular the Iraqi Special Tribunal, will continue to require international assistance. We recommend that the Government provide in its response to this Report an update on what the Government is doing to support the Iraqi Special Tribunal, the establishment of fair systems of criminal and civil justice in Iraq, and the new Iraqi government's efforts to ensure that human rights are respected. (Paragraph 70)
10. We recommend that in its response to this Report the Government outline how it plans to assist economic reform following the handover of sovereignty. We further recommend that the Government set out what progress has been made towards an IMF programme for Iraq and agreement with Iraq's various creditors, as well as the anticipated timeframe for agreement. (Paragraph 74)
11. We recommend that in its response to this Report the Government provide full details of the assistance it is providing the Iraqi oil industry as well as its efforts to assist economic diversification. (Paragraph 78)
12. We are concerned at reports of irregularities in the handling of the Development Fund for Iraq. We recommend that the Government inform us of its understanding of these allegations and the role played by the United Kingdom in managing the Fund. (Paragraph 80)
13. We recommend that in its response to this Report the Government set out its understanding of the legal position of foreign contractors and subcontractors working in Iraq, now that the CPA has been dissolved, including any plans to waive immunity from Iraqi legal process. (Paragraph 85)

14. We are concerned that the documents given to the United Kingdom Government relating to the Oil-for-Food Programme corruption allegations name a small number of United Kingdom individuals and entities. We are glad to have been assured by the FCO that none of the individuals or entities is connected with the United Kingdom Government. We recommend that in its response to this Report, the Government provide further information on the progress of the inquiry into allegations of corruption in the Oil-for-Food programme, including any further information on United Kingdom involvement. (Paragraph 88)
15. We commend the Government's efforts to address the unemployment problem in Basrah. However, we conclude that considerable further progress is required. We recommend that in its response to this Report, the Government set out what steps it is taking in the Basrah area following the handover of sovereignty to assist job creation and economic regeneration. (Paragraph 92)
16. We recommend that in its response to this Report the Government provide the latest figures for United Kingdom personnel working with Iraqi ministries following the handover of sovereignty, including details of the timeframe of their involvement. (Paragraph 95)
17. We conclude that the process of wide-ranging consultation overseen by the UN played an important role in the formation of the interim Government on 1 June. While it is too early to judge the performance of the interim Government, its successful establishment and assumption of sovereignty on 28 June underline the importance of UN engagement in Iraq. We conclude that it is crucial that the sovereignty of the new government is respected and that foreign governments should not interfere in its decision making. (Paragraph 115)
18. We conclude that UN engagement in the political transition was critical to the unanimous adoption of UNSCR 1546. However, although the unanimous adoption of the Resolution reflects improved international consensus regarding Iraq, many states continue to hold back from assisting the country. We recommend that the Government set out in its response to this Report its understanding of what security assistance will be provided to the UN to facilitate its return to the country. (Paragraph 121)
19. We conclude that it is highly desirable that elections proceed on schedule in order to foster Iraqi engagement and confidence in the political transition. However, we are concerned about the impact that the security situation could have on the validity of the election process. We recommend that the Government set out in its response to this Report what plans it has, bilaterally with Iraq, and in conjunction with the US and UN, for providing security specifically for the elections. We further recommend that the Government encourage states that remain reluctant to commit troops to counter-insurgency operations in Iraq to send forces to assist with the elections. (Paragraph 127)
20. We conclude that the United Kingdom Government should join with the US government to make clear that the Iraqi government is sovereign in reality as well as in name. (Paragraph 130)

21. We recommend that the Government set out in its response to this Report what lessons have been learned from the mistreatment of detainees and what safeguards are being put in place to prevent a recurrence of such appalling incidents. (Paragraph 138)
22. We recommend that in its response to this Report the Government inform us of how many Iraqi detainees or prisoners of war it held on 28 June and on the most recent date for which figures are available, including details of their status and location and the likely future of their detention. (Paragraph 141)
23. We recommend that in its response to this Report, the Government set out what arrangements have been put in place regulating the presence of United Kingdom forces in Iraq, including details of powers of arrest and rules of engagement. We further recommend that the Government set out why it has not reached a separate status of forces agreement with the Iraqi government. (Paragraph 151)
24. We recommend that the Government set out in its response to this Report what steps it is taking to ensure that there is a sufficient body of expertise in the United Kingdom to enable better communication with the Arab and Islamic world. (Paragraph 157)
25. We recommend that the Government set out in its response to this Report what steps it is taking following the handover of sovereignty in Iraq to ensure the safety of United Kingdom personnel. (Paragraph 164)
26. We recommend that the Government update us in its response to this Report on the current status of United Kingdom representation in Iraq. We further recommend that the Government inform us of its understanding of the constraints imposed by the security situation on the operations of United Kingdom personnel, including their ability to move around the country. (Paragraph 165)
27. We conclude that the alternative to a positive outcome in Iraq may be a failed state and regional instability. It is therefore of the utmost importance that current problems are resolved in favour of the forces of order and that those who seek to impede Iraq's transition to a free and democratic state are defeated. (Paragraph 167)

Afghanistan

28. We conclude that the contribution being made by United Kingdom diplomatic, aid and military personnel in Afghanistan, working in challenging and dangerous conditions, is out of all proportion to their small numbers. We recommend that the Government do what it can to improve the conditions in which its personnel live and work in Afghanistan. (Paragraph 169)
29. We conclude that it is important for Afghanistan that the presidential elections planned for October 2004 should proceed, unless the United Nations judges that the level of voter registration has been so low as to damage the credibility of the process, or the security situation has deteriorated to a point where the dangers posed to human life—or the threat to voter turnout—are unacceptably high. We further conclude that the cause of democracy in Afghanistan requires that parliamentary

elections be held as soon as possible after the presidential elections and we recommend that the Government offer every assistance to the Afghan and UN authorities to enable this to happen. We further recommend that in its response to this Report the Government provide a detailed breakdown of what funding for the electoral process in Afghanistan has been pledged by UN member states; and what has been delivered. (Paragraph 180)

30. The British Army has an excellent, probably unrivalled, record in sensitive patrolling of potentially hostile areas and building confidence and trust. We conclude that these are among the most important tasks for PRTs in Afghanistan. (Paragraph 191)
31. We conclude that the Provincial Reconstruction Teams are one of the success stories of international engagement in Afghanistan and that their expansion should be regarded as a priority. However, there are real differences between the approaches adopted by the various PRTs as well as between Afghan perceptions of NATO's ISAF forces and those which are part of Operation Enduring Freedom. We recommend that all PRTs be placed under ISAF control as soon as possible. (Paragraph 192)
32. We conclude that there is little, if any, sign of the war on drugs being won, and every indication that the situation is likely to deteriorate, at least in the short term. We recommend that the Government, which is in the lead on the counter-narcotics strategy in Afghanistan, explain in its response to this Report exactly how it proposes to meet the targets of reducing opium poppy cultivation by 75 percent by 2008, and eradicating it completely by 2013. (Paragraph 204)
33. We conclude that improving security for the civilian population is one of the highest priority needs in Afghanistan. We recommend that the Government set out in its response to this Report what further contributions the United Kingdom will be making to improve security for the Afghan people. (Paragraph 209)
34. We conclude that Afghanistan's 'warlords' or commanders are both a large part of the problem and an essential part of the solution. We recommend that the Government use its good offices to assist the Afghan Transitional Administration to ensure that the political process is as inclusive as possible, while avoiding the corruption and abuses of power which have been evident in some parts of central and local government. We conclude that, until this process is complete and has become irreversible, and until the Afghan National Army has developed its own capacity, the international forces in Afghanistan must retain the option and therefore the capability of assisting the Afghan authorities to deal militarily with commanders who persist in operating outside the rule of law. (Paragraph 220)
35. We conclude that the most urgent and pressing need for Afghanistan is to achieve disarmament, demobilisation and reintegration. We recommend that the Government and its allies devote greater resources to achieving this goal. We further recommend that as an essential first step reliable data should be assembled on how many fighters serve with the militias, what arms they have, and to whom they are responsible; only then will the true scale of the task be fully apparent. (Paragraph 225)

36. We conclude that, welcome though the Istanbul declaration of limited further support for Afghanistan is, fine communiqués and ringing declarations are no substitute for delivery of the forces and equipment which Afghanistan needs on the ground. We agree with President Karzai that the need for more resources for ISAF is urgent. There is a real danger if these resources are not provided soon that Afghanistan—a fragile state in one of the most sensitive and volatile regions of the world—could implode, with terrible consequences. We recommend that the Government impress upon its NATO allies the need to deliver on their promises to help Afghanistan before it is too late, both for the credibility of the Alliance and, more importantly, for the people of Afghanistan. (Paragraph 232)

Pakistan

37. We conclude that Pakistan is making a meaningful and welcome contribution to the war against terrorism. However, we also recognise the domestic difficulties faced by Pakistan and we are concerned that Pakistan and President Musharraf in particular are being targeted by al Qaeda as a result of their co-operation with the war against terrorism. We recommend that the Government make clear its appreciation for Pakistan's efforts and the courage of President Musharraf and consider what further assistance it can offer to assist these efforts. (Paragraph 243)
38. We are concerned that insufficient progress has been made on reforming Pakistan's education system. The situation is urgent given the need to combat the dangerous nexus of poverty and extremism. We recommend that the Government give its full support to Pakistan's efforts to reform the education system, including providing financial and administrative assistance. (Paragraph 248)
39. We conclude that progress of development efforts in Pakistan's tribal areas has been disappointingly slow. These efforts are critical to successfully addressing the root causes of extremism as well as tackling the drug problem. We recommend that the Government give serious consideration to increasing its support for development efforts in these areas, including financial and administrative assistance. (Paragraph 254)
40. We conclude that the conflict over Kashmir is a potential catalyst for extremism. The conflict is made more serious by the fact that both parties are nuclear powers. However, we welcome the constructive approach being taken by both governments. We recommend that the Government encourage both parties to prioritise their work towards a resolution. We further recommend that the Government ensure that the US remains fully seized of the importance of resolving the Kashmir problem. (Paragraph 256)
41. We welcome the Pakistani government's co-operation on proliferation following the alarming revelations about the AQ Khan network. We recommend that the United Kingdom Government continue to work closely with Pakistan to pursue the trail of Dr Khan's proliferation activities and to prevent further proliferation. (Paragraph 269)

42. We recognise the progress that Pakistan has made towards restoring democracy and welcome Pakistan's readmission to the Commonwealth. However, we are concerned about the slow progress of democratisation and in particular the dominant role of the army in the country, which we believe is detrimental to the democratic process. We recommend that the Government work with Pakistan to encourage democratic reform, and also provide assistance in institution-building. (Paragraph 276)
43. We conclude that the human rights situation in Pakistan remains unacceptable. We commend the work of the Foreign Office to tackle the problem of forced marriage in Pakistan involving United Kingdom citizens. However, we recommend that the Government encourage Pakistan to adhere to international human rights standards and guarantee the rights of all Pakistani citizens. We further recommend that the Government offer Pakistan assistance in capacity-building and training with regard to law enforcement, the criminal justice system and human rights. (Paragraph 279)

The Russian Federation

44. We conclude that the latest diplomatic efforts have re-engaged Russia on Iraq and are contributing to a less divisive climate. We commend the Government for its work on the latest United Nations Security Council Resolution on Iraq, but we also recommend that the Government continue to consult the Russians closely so that it is in a position to take account of their concerns in Iraq and the broader Middle East. (Paragraph 289)
45. We conclude that the Russian Federation's support for efforts to bring peace and democracy to Afghanistan is valuable, but that support for the reconstruction process is being damaged by the slow progress on the counter-narcotics strategy. (Paragraph 293)
46. We conclude that reform of the military and security services in Russia would contribute to the international struggle against terrorism. We therefore recommend that the Government continue its support for Russian efforts to reform its military and its contribution to mutual understanding by increasing exchanges of military personnel between the United Kingdom and the Russian Federation. We recommend that in its response to this Report the Government set out how it intends to strengthen military ties with the Russian Federation. (Paragraph 298)
47. We conclude that the NATO-Russia Council (NRC) is an essential tool to improve the political and military engagement between Russia and the alliance members. We recommend that the Government encourage its fellow members of NATO to expand co-operation through the NRC in order to alleviate concerns in Moscow about NATO's expansion into eastern Europe and to prevent a 'Great Game' between Russia and NATO in Central Asia. We also recommend that in its response to this Report the Government set out its plans to develop the NRC as a tool in the war against terrorism. (Paragraph 305)
48. We conclude that links exist between the Chechen rebels and the international network of terrorists affiliated to al Qaeda, but that the conflict is not purely a terrorist insurgency. We further conclude that Chechnya has great importance as a

rallying cry for Islamist insurgency throughout the Muslim world, and that the heavy handed approach of the Russian authorities, including repeated human rights abuses, risks further radicalising the Chechen population and spreading the conflict in the North Caucasus. We recommend that the Government engage the Russian Federation on Chechnya, and comment on Russian policy in the region—in private if necessary. We also recommend that the United Kingdom encourage the Russian authorities to increase the role of the international community in the secessionist region, and that in its response to this Report the Government set out how it will seek to encourage the Russians both to expand the OSCE and Council of Europe mandates in Chechnya and to consult with the ordinary people of Chechnya. (Paragraph 319)

49. We conclude that Russian support for Iran's nuclear activities could risk contributing to the spread of WMD capabilities in the Middle East by advancing the Iranian nuclear programme. We recommend that the Government, together with its EU and US partners, seek to persuade the Russians to ensure that their support for the Bushehr nuclear plant does not extend to assistance with activity consistent with a nuclear weapons development programme. (Paragraph 326)
50. We conclude that international efforts, such as the CTR programme, to counter the proliferation of the Soviet Union's WMD legacy are essential work. However, we also conclude that while the efforts of the EU are welcome, its contribution to non-proliferation efforts neither takes account of the scale and threat of the task, nor of the EU's economic importance. We recommend that the Government encourage its partners in Europe to increase the EU's contribution to non-proliferation efforts in the Russian Federation. (Paragraph 330)
51. We conclude that the G8 Global Partnership makes an essential contribution to the reduction of the threat of proliferation of WMD, although certain difficulties remain between Russia and the other members. We recommend that in its response to this Report the Government set out how it has resolved the differences over liability for future damages, the tax status of donor funds, and issues over access to the sites, as well as how it is working with the USA to help overcome American differences with the Russian authorities. (Paragraph 334)
52. We conclude that progress on the destruction of the Russian Federation's chemical weapons stocks is most welcome but unfortunately is well behind the planned timetable. We recommend that in its response to this Report the Government set out how it will encourage the Russian authorities to speed the destruction process and outline its plans for work at the destruction facility at Shchuch'ye. (Paragraph 338)
53. We conclude that the destruction of biological weapons material in the Russian Federation should be a priority, and recommend that the Government set out how it will engage its Russian counterparts more directly on its biological weapons stocks and the employment of Russian scientists. We further conclude that the security of stocks of pathogens and the proliferation of expertise of Russian scientists present serious challenges for the international community. (Paragraph 339)

54. We conclude that the work carried out by the G8 Global Partnership on the Soviet Union's nuclear legacy is a most valuable contribution to non-proliferation efforts and the war against terrorism. However, we are concerned that some projects, such as the plutonium disposition programme, are proceeding less effectively than others, like the submarine decommissioning programme in North West Russia. We recommend that the Government maintain the momentum of its efforts, and set out in its response to this Report how it will resolve the current difficulties with the Russian authorities, so as to accelerate the programmes. (Paragraph 343)
55. We conclude that the Russian Federation is a valuable ally in the war against terrorism, although different perceptions of the conflict have an impact on relations between the United Kingdom and Russia. We recommend that the Government maintain its engagement with Russia in order to ensure its commitment to the war against terrorism, by allaying Russian concerns about Afghanistan, Iraq and NATO, by maintaining a critical dialogue on Russian policy in Chechnya, and by engaging the Russian Federation on the threat of WMD proliferation. We conclude that continued engagement with the Russian Federation on matters of mutual concern offers opportunities to make an important contribution to success in the war against terrorism. (Paragraph 344)

Israel-Palestine Conflict

56. We conclude that resolving the Israel-Palestine conflict must remain a United Kingdom foreign policy priority. We reiterate our previous conclusion that resolution of this conflict is an essential component in the wider US-led campaign to defeat Islamist terrorism and to promote reform in the Middle East region. (Paragraph 393)
57. We support the position taken by the Government in welcoming Israel's planned withdrawal from Gaza while insisting that all aspects of the final settlement remain open for negotiation. However, we conclude that it is important that the withdrawal from Gaza should be followed by withdrawals from the West Bank. (Paragraph 394)
58. We recommend that the Government work with Israel, the Palestinian Authority and the Quartet to facilitate Israel's 'disengagement' from Gaza, to encourage Israel to make further withdrawals, to bring an end to Palestinian suicide attacks, and to aid reconstruction and security efforts in the Palestinian territories. We further recommend that the Government, in its response to this Report, set out in detail what steps it is taking to ensure that Israel's plan for 'disengagement' from Gaza is fully consistent with a durable solution to the wider Israel-Palestine problem, including details of any steps being taken with regard to post-withdrawal peace keeping. (Paragraph 395)
59. We reiterate our previous conclusion that the case for building a barrier along the Green Line would be strong and understandable, but to build it within the West Bank is neither justifiable nor acceptable and gives rise to fears that Israel intends to annex this land. We recommend that the Government make it clear to Israel that efforts unilaterally to change facts on the ground in occupied territory are illegal under international law. We are encouraged by the recent decisions by the Israeli

high court halting construction of the barrier, but reiterate our previous conclusion that Israeli maintenance and expansion of illegal settlements combined with the construction of the barrier on Palestinian land constitute a severe impediment to efforts to secure a peace agreement between Israel and the Palestinian Authority and to the creation of a viable Palestinian state. We recommend that the Government make this position absolutely and unequivocally clear in its public pronouncements, as well as in its diplomatic exchanges with the United States and Israel. We conclude that actions taken so far have failed to stop Israel's construction of the barrier in occupied territory. We further conclude that the United Nations General Assembly Resolution ES-10/15 of 20 July 2004, passed overwhelmingly and with the support of the British Government and all EU Member states, regarding the barrier, is to be welcomed. We recommend that the Government set out in its response to this Report what it is doing bilaterally and with the EU, the US and the Quartet to stop construction of the barrier in occupied territory. (Paragraph 396)

60. The high level of violence suffered by both peoples makes a resolution of the Israel–Palestine conflict urgent. This urgency is increased by the serious deterioration in living conditions in the Palestinian territories. It is critical that, as well as putting pressure on the Israeli Government and the Palestinian Authority to do more to stop the violence, efforts are made to ‘de-radicalise’ the Palestinian population, by addressing the conditions of extreme poverty in which many of them live. (Paragraph 397)
61. We conclude with regret that the Road Map is stalled, possibly fatally. We further conclude that there is little likelihood of the two parties reaching a negotiated settlement of their own accord in the short term, and that time is fast running out for a viable two-state solution to be achieved. Nevertheless, we believe that a resolution of the conflict along the lines discussed at Taba in January 2001 is not unattainable. (Paragraph 398)
62. We once again recommend that the Government work to encourage the US to send a high-level emissary to the Middle East with the dedicated aim of resolving this long-standing conflict. While recognising Israel's mistrust of European policy in the region, we also conclude that Europe, including the United Kingdom, could be playing a more influential role. In order to overcome this mistrust, we recommend that the Government consider how to engage Israel more positively, both bilaterally and through the EU. (Paragraph 399)
63. We recommend that its response to this Report the Government set out its response to the question the Prime Minister asked in his Sedgefield constituency speech on 5 March 2004, when he said: “It may well be that under international law as presently constituted, a regime can systematically brutalise and oppress its people and there is nothing anyone can do, when dialogue, diplomacy and even sanctions fail, unless it comes within the definition of a humanitarian catastrophe...This may be the law, but should it be?” (Paragraph 406)
64. We conclude that the debate about the role of the United Nations Security Council in collective use of force is part of the case for reform of the Security Council, and we await with interest the conclusions of the Panel of Eminent Persons examining the

case for reform in the United Nations. We recommend that in its response to this Report the Government outline and explain its proposals for reform of the United Nations. We also conclude that any reforms must not undermine the system of collective security or threaten the paramountcy of the United Nations in the international legal system. (Paragraph 414)

65. We conclude that the concept of ‘imminence’ in anticipatory self-defence may require reassessment in the light of the WMD threat but that the Government should be very cautious to limit the application of the doctrine of anticipatory self-defence so as to prevent its abuse by states pursuing their national interest. We recommend that in its response to this Report the Government set out how, in the event of the legitimisation of the doctrine of anticipatory self-defence, it will persuade its allies to limit the use of the doctrine to a “threat of catastrophic attack”. We also recommend that the Government explain its position on the ‘proportionality’ of a response to a catastrophic attack, and how to curtail the abuse of that principle in the event of the acceptance of the doctrine of anticipatory self-defence by the international community. (Paragraph 429)
66. We conclude that a doctrine of humanitarian intervention appears to be emerging, but that its application in the context of the war against terrorism raises difficult questions of interpretation and embodies significant risk. We recommend that the Government work to establish a consensus on when intervention on humanitarian grounds is permissible, in order to prevent its abuse by states pursuing their national interest. (Paragraph 433)

International Co-operation to Tackle Terrorism

67. We conclude that al Qaeda continues to pose a very serious threat to the United Kingdom and its interests. As a result, fighting the threat of international terrorism must remain a top foreign policy priority. (Paragraph 444)
68. We welcome the efforts to reform the UN’s Counter-Terrorism Committee in order to make it more effective. We commend the Government’s role in the reform process and its continued commitment to the Counter-Terrorism Committee. We further commend the work of the FCO to assist countries to build their counter-terrorism capacity through the Global Opportunity Fund. We recommend that in its response to this Report the Government provide a further update on the FCO’s work in this area, the progress achieved to date and any area of concern. We further recommend that the Government seek to ensure that human rights concerns are incorporated in the work of the CTC and inform us of what progress has been made in this regard. (Paragraph 453)
69. We conclude that there remains considerable cause for concern that terrorist groups retain access to significant sources of funding. We recommend that the Government redouble its efforts in this field, and that in its response to this Report it set out what progress has been achieved to date in this field, what are the main areas of difficulty, and what proposals it has to achieve further progress. (Paragraph 459)

70. We conclude that it remains of the utmost importance that the United Kingdom work with its partners in the EU as well as the United States to combat the international threat posed by terrorism. We commend the Government for supporting the developments within the EU to facilitate more effective co-operation. However, we conclude that significant further steps are required for EU anti-terrorism action to be effective. We recommend that the Government in its response to this Report explain in detail what it is doing to encourage more effective European co-operation against terrorism. (Paragraph 465)
71. We conclude that the expansion of membership of the Proliferation Security Initiative (PSI) to include new members such as Russia and the willingness of Panama and Liberia to allow searches of their ships is most welcome, and we commend the Government's efforts to encourage other states to agree to the interdiction of their shipping. However, we recommend that the Government work for a United Nations Security Council Resolution which would resolve the legal difficulties over PSI. We also recommend that the Government set out in its response to this Report what amendments to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988 are under consideration and who has proposed them, and how the Government will draw a distinction between the legitimate and illegitimate transport of WMD by sea. (Paragraph 474)
72. We give a cautious welcome to Libya's agreement to comply with international non-proliferation initiatives. We recommend that the Government continue working to integrate Libya into the international community, and that it set out in its response to this Report what it is doing to encourage a degree of economic reform or political liberalisation in Libya, particularly in association with the European Union. (Paragraph 479)
73. We conclude that Iran's nuclear programme continues to pose an intense challenge for the international community, and that the continued exertion of diplomatic pressure by the European troika, the US and the Russian Federation is essential to its resolution. We recommend that the Government persevere with its strategy towards Iran's nuclear programme and make clear to the authorities in Tehran the benefits of compliance. (Paragraph 485)
74. There is a clear need for reform throughout the Arab world. However, we conclude that it is important not to seek to impose reform on the region but to encourage and support domestic initiatives where appropriate. We agree with the Foreign Secretary that Arab reform must be home-grown and we commend the work of the Foreign Office in support of regional and national reform initiatives. We also welcome the work of the BBC World Service and British Council in the region. We recommend that in its response to this Report the Government provide a fully up-dated report on the work it is doing in this area. (Paragraph 497)

1 Introduction

1. This Report is the fifth in a series on foreign policy aspects of the war against terrorism produced by the Foreign Affairs Committee since the events of 11 September 2001. As a glance at the list of contents will confirm, it covers a broad range of issues, from the political and security situation in Iraq to Russia's stockpiles of chemical weapons. This range reflects the Committee's view that the diverse threats to security posed by terrorism and failed states are—or could become—inter-connected, and that they need to be considered and countered as part of a coherent strategy.

2. In preparing this Report, we heard oral evidence and received written evidence from a range of witnesses. We also held discussions with senior figures in New York (at the United Nations), Washington DC, Moscow, Pakistan and Afghanistan. Our visit to Pakistan included a day in the North West Frontier Province, and in Afghanistan we visited Mazar-e Sharif as well as Kabul. Some Members of the Committee were also able to continue our series of visits to Iraq. These visits have been immensely useful both in expanding the range of those with whom we can discuss war on terrorism issues, and in allowing us to see the situation on the ground in some of the key locations. We are grateful to all those who have helped us with this inquiry, whether by sending us written evidence, appearing before us, assisting us with our visits, or meeting us informally.

3. There is, unfortunately, no prospect that the war against terrorism will become less of a foreign policy priority over the coming months than it is at the time of preparing this Report. Our inquiry into foreign policy aspects of the war against terrorism will therefore continue, and it is our intention to make a further Report to the House in due course.

2 Iraq

The security situation

Further deterioration

4. In previous Reports in this inquiry we have noted the looting and chaos that followed the war in Iraq. We concluded that the failure of the Coalition to restore order more quickly hindered progress towards improving the lives of ordinary Iraqis and “may have made the task of occupation more difficult in the medium term”.¹ We also noted the deterioration in the security situation since July 2003,² recalling our conclusion then that “the level of resentment of the new US and United Kingdom presence in Iraq may well depend on the success or otherwise of efforts to improve the lives of Iraqi people”.³

5. The security situation has deteriorated further in the six months since our last Report, with an alarming increase in the number of attacks in the approach to the handover of sovereignty. Although the handover was brought forward in an effort to forestall the threat of terrorist violence, no immediate cessation is expected. Shortly after the handover on 28 June, a US soldier who had been kidnapped in April was killed and a number of explosions rocked Baghdad.

6. The Iraqi army and police, Iraqi politicians, members of the Coalition and foreigners have all been targeted. On 24 June, around 100 people were killed and hundreds wounded in co-ordinated attacks across the country, including against the Iraqi Police Academy and a police station. At least 50 people died in an attack outside an Iraqi police station in February and another 35 were killed in an attack against an army recruiting centre in Baghdad on 17 June.⁴ On 17 May, Ezzedine Salim, then head of the Iraqi Interim Governing Council,⁵ was assassinated and on 12 June Deputy Foreign Minister Bassam Qubba was killed. There have also been a number of kidnappings and killings of foreign workers; in June a South Korean translator working for a security company was kidnapped and beheaded.⁶

7. The International Crisis Group wrote to the Committee about the security situation: “Insecurity refers not only to the repeated assassinations of political targets, ranging from nationally prominent political and religious leaders, but extends to the fear of crime felt by ordinary Iraqis.”⁷ We also heard from Dr Mustafa Alani, of the Royal United Services Institute (RUSI), about how many Iraqis view the lack of law and order:

1 HC (2002-03) 405, paras 113-30 & HC (2003-04) 81 para 18.

2 HC (2003-04) 81, paras 19-20

3 HC (2003-04) 81, para 56; and HC (2002-03) 405, para 164.

4 ‘Dozens die in Iraq car bomb blast’, BBC, 10 February 2004; and ‘Huge bomb targets Iraqi recruits’, BBC, 17 June 2004.

5 The IGC had a rotating presidency.

6 ‘S Korean hostage beheaded in Iraq’, BBC, 22 June 2004.

7 Ev 187

In Saddam's time... we did not enjoy political security but we enjoyed personal security. You could sleep in your home without worrying, you could send your children to school without worrying, your wife could drive a car without worrying.⁸

A recent survey by Oxford Research International indicates public concerns over personal security, with a decline in the number of people who believe their life has improved since the war compared with the results of a survey carried out in February.⁹

8. The lack of law and order has been particularly damaging to popular support for the Coalition. The Committee heard from Dominic Hughes, of the BBC, that the population blames the Coalition for the lack of personal security. "People have said to me, 'You have come here to our country and the least you could do is make sure that we are safe and you are not doing that.'"¹⁰

Who is carrying out the attacks?

9. In our last Report we concluded that "since the removal of the Iraqi regime, a dangerous alliance of foreign fighters with terrorist allegiances and elements of the former Iraqi regime has been forming inside Iraq".¹¹ In response, the Government told us:

We judge that most attacks in Iraq continue to be carried out by former regime elements. But we believe some of the suicide attacks which have caused greatest loss of life have been orchestrated by foreign terrorists. The degree of any association between such people and foreign fighters in Iraq remains unclear, although there may be some limited co-operation.¹²

10. Our witnesses agreed about the mix of groups and individuals responsible for the violence. However, Dr Toby Dodge, of the International Institute for Strategic Studies and the University of Warwick, told us that criminal gangs are also a problem:

It is organised crime that makes the everyday lives of Iraqi city dwellers so precarious. These groups... have been revitalised by the lawlessness of present day Iraq. Capitalising on readily available weapons, the weaknesses of a new and hastily trained police force and the CPA's shortage of intelligence about Iraqi society, they prey on middle class Iraqis, car jacking, housebreaking, murdering and kidnapping. It is groups like these that make the roads surrounding Baghdad so dangerous, regularly attacking foreign workers.¹³

11. We also heard that the early failure of the Coalition to impose law and order created a security vacuum into which militias have stepped, further contributing to instability and insecurity. We heard from our witnesses that as well as hindering the re-formulation of the

8 Q184

9 'Iraqis' optimism falls - survey', BBC, 28 June 2004.

10 Q312

11 HC (2003-04) 81, para 25.

12 FCO, *Foreign Policy Aspects of the War against Terrorism: Response of the Secretary of State for Foreign and Commonwealth Affairs*, Session 2003-2004, Cm 6162, 29 March 2004.

13 Ev 55

Iraqi security forces, de-Ba'athification played a role in stoking the violence. Dr Dodge told us:

Paul Bremer's decision, upon his arrival in Baghdad, to dissolve the army on May 23 and embark on root and branch de-Baathification on May 16 2003, contributed to the personal organisation of the insurgency. Baathists in late May felt under attack and vulnerable. The CPA edicts in conjunction with a spate of assassinations by radical Shia groups gave them the motivation to re-organise.¹⁴

Iraq and al Qaeda

12. There is broad agreement that al Qaeda is now active in Iraq. However, Dr Dodge told us that there is a danger that the role of foreign terrorists has been overstated:

The efficiency of these attacks, their regularity and the speed with which they were organised in the aftermath of Saddam's fall all point to a large amount of Iraqi involvement. The shadowy organisation behind these sectarian attacks is much more likely to be a hybrid, with elements of the old regime acting in alliance with indigenous Islamic radicals and a small number of foreign fighters. This potent mix has allowed mid-ranking members of the old regime to deploy their training and weapons stockpiles. They have sought to ally themselves with a new brand of Islamic nationalism, seeking to mobilise Sunni fears of Shia and Kurdish domination and a growing resentment at foreign occupation.¹⁵

In contrast, Dr Alani told the Committee that the quick organisation of attacks points to the early involvement of al Qaeda:

I believe al-Qaeda was more prepared than the Pentagon for the day-after strategy... If you look at the operation from the first day in Iraq we had six suicide attacks within 30 minutes. That needed a lot of organisation. I do not believe that any Iraqi group within the seven months could have built this sort of experience.¹⁶

13. Increasingly responsibility for attacks in Iraq is being claimed by a group headed by Abu Musab al-Zarqawi, a Jordanian-born al Qaeda leader. This group claimed responsibility for an attack in Baquba on 24 June, one of a number of co-ordinated attacks that left over 100 dead. Zarqawi is also believed to be responsible for a death threat issued against Iraqi Prime Minister Iyad Allawi in June.¹⁷

14. We heard from our witnesses that Iraq has become the new 'battleground' for international terrorists:

Terrorists are individuals of opportunity. They saw an opportunity in Iraq, so they have taken full advantage of it, and yes, indeed, they do want to prevent the

14 Ev 55

15 Ev 56

16 Q192 [Alani]

17 'Iraq PM death threat is serious', BBC, 23 June 2004.

reconstruction of Iraq, they do not want any kind of stability there, because terrorism breeds best where there is a lack of law and order.¹⁸

15. In our last Report, we noted that such developments were not unforeseen:

Some weeks before the war in Iraq, on 10 February 2003, the Joint Intelligence Committee produced an intelligence assessment, in which it concluded that the threat from al Qaeda and associated groups would be heightened by military action against Iraq. We reached a similar conclusion in our Report of January 2003, when we called on the Government to “treat seriously the possibility that a war with Iraq could trigger instability in the Arab and Islamic world, and could increase the pool of recruits for al Qaeda and associated terrorist organisations there and in Western Europe”. While Arab and Islamic countries and their populations have remained remarkably stable, it does appear that al Qaeda has been able to exploit the situation in Iraq to attract new support.¹⁹

16. Dr Dodge told us that the violence is: “designed to make Iraq ungovernable either by the US or a new Iraqi government”.²⁰ The attacks against the Iraqi security forces “are designed not only to discourage Iraqis from working for the new state but also to stop the growth of its institutions”. Reconstruction efforts are also being deliberately targeted, as is the country’s oil infrastructure.²¹ There is every reason to expect that preparations for elections will be targeted.²²

17. Our witnesses were in agreement about the importance of what happens in Iraq for international terrorism. MJ Gohel, of the Asia Pacific Foundation, told us:

If there is any setback in Iraq, it will make the terror movement much stronger... It is vitally important to turn Iraq around into a successful, prosperous, democratic state, and it is rather sad that a number of leading European nations are sitting on the sidelines, rubbing their hands at the discomfiture of both Britain and the USA, not realising that this is going to hit them also eventually.²³

18. In our last Report, we noted that the “flow of foreign fighters into the country may in part be a consequence of the policies of neighbouring countries”.²⁴ We concluded that:

Iran and Syria have the potential to be destabilising factors in Iraq, and that maintaining co-operation with both is therefore essential for the success of Coalition efforts to bring stability to that country. We further conclude that the United Kingdom, through its diplomatic relations with Iran and Syria, could play a crucial role in ensuring this co-operation.²⁵

18 Q160

19 HC (2003-04) 81, para 23.

20 Ev 56

21 See para 60

22 See para 126

23 Q159

24 HC (2003-04) 81, para 28.

25 HC (2003-04) 81, para 34.

In May, the Government wrote to update us on the steps the United Kingdom is taking to prevent terrorists from entering Iraq from neighbouring states:

We are accelerating border security efforts with increased personnel, new technology and tighter procedures. Some US\$107 million has been allocated to the reconstruction of facilities and a review is underway of the number and location of Border Posts. There are now over 8000 Iraqi Border Police and the CPA plans to double this number. This will help stop terrorist infiltration... Iraqi customs and immigration controls were restored on 1 April. The PISCES Immigration IT system has been installed in prioritised border points and training for new customs and immigration staff began on 29 March.

Senior staff from the Iraqi Department for Border Enforcement, with advice from UK advisors from CPA Baghdad, have held talks with neighbouring countries about border security. The CPA is in the process of tightening control of the Iran-Iraq border, reducing the number of ports of entry. Over the past year we have sought closer contact with Iran on Iraq-related matters. We welcome greater contacts between the Iranian and Iraqi authorities. Though we have seen some improvement in Syria's performance, we still have concerns about the flow of jihadis across the Syria/Iraq border, which we have raised with the Syrians at the highest level. Limiting the freedom of movement of those determined to attack the Coalition and Iraqis should be a priority for Syria—a stable Iraq is in their interests too. We have encouraged meetings of Iraq's neighbours to discuss ways in which they can co-operate over this issue.²⁶

19. Although security has been improved at Iraq's main border crossings, its long borders remain difficult to control. Moreover, in many ways the damage has already been done—foreign terrorists are already present in Iraq.

20. We conclude that the violence in Iraq stems from a number of sources, including members of the former regime, local Islamists, criminal gangs and al Qaeda. Iraq has become a 'battle ground' for al Qaeda, with appalling consequences for the Iraqi people. However, we also conclude that the Coalition's failure to bring law and order to parts of Iraq created a vacuum into which criminal elements and militias have stepped. We recommend that the Government give all possible assistance to the Iraqi government in its efforts to step up security so that the quality of life of ordinary Iraqis may be improved and the country may continue along its path towards democracy.

Coalition forces

21. In our last Report in this inquiry we noted the reluctance of some countries to assist in Iraq. We concluded that: "this failure to share the burden can only have increased the pressures on US and United Kingdom resources, both civilian and military, which in turn may have exacerbated the difficulties encountered by the Coalition in establishing and maintaining security in Iraq".²⁷

²⁶ Ev 67

²⁷ HC (2003-04) 81, para 37.

22. In its response, the Government told us:

We would of course have liked other nations to share the burden by contributing forces, but do not believe this is a major cause of difficulty in maintaining security. The Coalition and Multinational Forces in Iraq are adequately resourced for the task. In addition to US/UK forces there are 16,000 other Multinational troops in Iraq from 32 nations. About 5500 of these serve in the UK commanded Multinational Division South East (MND SE) and 9000 in the Polish led Multinational Division Centre South (MND CS). Other countries are under US command. In addition, South Korea expects to deploy 3000 more troops in late April to Northern Iraq.²⁸

We heard from Dr Dodge that the number of troops in Iraq has been inadequate to stabilise the country:

The RAND corporation, in a widely cited study on state building, published in the run up to the invasion, compared US interventions in Germany, Japan, Haiti, Somalia, Bosnia and Kosovo. It concluded that occupying forces would need between 400,000 and 500,000 to impose order on Iraq. At the moment there are only 137,000 US troops attempting to impose order on the country, this is clearly not enough to achieve the type of sustainable order state building requires... However, it is clear that US forces have also become a target of resentment and nationalist mobilisation. More troops are needed but of a different type. If the occupation were internationalised, a UN force, would not be such a potent target of anger and suspicion.²⁹

23. The need to internationalise the military presence is highlighted by criticisms of the tactics employed by the US military. Dr Dodge has linked the situation in Falluja to this problem:

The fact that this town became a centre of violent opposition to US occupation so soon after liberation is explained by Iraqis I interviewed as a result of heavy-handed searches carried out by US troops in the hunt for leading members of the old regime... Events reached a climax when US troops broke up a demonstration with gunfire resulting in reports of seventeen Iraq fatalities and seventy wounded. The repeated violation of the private sphere of Iraqi domestic life by US troops searching for weapons and fugitives has caused recurring resentment across Iraq, especially when combined with the seizure of weapons and money. It has to be remembered that as brutal as Saddam's regime was, it never sought to disarm the Iraqi population.³⁰

The United Kingdom and US have sought to internationalise the military presence in Iraq. In May, the Foreign Secretary told us:

We are internationalising it as far as we can... there are 30 countries with forces on the ground in Iraq. South Korea is currently in the process of sending a large contingent of forces and for sure we would like to see other countries providing well

28 Cm 6162

29 Ev 54

30 Ev 56

trained forces obviously post 30 June at the invitation of the Iraqi sovereign government.³¹

However, the Foreign Secretary also noted:

You are not going to see the American contribution nor ours replaced by anything except, over time, indigenous Iraqi forces. No one has the capability nor the political will to be a substitute for the American forces... As I say, it is a chicken and egg situation. In one sense the less that forces are needed from other countries the easier it will be to recruit them.³²

24. After considerable diplomatic efforts, UNSCR 1546 was unanimously adopted on 8 June. The Resolution notes that the multinational force is in Iraq “at the request of the incoming Interim Government of Iraq”.³³ The Resolution also:

Requests Member States and international and regional organizations to contribute assistance to the multinational force, including military forces, as agreed with the Government of Iraq, to help meet the needs of the Iraqi people for security and stability, humanitarian and reconstruction assistance, and to support the efforts of UNAMI.³⁴

25. It might reasonably have been hoped that those countries that participated in the drafting of the Resolution might have felt obliged to contribute to its implementation. However, the adoption of the Resolution has not resulted in greater internationalisation of the military presence. In June, the Iraqi Prime Minister requested that NATO provide technical assistance and training to help tackle the country’s security problems. US President George Bush had earlier called for NATO to send troops to Iraq.³⁵ However, the NATO summit at the end of June failed to produce more than a commitment to assist the training of Iraq’s security forces.³⁶ In particular, France opposed a greater NATO role in Iraq.³⁷ Nevertheless, there have been some welcome signs from the Arab world; King Abdallah has said that Jordan is willing to send troops to Iraq if requested by the new government.³⁸

26. We conclude that the insufficient number of troops in Iraq has contributed to the deterioration in security. We further conclude that the failure of countries other than the US and United Kingdom to send significant numbers of troops has had serious and regrettable consequences, not only for Iraqis but also in terms of the burden placed on United Kingdom resources and perceptions of the legitimacy of operations in Iraq. We commend the Government for its work achieving diplomatic consensus around UNSCR 1546. It is disappointing that so many countries have decided against

31 Q245

32 Q255

33 UNSCR 1546 (2004), para 9. We discuss this Resolution in greater detail in paras 116-21.

34 UNSCR 1546 (2004), para 15.

35 ‘Iraq asks Nato to help in tackling security problems’, *Financial Times*, 24 June 2004.

36 ‘Alliance to support Iraq with troop training’, NATO press release, 29 June 2004.

37 ‘Chirac argues against Nato post-handover role’, *Financial Times*, 29 June 2004.’

38 ‘Command of forces passes to Iraqis – but no change is likely in handling of security’, *Financial Times*, 2 July 2004.

committing forces to Iraq. We recommend that the Government renew its efforts to encourage other countries, including Islamic countries, to send troops to Iraq.

Use of private military and security companies

27. The use of private military and security companies in Iraq has prompted concern. The US has made use of a number of private security firms and private contractors are now known to have supervised interrogations at the Abu Ghraib prison in Baghdad.³⁹ Notably, the US recently awarded a security contract to a company linked with Tim Spicer, the former British Army officer who was involved in the ‘arms to Africa’ affair in 1998.⁴⁰ On 12 July, the Foreign Secretary told the House that private military and security companies are “entitled to conduct their business within the law”.⁴¹ However, he also noted that such companies are “in a business that can in certain conditions have a direct and sensitive impact on international relations”. Guidelines for contacts between officials and such companies have been revised a number of times, and were recently updated in view of the situation in Iraq. Nevertheless, there are also very real concerns about the regulation of such companies.⁴²

28. On 17 May, Bill Rammell told the House: “The Foreign and Commonwealth Office does not employ any private military companies. It does employ two private security companies to provide armed protection for its staff and assets in Iraq.”⁴³

29. In February 2002, the Government published a Green Paper on Private Military Companies (PMCs),⁴⁴ on which we published a Report the following August.⁴⁵ The Green Paper set out various options for the regulation of the activities of companies which provide military services for payment. We concluded that the activities of these companies should be subject to a licensing regime, similar to that which applies to applications for the export of arms. The Government welcomed our Report,⁴⁶ but has since failed to make any progress on its proposals.

30. There has been no official announcement by the Government of its abandonment of a regulatory scheme for PMCs. However, in response to a question put by a member of this Committee, the Secretary of State has indicated that this is indeed what has happened: “We came down against legislation because of the difficulties involved, but there is no doubt that in countries such as Iraq the operations of such companies, be they UK-based or based elsewhere, should be properly regulated, and that will fall to the Iraqi authorities.”⁴⁷

39 ‘US military in torture scandal’, *Guardian*, 30 April 2004.

40 ‘Controversial ex-British army officer given key Iraq post’, *Financial Times*, 19 June 2004. See also FAC Report on Sierra Leone, HC (1998-99) 116

41 HC Deb, 12 July 2004, col 53-54WS

42 ‘FCO note on Dealing with Private Military and Security Companies in Iraq, 07.07.04’ and ‘FCO noted on Guidance on Contracts with Private Military and Security Companies, 30.06.04’.

43 HC Deb, 17 May 2004, col 676W

44 ‘Private Military Companies: Options for Regulation’, HC 577 (Session 2001-02)

45 Ninth Report of the Foreign Affairs Committee, Session 2001-02, HC 922

46 FCO, *Private Military Companies*, Session 2001-2002, Cm 5642, October 2002.

47 HC Deb, 7 June 2004, col 32

31. **We conclude that the increase in the use of private military or security companies in Iraq and Afghanistan in the last two years has added to the case for regulation of these companies, where appropriate, by the British Government. We recommend that the Government either bring forward legislation to introduce a regulatory regime for private military companies, or explain in full its reasons for not doing so.**

Tension with Iran

32. On 21 June, members of Iran's Revolutionary Guard detained eight United Kingdom servicemen for allegedly straying into the Iranian side of the Shatt al-Arab waterway. The men were shown blindfolded on Iranian television, but were released on 24 June. Subsequently, Defence Secretary Geoff Hoon said the troops claimed that the Iranians had forced them over the border.⁴⁸

33. The Iranians have since failed to meet a deadline of 29 June for the return of the marine equipment and weapons seized. The reason for the refusal to return the captured global positioning system equipment may be that the reading would show conclusively that the boats were not in Iranian territorial waters. Commenting on the issue, the Foreign Secretary told the House on 13 July: "I...point out that we opposed very strongly, and I deplore, the masking of the service personnel. However, as a result of the diplomatic relations that we have with Iran we were able quickly to get the crew on those boats returned into United Kingdom presence."⁴⁹ We agree with the Foreign Secretary that the Iranian treatment of the detained British servicemen was deplorable.

34. **We conclude that the Government's condemnation of the Iranian Government's treatment of the British servicemen recently detained in Iran is wholly justified. We recommend that in its response to this Report the Government set out what it is doing to ensure the return of the marine equipment and weapons still held by the Iranian authorities.**

Iraqi security forces

35. In our last Report in this inquiry we concluded that "the early decision to disband the Iraqi armed forces was entirely understandable in the conditions prevailing at the time, but that the re-establishment of such forces is an essential component of creating a new, safe and sovereign Iraq".⁵⁰ We also noted that the United Kingdom is providing assistance with police training.⁵¹

36. In its response, the Government told us that establishing the new Iraqi Armed Forces is a "high priority"⁵² but that it is "under no illusions that fully effective armed forces can be created quickly. Institution building and mentoring will require a sustained effort to which the UK is committed". The Government went on to describe in detail the assistance the United Kingdom is providing:

48 Britons forced in Iran waters, *Daily Telegraph*, 1 July 2004

49 HC Deb, 13 July 2004, col 1250

50 HC (2003-04) 81, para 40.

51 HC (2003-04) 81, para 44.

52 Cm 6162

There is an extensive police training plan for existing and newly recruited officers. 72 UK police officers are deployed to the Iraqi police training facility in Jordan, which is expected to have [sic] 2000 recruits in place from end-March. The Regional Police Training Academy in Az Zubayr near Basra has been open since December and is operating to capacity in delivering Transitional Integration Programme (TIP) training course to 300 existing Iraqi police officers every three weeks. There are currently 24 UK civilian police officers at the Academy. To enhance current efforts in the run up to the handover in July, a new Coalition Police Assistance and Training Team is now being established with greater access to military resources, which is likely to be led by a British Brigadier. The UK is also examining more widely what more it could do to support the policing programme in the South. International involvement in policing in Iraq is expected to continue in Iraq after the hand-over for some time under the auspices of the multinational force.⁵³

37. In March, John Sawers, Director-General, Political, and former United Kingdom Special Representative in Iraq, updated us on the status of military training:

The training for the Iraqi Civil Defence Corps has gone ahead very quickly and we are now close to the target of 36 battalions that we sought. The training of the army, a fully professional army, which Iraq has not had for many years, is going to take considerably longer and that is not a matter of months to achieve that.⁵⁴

38. In May, the FCO provided us with further information on the United Kingdom's efforts to train the Iraqi police:

According to statistics provided by the Coalition Police Assistance Training Team, there are 78,224 Iraqi Police Officers on duty. In total, 14,746 officers have completed police training to date. This figure comprises 12,422 who have completed refresher training for serving officers through the Transitional Integration Programme (TIP), and 2,324 students who have completed the 8 week new recruit training. There are a further 2,003 students currently attending TIP training, and 1,837 on new recruit training, totalling 3,840 students. It is anticipated that an additional 50,000 will be trained. Figures for the wastage rate of trainees are not centrally collated.⁵⁵

39. Despite these efforts, we heard from our various witnesses about the continued inadequacy of the Iraqi army and police force. The ICG wrote to us about their inadequate numbers, training and motivation as well as their inability to improve basic security.⁵⁶ Dr Alani told us that:

There is no entity to handle the security because the Iraqi army is demoralised and very weak... Establishing the Iraqi army and Iraqi bodies has become a joke because those people are coming for US\$280 a month and when they are really needed they

53 Cm 6162

54 Q115

55 Ev 68

56 Ev 187

say that they are not going to fight. They are demoralised, under armed and not really effective.⁵⁷

40. Iraq's security forces performed particularly badly when violence erupted in Fallujah and Najaf in April. An army battalion refused to join US forces in the siege of Fallujah and many members of the Iraqi police force abandoned their stations during the uprising in Najaf.⁵⁸ Concerns have also been raised about the possible infiltration of the security forces. In April, a US Army General was reported as saying that about 10% of new officers were rebels and a further 40% had left their jobs, but the rest "stood tall and stood firm".⁵⁹ There are indications that the Iraqi forces are playing a more visible role now that sovereignty has been transferred.⁶⁰ On 6 July, an attack on Fallujah by US forces was conducted with Iraqi co-operation; Prime Minister Allawi made a statement that Iraqi security forces provided intelligence for the attack.⁶¹ The same was true of a similar attack on Fallujah on 18 July.⁶²

41. We commend the Government for its work assisting the formation of the Iraqi security forces. However, we conclude that the Iraqi police and army remain a long way from being able to maintain security. We recommend that in its response to this Report the Government set out what it regards as the minimum and optimum numbers of Iraqi armed forces, police, Civil Defence Corps and border police; what is the timetable envisaged for achieving these numbers; and what is being done to meet that timetable.

