

INTRODUCTION

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Establishing the Inquiry

Purpose of the Inquiry

1. On 15 June 2009, Mr Gordon Brown, the Prime Minister, told the House of Commons:

“With the last British combat troops about to return home from Iraq, now is the right time to ensure that we have a proper process in place to enable us to learn the lessons of the complex and often controversial events of the last six years. I am today announcing the establishment of an independent Privy Counsellor committee of inquiry which will consider the period from summer 2001, before military operations began in March 2003, and our subsequent involvement in Iraq right up to the end of July this year. The Inquiry is essential because it will ensure that, by learning lessons, we strengthen the health of our democracy, our diplomacy and our military.”¹

2. Addressing the scope of the Inquiry, Mr Brown said:

“No Inquiry has looked at such a long period, and no Inquiry has the powers to look in so much breadth ... the Iraq Inquiry will look at the run-up to conflict, the conflict itself and the reconstruction, so that we can learn lessons in each and every area.”

3. In his statement, Mr Brown announced that the Inquiry Committee would be made up of “non-partisan public figures acknowledged to be experts and leaders in their fields”. It would be chaired by Sir John Chilcot and would include Baroness Usha Prashar, Sir Roderic Lyne, Sir Lawrence Freedman and Sir Martin Gilbert. Their biographies can be found on the Inquiry’s website. It is a matter of deep regret that Sir Martin was taken ill in April 2012 and was unable thereafter to participate in the Inquiry’s work. Sir Martin died on 3 February 2015.

4. Prior to 2009, some specific aspects of the UK’s involvement in Iraq had already been examined:

- The House of Commons Foreign Affairs Committee published *The Decision to go to War in Iraq* on 3 July 2003.
- The Intelligence and Security Committee of Parliament published *Iraqi Weapons of Mass Destruction – Intelligence and Assessments* on 10 September 2003.
- Lord Hutton published his *Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly CMG* on 28 January 2004.
- A Committee of Privy Counsellors, chaired by Lord Butler of Brockwell, published its *Review of Intelligence on Weapons of Mass Destruction* on 14 July 2004. Sir John Chilcot was a member of Lord Butler’s Committee.

¹ House of Commons, *Official Report*, 15 June 2009, columns 23-24.

- The Baha Mousa Inquiry, chaired by Sir William Gage, was established in May 2008 and published its conclusions on 8 September 2011.²

5. Before the formal launch of the Iraq Inquiry, Sir John Chilcot met leaders of the main opposition parties and chairs of relevant House of Commons select committees (Defence, Foreign Affairs and Public Administration) as well as the Intelligence and Security Committee. Those discussions helped to shape the Inquiry's thinking on its remit and approach.

6. At a news conference to launch the Inquiry on 30 July 2009, Sir John Chilcot set out the Terms of Reference to which the Inquiry Committee would work:

“[The Inquiry] will consider the period from the summer of 2001 to the end of July 2009, embracing the run-up to the conflict in Iraq, the military action and its aftermath. We will, therefore, be considering the United Kingdom's involvement in Iraq, including the way decisions were made and actions taken, to establish as accurately and reliably as possible what happened, and to identify the lessons that can be learned.”³

7. Describing how the Inquiry intended to go about its work, Sir John said:

“... we will adopt an inquisitorial approach to our task, taking evidence direct from witnesses, rather than conducting our business through lawyers. The Inquiry is not a court of law and nobody is on trial, but I want to make one thing absolutely clear. This Committee will not shy away from making criticisms. If we find that mistakes were made, that there were issues which could have been dealt with better, we will say so frankly.”

8. From the outset, the Inquiry Committee took the view that it was in the public interest for its work to be conducted with the greatest possible openness. This included hearing witnesses in public whenever that was not precluded by security considerations, and publishing as much evidence as possible alongside the Inquiry's Report. Sir John set out the Inquiry's approach in a letter to the Prime Minister dated 21 June 2009.⁴

Support to the Inquiry Committee

9. In October 2009, the Inquiry announced the appointment of Sir Roger Wheeler, Chief of the General Staff from 1997 to 2000, and Dame Rosalyn Higgins, President of the International Court of Justice from 2006 to 2009, as Advisers to the Inquiry Committee on military matters and international law respectively.

² A number of other relevant inquiries or investigations were subsequently launched, including the Al-Sweady Public Inquiry (which took place between November 2009 and December 2014), the Detainee Inquiry (which ran from July 2010 to December 2013) and the MOD's Iraq Historic Allegations Team, which was established in March 2010.

³ Iraq Inquiry website, Transcript of Iraq Inquiry launch news conference, 30 July 2009.

⁴ Letter, Chilcot to Prime Minister, 21 June 2009, [untitled].

