

SECTION 9.1

MARCH TO 22 MAY 2003

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Introduction

1. This Section addresses:

- the evolution of the UK's non-military relationship with the US, including the processes for making decisions for which there was joint responsibility;
- political developments within Iraq;
- changing circumstances in Iraq after the main war-fighting phase of the invasion concluded; and
- the adoption of resolution 1483 (2003).

2. This Section does not address:

- the role of the UK in the combat phase of military operations and the establishment of the UK's post-conflict Area of Responsibility in the South, both of which are described in Section 8;
- planning and preparation for what would follow once the Coalition was in Occupation (known as Phase IV), including the UK's post-conflict objectives, which are described in Sections 6.4 and 6.5; and
- the reconstruction of Iraq, which is covered in Section 10.

3. The Inquiry's conclusions in relation to the events described in this Section can be read in Section 9.8.

March 2003

4. The invasion of Iraq began on the night of 19/20 March 2003.

5. Mr Jonathan Powell, Mr Blair's Chief of Staff, and Sir David Manning, Mr Blair's Foreign Policy Adviser and Head of the Cabinet Office Overseas and Defence Secretariat, sent "strictly personal" notes to Mr Blair on 21 March about influencing the US "post-war agenda".

6. Mr Powell proposed that Mr Blair should write a note to President Bush, to "serve as an agenda" for their meeting at Camp David – the US President's country retreat – a few days later.¹ He identified three major objectives:

- "To unpick the Kissinger aphorism that has lodged in their heads (to ignore the Germans, punish the French and forgive the Russians)";
- "To make Bush think further about why it was that the US ended up with such a bad diplomatic defeat ..."; and
- "To agree a way forward on the MEPP [Middle East Peace Process] with Bush."

¹ Minute Powell to Prime Minister, 21 March 2003, 'Bush Discussion'.

7. Mr Powell suggested that Mr Blair should “corral” President Bush into some general principles about the role of the UN in post-conflict Iraq, observing that the US desire to confine that role to managing non-governmental organisations “won’t do”. He advised: “We do not want to give the UN control of the military or the government, but there has to be some international legitimacy.”
8. In his own note, Sir David Manning agreed with Mr Powell’s points and commented that President Bush should also be encouraged to analyse the reasons behind a “strong current of anti-Americanism” around much of the world.²
9. A US draft of a new Security Council resolution for the post-conflict phase in Iraq was shared with the British Embassy Washington on 21 March.³
10. The two key points of difference between it and the UK draft were the relationship between the UN Special Co-ordinator and a transitional civilian authority, and the question of who would establish an Iraqi Interim Administration (IIA).⁴
11. The US draft also included three options for a funding mechanism to cover post-invasion costs; there was not yet a firm US view on which option was preferred.
12. Mr Tony Brenton, Deputy Head of Mission at the British Embassy Washington, reported that some in Washington “still do not think that any form of UN resolution is legally necessary”.
13. In a telephone call on 22 March, Mr Blair raised the UN’s role with President Bush.⁵
14. Mr Blair said that it was essential to get a UN ‘badge’ for post-conflict efforts and that, while the Coalition did not want to hand over the results of its efforts to the UN, a Security Council resolution on post-conflict administration would help the Coalition get access to UN funding, including from the International Financial Institutions (IFIs).
15. Mr Blair proposed that different parts of the draft resolution should proceed on different timescales; a resolution on the Oil-for-Food programme (OFF)⁶ should move quickly, with one covering administration after the conflict to follow.⁷

² Minute Manning to Prime Minister, 21 March 2003, ‘Bush Discussion’.

³ Telegram 367 Washington to FCO London, 21 March 2003, ‘Iraq Day After: US Draft Resolution for Post-conflict Administration’.

⁴ The terms Iraqi Interim Authority and Iraqi Interim Administration are used interchangeably in contemporary documents.

⁵ Letter Cannon to McDonald, 22 March 2003, ‘Iraq: Prime Minister’s Conversation with Bush, 22 March: Post-Conflict Issues’.

⁶ The OFF allowed for the export of Iraqi oil, the deposit of oil revenues into a UN-controlled account and the use of those revenues to procure food, medicine and other goods approved by the UN.

⁷ Letter Cannon to McDonald, 22 March 2003, ‘Iraq: Prime Minister’s Conversation with Bush, 22 March: Post-Conflict Issues’.

16. In parallel, Mr Brenton explained the UK's concerns about the US draft resolution to Mr John Bellinger and Mr Elliott Abrams from the US National Security Council (NSC).⁸

17. Mr Brenton observed that:

“... the text had not been well received in London. If that was the initial reaction there, then we could expect much worse in Paris and Moscow.”

18. On 23 March, Mr Blair told the Ad Hoc Meeting on Iraq that “British and American positions were not so far apart” on the draft resolution.⁹ He believed that the US was misreading the implications of what UN authorisation meant and added: “It was more a matter of timing than substance.”

19. Mr Blair concluded that the UK “needed to bring in the Russians and the French as well as the Americans to resolve this issue”.

20. Since January 2003, National Security Presidential Directive 24 had consolidated all US post-conflict activity in the Department of Defense-owned Office of Reconstruction and Humanitarian Assistance (ORHA), headed by retired Lieutenant General Jay Garner.¹⁰

21. On 23 March, Major General Tim Cross, the senior UK secondee to ORHA working for Lt Gen Garner, and a visiting colleague provided the Iraq Planning Unit (IPU) with an update which said:

“The UN role in the handover process [to an Iraqi Administration] is little discussed within ORHA, it being understood that this is an issue for capitals, and that Washington will not accept a UN flag over the whole operation.”¹¹

22. The Ad Hoc Meeting on Iraq was held at 0830 on Tuesday 25 March. At Ms Short's suggestion, Mr Blair commissioned urgent advice from the Attorney General on the legal framework needed to authorise both reconstruction activity and the creation of an IIA.¹²

23. On the same day, the Private Office of Mr Jack Straw, the Foreign Secretary, wrote to Mr Matthew Rycroft, Mr Blair's Private Secretary for Foreign Affairs, with “further urgent advice on the size of any UK sector, the length of time of our commitment and the exit strategy”.¹³ The advice was:

“There is ... a substantial risk that if we fail to obtain a UNSCR, we will not be able to build the Coalition under overall US leadership. We would become trapped into

⁸ Telegram 378 Washington to FCO London, 22 March 2003, ‘Iraq Phase IV; Authorising UNSCR: US Views’.

⁹ Minutes, 23 March 2003, Ad Hoc Meeting on Iraq.

¹⁰ Bowen SW Jr. *Hard Lessons: The Iraq Reconstruction Experience*. U.S. Government Printing Office, 2009.

¹¹ Minute Cross and Golezdzinowski to Chilcott, 23 March 2003, ‘ORHA Overview, 23 March 2003’.

¹² Minutes, 25 March 2003, Ad Hoc Meeting on Iraq.

¹³ Letter Owen to Rycroft, 25 March 2003, ‘Iraq: UK Military Contribution to Post-Conflict Iraq’.

maintaining a higher level of commitment for longer, with all that this would mean in terms of cost and for the long-term health of the Armed Forces.”

24. On 25 March, the FCO in London received a report from Sir Jeremy Greenstock, UK Permanent Representative to the UN in New York, of a conversation with Mr Kofi Annan, Secretary-General of the UN.¹⁴ Mr Annan was due to meet Dr Condoleezza Rice, President Bush’s National Security Advisor, that day.

25. Sir Jeremy said that he “assumed that the UN would not want to run Iraq nor its security sector”. Mr Annan told him that “Coalition respect for Iraqi sovereignty, territorial integrity and political independence would be a precondition for a UN role” and that he “would not wish to see any arrangement subjugating UN activity to Coalition activity”.

26. After meeting Mr Annan, Sir Jeremy spoke to Ambassador John Negroponte, US Permanent Representative to the UN, who observed that the focus within the Security Council on “no legitimisation of Coalition military action” might make it impossible to secure its authorisation. Sir Jeremy reminded him that without a resolution there would be no IFI or other international funding for reconstruction and it would be “hard to drum up troop contributors to permit an exit strategy for US/UK forces”.

27. Mr Desmond Bowen, Deputy Head of the Cabinet Office Overseas and Defence Secretariat, sent a draft paper setting out ‘British Post-Conflict Objectives’ to the FCO, the MOD, DFID and the Cabinet Office on 25 March.¹⁵

28. Mr Bowen suggested that officials should show the draft paper to their Ministers, if they had not already done so:

“We will then see the outcome of the Prime Ministerial visit to Camp David and consider formal submission early next week.”

29. The paper on objectives stated:

“We have made plans with our international partners to assist the Iraqi people in the process of transition. With others, we will assist in the return to full Iraqi sovereignty by:

- seeking a UN mandate for the international community’s continued presence in Iraq;
- working to establish an Iraqi Interim Authority, mandated and facilitated by the UN, and supported by the coalition and the international community; and
- indicating a pathway to the restoration of a sovereign, accountable and representative Iraqi government and facilitating a political process, with UN

¹⁴ Telegram 526 UKMIS New York to FCO London, 25 March 2003, ‘Iraq Phase IV: UN Dynamics’.

¹⁵ [Letter Bowen to Chaplin, 25 March 2003, ‘Iraq: Post Conflict Objectives’ attaching Paper, 25 March 2003, ‘Iraq: British Post-Conflict Objectives’.](#)

involvement, whereby Iraqis can choose a new constitution for their country within its present borders.”

30. Mr Peter Ricketts, FCO Political Director, sent the UN Department and others a copy of an IPU briefing describing what the UK was legally able to do in the absence of a further resolution.¹⁶

31. In a covering minute he observed:

“It [the briefing] brings out that the Coalition would have quite extensive powers (as well as responsibilities) as Occupying Powers. We would in practice have the authority to do everything which a transitional administration and security presence would be capable of doing in the early weeks: humanitarian and welfare work; law and order; immediate rehabilitation of infrastructure. The real constraints are not so much legal as practical. It would be very difficult to get support from the EU, IFIs or donor countries in the absence of an authorising resolution ...

“This suggests that it may not be necessary to seek a resolution which authorises an international security presence, at least in the early stages.”

32. Mr Ricketts commented: “it is worth considering a less ambitious resolution, perhaps to be adopted later in the process”.

33. Mr Dominick Chilcott, Head of the IPU from January to June 2003 and author of the briefing, told the Inquiry that he had:

“... reasons to hesitate about the day after, which was to do with the legality of ORHA’s ambition. ORHA had quite a high degree of ambition in the amount of reform and reconstruction it was proposing, and we felt without specific Security Council authorisation this would go beyond what we were allowed to do as Occupying Powers on the basis of the Geneva Convention and The Hague Regulations.”¹⁷

34. On 25 March, Mr Huw Llewellyn, a Legal Counsellor in FCO Legal Advisers, wrote to Ms Cathy Adams, Legal Counsellor to Lord Goldsmith, at her request, with a note on why a further resolution was needed.¹⁸ Attached to his letter were his own note on the main principles applicable during military occupation, and a note on the administration of justice.

35. Mr Llewellyn wrote that it was:

“... important to keep in mind that the legal basis for the Occupation of Iraq by Coalition forces will depend on the legal basis for the use of force. That legal basis is

¹⁶ Minute Ricketts to Pattison, 25 March 2003, ‘UNSCR: Reconstruction Phase’, attaching Briefing IPU, 24 March 2003, ‘Post-conflict activity: what is possible without an authorising resolution’.

¹⁷ Public hearing, 8 December 2009, page 23.

¹⁸ Letter Llewellyn to Adams, 25 March 2003, ‘Iraq: Why is a ‘Fourth’ Resolution Necessary?’

Security Council authorisation to enforce Iraq's WMD [weapons of mass destruction] and related obligations under the relevant Security Council resolutions. The longer an occupation continues, therefore, and the further the tasks undertaken depart from this objective, the more difficult the Occupation would be to justify in legal terms."

36. In a section on the administration of Iraq during Occupation, Mr Llewellyn explained that "limitations on the ability of the Occupying Power to change existing governmental and administrative structures based in Article 43 of the Hague Regulations, mean that Security Council authorisation will be needed for any such reform".

37. In preparation for Mr Blair's meeting with President Bush at Camp David, Mr Straw's Private Office provided Mr Rycroft with a negotiating brief for a new UN Security Council resolution written by the IPU.¹⁹

38. The brief said:

"Without a UNSCR, other countries, international organisations, the IFIs, UN agencies and NGOs [non-governmental organisations] will be comparatively limited in what they can do ... That would leave US/UK with no viable exit strategy from Iraq and a huge bill."

39. The brief set out the case for a resolution which included the following key principles, on which the US and UK were agreed:

- For the first few weeks the Coalition, through ORHA, would be responsible for the administration of Iraq.
- The UN should not be asked to run Iraq.
- The objective should be to get Security Council authorisation or endorsement for an international presence that will include the UN.
- For as long as they were needed, Coalition troops would provide security on the ground.
- As soon as possible, Iraqis should begin to govern themselves, through the creation of an IIA, under appropriate supervision.

40. The brief also identified the key issues on which there remained differences between the US and UK:

- The US desire for a new UN resolution to endorse ORHA, which the UK was certain would not obtain Security Council agreement.
- The UK belief that the Iraqis themselves, assisted by a UN Special Representative, should establish the IIA, not the Coalition.
- The role of the IIA, which the UK believed needed to be independent of the Coalition/ORHA and to have genuine executive authority.

¹⁹ [Letter Owen to Rycroft, 25 March 2003, 'Prime Minister's visit to Washington: Iraq: UN Security Council Resolution on Phase IV' attaching Briefing IPU, 25 March 2003, 'Iraq: Phase IV: Authorising UNSCR'.](#)

- The arrangements for dealing with Iraqi oil revenue which the US proposed should be used for meeting the costs of their administration of Iraq as well as for reconstruction. The UK feared this would provoke criticism for reneging on the promise to use oil revenues exclusively for the benefit of Iraq.
- The role of the UN Special Co-ordinator, which the UK believed should not be limited to co-ordination.

41. The brief explained that there was a need for “more realism about what the Security Council would be willing to approve and what the Iraqis’ reaction is likely to be”.

42. The IPU set out a number of “propositions” which it hoped Mr Blair and President Bush would agree, including:

- “(a) ... we should not attempt retrospective UNSC authorisation of our military action ...
- (b) ... We can’t expect the Security Council to accept overt US/UK control of the civilian administration ...
- (c) As quickly as possible, we should aim to set up an Iraqi interim authority with genuine executive powers, not subordinate to the Coalition ...
- (d) How we establish the IIA ... will be crucial ... our role should be behind the scenes with the UN visibly out in front ...
- (e) The UN or the Iraqis, not the Coalition, should manage oil revenues.
- (f) We should encourage Kofi Annan to appoint a UN Special Co-ordinator who would play an important role in facilitating the emergence of the Iraqi interim authority and in supervising, with a light touch, its decisions.”

43. On 26 March, Lord Goldsmith, the Attorney General, wrote to Mr Blair with advice he had requested at the Ad Hoc Meeting the previous day.²⁰ It covered:

“... the need for UN Security Council authorisation for the Coalition or the international community to establish an interim Iraqi administration to reform and restructure Iraq and its administration.”

44. Lord Goldsmith’s view was that:

“... a further Security Council resolution is needed to authorise imposing reform and restructuring of Iraq and its Government. In the absence of a further resolution, the UK (and US) would be bound by the provisions of international law governing belligerent Occupation ... the general principle is that an Occupying Power does not become the government of the occupied territory. Rather, it exercises temporary de facto control ...”

²⁰ [Minute Attorney General to Prime Minister, 26 March 2003, ‘Iraq: Authorisation for an Interim Administration’.](#)

- 45.** Mr Llewellyn sent Lord Goldsmith's advice to Mr Chilcott on 27 March.²¹
- 46.** Mr Blair and Mr Straw met President Bush, Mr Colin Powell (US Secretary of State) and Dr Rice at Camp David from 26 to 27 March.
- 47.** In his published diaries Mr Alastair Campbell, No.10 Director of Strategy and Communications, recorded that Mr Blair worked on "on a long note for Bush" during the flight to the US.²² Mr Campbell considered that:

"The main message in TB's note, when you boiled it down, was that there was a lot of support for the aims of the campaign, and we totally believed the policy was right, but there was real concern at the way the US put over their views and intentions and that rested in people's fears about their perceived unilateralism. He was urging him to do more to rebuild with Germany, then Russia, then France, and saying he should seize the moment for a new global agenda, one to unite the world rather than divide it."

- 48.** Mr Blair's Note to President Bush, which covered a broad range of issues, began:

"This is the moment when you can define international priorities for the next generation: the true post-cold war world order. Our ambition is big: to construct a global agenda around which we can unite the world rather than dividing it into rival centres of power."²³

- 49.** Mr Blair went on to define "our fundamental goal" as:

"... to spread our values of freedom, democracy, tolerance and the rule of law, but we need a broad based agenda capable of unifying the world to get it. That's why, though Iraq's WMD is the immediate justification for action, ridding Iraq of Saddam is the real prize."

- 50.** In Mr Blair's view "a ludicrous and distorted view of the US is clouding the enormous attraction of the fundamental goal", for which the solution was to "keep the policy; broaden the agenda and change the presentation".

- 51.** At dinner on the first evening at Camp David, Mr Blair told President Bush that he did not want his visit to focus primarily on a UN resolution to deal with post-conflict Iraq.²⁴ The question about what sort of resolution was needed for the administration and reconstruction of Iraq should be parked. Mr Blair said that:

"The time to debate this would come when we had secured victory, and were in a position of strength."

²¹ Minute Llewellyn to Chilcott, 27 March 2003, 'Iraq: Attorney General's Advice: Authorisation for an Interim Administration'.

²² Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

²³ [Note \[Blair to Bush\], \[26 March 2003\], 'Note: The Fundamental Goal'](#).

²⁴ Letter Manning to McDonald, 28 March 2003, 'Prime Minister's Meeting with President Bush at Camp David: Dinner on 26 March'.

52. In his account of discussions on Phase IV the following day, Mr Rycroft recorded that Mr Blair had identified the main issue as whether the UN formed the future Iraqi Government or whether the Coalition did so with UN endorsement, but had said that “it was not helpful to expose this distinction yet”.²⁵

53. Mr Rycroft recorded that the US and UK would “play this negotiation long”, until after the conflict, when they would be “in a stronger position to ensure the right arrangements”.

54. After returning to the UK, Mr Blair told members of the Ad Hoc Meeting on Iraq that in relation to the post-conflict administration of Iraq:

“He intended to calm down the debate and engage in subterranean diplomacy so that we reached the right outcome.”²⁶

55. Mr Blair also said:

“A new United Nations Security Council resolution would be required. The tactics to achieve that was through quiet and effective diplomacy.”

56. FCO Legal Advisers were asked to give rapid consideration on 28 March to the draft text of a ‘Freedom Message’ and ‘Proclamation’ addressed to Iraqi citizens which it was intended that General Tommy Franks, Commander in Chief US Central Command (CENTCOM), would issue.

57. In his advice to Mr Chilcott, Mr Llewellyn observed that if General Franks were to speak on behalf of the Coalition, “we should be given a full opportunity to comment on its content in detail”.²⁷

58. On the content of the draft, Mr Llewellyn advised that “there are a number of elements in it which raise concerns regarding their compatibility with the authority of an Occupying Power”. Specifically:

- the length of Occupation should be based on time taken for WMD disarmament, not the creation of a representative government;
- references to free elections went beyond the remit of an Occupying Power;
- the phrase “powers of government” implied that the Coalition Provisional Authority (CPA) described in the message had more than the temporary administrative powers of an occupying force;
- requiring Iraqis to provide information on the conflict with Iran was outside the lawful basis for Occupation; and

²⁵ Letter Rycroft to McDonald, 27 March 2003, ‘Prime Minister’s meeting with President Bush at Camp David: Iraq Phase IV’.

²⁶ Minutes, 28 March 2003, Ad Hoc Meeting on Iraq.

²⁷ Minute Llewellyn to Chilcott, 28 March 2003, ‘Proposed US ‘Freedom Message’ to the People of Iraq’.

- powers to place the public sector under Coalition Provisional Authority direction were too broad.

59. On 31 March, Ms Vivien Rose, MOD Head of the General and International Law Team, spoke to Mr Llewellyn and agreed to write a letter outlining what the MOD considered to be legal issues that needed to be addressed.²⁸

60. Ms Rose reported that Mr Llewellyn had expressed concern that he was receiving disjointed requests for advice about specific activities in Iraq and was not “getting a grip of the whole picture”.

61. On 31 March, Mr Llewellyn wrote to Mr Chilcott to report that UK military lawyers based in Kuwait were becoming alarmed at ORHA’s activities.²⁹

62. ORHA had issued three orders in relation to the port of Umm Qasr,³⁰ including the application of US labour and customs laws, for which there was no clear legal authority. The position of UK forces, if asked to participate in related activities, was therefore uncertain.

63. Mr Llewellyn’s minute concluded:

“If it cannot be sorted out, we may well need a decision from Ministers about whether UK forces should decline to take part in actions that we consider unauthorised or unlawful.”

64. The IPU provided advice to Mr Straw’s Private Office the following day, including a speaking note for a conversation with Maj Gen Cross, which took account of Mr Llewellyn’s concerns.³¹

65. The IPU proposed that Mr Straw should brief Maj Gen Cross that:

“Government’s legal advice is very clear: there are real legal constraints on what we can and can’t do in Phase IV. I’ll need to be closely involved in decisions on what ORHA does ...”

66. The speaking note also proposed reminding Maj Gen Cross that:

“There’s a direct link between what you are doing and the difficult and complex negotiations which will start in due course on the Phase IV Security Council Resolution.”

²⁸ Email LA2-S to LA11-S, 31 March 2003, ‘Phase IV and War crimes: next steps’.

²⁹ Minute Llewellyn to Chilcott, 31 March 2003, ‘Iraq: ORHA: Current Activity’.

³⁰ As described in Section 8, UK forces had taken control of the port of Umm Qasr by the early hours of 23 March.

