

SECTION 1.1

UK IRAQ STRATEGY 1990 TO 2000

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Introduction

1. This Section addresses the UK's Iraq strategy between 1990 and 2000. Although this period falls outside the Inquiry's Terms of Reference, events during that time nonetheless have a bearing on the subsequent policy decisions the Inquiry is examining.
2. This Section does not address the review of UK policy on Iraq which began in September 2000. That is addressed in Section 1.2.
3. This Section draws on material which is in the public domain, including the Ministry of Defence's *Statements on the Defence Estimates* 1991 (Cm 1559-I) and 1992 (Cm 1981), a paper on No-Fly Zones prepared for the Inquiry by the MOD in November 2009 and published on the Inquiry's website, the *Review of Intelligence on Weapons of Mass Destruction* (HC 898) in 2004, and House of Commons Research Papers 98/28, 99/13 and 02/53. Other sources, including evidence provided to the Inquiry, are identified in a footnote where appropriate.

ACKNOWLEDGEMENTS

4. The Inquiry is grateful to Dr Hans Blix, Director General of the International Atomic Energy Agency (IAEA) from 1981 to 1997 and Executive Chairman of the United Nations Monitoring, Verification and Inspection Commission on Iraq (UNMOVIC) from 2000 to 2003, for giving oral evidence to the Inquiry.
5. The Inquiry also asked Mr Rolf Ekéus, Executive Chairman of the United Nations Special Commission (UNSCOM) on Iraq from 1991 to 1997 (and previously the Ambassador to the Conference on Disarmament in Geneva from 1978 to 1983 and involved in international negotiations on the Chemical Weapons Convention and the Control and Verification of the Biological Weapons Convention), whether he had any insights or reflections on the results of inspections in the 1990s and Iraq's response to them; and for any comment he might wish to make on Dr Blix's evidence on UNSCOM's operations.
6. The Inquiry is grateful to Mr Ekéus for his statement, in which he describes the role, methodology and independence of UNSCOM and its relationship with the IAEA, and for agreeing that it could be published with the Inquiry's Report. Mr Ekéus emphasised the complexity of UNSCOM's operations, which he felt had been "missing" from the oral evidence presented to the Inquiry.

UK Iraq strategy

7. Following the Gulf Conflict in 1990-1991, the UK and the US played a leading role in sustaining a policy of containment and deterrence towards Iraq for the rest of the decade. US and UK policies were intertwined. UK policy evolved through a process of dialogue and negotiation between the UK and US Governments, and, in turn, between each Government and its other partners and allies at the UN, in the region, and in Europe.

8. Although it is not the task of the Inquiry to evaluate US policy, 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.

9. The UK and the US shared common strategic interests in the region, but their analyses and policies were not identical and there were important differences in their tactical and diplomatic approaches. France and Russia also had key interests in Iraq, which pre-dated the 1990-1991 Gulf Conflict, including in relation to outstanding debts for arms they had supplied. As Permanent Members of the Security Council, they too had significant influence on the development of international policy on Iraq.

Iraq's invasion of Kuwait

10. After the 1980-1988 Iran-Iraq War, Iraq continued to develop its military capability. Some Western governments had shown a degree of support for Iraq during that conflict, but tension grew between Iraq and the West as evidence emerged of advanced work on weapons of mass destruction, including nuclear weapons, in contravention of Iraq's international treaty obligations. Some Western firms were implicated in supplying material to Iraq, as Lord Justice Scott set out in the *Report of the Inquiry into the Export of Defence Equipment and Dual-Use Goods to Iraq and Related Prosecutions*, published in 1996. The execution of *Observer* freelance journalist Mr Farzad Bazoft in March 1990 led to the withdrawal of the British Ambassador to Iraq. The subsequent discovery at Heathrow Airport, the same month, of an attempt to smuggle nuclear-weapons-related components further exacerbated the deterioration in the UK's relations with Iraq.

11. In July 1990, Saddam Hussein accused Kuwait and the United Arab Emirates of waging economic warfare against Iraq. The accusation was based on: their reluctance to reduce oil production to force a rise in prices; Kuwait's unwillingness to cancel Iraq's debts for the large loans it had received during the Iran-Iraq War; and accusations that Kuwait was stealing from the Rumaylah oilfield, which straddles the border between Iraq and Kuwait. Iraq began moving the eight divisions of the Republican Guard towards the border on 16 July. Negotiations to settle the dispute, facilitated by King Fahd of Saudi Arabia and President Hosni Mubarak of Egypt, began in Jedda on 31 July.

12. Despite assurances of peaceful intent from Saddam Hussein to King Fahd and President Mubarak, Iraqi military forces invaded Kuwait in the early hours of 1 August. Within a few hours, the UN Security Council met to discuss elements of a draft resolution. On 2 August, the Security Council adopted resolution 660 (1990), determining that a breach of international peace and security existed, and confirming that it was acting under Articles 39 and 40 of the UN Charter (see Box, 'The Charter framework for the use of force'). The resolution condemned the Iraqi invasion of Kuwait; demanded that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990; called upon Iraq and Kuwait immediately to begin intensive negotiations to resolve their differences; and decided to meet again as necessary to consider further steps to ensure compliance with the resolution.

13. On 6 August, the Security Council adopted resolution 661 (1990), reaffirming resolution 660 and expressing deep concern that it had not been implemented, despite Kuwait's expression of readiness to comply. Acting under Chapter VII of the UN Charter (see Box, 'The Charter framework for the use of force'), the Security Council decided to take measures to secure compliance with the demand for immediate Iraqi withdrawal which was included in resolution 660. Resolution 661 imposed comprehensive economic sanctions on Iraq, including prohibiting the import and export of all commodities into and out of Iraq, with the exception of medical supplies and, in humanitarian circumstances, foodstuffs. The resolution also prohibited States from providing any funding or financial or economic resources to Iraq, and required them to freeze any of its assets or resources, with the exception of payments for medical or humanitarian purposes. A Committee of all Council members was established to review and report on implementation of the sanctions.

14. Resolution 662 (1990), adopted on 9 August, recorded that the Security Council had decided Iraq's annexation of Kuwait was "null and void", and called upon all States, international organisations and specialised agencies not to recognise it. Eight further resolutions followed addressing: the safety of third-State nationals within Iraq and Kuwait; the circumstances in which the importation of foodstuffs would be permitted; and further condemning Iraqi attacks on Kuwaiti, third-State and diplomatic persons. By early September, 17 countries had committed forces to a growing, US-led military coalition, which was already involved in enforcing sanctions. The US, UK and France had agreed to deploy air and land forces to Saudi Arabia to deter Iraq from further aggression. In September and October, further forces were deployed as the international community prepared to liberate Kuwait if Saddam Hussein did not comply with the Security Council's demand that he withdraw.

Resolution 678 (1990)

15. On 29 November, the Security Council adopted resolution 678 (1990) which said that, acting under Chapter VII of the UN Charter, it:

"Demands that Iraq comply fully with resolution 660 and all subsequent resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

"Authorises Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements the above-mentioned resolutions, to use all necessary means to uphold and implement resolution 660 and all subsequent relevant resolutions and to restore international peace and security in the area."¹

16. The resolution was adopted by 12 votes to two (Cuba and Yemen); China abstained.

¹ UN Security Council resolution 678 (1990).

The Charter framework for the use of force

The United Nations was established in 1945 “to save succeeding generations from the scourge of war”. In its Charter, it set out its intention to “ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest”. The purposes of the UN include: “To maintain international peace and security, and to that end to take effective collective measures for the prevention and removal of threats to the peace ...” (Article 1). States are forbidden to use force against the territorial integrity or political independence of other States (Article 2, paragraph 4).

Chapter VI of the United Nations Charter contains prescriptions relating to the peaceful settlement of disputes. Chapter VII contains, but is not limited to, what were intended to be comprehensive prescriptions relating to the use of force in the context of “action with respect to threats to the peace, breaches of the peace, and acts of aggression”.

The UN Charter envisaged that States would not need to use force to protect their national interests. The intention was for any threat to the peace, breach of the peace or act of aggression to be met by collective security, provided by the Security Council. Article 39 provides for the Security Council to determine the existence of a threat to the peace, breach of the peace, or act of aggression, which must precede enforcement measures under Articles 41 (sanctions) and 42 (military enforcement measures).

Article 40 provides for the Security Council to call upon the parties to comply with such provisional measures as it deems necessary or desirable, before making recommendations or taking other measures to maintain or restore international peace and security. That has proved, for political reasons, impossible to achieve in the form envisaged under Chapter VII. Instead, the United Nations has resorted to UN peacekeeping (in which the consent of the “host State” is required). On two occasions, UN Members have been authorised (but not obliged, as the unimplemented Charter provisions envisaged) to engage in assisting a State that had been invaded (South Korea in Security Council resolution 83 (1950) and Kuwait in Security Council resolution 678 (1990) in repelling that attack.

Such authorisations are in every way exceptional. In the case of Korea, it was conducted, formally at least, under a United Nations Command. In the case of the 1990-1991 Gulf Conflict, the authorisation given in resolution 678 to “Member States co-operating with the Government of Kuwait” was not under a unified UN command, but was the final element of an immediately prior series of resolutions. The authorisation in both cases – two examples in nearly 60 years – was within the context of Security Council control. The authorisations for the use of force were clear in their terms, as is consistent with the Charter and the primacy of the responsibility of the Security Council (in contrast to the General Assembly) as articulated in Article 24 of the Charter.

The idea that “authorisation” by the Security Council is far from being a routine basis for a legitimate use of force by a State, or coalitions of States, is further suggested by the fact that the authorisation in both Security Council resolution 83 (1950) and resolution 678 (1990) referred to a use of force in assistance of the attacked country to repel an invasion, the attacking State having failed to withdraw.

Article 48 of the Charter provides that action to carry out the decisions of the Security Council for the maintenance of international peace and security “shall be taken by all the Members of the United Nations or by some of them, as the Security Council shall

determine”.² There is no suggestion in the Charter of a residual right for individual Members to enforce Security Council decisions.

Article 51 provides that nothing in the Charter should impair the inherent right of individual or collective self-defence in the event of an armed attack on a Member State, until the Security Council has taken the measures necessary to maintain international peace and security. Although a State may act in self-defence without prior authorisation, it is required immediately to report such action to the Security Council; and such action would not in any way affect the authority of the Security Council. The intention to exercise overarching Security Council control, is apparent.

The scheme of the Charter, against which all resolutions should be viewed for the proper understanding of their terms, suggests both that authorisations to States to use force to enforce a Security Council decision in the context of a threat to international peace are extremely rare, and that they occur only with the clear agreement of the Security Council. The Security Council, however, has rarely engaged directly in efforts to resolve individual conflicts. Its involvement in containing Iraq after the invasion of Kuwait and its subsequent liberation in 1991 was unusual.

The 1991 Gulf Conflict

17. Iraq did not comply with resolution 678. Discussions in Geneva between Mr James Baker (the US Secretary of State) and Mr Tariq Aziz (the Iraqi Foreign Minister), and in Baghdad between Mr Perez de Cuellar (the UN Secretary-General) and Saddam Hussein, were unsuccessful.

18. On 14 January 1991, Saddam Hussein called on the Iraqi people to fight to the death to hold on to Kuwait. The coalition began the military operation to liberate Kuwait, named Operation Desert Storm, on 17 January. The coalition comprised 42 States. In addition to the US and UK, 13 countries, including France and a number of Arab and Gulf States, took part in offensive operations. The campaign began with air strikes, with the objective of:

- disrupting Iraq’s command, control and communications;
- destroying Iraq’s nuclear, biological and chemical warfare capability;
- severing supply routes to Kuwait; and
- attacking Iraqi forces in Kuwait.

19. From mid-February, Russia sought to broker a deal for the withdrawal of Iraq from Kuwait, but Iraq’s conditions were unacceptable to the Security Council. In a final effort to obtain Iraqi compliance, coalition governments issued a statement on 22 February setting out the conditions which Iraq needed to meet to bring about a cessation of

² In resolution 221 (1966) the Security Council authorised the UK “to prevent, by the use of force, if necessary” the arrival at Beira of vessels believed to be carrying oil destined for Southern Rhodesia, and empowered the UK to arrest and detain the tanker *Joanna V* upon departure from Beira.

hostilities. The statement made clear that if Iraq informed the UN of its acceptance before noon on 23 February, the coalition would not launch a ground offensive. Iraq rejected that final deadline.

20. On 23 and 24 February, a massive coalition land operation began in Kuwait. On the morning of 26 February, Saddam Hussein claimed in a broadcast that he had ordered his forces to withdraw from Kuwait. The broadcast also claimed victory and asserted Iraq's continued claim on Kuwait. Coalition leaders responded by repeating that Iraq must accept unconditionally all UN resolutions, release all prisoners of war and detainees, and end the destruction of Kuwait. The coalition also made clear that unarmed Iraqi soldiers would not be attacked but that, to ensure the safety of allied troops, forces retreating with their weapons would continue to be treated as hostile. Iraqi units moving north with their equipment were attacked from the air during the night of 26/27 February.

21. By the night of 27/28 February, Kuwait had been liberated. After consulting coalition partners, President George HW Bush announced a suspension of hostilities, to take effect from midnight on 27 February. As a result, a number of elite Iraqi fighting units returned to Iraq intact.