10. Sir Roger and Dame Rosalyn provided advice to the Committee in areas where their specialist professional knowledge was required to understand fully the issues involved. They contributed to the development of detailed lines of questioning ahead of public hearings and offered expert advice on the interpretation of evidence in relevant areas of the Inquiry's work as the Inquiry Committee formulated its conclusions.

11. Throughout its work, the Inquiry has been supported by a small Secretariat. Members of staff have been drawn from a range of government departments, including the Cabinet Office, the Department for International Development (DFID), the Foreign and Commonwealth Office (FCO), the Home Office, the Ministry of Defence (MOD), the Ministry of Justice and the Serious Fraud Office. The Inquiry has employed a small number of support staff from outside government and from time to time has also drawn on a small amount of additional resource from within the Civil Service.

12. The Secretariat was headed by Ms Margaret Aldred, who was named as Secretary to the Inquiry in July 2009. The Inquiry had three Deputy Secretaries during the course of its work – Ms Alicia Forsyth (2009 to 2011), Ms Claire Salters (2009 to 2012) and Ms Katharine Hammond (2012 to 2016) – and two Legal Advisers – Ms Sarah Goom (2009 to 2012) and Mr Stephen Myers (2011 to 2016).

13. The Secretariat has provided essential administrative, logistical and research assistance to the Inquiry in arranging and managing hearing sessions; obtaining, processing and declassifying evidence; and preparing material for consideration by the Inquiry Committee.

Avoiding conflicts of interest

14. From the start, the Inquiry has sought to be transparent about potential conflicts of interest and has taken steps to ensure that they have not affected its work. In this, the Committee and Secretariat have been conscious of the Civil Service core values of integrity, honesty, objectivity and impartiality.

15. All members of the Committee have had long careers in which they have at times worked in or with government and in other areas of public affairs. Their experience means that many of the witnesses who gave evidence to the Inquiry were previously known to members of the Committee as colleagues or professional contacts. The Inquiry has been scrupulous to ensure that no-one has received different or preferential treatment as a result.

16. Sir Roderic Lyne served as British Ambassador to the Russian Federation between 2000 and 2004, during which time he acted on UK Government instructions in relation to Iraq and reported in several telegrams on the Russian Government's approach. Those telegrams have been declassified and are published alongside the Report.

17. On 18 January 2010, the Inquiry published a letter on its website from Sir Lawrence Freedman to Sir John Chilcot outlining the advice he provided ahead of Mr Blair's

1999 Chicago speech (see Section 1.1). That advice is also published on the Inquiry's website. Sir Lawrence also participated in expert seminars before the invasion of Iraq. Other than as the official historian of the Falklands Campaign, Sir Lawrence has never held a position of paid employment in government.

18. When Sir Gus O'Donnell, the Cabinet Secretary, nominated Ms Margaret Aldred to be Secretary to the Inquiry he did so in full knowledge of Ms Aldred's role as Deputy Head of the Overseas and Defence Secretariat in the Cabinet Office between 2004 and 2009.⁵ Given the values of the Civil Service, Sir Gus saw no conflict of interest in Ms Aldred's appointment, a point repeated by Sir John Chilcot in his evidence to the Foreign Affairs Select Committee on 4 February 2015.⁶

19. The Inquiry has considered a number of documents produced by the Overseas and Defence Secretariat during Ms Aldred's tenure as Deputy Head. The Committee has had full access to these papers, including minutes written by Ms Aldred and papers she approved. Ms Aldred's name is clearly identifiable where any such evidence is cited in the Report.

The Inquiry's approach

Initial meetings

20. At the start of its work, the Inquiry held meetings in Belfast, Bristol, Edinburgh, London and Manchester with some of the families of members of the Armed Forces who died on, or as a result of, military operations in Iraq. The Inquiry also met serving and former Service Personnel in London, Manchester, Shrivenham and Tidworth and at Headley Court. The Inquiry wanted to hear directly from both groups about their experiences, and in particular about the issues on which they considered the Inquiry should focus.

21. Those discussions were extremely valuable in shaping the Inquiry's work, and the Inquiry is grateful to all those who took part for their contribution. The Inquiry has sought to address in its Report many of the points that were raised in the meetings and which fell within its Terms of Reference. Where the Inquiry's Report makes specific reference to a point that was raised, it has not attributed it to an individual.

22. In November 2009, the Inquiry held two seminars with a range of experts on Iraq to inform the Inquiry's approach to its task ahead of witness hearings. The first considered the evolution of international policy towards Iraq between 1990 and 2003 as well as the state of Iraq and the region on the eve of the invasion, and the second considered the causes and consequences of Iraq's descent into violence after the invasion.

⁵ From June 2007, the Overseas and Defence Secretariat was known as the Foreign and Defence Policy Secretariat.

⁶ Foreign Affairs Committee, 4 February 2015, *Oral Evidence: Progress of the Iraq Inquiry*, HC 1027.