Resolving the security problem

42. Iraqi Prime Minister Iyad Allawi has said that he plans to reverse de-Ba'athification in the army, although his precise plans are not yet clear.⁶³ Given the fact that for many Iraqis membership of the Ba'ath party was simply a means to get a job, this approach appears eminently sensible, although clearly high-ranking officials and those guilty of human rights abuses should be excluded. On 6 July, Prime Minister Allawi signed into law the new National Safety Law, which allows him to impose emergency measures to tackle the security situation. These measures include the imposition of martial law for limited periods in specific places under special circumstances, and empower the government to implement curfews, erect checkpoints and search and detain suspects. The law provides for the revision of emergency measures every 60 days.⁶⁴

43. We recommend that the Government set out in its response to this Report its understanding of how the United Kingdom's role in Iraq has altered following the transfer of sovereignty and the signing into law of provisions for emergency measures.

57 Qq184, 186

58 'Bremer: Iraqis Not Ready to Run Security', *Associated Press*, 19 April 2004.

59 'Iraqi forces 'turn on coalition'', *BBC*, 22 April 2004.

60 'Iraqi forces to take more visible security role', *Financial Times*, 29 June 2004; 'Increasingly, the public face of security is Iraqi', *International Herald Tribune*, 19 July 2004.

61 'Iraqi PM backs strike on Falluja', *BBC*, 6 July 2004.

62 'Fourteen killed in Falluja strike', *BBC*, 18 July 2004

63 'I want to reconstitute four divisions of the army', *Daily Telegraph*, 30 May 2004.

64 'Clashes in Baghdad as Allawi signs security law', *Reuters*, 7 July 2004; and 'Iraq's interim leader signs emergency law', *Guardian*, 7 July 2004.

Weapons of Mass Destruction (WMD)

44. In our last Report in this inquiry we noted that “because Saddam Hussein’s development of WMD was cited by the Government—though not by the US—as the primary reason for his removal from power, the failure to find such weapons remains an important backdrop to the Coalition’s continuing occupation of the country”.⁶⁵ We also concluded that the continued failure of the Coalition to find WMD has damaged the credibility of the US and United Kingdom in their conduct of the war against terrorism.⁶⁶

45. Since our last Report, there have been a number of statements and reports on the work of the Iraq Survey Group (ISG). On 28 January, former head of the ISG Dr David Kay⁶⁷ gave evidence to the US Senate Armed Services Committee. Dr Kay told the Committee:

Iraq was in clear violation of the terms of Resolution 1441. Resolution 1441 required that Iraq report all of its activities: one last chance to come clean about what it had. We have discovered hundreds of cases, based on both documents, physical evidence and the testimony of Iraqis, of activities that were prohibited under the initial U.N. Resolution 687 and that should have been reported under 1441.⁶⁸

46. However, Dr Kay also told the Committee that he believed “we were almost all wrong” about Iraq’s WMD and that “it is highly unlikely that there were large stockpiles of deployed militarized chemical and biological weapons”. Nevertheless, Dr Kay said that the work of the ISG should continue. Dr Kay’s successor, Charles Duelfer, has been more cautious about reaching preliminary conclusions. On 30 March, Mr Duelfer told the US Senate Armed Services Committee that:

I do not believe we have sufficient information and insight to make final judgments with confidence at this time. Interim assessments could turn out to be misleading or wrong. I believe there is more work to be done to gather critical information about the regime, its intentions, and its capabilities, and to assess that information for its meaning.⁶⁹

47. However, on 6 July, the Prime Minister told the Liaison Committee that weapons of mass destruction may never be found in Iraq, although he reiterated his belief that Iraq did pose a threat in terms of WMD.⁷⁰ While it has not found WMD, the ISG has uncovered evidence of sanctions busting. The Committee is pleased to have been advised that none of the transgressors were United Kingdom, US or EU companies or individuals.

48. In February the Foreign Secretary announced the Butler Inquiry into intelligence and the failure to find WMD in Iraq.⁷¹ The inquiry’s report, which was published on 14 July,

65 HC (2003-04) 81, para 9.

66 HC (2003-04) 81, para 119.

67 Dr David Kay resigned as head of the ISG on 7 December 2003.

68 Testimony of Dr David Kay to the US Senate Armed Services Committee, 28 January 2004, available at: <http://www.ceip.org>

69 Testimony of Charles Duelfer to the US Senate Armed Services Committee, 30 March 2004, available at: <http://armed-services.senate.gov>

70 Q239, Liaison Committee, 6 July 2004, HC 310-ii (uncorrected transcript).

71 HC Deb, 3 February 2004, col 624-28

found that although it is premature to reach conclusions about Iraq's prohibited weapons, the Iraqi regime:

Had the strategic intention of resuming the pursuit of prohibited weapons programmes, including if possible its nuclear weapons programme, when United Nations inspection regimes were relaxed and sanctions were eroded or lifted.

In support of that goal, was carrying out illicit research and development, and procurement, activities.

Was developing ballistic missiles with a range longer than permitted under relevant United Nations Security Council resolutions.

Did not, however, have significant—if any—stocks of chemical or biological weapons in a state fit for deployment, or developed plans for using them.⁷²

We note that our conclusions about intelligence in our Report into the Decision to go to War in Iraq were consistent with those reached by the Butler Inquiry.⁷³

Communications between officials and Ministers

49. In two cases, information relevant to the conflict in Iraq known to officials was not communicated to Ministers. In the first case, the fact that the 45-minute intelligence claim related to battlefield weapons only was known by the Permanent Secretary in the Ministry of Defence shortly after publication of the dossier on Iraq's weapons of mass destruction in September 2002,⁷⁴ but the Permanent Under-Secretary in the FCO received the same information as late as June 2003, which is also when the Foreign Secretary was informed.⁷⁵

50. We raised the question of why officials in the MoD had not communicated a crucial part of this intelligence to their FCO counterparts when the Permanent Under-Secretary appeared before us in June. Sir Michael told us that:

We learn lessons all the time from these kinds of issues and the relations which I have with Sir Kevin Tebbit, which the Foreign Office has with the Ministry of Defence, is now extremely close. We have regular meetings between the Chiefs of Staff and the top management in the Foreign Office. My deputy, the Director General for Defence and Intelligence, regularly attends the Chiefs of Staff weekly meeting. I cannot imagine a similar issue arising in the future.⁷⁶

51. The second case relates to information about the alleged mistreatment of Iraqi detainees by coalition forces. On 26 February, FCO officials in Iraq attended a meeting with the International Committee of the Red Cross (ICRC) at which they were formally presented with the interim findings of an ICRC inquiry into the treatment of detainees.

72 HC (2003-04) 898, para 397.

73 HC (2002-03) 813-I paras 1-33.

74 HC Deb, 4 March 2004, col 1051W

75 HC Deb, 10 February 2004, col 1305W

76 Minutes of Evidence taken before Foreign Affairs Committee, 29 June 2004, Q152, to be published as part of HC 745. Uncorrected transcript available at: http://www.parliament.uk/parliamentary_committees/foreign_affairs_committee.cfm

The officials in Baghdad sent a telegram to the FCO in London the day after this meeting. The Foreign Secretary told the House that:

the telegram referred to was received on 27 February 2004 in the FCO and other relevant Government Departments. Records indicate that it was distributed at official level to private offices. It was not marked for ministerial attention. Action was already in hand on the allegations concerning UK forces.⁷⁷

52. The FCO has confirmed that the FCO did not obtain a copy of the report containing these interim findings for another two weeks:

The ICRC report of 10 February on ‘The Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation’ (which has been referred to as the interim report) was obtained by a Foreign and Commonwealth Office official on 19 March during a visit to Baghdad. It was not marked for Ministers’ attention as MOD action was already in hand on the allegations concerning UK forces. Ministers received copies on 10 May after the report had been leaked to the media on 7 May.⁷⁸

53. Neither was the report drawn to the attention of the Permanent Under-Secretary.⁷⁹ We asked Sir Michael why the ICRC’s interim report had not been marked for ministerial attention before the story broke in the media. He replied:

I think in retrospect it would have been better if it had been brought to my attention and brought to the ministers’ attention as well. ... We have drawn our staff’s attention to the need to be very sensitive to all human rights allegations and to make sure that those are brought to the attention of senior officials and ministers. ... I hope that will ensure in any similar case, and I very much hope there will not be a similar case, the papers would indeed be marked to senior officials and ministers. That is what we need to ensure happens in future.⁸⁰

54. We are very concerned that key information on intelligence and on alleged human rights violations by British personnel was withheld from senior FCO officials and from Ministers. We welcome the assurances given by the Permanent Under-Secretary and we recommend that in its response to this Report the FCO set out in detail what measures have been put in place to ensure that sensitive or important information is (a) shared between Departments of State as appropriate, (b) always passed to an appropriate senior official level in the FCO and (c) always put to Ministers if of policy or presentational significance.

77 HC Deb, 26 May 2004, col 1637W

78 HC Deb, 7 June 2004, col 62W

79 Minutes of Evidence taken before Foreign Affairs Committee, 29 June 2004, Q159.

80 *Ibid* Qq155-57

Reconstruction

Basic services

55. In our last Report, we noted that progress was being made on reconstruction, including the supply of water and electricity and the rehabilitation of public buildings.⁸¹ However, we concluded that despite signs of economic revival since the war, Iraqis have been disappointed by the slow pace of reconstruction (although we also noted that Iraqi expectations were probably unrealistic).⁸²

56. There have been some improvements since our last Report. These include the completion of the sweet water canal reservoir, which according to USAID will contribute to the supply of water to more than 1.75 million people in the Basrah Governorate.⁸³ USAID has also reported a number of positive developments in the health field, for example on vaccinations, training, renovation of facilities and planning.⁸⁴ According to Unicef, services have been restored or improved at about 80% of Iraq's primary health centres, with major reconstruction work at about 50 centres. However, the agency has reported that the poor security situation is limiting access to immunisation services in some areas.⁸⁵ The UN also has concerns over the need to ensure a minimum supply of electricity and water, particularly in the south of the country:

Water and electricity supply has further deteriorated in the recent weeks, particularly in the south of Iraq. While regular power cuts amount [to] an average of 12–15 hours a day, electricity in Basra and its environs is available only for 6–8 hours a day. Blackouts are expected to last for longer periods in the summertime. Poor electricity supply severely cripples the water supply system, impacting heavily on the health situation of an estimated 4.5 million civilians in the four southern governorates. The shortage of water will become even more acute in the coming weeks as temperatures are already exceeding 50°C... Some 40% of [Basra's] population is unable to access the piped water due to the poor state of local infrastructure... The lack of potable water is likely to become more acute in the coming weeks and, in tandem with continuing electricity and fuel shortages, may result in civil discontent.⁸⁶

57. The CPA Administrator's weekly report for 12–18 June cites the average electricity production for that week as 4,341 Megawatts (MW); the CPA target was to increase this figure to 6,000MW by 1 July.⁸⁷

58. We heard from Dominic Hughes about the frustration felt by many Iraqis at the slow pace of reconstruction: "The most animated conversation I had with an Iraqi was when he was telling me about the power failures. He could not understand why the Americans, with

81 HC (2003-04) 81, para 94.

82 HC (2003-04) 81, para 106.

83 DFID Iraq update 84, 28 April 2004, available at: <http://www.dfid.gov.uk>

84 'Assistance for Iraq', USAID, available at: <http://www.usaid.gov/iraq>

85 'Iraq reconstruction: Health', Occupation Watch, 7 April 2004, available at: <http://www.occupationwatch.org>

86 Iraq situation report, UN, 7-13 June 2004, available at: <http://www.uniraq.org>

87 'Administrator's Weekly Report', CPA, 12-18 June 2004.

their much-vaunted know-how, were unable to get the power on in Baghdad.”⁸⁸ Mr Hughes also noted that “there is rubbish and rubble everywhere.”⁸⁹ During a visit to Iraq in February members of the Committee witnessed the huge amount of uncollected rubbish in Basrah and heard about concerns over the implications for public health. Given the high levels of unemployment in Basrah, it would seem sensible to employ people to collect rubbish—an important and relatively inexpensive task.

59. The ICG told us about the failure to give sufficient attention to certain aspects of the reconstruction effort:

Too little attention has been given to quick and high-impact reconstruction and social development projects... Examples may include collecting garbage, street cleaning and public works... assistance could be given to establish housing and agricultural credit banks to (temporarily) provide low-interest loans to alleviate housing shortages and decay in the agricultural sector and, in turn, trigger economic growth and employment.⁹⁰

60. The deterioration in the security situation has hindered reconstruction efforts. As well as raising the costs of reconstruction owing to higher insurance premiums and security expenditure, security concerns are delaying and even preventing critical reconstruction work. Several companies have been forced to suspend or cease operations owing to the increase in attacks.⁹¹ Reconstruction efforts are being deliberately targeted, in particular electricity and oil infrastructure.

61. Reconstruction efforts have been criticised for relying on foreign firms and workers. In our last Report we recommended efforts to “ensure that Iraqi contractors are able to bid for reconstruction contracts”.⁹² In its response, the Government told us:

We agree that Iraqi firms should be given as many opportunities as possible in the reconstruction of their country. Iraqi firms are given preference in contracts funded by the Development Fund for Iraq and let by the CPA. In addition USAID contracts, which by law have to go to US prime contractors, give preference to Iraqi sub-contractors.⁹³

62. The International Crisis Group wrote to the Committee about continued problems in this area: “Both Iraqi workers and businessmen complain they have insufficiently benefited from reconstruction projects financed by the Coalition and supervised by large multinational or foreign companies.”⁹⁴ In addition, the International Crisis Group told us that “Iraqis—whether in existing state institutions or within civil society—have been insufficiently involved in key decision-making on reconstruction.”

88 Q299

89 Q310

90 Ev 188

91 ‘Russian contractors to quit Iraq’, BBC, 26 May 2004; ‘Contractors in Iraq cut back on work’, *Financial Times*, 23 April 2004; and ‘Violence in Iraq forces two big contractors to curb work’, *New York Times*, 22 April 2004.

92 HC (2003-04) 81, para 106.

93 Cm 6162

94 Ev 188

63. The Madrid donor conference in October 2003 resulted in pledges of around US\$13 billion for Iraq's reconstruction.⁹⁵ However, we heard from the International Crisis Group that there is a problem with the disbursement of donor funding: "verbal commitments have thus far failed to be followed up by transfers of funds matching the promises made in Madrid."⁹⁶

64. We conclude that the provision of basic services in Iraq is not yet satisfactory and that the failure to meet Iraqi expectations, whether realistic or not, risks damaging the credibility of the United Kingdom in Iraq and Iraqi goodwill towards it. We recommend that in its response to this Report, the Government set out the current level of water and electricity provision, the targets for the coming year, and what steps it is taking to achieve these targets. We further recommend that the Government set out what steps it is taking following the handover of sovereignty in the Basrah area to assist reconstruction efforts and to ensure Iraqi involvement in these efforts, together with an update on the disbursement of funds pledged to Iraq.

The judiciary

65. Important progress has been made on reconstituting the judiciary. We heard from Sir Jeremy Greenstock, the United Kingdom's Special Representative for Iraq, that: "The Iraqi court system and judiciary generally have been developed quite well as an independent judiciary since the occupation began and is capable of handling more ordinary court cases."⁹⁷ The Judicial Review Committee has completed its review of judges and prosecutors for membership of the Ba'ath Party, corruption and human rights violations. The overall dismissal rate was around 25 per cent.⁹⁸

66. The legal framework for the Iraqi Special Tribunal was issued on 10 December 2003. The Tribunal will prosecute senior members of the former regime accused of crimes against humanity. However, concerns have been expressed about the Tribunal's capacity. Sir Jeremy Greenstock told us that:

The Tribunal is going to handle a number of quite complicated cases... the collection and analysis and sifting of evidence is going to be quite a complex business. So I think that even an international court like the Yugoslav one in The Hague, which has taken its time to get through a number of cases, would have found it quite a complex business to get about the indictment and prosecution of senior targets in the Iraqi system.⁹⁹

67. In May, the FCO wrote to us about the assistance the United Kingdom is giving the Tribunal:

The UK has seconded a total of 10 officials to the CPA Office of Human Rights and Transitional Justice (OHRTJ) including the Head of the Office of Human Rights.

95 'Iraq donors pledge at least US\$13bn', BBC, 24 October 2003.

96 The Madrid donor conference was held in October 2003.

97 Q13

98 DFID Iraq update 77, 8 March, available at: <http://www.dfid.gov.uk>

99 Q11

There are currently 8 in Iraq. This is an area where the UK has made a significant contribution. Prior to his departure, the former UK Head of the Investigations Unit within the Office of Transitional Justice developed the investigations strategy for the IST and trained Iraqi judges for the Tribunal. He is now assisting HMG and the US with identifying suitable qualified investigators. The former UK legal adviser to the Investigations Unit supported the drafting of the Statute and Rules of Procedure for the IST. He is now assisting with the redrafting of the Rules of Procedure and the drafting of Elements of Crime. The UK has a further 6 staff in the Office of Human Rights who are establishing systems for storing and analysing documentation retrieved from the former regime and co-ordinating the forensic exhumation process. In collaboration with the relevant ministries, they are developing training programmes to build Iraqi capacity to take testimonies and witness statements and to analyse regime documentation.¹⁰⁰

68. However, plans to reinstate the death penalty have raised questions over international assistance to Iraq's judiciary. The Foreign Secretary told us :

We have ruled out explicitly, for example, any British Government involvement in the role of the prosecutor if capital punishment is available. On the other side, we are actively seeking a role for the British Government over ways to ensure that the court trial process is fair because if there is capital punishment available, there is a greater requirement than ever to ensure a fair process and there is much we can do in between in terms of decent court administration which also contributes to the justice of the process, and that is unaffected by the potential sentence.¹⁰¹

The FCO later wrote to us, detailing the United Kingdom's position:

Following Ministerial discussion we decided that we could in principle provide assistance in a number of key areas in line with our obligations under the European Convention on Human Rights. Our assistance in these areas will of course depend on available resources, but we would like to provide at least some assistance in some of the following areas: forensic expertise; judicial training; judicial advisers; public education and outreach; victim and witness counselling; witness protection; international observers. We are also encouraging other EU partners to consider favourably requests for assistance from the Iraqis.¹⁰²

69. On 30 June, Saddam Hussein was transferred to Iraqi custody along with eleven other defendants, including former deputy Prime Minister Tariq Aziz. However, the men remain under US guard.¹⁰³ Saddam Hussein was charged with seven counts of crimes against the people of Iraq and Kuwait in an Iraqi court on 1 July.¹⁰⁴ It is vitally important that the trial is seen to be fair and procedurally beyond reproach.

100 Ev 68

101 Q124

102 Ev 68

103 'Iraq takes charge of Saddam case', BBC, 30 June 2004.

104 'Saddam mocks Iraqi court', *Financial Times*, 2 July 2004.

70. We note the progress made by the Iraqi judiciary and commend the Government for its role in assisting this. We conclude that the judiciary, and in particular the Iraqi Special Tribunal, will continue to require international assistance. We recommend that the Government provide in its response to this Report an update on what the Government is doing to support the Iraqi Special Tribunal, the establishment of fair systems of criminal and civil justice in Iraq, and the new Iraqi government's efforts to ensure that human rights are respected.

The economy

71. In our last Report, we noted the successful introduction of the new currency and the welcome increase in public sector pay. We were also heartened to see signs of economic recovery.¹⁰⁵ Further positive developments include moves to make the Central Bank independent and the introduction of a liberal foreign investment code.¹⁰⁶

72. However, further reforms are required. During its visits to Iraq, the Committee heard about the significant degree of economic distortion that has occurred in Iraq. For example, around 60 per cent of the population continue to receive the 'food basket', which contains basic foodstuffs. In addition, a number of subsidies remain in place. Sir Jeremy Greenstock told us:

Iraq must be one of the cheapest places to live in in terms of energy prices, electricity prices and taxation... We decided in the CPA not to make many changes in these areas for two reasons. One, we have not got much time to institute new systems and bring them into being and, two, as an occupation under the Fourth Geneva Convention we are not supposed to bring in laws that affect the long term future of the Iraqi state, only what is necessary for the current administration of it; and to that extent we have postponed for the sovereign period the larger macroeconomic decisions and fiscal decisions on taxation, pricing and the relationship between the centre and the regions in the management of the economy, so much of that is still to come.¹⁰⁷

73. Iraq's US\$120 billion foreign debt burden also remains to be addressed. The G8 summit in June failed to reach agreement on debt relief but concluded that:

Debt reduction is critical if the Iraqi people are to have the opportunity to build a free and prosperous nation. The reduction should be provided in connection with an IMF program, and sufficient to ensure sustainability taking into account the recent IMF analysis. We will work with each other, within the Paris Club, and with non-Paris Club creditors, to achieve that objective in 2004.¹⁰⁸

74. We recommend that in its response to this Report the Government outline how it plans to assist economic reform following the handover of sovereignty. We further

¹⁰⁵ HC (2003-04) 81, para 95.

¹⁰⁶ 'Update on the Iraqi Economy', DFID update 89, 3 June 2004, available at: <http://www.dfid.gov.uk> See also 'Elements of the economy strong despite violence', *Financial Times*, 29 June 2004.

¹⁰⁷ Q25

¹⁰⁸ 'Partnership for progress and a common future with the region of the broader middle East and North Africa', G8, Sea Island, Georgia, 9 June 2004, available at: <http://www.g8usa.gov>

recommend that the Government set out what progress has been made towards an IMF programme for Iraq and agreement with Iraq's various creditors, as well as the anticipated timeframe for agreement.

The oil industry

75. Iraq's oil production has continued to increase, albeit with setbacks owing to sabotage. Revenues are expected to reach US\$18 billion this year and are projected to rise to US\$28 billion by the end of 2005.¹⁰⁹ However, the oil industry is vulnerable in the current security environment; the long pipeline from the northern Kirkuk field to Turkey has been sabotaged and there have been attacks on terminals in the south of the country, reducing domestic supply and exports.¹¹⁰ In June, attacks on a pipeline from southern oilfields severed the flow to the Basrah oil terminal, effectively stopping the flow of crude oil through Iraq's main export route.¹¹¹ In June, Iraqi output declined as a result of sabotage, with the country's daily output falling 270,000 barrels per day to 1.78 million barrels per day—the lowest level since September.¹¹² The United Kingdom is providing important assistance in protecting oil refineries and pipelines in southern Iraq.¹¹³

76. There are also questions about the geographical location of Iraq's oil assets—much of Iraq's oil wealth is situated in the north of the country. We understand that the Kurdish position is that all active oil fields are national assets, but that undeveloped fields in Kurdish areas belong to the Kurds, although the revenues that derive from these fields will be used to the benefit of the whole country. Control of the area's oil wealth is seen as an important guarantee of security.

77. Although Iraq's oil industry holds great potential, in our last Report in this inquiry we concluded that “sustainable economic development and diversification will be essential for the long term stabilisation of Iraq”.¹¹⁴ We also noted the early successes of the United Kingdom-led CPA in southern Iraq, including the provision of plastic sheeting to enable the production of a tomato crop.¹¹⁵ The FCO funded an economics seminar on Iraq in London in December 2003.¹¹⁶

78. We recommend that in its response to this Report the Government provide full details of the assistance it is providing the Iraqi oil industry as well as its efforts to assist economic diversification.

79. Under UNSCR 1483 (2003) the CPA was obliged to deposit all proceeds of oil exports into the Development Fund for Iraq. UNSCR 1546 (2004) gave Iraq full control over its oil resources from 1 July. However, oil and gas funds will continue to be deposited into the

109 'Update on the Iraqi Economy', DFID update 89, 3 June 2004, available at: <http://www.dfid.gov.uk>

110 Iraq Resumes Some Oil Exports', *Washington Post*, 21 June 2000; and 'Saboteurs hit Iraq's oil lifeline', *Financial Times*, 16 June 2004.

111 'Attacks cripple Iraq oil exports', BBC, 15 June 2004.

112 'Crude Oil Jumps to One-Month High After Iraqi Exports Halved', Bloomberg, 6 July 2004.

113 'British troops hunt night oil raiders who are bleeding Iraq', *Daily Telegraph*, 13 July 2004

114 HC (2003-04) 81, para 110.

115 HC (2003-04) 81, para 109.

116 Ev 128

Development Fund, which itself will continue to be monitored by the International Advisory and Monitoring Board.¹¹⁷ In a recent report, auditors have criticised the CPA for its spending of oil revenues and said that the Fund is “open to fraudulent acts”.¹¹⁸ A recent report by Christian Aid also criticised the CPA for its lack of transparency:

On 30 June, the US-controlled coalition in Baghdad will hand over power to an Iraqi transitional government. As it prepares to do so, the first audit of how the coalition has spent billions of dollars of Iraqi oil revenue is only just being delivered. Put another way, this means that for the entire year that it has been in power in Iraq, it has been impossible to tell with any accuracy what the Coalition Provisional Authority (CPA) has done with some US\$20 billion of Iraq’s own money. This also means that the CPA will disappear without ever having been held accountable for the money. Early reports of the audit say that it criticises the CPA’s handling of Iraq’s oil money, which it says left the funds open to fraud. It also says that CPA staff resisted the investigation... The CPA’s failure to demonstrate openness also sets a very bad precedent for the incoming Iraqi government.¹¹⁹

80. We are concerned at reports of irregularities in the handling of the Development Fund for Iraq. We recommend that the Government inform us of its understanding of these allegations and the role played by the United Kingdom in managing the Fund.

The legal framework for reconstruction

81. In our last Report, we noted that the ambiguity of the legal framework may be an obstacle to reconstruction.¹²⁰ We requested that the Government set out its understanding of the extent to which the Hague Regulations and the Geneva Conventions constrain the Occupying Powers’ capacity to carry out economic reform.¹²¹ In its response the Government said:

The various measures of economic reform undertaken by the Coalition Provisional Authority have been undertaken within occupation law, as supplemented by Security Council Resolution 1483 of 22 May 2003. Occupation law does indeed constrain the capacity of an Occupying Power to carry out economic reform. Article 43 of the Hague Regulations sets out the general obligation to respect the laws in force in the occupied country, and the second paragraph of Article 64 of Geneva Convention IV expands upon the circumstances in which an Occupying Power may legislate; that is, where necessary to fulfil the Occupying Power’s obligations under Geneva Convention IV (which would broadly cover humanitarian purposes), for security purposes, or to maintain orderly government of the territory. Legislation to achieve economic reform is permissible under occupation law within these limits. That position is supplemented by Security Council Resolution 1483, and in particular

117 UNSCR 1546, para 24.

118 ‘UN slams US over spending Iraq funds’, *Financial Times*, 21 June 2004.

119 ‘Fuelling suspicion: the coalition and Iraq’s oil billions’, Christian Aid, June 2004.

120 HC (2003-04) 81, para 107.

121 HC (2003-04) 81, para 108.

paragraph 8(e) which envisages assistance to the people of Iraq for the promotion of economic reconstruction.¹²²

82. The legal framework has since been clarified by the adoption of UNSCR 1546, which calls on the international community to assist in Iraq's reconstruction, and encourages progress on identifying ways to reduce Iraq's debt burden.¹²³

83. However, uncertainties remain over the status of contractors following the handover of sovereignty and the dissolution of the CPA. Existing CPA orders and regulations will remain in force until they are amended or revoked.¹²⁴

84. Under CPA Order No. 17 (revised) foreign contractors and sub-contractors are not subject to Iraqi laws or regulations in respect of their contracts. Contractors are also immune from Iraqi legal process with respect to acts performed pursuant to the terms and conditions of their contract. However, immunity may be waived pursuant to Section 5 of the Order. Requests to waive immunity for contractors will be referred to the relevant 'sending state'.¹²⁵

85. We recommend that in its response to this Report the Government set out its understanding of the legal position of foreign contractors and subcontractors working in Iraq, now that the CPA has been dissolved, including any plans to waive immunity from Iraqi legal process.

Oil for Food

86. The Oil-for-Food programme was set up in 1996 as a temporary measure to enable Iraq to use some of its oil revenues to buy food and aid. The programme, which ran until November 2003, was monitored by a committee including representatives from all 15 member states of the UN Security Council. In April, Secretary General Kofi Annan set up an independent inquiry after the emergence of allegations of fraud and corruption in the programme. The inquiry is being led by Paul Volcker, former head of the US Federal Reserve Board. It will investigate actions by UN officials and agents and contractors who worked in connection with the Oil-for-Food programme and will have access to all UN documents and personnel; the Secretary General has promised to take action against any staff members found guilty of wrongdoing, although it is not clear if this includes former personnel.¹²⁶

87. In April the Committee wrote to the Foreign Secretary requesting clarification of the Government's policy towards the inquiry. In response, the Foreign Secretary told us:

122 Cm 6162

123 UNSCR 1546, paras 10, 15, 20 & 28.

124 Article 26 (c) of the Transitional Administrative Law of March 2004 (which will act as a transitional constitution for Iraq) states that "The laws, regulations, orders and directives issued by the Coalition Provisional Authority pursuant to its authority under international law shall remain in force until rescinded or amended by legislation duly enacted and having the force of law." Under the Annex to the TAL, which was agreed in 1 June, the Interim Government "may issue orders with the force of law that will remain in effect until rescinded or amended by future Iraqi governments."

125 'Coalition Provisional Authority Order Number 17 (revised), Status of the Coalition Provisional Authority, MNF – Iraq, Certain Missions and Personnel in Iraq', available at: <http://www.iraqcoalition.org>

126 UN press release, 3 May 2004.

The UK supports the UN inquiry and will co-operate fully with it. The International Development Secretary and FCO officials saw Paul Volcker on 6 and 7 May to stress our willingness to do so, and our agreement with his public statement that the inquiry must not only determine what had happened in the past, but also draw lessons on what could be done to avoid such problems in the future.

I can confirm that the Government has been given copies of documents relating to the corruption allegations, and that these name a small number of UK individuals and entities. The first batch of documents has been passed to Her Majesty's Customs and Excise (HMCE) as the appropriate investigative authority, for consideration. The second batch is in translation and will also be passed to HMCE as soon as possible. You will understand that I cannot at this time comment on the specific allegations of wrongdoing until the work of HMCE, and the UN inquiry underway in New York, are completed.

I can assure you that during the lifetime of the OFF programme, the UK worked strenuously in the UN Iraq Sanctions Committee to prevent Iraqi efforts to abuse the system for its own ends. For example, in August 2001 we secured agreement for a retrospective oil pricing mechanism to counter Iraqi attempts to impose an illegal oil surcharges. As a result the UN escrow account received a considerable amount of revenue that might otherwise have gone to the former Iraqi regime.¹²⁷

88. We are concerned that the documents given to the United Kingdom Government relating to the Oil-for-Food Programme corruption allegations name a small number of United Kingdom individuals and entities. We are glad to have been assured by the FCO that none of the individuals or entities is connected with the United Kingdom Government. We recommend that in its response to this Report, the Government provide further information on the progress of the inquiry into allegations of corruption in the Oil-for-Food programme, including any further information on United Kingdom involvement.

A role for the United Kingdom

89. In our last Report, we recommended that “the CPA urgently address the unemployment issues evident in the Basrah region”.¹²⁸ In its response, the Government estimated that overall the CPA has created over 400,000 jobs, with a further US\$125million recently allocated to create an additional 125,000 jobs, and US\$9million for the creation of employment centres across Iraq.¹²⁹

90. In June, the FCO wrote to us with an update on efforts to create jobs:

There are now functioning employment centres in all the Governorates of Iraq. Employment generation schemes continue across the country, including the 'Seven Cities' scheme aimed at boosting urban employment (which aims at creating 100,000 new jobs in urban centres including Basra) as well as a programme of public works

¹²⁷ Ev 129

¹²⁸ HC (2003-04) 81, para 96.

¹²⁹ Cm 6162

aimed at rural and agricultural areas. The CPA has committed itself to putting Iraqis first in the procurement of goods and services funded by the US\$18.4bn US supplemental budget allocated to reconstruction in Iraq. The expansion and Iraqisation of the security forces has also created 249,102 jobs (as of 28 May 2004).¹³⁰

91. However, unemployment remains a serious problem. Most sources put the figure at 40–50 per cent, with an additional 20 per cent under-employed.¹³¹ In March, the Foreign Secretary told us that “Estimates vary about levels of unemployment, but it is almost certainly around 50 or 60 per cent”.¹³²

92. We commend the Government’s efforts to address the unemployment problem in Basrah. However, we conclude that considerable further progress is required. We recommend that in its response to this Report, the Government set out what steps it is taking in the Basrah area following the handover of sovereignty to assist job creation and economic regeneration.

93. We recommended in our last Report that, as well as creating jobs for Iraqis, the Government “do its utmost to ensure that the CPA and Iraqi ministries are staffed with experienced personnel, who are capable of drawing up and implementing plans for Iraq’s economic development, including detailed and politically sensitive options for the distribution of Iraq’s oil revenues”.¹³³ In its response, the Government told us that the United Kingdom has been “seconding suitably qualified individuals with public and private sector experience (from HM Treasury, the Bank of England, and various City and consultancy firms) to act as advisers to the Iraqi Central Bank and Ministries of Finance, Planning, Trade and Industry and Minerals”.¹³⁴

94. In June, the FCO wrote to us with an update on the secondment of United Kingdom personnel in Iraq:

We currently have around 165 British civilian staff at the British Office in Baghdad or seconded to the CPA and working with Iraqi institutions. These staff have expertise in a wide variety of fields including economic development, health, human rights, police training and provision of essential services.¹³⁵

95. We recommend that in its response to this Report the Government provide the latest figures for United Kingdom personnel working with Iraqi ministries following the handover of sovereignty, including details of the timeframe of their involvement.

Political developments

96. In previous Reports in this inquiry we have described the setbacks and policy changes of the immediate post-war period. These included changeover of personnel at the head of

¹³⁰ Ev 158

¹³¹ ‘Handover in Iraq: the inheritance’, *Financial Times*, 29 June 2004.

¹³² Q109.

¹³³ HC (2003-04) 81, para 110.

¹³⁴ Cm 6162

¹³⁵ Ev 158

the Coalition Provisional Authority (CPA), with Paul Bremer replacing Jay Garner, and the subsequent revision of Coalition plans for the transfer of sovereignty.¹³⁶ We have discussed the formation of the Interim Governing Council (IGC) and the difficulties encountered by the Coalition over how to transfer sovereignty, in particular regarding the timetable for elections.¹³⁷

97. We described the 15 November agreement for the handover of power in our Report of January 2004.¹³⁸ Among other things, this agreement provided for:

- the IGC to draft a Fundamental Law by February 2004 to apply for the transitional period until full national elections could be held;
- the formation of a Transitional National Assembly to be established by June 2004 through a system of caucuses; and
- the handover of sovereignty by 1 July and the dissolution of the CPA.¹³⁹

98. Some aspects of this agreement endured: the Transitional Administrative Law (TAL) was agreed on 8 March and sovereignty was transferred on 28 June. However, the plan for the Transitional National Assembly to be formed through a system of caucuses was abandoned after widespread opposition led by the spiritual leader of the Shia community, Ayatollah Sistani, who demanded that sovereignty should be transferred to a democratically elected government.¹⁴⁰ We heard considerable frustration with the role played by Ayatollah Sistani in the disintegration of the 15 November agreement; efforts had been made to consult Sistani and it had been believed that he had given his approval to the plan.¹⁴¹ However, during our visits to Iraq, we also heard about the failure of the Coalition to communicate the plan to the population effectively—many people we spoke to told us that the caucus system was not widely understood in Iraq.

136 HC (2003-4) 81, paras 62-65.

137 HC (2003-04) 81, paras 58-59; HC (2002-03) 405, paras 131-42.

138 HC (2003-04) 81, paras 66-70.

139 'Agreement on Political Process', signed by Paul Bremer and Jalal Talabani, 15 November 2003.

140 'Changes in US Iraq Plan are explored', *Washington Post*, 25 January 2004.

141 'Shia party voices dissent over Iraqi interim government', *Financial Times*, 3 June 2004

Transitional Administrative Law

On 8 March, the IGC signed the Law of Administration for the State of Iraq for the Transitional Period (TAL). The TAL sets out the two phases of the transitional period:

Phase I: On 30 June 2004, an Iraqi Interim Government will be vested with full sovereignty and the CPA will dissolve.

Phase II: The Iraqi Transitional Government will take office after elections for the National Assembly. These elections will take place as soon as possible, but no later than 31 January 2005.

The TAL was widely praised as a unique document in the region. It outlines the system of government in Iraq, which is to be republican, federal, democratic and pluralistic. Federalism will be based on geography, history and the separation of powers and not on ethnicity or sect. The armed forces are to come under the control of Iraq's civilian political leadership. Islam will be the official religion of the state and will be considered "a source" of legislation. The Law will respect the Islamic identity of the majority of the Iraqi people and guarantee the freedom of religious belief and practice. Arabic and Kurdish will be Iraq's official languages.

The TAL states that the people of Iraq are sovereign and free. All Iraqis are equal in their rights without regard to gender, nationality, religion or ethnic origin. The government will respect the rights of the people, including: the right to freedom of thought, conscience and expression; to assemble peaceably and to associate and organise freely; to justice and a fair, speedy and open trial; to vote in free, fair, competitive and periodic elections; and to file grievances against officials when their rights have been violated.

The TAL states that federalism and local government will ensure a unified Iraq while preventing the concentration of power in the central government that enabled tyranny and oppression. The Kurdistan Regional Government will be recognised as an official regional government within a unified Iraq, and will continue to exercise many of the functions it currently exercises. Groups of governorates elsewhere will be permitted to form regions and take on additional authorities. All authorities not reserved to the Federal Government may be exercised as appropriate by the governorates and the Kurdistan Regional Government¹⁴²

99. The disintegration of the 15 November agreement resulted in considerable uncertainty over the political process, and in particular the nature of the body to which sovereignty would be handed. However, it also helped to pave the way for the return of the UN to Iraq.

142 'Executive Summary, The Transitional Administrative Law', CPA, available at: <http://www.cpa-iraq.org>

The return of the UN

100. In our last Report, we concluded that “the United Nations still has the potential to play an important role in facilitating political transition in Iraq, and in conferring legitimacy on the process”.¹⁴³ In its response, the Government told us: “We strongly support a greater role for the UN in support of the transitional political process in Iraq... The UN has a lot to offer in building consensus in support of the political process and in helping to organise elections.”¹⁴⁴

101. The UN had obvious concerns over security. In our last Report, we discussed the August 2003 attack on the UN headquarters in Iraq, which killed 23 UN personnel, including the Secretary-General’s Special Representative Sergio Vieira de Mello.¹⁴⁵ However, while in New York we heard that in addition to resolving its security concerns the UN wanted to receive an invitation from the Iraqis and clarify its role in Iraq before returning to the country.

102. On 19 January, UN Secretary-General Kofi Annan convened a meeting with the IGC and CPA. This meeting was held in the context of mass protests against the plan for caucuses and in support of elections.¹⁴⁶ Following requests from both parties, the UN dispatched a fact-finding mission to Iraq to assess the timeframe and conditions required to conduct credible elections. The team visited Iraq from 6–13 February and was led by Special Adviser Lakhdar Brahimi. The mission’s report, which was presented on 23 February, found that it would not be possible to hold democratic elections ahead of 30 June.¹⁴⁷ The report also found that the system of caucuses proposed in the 15 November agreement did “not appear to enjoy sufficient support among Iraqis to be a viable option any longer”.

103. The report did not make proposals for what type of body sovereignty should be handed to. It simply concluded that:

The resolution of the timing of the election provides opportunity and space for Iraqis (both those on the Governing Council and those outside the political process) and the Coalition Provisional Authority to engage in a more focused dialogue on the mechanism to which sovereignty will be transferred on 30 June 2004... The United Nations would be willing to offer its assistance to help build consensus among Iraqis on the specific powers, structure and composition of such a provisional governance body and the process through which it could be established.¹⁴⁸

104. On 17 March, Kofi Annan received a letter from Mohammed Bahr Al-Uloom, then president of the IGC, requesting the assistance of the UN in the formation of the interim government as well as preparations for elections.¹⁴⁹ We were in New York at the time and

¹⁴³ HC (2003-04) 81, para 92.

¹⁴⁴ Cm 6162

¹⁴⁵ HC (2003-04) 81, paras 90-91

¹⁴⁶ ‘Iraqis protest at handover plan’, BBC, 19 January 2004.

¹⁴⁷ ‘The political transition in Iraq: report of the fact-finding mission’, UN, 23 February 2004, S2004/140.

¹⁴⁸ ‘The political transition in Iraq: report of the fact-finding mission’, UN, 23 February 2004, S2004/140.

¹⁴⁹ ‘Security Council, in presidential statement, strongly supports decision to dispatch UN assistance teams to Iraq as soon as possible’, UN press release SC/8035, 24 March 2004.

were able to discuss these events with Kofi Annan and Lakhdar Brahimi. We were given the clear understanding that the security of UN personnel was a key consideration in the UN's return to Iraq.

The Brahimi plan

105. Following broad consultations in Iraq, Brahimi presented his report on 27 April. He proposed the formation of a caretaker government to be led by a prime minister, with a president serving as head of state with two vice-presidents. He noted that:

Ideally, the Iraqi people themselves should select this Government. They know who is, and who is not, honest or qualified. ... It should not be difficult to identify a list of extremely well qualified candidates—men and women—for every single position, who are representative of Iraq's diversity.¹⁵⁰

106. In addition to a caretaker government, Brahimi proposed that a Consultative Assembly should be appointed by a national conference. Along the lines of the Afghan *Loya Jirga*, the national conference would bring together:

anywhere from 1,000 to 1,500 people representing every province in the country, all political parties, tribal chiefs and leaders, trade and professional unions, universities, women's groups, youth organizations, writers, poets and artists, as well as religious leaders, among many others.¹⁵¹

107. On the UN role in this process, Brahimi said:

The United Nations can certainly help the Iraqi people in that process, as requested, by meeting with as many of them as possible, and identifying where points of consensus could be forged. Though it will certainly not be easy, we do believe that it shall be possible to identify, by the end of May, a group of people respected and acceptable to Iraqis across the country, to form this Caretaker Government.¹⁵²

108. Our witnesses were broadly positive about the Brahimi plan. Dr Dodge told us: "the Brahimi Plan is the best plan we have. As it takes shape it seems to be extremely sensible... [It provides for a] speedy movement to democracy whilst the country is held together with a technocratic government".¹⁵³ Dr Alani also told us that the plan was a sensible approach. However, he was sceptical about the likelihood that members of the Interim Governing Council would step aside.¹⁵⁴ Dr Dodge, too, expressed reservations about Brahimi's plan:

where is Mr Brahimi going to pick the president and prime minister? It seems very likely that he will be forced to choose from the core of the ICG, that has to date formed the revolving presidency of the council. If he does succumb to this temptation then all the problems that dogged the IGC, its lack of legitimacy, its

150 'Statement of the Special Adviser to the Secretary-General, Lakhdar Brahimi, to the Security Council on the political transition process in Iraq', 27 April 2004, available at: <http://www.un.org>

151 *Ibid*

152 *Ibid*

153 Q187 [Dodge]

154 Q191

inability to forge meaningful links with the population and criticisms of it being appointed and not elected will resurface.¹⁵⁵

109. While there have been some concerns about how the UN would be viewed in Iraq owing to its role in the sanctions era,¹⁵⁶ several of our witnesses told us that the UN should be playing a substantially greater role in the political process than that envisaged by Brahimi. The International Crisis Group told us:

Political responsibility for the transition should be handed over to the UN, acting through an appropriately empowered Special Representative. After 30 June, this should involve certain residual powers to: supervise the political process; break a deadlock between Iraqi institutions; act as a check on decisions by the Iraqi executive that may exceed its limited mandate; or, in the event a very broad consensus exists among Iraqis, approve of amendments to the Temporary Administrative Law (TAL)... Should the Assembly reject the government, the UN Special Representative would be tasked with proposing another; should the Assembly reject a government decree and, after resubmission in a modified form, reject it again, the Special Representative would step in as an arbiter to overcome the deadlock.¹⁵⁷

110. Dr Dodge also told us that enhanced international involvement was needed to “reduce the suspicion felt towards the CPA by sections of the Iraqi population”.¹⁵⁸ The point is easier to make than to realise given the reluctance of many countries to commit troops and assistance to Iraq.

Interim Government

111. On 1 June, Iraq’s new interim government was announced. Iyad Allawi, a secular Shia, was named prime minister and Sheikh Ghazi al-Yawar, a Sunni with strong tribal links, was named president. Of the thirty-one members of the cabinet, twenty-two had not served in the IGC and six are women. Following the announcement of the cabinet, the IGC dissolved itself and handed over its responsibilities to the new government, including control of the 14 ministries already under full Iraqi authority.

112. On 7 June, the Foreign Secretary told the House:

The announcement of the new Interim Government was the fruit of many weeks of wide-ranging consultation conducted by Ambassador Brahimi and his team. The result is, I believe, a competent, professional and broad-based Government acceptable to the widest-possible range of Iraqis and reflective of Iraq’s diversity.¹⁵⁹

However, despite this process of consultation, the process was marked by wrangling between the US and UN, with the IGC influencing the choice of candidates for the top

155 Ev 54

156 Q297

157 Ev 187

158 Ev 54

159 HC Deb, 7 June 2004, col 21

posts. The UN appears to have had more influence on the choice of ministers, who include a number of technocrats.¹⁶⁰

113. Reflecting the concerns raised by Dr Dodge, the International Crisis Group told us that the formation of the interim government jeopardised its independence from the Coalition and therefore its popular legitimacy.¹⁶¹ The International Crisis Group warned that: “This threatens to undermine the political process leading up to the elections planned for January 2005.” Several Shia parties were also critical of the way the government had been formed.¹⁶²

114. Nevertheless, the interim government has surprised many in the short time since it was formed. Prime Minister Allawi robustly asserted the caretaker government’s right to determine the future of foreign troops in Iraq, brought about the early handover of sovereignty on 28 June and requested and received legal custody of Saddam Hussein with the result that he was charged by an Iraqi judge on 30 June, just two days after the handover.¹⁶³ Since the transfer of sovereignty, Prime Minister Allawi has signed the new National Safety Law, which allows him to impose emergency measures.¹⁶⁴ Prime Minister Allawi is also considering some form of limited amnesty for insurgents; this issue will be a key test of how much freedom of movement members of the Coalition are willing to allow the government and will be critical to ensuring Prime Minister Allawi’s domestic credibility.¹⁶⁵

115. We conclude that the process of wide-ranging consultation overseen by the UN played an important role in the formation of the interim Government on 1 June. While it is too early to judge the performance of the interim Government, its successful establishment and assumption of sovereignty on 28 June underline the importance of UN engagement in Iraq. We conclude that it is crucial that the sovereignty of the new government is respected and that foreign governments should not interfere in its decision making.

New UN Security Council Resolution

116. We noted elsewhere the unanimous adoption of UNSCR 1546 on 8 June.¹⁶⁶ After months of seeking agreement, this marked an important step towards restoring international co-operation on Iraq. On 8 June, the Prime Minister told a press conference:

This is an important milestone for the new Iraq. We all now want to put the divisions of the past behind us, and united behind the vision of a modern democratic and stable Iraq... The world community has spoken with one voice and has given its support to the new Iraqi government, led by Prime Minister Alawi, and it has also expressed its clear support for the timetable to democracy and the holding of

160 ‘Days of wrangling draw to a close as Iraq picks caretaker government’, *Financial Times*, 2 June 2004.

161 Ev 187

162 ‘Shia party voices dissent over Iraqi interim government’, *Financial Times*, 3 June 2004.

163 ‘Timing of Saddam handover opens rift’, *Financial Times*, 16 June.

164 See paras 42-43

165 ‘Iraq amnesty announcement delayed’, *Guardian*, 5 July 2004.

166 See para 24

elections next year... So the people of Iraq now know that the world community is united in helping them take charge of their future.¹⁶⁷

117. Some key points of UNSCR 1546 are that it:

- Endorses the formation of a sovereign Interim Government and its full responsibility and authority in the interim period.
- Sets out the timetable for Iraq's transition, with the convening of a national conference reflecting the diversity of Iraqi society and direct democratic elections by 31 December 2004 if possible, and in no case later than 31 January 2005, to a Transitional National Assembly, to have responsibility for forming a Transitional Government and drafting a permanent constitution leading to a constitutionally elected government by 31 December 2005.
- Reaffirms the authorisation for the presence of the multinational force and sets an expiry date for this mandate.¹⁶⁸

On the role of the UN in Iraq, the Resolution states that the UN will:

- Take the lead role in supporting the political process.
- Assist in convening a National Conference to select a Consultative Council.
- Advise and support the Independent Electoral Commission as well as the Iraqi Government and the Transitional National Assembly on the process for holding elections.
- Promote national dialogue and consensus-building on the drafting of a new constitution.
- Advise the Iraqi government on how to develop effective civil and social services.
- Contribute to the co-ordination and delivery of reconstruction, development and humanitarian assistance.
- Promote the protection of human rights, national reconciliation and judicial and legal reform.
- Advise and assist the Iraqi government on planning for a comprehensive census.

118. While these provisions include important concessions to the wishes of states such as France, Germany and Russia, there remain concerns that the new Resolution may not significantly boost international commitment to Iraq. The NATO summit in Istanbul failed to produce commitment to Iraq beyond the training of Iraqi security forces.¹⁶⁹ There is a clear shared interest in the success of the Iraqi government and it is unfortunate that those members that contributed to the Resolution have failed to commit forces to Iraq.