22. On 2 March, the Security Council adopted resolution 686 (1991). It affirmed that the 12 preceding resolutions, including the application of sanctions, continued to have effect, and set out a number of demands including: acceptance of the preceding resolutions; military conditions for the cessation of hostile activities; the release of all Kuwaiti and "third-State nationals" detained by Iraq or the release of the remains of any deceased personnel; the release of prisoners of war; and the payment of reparations. It stated that the authority to use force in resolution 678 remained valid during the period required for Iraq to comply with those demands. The meeting between coalition and Iraqi military commanders to agree the military conditions for the cease-fire took place at Safwan, on the Iraq-Kuwait border, the following day.

Resolution 687 (1991)

23. Resolution 687 (1991) was adopted on 3 April, by 12 votes to one (Cuba); Ecuador and Yemen abstained. Its preambular paragraphs:

- recalled and affirmed the 13 previous Security Council resolutions;
- affirmed the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq;
- recalled its objective of the establishment of a nuclear weapons-free zone in the region of the Middle East;
- reiterated its objective of restoring international peace and security in the area; and
- set out the need to take the measures specified, acting under Chapter VII of the UN Charter.

- 24.** The resolution's operative paragraphs were divided into a number of separate parts. Sections A, B, D, E and G all addressed various issues relating to Kuwait, including: respect for the inviolability of the international boundary between Iraq and Kuwait, and arrangements for its demarcation; arrangements to deter violations of the boundary through a demilitarised zone; arrangements to facilitate the return of Kuwaiti property; Iraq's liability to Kuwait for financial reparations; and arrangements to facilitate the repatriation of Kuwaiti and third-country nationals.
- 25.** Section C of the resolution addressed Iraq's possession and intentions in relation to weapons of mass destruction (WMD) and other weapons systems and programmes, including the establishment of a Special Commission which became known as the United Nations Special Commission (UNSCOM).
- 26.** Section F of the resolution addressed sanctions, removing the prohibition on the import into Iraq of foodstuffs provided they were notified to the Committee set up under resolution 661 (subsequently known as the 661 Committee). The Committee was given the power to approve the import of other items for essential civilian needs. That provision was subject to review every 60 days in the light of the policies and practices of the Iraqi Government, including the implementation of all relevant resolutions, for the purpose of determining whether to reduce or lift the prohibitions. In certain circumstances, the 661 Committee was also empowered to approve exceptions to the prohibitions on exports from Iraq.
- 27.** The resolution also affirmed the prohibition on the sale or supply of arms and related materiel of all types, including both those prohibited by other provisions of the resolution and conventional weapons and weapons technology; and called upon all States to maintain national controls to ensure compliance with the prohibition.
- 28.** Section H of the resolution required Iraq to inform the Security Council that it would not commit or support any act of international terrorism or allow terrorist organisations to operate within its territory, and to condemn unequivocally and renounce all acts of terrorism.
- 29.** Resolution 687 concluded (Section I) by declaring that, upon official notification by Iraq to the Secretary-General and the Security Council of its acceptance of the provisions, a formal cease-fire would be effective between Iraq and Kuwait and the Member States co-operating with Kuwait in accordance with resolution 678.
- 30.** Iraq indicated its acceptance of the resolution on 6 April, and the cease-fire came into effect on 11 April.

Legacy of the 1990-1991 Gulf Conflict

INTERNAL REPRESSION

31. To maintain control in Iraq, Saddam Hussein used extreme brutality, wilfully violating international human rights norms and covenants. Following Iraq's expulsion from Kuwait, his opponents inside Iraq mounted two separate, but parallel, attempts to overthrow the regime.

32. On 1 March 1991, demonstrations in Basra and Najaf developed into battles between Shia fighters and Saddam Hussein's security forces. Within days, the unrest had spread to all the main Shia cities in southern Iraq. At the same time, Kurdish forces saw an opportunity to seize control of northern Iraq and by 20 March they had captured every city in the North, including Kirkuk. Saddam Hussein's forces responded with brutal, indiscriminate force, using helicopter gunships and artillery to crush the resistance. Thousands of Shia and Kurdish citizens were killed and many more fled their homes, particularly in the North, where they were caught in the mountains on the borders.

33. Initially, coalition states were reluctant to intervene for a number of reasons including: inhibitions about interference in the internal affairs of Iraq and being sucked into a civil war; concerns about the break-up of Iraq; and fears of a possible revolutionary Shia government. But outrage at Saddam Hussein's actions, and claims that coalition rhetoric had encouraged the uprisings,³ led to decisions to take action. US commanders warned that they would shoot down any Iraqi aircraft flying over the country; two Iraq Su-22 aircraft were subsequently shot down, one on 15 and one on 22 March.

34. On 5 April, the Security Council adopted resolution 688 (1991), which condemned "the repression of the Iraqi civilian population in many parts of Iraq" and demanded that "Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression".⁴ It insisted that "Iraq allow immediate access by international humanitarian organisations"; requested the Secretary-General "to pursue his humanitarian efforts in Iraq"; and appealed to all Member States "to contribute to these humanitarian relief efforts".

35. By early April, however, Saddam Hussein had already regained control. Iraq's ruling Revolutionary Command Council announced on 5 April "the complete crushing of acts of sedition, sabotage, and rioting in all towns of Iraq". Refugees were moving towards the borders with Turkey and Iran and, because the border with Turkey was closed, their position caused serious concern. On 6 April, the US-led Operation Provide Comfort

³ Dr Barham Salih, the Kurdistan Front spokesman in London, was reported in the *Los Angeles Times* on 8 April saying that the Kurds felt a bitter sense of betrayal, having taken President Bush's encouragement of an Iraqi revolt literally. "I don't know of any other interpretation ... There was a clear statement that Saddam ought to be removed and the Iraqi people will be supported."

⁴ UN Security Council resolution 688 (1991).

began to provide humanitarian relief to the Kurds and to help them return to northern Iraq. The creation of a No-Fly Zone (NFZ) followed.

36. Iraq did not accept the provisions of resolution 688. A Memorandum of Understanding (MOU) between the Government of Iraq and the UN, signed on 18 April, permitted only a limited UN presence to provide humanitarian assistance and relief for the “return and normalisation” of the lives of “displaced persons” in their place of origin, “without prejudice to the sovereignty, territorial integrity, political independence, security and non-interference in the internal affairs” of Iraq.⁵ The MOU was to apply until December 1991.

DIPLOMATIC ISOLATION

37. Iraq was widely regarded as a disruptive force within the region. In his time in power, Saddam Hussein had attacked Iran, Saudi Arabia, Israel and Kuwait. Despite the sanctions imposed by resolution 687 and the severe damage inflicted on Iraq’s armed forces, the regime continued to be seen as hostile and potentially threatening by Kuwait and some of Iraq’s other neighbours.

38. The boundary with Kuwait was demarcated by a UN Commission, and resolution 833 (1993) affirmed that its decisions were final. On 15 October 1994, following Iraqi military deployments towards Kuwait, resolution 949 (1994) noted past Iraqi threats and instances of actual use of force against its neighbours; warned that any hostile or provocative action against its neighbours constituted a threat to peace and security in the region; and underlined that the Security Council would “consider Iraq fully responsible for the serious consequences of any failure to fulfil the demands” in the resolution, including that Iraq withdraw its forces and not take any other action to enhance its military capacity in southern Iraq.⁶ Iraq accepted the UN demarcation of the border in a letter of 27 November 1994⁷ but Iraq’s claim to the territory of Kuwait was never resolved.⁸

39. The US and UK did not resume diplomatic relations with Iraq. Of the other Permanent Members of the Security Council, Russia and China maintained an Embassy in Baghdad, and France maintained a liaison office. Russia represented the UK’s interests.⁹

⁵ Memorandum of Understanding signed by the Iraq Minister of Foreign Affairs and the Secretary-General’s Executive Delegate, His Excellency Sadruddin Aga Khan, 18 April 1991.

⁶ UN Security Council resolution 833 (1993).

⁷ Paper FCO Research Analysts, November 2009, ‘UN Security Council Resolutions on Iraq, 1990-2001’.

⁸ Minutes, Defence Committee (House of Commons), 19 April 2000, [Evidence Session], Qs 20-39.

⁹ The UK did not maintain a British Interests Section staffed by UK diplomats within the Russian Embassy.

The strategy of containment

40. The coalition had made a deliberate decision in 1991 not to pursue the overthrow of Saddam Hussein. Mr Baker stated in April 1991 that “the removal of Saddam Hussein was neither a political nor a military objective” of the US, and that:

“We are not prepared to go down the slippery slope of being sucked into a civil war ... We cannot police what goes on inside Iraq, and we cannot be the arbiters of who governs Iraq. As President [George HW] Bush has repeatedly made clear, our objective was the liberation of Kuwait. It never extended to the remaking of Iraq. We repeatedly said that could only be done by the Iraqi people.”¹⁰

41. In a later interview, Mr Dick Cheney, the US Defense Secretary in 1991, said that there had been concern about what to do with Iraqi soldiers who were “surrendering in droves”; and that there was a limit to how long you could “continue the bloodshed without having it look as though we were asking our troops to do something we probably shouldn’t ask them to do”.¹¹ He added that, while some had argued that the coalition should have continued to Baghdad, he thought that if they had done that “we would have been bogged down there for a very long time with the real possibility we might not have succeeded”.

42. From the end of the conflict, the objective of encouraging a change of regime in Baghdad was an element of the policy debate in Washington. Mr Richard Haass, who served in the administration of each President Bush, observed that the administrations of President George HW Bush, President Bill Clinton and President George W Bush “each contended with the question of how to balance containment with a desire for regime change”.¹²

43. Saddam Hussein proved more intractable than was predicted. Throughout the 1990s the UN Security Council frequently discussed Iraq and Saddam’s continued refusal to accept all the obligations imposed. A total of 41 resolutions were passed between resolution 687 and December 2000. There were continuous efforts to contain the Iraqi threat and put pressure on Iraq to disarm and to comply with the Security Council’s requirements. Saddam Hussein’s objective was to break out from UN restrictions and, by avoiding full compliance, to retain and rebuild Iraq’s military capabilities.

44. In addition to diplomatic isolation, the strategy of “containment” had several dimensions which developed in response to challenges posed by the Iraqi regime, including:

- NFZs covering the North and South of Iraq, patrolled by US, UK and (until 1996) French aircraft;
- economic sanctions;

¹⁰ Statements by James A Baker III reported in *Los Angeles Times*, 8 April 1991.

¹¹ Transcript *Frontline*, ‘Oral History: Richard Cheney’.

¹² Haass RN. *War of Necessity War of Choice: A Memoir of two Iraqi Wars*. Simon & Schuster, 2009.

- a ban on the sale of arms to Iraq;
- a naval force in the Gulf with powers to intercept ships suspected of breaching sanctions;
- military forces of the US, the UK and other allies stationed in neighbouring countries as a deterrent; and
- efforts to enforce the provisions set out in resolution 687 for the destruction of Iraq's chemical, biological and nuclear weapons programmes, and of its longer-range missiles, under the supervision of UNSCOM inspectors.

Those elements are described in the following Sections.

45. Sir Peter Ricketts, FCO Director General Political 2001 to 2003, told the Inquiry that the purpose of the UK's policy was "containment" of "Saddam Hussein's ambitions to redevelop weapons of mass destruction but also containment of the threat which Iraq had posed to the region".¹³

46. Sir Peter said that containment had three strands. The first was sanctions, where the arms embargo was the most effective element and sanctions on Iraqi oil exports and revenues were handled through the complex machinery of the Oil-for-Food (OFF) programme run by the UN. The second strand he described as an "incentive" strand based on resolution 1284 (1999), which had offered the Iraqis a deal whereby sanctions would be suspended 120 days after the Iraqis accepted the return of weapons inspectors to Iraq. The third strand was deterrence provided by the NFZs.

THE NORTHERN NO-FLY ZONE

47. On 10 April 1991, an NFZ was established north of the 36th parallel, enforced by US, UK and French aircraft based at Incirlik in Turkey. The UK contribution, Operation HAVEN, also involved the deployment of 3 Commando Brigade into northern Iraq until mid-July. In a statement to Parliament on 15 April, Mr Douglas Hurd, the Foreign Secretary, explained that the UK's policy envisaged the creation of "temporary safe havens in Iraq, in which UN officials can provide for the basic needs of refugees and monitor their security until they can return to their homes in safety".¹⁴ The aim was "to create places and conditions in which refugees can feel secure ... We support the territorial integrity of Iraq."

48. On 7 June, relief operations were handed over to the United Nations High Commission for Refugees and by mid-July almost all the 400,000 Kurdish refugees who had fled into the mountains in the Iraq-Turkey border region had returned to their homes or to the camps constructed for them by coalition forces.

49. On 24 July, Op Provide Comfort and Op HAVEN were replaced by Operation Provide Comfort II, of which the UK contribution was Operation WARDEN. Its primary

¹³ Public hearing, 24 November 2009, page 13.

¹⁴ House of Commons, *Official Report*, 15 April 1991, column 21.

aims were to prevent Saddam Hussein from attacking the Kurds from the air by maintaining the NFZ, and to monitor whether he was complying with resolution 688. There was also a limited humanitarian element to the mission, with the protection of humanitarian convoys and continued distribution of supplies to Kurds and other minorities in the region.