23. The papers produced to inform those seminars are available on the Inquiry's website.

24. The foundation for the Inquiry's conclusions is an account of the decisions and actions that were taken by the UK between 2001 and 2009 in relation to Iraq. As Mr Brown told the House of Commons in 2009, the scope of this account is unprecedented in duration and breadth and constitutes a large part of the Inquiry's Report.

Issues not addressed by the Inquiry

25. There are a number of issues that have not been addressed in the Report because they lie outside the scope of the Inquiry or are subject to continuing investigation elsewhere. They include:

- Responsibility for the events of 11 September 2001.
- The UK's role in Afghanistan, except where decisions on Afghanistan had an impact on options available in Iraq, or where the Government sought to apply lessons from Afghanistan in Iraq.
- The circumstances surrounding the death of Dr David Kelly. The Inquiry has no statutory powers and is not qualified to decide on Coronial matters.
- The circumstances surrounding the deaths of individual Service Personnel.
- The effect of the sanctions regime on the civilian population of Iraq, except where it had an impact on UK policy on Iraq in the period before the invasion.
- The compulsory return of asylum seekers from the UK to Iraq is touched on, but not examined in detail.
- The details of the Government's operational response to the kidnapping of UK citizens.

26. One further aspect of the UK's involvement in Iraq which has generated a great deal of public concern has been the alleged, and in some instances proven, ill treatment of detainees.

27. The Inquiry's Terms of Reference did not require it to examine individual cases of detention; nor, as a non-statutory public inquiry, was it constituted or equipped to do so. The Inquiry took the view, moreover, that its role was to consider the development and implementation of government policy, rather than to examine operational decisions and actions affecting individual cases.

28. The Inquiry did consider whether it might examine systemic issues relating to the detention and treatment of military and civilian prisoners. For the reasons set out below, it was decided not to do so.

29. When the Inquiry was established in July 2009, the Government had already established a Public Inquiry led by Sir William Gage to investigate the death, on

15 September 2003, of Mr Baha Mousa, an Iraqi citizen who had been held in the British Temporary Detention Facility in Basra.⁷

30. Although the purpose of that Inquiry was to examine a specific incident, it was clear that in doing so, and in order to report as required, Sir William would examine the basis and framework for detention in Iraq and would, if appropriate, make recommendations to the Defence Secretary.

31. Mr Mousa's relatives had been party to proceedings which, in due course, resulted in appeals to the Court of Appeal and House of Lords and, on 7 July 2011, in a ruling in the European Court of Human Rights.⁸

32. A Public Inquiry was also sought by a separate group of claimants in proceedings in the High Court during April, May and July 2009. In these proceedings, it was alleged that UK forces murdered Iraqi detainees at Camp Abu Naji in southern Iraq and subjected others to ill treatment both at Camp Abu Naji and at the Divisional Temporary Detention Facility at Shaibah on 14 and 15 May 2004.⁹

33. The Inquiry was also aware in 2009 that a number of other cases of alleged mistreatment of detainees had been brought to the attention of the MOD. Some of these had been the subject of civil claims and had been settled; others were pending.

34. On 1 March 2010, Mr Bill Rammell, Minister of State for the Armed Forces, laid a Written Ministerial Statement announcing the establishment of the Iraq Historic Allegations Team (IHAT). Its purpose was to ensure that these cases were investigated "thoroughly and expeditiously, so that – one way or another – the truth behind them is established".¹⁰

35. In view of these continuing Inquiries and investigations, the Inquiry Committee decided that it should not examine issues relating to the question of detention. It appeared to the Committee that, if it was to do so, there was a danger that it might duplicate the work of these other Inquiries and investigations or otherwise impede their progress, or the reverse.

36. *The Report of the Baha Mousa Inquiry* was published on 8 September 2011.¹¹ It examined the events which resulted in Mr Mousa's death but also wider issues concerning the detention and treatment of individuals, including training and the chain of command. It made 73 recommendations.

⁷ The Baha Mousa Inquiry.

⁸ *Al Skeini and others v United Kingdom* (2012) 53 EHRR 18.

⁹ It was announced on 25 November 2009 that a Public Inquiry would be established, led by Sir John Thayne Forbes, to examine these allegations. Named after the First Claimant in the civil proceedings, it was known as "The Al Sweady Inquiry".

¹⁰ House of Commons, *Official Report*, 1 March 2010, column 93WS.

¹¹ *The Report of the Baha Mousa Inquiry*, 8 September 2011, HC 1452-1-IV.

37. *The Report of the Al Sweady Inquiry* was published on 17 December 2014.¹² It examined in detail (and rejected) the allegations of ill treatment at Camp Abu Naji. It made a limited number of further recommendations, noting that the MOD had accepted 72 of the recommendations made by Sir William Gage and was in the process of implementing them.