³¹ [Minute Bristow to Chaplin, 1 April 2003, ‘Iraq: ORHA’ attaching Briefing ‘ORHA: speaking note for use with General Cross’](#) and [Paper IPU, 28 March 2003, ‘Iraq: Office for Reconstruction and Humanitarian Assistance \(ORHA\)’](#).

67. In relation to his own position, the IPU suggested that Maj Gen Cross should be told that he would be formally appointed as a deputy to the Head of ORHA only once a resolution authorising its activity had been agreed.

68. Alongside the speaking note, the IPU also provided a four page review of UK policy on ORHA. In it the IPU recommended that the UK should continue to commit resources, on the basis that ORHA remained “the only game in town”, but noted that “a situation could arise where ORHA was acting illegally”. That would have “implications” for both UK secondees and ORHA operations in areas held by British forces. The IPU did not offer a solution or recommendation if the situation did arise.

69. At the end of March, Mr Straw’s Private Secretary provided Mr Rycroft with an IPU paper covering UK, European and US positions on post-conflict arrangements and the role of the UN.³² The covering letter said that:

“... our views are almost certainly very close to those of France and Germany ... I say almost certainly because we have yet to test ... views in detail.”

70. The letter also said:

“One of the lessons from negotiating UNSCR 1441 is that we need to share our initial thinking with France, Germany and Russia at an early stage. We will need their support if a UN resolution is to pass. We should not negotiate texts, nor seek a collective position.”

71. The IPU paper included an assessment that EU member states were likely to want a central role for the UN that was not subordinate to the Coalition and that did not legitimise military action. The UN’s main contributions would be to building a new Iraqi Government and managing Iraq’s natural resources.

72. The FCO proposed a series of bilateral meetings between UK Ministers and officials and their counterparts to “share our thinking”, including a conversation between Mr Straw and Secretary Powell. The IPU assessed that Security Council endorsement was desirable rather than essential to the US; agreement on a resolution was unlikely to be reached if the US retained the degree of control they wanted.

73. On 31 March, Mr Ricketts wrote to Mr Brenton about dialogue with European countries on a resolution. He said:

“The Prime Minister wants us to take our time over the issue of a post-conflict resolution. The right time to bring this to a head is likely to be once we have reached, or are near to, an end to the military conflict. That will be our moment of greatest leverage in the Security Council.”³³

³² Letter Owen to Rycroft, 31 March 2003, ‘Iraq: Phase IV’ attaching Paper IPU, 31 March 2003, ‘Iraq: Post-Conflict Administration’.

³³ Letter Ricketts to Brenton, 31 March 2003, ‘Iraq Reconstruction’.

74. Mr Ricketts also observed that, as a draft resolution had yet to be agreed with the US, the series of meetings about to begin across Europe would not be negotiating resolution text. Mr Straw would nonetheless be meeting his German, Russian, French and Spanish counterparts.

75. Mr Blair sent President Bush two Notes on 31 March, one on communications, which is described in Section 8, and one entitled 'Reconstruction'.³⁴

76. The Note on reconstruction covered the two funds proposed by the US to administer oil revenues/unblocked Iraqi assets and donor funds, run by the IMF and World Bank respectively. Mr Blair wrote that using IFIs was sensible but that this arrangement would run into problems because:

- channelling oil revenues to IFIs rather than the IIA could be “misrepresented” and the proposal would need to be included in the next resolution;
- without UN agreement the IFIs were unlikely to agree and this would “replicate UN problems inside those two organisations”;
- the UK, Japan and others could only unblock assets with UN authority; and
- “our posture should be for the IIA to take on responsibility as soon as possible, ie Iraq for the Iraqis, not us or the UN”.

77. Mr Blair described an amended proposal submitted by the Treasury, in which some oil revenues went into the OFF programme, and the remainder (plus assets and donor funds) into a reconstruction account handled by the IMF and World Bank. Funds from both accounts would be “directed to the IIA”. Any proposals would need to be tailored in a way that could secure UN endorsement. Mr Blair wrote that he did “not think we can dodge this point” and said that the key to achieving that was “getting the right Special Co-ordinator” in order to avoid becoming bogged down in UN bureaucracy.

78. In response to a request from Mr Straw’s Private Office for material on Iraqi attitudes to the US and possible implications for UK policy, Mr Simon Fraser, FCO Director for Strategy and Innovation, wrote on 31 March:

“We need to understand the history and experiences of the people of Iraq as well as the nature of the regime ...

...

“Most ordinary Iraqis may loathe Saddam: but they may by now be so politically disorientated as not to believe that an alternative is possible.

³⁴ Letter Manning to Rice, 31 March 2003, [untitled] [attaching Notes \[Blair to Bush\]. \[undated\]. 'Reconstruction' and 'Communications'.](#)

“We should not underestimate the force of Iraqi nationalism ... The divisions and loyalties within Iraq are complex. Iraqi Shia are both Arabs and Iraqis: they are certainly not Persians. The Persians are the historical enemy. I believe that the Iraqi national identity is stronger and more rooted in shared experience than many pundits think. Saddam Hussein has played on this sense of national pride – Iraqis used to be nicknamed the ‘Prussians of the Middle East’ ...”³⁵

79. Mr Fraser advised that distrust of the US ran deep:

“For 35 years and more (even when the US was supporting Saddam) Iraqis have been pumped full of propaganda that the US is hostile to Arabs and supports Israel and Zionism. There is no doubt American policies towards Arab/Israel generate deep hostility. Iraqis may long to be freed from Saddam Hussein, but being liberated by the Americans will be deeply humiliating. I doubt, too, that they have much confidence in what will come next. I cannot see how there would be much appetite for an American-led Administration.”

80. Attitudes to the UK were described by Mr Fraser as “ambivalent”:

“As so often with the former colonial power, it has been love-hate. As recently as the early 1980s Iraqi students were the most numerous group of overseas students in Britain. But we have lost our contacts since then, and our siding with the US on sanctions and NFZ [No-Fly Zone] policy over recent years, culminating in this campaign, has presumably affected popular attitudes to Britain.”

81. Mr Fraser concluded that any overtly US-led administration would be “untenable” and Iraqis “may find it deeply humiliating”. There would almost certainly be attacks on US personnel. It was therefore “critically important that we continue to press for legitimisation of interim and longer-term arrangements in Iraq through an effective UN presence”. There was also “an even greater premium on a real change of heart in Washington on the MEPP”.

82. That presented the UK with a dilemma over withdrawal:

“We will need to stay to support a long term, viable political settlement in Iraq (and have a clear idea of what that entails). Failure by us and the Americans to see through the peace would compound the problem. But if the Americans insist on the sort of model for Iraq that they currently seem to envisage, being closely aligned with them may have political and security costs for us. Putting some distance between us and them, where we can afford to, may be no bad thing.”

83. Mr Straw’s Private Office informed Mr Fraser on 1 May that Mr Straw had read the paper “and kept it in his useful papers pack for the last several weeks”.³⁶

³⁵ Minute Fraser to McDonald, 31 March 2003, ‘Iraqi Attitudes to the Americans and British’.

³⁶ Note McDonald, 1 May 2003, on Minute Fraser to McDonald, 31 March 2003, ‘Iraqi Attitudes to the Americans and British’.

The legal framework for the Occupation

It was widely understood by both the US and UK that once they had displaced the regime of Saddam Hussein, Coalition Forces would exercise authority over – and, under international law be occupiers in – Iraq. FCO lawyers confirmed on 2 April 2003 that by that date, UK forces were an Occupying Power in that part of Iraq in their physical control.³⁷

The basic principles of International Humanitarian Law as they apply to military action, in particular in relation to targeting and the Rules of Engagement, are set out in Section 6.1.

This Box explains the main principles applicable to the occupation of one state by another, a process which makes it the “Occupying Power”.

As Occupying Powers, the UK and USA were bound by international law on belligerent Occupation. Its rules are set out in the 1907 Hague Regulations (Articles 42 to 56), the Fourth Geneva Convention on the Protection of Civilian Persons in Time of War of 1949 (Articles 27 to 34 and 47 to 78) and the 1977 First Protocol to the Geneva Conventions of 1949 Relating to the Protection of Victims of International Armed Conflicts.

Article 42 of the Hague Regulations defines an Occupation:

“Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.”

In Iraq in April 2003 this meant that, at a minimum, the UK was considered the Occupying Power in that part of South-East Iraq where its forces were physically present and exercised authority. The UK’s role alongside the US in ORHA (and then the CPA) raised questions about whether the UK was also jointly responsible for the actions of those organisations throughout Iraq.

Article 43 of the Hague Regulations provides that the Occupying Power “shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety while respecting, unless absolutely prevented, the laws in force in the country”. Sir Michael Wood, a former FCO Legal Adviser, told the Inquiry: “While some changes to the legislative and administrative structure may be permissible if they are necessary for public order and safety, more wide-reaching reforms of governmental and administrative structures are not lawful. That includes the imposition of major economic reforms.”³⁸

The Fourth Geneva Convention defines “protected persons” as those who “find themselves ... in the hands of a party to the conflict or Occupying Power of which they are not nationals”. It sets out a number of detailed provisions on status and treatment of protected persons; and a number of responsibilities and restrictions that apply to the Occupying Power in relation to the occupied territory. The provisions of particular relevance to the UK’s involvement in Iraq are:

- Article 54, which prohibits any alteration in the status of public officials should they abstain from fulfilling their functions for reasons of conscience. It does not affect the right of the Occupying Power to remove public officials from their posts.

³⁷ Minute Llewellyn to Bristow, 2 April 2003, [untitled].

³⁸ Statement Wood, 15 January 2010, pages 2-3.

- Article 64, which requires that the penal laws of the occupied territory must remain in force except where they constitute a threat to security or an obstacle to the application of the Convention itself. In addition, with limited exceptions, the courts in the occupied territory must be allowed to continue to operate.
- Article 78, which empowers the Occupying Power, if it is necessary for reasons of security, to intern nationals of the occupied state, and other nationals within the occupied state. Procedures for review and appeal of internment should be put in place, including review every six months by a competent body set up by the Occupying Power. The Article also sets out detailed provisions for the treatment of internees.

Insofar as the provisions of the Convention allow an Occupying Power to exercise functions of government in occupied territory, Article 6 provides that they should continue to have effect for as long as its military Occupation continues. Other provisions, however, cease to apply “one year after the general close of military operations”. Article 64 therefore continued to apply. But when military operations ended Article 54, Article 78 and the regulations governing internment in Articles 79 to 141 ceased to apply.

April 2003

84. On 1 April, the first ORHA staff entered Iraq (having previously been stationed in Kuwait) at the port of Umm Qasr in Basra province.³⁹

85. On the same day, Mr Blair closed the Ad Hoc Meeting on Iraq by explaining that: “It was as important to win the diplomatic and political campaign as it was to achieve military success.”⁴⁰

86. Although the minutes of that meeting contain no reference to post-conflict administration, Mr Suma Chakrabarti, DFID Permanent Secretary, wrote to Sir Andrew Turnbull, the Cabinet Secretary, that Ms Short had “welcomed the emerging consensus ... on what the core principles for a UNSCR (or UNSCRs) for rehabilitation, reform and development in Iraq should be”.⁴¹

87. Mr Chakrabarti described the core principles as:

- rapid, UN-led movement to an IIA; and
- a resolution supported by the international development community, especially the IFIs and the UN development agencies.

88. Mr Chakrabarti argued that UN involvement need not wait until a resolution had been passed. He cited as an example resolution 1378 (2001), which established the process for creating an interim administration in Afghanistan. A UN Special

³⁹ Bowen SW Jr. *Hard Lessons: The Iraq Reconstruction Experience*. U.S. Government Printing Office, 2009.

⁴⁰ Minutes, 1 April 2003, Ad Hoc Meeting on Iraq.

⁴¹ [Letter Chakrabarti to Turnbull, 1 April 2003, 'Iraq: Rehabilitation, Reform and Development'](#).

Representative had been at work before the resolution had passed, and before the creation of the UN Assistance Mission in Afghanistan.

89. On 2 April, Mr Llewellyn wrote again to the IPU about the legality of ORHA actions.⁴²

90. Activity around Umm Qasr, which was under UK control, pointed to the fact that ORHA was acting on behalf of Coalition forces jointly. That made it increasingly important that the UK Government was consulted on its plans. Mr Llewellyn urged the IPU to exert whatever influence it had to ensure that happened.

91. Mr Straw and Secretary Powell met in Brussels on 3 April. The Government has been unable to provide the Inquiry with a record of their discussion. But in advance of the meeting, the IPU provided Mr Straw with advice on how an IIA might be created, for him to share with Secretary Powell.⁴³

92. In its advice, the IPU set out concerns about the legal constraints in creating an Iraqi administration:

“Without UN authorisation, any bodies set up or decisions taken on issues other than delivery of humanitarian relief, rehabilitation of existing infrastructure, security or public order, whether by the Coalition or others, would not fall within the authority of Occupying Powers and would therefore be illegal. This applies to the formation of an interim administration and any constitutional changes and reform programmes. The US have a different interpretation of the legal position. They need to be clear about the constraints which apply to UK activity, including our participation in ORHA. The strongest argument is however political: we need a UN-authorized process to provide the right people to participate in the interim authority and to gain maximum support from Iraqis and internationally. We see the UN Special Co-ordinator/ Representative visibly facilitating the process leading to the IIA’s establishment with the Coalition in the background. The US view, across government, is the opposite.”

93. A paper attached to the IPU advice described the possible steps in the process of political reconstruction in Iraq as:

- The establishment of a Consultative Council at a national level and Joint Commissions at a local level to advise and act as the interface with the Coalition transitional military and civil administration.
- A process to select an IIA, such as a conference similar to the Bonn Conference for Afghanistan.
- Formation of an IIA.
- A constitutional review process.

⁴² Minute Llewellyn to Bristow, 2 April 2003, [untitled].

⁴³ [Minute IPU \[junior official\] to PS \[FCO\], 2 April 2003, ‘Post-Conflict Iraq: Iraqi Interim Authority’ attaching Paper FCO Research Analysts, ‘Post-conflict Iraq: Iraqi Interim Authority’.](#)

- Preparations for and holding of free and fair elections.
- A new representative government.”

94. Mr Brenton was relaying the same view of the political process to the US Administration.⁴⁴

95. The British Embassy Washington reported some optimism that views in the National Security Council were close to those of the UK, and were gaining traction with President Bush. But there were some areas of disagreement between the US and UK, in particular on how the IIA would be formed and the precise role the UN would play. The fact that they were “not ready, having lost lives to liberate Iraq, to hand control of it over to the UN” was described as a “US red line”.

96. Reporting from New York, Sir Jeremy Greenstock described a US vision for an IIA which would “advise and assist” a Coalition which continued to run Iraq.⁴⁵

97. At the Ad Hoc Meeting on Iraq on 3 April, Mr Blair told attendees that the IIA:

“... had to be a genuinely representative body irrespective of how it was brought into being. He intended to put forward an alternative to the ideas coming out of Washington at present.”⁴⁶

98. On 4 April, Ms Rose sent Mr Llewellyn the letter she had promised on MOD concerns regarding potential ORHA actions, “with a view to identifying legal issues for further consideration”.⁴⁷ She wrote that it was “of paramount importance” to clarify the legal issues regarding ORHA activity.

99. Ms Rose explained that the MOD expected that “at the national level” ORHA would “direct Coalition action throughout Iraq”. Ms Rose identified a need to consider the UK’s position on that role, and on the relationship between ORHA and “the civil administrations in the areas of the country for which the UK will be responsible”. Ms Rose explained that the MOD was discussing use of “the Joint Commission model” in those areas to enable “effective civil-military crisis co-ordination”.

100. The letter from Ms Rose listed a number of ORHA’s proposed activities that were “likely to be illegal”, including:

- installing Coalition nominees as “shadow Ministers”;
- filling vacated posts in the Iraqi criminal justice system;
- appointing a US contractor to run Umm Qasr and opening a customs facility; and
- any management or exploration of Iraqi oilfields that went beyond their repair.

⁴⁴ Telegram 428 Washington to FCO London, 3 April 2003, ‘US/Iraq: Phase IV’; Telegram 448 Washington to FCO London, 4 April 2003, ‘Iraq: Post-Conflict’.

⁴⁵ Telegram 614 UKMIS New York to FCO London, 5 April 2003, ‘Iraq: Post-Conflict’.

⁴⁶ Minutes, 3 April 2003, Ad Hoc Meeting on Iraq.

⁴⁷ Letter Rose to Llewellyn, 4 April 2003, ‘Iraq: ORHA’.

101. In preparation for a meeting between Mr Blair and President Bush to be held at Hillsborough Castle near Belfast, Mr Rycroft chaired talks between US and UK officials on 4 April.⁴⁸

102. The US team was led by Mr John Bellinger, Legal Adviser to the National Security Council.⁴⁹

103. Before the talks, Mr Brenton wrote to Sir David Manning to provide “the clearest possible view of where the Americans are”.⁵⁰ Mr Brenton said that clarity on that had been obscured by “intense Washington departmental infighting”, but he suspected that at the talks:

“... key areas of disagreement between us will boil down to how to ensure the proper balance between external and internal Iraqis is [sic] the IIA, and precisely what role the UN will play in putting the IIA together.”

104. In Mr Brenton’s opinion those were “important points but ought not to be deal breakers”.

105. Mr Brenton warned that the UK was in danger of being “left behind by events” in the staffing of ORHA; lists of officials to shadow Iraqi Ministries were almost complete, and the UK had not made a bid.

106. Mr Brenton wrote:

“Following our significant military efforts we surely have an interest in following through to the civilian phase. If so, given the advanced state of US preparation, it will be important that we vigorously pursue the point ...”

107. In addition to Mr Brenton’s advice, on 3 April the IPU provided Mr Rycroft with a minute containing an annotated version of the agenda for the talks and a commentary on the latest US draft resolution, which Mr Chilcott had just seen.⁵¹

108. The commentary described the UK’s problems with the US draft as being that it:

- envisaged a UN Special Co-ordinator with a limited role in creating the IIA, which would in turn be subordinate to the Coalition;
- implied endorsement of military action, something the Security Council was unlikely to agree;
- lifted all sanctions against Iraq without requiring WMD disarmament to be demonstrated; and
- placed oil revenues under Coalition control.

⁴⁸ Minute Rycroft to Prime Minister, 4 April 2003, ‘Future of Iraq’.

⁴⁹ Minute O’Brien to Private Secretary, 4 April 2003, ‘Iraq: Phase IV Discussions’.

⁵⁰ Letter Brenton to Manning, 3 April 2003, ‘Post Conflict Iraq’.

⁵¹ Minute Chilcott to Rycroft, 3 April 2003, ‘Iraq: Phase IV: Meeting with US Officials’ attaching Paper IPU, [undated], ‘Comments on US draft Post conflict Iraq resolution’.

109. Since the US draft did not meet UK requirements, Mr Chilcott proposed the talks should focus on principles, which could then be turned into text at a later stage.

110. Issues for discussion at the talks were:

- arrangements for the immediate post-conflict period, including providing advisers to Ministries rather than giving Iraqi exiles or Coalition officials an executive role;
- establishing the IIA, facilitated by a UN Special Co-ordinator rather than the US;
- economic issues, including the control of oil revenues by the UN or the IIA, but not the Coalition; and
- the tactical approach to a further resolution, recognising that a large resolution covering all aspects of activity in Iraq was less likely to succeed than a series of smaller ones.

111. Mr Chilcott proposed that Mr Blair and President Bush should discuss a strategy for building international support which took into account that it was not realistic to expect “the UN Security Council to endorse an American designed plan for Iraq”.⁵²

112. Mr Brenton reported to the FCO in London on both 3 and 4 April.

113. In his first telegram, he reported conversations with US officials at the Departments of State and Defense and in the NSC.⁵³

114. The Department of Defense had made clear that the UN could not have a role in selecting candidates for the IIA. US interlocutors had said that there was likely to be an Iraqi conference, possibly in Southern Iraq in the following week, which would set out ideas for establishing the IIA. Mr Brenton had emphasised the need for the UK to be consulted on setting up the IIA and on the conference.

115. Mr Brenton’s telegram the following day sought to clarify US positions on Phase IV.⁵⁴ He emphasised that the NSC was close to the UK position on most of the Phase IV agenda. There was considerable common ground between the US and the UK, including on the need for a “significant UN role” and that oil revenues should be “in the hands of” Iraqis and spent by the Coalition only for tasks authorised by a UN resolution.

116. On 4 April, Mr Nicholas Cannon, Mr Blair’s Private Secretary, wrote to Mr Simon McDonald, Principal Private Secretary to Mr Straw, describing the talks between US and UK officials.⁵⁵

⁵² Letter Chilcott to Rycroft, 3 April 2003, ‘Iraq: Phase IV: Meeting with US Officials’.

⁵³ Telegram 438 Washington to FCO London, 3 April 2003, ‘US/Iraq: Phase IV’.

⁵⁴ Telegram 448 Washington to FCO London, 4 April 2003, ‘Iraq: Post Conflict’.

⁵⁵ Letter Cannon to McDonald, 4 April 2003, ‘Iraq, Post-Conflict Administration: US/UK Talks, 4 March [sic]’.

117. Mr Rycroft had opened the talks by describing common ground between the UK and the US, including the principle that the UN should have a role and that a further resolution would be sought. It was too early to discuss negotiating tactics.

118. Mr Cannon reported that the US delegation had said that a resolution was politically and diplomatically useful and legally beneficial, but not absolutely necessary. The US delegation was clear that it did not want the UN's role to include being in charge of establishing the IIA.

119. UK officials explained that, without a resolution, they had legal difficulties with making changes to Iraqi institutions; the US legal interpretation was different.

120. The US delegation proposed that Iraqi oil revenues should be under the supervision of ORHA (if necessary with a "double-signature" arrangement with the IIA). Treasury officials in the US delegation said that the UN should not manage Iraq's budget.

121. Mr Cannon reported that on balance UK officials found the US approach reassuring; although there were policy differences in a number of important areas, there were also signs of flexibility.