50. In October 1995, the UN assumed full responsibility for the humanitarian elements of the operations.

THE SOUTHERN NO-FLY ZONE

51. In 1992, concern mounted about Saddam Hussein's continued persecution of the Shia in the South, including the draining of the Arab marshes and a forced resettlement programme accompanied by a counter-insurgency campaign that included indiscriminate attacks on villages by artillery, helicopter gunships and fixed-wing aircraft.

52. On 11 August, the UN Special Rapporteur on Iraq set out his concerns directly to the Security Council. Citing the need for a response to those concerns, US, UK and French forces launched Operation Southern Watch on 27 August, imposing an "air-exclusion" zone south of the 32nd parallel using aircraft based in Saudi Arabia. The UK contribution was called Operation JURAL.

THE LEGAL BASIS FOR THE NO-FLY ZONES

53. Resolution 688 condemned Iraq's suppression of its own people, particularly the Kurds, and demanded the immediate end to their repression. It also requested the Secretary-General to provide humanitarian relief to the Iraqi people. But, unlike many previous and subsequent resolutions on Iraq, resolution 688 was not made under Chapter VII of the UN Charter, the only Chapter under which the use of force can be authorised (see Box, 'The Charter framework for the use of force', earlier in this Section). It did not explicitly authorise the coalition's actions in patrolling Iraqi airspace to monitor the NFZs. Nor did resolution 688 invite or authorise Member States to monitor its effect.

54. A review by the then Attorney General of the legal basis for the NFZs was conducted in November 1997.

55. The UK Government stated that, in enforcing NFZs, it was acting "in support" of resolution 688. Mr Geoff Hoon, the Defence Secretary, said in April 2000 that UK operations in the NFZs were:

"... essentially based on the overwhelming humanitarian necessity of protecting people on the ground, combined with the need to monitor the effect of [resolution] 688; so it is the two taken in combination that provides the legal justification."¹⁵

¹⁵ Minutes, Defence Committee (House of Commons), 19 April 2000, [Evidence Session], Qs 3 and 11.

56. Sir Michael Wood, FCO Legal Adviser from 1999 to 2006, told the Inquiry that the legal basis on which the UK Government relied in establishing the NFZs:

“... was based upon an exceptional right to take action to avert an overwhelming humanitarian catastrophe ...

“The need to avert an extreme humanitarian catastrophe ... is regarded by the British Government as being derived from customary international law, and the essence of it, I think, is that if something like the Holocaust were happening today, if the Security Council were blocked, you couldn’t get an authorisation from it, then it simply cannot be the law that States cannot take action to intervene in that kind of a situation, an emergency of that scale.”¹⁶

57. Sir Michael also referred to the answer given by Baroness Symons to Parliament in 1998 in relation to Kosovo, which set out the Government’s position on the use of force for humanitarian purposes:

“There is no general doctrine of humanitarian necessity in international law. Cases have nevertheless arisen (as in northern Iraq in 1991) when, in the light of all the circumstances, a limited use of force was justifiable in support of purposes laid down by the Security Council but without the Council’s express authorisation when that was the only means to avert an immediate and overwhelming humanitarian catastrophe. Such cases would in the nature of things be exceptional and would depend on an objective assessment of the factual circumstances at the time and on the terms of relevant decisions of the Security Council bearing on the situation in question.”¹⁷

58. While enforcing the NFZs, coalition aircraft also collected tactical reconnaissance information to help monitor Saddam Hussein’s compliance with resolution 688.

59. Op Provide Comfort II formally ended on 31 December 1996. France withdrew from the enforcement of the northern NFZ, announcing that the humanitarian need had subsided. On 1 January 1997, Operation Northern Watch began, enforced by UK and US aircraft.

60. Following an attack on 19 September 1996 on Iraqi air defence missile sites north of the 32nd parallel which had targeted coalition aircraft, the US and the UK moved the boundary of the southern NFZ north to the 33rd parallel. From that date, French aircraft participated only in patrols up to the 32nd parallel. France withdrew its support for the operation in the wake of Operation Desert Fox, in December 1998, although it continued to station aircraft in Saudi Arabia.

61. The zones, covering around 60 percent of the land area of Iraq, continued to exist until March 2003.

¹⁶ Public hearing, 24 November 2009, page 119.

¹⁷ House of Lords, *Official Report*, 16 November 1998, column WA140.

62. On a number of occasions, UK and US aircraft enforcing the NFZs targeted Iraqi military assets. The legal basis for those attacks derived from the right to self-defence. The MOD paper on NFZs states:

“... it remained the UK’s position that it was engaged in a lawful activity in monitoring the NFZs and if coalition forces were attacked or under imminent threat of attack, they were entitled to defend themselves. So UK forces participating in the No Fly Zones were permitted to attack targets which were or contributed to actual or imminent threat of attack. This was based on the inherent right of self-defence.”

63. Activity in the NFZs increased over time and, in response to the threat from Iraq, eventually extended to attacks on Iraqi air defence sites outside the Zones. Incidents increased significantly after Operation Desert Fox. Concerns about the continued legality of the NFZs in 2000 and 2001 are addressed in Section 1.2.

ARMS EMBARGO

64. Resolution 687 confirmed the prohibition on the sale or supply to Iraq of arms and related materiel of all types, and called on all States to maintain national controls to ensure compliance. In his statement on 15 April 1991, Mr Hurd recorded that the UK’s proposal was for “a strict arms embargo against Iraq to remain in force as long as Saddam Hussein is in power”.¹⁸ The principle of the embargo was relatively uncontroversial, but the control of items which had “dual use” (a civilian as well as a military use) did create difficulties. Various arrangements were made, including resolution 1051 (1996) adopted on 27 March 1996; but there were increasing disagreements.

ECONOMIC SANCTIONS

65. Resolution 687 provided the framework for the economic sanctions imposed on Iraq. It permitted the import of medicines, of food and of other supplies for essential civilian needs.

66. By the summer of 1991, concern about the “nutritional and health situation” of the Iraqi civilian population and the risk of a further deterioration led to the adoption of resolution 706 (1991) on 15 August. Acting under Chapter VII of the UN Charter, it authorised States to permit the import of Iraqi petroleum and petroleum products, for an initial period of six months, up to a defined limit of US\$1.6bn. Payment for the purchases would be held in an escrow account to be established by the UN Secretary-General “exclusively to meet the purposes” of resolution 706. They were: the full cost of the UN carrying out the tasks authorised by section C of resolution 687 (inspections and monitoring) and facilitating the return of all Kurdish property seized by Iraq; half the costs of the Iraq-Kuwait Boundary Demarcation Commission; the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs; and the costs of implementing resolution 706 and other necessary humanitarian activity in Iraq.

¹⁸ House of Commons, *Official Report*, 15 April 1991, column 21.

67. The resolution asked the UN Secretary-General to produce a scheme, which became known as the “Oil-for-Food” programme, to cover those purchases, and to monitor and supervise their equitable distribution to “all regions of Iraq” and “all categories of the Iraqi civilian population”. The Secretary-General’s report was submitted on 4 September, and implementation was authorised by resolution 712 (1991) adopted on 19 September.

68. Iraq rejected both resolutions and refused to co-operate on the grounds that the arrangements were an infringement of Iraq sovereignty. Resolution 778 (1992), adopted on 2 October 1992, deplored Iraq’s position “which puts its civilian population at risk” and decided that any Iraqi funds arising from the proceeds of sale of Iraqi petroleum or petroleum products should be transferred by Member States to the UN escrow account. States were also to arrange to sell or purchase any petroleum or petroleum products owned by Iraq and transfer the proceeds to the escrow account; to contribute funds from other sources as soon as possible. The resolution stated that no further Iraqi assets should be released for the purchase of food stuffs, medicines and other essential supplies except to the escrow account or directly to the UN for humanitarian activities in Iraq.

69. By late 1993, differences had emerged within the Security Council over the conditions for lifting sanctions. The US and UK took the view that sanctions could only be lifted following Iraq’s full compliance with its obligations as set out in UN resolutions. China, France and Russia believed that a timetable for the gradual lifting of sanctions should be put in place as Iraq complied with UN demands.

70. As a result of Iraq’s objections, the UN adopted resolution 986 (1995) on 14 April 1995. It directed the committee established by resolution 661 to monitor the sale of petroleum and petroleum products exported by Iraq, with the assistance of independent inspection agents appointed by the UN Secretary-General; and to verify that the purchase price was “reasonable in the light of prevailing market conditions”.¹⁹ A separate escrow account was established to finance the export to Iraq of material covered by the resolution. In the exceptional circumstances in northern Iraq, and to ensure an equitable distribution, the UN Inter-Agency Humanitarian Programme operating in the Governorates of Dahuk, Erbil and Sulaymaniyah would disburse a share of the fund. The fund was to be audited by “independent and certified public accountants”. The UN Secretary-General was to keep the Government of Iraq “fully informed”.

71. Iraq eventually accepted resolution 986 in May 1996, when a Memorandum of Understanding was agreed. Following the Iraqi offensive against the Kurds in August, implementation was suspended until December. The first shipment of food arrived in March 1997 and the first shipment of medicines in May 1997.

¹⁹ UN Security Council resolution 986 (1995).

72. Resolution 1153 (1998), adopted on 20 February 1998, increased the amount of oil Iraq could sell from US\$2bn every six months to US\$5.2bn. The resolution requested the establishment of a group of experts to determine, with the Government of Iraq, “whether Iraq is able to export petroleum or petroleum products sufficient to produce” the funds identified in the resolution as necessary to meet Iraq’s needs.²⁰ They reported in April that it could not, leading to authorisation of the import of oil industry spare parts and equipment in resolution 1175 (1998) on 19 June.

73. Resolution 1153 also recorded the UN Secretary-General’s observation that the situation in the electricity sector in Iraq was extremely grave. It asked him, in consultation with the Government of Iraq, to submit a report on essential humanitarian needs, “including necessary improvements to infrastructure”.

74. As a result of Iraq’s decision to suspend co-operation with UNSCOM and the IAEA and resolution 1194 condemning Iraq’s decision, the six-monthly UN reviews of sanctions were suspended. As an incentive, Iraq was offered the prospect of a comprehensive review of Iraqi compliance if co-operation was resumed. Iraq declined.

75. The Oil-for-Food programme continued to operate, with resolutions renewing the arrangements every six months, until 2003. It helped to alleviate the humanitarian position in Iraq, but there was concern, within the UN and elsewhere, about the impact of sanctions. As well as the humanitarian impact, there were reports of increased corruption in Iraq, misuse of Oil-for-Food, and increased oil smuggling which was benefiting Saddam Hussein’s regime. These concerns led to questions about the sustainability of the policy, which are addressed in Section 1.2.

ENFORCEMENT AT SEA

76. There had been a Royal Navy (RN) presence in the Gulf region since the early 1980s, when the Armilla patrol was deployed to defend UK vessels caught in the crossfire of the Iran-Iraq War. After the 1991 Gulf Conflict, a RN frigate or destroyer was permanently deployed in the Gulf as part of a US-led naval force to support the UN arms embargo and controls on the export of oil through the Gulf. It had powers to intercept ships suspected of breaching UN resolutions.

DETERRENCE BY FORCES STATIONED IN THE REGION

77. Concerns about the risk of Saddam Hussein attacking neighbouring countries, particularly Kuwait, remained. Mr Simon Webb, MOD Policy Director from July 2001 to October 2004, told the Inquiry that the deterrent effect of aircraft enforcing the NFZ in southern Iraq was a “side benefit of risk reduction”: it was an alternative to stationing significant ground forces in Kuwait because it enabled the US and UK to know what the military situation was in Iraq. If an Iraqi military build-up was detected it would

²⁰ UN Security Council resolution 1153 (1998).

give the US and UK time to attack ground forces before they could attack Kuwait.²¹ The US and other allies had forces stationed in countries in the region, in particular Kuwait, Saudi Arabia, Bahrain and Turkey, which could respond at short notice, should a threat emerge.

78. Following Iraq's deployment of 80,000 troops towards the border with Kuwait in October 1990, the US and UK rapidly deployed forces to Kuwait. The Security Council adopted resolution 949 (1990), and Iraqi forces withdrew north of the 32nd parallel. The US increased its military personnel based in Saudi Arabia from under 1,000 to around 7,000.

Iraq's weapons of mass destruction

Assessments of Iraq's WMD capability before the Gulf Conflict

79. The term "weapons of mass destruction" originated as an umbrella concept covering weapons with the capability to cause indiscriminate loss of life and wide-scale destruction.²² All nuclear, chemical and biological weapons are frequently characterised as weapons of mass destruction, and radiological devices have been included more recently.

80. During the 1970s and 1980s, Iraq had active chemical, biological, nuclear, and missile programmes. It used chemical weapons against Iranian forces during the Iran-Iraq War and against Iraqi Kurds in Halabja in March 1988.

81. After 1990, Iraq continued to develop its military capability, including programmes to develop chemical, biological and nuclear weapons, and the means for their delivery including ballistic missiles.

82. Some Western firms were implicated in supplying material to Iraq, as Lord Justice Scott set out in the *Report of the Inquiry into the Export of Defence Equipment and Dual-Use Goods to Iraq and Related Prosecutions* published in 1996.

83. In March 1990, an attempt to smuggle nuclear-weapons-related components was discovered at Heathrow Airport.

²¹ Public hearing, 24 November 2009, pages 49-50.

²² The first official definition was provided by the UN Commission for Conventional Armaments in 1948 which defined weapons of mass destruction as "atomic explosive devices, radioactive material weapons, lethal chemical and biological weapons, and any weapons developed in the future which have characteristics comparable in destructive effect to those of the atomic bomb or other weapons mentioned above" (S/C.3/32/Rev.1, August 1948). This definition has been used in successive UN resolutions dealing with disarmament.