167 'Transcript of doorstep given by the Prime Minister, Mr Tony Blair, in Georgia on 8 June 2004', available at: <http://www.number-10.gov.uk>

168 This issue is discussed in more detail in para 149.

169 'Tensions over Iraq resurface at G8 summit', *Financial Times*, 10 June 2004.

More positively, there are signs that some Arab states may be willing to contribute forces to Iraq following the adoption of UNSCR 1546 and the handover of sovereignty.¹⁷⁰

119. The letter from US Secretary of State Colin Powell attached as an annex to UNSCR 1546 says that: “the MNF is prepared to establish or support a force within the MNF to provide for the security of personnel and facilities of the United Nations”.¹⁷¹ However, it is uncertain how this will work. On 6 July, the Prime Minister told the Liaison Committee that the issue of who will provide protection to the UN is under discussion.¹⁷²

There is no problem providing security for the UN. The reason I am not saying who it is is that I know there are discussions going on with the UN as to who is best to provide that. There are sufficient troops there to do that. The issue, really, is less to do with whether you bring in more foreign troops but the speed with which you can equip and train the Iraqi security forces.¹⁷³

On 12 July, Secretary-General Kofi Annan named Pakistan’s Ambassador to the US, Ashraf Qazi, as his Special Representative for Iraq. This is a positive step. However, it is critical that UN staff return to Iraq and are able to move around the country.

120. Another issue of concern relating to UNSCR 1546 is Kurdish dissatisfaction with its failure to endorse the TAL, which guaranteed Kurdish rights in a federal Iraq.¹⁷⁴

121. We conclude that UN engagement in the political transition was critical to the unanimous adoption of UNSCR 1546. However, although the unanimous adoption of the Resolution reflects improved international consensus regarding Iraq, many states continue to hold back from assisting the country. We recommend that the Government set out in its response to this Report its understanding of what security assistance will be provided to the UN to facilitate its return to the country.

Elections

122. The UN fact-finding team reported in February that:

preparations [for elections] will need at least eight months after a legal and institutional framework has been established....The mission was told that political agreement on the legal framework may be secured by May 2004. In that case and provided that other conditions are met, elections could be held by the end of 2004 or shortly thereafter.¹⁷⁵

Despite the cautious tone of the UN report, the Transitional Administrative Law set the date for elections to the National Assembly as 31 January 2005 at the latest.

170 ‘Nato plans Iraq mission despite Chirac’, *Financial Times*, 3/4 July 2004. We discuss elsewhere the Jordanian offer to sent troops to Iraq, see para 25.

171 Text of letter from the Prime Minister of the Interim Government of Iraq, Dr. Ayad Allawi and United States Secretary of State Colin L. Powell to the President of the Council’, 5 June 2004, annex to UNSCR 14546 (2004).

172 Q253, Liaison Committee, HC 310-ii, (uncorrected transcript).

173 Q262, Liaison Committee, HC 310-ii, (uncorrected transcript).

174 See ‘Transitional Administrative Law’.

175 ‘The political transition in Iraq: report of the fact-finding mission’, UN, 23 February 2004, S2004/140.

123. On 4 June, Carina Perelli, head of the UN Electoral Assistance Division, announced the formation of Iraq's Independent Electoral Commission. A system of proportional representation will be used and the country will comprise a single district.¹⁷⁶

124. Dr Dodge wrote to us about the high level of popular enthusiasm over elections: "look at Iraqi society, read Iraqi newspapers, see opinion polls, every Iraqi is calling out for democracy."¹⁷⁷ However, he also told us about some of the problems facing the process of democratisation:

For the Iraqi population, politics only began on April 9 last year. The Iraqi political organizations that the CPA are trying to liaise with have either been in existence for little over a year or have been imported into the country in the aftermath of regime change. This means that they have had a very short period of time to gain the attention of the population and more importantly win their trust or allegiance. With no indigenous civil society organizations surviving Saddam's rule, Iraqi politics are today extremely fluid....¹⁷⁸

125. Nevertheless, Dr Dodge told us that elections could play an important role in channelling "the hopes and aspirations but also the alienation and anger of the Iraqi people into the political process."¹⁷⁹ This would also force political parties to develop national platforms rather than narrow sectarian or regional policies: "Political parties, in order to prosper, would be forced to both be responsive to Iraqi public opinion but would also, to some extent, be responsible for shaping it. This process would also link the population, through the parties, to state institutions."

126. The poor security situation could hinder the electoral process. On 7 June, the Foreign Secretary told the House: "There will be those who will continue to seek to disrupt the transition to successful democracy in Iraq, and to force decisions by the bomb, not the ballot box."¹⁸⁰ Election registration and polling efforts would be obvious targets for those seeking to wreck the political process. The letter from US Secretary of State Colin Powell attached as an annex to UNSCR 1546 says that: "the MNF is prepared to establish or support a force within the MNF to provide for the security of personnel and facilities of the United Nations."¹⁸¹ However, there is no specific reference to efforts to assist the election.

127. We conclude that it is highly desirable that elections proceed on schedule in order to foster Iraqi engagement and confidence in the political transition. However, we are concerned about the impact that the security situation could have on the validity of the election process. We recommend that the Government set out in its response to this Report what plans it has, bilaterally with Iraq, and in conjunction with the US and UN, for providing security specifically for the elections. We further recommend that the

176 'UN announces establishment of Iraq's Independent Electoral Commission', UN press release, 4 June 2004.

177 Q200

178 Ev 51

179 Ev 51

180 HC Deb 7 June 2004, col 23

181 Text of letter from the Prime Minister of the Interim Government of Iraq, Dr. Ayad Allawi and United States Secretary of State Colin L. Powell to the President of the Council', 5 June 2004, annex to UNSCR 1546 (2004).

Government encourage states that remain reluctant to commit troops to counter-insurgency operations in Iraq to send forces to assist with the elections.

Crisis of credibility?

128. In our last Report we noted that a number of difficulties were affecting the political process and could potentially hinder prospects for a smooth transition. These included: issues of legitimacy (of both Iraqi politicians and the Coalition); poor links between those governing Iraq (the CPA, IGC, and ministries) and the population; poor popular trust in new institutions; and problems seeking to create a genuinely representative Iraqi government.¹⁸²

129. Since that Report, the credibility of the Coalition came under serious pressure in a number of areas. In April, Lakhdar Brahimi told the Security Council about the need for confidence building measures to positively influence the political process and address the “very serious grievances” raised by Iraqis around the country.¹⁸³ Our witnesses also told us that Iraqi perceptions of the (CPA) suffered a serious setback in the months leading up to the handover of sovereignty. Dr Dodge told us that the population was increasingly alienated from the occupation and that the Coalition had lost the confidence and faith of the population.¹⁸⁴ A number of factors contributed to this deterioration, including revelations about the abuse of Iraqi detainees, the deterioration in the security situation,¹⁸⁵ uncertainty over the degree of sovereignty to be vested in the new Iraqi government and continued difficulties in communication between the Coalition and the Iraqi population.

130. We conclude that the United Kingdom Government should join with the US government to make clear that the Iraqi government is sovereign in reality as well as in name.

Treatment of Iraqi detainees

131. In our last Report, we concluded that:

it is unacceptable that comprehensive information is not available about detainees being held by the Occupying Powers in Iraq. We recommend that the British Government ensures that such information is provided as a matter of immediacy including the names of all detainees; their nationalities; where they are held; in what conditions they are held; what rights they have, including access to lawyers; the legal basis for their detention; the offences of which they are suspected or charged; and when and how they will be tried or released.¹⁸⁶

132. In its response, the Government told us:

¹⁸² HC (2003-04) 81, paras 71-87.

¹⁸³ ‘Statement of the Special Adviser to the Secretary-General, Lakhdar Brahimi, to the Security Council on the political transition process in Iraq’, 27 April 2004, available at: <http://www.un.org>

¹⁸⁴ Q196

¹⁸⁵ We discuss this issue in greater detail in paras 4-8.

¹⁸⁶ HC (2003-04) 81, para 27.

Information about internees is available. When someone is arrested their details are passed to the International Committee of the Red Cross which then informs the person's family. Iraqi police stations and CPA offices hold lists of all those in detention. The CPA is currently in the process of listing all detainees on the CPA website in Arabic. We accept, however, that the information flow on detainees could be further improved. We are working with our coalition partners on ways to achieve this. The UK attaches great importance to upholding human rights in all circumstances. All UK prisoners in Iraq are held in conditions which conform to all of our international obligations. Coalition internment facilities are subject to regular inspection by the ICRC who are given full and unrestricted access to the internees.¹⁸⁷

133. Since our last Report it has emerged that in February the International Committee of the Red Cross (ICRC) submitted to the United Kingdom and US governments a confidential report detailing its concerns over the abuse of prisoners.¹⁸⁸ Revelations of the abuse of Iraqi detainees held by the US in the Abu Ghraib prison in Baghdad also emerged in the form of a series of graphic photographs. In addition, a series of photographs allegedly showing abuse by United Kingdom soldiers was published, although these images were later found to have been faked. However, a number of cases of abuse by United Kingdom personnel have been discovered and are being investigated. On 8 June, Adam Ingram informed the House that 75 cases of civilian death, injury or alleged ill-treatment have been or are being investigated.¹⁸⁹

134. In May, the Foreign Secretary told us:

I am satisfied that we and also the Ministry of Defence... and the Army took our collective responsibilities under the various international treaties and customary international law very seriously indeed... If there were failings (or worse) in the way in which prisoners have been treated they will be the subject of rigorous investigation and, as the Chief of Defence Staff has made clear, also appropriate and serious punishment.¹⁹⁰

135. In June, the FCO wrote to us about the training given to United Kingdom forces:

The British Armed Forces are fully aware of their obligations under international law. They are given thorough mandatory training courses which include specific guidance on handling prisoners of war. All personnel must attend refresher training every year.

Before going to Iraq all personnel are briefed on the Rules of Engagement and procedures for dealing with prisoners of war or other detainees. Each combat unit is required to have senior non-commissioned officers trained in handling Prisoners of

187 Cm 6162

188 'Red Cross told US last year about abuse of prisoners', *Financial Times*, 8 May 2004. See also: <http://www.reliefweb.int/w/rwb.nsf/0/f02bb927d411ce1549256e900019fd50?OpenDocument>

189 HC Deb, 8 June 2004, col 5-6W5

190 Q209

War. And units which are responsible for the routine handling of detainees conduct further specialist training.¹⁹¹

The Government also provided us with the aide memoire provided to all UK service personnel deployed in Iraq. This outlines the key principles of the Law of Armed Conflict and offers practical guidance on its application.¹⁹² We note that this aide memoire makes no specific reference to the treatment of civilians being detained for security reasons or to the interrogation methods permitted.

136. Despite efforts by both the United Kingdom and US to investigate allegations of abuse and deal with them according to due process, the revelations have been immensely damaging to the credibility of the Coalition forces. Dominic Hughes, who was in Baghdad at the time the photographs emerged, told us:

It was a disaster for the Coalition, I think – on all sorts of levels. First, the Iraqis have enormous shame that their fellow countrymen were being treated in this way... It was also immensely damaging because of where it took place. Abu Ghraib is a prison with this terrifically awful reputation, notorious under Saddam for executions, beatings and torture, and here are pictures of American soldiers beating and humiliating people.¹⁹³

137. On the damage caused by the fraudulent images of United Kingdom abuse, Dr Alani told us:

In Iraq perception is more important than reality and even if these pictures, which were published in every Iraqi newspaper and published in every Iraqi station, are proved not to be true, nobody will listen... I think this is very dangerous for the safety of the British forces because a lot of elements now in Iraq have the tools and have the reason to classify the British as an enemy. The image of the British compared to the Americans was more positive but now I think we have lost that.¹⁹⁴

Clearly, these images caused great damage to the standing of the United Kingdom in Iraq and the wider region; the subsequent admission they were faked is unlikely to erase this. The actions of the Daily Mirror in using faked photographs were grossly irresponsible.

138. We recommend that the Government set out in its response to this Report what lessons have been learned from the mistreatment of detainees and what safeguards are being put in place to prevent a recurrence of such appalling incidents.

139. The ICRC has also raised concerns about the unclear legal status of Iraqi prisoners of war and detainees held by members of the Coalition following the handover of sovereignty.¹⁹⁵ In March, the Foreign Secretary told us that the United Kingdom would

¹⁹¹ Ev 158

¹⁹² Ev 80

¹⁹³ Q307

¹⁹⁴ Q204 [Alani]

¹⁹⁵ 'Red Cross concerned over POWs once Iraqis take over', *Financial Times*, 15 June 2004.

have no power to continue to detain prisoners after 30 June: “so they will become the responsibility of the Iraqi sovereign authority.”¹⁹⁶

140. However, in May, the FCO told us:

If on June 30th we are detaining people who still pose a threat to the multinational force, including UK forces, we will want to make sure that they continue to be detained and are unable to realise that threat. Until the political arrangements for the transition of power are finalised, we are not able to say exactly how this will be done.¹⁹⁷

In June, the FCO further clarified its understanding of the legal status of prisoners:

After 30 June, we will no longer be Occupying Powers and so our right to intern under the Geneva Conventions will end. However, we will still have the right to intern as provided under UNSCR1546 and the side letters from the US Secretary of State and the Iraqi Prime Minister to the UN Security Council.¹⁹⁸

141. We recommend that in its response to this Report the Government inform us of how many Iraqi detainees or prisoners of war it held on 28 June and on the most recent date for which figures are available, including details of their status and location and the likely future of their detention.

Meaningful sovereignty

142. In May, the Foreign Secretary told us not to underestimate the symbolic importance of the handover of sovereignty: “Symbols are very important in politics as in life and the transfer of sovereignty of power is very important and it will also be a real transfer of power.”¹⁹⁹ However, the Committee heard concerns that the handover might be a triumph of symbol over substance.

143. Dr Dodge told us that the 30 June date for the handover was a mistake because it offered a false promise and that in fact very little would change:

When the Iraqi population which has been led to this date wake up on 1 July and realise not much has changed that is another crushing blow to their faith and to their understanding of what they are living through and, more importantly, why they are living through it.²⁰⁰

144. The International Crisis Group also argued that there was a need to be candid about what was being handed over:

What is needed is to redefine what the deadline represents... For a start, it would be best to give up the fiction that the June 30 deadline has anything to do with

196 Q126

197 Ev 69

198 Ev 157

199 Q245

200 Q185

“transferring sovereignty”... [T]he sovereign power exercised by the new Iraqi government will be incomplete and to pretend otherwise could do lasting damage to the very notion of sovereignty in Iraqi eyes. That does not mean the June 30 deadline should be ignored. By now, too many Iraqis have come to expect it and too much US credibility is invested in it; even Iraqis originally sceptical of the timetable would be quick to denounce its overturn.²⁰¹

145. The issue of the status of foreign forces following the handover has been especially problematic. When he outlined his proposal for political transition in April, Lakhdar Brahimi said that the preparations for the Caretaker Government:

should include reaching crystal clear understandings on what the nature of the relationship will be between the sovereign Caretaker Government, the former Occupying Powers and any foreign forces remaining in the country after 30 June, in addition to what assistance, if any, might be required from the UN.²⁰²

However, resolution of this issue has been slow and subject to considerable uncertainty.

146. In March, the Foreign Secretary told us:

The precise status of forces after 30 June has not yet been finalised... We are there in support and there will be various bilateral and multilateral agreements for the multilateral force... There have to be clear arrangements for security post-30 June, which arrangements have to have been put in place some time before because all members of the coalition need, on behalf of their own forces, to know the circumstances in which the forces can be present, to include things like powers of arrest, rules of engagement and so on. These things have not yet been pinned down, but they will be before 30 June.²⁰³

147. On 25 May, the Prime Minister told a press conference:

After 30 June there will be the full transfer of sovereignty to the Iraqi government, therefore the people who will decide whether the troops stay or not will be the Iraqi government... So if there is a political decision as to whether you go into a place like Fallujah in a particular way, that has to be done with the consent of the Iraqi government and the final political control remains with the Iraqi government.²⁰⁴

148. However, these comments appeared to be qualified, if not contradicted, by US Secretary of State Colin Powell the following day, when he said that any action taken by US forces would ultimately be the decision of the US administration:

If it comes down to the United States armed forces protecting themselves or in some way accomplishing their mission in a way that might not be in total consonance with

201 'What Iraq needs from a handover', *Financial Times* editorial, Gareth Evans and Robert Malley, 28 April 2004. The article draws on the ICG's report 'Iraq's Transition: On a Knife Edge', 27 April 2004.]

202 'Statement of the Special Adviser to the Secretary-General, Lakhdar Brahimi, to the Security Council on the political transition process in Iraq', 27 April 2004, available at: <http://www.un.org/apps/news/infocusnewsiraq1.asp?NewsID=730&slD=19>

203 Qq 111-12

204 'Transcript of press conference given by the Prime Minister, Mr Tony Blair, in London on Tuesday, 25 May 2004', available at: <http://www.number-10.gov.uk>

what the Iraqi interim government might want to do at a particular moment in time, US forces remain under US command and will do what is necessary to protect themselves.²⁰⁵

Dominic Hughes told us that such arguments over the degree of sovereignty to be vested in the new government damaged Iraqi perceptions of the Coalition.²⁰⁶

149. While UNSCR 1546 reaffirms the mandate of the multinational force, its relationship with the caretaker government remains ambiguous. The letters from Prime Minister Allawi and Secretary of State Powell attached as an annex to the Resolution refer to the intention to set up “appropriate security structures” that will allow the Iraqi government progressively to take on the responsibility for security in Iraq.²⁰⁷ These include the Ministerial Committee for National Security, which will “set the broad framework for Iraqi security policy.” This Committee will comprise Prime Minister Allawi, the Deputy Prime Minister and the Ministers of Defence, Interior, Foreign Affairs, Justice and Finance. The National Security Advisor and Director of the Iraqi National Intelligence Service will serve as permanent advisory members. As appropriate, the MNF Commander, his deputy or the MNF’s representative will be invited to attend meetings. In addition, “further mechanism for coordination with the MNF” will be developed. These various structures “will serve as the fora for the MNF and the Iraqi government to reach agreement on the full range of fundamental security and policy issues, including policy on sensitive offensive operations, and will ensure full partnership between Iraqi forces and the MNF, through close coordination and consultation”.²⁰⁸ However, the letter from Powell also states:

In order to continue to contribute to security, the MNF must continue to function under a framework that affords the force and its personnel the status that they need to accomplish their mission, and in which the contributing states have responsibility for exercising jurisdiction over their personnel and which will ensure arrangements for, and use of assets by, the MNF. The existing framework governing these matters is sufficient for these purposes.²⁰⁹

150. The status of the MNF is also dealt with by CPA Order No. 17 (revised). On 8 July, Defence Secretary Geoff Hoon told the House:

The Iraqi Government has approved a new version of Coalition Provisional Authority Order 17 to cover Status of Forces issues for Multinational Forces in Iraq. The order’s provisions are similar to the provisions of the status of forces arrangements for the multinational forces deployed in Afghanistan and the Balkans, which are closer parallels than the NATO arrangements implemented by the Visiting Forces Act of 1952.²¹⁰

205 ‘Blair insists that Iraq must have veto over troops’ *Financial Times*, 26 May.

206 Q300

207 See Appendix.

208 ‘Text of letters from the Prime Minister of the Interim Government of Iraq Dr. Ayad Allawi and United States Secretary of State Colin L. Powell to the President of the Council’, 5 June 2004. This language is used in both letters.

209 ‘Text of letters from the Prime Minister of the Interim Government of Iraq Dr. Ayad Allawi and United States Secretary of State Colin L. Powell to the President of the Council’, 5 June 2004.

210 HC Deb, 8 July 2004, col 827W

The Order sets out arrangements for managing Iraqi airspace and the facilities available to the MNF. However, it does not set out the relationship between the MNF, or constituent forces, and the Iraqi government and does not give detail on operational matters. The Order also states that: “The Force Commander and the Government may conclude supplemental arrangements of Protocols to this Order and shall ensure close and reciprocal liaison at every appropriate level.”²¹¹ There clearly remain ambiguities and lacunae in the rules by which foreign forces operate in Iraq.

151. We recommend that in its response to this Report, the Government set out what arrangements have been put in place regulating the presence of United Kingdom forces in Iraq, including details of powers of arrest and rules of engagement. We further recommend that the Government set out why it has not reached a separate status of forces agreement with the Iraqi government.

Relations between the CPA and population

152. We noted earlier the impact of the security deterioration and slow pace of reconstruction on the population’s attitude to the coalition.²¹² Dr Alani told us:

the Americans and British specifically are now seen as occupiers and not liberators. In the beginning few months there was an image of them as liberators. I think now we have reached a point where they are now considered as occupiers. Occupiers will be treated as occupiers and the resistance movement is now gaining more legitimacy, whether terrorism or political resistance.²¹³

153. In our last Report we also commented on the difficulties encountered in communicating effectively with the Iraqi population. We concluded that:

it is unfortunate that the majority of Iraqis have very limited access to the Coalition Provisional Authority and the Iraqi Interim Governing Council, and probably have little knowledge of their actions or policies, or receive through their media a distorted or one-sided view. We further conclude that this isolation may well have increased Iraqis’ sense of alienation from and hostility to the Occupying Powers and those working closely with them.²¹⁴

154. In its response, the Government said:

the security situation creates logistical challenges: CPA officials and public affairs officers must be escorted on calls; security checks on journalists are time consuming. Nevertheless, the Iraqi people have much greater access to information now than they were ever allowed under the former regime... Visible progress on the ground, whether it be in the areas of reconstruction, the economy, the move towards Iraqi

211 ‘Coalition Provisional Authority Order Number 17 (revised), Status of the Coalition Provisional Authority, MNF – Iraq, Certain Missions and Personnel in Iraq’, Section 19, available at: <http://www.iraqcoalition.org>

212 See paras 1-8

213 Q183

214 HC (2003-04) 81, para 78.

security services or the political transition to democracy... sends a clear message of what is being done to bring about a new future for the people of Iraq.²¹⁵

If the Coalition had relied on visible progress to communicate its policies, recent months would have been a disaster for public diplomacy.

155. However, the Government also told us:

The IGC, Ministries, CPA and Multinational Forces have been mounting an extensive information campaign to explain the political plans for the transition to an Iraqi Government. Handbills, posters, and public broadcasts have been backed up by a series of town hall and other civic gatherings across the country where thousands of people have taken part in discussions.²¹⁶

Despite these efforts, our witnesses told us that the issue remained a problem:

What the Coalition Provisional Authority has been extremely bad at doing is communicating with wider Iraqi society. I guess you have been to Baghdad and seen the Coalition Provisional Authority isolated in its palace almost like a spaceship dumped in the middle of Baghdad. It has no communication with the rest of the population. Now that is understandable but in May and June straight after the liberation that was not understandable. Political violence was at a very low level and those links that should have been thrown out immediately were not.²¹⁷

156. Dr Dodge also highlighted the inadequate number of Arabic speakers and lack of expertise on Iraq among Coalition personnel: “Within the CPA’s headquarters there are very few experts on Iraqi society, politics or economy. Those experts who have been posted to Baghdad have tended to be a small number of British civil servants, usually on six-month postings.”²¹⁸ While in Basrah, the Committee heard that students studying Arabic at British universities had been recruited to work as translators.

157. We recommend that the Government set out in its response to this Report what steps it is taking to ensure that there is a sufficient body of expertise in the United Kingdom to enable better communication with the Arab and Islamic world.

United Kingdom representation

158. In our last Report, we concluded that: “a continued United Kingdom military and civilian presence in Iraq is likely to be necessary for some time to come, possibly for several years. We conclude that this presence must include a significant FCO component if it is to succeed.”²¹⁹

159. In May, the FCO wrote to us about its plans for United Kingdom representation following the transfer of sovereignty:

215 Cm 6162

216 Cm 6162

217 Q185

218 Ev 52

219 HC (2003-04) 81, para 117.

We are intending to establish an Embassy in Baghdad, a Consulate-General in Basra, and a very small Consulate in Kirkuk. The missions in Baghdad and Basra will both consist of around 80 staff, including staff from FCO, DFID, MOD, and UKTI, and also the British Council, DFID consultants and trainers for the Iraqi Ministry of Defence and police. This will enable us to maintain close links with the Iraqi Government, as well as providing expert advice to a number of the Iraqi Ministries. The US are also intending to establish an Embassy in Baghdad, and smaller missions elsewhere. We are discussing with the US how best to ensure that we maintain a high level of co-ordination with them after transition.²²⁰

160. While there would be changes at the top levels of United Kingdom representation, Sir Jeremy Greenstock told us: “a number of people serving with the CPA and in Basra and in my office at present will continue on into the embassy so that a number of individuals at all levels will carry on the experience of the present stage”.²²¹

161. On 26 April, the FCO announced the appointment of Edward Chaplin as Ambassador to Iraq, Simon Collis as Consul General in Basrah and Noel Guckian as Consul General in Kirkuk (Northern Iraq).²²² We met Edward Chaplin shortly before he travelled to take up his post in Baghdad.

Duty of Care

162. In our last Report, we noted the difficult conditions under which CPA and other officials were working.²²³ We concluded that “United Kingdom personnel in Iraq, both military and civilian, are making a vital contribution to the administration and reconstruction of the country, despite having to work in the most difficult and dangerous circumstances. Their performance deserves the highest praise, and appropriate recognition.”²²⁴

163. In May, the Foreign Secretary told us:

A lot of work has gone on to better ensure the safety of staff working for the CPA in Baghdad... In terms of British contractors working we give public advice through travel advice as well as detailed and sometimes private advice to contractors and potential contractors. It obviously includes advice about how they provide close protection for themselves and also how to link in with the British and other forces.²²⁵

164. We recommend that the Government set out in its response to this Report what steps it is taking following the handover of sovereignty in Iraq to ensure the safety of United Kingdom personnel.

220 Ev 67

221 Q18

222 Press release, FCO, 26 April 2004.

223 HC (2003-04) 81, para 50.

224 HC (2003-04) 81, para 51.

225 Q214

165. We recommend that the Government update us in its response to this Report on the current status of United Kingdom representation in Iraq. We further recommend that the Government inform us of its understanding of the constraints imposed by the security situation on the operations of United Kingdom personnel, including their ability to move around the country.

Iraq and the wider region

166. In our last Report, we concluded that:

A successful transfer of power to an internationally-recognised Iraqi government, which has the support of the Iraqi people and which is recognised by Arab and Muslim states generally, offers an important opportunity to reduce that threat and to assist the process of reform and stabilisation in the region.²²⁶

As we noted earlier, success in Iraq is also critical in the wider war against terrorism now that al Qaeda is involved in the country.²²⁷

167. Expanding on the significance of what happens in Iraq, Dr Dodge told us:

The importance of Iraq to the geo-political stability of the Gulf and the wider Middle East area can hardly be overestimated. Geographically it sits on the eastern flank of the Arab Middle East with Turkey and Iran as neighbours... With oil reserves second only to Saudi Arabia its economic importance is clearly global. If the present domestic situation does not stabilise then violence and political unrest would be expected to spread across Iraq's long and porous borders. A violently unstable Iraq... would further weaken the already fragile domestic and regional stability of the surrounding states and the wider region beyond. Iraq's role as a magnet for radical Islamists from across the Muslim world, eager to fight US troops on Middle Eastern soil, would increase. In addition there is a distinct danger that neighbouring states would be sucked into the country, competing for influence, using Iraqi proxies to violently further their own regime's interests.²²⁸

We conclude that the alternative to a positive outcome in Iraq may be a failed state and regional instability. It is therefore of the utmost importance that current problems are resolved in favour of the forces of order and that those who seek to impede Iraq's transition to a free and democratic state are defeated.

226 HC (2003-04) 81, para 123.

227 See paras 12-20

228 Ev 57

3 Afghanistan

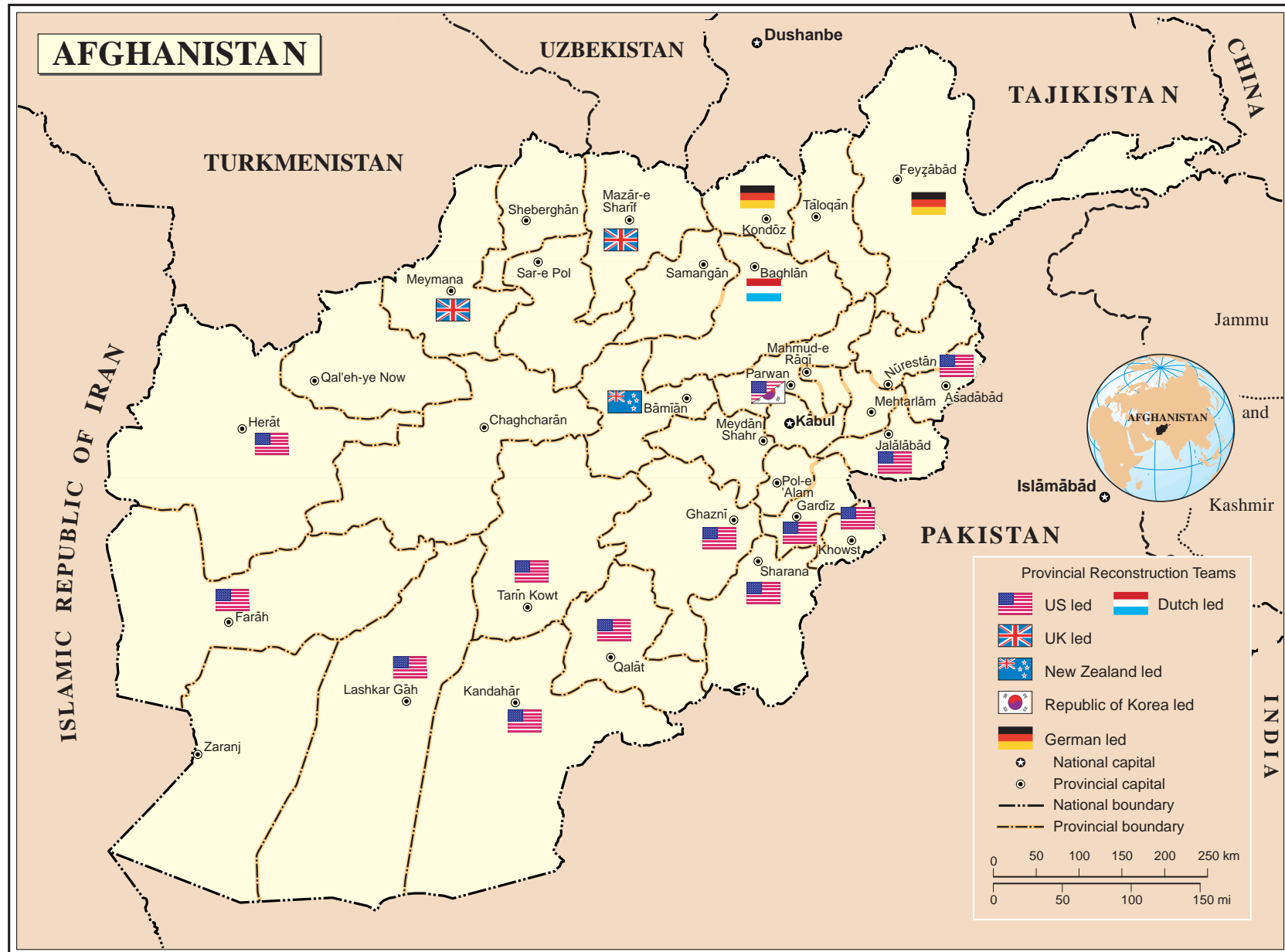
168. In previous Reports on foreign policy aspects of the war against terrorism, we have chronicled events in Afghanistan, from the fall of the Taliban to international efforts to stabilise the country and to assist reconstruction.²²⁹ We concluded in those Reports that the poor security situation in Afghanistan has allowed terrorist groups to regroup and to plan further attacks on Western interests. In preparing this Report, we visited Afghanistan on 12 and 13 May 2004. In Kabul, we met President Hamid Karzai, Foreign Minister Abdallah Abdallah, Afghan government representatives, and United Nations, NATO and other international personnel. We were also able to spend some time in the Northern city of Mazar-e Sharif, where we visited the regional police training facility and met members of the United Kingdom-led Provincial Reconstruction Team (PRT).

169. During our visit, we observed that British diplomats, other officials and military personnel in Afghanistan are having to work in the most trying of circumstances. The new British Embassy in Kabul is in the quite cramped and sparse accommodation which was formerly the Bulgarian Embassy. Most of the staff are accommodated in portable buildings. The postings are unaccompanied, and the recreational facilities available are minimal. The contribution made by United Kingdom personnel based in Afghanistan is much appreciated by the British Government, by international bodies such as the UN, by the Government of Afghanistan and by those Afghans who have direct experience of it. In our view, it deserves to be more widely reported. **We conclude that the contribution being made by United Kingdom diplomatic, aid and military personnel in Afghanistan, working in challenging and dangerous conditions, is out of all proportion to their small numbers. We recommend that the Government do what it can to improve the conditions in which its personnel live and work in Afghanistan.**

170. Below, we set out our analysis of the role the United Kingdom and its allies are playing in Afghanistan, in assisting the Afghan government and people to overcome the formidable challenges which confront them and to rebuild their country.

229 HC (2002-03) 405, paras 181-84; HC (2003-04) 81, paras 277-83

Established and Planned Provincial Reconstruction Teams



Source: UN: Department of Peacekeeping Operations Cartographic Section. Amended for Committee's use.

The political process

171. Since the Petersberg (Bonn) Conference of December 2001 and the subsequent UN Security Council Resolution (UNSCR) 1386, Afghanistan has been governed by an Afghan Transitional Administration (ATA).²³⁰ The ATA is headed by interim President Hamid Karzai, whose nomination was confirmed by a grand council, or *loya jirga*, in June 2002.

172. The people of Afghanistan have traditionally taken important decisions on their country's future by holding a *loya jirga*, attended by tribal elders and provincial and religious leaders.²³¹ The *loya jirgas* held in Kabul in June 2002 and in December 2003/January 2004 established structures and timetables for the renewal of Afghanistan following the disastrous experiments with communism, warlordism and Muslim fundamentalism. By adopting the traditional council format, it was possible to involve all factions and to achieve a high degree of confidence in both the process itself and the outcomes.²³² We agree with the UN Secretary-General's assessment in his Report of March 2004, that "the positive outcome of the Constitutional Loya Jirga has affected the political dynamic of the nation".²³³ However, as the Secretary-General recognises, "the difficult task of implementation now lies ahead".²³⁴

The timetable for elections

173. Under the Bonn Agreement of December 2001, both presidential and parliamentary elections were due to be held within two years of the convening of the first *loya jirga*, that is not later than 11 June 2004. Delays in the registration process and the general lack of security meant that this target could not realistically be met. Because presidential elections are relatively straightforward, it might have been possible to proceed with them within the agreed timetable and to postpone only the parliamentary elections (which require complex voting for 32 provincial and more than 380 district councils, which then elect the upper house). However, the view taken by the UN and other interested parties in agreeing the Berlin Declaration of 1 April 2004 was that the elected president should be accountable to an elected parliament from the start of his presidency, and that view prevailed until recently.²³⁵ Both elections were re-scheduled to take place in September, subject to availability of finance, satisfactory levels of voter registration and the maintenance of security.

230 UNSCR 1386 also established the International Security Assistance Force (ISAF), with a mandate to secure the city of Kabul and the Bagram air base and to provide security for the ATA (security outside Kabul rested with the US-led Coalition forces under Operation Enduring Freedom) In March 2002, the United Nations Assistance Mission to Afghanistan (UNAMA) was established under UNSCR 1401 in order to co-ordinate the work of the sixteen UN agencies operating in the country in support of the Bonn Agreement. See www.afnorth.nato.int/ISAF/index.htm and www.unama-afg.org.

231 For a brief history of *loya jirgas*, see www.fact-index.com/l/lo/loya_jirga.html. Under the Afghan Constitution agreed in January 2004, the *Loya Jirga* remains the "highest manifestation of the people of Afghanistan". The full text of the Constitution is available at www.afghan-web.com/politics/currentconstitutionenglish.pdf.

232 Q102 (Kate Clark)

233 Secretary-General's Report, *ibid*

234 *ibid*

235 For the full text of the Berlin Declaration and related documents, see Ev 132 *et seq*

174. Under Afghanistan's electoral law, the date of an election has to be announced not fewer than 90 days in advance. However, before elections can take place, voters must be registered. Our discussions in Afghanistan tended to confirm the view of the International Crisis Group (ICG), expressed in its March report, that "registration to date has been markedly uneven."²³⁶ In March 2002, the United Nations set a target of registering at least 10 million voters before the elections. As at 8 July 2004, the United Nations Assistance Mission to Afghanistan (UNAMA) reported that more than 6 million had registered,²³⁷ 38 per cent of whom are women.²³⁸ Encouraging though this progress was, it left a huge task to accomplish in just three months. During our visit to Afghanistan, we were very concerned to be told that UN funding for the elections of over £100 million had not materialised. This was confirmed by a letter to our Chairman from the Foreign Secretary of 11 June.²³⁹ We were pleased, therefore, that on 13 July Foreign Office Minister Mike O'Brien told the House that the UN "is confident that existing pledges from donors will cover the total cost of the election budget", although our concerns were not entirely allayed when the Minister continued that "Not all of [the funding] has arrived but we hope that it will."²⁴⁰

175. On 9 July, the Afghan-UN Joint Electoral Management Body announced that the presidential and parliamentary elections would, after all, be held on different dates.²⁴¹ The presidential elections will take place on 9 October, with parliamentary elections following in April 2005. If the presidential elections cannot take place in October, it is possible that Ramadan, followed by severe winter weather, will mean that they too will be delayed to Spring 2005.

176. The stated reason for postponement of the elections was to "enable voters and candidates to participate more meaningfully in the election of their representatives in the National Assembly and in local councils".²⁴² Behind this form of words lies concern that neither the administrative for the security arrangements are in place for the holding of full parliamentary elections.

177. It was repeatedly made clear to us when we visited Afghanistan in May that security is a prerequisite for democracy, and that without greater security the prospects for elections which are sufficiently free and fair to be regarded both inside Afghanistan and internationally as legitimate are poor. We therefore welcome the announcement on 13 July that American forces will provide security support for October's presidential election.²⁴³ Lieutenant General David Barno, commander of US forces in Afghanistan, said Operation Lightning Resolve would work closely with the UN. The problems of providing security, however, will require more far-reaching measures than the placing of American boots on

236 International Crisis Group Asia Briefing, 30 March 2004

237 See 'UN envoy warns Afghanistan still faces major challenges in holding elections', www.un.org/apps/news/story.asp?NewsID=11305&Cr=afghanistan&Cr1=

238 HC Deb, 13 July 2004, col 1251

239 Ev 165

240 *ibid*

241 'Secretary-General expresses full support for Afghanistan election dates', www.un.org/News/Press/docs/2004/sgsm9413.doc.htm

242 *ibid*

243 'US launches Afghan poll operation', http://news.bbc.co.uk/1/hi/world/south_asia/3892069.stm

the ground. The UN's top envoy in Afghanistan, Jean Arnault, whom we met during our visit, said recently that, "We cannot separate elections from disarmament, demobilization and reintegration."²⁴⁴ With the disarmament, demobilisation and reintegration (DDR)²⁴⁵ process stalled, the danger is that any government which emerges from the elections—assuming they can be held at all—will lack credibility.

178. In Afghan terms, a government's credibility is enhanced the more interests it encompasses and the more points of view it embodies. Although, like all coalitions, such a government will find it difficult to take tough decisions, in Afghanistan a government which is not inclusive may find that its writ does not extend across the whole country. It appears likely, therefore, that President Karzai will balance his ticket in the forthcoming elections, by choosing running-mates from different ethnic groups and by continuing to include some of the regional commanders in his administration.

179. A different test of credibility will be applied by the international community. In the West, in particular, governments and NGOs alike will be looking to the incoming Afghan administration to demonstrate its commitment to democratic values and its respect for human rights. The tension between credibility within the borders of Afghanistan on the one hand, and credibility on the international stage on the other, is therefore likely to be very real. Since no government can survive without the support of major power brokers, Afghanistan's friends may have to accept that it is likely to be some time before an Afghan government will be able to demonstrate full compliance with international democratic norms.

180. **We conclude that it is important for Afghanistan that the presidential elections planned for October 2004 should proceed, unless the United Nations judges that the level of voter registration has been so low as to damage the credibility of the process, or the security situation has deteriorated to a point where the dangers posed to human life—or the threat to voter turnout—are unacceptably high. We further conclude that the cause of democracy in Afghanistan requires that parliamentary elections be held as soon as possible after the presidential elections and we recommend that the Government offer every assistance to the Afghan and UN authorities to enable this to happen. We further recommend that in its response to this Report the Government provide a detailed breakdown of what funding for the electoral process in Afghanistan has been pledged by UN member states; and what has been delivered. Our recommendation on the provision of security assistance forces is made in paragraph 232 below.**

Politics and the Taliban

181. One challenge for the Afghan political process is how to deal with the former dominant power in Afghanistan, the Taliban. Should they be excluded from the new politics, or should efforts be made to integrate some of them with the political system?

182. When we visited Afghanistan, we were told that Pakistan tolerates the presence on its territory of hard-line remnants of the former Taliban regime, and even that it has detained

²⁴⁴ *ibid*

²⁴⁵ See para 222 below

some Taliban moderates who have lost sympathy with the aims and methods of their erstwhile comrades. We also visited Peshawar, in Pakistan's North West Frontier Province, where we met a group of former senior Taliban figures who claim to be seeking ways of participating openly in the Afghan political process. Many scores remain to be settled in Afghanistan and at present, these men and their families dare not return to their home towns or villages. Their situation is made more difficult by the continuing violence of the rump of militant Taliban.

183. Although for many the term 'moderate Taliban' may be an oxymoron, others—including President Karzai—feel that it ought to be possible for those members of the former regime who were not personally involved in atrocities or repression and have renounced violence to reintegrate into Afghan society, and maybe even into its political life.²⁴⁶ The overall impression we gained in Afghanistan, however, is that any such reconciliation will be a long and difficult process, and that in due course the Taliban as a political force is likely to wither away, its more moderate elements having joined legitimate political factions.²⁴⁷

Reconstruction

184. On some indicators, such as the percentage of the population living on under US\$2 a day, Afghanistan is the poorest country in the world.²⁴⁸ At the Berlin conference on Afghanistan, held in March and April 2004, fifty donor countries pledged US\$8.2 billion of aid over the next three years.²⁴⁹ The United Kingdom has pledged US\$900 million as part of this package, making it the second largest donor after the US.²⁵⁰ Afghanistan is also seeking aid from other Islamic states, particularly the countries of the Gulf, the importance of its relations with which it has perhaps been slow to recognise.

185. It is particularly unfortunate that efforts to create a functional and effective Afghan army have failed to make sufficient progress to ensure the protection and safety of aid workers. There have been, and there continue to be, attacks on aid workers—both foreign and Afghan—which undermine the reconstruction process and must deter some who would otherwise wish to engage in it. Construction workers employed on improving road links between Afghanistan's centres of population have been among those targeted and killed.²⁵¹ Election workers too, including women working to ensure the registration of women, have been assassinated.²⁵² The task which faces those international agencies charged with creating a secure environment within which reconstruction can proceed safely—the Provincial Reconstruction Teams (PRTs)—is enormous.

246 See President Karzai's December 2003 interview with *Newsline*, <http://newsline.com.pk/NewsDec2003/newsexe1dec2003.htm>

247 BBC journalist Kate Clark told us that "the Taliban have lost all credibility." (Q79). See also Q53 (Dr Cheema).

248 See www.news.bbc.co.uk/1/hi/world/south_asia/3582023.stm

249 See www.embassyofafghanistan.org/main/links/pevents.cfm

250 For a detailed assessment of the UK aid effort in Afghanistan, see the First Report from the International Development Committee, 2002-03, *Afghanistan: The Transition from Humanitarian Relief to Reconstruction and Development Assistance*, HC84

251 'China workers die in Afghan raid', *BBC News Online*, 10 June 2004, http://news.bbc.co.uk/1/hi/world/south_asia/3792901.stm

252 'Women killed in Afghan bus attack', *BBC News Online*, 26 June 2004, <http://news.bbc.co.uk/1/hi/world/3841845.stm>

The role of Provincial Reconstruction Teams

186. There were 15 PRTs in Afghanistan as at 1 July 2004.²⁵³ Most of them are led by US personnel; one jointly by the US and South Korea; one by New Zealand; and three by NATO (ISAF) forces, two of these being under United Kingdom command and one under German command. More PRTs are planned, and it was agreed at the Istanbul summit in June that progressively more of them will be placed under NATO (ISAF) control.²⁵⁴ The principal role of the PRTs is to assist the Afghan authorities in extending their authority in the provinces, in order to create conditions in which reconstruction and renewal can take place safely. We described the work of PRTs in our Reports of July 2003 and January 2004.²⁵⁵ Since then, we have had the opportunity to visit the British-led PRT at Mazar-e Sharif, in the North of Afghanistan. We have also heard additional evidence about their work.

187. Peter Marsden of the Refugee Council told us that US forces working in the US-run PRTs do not focus on their primary task of providing a secure environment within which the Afghan authorities and international aid organisations can function safely. Instead, they too often engage directly in reconstruction projects. By doing so, he argued,

... they have seriously undermined the humanitarian neutrality and impartiality the NGOs working in Afghanistan have taken 15 years to build up, and it is now highly dangerous for the aid community to work anywhere where PRTs exist.²⁵⁶

188. Similarly, on 27 May, Radio Free Europe/Radio Liberty quoted the European Aid and Development Commissioner's spokesman, Jean-Charles Ellermann-Kingombe, as saying that "the distinction between humanitarian and military personnel is becoming blurred. ... This undermines the perception of humanitarian aid workers being impartial, being neutral, and therefore makes it also difficult to carry out reconstruction activities."²⁵⁷

189. BBC journalist Kate Clark, who has long personal experience of Afghanistan, gave us some disturbing statistics about violence against aid and reconstruction workers:

About a year ago we were talking about one to two killings a month. In late 2002 there were one to three murders a month. By late summer last year we were talking about 20 a month. In January alone there were 80 people killed.²⁵⁸

190. Both Mr Marsden and Ms Clark commended the approach taken by the United Kingdom-led PRT and its relationship with NGOs. According to Mr Marsden,

... the fact that the British Government decided to operate in an area where there were clearly tensions between two major power holders and set out to resolve those tensions meant that they had been effective in doing what they set out to do, whereas

²⁵³ For the locations of PRTs, see the map of Afghanistan after para 170 above

²⁵⁴ 'NATO flag raised in Mazar-e-Sharif and Maimana', www.nato.int/docu/update/2004/07-july/e0701a.htm. See also HC Deb, 7 July 2004, col 718W.