122. On 4 April, Mr Rycroft wrote an account of the talks for Mr Blair in which he judged: "There remain differences between us and much still to do, but it was moderately encouraging."⁵⁶ The main differences between the US and UK were:

- the legal interpretation of how much the Coalition could do, through ORHA, as an Occupying Power;
- how to set up the IIA;
- the UN's relationship with the IIA; and
- negotiating tactics – the US preferred to "aim high at this stage and water down our text only later".

123. Mr Straw told the Ad Hoc Meeting on Iraq on 4 April that he felt renewed optimism about achieving a UN framework for Phase IV activity in Iraq, following a meeting of NATO and EU Foreign Ministers:

"He had registered with these colleagues that domestic politics and expectations had been changed by the fact of having British troops in Iraq. The reality was that the Coalition would have to retain some control in the wake of conflict, but the United Nations should also be involved."⁵⁷

⁵⁶ Minute Rycroft to Prime Minister, 4 April 2003, 'Future of Iraq'.

⁵⁷ Minutes, 4 April 2003, Ad Hoc Meeting on Iraq.

124. Mr Blair spoke to President Bush, joined by Dr Rice, Vice President Dick Cheney and Mr Andy Card, President Bush's Chief of Staff, by video conference on the afternoon of 4 April.⁵⁸

125. Mr Blair commented that reports from discussions with European partners indicated that they would like to "find a way back". He thought that getting the right "framework of principles" for Phase IV should help.

126. On 5 April, Sir Jeremy Greenstock sent an update on post-conflict discussions with the US to the FCO in London.⁵⁹ Sir Jeremy observed that the latest US draft resolution "suggests continuing UK/US differences that will be fundamental to whether or not we can secure post-conflict UN resolutions". He suggested that "piecemeal resolutions", as opposed to a single "omnibus" version, might be the right tactic, as it would allow drafting to be responsive to conditions on the ground and for positive momentum to build.

127. Ms Short wrote to Mr Blair on 7 April, copied to Mr Straw and others, urging him to "agree with the US, proper limits to ORHA's mandate and a process for inviting the UN to lead on IIA preparations".⁶⁰

128. Ms Short identified four UK "bottom lines":

- limiting ORHA's mandate to Geneva and Hague Convention obligations;
- the process for appointing the IIA should be facilitated by the UN;
- involving International Financial Institutions in the reconstruction effort, which would require a new resolution; and
- revenues from Iraq's oil remaining under UN Security Council stewardship.

129. On the same day, Mr Straw responded to a request from Mr Blair for advice on whether UK secondees' positions in ORHA should be formalised.⁶¹ His response was copied only to Lord Goldsmith.

130. Mr Straw said that his instinctive reaction was that the UK ought to be fully involved in ORHA. He had consulted officials and the Attorney General, and relayed the latter's initial reaction that if the UK formalised the position of UK secondees "then the risk of the United Kingdom being jointly responsible for *all* ORHA's actions increases (including in the 75 percent-80 percent of Iraq which will be under US and not UK de facto control)".

⁵⁸ Letter No.10 [junior official] to McDonald, 4 April 2003, 'Iraq: Prime Minister's Video Conference with President Bush'.

⁵⁹ Telegram 614 UKMIS New York to FCO London, 5 April 2003, 'Iraq: Post-Conflict'.

⁶⁰ [Letter Short to Prime Minister, 7 April 2003, 'Post Conflict Iraq'](#).

⁶¹ [Minute Straw to Prime Minister, 7 April 2003, 'Iraq: OHRA' attaching 'Annex E: Draft Memorandum of understanding between the UK and US on OHRA'](#).

131. To avoid this risk, Mr Straw suggested agreeing a Memorandum of Understanding (MOU) with the US which would specify full consultation with the UK and joint decision-making on policy decisions about ORHA's activities. He attached a draft. Mr Straw also observed that greater clarity about the role of the UN would reduce anxieties about ORHA.

132. Mr Straw's Private Secretary also sent Mr Rycroft a briefing for Mr Blair to use at the Hillsborough meeting, written by the IPU.⁶²

133. The briefing described the task for Hillsborough as:

“... to expand the extent of US-UK agreement, particularly on the role of the UN in accompanying and facilitating the political process leading to the establishment of an Iraqi interim authority.”

134. The best outcome would be an agreed set of principles governing activity in post-conflict Iraq.

135. Concerns remained about how the IIA would be established and supervised to ensure it was supported by all sectors of Iraqi society. In particular, the UK was concerned about US plans for “rushing ahead” with the appointment of the IIA “with no regard for Iraqi buy-in”. The timing of the proposed Iraqi conference (12 April) was far too soon; as there would not be many “liberated Iraqi leaders from inside Iraq”, Iraqi exiles would be bound to dominate.

136. The IPU suggested instead that an IIA should take immediate responsibility for “innocuous” Iraqi Ministries, with the more complex ones added once its capacity had increased, and the most sensitive once they were “well on the path of reform”.

137. The IPU proposed that Mr Blair should raise the requirement for ORHA to stay within the bounds of international law with President Bush, observing that US and UK lawyers still did not have a shared interpretation of the powers of Occupation.

138. In a note for Mr Blair covering the briefing for Hillsborough, Mr Rycroft explained that Dr Rice would give a presentation on ORHA, and that the UK needed clarity on what the organisation would actually do with each ministry.⁶³ He observed that ORHA should field “technical advisers, not shadow Ministers”.

139. Mr Rycroft highlighted agreeing a “partnership” with the UN as the key issue for the talks.

⁶² Letter Owen to Rycroft, 7 April 2003, ‘Hillsborough: Iraq’ attaching Briefing IPU, 6 April 2003, ‘Iraq: Phase IV: Authorising UNSCR’.

⁶³ Minute Rycroft to Prime Minister, 7 April 2003, ‘Hillsborough’.

UK troops enter Basra

As described in Section 8, by 7 April UK troops had entered the city of Basra.⁶⁴

The Chiefs of Staff were informed on 8 April that the troops clearing the old city area of Basra had been “met by a jubilant population”.⁶⁵

A report on the evening of the same day stated that: “The situation in the city has stabilised ... although looting will remain a problem until normal policing is restored.”⁶⁶

The overnight report from COBR informed Sir David Manning that Major General Robin Brims (General Officer Commanding 1st (UK) Armoured Division) had identified a potential local leader in Basra “with whom he can do business” and had begun the process of establishing a joint commission.⁶⁷ Looting was “not as bad as reported in the media”.

Discussion of Basra at the Ad Hoc Meeting on Iraq on 9 April and at Cabinet on 10 April is covered in Section 8.

In his book *Losing Iraq*, Mr Stephen Pelletière, a former CIA senior political analyst on Iraq described the public response to the arrival of UK troops in Basra as “surprising” because:

“Instead of being welcomed joyously, the British practically were ignored. Indeed they were forced to look on helplessly as the Basrawis indulged in an orgy of looting.”⁶⁸

Major General Graham Binns, Commander of the 7 Armoured Brigade until April 2003, told the Inquiry:

“We reached the conclusion that the best way to stop looting was just to get to a point where there was nothing left to loot ... we could either try and stop the looting, in which case we would have to shoot people, or we could try and prevent it but knowing that we weren’t going to prevent it and take a pragmatic view ... and then when we are ready we will restock it and guard it. But actually trying to interpose ourselves was difficult.”⁶⁹

140. Mr Rycroft wrote to Mr McDonald on 8 April to report discussions on post-conflict Iraq at Hillsborough.⁷⁰

141. Mr Blair had stressed to President Bush the importance of a “joint strategy for the next phase” and of ensuring “legitimacy at every stage”; keeping the UN representative involved would help to ensure UN endorsement.

142. Discussions had also covered a US proposal for a conference to start the process of establishing the IIA. Sir David Manning and Mr Blair argued for slowing down the formation of the IIA to ensure that it was properly representative.

⁶⁴ Public hearing Burrige and Brims, 8 December 2009, page 35.

⁶⁵ Minutes, 8 April 2003, Chiefs of Staff meeting.

⁶⁶ Paper [unattributed], 8 April 2003, ‘Annex to Evening Sitrep, 8 April 2003: Military’.

⁶⁷ Minute Gibbons to Manning, 9 April 2003, ‘Iraq: COBR Overnight Sitrep 8/9 April’.

⁶⁸ Pelletière, SC. *Losing Iraq*. Praeger Security International, 2007.

⁶⁹ Private hearing, 2 June 2010, page 11.

⁷⁰ Letter Rycroft to McDonald, 8 April 2003, ‘Iraq: Prime Minister’s Meeting with Bush, 7-8 April’.

143. Mr Blair emphasised the importance of having the UN involved, in order to engage IFIs and bilateral donors, and to “secure our own exit”. Discussions also covered whether a UN resolution, on which both sides were in principle agreed, should be an “omnibus” resolution or cut into smaller slices.

144. Mr Straw’s suggestion that a first resolution should pass as – or shortly after – the IIA was established was accepted; it would endorse the new body as legally representing Iraq. Secretary Powell and Mr Straw would start the process in the relevant capitals, before discussions began in New York.

145. Mr Blair told the Inquiry:

“... the issue between the two of us there at Hillsborough was over the United Nations’ role, because again America did not want the UN in. We were clear that the UN had to be in, and I got a paper from the Iraq Planning Unit saying in essence that Iraq couldn’t be run by the UN and the UN didn’t want the lead role, but the UN had to have an important role, and this was raised with President Bush and finally resolved.”⁷¹

146. Mr Blair also said:

“I can’t say there were things where I was ringing the alarm bell with President Bush and he was not doing anything. On the contrary when I met him and went through item by item the things that had to happen ... and again his system was completely resistant to this, to get the UN into Iraq, they did come in.”⁷²

147. A public statement made jointly by President Bush and Mr Blair after the Hillsborough meeting said:

“The United Nations has a vital role to play in the reconstruction of Iraq ... we plan to seek the adoption of new United Nations Security Council Resolutions that would affirm Iraq’s territorial integrity, ensure rapid delivery of humanitarian relief and endorse an appropriate post-conflict administration for Iraq.”⁷³

148. In the statement, President Bush and Mr Blair welcomed the appointment by the UN Secretary-General of a Special Adviser for Iraq and stated that:

“The day when Iraqis govern themselves must come quickly. As early as possible, we support the formation of an Iraqi Interim Authority, a transitional administration, run by Iraqis, until a permanent government is established by the people of Iraq. The Interim Authority will be broad-based and fully representative, with members from all Iraq’s ethnic groups, regions, and diaspora.”

⁷¹ Public hearing, 21 January 2011, pages 139-140.

⁷² Public hearing, 21 January 2011, page 147.

⁷³ Statement Bush and Blair, 8 April 2003, *Joint statement on future of Iraq*.

149. Mr Blair and President Bush also confirmed that:

“Coalition forces will remain in Iraq as long as necessary to help the Iraqi people to build their own political institutions and reconstruct their country, but no longer.”

150. Sir Jeremy Greenstock told the Inquiry that:

“We would have liked the UN to be described as playing a leading political role with the US and the UK in administering Iraq as a triumvirate. That was too much for the United States and President Bush came out between his own advisers and the Prime Minister in describing the role that they wanted from the UN as being vital ... without the Prime Minister’s input we wouldn’t have got the word ‘vital’. I think it was something that President Bush, as it were, gave to the Prime Minister rather than an American recognition that actually the UN would be so useful that we must make sure that they are encouraged to be useful.”⁷⁴

151. As discussions were concluding in Hillsborough, the IPU in London was raising concerns about the language of Gen Franks’ proposed messages to the Iraqi people, to be issued once Baghdad had fallen.⁷⁵

152. A further US draft of the Freedom Message had been supplied to Mr Llewellyn. He commented to Ms Rose that it had “hardly changed from the one that I commented on on 28 March” and observed that the new draft contained reference to the creation of “a duly authorised court”.⁷⁶ Without agreement on the jurisdiction or power of such a court this provision remained unsatisfactory.

153. A note prepared by the IPU advised that references to the Coalition Provisional Authority temporarily exercising the powers of government was not considered to be consistent with the Hague Regulations or the Fourth Geneva Convention. The IPU advised that “at a minimum” these references should be deleted if text was to be issued on behalf of the Coalition as a whole.⁷⁷

154. On 9 April, Mr Rycroft asked for the IPU Note to be faxed to members of the NSC.⁷⁸

155. On 10 April, Mr Llewellyn advised the IPU that the main problem with the draft Proclamation was that “political statements and legal requirements are jumbled up”.⁷⁹

⁷⁴ Public hearing, 15 December 2009, pages 47-48.

⁷⁵ Minute IPU, 8 April 2003, ‘Iraq: Proclamation by General Franks’ attaching Minute Franks ‘Freedom Message to the Iraqi People’ and Order ‘Instructions to Citizens of Iraq and military forces’.

⁷⁶ Letter Llewellyn to Rose, 8 April 2003, ‘Iraq: Proclamation by General Franks’.

⁷⁷ Note IPU, 8 April 2003, ‘Iraq: Post-conflict; Franks Declaration and Instructions to Citizens of Iraq’.

⁷⁸ Manuscript comment Rycroft, 9 April 2003 on Note IPU, 8 April 2003, ‘Iraq: Post-conflict; Franks Declaration and Instructions to Citizens of Iraq’.

⁷⁹ Minute Llewellyn to Bristow, 10 April 2003, ‘Freedom Message to the Iraqi People’.

156. Cabinet met at 1000 on 10 April.⁸⁰ Its discussion of the military campaign is described in Section 8.

157. Mr Straw reported that in discussions at Hillsborough President Bush had “taken a forward position on ... the vital role of the United Nations in post-conflict Iraq”.

158. Ms Short told Cabinet that “world opinion was divided over Iraq and the vindication of our action would be the new Iraq which emerged”. She reported that the International Committee of the Red Cross was doing an excellent humanitarian job, but was worried about lawlessness and violence in Baghdad.

159. In relation to political reconstruction, Mr Straw said that “the process of arriving at representative government had to be respectable and legitimate. President Bush was clear that exile figures were not to be parachuted in.”

160. Summing up the discussion, Mr Blair said that “joint commissions would operate from the bottom up to allow new Iraqi leadership to come forward”. The proposed Iraqi conference was to generate discussion, after which “we would then work towards establishing an Iraqi interim authority”. He reported that Mr Annan was keen for the UN and the Coalition to “achieve a solution in which neither side predominated”.

161. Concluding the discussion, Mr Blair said that the military campaign in Iraq was going extremely well, but there were challenges ahead on the humanitarian front, in dealing with post-conflict arrangements and bringing together the international community in the UN Security Council. Mr Blair reiterated his conclusion at the previous meeting of Cabinet that making the lives of ordinary Iraqis better was key to success.

162. Later on 10 April, the Ad Hoc Ministerial Group on Iraq Rehabilitation (AHMGIR) met for the first time, with Mr Straw as Chair.⁸¹ The decision to create the AHMGIR is addressed in Section 2.

163. Ms Short, Lord Goldsmith, Mr Hoon and Ms Patricia Hewitt, Trade and Industry Secretary, attended, along with senior officials from their own departments, No.10 and the Treasury.

164. Mr Straw briefed the meeting that:

“The prospects for further UN Security Council resolutions were uncertain and negotiations were very likely to take weeks.”

165. Lord Goldsmith said that he was content for ORHA to undertake humanitarian, security and public order duties and to restore civilian administration but “it must be careful not to impose reform and restructuring without further legal authority”. US and UK lawyers would try to agree an MOU to define how the UK would be consulted.

⁸⁰ Cabinet Conclusions, 10 April 2003.

⁸¹ Minutes, 10 April 2003, Ad Hoc Group on Iraq Rehabilitation meeting.

166. Summing up the discussion, Mr Straw described the meeting's agreement that "the UK should retain a right of veto in extremis" on ORHA activities. It was agreed that UK support to ORHA should be increased and formalised; Mr Straw would write to Mr Blair on this point.

167. Mr Blair spoke to President Bush on the evening of 10 April and welcomed the fact that the IIA would not be created until after the Iraq conference.⁸² He underlined the importance of "getting the presentation right". Mr Blair also warmly welcomed the NSC's plans to create a "quantified baseline" of life in Iraq before the conflict so that changes made by the Coalition would be visible.

168. As described in Section 6.5, the Defence Intelligence Staff (DIS) had established a Red Team in February 2003 to provide the military Chiefs of Staff and others across Whitehall with an independent view of current intelligence assumptions and key judgements.⁸³

169. On 11 April, the Red Team published a report assessing the prospects for governance in Iraq after the end of hostilities. They considered that "international and regional acceptance of the IIA" would be essential, as OFF corruption scandals had discredited the UN within Iraq.⁸⁴ But as a result of returning waves of exiles with experience of Western politics, "it may be ... that serious political debate will commence more quickly than expected".

170. The Red Team concluded that "the odds are probably even for the emergence of a genuinely democratic society or one nominally so, but dominated by the power of patronage and the military".

171. The Red Team also stated that the current "lawlessness in the 'liberated' areas" was:

"... exacerbated by the disappearance of the civil police and administration in some towns, residual fear of the 'shadow' regime and the possible emergence of new militias in the face of apparent Coalition compliance."

172. The Red Team judged that in the short term the "most pressing need" would be for "Coalition forces to satisfy their legal obligations by restoring a peaceful and secure environment". In the medium term, they warned that there was "a real danger that where there is no Coalition presence anarchy will result".

173. On 11 April, Legal Advisers to the MOD, FCO and Attorney General had a "helpful interchange" by video conference with their US and Australian counterparts.⁸⁵

⁸² Letter Rycroft to McDonald, 10 April 2003, 'Prime Minister's Conversation with Bush, 10 April'.

⁸³ Minute PS/CDI to APS2/SofS [MOD], 25 February 2003, 'Iraq: Red Teaming in the DIS'.

⁸⁴ [Minute PS/CDI to APS2/SofS \[MOD\], 11 April 2003, 'Iraq Red Team – The Future Governance of Iraq' attaching Paper 'Iraq Red Team: The Future Governance of Iraq'](#).

⁸⁵ Minute [unattributed], [undated], 'American Summary Points, Video Link: Friday 11 April'.

174. A note of the discussion recorded that, on the Franks Proclamation, the US felt “a lot of our [UK] concerns have been addressed”. A new version of the Proclamation used “verbs that make clear to the people of Iraqi [sic] – what is legally binding and what is not”.

175. Ms Rose wrote to Mr Llewellyn on 11 April to “be sure that we are all clear as to the process of making comments [on ORHA proclamations and instructions] and the principles which should underlie the changes we propose to the US”.⁸⁶ Those principles included that the document:

- should not suggest it had legislative authority unless creating “Occupation type offences” as allowed by the Geneva Convention;
- should refer to “dissolving” not “disestablishing” the Ba’ath Party;
- should not refer to the CPA exercising legislative, judicial and executive authority or the powers of government;
- should not deny that the Coalition forces are Occupiers; and
- should not cut across the Joint Commission concept.

176. The process for providing UK input described by Ms Rose was that Permanent Joint Headquarters (PJHQ) lawyers would respond in rapid time to documents sent from UK officials in theatre, but that this was “not intended to be the last word on the UK’s response to the documents” and should not constrain the IPU from offering its own substantive comments.

177. When the Ad Hoc Meeting on Iraq convened on 12 April, Ms Short informed attendees that “the legal issues were being managed such that British inhibitions would be respected”.⁸⁷

178. General Sir Mike Jackson, Chief of the General Staff, told the meeting that “lawlessness was the main problem” but:

“The situation in Basra was being brought under control and the British division intended to start joint military/[Iraqi] civil police patrols within 48 hours.”

179. Mr Blair spoke by telephone to President Jacques Chirac on 12 April.⁸⁸ In her note of the call, Ms Liz Lloyd, Adviser to Mr Blair on Foreign Policy, recorded President Chirac’s view that establishing the IIA could only be the UN’s responsibility. He had also shared indications from some key international institutions that a “UN decision” was necessary for them to contribute.

180. Both President Chirac and President Bashar al-Assad of Syria raised the looting of culturally significant sites, including museums and archaeological remains, in

⁸⁶ Letter Rose to Llewellyn, 11 April 2003, ‘Iraq: ORHA Proclamations and Instructions’.

⁸⁷ Minutes, 12 April 2003, Ad Hoc Meeting on Iraq.

⁸⁸ Letter Lloyd to Owen, 12 April 2003, ‘Iraq: Prime Minister’s conversation with President Chirac’.

conversations with Mr Blair on 12 April.⁸⁹ Ms Lloyd commissioned a report on the looting from the MOD, in consultation with the FCO.

181. On 13 April, Mr Blair asked No.10 staff: “What are now the UNSCRs that we need and, on the assumption we go piecemeal, in what order and within what timing?”⁹⁰

182. The MOD advised Mr Blair on 14 April that “UK forces will provide support to those Iraqis who are trying to control the looting where they can”.⁹¹ There were signs of the locals taking responsibility for their own property, and attempts by the public to stop looting taking place. Advice on damage to culturally significant sites during the invasion is covered in Section 6.2.

183. On 14 April Mr Cannon briefed Mr Blair that:

- in Baghdad the US military were reporting “while some looting is still going on, it is exaggerated by the media”;
- UK forces had “announced a ‘zero tolerance’ policy for looters” in Basra, where the situation was “targeted crime (e.g. bank robberies) rather than generalised looting”;
- there were “signs of locals [in Basra] taking responsibility for [their] own property, and attempts by the public to stop looters”; and
- in Az Zubayr, looting was “reported to be in decline” and it had ceased in Al Amara.⁹²

184. In a statement on 14 April Mr Blair told the House of Commons, “the regime of Saddam is gone, the bulk of Iraq is under Coalition control and the vast majority of Iraqis are rejoicing at Saddam’s departure”.⁹³ Mr Blair’s assessment of the situation in Iraq is set out in Section 8.