84. The Butler Report stated:

“In the late 1970s, Iraq obtained large quantities of uranium ore from Niger, Portugal and Brazil. By the mid-1980s, however, Iraq had become self-sufficient in uranium ore, which was a by-product of indigenous phosphate mines ... which extracted and purified the uranium ore for subsequent use in nuclear enrichment processes.”²³

85. After the invasion of Kuwait in August 1990, the Joint Intelligence Committee (JIC) issued a number of Assessments about Iraq’s possession of weapons of mass destruction and its intentions.

86. The role and responsibilities of the JIC for providing Ministers and senior officials with regular intelligence Assessments on a range of issues of immediate and long-term importance to national interests, primarily in the fields of security, defence and foreign affairs are set out in Section 2.

87. The JIC assessed Iraq’s nuclear capabilities in September 1990 and judged that, without “significant external assistance”, it would take Iraq:

- “at least three years to establish a production facility for fissile material;
- one more year before sufficient weapons-grade material would be available for the production of one nuclear device; and
- a further year or more (ie 1995 at the earliest) before there would be enough material for a small stockpile of 3-4 weapons.”²⁴

88. The JIC’s Assessment was based on an assumption that Iraq was “using only a centrifuge route” for enriching fissile material which was “later shown to be incorrect”.

89. The JIC also examined, “on the basis of intelligence”, the possibility that Iraq might have authorised a “crash programme” to produce an untested nuclear device.

90. That would have required Iraq to divert nuclear material stored at civil sites in breach of IAEA safeguards, to have recovered unburnt uranium from reactor fuel and to have advanced work on firing systems and high explosive parts to the stage where they could be incorporated into a nuclear device.

91. The JIC noted that:

- “If and only if all of these conditions were met ... it is conceivable that Iraq could have the capability to make an untested nuclear weapon ... with a yield of approximately 20 kilotonnes by the end of this year.”

²³ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, pages 121-122.

²⁴ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, pages 42-43.

- Saddam Hussein might have authorised a development project on those lines but its conclusion remained that “the technical difficulties would be so great as to be virtually insurmountable in the short time available”.

92. An IAEA inspection of Iraq’s civil nuclear programme on 22 November 1990 showed that no fissile material had been diverted.

93. In December 1990, the JIC dismissed the option of an outside supplier providing the necessary material or a complete weapon on the grounds that only a few countries might have the motivation to supply the necessary material or weapons, and the JIC did not consider such supply likely.

94. A JIC Assessment of 20 September 1990, which cautioned that there were “considerable uncertainties about Iraq’s current ballistic missile capability and deployments”, estimated that Iraq:

- had a stockpile of “about 700” ballistic missiles;
- could have “about 300 SCUD-B” short range (300km) missiles;
- “may have converted some 250 SCUD-B missiles to the longer range [650km] Al Hussein variant”; and
- could have “up to 150” (900km) Al Abbas missiles.²⁵

95. The Butler Report found that a single intelligence report, received in November 1990, had had a significant impact on the JIC’s Assessments of Iraq’s biological and chemical weapons capabilities.²⁶

96. On 9 November 1990, the JIC reported:

“According to the new intelligence, Iraq possesses the BW agents pneumonic plague and anthrax and has weaponised them ... Weapons are available for immediate use ...

“The report that Iraq has weaponised anthrax is consistent with our earlier assessment that it might have done so. But we have no collateral for the claim that it has developed plague to a similar extent. Plague was, however, one of the agents included in the list of those that Iraq had studied or on which it had information ... We believe that Iraq has the facilities to produce plague in sufficient quantities for weaponisation.”²⁷

97. Later that November, the Defence Intelligence Staff (DIS) said that plague seedstock was now probably available to Iraq.

²⁵ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 49.

²⁶ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 45.

²⁷ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 134.

98. The JIC and DIS judgements on plague were “based on several intelligence reports from a single informant described as ‘*a new source of unestablished reliability*’” and who was “felt to be in a position to comment authoritatively”.

99. The Butler Report observed that, in relation to Iraq’s chemical warfare capability, the report:

“... added new detail to the JIC’s existing body of knowledge covering the types of chemical agents held in the Iraqi stockpile; the capabilities of those agents; their weaponisation into free-fall bombs; the availability of suitable ballistic missiles for the delivery of particular agents; and the volumes of each type of agent, and hence of the total chemical agent stockpile.”²⁸

100. On the basis of that report, the JIC “briefly” put “Iraq’s total chemical agent stocks in the range 15,000-22,000 tonnes”.

101. A JIC Assessment before military action against Iraq in 1991, intended “to provide military commanders with an indication of the possible scale of Iraq’s use of chemical weapons, and of how long such use could be sustained”, subsequently reduced the estimate of the size of the stockpile, to between 6,000-10,000 tonnes of agent.²⁹

102. The enduring effect of that Assessment is addressed later in this Section.

103. Iraq fired 86 of its SCUD missiles during the 1991 conflict, 40 against Israel, 44 against Saudi Arabia and two in the direction of Bahrain and Qatar.³⁰ No Al Abbas missiles were fired.³¹

104. Based on its Assessment in September 1990, the JIC concluded on 17 April 1991 that Iraq might have up to 600 ballistic missiles left, “both standard SCUD and extended range variants”, but the figure was “probably less”.³²

105. The Butler Report commented that JIC Assessments of Iraq’s chemical warfare and ballistic missile programmes before military action in 1991 were “done on what was effectively a worst case basis”, but that was not made explicitly clear.³³

106. Reporting in 2005, the Iraq Survey Group (ISG) concluded that in 1991 the coalition’s military actions had:

²⁸ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 45.

²⁹ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 46.

³⁰ Ministry of Defence, *Statement on the Defence Estimates*, July 1991, page 22.

³¹ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 49.

³² *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 50.

³³ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 49.

- destroyed or damaged most of Iraq's chemical weapons infrastructure;³⁴
- damaged but did not destroy Iraq's biological weapons infrastructure;³⁵
- successfully bombed most of the key facilities involved in the processing of nuclear material or weapons research which had been identified; and
- effectively targeted much of Iraq's delivery systems infrastructure.³⁶

107. In its report, ISG stated that:

- Iraq produced hundreds of tons of a range of chemical agents annually, including mustard, sarin and tabun in the 1980s, and had committed significant resources to a long-term programme.³⁷
- More than 100,000 "chemical munitions" were used against Iranian forces and the Kurdish population during the Iran-Iraq War.³⁸
- Production of chemical agent ceased in 1988 but re-started in 1990.³⁹
- A biological weapons programme had started in the 1970s.⁴⁰
- Between 1979 and 1982 Iraq bought large quantities of uranium in several forms from several countries and, in 1982, began formally to pursue uranium enrichment.⁴¹
- In 1988 work began on a nuclear weapon research, development and production complex at Al Athir.
- In April 1990 orders were given to weaponise agents.⁴²
- By early 1991, Iraq had produced large quantities of agent, including anthrax, botulinum toxin, *Clostridium perfringens*, aflatoxin and small quantities of ricin and it had successfully weaponised some of them into ballistic missiles, aerial bombs, artillery shells and aircraft spray tanks.⁴³

³⁴ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume III, 'Biological', page 5.

³⁵ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume III, 'Chemical', page 7.

³⁶ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume II, 'Delivery Systems', page 1.

³⁷ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume III, 'Chemical', page 8.

³⁸ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume III, 'Chemical', page 9.

³⁹ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume III, 'Chemical', page 9.

⁴⁰ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume III, 'Biological', page 1.

⁴¹ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume II, 'Nuclear', page 3.

⁴² US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume III, 'Biological', page 9.

⁴³ US Government Publishing Office, 25 April 2005, *The Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD with Addendums*. Volume III, 'Biological', page 10.

Provisions of resolution 687

108. Resolution 687, adopted on 3 April 1991, addressed Iraq's obligations under international law in relation to the possession and use of chemical, biological and nuclear weapons.

109. The resolution stated that the Security Council was:

“Conscious ... of the statements by Iraq threatening to use weapons in violation of its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare signed at Geneva on 17 June 1925, and of its prior use of chemical weapons and affirming that grave consequences that would follow any further use by Iraq of such weapons”.⁴⁴

110. The preambular paragraphs of the resolution also:

- recalled that Iraq had “subscribed to the Final Declaration adopted by all States participating in the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States, held in Paris ... January 1989, establishing the objective of universal elimination of chemical and biological weapons”;
- recalled that Iraq had “signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972”;
- noted the “importance of Iraq ratifying this Convention”; and of “all States adhering” to the Convention;
- was aware of Iraq's use of “ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq”;
- said that the Security Council was: “Concerned by the reports in the hands of Member States that Iraq had attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty of Non-Proliferation of Nuclear Weapons of 1 July 1968”; and
- said that the Security Council was: “Conscious of the threat that all weapons of mass destruction pose to peace and security in the area and the need to work towards the establishment in the Middle East of a zone free of such weapons.”

111. Acting under Chapter VII of the UN Charter, Section C of the resolution set out Iraq's disarmament obligations.

112. Operative paragraph (OP) 7 of the resolution invited Iraq to reaffirm unconditionally its obligations under the 1925 Geneva Protocol and to ratify the 1972 Convention.⁴⁵

⁴⁴ UN Security Council resolution 687 (1991).

⁴⁵ *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*, [signed] London and Moscow and Washington, 10 April 1972.

113. In OP8, the Security Council decided that Iraq should “unconditionally accept the destruction, removal, or rendering harmless, under international supervision”, of all:

- chemical and biological weapons;
- stocks of agents;
- related subsystems and components;
- research, development, support and manufacturing facilities;
- ballistic missiles with a range greater than 150km; and
- related major parts, repair and production facilities.

114. In OP9, the Security Council decided that Iraq should submit a declaration of locations, amounts and types of all the items specified in OP8 and to agree to urgent on-site inspection. OP9 also specified:

- the formation of a Special Commission to carry out on-site inspections of Iraq’s biological, chemical and missile capabilities; and
- a requirement on Iraq to yield possession to the Commission “for destruction, removal or rendering harmless” of all items specified in OP8.

115. In OP10, the Security Council decided that Iraq should “unconditionally undertake not to use, develop, construct or acquire any items specified” in OP8 and OP9, and requested the UN Secretary-General “in consultation with the Special Commission, to develop a plan” for future monitoring and verification for the approval of the Security Council “within one hundred and twenty days”.

116. OP11 invited Iraq to “reaffirm unconditionally” its obligations under the 1968 Treaty on the Non-Proliferation of Nuclear Weapons.

117. In OP12, the Security Council decided that Iraq should:

- “unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to” nuclear weapons;
- submit a declaration of the locations, amounts and types of specified items to the UN and the Director General of the IAEA;
- yield up any such items to the IAEA; and
- accept inspection and future ongoing monitoring and verification.

118. These requirements were more intrusive than the IAEA’s previous methodology of “safeguards inspections” of declared sites.

119. OP13 requested the Director General of the IAEA, “through the Secretary-General, with the assistance and co-operation of the Special Commission” to:

- carry out immediate on-site inspections;

- develop a plan for submission to the Council within 45 days “calling for the destruction, removal or rendering harmless as appropriate” of all items listed in OP12;
- carry out that plan within 45 days of the Council’s approval; and
- develop a plan for future monitoring and verification for the approval of the Security Council “within one hundred and twenty days”.

120. The Special Commission provided for in OP9 subsequently became known as the United Nations Special Commission (UNSCOM), and was a subsidiary organ of the Security Council, reporting to it through the UN Secretary-General. The Council asked the Director General of UNSCOM to carry out inspections, and to develop plans for the future monitoring and verification of both nuclear and other prohibited weapons systems and programmes. Mr Rolf Ekéus, a Swedish diplomat who had been the Ambassador to the Conference on Disarmament in Geneva from 1978 to 1983 and had been involved in international negotiations on the Chemical Weapons Convention and the Control and Verification of the Biological Weapons Convention, was appointed Executive Chairman of UNSCOM on 15 April 1991 and began work on 24 April.

Iraq’s response to resolution 687

121. Iraq’s initial declarations in response to resolution 687 were incomplete and it failed to co-operate with inspections and concealed activities.

122. In resolution 687, the UN originally expected a three-step inspection process:

- full disclosure by Iraq;
- verification of those disclosures by the Commission; and
- destruction, removal or rendering harmless under international supervision, of all proscribed weapons, materials and facilities.⁴⁶

123. UNSCOM’s approach was to establish a “material balance”, for each of the weapons categories, between items acquired by Iraq through import or production and their disposal by use or destruction.⁴⁷

124. Iraq provided initial declarations of its holdings of prohibited weapons on 18 and 28 April 1991.⁴⁸

125. The Butler Review was told that the JIC pre-conflict estimate that Iraq’s stockpile of chemical agent was between 6,000 and 10,000 tonnes was “derived from past

⁴⁶ UN Security Council, ‘Letter dated 25 January 1999 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1999/94), paragraph 3.

⁴⁷ UN Security Council, 11 April 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/258).

⁴⁸ UN Security Council resolution 707 (1991).

intelligence about production at individual plants, pieced together to provide a figure for the combined capacity for Iraq's production plants of 3,000-5,000 tonnes per annum".⁴⁹ The estimate was based on two years' production at full capacity since the end of the Iran-Iraq War, and the range reflected the inherent uncertainties in the calculation.