38. The work of the IHAT is continuing.

Hearings

39. The Inquiry took evidence from more than 150 witnesses from a range of backgrounds, in more than 130 sessions of oral evidence, in order to assist it in building a balanced and accurate account of events.

40. The principles on which hearings were run are described in the *Protocol for Witnesses giving evidence to the Iraq Inquiry* (hereafter, the Witness Protocol) which is available on the Inquiry's website.

41. Hearings began in November 2009, and were conducted in four tranches, in between which the Committee received and assessed other sources of evidence. The rounds were:

- 13 November 2009 to 8 February 2010;
- 5 March 2010 to 8 March 2010;
- 29 June 2010 to 30 July 2010; and
- 18 January 2011 to 4 February 2011.

42. In his opening statement on 13 November 2009, Sir John Chilcot explained that the first five weeks of hearings would be used to establish, from those who were directly involved, the essential features of the UK's involvement in Iraq and how they developed. Future sessions would probe matters in further detail, or re-examine issues in the light of subsequent evidence seen by the Committee.

43. The majority of witnesses gave evidence in a public session. The Inquiry wanted hearings to be as accessible to the public as possible, so in addition to having ticketed (free) public access, sessions were also available for broadcast on television and over the internet. The recordings can still be viewed on the Inquiry's website. The first public hearing was held on 24 November 2009 and the last on 2 February 2011.

44. Sir John made clear at the start of each hearing that the witness was giving evidence based on his or her recollection of events, which the Inquiry would then compare with the contemporary documentary record. After the hearing, witnesses were asked to review the transcript of their evidence, and certify that the evidence given was truthful, fair and accurate. Those transcripts appear on the Inquiry's website.

¹² *The Report of the Al Sweady Inquiry*, 17 December 2014, HC 818 1-II.

45. The Inquiry heard from 35 witnesses in private. The circumstances in which the Inquiry agreed to hold private hearings are laid out in the Witness Protocol. In some cases, evidence was heard in private because of a risk of damage to national security or other vital national interests. In others, it was due to the personal circumstances of the witnesses, or because of the organisations for which they worked. The names of some witnesses therefore do not appear, and are replaced by ciphers. Transcripts of these sessions, reviewed and certified by the witnesses as truthful, fair and accurate, can also be found on the Inquiry's website. In many cases some material has been redacted by the Government in order to prevent potential harm to national security or international relations.

46. In order to hear the experiences of more junior civilian staff who had served in Iraq between 2003 and 2009, the Inquiry issued invitations to a series of group meetings. A total of 48 people from a range of departments, including the FCO, the MOD and DFID, attended. No contractors responded to the Inquiry's invitation. Discussions at the meetings focused on strategy and delivery, and the support provided to civilian staff working in Iraq.

47. The Inquiry has addressed a number of the points that were raised in these meetings, but has not attributed those points to any individual.

Written evidence

48. In identifying areas to explore with witnesses and in drafting its account of events, the Inquiry has necessarily relied heavily on official documents as the most reliable record of government business, the factors which led to major decisions and the substance of those decisions.

49. The Inquiry recognises that the documentary record cannot by itself provide a comprehensive account of all that happened, but contemporary documents have particular weight when their explicit purpose was to provide a formal record: for instance, minutes of formal meetings or papers and submissions to Ministers which sought approval for a specific decision.

50. Individual documents necessarily reflect the purpose for which they were produced and the knowledge and perspective of their authors. Minutes of meetings are necessarily selective and depend on judgements about what needs to be recorded and what can be omitted. Dissenting views are likely to be under-represented, not least because the focus may be on recording conclusions rather than the discussion. Records of formal meetings would, however, have been circulated to the participants who were able to seek amendments if they wished.

51. Each document has been considered and interpreted in the context of the events and issues being addressed, its relationship to other contemporary documents, and with an understanding of the language and professional background of the author. Different government departments have their own styles and approaches.

52. When he established the Inquiry, Mr Brown stated that it would have access to all government records. The Inquiry has received more than 150,000 such documents during the course of its work. Where it has not been possible for the relevant department to supply a document that the Inquiry believes existed, that is indicated in the text. The Inquiry has no reason to believe that any document has been deliberately withheld.

53. The Inquiry has examined material produced before summer 2001 and after July 2009 where that is necessary for a full understanding of the Government's response to events between those dates.

54. The Inquiry's access to, and ability to publish material from, documents produced by the UK Government has been governed by the *Protocol between the Iraq Inquiry and Her Majesty's Government regarding Documents and Other Written and Electronic Information*. The Protocol can be found on the Inquiry's website and on www.gov.uk. It applies a test to determine when material may be disclosed publicly which is specific to this Inquiry, and which differs from the criteria set by the Freedom of Information Act 2000.