185. Looking ahead, Mr Blair told the House of Commons:

“Shortly, we shall begin formally the process of Iraq’s reconstruction. We see three phases in this. In the first phase, the Coalition and the Office of Reconstruction and Humanitarian Assistance will have responsibility under the Geneva and Hague conventions for ensuring that Iraq’s immediate security and humanitarian needs are met. The second phase, beginning a few weeks after the end of the conflict, will see the establishment of a broad-based, fully representative Iraqi Interim authority. Working with the UN Secretary-General, Coalition military leaders and others will help the Iraqi people to identify which leaders might participate in that interim

⁸⁹ Letter Lloyd to Owen, 12 April 2003, ‘Iraq: Prime Minister’s conversation with President Chirac’ and Letter Lloyd to Owen, 12 April 2003, ‘Iraq: Prime Minister’s conversation with President Bashar’.

⁹⁰ [Minute Blair to Powell, 13 April 2003, ‘Note’.](#)

⁹¹ Letter Williams to Hallam, 14 April 2003, ‘Protection of significant sites in Iraq’ attaching Report, 14 April 2003, ‘Protection of significant sites in Iraq’.

⁹² [Minute Cannon to Prime Minister, 14 April 2003, ‘Iraq: Law and Order Situation’.](#)

⁹³ House of Commons, *Official Report*, 14 April 2003, columns 615-617.

authority. Once established, the interim authority will progressively assume more of the functions of government. The third phase will then bring into being a fully representative Iraqi government, once a new constitution has been approved, as a result of elections which we hope could occur around a year after the start of the interim authority.”

186. Mr Blair went on to describe the need for “intense diplomacy” to rebuild relationships so that the international community was able to “work together for a stable and prosperous Iraq and for a peaceful middle east”.

187. President Bush and Mr Blair spoke on the telephone on 14 April.⁹⁴ In his report of their conversation, Mr Cannon wrote that Mr Blair had advised proceeding more slowly on the formation of the IIA and that this was now US policy.

188. Mr Blair had suggested that it might take a year to establish a “full Iraqi government”. They discussed the approaching formal end of hostile action, and that the US was awaiting legal advice on the implications of being an Occupying Power.

189. On 14 April, Lieutenant General John Reith, Chief of Joint Operations, reported to the Chiefs of Staff that:

“Rightly, there is a degree of pressure from within Theatre to return those forces no longer gainfully employed on Op TELIC as soon as possible. But, equally we need to ensure that we leave in place the correct force composition for the medium term with an eye to our longer term disposition and commitment to the region.”⁹⁵

190. Lt Gen Reith anticipated the drawdown happening between April and early August, by which time he expected the campaign to have reached “some form of ‘steady-state’”. He explained that the intention was to draw down to nearer a medium scale of effort – a divisional headquarters plus a brigade – by “autumn 2003”. That would enable the UK to take on responsibility for the provinces of Basra and Maysan and, subject to the availability of supporting troops from elsewhere within the Coalition, a further two provinces, Dhi Qar and Wasit.

191. Lt Gen Reith’s detailed recommendations on the UK’s Area of Responsibility (AOR), and its evolution, are described in Section 8.

192. On 15 April, Mr Straw wrote to Mr Blair to propose a significant increase in UK support to ORHA, as agreed by the AHMGIR on 11 April.⁹⁶ In return, the US should commit to transparency and joint decision-making.

⁹⁴ Letter Cannon to McDonald, 14 April 2003, ‘Iraq: Prime Minister’s Conversation with Bush, 14 April’.

⁹⁵ Minute Reith to SECCOS, 14 April 2003, ‘Phase 4: Roulement/Recovery of UK Forces’ attaching Paper CJO, 14 April 2003, ‘Phase 4 – Roulement/Recovery of UK Land Forces’.

⁹⁶ [Letter Straw to Prime Minister, 15 April 2003, ‘Iraq: Office for Reconstruction and Humanitarian Assistance \(ORHA\)’](#).

193. Mr Straw explained that:

“Our lawyers are working urgently with the Americans to concert positions on the legal basis for ORHA’s activity, making clear that this is essential to our longer-term commitment.”

194. Mr Straw reiterated Lord Goldsmith’s advice that the UK must be able to veto ORHA activities, especially in areas controlled by UK forces. He also stated that:

“We would need to reconsider our involvement if the US tried to use it [ORHA] to impose radical restructuring in the absence of UN authorisation.”

195. The UK’s need for an MOU containing “clear ground rules” was reinforced by Mr Brenton to Mr Bellinger in Washington.⁹⁷ In response to US concerns that an MOU could be misinterpreted as a “secret pact”, Mr Brenton advised that “there was a real political need for the MOU in London”.

196. Mr Bellinger also observed that the US administration had not yet decided between the omnibus and “smaller chunks” approaches to the new Security Council resolution.

197. On 15 April, a DFID official visiting Iraq reported to Ms Short that ORHA was “failing; and incapable of delivering to our timeframes”.⁹⁸

198. At the meeting of the AHMGIR on 16 April, Ms Short reported that a recent DFID mission to consider further support for ORHA had reported “serious organisational weaknesses”.⁹⁹ She would discuss it with the team on their return.

199. At the same meeting, Mr Hoon commissioned urgent advice on whether the UK should lead one of ORHA’s regional offices.¹⁰⁰

200. Later that day, the IPU produced a note on the issue. The note again described the UK’s legal concerns, including that “we might be regarded as responsible for Coalition actions in areas where there are no UK forces present”.

201. The IPU’s advice was to defer any commitment until the practical implications had been fully understood.

202. In his statement to the Inquiry Maj Gen Cross wrote:

“... it had become very clear to me that there were still serious concerns relating to potential political and legality issues. The only clear instructions I received throughout this period therefore was that I should not commit the UK to financial or any other responsibilities which might tie us into any ORHA plans.”¹⁰¹

⁹⁷ Telegram 504 Washington to FCO London, 15 April 2003, ‘US/Iraq: Phase IV’.

⁹⁸ Minute PPS to Secretary of State [DFID], 15 April 2003, ‘Foreign Secretary/Tim Cross meeting’.

⁹⁹ Minutes, 16 April 2003, Ad Hoc Group on Iraq Rehabilitation meeting.

¹⁰⁰ [Minute Drummond to Manning, 16 April 2003, ‘Iraq: Support for ORHA Regional Office’](#) attaching Note IPU, 16 April 2003, ‘Iraq: ORHA Regional Offices’.

¹⁰¹ Statement Cross, 7 December 2009, page 18.

203. Maj Gen Cross also told the Inquiry:

“I’m well aware of the debate that went on about the legality and a reluctance to be seen at this stage to be endorsing ORHA or formally placing people within ORHA on the basis that we, the UK, would become liable under the umbrella of international law and so forth if we were a part of it. So at that stage, the correspondence that I have seen coming out of DFID, coming out of the FCO, coming out of the MOD, was a recognition that ORHA needed far more than it had, but not yet an agreement that we, the UK, should be prepared to fill any of those slots.”¹⁰²

204. Mr Edward Chaplin, FCO Director Middle East and North Africa, attended a regional meeting set up by ORHA in Nasiriyah on 15 April to begin a dialogue with Iraqi leaders.¹⁰³

205. On the flight home he wrote to his counterpart in the US State Department enclosing two papers: ‘Setting up the Iraqi Interim Authority: Issues for Discussion’ and a longer paper on the UK’s broader views on the creation, composition and powers of the IIA and its relationship with ORHA.

206. The first paper set out the UK’s assumption that a national conference would be needed to set up the IIA and establish constitutional review and electoral processes. The paper emphasised the need for selection of representatives to be Iraqi-led. While the UK wanted to set up an IIA as soon as possible, they wanted to give the process enough time to make the Iraqi people feel they had been properly consulted. The key tasks for the so called “Baghdad conference” were to:

- establish the IIA;
- set up processes for the review of the Constitution; and
- create processes for the preparation of elections.

207. The first paper stated that the way in which members of the IIA would be selected was crucial, arguing that the individuals needed to be technocrats with no political affiliations, and suggesting ways in which the conference could appoint IIA members. The second paper set out the process the UK envisaged would be used to form a new representative government for Iraq, replicating the same steps set out in the paper prepared for Mr Straw to use in discussion with Secretary Powell on 3 April.

208. On 16 April, the European Council met in Athens.¹⁰⁴ Mr Blair represented the UK. A private bilateral meeting between Mr Blair and Mr Annan was organised in the margins of the main event.

¹⁰² Public hearing, 7 December 2009, page 28.

¹⁰³ Letter Chaplin to Crocker, 17 April 2003, ‘Setting up the Iraqi Interim Authority: Issues for Discussion’ attaching Paper FCO, 2 April 2003, ‘Post conflict Iraq: Iraqi interim authority’.

¹⁰⁴ Letter Rycroft to McDonald, 16 April 2003, ‘Iraq: Prime Minister’s Meeting with UN Secretary General, Athens, 16 April’.

209. During their conversation, Mr Blair described to Mr Annan a three stage process for post-conflict Iraq. First, ORHA would stabilise Iraq and start work on the basic infrastructure. Second, the Iraqi-run IIA should progressively assume responsibility from ORHA. Third, after a constitutional process and elections, a full Iraqi Government would be set up.

210. Mr Blair was clear that the UK wanted the UN to be part of the process at each stage, and that each stage should progress as quickly as possible to the next. There was discussion of the need for a strategic vision, including of the role for a UN Special Representative, and a future UN role. Mr Annan was explicit that he was not arguing for a UN lead.

211. Mr Blair sought Mr Annan's advice on future process within the UN and was advised that the Security Council accepted that initially the Coalition would be in charge. Thereafter, a resolution (or a series of smaller resolutions) would be necessary to define the UN's role in the political process and in reconstruction. This required careful handling.

212. Commenting on the discussion, Mr Rycroft wrote: "In our view it should be possible, now that Bush has accepted that the UN should have a vital role, for the UN system to start to become involved on the ground in a way that helps to define its future role."

213. By 16 April, the UK had produced a draft MOU and sent it to the US and Australia for comment. Ms Adams showed a copy to Lord Goldsmith, observing that it could be made more effective by establishing precisely how consultation would work.¹⁰⁵ She also reported "indications that the US may be getting cold feet", based on concern that if it reached the public domain the MOU may be seen as "carving up Iraq in a colonial way".

214. Reporting discussion at the Ad Hoc Meeting on Iraq on 17 April, Ms Short told DFID officials that Mr Blair had directed that "if ORHA was going to be big, we should be in it".¹⁰⁶

215. Minutes of the meeting record that Mr Blair asked for quick action on the UK's contribution, insisting "there should be no bureaucratic hold up in sorting out this priority".¹⁰⁷

216. Mr Rycroft wrote to Mr McDonald on 17 April to convey Mr Blair's strong agreement to proposals for increased support for ORHA.¹⁰⁸ Mr Blair felt that "as a general rule, our role in humanitarian aid and in the reconstruction of Iraq should be commensurate with our contribution to the military phase". That was to include "British officials ... present

¹⁰⁵ Minute Adams to Attorney General, 16 April 2003, 'Iraq: Draft MoU'.

¹⁰⁶ Minute PPS [DFID] to Miller, 17 April 2003, 'Iraq Cabinet Readout: 17 April'.

¹⁰⁷ Minutes, 17 April 2003, Ad Hoc Meeting on Iraq.

¹⁰⁸ [Letter Rycroft to McDonald, 17 April 2003, 'Iraq: ORHA'](#).

and prominent at all levels of ORHA” and “unless the scoping study concludes that this is impossible” a UK-led ORHA regional office.

217. Steps to increase UK support for ORHA are described in more detail in Section 10.1.

218. On 16 April, Gen Franks issued his ‘Freedom Message to the Iraqi People’.¹⁰⁹ The message stated:

“Our stay in Iraq will be temporary, no longer than it takes to eliminate the threat posed by Saddam Hussein’s weapons of mass destruction, and to establish stability and help Iraqis form a functioning government that respects the rule of law and reflects the will, interests, and rights of the people of Iraq.

“Meanwhile, it is essential that Iraq have an authority to protect lives and property, and expedite the delivery of humanitarian assistance to those who need it. Therefore, I am creating the Coalition Provisional Authority to exercise powers of government temporarily, and as necessary, especially to provide security, to allow the delivery of humanitarian aid and to eliminate weapons of mass destruction.”

219. Gen Franks’ Freedom Message also contained the first public statement about the treatment of the Ba’ath Party:

“The Arab Socialist Renaissance Party of Iraq (Hizb al-Ba’ath al-Arabi al-Ishtiraki al-Iraqi) is hereby disestablished. Property of the Ba’ath Party should be turned over to the Coalition Provisional Authority. The records of the Ba’ath Party are an important part of the records of the Government of Iraq and should be preserved. All those with custody of the records of the Ba’ath Party or the Government of Iraq should ... turn them over to the Coalition Provisional Authority.”

220. The policy of de-Ba’athification and its implications is considered in Section 11.

US force levels

Gen Franks issued orders on 16 April to withdraw US war-fighting units within 60 days and to use the incoming US forces for only up to 120 days, reducing the US military presence in Iraq from 175,000 troops to 30,000 by the start of August.¹¹⁰

Lieutenant General Ricardo Sanchez, Commander of Combined Joint Task Force – 7 from 15 June (see Box, ‘US command structures and the SBMR-I’), recalled that Gen Franks “explicitly stated that military leaders should take as much risk coming out of Iraq as we did going in – which meant that we were going to try to get by with the smallest number of ground troops possible”.

¹⁰⁹ Statement Franks, 16 April 2003, ‘Freedom Message to the Iraqi People’.

¹¹⁰ Sanchez RS & Phillips DT. *Wiser in Battle: A Soldier’s Story*. HarperCollins, 2008.

The figure of 30,000 contrasts with what was understood in PJHQ in late April, when Gen Reith reported that Gen Franks had told him that he still expected the US “to have to provide between 120,000 and 150,000” personnel.¹¹¹

At around the same time as Gen Franks’ order, Mr Donald Rumsfeld (US Secretary of Defense) cancelled the deployment of a further 50,000 combat troops who had been scheduled to arrive in Iraq shortly.¹¹²

According to *Hard Lessons*:

“Rumsfeld’s decision shocked some commanders on the ground, including Coalition Forces Land Component Commander Lieutenant General David McKiernan, who were counting on the additional manpower to provide a secure environment for post-conflict stabilization.”

Lt Gen Sanchez’s view was that “overall, the concurrence of Franks’ drawdown orders and Rumsfeld’s ... directive created havoc throughout the forces ... Confusion was the order of the day”.¹¹³

Earlier in 2003, giving evidence to the US Senate Armed Services Committee, General Eric Shinseki, Chief of Staff of the US Army, had commented that, in his view, any Occupation of Iraq would require “several hundred thousand” troops.¹¹⁴

At the time, Gen Shinseki’s comment was dismissed publicly by the Pentagon, and Mr Paul Wolfowitz, US Deputy Secretary of Defense, told the US House of Representatives’ Budget Committee that the number was “wildly off the mark” and that the figure was closer to 100,000.¹¹⁵

In his account of his time in Iraq, Ambassador L Paul Bremer recalls having been shown a draft report prior to his deployment to Iraq which suggested that, for a population the size of Iraq, around 500,000 ground troops would be required for the stabilisation operation. This was “more than three times the number of foreign troops now deployed to Iraq”.¹¹⁶ Ambassador Bremer sent a copy of the report to Secretary Rumsfeld, but did not receive a reply.

221. The issue of deploying the Headquarters of NATO’s Allied Rapid Reaction Corps (ARRC) to Iraq was first raised as a possibility after the invasion in mid-April.

222. Mr Hoon’s Private Office explained to No.10:

“From a military perspective, use of HQ ARRC would impact upon the size of role we could play in Southern Iraq ... Even if this problem could be resolved ... for the UK

¹¹¹ Minute MA/CJO to PSO/CDS, 28 April 2003, ‘CJO Visit Report to TELIC AO 24-28 April’.

¹¹² Bowen SW Jr. *Hard Lessons: The Iraq Reconstruction Experience*. U.S. Government Printing Office, 2009.

¹¹³ Sanchez RS & Phillips DT. *Wiser in Battle: A Soldier’s Story*. HarperCollins, 2008.

¹¹⁴ *USA Today*, 25 February 2003, *Army Chief: Forces to occupy Iraq massive*; Sanchez RS & Phillips DT. *Wiser in Battle: A Soldier’s Story*. HarperCollins, 2008.

¹¹⁵ *USA Today*, 27 February 2003, *Ex-army boss: Pentagon won’t admit reality in Iraq*.

¹¹⁶ Bremer LP III & McConnell M. *My Year in Iraq: The Struggle to Build a Future of Hope*. Threshold, 2006.

to attempt to run HQs in Iraq at Corps, Divisional and Brigade levels simultaneously would be, to say the least, a very ambitious undertaking. It is unlikely (at best) in these circumstances that we could command at Divisional level more than one brigade in addition to our own, and this would limit the number of provinces we could supervise. Even then, recuperating from such an effort would be a major challenge, and it would be years before the Armed Forces recovered the 'steady state' capability which our planning assumptions say they should provide. Finally, we could not enter into such a commitment without having absolute certainty about who would replace us and when."¹¹⁷

The Allied Rapid Reaction Corps (ARRC)

The ARRC is a ready-formed and trained HQ, commanded by a three-star officer, which can deploy within five to 30 days.¹¹⁸ It was created in 1992 in Germany as an operational HQ. It does not have fighting capability, but its approximately 1,000 staff are able to command up to four multi-national divisions (around 100,000 personnel). The ARRC is able to deploy the communications systems necessary for a command role of this size, and the support services needed to take care of its own personnel.

The UK is the 'framework' or lead nation for the ARRC and provides around 60 percent of its staff; other members of NATO provide the remaining 40 percent. To deploy the ARRC without NATO staff, the UK would need to backfill those posts.

The ARRC is deployable once every two to three years. Its first deployment was to Bosnia in December 1995.

223. Major General Adrian Bradshaw, who succeeded Major General Graham Binns as Commander of 7 Armoured Brigade, told the Inquiry "things were relatively calm" when he first arrived in Iraq in April 2003 but "it was clear that we had an urgent task to rebuild security structures".¹¹⁹

224. At the request of the FCO, the Joint Intelligence Committee (JIC) provided an Assessment titled 'The Initial Landscape Post-Saddam' on 16 April.¹²⁰ In it the JIC judged that:

"The situation in Iraq is complex, fast-moving and confused. In the very near term, remnants of the regime will continue to present a limited threat to the re-establishment of peace and stability in Iraq. But other threats to either Coalition forces or the longer term post-Saddam political process are emerging."

¹¹⁷ [Letter Watkins to Manning, 17 April 2003, 'Iraq: Possible Role for the ARRC'](#).

¹¹⁸ www.arrc.nato.int

¹¹⁹ Private hearing, 2 June 2010, pages 5-8.

¹²⁰ [JIC Assessment, 16 April 2003, 'Iraq: the Initial Landscape Post-Saddam'](#).

225. The Assessment said that:

“There has been jubilation at the fall of Saddam Hussein’s regime. But we judge that this is likely to dissipate quickly. Most of the Iraqi population is ambivalent about the role of the Coalition and uncertain about the future. Initial reporting shows that concerns arise quickly about the break-down of law and order and the need for food and water. Some pre-war reports suggested that the Iraqi population has high, perhaps exaggerated, hopes that the Coalition will rapidly improve their lives by improving their access to clean drinking water, electricity and sanitation. However, even without any war damage, there are severe shortfalls in the infrastructure of these sectors, and in healthcare. Looting has made matters worse.

“Initial Iraqi responses to the Coalition will be on a local basis. There is no sign yet of widespread popular support for opposition to the Coalition. We judge that, at least in the short term, the details of the post-Saddam political process will be less important for many Iraqis than a restoration of internal security and the start of reconstruction. But the Iraqi population will blame the Coalition if progress is slow. Resentment of the Coalition also could grow quickly if it is seen to be ineffective, either politically or militarily. Such resentment could lead to violence. But we judge that at present there is no Iraqi social or political structure which could co-ordinate it.”

226. In the same document the JIC updated its pre-invasion assessment of the role of Al Qaida (AQ) within Iraq:

“... intelligence shows that AQ-associated extremists are now in Baghdad, but we remain uncertain as to their role. We judge that AQ’s aspirations to conduct anti-western attacks remain undiminished.”

227. In its final report on 18 April the Red Team wrote that:

“The initial surge of lawlessness seen since the fall of the major Iraqi cities is likely to be a short-term phenomenon. The re-engagement of most of the former regime police force personnel in the immediate future will, along with the use of Coalition troops, re-establish law and order on the streets.”¹²¹

228. The Red Team also wrote that there was “an immediate requirement to re-institute the rule of law”.

229. A JIC Assessment of 30 April addressed the post-war threat from international terrorism.¹²² It said that:

“Coalition action has deprived Al Qaida and its associates of safe haven in Northern Iraq ... The Northern Iraq-based Al Qaida associate group Ansar al Islam has been

¹²¹ [Minute PS/CDI to APS2/SofS \[MOD\], 18 April 2003, ‘Iraq Red Team – the strands of the rope’ attaching Paper ‘Iraq Red Team: the strands of the rope’.](#)

¹²² JIC Assessment, 30 April 2003, ‘Iraq: the Initial Landscape Post-Saddam’.

seriously disrupted by Coalition strikes, although it is likely that remnants of the network could try to re-group in Northern Iraq and attempt attacks against Coalition interests ... And in mid to late April, terrorists continued to be active in Baghdad. We have no intelligence on the specific intent of these terrorists, but judge that **they will remain in place, and attempt attacks against Western interests.**”

230. *Hard Lessons*, the US Government’s account of reconstruction in Iraq, records that Gen Garner and his senior ORHA staff deployed to Baghdad on 21 April.¹²³ When they arrived:

“Outside the gates of the Republican Palace where ORHA was trying to set up shop, anarchy reigned ... Many government buildings had been destroyed.

...

“The looting quickly changed into organized theft by gangs of Iraqi criminals and insurgents trying to destabilize the country.”