²⁵⁵ HC 2002-03, 405 & HC, 2003-04, 81. See also the Government Responses to these Reports, Cm 5968 & Cm 6162

²⁵⁶ Q88

²⁵⁷ See www.globalsecurity.org/military/library/news/2004/05/mil-040527-rferl01.htm

²⁵⁸ Q77

the PRTs elsewhere have not been very clear about their mandate, and they have very much focused on the reconstruction side, at the expense of security.²⁵⁹

Kate Clark added,

I think the British PRT has worked because it has been focusing on one issue, which is security, and security is the key to everything else in Afghanistan. It really does not matter how much aid you put into the country if the basic level of security is not there, and that is why peace-keeping, or the sort of peace-keeping that the British PRT is carrying out, is so essential. I should say as well that I think the British one is doing well because the British army does this sort of work very well, and certainly when they set up ISAF in Kabul Afghans were very surprised and very pleased with how they carried out their duties, being very direct, very clear with everyone, and Kabul was not easy when they came to take it over, and Mazar is probably one of the more difficult places in Afghanistan to work.²⁶⁰

191. We saw for ourselves when we visited Mazar how young British servicemen and women have a natural and engaging relationship with local people, which contributes to reducing tension and avoiding confrontation. **The British Army has an excellent, probably unrivalled, record in sensitive patrolling of potentially hostile areas and building confidence and trust. We conclude that these are among the most important tasks for PRTs in Afghanistan.**

192. **We conclude that the Provincial Reconstruction Teams are one of the success stories of international engagement in Afghanistan and that their expansion should be regarded as a priority. However, there are real differences between the approaches adopted by the various PRTs as well as between Afghan perceptions of NATO's ISAF forces and those which are part of Operation Enduring Freedom. We recommend that all PRTs be placed under ISAF control as soon as possible.**

The drugs problem

193. The opium poppy is widely grown in Afghanistan. The climate and topography are suited to its cultivation and the general lawlessness which prevails in much of the country outside Kabul allows traffickers to operate with the minimum of interference. Farmers have been encouraged to grow opium not only by the many inducements—and threats—offered by Afghanistan's 'narcotics mafia', but also because the poppy will crop reliably even during periods of drought. As an Afghan Government Minister put it to us when we were in Kabul, some farmers grow opium poppies through need; others through greed. A hectare planted with opium poppies will yield over £7,000, whereas the same land planted with wheat pays only about £120.²⁶¹ Opium production and trafficking now account for a substantial proportion of Afghanistan's gross domestic product.²⁶²

259 Q89

260 Q90

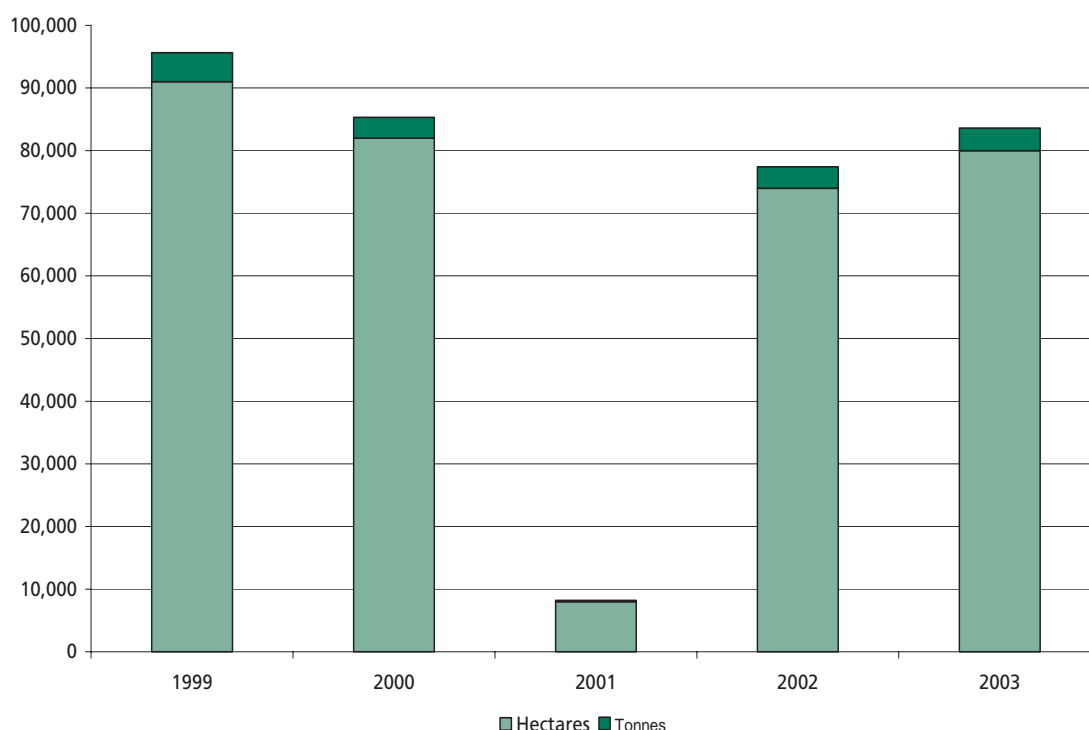
261 'Battle begins to stem Afghan opium harvest', *Guardian*, 3 May 2004

262 Q234 (Jack Straw)

194. We received the following information on opium production in Afghanistan from the FCO:²⁶³

In October 2003 the United Nations Office on Drugs and Crime (UNODC) reported that opium farmers account for 7% of the total Afghan population of 24 million people. The UNODC estimated that opium poppy cultivation covered 1% of total arable land and less than 3% of irrigated arable land in Afghanistan, but that poppy farmers and traffickers income was equivalent to more than 50% of Afghanistan's estimated GDP. UNODC figures²⁶⁴ for the level of opium poppy cultivation and production in Afghanistan for the last 5 years show the scale of the problem:

Opium Poppy Cultivation in Afghanistan



195. The FCO factsheet from which the above information is taken explains the reduction in poppy cultivation in 2001 as follows:

The Taliban (in power from 1998 until 2001) prohibited opium poppy cultivation in 2000–01, hence the decline that year. Whilst the ban may have reduced production it was enforced through a mixture of threat and bribery and did nothing to address the underlying causes of poppy cultivation in Afghanistan, and it is unlikely it could have been sustained. The ban did not apply to trafficking or processing—activities from which the Taliban profited. This restriction of cultivation pushed up the price of opium, further increasing the benefits to the Taliban through the increased value of their substantial stockpiles.

²⁶³ Ev 170-171

²⁶⁴ Source: UNODC Afghanistan Opium Survey 2003

196. The World Drug Report 2004, published by UNODC on 25 June, concludes that the situation is likely to get worse before it gets better:

During the 1990s, Afghanistan firmly established itself as the largest source of illicit opium and its derivative, heroin. In 2003, opium production in Afghanistan still accounted for more than three quarters of the world's illicit opium production. In October 2003, UNODC and the Afghan government conducted a farmers' intentions survey that revealed that almost 70% of the farmers interviewed in the opium growing regions of Afghanistan intended to increase poppy cultivation in 2004, while only 4% considered reducing it.²⁶⁵

197. The FCO estimates that about 95 percent of heroin in the United Kingdom originates from Afghanistan.²⁶⁶ This is one reason why the United Kingdom has taken the lead role in co-ordinating counter-narcotics operations in Afghanistan through the Afghan National Drug Control Strategy (ANDCS). Under the ANDCS, adopted in May 2003, the authorities aim to reduce opium poppy cultivation by 75 percent by 2008, and to eradicate it completely by 2013. In a written answer of 16 June, FCO Minister Bill Rammell told the House that,

In the first year of implementation of the strategy, the basic counter narcotics structures have been put in place: drug control legislation, a Counter Narcotics Directorate, a Special Narcotics Force, the Counter Narcotics Police and a central eradication capability. Work is also in hand to develop alternative livelihoods for farmers dependent on opium poppy cultivation. These measures provide a sound basis for the future development of robust institutions and programmes to combat opium production and trafficking.²⁶⁷

198. So far, however, the achievements of this strategy have been very limited. Indeed, the area under opium poppy cultivation is predicted by the US State Department to rise this year to between 90,000 and 120,000 hectares,²⁶⁸ increasing the dependence of farmers on this crop and funding the defiance of central government by local commanders.

199. Giving evidence to the US House of Representatives Committee on Government Reform (Subcommittee on Criminal Justice, Drug Policy, and Human Resources) on 1 April, the State Department's Assistant Secretary for International Narcotics and Law Enforcement Affairs, Robert B Charles, criticised the United Kingdom's leadership of the ANDCS. Speaking under the headline *Afghanistan: Are the British Counternarcotics Efforts Going Wobbly?* Charles said that the British Government has committed insufficient resources, and has failed to draw up a campaign for opium poppy crop eradication.²⁶⁹ He identified a difference of view between the US and the United Kingdom as to the best method of dealing with the drugs problem.

²⁶⁵ See www.unodc.org/unodc/world_drug_report.html

²⁶⁶ Ev 171

²⁶⁷ HC Deb, 16 June 2004, col 987W

²⁶⁸ See www.state.gov/g/inl/rls/rm/31178.htm

²⁶⁹ See www.state.gov/g/inl/rls/rm/31039.htm

200. Nor has the US been the only critic of the drugs eradication plan. The Iranian Government, which faces a major trafficking problem along its border with Afghanistan, told us that the eradication plan “does not involve fields belonging to commanders and influential local figures”.²⁷⁰ They called on the United Kingdom, as the country co-ordinating the counter-narcotics programme, to “take a firmer stand”.

201. However, when we visited Afghanistan, we were told that eradication is not only very difficult—as anyone who has had an aerial view of the country can appreciate—but that it is also temporary in its effect (because crops can be replanted), and can even provide perverse economic incentives if farmers are compensated for their destroyed crops. Some eradication has been taking place, but it is not and cannot be a long-term strategy for success.

202. The United Kingdom instead supports the agreement reached at a February 2004 international conference held in Kabul on a series of Counter Narcotics Action Plans covering judicial reform, law enforcement, alternative livelihoods for farmers and labourers, drug demand reduction and treatment, and public awareness.²⁷¹ The Foreign Secretary was downbeat when we asked him about progress, noting the great difficulties involved and concluding that “it will take time.”²⁷² As with so much else in Afghanistan, “security is an inherent prerequisite for good counter narcotics work”.²⁷³

203. The few journalists and commentators who have been able to visit the opium-growing areas of Afghanistan have reported that the situation is deteriorating, rather than improving. A feature in *The Spectator* of 5 June concluded that “The war on drugs ... is being fought and lost. It’s not so much a defeat as an utter rout.”²⁷⁴ Without greater security in Afghanistan, without a successful programme of disarmament, demobilisation and reintegration, and for as long as the commanders or ‘warlords’ retain their effective autonomy from central government, the war on drugs cannot be won.

204. We conclude that there is little, if any, sign of the war on drugs being won, and every indication that the situation is likely to deteriorate, at least in the short term. We recommend that the Government, which is in the lead on the counter-narcotics strategy in Afghanistan, explain in its response to this Report exactly how it proposes to meet the targets of reducing opium poppy cultivation by 75 percent by 2008, and eradicating it completely by 2013.

Security

205. Afghanistan is sometimes described as a “forgotten war”, overshadowed by events in Iraq.²⁷⁵ Yet there are more than 25,000 military personnel from dozens of countries

270 Ev 184

271 *Afghanistan: Counter Narcotics*, document produced for the Berlin Conference on Afghanistan, 1 April 2004

272 Q229

273 Q235

274 *The Spectator*, 5 June 2004, p18

275 ‘Afghanistan: the forgotten war’, *Independent*, 14 December 2003; ‘Fighting in the Shadow of Iraq Some Fear Afghanistan Has Become a Forgotten War’, *Washington Post*, 2 June 2004

engaged in operations there, including 600 British personnel,²⁷⁶ and these numbers are increasing. The international forces in Afghanistan are dealing with threats posed by foreign fighters and the remnants of the Taliban, by ‘warlords’, and by standing militias, exacerbated by a lack of capacity in the Afghan army and police. In this section, we describe these threats and consider how they should be dealt with.

Security for the Afghan civilian population

206. As well as providing security for the forthcoming elections, the multinational forces in Afghanistan have a more general role to assist the Afghan authorities to deal with the violence which afflicts Afghan society. To this end, the United Kingdom and other countries are training Afghan army and police units so that they can assume responsibility for protecting the population at large.

207. When we visited Mazar-e Sharif in May, we called in at a regional police training school, where large numbers of policemen were being trained by a small mixed force of US and British trainers. This visit presented us with a vivid demonstration of the task facing Afghanistan as it restructures its security forces. We were told that the great majority of trainees are illiterate, and that their four-week training course therefore omits basic police skills, such as report-writing. Only 8 of the 500 trainees at the school were women, although we were encouraged to note that they wear uniform rather than *burkhas*.

208. The United Kingdom is also playing a role in training the Afghan National Army (ANA), together with American and French forces. About 10,000 members of the ANA had been trained as of 15 June.²⁷⁷ However, according to a report published by the International Crisis Group in March 2004, the ANA’s establishment is well below coalition targets, it is not ethnically representative of the population, and it suffers from a high rate of desertion.²⁷⁸ For the time being, security for the people of Afghanistan will have to continue to be provided by foreign forces.

209. We conclude that improving security for the civilian population is one of the highest priority needs in Afghanistan. We recommend that the Government set out in its response to this Report what further contributions the United Kingdom will be making to improve security for the Afghan people.

The threat from al Qaeda and the Taliban

210. There are two ongoing military operations in Afghanistan: the US-led Operation Enduring Freedom (OEF); and the NATO-led International Security Assistance Force (ISAF). The first of these is much larger and better equipped than the second (in June 2004, OEF had 20,000 personnel as against ISAF’s 6,500²⁷⁹), and its primary objective is to extinguish the remaining groups of al Qaeda and other foreign fighters, and the diehard remnants of the former Taliban regime.

276 HC Deb, 21 June 2004, col 1178W

277 HC Deb, 15 June 2004, col 796W

278 International Crisis Group Asia Briefing, 30 March 2004. See also Q93 (Kate Clark)

279 See Table after paragraph 228 below

211. One of our witnesses reminded us that when the Taliban were in power in Afghanistan—and it is important to remember that they were not in control of the entire country—foreigners were relatively safe.²⁸⁰ Ironically, it is now those areas where the radicalised remnants of the Taliban remain which are most unsafe for foreign aid workers, and where the greater part of the OEF forces are deployed. Similarly, while Taliban leaders tolerated the presence of al Qaeda in Afghanistan prior to their removal in 2001, it is only since the international intervention that Taliban and al Qaeda fighters have joined forces.

212. Most of the terrorist incidents which continue to blight Afghanistan, and which target foreign aid workers and Afghans involved in political and other reconstruction, are now believed to be carried out by Taliban and al Qaeda fighters.²⁸¹ It appears, then, that these groups are now more of a threat to Western interests in Afghanistan and to their efforts to rebuild the country than they are a direct threat to Afghans themselves. Unlike in Iraq, there have been few attacks aimed at police or national army targets, although the recent (30 June) attacks on police checkpoints in Jalalabad²⁸² and the killing of a police chief in Kandahar Province on 12 July²⁸³ may herald a worrying change.

213. Coalition forces, principally the Americans, continue their search for Osama bin Laden in the border area between Afghanistan and Pakistan. When we visited Pakistan, we travelled to the North West Frontier Province and were briefed on the operations by Pakistan's armed forces to hunt down al Qaeda and other foreign fighters.²⁸⁴ Information on operations in Afghanistan itself is hard to come by, but flying over the region provides a graphic insight into the difficulty and scale of the task which faces the OEF.

The threat from commanders: Afghanistan's 'warlords'

214. When the Taliban were ousted in 2001, a number of local military commanders, often referred to in the Western media as 'warlords', established *de facto* control over most of the country outside Kabul. At the time, they were a force for stability; in fact, the actions of the commanders were in large measure responsible for Afghanistan's avoidance of the anarchy which later descended on post-conflict Iraq. Following the Bonn Conference, some commanders were brought into government—most notoriously, General Dostum as Deputy Minister of Defence—and many of them or their protégés remain in positions of responsibility to this day. For example, the present Defence Minister, Mohammad Qasim Fahim, retains his own forces in Kabul.

215. There have been several incidents of central and local government officials being attacked by militia under the control of commanders, usually in circumstances where commanders are dissatisfied with their treatment by government. For example, on 18 June the regional governor of Ghor province, West of Kabul, was evicted by a force of fighters loyal to local commander Abdul Salaam Khan.²⁸⁵ Today, there are still large areas of the

280 Q77 (Kate Clark)

281 See HC Deb, 12 July 2004, cols 962-3W

282 See http://news.bbc.co.uk/1/hi/world/south_asia/3856127.stm

283 See http://news.bbc.co.uk/1/hi/world/south_asia/3889723.stm

284 See paras 233 to 279

285 See http://news.bbc.co.uk/1/hi/world/south_asia/3818141.stm

country where the Afghan government depends on the support, or at least the sufferance, of local commanders, and this is unlikely to change for some time.²⁸⁶

216. The commanders are part of a complex and ever-changing set of rivalries and alliances. Many of them have conflicting aims or interests, and clashes between their forces are common. Among the malign activities in which the commanders engage are the following:

- they are heavily involved in poppy cultivation and in heroin trafficking;²⁸⁷
- they dispense summary justice and commit human rights abuses;²⁸⁸
- they engage in smuggling, and collect customs revenues and levy other charges, which are not passed on to central government;²⁸⁹
- they frustrate the activities of NGOs engaged in reconstruction and humanitarian work.²⁹⁰

217. One option for dealing with the commanders would be to use force. We discussed this possibility with several of those we met when we visited Afghanistan. Some felt that a successful military operation to disarm one of the more troublesome commanders could send a powerful signal to the others to cease their disruptive activities and to submit to central authority. Others were concerned that such a course would make enemies of men whose active co-operation will be required if Afghanistan is to stabilise, succeed and even prosper. In an interview with the *New York Times* on 11 July, President Karzai said that efforts to persuade the commanders to disarm their militias had failed and now “The stick has to be used, definitely.”²⁹¹ It is not clear from the interview which stick the President would use. On balance, we believe that taking on the commanders militarily is probably neither a sensible nor a realistic option in the short to medium term.

218. Yet the commanders cannot be ignored. They are in a very real sense stakeholders in Afghanistan’s future and they will inevitably play a prominent role in that future, be it constructive or negative. If the commanders are to be persuaded to give up their present disruptive and illegal behaviour, they must be convinced that such a move is in their own interests—as well as being in the interests of their country. This may mean recognising the realities of their political power and offering them office in return for subordination to the state, a stratagem already employed to mixed effect by President Karzai. It could also involve diversifying commanders’ interests, so that they become businessmen, many of them having already shown some entrepreneurial flair in their exploitation of the drugs trade. Whichever approach or mix of approaches is adopted, it is important that ISAF and

286 See ‘Let the Afghans vote when they’re ready’, *International Herald Tribune*, 15 June 2004; ‘Karzai ‘not cutting deals with Afghan warlords’’, *Financial Times*, 16 June 2004

287 Q82; see also ‘Forgotten war’, *Financial Times*, 11 June 2004, p18 and ‘Following the Afghan drugs trail’, BBC News Online, 4 June 2004, http://news.bbc.co.uk/1/hi/world/south_asia/3774003.stm

288 ‘Afghanistan: Warlords Implicated in New Abuses’, Human Rights Watch, July 2003, <http://hrw.org/press/2003/07/afghan072903.htm>

289 Q82. When visiting Afghanistan, we were told that in 2003, the Afghan Government received less than one third of the revenues due to it; most of the missing revenues were collected and retained by commanders.

290 See ‘Drugs trade is wrecking Afghanistan rebuilding effort, says NATO General’, *Financial Times*, 14 June 2004, p7

291 ‘Afghan President describes militias as the top threat’, *New York Times*, 12 July 2004

the Afghan authorities maintain a credible military capability in order to negotiate with the commanders from a position of strength. At any stage, confrontations which fall short of all-out military action could take place.

219. In his recent report on the situation in Afghanistan, UN Secretary-General Kofi Annan noted that “The weak or corrupt provincial and district administrations, the continued rule of local commanders, and the absence of effective national law enforcement are more common sources of insecurity for the population than terrorist violence.”²⁹²

220. We conclude that Afghanistan’s ‘warlords’ or commanders are both a large part of the problem and an essential part of the solution. We recommend that the Government use its good offices to assist the Afghan Transitional Administration to ensure that the political process is as inclusive as possible, while avoiding the corruption and abuses of power which have been evident in some parts of central and local government. We conclude that, until this process is complete and has become irreversible, and until the Afghan National Army has developed its own capacity, the international forces in Afghanistan must retain the option and therefore the capability of assisting the Afghan authorities to deal militarily with commanders who persist in operating outside the rule of law.

221. The key to reducing the influence of the commanders is the removal of their standing armies from the power equation. The mechanism for achieving this is known as disarmament, demobilisation and reintegration (DDR).²⁹³

The need for disarmament, demobilisation and reintegration (DDR)

222. The DDR process in Afghanistan is slow and making little headway. The Afghan government committed itself to demobilising at least 40 percent of the stated strength of Afghan militia forces—many of which are at least nominally under its control—by June 2004.²⁹⁴ However, several of those whom we met in Afghanistan in May told us that DDR has in fact come to a halt. The Commander of ISAF has been quoted as saying that “The DDR process is coming to a spluttering end.”²⁹⁵ In BBC journalist Kate Clark’s view, it never really started.²⁹⁶

223. One problem facing those seeking to carry out DDR is the lack of reliable information. For example, the International Crisis Group’s report of March 2004 quoted a UNAMA estimate that the number of men serving in the commanders’ militias may be no more than 45,000.²⁹⁷ One of our witnesses, however, suggested that there are as many as 200,000

292 *ibid*

293 The term DDR is used in this Report to refer to the disarmament, demobilisation and reintegration process. Alternative terms used by others include DDRRR and DR.

294 Ev 134

295 See ‘Drugs trade is wrecking Afghanistan rebuilding effort, says NATO General’, *Financial Times*, 14 June 2004, p7

296 Q83

297 International Crisis Group Asia Briefing, 30 March 2004

militiamen,²⁹⁸ while the UN Secretary-General's Report of March 2004 refers to 100,000 men in the militias controlled by the Afghan Ministry of Defence alone.²⁹⁹

224. Commanders also retain large numbers of civilian followers, who may be mobilised as and when necessary. It has been suggested that many of these men, equipped with obsolete arms, have been put into the DDR process, while the full-time fighters and their more sophisticated weaponry have been held back. Once 'disarmed and demobilised', some of the part-timers have to hand over their severance payments to their commanders.³⁰⁰ It is clear that the DDR process presents challenges and dilemmas which will not be overcome easily or resolved quickly, yet it is the most urgent task facing the authorities in Afghanistan.

225. Again and again when we were in Afghanistan, we were told that the Afghan people want improved roads, schools, hospitals and other services, but that most of all they want the guns taken out of their daily lives. **We conclude that the most urgent and pressing need for Afghanistan is to achieve disarmament, demobilisation and reintegration. We recommend that the Government and its allies devote greater resources to achieving this goal. We further recommend that as an essential first step reliable data should be assembled on how many fighters serve with the militias, what arms they have, and to whom they are responsible; only then will the true scale of the task be fully apparent.**

The role of NATO in Afghanistan

226. In contrast to the 20,000 personnel at present assigned to Operation Enduring Freedom, NATO's International Security Assistance Force has been consistently under-resourced and overstretched. In our January 2004 Report, we quoted the view of the UN Secretary-General that "the international community must decide whether to increase its level of involvement in Afghanistan or risk failure."³⁰¹ Since then, ISAF has expanded its reach beyond Kabul to take responsibility for security in some Northern provinces, including leadership of the PRT in Kunduz, and has developed plans gradually to establish itself in further areas. However, and despite commitments entered into at the recent NATO summit in Istanbul, ISAF has yet to receive an increase in resources commensurate with these commitments. This has damaged its credibility as much as it has restricted its operational effectiveness.³⁰²

227. Further, some of those forces which have been deployed by NATO member states have made a contribution which is more limited than their numbers, set out in the table below, would suggest: for example, Germany's 1,900 troops are not permitted to serve in a combat role, because of conditions imposed by the Bundestag.³⁰³ NATO's Secretary-

298 Q82 (Kate Clark)

299 Report of the Secretary-General on the situation in Afghanistan and its implications for international peace and security, 19 March 2004, available at <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N04/277/36/PDF/N0427736.pdf?OpenElement>

300 *ibid*

301 HC, 2003-04, 81, quoting remarks by Kofi Annan to the UN General Assembly, 8 December 2003

302 'Nato's Afghanistan credibility test', *BBC*, 30 June 2004, http://news.bbc.co.uk/1/hi/world/south_asia/3849959.stm

303 See www.bundesregierung.de/artikel-,413.62832/Protokollerklaerung-zum-Antrag.htm

General, Jaap de Hoop Scheffer, expressed his frustration at NATO's failure to deliver its force commitments in a recent address to the Royal United Services Institute in London:

Given the vast quantities of personnel and equipment available to the Alliance overall, we have to ask ourselves why we still cannot fill them. What is wrong with our system that we cannot generate small amounts of badly needed resources for missions that we have committed to politically?³⁰⁴

228. If Afghanistan is, as the Secretary of State suggested to us, a test case for NATO's out-of-area policy,³⁰⁵ it is a test which even NATO's Secretary-General appears to believe the Alliance is dangerously close to failing.

304 See www.nato.int/docu/speech/2004/s040618a.htm

305 Ev 165

Breakdown of ISAF Personnel Strength by nations (as at 15 June 2004)³⁰⁶	
NATO nations	Total
Belgium	293
Bulgaria	3434
Canada	1576
Czech Republic	19
Denmark	57
Estonia	7
France	565
Germany	1909
Greece	127
Hungary	26
Iceland	17
Italy	491
Latvia	2
Lithuania	6
Luxembourg	9
Netherlands	153
Norway	147
Poland	22
Portugal	8
Romania	32
Slovakia	17
Slovenia	18
Spain	125
Turkey	161
United Kingdom	315
United States	67
Partner Nations	Total
Albania	81
Austria	3
Azerbaijan	22
Croatia	22
Finland	47
Former Yugoslav Republic of Macedonia	48
Ireland	11
Sweden	19
Switzerland	4
Non-NATO/Non-EAPC nations	Total
New Zealand	6
Afghanistan	81
Total	6472

229. Canadian General Richard Hillier, the commander of ISAF, whom we met when we visited Kabul, was quoted in the *Financial Times* of 14 June as telling a NATO meeting in Brussels that, “If I had the assets to do more, we would be doing it. With the assets I have

now, I can't take on more areas."³⁰⁷ General Hillier had the support of the Foreign Secretary in this. Mr Straw told us:

You are right to highlight the dangers of NATO member states failing to provide the necessary resources to expand the International Security Assistance Force's presence across Afghanistan and the associated dangers of conditions being attached, including in the form of national caveats, to the use of those resources that are committed. An expanded ISAF presence in Afghanistan is urgently needed, not least to help the Afghan authorities provide the necessary support for the forthcoming elections.³⁰⁸

NATO's response came at the Istanbul summit, held on 28 June, when Mr de Hoop Scheffer announced that,

Today, Allies approved a major expansion of NATO's role in Afghanistan, in support of the Afghan authorities—with the resources to make it work. We made a commitment to help. We will meet it. We will play our part.³⁰⁹

230. All those who are concerned for Afghanistan's future will welcome the NATO announcement. However, it is open to question whether the announced intention to send about 1,000 additional troops to Kabul to provide temporary security for the elections and a further 700 to the North of the country support the work of PRTs amounts to the "major expansion" described by Mr de Hoop Scheffer, and it remains to be seen exactly how and when NATO member states will deliver the commitment entered into at Istanbul. President Karzai, for one, wants to see the extra forces in place sooner rather than later.³¹⁰ Afghan Defence Ministry spokesman General Zahir Azimy has said that "It's up to ... NATO, but this is not sufficient, we expect more."³¹¹

231. It is also apparent that the increases agreed at Istanbul represent a compromise, not only in relation to what Afghanistan had requested, but between the views of NATO member states. The United Kingdom pressed hard for NATO to commit its Response Force to Afghanistan to provide security for the elections. That proposal was blocked by President Chirac, who objects to use of the NATO Response Force in what France sees as a peacekeeping, or "sticking plaster" role.³¹² This dispute may yet be resolved by redefining the mission in terms which are acceptable to the French, but other difficulties remain to be resolved. For example, there is so far no indication of which member states will supply essential equipment such as helicopters for the new PRTs. Until there are firm undertakings by member states to commit specified resources to Afghanistan, the Istanbul announcement remains little more than a statement of intent. The apparent inability of the world's most powerful military alliance to find a few helicopters when the need is so great and urgent is deplorable.

307 'Drugs trade is wrecking Afghanistan rebuilding effort, says NATO General', *Financial Times*, 14 June 2004, p7

308 Ev 165

309 NATO press conference, Istanbul, 28 June 2004, full text available at www.nato.int/docu/speech/2004/s040628f.htm

310 'Karzai's plea to NATO on troops', *BBC News*, 29 June 2004, <http://news.bbc.co.uk/1/hi/world/europe/3848895.stm>

311 See www.alertnet.org/thenews/newsdesk/108858973373.htm

312 'France blocks U.S. on elite force for Afghanistan', *Reuters AlertNet*, 29 June 2004

232. We conclude that, welcome though the Istanbul declaration of limited further support for Afghanistan is, fine communiqués and ringing declarations are no substitute for delivery of the forces and equipment which Afghanistan needs on the ground. We agree with President Karzai that the need for more resources for ISAF is urgent. There is a real danger if these resources are not provided soon that Afghanistan—a fragile state in one of the most sensitive and volatile regions of the world—could implode, with terrible consequences. We recommend that the Government impress upon its NATO allies the need to deliver on their promises to help Afghanistan before it is too late, both for the credibility of the Alliance and, more importantly, for the people of Afghanistan.

4 Pakistan

233. As part of this inquiry we visited Pakistan on 9–11 May. In Islamabad we met President Pervez Musharraf, the then Prime Minister Mir Zafarullah Khan Jamali, Foreign Minister Mian Khurshid Kasuri, the Governor of the North West Frontier Province, a number of Pakistani parliamentarians as well as human rights activists and journalists. We were also able to travel to Peshawar where we met the Chief Minister of the North West Frontier Province, the Corps Commander and a number of former members of the Taliban. In Peshawar we also visited a madrasa (religious school). Throughout our visit we held discussions with United Kingdom staff at the High Commission, and were most impressed with their work.

Co-operation in the war against terrorism

234. Pakistan is a key ally in the war against terrorism. As the Committee heard during its visit to Pakistan in May 2004, Pakistan's geo-strategic neighbourhood is now at the forefront of the war against terrorism, making the country's co-operation in this war of critical importance. Not only were Pakistan's madrasas instrumental in creating the Taliban, but the tribal areas on either side of Pakistan's long and porous border with Afghanistan remain havens for extremist elements.

235. President Musharraf condemned the 11 September 2001 terrorist attacks against the US and offered Pakistan's full co-operation, saying that the "carnage" in the United States had raised the struggle against terrorism "to a new level" and that Pakistan "regard[s] terrorism as an evil that threatens the world community. All countries must join hands in this common cause".³¹³ Since then, Pakistan has provided invaluable assistance in the war against terrorism. Most notably, Pakistan has deployed more than 70,000 soldiers and militiamen in the tribal areas along the border with Afghanistan.³¹⁴ In March 2004, the Pakistani army launched a massive campaign against suspected militants in South Waziristan, where there are persistent reports that tribes are sheltering militants. In June, Pakistan arrested eight suspected members of al Qaeda in Karachi, including the nephew of Khalid Sheikh Mohammed.³¹⁵

236. During his visit to Pakistan in March 2004, the Foreign Secretary welcomed the vital role that Pakistan is playing in the global fight against terrorism, noting that in "co-operation with the US, UK and others, the authorities here have arrested over 500 terrorist suspects since 11 September 2001—including al Qaeda leaders like Khalid Sheikh Muhammad, who is suspected of planning the attacks in New York".³¹⁶ On 16 June, President George Bush named Pakistan a major non-NATO ally in recognition of the

313 'Pakistan vows to help U.S. 'punish' attackers', CNN, 13 September 2001.

314 'Waziristan: Bin Laden's hiding place?', BBC, 3 April 2004.

315 'Pakistan expects more arrests in al-Qaeda operation', Financial Times, 15 June 2004.

316 Remarks by Jack Straw, 'Pakistan and Britain: A Strong Partnership for a Safer World', University of Peshawar, Pakistan, 5 March 2004, available at: <http://www.fco.gov.uk>

country's contribution to the war against terrorism.³¹⁷ The move makes Pakistan eligible for enhanced aid and defence co-operation.

237. However, there are concerns about certain aspects of Pakistan's co-operation in the war against terrorism. In particular, there appears to be a degree of frustration in some quarters in Afghanistan over the progress made in tackling extremists. For example, the much-publicised March operation in South Waziristan left over 120 people dead but did not result in the capture of any top al Qaeda operatives, despite rumours that Ayman al-Zawahiri, al Qaeda's deputy chief, had been captured.³¹⁸

238. The Committee heard from witnesses about the serious domestic constraints under which President Musharraf is operating. Some areas of the country are dominated by political and religious forces sympathetic to the Taliban and al Qaeda. On 30 March, the Foreign Secretary told us:

It is a matter of record that there are political parties' individual leaders who are active in the federal administrative tribal area and in the North-West Frontier Province who have sympathies or associations with the Taliban. ... Some of the leadership of the MMA [the opposition Muttahida Majjlis-e-Amal, United Council of Action] in the National Assembly of Pakistan have had longstanding associations with what they see as the better elements of the Taliban movement, so that is a matter of the party-political weather, if you like, in Pakistan, and President Musharraf and his colleagues have to deal with it.³¹⁹

The MMA campaigned on an anti-US platform in the 2002 general election, winning a record number of seats in the North-West Frontier province and Balochistan, where there was particular anger at the US military intervention in Afghanistan.³²⁰

239. We also heard from witnesses about the difficulties tackling the Taliban owing to tribal and ethnic sensitivities. Many of the foreigners present in the area have been there for many years, taking advantage of tribal hospitality. Similarly, there are strong sympathies for the Taliban among the Pushtun in Pakistan. Dr Samore, of the International Institute for Strategic Studies, told us that:

Pakistan believes that its ability to attack the Taliban will be assisted if the Pushtun community in Afghanistan believes that it has a legitimate representation in the new government in Kabul... Obviously that is a domestic issue for Pakistan as well since there is a large Pushtun majority group in the north-west.³²¹

240. The risks associated with Pakistan's co-operation in the war against terrorism are indicated by the two assassination attempts against President Musharraf in December 2003, which have been linked with al Qaeda. In March 2004, a taped statement purportedly

317 Memorandum for the Secretary of State, Presidential Determination No. 2004-37, 16 June 2004, available at: <http://www.whitehouse.gov>

318 'U.S. general questions Pakistan's terror effort', *International Herald Tribune*, 4 May 2004, and 'US Afghan envoy angers Pakistan', BBC, 6 April 2004.

319 Q137

320 'Pakistan's defiant tribesmen', BBC, 19 March 2004.

321 Q52 [Samore]

by Ayman al-Zawahiri accused the government of bowing to US pressure, betraying the 'Islamic resistance' in Afghanistan and putting the Pakistani army in a 'miserable state' by forcing it to fight fellow Muslims from the border tribes. The tape urged Pakistanis to overthrow the government.³²² Al Qaeda has also been linked with a number of attacks against Shia mosques in Pakistan, raising fears that it is trying to incite sectarian tension.³²³

241. Pakistan is clearly vulnerable to accusations that the West is dictating its actions. During its visit to Pakistan the Committee was told by many interlocutors that the West should be patient with Pakistan given the domestic difficulties associated with co-operation. This is reflected in evidence from Dr Gary Samore, who told the Committee:

President Musharraf cannot fight on all fronts at once. He has got to pick his battles. He is in great jeopardy, it seems to me, of antagonising his entire political base. If he makes a deal with India on Kashmir he angers the Punjabis, and if he makes a deal with the United States to crush the Taliban he angers the Pushtuns. Also, he does not want to take on the very small fraction of population that strongly supports the fundamentalists. He is a man in a very difficult position... [President Musharraf] is doing about as good as a Pakistani leader can do.³²⁴

242. Nevertheless, Pakistani efforts in the war against terrorism could be helped by financial and technical assistance. Dr Zafar Cheema, of St Anthony's College, Oxford, told us that Pakistani success depends on the resources available, both in terms of finance and surveillance intelligence.³²⁵ We also heard during our visit to Pakistan that the army has encountered unexpected problems in its operations against militants owing to their access to sophisticated equipment. This is reflected in the high number of casualties sustained by the Pakistani army.³²⁶

243. We conclude that Pakistan is making a meaningful and welcome contribution to the war against terrorism. However, we also recognise the domestic difficulties faced by Pakistan and we are concerned that Pakistan and President Musharraf in particular are being targeted by al Qaeda as a result of their co-operation with the war against terrorism. We recommend that the Government make clear its appreciation for Pakistan's efforts and the courage of President Musharraf and consider what further assistance it can offer to assist these efforts.

Addressing the root causes of terrorism

The education system

244. The number of madrasas (religious schools) in Pakistan grew markedly between 1988 and 2000 to fill the vacuum created by the country's inadequate school system. Estimates of

322 'Pakistan Denounces Tape Calling For Revolt, Islamic Parties Protest President's Military Action', *Washington Post*, 27 March 2004; and 'Excerpts: 'Al-Qaeda tape' urges Pakistan revolt', BBC, 25 March 2004.

323 'Pakistan expects more arrests in al-Qaeda operation', *Financial Times*, 15 June 2004.

324 Qq55-56

325 Q53 [Cheema]

326 During the mid-March operation in South Waziristan around 60 Pakistani soldiers are believed to have been killed. See 'Scepticism greets Pakistan 'success'', BBC, 30 March 2004.

the number of madrasas and their pupils vary hugely: the number of schools has been put at 10,000–40,000,³²⁷ while estimates of the number of children attending these schools vary from 1–3 million.³²⁸ The madrasas provide religious and some general education to children—mostly boys, many of them from poor families that have few other educational options. Many of these schools receive foreign funding. However, with many madrasas focussing exclusively on Koranic recitation (which is in Arabic—a language that the children do not understand), they fail to equip children with the means to earn a living in the modern world. Moreover, there are concerns about the links between some madrasas and militant recruitment.³²⁹ The Committee heard from witnesses about the link between the madrasas and religious extremism, and in particular their role in creating the Taliban. Dr Cheema told the Committee that educational reform is required to “moderate” Pakistani society.³³⁰ In particular he emphasised the need to bring religious education within the mainstream education system.

245. In January 2002, President Musharraf made a televised address to the nation in which he “declared war” on religious extremism and pledged to reform Pakistani society. He highlighted the need to tackle the country’s madrasas by registering them and controlling their funding and curricula.³³¹ The Pakistani government subsequently launched a programme of reform: madrasas are being offered funding for the purchase of teaching materials (including computers) in order to enable them to teach a broader curriculum. During his visit to Pakistan in March 2004, the Foreign Secretary visited a madrasa in Peshawar and later welcomed President Musharraf’s efforts to tackle extremism and his call for reform of religious schools.³³² However, the Pakistan government has a long way to go. In March, the Foreign Secretary told us:

The Pakistan Government recognise that there is a lot to do to change the nature of education by the madrasa and their approach to that is to build up the state-run schools which provide a more modern and a wider curriculum because if they do that, as one of my interlocutors said, then the parents will vote for it with their feet and will send their children to these modern schools rather than to the madrasa. For many parents, I am told, they send their children to the madrasa for want of anything else, so that seems to me to be the best way of dealing with it rather than engaging in a full-frontal assault on the schools themselves.³³³

246. In addition to the slow pace of expansion of the mainstream school system, only limited progress has been made registering madrasas. “According to some reports, only 1 percent of the approximately 10,000 to 40,000 madrassahs are registered, and most of them

327 ‘Pakistan’s future and U.S policy options’, Center for Strategic and International Studies, Washington, March 2004, p 16.

328 ‘Pakistan’s future and U.S policy options’, Center for Strategic and International Studies, Washington, March 2004, p 16. While we were in Pakistan we were told that 1 million children attend madrasas.

329 ‘Pakistan’s future and U.S policy options’, Center for Strategic and International Studies, Washington, March 2004, p 16.

330 Q55 [Cheema]

331 “Musharraf declares war on extremism”, *BBC*, 12 January 2002.

332 Remarks by Jack Straw, ‘Pakistan and Britain: A Strong Partnership for a Safer World’, University of Peshawar, Pakistan, 5 March 2004, available at: <http://www.fco.gov.uk>

333 Q139

operate without any government supervision.”³³⁴ One problem is that registration is voluntary. We also went to a madrasa in Peshawar during our visit to Pakistan, and were warmly welcomed there. However, we were concerned by aspects of what we saw. The madrasa offered little more than lessons in Koranic recitation, which were conducted in spartan and dilapidated conditions. The madrasa had refused government funding for improved facilities because such funding is conditional on teaching a broader curriculum.

247. As well as having to contend with opposition to what is seen as government ‘interference’ in religious teaching, the Education Ministry faces administrative and funding difficulties. The Committee heard from witnesses that non-governmental organisations working on education projects among Afghan refugees in Pakistan have had difficulties getting funding.³³⁵ This is particularly worrying given the fact that this community had difficulties getting funding in the 1980s and 1990s, prompting Afghan families to send their sons to Madrasas, with the result that some of them went on to become members of the Taliban.³³⁶

248. We are concerned that insufficient progress has been made on reforming Pakistan’s education system. The situation is urgent given the need to combat the dangerous nexus of poverty and extremism. We recommend that the Government give its full support to Pakistan’s efforts to reform the education system, including providing financial and administrative assistance.

The tribal areas

249. Another cause for concern relates to the remote tribal areas of Pakistan along the border with Afghanistan. Central government control is weak in these areas, which are governed by traditional tribal law. We heard during our visit to Pakistan that for the last 50 years the region has lived according to its own rules, which include a system of collective responsibility and conflict resolution through a council of elders (*jirga*).

250. The tribal areas are also extremely poor:

FATA’s [the Federally Administered Tribal Areas] development significantly lags behind the adjoining settled districts of North-West Frontier Province and the country as a whole. The Government estimates that up to 60% of FATA households live below the poverty line. The region has a literacy rate of 17.4% and a primary school participation rate of 41.3%, which are significantly lower than the national averages of 45% and 77%, respectively. Only 44% of the population has access to clean drinking water, as compared to 75% for the neighboring NWFP.³³⁷

While we were in Pakistan we were told that the female literacy rate in the FATA is just 3%. The real figure is likely to be even lower given the measure of literacy used.

334 ‘Pakistan’s future and U.S policy options’, Center for Strategic and International Studies, Washington, March 2004, p 16.

335 Q97 [Clark]

336 *ibid*

337 ‘ADB Preparing Project to Develop Federally Administered Tribal Areas in Pakistan’, Asian Development Bank press release, 18 February 2004.

251. The inaccessibility of the tribal areas combined with their poor socio-economic conditions make them a haven for members of the Taliban and al Qaeda. We heard during our visit to Pakistan that many of the foreigners present in the tribal areas have large sums of money, which enable them to buy support and shelter. However, some locals are motivated by religious sympathies; witnesses told us that there is significant support for the Taliban in the tribal areas.³³⁸

Map Showing Pakistan's North West Frontier Province and Federally Administered Tribal Areas



Source: UN: Department of Peacekeeping Operations Cartographic Section. Amended for Committee's use.

252. The tribal areas have been the focus of Pakistan's recent efforts in the war against terrorism.³³⁹ However, the Pakistani government is also seeking to address the area's developmental needs, in particular by opening up and integrating it by means of infrastructure projects (road-building and communications), improved service provision and job creation efforts. We heard during our visit that Islamabad is seeking financial assistance with these development projects. While in Pakistan, we also learned that efforts are under way to bring a degree of democratic representation to the region.

253. The situation in the tribal areas is made more urgent by the fact that most of the country's poppy cultivation is located in the tribal areas, which also serve as a transit route for drugs coming from Afghanistan. According to the UN, most processing takes place in "small, mobile laboratories in the Afghan-Pakistan border areas ... Opiate processing on both sides of the Pakistan-Afghan border has created a trafficking and, importantly in the case of Pakistan, a drug abuse problem especially since the early 1980s."³⁴⁰

254. We conclude that progress of development efforts in Pakistan's tribal areas has been disappointingly slow. These efforts are critical to successfully addressing the root causes of extremism as well as tackling the drug problem. We recommend that the Government give serious consideration to increasing its support for development efforts in these areas, including financial and administrative assistance.

Kashmir

255. Pakistan and India have twice gone to war over Kashmir and the issue remains a major source of tension between the two countries.³⁴¹ As well as being a potential source of extremism, the conflict over Kashmir is of particular concern given the fact that both Pakistan and India are nuclear powers. In December 2000, India blamed Pakistan for an attack against the Indian Parliament; the incident resulted in the mobilisation of one million troops by India and brought the two nuclear powers to the brink of war until US mediation helped bring about a stand down in 2001. Relations have eased considerably since then with the restoration of diplomatic relations, the restoration of transport links across the 'Line of Control' and the recent tour of Pakistan by the Indian cricket team. The two countries held talks in February 2003 and met for their first formal negotiations on Kashmir in June. It is encouraging that the relationship developed between President Musharraf and former Indian Prime Minister Atal Behari Vajpayee has been transferred to the new Indian Prime Minister, Manmohan Singh. Nevertheless, fundamental differences remain over Kashmir.

256. We conclude that the conflict over Kashmir is a potential catalyst for extremism. The conflict is made more serious by the fact that both parties are nuclear powers. However, we welcome the constructive approach being taken by both governments. We recommend that the Government encourage both parties to prioritise their work towards a resolution. We further recommend that the Government ensure that the US remains fully seized of the importance of resolving the Kashmir problem.

339 See para 235

340 United Nations Office on Drugs and Crime, http://www.unodc.org/pakistan/en/country_profile.html

341 We commented on the Kashmir dispute in our Second Report of Session 2001-02, HC327, 'British-US Relations', paras 171-74

Nuclear proliferation

257. For years, Pakistan denied spreading nuclear technology and claimed that its nuclear arsenal was safe from extremists. However, documents provided by Iran to the International Atomic Energy Agency (IAEA) in November 2003 exposed a significant procurement network, which some have called a “nuclear Wal-Mart”.³⁴² Notably, the Butler Inquiry praised the work of the intelligence communities in uncovering and dismantling the AQ Khan network.³⁴³

258. Discussing the extent of Pakistani proliferation, Dr Gary Samore told us: “Certainly in the case of Libya, Iran and North Korea, there is no question that Pakistan provided significant nuclear weapons systems, although I think there are still some uncertainties about exactly what Iran and North Korea acquired.”³⁴⁴ Dr Samore also mentioned reports that the ‘father of the Pakistani nuclear programme’, A Q Khan, or his representatives, approached Iraq, Saudi Arabia and Syria, but that these countries did not pursue the contact. “I think we have to assume that A Q Khan knocked on every door. We may very well learn that he had contacts with other governments in the Middle East but whether anybody actually bought anything, at this point in time, I am not aware.”³⁴⁵

259. The revelations about nuclear transfer from Pakistan have prompted concern that nuclear technology could have been passed to terrorist groups. In his speech on the continuing global terror threat on 5 March 2004, the Prime Minister said:

We knew that Al Qaida sought the capability to use WMD in their attacks. Bin Laden has called it a “duty” to obtain nuclear weapons. His networks have experimented with chemicals and toxins for use in attacks. He received advice from at least two Pakistani scientists on the design of nuclear weapons.³⁴⁶

260. In 2001, two Pakistani nuclear scientists were detained and questioned about links with the Taliban and al Qaeda. They were subsequently cleared of all charges and released in December 2001. Dr Samore told us that:

As far as I know, there is no information that A Q Khan was in touch with any non-state actors. The package that he was offering was centrifuge designs and components, nuclear weapons designs and some feed material, either natural or low enriched uranium hexafluoride. That package would be of little use to a terrorist group. For a terrorist group to acquire nuclear weapons, they would either need to obtain ready-made weapons or sufficient highly enriched uranium to make a crude nuclear bomb. I am less worried about non-state actors, even if they did get access to the package that A Q Khan was offering.³⁴⁷

342 ‘Nuclear program in Iran tied to Pakistan’, *Washington Post*, 21 December 2003.

343 HC (2003-04) 898, para 74.

344 Q33

345 Q34 [Samore]

346 ‘PM warns of continuing global terror threat’, 5 March 2004, available at: <http://www.number-10.gov.uk>

347 Q38

261. Under international pressure, Pakistan launched an inquiry into its nuclear scientists, including Dr Khan. On January 23 2004, President Musharraf admitted that individuals in Pakistan's nuclear programme might have profited from an international black market for nuclear technology. However, Pakistan continues to insist that the government never authorised nuclear transactions with any other country. On 4 February 2004, Dr Khan publicly confessed to transferring nuclear technology to Iran, Libya, and North Korea during the 1980s and 1990s. Dr Khan, who received a full pardon from President Musharraf for the offences to which he had confessed, also said that his activities were not authorised by Islamabad. "There was never, ever, any kind of authorisation for these activities by the government. I take full responsibility for my actions and seek [the Pakistani people's] pardon."³⁴⁸

262. In March the Prime Minister expressed confidence that "the A Q Khan network is being shut down, its trade slowly but surely being eliminated".³⁴⁹ Similarly, the Foreign Secretary expressed his satisfaction that progress is being made in the investigation into proliferation at a press conference during his visit to Pakistan in March 2004.³⁵⁰

263. However, suggestions that the A Q Khan network operated without government knowledge have been met with some scepticism, while President Musharraf's decision to pardon Dr Khan rather than prosecute him has prompted concern that Pakistan is not dealing sufficiently rigorously with the problem of proliferation. The Committee heard from Dr Samore that: "it is very difficult to analyse A Q Khan's activities as an individual scientist and his close coterie of friends acting on a freelance basis. I think it is much more likely that what we are witnessing is proliferation as a matter of state policy".³⁵¹

264. Nevertheless, Dr Samore is confident about President Musharraf's commitment to tackling proliferation:

I think that President Musharraf is serious about putting A Q Khan out of business and at least for now controlling any further occurrences, but I do not think we can necessarily be confident that in the future, perhaps under a different leadership, Pakistan might very well judge again that it is in its interests to share this technology. I think it is a matter that requires very close vigilance to try to continue maintaining a political relationship with Pakistan that puts us in a position to influence their decisions.³⁵²

265. Moreover, Dr Samore believes that the A Q Khan network was unique and that: "putting it out of business and by uprooting all the individuals and companies that were involved, that by itself will contribute more to strengthening the global regime than any other step you could take."³⁵³

348 'Pakistani who shared secrets is pardoned', 6 February 2004, *International Herald Tribune*.

349 'PM warns of continuing global terror threat', 5 March 2004, available at: <http://www.number-10.gov.uk>

350 'Straw 'satisfied' after WMD talks', BBC, 4 March 2004.

351 Q37

352 Q40

353 Q44 [Samore]

266. However, there are clear difficulties in ensuring that Pakistan does not continue to proliferate. Pakistan is not a signatory to the Nuclear Non-Proliferation Treaty, and is therefore under no international obligation to co-operate with IAEA investigations. Moreover, there are limits to what can be achieved by means of pressure. As Dr Samore told us:

[T]he problem about putting pressure on Pakistan is that it might break. It is a very fragile country. Now it is armed with nuclear weapons. I really think we have to tread very carefully. ... I think for now probably our best bet is to try to support President Musharraf as much as we can. That is not a guaranteed strategy. We do not know whether President Musharraf will survive the next attempt on his life. We do not know what kind of government will emerge if he is gunned down.³⁵⁴

Indeed, President Musharraf's decision to pardon Dr Khan reflects his limited room for domestic manoeuvre: Dr Khan is a national hero—moves against him prompted popular protests and strikes.³⁵⁵

267. In May, the FCO wrote to us about what it is doing to prevent further proliferation:

The UK, together with other countries, remains in contact with the Government of Pakistan over the action it is taking to ensure there is no further proliferation of nuclear technology. In particular, we are calling on Pakistan to introduce effective export controls including an end-use control. We are ready to work with Pakistan to develop effective legislation and implementation mechanisms.

We have also offered assistance with safety and physical security measures for Pakistan's nuclear facilities as foreseen in the Bradshaw Statement of 15 March 2002.