55. Throughout its duration, the Inquiry has sought the Government's permission to publish material under the terms of the Protocol. It has done so by:

- Asking for the declassification of whole documents where they are considered to be particularly significant. Around 1,800 of these documents, including any redactions required by the Government, appear on the Inquiry's website alongside this Report. Redactions appear as blank white space, not as black lines.¹³
- Asking for agreement to disclose a limited amount of material from documents, either in the form of a directly quoted extract, a summary of the document's contents (known as a "gist") or a mixture of the two. The source for a quote or gist is included as a footnote in the Report. The Inquiry has used material from around 7,000 documents in this way.

56. The material agreed by the Government for disclosure by the Inquiry is highly unusual in its scale and sensitivity.

PUBLICATION OF THE MOST SENSITIVE DOCUMENTS

57. Some categories of document to which the Inquiry considered it necessary to refer raise difficult issues of principle for the Government.

58. This Report therefore contains, exceptionally, material of a kind which would normally be regarded as highly sensitive and confidential, including:

- extracts from Cabinet minutes;

¹³ In JIC Assessments, which have been retyped by the Inquiry at the Government's request, redactions appear as "[...]".

- extracts from, or summaries of, exchanges between former Prime Ministers and the former US President; and
- material drawn from or otherwise relating to very sensitive security and intelligence sources, including a large number of Assessments by the Joint Intelligence Committee (JIC).

59. This information is central to understanding the UK Government's strategic decision-making in Iraq, and is therefore essential to the Inquiry's work. Disclosure of such information is undertaken under the terms of the Protocol agreed between the Government and the Inquiry at the outset of the Inquiry. In agreeing to the inclusion of this material, the Government has had regard to:

- the exceptional nature of the Inquiry (a once in a generation Public Inquiry that is entirely independent of government);
- the exceptional public interest in the matters which the Inquiry was established to examine;
- the importance of the Inquiry being able to consider these matters in the round and to give a proper and sufficient account of them in its Report; and
- the consequent justification of the inclusion of such material in the Report to the extent strictly necessary to enable the Inquiry to fulfil its task.

60. In reaching agreement to the publication of material necessary for the purposes of the Inquiry, the Government has made clear that the publication of this material in these exceptional circumstances does not involve the setting of any precedent, that any future decisions about the disclosure of comparable material (including under the Freedom of Information Act 2000) must be taken on their merits, and that the concept of precedent has no place in relation to disclosure decisions.

61. Sir Jeremy Heywood's letters of 21 January 2014 and 22 May 2014, which record his agreement to the publication of material from Cabinet minutes and communications between Mr Blair and President Bush, can be read in full on the Inquiry's website.¹⁴

MINUTES OF CABINET MEETINGS

62. The Inquiry recognises the importance of the principle of protecting the confidentiality of Cabinet discussions in order to support collective Cabinet responsibility and effective government. But, for the reasons set out above, it also considered that it would not be possible to complete its task effectively without the ability to refer to the records of Cabinet meetings (entitled Cabinet Conclusions) or the records of relevant Sub-Committees of Cabinet.

¹⁴ [Letter Heywood to Aldred, 21 January 2014, 'Chilcot Inquiry – Cabinet Papers'](#); [Letter Heywood to Aldred, 22 May 2014, 'UK/US Records – Declassification Request'](#).

63. This report refers to 92 records of the meeting of Cabinet itself. Of those records, the Inquiry considered that five were of such significance that the text recording discussion of Iraq should be published in its entirety. Those extracts appear on the Inquiry's website and relate to Cabinet meetings held on:

- 7 March 2002;
- 23 September 2002;
- 16 January 2003;
- 13 March 2003; and
- 17 March 2003.

64. The Inquiry has also reviewed extracts from the notebooks of the Cabinet Secretary and Cabinet Secretariat relating to Cabinet discussions of Iraq between 2001 and 20 March 2003 to satisfy itself that there were no material omissions from the formal minutes.

65. The committee structure below Cabinet, which usually changes after the arrival of a new Prime Minister, is described in Section 2.

66. This Report includes descriptions of discussions and decisions in 111 meetings of Cabinet Committees, held between 2002 and 2009.

COMMUNICATION BETWEEN THE UK PRIME MINISTER AND US PRESIDENT

67. As already described, in many instances the approach taken by the UK Government can only be understood in the context of its dialogue with Washington and the evolution of US policy.

68. As a consequence, some of the clearest expressions of Mr Blair's thoughts on Iraq are to be found in his oral and written exchanges with President Bush.

69. Discussions between Prime Minister and President – by telephone, by video conference or in person – were in most cases recorded by a No.10 Private Secretary or Adviser in the form of a letter to the department(s) with a policy interest in the content of the conversation, in line with normal Civil Service practice.