231. In late April, the UK Area of Operations was declared “permissive”, first by UK forces on 22 April,¹²⁴ and a few days later by the United Nations Security Co-ordinator.¹²⁵

232. The Coalition defined “permissive” environments as ones to which humanitarian assistance organisations could have access but should use all precautionary measures and notify the Coalition Forces.¹²⁶

233. Drawdown of UK troops in fact had begun before South-East Iraq was formally declared “permissive”.

234. The UK maritime and air presence had begun to reduce by 9 April.¹²⁷

235. Mr Hoon advised Parliament on 11 April that:

“As the pattern of Coalition operations in Iraq changes, it will be possible for a number of units to proceed with other tasking or return to the United Kingdom.”¹²⁸

236. Mr Hoon described the planned withdrawal of air and maritime assets, and said:

“It is our policy to deploy personnel on operations for no longer than is necessary to achieve our military objectives. We will therefore continue to adjust our forces

¹²³ Bowen SW Jr. *Hard Lessons: The Iraq Reconstruction Experience*. U.S. Government Printing Office, 2009.

¹²⁴ Note [unattributed], 23 April 2003, ‘Iraq: Update for the Number 10 Sitrep – As at 0630 on 23 April 2003’.

¹²⁵ Written evidence to the Select Committee on Defence, 16 March 2004, ‘Further Memorandum from the Ministry of Defence on post conflict issues’, February 2004’, HC 57-III.

¹²⁶ *Report of The Independent Panel on the Safety and Security of UN Personnel in Iraq*, 20 October 2003.

¹²⁷ Report Burrige to CJO, 8 May 2003, ‘NCC Operation TELIC Hauldown Report: 07 Feb 03 – 08 May 03’.

¹²⁸ House of Commons, *Official Report*, 11 April 2003, columns 38-39WS.

deployed to the Gulf as appropriate, withdrawing units whose tasks are complete, and in due course replacing those whose tasks continue ... As previously stated, we have no plans to deploy significant additional forces.”

237. On Thursday 24 April, PJHQ asked Mr Hoon to approve the first substantial withdrawal of ground troops from Iraq with effect from Sunday 27 April.¹²⁹ The briefing explained that, of the 3,500 troops who would return, about 1,500 personnel were due to redeploy to Iraq as part of future Phase IV operations; a further 1,000 were “required in the UK as soon as possible for other reasons”; and a further 1,000 were “staff officers and other support personnel deployed for the war-fighting phase ... [whose] jobs are now redundant”.

238. Mr Hoon’s Private Secretary commented that, although Mr Hoon had been told about the proposed drawdown “in very broad outline” in an earlier briefing:

“... what is now proposed involves an acceleration by about a week and a reordering. (It is also something of a bounce.) While it is right and proper to bring people back when they are not needed, we do need to be careful not to leave the impression that we are rushing for the exit leaving chaos behind; queering our pitch with Coalition contributors for Phase IV ...”¹³⁰

239. The Private Secretary also suggested that Mr Hoon might want to defer taking a final view until he had spoken to Mr John Prescott, the Deputy Prime Minister, about plans for Operation FRESCO (the deployment of the military during a planned firefighters’ strike in the UK) and until he had received further details from PJHQ explaining the rationale for the accelerated drawdown.

240. On 24 April, an FCO official told the AHMGIR that there was a good chance the UN Security Council would agree that week to continue the OFF programme until 3 June, and agree within a fortnight that the Secretary-General should appoint a Special Representative for Iraq “with a mandate including engagement in the process of setting up an Iraqi Interim Authority”.¹³¹ The use of oil revenues beyond 3 June remained to be decided but an FCO paper with policy proposals was being written.

241. At the same meeting of the AHMGIR, Admiral Sir Michael Boyce, Chief of the Defence Staff, told attendees that US plans were to divide Iraq into five sectors. The UK would lead one sector, comprising four provinces in southeastern Iraq. This would be “manageable ... provided that other countries offered troops to work with us” and the UK could take on a fifth province “if others contributed the necessary forces for it”. The southern region of ORHA would follow the boundaries of the UK’s sector.

¹²⁹ Minute Wallace to PS/Secretary of State [MOD], 24 April 2003, ‘Op TELIC: Realignment of UK Forces’.

¹³⁰ Manuscript comment Watkins to Hoon on Minute Wallace to PS/Secretary of State [MOD], 24 April 2003, ‘Op TELIC: Realignment of UK Forces’.

¹³¹ Minutes, 24 April 2003, Ad Hoc Group on Iraq Rehabilitation meeting.

242. Mr Straw and Secretary Powell spoke by telephone on 24 April.¹³² The latter explained that US thinking was to combine two draft resolutions – “one on principles and the other on lifting sanctions” – into one: “The market appeared able to bear that.” A combined resolution might be tabled the following week, but more work was needed in advance to align the US, UK and Spanish positions.

243. Mr Straw’s Private Secretary wrote to Mr Cannon on 25 April that:

“... we have seen a new draft US omnibus resolution on post-conflict Iraq that takes no account of our recent bilateral discussions and would be unnegotiable in the Security Council.”¹³³

244. The draft included endorsement for the Coalition’s presence in Iraq, the appointment of a UN Special Co-ordinator, lifting of sanctions and establishing the IIA. The FCO observed that “many of its details will be highly controversial” and suggested that Mr Cannon raise the UK’s issues with the text with Dr Rice.

245. Mr Straw had spoken to Secretary Powell earlier that day.¹³⁴ He told Secretary Powell that “Greenstock’s view was that the latest US draft SCR [Security Council resolution] would run into the buffers”, and added that he shared that view. Mr Straw continued: “We needed this resolution in a way that we had not needed the second resolution.” That was why the UK had proposed tackling the issues one by one. He promised to send Secretary Powell, who had not been persuaded that the prospects for the resolution were poor, a note detailing UK concerns with the omnibus US draft.

246. Mr Straw’s Private Secretary reported to Sir David Manning on 25 April that Mr Straw had raised concerns with Secretary Powell about rumours that the US was planning to appoint a group of Iraqi exiles as the IIA.¹³⁵ Secretary Powell said he would look into it.

247. The Private Secretary also reported that “we hear from ORHA that Garner has invited ... five prominent ‘free Iraq’ politicians to form the core of the interim Iraqi authority”. The UK remained of the view that this would provoke an adverse reaction.

248. On 25 April, Mr Ricketts reported to Sir Paul Lever, British Ambassador to Germany, on a dinner attended by Mr Straw, Mr Joschka Fischer, the German Foreign Minister, Mr Dominique de Villepin, the French Foreign Minister and Mr Javier Solana, EU High Representative for Common Foreign and Security Policy.¹³⁶

¹³² Letter McDonald to Manning, 24 April 2003, ‘Foreign Secretary’s Conversation with US Secretary of State, 24 April’.

¹³³ Letter Owen to Cannon, 25 April 2003, ‘Iraq: Post-Conflict’.

¹³⁴ Letter McDonald to Manning, 25 April 2003, ‘Foreign Secretary’s Conversation with Colin Powell, 25 April’.

¹³⁵ Letter Owen to Cannon, 25 April 2003, ‘Iraq: Post-Conflict’.

¹³⁶ Letter Ricketts to Lever, 25 April 2003, ‘Iraq: Foreign Secretary’s Discussions with Villepin, Fischer and Solana’.

249. Discussion had been dominated by Iraq, and Mr Straw had explained UK priorities as:

“... having extended OFF, building up Security Council consensus for a heavyweight UN Special Representative, and tackling the range of issues linked to suspension of sanctions. On the question of supervising oil revenues, one possibility would be the UN Secretary-General. Another could be the World Bank before a genuine IIA could take this on.”

250. Mr de Villepin had responded that he could only envisage the UN overseeing oil sales with any credibility.

251. A further US draft of the Phase IV resolution was sent by Mr Bellinger to Sir David Manning on 28 April.¹³⁷ Its text included:

- Endorsement of the CPA's role in administering Iraq, including the destruction of WMD.
- A request that the UN appoint a Special Co-ordinator to co-ordinate humanitarian and reconstruction activities.
- Support for an Iraqi-led process for creating the IIA, helped by the CPA and working with the Special Co-ordinator.
- Creation of an Iraqi Development Fund, to be used by the CPA, and the transfer of unspent OFF programme funds into it.
- The resumption of oil sales at market price, with all proceeds deposited in the Iraqi Development Fund.

252. Sir David Manning and Dr Rice spoke on the afternoon of 28 April.¹³⁸

253. Sir David reported to Mr McDonald that he said “we were pretty clear here that the omnibus text as currently drafted was non-negotiable in New York”.

254. A further US draft was promised the following day, drafted so that it could be broken into separate components if necessary, and it was agreed that a video conference with “the experts to hand” would be arranged “to discuss the whole gamut of UN issues”.

255. Mr Blair and President Bush spoke by telephone during the evening of 28 April.¹³⁹

256. Mr Blair indicated that he was still considering the UN angle; an omnibus resolution would be fine if achievable, but if not the focus should be on areas where progress could be made. Mr Blair said that the Coalition “did not want to be the supplicants, just to obtain the maximum UN cover without jeopardizing the Coalition's achievements”.

¹³⁷ Letter Bellinger to Manning, 28 April 2003, [untitled] attaching Paper, [undated], ‘Resolution on post-conflict Iraq’.

¹³⁸ Letter Manning to McDonald, 28 April 2003, ‘Iraq: Conversation with Condi Rice’.

¹³⁹ Letter Cannon to McDonald, 28 April 2003, ‘Iraq: Prime Minister's Conversation with Bush, 28 April’.

257. A consultative conference took place in Baghdad on 28 April.¹⁴⁰ It was not the “Baghdad Conference” to create the IIA that the UK had envisaged.

258. Mr Mike O’Brien, FCO Minister of State for the Middle East, and Mr Chilcott attended for the UK. Mr O’Brien reported that the US had its own vision of how the IIA would shape up and wanted as little as possible to come out of the conference itself. The real political process would begin after the conference when Mr Zalmay Khalilzad, US Ambassador at Large for Free Iraqis, was due to meet with prominent Iraqi political leaders. These meetings were likely to frame the shape and composition of the IIA. The UK was not in the loop. Mr O’Brien attributed that to the UK’s failure to have someone sufficiently senior working with the US in Iraq.

259. In his report to Mr Straw, Mr O’Brien referred to ORHA as “the only game in town” and recommended that a senior UK official should be posted to it in Baghdad to take an active role in policy formation.

260. Mr O’Brien’s Assistant Private Secretary separately reported a meeting between Mr O’Brien and Air Marshal Brian Burrridge, the UK National Contingent Commander who was collocated with CENTCOM in Qatar, whilst the former was in transit to Baghdad.¹⁴¹ He reported that:

“Burrridge thought ORHA as an organisation was ... flawed – it was random, erratic, slow and lacked both cultural awareness and structural planning. However he acknowledged that it was the only show in town and that we had to work with it, regardless of its faults.”

261. RAND¹⁴² assessed in 2008 that:

“The possibility of a quick transfer to Iraqi governance remained in play in the immediate aftermath of the regime’s fall. Although Garner told Kurdish leaders ... that they would not be allowed to set up an interim government, he made a number of statements that appeared to downplay ORHA’s central role in the governance of Iraq ... The consultations ... appeared to be the first two steps of three to the formation of a temporary Iraqi government ... the 300 representatives at the Baghdad Conference ... called for another, larger conference in a month’s time to select the postwar transitional government.”¹⁴³

¹⁴⁰ Minute O’Brien to Foreign Secretary, 1 May 2003, ‘Central Iraq Conference: Are we properly engaged?’

¹⁴¹ Telegram 87 Doha to FCO London, 29 April 2003, ‘Baghdad Conference: Mr O’Brien’s call on Air Marshall [sic] Burrridge’.

¹⁴² The RAND Corporation is a US research organisation/think tank which focuses on defence issues.

¹⁴³ Bensahel N, Oliker O, Crane K, Brennan RR Jr, Gregg HS, Sullivan T & Rathmell A. *After Saddam: Prewar Planning and the Occupation of Iraq*. RAND Corporation, 2008.

262. In a statement to Parliament at the end of April, Mr Hoon announced that:

“Decisive combat operations in Iraq are now complete, and Coalition forces are increasingly focusing upon stabilisation tasks. It will therefore be possible to make further force level adjustments over the coming weeks while continuing to meet our responsibilities to the Iraqi people.”¹⁴⁴

263. In addition to the substantial withdrawal of Royal Navy and Royal Air Force personnel and many of the Army war-fighting units, Mr Hoon explained that he had extended the tour of one unit to enable it “to continue in their key role of ensuring security in the region of Az Zubayr”. He concluded that:

“While details continue to be clarified, we envisage that by mid-May 25,000-30,000 UK Service personnel will remain deployed in the Gulf region, continuing to fulfil our responsibilities towards the Iraqi people. The planned replacement of forces is clear evidence of our commitment to them.

“Our aim is to leave an Iraq that is confident, secure and fully integrated with the international community. The planning process to establish the precise level of the continuing UK presence needed to achieve this aim is a dynamic one, and is kept under review. We will also need to take account of the contributions of Coalition partners. We will continue to withdraw assets and personnel from the region where possible, but we will maintain an appropriate military presence for as long as necessary.”

264. Mr Straw, Sir David Manning and Foreign Office officials discussed the draft post-conflict resolution by video conference with Secretary Powell and Dr Rice on 30 April.¹⁴⁵

265. It was agreed that the text:

- should recognise the Coalition as Occupying Powers, but not endorse military action after the fact;
- should reiterate President Bush’s commitment to a vital role for the UN; and
- need not make reference to UNMOVIC, which could be added later as part of the negotiation process.

266. The US and UK held different views on:

- whether the UN Special Co-ordinator should lead the formation of the IIA; and
- whether the UN or the CPA should have control of oil revenue, and for how long the OFF programme should continue.

¹⁴⁴ House of Commons, *Official Report*, 30 April 2003, columns 15-16WS.

¹⁴⁵ Letter Cannon to McDonald, 30 April 2003, ‘Iraq/UN: Video-conference with Condi Rice and Colin Powell, 30 April’.

267. During the video conference, Mr Rycroft and Mr Bellinger were tasked to go through the US draft in detail and produce a further version for discussion.

268. The next version was sent by Mr Bellinger on the same day.¹⁴⁶ It gave the UN a role working alongside the Occupying Powers on the creation of the IIA, but not leading the process.

269. It also recorded separate US and UK language on who would control the Iraqi Development Fund, and how it would be administered. The UK draft gave control to “the authorities in Iraq, including the Interim Iraqi Administration when established”, the US version to the Occupying Powers or CPA.

May 2003

270. A further video conference, with similar attendees to the last, was held on 1 May.¹⁴⁷

271. Mr Straw told participants that the UK had a “generic problem” with references to the CPA, and would prefer to be referred to as “Occupying Power” because “references to the CPA provided an unnecessary opportunity for dispute in the Security Council”.

272. A detailed discussion of drafting points followed, at the end of which there remained issues with references to disbursement of oil revenues and the OFF account. Mr Straw and Dr Rice agreed that outstanding points should be agreed within a few days so that a draft could be shared with permanent members of the Security Council during the following week.

273. General the Lord Walker told the Inquiry that when he visited Iraq shortly after becoming Chief of the Defence Staff, in May 2003:

“It was very much a honeymoon period at that stage. We walked through Sadr City, berets and no flak jackets. We walked down the markets in Basra, berets and no flak jackets, the usual sort of smiling citizens, some of them – certainly not hostile, some of them a bit sort of stand-offish.”¹⁴⁸

274. On 1 May, President Bush made a speech on board the US aircraft carrier *Abraham Lincoln*. In front of a sign bearing the words “Mission Accomplished” he said:

“Major combat operations in Iraq have ended. In the battle of Iraq, the United States and our allies have prevailed. And now our Coalition is engaged in securing and reconstructing that country.”¹⁴⁹

¹⁴⁶ Letter Bellinger to Rycroft, 30 April 2003 attaching draft ‘Resolution on Post-Conflict Iraq’.

¹⁴⁷ Letter Cannon to McDonald, 1 May 2003, ‘Iraq/UN: Video-conference with Condi Rice, 1 May’.

¹⁴⁸ Public hearing, 1 February 2010, page 16.

¹⁴⁹ CNN News, 2 May 2003, *Bush makes historic speech aboard warship*.

US command structures and the SBMR-I

The end of combat operations led to a change in the US command structure and military headquarters within Iraq. According to *Hard Lessons*:

“By May 1, 2003, CENTCOM had dismantled its forward command-and-control center in Qatar. Two weeks later, the Defense Department announced that Lt Gen McKiernan’s command would soon leave Iraq and that his large headquarters would be replaced by a much smaller Combined Joint Task Force 7 (CJTF-7), led by Lt Gen Sanchez.”¹⁵⁰

Lt Gen Sanchez arrived in Baghdad on 8 May and formally assumed command of CJTF-7 on 15 June.¹⁵¹ As well as having a significantly smaller headquarters, he was also newly promoted to this level of command, in contrast to his more experienced – and senior – predecessor (Lt Gen McKiernan) and successor (General George Casey). The reporter Mr Bob Woodward commented that Lt Gen Sanchez was the most “junior three-star general in the [US] Army. He had been given America’s most important ground command and had a small and inexperienced staff.”¹⁵²

In his memoir, Lt Gen Sanchez described the removal of the Coalition Forces Land Component Command headquarters staff as:

“... another monumental blunder that created significant strategic risk for America ... the foreseeable consequences were daunting. In country, we would no longer have the staff-level capacities for strategic- or operational-level campaign planning, policy, and intelligence. All such situational awareness and institutional memory would be gone with the departure of the best available Army officers who had been assigned to CFLCC for the ground war. The entire array of established linkages was dismantled and redeployed. Furthermore, V Corps had no coalition operations and ORHA/CPA-related staff capacity, which were departing the theater with CFLCC just at a time when the coalition and civilian administrator support missions were dramatically expanding.”¹⁵³

Lt Gen Sanchez observed that his headquarters had remained staffed at less than 60 percent of its required staffing levels (1,000) for the majority of his time in Iraq and commented that:

“With both CENTCOM and CFLCC leaving Iraq, V Corps was going to have to operate at the theater strategic level, for which it possessed no expertise, as well as the operational and tactical level across the country. Unfortunately, neither CENTCOM nor CFLCC was planning to provide any help to accomplish that task.”

¹⁵⁰ Bowen SW Jr. *Hard Lessons: The Iraq Reconstruction Experience*. U.S. Government Printing Office, 2009.

¹⁵¹ Sanchez RS & Phillips DT. *Wiser in Battle: A Soldier’s Story*. HarperCollins, 2008.

¹⁵² Woodward B. *State of Denial*. Simon & Schuster UK Ltd, 2006.

¹⁵³ Sanchez RS & Phillips DT. *Wiser in Battle: A Soldier’s Story*. HarperCollins, 2008.

From July 2003, a senior UK military officer was deployed in Baghdad, in the dual role of Deputy Commanding General within the Coalition military command and Senior British Military Representative, Iraq (SBMR-I).¹⁵⁴

This position, which existed until the eventual withdrawal of British troops from Iraq in July 2009, was initially filled by Major General Freddie Viggers, who served from May to September 2003.

Maj Gen Viggers reported to the Commander of CJTF-7, Lt Gen Sanchez; his reporting lines back to the UK ran directly to Gen Walker and Gen Reith.¹⁵⁵

CJTF-7 did not fall under Ambassador Bremer's control. Lt Gen Viggers explained to the Inquiry that the post was not based physically within the Corps headquarters but rather "it was the military element of the Coalition Provisional Authority".¹⁵⁶ He told the Inquiry that:

"My focus was on the military aspects of the reconstruction Plan being delivered by the CPA ... My task was to provide the link between military HQ in the CPA and the heads of various civil functions in the CPA. There was a separate Deputy Commander for Operations in the CJTF-7 HQ ... who was based in Corps HQ ... I provided military advice and information to the British Ambassadors ... inside the CPA ... I worked closely with Ambassador Bremer's Chief of Staff ... and with the key players involved in security functions, especially Walt Slocombe (responsible for building the new Iraqi Army) and with Bernard Kerik (responsible for building the Iraqi police)."¹⁵⁷

Although the SBMR-I did not command the majority of UK troops within Iraq, he did have command responsibility for the small number of UK military staff based in Baghdad.

275. On 1 May, Cabinet was told that British troops had done an excellent job in restoring security in the South of Iraq.¹⁵⁸ The problem was now one of criminality which did not require British troops on the streets but rather police officers and a judicial process. Persisting in patrolling with foreign troops "was not a good idea".

276. Summing up the meeting, Mr Blair said that "little time had elapsed since the fall of the Iraqi regime and much progress had been made".

277. On 1 May, a brief sent by Mr Hoon's Private Office to Mr Rycroft said:

"While ORHA has our broad support, it is not yet delivering in Iraq. It is too narrowly controlled by the Pentagon, and continues to lack proper strategic direction, the necessary grasp of cultural issues in Baghdad, and the requisite capabilities to make a rapid difference on the ground. In being encouraging of ORHA, we are counselling care against the Coalition appearing to appoint an Iraqi government."¹⁵⁹

¹⁵⁴ Joint Commander's Mission Directive to the UK Component Commanders, 21 August 2003, 'Operation TELIC Phase 4'.

¹⁵⁵ Statement Viggers, 8 December 2009, page 2.

¹⁵⁶ Public hearing, 9 December 2009, pages 3-4.

¹⁵⁷ Statement Viggers, 8 December 2009, pages 1-2.

¹⁵⁸ Cabinet Conclusions, 1 May 2003.

¹⁵⁹ Letter Watkins to Rycroft, 1 May 2003, 'Meeting with the US Defense Secretary – 2 May 2003'.

278. On 2 May, Mr Straw's Private Secretary wrote to Mr Rycroft to propose that Mr John Sawers, then British Ambassador to Egypt, should be appointed as the Prime Minister's Special Representative on Iraq to "take the lead for the UK in guiding the political processes leading to the establishment of an Iraqi Interim Authority".¹⁶⁰

279. On 2 May, Mr Hoon met Secretary Rumsfeld.¹⁶¹ Mr Hoon stressed the necessity for ORHA to make tangible progress. Secretary Rumsfeld was reported to have:

"... played down expectations somewhat, and cautioned against waiting for a fully formed organisation with a large pot of money. We should keep going pragmatically and keep scratching round for contributions where they were available. This could be done by the UK in their own area. Imposing order within the country would take time; it would take effort to get the Ministries up and running and the people back to work."