In addition to our contacts with Pakistan we have put proposals to India to develop cooperation on export controls and nuclear safety, building on India's existing good record of controlling the export of sensitive technology.³⁵⁶

268. Our witnesses also noted the importance of addressing Pakistan's regional concerns as a means of containing the threat of proliferation. Dr Samore told us:

the more Pakistan feels confident and secure and economically prosperous, the less likely it is that it will feel the need to resort to further transfers of nuclear technology. I completely agree with that.... Although I think we do need to try to integrate Pakistan as much as possible, nonetheless we have to be worried about the possibility that in the future a Pakistani government or a different Pakistani government might decide to trade nuclear assets for other things they feel they need.³⁵⁷

However, Dr Samore does not believe that Pakistan can be persuaded to relinquish its nuclear ambitions and sign the Non-Proliferation Treaty as a non-nuclear weapons state:

354 Q42

355 'Strike held for nuclear scientist', BBC, 6 February 2004.

356 Ev 70

357 Q41 [Samore]

I think Pakistan believes that it must have a nuclear deterrent to defend itself against a much larger enemy in every way. Even if you sold Pakistan every single conventional weapon on its wish list, I do not believe Pakistan would be willing to give up its nuclear deterrent.³⁵⁸

269. We welcome the Pakistani government's co-operation on proliferation following the alarming revelations about the AQ Khan network. We recommend that the United Kingdom Government continue to work closely with Pakistan to pursue the trail of Dr Khan's proliferation activities and to prevent further proliferation.

Democratisation and Human Rights

270. We now turn to consider the issue of democracy and President Musharraf's seizure of power. In October 1999, army Chief of Staff General Pervez Musharraf overthrew Prime Minister Nawaz Sharif in a bloodless coup. The national and provincial assemblies were dissolved and the constitution suspended. General Musharraf proclaimed himself Chief Executive, pledging to return power to parliament once he had reduced the corruption associated with the Sharif and Bhutto governments; he appointed himself President nine months after the coup. In April 2002, President Musharraf held a referendum on his role and secured a further five years as president with 98% of the vote on a 70% turnout. Pakistan's political parties, human rights groups and media claimed that there were widespread electoral abuses.³⁵⁹

271. General elections were held in October 2002. However, these were also criticised, with the EU Observation Mission reporting serious misgivings about some aspects of the poll. Its strongest criticism was directed at the restrictions placed on the nomination of candidates, the enactment of legislation aimed at preventing some candidates from standing, the institutionalisation of the role of the army in governing the country, and the apparent departure from a parliamentary form of democracy to a presidential system. The EU Observation Mission considered these to constitute "unjustified interference in the electoral process".³⁶⁰

272. More recently, moves to entrench further the position of the President have prompted concern. In December 2003, the National Assembly passed a bill on constitutional amendments allowing President Musharraf to remain in power until 2007, subject to a vote of confidence, and to remain Army Chief of Staff until the end of 2004. President Musharraf won the vote of confidence on 1 January 2004; he promised not to use his power to dismiss parliament early, but pushed through a bill establishing a National Security Council that enshrines the military's role at the centre of Pakistani politics. The National Security Council will consist of 13 members, four of whom come from the military, the rest being civilian leaders, and will advise the government on matters of importance to the state, including national security.

358 Q46 [Samore]

359 'Pakistan national and provincial assembly election, 10 October 2002', European Union Election Observation Mission, Final Report, p 5-6.

360 'Pakistan national and provincial assembly election, 10 October 2002', European Union Election Observation Mission, Final Report, p 6-7.

273. The army remains the most powerful institution in Pakistan, overshadowing the weak institutions of civilian government and politics.³⁶¹ The weakness of the government has been underlined by the powerlessness of the prime minister. Prior to his resignation in June, Prime Minister Zafarullah Khan Jamali was widely regarded as weak and ineffective—memorably he referred to President Musharraf as his ‘boss’.³⁶² During our visit to Pakistan, some of those we met were sceptical about the President’s pledge to stand down as Chief of Staff. However, others downplayed the importance of the pledge given the institutionalised role of the army in politics. The Committee also heard about serious concerns that the military has stunted the growth of democratic institutions, causing long-term damage to the independence of the judiciary and parliament. The Committee did not hear any suggestions as to how this situation might be reversed.

274. Pakistan was suspended from the Commonwealth following the coup in 1999. In November 2001, Commonwealth ministers decided that pending further progress towards democracy, Pakistan’s status should not change. However, in May 2003, the Commonwealth Ministerial Action Group (CMAG) welcomed the progress made by Pakistan in setting up democratic institutions, but noted that parliament was deadlocked over the status of the Legal Framework Order (LFO). In September 2003, CMAG linked readmission to the Commonwealth with a constitutional resolution of the LFO and agreed to review Pakistan’s suspension at their meeting in Spring 2004.

275. At its meeting on 21–22 May 2004, CMAG noted the adoption by Parliament of the LFO and welcomed the country’s progress restoring democracy, rebuilding democratic institutions and restoring the Constitution. As a result, CMAG decided to readmit Pakistan to the Commonwealth.³⁶³ Nevertheless, CMAG noted “continuing concerns over strengthening the democratic process” and Secretary-General Don McKinnon made it clear that Pakistan’s readmission was contingent upon continued progress towards democratisation as well as President Musharraf’s adherence to his pledge to stand down as military leader by the end of the year.³⁶⁴ President Musharraf reacted angrily to these conditions, saying that he would not be dictated to by the Commonwealth: “We will take steps that are in the interests of Pakistan, not of the Commonwealth. The Commonwealth should be proud of having a country like Pakistan joining it, therefore we don’t accept such conditional ties.”³⁶⁵ Pakistan will remain on the CMAG agenda.

276. We recognise the progress that Pakistan has made towards restoring democracy and welcome Pakistan’s readmission to the Commonwealth. However, we are concerned about the slow progress of democratisation and in particular the dominant role of the army in the country, which we believe is detrimental to the democratic process. We recommend that the Government work with Pakistan to encourage democratic reform, and also provide assistance in institution-building.

361 ‘Pakistan’s future and U.S policy options’, Center for Strategic and International Studies, Washington, March 2004, p 6-8.

362 ‘Pakistan’s prime minister resigns’, BBC, 26 June 2004.

363 ‘Twenty-third meeting of the Commonwealth Ministerial Action Group on the Harare Declaration (CMAG), Marlborough House, London, 21-22 May 2004, concluding statement’, Commonwealth news release, 22 May 2004, p 2.

364 ‘Musharraf defies Commonwealth’, *The Times*, 26 May 2004.

365 *Ibid*

277. There is also concern about the human rights situation in Pakistan. In an open letter sent to President Musharraf in October 2003, Human Rights Watch cited its concerns about the torture and mistreatment of political opponents and journalists, the failure to meet internationally recognised standards of due process and legal discrimination against and mistreatment of women and religious minorities.³⁶⁶

278. We are also concerned about evidence of continuing cases of forced marriage between United Kingdom and Pakistani individuals, although during our visit to Pakistan we heard about important co-operation between the United Kingdom High Commission and the local authorities as well as local non-governmental organisations to address this problem. We were also deeply concerned by what we heard about legal discrimination against religious minorities, bonded labour and the inadequacies of law enforcement and criminal justice capacity and procedure. With regard to women's rights, the application of the *hudood* ordinances and honour killings are the main problems. Although some work has been done to address these issues, progress is hindered by objections from religious parties. The position of women is worsened by their generally low socio-economic position, which makes them vulnerable to a range of abuses. On a more positive note, we also heard about the effectiveness of international advocacy in addressing such problems.

279. We conclude that the human rights situation in Pakistan remains unacceptable. We commend the work of the Foreign Office to tackle the problem of forced marriage in Pakistan involving United Kingdom citizens. However, we recommend that the Government encourage Pakistan to adhere to international human rights standards and guarantee the rights of all Pakistani citizens. We further recommend that the Government offer Pakistan assistance in capacity-building and training with regard to law enforcement, the criminal justice system and human rights.

366 'Return Pakistan to Civilian Rule', letter to General Pervez Musharraf from Human Rights Watch, 10 October 2003.

5 The Russian Federation

280. The Russian Federation has become a close partner of the West in the years since the fall of communism. After 11 September 2001 Russia made clear its support for the US in the war against terrorism. This support continues – President Putin said in his State of the Nation address on 27 May 2004: “Our line in the struggle against terror remains unchanged and consistent. We will continue to work on the development of internationally recognised legal instruments and collective mechanisms for the neutralisation of global threats. I regard the task of strengthening the anti-terrorist coalition as one of the most important ones.”³⁶⁷

281. The proliferation of weapons of mass destruction and the growing challenges of Islamic fundamentalism in Afghanistan and Chechnya present major threats to the Russian Federation’s national security which the authorities are working to tackle. For instance, on 31 May 2004 Russia joined the Proliferation Security Initiative (PSI), an effort to control WMD proliferation by stopping and searching ships and aircraft outside states’ legal boundaries, despite previous doubts about the initiative.³⁶⁸ The war on terrorism has presented opportunities for Russia, according to Mr James Sherr, a fellow of the Conflict Studies Research Centre at the United Kingdom Defence Academy, when he gave us evidence because:

it has enhanced their position in Europe and the world, especially as a major player in energy. It has afforded them a new set of justifications for enhancing their own influence and domination over certain countries in the former Soviet Union, particularly Ukraine and Moldova, and certainly there are strong aspirations in this regard with respect to Georgia.³⁶⁹

282. However, Russia’s anti-terrorist stance does not match either the Federation’s military capacity for anti-terrorist operations or its strategic thinking. Reform of the armed forces is slow, while strategic planners retain some degree of scepticism towards the international anti-terrorist coalition. The president of the Academy of Military Science Army, General Makhmud Gareev, encapsulated the institutional scepticism of the war against terrorism when he wrote in mid 2003: “The US and some other NATO countries try to use the threat of terrorism to cover their far reaching geopolitical goals...Orientating the armed forces only toward low intensity conflicts and local wars or only for the war on terrorism is rather dangerous. Such an orientation in the structuring and training of armed forces could lead to a deterioration of the army, the fleet and the officer staff.”³⁷⁰ Many strategic planners still see Western military dominance as the major threat to the Federation’s security, with particular concern for US dominance with precision weapons.³⁷¹

367 In quotes: Putin vows defence of democracy, BBC, 27 May 2004

368 Russia to participate in Proliferation Security Initiative, *Russia Journal*, 1 June 2004.

369 Q280

370 Alexander Golts, “Military Reform in Russia and the Global War against Terrorism”, in *Journal of Slavic Military Studies* vol 17 (2004) : pp 29-41

371 Trenin, Dmitiri, “Russia and Global Security Norms”, *Washington Quarterly*, ,vol 27: 2 (2004), pp 63-77

283. Mr Sherr explained to us why Russia was sceptical of the war against terrorism. He said:

Even as of 12 September 2001, we succeeded in developing only a limited partnership with Russia in the global war on terrorism. That is because there are a number of considerable differences in approach. They have developed over the years, and the Iraq war has intensified them. The first of these is that, from a Russian perspective, the war on terrorism is a matter of national survival. Many people in Russia perceive that we—particularly the United Kingdom and the United States—are using the war on terrorism as a way of enhancing and extending our domination of the international system. Secondly, whereas we are inclined to link the issues of terrorism, weapons of mass destruction, nuclear proliferation, other dangerous proliferation of weapons and material, the Russians are not inclined to do this and very clearly separate these issues.³⁷²

284. This section of the report will examine Russia's contribution to the war against terrorism by looking at Russia's involvement in the war against terrorism, involving its position on the conflicts in Iraq and in Afghanistan, its military reform process and its relations with NATO. Then, it will examine the war in Chechnya, before discussing international non-proliferation efforts, such as the G8 Global Partnership and the Nunn-Lugar Co-operative Threat Reduction (CTR) Programme, and Russia's role in Iran's nuclear programme.

Russia and the war against terrorism

Iraq

285. Russia voiced loud opposition in the run up to the war in Iraq last year. On 16 March 2003 President Putin told the Duma in a debate on Iraq that “strong, well-armed national armies are sometimes used not to fight this evil [international terrorism] but to expand the areas of strategic influence of individual states”.³⁷³

286. Putin opposed the war for a number of reasons. First, Russia had a strong economic commitment to Saddam Hussein's Iraq, which included lucrative construction and oil industry contracts, and a Soviet era debt owed by Baghdad to Moscow, worth about US\$8 billion. Negotiations on Iraq's debt are ongoing.³⁷⁴ Second, the US war in Iraq was very unpopular in Russia, where many people saw it as a threat to Russia; Putin was also aware that 18% of the Russian population is Muslim.³⁷⁵ The third, and perhaps most important reason, is Russia's commitment to the United Nations, and the Security Council as a remnant of its superpower status. Putin told the Duma in his 2003 annual address: “In the event of an aggravated threat to the world community as a whole or to an individual country, it seems extremely important to have a decision making mechanism which has to

372 Q280

373 Alexander A Belkin, “US-Russia Relations and the Global Counter-terrorism campaign”, *Journal of Slavic Military Studies* vol 17 (2004), pp 13-28

374 ‘Russia discusses old Iraqi contracts’, *BBC*, 22 December 2003,

375 ‘Russian muslims hail headscarf ruling’, *BBC*, 15 March 2003

be comprehensible, transparent and recognised by everyone. It goes without saying that the United Nations and its Security Council is the most important such mechanism.”³⁷⁶

287. Events since the invasion, including the strategy outlined by US National Security Adviser Condoleezza Rice to “forgive Russia”, have softened the rhetoric; for instance, the passage of UNSCR 1546 on Iraq on 8 June 2004 has reduced acrimony over Iraq.³⁷⁷ On our visit to Moscow we learnt that the Russian Foreign Ministry welcomed the compromise text of the resolution, that the willingness of the former Occupying Powers to consult Moscow had led to Russia’s more conciliatory stance, and that a similar approach in 2003 might have lessened opposition to the war.

288. Russia’s interests in peace and stability in Iraq and the broader Middle East are strong, since the Federation has large and transparent economic interests in Iraq, mostly in the oil, power, transport and infrastructure sectors.³⁷⁸ Referring to these interests, old and new, Elizabeth Jones, the US Undersecretary of State for European and Eurasian Affairs, said on 18 March 2004:

Russia has not yet pledged major economic assistance to Iraq, but Russian companies are eager to participate in its reconstruction on commercial terms, and are already doing so under contracts already funded under the Oil-for-Food program, to the tune of almost two billion dollars. We have assured Russian leaders that Russian firms are welcome to bid on sub-contracts associated with U.S. tenders. Moscow has also expressed its willingness to reduce Iraq’s Soviet-era debt of approximately US\$8 billion in accordance with its memorandum of understanding with the Paris Club.³⁷⁹

However, the Russian Federation still has major concerns about Iraq’s sovereignty and the course of the political process, and the importance of preserving Iraq’s unity.

289. We conclude that the latest diplomatic efforts have re-engaged Russia on Iraq and are contributing to a less divisive climate. We commend the Government for its work on the latest United Nations Security Council Resolution on Iraq, but we also recommend that the Government continue to consult the Russians closely so that it is in a position to take account of their concerns in Iraq and the broader Middle East.

Afghanistan

290. The Russian Federation supported the US-led campaign in Afghanistan, because of longstanding concerns about the situation in the strife-torn state. Afghanistan’s instability and its impact on Central Asia has shaped Moscow’s policy in the region, which involved assistance for the pro-soviet government until its fall in 1992 and opposition to the Taliban

376 Alexander A Belkin, “US-Russia Relations and the Global Counter-terrorism Campaign” in *Journal of Slavic Military Studies* Vol 17 (2004) pp 13-28

377 ‘Iraq vote gives G8 fresh impetus’, *BBC*, 9 June 2004. For the full text of the Resolution, see Appendix to this Report.

378 Russian contractors to quit Iraq, *BBC*, 26 May 2004

379 US Department of State, US-Russia Relations in Putin’s Second Term: <http://www.state.gov/p/eur/rls/rm/30556.htm>

take over from 1994. The Russians accused the Taliban of aiding the Chechen separatist effort, and declared their support of the Northern Alliance/United Front.³⁸⁰

291. In September 2000, the US-Russia Working Group on Afghanistan released a joint statement calling the situation in Afghanistan a continuing threat to regional security, and pledging to counter the threats emanating from Afghan territory.³⁸¹ The Group's concerns appeared vindicated following the 11 September 2001 attacks. Since then, Russia has cooperated with the United States, supporting the establishment of bases in Central Asia and providing intelligence and diplomatic support for the campaign in Afghanistan. Mr Sherr described the Russian Federation's involvement in the campaign as "a very firm partnership",³⁸² and Russian troops continue to play a key role on the Tajik border preventing the escape of former Taliban.³⁸³

292. Russia has strong concerns about the reconstruction process, however. A major reason for Russian concern is the flow of drugs from Afghanistan. As we note above, under the US-supported Afghan Transitional Administration of President Karzai the production of opium has surged, and this year's harvest could reach 4000 tons, up from 3,422 tons in 2003 and a radical increase from a low in 2001 when, after the Taliban banned the crop, production plummeted by 96%.³⁸⁴ We learnt on our visit to Moscow of the Russian authorities' concerns about the export of opium and heroin from Afghanistan, because Russia currently has between 3 and 4 million drug addicts in a population of about 145.5 million.³⁸⁵ The Russians felt that the US has been slow to understand both the scale of the problem of drugs production and how anti-drugs policies needed linking into a wider approach which includes the diversification of agriculture, interdiction of trafficking and greater use of aerial reconnaissance.

Russia is concerned that security concerns override the war against drugs. Speaking in Munich in February 2004, Sergei Ivanov, the Russian Defence minister, criticised NATO for turning a blind eye to the flourishing opium trade in Afghanistan—a policy he claimed the USA and its partners pursued to ensure the support of warlords for reasons of security—saying that "following the operation in Afghanistan, this State has once again turned into a major source of drug trafficking which crosses the CIS and Russia on to Western Europe".³⁸⁶ Our recommendations on Afghanistan are set out above.

293. We conclude that the Russian Federation's support for efforts to bring peace and democracy to Afghanistan is valuable, but that support for the reconstruction process is being damaged by the slow progress on the counter-narcotics strategy.

380 Russian policy towards Afghanistan, Michael Jasinski, *NIS Nonproliferation Program*, 15 September 2001

381 Russian Ministry of Foreign Affairs, Press Statement:
<http://www.in.mid.ru/bl.nsf/0/d3088cb6461d66ec4325699c003b60ec?OpenDocument>

382 Q280

383 'Putin sending troops to Tajikistan', BBC, 27 April 2003

384 'Russian drug official criticises US for Afghan heroin surge', *Wall Street Journal*, 11 August 2003

385 'Russia fights heroin attack' BBC, 26 August 2003

386 Munich Conference on security policy,
http://www.securityconference.de/index.php?menu_2004=&menu_konferenzen=&menu_presse=&sprache=en&

Military reform in Russia

294. The Russian Federation's contribution to the war against terrorism is linked to its progress on military reform. A strong effort is under way to reinvigorate the armed forces, which President Putin emphasised in his State of the Nation Speech. He said: "The modernisation of the army is...undoubtedly one of our national priorities. We need battleworthy, technically equipped and modern armed forces for the secure defence of the state."³⁸⁷

295. Mr Sherr told us that military reform remained a priority:

I think it is fair to say with regard to the key instruments in combating terrorists or dealing with Russian national security — and I do not simply mean the armed forces of the Ministry of Defence but this formidable array of other military structures outside the Ministry of Defence — the Ministry of the Interior, the Federal Security Service (FSB) and so on — that there has been a very concerted effort, beginning in 2001, to conduct systematic reforms of all these structures; but there remain serious problems.³⁸⁸

296. Reorganising the Russian military has met intense opposition from entrenched interests. Mr Sherr described the problems facing the Russian authorities:

When President Putin came to office, the Russian armed forces and security services had become so deficient in their capabilities and so pathological in their way of dealing with problems that they were actually a threat to Russia's national security, rather than an instrument of national security. Now the picture is much more mixed, but there remain very deep-seated problems in all of these structures. Many of them begin and end with morale, training and the quality of people who are called upon to undertake what we all know are extremely complex and difficult tasks. If the buoyancy of the Russian economy fails to sustain itself, I think that the significant but limited gains which have been achieved will not be sustained either. This therefore remains an area with which we all have to be concerned.³⁸⁹

He added that the demise of the Soviet Union resulted in the collapse of a "global intelligence entity", and that corruption was still a major problem in the intelligence services.³⁹⁰

297. Without an effective military geared towards the challenges of the war against terrorism, the Russian Federation's contribution will be less effective than hoped. However, on our visit to Moscow we saw some signs of a commitment to military and security reform. For instance, we heard that the reinvigoration of the National Security Council under former Minister of Defence Igor Ivanov points towards an increased determination to tackle the threats facing the Federation by bringing together all the organs associated with Russia's national security.

³⁸⁷ In quotes: Putin vows defence of democracy, BBC, 27 May 2004

³⁸⁸ Q282

³⁸⁹ Q282

³⁹⁰ *Ibid*

298. We conclude that reform of the military and security services in Russia would contribute to the international struggle against terrorism. We therefore recommend that the Government continue its support for Russian efforts to reform its military and its contribution to mutual understanding by increasing exchanges of military personnel between the United Kingdom and the Russian Federation. We recommend that in its response to this Report the Government set out how it intends to strengthen military ties with the Russian Federation.

NATO and Russia

299. The growing relevance of the North Atlantic Treaty Organisation (NATO) to the reconstruction effort in Afghanistan means Russia's relations with NATO are central to any successful conduct of the war against terrorism. For instance, the expansion of NATO into eastern Europe and the Baltic states in April 2004 and its involvement with the International Security Assistance Force (ISAF) in Afghanistan, mean both that Russia's relations with NATO need to take into account the Alliance's changing role and that NATO needs to dispel Russia's traditional fears of containment by the Alliance.

300. The Russian Federation currently enjoys closer relations with NATO than at any time in the past, despite its concerns about the expansion of the Alliance to its borders. These links are, in part, a response to the terrorist attacks of 11 September 2001 which resulted in the creation of the NATO-Russia Council (NRC) at the Rome Summit on 28 May 2002. The NRC meets at ambassador level once a month, and at six monthly intervals at foreign minister level, and builds on co-operation in certain key areas, including the war against terrorism, crisis management, non-proliferation, arms control, theatre missile defence, sea search and rescue, military-to-military cooperation and civil emergencies. Russia has no right of veto in the NRC and NATO reserves the right to keep discussion on contentious issues amongst members. All 27 members of the NRC, including the Baltic states and Russia, met for the first time on 2 April 2004.³⁹¹

301. Despite the evolution of the NRC, Russia still has powerful doubts about NATO's aims. When NATO Secretary General Jaap de Hoop Scheffer visited Moscow on 9 April 2004 in an attempt to allay Russian fears about the expansion of the Alliance, President Putin made clear his scepticism of NATO's place in the war against terrorism. He said: "This purely mechanical expansion does not let us face the current threats and cannot allow us to prevent such things as the terrorist attacks in Madrid or restore stability in Afghanistan."³⁹²

302. Many Russians still feel that NATO has aggressive intentions towards Russia. For instance, the Duma passed a resolution in May 2004 attacking the deployment of Belgian F16 fighters in the Baltic states as a threat to Russia.³⁹³ This is symptomatic of 'old thinking' in the State Duma, since the Russian government had been given two months notice of the deployment and had made no formal protest. Another source of concern is that the Baltic states have yet to sign an amended version of the Conventional Armed Forces in Europe

391 NATO: The Prague summit and beyond, Research Paper 03/05, *House of Commons Library*,

392 'NATO chief tries to sooth Putin's fears', *Chicago Tribune*, 9 April 2004

393 'Sergei Lavroy on NATO's decision to patrol Baltic airspace', *Pravda*, 2 April 2004.

Treaty, which controls the continent's troop numbers and equipment quantities.³⁹⁴ Russia fears that NATO could build up its forces in the Baltic states until the new members adopt the treaty, but NATO has linked the issue to the frozen conflicts in Moldova and Georgia and the failure of the Russian Federation to meet its undertakings to withdraw its forces made at the 1999 Istanbul conference of the Organisation of Security and Co-operation in Europe.³⁹⁵

303. NATO's decision to step up Partnership for Peace programmes in Central Asia and the Caucasus, as well as the diplomatic impact of the new US airbases in Central Asia, will also require careful handling in order not to increase fear of competition or threat among Russian policy makers.³⁹⁶ Responding to the concern in Russian strategic circles, Elizabeth Jones, US Assistant Secretary of State for European and Eurasian Affairs, said in March 2004: "We have no desire to compete with Russia in a modern version of the 'Great Game.'"³⁹⁷

304. The threat of competition rests on lack of mutual understanding. Strengthening links between NATO and Russia is essential to overcome the difference in perceptions between the sets of foreign policy makers. Currently, the NRC plans a number of confidence building measures including further work on the fight against terrorism, co-operation on defence reform, efforts to develop interoperability between NATO and Russian forces, work to implement modalities for NATO-Russia peacekeeping operations, co-operation on civil emergencies, dialogue on nuclear issues, the development of theatre missile defence capabilities, and approval of the Co-operative Airspace Initiative Project Plan.³⁹⁸ However, the NRC must overcome difficulties such as the linguistic capability of Russian officers, many of whom speak no English, the limited financing for the Russian armed forces, and the negotiation of Status of Forces Agreements (SOFA) between the two, for future consultations to proceed.³⁹⁹

305. We conclude that the NATO-Russia Council (NRC) is an essential tool to improve the political and military engagement between Russia and the alliance members. We recommend that the Government encourage its fellow members of NATO to expand co-operation through the NRC in order to alleviate concerns in Moscow about NATO's expansion into eastern Europe and to prevent a 'Great Game' between Russia and NATO in Central Asia. We also recommend that in its response to this Report the Government set out its plans to develop the NRC as a tool in the war against terrorism.

The War in Chechnya

306. The Russian Federation contends that the conflict in the secessionist region of Chechnya epitomises its ongoing struggle against international terrorism. The war started

394 *Ibid*

395 'NATO chief promotes friendlier ties', *Moscow Times*, 9 April 2004

396 'Engaging Russia as Partner and Participant', *The RAND-ISKRAN Working Group on NATO-Russia Relations*, Brussels. June 2004

397 US Department of State, US-Russia Relations in Putin's Second Term: <http://www.state.gov/p/eur/rls/rm/30556.htm>

398 'Engaging Russia as Partner and Participant', *The RAND-ISKRAN Working Group on NATO-Russia Relations*, Brussels. June 2004 p12

399 *Ibid* p 31

when the dissolution of the Soviet Union in 1991 offered the Chechens an opportunity to declare independence under Dzhokhar Dudayev. No Russian military response took place until 1994, when 35,000 Russian troops entered the secessionist republic, in response to which the Chechens launched an imaginative guerrilla campaign led by Shamil Basayev and Aslan Maskhadov. The Russians withdrew, defeated, in August 1996, and signed a formal peace treaty in May 1997.⁴⁰⁰

307. Chechnya became a failed state in the period following its successful secession from the Russian Federation. Lawlessness defined the Republic between 1996 and 1999, while Wahabism funded by Saudi supporters took hold in the traditionally Sufi population and contributed to a rising tide of Islamic militancy. In August 1999, a raid aimed at establishing an Islamic Republic led by Basayev and the Jordanian Arab, Khattab, into neighbouring Dagestan, started a new war. Russia launched an assault on Chechnya with 90,000 troops in December 1999 and took Grozny in February 2000.⁴⁰¹

308. The Russian Federation decided to “Chechenise” the conflict following the capture of Grozny. President Putin appointed Ahmad Kadyrov, Chechnya’s Grand Mufti — its most senior Muslim cleric — and a former resistance leader, head of a civilian administration and scaled back the Russian military presence in Chechnya; an election replete with irregularities in October 2003 sealed Kadyrov’s position. However, Russia’s efforts to normalise Chechnya faltered with his assassination by bomb on 10 May 2004. The attack, for which warlord Shamil Basayev claimed responsibility, also severely injured Russia’s foremost military commander in the region, General Valery Baranov.⁴⁰² The assassination was a body blow to Russia’s policy in Chechnya.

309. In response to the crisis, President Putin appointed Kadyrov’s 27 year old son, Ramzan Kadyrov, as Deputy President, pending elections in August 2004. Ramzan controls a 2000 strong militia, known as the Kadyrovtsy, that intimidates and murders opponents of the regime.⁴⁰³ Putin also paid a rare visit to the secessionist republic and declared that he would send another 1000 troops to supplement the approximately 80,000 troops already there.⁴⁰⁴ The current favourite to succeed to the Chechen Presidency is Alu Alkhanov, who appears to have the official endorsement of the Kremlin.⁴⁰⁵

310. The place of the conflict in Chechnya in the wider war against terrorism is complex. In Moscow we heard that Russian security forces had found foreign passports on insurgents captured or killed in Chechnya and that ties between al Qaeda and Chechnya were strong. Indeed, in a response to the attacks of 11 September 2001, President Putin said that “Chechen developments ought not to be regarded outside the context of efforts against international terrorism.”⁴⁰⁶ However, some observers contend that the Chechen war is not strictly an Islamist movement. For instance, elements in Chechen society have struggled to

400 *Chechnya*, Research Paper 00/14, House of Commons Library November 2002.

401 *Ibid*

402 ‘Russia to boost Chechnya forces’, *BBC*, 11 May 2004

403 ‘Son of murdered Chechen leader given senior role’, *Financial Times*, 10 May 2004

404 ‘Russia to boost Chechen forces’, *BBC*, 11 May 2004

405 *Chechnya Weekly Vol V, Issue 25, The Jamestown Foundation*, 23 June 2004

406 *Chechnya*, Research Paper 00/14, House of Commons Library, November 2002

resist the Islamisation of their war efforts – most notably Aslan Maskhadov, president of the secessionist Chechen Republic of Ichkeria who reluctantly espoused Islamist principles in 2003.⁴⁰⁷

311. Tom de Waal, who heads the Caucasus project at the Institute for War and Peace Reporting, said that three conflicts existed in Chechnya. He told us:

One is a conventional sort of colonial/separatist conflict that we could know from places like Algeria, with a rather brutal government trying to defeat secessionists. The second one is an internal Chechen conflict—again a feature of the last two or three years—where you have seen Chechens fighting Chechens, and Chechens becoming victims of bombings. Again, this is a result of Russia's policy of what they call "Chechenisation", which is...subcontracting the war to loyal Chechen satraps—although Chechenisation is in a lot of trouble since the assassination of Akhmad Kadyrov, its main object, on 9 May. The third one, as you say, is a terrorist war.⁴⁰⁸

312. He contended that before 1994 Chechnya was not a strongly Islamic society.

Slowly, in the 1990s, you saw a radicalisation, as a result of the appalling destruction of people's lives and homes. People started turning to Islam. Simultaneously, you saw the arrival of foreign volunteers, and then you had a period of de facto independence when more volunteers arrived between 1997 and 1999. Of the two wings of the Chechen rebel movement during the current war, the Islamist radical wing suddenly became much stronger. Having said all that, I think we should put this into context. We are not talking about Afghanistan. The number of foreign volunteers is probably a few dozen, rather than in the thousands. You have to remember that Chechnya is surrounded by high mountains. It is very difficult to access...Secondly, the Chechnya population is still quite resistant to radical Islam. I have seen estimates that maybe 10% of them subscribe to radical Islam. Thirdly, I would go back to my main point: that even if all the foreign volunteers and all the Islamists were to die, you would probably still have a conflict in Chechnya – in the sense that fundamentally, underneath, that colonialist/nationalist conflict remains.⁴⁰⁹

313. In Moscow, we heard that the greatest importance of Chechnya was its role as a rallying point for Islamist groups. Mr de Waal underlined this point when he said:

I think that the foreign Islamist jihad interest in Chechnya is stronger than the other way round. We have had, for example, Ayman al Zawahiri trying to go to Chechnya, in 1998 I think, and actually spending six months under an assumed identity in a Russian prison – a very bizarre incident. His identity was not rumbled. You saw people trying to go to Chechnya and there is this Saudi warrior, Abu al-Walid, who is still believed to be in Chechnya and who had been in Afghanistan. Obviously there

407 Jeffrey M Bale, "*The Chechen resistance and radiological terrorism*", Centre for Nonproliferation Studies, April 2004: http://www.nti.org/e_research/e3_47a.html

408 Q285

409 *ibid*

are links there. You also saw phone calls being made during the Moscow theatre siege to Chechens based in Qatar and places like that.⁴¹⁰

However, he played down the reports of Chechens fighting in Afghanistan or Iraq, saying that “when people come across Russian speakers they tend to dub them Chechens, whether they be Tajiks or Uzbeks. There is almost no evidence of real, live Chechens being found in Afghanistan.”⁴¹¹ He then summed up the links between international terrorism and the Chechen fighters by saying that there was “a lot of ideological support, some financial support; but in terms of actual, logistical physical support, still fairly limited – fortunately.”⁴¹²

314. The intransigent position of the government in Moscow has prevented any resolution of the crisis, while frequent human rights abuses by Russian or pro-Russian forces have seriously damaged any support for the Federation in the region, and risk contributing to the spread of the conflict. Mr Sherr told us:

Beginning in 1996, and more intensively in 1999, the Russian federal structures systematically eliminated any people, any networks and any institutions from Chechnya, which had credibility amongst the Chechens and which could have secured some kind of stable peace. The result of this, in my view, has been that a vacuum has been created into which foreign forces and radical Islamists have entered and who are beyond the control of anyone...Solving the situation is a very long term issue, but the urgent priority is not to make it worse. The problems that the Russians continually face...are almost always the fruit of previous Russian conduct.⁴¹³

315. The record of human rights abuses in the secessionist republic is appalling. Mr de Waal told us:

I have some figures here from last year from Memorial, the human rights organisation. In 2002 they recorded 729 killings of civilians [in Chechnya]; 537 people abducted and disappeared. In 2003, 500 civilians killed; 470 disappeared. Most of these people were killed and abducted at night, when it is very difficult for the rebels to operate. We must therefore presume that these are either by the Russians or the pro-Russian forces.⁴¹⁴

These figures only covered 25 to 30 per cent of the territory of Chechnya.⁴¹⁵ Amnesty International also released an extensive report documenting human rights abuses in Chechnya on 23 June 2004, which the report claims are happening in the neighbouring republic of Ingushetia.⁴¹⁶

410 Q286

411 *ibid*

412 *ibid*

413 Q287 [Mr Sherr]

414 Q288

415 *ibid*

416 Normalization in whose eyes?, *Amnesty International*, June 2004:
<http://www.amnestyusa.org/news/document.do?id=5FED4C6CEA09682C80256EA80042124C>

316. The grounds for optimism are not strong. A raid into Ingushetia on 22 June 2004 by Chechen forces points to an intensification of the conflict, and Mr Sherr told us that “even in the short term we will see a noticeable deterioration of the situation there”.⁴¹⁷ Some of what we heard during our visit to Moscow tended to support his fears, since we learnt that some Russians feel that attempts to resolve the crisis politically had led to the current impasse, and that a military solution would already have terminated the conflict.

317. Chechnya, then, is more an issue to rally support in the Islamic world than a breeding ground for terrorism itself, although the brutal policy pursued by Russia risks contributing to the spread of the conflict by radicalising a desperate population. The Russians argue that the Chechen conflict is part of the war against terrorism, and there is little doubt that groups linked to al Qaeda have shown an ideological interest in and provided limited support for the secessionist Chechens. However, the Russian authorities adamantly refuse to internationalise the war and claim that it is an internal matter.

318. Mr de Waal suggested that there are two groups the Russians should engage in an effort to resolve the conflict.

One is the international community. They continually say now that this is an international problem but deny there should be an international aspect to the solution, which seems to me to be a paradox. They do allow, on a limited basis, the Council of Europe to visit Chechnya; but the OSCE mandate is now very limited. It seems to me that, if we can push the Russians on getting an expanded Council of Europe and OSCE presence in Chechnya to monitor what is going on, that would be in everyone’s interests, including the Russians. The second group that they have consistently failed to talk to is the Chechen population as a whole. All elections have been rigged in Chechnya, and Chechnya actually has a very decentralised, community-based culture—or at least used to before it was shattered by war. Everyone who knows Chechnya says that some kind of parliamentary system, some kind of Loya Jirga for Chechnya, would be a way forward in which different groups could be brought together. Again, that involves the Russians loosening control, delegating power to ordinary Chechens—which is something they are very afraid of doing.⁴¹⁸

319. We conclude that links exist between the Chechen rebels and the international network of terrorists affiliated to al Qaeda, but that the conflict is not purely a terrorist insurgency. We further conclude that Chechnya has great importance as a rallying cry for Islamist insurgency throughout the Muslim world, and that the heavy handed approach of the Russian authorities, including repeated human rights abuses, risks further radicalising the Chechen population and spreading the conflict in the North Caucasus. We recommend that the Government engage the Russian Federation on Chechnya, and comment on Russian policy in the region—in private if necessary. We also recommend that the United Kingdom encourage the Russian authorities to increase the role of the international community in the secessionist region, and that in its response to this Report the Government set out how it will seek to encourage the

417 Q291 [Mr Sherr]

418 Q288

Russians both to expand the OSCE and Council of Europe mandates in Chechnya and to consult with the ordinary people of Chechnya.

Non-proliferation

320. The Soviet Union took non-proliferation seriously, supporting both the 1963 Limited Test Ban Treaty and the 1968 Nuclear Non-Proliferation Treaty. The Soviet military also took great pains to remove nuclear weapons from Russia's borderlands in the wake of the 1991 dissolution of the Union. However, Russia's record since 1991 has raised major concerns for the non-proliferation efforts associated with the war against terrorism.

321. Currently, Russia provides aid for Iran's nuclear energy program and exports nuclear reactors for ships and submarines, which rely on highly enriched uranium fuel, to states such as Indonesia and India. The nuclear sector still produces large quantities of weapons grade plutonium, and no comprehensive inventories of fissile material stockpiles exist, despite the accumulation of large quantities of weapons grade plutonium from civilian reactors each year. For instance, three reactors in the closed nuclear cities of Seversk and Zheleznogorsk generate enough plutonium for a nuclear weapon every day, although the US and Russia have agreed to shut them down.⁴¹⁹

322. The military also still has a vast number of nuclear warheads – the current Russian nuclear stockpile is estimated to include about 5,000 deployed strategic weapons, about 3,500 operational tactical nuclear weapons, and more than 11,000 stockpiled strategic and tactical warheads, for a total arsenal of about 19,500 nuclear warheads.⁴²⁰ Many other less radioactive substances, such as material used in hospitals, also remain at large. For instance, the 132 nuclear lighthouses along the Arctic Coast powered by Strontium 90, some of which have not been inspected in years and have even gone missing, could present terrorists with the means to obtain radiological material.⁴²¹ The Russian Federation's chemical weapons facility is also vast but the biological weapons programmes may be a greater concern, since international observers cannot visit sensitive laboratories and the Russians are reluctant even to admit their existence.⁴²² The greatest difficulty in dealing with the Soviet Union's weapons legacy is that individuals and institutions in the Russian Federation profit greatly from the trade in WMD materials and know-how.⁴²³

323. The international community, particularly the USA, works closely with the Russians but differences in perception of the WMD threat are substantial. Mr Sherr told us that :

there are some very significant differences in official policy between Russia and ourselves, particularly with regard to providing defence and technology and the nuclear relationship between Russia and Iran. In some respects these disagreements

419 'US, Russia agree to plutonium reactor shutdown', *Arms Control Association*, April 2003,

420 , US/Russia Arms Control, *Arms Control Association*: http://www.armscontrol.org/act/2002_06/factfilejune02.asp

421 'Nuclear light houses to be replaced', *Bellona*, 2 February 2002: <http://www.bellona.no/en/international/russia/nuke-weapons/nonproliferation/28067.html>

422 Testimony of Dr James Clay Moltz, Director, *NIS Nonproliferation Program*, *Centre for Nonproliferation Studies*, 14 May 2003

423 US efforts to halt WMD proliferation, *Centre for Nonproliferation Studies*, *Monterey Institute of International Affairs*, 14 May 2004

have hardened since President Putin came to office. They have not diminished just because our relationship has become stronger.⁴²⁴

Iran's nuclear programme

324. The support Russia provides for the Iranian nuclear programme underlines the differences in perception of the WMD threat. Russian co-operation with Iran has raised concerns in London and Washington since President Putin restarted support for the Bushehr nuclear plant in 2000. The US claims that the plant provides Iran with an opportunity to build up supplies of enriched uranium and contributes to the Iranian nuclear weapons programme, but the Russian Federation contends that because Iran is a signatory to the Non-Proliferation Treaty—and has even agreed an action plan with the International Atomic Energy Association (IAEA) under the Additional Protocol—its policy is legitimate.⁴²⁵

325. On our visit to Moscow we heard that the Russians believe that denying Iran its nuclear programme would be unwise, since Russia takes back spent nuclear fuel and monitors Iran's nuclear programme closely. The Russians contend that a monitored programme is better than an unconstrained one, and their stance appears vindicated by comments from Mohamed El Baradei on 29 June 2004, stating that the Bushehr nuclear plant did not contribute to an Iranian nuclear weapons programme.⁴²⁶ In our last Report, we expressed our strong support for the IAEA's inspections of Iranian nuclear facilities, and concluded that Iran's willingness to comply with the Additional Protocol demonstrated the influence of a joint approach.⁴²⁷ In our Report on Iran earlier this year, we also noted that Iran was likely to test the agreement with the IAEA to its limits, and called for very close monitoring and supervision of its compliance.⁴²⁸

326. We conclude that Russian support for Iran's nuclear activities could risk contributing to the spread of WMD capabilities in the Middle East by advancing the Iranian nuclear programme. We recommend that the Government, together with its EU and US partners, seek to persuade the Russians to ensure that their support for the Bushehr nuclear plant does not extend to assistance with activity consistent with a nuclear weapons development programme.

Non-proliferation programmes

327. The Russian Federation's WMD arsenal has concerned the international community since the fall of the Soviet Union in 1991. Gary Samore, Director of Studies at the International Institute of Strategic Studies, explained the nature of the threat. He told us:

424 Q284 [Mr Sherr]

425 Victor Mizin, "The Russia-Iran nuclear connection and US policy options", *Middle East Review of International Affairs*, vol. 8, No. 1, March 2004

426 'UN clears Iran nuclear facility', *BBC*, 29 June 2004

427 Foreign Affairs Committee, Second Report of Session 2003-04, *Foreign Policy Aspects of the War against Terrorism*, HC 81, para 221

428 Foreign Affairs Committee, Third Report of Session 2003-04, *Iran*, HC 80, para 58

The point of maximum danger in Russia was in the very early years after the collapse of the Soviet Union, where there really was a general disappearance of the state security apparatus. I think in the last five or six years the Russian Government under President Putin have taken measures to strengthen their controls over nuclear materials, and I think they are in significantly better shape now than they were in the early part of the 1990s. I think there is still work that needs to be done, and the various programmes that are under way, the Conflict Threat Reduction, Nunn-Lugar programmes are all important to maintain, but my judgment is that the threat of leakage of significant amounts of highly enriched uranium from Russia is much lower now than it was a decade ago.⁴²⁹

328. Despite these improvements, the Russian Federation still receives extensive financial and technical support from the USA as part of its international non-proliferation efforts. For instance, the USA has played a prominent role dealing with Russia's WMD with its Co-operative Threat Reduction (CTR) programme, which includes the Nunn-Lugar programme dealing with security and safety of nuclear weapons in the former Soviet Union. To date, the Nunn-Lugar Programme has funded the disassembly of thousands of strategic nuclear weapons, dozens of nuclear submarines, and put tonnes of fissile material into safe storage, at the cost of no more than 3 per cent of the US defence budget.⁴³⁰ The scale of the CTR programme is huge: President Bush recently signed a waiver granting \$450 million of federal funds to finance its initiatives.⁴³¹ We discussed the CRT programme with Senator Lugar on our visit to Washington in March 2004.

329. The European Union also has a role to play in dealing with Russia's WMD legacy. The EU provides funding for the non-proliferation efforts in the former Soviet Union, through its TACIS programme supporting nuclear safety in the Russian Federation which provided about 3 million euro in 2003, and 2.4 million to the middle of 2004.⁴³² The projects include support for plutonium disposition and the security of storage facilities, efforts to develop MOX fuel development, and the transport of MOX facilities.⁴³³ The EU also supports the work chemical weapons destruction plants at Gorny, Schuch'ye and Kambarka with funds of about 15 million euro, by establishing environmental monitoring projects, and also provides advice for Russian strategic export controls, by streamlining the system with electronic licenses.⁴³⁴ However, the EU's contribution is not commensurate with its economic weight in the world.

330. We conclude that international efforts, such as the CTR programme, to counter the proliferation of the Soviet Union's WMD legacy are essential work. However, we also conclude that while the efforts of the EU are welcome, its contribution to non-proliferation efforts neither takes account of the scale and threat of the task, nor of the EU's economic importance. We recommend that the Government encourage its

429 Q69

430 'The Nunn-Lugar Program', *Senator Richard G Lugar*: <http://lugar.senate.gov/nunnlugar.html>

431 'Bush signs three year Nunn-Lugar waiver', *Bellona*, 14 January 2004

432 Stockholm International Peace Research Institute, European Union: http://projects.sipri.se/nuclear/ndci04_eu.htm

433 *Ibid*

434 *Ibid*

partners in Europe to increase the EU's contribution to non-proliferation efforts in the Russian Federation.

G8 Global Partnership

331. The G8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, also seeks to secure and destroy Russian WMD. The Partnership was launched in June 2002 at the G8 summit at Kananaskis in Canada, when the G8 states pledged 10 plus 10 over 10 – US\$10 billion from the US, US\$10 billion from the other member states, over the next ten years to manage Russia's WMD legacy. The United Kingdom pledged £750 million to fund G8 Global Partnership projects under the co-ordination of the FCO, DTI and MOD, Baroness Symons, Minister of State at the Foreign and Commonwealth Office, told the House of Lords on 25 February 2004.⁴³⁵

332. A joint statement issued by the G8 at Kananaskis stated:

Under this initiative, we will support specific cooperation projects, initially in Russia, to address non-proliferation, disarmament, counter-terrorism and nuclear safety issues. Among our priority concerns are the destruction of chemical weapons, the dismantlement of decommissioned nuclear submarines, the disposition of fissile materials and the employment of former weapons scientists. We will commit to raise up to US\$20 billion to support such projects over the next ten years.⁴³⁶

The most recent Sea Island Summit in June 2004 took the initiative further. The Global Partnership Annual Report, published in June 2004, described the progress to date. For instance, pledges of funding have come in, discussion on the legal basis for work is under way, projects have started, work is under way to improve co-ordination of projects, and states are working to establish guidelines to form the basis for specific agreements.⁴³⁷ Additionally, more states have joined the G8 Global Partnership, including Australia, Belgium, the Czech Republic, Denmark, the Republic of Korea and New Zealand, as well as Finland, Norway, Poland, Sweden, and Switzerland who joined last year.⁴³⁸

333. On our visit to Moscow we heard that the G8 Partnership has had some successes, but that problems continue to delay its thorough implementation. The greatest difficulty has been disputes over the potential liability for future damages, the tax obligations of donor funds and issues of access to the sites.⁴³⁹ One of the G8 Partnership's targets is to establish agreements that settle these difficulties effectively; a successful example is the Multinational Environmental Programme in the Russian Federation (MNEPR), which watered down demands that full liability for accidents rest with the Russian Federation.

334. We conclude that the G8 Global Partnership makes an essential contribution to the reduction of the threat of proliferation of WMD, although certain difficulties

435 HL Deb, 25 February 2004, col WS25

436 Statement by G8 Leaders at Kananaskis Summit: <http://www.g7.utoronto.ca/summit/2002kananaskis/arms.html>

437 G8 Global Partnership Annual Report, *G8 Senior Group*, June 2004

438 *Ibid*

439 Foreign and Commonwealth Office, Department of Trade and Industry and Ministry of Defence, *The G8 Global Partnership: First Annual Report 2003* p 9

remain between Russia and the other members. We recommend that in its response to this Report the Government set out how it has resolved the differences over liability for future damages, the tax status of donor funds, and issues over access to the sites, as well as how it is working with the USA to help overcome American differences with the Russian authorities.