70. This report refers to 212 of those records, covering discussions held by both Mr Blair and subsequently Mr Brown with President Bush, and a small number of conversations between Mr Brown and President Obama.

71. Mr Blair also, throughout his time in office, wrote 'Notes' directly to President Bush.

72. This report refers to 30 Notes from Mr Blair to President Bush, all but one of which are published as documents in their own right on the Inquiry's website. Redactions which the Government has considered necessary in order to approve their publication are included as blank white space, not as black lines.

LEGAL PROFESSIONAL PRIVILEGE AND THE LAW OFFICERS' CONVENTION

73. A further category of sensitive document which the Inquiry has considered relates to legal advice provided to the Government.

74. The Government is entitled to obtain legal advice in confidence, and to be certain that the advice it receives will remain confidential unless the right to confidentiality is expressly waived. This is in accordance with a long-established principle known as Legal Professional Privilege (LPP).

75. In addition, there is a long-standing convention, adhered to by successive governments and reflected in the Ministerial Code, that neither the fact that the Law Officers have been consulted in relation to a particular matter, nor the substance of the advice they have given, is disclosed outside government without their authority.

76. On 12 January 2004, in response to a question asked by Lord Alexander, Baroness Amos told the House of Lords that she was:

“... aware of only two cases in which Law Officers’ advice was disclosed. In both cases, disclosure was made for the purposes of judicial proceedings. In 1993, Law Officers’ advice relevant to the subject matter of the Arms to Iraq Inquiry was disclosed to the Scott Inquiry. The advice was published in an annex to the Inquiry report. Law Officers’ advice on the 1988 Merchant Shipping Act was disclosed to the other parties in the course of the Factortame litigation in which Spanish fishermen were seeking damages from the Government for a breach of Community Law.

“I am aware of three other cases in which the views of the Law Officers on a particular matter were disclosed, but not the actual advice. In February 1971, the substance of the Law Officers’ advice relating to the UK’s obligations to supply arms to South Africa under the Simonstown Agreement was published in a command paper (Cmnd 4589). In February 1993, the views of the Law Officers’ advice were disclosed in the debate in the other House on the Maastricht Treaty. In March this year the Attorney General set out in a Written Answer a summary of his view of the legal basis for the use of force against Iraq.”¹⁵

77. In his *Review of Intelligence on Weapons of Mass Destruction* Lord Butler reported that his Committee had read Lord Goldsmith’s advice of 7 March 2003 and referred very briefly to its contents.¹⁶ His report did not, however, disclose details of the advice.¹⁷ In the spring of 2005, Lord Goldsmith’s advice was leaked and, following a number of Freedom of Information Act requests, the Government disclosed the full advice on 28 April 2005.

¹⁵ House of Lords, *Official Report*, 12 January 2004, columns WA63-64.

¹⁶ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 94.

¹⁷ Lord Butler identified one other occasion when Law Officers’ advice had been disclosed: during the “Westland Affair”, which resulted in the resignation of two Cabinet Ministers, a letter from the Solicitor General to the Defence Secretary, which had already been leaked in part, was published.

78. In October 2009, Baroness Scotland, the Attorney General, agreed to waive LPP in respect of legal advice given to Government up to the commencement of military action on 20 March 2003. Baroness Scotland also confirmed that she was content for witnesses called by the Inquiry to give evidence, notwithstanding the Law Officers' Convention, on an exceptional basis.

79. In June 2010, following the Inquiry's request for the declassification of Lord Goldsmith's draft advice of 14 January 2003 on the legal basis for military action, Sir Gus O'Donnell wrote to Sir John Chilcot setting out the Government's position. Sir Gus advised that the Government had decided to declassify the draft legal advice, but emphasised the exceptional nature of that decision, and that it reflected the exceptional and unusual circumstances of the Iraq Inquiry. He stated that the legal basis for military action might be considered to hold a unique status and emphasised that the Government's position remained that there is a strong public interest in protecting both the convention that neither the advice of the Law Officers, nor the fact that they have been consulted, is disclosed outside government, and the principle of LPP.

80. Sir Gus asked the Inquiry to publish his letter on its website in order to clarify publicly the grounds on which the decision had been taken, and the Inquiry did so. The Inquiry accepts the Government's position that there is a strong public interest in protecting the principle of LPP and the Law Officers' Convention. The Inquiry also recognises the exceptional nature of the Government's decision to declassify legal advice on the basis for military action. The Inquiry accepts that there is a distinction between legal advice on the decision to take military action, which we agree has a unique status, and legal advice on the numerous issues that arose during the course of the UK's joint Occupation of Iraq, and the continued presence of UK troops in sovereign Iraq.

81. The Government subsequently agreed to the declassification of a number of other documents from the pre-invasion period to which the Law Officers' Convention applied.