280. After a further video conference and comments from Sir Jeremy Greenstock, Mr Bellinger sent through another draft of the post-conflict resolution on 4 May.¹⁶²

281. The following day Mr Brenton spoke to Mr Bellinger and others about the text, which still crossed UK red lines on:

- the UN role, by not describing a clear role for the UN Special Co-ordinator in setting up the IIA;
- the Oil-for-Food programme, which was extended for just three months in the expectation that an IIA would be operating by this point; and
- oil sales, by introducing an "auditing" role rather than real-time monitoring.¹⁶³

282. The British Embassy Washington reported that US officials were optimistic that text acceptable to the UK could be agreed, but clear that a difficult and protracted negotiations might cause the US to walk away.

283. In a telephone conversation with Mr Straw the next day, Secretary Powell described continuing debate in the US system on the UN role and on the OFF programme.¹⁶⁴ Mr Straw wrote to Sir David Manning that the UK would need to "dig in" on these points and that he had reiterated that the current proposals "crossed red lines" for the UK.

¹⁶⁰ Letter Owen to Rycroft, 2 May 2003, 'Iraq: Appointment of a Special Representative'.

¹⁶¹ Minute Williams to Policy Director [MOD], [undated], 'Visit of the US Secretary of Defense – 2 May 2003'.

¹⁶² Letter Bellinger to Rycroft, 4 May 2003, [untitled] attaching Paper, [undated], 'Resolution on post-conflict Iraq'.

¹⁶³ Telegram 589 Washington to FCO London, 5 May 2003, 'Iraq: Draft UNSCR'.

¹⁶⁴ Minute Straw to Manning, 5 May 2003, 'Iraq: Draft UNSCR'.

Creation of the Coalition Provisional Authority

General Franks' 16 April message referred to a new body, the Coalition Provisional Authority (CPA).¹⁶⁵

Sir Jeremy Greenstock told the Inquiry that:

“London was not, in my view, although there was a lot of activity, sufficiently consulted on the setting of missions, on the change from ORHA to the CPA, from Garner to Bremer, on the early decrees, and on the setting of resources for the whole task.”¹⁶⁶

Hints that an organisation change was being considered emerged from the US from March 2003 onwards.

On 27 March, Mr Brenton had reported plans being drawn up in the US Department of Defense to restructure ORHA.¹⁶⁷

A month later, Secretary Powell told Mr Straw that the US was planning to appoint a former Ambassador to be deployed “between Franks and Khalilzad/Garner”.¹⁶⁸

On 2 May, Mr Rycroft told Mr Blair that “A State Department Ambassador, Bremmer [sic], is due to take over from Jay Garner”.¹⁶⁹

Mr Straw met Mr Richard Armitage, US Deputy Secretary of State, on 6 May, who confirmed that Ambassador Bremer's appointment would be announced that day and that he would “work to Rumsfeld”.¹⁷⁰

On 6 May, President Bush announced the appointment of Ambassador L Paul Bremer as Presidential Envoy to Iraq and head of the CPA.¹⁷¹

Ambassador Bremer told the Inquiry:

“The Secretary of Defense appointed me Administrator. His letter stated that in that position I was to exercise all executive, legislative and judicial authority over the government of Iraq. I was given to understand that these authorities derived from the Coalition's status as an ‘Occupying Power’ under international law, as recognized in the relevant UN Security Council resolution”¹⁷²

Ambassador Bremer arrived in Iraq on 12 May.

¹⁶⁵ Statement Franks, 16 April 2003, ‘Freedom Message to the Iraqi People’.

¹⁶⁶ Public hearing, 15 December 2009, page 98.

¹⁶⁷ Telegram 395 Washington to FCO London, 27 March 2003, ‘Iraq: Post conflict: ORHA restructuring’.

¹⁶⁸ Letter McDonald to Manning, 25 April 2003, ‘Foreign Secretary's Conversation with Colin Powell, 25 April’.

¹⁶⁹ [Minute Rycroft to Prime Minister, 2 May 2003, ‘Iraq: ORHA’](#).

¹⁷⁰ Letter Sinclair to Manning, 7 May 2003, ‘Foreign Secretary's Meeting with US Deputy Secretary of State, 6 May’.

¹⁷¹ Bowen SW Jr. *Hard Lessons: The Iraq Reconstruction Experience*. U.S. Government Printing Office, 2009.

¹⁷² Statement Bremer, 18 May 2010, page 2.

On 14 May, officials advised members of the AHMGIR that:

“The US administration has appointed Paul Bremer as special representative, to bring order to ORHA and improve co-ordination with the US political track led by Khalilzad. John Sawers is working closely with Bremer. General Cross continues to work with Garner, who is unlikely to stay long.”¹⁷³

Secretary Powell told Mr Straw that the papers which meant “Bremer was now CPA” were signed by Secretary Rumsfeld on 14 May.¹⁷⁴

The names ‘ORHA’ and ‘CPA’ continued to be used interchangeably in documents seen by the Inquiry for some time after Ambassador Bremer’s appointment.

284. Mr Sawers’ appointment as the Prime Minister’s Special Representative on Iraq was announced to Parliament on 6 May by Mr Straw, who said that:

“Mr Sawers will work alongside Chris Segar, head of the newly opened British Office in Baghdad, particularly in relation to the political process and our work in the Office of Reconstruction and Humanitarian Assistance.”¹⁷⁵

285. Mr Sawers arrived in Baghdad on 7 May.¹⁷⁶ The deployment of Mr Segar and his team is described in Section 15.1.

286. Sir John Sawers told the Inquiry that, although he was “the senior Brit on the ground” he was not Ambassador Bremer’s deputy nor was he in the line management chain of the CPA. Rather, he was a representative of the British Government and so his role was one of “exerting influence rather than exercising power”.¹⁷⁷ The UK was not contributing very much to ORHA when he arrived, having just a handful of advisers, and was not providing funding, all of which was coming from the US.

287. Sir John told the Inquiry:

“I felt I was in a reasonably strong position to exercise influence. There were a range of areas where I was able to exercise influence in those months, but I didn’t seek and I wasn’t given a veto or decision-making power on CPA issues; those decisions rested with Bremer, he was the one who had the authority from the President of the United States, which was the leader of the Coalition.”

288. Mr Straw told Secretary Powell that he saw Mr Sawers’ role as “similar to Zal Khalilzad”: the UK thought it essential to have “someone handling the politics and also keeping an eye on ORHA, on the ground”.¹⁷⁸ Mr Straw passed on the observations about ORHA made by Mr O’Brien, and Secretary Powell offered a similar assessment.

¹⁷³ Annotated Agenda, 14 May 2003, Ad Hoc Group on Iraq Rehabilitation meeting.

¹⁷⁴ Letter McDonald to Manning, 16 May 2003, ‘Foreign Secretary’s Conversation with Colin Powell, 15 May’.

¹⁷⁵ House of Commons, *Official Report*, 6 May 2003, column 515.

¹⁷⁶ [Telegram 2 IraqRep to FCO London, 11 May 2003, ‘Personal: Iraq: What’s going wrong?’](#)

¹⁷⁷ Public hearing, 10 December 2009, pages 56-58.

¹⁷⁸ Letter Straw to Manning, 6 May 2003, ‘Powell Calls 4 and 5 May 2003’.

289. On 6 May, Mr Michael Wood, FCO Legal Adviser, wrote to Mr Chilcott arguing that the Freedom Message appeared to create the CPA to exercise powers of government, but the UK had no idea what the CPA comprised and what its legislative, executive and judicial authority was.¹⁷⁹

290. Mr Wood was unclear what the CPA was: “Is it ORHA? Is it a combination of ORHA and General Franks? Where does the future Iraqi Interim Authority fit?”

291. Mr Wood identified a number of examples within the Freedom Message and the accompanying instructions to the Iraqi people that raised issues under international humanitarian law.

292. Mr Wood also highlighted that analysis of the Freedom Message suggested that armed conflict in Iraq had ended and therefore that prisoners of war should be released. This appeared to contrast with another section of the Message, which said prisoners should be held pending CPA orders. Mr Wood wrote:

“This means that it is possible that, within the UK’s area of control, prisoners whose prison sentence comes to an end may be held beyond the lawful date of their release. This would almost certainly be contrary to Article 5 ECHR.”

293. In his statement to the Inquiry, Sir Michael Wood explained:

“FCO legal advisers were concerned to avoid the UK being held jointly responsible for acts or omissions of the CPA, without a right to consult and a right of joint decision. A particular concern was if those acts went beyond the powers of an Occupying Power under the general law of Occupation or under the SCRs ... The aim was to have matters such as the territorial extent of the UK’s Occupation rights and responsibilities, the extent of its potential responsibility for acts and omissions of the CPA, and the UK’s role within the CPA (especially joint decision-making) set out in a Memorandum of Understanding (MOU) with the Americans.”¹⁸⁰

294. The next US draft of the post-conflict resolution was sent to Mr Rycroft and Sir David Manning on 6 May.¹⁸¹

295. Text on the UN’s role in establishing the IIA and on oil sales remained unchanged; the extension of the OFF programme had been increased by a month, to a total of four months.

296. Mr Straw chaired a video conference with Dr Rice, Secretary Powell, Sir Jeremy Greenstock and others to discuss the draft.¹⁸²

¹⁷⁹ Minute Wood to Chilcott, 6 May 2003, ‘Iraq: The McKiernan and Franks Proclamations’.

¹⁸⁰ Statement Wood, 15 March 2011, page 22.

¹⁸¹ Minute Bellinger to Rycroft and Manning, 6 May 2003, ‘Revised Draft: UNSCR’ attaching ‘Resolution on Post-Conflict Iraq’.

¹⁸² Letter Cannon to McDonald, 6 May 2003, ‘Iraq/UN: Video-Conference with Condi Rice and Colin Powell, 6 May’.

297. No.10 officials commented that “the atmospherics at this video conference were poorer than at previous discussions in this series”. They had agreed changes to make reference to the “Occupying Power” rather than solely to the CPA, and to include monitoring, as well as auditing, of oil sales. Agreement could not be reached on the description of the UN’s role in the political process or on extending OFF further.

298. The draft resolution was updated the same day.¹⁸³ It continued to reflect US views on the UN’s role in establishing the IIA, the control of oil proceeds (now designated the Iraqi Assistance Fund) and the continuation of the OFF programme.

299. Sir Jeremy Greenstock told the Inquiry that in the process of reaching agreement on the objectives for the resolution:

“... there were nuances between London and Washington ... We could see, rather as was the case in Resolution 1441 ... the United States was setting the bar quite high in terms of what it wanted from the United Nations ... they wanted the situation of the United States leading the Coalition with a unilateral decision-making capability for that Coalition with the United States very much the largest member of it, with the United Nations endorsing that situation and coming in with its ancillary services to help deal with the territory ... we went through a minor version of the same process as 1441, where we had to scale Washington’s more unilateral ambitions back down to something that was negotiable within the Security Council. The Security Council ... had, as always, a range of opinions, with the Russians in particular being very clear that they would not allow any resolution to pass that appeared to legitimise in any way what had already happened.”¹⁸⁴

300. Mr Blair and President Bush spoke by telephone on 7 May on a broad range of foreign policy issues.¹⁸⁵

301. They discussed taking a firm line in the Security Council; if NATO and the UN became involved, others would be drawn in. Mr Blair added that their involvement would also provide an exit strategy.

302. Mr Blair commented that ORHA “must grip the nuts and bolts of reconstruction, not just focus on politics”.

303. Mr Ricketts wrote to Mr Straw’s Private Secretary on 7 May, with a ‘Diplomatic Game-Plan’ for sharing the draft resolution with other Security Council members “now that we are almost at closure on an opening draft”.¹⁸⁶

¹⁸³ Minute Bellinger to Rycroft and Manning, 6 May 2003, ‘Revised draft UNSCR’ attaching ‘Resolution on Post-Conflict Iraq’.

¹⁸⁴ Public hearing, 15 December 2010, pages 32-33.

¹⁸⁵ Letter Cannon to McDonald, 7 May 2003, ‘US Foreign Policy Issues: Prime Minister’s Conversation with Bush, 7 May’.

¹⁸⁶ Minute Ricketts to Private Secretary [FCO], 7 May 2003, ‘Iraq Resolution: Diplomatic Game-Plan’.

304. The Game-Plan proposed that draft text would be circulated on 9 May, enabling informal discussion at a “Security Council retreat” in the following days. A series of calls and visits by Mr Straw, Secretary Powell and officials would start the negotiation process.

305. Sir David Manning spoke to Dr Rice on the same day, and reported that she “was broadly happy with our strategy for deploying it [the draft resolution] among the P5”, referring to the five permanent members of the UN Security Council: the US, UK, France, Russia and China.¹⁸⁷

306. Following a conversation between Mr Straw and Secretary Powell, a UK draft of text which referred to “some form of international verification” was faxed to the US.¹⁸⁸

307. Mr Straw told Sir David Manning that the absence of any reference to the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) inspectors in the text of the omnibus resolution meant “we were very exposed on the question of why UNMOVIC was not on the bus”.¹⁸⁹

308. Commenting on his series of conversations with Secretary Powell on 7 May, Mr Straw observed: “We had all accepted that at a later date we might want to cut the resolution into parts.”

309. On 8 May, Mr McDonald reported that Secretary Powell told Mr Straw that Mr Annan’s first reaction to the draft had been “pretty good”, and that he had raised the absence of UNMOVIC.¹⁹⁰ Secretary Powell also told Mr Straw that US officials were considering whether UNMOVIC should be the subject of a separate resolution.

310. Mr Straw told Cabinet on 8 May that, within the next few weeks, a national conference with a broad range of delegates should produce an Iraqi Interim Authority.¹⁹¹ The UK was working with the US on a draft UN resolution which would cover the appointment of a Special Co-ordinator, the lifting of sanctions, oil revenues and the trade in stolen Iraqi artefacts. He added that “No legitimisation of the Coalition military action was required, although some countries feared that we sought such cover.”

311. Mr Blair said that the draft text was “offered as a solution to the way forward on Iraq”. He told Cabinet that once the Special Co-ordinator had been appointed the UN would become engaged in the political process.

¹⁸⁷ Letter Manning to McDonald, 7 May 2003, ‘Iraq: Conversation with Condi Rice’.

¹⁸⁸ Letter McDonald to Manning, 7 May 2003, ‘Iraq: Foreign Secretary’s Conversations with Colin Powell, 7 May’.

¹⁸⁹ Letter Straw to Manning, 7 May 2003, ‘Iraq: Conversations with Colin Powell, 7 May’.

¹⁹⁰ Letter McDonald to Manning, 8 May 2003, ‘Iraq: Foreign Secretary’s Conversation with Colin Powell, 8 May’.

¹⁹¹ Cabinet Conclusions, 8 May 2003.

312. Summing up the discussion, Mr Blair said that following progress in Iraq and on the MEPP “the question was how the Arab world itself would develop, shorn of its most brutal dictatorship”.

313. Later that day, Mr Straw told the AHMGIR that a draft resolution had been agreed, and “the text was satisfactory”.¹⁹²

314. An unidentified member of the AHMGIR observed that since there had been no success in negotiating an MOU, the UK “must therefore be particularly careful to ensure that we had legal cover for our efforts”.

315. The AHMGIR was told that Mr Sawers had been appointed as UK Special Representative and would work closely with “ORHA and the new US Representative, Bremer, on the political process”.

316. Sir Jeremy Greenstock and Ambassador Negroponte wrote jointly to the President of the Security Council on 8 May.¹⁹³

317. Sir Jeremy explained to the Inquiry that the letter “described what we were doing in administering Iraq and what our intentions were”.¹⁹⁴

318. An earlier draft of the letter had implied that Gen Franks was the entirety of the CPA, which led Mr Straw to protest to Secretary Powell that “although Franks may be Supreme Commander, we had our responsibilities too”.¹⁹⁵

319. The joint letter began by stating that the US and UK and their Coalition partners continued to act together to ensure the complete disarmament of Iraq of WMD in accordance with UN Security Council resolutions.¹⁹⁶ It went on to say that the Coalition:

- would abide strictly by their obligations under international law;
- would act to ensure that Iraq’s oil was protected and used for the benefit of the Iraqi people;
- had “created the Coalition Provisional Authority, which includes the Office of Reconstruction and Humanitarian Assistance (ORHA), to exercise powers of government temporarily, and ... especially to provide security, to allow the delivery of humanitarian aid, and to eliminate weapons of mass destruction”;
- would provide security, facilitate the return of refugees, maintain law and order, eliminate terrorist infrastructure and resources and promote accountability for crimes committed by the previous regime;

¹⁹² Minutes, 8 May 2003, Ad Hoc Group on Iraq Rehabilitation meeting.

¹⁹³ [Letter Negroponte and Greenstock to Akram, 8 May 2003, \[untitled\]](#).

¹⁹⁴ Public hearing, 15 December 2009, page 31.

¹⁹⁵ Letter McDonald to Manning, 7 May 2003, ‘Iraq: Foreign Secretary’s Conversations with Colin Powell, 7 May’.

¹⁹⁶ [Letter Negroponte and Greenstock to Akram, 8 May 2003, \[untitled\]](#).

- would assume immediate control of Iraqi institutions responsible for military and security matters; and
- was facilitating the efforts of the Iraqi people to take the first steps towards forming a representative government.

320. The joint letter concluded by saying that the Coalition was ready to work closely with representatives of the UN and its agencies and looked forward to the appointment of a Special Co-ordinator by the Secretary-General.¹⁹⁷ The letter described the UN as “helping” with the formation of the IIA.

321. On the same day as the letter was sent, the FCO briefed British posts in countries that were members of the Security Council on the content of the resolution and the Security Council process.¹⁹⁸

322. The resolution would be sponsored by the UK, US and Spain and the text would be circulated on 9 May. The brief, sent in Mr Straw’s name, observed “we expect a tough negotiation” but also that “this is not a take it or leave it text”. The FCO anticipated criticism for:

- not giving the UN the lead role in political reconstruction;
- lifting sanctions before disarmament had been proven;
- giving the Coalition control of oil revenues;
- silence on WMD inspection;
- winding down the OFF programme more quickly than humanitarian needs suggested was wise; and
- vagueness about how the Iraq Assistance Fund would work.

323. Rebutting these criticisms, the brief stated that “a UN Special Co-ordinator can play a crucial role, including [in] the political process” and “we can see the merits of an eventual role for a reconstituted UNMOVIC/IAEA”.

324. By 9 May it was plain that negotiations for an MOU were unlikely to succeed.¹⁹⁹ Instead the IPU suggested that the UK send a letter to the US Administration, setting out the UK’s view of the principles on which ORHA would operate.

325. In conversation with Sir David Manning on 9 May, after the draft resolution was circulated, Dr Rice commented “that very early reactions looked promising”. It was clear that more specific mention of the IIA and something about verification of WMD would have to be added to the draft.²⁰⁰

¹⁹⁷ The original document says ‘Security-General’. This has been amended to ‘Secretary-General’ based on an understanding of context.

¹⁹⁸ Telegram 74 FCO London to Berlin, 8 May 2003, ‘Iraq: Post Conflict Resolution at the UNSC’.

¹⁹⁹ Minute Chatterton Dickson to Private Secretary [FCO], 9 May 2003, ‘Iraq: ORHA: MOU’.

²⁰⁰ Letter Manning to McDonald, 9 May 2003, ‘Iraq: Conversation with Condi Rice’.

326. Writing to Mr Ricketts, Mr Brenton recorded a US view of the UK as “driven by a wish to be attentive to the concerns of the UN, the French and the Russians”.²⁰¹ As a result he concluded that “we are going to have to be careful as the Security Council negotiation proceeds, not to uselessly expend the huge credit we have built up with the US over the past few months”.

327. After visiting Paris and Berlin to discuss the resolution, Mr Ricketts reported on 9 May a “desire in both capitals to co-operate and find solutions. Neither seemed to see insuperable difficulties with the draft.”²⁰²

328. Gen Jackson visited Iraq from 7 to 10 May.²⁰³ He reported:

“The situation in the UK AOR is dramatically different from that further north and in particular in Baghdad for understandable reasons ... The ethnic and political environment in southern Iraq has facilitated our role ... These almost exclusively Shia provinces have been persecuted for almost 20 years, driven to living in miserable conditions, repressed by the regime ... A security vacuum still exists ... [in Baghdad] particularly at night. Looting, revenge killing and subversive activities are rife ... Should a bloody and protracted insurgency establish itself in Baghdad, then a ripple effect is likely to occur.”

329. Gen Jackson also observed that the Coalition’s ability to “hold onto the consent in the South” would only be possible if Baghdad remained secure and stable. He advised that:

“... we should at least look at direct UK military involvement in order to win ‘hearts and minds’ and create a more secure environment ... I do not believe we can influence the situation in Baghdad without engagement. Nor do I believe that committal of HQ ARRC alone will address what is essentially a tactical problem, albeit one with strategic overtones. If we make the decision to become tactically engaged in Baghdad then this may well provide much greater strategic focus for the rest of government to support, more strongly, efforts on reconstruction ... The bottom line is that if we choose not to influence Baghdad we must be confident of the US ability to improve [its tactics] before tolerance is lost and insurgency sets in. If we choose to influence it we must be confident of improving the situation and not being over-engaged in both the south and the north.”

330. Gen Jackson concluded by observing that:

“We must not throw away these substantial achievements [those of the UK forces in South-East Iraq] by processes that are failing to deliver, and we must ensure a secure environment throughout the theatre – not least in Baghdad – to enable successful reconstruction.”

²⁰¹ Letter Brenton to Ricketts, 9 May 2003, ‘Iraq at the Security Council’.

²⁰² Letter Ricketts to Pattison, 9 May 2003, ‘Iraq: Key Points from French and Germans’.