126. The Butler Report stated that:

- the consequence of the methodology adopted was "to leave the intelligence community with an estimate for the size of the Iraqi chemical agent stockpile which was over-cautious, and at its upper end worst case"; and
- the estimate was carried forward into subsequent Assessments but, after May 1991, the Assessments did not make clear the basis of the estimate.

127. The Report continued:

"There will inevitably have been a risk that that estimate, shorn of its assumptions, may have become the 'prevailing wisdom', with subsequent Iraqi declarations being tested against it for truthfulness, especially in circumstances where intelligence was sparse. If so, that process would have tended to lead to deductions by analysts and policy-makers that there were shortfalls in Iraqi declarations. Furthermore, suspicions here will have been exacerbated by Iraqi prevarication, concealment and deception in the early- and mid-1990s, reinforcing any suspicions that Iraq had substantial stocks to hide."

128. Iraq "consistently and emphatically denied that it had undertaken any proscribed biological warfare related activity".⁵⁰

129. In May 1991, the JIC stated that, while it could not "be precise", it was "confident" that Iraq had "substantially under-reported the numbers of missiles".⁵¹

130. The UN Security Council adopted resolution 699 (1991) approving the plans for UNSCOM and IAEA inspections on 17 June 1991.⁵²

131. In July, UNSCOM supervised the destruction of 48 operational missiles, 14 conventional warheads, six operational mobile launchers and other equipment and material.⁵³

⁴⁹ *Review of Intelligence on Weapons of Mass Destruction* ["The Butler Report"], 14 July 2004, HC 898, page 46.

⁵⁰ UN Security Council, 11 October 1996, 'Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1996/848).

⁵¹ *Review of Intelligence on Weapons of Mass Destruction* ["The Butler Report"], 14 July 2004, HC 898, page 50.

⁵² UN Security Council resolution 699 (1991).

⁵³ UN Security Council, 11 October 1996, 'Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1996/848).

The discovery of Iraq's nuclear programme

132. Following IAEA inspections in May and June 1991, and a meeting in Baghdad, Mr Ahmed Hussein, Iraq's Minister for Foreign Affairs, wrote to the UN Secretary-General on 7 July stating that Iraq had "decided that it would be appropriate to give an account" of its "peaceful nuclear programme".⁵⁴

133. In an "overview" attached to the letter, Iraq stated that the programme had begun in 1956, after the US had announced that it was launching a peaceful nuclear programme, and it had been implemented in three stages:

- Collaboration with some Western countries and then the Soviet Union with the objective of building a "research reactor and laboratories for producing radioactive isotopes for medical and industrial applications".
- Accession to the Non-Proliferation Treaty and related system of safeguards followed by "agreements with France, Italy and other countries" in relation to the nuclear fuel cycle allowed Iraq to achieve:
 - experimental laboratories producing nuclear fuel for nuclear power plants;
 - research laboratories for processing spent nuclear fuel;
 - the nuclear power plant programme;
 - uranium extraction from phosphate ores; and
 - the establishment of the Tammuz 1⁵⁵ reactor and related facilities and equipment, which Israel had destroyed on 7 June 1981.
- As a result of the inability of international guarantees and bilateral agreements to protect facilities and personnel from aggression, it had been "necessary to adopt new formulas ... to acquire the relevant nuclear know-how ... of the nuclear fuel cycle, through self-reliance and the non-disclosure of information."

134. Iraq admitted that in the third stage it had:

- extracted uranium from carbonate ores;
- purified and converted uranium-bearing compounds;
- enriched uranium isotopes using the electromagnetic method;
- enriched uranium isotopes using the centrifugal method; and
- enriched isotopes by chemical methods.

135. Iraq stated that the US had bombed its declared nuclear facilities and reactors whilst they were in operation and that was "equivalent to a nuclear attack" which had endangered the population and the environment.

⁵⁴ Letter Minister for Foreign Affairs of Iraq to Secretary-General of the United Nations, 7 July 1991, [untitled], attaching 'Overview of the Iraqi nuclear programme' and tables.

⁵⁵ This reactor is frequently referred to as Osirak.

136. Iraq also provided detailed tables of its equipment and activities, which stated that it had produced half a kilogram of uranium 235 enriched to 4 percent through the electromagnetic process and the production of an “unappreciable” quantity of uranium enriched through a centrifuge process, and identifying those that had been damaged or destroyed.

137. Mr Hussein stated that “careful examination” of the details provided would enable the UN Secretary-General to conclude that the programme did “not entail any departure from, or violation of” the NPT and the IAEA safeguards agreement, which had been “constantly observed”.

138. Mr Hussein added that Iraq had been “induced to refrain from declaring some of the stages of the programme though this was not in any way inconsistent with either the Treaty or the agreement” because of a fear of “exaggeration, abuse and aggression”. Iraq therefore believed it was “best to abstain from overt reference to nuclear technology so that such reference might not be taken as a threat to the security of States or be used to hinder the propagation of the peaceful uses of such technology”.

139. The decision to provide details of the nuclear programme was the result of two factors. First, the “comprehensive destruction” of the programme, and second, “Iraq’s decision to destroy anything which might possibly be interpreted as incompatible” with resolution 687. The UN had “chosen to consider the destruction carried out by Iraq, without prior notification and without your participation, as inconsistent with the requirements for the implementation” of resolution 687.

140. Mr Hussein stated that he wished to reaffirm Iraq’s “fear of exaggeration and deliberate alarmism in various fields, particularly the nuclear field”. This had caused President George HW Bush:

“... to declare in November 1990 that Iraq would produce a nuclear weapon within two months and that he was accordingly obliged to expedite launching the war and destroying Iraq’s nuclear capabilities before Iraq could take advantage of that opportunity.”

141. Mr Hussein wrote:

“... this alone was sufficient reason for a decision to proceed with destruction.”

142. The second reason for Iraq’s actions was the decision to make Iraq pay the costs of implementing resolution 687. Iraq had “hastened its decision on destruction before receiving interminable lists of equipment to be destroyed”.

143. In an exchange of correspondence with Dr Blix, which followed Iraq's admission, the IAEA disputed Iraq's view that it had not violated its obligations.⁵⁶

144. Iraq continued to contest the IAEA view.⁵⁷ It stated that:

- Research activities had not reached the stage which required notification.
- The amount of enriched uranium produced was far less than the defined threshold for notification of 75 kilogrammes.
- It had experimented on only a "single centrifuge prototype, and not a successive chain".
- The three enrichment methods were in the early stages of development and did not mean the existence of an installation.
- Iraq was not required to report holdings of yellowcake and uranium dioxide which were being used for non-nuclear purposes, including reinforcing anti-tank warheads.
- IAEA inspectors had had access to stores of such material alongside material they were verifying and had pointed out that yellowcake was not subject to inspection.

145. On 11 July, the JIC addressed Iraq's nuclear activities.⁵⁸

146. The JIC reported that, on the basis of post-war intelligence, it now knew that:

"... in the 1980s Iraq investigated four methods of uranium enrichment, including the use of centrifuges. But the route that had made most progress was electromagnetic isotope separation (EMIS)."

147. The JIC noted there was intelligence that "enough fissile material had been produced before the coalition air attacks to produce one nuclear device"; but it concluded that, whilst the intelligence was generally credible, it did not believe that Iraq could have obtained enough fissile material for a bomb through the route described in the intelligence. The JIC added:

"Nonetheless, given our lack of intelligence about the Iraqi nuclear programme, we cannot exclude the possibility that Iraq might have produced more fissile material than we have previously believed."

⁵⁶ International Atomic Energy Agency, 9 July 1991, 'Letter dated 9 July 1991 from the Director General to the Minister for Foreign Affairs of Iraq' (GOV/2530 Annex 2); International Atomic Energy Agency, 11 July 1991, 'Letter dated 11 July 1991 from the Director General to the Minister for Foreign Affairs of Iraq' (GOV/2530 Annex 3).

⁵⁷ International Atomic Energy Agency, 10 July 1991, 'Letter dated 10 July 1991 from the Minister for Foreign Affairs of Iraq to the Director General' (GOV/2530 Annex 4); International Atomic Energy Agency, 12 July 1991, 'Letter dated 12 July 1991 from the Minister for Foreign Affairs of Iraq to the Director General' (GOV/2530 Annex 5).

⁵⁸ *Review of Intelligence on Weapons of Mass Destruction* ["The Butler Report"], 14 July 2004, HC 898, page 44.

148. Resolution 707 (1991), adopted on 15 August, condemned Iraq's:

“... serious violation of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to co-operate with the Special Commission and the IAEA, which constitutes a material breach of the relevant provisions of resolution 687 which established a cease-fire and provided the conditions essential to the restoration of peace and security in the region.”⁵⁹

149. The resolution also condemned Iraq's “non-compliance” with its obligations under its safeguards agreement with the IAEA, which constituted a “violation of its commitments” as a party to the NPT.

150. The demands in the resolution included that Iraq should:

- “provide full, final and complete disclosure ... of all aspects” of its prohibited programmes and comply with its other obligations and co-operate with the Special Commission and IAEA “without further delay”;
- allow UNSCOM, the IAEA and their inspection teams “immediate, unconditional and unrestricted access”;
- “cease immediately any attempt to conceal, or any movement or destruction of any material or equipment” without notification to and prior consent from UNSCOM; and
- “halt all nuclear activities of any kind”.

151. In his memoir, Dr Blix wrote that between May and September 1991, IAEA inspections teams had produced “spectacular” results and the documents recovered provided “crucial and convincing evidence” about Iraq's nuclear programme.⁶⁰

152. Dr Blix wrote that “the revelation that Iraq had secretly enriched uranium without being detected shook the world” and resulted in agreement that it was necessary to sharpen the IAEA system of safeguards.

153. In September 1991, an IAEA inspection team led by Dr David Kay discovered significant volumes of documents about Iraq's nuclear weapons.

154. In his statement to the Inquiry, Mr Ekéus said that the identification of the building in central Baghdad containing documentation about Iraq's nuclear programme was as a result of data provided by the US.⁶¹

155. The *Review of Intelligence on Weapons of Mass Destruction* (The Butler Report) records that, in an Assessment in October 1991, the JIC noted that inspection had confirmed the existence of a comprehensive nuclear weapons programme and concluded:

⁵⁹ UN Security Council resolution 707 (1991).

⁶⁰ Blix H. *Disarming Iraq*. Bloomsbury, 2004.

⁶¹ Statement Ekéus, 23 April 2011, page 3.

“On the basis of the evidence so far of the programme’s progress before Desert Storm, Iraq could have made its first nuclear weapon by 1993, had its work not been interrupted by the war.”⁶²

156. That was two years earlier than had been assessed before the 1990-1991 conflict. The unexpected discoveries had a significant impact on subsequent JIC Assessments, which tended to look at Iraq’s potential capability on a “worst case” basis.

157. By the end of 1992, the processes of transporting Iraq’s fissionable material to Russia and of the IAEA supervising the destruction of many large installations that had been used in Iraq’s weapons programme was mostly complete.⁶³

Concealment of WMD activities

158. Iraq’s actions to conceal the scale and details of its activity, including the unilateral destruction of prohibited weapons and material, created major problems for UNSCOM in carrying out its mandate.

159. The regime for “ongoing monitoring and verification” (OMV) was authorised in resolution 715 (1991), adopted by the Security Council on 11 October 1991.⁶⁴

160. Mr Ekéus wrote that “the monitoring system could not be fully operational until early 1995 due to Iraqi’s obstructions”.⁶⁵

161. In January 1992, the JIC significantly revised its assessment of Iraq’s remaining ballistic missile holdings, stating:

- “Although we do not know the true figure, we assess that around 100 SCUD-B remain concealed.”
- There might be “as many as 250 complete Soviet build SCUD-B guidance and engine packages which cannot be accounted for, and would be critical for future production. Provided the raw material was available, Iraq could build its own replacement mid-body sections and assemble new material from this stockpile.”⁶⁶

162. Iraq told UNSCOM, after 1999, that it produced 17 Al Abbas and 387 Al Hussein missiles between 1987 and 1990.⁶⁷

⁶² *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 44.

⁶³ Blix H. *Disarming Iraq*. Bloomsbury, 2004.

⁶⁴ UN Security Council resolution 715 (1991).

⁶⁵ Statement Ekéus, 23 April 2011.

⁶⁶ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, pages 50-51.

⁶⁷ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, pages 49-50.

163. In 1991, Iraq had declared 30 chemical warheads for its ballistic missiles which were destroyed by April 1993.⁶⁸

164. Despite the provisions of resolution 687, which stated that prohibited items should be declared and subsequently dealt with under international supervision, Iraq admitted in March 1992 that a decision had been taken in late June 1991 to carry out a unilateral programme to destroy proscribed equipment, including missile launchers, munitions and chemical agents.⁶⁹

165. Iraq disclosed that it had concealed “the greater part of its operational missile force (85 ... missiles, over 130 warheads, both conventional and chemical, 8 operational launchers ...) and a significant amount of other proscribed items and materials”, which it had “unilaterally and secretly destroyed in late July 1991”. Iraq also claimed that the destruction “had not been fully documented or recorded”.