82. In a letter to the Inquiry dated 9 June 2014, the Attorney General's Office confirmed that, without prejudice to the importance of the convention governing the disclosure of Law Officers' advice, it would consider requests for permission to publish material drawn from Law Officers' documents relating to the post-invasion period on a case-by-case basis. It would do so on the basis that the Inquiry agreed that the use of direct quotation from the documents should be the minimum necessary to enable the Inquiry to articulate its conclusions.¹⁸

83. On that basis, the Inquiry sought and received permission to make reference to a number of further documents covered by LPP and the Law Officers' Convention.

¹⁸ Letter Wilson to Hammond, 9 June 2014, 'Iraq Inquiry – Law Officers' Convention'.

84. The Inquiry is satisfied that it has been provided with copies of all relevant legal advice and other legal papers to which it has sought access. It is entirely satisfied that it has been allowed to draw on such material to the extent that it considers necessary both to report its findings and explain the basis on which those findings have been made.

Open source material

85. Although the Inquiry relied heavily on official documents as the most reliable record of government business, it also drew on a wide variety of open source material to produce its account.

86. That material particularly includes:

- diaries, memoirs, books and articles published by key participants;
- books and articles published by academics, experts and commentators;
- newspaper articles and reports, and transcripts of speeches and interviews;
- records of Parliamentary proceedings and reports by Parliamentary Committees;
- documents published by UK government departments, including annual reports;
- records of discussions in the UN Security Council and reports to the Security Council;
- documents published by UN agencies, international institutions and international non-governmental organisations;
- reports produced by and for the US Congress, and US Government departments and agencies; and
- evidence offered to previous Inquiries and their analysis and conclusions.

87. Especially when considered alongside official documents, such material provided valuable insights into and context for the events considered by the Inquiry.

88. The Inquiry recognises that open source material reflects the purpose for which it was produced and the knowledge and perspective of its author. In a number of cases, the Inquiry has not been able to take evidence from the author to explore their perspective. The Inquiry has therefore considered carefully the nature of the open source material that it has used, and how it has presented such material in its account. Wherever possible, it has compared open source material to the documentary record, and in many cases (for instance Mr Alastair Campbell's diaries) there is a high degree of consistency.

89. The conclusions reached in the Inquiry's Report remain the Inquiry's own.

Submissions to the Inquiry

90. In October 2009, before the Inquiry held its first evidence hearings, Sir John Chilcot invited anyone with information relevant to its Terms of Reference to get in touch.

Sir John said:

“There may be someone out there with a crucial bit of information which could show an issue in a different light. It would be a great shame if that opportunity was missed.”

91. In response, almost 1,500 contributions were received between 2009 and 2016. The Inquiry has considered every submission carefully and is very grateful to all those who took the time to write.

92. A small number of articles submitted for a series of seminars with experts on Iraq were published in 2009. After considering which other submissions to publish, the Inquiry decided:

- not to publish those submissions that offered suggested questions for, or analysis of, evidence hearings, although they were of value whilst hearings were taking place;
- not to publish submissions offering suggestions on the conduct of the Inquiry;
- not to publish submissions concerning matters outside the Inquiry’s Terms of Reference;
- not to publish details of personal experiences that were shared on a private basis;
- not to re-publish information already in the public domain, for example newspaper articles or published reports, although the Inquiry was grateful for the many articles, books and papers it received; and
- not to publish anything it deemed offensive or incomprehensible.

93. The submissions published on the Inquiry’s website alongside this Report are therefore those which provide evidence to the Inquiry. In many cases they are from individuals or organisations with directly relevant expertise or experience.

94. The fact of publishing a submission does not in any way imply the Inquiry’s acceptance of the views or statements it contains.

INTERNATIONAL LAW SUBMISSIONS

95. Between 12 July and 13 September 2010, the Inquiry extended an open invitation to international lawyers to submit their analyses of the arguments relied upon by the UK Government as the legal basis for military intervention in Iraq. In a small number of cases, the Inquiry also approached expert individuals directly and invited them to submit their views.

96. The Inquiry specifically invited analysis of the arguments set out in the Attorney General's advice of 7 March 2003, his written answer to a question asked in the House of Lords on 17 March and the FCO memorandum 'Iraq: Legal Basis for the Use of Force' of the same date.

97. Respondents were asked not to address their submissions to the legal grounds relied upon by countries other than the UK. Rather, they were asked to address the issues of law relating to the UK's position, including:

- the legal effect of operative paragraphs (OPs) 1, 4, 11 and 12 of UN Security Council resolution 1441 (2002);
- the significance of the word "consider" in OP12;
- whether by virtue of resolutions 678 (1990), 687 (1991) and 1441 the elements were in place for a properly authorised use of force;
- the interpretation and effect of the statements made by the Permanent Members of the Security Council following the unanimous vote on resolution 1441;
- the correct approach to the interpretation of Security Council resolutions; and
- Lord Goldsmith's evidence that the precedent was that a reasonable case was a sufficient lawful basis for taking military action.