²⁰³ [Minute CGS to CDS, 13 May 2003, ‘CGS Visit to Op. TELIC 7-10 May 2003’.](#)

331. In his second report from Baghdad, on 11 May, Mr Sawers wrote:

“No progress is possible until security improves. Crime is widespread (not surprising as Saddam released all the criminals last autumn). Car-jackings are endemic, with the cars driven to Iran for sale. Last week the Ministry of Planning was re-kitted out ready to resume work; that night it was looted again. The evening air is full of gunfire. There is still a climate of fear on the streets, because of the level of crime, and that is casting a shadow over all else.”²⁰⁴

332. On 12 May, reporting to the FCO on the political process, Mr Sawers observed:

“Iraq’s emerging political leaders are working together surprisingly well and the process is gaining momentum. The Leadership Group of five has expanded to seven or eight embracing two more important constituencies ... They have a Joint Secretariat, and their thinking is coalescing around plans for a National Conference which are close to our own. They want an Interim Authority to be more like a transitional government.”²⁰⁵

333. The Leadership Group comprised Iraqi politicians drawn from identifiable political and regional groups and had been established by Gen Garner after his arrival in Baghdad. It included both former exiles who had returned to Iraq after the fall of Saddam, and those who had remained in Iraq.²⁰⁶

The resignation of Ms Short

On 12 May, Ms Short resigned from the Government. In her letter of resignation to Mr Blair she said that she thought the run-up to the conflict had been mishandled, but had agreed to stay to support the reconstruction effort.²⁰⁷ However:

“... the assurances you gave me about the need for a UN mandate to establish a legitimate Iraqi government have been breached. The Security Council resolution that you and Jack have so secretly negotiated contradicts the assurances I have given in the House of Commons and elsewhere about the legal authority of the Occupying Powers, and the need for a UN-led process to establish a legitimate Iraqi government. This makes my position impossible.”

Mr Blair responded, thanking Ms Short for her valuable work and rebutting her accusation regarding the resolution:

“We are in the process of negotiating the UN resolution at the moment. And the agreement on this resolution with our American and Spanish partners has scarcely been a secret. As for who should lead the process of reconstruction, I have always

²⁰⁴ [Telegram 2 Baghdad to FCO London, 11 May 2003, ‘Iraq: What’s Going Wrong?’](#)

²⁰⁵ [Telegram 3 IraqRep to FCO London, 12 May 2003, ‘Iraq: Political Process’](#).

²⁰⁶ The membership of the ‘Leadership Group’ in early May 2003 included Mr Masood Barzani (Kurdistan Democratic Party); Dr Jalal Talabani, (Patriotic Union of Kurdistan); Dr Ahmed Chalabi (Iraqi National Congress); Abdel Aziz al Hakim (Supreme Council for the Islamic Revolution in Iraq); Dr Ayad Allawi (Iraqi National Accord); Dr Ibrahim al Jaafari (Dawa Party) and Dr Adnan Pachachi (Iraqi Independent Democrats).

²⁰⁷ Short C. *An Honourable Deception: New Labour, Iraq and the Misuse of Power*. The Free Press, 2004.

been clear that it is not a matter of the UN leading, or the Coalition leading. The two should work together. That is exactly what the resolution stipulates.”

In a statement to Parliament that day, Ms Short explained:

“The Coalition does not have sovereign authority and has no authority to bring into being an Interim Iraqi Government with such authority or to create a constitutional process leading to the election of a sovereign Government. The only body that has the legal authority to do this is the United Nations Security Council ... the UK Government ... are supporting the US in trying to bully the Security Council into a resolution that gives the coalition power to establish an Iraqi Government and control the use of oil for reconstruction, with only a minor role for the UN ... I am ashamed that the UK Government have agreed the resolution that has been tabled in New York and shocked by the secrecy and lack of consultation with Departments with direct responsibility for the issues referred to in the resolution.”²⁰⁸

Mr Stephen Pattison, Head of the FCO’s UN Department in London, who was involved in negotiating the resolution, told the Inquiry that:

“When it was clear that Clare Short’s position in Cabinet was I think more uncomfortable than one might have expected, which was towards the end of the negotiation of this resolution, a decision was taken not to involve them [DFID]”.²⁰⁹

Mr Straw told the Inquiry that he had taken that decision, and thought that it had happened after he had understood that Ms Short intended to resign: “I think that I got wind of this, and I think the reason was that I had decided we had settled the policy. We knew what the parameters were. We just had to get on with it. So that was the reason.”²¹⁰

334. Sir David Manning visited Washington and discussed the post-conflict resolution with Dr Rice and Mr Bellinger on 13 May, both of whom were reported to be “optimistic that we can push the UNSCR to a vote next week”.²¹¹

335. Mr Bellinger briefed on the Security Council experts’ discussion of the resolution text, in which they had raised questions on the IIA (and the UN’s role in establishing it), the use of the Iraq Assistance Fund (but not Coalition control of it), funding of UN costs and the absence of UNMOVIC from the disarmament process.

336. Dr Rice explained that the US was working on text covering disarmament to add into the resolution. It was agreed that Ambassador Negroponte and Sir Jeremy Greenstock should brief the Security Council on Coalition activity in Iraq the next day.

²⁰⁸ House of Commons, *Official Report*, 12 May 2003, columns 36-39.

²⁰⁹ Public hearing, 31 January 2011, page 100.

²¹⁰ Public hearing, 2 February 2011, page 135.

²¹¹ Telegram 643 Washington to FCO London, 13 May 2003, ‘Iraq: Meetings with Rice and Cheney, 13 May’.

337. On 14 May, the Security Council met to discuss the draft resolution circulated on 9 May.²¹² Ambassador Negroponete, Sir Jeremy Greenstock and the Spanish representative Ambassador Inocencio F Arias attended and answered questions.

338. The debate centred on the creation of the IIA and clarity about the UN's role, on whether the OFF programme was to close and if so how, and on the legal underpinning of reconstruction activities. Sir Jeremy "agreed we needed to be clearer about the political process".

339. Following the discussions, the US faxed to the FCO a revised draft of the resolution. This included some minor drafting amendments (including the Iraqi Assistance Fund reverting to its original title of Development Fund), removed UN immunity from the Development Fund (which had been unpopular with several Security Council members) and proposed new language which gave the Government of Iraq a shared role in deciding whether 5 percent of oil profits should continue to be paid into the Compensation Fund.

340. Sir Jeremy Greenstock briefed the FCO that the revised version "contains a few helpful changes, but will not be seen as much of a step forward by the Council". In Sir Jeremy's view negotiations had been constructive but there was "a long way to go on substance".

341. Mr Straw told Cabinet on 15 May that both the UK and the US "accepted the need for improvements to the text" of the resolution in the light of discussions in the Security Council.²¹³

342. Mr Blair said that the resolution recognised the vital role of the UN, and called for the appointment of a Special Co-ordinator who would be "involved in every aspect of activity". Although political progress was being made in Iraq, the immediate priorities were security, health care, power and sanitation.

343. Mr Llewellyn reported to Mr Pattison on 15 May that informal contact between FCO and State Department lawyers had resulted in an "emerging view" that the draft resolution "takes us beyond the laws of Occupation".²¹⁴

²¹² Telegram 838 UKMIS New York to FCO London, 15 May 2003, 'Iraq: 14 May Council; Part two of two'.

²¹³ Cabinet Conclusions, 15 May 2003.

²¹⁴ Minute Llewellyn to Pattison, 15 May 2003, 'Iraq: Draft Security Council Resolution: Occupying Powers'.

From a short to a long Occupation

Hard Lessons records Ambassador Bremer saying:

“... the President’s instructions to me ... when I had lunch with him alone on May 6th, were that we’re going to take our time to get it right ... The President had effectively, though perhaps not formally, changed his position on the question of a short or long Occupation, having before the war been in favour of a short occupation. By the time I came in, that was gone.”²¹⁵

The thinking behind the shift away from a short Occupation was recorded by Secretary Rumsfeld, in a “pre-decisional” memo of 8 May 2003, which RAND described as laying out a rationale for “an extended and deeply engaged American Occupation”.²¹⁶

The RAND report records that both the participants in the NSC process and the US military were taken by surprise by the decision. In the views of the RAND analysts, this change in US approach to the post-invasion governance of Iraq had serious consequences:

“First, it left the CPA bereft of plans, the preparations done by ORHA having been premised on an entirely different and a much more abbreviated vision of America’s responsibility for the country’s post-war governance. Second, and arguably more important, it left Iraqis with the impression that the United States had initially intended to hand over sovereignty quickly and then had gone back on its word, sowing the seeds of distrust between Iraqis and Americans.”

Hard Lessons reports:

“Ordinarily, a political-military plan would have clearly articulated a detailed strategy for engaging with the leaders of Iraqi factions in postwar Iraq. But because Defense officials intended to transfer control rapidly to an interim Iraqi authority, ORHA was told it would not need such a plan. ‘The expectations derived from policy set in Washington were that the establishment and devolution of authority to an Iraqi entity would proceed quickly’, an ORHA planner wrote, obviating the need for a governance strategy.”²¹⁷

The RAND analysts found that:

“The growing chaos on the ground in Iraq seems to have caused the administration to retreat from this plan and choose what had earlier been the lead option, the creation of an American occupational authority led by a senior political figure.”²¹⁸

²¹⁵ Bowen SW Jr. *Hard Lessons: The Iraq Reconstruction Experience*. U.S. Government Printing Office, 2009.

²¹⁶ Bensahel N, Oliker O, Crane K, Brennan RR Jr, Gregg HS, Sullivan T & Rathmell A. *After Saddam: Prewar Planning and the Occupation of Iraq*. RAND Corporation, 2008.

²¹⁷ Bowen SW Jr. *Hard Lessons: The Iraq Reconstruction Experience*. U.S. Government Printing Office, 2009.

²¹⁸ Bensahel N, Oliker O, Crane K, Brennan RR Jr, Gregg HS, Sullivan T & Rathmell A. *After Saddam: Prewar Planning and the Occupation of Iraq*. RAND Corporation, 2008.

In his statement to the Inquiry, Mr Blair wrote:

“The shift from ORHA to the CPA was not controversial, neither was the appointment of Ambassador Bremer. I do not recall exactly when both were decided. It was widely accepted that ORHA, at the beginning, was not geared up to the task. Bremer was, in my view, a very effective operator and given the scale of the task, the CPA made considerable strides forward.

“I do not accept there were differing assumptions between the US and the UK about the three stage plan for the aftermath: military government; transition to civilian led administration; and then to a proper Iraqi Government. There was a difference over the UN role that was debated and decided. Inevitably, it was impossible to pin down the precise details of how and more important when, each stage of transition would occur, until we were in and could judge according to the reality. But the basic principles of transition were agreed and actually, in the event, implemented.”²¹⁹

344. When Chief Constable Paul Kernaghan²²⁰ visited Baghdad and Basra between 13 and 20 May he observed that in the UK’s Area of Responsibility nearly all buildings used by the criminal justice system had been destroyed. CC Kernaghan’s assessment of the damage was:

“Looting does not do justice to the level of destruction inflicted and I can best liken the outcome to the progress of locusts across a field of corn.”²²¹

345. In a telegram sent on 14 May, Mr Sawers reported that the Iraqi Leadership Group had expanded.²²² It was being pressed by the UK and US to grow further and to agree that an Interim Authority would be chosen by a National Conference at which there would be representatives of all parties, professions and ethnic groups alongside “strong women’s representation”.

346. On 18 May, Mr Segar reported from the British Office in Baghdad that:

“Looting continues. In recent days the Interior and Information Ministries have been revisited by looters ...

“Nights in Baghdad are regularly punctuated by the sound of gunfire, but in the daytime shooting is sporadic and people have returned to the streets to shop and sit in cafes.”²²³

²¹⁹ Statement, 14 January 2011, pages 17-18.

²²⁰ CC Kernaghan had lead responsibility for international policing missions within the Association of Chief Police Officers of England and Wales and Northern Ireland (ACPO). His findings in relation to Security Sector Reform are covered in Section 12.1.

²²¹ [Report Kernaghan to Blunkett, 23 May 2003, ‘Iraq – visit by Chief Constable PR Kernaghan’.](#)

²²² Telegram 9 IraqRep to FCO London, 14 May 2003, ‘Iraq: Political Process towards an Interim Authority’.

²²³ Telegram 029 Baghdad to FCO London, 18 May 2003, ‘Baghdad Today’.

347. Lt Gen Viggers told the Inquiry that:

“The 1st Armoured Division entered Baghdad 16 days after it left its start line. That was a stunning military operation. But in so doing, it caught everyone by surprise, because we arrived at Baghdad Airport and looked round and said, ‘Now what are we going to do?’ Part of the planning was assumed to be have been able to take place during the advance ...

“So we arrived in the capital with a hugely celebratory population and the honeymoon lasted a few days and then we were the guilty bastards. We were not laying on everything that we were supposed to do. They were saying to us, ‘You people put a man on the moon and now you are saying we can’t have electricity? We don’t believe you. You are now my opponent’. All that lack of understanding was what Bremer and his civil military team was trying to deal with whilst building itself.”

348. Lt Gen Viggers observed:

“We had no prisons to put people in, or judges, we had no courts. So merely arresting people and throwing them into pens wasn’t actually going to improve the sense of security and wellbeing and confidence in the international community.

“So ... the first three or four months was in effect making the plan in contact.”²²⁴

349. Ambassador Bremer told the Inquiry that:

“... although there were some 40,000 Coalition troops in Baghdad when I arrived, since the collapse of the Saddam regime looters had pillaged at will for more than three weeks undisturbed by Coalition forces. Coalition troops had no orders to stop the looting and the Iraqi police in all major cities had deserted their posts.

“The looting was done out of rage, revenge, and for profit.”²²⁵

350. Consequences of the looting included economic damage, destruction of a large part of the government’s physical infrastructure and the transmission of a message that the Coalition was unable to provide security.

351. General Sir Peter Wall, who had been based in Qatar as Air Marshal Burridge’s Chief of Staff during the invasion, took over as the General Officer Commanding MND(SE) in mid-May.²²⁶

352. Gen Wall told the Inquiry that:

“... the main threats at that time were tribal score settling, which we weren’t involved in – that worked around us – looting, criminality, and ... one or two other sort of

²²⁴ Public hearing, 9 December 2009, page 20.

²²⁵ Statement Bremer, 18 May 2010, page 2.

²²⁶ Public hearing Riley and Wall, 14 December 2009, page 34.

inconvenient nihilistic activities that weren't really an overarching threat to security ... there were some particularly frustrating [issues], not least the propensity for people to want to pull down the power cables so they could smelt the cables into copper ingots and sell them."²²⁷

353. Gen Wall told the Inquiry that it was nonetheless possible for UK troops:

"... to get out and about and interact with people, and the people on the street would tell you that if you could be part of a military force that could bring about the end of this regime, then it was but a few days' work to sort out the rest of the issues in a place like Basra. Such was the relief."²²⁸

354. In New York, the Security Council discussed a revised draft on 15 May.²²⁹ Sir Jeremy observed that "many of the same problems remain". The focus of discussion was again on strengthening the role of the UN Special Co-ordinator, as well on the need for UNMOVIC and on the legal position of countries assisting the Occupying Powers.

355. Cabinet Office officials reported to the AHMGIR on 15 May that initial discussions of the new resolution in the Security Council had been as positive as could be expected.²³⁰ The UK/US/Spanish draft text was not as contentious as the 'Second Resolution', and Ministers were advised that the UK should press the US to be patient while the Security Council deliberated, while encouraging other Council members to seize the opportunity to re-engage the UN in Iraq.

356. Concerns had focused on a need for clarity in three areas:

- The extent of the UN role and how the Special Co-ordinator would interact with the Coalition and IIA.
- The political process, in particular the exact nature of the IIA: whether it would be a transitional government and, if not, when and how it would become one.
- Arrangements for oversight of oil sales and disbursement of oil revenue, as well as the fate of existing contracts under the OFF programme.

It was also reported that the US wanted the resolution to be adopted by 22 May, as this was the date by which they wished to start exporting oil to avoid a lack of storage capacity affecting production and so the local supply of gas and petrol.

357. Sir Jeremy Greenstock told the Inquiry that:

"The other members of the Security Council were more constructive than I was expecting at this stage, I think for one, perhaps two, overwhelming reasons. One was that they wanted the United Nations to come back into the picture. They wanted the unilateralism of what they saw as having happened in the invasion to be corrected

²²⁷ Public hearing, 14 December 2009, pages 46-47.

²²⁸ Public hearing, 14 December 2009, page 47.

²²⁹ Telegram 841 UKMIS New York to FCO London, 16 May 2003, 'Iraq: Discussions on the Resolution'.

²³⁰ Annotated Agenda, 15 May 2003, Ad Hoc Group on Iraq Rehabilitation meeting.

back to an internationally approved and organised situation for Iraq, with the United Nations playing its proper part in it. And secondly, they wanted to minimise the overall ... geopolitical damage that had been done by the invasion of Iraq.”²³¹

358. On 15 May, Mr de Villepin spoke to the Foreign Affairs Committee of the House of Commons, which was visiting Paris.²³² Reporting on his “tirade”, the British Embassy Paris commented “the bottom line is that France will not veto, but may well abstain if there are not major changes to the current draft”.

359. Mr Blair and President Bush spoke the following day.²³³ Action in the UN seemed to be going well and Mr Blair proposed two areas (a UN “Special Representative” rather than “Special Co-ordinator”; and greater transparency of oil sales) in which the resolution might be amended if tactically necessary.

360. During the conversation, Mr Blair confirmed that Mr Sawers was working closely with Ambassador Bremer. Although there were many differences between Basra and Baghdad, Mr Blair offered “whatever help we could give for Baghdad”.

361. On 16 May, CPA Order No.1 ‘de-Ba’athification of Iraqi Society’ was issued. It was Ambassador Bremer’s first formal act as Head of the CPA.²³⁴

de-Ba’athification

The UK’s role in the development and implementation of de-Ba’athification policy is described in detail in Section 11.1.

Many witnesses told the Inquiry that the extent of the CPA’s de-Ba’athification policy had significant implications.

Mr Straw described the twin decisions to de-Ba’athify and disband the military as “the single greatest errors that were made post-war”.²³⁵ He accepted that a degree of de-Ba’athification was required but argued that that “what we had wanted was a greater level of intelligence applied, distinguishing between who was in the Ba’ath Party because they had to be because they wanted to make a living, and who was in the Ba’ath Party because they were enthusiasts”.

Mr Blair told the Inquiry:

“I’m not sure in my own mind about this even now ... it was going to be really difficult to prevent a certain level of de-Ba’athification. The question is: should it have gone down to the level it did? ... I got on to President Bush pretty much straight away on this ... as a result of the conversation I had with George Bush, literally days after this, they were then scaling back. They scaled back further, and in respect of the army, they were always intending to re-recruit and then they corrected this pension problem that they had with the army pretty quickly.”²³⁶

²³¹ Public hearing, 15 December 2009 page 34.

²³² Telegram 224 Paris to FCO London, 15 May 2003, ‘Iraq: Villepin Tirade to the FAC Part 1’.

²³³ Letter Cannon to McDonald, 16 May 2003, ‘Iraq: Prime Minister’s Conversation with Bush, 16 May’.

²³⁴ Bremer LP III & McConnell M. *My Year in Iraq: The Struggle to Build a Future of Hope*. Threshold, 2006.

²³⁵ Public hearing, 8 February 2010, pages 102 and 116-118.

²³⁶ Public hearing, 29 January 2010, pages 200-201.

Mr Hilary Benn, Minister for International Development from May to October 2003, commented that more should have been done to understand the difference between “ideological Ba’athists” and those who had “joined the Ba’ath Party because that’s what you needed to do to get on”.²³⁷

Sir Suma Chakrabarti told the Inquiry that the de-Ba’athification decision was “madness”.²³⁸

Sir Kevin Tebbit, MOD Permanent Under Secretary from 1998 to November 2005, told the Inquiry that:

“We didn’t assume that the Americans were going to de-Ba’athify as fundamentally as they did ...

“I thought we had an undertaking from the American administration that they were just going to do very light de-Ba’athification ... and that the army ... other than the very top, would be used and brought into the system.”²³⁹

Sir Jeremy Greenstock, who served as the Prime Minister’s Special Representative on Iraq from September 2003 to March 2004, told the Inquiry that there were strong arguments in favour of the de-Ba’athification policy; the error was in implementing them before arrangements had been thought through for replacing the individuals who were removed and, later, in handing over responsibility for implementing the administration of the scheme to Dr Ahmed Chalabi and his Commission.²⁴⁰

The view of Maj Gen Cross was that the decision to de-Ba’athify was “flawed”.²⁴¹ SIS1 told the Inquiry that Ambassador Bremer had been acting under political direction on de-Ba’athification policy but:

“Initially you’re talking about decapitating the regime and leaving the structures in place. He went a lot further, and frankly, to this day, I don’t really know why.”²⁴²

Mr Edward Chaplin, British Ambassador to Iraq from July 2004 to May 2005, observed that:

“... it is easy to underestimate with hindsight how powerful the feelings were amongst those who had suffered most from Saddam Hussein’s regime, that the idea that anybody who had served really at any level of responsibility in the organisation that served Saddam Hussein was acceptable in a post-Saddam Hussein situation was simply anathema and I think, if you talk to the military commanders in the South, you will find that we suffered from that ourselves – somebody who appeared to be, actually perfectly competent ... was simply not acceptable to the local population because he was too closely identified with the previous regime. So de-Ba’athification was driven largely by the forces that were now in charge, or potentially in charge; it wasn’t just a decision by outsiders.”²⁴³

²³⁷ Public hearing, 2 February 2010, page 18.

²³⁸ Public hearing, 22 January 2010, page 46.

²³⁹ Private hearing, 6 May 2010, pages 33-34.

²⁴⁰ Public hearing, 15 December 2009, pages 73-74.

²⁴¹ Public hearing, 7 December 2009, page 67.

²⁴² Private hearing, 2010, page 95.

²⁴³ Public hearing, 1 December 2009, pages 101-102.