Chemical and Biological Weapons

335. The FCO, DTI and MOD outlined progress on the destruction of Russia's chemical and biological weapons in their first Annual Report on the G8 Partnership. Examining chemical weapons, the Report says:

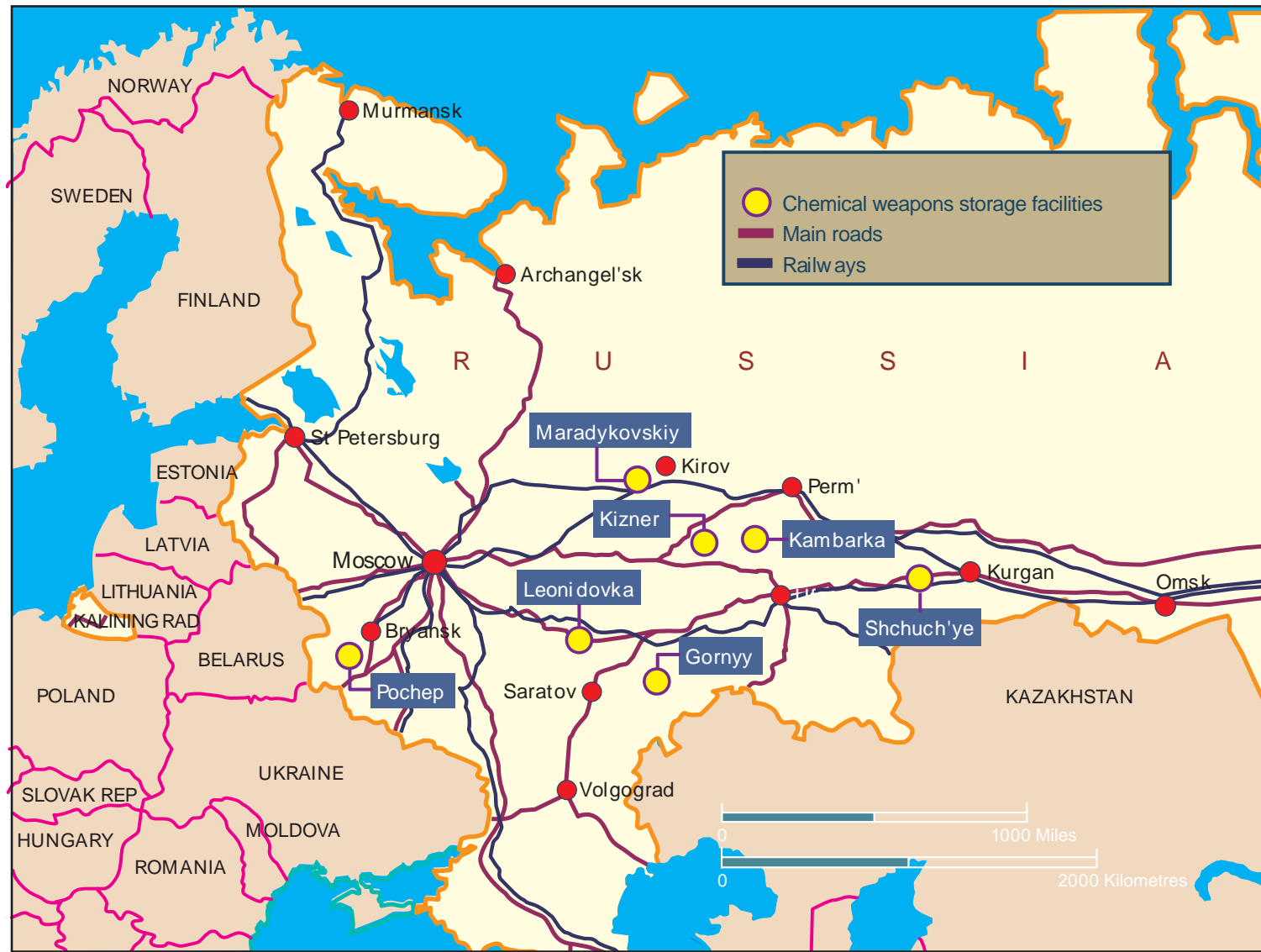
Russia has declared 40,000 tonnes of chemical weapons, stored at seven sites on its territory. Over 30,000 tonnes is in the form of more than 4 million munitions containing nerve agent ... Russia's initial progress with destroying its chemical weapons was slow, with insufficient resources being allocated. However, increased funding and commitment to progress have been evident in the last three years. The first of Russia's chemical weapon destruction facilities (at Gorny in the Saratov region) became operational in December 2002....[However] Russia has already made clear that it will not be able to complete destruction of its CW stocks by the 2007 final deadline, and has sought an extension to 2012.⁴⁴⁰

The United Kingdom plays an important role in the construction of the Shchuch'ye destruction facility, for instance by establishing water and electricity for the plant.⁴⁴¹

⁴⁴⁰ Foreign and Commonwealth Office, Department of Trade and Industry and Ministry of Defence, *The G8 Global Partnership: First Annual Report 2003* p 13

⁴⁴¹ *Ibid* p 14

Russian Chemical Weapons Facilities.



Source: The G8 Global Partnership—2003 Annual Report

336. The Report also looked at Russia's biological weapons [BW] capabilities, writing that the "extensive offensive BW programme maintained by the Former Soviet Union was the largest and most sophisticated the world has yet seen...Agents weaponised included anthrax, smallpox, Marburg, tularaemia and plague".⁴⁴² We heard in Moscow that attempts to cut the Russian Federation's BW capacity were hard to pursue since the Russians offered no figures on their capabilities and maintained a cloak of secrecy around their facilities, which are widely distributed across the immensity of Russia. One unavoidable concern is that if the Russian authorities destroy the weaponised pathogens and scale back their capabilities, the expertise remains with Russian scientists.

337. The G8 Global Partnership Annual Report described the status of its work on the Russian BW capability to date. It said that "because of the priority given to the chemical weapons destruction programme, implementation of biological non-proliferation was delayed...The first UK biological non-proliferation project, involving a plant health institute in Georgia, was approved in July 2003 and is currently awaiting the approval of the ISTC Governing Board".⁴⁴³ So work has hardly started.

338. We conclude that progress on the destruction of the Russian Federation's chemical weapons stocks is most welcome but unfortunately is well behind the planned timetable. We recommend that in its response to this Report the Government set out how it will encourage the Russian authorities to speed the destruction process and outline its plans for work at the destruction facility at Shchuch'ye.

339. We conclude that the destruction of biological weapons material in the Russian Federation should be a priority, and recommend that the Government set out how it will engage its Russian counterparts more directly on its biological weapons stocks and the employment of Russian scientists. We further conclude that the security of stocks of pathogens and the proliferation of expertise of Russian scientists present serious challenges for the international community.

Nuclear materials

340. The Russian Federation has made some reductions of nuclear weapons under international arms reduction agreements. For instance, Russia is cutting its nuclear capacity from 18,000 to between 1,700 and 2,200 nuclear warheads by 2012 under the Strategic Arms Reduction Treaty (START II) and the 2002 Strategic Offensive Reduction Treaty (SORT).⁴⁴⁴ However, the USA and Russia tackle the dismantlement of nuclear weapons on bilateral basis. Other states playing a role in non-proliferation efforts, including the United Kingdom, work on different areas, such as the destruction of chemical weapons or decommissioning of submarine and the employment of weapons technicians.

⁴⁴² *Ibid* p 17

⁴⁴³ *Ibid* p 17

⁴⁴⁴ Dmitri Trenin, "Russian and Global Security Norms", *Washington Quarterly* Vol 27 (2004), pp 63-77

Russian Closed Nuclear Cities



Source: The G8 Global Partnership—2003 Annual Report

341. The United Kingdom has four main programmes in the G8 Partnership's efforts to prevent proliferation in Russia: the North West Russia submarine dismantlement and spent nuclear fuel programme; the Nuclear Safety Programme; the Plutonium Disposition Programme; and the United Kingdom–Russian Federation Closed Nuclear Cities Partnership, combined with a programme on the social consequences of nuclear power plant closure projects.⁴⁴⁵ The DTI runs the programmes with a budget of £32.5 million in close association with the FCO and MOD.⁴⁴⁶ In Moscow, we learnt that the North West Russia submarine decommissioning project has taken about 90 submarines out of service. Other efforts in North West Russia include improving security facilities in Andreeva Bay and Murmansk, and upgrading the physical security of nuclear icebreakers.⁴⁴⁷ We heard that the Nuclear Safety Programme has had successes, most notably in Murmansk where the United Kingdom funded security improvements for a major storage facility. However, security risks remain paramount across the Russian Federation.⁴⁴⁸ Reflecting this concern, Baroness Symons told the House of Lords on 15 January 2004 that the Government will spend about £1 million per annum on programmes securing nuclear materials.⁴⁴⁹

342. The Closed Nuclear Cities Project's (CNCP) "goal is to promote international security by reducing the risk of nuclear proliferation and nuclear terrorism. It aims to meet this objective by promoting alternative civil sector employment opportunities for former nuclear weapons scientists and technicians, and by supporting the long-term economic viability of the Closed Nuclear Cities."⁴⁵⁰ The plutonium disposition programme, an effort to reduce excess weapons grade plutonium in the Russian Federation, has stalled because of disputes about the legal framework.

343. We conclude that the work carried out by the G8 Global Partnership on the Soviet Union's nuclear legacy is a most valuable contribution to non-proliferation efforts and the war against terrorism. However, we are concerned that some projects, such as the plutonium disposition programme, are proceeding less effectively than others, like the submarine decommissioning programme in North West Russia. We recommend that the Government maintain the momentum of its efforts, and set out in its response to this Report how it will resolve the current difficulties with the Russian authorities, so as to accelerate the programmes.

Conclusion

344. We conclude that the Russian Federation is a valuable ally in the war against terrorism, although different perceptions of the conflict have an impact on relations between the United Kingdom and Russia. We recommend that the Government maintain its engagement with Russia in order to ensure its commitment to the war against terrorism, by allaying Russian concerns about Afghanistan, Iraq and NATO, by

⁴⁴⁵ Foreign and Commonwealth Office, Department of Trade and Industry and Ministry of Defence, *The G8 Global Partnership: First Annual Report 2003* p 11

⁴⁴⁶ Department of Trade and Industry, *Closed Nuclear Cities Partnership, 2003/04 Annual Report*

⁴⁴⁷ Foreign and Commonwealth Office, Department of Trade and Industry and Ministry of Defence, *The G8 Global Partnership: First Annual Report 2003* p 26

⁴⁴⁸ *Ibid*

⁴⁴⁹ HL Deb, 15 January 2004, col WA100

⁴⁵⁰ Department of Trade and Industry, *Closed Nuclear Cities Partnership, 2003/04 Annual Report*

maintaining a critical dialogue on Russian policy in Chechnya, and by engaging the Russian Federation on the threat of WMD proliferation. We conclude that continued engagement with the Russian Federation on matters of mutual concern offers opportunities to make an important contribution to success in the war against terrorism.

6 Israel-Palestine Conflict

The Israel-Palestine conflict and the war against terrorism

345. In previous Reports in this inquiry we have discussed the relationship between the Israel-Palestine conflict and the wider war against terrorism.⁴⁵¹ We noted that al Qaeda has sought to link its campaign to the Palestinian cause, but that none of our witnesses had seen evidence of links between al Qaeda and Palestinian terrorist groups.⁴⁵² We also found no evidence to support Israel's claims that it is fighting the same war against terrorism as the US and its allies.⁴⁵³

346. Nevertheless, the Israel-Palestine conflict affects the war against terrorism in a number of important ways. Our witnesses agreed that the conflict serves as an "ideological recruitment ground" for terrorists.⁴⁵⁴ One important factor is the widespread perception of international bias in favour of Israel, which feeds into anti-Western sentiment. As we stated in July 2003, "the Israeli-Palestinian conflict, and the relationship between the US and Israel, is one of the causes of resentment of the US in the Arab world—and thus one of the factors contributing to the appeal of organisations such as al Qaeda."⁴⁵⁵ Although resolution of the Israel-Palestine conflict would not bring international terrorism to an end, it would remove an important and highly symbolic motivation.

347. A further linkage between the Israel-Palestine conflict and the war against terrorism derives from the fact that the conflict is used as an excuse in many countries in the Arab and Islamic world to delay much-needed reform. We examine this issue in more detail in paragraphs 486-97. Our conclusions on the Israel-Palestine conflict are set out in paragraphs 393-99.

Recent developments

Israel's 'disengagement' policy

348. In our last Report in this inquiry, we noted Prime Minister Ariel Sharon's announcement of plans for 'disengagement' from the Palestinians. We expressed our concern about such unilateral action, especially given the link with acceleration of Israel's construction of a security barrier in the West Bank.⁴⁵⁶ In its response the Government said:

451 HC (2003-04) 81, paras 124-25; HC (2002-03) 405, paras 210-16; HC (2002-03) 196, paras 211-20; and HC (2001-02) 384, para 161.

452 HC (2002-03) 405, para 211; HC (2001-02) 384, paras 155-56.

453 HC (2001-02) 384, para 158.

454 Q180 [Gohel], Q176

455 HC (2002-03) 405, para 211. In July 2002, we also stated that "a linkage between the [Israeli-Palestinian] conflict ... and the war against terrorism is widely perceived among populations and governments in the region ... While the conflict in the Middle East requires swift and fair resolution on its own merits, this perceived linkage lends added urgency to the search for peace.." HC (2001-02) 384, para 161.

456 HC (2003-04) 81, para 175.

We welcome actions by Israel and the Palestinian Authority which are consistent with the RoadMap, including Israeli withdrawals from the Occupied Territories and the closure of settlements there... Israel's planning for unilateral steps of this kind is taking place against the background of its reiterated commitment to the RoadMap. The Israeli government is aware that we, and the international community, oppose unilateral steps which are not consistent with the RoadMap.⁴⁵⁷

This position was reiterated by the Prime Minister on 16 April, when he welcomed the prospect of 'disengagement' but said:

We reaffirm that this is part of a process to get us back into the road map, which we continue to believe offers the only realistic route to the two states, Israel and Palestinian, living side-by-side in peace.⁴⁵⁸

The Quartet (Russia, the US, the EU and the UN) has taken a similar position, welcoming the plan as an opportunity for progress towards peace but insisting that it should be carried out in a manner consistent with the Road Map.⁴⁵⁹

349. After meeting Prime Minister Sharon in April 2004, President Bush welcomed the plan and made the following statement:

In light of new realities on the ground, including already existing major Israeli populations centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion. It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities.⁴⁶⁰

350. In May, the Government wrote to us that:

The Prime Minister has made clear that all final status issues, including borders and refugees, must be agreed in negotiations between the two parties. He also reiterated the need to get back to the roadmap, which offers the best route to the vision of two states, Israel and Palestine, living side by side in peace. We have reiterated this with our EU partners and hope that the forthcoming Quartet meeting will do the same.⁴⁶¹

The statement issued by the Quartet on 4 May noted that,

no party should take unilateral actions that seek to predetermine issues that can only be resolved through negotiation and agreement between the two parties. Any final settlement on issues such as borders and refugees must be mutually agreed to by Israelis and Palestinians.⁴⁶²

457 Cm 6162

458 Remarks by the Prime Minister, the Rose Garden, 16 April 2004, available at: <http://www.whitehouse.gov/news/releases/2004/04/20040416-4.html>

459 UN press release, SG/SM/9292, 4 May 2004, available at: <http://www.un.org/News>

460 Remarks by President George Bush, 14 April 2004, available at: <http://www.whitehouse.gov/news/releases/2004/04/20040414-2.html>

461 Ev 69

462 UN press release, SG/SM/9292, 4 May 2004, available at: <http://www.un.org/News>

351. Despite receiving international support, the plan for 'disengagement' has suffered a number of domestic setbacks. On 2 May, 59.5% of the ruling Likud Party voted against it and Prime Minister Sharon then struggled to gain cabinet support. On 6 June, the cabinet backed the plan but only after Sharon revised it to provide for a delayed and staged withdrawal and sacked two far-right members. The cabinet will need to approve each stage ahead of the 'disengagement'.

352. The Committee heard from Dr Emanuele Ottolenghi of St Antony's, Oxford, that 'disengagement' is likely to occur, despite political opposition. He attributes this to Prime Minister Sharon's determination to pursue the plan as well as broad popular support for it.⁴⁶³ However, Dr Nomi Bar Yaacov was more circumspect. Dr Bar Yaacov of the International Institute for Strategic Studies, wrote to us about the precarious state of coalition politics in Israel and the risk that 'disengagement' could be stalled if Prime Minister Sharon is forced to resign or call early elections. "Unfortunately the fate of the Plan is subject to internal Israeli political dynamics, political parties' interests and individuals' Knesset members' aspirations."⁴⁶⁴ If progress is to be made a broader Israeli coalition will almost certainly be necessary. On 12 July, Prime Minister Sharon and Labour leader Shimon Peres held preliminary talks on forming a coalition.⁴⁶⁵ Labour supports the 'disengagement' policy, although it would like to see more substantial withdrawals from the West Bank and the opening of direct talks with the Palestinians.⁴⁶⁶

The context of 'disengagement'

353. The key question regarding the plan for 'disengagement' is whether it is part of the Road Map process or a prelude to de facto annexation of occupied territory. We heard a great deal of scepticism about Prime Minister Sharon's willingness to implement meaningful withdrawals from the West Bank. A number of witnesses also highlighted the role played by President Bush's endorsement of Israeli policy. Dr Rosemary Hollis, of the Royal Institute of International Affairs, wrote to us that:

US President George Bush has endorsed Sharon's idea that his initiative involve a simultaneous consolidation of Israeli settlement blocs to the east of the 'Green Line' that marks the pre-1967 border between Israel and the West Bank. If Sharon has his way, the area remaining to the Palestinians in the West Bank will not make for a viable, contiguous, independent Palestinian state that any Palestinian leadership could agree to.⁴⁶⁷

Dr Bar Yaacov was similarly bleak in her prognosis:

Sharon and many of the Plan's supporters within his ruling Likud party view withdrawal from Gaza as a trade off for keeping a number of large West Bank settlement blocks under Israeli control and eventually Israeli sovereignty. This view

463 Q258 [Ottolenghi]

464 Ev 190

465 'More troubles ahead for Sharon', BBC, 15 June 2004; and 'Israeli rivals move towards unity', BBC, 12 July 2004.

466 'Sharon threatens opponents with Labour links', *Financial Times*, 13 July 2004.

467 Ev 185

was supported by statements made by Bush in mid-April after Sharon presented the Plan to him in Washington.⁴⁶⁸

354. We asked witnesses for their analyses of how ‘disengagement’ relates to the Road Map and the broader political process. Dr Emanuele Ottolenghi and Dr Rosemary Hollis told us that Israel’s plan for ‘disengagement’ emerges from the Israeli belief that a political process is unfeasible at the present time.⁴⁶⁹ Nevertheless, some of our witnesses believe that the plan offers an opportunity for progress towards a peace settlement. Dr Ottolenghi suggested that in time, ‘disengagement’ could lead to the resumption of a political process:

Israel relinquishing territory, dismantling and evacuating settlements, removing troops from Gaza, are all steps that can help de-escalate the tension, reduce the pressure on the civilian populations and might create conditions for something to open up once the process is over.⁴⁷⁰

355. Dr Bar Yaacov also wrote to us that although ‘disengagement’ is not part of the Roadmap, it,

can be viewed as consistent with the principles of the Road Map... [and] If carried out intelligently, the Disengagement Plan could lead to a two State solution, as envisaged in the Road Map, but much will depend on what happens in Israel, Palestine, and on the nature and scope of the Third Party role.⁴⁷¹

Dr Ottolenghi agreed about the importance of the international community:

active engagement, fostered by coordination between the two sides on smooth implementation of each stage of the process and support from outside players could turn a unilateral measure into an opportunity to change the status quo.⁴⁷²

Indeed, Dr Bar Yaacov told us that Israel is showing an unprecedented degree of interest in international involvement in the context of its planned ‘disengagement’ from the Gaza Strip:

This openness creates a rare window of opportunity for the international community to help move the peace process forward, to ensure continuity of withdrawals from the West Bank and to create the conditions for the conclusion of a permanent status agreement and the establishment of a viable sovereign Palestinian state.⁴⁷³

356. To take advantage of this opportunity, Dr Bar Yaacov recommends that the international community should consider:

468 Ev 190

469 Q259 [Ottolenghi]. See also Ev 185.

470 Q259 [Ottolenghi]

471 Ev 189

472 Ev 87

473 Ev 190

how to support the withdrawal from Gaza and to ensure stability, economic prosperity and continuity of the Plan in accordance with the principles of the Road Map. It should start addressing the question of the day after the withdrawal.⁴⁷⁴

In particular, Dr Bar Yaacov highlights the need to:

- work closely with the Quartet to implement the plan;
- support reconstruction and Palestinian reform;
- consider what kind of peacekeeping operation would be most appropriate; and
- support Egypt's efforts in the region.

357. Egypt has offered to play a role co-ordinating the handover in Gaza, proposing to send military experts to the Gaza Strip to assist the Palestinian Authority with maintaining security.⁴⁷⁵ The status of the border with Egypt will be a key question; international assistance may be required to ensure the security of this border in order to allay Israel's fears about infiltration and Palestinian concerns about further incursions.

358. In May, the FCO wrote to us that:

We have encouraged Israel to make withdrawal from Gaza as full as possible and will continue to do so. Currently it appears that Prime Minister Sharon is not planning to withdraw from the Gaza/Egypt border. We hope the plan will develop further to include this. We will discuss with Israel, the Palestinian Authority and Egypt ways the international community can help achieve this.⁴⁷⁶

The recent deterioration in the situation in the Gaza Strip has also highlighted the risk of instability following 'disengagement.' The Government is offering to provide assistance to the Palestinian Authority to facilitate a smooth handover.⁴⁷⁷

Israel's security barrier

359. In our last Report in this inquiry we noted and described Israel's construction of what it describes as a 'security fence.' According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), as of July 2004 the total planned length of the barrier (including East Jerusalem) was 622 kilometres—at the time of preparing this Report, 255 kilometres are completed or under construction and work has yet to start on a further 367 kilometres. Some 15 per cent of the barrier follows the Green Line.⁴⁷⁸

474 Ev 191

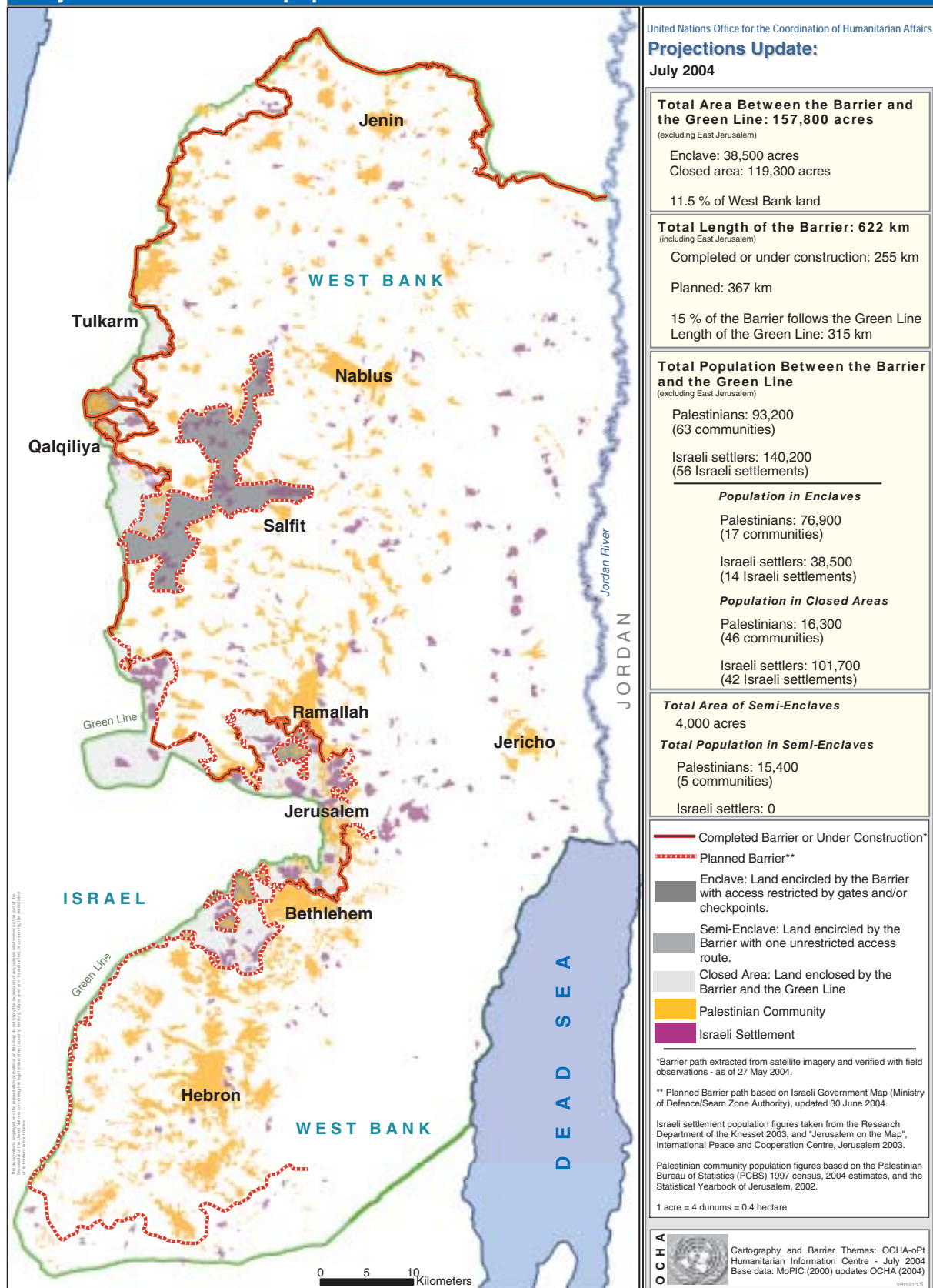
475 'Israel and Egypt Conferring On the Gaza Pullout Plan', *New York Times*, 8 June 2004.

476 Ev 69

477 'Bush rejects UK calls for Israel 'monitors'', *The Times*, 27 March 2004.

478 'West Bank Barrier: Projections of land and population located between the Barrier and Green Line', OCHA, July 2004, available at: <http://www.reliefweb.int>

West Bank Barrier: Projections of land and population located between the Barrier and Green Line



360. In our last Report, we detailed the devastating impact that the barrier is having on Palestinians and noted that: “There seem few initiatives more likely to inflame Palestinian opinion.”⁴⁷⁹ We concluded that “the case for building a security fence along the Green Line would be strong and understandable, but to build it within the West Bank is neither justifiable nor acceptable and gives rise to fears that Israel intends to annex this land.”⁴⁸⁰ We further concluded that combined with other Israeli policies, the construction of the barrier constitutes “a severe impediment to efforts to secure a peace agreement between Israel and the Palestinian Authority and to the creation of a viable Palestinian state.”⁴⁸¹

361. In its response, the Government said:

The construction of the security barrier within the Occupied Territories is unlawful. It has further alienated the Palestinian population, so strengthening support for advocates of violence; and has led to the movement of Palestinian families from their homes nearby, contributing both to fears of annexation and to the humanitarian crisis in the Occupied Territories. The government has made its views clear to the Israeli government, including during the recent visits to London of the Housing, Defence and Foreign ministers, and the Vice Prime Minister.⁴⁸²

362. Further clarifying this position, on 19 April 2004 Bill Rammell told the House:

The construction of the barrier in the Occupied Territories is in violation of the Hague Regulation of 1907 and Article 53 of the 41 Geneva Convention, because the confiscation of Palestinian land and destruction of agriculture and buildings is not militarily necessary. The barrier could and should be built on or within the Green Line.⁴⁸³

363. In June, Israel began construction of sections of the barrier around the Israeli settlement of Ariel, about 20 kilometres inside the West Bank. According to Israeli newspaper *Haaretz*, Israel plans to complete the barrier east of the settlements of Ariel, Immanuel and Kedumim by May 2005. The area earmarked for the barrier is 3.5 kilometres long, and 100 metres wide, and runs between Ariel and the Palestinian town of Salfit.⁴⁸⁴

364. There is considerable anxiety that if ‘disengagement’ from the Gaza Strip is not followed by withdrawals from the West Bank, and the barrier is not re-routed to run along the Green Line, there could be a serious deterioration in conditions in the West Bank. We heard from Dr Jeroen Gunning, of the University of Wales, that there is concern about:

the economic consequences of the unilateral withdrawal. At the moment, it seems that the main issue is security on the Israeli side and building a fence, withdrawing

479 HC (2003-04) 81, paras 150-61.

480 HC (2003-04) 81, para 157.

481 HC (2003-04) 81, para 161.

482 Cm 6162

483 HC Deb, 18 April 2004, col 334W

484 ‘Despite US deal, Israel starts Ariel fence’, *Haaretz*, 14 June 2004.

behind the fence and leaving the Palestinians in some ways to their own lot. Because the fence is situated in such a way that a lot of the most arable land of the West Bank is on the Israeli side, it means that you will effectively create a huge social ghetto on the other side which, in the long term, will be destabilising for any peace effort.⁴⁸⁵

We also heard concerns when we visited the UN in March that the major aquifers in the West Bank are now cut off from the Palestinians.

365. On 30 June, Israel's high court ordered the route of the barrier to be altered around Jerusalem in order to reduce the impact on Palestinians, ruling that: "The current balance between security considerations and humanitarian considerations is disproportionate."⁴⁸⁶ In a second ruling, the court on 1 July ordered a temporary halt to construction of the barrier south of Jerusalem. The Israeli government has said that it will abide by the ruling.⁴⁸⁷ The cases may set a precedent for other cases against the construction of the barrier (at least twenty further cases are pending). By contrast, the ruling by the International Court of Justice (ICJ) on 9 July that Israel's construction of the barrier in occupied Palestinian territory is contrary to international law is non-binding.⁴⁸⁸ The ICJ called for Israel to cease construction of the barrier in occupied territory, dismantle the barrier in occupied territory and make reparation for all damage caused by the construction of the barrier in occupied territory. The ICJ ruling stated that the UN should consider what further action is required to bring to an end the barrier's construction in occupied territory.

366. In our last Report, we recommended that the Government set out the steps it is taking to dissuade Israel from taking unilateral action in the Occupied Territories.⁴⁸⁹ In its response, the Government told us that:

The Israeli government is aware that we, and the international community, oppose unilateral steps which are not consistent with the RoadMap and, in particular, of our opposition to the construction of the security barrier within the Occupied Territories... The government has made its views clear to the Israeli government, including during the recent visits to London of the Housing, Defence and Foreign ministers, and the Vice Prime Minister.⁴⁹⁰

367. In May, we again wrote to the FCO asking what steps the Government has taken to dissuade the Israeli government from taking unilateral action in the Occupied Territories. In June, the FCO replied, telling us:

We have raised our concerns at the highest level about the impact of building the barrier on occupied land. Most recently, the Foreign Secretary raised his concerns with, amongst others, Israeli Deputy Prime Minister Ehud Olmert. We will continue to do so, both bilaterally and as part of the EU, and will continue to press for it to be

485 Q259 [Gunning]

486 'Israeli court orders government to reroute West Bank barrier', *Financial Times*, 1 July 2004.

487 'Court delivers second blow to Israeli security fence', *Financial Times*, 2 July 2004.

488 'Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion', International Court of Justice, 9 July 2004, available at: <http://www.icj-cij.org>

489 HC (2003-04) 81, paras 157 & 175.

490 Cm 6162

re-routed away from occupied land. International engagement on this issue does appear to have had some influence on the routing of the barrier. The Foreign Secretary has made clear that the building of the barrier on occupied land is unlawful and is detrimental to the peace process.⁴⁹¹

These efforts have clearly failed to stop the construction of the barrier in the Occupied Territories.

Prospects for agreement

The Road Map

368. In previous Reports in this series we have described the Road Map (the Quartet's plan for a two-state solution), its formulation and prospects.⁴⁹² In January 2004 we noted the failures on the part of both the Palestinian Authority and Israel to implement the measures outlined in the Road Map. We concluded that: "reform of the Palestinian security sector is central to the success of the Road Map." We commended the Government for its efforts to ensure that the Palestinian Authority carries out these reforms, but noted our concern at the lack of progress:

In particular, more should be done by the PA to arrest and bring to justice those responsible for the recruiting, training, equipping and launching of suicide bombers and to prevent the honouring and even encouraging of suicide bombers and their masters by Palestinian media.⁴⁹³

369. In its response to the Report, the Government said:

We agree on the importance of Palestinian reform efforts in the security sector and are actively working with the PA on these; in particular to secure a new and more effective effort from it to stop attacks on Israelis and better to maintain order in Palestinian controlled areas... We judge that while the Palestinian Authority's capacity to act has been gravely weakened by Israeli attacks on its infrastructure and personnel, it can do more to stop terrorist attacks. The UK, nationally and with EU partners, continues to urge the PA to fulfil its RoadMap commitments on security, and intensify its efforts to tackle groups and individuals engaging in terrorist activity.⁴⁹⁴

370. In May, the Foreign Office wrote to us about efforts by the United Kingdom to help the Palestinian Authority fight terrorism:

The UK has encouraged Palestinian action in areas where they could deliver a visible improvement in the security situation. This is in line with Palestinian commitments on security under the roadmap. We have offered practical help where the Palestinian Authority requests it. We are beginning to see encouraging signs, but there is some

491 Ev 159

492 HC (2003-04) 81, paras 136-57; and HC (2002-03) 405, para 214.

493 HC (2003-04) 81, para 147.

494 Cm 6162

way to go before we can conclude that the Palestinian Authority is exerting 100% effort on security.⁴⁹⁵

371. Turning to Israel's failures to implement the Road Map, we noted our deep concern owing to "Israel's maintenance and expansion of illegal settlements in the occupied territories and its construction of a 'security fence' on Palestinian land." We concluded that these policies "constitute a severe impediment to efforts to secure a peace agreement between Israel and the Palestinian Authority and to the creation of a viable Palestinian state." We recommended that the Government "make it absolutely clear in its public statements that Israel's fulfilment of commitments set out in the Road Map—including the dismantling of all settlement outposts erected since March 2001, and the freezing of settlement activity consistent with the Mitchell Report—must proceed immediately".⁴⁹⁶ In its response, the Government agreed and accepted our recommendation.⁴⁹⁷

372. The Government continues to emphasise the Road Map as the means to resolve the conflict. There is no other internationally agreed formula on the table. In its response to our last Report, the Government said: "The RoadMap clearly sets out the path to a two state solution, Israel and Palestine, in the context of a comprehensive regional peace agreement. Our efforts will continue to focus on working with the parties and our international partners on implementation of the RoadMap to this end."⁴⁹⁸

373. In June, the Foreign Office wrote to us about the EU dimension of efforts to implement the Road Map:

As part of the Quartet, the EU continues to play a fundamental role in the roadmap process. The EU special representative for the Middle East works both with the parties and with international partners to support implementation of roadmap obligations. Through the Quartet statement of 4 May the EU has set out its commitment to move the peace process forward through continued engagement with both sides and by supporting the Palestinian Authority on security, providing financial support and working with the PA on electoral and institutional reform.⁴⁹⁹

374. However, we heard from witnesses that not only is the Road Map stalled, but it is increasingly becoming irrelevant, overshadowed by Prime Minister Sharon's 'disengagement' policy.⁵⁰⁰

Bringing the two sides together

375. Commenting on how close the two parties were to reaching an agreement in 2000 and 2001, Dr Ottolenghi told us that he believes an agreement is now unlikely because: "it is hard to imagine that the cumulative pain the two sides have inflicted on one another might

495 Ev 69

496 HC (2003-04) 81, para 161.

497 Cm 6162

498 *ibid*

499 Ev 158

500 Ev 189 & Ev 87

have narrowed the gap, strengthened mutual trust, or created incentives for cooperation. If anything, the gap is wider.”⁵⁰¹ In particular, he believes that the:

collapse of Israeli trust in the Palestinian partner and Israel’s perception of the conflict as existential in nature has disqualified at present the existing Palestinian partner in Israeli eyes and destroyed any credibility of those political forces willing to engage the Palestinian leadership in a diplomatic process similar to the one that collapsed in late 2000.⁵⁰²

376. However, he also believes that:

very slowly and very painfully the Israeli body politic has changed... Today, with the exception of the extreme right, from the centre right all the way to the far left, there is an agreement that the Palestinians have a legitimate, moral claim. The question is the extent in practical, material concessions. How much they get and to what extent would Israel withdraw, not whether or not they do. There is a recognition of the legitimacy of the claim.⁵⁰³

Taking this one step on, Dr Ottolenghi wrote to us that:

If a similar process were to occur on the Palestinian side, with recognition of the futility of violence against Israeli civilian targets, an effective cease-fire and a willingness to drop demands for Israel’s granting of a right of return to refugees, then the possibility of an agreement would again materialise.⁵⁰⁴

377. Crucially, Dr Jeroen Gunning told us that while the Palestinian stance referred to by Dr Ottolenghi is partly ideological, it is also:

a function of the radical situation in which people live. If you look at other conflicts elsewhere, once the situation gets deradicalised, more moderate views tend to be more acceptable and the more radical views become more costly. You can also argue that if there is a deradicalisation and a normalisation the radical rhetoric that you hear now will slowly disappear.⁵⁰⁵

378. Moreover, Dr Gunning believes that there has been a shift within the political leadership of Hamas that could make a negotiated settlement feasible.

[I]f you look at the kind of proposals that both the Palestinian Authority and the main opposition group, Hamas, have made... they are very close to what was discussed at Taba, within a boundary where you can negotiate, barter and trade, in terms of the boundaries that were agreed on east Jerusalem and the type of shared sovereignty... there is a sign that they are interested in some kind of a settlement where they have a post-conflict presence, where they are responding to popular moods. They realise that there is not the will to liberate the whole of Palestine. There

501 Ev 85

502 Ev 86

503 Q262 [Ottolenghi]

504 Ev 86

505 Q262 [Gunning]

is the will for violence as long as it leads to a two state solution but not beyond that... Because they are largely dependent on popular support for their power base, they cannot afford to alienate [their] ... constituency.⁵⁰⁶

379. In our last Report in this Inquiry, we noted “alarming evidence about the impact on Palestinian communities of the current levels of poverty (which are exacerbated by the high birth rate), the lack of economic opportunities, and the perpetual threat and presence of violence”.⁵⁰⁷ We concluded that “the conditions under which many Palestinians currently live contribute to their radicalisation, and undermine support for moderate Palestinian leaders”.⁵⁰⁸

Continuing violence

380. Violence has repeatedly derailed progress towards a negotiated settlement. More generally, both Israelis and Palestinians continue to be exposed to an appalling level of violence. From 18–24 May, Israeli incursions in Rafah in the Gaza Strip resulted in the death of over 40 Palestinians. 167 homes were demolished or made uninhabitable; these buildings had housed 379 families, or 2,066 individuals.⁵⁰⁹ The incursions were part of ‘Operation Rainbow’, part of preparations for the planned ‘disengagement’.

381. Israel has also continued its policy of assassination. On 22 March, Israel assassinated Sheikh Ahmed Yassin, the spiritual leader of Hamas. Seven other people were killed in the missile strike. The move prompted anger across the Middle East as well as international condemnation.⁵¹⁰ On 5 May, the FCO wrote to us about Israel’s policy of assassination:

The UK believes that the assassinations of Sheikh Ahmed Yassin and Abdul Aziz al-Rantissi have had a negative impact. They have intensified anger and may make progress more difficult... we understand Israel’s need to defend itself. But it must act in accordance with international law. Assassinations are illegal, unjustified and counter-productive. We have repeatedly called for an end to the use of force by both sides.⁵¹¹

382. Meanwhile, Israelis continue to be terrorised by the threat of suicide bombings. On 29 January and 22 February, nineteen people were killed and over 110 wounded in two suicide attacks on Jerusalem buses. On 14 March, ten people were killed and 16 wounded in a double suicide attack at Ashdod Port, in northern Israel, and on 11 July, a bomb in Tel Aviv killed one person and injured around 19. However, most of the Palestinian attacks since then have been small scale and within the occupied Palestinian territories. Raanan

⁵⁰⁶ Q261 [Gunning]

⁵⁰⁷ HC (2003-04) 81, para 180.

⁵⁰⁸ HC (2003-04) 81, para 181.

⁵⁰⁹ ‘UNRWA completes its demolition assessment of operation rainbow’, UNRWA press briefing, HQ/G/16/2004, 26 May 2004; and ‘May 29 04 Situation Update in Rafah & PRCs Response’, Palestinian Red Crescent Society press release, 29 May 2004.

⁵¹⁰ For example, EU leaders expressed “deep concern” over the killing, which they said had worsened the Middle East conflict. See ‘EU criticises killing of Yassin’, BBC, 26 March 2004.

⁵¹¹ Ev 69

Gissin, spokesman for Prime Minister Sharon, has attributed the “major decrease” in suicide attacks to the barrier and policy of assassination.⁵¹²

383. President Yasser Arafat and the Palestinian Authority appear to be unable or unwilling to fight Palestinian terrorism. The Palestinian Authority is under increasing international pressure to reform its security forces. On 19 July, UN Secretary-General Kofi Annan said that the Palestinian Authority is facing a serious crisis and must reform its security apparatus. This followed remarks by UN envoy Terje Roed-Larsen that the Palestinian Authority had made no progress on taking action to end violence and terrorism.⁵¹³

384. The high level of violence suffered by both peoples makes a resolution of the conflict urgent. This urgency is compounded by the deterioration of the situation in the Palestinian territories. In January 2004, we concluded that “conditions in the occupied West Bank are changing rapidly, and that the continuation of Israel’s current settlement policies, and its construction of the ‘security fence’, will make the eventual establishment of a contiguous and economically viable Palestinian state increasingly difficult, if not impossible.”⁵¹⁴ We further concluded that “if, over the next year to eighteen months, progress towards implementation of the RoadMap is further delayed, the two-state solution which is the current objective of international efforts to resolve the conflict will become increasingly difficult to achieve.”⁵¹⁵ In its response to our Report, the Government agreed with this prognosis.⁵¹⁶

385. This situation was confirmed by evidence from Dr Rosemary Hollis, who told us that:

Israeli policy and facts on the ground are fast eroding any prospect of a Palestinian state in anything other than a virtual sense. Repeated endorsements of and commitments to the road map are no more than pious words that avoid recognition that the two-state solution is fast disappearing as a realistic prospect. If not addressed, the consequences of this trend will be further radicalisation of Palestinian and Arab opinion and Europe will not escape the violent consequences.⁵¹⁷

International involvement

386. We have already discussed the role of the international community with regard to the plan for ‘disengagement’. Looking more broadly at what the international community should be seeking to achieve, our witnesses had rather different ideas.

387. Dr Ottolenghi told us:

512 ‘How Israel defused suicide bombers’, *WorldNetDaily*, 13 May 2004.

513 Remarks by Kofi Annan, New York, 19 July, available at: www.un.org/apps/sg/offthecuff.asp and Statement by Middle East Special Coordinator Terje Roed-Larsen to the UN Security Council, 13 July 2004, UN Press Release SC/8146

514 HC (2003-04) 81, para 164

515 HC (2003-04) 81, para 166

516 Cm 6162

517 Ev 186

If one looks at the experience of the Camp David talks, the Sharm el Sheikh summit, the attempt by President Clinton in the twilight of his presidency to propose a framework for a settlement and then the Taba talks in the end, one sees that international involvement did no[t] work.⁵¹⁸

Instead of conflict resolution, Dr Ottolenghi recommends that the international community should lower its expectations and seek to manage the conflict.⁵¹⁹

388. However, Dr Rosemary Hollis takes a rather different approach. Dr Hollis told us that Europe is underestimating its ability to influence the parties in the conflict. While recognising the “prevailing Israeli suspicion that Europe is congenitally biased in favour of the Palestinians and prone to anti-Semitism”,⁵²⁰ Dr Hollis is critical of the belief that European and United Kingdom policy can achieve little unless it “can galvanise Washington to follow through on its commitment to a ‘two-state’ solution to the Israel-Palestine conflict and bring the Israelis to the table.”⁵²¹ Instead, Dr Hollis recommends that Europe should capitalise on Israel’s preference for separation.

European (and British) policy makers visualise how Israeli security and economic development can be enhanced under the envisaged two-state solution. Simply demanding that the Israelis understand the European logic (that a viable Palestinian state is in their long-term interests) is not enough, because of the distrust, not to say hatred, that prevails in the two communities and suspicions of European motives. What would potentially change the Israeli thinking would be a set of proposals from Europe that capitalises on the Israeli preference for disengagement and separation from the Palestinians manifest in the Israeli construction of the barrier between them and Palestinian population centres in the West Bank.⁵²²

389. Dr Hollis proposes that:

Framed within the context of the EU’s new Neighbourhood Policy this set of proposals could re-orientate Israeli thinking to view Europe rather than the Arab world as their strategic depth and economic space. Europe already is their economic space, not the Arab world. Yet European (and British) policy has tended to emphasise the need for Israel and the Arabs to get along and find a common future. A re-orientation would enable Israel to spend the coming decade or so, concentrating on developing closer links to Europe and literally putting its relations with the Arab world, including the Palestinians, in cold storage, until tempers cool.⁵²³

390. Dr Hollis argues that such an approach could help overcome Israel’s deep suspicion of European intentions. The *quid pro quo* for such a policy would be Israeli disengagement from the Palestinians to enable them to construct a viable state by re-routing the barrier along the Green Line or providing acceptable land swaps. “Palestinians and their homes,

518 Q262 [Ottolenghi]

519 Ev 87

520 Ev 186

521 Ev 185

522 Ev 186

523 *ibid*

left in limbo on the western side of the barrier, cannot remain in their current stateless condition and they and their land need to be re-attached to the rest of the West Bank and the Palestinian state in the making.”⁵²⁴ The recent decisions of Israel’s high court offer some encouragement in this regard.

391. Dr Hollis also recommends that Europe should help rebuild the Palestinian state. In June, the FCO wrote to us about the assistance the EU is giving the Palestinians:

On security, the EU is developing proposals to work with the Palestinian Authority to improve civil policing. The EU provides continued financial support to the Palestinian Authority. In 2003, the EU contributed 192m euros to the Palestinian Authority, and a further 82m euros to UNRWA. It is now seriously considering a substantial contribution to the World Bank Trust Fund. The EU and Member States’ actions on preparations for elections and on institutional reform are co-ordinated through the Reform Support Groups.⁵²⁵

392. In our last Report, we noted that “the US is by far the strongest external influence on the parties to the conflict and that the RoadMap can only be restarted by the presence in the region of a very senior US representative willing and able to pressurise both sides into taking the necessary actions to make progress”.⁵²⁶ We recommended that the Government “do its utmost to promote greater US engagement in the Israeli-Palestinian conflict”.⁵²⁷ We further recommended that the Government “seek to convince the US of the importance of sending a high-level emissary to the region”. In June, the FCO told us that:

Since the publication of the roadmap, the US has played a fundamental role in the roadmap process. We welcome its continued commitment to roadmap implementation and to the shared vision of a viable two-state solution, as the Prime Minister and President Bush stated in their joint press conference in Washington on 16 April. The US, like the UK, and like its Quartet partners, has been actively engaged with the parties and international partners over recent weeks. Its role remains crucial in helping to shape the international community's response to recent events and working to restart the political process.

As the Prime Minister said on 16 April, the UK government believes that the international community role should be led by the Quartet. The Quartet statement of 4 May set out a balanced and constructive role for the international community in moving the peace process forward, and making a success of withdrawal from settlements in Gaza Strip. We will not be making representations about a high-level US emissary to the Middle East. The fact of US engagement is more important than how it is delivered. However, we are pressing for a Quartet meeting in the region at the end of the month, as called for by the G8 in their statement of 10 June. This should help maintain the focus of the Quartet on practical engagement on the way forward.⁵²⁸

524 Ev 186

525 Ev 158

526 HC (2003-04) 81, para 176.

527 HC (2003-04) 81, para 181.

528 Ev 159

Conclusions

393. We conclude that resolving the Israel-Palestine conflict must remain a United Kingdom foreign policy priority. We reiterate our previous conclusion that resolution of this conflict is an essential component in the wider US-led campaign to defeat Islamist terrorism and to promote reform in the Middle East region.

394. We support the position taken by the Government in welcoming Israel's planned withdrawal from Gaza while insisting that all aspects of the final settlement remain open for negotiation. However, we conclude that it is important that the withdrawal from Gaza should be followed by withdrawals from the West Bank.

395. We recommend that the Government work with Israel, the Palestinian Authority and the Quartet to facilitate Israel's 'disengagement' from Gaza, to encourage Israel to make further withdrawals, to bring an end to Palestinian suicide attacks, and to aid reconstruction and security efforts in the Palestinian territories. We further recommend that the Government, in its response to this Report, set out in detail what steps it is taking to ensure that Israel's plan for 'disengagement' from Gaza is fully consistent with a durable solution to the wider Israel-Palestine problem, including details of any steps being taken with regard to post-withdrawal peace keeping.

396. We reiterate our previous conclusion that the case for building a barrier along the Green Line would be strong and understandable, but to build it within the West Bank is neither justifiable nor acceptable and gives rise to fears that Israel intends to annex this land. We recommend that the Government make it clear to Israel that efforts unilaterally to change facts on the ground in occupied territory are illegal under international law. We are encouraged by the recent decisions by the Israeli high court halting construction of the barrier, but reiterate our previous conclusion that Israeli maintenance and expansion of illegal settlements combined with the construction of the barrier on Palestinian land constitute a severe impediment to efforts to secure a peace agreement between Israel and the Palestinian Authority and to the creation of a viable Palestinian state. We recommend that the Government make this position absolutely and unequivocally clear in its public pronouncements, as well as in its diplomatic exchanges with the United States and Israel. We conclude that actions taken so far have failed to stop Israel's construction of the barrier in occupied territory. We further conclude that the United Nations General Assembly Resolution ES-10/15 of 20 July 2004, passed overwhelmingly and with the support of the British Government and all EU Member states, regarding the barrier, is to be welcomed. We recommend that the Government set out in its response to this Report what it is doing bilaterally and with the EU, the US and the Quartet to stop construction of the barrier in occupied territory.

397. The high level of violence suffered by both peoples makes a resolution of the Israel-Palestine conflict urgent. This urgency is increased by the serious deterioration in living conditions in the Palestinian territories. It is critical that, as well as putting pressure on the Israeli Government and the Palestinian Authority to do more to stop the violence, efforts are made to 'de-radicalise' the Palestinian population, by addressing the conditions of extreme poverty in which many of them live.

398. We conclude with regret that the Road Map is stalled, possibly fatally. We further conclude that there is little likelihood of the two parties reaching a negotiated settlement of their own accord in the short term, and that time is fast running out for a viable two-state solution to be achieved. Nevertheless, we believe that a resolution of the conflict along the lines discussed at Taba in January 2001 is not unattainable.

399. We once again recommend that the Government work to encourage the US to send a high-level emissary to the Middle East with the dedicated aim of resolving this long-standing conflict. While recognising Israel's mistrust of European policy in the region, we also conclude that Europe, including the United Kingdom, could be playing a more influential role. In order to overcome this mistrust, we recommend that the Government consider how to engage Israel more positively, both bilaterally and through the EU.