166. In June 1992, the JIC judged that Iraq retained a “potential BW agent production capability and has hidden BW weapons”.⁷⁰

167. UNSCOM subsequently reported that the decision to destroy proscribed weapons and equipment had been taken by a high-level committee, of which Iraq’s Deputy Prime Minister, Mr Tariq Aziz, was a member, to:

- “provide only a portion of their extant weapons stocks, with an emphasis on those which were least modern”;
- “retain production capability and the ‘know-how’ documentation necessary to revive programmes when possible”;
- “conceal the full extent of chemical weapons programmes, including its VX project, and retain production equipment and raw materials”;
- “conceal the number and type of BW and CW warheads for proscribed missiles”;
- “conceal indigenous long-range missile production, and retain production capabilities, specifically with respect to guidance systems and missile engines”; and
- “conceal the very existence of its offensive biological weapons programmes and retain all production capabilities”.⁷¹

⁶⁸ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

⁶⁹ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

⁷⁰ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 48.

⁷¹ UN Security Council, ‘Letter dated 25 January 1999 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1999/94), Appendix IV.

168. Although there were doubts about whether Iraq had revealed the full extent of its activities, the JIC was more sanguine in September 1994 about the size and value of Iraq's chemical and biological agent stockpiles.

169. After 1992, UNSCOM "continued to have concerns that not all proscribed items had been disclosed".⁷²

170. In January 1993, there were two incidents involving Iraqi incursions into the demilitarised zone between Iraq and Kuwait. On 8 and 11 January, two Presidential Statements were issued, declaring that Iraq's actions constituted unacceptable and material breaches of relevant provisions of resolution 687.⁷³ Again, Iraq was warned that "serious consequences" would flow from such continued defiance. The status and legal significance of Presidential Statements is addressed in Section 5.

171. On 13, 17 and 18 January, the US, UK and France carried out air and missile strikes against Iraqi targets. Mr Ralph Zacklin, Assistant Secretary-General for Legal Affairs at the United Nations from 1998 to 2005, subsequently wrote:

"The legitimacy of this limited resumption of the use of force was borne out by the fact that there was a marked absence of protest on the part of Member States even when the air strikes continued for a third wave. By issuing repeated warnings to Iraq in the form of Presidential Statements which conveyed the sense of the Security Council as a collective organ, the Council had clearly signified its agreement to the course of action which had been taken."⁷⁴

172. In April, an Iraqi plot to assassinate former US President George HW Bush during a visit to Kuwait was foiled. On 26 June, his successor, President Bill Clinton, responded with a cruise missile attack against the headquarters of the Iraqi Intelligence Services in Baghdad.

⁷² UN Security Council, 11 October 1996, 'Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1996/848).

⁷³ Statement by the President of the Security Council concerning United Nations flights in Iraqi territory, Document S/25081 of 8 January 1993; Statement by the President of the Security Council concerning various actions by Iraq *vis a vis* UNIKOM [United Nations Iraq-Kuwait Observation Mission] and UNSCOM, Document S/25091 of 11 January 1993.

⁷⁴ Zacklin R. *The United Nations Secretariat and the Use of Force in a Unipolar World: Power v. Principle*. Cambridge University Press, 2010.

173. On 25 August, the JIC stated:

“Iraq has admitted to the UN that it conducted research into BW agents from 1986 to 1990, but claims never to have produced agent in quantity nor to have possessed biological weapons. We have information that this claim is untrue and assess that Iraq produced BW weapons containing anthrax and plague ... Stocks of agents and weapons have probably been hidden, together with key items of equipment.”⁷⁵

174. Commenting on the judgement that Iraq had produced plague, the Butler Report recorded that, after the Gulf Conflict, two further sources had provided “some apparently corroborative intelligence” that Iraq had produced plague. There were some inconsistencies between the knowledge of one of those sources and the source who had provided information in November 1990, which “could have led to questioning of their access”.

175. By November, there was renewed progress when Iraq accepted resolution 715, and permitted the deployment of OMV systems to ensure former weapons sites were not reactivated.

176. By May 1994, UNSCOM had supervised the destruction of “480,000 litres of live chemical agent, 28,000 chemical munitions and approximately 1.8 million litres, and over 1 million kilograms of some 45 different precursor chemicals”.⁷⁶

177. A JIC Assessment of 8 September noted that it did “not believe the full extent of the CW programme” had been revealed:

“Although UNSCOM has destroyed the large declared stocks of CW agents, precursors and weapons, Iraq may have retained a secret stockpile but we have no direct evidence. Hidden stockpiles are probably unnecessary as the Iraqi civil chemical industry can produce all the precursors needed to make mustard agent and most of those for nerve agents.”⁷⁷

178. In OP22 of resolution 687, the Security Council had decided that, upon approval by the Security Council of the programme called for in OP19 (which would establish a fund to pay compensation for damage caused by Iraq’s invasion and occupation of Kuwait) and “Council agreement that Iraq has completed all actions contemplated” in OPs 8-13, the sanctions imposed by resolution 661 should “have no further force or effect”.

179. In response to Iraq’s deployment of forces into southern Iraq, the Security Council adopted resolution 949 (1994) on 15 October 1994, which condemned “deployments

⁷⁵ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 134.

⁷⁶ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

⁷⁷ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, pages 46-47.

by Iraq in the direction of the border with Kuwait”.⁷⁸ It included a demand that Iraq “co-operate fully with the United Nations Special Commission”.

180. In autumn 1994, UNSCOM conducted a thorough review of Iraq’s biological weapons programme, including “an attempt to create a material balance of equipment and ... growth media acquired by Iraq”.⁷⁹ The review “reinforced the suspicion that the Al Hakam factory was a biological warfare agent production facility and that other sites were also involved in the biological weapons programme”.

181. Inspections and interviews had:

“... enabled the Commission to arrive at a firm assessment that Iraq’s declarations in the biological area at that time were fundamentally wrong and misleading as it was attempting to hide a full-scale biological warfare programme, including weaponization. The Commission came to the unequivocal conclusion that Iraq had in fact produced biological weapons, that its biological programme was offensive in nature, that Al Hakam had been constructed as a dedicated biological warfare agent research and production facility and had been operational before January 1991, and that additional sites, including al-Muthanna, a known chemical weapons establishment were involved in the programme.”

182. UNSCOM “confronted” Iraq with its assessments in February 1995.

183. Iraq admitted in December that it received proscribed SCUD missile gyroscope components in 1991 and a shipment of proscribed advanced missile gyroscopes was intercepted in 1995.⁸⁰

184. Mr Haass wrote in his memoir that, during the Clinton Administration, there was:

“... a range of efforts that sought to promote regime change, something that got the CIA and the Clinton administration enmeshed in a disastrous attempt to oust Saddam Hussein by covert means. The coup was uncovered and crushed in March 1995. There was as well a parallel overt initiative to strengthen the Iraqi opposition that lived outside Iraq ...”⁸¹

185. In April 1995, the Security Council was advised that the Special Commission assessed that Iraq had “obtained or sought to obtain all the items and materials required to produce biological warfare agents in Iraq”. Given Iraq’s failure to account for those

⁷⁸ UN Security Council resolution 949 (1994).

⁷⁹ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

⁸⁰ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

⁸¹ Haass RN. *War of Necessity War of Choice: A Memoir of two Iraqi Wars*. Simon & Schuster, 2009.

items, the only conclusion was that there was “a high risk that they had been purchased and in part used for proscribed activities”.⁸²

186. Mr Ekéus told the Inquiry that he was able to make that report as a result of the work of UNSCOM scientists, including Dr David Kelly.⁸³

187. On 1 July 1995, as part of a further “full, final, and complete disclosure (FFCD)” of its capabilities, Iraq admitted for the first time to the production of bulk biological agent, but not to its weaponisation.⁸⁴

188. In July 1995, dual-use items were rendered harmless or destroyed, “under strong protest from Iraq”. In November 1995, Iraq acknowledged that the items had been specifically procured for and used in proscribed activities.⁸⁵

189. Mr Ekéus told the Inquiry that, in 1995, Mr Aziz had asked him to approach Mr Tony Lake, US National Security Advisor, to offer, on Mr Aziz’s behalf, “high quality information about activity and planning inside terrorist networks” in exchange for an accommodating attitude on the easing of sanctions against Iraq.⁸⁶ Mr Lake declined.

The defection of Lieutenant General Hussein Kamil

190. On 8 August 1995, Saddam Hussein’s son-in-law, Lieutenant General Hussein Kamil, the former Minister of Industry and Head of Iraq’s Military Industrialisation Corporation defected to Jordan. He had been responsible for the development and manufacture of Iraq’s proscribed weapons programmes.

191. Lt Gen Kamil met Mr Ekéus and two other officials from the IAEA and UNSCOM and an interpreter in Amman.⁸⁷ Lt Gen Kamil said that, after inspections had started, Iraq had destroyed its biological weapons and he himself had ordered the destruction of Iraq’s chemical weapons. In addition, all Iraq’s SCUD missiles and their components had been destroyed, although two launchers had been dismantled and hidden. Lt Gen Kamil also referred to a nuclear project that inspectors were not aware of, at the Sodash site, where equipment had been buried.

192. Mr Tim Dowse, Chief of the Assessments Staff from 2003 to 2009, told the Inquiry that Lt Gen Kamil had claimed that:

⁸² UN Security Council, 10 April 1995, ‘Report of the Secretary-General on the status of the implementation of the Special Commission’s plan for the ongoing monitoring and verification of Iraq’s compliance with relevant parts of section C of Security Council resolution 687 (1991)’ (S/1995/284).

⁸³ Statement Ekéus, 23 April 2011, page 3.

⁸⁴ UN Security Council, ‘Letter dated 25 January 1999 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1999/94), Annex C.

⁸⁵ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

⁸⁶ Statement Ekéus, 23 April 2011, page 6.

⁸⁷ Note Smidovich, [undated], ‘Note for the File’.

“CW had been destroyed immediately after the war. But there was some doubt about whether he was in a position to know that in the same way that he was in a position to know about the biological programme.

“He also exposed an organised Iraqi campaign of deception directed from the top – so I think in many ways what he revealed to us very much coloured our approach thereafter.”⁸⁸

193. In the aftermath of Lt Gen Kamil’s departure, Iraq admitted that its disclosures had been “deliberately misleading” and released a large amount of information which had both “confirmed” many of UNSCOM’s earlier observations and “brought to light earlier unknown documents of significance”.⁸⁹ It included “new information related to Iraq’s attempts to acquire advanced chemical and biological weapons capabilities, as well as long-range missile systems with ranges of up to and over 2,000 kilometres”.

194. Iraq’s disclosures “represented a great step forward in the work of the Commission” and expedited the inspection process.⁹⁰ In December 1995, Mr Ekéus reported to the Security Council that Iraq had recently submitted new declarations, containing “full, final and complete disclosures” in relation to its chemical, biological and missile programmes, which still did not meet UNSCOM’s requirements.

195. During a visit by Mr Ekéus to Baghdad, the Iraq delegation had also supplied a “personal diary” relating to the destruction of chemical and biological bombs, which had been provided by a junior military engineer, but “the Commission was convinced that certain of the most important documentation had not yet been handed over”.

196. UNSCOM concluded that the documents disclosed by Iraq in August 1995 showed that Iraq’s chemical weapons programme was more developed and wider in scope than had previously been admitted.⁹¹ Iraq had “used chemical weapons facilities to support other weapons of mass destruction programmes”, including “production of casings for radiological bombs, activities for the uranium chemical enrichment process and major support for the biological weapons programme”. They had also provided evidence of “much greater foreign involvement in Iraq’s chemical weapons programme”. Production records had been provided for only seven months in 1988, not for all production including “the most important phase after 1988 when Iraq conducted research and development, *inter alia*, on more advanced chemical weapons agents and delivery systems”.

⁸⁸ Public hearing, 25 November 2009, page 45.

⁸⁹ UN Security Council, 11 April 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/258).

⁹⁰ UN Security Council, 17 December 1995, ‘Tenth Report of the Executive Chairman of the Special Commissions established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1995/1038).

⁹¹ UN Security Council, 11 April 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/258).

197. In an Assessment issued on 24 August, the JIC reassessed Iraq’s capabilities in the light of the new information.⁹²

198. In relation to Iraq’s nuclear programme, the JIC noted that Iraq:

- “... admits that it previously concealed the full extent of its nuclear programme. It has revealed that in August 1990 it began a crash programme, later abandoned, to build a nuclear programme within a year”; and
- “... intended to use nuclear material held under IAEA safeguards in Iraq. The Iraqis claim the plan was abandoned because they concluded that the IAEA would detect their activities. In fact, they had insufficient fissile material to make a nuclear device. Hussein Kamil’s reported claim that, at the time of the Gulf Conflict, Iraq was only three months from completing a nuclear weapon probably refers to the ‘crash programme’. It is very unlikely to be true.”

199. In relation to ballistic missiles, the JIC recorded that:

“UNSCOM has verified destruction of the declared SCUDs (and the Iraqi derivatives) and their launchers and believes it has a satisfactory account of what happened to the rest. UNSCOM has also supervised destruction of components and much of the missile-related infrastructure ...”⁹³

200. The JIC noted, however, that Iraq would:

“... retain a technology and production base because UN SCR 687 allows it to develop and manufacture missiles with ranges less than 150 km. But intelligence reports that some current missile R&D [research and development] work is being hidden from UNSCOM inspectors. Iraq has now revealed that it developed ... SCUD-type missile motors. This re-introduces uncertainty into an area where UNSCOM had previously expressed itself to be satisfied.”