Mr Martin Howard, MOD Director General Operational Policy from 2004 to 2007, told the Inquiry:

“... the Coalition rightly wanted to sort of involve Iraqis from the outset and, as it were, start to build up the seeds of an Iraqi administration. Inevitably the people that tended to be part of that were violently anti-Ba’athist. They were very keen that Ba’athism should be completely removed, and I think that actually did influence some decisions that were made in the middle of 2004 about the Iraqi bureaucracy, about the army, which I think with hindsight were probably the wrong decisions. But there was very strong political pressure from the people who ultimately were going to be part of the government.”²⁴⁴

362. On 16 May Ambassador Bremer also issued CPA Regulation No.1.²⁴⁵ It opened:

“*Pursuant* to my authority as Administrator of the Coalition Provisional Authority (CPA), relevant UN Security Council resolutions, including resolution 1483 (2003), and the laws and usages of war”.

Regulation No.1 continued:

“1. The CPA shall exercise powers of government temporarily in order to provide for the effective administration of Iraq during the period of transitional administration, to restore conditions of security and stability, to create conditions in which the Iraqi people can freely determine their own political future, including by advancing efforts to restore and establish national and local institutions for representative governance and facilitating economic recovery and sustainable reconstruction and development.

“2. The CPA is vested with all executive, legislative and judicial authority necessary to achieve its objectives, to be exercised under relevant UN Security Council resolutions, including resolution 1483 (2003), and the laws and usages of war. This authority shall be exercised by the CPA Administrator.”

The organisation of the CPA

All functions in the CPA reported to Ambassador Bremer.²⁴⁶

The “line offices” run by seven Directors covered oil, civil affairs, economic policy, aid, regional operations, security affairs and communications. Under these “line offices”, senior advisers were assigned to every Iraqi ministry and charged with running those ministries until August 2003. Once Iraqi Ministers were appointed in August, it was intended that the advisers would act as counsellors, but Ambassador Bremer would retain veto authority over Ministerial decisions, and senior advisers would retain considerable authority over spending.

By July 2003 the CPA had established branch offices in each of Iraq’s 18 provinces. It took six months to staff those offices.

²⁴⁴ Private hearing, 18 June 2010, page 45.

²⁴⁵ Coalition Provisional Authority Regulation No.1, 16 May 2003.

²⁴⁶ Dobbins J, Jones SG, Runkle B & Mohandas S. *Occupying Iraq: A History of the Coalition Provisional Authority*. RAND Corporation, 2009.

363. In a telephone call with Mr Blair on 19 May, Mr Gerhard Schröder, the German Chancellor, asked for four amendments to the draft post-conflict resolution, which would:

- give the UN control of oil revenues;
- re-name the UN Special Co-ordinator the UN Special Representative;
- allow UNMOVIC’s mandate to continue; and
- lift sanctions for just one year, at which point the Security Council would discuss them further.²⁴⁷

364. On the first, Mr Blair highlighted plans for a monitoring board, which would include the Secretary-General’s representative. He suggested that the second and third points could be accommodated, leaving his office to deal with the fourth.

365. Reporting the conversation to the FCO, Mr Rycroft observed that “this was a positive signal ... that Germany is close to a vote in favour of the draft resolution”.

366. A revised version of the resolution was presented to the Security Council on 19 May and “went down fairly well”.²⁴⁸ A vote was expected on 21 May, but was delayed until the following day.

367. Sir David Manning and others met representatives of all seven Iraqi political parties in Baghdad on 20 May.²⁴⁹ The Iraqi representatives objected strongly to references to Occupying Powers in the draft resolution and said that “the SCR offered Iraqis less freedom than had the 1920 structure which established the British colonial regime”. Sir David responded that the phrase was a technical requirement.

368. One of the Iraqi representatives was reported to have commented that, while the security situation in Baghdad was poor and not likely to improve in the next month or so, the situation in Basra was also deteriorating, as the “rabble” got the measure of the British forces.

369. Reporting on his visit to Iraq more generally, Sir David judged that “Baghdad remains key; and the key to Baghdad is security”.²⁵⁰ But his view was that:

“... things did not seem as bad as painted by the media ... There was no sense of being under immediate threat. The mood still seems cautiously welcoming or at least acquiescent – never hostile. But this could turn fast, if the security situation is not sorted out fast. Breaking the pattern of lawlessness and looting at night is particularly critical.”

370. Sir David considered that police training “could have a disproportionate impact” and:

²⁴⁷ Letter Rycroft to Owen, 19 May 2003, ‘Iraq: Prime Minister’s Conversation with Schröder, 19 May’.

²⁴⁸ Minute Rycroft to Prime Minister, 20 May 2003, ‘Kofi Annan: Iraq’.

²⁴⁹ Letter Cannon to Owen, 22 May 2003, ‘Iraq: Meeting with Leadership Group’.

²⁵⁰ [Minute Manning to Prime Minister, 22 May 2003, ‘Iraq: Visit to Baghdad and Basra’](#).

“A quick win would be moving 16 Air Assault Brigade to Baghdad with the task of providing police training for six weeks ... The Chiefs will let you [Mr Blair] have advice today or tomorrow ... I have no doubt that the impact of British troops training with, and working alongside, Iraqis would be considerable ... The hard pressed Bremer is very keen to have them.”

371. A UK military report from Basra on 19 May recorded that “widespread looting ... has ceased, but there has been an increase in theft and scavenging”.²⁵¹ The port of Umm Qasr had been handed back to Iraqi control.

372. Sir David’s presence in Iraq overlapped with a visit by Major General David Richards, Assistant Chief of the General Staff, who visited Iraq from 17 to 21 May at the request of Mr Hoon and Gen Walker to scope the potential for a UK role in improving the proposed Security Sector Reform (SSR) programme.²⁵²

373. Maj Gen Richards reported:

“Despite US Occupation of the city [Baghdad] for the last four weeks, the law and order situation is fragile. The indigenous police service has not returned to work in any coherent manner. 3 ID [the US Third Infantry Division] are clearly tired and wrongly configured to conduct joint military/police patrolling ...

“... the immediate requirement is clearly to restore law and order in Baghdad. Two key areas have been identified for the UK to make a contribution. First, and supported strongly by Bremer, Slocombe, Sawyer and US and UK military, is the rapid deployment of 16 Air Asslt Bde (-)²⁵³ to create the nucleus of an effective police force in Baghdad. It should achieve this through galvanising and taking control of ORHA’s creation of a functioning police force and effective guard service. Second, and in the longer term, to place UK personnel in key appointments within the organisations responsible for delivering SSR.”

374. Maj Gen Richards’ recommendation was that 16 Air Assault Brigade should be “deployed at best speed to Baghdad”.

375. On 20 May, Mr Sawers reported to the FCO in London on the impact of Ambassador Bremer’s arrival in Baghdad, which he judged had “made a big difference”.²⁵⁴ He summarised his assessment as:

“Security in Baghdad remains the most urgent issue. The military are being pressed hard to change their modus operandi, and are starting to adjust. Our ideas for building up the Baghdad Police are greeted with keen interest. The problems

²⁵¹ Minute Cannon to Prime Minister, 19 May 2003, ‘Iraq: Latest Developments’.

²⁵² [Minute ACGS to CDS/PSO, 20 May 2003, ‘ACGS’ Trip to Iraq \(17-21 May 03\) – Initial Findings and Recommendations’.](#)

²⁵³ This minus symbol indicates that some elements of the brigade would not be included in the deployment.

²⁵⁴ [Telegram 18 IraqRep to FCO London, 20 May 2003, ‘Iraq: Bremer’s Impact’.](#)

facing the Coalition are many, and there is still doubt over how quickly Washington and the UN will be able to move money and people to Baghdad to really start rebuilding services and laying a base for economic reconstruction. Resentment will grow daily if life does not become easier soon. But Bremer is getting a grip. We will not always agree with him, e.g. on the role of the UN and the threat from Tehran. But his energy, intelligence and management skills mean we are much better served now he is here.”

376. In terms of financing the reconstruction effort, Mr Sawers judged that:

“Passing the UNSCR will be a great boon, especially by freeing up Iraqi assets and allowing oil to be sold without controversy. But the road ahead will be a long slog.”

377. Mr Sawers reported positively on working relations with Ambassador Bremer, who “arrived thinking ‘US’ but with me at his elbow he quickly switched to ‘Coalition’”, and reported being given “a near equal hand in the political process”.

378. Mr Sawers’ views were echoed by Sir David Manning, who told Mr Blair in the report of his visit that “ORHA is the shambles already described by John Sawers ... A huge, disorganised, dysfunctional outfit ... But I found Bremer impressive. He will get a grip, and wants our help.”²⁵⁵

379. Gen Walker briefed the Chiefs of Staff at their meeting on 21 May, observing that “senior US military and ORHA figures in theatre were seeking to import the model of the UK’s success in Basra to the Capital to help stabilise the situation”.²⁵⁶

380. Three options had been identified, of which the recommended one was the short-term deployment of 16 Air Assault Brigade to Baghdad. The minutes record that Gen Walker “directed PJHQ to conduct an estimate” of the proposal “to inform COS [Chiefs of Staff] advice to Ministers”.

381. Specific questions that should be addressed included: what effects were required on the ground; what intelligence was available in Baghdad; what was the threat in Baghdad to UK troops; was the proposal a sound military plan; would the morale of the Brigade withstand the re-tasking and extended tour; would this option deliver the necessary effect; what was the exit strategy; and how would this option impact on operations in the UK Area of Operation?

382. The Chiefs of Staff noted that the US was “unlikely to be able to deploy a suitable unit to Baghdad in the timescale required” but it was also:

“... necessary for the UK not to establish a reputation with the US of being the follow-up country of choice and, therefore, it was important for the US to request the UK undertake the role rather than to volunteer the capability.”

²⁵⁵ [Minute Manning to Prime Minister, 22 May 2003, ‘Iraq: Visit to Baghdad and Basra’.](#)

²⁵⁶ Minutes, 21 May 2003, Chiefs of Staff meeting.

383. In a bilateral meeting with Secretary Rumsfeld on 21 May, Mr Hoon raised the security situation in Baghdad and said:

“UK Armed Forces would be happy to help if needed, for example by providing advisers: our experience in Sierra Leone – training a security forces essentially from scratch – was highly relevant.”²⁵⁷

384. The following day, on 22 May, the Chiefs of Staff considered the issue of deploying 16 Air Assault Brigade further.²⁵⁸

385. Lieutenant General Sir Anthony Pigott, Deputy Chief of the Defence Staff (Commitments), who had visited Baghdad with Maj Gen Richards, reported that:

“... at best, the law and order situation was stable or slightly deteriorating, and the key judgement was whether the UK could bridge the gap until the new US forces arrived and were effective ... His view was that [the proposal to deploy 16 Air Assault Brigade] would provide the effects required.”

386. Mr Sawers explained to attendees that both Ambassador Bremer and General John Abizaid, Commander US Central Command (CENTCOM), were “aware that the Coalition was succeeding outside Baghdad, but was failing in the Capital”. They knew what was required, but were “unable to deliver them with the force package currently to hand and would welcome a demonstration of effect to initiate the necessary change”. Mr Sawers was:

“... confident that the US would achieve the desired effect in due course. The key issue was the immediate future and deterioration in the intervening period.”

387. Major General Robert Fry, the Deputy Chief of Joint Operations, reported to the Chief of the Defence Staff that PJHQ was not certain, without a reconnaissance visit, where the UK could achieve effect.²⁵⁹ PJHQ considered it was “likely, while 16 AA Bde could provide two battle groups to Baghdad, that the enablers required would have to be drawn from Basra with a consequent increased risk to success there”. He also noted that 16 Air Assault Brigade would need external assistance in order to provide instruction in policing.

388. The MOD Legal Adviser observed that “a number of difficult legal issues would arise should UK forces deploy to a new area, Baghdad, under US command”. The minutes concluded that:

²⁵⁷ Letter Watkins to Policy Director [MOD], 22 May 2003, ‘Bilateral with US Defense Secretary: 21 May 2003’.

²⁵⁸ Minutes, 21 May 2003, Chiefs of Staff meeting.

²⁵⁹ [Minute ACGS to CDS/PSO, 20 May 2003, ‘ACGS’ Trip to Iraq \(17-21 May 03\) – Initial Findings and Recommendations’.](#)

“... it was agreed that while deploying 16 AA Bde to Baghdad ... would be useful, it was not clear that it was strategically essential as the US would achieve the aim in time.”

389. Cabinet Office officials provided an Annotated Agenda to members of the AHMGIR for their meeting on 22 May.²⁶⁰ It said:

“ORHA’s efficiency and ties to Washington have benefitted significantly from Bremer’s arrival. He is changing ORHA’s top management. Virtually all of Garner’s team are likely to go soon. Bremer is working closely with John Sawers. His changes have yet to lead to significant improvement in ORHA’s performance on the ground in Baghdad and elsewhere ... ORHA’s capacity is increasing. It now has just over 1,000 personnel.”

390. The Annotated Agenda also recorded that the Leadership Group was “becoming more assertive” in the process of organising the “Baghdad Conference” that was intended to select the IIA. The timing of the conference looked likely to slip from May to July and the Leadership Group was proposing that it should be convened by a Committee of 35 individuals, drawn from across the Governorates of Iraq.

391. Cabinet Office officials wrote, “our view is that ... the political process must be Iraq-owned if it is to have legitimacy in and outside Iraq” but that the US was “uneasy about losing control of the selection process and, through it, the Baghdad Conference”.

392. The Leadership Group was also reported to have disagreed with Ambassador Bremer on what status the IIA should have. In its view, it should have real executive power rather than act in support of the Coalition.

393. Mr Straw told the AHMGIR that Ambassador Bremer had delayed the establishment of the IIA, with the result that it was likely to have more members from within Iraq and fewer exiles. In his view this “should make it more legitimate in the eyes of the Iraqi people”.²⁶¹

394. When the new resolution was in near-final form, on 21 May FCO Legal Advisers asked the Attorney General for advice on whether it would authorise the Coalition to undertake action going beyond their authority as Occupying Powers.²⁶²

395. Resolution 1483 (2003) was adopted on 22 May.²⁶³ There were 14 votes in favour and Syria abstained.

²⁶⁰ Annotated Agenda, 21 May 2003, Ad Hoc Group on Iraq Rehabilitation meeting.

²⁶¹ Minutes, 22 May 2003, Ad Hoc Group on Iraq Rehabilitation meeting.

²⁶² [Letter Adams to Llewellyn, 9 June 2003, ‘Iraq: Effect of Security Council Resolution 1483 on the Authority of the Occupying Powers’.](#)

²⁶³ UN Press Release, 22 May 2003. ‘Security Council lifts sanctions on Iraq, approves UN role, calls for appointment of Secretary-General’s Special Representative’ (SC/7765).

396. Mr Straw briefed a meeting of Cabinet the same day that:

“This Security Council resolution would put the Coalition’s work in Iraq on a firm basis, including for oil sales ... The Attorney General’s advice ... had been followed. For example, no change in institutions was being imposed before the resolution was passed.”²⁶⁴

397. The resolution confirmed that there would be a role for the UN, exercised through a Special Representative to the Secretary-General, but made it clear that the UN would not have the lead responsibility for the administration and reconstruction of Iraq, which would fall to the CPA.²⁶⁵

398. The key sections of the resolution:

- called for help in the reform, rebuilding, stabilisation and security of Iraq, including from International Financial Institutions;
- called upon the CPA to administer Iraq effectively and create “conditions in which the Iraqi people can freely determine their own political future”;
- required Member States to help the safe return of Iraqi cultural property (such as looted artefacts) and to prevent it being sold;
- lifted all sanctions except those related to arms;
- established the Development Fund for Iraq (DFI), to be controlled by the CPA, and gave it limited immunity (excepting the costs of oil spills);
- established new arrangements for the sale of oil, the proceeds of which would go into the DFI, along with any assets of the previous regime held by a Member State;
- extended OFF by up to six months, by which time the programme should be closed down; and
- made provision for a review after 12 months.

399. The resolution asked the Secretary-General to appoint a Special Representative for Iraq, with a co-ordinating role focused on reconstruction and humanitarian support, reporting regularly to the UN. Their role in political reconstruction was to work with the CPA and people of Iraq, but not to lead the process. The relevant section of the resolution said that the Security Council:

“Supports the formation, by the people of Iraq with the help of the Authority and working with the Special Representative, of an Iraqi interim administration as a transitional administration run by Iraqis, until an internationally recognized, representative government is established by the people of Iraq and assumes the responsibilities of the Authority.”

²⁶⁴ Cabinet Conclusions, 22 May 2003.

²⁶⁵ UN Security Council resolution 1483 (2003).

400. The Special Representative was also given a role in promoting the economy and human rights, and encouraging reform of the police and criminal justice system.

401. Sir Jeremy Greenstock told the Inquiry that resolution 1483:

“Made it appear that the Special Representative of the Secretary-General was going to be at the apex of a relationship which, in truth, on the ground he was not. He was, as I saw it, one of an equal triangle of responsibility, and the UN and the UK were subordinate to the United States in terms of the physical presence on the ground of resources and capability.”²⁶⁶

Joint Occupying Powers

The Preambular Paragraphs (PPs) of resolution 1483 contained statements about the status of the members of the Coalition, noting the letter of 8 May 2003 from the Permanent Representatives of the US and UK, and “recognising the specific authorities, responsibilities, and obligations under international law of these states as occupying powers under unified command (‘the Authority’). The following paragraph noted further “that other States that are not Occupying Powers are working now or in the future may work under the Authority”.

Sir Jeremy Greenstock told the Inquiry that the use of the phrase “Occupying Powers” had been deliberate:

“... there were people in Washington and, indeed, I think in London, who didn’t want any mention of Occupation or Occupying Powers ... and also the image of an Occupation, which was obviously in the context of the Middle East going to be compared with the Israeli Occupation of Palestine and, indeed, was by Al Jazeera and the man on the street in the Arab world. And I remember advising London that it was sensible to have a mention of Occupying Powers because that made it clear under what body of international legislation we would be acting, and without that clarity, we might be confused ourselves and our fellow Security Council members might resist agreeing to a resolution unless there was a clear mention of what the status was of the people in charge of the territory. And London and Washington decided that they would be the two that took the responsibility for that status of our presence in Iraq.”²⁶⁷

Sir Jeremy explained to the Inquiry that he:

“... wanted clarity of status, and ... an incentive for us to make this period of occupying in Iraq as short as possible ... [because] it might make the Americans realise what they were taking on, because it was inevitable that it would be thought of as an Occupation, and I thought it was better to be realistic about this than to try to cover it up, because you wouldn’t cover it up.”²⁶⁸

²⁶⁶ Public hearing, 15 December 2009, page 44.

²⁶⁷ Public hearing, 15 December 2009, pages 37-38.

²⁶⁸ Private hearing, 26 May 2010, pages 42-43.

Sir Jeremy also argued that the term “Occupying Powers” did not have a negative connotation for the Iraqi people when resolution 1483 was adopted, but acquired it later when they were “emotionally encouraged to think of this as an Occupation, in parallel with Palestine” by television stations such as Al Jazeera. He added “they weren’t angry because this was called an Occupation. They were angry because foreign boots were on their soil and life had not been made better.”

A number of the Inquiry’s Iraqi interlocutors emphasised how much the inclusion of the term “Occupying Powers” within resolution 1483 was resented.²⁶⁹

A US official who worked within the CPA explained to the Inquiry that in the US the term “Occupation” had benign connotations of the US’ role in Germany and Japan, but for Iraqis it was very different. There had been a failure on the part of the US and UK to understand the baggage that was associated with the term.²⁷⁰

The Inquiry asked a number of witnesses about their understanding of whether the UK was legally responsible only for the area of the South-East of Iraq, where it was physically in Occupation, or whether it was jointly responsible for the whole of Iraq; and whether the Government had taken a positive decision that it wished to be considered a joint occupier of the whole of Iraq.

Mr Blair told the Inquiry that:

“... it was going to be to our advantage to make sure we were joint partners with the US, because that both gave us a locus in Baghdad but also meant that they had some responsibility for our area too. So I think this was a perfectly satisfactory way of resolving it.”²⁷¹

Mr Straw gave the Inquiry a contrasting view that:

“... it was desirable, if legally possible, for us to have authority over that area which we controlled and not more widely ... We judged there might be some advantage from that [joint responsibility] for whoever was sitting alongside the Garner and then the Bremer figure in terms of having joint power as well ... It would have been desirable if we had had a clear area for which we were responsible without the Americans and got on with it, but you know, it wasn’t to be.”²⁷²

When asked whether there had been a decision by the UK Government to become a joint Occupying Power, Mr Straw said that it followed from the legal advice and came out of a process that would have included conversations with the Attorney General.

Sir Michael Wood commented in his statement to the Inquiry that:

“The matter was far from clear. From the outset of the Occupation, US military commanders started making declarations to the Iraqi people, in the name of ‘Coalition’, that were not properly (or at all) cleared with the United Kingdom. They soon established the ‘Coalition Provisional Authority’, an entirely American creation in respect of which the United Kingdom had some (variable) influence but no control. There was thus the appearance of a joint Occupation throughout Iraq, despite the fact that the United Kingdom had no actual authority outside the South-East ...

²⁶⁹ Private meetings with Iraqi interlocutors.

²⁷⁰ Private meeting with US interlocutor.

²⁷¹ Public hearing, 21 January 2011, page 143.

²⁷² Public hearing, 2 February 2011, pages 128-132.

“As a matter of law ... there was a distinction between (i) the rights and responsibilities of the United Kingdom as an Occupying Power in the area of Iraq under the actual authority of UK armed forces and (ii) the potential liability of the United Kingdom for acts or omissions of the CPA. This distinction was a real one, notwithstanding that the CPA was an instrument through which the Occupying Powers sought to exercise certain of their respective rights and responsibilities (including as extended in due course by the Security Council).”

Sir Michael continued:

“As to (i) there was a proper concern that the UK might be regarded as being a joint Occupying Power throughout the whole of Iraq, *inter alia* because of the CPA ... As to (ii), it was considered likely that, if the matter were ever tested, the CPA could be found to be a body constituted by the US and the UK for which the two States had a degree of joint responsibility ... So far as I recall, the question whether the CPA, despite its name, was in reality an emanation of the United States, not of ‘the Coalition’ as such (US, UK and possibly others) was an unresolved issue throughout its existence.”²⁷³

²⁷³ Statement, 15 March 2011, pages 21-22.