98. All 37 of the legal submissions received by the Inquiry which met the criteria set out above are published on the Inquiry's website alongside this Report. The Inquiry used those submissions to inform its consideration of legal issues and is grateful to everyone who took the time to offer their views.

99. The Inquiry has not expressed a view as to whether or not the UK's participation in the conflict was lawful. Although the Inquiry has had the benefit of advice from a distinguished international lawyer, it was not constituted as a Court of Law and none of its members is legally qualified.

100. The opinion of this Inquiry would in any case not resolve the issue of the legality of the conflict, or the UK's participation in it. In the Inquiry's view, that issue can only be resolved by a properly constituted and internationally recognised Court which has considered the issue with the benefit of submissions from Counsel representing all those parties with an interest in or affected by the issue.

The actions of other governments

101. This Inquiry was asked to consider the actions of the UK Government, not those of its allies. The existence of a Coalition of states working in Iraq, however, means that this report inevitably considers the decisions and actions of other countries where they affected choices made by the UK.

102. That is particularly true of the US: in many instances the approach taken by the UK Government can only be understood in the context of its dialogue with Washington and the evolution of US policy.

103. The Inquiry has not been given access to the closed official records of other states, except when those documents were shared with the UK Government and so appear in its files.

104. In May 2010, members of the Iraq Inquiry Committee visited France and the US for meetings with a range of individuals, to gain a wider international perspective on the UK's involvement in Iraq over the period covered by the Inquiry and to provide a context for accounts given to the Inquiry by UK witnesses. Ambassador L Paul Bremer provided a statement to the Inquiry, which is published on our website.

105. Four members of the Iraq Inquiry Committee visited Iraq in September and October 2010, to receive an Iraqi perspective on the UK's involvement in Iraq.

106. The Committee's discussions in France, the US and Iraq were not formal evidence sessions and therefore records of the discussions have not been published. The names of the individuals that the Committee met during those visits, who have confirmed that they are content for their names to be published, are listed on the Inquiry's website.

107. Most senior members of the Bush Administration whom the Inquiry approached declined the request for such a meeting but the Inquiry was nevertheless able to meet a number of officials who had been closely involved with the development and implementation of US policy.

The criticism of individuals and “Maxwellisation”

108. One of the last activities the Inquiry completed before publishing its Report was the so-called “Maxwellisation” process.

109. In the course of its work, the Inquiry formed judgements which are critical of the decisions or actions of individuals who occupied positions of responsibility. Although the main focus of this Inquiry has been on learning lessons, where the Inquiry has reached a critical view it has expressed it frankly. Such views can be found throughout this Report.

110. When the Inquiry has felt it necessary to be critical, it has sought to be fair to the individual in question. Fairness requires individuals to be given the opportunity to respond to potential criticism. That is the purpose of the process often referred to as “Maxwellisation”.

111. The Inquiry has not criticised any individual who has not given evidence to it. All those who gave evidence did so in accordance with the terms of the Witness Protocol, paragraph 10 of which says:

“The prime purpose of the Inquiry is to identify lessons to be learned. The Inquiry is not a court of law and nobody will be on trial, although the Committee will not shy away from making criticisms if warranted. In the event that a particular witness may be the subject of criticism by the Inquiry, the Inquiry Secretariat will, in accordance with normal practice, notify that witness separately, in writing at least seven days in advance of the evidence session, of the nature of the potential criticism and the evidence that supports it.”

112. Paragraph 30 of the Witness Protocol says that:

“If the Inquiry expects to criticise an individual in the final report, that individual will, in accordance with normal practice, be provided with relevant sections of the draft report in order to make any representations on the proposed criticism prior to publication of the final report.”

113. All witnesses who appeared before the Inquiry were told in advance of the areas that would be covered during questioning. A small number were also notified of points of potential criticism before they gave evidence to the Inquiry, in accordance with paragraph 10.

114. Material which now forms part of the Inquiry’s Report continued to be received and assessed after the conclusion of its hearings. In July 2013, the Inquiry told a number of individuals that they would be given an opportunity to make representations on points of potential criticism, in accordance with paragraph 30.

115. Relevant extracts from the Inquiry’s draft report were sent to those individuals on a confidential basis from October 2014, following completion of the process of declassifying material from the minutes of Cabinet meetings and from communications between Mr Blair and President Bush. A small number of individuals received further material in early 2016.

116. In the Inquiry’s view, this procedure was necessary to ensure fairness to those who might be criticised in the Report. The Inquiry appreciates the constructive manner in which all who were engaged in the Maxwellisation process responded.

117. In reaching its final conclusions, the Inquiry has considered all representations received with care.