201. In relation to chemical weapons, the JIC concluded that it was “unlikely” that Iraq had “a covert stockpile of [chemical] weapons or agent in any significant quantity; Hussein Kamil claims that there are no remaining stockpiles of agent”.⁹⁴

⁹² *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 45.

⁹³ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 51.

⁹⁴ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 47.

202. The JIC added that Iraq:

“... could begin to make chemical weapons within a matter of weeks, and produce significant quantities within months, if UN constraints were removed.”

203. In relation to biological weapons, the JIC noted:

“We have convincing intelligence of a BW programme which started in the 1970s and strong indications that it produced and weaponised anthrax, botulinum toxin, and probably plague. With the exception of plague, Iraq previously admitted doing research on these and other agents but steadfastly denied the work was for an offensive programme. UNSCOM, although suspicious, could find no clear evidence to the contrary ... [I]n August 1995 Iraq admitted to a major BW programme under which it had produced huge quantities of anthrax and botulinum toxin, but implausibly denied it had ever considered weaponisation ... In the last few days Iraq has admitted to UNSCOM that agent was produced at additional sites, field-testing of weapons took place in 1989, and that bombs and missile warheads were filled with anthrax and botulinum toxin in December 1990 ... Many questions remain on the BW programme; Iraq has not, for example admitted any work on plague.”⁹⁵

204. After Lt Gen Kamil’s defection, concerns began to grow that Iraq had a systematic programme of concealment.

205. UNSCOM reported that Iraq’s FFCD on ballistic missiles in November 1995 did not appear to constitute a firm basis for establishing a definite and verifiable material balance for proscribed weapons and activities.⁹⁶

206. From early 1996, UNSCOM undertook a series of inspections specifically targeting sites it “believed to be associated with concealment activities” in response to Iraq’s assertion that “there was no systematic mechanism for concealment”.⁹⁷

207. While Iraq complied with its obligations in respect of most inspections, UNSCOM reported encountering difficulties and delays on five occasions in March 1996 when it requested no-notice inspections of sites related to Iraq’s missile programmes, and that Iraq had also imposed restrictions on aerial surveillance.⁹⁸

⁹⁵ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 134.

⁹⁶ UN Security Council, 17 December 1995, ‘Tenth report of the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991), and paragraph 3 of resolution 699 (1991) on the activities of the Special Commission’ (S/1995/1038).

⁹⁷ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

⁹⁸ UN Security Council, 11 April 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/258).

208. In a letter to the President of the Security Council on 17 March 1996, Mr Aziz stated that the problems related to the special nature of the sites and that the delays were “no longer than the time necessitated by ... practical factors”.⁹⁹ Mr Aziz cited the agreement in July 1993, in response to Iraq’s concerns in respect of its sovereignty, internal security and the dignity of the people and State of Iraq, that UNSCOM and the IAEA intention was to implement their plans “in the least intrusive manner consistent with effective monitoring and verification in the circumstances prevailing, with all due regard to the legitimate concerns of Iraq ... in accordance with the Charter of the United Nations”. In addition, two of the requests, on 8 and 15 March, had been made on a Friday. Appropriate arrangements had been made for the inspections to proceed, including on two occasions after telephone conversations with Mr Ekéus.

209. Mr Aziz also stated that the allegations that equipment could have been removed and some documents burnt were “not realistic” given the presence of “more than 50 inspectors with 16 vehicles” surrounding the sites, helicopter surveillance and the subsequent inspections.

210. Mr Aziz reaffirmed that Iraq had “no intention of impeding” UNSCOM’s tasks. “On the contrary”, it was “keen” to continue to work with UNSCOM to fulfil its tasks “as soon as possible”. But Iraq expected UNSCOM, in discharging its duties, “to adhere” to its “undertakings towards Iraq by respecting its sovereignty, dignity and national security”.

211. Mr Aziz also wrote that he expected the Security Council “to deal with this issue in an objective manner which would balance Iraq’s obligations towards the Security Council and the Council’s obligations towards Iraq in accordance with the principles of the United Nations Charter and the provisions of the relevant resolutions of the Council”.

212. The incidents in which UNSCOM inspection teams were denied immediate and unconditional access to sites prompted a statement by the President of the Security Council that “Iraq’s delays in permitting the inspection team recently in Iraq access to the sites concerned constitute clear violations by Iraq of the provisions of resolutions 687 (1991), 707 (1991) and 715 (1991)”.

213. On 27 March 1996, as part of developing the OMV system, the Security Council adopted resolution 1051 (1996), which implemented a mechanism for monitoring sales or supplies of items “relevant to the implementation of Section C of resolution 687 (1991) and other relevant resolutions”.¹⁰⁰

214. To replace the previous reporting systems, the resolution also consolidated the progress reports on UNSCOM and the IAEA’s activities into reports every six months from the UN on all aspects of its work.

⁹⁹ UN Security Council, 18 March 1998, ‘Letter dated 17 March 1996 from the Deputy Prime Minister of the Republic of Iraq addressed to the President of the Security Council’ (S/1996/204).

¹⁰⁰ UN Security Council resolution 1051 (1996).

215. The first consolidated report to the Security Council, in April, recorded that both the volume and quality of information being provided by Iraq had diminished since February, and found that:

“In all areas for which the Commission has responsibility, Iraq has yet to provide sufficient evidence that it does not still possess proscribed weapons or materials related to them. The Commission’s concerns stem particularly from the difficulties encountered in substantiating Iraq’s claims that, in 1991, in flagrant violation of its obligations under resolution 687 (1991) it secretly destroyed large quantities of these prohibited weapons and materials instead of declaring and handing them over for the Commission’s verification.”¹⁰¹

216. The report stated that “large quantities” of prohibited items had been “successfully eliminated”, but “relatively minor, but highly significant, quantities” of proscribed items remained “unaccounted for”.

217. On the basis of new documents and draft disclosures provided by Iraq, UNSCOM concluded that there had been “considerable progress” in some areas since December 1995. Iraq had disclosed information of great significance, especially documents which it earlier said had been destroyed. There were, however, “significant deficiencies and gaps”.

218. In relation to Iraq’s ballistic missile programme, Iraq had submitted a revised draft declaration on 27 February 1996 which contained significant new information, including confirmation that equipment UNSCOM had decided should be disposed of in April 1995 had been for a major project (Project 1728) for the development and production of liquid propellant engines for long-range missiles.

219. Iraq had also admitted that it had “carried out an undeclared programme to modify a Volga/SA2 surface-to-air missile system to a surface-to-surface application with a range of over 100 kilometres”, including “flight tests and prototype production of some components”, which should have been declared. As a result, an extensive programme to monitor Iraq’s Volga missiles was required.

220. UNSCOM remained concerned about Iraq’s undeclared procurement of prohibited and dual-use items.

221. In January 1996, UNSCOM had investigated the recent delivery of “a large number of sophisticated guidance and control components” which it assessed were “used in missiles with ranges over thousands of kilometres”. Iraq had denied acquiring the items but following official investigations it had confirmed that “its authorities and missile

¹⁰¹ UN Security Council, 11 April 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/258).

facilities had been involved ... through a specific middleman” and some components had been delivered in July 1995. Other components had been stored in transit in Jordan. A Director General of an Iraqi missile facility stated that he had destroyed the components received in August 1995 and informed the Iraqi authorities of the receipt of proscribed items in August and October. There were still “contradictions and ambiguities” about what had happened, but Iraq was reluctant to broaden the investigation.

222. There were suspicions that items still existed and Iraq was withholding important documents. Although no proscribed items had been found, Iraq’s actions in March meant that UNSCOM’s confidence had been diminished.

223. Iraq had provided a new draft disclosure in relation to chemical weapons in February 1996. This was an improvement in some areas, but there were important gaps. These included:

- the “level of expertise achieved in research and development activities ... large-scale production techniques, weaponisation and delivery systems”;
- the absence of disclosures on precursor production capabilities and dual-use equipment within the civilian chemical industry; and
- Iraq’s activities in relation to “V class” agents.

224. In the new draft disclosure the quantities of precursor chemicals and agents and munitions produced, procured and destroyed had been changed but the source of the new information was not clear. UNSCOM’s “strong presumption” was that it was based on information which Iraq had not disclosed.

225. Specifically, there were changes in the figures for the production and weaponisation of VX:

- “Initially Iraq stated that only laboratory scale synthesis had been undertaken.”
- In March 1995, Iraq had admitted “production of 260 kilograms and weaponisation of the agent in three aerial bombs”.
- In November 1995, Iraq had declared that it had produced “3.3 tonnes”.
- In the February disclosure, the figure for production had “increased by a further 20 per cent”.
- Iraq had not produced evidence to substantiate its statement that the “precursors for the large-scale production of VX” had been destroyed.

226. Iraq had assisted in excavations of buildings at al-Muthanna, Iraq’s largest chemical weapons research and production facility, which were destroyed in February 1991. Records and “some 80 munitions and components” had been recovered, including “122 millimetre artillery chemical warheads and 155 millimetre ‘binary’ artillery shells”.

227. There had been “serious deficiencies” in the draft disclosure on biological weapons submitted in November 1995 but Iraq had produced new documents and disclosures during discussions in January 1996, including:

- Al Hakam had been intended to be a “specialised filling facility for biological warfare munitions”.
- R-400 bombs for biological warfare purposes were assembled there.
- Clarification of several issues including “those related to destruction of some types of biological warfare munitions”.
- A “serious attempt” had been made to “resolve the fundamental issue of the filling and ... destruction of biological warfare warheads for missiles”; but it had not been possible to do so because “Iraq’s statements did not conform to documentation available” to UNSCOM.

228. Discussions in February had been less productive. Changes were introduced “without any documentary support or convincing explanations”. The view of the UNSCOM team involved was that their Iraqi counterparts “tended to change production data to accommodate newly discovered facts”.

229. UNSCOM wanted “a substantiated material balance ... from production to destruction”, but the draft disclosure submitted in March did not match UNSCOM’s findings. Unless Iraq could rectify that “in a convincing manner” in its formal declaration, it would “cause great problems”.

230. Iraq had accepted an UNSCOM request to cease all activity at two sites identified with the production of BW agents and assisted in establishing appropriate deactivation and surveillance measures.

231. Iraq had provided a report on a radiological weapons project by the Military Industrial Corporation and Iraq’s Atomic Energy Commission between August and December 1987, “to combine the effectiveness of conventional aerial munitions with the spreading of radioactive materials”. Four prototypes had been constructed. The report had concluded that Iraq “had the capability to manufacture a bomb containing irradiated materials”, but the Iraqi Air Force suggested that there should be a study to consider reducing the weight of the bomb.

232. Iraq’s declaration stated that:

- The project had been abandoned and no order to produce radiological weapons was given.
- 100 empty casings for a smaller calibre bomb had been produced.
- 75 of the casings had been sent to the Al-Qa-Qa State Establishment, but their fate was not addressed.
- 25 of those casings which remained at al-Muthanna were unilaterally destroyed in the summer of 1991.

233. UNSCOM hoped that the diminution in the quality of information and the quantity of documents provided since mid-February, and the difficulties with inspections in March, “did not indicate a return to the non-co-operative attitude demonstrated by Iraq prior to the summer of 1995”.

234. Iraq’s biological weapons facilities, and growth media it had purchased, were destroyed under UNSCOM supervision in May and June 1996.¹⁰²

235. In May 1996, Iraq admitted that the documents handed over on 20 August 1995 “constituted only a portion” of the documentation which had been concealed; the rest had “been burnt just a few days” earlier, “at another farm west of Baghdad”.¹⁰³

236. In May, UNSCOM sent a team to Iraq to conduct interviews with Iraqi officials believed to be involved in concealment activities.¹⁰⁴ Iraq “abruptly” terminated its co-operation with the inspectors, and claimed that Lt Gen Kamil had been entirely responsible for the concealment programme, a claim which was retracted in August.

237. A JIC Assessment on 12 June 1996 reflected the concerns about Iraq’s concealment activities.¹⁰⁵

238. In relation to ballistic missiles, the JIC stated:

“Information obtained in the wake of the ... defection has, however, led UNSCOM to judge that missile components, launchers and possibly complete SCUD missiles remain hidden. We doubt whether there are any concealed missiles in Iraq but it is likely that components remain.”

239. The JIC also assessed that:

“If all UN controls were to be removed and Iraq could purchase the technology and expertise required ... an accurate 1,000km range missile could probably be produced within three to five years. A 300–500km range SCUD type missile could be indigenously manufactured within two years.”

¹⁰² UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

¹⁰³ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

¹⁰⁴ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

¹⁰⁵ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 51.

240. In relation to Iraq’s biological warfare programme, the JIC noted:

“We do not believe Iraqi statements that the BW programme has been destroyed. Possibly substantial elements, including some production equipment and weaponised agent, continue to be concealed.”¹⁰⁶

241. The JIC also stated:

“Iraq has not yet admitted to work on plague and has played down its success in developing BW aerosol delivery systems.”¹⁰⁷

242. In relation to chemical warfare, the JIC stated that it doubted whether “all agents, munitions, precursor chemicals and equipment have been accounted for”.¹⁰⁸

243. The Butler Report stated that its authors had been informed that the reason for the change in the JIC’s view on Iraq’s biological warfare programme, “in the apparent absence of underpinning reliable intelligence”, was:

“... the impact of ... Kamil’s defection, UNSCOM’s inability to reconcile Iraqi claims for production and destruction, unaccounted-for growth media and a total lack of co-operation from the Iraqis.”¹⁰⁹

Events leading to the withdrawal of UNSCOM

244. Following a series of incidents in which the inspectors were denied access, resolution 1060 (1996), adopted on 12 June 1996, deplored Iraq’s refusal to allow UNSCOM access to sites designated for inspections and demanded “immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation” that UNSCOM wished to inspect.¹¹⁰

245. After talks in Baghdad between Mr Ekéus and Mr Aziz, a joint programme of action was agreed on 22 June.¹¹¹ It included Iraq’s intention to submit “official declarations containing full final and complete disclosures on its proscribed programmes in the non-nuclear areas” before the end of June.