7 International Law and the War Against Terrorism

400. Increasing concern in the international community about the spread of WMD is placing pressure on the existing framework of international law. In particular, the limits to timely warning of an imminent WMD strike have raised doubts about the efficacy of classical interpretations of the doctrine of self-defence, and some states have proposed changing the existing legal framework in response. We assessed the debate in our Second Report of Session 2002–03, and concluded that there is a serious risk that expanding the doctrine of anticipatory self-defence could legitimise the aggressive use of force by bellicose states.⁵²⁹

401. However, the United States of America has specified its concerns about international law's ability to deal with the proliferation of WMD in its National Security Strategy:

It has taken almost a decade for us to comprehend the true nature of this [WMD] threat. Given the goals of rogue states and terrorists, the United States can no longer solely rely on a reactive posture as we have in the past. The inability to deter a potential attacker, the immediacy of today's threats, and the magnitude of potential harm that could be caused by our adversaries' choice of weapons, do not permit that option. We cannot let our enemies strike first.⁵³⁰

402. The Prime Minister also examined the existing order of international law in a speech in his Sedgefield Constituency on 5 March 2004, looking at the three justifications for use of force—humanitarian intervention, collective action by the United Nations, and the doctrine of self-defence—and raising questions about the adequacy of international law on the use of force in the light of the recent interventions in Kosovo, Afghanistan and Iraq. He too argued that the proliferation of WMD makes more relevant reform of the system of international law.⁵³¹

403. The Prime Minister said in his speech:

It may well be that under international law as presently constituted, a regime can systematically brutalise and oppress its people and there is nothing anyone can do, when dialogue, diplomacy and even sanctions fail, unless it comes within the definition of a humanitarian catastrophe... This may be the law, but should it be?⁵³²

404. The Foreign Secretary underlined the Government's advocacy of reform of the system of international law when he gave the Committee evidence on 30 March 2004. We presented a theoretical situation to the Minister, asking how the Government might

529 Foreign Affairs Committee, Second Report of Session 2002–03, *Foreign Policy Aspects of the War against Terrorism*, HC 1196, para 154

530 The National Security Strategy of the United States of America, 20 September 2002: <http://www.state.gov/r/pa/ei/wh/c7889.htm>

531 Ev 91

532 'PM warns of continuing global terror threat', *10 Downing Street*: <http://www.number-10.gov.uk/output/Page5461.asp>

respond to evidence of an imminent threat by terrorists with access to WMD, but when there was little certainty as to the target. The Minister said:

...If it was that imminent and country X perceived that the threat could apply to them, then I think that they would be justified in acting in self-defence and there is nothing in Article 51 which could prevent that. If it was a wider, more general threat, then although there might not be the time nor might it be desirable to have a public debate, there would almost certainly be time secretly to consult P5 partners who are crucial to any decision and if they were on board, in practice the Security Council would be.

His comments might suggest that the Government is willing to work outside the existing system of collective action through the United Nations, which implies an appetite for reform of the international legal system.

405. At present, international law permits three bases for the use of force by states. Professor Philippe Sands QC, Director of the Centre of International Courts and Tribunals at University College London, said in his submission to the Committee:

The United Nations Charter outlaws the use of force with only two established exceptions: individual or collective self-defence in response to an armed attack (Article 51), and action authorised by the UN Security Council as a collective response to a threat to the peace, breach of the peace or act of aggression (Chapter VII). In addition, some have argued that there exists a right to use force to protect against a massive violation of fundamental human rights (humanitarian intervention).⁵³³

406. **We recommend that its response to this Report the Government set out its response to the question the Prime Minister asked in his Sedgefield constituency speech on 5 March 2004, when he said: “It may well be that under international law as presently constituted, a regime can systematically brutalise and oppress its people and there is nothing anyone can do, when dialogue, diplomacy and even sanctions fail, unless it comes within the definition of a humanitarian catastrophe...This may be the law, but should it be?”⁵³⁴**

Collective action through the United Nations

407. At present, the UN prohibits the use of force except in circumstances of individual or collective self-defence, in line with the classical Caroline Criteria⁵³⁵, or under Chapter VII of the UN Charter to maintain or restore international peace and security. Article 2(4) of the United Nations Charter states:

533 Ev 91, para1

534 ‘PM warns of continuing global terror threat’, *10 Downing Street*: <http://www.number-10.gov.uk/output/Page5461.asp>

535 The Caroline Criteria arose out of the Canadian rebellion of 1837, when British forces seized a US merchant ship moored in the Great Lakes which had supplied the Canadian rebels, fired it and sent it over Niagara Falls. In the subsequent negotiations between the US and Britain, US Secretary of State Daniel Webster wrote to the British Government outlining an obligation on states acting in self-defence to show “a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment of deliberation”. See DJ Harris, *Cases and Materials on International Law*, (London 1998) p 895

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.⁵³⁶

408. However, Article 51 of the Charter upholds 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”.⁵³⁷

409. Chapter VII of the Charter also permits the use of force in the event of a threat to the peace as determined by the Security Council. The relevant articles are Article 39 and Article 42, which state:

Article 39: The Security Council shall determine the existence of any threat to the peace, breach of the peace or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Article 41 and 42, to maintain or restore international peace and security.

Article 42: Should the Security Council consider the measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such actions may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.⁵³⁸

The decision to carry out military action under a UN mandate is subject to a vote on the Security Council and the vetoes of the five permanent members.

410. However, the Iraq crisis has increased doubts about the efficacy of the current international framework. The Prime Minister called for reform of the UN collective security mechanism in his speech on 5 March 2004, saying the threat of WMD obliges a thorough reassessment of the international legal framework. He said:

It means reforming the United Nations so its Security Council represents 21st century reality; and giving the UN the capability to act effectively as well as debate. It means getting the UN to understand that faced with the threats we have, we should do all we can to spread the values of freedom, democracy, the rule of law, religious tolerance and justice for the oppressed, however painful for some nations that may be; but that at the same time, we wage war relentlessly on those who would exploit racial and religious division to bring catastrophe to the world.⁵³⁹

411. In his evidence, Mr Daniel Bethlehem, the Director of the Lauterpacht Research Centre for International Law at Cambridge University, made clear his broad agreement with the plans for reform. He said:

536 DJ Harris, *Cases and Materials on International Law*, (London 1998) p 1049

537 *Ibid* p 1060

538 *Ibid* p 1057

539 Tony Blair, PM warns of continuing global terror threat, at 10 Downing Street: <http://www.number-10.gov.uk/output/Page5461.asp>

I do not think that anyone is proposing that we reconceive the UN Charter. That having been said, I think it is quite clear and widely accepted in many quarters that the workings of the United Nations really do have to be looked at specifically in this context. The Secretary General has recently appointed an eminent panel and they are due to report later this year, I believe. One of the big issues that they are asked to address is precisely the working of the Security Council.⁵⁴⁰

He added that the inability of the UN system of collective security to secure compliance with the prohibition on the use of force has forced many states to conduct military action outside the UN framework, which has resulted in a major credibility gap in the current legal framework, undermining its legitimacy.⁵⁴¹

412. In contrast, Professor Sands emphasised the efficacy of the current system. He raised serious concerns about a re-examination of the rules of international law following the Iraq conflict, saying:

The basic rules relating to the use of force, whether self-defence or collective security, and the emerging principle of the right for humanitarian intervention are flexible enough to take into account those new changes [given the spread of WMD]...Specifically, the point I make is that it is not appropriate to say that recent circumstances require us simply to say that the whole thing does not work; we have to start again from scratch, because I do not think that is reflective of the reality. To the extent that the Prime Minister's important speech at Sedgefield makes that suggestion, I think it takes us in the wrong direction.⁵⁴²

He added that in "a real sense, Iraq is a very bad case on which to hang a re-exploration of the fundamental rules of international law."⁵⁴³

413. Professor Jutta Brunée, Professor of Law at the University of Toronto, and Professor Stephen J Toope, at McGill University, agreed with Professor Sands' concerns. They wrote in their submission to the Committee:

The claim that the existing legal framework on self-defence cannot accommodate global terrorism vastly overstates the issues at hand. This assertion wholly dismisses a framework that needs only limited adjustments. It also distracts from the real issues by suggestion that only the use of force can solve problems that actually require far more complex responses.⁵⁴⁴

How far the reforms will go is also in doubt. The FCO also told us in a letter of 5 July 2004 that the impetus for change in the United Nations was not strong:

The United Kingdom proposed draft guidelines to the Security Council in 2001 with the aim of giving a more consistent basis for deciding when the Council should authorise military action in response to humanitarian crises. The lack of support for

540 Q 268 [Mr Bethlehem]

541 Ev 104

542 Q264 [Professor Sands]

543 Q266

544 Ev 193

these guidelines, even though they did not aim to change the law, illustrates the reluctance on the part of the much of the international community to accept change in the abstract.⁵⁴⁵

414. We conclude that the debate about the role of the United Nations Security Council in collective use of force is part of the case for reform of the Security Council, and we await with interest the conclusions of the Panel of Eminent Persons examining the case for reform in the United Nations. We recommend that in its response to this Report the Government outline and explain its proposals for reform of the United Nations. We also conclude that any reforms must not undermine the system of collective security or threaten the paramountcy of the United Nations in the international legal system.

Anticipatory self-defence

415. The second element of legitimate use of force is self-defence, which is an area of intense controversy because the closely defined classical criteria take little account of the prospect of terrorists or rogue states carrying out attacks with WMD. Article 51 of the UN Charter⁵⁴⁶ outlines a state's right of self-defence, which is widely seen as derived from the Caroline Criteria of 1837. The Caroline Criteria are "commonly, though not universally, accepted both as acknowledging a right of anticipatory self-defence and of circumscribing limits to it."⁵⁴⁷ The original ruling is worth quoting in full:

It will be for...[Her Majesty's] Government to show the necessity of self-defence, instant, over-whelming, leaving no choice of means and no moment for deliberation. It will be for it to show, also, that the local authorities of Canada, even supposing the necessity of the moment authorised them to enter the territories of the United States at all, did nothing unreasonable or excessive; since the act, justified by the necessity of self-defence must be limited by that necessity, and kept clearly within it. It must be shown that admonition or remonstrance to the persons on board the *Caroline* was impracticable, or would not have been availing; it must be shown that day-light could not be waited for; that there could be no attempt at discrimination between the innocent and the guilty; that it would not have been enough to seize and detain the vessel; but that there was a necessity, present and inevitable, for attacking her in the darkness of night, while moored on the shore, and while unarmed men were asleep on board, killing some and wounding others, and then drawing her into the current, above the cataract, setting her on fire, and careless to know whether there might not be in her the innocent with the guilty, or the living with the dead, committing her to a fate which fills the imagination with horror.⁵⁴⁸

545 Ev 166

546 Article 51: Nothing in the present Charter shall 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. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security. See DJ Harris, *Cases and Materials on International Law*, (London 1998) p 1060

547 Ev 105

548 DJ Harris, *Cases and Materials on International Law*, (London 1998) p 895

416. The doctrine is tightly defined. Constraints on states calling for an armed response in the name of self-defence include the narrow definition of an “armed attack” in response to which a state could legitimately use force in self-defence, outlined in the Nicaragua Case in 1986,⁵⁴⁹ and limitations on the interpretation of the “imminence” of any attack, which curtails the doctrine of anticipatory self-defence.

417. The debate over the principle of “imminence” arose in the Osirak reactor case, when Israel unilaterally bombed an Iraqi nuclear reactor in 1981. The United Nations Security Council unanimously condemned the attack as a “clear violation” of Article 2(4), despite Israel’s claims that the reactor posed a threat to its security because of its potential role in any Iraqi WMD programme.⁵⁵⁰ The grounds for condemnation were not that Israel had no right to military reaction to a threat, but that the threat was too distant to merit a military reaction, as we outlined in our Second Report of Session 2002–03.⁵⁵¹ In short, a reaction is permissible in principle, but depends on a judgement of the particular facts. However, this situation presents a major difficulty for states, which must make a swift decision about the nature of a threat without complete intelligence and in a situation where any tardy response could result in the overwhelming harm of a catastrophic attack.

418. Encapsulating the debate, Mr Bethlehem told us that:

The question remains as to whether this is the law [of self-defence] as it should be and whether we should not be looking again at the concept of imminence in the light of contemporary threats with a view to identifying at this stage guidelines that may assist in shaping the actions of States in the future.⁵⁵²

419. In the meantime, the real threat and extent of the potential devastation presented by the proliferation of WMD is pushing states towards a reappraisal of the doctrine of anticipatory self-defence. For instance, the American National Security Strategy sets out the USA’s position. It states:

We must adapt the concept of imminent threat to the capabilities and objectives of today’s adversaries. Rogue states and terrorists do not seek to attack us using conventional means. They know such attacks would fail. Instead, they rely on acts of terror and, potentially, the use of weapons of mass destruction—weapons that can be easily concealed, delivered covertly, and used without warning...The United States has long maintained the option of pre-emptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack.⁵⁵³

420. The Prime Minister also hinted at his support for a reappraisal of anticipatory self-defence and the existing order of international law in his speech on 5 March 2004.

⁵⁴⁹ *Ibid* p 866

⁵⁵⁰ *Ibid* p 898

⁵⁵¹ Foreign Affairs Committee, Second Report of Session 2002–03, *Foreign Policy Aspects of the War against Terrorism*, HC 1196, para 157

⁵⁵² Ev 106

⁵⁵³ The National Security Strategy of the United States of America, 20 September 2002: www.state.gov/r/pa/ei/wh/c7889.htm

Containment will not work in the face of the global threat that confronts us. The terrorists have no intention of being contained. The states that proliferate or acquire WMD illegally are doing so precisely to avoid containment. Emphatically I am not saying that every situation leads to military action. But we surely have a duty and a right to prevent the threat materialising.⁵⁵⁴

The Prime Minister's words appear to support the doctrine of anticipatory self-defence.⁵⁵⁵

421. One of the main justifications for the extension of the doctrine of anticipatory self-defence is the credibility gap that exists between actions by states and the existing legal framework. Mr Bethlehem wrote in his submission that the "fact that self-defence has for long been the only lawful basis for the unilateral use of force by States has led to various attempts to stretch the concept over the years."⁵⁵⁶ He described a number of cases in which self-defence did not fit the exact criteria of the action, such as the Vietnamese intervention against Pol Pot's Cambodia and the Tanzanian invasion of Idi Amin's Uganda—both of which are now seen as cases of humanitarian intervention—and contends that stretching the definition of self-defence has weakened its efficacy.⁵⁵⁷ He pointed out the difficulties inherent in a classical interpretation of self-defence, contending that a,

propensity towards doctrinal purity, to preserve the integrity of the concept of self-defence, has also meant that conduct which might otherwise have been regarded as lawful, being in response to a prior armed attack or a series of such attacks and proportionate thereto, has been condemned.⁵⁵⁸

422. Mr Bethlehem advocates extending the doctrine of anticipatory self-defence. He told us:

I think that there are circumstances where the boundaries of anticipatory self-defence need to be pushed out. I am concerned that the language of imminence, as traditionally interpreted, is rather too narrow and it is construed in a temporal context only rather than in the context of the harm that is likely to occur.⁵⁵⁹

He also wrote that:

To this end, I am of the view that there may be some advantage to the new concept of 'catastrophic threat', or more properly, the 'threat of catastrophic attack'. Faced with an attack of this kind, it would in my view be appropriate to begin to think beyond imminence to reasonable foreseeability, ie, away from temporal notions of threat and towards action required to neutralise the risk of catastrophic harm.⁵⁶⁰

554 'PM warns of continuing global terror threat', *10 Downing Street*: <http://www.number-10.gov.uk/output/Page5461.asp>

555 WAT 69, para12

556 Ev 92

557 Ev 94

558 *ibid*

559 Q269 [Mr Bethlehem]

560 Ev 105

423. The Attorney General was of a similar opinion when he told the House on 21 April 2004:

The concept of what constitutes an ‘imminent’ armed attack will develop to meet new circumstances and new threats. For example, the resolutions passed by the Security Council in the wake of September 11 2001 recognised both that large-scale terrorist action could constitute an armed attack that will give rise to the right of self-defence and that force might, in certain circumstances, be used in self-defence against those who plan and perpetrate such attacks and against those harbouring them, if that is necessary to avert further such terrorist attacks.⁵⁶¹

424. Some commentators, however, fear that expanding the doctrine of anticipatory self-defence could lead to its use in almost any dispute between states. Professor Sands argued in his submission that anticipatory self-defence should be narrowly defined because of its ambiguity and because in the wrong circumstances it can cause the very conflicts it seeks to limit.⁵⁶² He was less in favour of expanding the definition of the imminence of any attack that Mr Bethlehem, however, since imminence,

has to be determined by reference to capability and intent. There may be circumstances in which capability could include the acquisition (by a state or a terrorist organisation or even an individual on behalf of a terrorist organisation) of material or component parts to be used in the manufacture of WMD, and not possession of the finished product.⁵⁶³

He added the proviso that each case relies on an accurate intelligence assessment of the situation, and that public trust in government decision-making is restored and maintained.⁵⁶⁴ Clearly, public confidence in the use of intelligence to justify military action has been negatively affected by the Iraq war.

425. Professor Sands also made clear the necessity of examining the whole panorama of options available to states. He told us:

I am not sure you can address these issues of self-defence and the use of force against nuclear reactors in a narrow context. You have to take it in its broader context of the rules of international law which allow trade and international movements in certain products, chemicals, nuclear materials, and look at the use of force rules as part of that broader context... We have to look at the whole multilateral framework, whether it is the International Atomic Energy Agency or other international rules and conventions, which ensures that there are appropriate safeguards to stop this type of material floating around. The two go hand in hand.⁵⁶⁵

426. However, strong opposition to legitimising the concept of anticipatory self-defence exists. For instance, Kofi Annan, the United Nations Secretary General, told the UN

⁵⁶¹ Ev 166

⁵⁶² Ev 92

⁵⁶³ Ev 93

⁵⁶⁴ *ibid*

⁵⁶⁵ Q276

General Assembly on 23 September 2003 that the logic of anticipatory self-defence “represents a fundamental challenge to the principles on which, however imperfectly, world peace and stability have rested for the last fifty-eight years.”⁵⁶⁶ We also raised concerns at the expansion of the doctrine of anticipatory self-defence in our previous Report, saying that “there is a serious risk that this will be taken as legitimising the aggressive use of force by other, less law-abiding states [than the USA and the UK].”⁵⁶⁷ Professor Brownlie, Professor of Public International Law, All Souls College, Oxford, also argued that the language of Article 51 of the UN Charter “excludes the legality of pre-emptive action.”⁵⁶⁸

427. The threat of abuse of an expanding notion of anticipatory self-defence is also a concern considering that self-defence is curtailed by a principle of proportionality.⁵⁶⁹ Since a potentially catastrophic attack—or even the threat of a strike if anticipatory self-defence becomes allowable—is by its very nature out of all proportion, a proportional response could potentially be catastrophic in its own right. As a result, quantifying and even curtailing a state’s right to a ‘proportional’ response to a catastrophic attack—or the threat of one if anticipatory self-defence becomes allowable—is a major challenge for the international legal system.

428. We agreed that the concept of imminence requires reassessment in our report on the Foreign Policy Aspects of the War against Terrorism in December 2002, when we recommended that the “Government work to establish a clear international consensus on the circumstances in which military action may be taken by states on a pre-emptive basis.”⁵⁷⁰ However, the Government made clear in its response that it would not set out how the United Kingdom would reach a consensus on the use of anticipatory self-defence in the international community, and that “our strong view is that such a process [reaching a consensus] would be most unlikely to be successful.”⁵⁷¹

429. We conclude that the concept of ‘imminence’ in anticipatory self-defence may require reassessment in the light of the WMD threat but that the Government should be very cautious to limit the application of the doctrine of anticipatory self-defence so as to prevent its abuse by states pursuing their national interest. We recommend that in its response to this Report the Government set out how, in the event of the legitimisation of the doctrine of anticipatory self-defence, it will persuade its allies to limit the use of the doctrine to a “threat of catastrophic attack”. We also recommend that the Government explain its position on the ‘proportionality’ of a response to a catastrophic attack, and how to curtail the abuse of that principle in the event of the acceptance of the doctrine of anticipatory self-defence by the international community.

566 Ev 101

567 Foreign Affairs Committee, Second Report of Session 2002-03, *Foreign Policy Aspects of the War against Terrorism*, HC 196, para 154

568 *Ibid*, Ev 22

569 DJ Harris, *Cases and Materials on International Law*, (London 1998) p 896

570 Foreign Affairs Committee, Second Report of Session 2002-03, *Foreign Policy Aspects of the War against Terrorism*, HC 196, para 161

571 Foreign and Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs*, February 2003, Cm 5739, para (t)

Humanitarian intervention

430. The right of states to intervene militarily in the event of a humanitarian catastrophe has emerged in the wake of the actions in Kosovo and in East Timor in 1999. These two events pointed to a growing consensus in international law that a right to intervene to prevent serious human rights abuses is emerging. Mr Bethlehem wrote in his submission that

it is increasingly, although by no means commonly, accepted that the unilateral use of force by a State may be justified on grounds of overwhelming humanitarian necessity where there is convincing evidence, generally accepted by the international community as a whole, of extreme humanitarian distress on a large scale which requires immediate and urgent relief.⁵⁷²

431. The Prime Minister went some way to setting out what he called the doctrine of international community dealing with humanitarian intervention in his speech of 5 March 2004, when he said:

The only clear case in international relations for armed intervention had been self-defence, response to aggression. But the notion of intervening on humanitarian grounds had been gaining currency. I set this out, following the Kosovo war, in a speech in Chicago in 1999, where I called for a doctrine of international community, where in certain clear circumstances, we do intervene, even though we are not directly threatened.⁵⁷³

432. Professor Sands in his submission describes the evolution of a right to humanitarian intervention, outlining a report by an Independent Commission on Intervention and State Sovereignty established by the Canadian government that provides an “appropriate starting point for the future development of any ‘right to humanitarian intervention’”.⁵⁷⁴ However, the lack of an independent body which could establish whether a crisis justifies a humanitarian intervention and the pressure of immediate action in the event of a crisis leaves aspects of the doctrine of humanitarian intervention open to abuse. States might camouflage a political agenda behind arguments of humanitarian necessity or ignore a crisis because it has scant political significance.

433. We conclude that a doctrine of humanitarian intervention appears to be emerging, but that its application in the context of the war against terrorism raises difficult questions of interpretation and embodies significant risk. We recommend that the Government work to establish a consensus on when intervention on humanitarian grounds is permissible, in order to prevent its abuse by states pursuing their national interest.

572 Ev 103

573 ‘PM warns of continuing global terror threat’, *10 Downing Street*: <http://www.number-10.gov.uk/output/Page5461.asp>

574 Ev 92

8 International Co-operation to Tackle Terrorism

The continuing threat from al Qaeda

434. In his 5 March speech on the continuing threat of global terror, the Prime Minister said that it remained his “fervent view that the nature of the global threat we face in Britain and round the world is real and existential....it is monstrosly premature to think the threat has passed. The risk remains in the balance here and abroad”⁵⁷⁵ Similarly, when introducing the US State Department’s Patterns of Global Terrorism 2003 annual report, Ambassador Cofer Black, Co-ordinator for Counter-terrorism noted that: “There is every indication that al-Qaida continues to plan mass casualty attacks against American and other targets worldwide.” Moreover, figures cited in the report indicating that the number of international terrorist attacks fell in 2003 have since been revised to show that acts of international terrorism are on the rise.⁵⁷⁶

435. We heard from witnesses that despite concerted international efforts to tackle terrorism “any assessment that the global terror movement has been rolled back, or that even one component of that movement, al-Qa’ida, is on the run is optimistic and most certainly incorrect despite significant arrests of certain individuals.”⁵⁷⁷ The nature of al Qaeda and associated groups means that the capture of individuals has only a limited impact. Dr Magnus Ranstorp and M J Gohel told us that al Qaeda is not a centralised monolithic organisation that can be combated by the removal of individual leaders or operatives. “[W]e are dealing here with not one group, no single, central command and control structure, but a number of groups, autonomous, independent, but bonded together by an ideology.”⁵⁷⁸

436. Since our last Report there have been a number of worrying developments, notably in Spain and Saudi Arabia. We examine some of these below.⁵⁷⁹

Spain

437. On 11 March, explosions in three train stations in Madrid killed nearly 200 people. These were not suicide attacks: bombs were left on trains in rucksacks. In Spain’s general election, just days later on 14 March, the Socialists defeated the incumbent Popular Party. One of the Socialists’ electoral pledges had been to withdraw Spain’s 1,300 troops from Iraq unless the UN took control of Coalition operations following the 30 June handover.

438. Our witnesses were divided over what the Madrid attacks reveal about al Qaeda’s capabilities. While Dr Samore did “not see any technical demonstration of proficiency over

575 Remarks by Tony Blair, ‘PM warms of continuing global terror threat’, 5 March 2004, *10 Downing Street*: <http://www.number-10.gov.uk/output/Page5461.asp>

576 ‘Powell “Very Disturbed” by Errors in 2003 Terrorism Report’, US State Department press release, 10 June 2004; and ‘US re-releases flawed global terror report’, *Financial Times*, 23 June 2004.

577 Ev 39

578 Q152

579 Events in Iraq are dealt with elsewhere in this Report (see paras 12-20).

and above what they have demonstrated in other cases”,⁵⁸⁰ Dr Ranstorp told us that the attacks show “the worrying speed with which very sophisticated support mechanisms, logistical frameworks, managed to coalesce to put together an operation with extraordinarily devastating effect.”⁵⁸¹ For his part, M J Gohel focussed on the depth of planning associated with the attacks.⁵⁸² Nevertheless, while downplaying the operational importance of the Madrid attacks, Dr Samore believes they have great strategic significance. “I think it tells us something very frightening about the extent to which al-Qaeda is apparently trying to tailor its attacks to manipulate public opinion and to divide the West.”⁵⁸³

Saudi Arabia

439. Saudi Arabia has been a particular focus of concern in the war against terrorism, not least because of the number of Saudi nationals involved in the 11 September attacks. More recently, the country has witnessed a series of terrorist attacks. In May 2003 suicide attacks against housing compounds for Westerners in Riyadh killed 35 people. Since then, the attacks appear to be escalating. In May, a gun attack at a petrochemical site in Yanbu killed eight people and injured about 25 and an attack in al Khobar resulted in the death of 22 and injured 25. In June, there were a number of fatal shootings directed at Westerners, including a BBC team, and a US engineer was kidnapped and beheaded.⁵⁸⁴

440. As well as vowing to wage a jihad against US forces in Saudi Arabia, al Qaeda has denounced members of the Saudi royal family as tyrants, accusing them of “plundering the nation’s oil wealth”.⁵⁸⁵

441. On 13 June, the Foreign Office authorised the voluntary departure of non-essential staff and dependents from Saudi Arabia. Foreign Office travel advice warns that: “There is a continuing high threat of terrorism in Saudi Arabia. We believe that terrorists are planning further attacks in Saudi Arabia against Westerners and places associated with Westerners.”⁵⁸⁶ In June, United Kingdom Ambassador to Saudi Arabia Sherard Cowper-Coles was reported as saying that “there is a serious and chronic terrorist threat” in Saudi Arabia.⁵⁸⁷

442. Riyadh has been criticised for being slow to realise the threat posed by terrorism in the Kingdom. Our witnesses agreed that Saudi Arabia now recognises the danger posed by terrorism within the Kingdom, but took different positions on the success and extent of Saudi efforts to tackle the problem. Dr Ranstorp told us:

they are doing their best to try to stem this flow in terms of trying to crack down, but it is a very difficult path to tread, given its legitimacy, given the fact that they are

580 Q28

581 Q154

582 Q155

583 Q27 [Samore]

584 ‘Timeline: Saudi Arabia’, *BBC*, 29 May 2004, and ‘US warns Saudis of terror threat’, *BBC*, 14 June 2004.

585 ‘For Saudi Arabia, al Qaeda threat is now hitting home’, *Washington post Foreign Service*, 8 June 2004.

586 FCO Travel Advice, available at: <http://www.fco.gov.uk>

587 ‘Manhunt after BBC man killed in Saudi’, *Reuters*, 7 June, 2004.

finding quite significant pockets of militancy, not just from the extreme but also from a number of different sources within the kingdom.⁵⁸⁸

However, M J Gohel was somewhat more sceptical:

I think Saudi Arabia has taken some action under US pressure, but it is really in my opinion too little and too late. It is not entirely wholehearted either. We have seen, for instance, in the recent attack just a few days ago in Yanbu that the carnage went on for one and a half hours before the security services arrived, so either the services were inept or incompetent, or they were complicit in some way, because it is peculiar that it should take that long. Last year a house containing something like 15 suspects was surrounded in an urban area of Riyadh, and yet all of the suspects managed to escape, even though the get-away car would not start. They were able to flag down another car and escape in that. Was this ineptness? I am not sure. They seem to be very efficient in tracking down foreigners and Filipino maids and locking them up for two years because they have a picture of Christ or the bible.⁵⁸⁹

Duty of care

443. In our last Report in this inquiry, we commended the Government for its swift action in response to the terrorist attacks in Istanbul in November 2003 and for the setting up of the FCO 24-hour response centre, which we visited and found most impressive. We also welcomed the Government's decision to review the security of all overseas posts as well as its security strategy, which was announced by the Foreign Secretary in December.⁵⁹⁰ This review was completed in June. We discussed the review with Sir Michael Jay, Permanent Under-Secretary of State, at the end of June, and will consider it in our forthcoming Report on the FCO's Annual Report for 2003–04. The FCO also recently announced its revision of its travel advice system.⁵⁹¹

444. We conclude that al Qaeda continues to pose a very serious threat to the United Kingdom and its interests. As a result, fighting the threat of international terrorism must remain a top foreign policy priority.

Multilateral efforts to tackle terrorism

445. In previous Reports in this Inquiry we have noted that no country can prevent terrorism in isolation: only governments working together can raise global counter-terrorism capacity.⁵⁹² We remain convinced of this fact.

446. We have also described the important steps taken within the UN, EU and NATO to promote international co-operation against terrorism and examined the role of multilateral

588 Q164

589 Q165 [Gohel]

590 HC (2003-04) 81, para 257.

591 FCO: *Review of Foreign and Commonwealth Office Travel Advice*, Cm 6158, April 2004.

592 HC (2003-04) 81, para 258 and HC (2002-03) 405, para 190.

institutions in the war against terrorism.⁵⁹³ We set out below our understanding of recent multilateral developments of relevance to the war against terrorism.

The United Nations

The Counter-Terrorism Committee

447. Our previous four Reports on the war against terrorism have described the establishment of the UN Counter-Terrorism Committee (CTC), and its important role in the co-ordination of counter terrorism activities between UN member states.⁵⁹⁴ In these Reports, we have commended the Government for its high level of commitment towards the CTC.

448. However, in late 2003 and early 2004 a number of problems were identified with regard to the work of the CTC. In November 2003, its Chair Ambassador Inocencio Arias submitted a report on difficulties implementing Resolution 1373.⁵⁹⁵ This identified several fields in which states are having difficulties, including financing of terrorism, competence of the courts, ratification of the 12 international conventions and protocols without enforcement measures, links between terrorism and organised crime and links between terrorism and illegal movement of nuclear, chemical, biological and other potentially deadly materials.

449. The report also found that the CTC needed to strengthen its efforts to facilitate technical assistance and reinforce co-ordination with international, regional and subregional organisations. In addition, the CTC identified several problems within its structure and proceedings, notably the functions and working methods of the Chair, the secretariat and experts, and the lack of proper financial accountability and of an active communications policy. The CTC's procedures also need to be reconsidered in several areas, notably its decision-making mechanism; follow-up of decisions; and the need to broaden its present information sources.⁵⁹⁶

450. During our visit to the UN in March, when we met Ambassador Arias, we heard that progress in the CTC had stalled, but that there was optimism that ongoing reform efforts would succeed in reinvigorating it. On 26 March, the UN Security Council unanimously adopted Resolution 1535, restructuring the CTC. The Resolution provides for a Plenary comprising all 15 member states, and a bureau made up of the Chair and Vice-Chairs assisted by the Counter-Terrorism Committee Executive Directorate (CTED), to be established as a special political mission under the policy guidance of the Plenary. The

593 HC (2003-04) 81, paras 260-66, 287-308; HC (2002-03) 405, paras 185-90 and 228; HC (2002-03) 196, paras 16-17; and HC (2001-02) 384, para 69.

594 HC (2003-04) 81, paras 259-61; and HC (2002-03) 405, paras 185-90.

595 On 28 September 2001, acting under Chapter VII of the United Nations Charter (concerning threats to international peace and security), the Security Council adopted Resolution 1373 (2001), reaffirming its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts. Resolution 1373 also established the CTC to monitor the implementation of resolution 1373 by all States and tries to increase the capability of States to fight terrorism.

596 Work programme of the Counter-Terrorism Committee (1 January-31 March 2004), 13 January 2004, available at: http://www.un.org/Docs/sc/committees/1373/programme_of_work.html

Security Council is to conduct a comprehensive review of the CTC by 31 December 2005.⁵⁹⁷

451. In its response to our last Report, the Government welcomed the reform efforts of the CTC and endorsed the approach taken by the Security Council to achieve a more coherent structure to back up the CTC.⁵⁹⁸ It also outlined the bilateral assistance offered by the United Kingdom to assist countries to counter terrorism:

The Counter Terrorism Programme of the Foreign Office's Global Opportunity Fund aims to build counter terrorism and security capacity in key states around the world... Our projects are designed to help countries reduce the threat that directly affects our shared interests by increasing their ability to catch and prosecute terrorists, improving protective security, and helping them to make life gradually harder for the terrorists and their support networks, squeezing the space in which they operate... From the drafting and implementation of counter terrorism legislation; training law enforcement, intelligence and military units; advice and assistance on protecting aviation and maritime transport and other important potential targets; developing resilience and crisis management systems and ensuring that financial institutions (banks, charities, etc) are protected against abuse. The UK is active in a number of countries, primarily in Africa, the Middle East and Asia, including Kenya, Yemen, Saudi Arabia, Pakistan, India, Indonesia, Malaysia and the Philippines. For example, through the funding of a Commonwealth Secretariat programme, we are delivering a package of assistance to help common law countries in Africa and Asia to develop robust counter terrorism legislation that is human rights compliant. We are providing training to the police, prosecutors and judges to both understand and implement the legislation within the rule of law in order to ensure that cases against suspected terrorists are free and fair, so as to best ensure a solid conviction if a terrorist act has been committed.⁵⁹⁹

452. Despite the progress made on restructuring the CTC, there remain some concerns about its work. The CTC has no power of sanction, although it can name countries that are making insufficient progress on compliance. During our visit to the UN, we heard some concerns about the ability of the CTC to do this given that it works by consensus. We also heard about the need to incorporate human rights concerns in the work of the CTC.

453. We welcome the efforts to reform the UN's Counter-Terrorism Committee in order to make it more effective. We commend the Government's role in the reform process and its continued commitment to the Counter-Terrorism Committee. We further commend the work of the FCO to assist countries to build their counter-terrorism capacity through the Global Opportunity Fund. We recommend that in its response to this Report the Government provide a further update on the FCO's work in this area, the progress achieved to date and any area of concern. We further recommend that the Government seek to ensure that human rights concerns are incorporated in the work of the CTC and inform us of what progress has been made in this regard.

⁵⁹⁷ Resolution 1535 (2004), adopted by the Security Council at its 4936th meeting, on 26 March 2004.

⁵⁹⁸ Cm 6162

⁵⁹⁹ *ibid*

The Al-Qaida and Taliban Sanctions Committee

454. The Al-Qaida and Taliban Sanctions Committee was set up in 1999 under UN Security Council Resolution 1267.⁶⁰⁰ The Security Council maintains a list of organisations and individuals linked to the Taleban or Al Qaeda; member states are obliged to implement an arms embargo, travel ban and asset freeze on the individuals and entities on this list. The Sanctions Committee is responsible for the consolidated list and monitors the compliance of member states with the sanctions.

455. We noted in our last Report that there have been difficulties with regard to international co-operation on measures against al Qaeda and the Taliban.⁶⁰¹ In its most recent report (which covers the period 1 January–31 December 2003), the Sanctions Committee noted that it has made progress on expanding and refining its consolidated list of individuals.⁶⁰² However the report also noted that:

The lack of State reporting... limited the Committee's ability to draw precise conclusions regarding how effective States were in their fight against terrorism and thus to accurately focus on specific areas in which the Committee should enhance its efforts by providing better support to Member States in their implementation of the sanctions measures.⁶⁰³

456. In June, the FCO wrote to us with an update on the Sanctions Committee:

The UK fully supported the adoption of UNSCR1526(2004) when it strengthened the sanctions imposed originally by UNSCR1267(1999) and sought to increase the number of Member States reporting, including by widening the mandate of both the Al-Qa'ida & Taliban (formerly the 1267) Sanctions Committee and its Monitoring Group. In particular, the new resolution asked the Sanctions Committee to have a central role in assessing information regarding effective implementation of the measures and to recommend improvements to them. The Sanctions Committee has been instructed to engage in detailed discussion with, and to make visits to, selected countries to enhance their full and effective implementation of the measures.

The Committee's new Analytical Support and Monitoring Team, headed by a Briton, Richard Barrett, is already engaging with those states that have not yet submitted reports. The Monitoring Group has also been tasked to submit three comprehensive, independent reports to the Committee, the first by 31 July 2004, on implementation by States of the measures. These reports should include concrete recommendations for improved implementation of the measures and possible new measures.

On 25 May the Chairman of the Sanctions Committee gave a briefing to the Security Council based on the reports received so far. He had concerns over the implementation by some Member States. Amongst these, we are especially

600 UN Security Council Resolution 1267 (1999), adopted by the Security Council at its 4051st meeting on 15 October 1999.

601 HC (2003-04) 81, paras 265-6.

602 Report of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, 8 April 2004.

603 *Ibid*

concerned that in a number of States, the assets freeze list is being sent to banks only and not to the wider financial sector. It is also of concern that, whilst new rules for charities have been introduced by some, less attention has been paid to alternative remittance systems such as Hawala. In addition, the Chairman noted that there was less than effective incorporation of the travel ban list into the border controls of some States, which might allow known Al-Qa'ida or Taliban individuals or associates to cross borders more easily than they otherwise should.

As a leading member of the Sanctions Committee, and given the serious and continuing nature of the threat by Al-Qa'ida and the Taliban, we will continue to work closely with both the Sanctions Committee and the Monitoring Group in fully addressing the issues raised by the Chairman. In particular, we will be directly assisting the Monitoring Group with devising their suggestions for improved implementation and possible new measures during their visit to the UK later this year.⁶⁰⁴

457. In previous Reports in this Inquiry, we have detailed efforts to counter terrorist financing. We noted that although progress has been made, much work remains to be done to end terrorists' access to funds.⁶⁰⁵ In its response to our last Report, the Government said:

The Government intends to continue with its significant counter-terrorism assistance programme, which includes helping other countries with combating the financing of terrorism. The programme is a collaborative effort across several government departments. In the coming financial year (2004–05) assistance with combating the financing of terrorism will include issues relating to legislation, financial services industry regulation, law enforcement, and charity regulation, depending on the relative need in different countries. This assistance will be directed at those countries where the terrorist threat is greatest to UK interests. Assistance will be co-ordinated with other international donors to avoid duplication, including through the G8 Counter-Terrorism Action Group

The government has established a specific interdepartmental structure to focus its efforts in this area, pulling together policy and activity across a large number of government departments. The government will continue to play an active role in the EU, the UN, the G7/8, the Financial Action Task Force, and bilaterally with other international partners, to ensure that progress on combating the financing of terrorism continues as part of the overall fight against terrorism. The government will also continue to provide technical assistance to other countries as part of this overall effort.⁶⁰⁶

In its most recent report, the Al-Qaida and Taliban Sanctions Committee noted its concerns that al Qaeda retains access to considerable sources of funding.

604 Ev 160

605 HC (2003-04) 81, paras 267-70 ; and HC (2002-03) 405, paras 191-95.

606 Cm 6162

458. The Monitoring Group reported that, despite new initiatives to combat terrorist financing, such as “know your customer” regulations and “suspicious transaction reports”, substantial funds were still available to al Qaeda from the illicit drug trade, charities and deep-pocket donors. The Group noted that al Qaeda was adapting to the tightening of international financial structures, especially by using alternate remittance systems such as *hawala* to transfer money. The Group also reported that al Qaeda continued to use alternate remittance systems to transfer money. A new concern raised by the Group was that charities, even though they had been designated on the list, often proved difficult to shut down, owing to the sensitivity of government oversight of such organizations. The Monitoring Group also reported that states were reluctant to freeze tangible assets, such as business or property.⁶⁰⁷

459. We conclude that there remains considerable cause for concern that terrorist groups retain access to significant sources of funding. We recommend that the Government redouble its efforts in this field, and that in its response to this Report it set out what progress has been achieved to date in this field, what are the main areas of difficulty, and what proposals it has to achieve further progress.

The European Union

460. We have discussed in previous Reports the different approaches taken to countering the threat posed by terrorism in the US National Security Strategy and the EU Security Strategy.⁶⁰⁸ We heard from witnesses that the differing experiences of Europe and the US may inform operational prerogatives, but that respective threat perceptions appear to be converging.⁶⁰⁹

461. In a previous Report in this inquiry, we concluded that:

It is now more important than ever for the United Kingdom to work with partners in the European Union and the United States, and to demonstrate that there is no need to choose between these valued and long-standing partners.⁶¹⁰

462. Since the publication of the EU Security Strategy in December 2003, there have been a number of important developments in the EU approach to terrorism. Following the 11 March terrorist attacks in Madrid, the EU summit was dominated by the issue of how to co-ordinate and co-operate in countering terrorism. On 22 March, European interior ministers adopted the Declaration on Combating Terrorism. This Declaration stated that: “In light of the events in Madrid, the European Council believes that full implementation of measures to combat terrorism is a matter of urgency.”⁶¹¹ Similarly, on 30 March, Javier Solana, EU High Representative for CFSP, said “we are not re-inventing the wheel, we have

607 Report of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, 8 April 2004, paras 32 & 36.

608 HC (2003-04) 81, paras 287-94.

609 HC (2003-04) 81, para 293.

610 HC (2002-03) 405, para 106.

611 Declaration on Combating Terrorism, available at: <http://ue.eu.int>

been working very hard and at a very good pace since September 11, but we wish to see how the wheel can turn much more rapidly. We have no time to waste.”⁶¹²

463. The Declaration outlined a package of anti-terrorist measures, including:

- The adoption of a ‘solidarity clause’ which provides for mutual assistance in the event of a terrorist attack.
- The appointment of a counter-terrorism co-ordinator within the Council Secretariat to oversee the EU’s anti-terrorist activity (Gijs de Vries was subsequently appointed to this position).

The Declaration also called for member states to ensure that the existing legislative framework is implemented, further develop the legislative framework in the area of information and intelligence sharing and reinforce co-operation in law enforcement.

464. The proposals in the March Declaration reflect the difficulties of European co-operation. In particular, there is frustration over the failure of member states to implement measures adopted by the EU and the lack of co-ordination between institutions and member states. Many member states also remain reluctant to share intelligence, preferring to act bilaterally.⁶¹³ The recent failure of EU ministers to appoint a new director for Europol highlighted continued tension among member states over police co-operation.⁶¹⁴

465. We conclude that it remains of the utmost importance that the United Kingdom work with its partners in the EU as well as the United States to combat the international threat posed by terrorism. We commend the Government for supporting the developments within the EU to facilitate more effective co-operation. However, we conclude that significant further steps are required for EU anti-terrorism action to be effective. We recommend that the Government in its response to this Report explain in detail what it is doing to encourage more effective European co-operation against terrorism.

Counter-proliferation strategy

466. Since our last report, the Government has broadened its efforts to curtail the spread of WMD materials and technologies, alongside partners such as the USA and the EU. In a comment in his 5 March speech, the Prime Minister made clear the scale of the threat: “We knew that Al Qaida sought the capability to use WMD in their attacks. Bin Laden has called it a ‘duty’ to obtain nuclear weapons. His networks have experimented with chemicals and toxins for use in attacks.”⁶¹⁵

467. Fears about the threat of terrorist possession of WMD have propelled efforts to control the proliferation of WMD, which have included expanding membership of the Proliferation Security Initiative (PSI), presenting a welcome face to Libya for its willingness

612 Joint press conference with Javier Solana and Gijs de Vries, Brussels, 30 March 2004, available at: <http://ue.eu.int>

613 ‘Solana slams EU’s anti-terror measures’, *EUObserver*, 19 March 2004.

614 ‘“Mastermind” of Madrid bombings arrested in Italy’, *Financial Times*, 9 June 2004.

615 ‘PM warns of continuing global terror threat’, *10 Downing Street*: <http://www.number-10.gov.uk/output/Page5461.asp>

to curtail its WMD programme and re-enter the international fold, and putting diplomatic pressure on Iran to agree to international inspections of its nuclear facilities by the International Atomic Energy Agency (IAEA).

The Proliferation Security Initiative (PSI)

468. The broadest effort to prevent WMD proliferation is the PSI, which President Bush announced at a speech in Krakow on 31 May 2003, in response to the USA's frustration over its inability in December 2002 to detain the *So San*, a ship bearing Scud missiles from North Korea to Yemen.⁶¹⁶ The PSI is an informal grouping of states, including Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the USA, and the United Kingdom, which interdicts shipping on the high seas suspected of carrying WMD materials. Since our last report in January 2004, the group has expanded to include Canada, Norway, Russia and Singapore, and has the permission of Panama and Liberia, two prominent 'flag of convenience' states, to board and search their ships.⁶¹⁷ The PSI remains an intergovernmental initiative with no secretariat.

469. The PSI rests on a uneasy legal foundation. Currently, PSI is unlawful under the terms of Article 110 of the Convention on the Law on the Sea, which only permit interference with another state's vessels when there is reasonable ground for suspecting that the ship is engaged in piracy or the slave trade, unauthorised broadcasting, is without nationality, or is of the same nationality as the warship despite flying another flag.⁶¹⁸ Carrying weapons of mass destruction at sea is not prohibited under international law, and if a state is not a party to the Convention of the Law of the Sea interference with its ships is not permissible except where the above conditions have come to constitute an internationally accepted customary norm. Indeed, the interdiction of a ship without the permission of the state concerned may amount to an act of belligerence.

470. The Foreign and Commonwealth Office wrote to us on 5 July 2004 outlining the legal justification for PSI. They said:

PSI builds on the 1992 UN Security Council Declaration which states that the proliferation of all WMD constitutes a threat to international peace and security, and underlines the need for members of the UN to prevent proliferation. The PSI is also consistent with United Nations Security Council resolution 1540 (2004), adopted unanimously on 28 April 2004, in which the Council inter alia "calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials."⁶¹⁹

Yet some states have doubts about the PSI's legal basis; the Chinese government, for instance, has raised its concerns about the initiative.⁶²⁰

616 'The Proliferation Security Initiative: Can interdiction stop proliferation?', *Arms Control Today*, June 2004

617 *Ibid* and Foreign Affairs Committee, Second Report of Session 2003-04, *Foreign Policy Aspects of the War Against Terrorism*, HC 81, paras 309-313

618 DJ Harris, *Cases and Materials on International Law*, (London 1998) p 430

619 Ev 167

620 US to search ships for WMD, *BBC*, 5 September 2003

471. According to the existing legal framework, the interdicting powers can argue that their activities are legitimate by changing custom so that carrying WMD materials becomes illegal—in the same way that the United Kingdom made the prohibition of slave trading on the high seas a customary norm in the nineteenth century—by altering the Convention on the Law on the Sea, by adopting a UN Security Council Resolution (UNSCR) permitting their action or alternatively by pleading anticipatory self-defence.⁶²¹ However, using anticipatory self-defence to justify the interdiction of traffic on the high seas is difficult since the imminence of a threat from weapons components transferred to a third state is debatable,⁶²² and more worryingly risks extending the doctrine to such an extent that it might justify almost any military action.⁶²³ The FCO said in their letter that “PSI does not affect the general rules of international law for the use of force, nor is it intended to be a vehicle for doing so”.⁶²⁴

472. The FCO described their initiatives to broaden the legal basis of PSI in their letter of 5 July 2004, saying:

To further extend the legal basis for interdiction operations, the UK has opened negotiations with a number of flag states with a view to concluding bilateral boarding agreements. We hope to conclude the first of these agreements shortly. Other PSI participants are looking at similar action. The US for example has concluded bilateral boarding agreements with Liberia or Panama. Separately, we are supporting proposed amendments to the Suppression of Unlawful Acts At Sea Convention (SUA) which would make it a criminal offence to transport WMD by sea.⁶²⁵

473. Despite the legal cloudiness, the PSI is a flexible supplement to existing treaty frameworks for non-proliferation, and its informality allows the assessment of each case on an individual basis, so judging the legitimacy of the transport of dual use goods, which can have civilian and military uses, on their intended destination. Its flexibility also means that the French or Australian navies, for instance, can operate in their home waters and the initiative will still have something close to international presence, despite only one of the members, the USA, boasting a navy with a genuinely global reach.⁶²⁶ We commended the Government’s decision to participate in the PSI in our Second Report of Session 2003–04.⁶²⁷

474. We conclude that the expansion of membership of the Proliferation Security Initiative (PSI) to include new members such as Russia and the willingness of Panama and Liberia to allow searches of their ships is most welcome, and we commend the Government’s efforts to encourage other states to agree to the interdiction of their shipping. However, we recommend that the Government work for a United Nations

621 Weapons of Mass Destruction Counterproliferation: Legal Issues for Ships and Aircraft, *CRS Report for Congress*, 1 October 2003

622 *Ibid*

623 ‘The Proliferation Security Initiative: The Legal Challenge’, Bipartisan Security Group, September 2003

624 Ev 167

625 *ibid*

626 The Proliferation Security Initiative: Can interdiction stop proliferation?, *Arms Control Today*, June 2004

627 Foreign Affairs Committee, Second Report of Session 2003–04, *Foreign Policy Aspects of the War Against Terrorism*, HC 81, para 84

Security Council Resolution which would resolve the legal difficulties over PSI. We also recommend that the Government set out in its response to this Report what amendments to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988 are under consideration and who has proposed them, and how the Government will draw a distinction between the legitimate and illegitimate transport of WMD by sea.

Libya

475. The announcement by Libya on 19 December 2003 admitting a WMD programme marked a success for non-proliferation efforts; Libya's agreement to dismantle its weapons efforts has led to its re-admittance to the international community.

476. Describing the importance of Libya's adherence to non-proliferation efforts, the Foreign Secretary told us:

I think the Libya example is of huge importance. It does show that leaders of state, as Libya has been, can be in breach of their international obligations, can be developing very serious WMD capabilities in the nuclear, chemical and biological field and the international community, if they are willing to dispose of them and take steps to come fully into compliance with those international obligations, will reciprocate. That seems to me to be a much better approach to dealing with these threats than having to go to the Security Council and/or taking military action. However, it can only take place where there is a willing collaborator, as there was, it turned out, in Libya.⁶²⁸

He also said that Libya's willingness to comply with international standards of non-proliferation would benefit the North African state.

This is the start of a deepening relationship with Libya, and it would be quite inappropriate for us to say, "That's fine, our engagement will now cease". That is neither desired by the United Kingdom, the United States, nor is it desired by the government of Libya. Who knows exactly what the motivations were that led President Gadaffi last March to seek to actively co-operate with us, but there is no doubt that the desire to see the economy modernised and greater access to education and science and technology by his people was one of the motivations.⁶²⁹

477. The Prime Minister's visit to Libya on 25 March 2004 went far to bring Libya into the international fold, as did a report by the International Atomic Energy Association (IAEA) saying that Libya was co-operating with inspections in May 2004.⁶³⁰ The USA also resumed relations with Libya on 28 June 2004, and Libya now supplies American consumers with oil.⁶³¹ However, Libya's openness to a degree of economic reform and political liberalisation is in doubt, which could cause difficulties given the focus on reform as an important ingredient of the West's approach to the Middle East and North Africa.

628 Q148

629 Q149

630 UN continues Libya nuclear probe, BBC, 28 May 2004

631 US resumes relations with Libya, BBC, 28 June 2004

478. We commended the Government for its role in encouraging Libya to scale back its WMD programme, as well as the Government's policy of engagement, in our last Report on the foreign policy aspects of the war against terrorism. We also concluded that the Government's policy on Libya could present a model for dealing with other rogue states.⁶³² The Butler report, *Review of Intelligence on Weapons of Mass Destruction*, also praised the quality of intelligence that contributed to understanding of Libya's WMD programme.⁶³³

479. We give a cautious welcome to Libya's agreement to comply with international non-proliferation initiatives. We recommend that the Government continue working to integrate Libya into the international community, and that it set out in its response to this Report what it is doing to encourage a degree of economic reform or political liberalisation in Libya, particularly in association with the European Union.

Iran

480. Iran's accession to the Additional Protocol to the Non-Proliferation Treaty (NPT) in December 2003 had improved relations between Iran and the international community. The accession took place after an intense period of diplomatic activity in October 2003 by an EU troika of France, Germany and the United Kingdom, and strong US condemnation of Iran's nuclear programme, in response to which Iran agreed to unannounced inspections by the International Atomic Energy Agency (IAEA) and suspended uranium enrichment.⁶³⁴

481. However, doubts have since arisen about Iran's co-operation. The IAEA passed a resolution condemning Iran in March 2004, saying that the authorities in Tehran had failed to declare aspects of the nuclear programme.⁶³⁵ The resolution was a response to Iran's decision not to declare uranium enriching centrifuges and its failure to explain the presence of bomb-grade uranium on components.⁶³⁶ Then, after the European troika presented a draft resolution reprimanding Iran to the IAEA in June 2004, Iran declared that it would not stop development of the nuclear cycle. The Iranians claim that their nuclear capability is purely civilian.⁶³⁷

482. The international community remains resolute about pressuring Iran to agree to IAEA policing of its nuclear programme. US Assistant Secretary of State for Non-proliferation, John Bolton, told *Arms Control Today* in June 2004:

The insistent demand by the international community and the IAEA that Iran end its non-compliance and return to compliance is a first step, but I think it will take more than just the IAEA. It will take the international community writ large making clear to Iran that it faces two choices. If [Iran] chooses to continue down the nuclear

⁶³² Foreign Affairs Committee, Second Report of Session 2003-04, *Foreign Policy Aspects of the War Against Terrorism*, HC 81, para 249-51

⁶³³ HC 898, para 84

⁶³⁴ Iran rejects more nuclear curbs, BBC, 12 June 2004

⁶³⁵ IAEA says Iran failed to disclose key nuclear activities, *Arms Control Today*, March 2004

⁶³⁶ Iran rejects more nuclear curbs, BBC, 12 June 2004

⁶³⁷ IAEA near sharp rebuke of Iran on nukes, *The Guardian*, 16 June 2004

weapons path, it will face increasing political and economic isolation. The alternative is to give up that path and be restored as a reputable member of the international community. Libya chose the benefits of coming clean.⁶³⁸

483. We concluded in our report on Iran, that:

the lesson to be drawn from the success of the EU troika initiative is that, by acting together with firm resolve the international community has been able to persuade Iran to modify its nuclear policies in ways which will bring benefits to Iran, to its neighbours and to the international community. However, it is important to recall that the agreement was only necessary because Iran had been developing covertly a nuclear threat capability. It is also clear from Iran's failure to declare some aspects of its nuclear programme since the Agreement was signed that continued vigilance will have to be exercised by the IAEA, backed up wherever necessary by intrusive monitoring and effective verification measures.⁶³⁹

484. In its response, the Government set out its position:

We believe resolute action by the international community will be necessary to ensure that Iran lives up to its commitments. We are working in a variety of formats—bilaterally, and with France and Germany, and through the EU—to encourage the Iranian authorities to co-operate fully with the IAEA, and comply with resolutions of the IAEA Board of Governors. We are urging Iran to work with the IAEA to resolve all outstanding questions about its nuclear programme. The IAEA Director-General has reported a pattern of past concealment in Iran's declarations to the Agency. We have pressed Iran to ensure that the declaration of nuclear-related activities and facilities it is required to make under the Additional Protocol is complete and final; it would be highly damaging for international confidence if Iran were to be less than fully transparent. We have also pressed Iran to rebuild confidence in the peaceful ambitions of its nuclear programme by verifiably suspending, and ultimately ceasing, all enrichment-related and reprocessing activity. We have urged Iran to refrain from moves likely to undermine confidence further, such as the postponement of IAEA inspection visits in March and the proposals to take forward work at the Uranium Conversion Facility at Esfahan and the Heavy-Water Research Reactor at Arak. Continued public statements by senior Iranian officials demanding that the IAEA Board of Governors 'close the Iran file' at its June 2004 meeting are unrealistic.⁶⁴⁰

485. We conclude that Iran's nuclear programme continues to pose an intense challenge for the international community, and that the continued exertion of diplomatic pressure by the European troika, the US and the Russian Federation is essential to its resolution. We recommend that the Government persevere with its strategy towards Iran's nuclear programme and make clear to the authorities in Tehran the benefits of compliance.

638 The Bush Administration's Nonproliferation Policy: An Interview with Assistant Secretary of State John S Wolf, *Arms Control Today*, June 2004

639 Foreign Affairs Committee, Third Report of Session 2003-04, *Iran*, HC 80, para 58

640 Foreign and Commonwealth Office, Third Report from the Foreign Affairs Committee Session 2003-2004: *Iran*, Response of the Secretary of State for Foreign and Commonwealth Affairs, Cm 6198

Arab reform and public diplomacy

486. We have discussed elsewhere the need to resolve regional conflicts such as those between Israel and the Palestinians and between Pakistan and India.⁶⁴¹ In our last Report we noted the continued relevance of our conclusion in July 2003 that “resolution of the Israeli-Palestinian conflict continues to be of central importance to the long term stabilisation of the Middle East region.”⁶⁴² We have also dealt with the need to tackle the sources of extremism in Pakistan and to ensure continued international commitment to Afghanistan to prevent the country from once again becoming a haven for extremists.

487. Another area of concern is the lack of democracy and the general under-performance in the Arab and Islamic world. While in New York, we discussed this issue with the United National Development Programme, which has produced a series of reports on Arab Human Development. The 2002 Arab Human Development Report noted the region’s low incomes, stagnant growth and fast growing populations. It concluded that the barrier to better performance in the Arab world is not a lack of resources but the absence of freedom, knowledge and ‘womanpower’. Absolute monarchies remain a feature of the Arab world, while elections are often flawed and the media and civil society operate under heavy constraints.⁶⁴³

488. M J Gohel told us:

We have to stop the recruitment of new generations of terrorists ... Some 2 billion Muslims are ruled in 60 countries, not a single one of which is truly democratic, except maybe Malaysia and Turkey. The trouble is the young men only have a choice between a despotic regime or the clerics in the mosque. If they are not benefiting from the despotic regime, they go to the clerics, and the clerics say Jihad is the way to prosperity and paradise.⁶⁴⁴

We also heard from witnesses about the lack of serious reform in Saudi Arabia and how this has fed into the deteriorating situation in that country.⁶⁴⁵ However, while the issue is clearly important to the West, Western efforts to support democratisation are problematic.

489. In an address to the National Endowment for Democracy in November 2003, President Bush outlined the US interest in reform in the Middle East.⁶⁴⁶ “Our commitment to democracy is also tested in the Middle East, which is my focus today, and must be a focus of American policy for decades to come. In many nations of the Middle East—countries of great strategic importance— democracy has not yet taken root.” He went on to outline the opportunities that he believes are presented by the war in Iraq. “Iraqi democracy will succeed —and that success will send forth the news, from Damascus to Teheran—that freedom can be the future of every nation. The establishment of a free Iraq at the heart of the Middle East will be a watershed event in the global democratic

⁶⁴¹ See paras 255-56 & 345-47

⁶⁴² HC (2003-04) 81, para 125.

⁶⁴³ ‘Arab Human Development Report’, UNDP, 2002.

⁶⁴⁴ Q156

⁶⁴⁵ Q167

⁶⁴⁶ Remarks by President Bush, the National Endowment for Democracy, Washington DC, 6 November 2003.

revolution.” The President went on to discuss “a new policy, a forward strategy of freedom in the Middle East.”

490. In February 2004, the Arabic newspaper *al-Hayat* leaked details of the US administration’s Greater Middle East Initiative, which was designed as a ‘visionary complement’ to the war against terrorism. Although the plan was far from innovative, incorporating the promotion of democracy and good governance, building a knowledge society and expanding economic opportunities,⁶⁴⁷ it prompted concern in both the Middle East and Europe about US efforts to impose a plan on the region. Egypt and Saudi Arabia took the lead in rejecting the initiative. At a press conference, Egyptian President Hosni Mubarak told journalists that efforts to impose models of reform from abroad are “unacceptable”.⁶⁴⁸ This sentiment was echoed across the Arab world. In response, a number of regional states, including Egypt, Jordan and Tunisia proposed their own initiatives to be adopted at Arab League Summit planned for the end of March in Tunis. Although this summit was cancelled under various pressures, a subsequent summit held in Tunis in May produced a pledge to embrace reform and fight terrorism. However, not only was the plan vague, but no mechanism has been set up to monitor progress.⁶⁴⁹ Thus, there remains well founded scepticism over the commitment of many Arab countries to pursue genuine reform.

491. The formal launch of the US proposal for democratic and economic reform at the G8 summit in June 2004 did little to reassure either Arab leaders or populations, despite efforts to emphasise the importance of home-grown reform.⁶⁵⁰ A number of key Arab states stayed away from the summit, reluctant to be seen to endorse US-sponsored reform plans.

492. The United Kingdom has taken a more understated approach to reform in the Middle East. On 1 March, the Foreign Secretary made a speech on ‘Partnerships for reform in the Arab World’. While emphasising the United Kingdom’s interest in successful reform in the Arab World, Mr Straw stressed that reform must be home-grown:

It is the people of the Arab world who are best placed to understand the challenges they face, and to decide how best to deal with them. The ideas must come from our Arab friends. We in Europe or the West cannot and must not dictate to them; but we can, and will, work with them to support and nurture reform.⁶⁵¹

He went on to outline some of the steps that the United Kingdom can take to support reform:

We can offer our expertise in adapting to a changing world, for example on educational standards, legal reform, the participation of women, market regulation or youth policy....But whatever we do in Britain, we need international partnerships to achieve our aims. For Britain, working through the EU will be crucial. The European Security Strategy endorsed last December makes the Middle East a

647 These concepts have long been incorporated in US aid programmes and the European Barcelona Process.

648 ‘Asserting home-grown reform’, *al-Ahram Weekly*, 4-10 March 2004.

649 ‘Arabs condemn targeting civilians’, *Financial Times*, 24 May 2004.

650 ‘Partnership for Progress and a Common Future with the Region of the Broader Middle East and North Africa’, G8 declaration, Sea Island, Georgia, 9 June 2004.

651 ‘Partnership for reform in the Arab World’, remarks by the Foreign Secretary, 1 March 2004.

priority—and rightly so. The EU is already strongly engaged. The so-called 'MEDA' programme of aid totals around €700 million per year; the Barcelona Process and our partnership with the GCC give us frameworks for closer partnership; and bilateral Association Agreements link us even more closely to individual countries in the region. We now need to use these instruments more coherently and effectively to promote our shared goals—for example by focusing MEDA funds on our strategic objectives, and deepening the relationship with the Gulf states through the EU–GCC dialogue. The new European Neighbourhood Policy should also give us new opportunities to build partnerships for reform in the region. We need to work first of all with those countries which have shown a clear wish to reform; and we need to make sure the partnerships include conditions by which both sides are prepared to abide.

493. On 5 May, the Foreign Office wrote to the Committee, outlining steps it is taking to help bring about reform in the Arab world:

The FCO last year established a new team in London and in the region dedicated to furthering reform in the Arab world. It also established a £1.5 million Engaging the Islamic World programme to support this policy by assisting indigenous-led change and modernisation in the areas of governance, rule of law and issues surrounding women. The programme fund was increased to £3 million this financial year and extended to Islamic countries beyond the Arab world. The British Government is also using its influence in multilateral organisations to support regional reform. We expect agreement at the G8 Summit in Sea Island to a menu of activity that assists reform in the region. We are contributing to the development of an EU Strategic Partnership for the Mediterranean and the Middle East, to be considered at the June European Council. This international engagement supports recent regional demands for change and modernisation, such as the Sana'a and Alexandria inter-governmental and nongovernmental declarations earlier this year.⁶⁵²

494. We also heard from the BBC World Service and British Council about their work in the Middle East and their enhanced focus on the broader Islamic world following the publication of the FCO's White Paper 'UK International Priorities' in December 2003.⁶⁵³ The White Paper also prioritised the promotion of democracy, good governance and human rights.

495. As well as efforts to improve radio and online services, there was a proposal for a BBC Arabic television service, but this did not receive funding in the Treasury's recent spending review.⁶⁵⁴ For its part, the British Council told us that it:

played a central part in formulating the Public Diplomacy Strategy for the Middle East, which allocates a key role to the British Council in encouraging mutual

652 Ev 69. A conference of Arab intellectuals and non-governmental organisations on 12–14 March at the Alexandria Library produced the Alexandria Document on Reform in the Arab World.

653 FCO: *UK International Priorities: a strategy for the FCO*, Cm 6052, December 2003. See also Minutes of Evidence taken before Foreign Affairs Committee, 22 June 2004, to be published as part of HC 745. Uncorrected transcript available at: http://www.parliament.uk/parliamentary_committees/foreign_affairs_committee.cfm

654 HC Deb, 12 July 2004, col 1129–1139. This issue will be discussed in more detail in our forthcoming Report on the FCO Annual Report.

understanding and in engaging with reform in education and civil society on the lines recommended by the UNDP's First and Second Arab Human Development reports.⁶⁵⁵

We heard that the British Council is in discussion with a number of education ministries across the Middle East about how to engage and share expertise from within the United Kingdom.

496. There are clear dangers associated with being seen to support reform projects in the Arab world. Given the high level of anti-US sentiment in the region and the links made by the US administration between the war in Iraq and the spread of democratic reform, close association with such projects could be detrimental to more than just the prospects of reform. In his speech on 1 March, the Foreign Secretary alluded to this problem. "We in Europe should make clear that we share America's recognition of the need for reform, but that we need to work closely together and with the Arab world to ensure we get our approach right."⁶⁵⁶

497. There is a clear need for reform throughout the Arab world. However, we conclude that it is important not to seek to impose reform on the region but to encourage and support domestic initiatives where appropriate. We agree with the Foreign Secretary that Arab reform must be home-grown and we commend the work of the Foreign Office in support of regional and national reform initiatives. We also welcome the work of the BBC World Service and British Council in the region. We recommend that in its response to this Report the Government provide a fully up-dated report on the work it is doing in this area.

⁶⁵⁵ British Council written evidence to be published as part of the Annual Report series, HC 745.

⁶⁵⁶ 'Partnership for reform in the Arab World', remarks by the Foreign Secretary, 1 March 2004.

Appendix: Resolution 1546 (2004)

Adopted by the Security Council at its 4987th meeting, on 8 June 2004

The Security Council,

Welcoming the beginning of a new phase in Iraq's transition to a democratically elected government, and *looking forward* to the end of the occupation and the assumption of full responsibility and authority by a fully sovereign and independent Interim Government of Iraq by 30 June 2004,

Recalling all of its previous relevant resolutions on Iraq,

Reaffirming the independence, sovereignty, unity, and territorial integrity of Iraq,

Reaffirming also the right of the Iraqi people freely to determine their own political future and control their own natural resources,

Recognizing the importance of international support, particularly that of countries in the region, Iraq's neighbours, and regional organizations, for the people of Iraq in their efforts to achieve security and prosperity, and *noting* that the successful implementation of this resolution will contribute to regional stability,

Welcoming the efforts of the Special Adviser to the Secretary-General to assist the people of Iraq in achieving the formation of the Interim Government of Iraq, as set out in the letter of the Secretary-General of 7 June 2004 (S/2004/461),

Taking note of the dissolution of the Governing Council of Iraq, and *welcoming* the progress made in implementing the arrangements for Iraq's political transition referred to in resolution 1511 (2003) of 16 October 2003,

Welcoming the commitment of the Interim Government of Iraq to work towards a federal, democratic, pluralist, and unified Iraq, in which there is full respect for political and human rights,

Stressing the need for all parties to respect and protect Iraq's archaeological, historical, cultural, and religious heritage,

Affirming the importance of the rule of law, national reconciliation, respect for human rights including the rights of women, fundamental freedoms, and democracy including free and fair elections,

Recalling the establishment of the United Nations Assistance Mission for Iraq (UNAMI) on 14 August 2003, and *affirming* that the United Nations should play a leading role in assisting the Iraqi people and government in the formation of institutions for representative government,

Recognizing that international support for restoration of stability and security is essential to the well-being of the people of Iraq as well as to the ability of all concerned to carry out their work on behalf of the people of Iraq, and *welcoming* Member State contributions in this regard under resolution 1483 (2003) of 22 May 2003 and resolution 1511 (2003),

Recalling the report provided by the United States to the Security Council on 16 April 2004 on the efforts and progress made by the multinational force,

Recognizing the request conveyed in the letter of 5 June 2004 from the Prime Minister of the Interim Government of Iraq to the President of the Council, which is annexed to this resolution, to retain the presence of the multinational force,

Recognizing also the importance of the consent of the sovereign Government of Iraq for the presence of the multinational force and of close coordination between the multinational force and that government,

Welcoming the willingness of the multinational force to continue efforts to contribute to the maintenance of security and stability in Iraq in support of the political transition, especially for upcoming elections, and to provide security for the United Nations presence in Iraq, as described in the letter of 5 June 2004 from the United States Secretary of State to the President of the Council, which is annexed to this resolution,

Noting the commitment of all forces promoting the maintenance of security and stability in Iraq to act in accordance with international law, including obligations under international humanitarian law, and to cooperate with relevant international organizations,

Affirming the importance of international assistance in reconstruction and development of the Iraqi economy,

Recognizing the benefits to Iraq of the immunities and privileges enjoyed by Iraqi oil revenues and by the Development Fund for Iraq, and *noting* the importance of providing for continued disbursements of this fund by the Interim Government of Iraq and its successors upon dissolution of the Coalition Provisional Authority,

Determining that the situation in Iraq continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Endorses* the formation of a sovereign Interim Government of Iraq, as presented on 1 June 2004, which will assume full responsibility and authority by 30 June 2004 for governing Iraq while refraining from taking any actions affecting Iraq's destiny beyond the limited interim period until an elected Transitional Government of Iraq assumes office as envisaged in paragraph four below;

2. *Welcomes* that, also by 30 June 2004, the occupation will end and the Coalition Provisional Authority will cease to exist, and that Iraq will reassert its full sovereignty;

3. *Reaffirms* the right of the Iraqi people freely to determine their own political future and to exercise full authority and control over their financial and natural resources;

4. *Endorses* the proposed timetable for Iraq's political transition to democratic government including:

- a) formation of the sovereign Interim Government of Iraq that will assume governing responsibility and authority by 30 June 2004;
- b) convening of a national conference reflecting the diversity of Iraqi society; and
- c) holding of direct democratic elections by 31 December 2004 if possible, and in no case later than 31 January 2005, to a Transitional National Assembly, which will, inter alia, have responsibility for forming a Transitional Government of Iraq and drafting a permanent constitution for Iraq leading to a constitutionally elected government by 31 December 2005;

5. *Invites* the Government of Iraq to consider how the convening of an international meeting could support the above process, and *notes* that it would welcome such a meeting to support the Iraqi political transition and Iraqi recovery, to the benefit of the Iraqi people and in the interest of stability in the region;

6. *Calls on* all Iraqis to implement these arrangements peaceably and in full, and on all States and relevant organizations to support such implementation;

7. *Decides* that in implementing, as circumstances permit, their mandate to assist the Iraqi people and government, the Special Representative of the Secretary-General and the United Nations Assistance Mission for Iraq (UNAMI), as requested by the Government of Iraq, shall:

(a) play a leading role to:

- (i) assist in the convening, during the month of July 2004, of a national conference to select a Consultative Council;
- (ii) advise and support the Independent Electoral Commission of Iraq, as well as the Interim Government of Iraq and the Transitional National Assembly, on the process for holding elections;
- (iii) promote national dialogue and consensus-building on the drafting of a national constitution by the people of Iraq;

(b) and also:

- (i) advise the Government of Iraq in the development of effective civil and social services;
- (ii) contribute to the coordination and delivery of reconstruction, development, and humanitarian assistance;
- (iii) promote the protection of human rights, national reconciliation, and judicial and legal reform in order to strengthen the rule of law in Iraq; and
- (iv) advise and assist the Government of Iraq on initial planning for the eventual conduct of a comprehensive census;

8. *Welcomes* ongoing efforts by the incoming Interim Government of Iraq to develop Iraqi security forces including the Iraqi armed forces (hereinafter referred to as “Iraqi security forces”), operating under the authority of the Interim Government of Iraq and its successors, which will progressively play a greater role and ultimately assume full responsibility for the maintenance of security and stability in Iraq;

9. *Notes* that the presence of the multinational force in Iraq is at the request of the incoming Interim Government of Iraq and therefore *reaffirms* the authorization for the multinational force under unified command established under resolution 1511 (2003), having regard to the letters annexed to this resolution;

10. *Decides* that the multinational force shall have the authority to take all necessary measures to contribute to the maintenance of security and stability in Iraq in accordance with the letters annexed to this resolution expressing, inter alia, the Iraqi request for the continued presence of the multinational force and setting out its tasks, including by preventing and deterring terrorism, so that, inter alia, the United Nations can fulfil its role in assisting the Iraqi people as outlined in paragraph seven above and the Iraqi people can implement freely and without intimidation the timetable and programme for the political process and benefit from reconstruction and rehabilitation activities;

11. *Welcomes*, in this regard, the letters annexed to this resolution stating, inter alia, that arrangements are being put in place to establish a security partnership between the sovereign Government of Iraq and the multinational force and to ensure coordination between the two, and *notes also* in this regard that Iraqi security forces are responsible to appropriate Iraqi ministers, that the Government of Iraq has authority to commit Iraqi security forces to the multinational force to engage in operations with it, and that the security structures described in the letters will serve as the fora for the Government of Iraq and the multinational force to reach agreement on the full range of fundamental security and policy issues, including policy on sensitive offensive operations, and will ensure full partnership between Iraqi security forces and the multinational force, through close coordination and consultation;

12. *Decides further* that the mandate for the multinational force shall be reviewed at the request of the Government of Iraq or twelve months from the date of this resolution, and that this mandate shall expire upon the completion of the political process set out in paragraph four above, and *declares* that it will terminate this mandate earlier if requested by the Government of Iraq;

13. *Notes* the intention, set out in the annexed letter from the United States Secretary of State, to create a distinct entity under unified command of the multinational force with a dedicated mission to provide security for the United Nations presence in Iraq, *recognizes* that the implementation of measures to provide security for staff members of the United Nations system working in Iraq would require significant resources, and *calls upon* Member States and relevant organizations to provide such resources, including contributions to that entity;

14. *Recognizes* that the multinational force will also assist in building the capability of the Iraqi security forces and institutions, through a programme of recruitment, training, equipping, mentoring, and monitoring;

15. *Requests* Member States and international and regional organizations to contribute assistance to the multinational force, including military forces, as agreed with the Government of Iraq, to help meet the needs of the Iraqi people for security and stability, humanitarian and reconstruction assistance, and to support the efforts of UNAMI;

16. *Emphasizes* the importance of developing effective Iraqi police, border enforcement, and the Facilities Protection Service, under the control of the Interior Ministry of Iraq, and, in the case of the Facilities Protection Service, other Iraqi ministries, for the maintenance of law, order, and security, including combating terrorism, and *requests* Member States and international organizations to assist the Government of Iraq in building the capability of these Iraqi institutions;

17. *Condemns* all acts of terrorism in Iraq, *reaffirms* the obligations of Member States under resolutions 1373 (2001) of 28 September 2001, 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1390 (2002) of 16 January 2002, 1455 (2003) of 17 January 2003, and 1526 (2004) of 30 January 2004, and other relevant international obligations with respect, inter alia, to terrorist activities in and from Iraq or against its citizens, and specifically *reiterates* its call upon Member States to prevent the transit of terrorists to and from Iraq, arms for terrorists, and financing that would support terrorists, and *re-emphasizes* the importance of strengthening the cooperation of the countries of the region, particularly neighbours of Iraq, in this regard;

18. *Recognizes* that the Interim Government of Iraq will assume the primary role in coordinating international assistance to Iraq;

19. *Welcomes* efforts by Member States and international organizations to respond in support of requests by the Interim Government of Iraq to provide technical and expert assistance while Iraq is rebuilding administrative capacity;

20. *Reiterates* its request that Member States, international financial institutions and other organizations strengthen their efforts to assist the people of Iraq in the reconstruction and development of the Iraqi economy, including by providing international experts and necessary resources through a coordinated programme of donor assistance;

21. *Decides* that the prohibitions related to the sale or supply to Iraq of arms and related materiel under previous resolutions shall not apply to arms or related materiel required by the Government of Iraq or the multinational force to serve the purposes of this resolution, *stresses* the importance for all States to abide strictly by them, and *notes* the significance of Iraq's neighbours in this regard, and *calls upon* the Government of Iraq and the multinational force each to ensure that appropriate implementation procedures are in place;

22. *Notes* that nothing in the preceding paragraph affects the prohibitions on or obligations of States related to items specified in paragraphs 8 and 12 of resolution 687 (1991) of 3 April 1991 or activities described in paragraph 3 (f) of resolution 707 (1991) of 15 August 1991, and *reaffirms* its intention to revisit the mandates of the United Nations Monitoring, Verification, and Inspection Commission and the International Atomic Energy Agency;

23. *Calls on* Member States and international organizations to respond to Iraqi requests to assist Iraqi efforts to integrate Iraqi veterans and former militia members into Iraqi society;

24. *Notes* that, upon dissolution of the Coalition Provisional Authority, the funds in the Development Fund for Iraq shall be disbursed solely at the direction of the Government of Iraq, and *decides* that the Development Fund for Iraq shall be utilized in a transparent and equitable manner and through the Iraqi budget including to satisfy outstanding obligations against the Development Fund for Iraq, that the arrangements for the depositing of proceeds from export sales of petroleum, petroleum products, and natural gas established in paragraph 20 of resolution 1483 (2003) shall continue to apply, that the International Advisory and Monitoring Board shall continue its activities in monitoring the Development Fund for Iraq and shall include as an additional full voting member a duly qualified individual designated by the Government of Iraq and that appropriate arrangements shall be made for the continuation of deposits of the proceeds referred to in paragraph 21 of resolution 1483 (2003);

25. *Decides further* that the provisions in the above paragraph for the deposit of proceeds into the Development Fund for Iraq and for the role of the IAMB shall be reviewed at the request of the Transitional Government of Iraq or twelve months from the date of this resolution, and shall expire upon the completion of the political process set out in paragraph four above;

26. *Decides* that, in connection with the dissolution of the Coalition Provisional Authority, the Interim Government of Iraq and its successors shall assume the rights, responsibilities and obligations relating to the Oil-for-Food Programme that were transferred to the Authority, including all operational responsibility for the Programme and any obligations undertaken by the Authority in connection with such responsibility, and responsibility for ensuring independently authenticated confirmation that goods have been delivered, and *further decides* that, following a 120-day transition period from the date of adoption of this resolution, the Interim Government of Iraq and its successors shall assume responsibility for certifying delivery of goods under previously prioritized contracts, and that such certification shall be deemed to constitute the independent authentication required for the release of funds associated with such contracts, consulting as appropriate to ensure the smooth implementation of these arrangements;

27. *Further decides* that the provisions of paragraph 22 of resolution 1483 (2003) shall continue to apply, except that the privileges and immunities provided in that paragraph shall not apply with respect to any final judgement arising out of a contractual obligation entered into by Iraq after 30 June 2004;

28. *Welcomes* the commitments of many creditors, including those of the Paris Club, to identify ways to reduce substantially Iraq's sovereign debt, *calls on* Member States, as well as international and regional

organizations, to support the Iraq reconstruction effort, *urges* the international financial institutions and bilateral donors to take the immediate steps necessary to provide their full range of loans and other financial assistance and arrangements to Iraq, *recognizes* that the Interim Government of Iraq will have the authority to conclude and implement such agreements and other arrangements as may be necessary in this regard, and *requests* creditors, institutions and donors to work as a priority on these matters with the Interim Government of Iraq and its successors;

29. *Recalls* the continuing obligations of Member States to freeze and transfer certain funds, assets, and economic resources to the Development Fund for Iraq in accordance with paragraphs 19 and 23 of resolution 1483 (2003) and with resolution 1518 (2003) of 24 November 2003;

30. *Requests* the Secretary-General to report to the Council within three months from the date of this resolution on UNAMI operations in Iraq, and on a quarterly basis thereafter on the progress made towards national elections and fulfilment of all UNAMI's responsibilities;

31. *Requests* that the United States, on behalf of the multinational force, report to the Council within three months from the date of this resolution on the efforts and progress of this force, and on a quarterly basis thereafter;

32. *Decides* to remain actively seized of the matter.

Annex: Text of letters from the Prime Minister of the Interim Government of Iraq Dr. Ayad Allawi and United States Secretary of State Colin L. Powell to the President of the Security Council

5 June 2004

Republic of Iraq
Prime Minister Office

Excellency:

On my appointment as Prime Minister of the Interim Government of Iraq, I am writing to express the commitment of the people of Iraq to complete the political transition process to establish a free, and democratic Iraq and to be a partner in preventing and combating terrorism. As we enter a critical new stage, regain full sovereignty and move towards elections, we will need the assistance of the international community.

The Interim Government of Iraq will make every effort to ensure that these elections are fully democratic, free and fair. Security and stability continue to be essential to our political transition. There continue, however, to be forces in Iraq, including foreign elements, that are opposed to our transition to peace, democracy, and security. The Government is determined to overcome these forces, and to develop security forces capable of providing adequate security for the Iraqi people. Until we are able to provide security for ourselves, including the defence of Iraq's land, sea and air space, we ask for the support of the Security Council and the international community in this endeavour. We seek a new resolution on the Multinational Force (MNF) mandate to contribute to maintaining security in Iraq, including through the tasks and arrangements set out in the letter from Secretary of State Colin Powell to the President of the United Nations Security Council. The Government requests that the Security Council review the mandate of the MNF at the request of the Transitional Government of Iraq, or twelve months from the date on which such a resolution is adopted.

In order to discharge the Iraqi Government's responsibility for security, I intend to establish appropriate security structures that will allow my Government and Iraqi security forces to progressively take on that responsibility. One such structure is the Ministerial Committee for National Security, consisting of myself as the Chair, the Deputy Prime Minister, and the Minister of Defense, Interior, Foreign Affairs, Justice, and Finance. The National Security Advisor, and Director of the Iraqi National Intelligence Service will serve as permanent advisory members of the committee. This forum will set the broad framework for Iraqi security policy. I intend to invite, as appropriate, the MNF commander, his Deputy, or the MNF Commander's designative representative, and other appropriate individuals, to attend and participate as well, and will stand ready to discuss mechanisms of coordination and cooperation with the MNF. Iraqi armed forces will be responsible to the Chief of Staff and Minister of Defense. Other security forces (the Iraqi police, border guards and Facilities Protection Service) will be responsible to the Minister of the Interior or other government ministers.

In addition, the relevant ministers and I will develop further mechanisms for coordination with the MNF. Intend to create with the MNF coordination bodies at national, regional, and local levels, that will include Iraqi security forces commanders and civilian leadership, to ensure that Iraqi security forces will coordinate with the MNF on all security policy and operations issues in order to achieve unity of command of military operations in which Iraqi forces are engaged with MNF. In addition, the MNF and Iraqi government leaders will keep each other informed of their activities, consult regularly to ensure effective allocation and use of personnel, resources and facilities, will share intelligence, and will refer issues up the respective chains of command where necessary, Iraqi security forces will take on progressively greater responsibility as Iraqi capabilities improve.

The structures I have described in this letter will serve as the fora for the MNF and the Iraqi government to reach agreement on the full range of fundamental security and policy issues, including policy on sensitive offensive operations, and will ensure full partnership between Iraqi forces and the MNF, through close coordination and consultation. Since these are sensitive issues for a number of sovereign governments, including Iraq and the United States, they need to be resolved in the framework of a mutual understanding on our strategic partnership. We will be working closely with the MNF leadership in the coming weeks to ensure that we have such an agreed strategic framework.

We are ready to take sovereign responsibility for governing Iraq by June 30. We are well aware of the difficulties facing us, and of our responsibilities to the Iraqi people. The stakes are great, and we need the support of the international community to succeed. We ask the Security Council to help us by acting now to adopt a Security Council resolution giving us necessary support.

I understand that the Co-sponsors intend to annex this letter to the resolution on Iraq under consideration. In the meantime, I request that you provide copies of this letter to members of the Council as quickly as possible.

(Signed) Dr. Ayad Allawi

The Secretary of State
Washington

5 June 2004

Excellency:

Recognizing the request of the government of Iraq for the continued presence of the Multi-National Force (MNF) in Iraq, and following consultations with Prime Minister Ayad Allawi of the Iraqi Interim Government, I am writing to confirm that the MNF under unified command is prepared to continue to contribute to the maintenance of security in Iraq, including by preventing and deterring terrorism and protecting the territory of Iraq. The goal of the MNF will be to help the Iraqi people to complete the political transition and will permit the United Nations and the international community to work to facilitate Iraq's reconstruction.

The ability of the Iraqi people to achieve their goals will be heavily influenced by the security situation in Iraq. As recent events have demonstrated, continuing attacks by insurgents, including former regime elements, foreign fighters, and illegal militias challenge all those who are working for a better Iraq.

Development of an effective and cooperative security partnership between the MNF and the sovereign Government of Iraq is critical to the stability of Iraq. The commander of the MNF will work in partnership with the sovereign Government of Iraq in helping to provide security while recognizing and respecting its sovereignty. To that end, the MNF stands ready to participate in discussions of the Ministerial Committee for National Security on the broad framework of security policy, as referred to in the letter from Prime Minister of the Interim Government of Iraq Allawi dated June 5, 2004. On the implementation of this policy, recognizing that Iraqi security forces are responsible to the appropriate Iraqi ministers, the MNF will coordinate with Iraqi security forces at all levels—national, regional, and local—in order to achieve unity of command of military operations in which Iraqi forces are engaged with the MNF. In addition, the MNF and the Iraqi government leaders will keep each other informed of their activities, consult regularly to ensure effective allocation and use of personnel, resources, and facilities, will share intelligence, and will refer issues up the respective chains of command where necessary. We will work in the fora described by Prime Minister Allawi in his June 5 letter to reach agreement on the full range of fundamental security and policy issues, including policy on sensitive offensive operations, and will ensure full partnership between MNF and Iraqi forces, through close coordination and consultation.

Under the agreed arrangement, the MNF stands ready to continue to undertake a broad range of tasks to contribute to the maintenance of security and to ensure force protection. These include activities necessary to counter ongoing security threats posed by forces seeking to influence Iraq's political future through violence. This will include combat operations against members of these groups, internment where this is necessary for imperative reasons of security, and the continued search for and securing of weapons that threaten Iraq's security. A further objective will be to train and equip Iraqi security forces that will increasingly take responsibility for maintaining Iraq's security. The MNF also stands ready as needed to participate in the provision of humanitarian assistance, civil affairs support, and relief and reconstruction assistance requested by the Iraqi Interim Government and in line with previous Security Council Resolutions.

In addition, the MNF is prepared to establish or support a force within the MNF to provide for the security of personnel and facilities of the United Nations. We have consulted closely with UN officials regarding the United Nations' security requirements and believe that a brigade-size force will be needed to support the United Nations' security effort. This force will be under the command and control of the MNF commander, and its missions will include static and perimeter security at UN facilities, and convoy escort duties for the UN mission's travel requirements.

In order to continue to contribute to security, the MNF must continue to function under a framework that affords the force and its personnel the status that they need to accomplish their mission, and in which the contributing states have responsibility for exercising jurisdiction over their personnel and which will ensure arrangements for, and use of assets by, the MNF. The existing framework governing these matters is sufficient for these purposes. In addition, the forces that make up the MNF are and will remain committed at all times to act consistently with their obligations under the law of armed conflict, including the Geneva Conventions.

The MNF is prepared to continue to pursue its current efforts to assist in providing a secure environment in which the broader international community is able to fulfil its important role in facilitating Iraq's reconstruction. In meeting these responsibilities in the period ahead, we will act in full recognition of and respect for Iraqi sovereignty. We look to other member states and international and regional organizations to assist the people of Iraq and the sovereign Iraqi government in overcoming the challenges that lie ahead to build a democratic, secure and prosperous country.

The co-sponsors intend to annex this letter to the resolution on Iraq under consideration. In the meantime, I request that you provide copies of this letter to members of the Council as quickly as possible.

Sincerely,
(Signed) Colin L. Powell

Formal minutes

Wednesday 21 July 2004

Members present:

Donald Anderson, in the Chair

Mr David Chidgey	Mr John Maples
Mr Fabian Hamilton	Mr Bill Olnier
Mr Eric Illsley	Mr Greg Pope
Mr Andrew Mackay	Sir John Stanley
Andrew Mackinlay	Ms Gisela Stuart

The Committee deliberated.

Draft Report (Foreign Policy Aspects of the War against Terrorism), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 26 read and agreed to.

Paragraph 27 read, amended and agreed to.

Paragraphs 28 to 32 read and agreed to.

Paragraph 33 read, amended and agreed to.

Paragraphs 34 to 39 read and agreed to.

Paragraph 40 read, amended and agreed to.

Paragraphs 41 to 48 read and agreed to.

Paragraph 49 read, amended and agreed to.

Paragraphs 50 to 53 read and agreed to.

Paragraph 54 read, amended and agreed to.

Paragraphs 55 to 69 read and agreed to.

Paragraph 70 read, amended and agreed to.

Paragraphs 71 to 74 read and agreed to.

Paragraph 75 read, amended and agreed to.

Paragraphs 76 to 149 read and agreed to.

Paragraph 150 read, amended and agreed to.

Paragraphs 151 to 162 read and agreed to.

Paragraph 163 read, amended and agreed to.

Paragraphs 164 to 208 read and agreed to.

A paragraph—(*Sir John Stanley*)—brought up, read the first and second time and inserted (now paragraph 209).

Paragraphs 209 to 285 (now paragraphs 210 to 286) read and agreed to.

Paragraph 286 (now paragraph 287) read, amended and agreed to.

Paragraphs 287 to 327 (now paragraphs 288 to 328) read and agreed to.

Paragraph 328 (now paragraph 329) read, amended and agreed to.

Paragraphs 329 to 347 (now paragraphs 330 to 348) read and agreed to.

Paragraph 348 (now paragraph 349) read, amended and agreed to.

Paragraphs 349 to 356 (now paragraphs 350 to 357) read and agreed to.

Paragraph 357 (now paragraph 358) read, amended and agreed to.

Paragraphs 358 to 365 (now paragraphs 359 to 366) read, amended and agreed to.

Paragraph 366 (now paragraph 367) read, amended and agreed to.

Paragraphs 367 to 380 (now paragraphs 368 to 381) read and agreed to.

Paragraph 381 (now paragraph 382) read, amended and agreed to.

A paragraph—(*The Chairman*)—brought up, read the first and second time and inserted (now paragraph 383).

Paragraphs 382 to 393 (now paragraphs 384 to 395) read and agreed to.

Paragraph 394 (now paragraph 396) read, amended and agreed to.

Paragraphs 395 to 430 (now paragraphs 397 to 432) read and agreed to.

Paragraph 431 (now paragraph 433) read, amended and agreed to.

Paragraphs 432 to 495 (now paragraphs 434 to 497) read and agreed to.

Resolved, That the Report as amended be the Seventh Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No.134 (Select committees (reports)) be applied to the Report.

A Paper was ordered to be appended to the Report.

Ordered, That the appendix to the Report be reported to the House.—(*The Chairman.*)

Several Papers were ordered to be appended to the Minutes of Evidence.

Ordered, That the appendices to the Minutes of Evidence taken before the Committee be reported to the House.—(*The Chairman.*)

[Adjourned till Tuesday 7 September at 10.00 am.]

Witnesses

Thursday 11 March 2004

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Sir Jeremy Greenstock GCMG

Ev 1

Tuesday 16 March 2004

Dr Gary Samore, International Institute for Strategic Studies, and

Dr Zafar Cheema, Visiting Fellow at St Anthony's College, University of Oxford

Ev 10

Mr Peter Marsden MBE, Refugee Council and the British Agencies Afghanistan Group, and **Ms Kate Clark**, BBC

Ev 21

Thursday 30 March 2004

Rt Hon Jack Straw MP, Secretary of State for Foreign and Commonwealth

Affairs, **Mr John Sawers CMG**, Director General, Political, and **Mr Edward**

Oakden CMG, Director, International Security, Foreign and Commonwealth Office

Ev 30

Tuesday 4 May 2004

Dr Magnus Ranstorp, Director of the Centre for the Study of Terrorism and Political Violence, University of St Andrews, and **Mr M.J. Gohel**, Head of the Asia-Pacific Foundation

Ev 41

Mr Mustapha Alani, Associate Fellow at the Royal United Services Institute, and

Dr Toby Dodge, International Institute for Strategic Affairs and the Centre for the Study of Globalisation and Regionalisation, University of Warwick

Ev 58

Wednesday 5 May 2004

Rt Hon Jack Straw MP, Secretary of State for Foreign and Commonwealth Affairs,

Mr John Buck, Director, Iraq Unit, and **Ms Jan Thompson**, Head, Afghanistan Unit, Foreign and Commonwealth Office

Ev 71

Tuesday 8 June 2004

Dr Emanuele Ottolenghi, St Antony's College, University of Oxford, and

Dr Jeroen Gunning, Department of International Politics, University of Wales

Ev 87

Professor Philippe Sands QC and **Mr Daniel Bethlehem QC**

Ev 112

Mr James Sherr, Fellow of Conflict Studies Research, Centre of the UK Defence Academy, and **Mr Tom de Waal**, Head of Caucasus Project, Institute of War and Peace Reporting

Ev 117

Mr Dominic Hughes, BBC World Service

Ev 121

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Dr Toby Dodge, Centre for the Study of Globalisation and Regionalisation, University of Warwick	Ev 49
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Legal Framework of Anticipatory Self-defence and of Humanitarian Intervention	Ev 165
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Victor Bout	Ev 170
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Dr Emanuele Ottolenghi, St Antony’s College, University of Oxford	Ev 85
Professor Philippe Sands QC	Ev 91
Mr Daniel Bethlehem QC, Director of Lauterpacht Research Centre for International Law, University of Cambridge	Ev 100
Sir Peter Westmacott KCMG LVO, British Ambassador to Ankara	Ev 126
Mr Wilfred Wong, Jubilee Campaign	Ev 182
HE Morteza Sarmadi, Ambassador of the Islamic Republic of Iran	Ev 183
Dr Rosemary Hollis, Head of Middle East Programme, Royal Institute of International Affairs	Ev 185
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Nomi Bar-Yaacov, International Institute for Strategic Studies	Ev 189
Jutta Brunnee, Professor of Law, University of Toronto, and Stephen J. Toope, Professor of Law, McGill University	Ev 192
Dr Stephen Pullinger	Ev 195

Reports and Evidence from the Foreign Affairs Committee since 2001

The following reports and evidence have been produced in the present Parliament.

Session 2003–04

REPORTS

Sixth Report	Strategic Export Controls	HC 390
Fifth Report	South Africa	HC 117 (<i>Cm 6283</i>)
Fourth Report	Human Rights Annual Report 2003	HC 389 (<i>Cm 6275</i>)
Third Report	Iran	HC 80 (<i>Cm 6198</i>)
Second Report	Foreign Policy Aspects of the War Against Terrorism	HC 81 (<i>Cm 6162</i>)
First Report	Foreign Affairs Committee Annual Report 2003	HC 220
First Special Report	Implications of the Work of the House and its Committees of the Government's Lack of Co-operation with the Foreign Affairs Committee's Inquiry into The Decision to go to War in Iraq	HC 440

MINUTES OF EVIDENCE

Oral and Written Evidence	Developments in the European Union	HC 1233-i HC 129-i HC 631-i
Written Evidence	Overseas Territories	HC 114
Written Evidence	The Biological Weapons Green Paper	HC 113
Written Evidence	Private Military Companies	HC 115
Written Evidence	Turkey	HC 116

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Twelfth Report	Foreign & Commonwealth Office Annual Report 2003	HC 859 (<i>Cm 6107</i>)
Eleventh Report	Gibraltar	HC 1024 (<i>Cm 5954</i>)
Tenth Report	Foreign Policy Aspects of the War against Terrorism	HC 405 (<i>Cm 5986</i>)
Ninth Report	The Decision to go to War in Iraq	HC 813 (<i>Cm 6062</i>) and (<i>Cm 6123</i>)
Eighth Report	Zimbabwe	HC 339 (<i>Cm 5869</i>)
Seventh Report	Strategic Export Controls: Annual Report for 2001, Licensing Policy and Parliamentary Scrutiny	HC 474 (<i>Cm 5943</i>)
Sixth Report	The Government's proposals for secondary legislation under the Export Control Act	HC 620 (<i>Cm 5988</i>)
Fifth Report	The Biological Weapons Green Paper	HC 671 (<i>Cm 5857</i>)
Fourth Report	Human Rights Annual Report 2002	HC 257 (<i>Cm 5320</i>)
Third Report	Foreign Affairs Committee Annual Report 2002	HC 404
Second Report	Foreign Policy Aspects of the War against Terrorism	HC 196 (<i>Cm 5739</i>)

First Report	The Biological Weapons Green Paper	HC 150 (<i>Cm 5713</i>)
First Special Report	Evidence from Mr Andrew Gilligan to the Committee's Inquiry into the Decision to go to War in Iraq	HC 1044

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Oral and Written Evidence	The Decision to go to War in Iraq	HC 1025-I and HC 1025-ii
Evidence	The Thessaloniki European Council	HC 774-i
Evidence	Developments in the European Union	HC 607-i
Evidence	The Inter-Governmental Conference 2004: The Convention on the Future of Europe	HC 606-i
Evidence	The Copenhagen European Council	HC 176-i
Evidence	The Prague NATO Summit	HC 66-i

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Twelfth Report	FCO Annual Report 2002	HC 826 (<i>Cm 5712</i>)
Eleventh Report	Gibraltar	HC 973 (<i>Cm 5714</i>)
Tenth Report	Zimbabwe	HC 813 (<i>Cm 5608</i>)
Ninth Report	Private Military Companies	HC 922 (<i>Cm 5642</i>)
Eighth Report	Strategic Export Controls: Annual Report for 2000, Licensing Policy and Prior Parliamentary Scrutiny (Quadripartite Committee)	HC 718 (<i>Cm 5629</i>)
Seventh Report	Foreign Policy Aspects of the War against Terrorism	HC 384 (<i>Cm 5589</i>)
Sixth Report	Turkey	HC 606 (<i>Cm 5529</i>)
Fifth Report	Human Rights Annual Report 2001	HC 589 (<i>Cm 5509</i>)
Fourth Report	Zimbabwe	HC 456
Third Report	Laeken European Council	HC 435
Second Report	British-US Relations	HC 327 (<i>Cm 5372</i>)
First Report	Gibraltar	HC 413
First Special Report	Appointment of Parliamentary Representatives to the Convention on the Future of Europe	HC 509

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Evidence	The Inter-Governmental Conference 2004: The Convention on the Future of Europe	HC 965-i
Evidence	The Barcelona European Council	HC 698-i

The reference to the Government response to the report is printed in brackets after the HC printing number