246. In the joint statement issued after the agreement, Iraq “undertook to secure ... immediate, unconditional and unrestricted access to all sites which the Commission

¹⁰⁶ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 48.

¹⁰⁷ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 135.

¹⁰⁸ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 47.

¹⁰⁹ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 48.

¹¹⁰ UN Security Council resolution 1060 (1996).

¹¹¹ UN Security Council, 24 June 1996, ‘Letter dated 24 June 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1996/463).

or the IAEA may wish to inspect". UNSCOM undertook "to operate with full respect for the legitimate security concerns of Iraq". It stated that Iraq and UNSCOM had "agreed to intensify their work with the aim of making it possible for the Commission to report as soon as possible to the Security Council that Iraq has met its obligations under section C of resolution 687 (1991)".

247. Mr Ekéus also reported that he had told Mr Aziz that, without an agreement, "Iraq's isolation would have increased and there would have been the possibility of further actions being taken by the Council to obtain compliance with its resolutions", and that:

"Without the right to inspect any site at which the Commission had reason to believe that proscribed weapons or materials were present, the Commission's utility in achieving the Council's objectives would have been irreparably harmed."

248. The joint programme of action focused on Iraq's FFCDs of its activities and the means and techniques of verifying them.¹¹² As a priority and to accelerate verification, Iraq and UNSCOM agreed to concentrate on the fundamental areas of the:

- material balance of proscribed weapons and their major components;
- unilateral destruction of proscribed items;
- further provision of documentation;
- identification of measures used to retain proscribed items; and
- immediate, unconditional and unrestricted access".¹¹³

249. Mr Ekéus told the Inquiry:

"... in 1996 I developed, together with the Iraqi [deputy] prime minister Tariq Aziz, modalities for functioning access for inspectors, which guaranteed realization of inspections of what Iraq called sensitive sites (Presidential Palaces etc). The modalities implied some delay of access but without compromising control of the facility (entrance/exit and aerial helicopter surveillance). This was welcome[d] by all the Security Council members with the exception of the US/UK."¹¹⁴

250. Dr Blix wrote in 2004:

"The solution was not welcomed by the US and some other members of the Security Council, who felt that it introduced a limitation in the inspection rights that had been laid down by the Council. This was certainly how the Iraqis also saw the instruction."¹¹⁵

¹¹² UN Security Council, 11 October 1996, 'Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1996/848).

¹¹³ UN Security Council, 19 March 1996, 'Statement by the President of the Security Council' (S/PRST/1996/11).

¹¹⁴ Statement Ekéus, 23 April 2011, page 4.

¹¹⁵ Blix H. *Disarming Iraq*. Bloomsbury, 2004.

251. Dr Blix added that the problem was that “any concession in the implementation of a Security Council resolution was a step taken on a slippery slope”.

Tension in the Kurdish region

A dispute between the two main Kurdish parties, the Kurdish Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), became increasingly tense from May 1994.

In August 1996, the KDP, led by Mr Masoud Barzani, sought Saddam Hussein’s support to retake the city of Erbil from the PUK, led by Mr Jalal Talabani. Saddam Hussein sent thousands of troops and more than 300 tanks to attack the PUK in Erbil.

The conflict was eventually ended by the US-mediated “Washington Agreement” between the PUK and the KDP in September 1998. The two parties agreed to share revenues and power and to exclude Iraqi troops from the Kurdish region. The US pledged to protect the Kurds from aggression by Saddam Hussein.

252. The President of the Security Council issued a statement on 23 August 1996 reinforcing the importance of Iraq’s co-operation with UNSCOM and that it should be given immediate, unconditional and unrestricted access to facilities and individuals to allow it fully to discharge its mandate and stating that:

- The Council remained “gravely concerned” by Iraq’s failure to comply fully with its obligations.
- Iraq’s repeated denial of access to sites and attempts made to impose conditions on interviews were a “gross violation of its obligations” as well as a contradiction of its commitments in the joint statement of 22 June.¹¹⁶

253. On 3 September, Mr Ekéus reported that, during discussions in Baghdad on 26 to 28 August, Mr Aziz had stated that Iraq “was abiding and would continue to abide sincerely and effectively” by the June agreements.¹¹⁷

254. Mr Ekéus had stressed that concerns relating to concealment of proscribed items remained a prime objective for UNSCOM. Mr Aziz made a formal statement to the effect that Iraq did not conceal proscribed weapons, components or documents and asked UNSCOM to refrain from conducting further on-site inspections and interviews on that issue. Mr Ekéus said they must continue.

255. Iraq also stated that it would not accept any new extension or enlargement of UNSCOM’s rights and privileges and on several occasions “attempted to dictate how and to what extent” those rights should be exercised.

¹¹⁶ UN Security Council, 23 August 1996, ‘Statement by the President of the Security Council’ (S/PRST/1996/36).

¹¹⁷ UN Security Council, 3 September 1996, ‘Letter dated 3 September 1996 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1996/714).

256. Mr Ekéus concluded that the visit had been useful, clarifying the respective positions of Iraq and UNSCOM and narrowing certain differences. UNSCOM would continue vigorously to pursue verification of Iraq’s disclosures. He hoped that a repeat of Iraq’s actions over the last few months could be avoided, but that it required “full and unreserved co-operation from the Government of Iraq and a genuine policy ... to carry out its obligations”.

257. In the subsequent press briefing, Mr Ekéus stated that he felt there was “a certain commitment” although UNSCOM suspected “an active policy of concealment”. Its task was to find and destroy prohibited items and to ensure that no new ones were produced but it would now have to “wait until the situation had become a bit more settled”.¹¹⁸

258. Following a meeting with UNSCOM in September 1996, Iraq admitted in a letter of 3 October that production tools and components for ballistic missiles had been collected and concealed in July 1991, but they had been destroyed in March 1992.¹¹⁹ Iraq had also declared that three missiles which had been retained in July 1991 were not destroyed until October that year.

259. In his report of 11 October 1996, the UN Secretary-General wrote:

“The results of the Commission’s investigations, starting with UNSCOM 143 in March 1996 and continuing through August, clearly show that there was an organized mechanism of concealment used by Iraq to deny access to proscribed documents and material retained since the adoption of resolution 687 (1991). Throughout this investigation Iraq has sought to deflect or minimize the involvement of its special security services in concealment activities. It has acknowledged that officially sanctioned false statements had been made to mislead the Commission in its investigations. It has resorted to delays and denials of access ... Despite this behaviour the Commission has accumulated information which reinforces its assessment that the concealment mechanism has been established for the purpose of hiding and protecting proscribed material.”¹²⁰

260. UNSCOM had:

“... succeeded in uncovering the existence of Iraq’s biological programme and believes it has destroyed its major facilities. However, it needs to continue to investigate the scope and extent of the programme to arrive at a complete picture of it.”

¹¹⁸ UN Security Council, 4 September 1996, ‘Press Briefing by Executive Chairman of Special Commission’ (19960904).

¹¹⁹ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

¹²⁰ UN Security Council, 11 October 1996, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1996/848).

261. The report said that Iraq's sixth version of an FFCD on its biological warfare programme, produced on 22 June 1996, was "not credible". "Major sections" were "incomplete, inaccurate or unsubstantiated", and the lack of documentation was "difficult to accept".

262. UNSCOM had "evidence that chemical warfare agents and munitions were produced in 1989" although Iraq had "consistently denied this"; and that it believed that "production of different types of chemical weapons was also carried out in the first half of 1990".

263. Iraq's FFCD on ballistic missiles, submitted on 2 July 1996, had reported the previously undisclosed acquisition of important proscribed missile components, but UNSCOM's view was that Iraq had "still ... not fully accounted for all proscribed weapons".

264. UNSCOM also had:

"... concerns related to undeclared facilities where equipment ... was evacuated before January 1991 and the unilateral destruction conducted secretly by Iraq in the summer of 1991, when, among other items, chemical warheads for Al Hussein missiles and nerve agent VX precursors were allegedly destroyed."

265. The report concluded by stating that the requirement for full, final and complete disclosures had "not been fully met". It had "a good understanding" of Iraq's programme "to create a massive number of tactical chemical weapons" before August 1988. But details of two later phases, to integrate the "programme into Iraq's chemical industry and production of more stable and storable chemical agents" and "the design and production of strategic chemical weapons", had not been disclosed. An understanding of those two phases was "absolutely necessary" before UNSCOM could complete its task and verify that nothing remained.

266. In January 1997, Mr Kofi Annan became the UN Secretary-General.

267. In his memoir, written in 2012, Mr Annan wrote that, in the six years after the end of the Gulf Conflict in 1991, Iraq "became transformed from an example of the international community's acting lawfully in pursuit of the highest aims of the UN's founders to an albatross around the organisation's neck". The UN mandate had been only to "reverse the invasion of Kuwait, nothing more". But that:

"... left Saddam Hussein in power, the predatory leader of a brutal, tyrannical regime that demonstrated little evidence of intending to comply fully with the demands of the international community."¹²¹

¹²¹ Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

268. Mr Annan added that his predecessor as Secretary-General had offered him only one piece of advice when he left office at the end of 1996:

“Watch out for the question of Iraq ... It will become very important.”

Dr Albright’s Georgetown speech

269. In a speech at Georgetown University on 26 March 1997, Dr Madeleine Albright, the new US Secretary of State, reaffirmed that US policy in Iraq was “part of a broad commitment to protect the security and territory of our friends and allies in the Gulf”.¹²²

270. Quoting President George HW Bush, Dr Albright stated that, as well as driving Iraq out of Kuwait, the US objective in launching Operation Desert Storm in 1991 had been to cause Iraq once again to “live as a peaceful and co-operative member of the family of nations”. Iraq’s leaders had, however, “continued to defy the will of the international community” and “from the outset”, chosen “denial, delay and deceit”. They had:

“... lied ... blocked inspections, concealed documents, falsified evidence and challenged UNSCOM’s clear and legitimate authority.”

271. Dr Albright added that, following the defection of Lt Gen Kamil, it had “appeared for a time, as if it would cause Iraq finally to accept the need for full disclosure”, but that had not been the case and Iraq’s “refusal to co-operate fully continued”. The US would be “unwavering”; it would “not allow Iraq to regain by stonewalling the Security Council what it forfeited by aggression on the battlefield”. An international consensus “that Iraq should not be allowed again to threaten international peace” had been sustained.

272. Dr Albright stated that Iraq’s military threat to its neighbours was “greatly diminished”, and, “As long as the apparatus of sanctions, enforcement, inspections and monitoring” was “in place”, Iraq would “remain trapped within a strategic box”. But she warned that it was “essential” that international resolve did not weaken:

“Containment has worked, but ... the future threat has not been erased. Iraq’s behaviour and intentions must change before our policies can change.”

273. Iraq had:

- “yet to provide convincing evidence that it has destroyed all” its chemical and biological weapons;
- “admitted loading many ... [chemical and biological] agents into missile warheads” before the Gulf Conflict;
- retained “more than 7,500 nuclear scientists and technicians, as well as technical documents related to the production of nuclear weapons”; and
- “been caught trying to smuggle in missile guidance instruments”.

¹²² Speech, 26 March 1997, ‘SecState Albright Policy Speech on Iraq, March 26’.

274. Dr Albright added that “according to Ambassador Ekéus”, UNSCOM had “not been able to account for all the missiles Iraq acquired over the years”. He believed it was “highly likely” that Iraq retained “an operational SCUD missile force, probably with chemical and biological weapons to go with it”.

275. Dr Albright stated that, if Iraq was “released from sanctions and scrutiny”, its “current government ... would pick up where it left off” in 1991. “For those reasons”, US policy would “not change”. The US did:

“... not agree with the nations who argue that if Iraq complies with its obligations concerning weapons of mass destruction, sanctions should be lifted. Our view, which is unshakeable, is that Iraq must prove its peaceful intentions. It can only do that by complying with all of the Security Council resolutions to which it is subject.”

276. Dr Albright added that the evidence was “overwhelming” that Saddam Hussein’s intentions would “never be peaceful”. The US looked forward “to the day when Iraq rejoins the family of nations as a responsible and law abiding member”, and “a change in Iraq’s government could lead to a change in US policy”. But until that day came, the US would “insist, with all the diplomatic tools at our command, that UN sanctions remain in place”, while doing what it “responsibly” could to “minimize the suffering of Iraqi citizens”.

277. Mr Ekéus told the Inquiry that, after Dr Albright’s speech:

“Tariq Aziz made it clear to me that from now on it would be close to impossible to convince the President of the value of co-operating with the UN inspectors. This move by the US was from our perspective destructive.”¹²³

UNSCOM activity

UNSCOM REPORT, APRIL 1997

278. The Security Council was told in April 1997 that there had been tangible results in some areas of UNSCOM’s activities but the capabilities which could not be accounted for could not be ignored.¹²⁴

279. The report of UNSCOM’s activities since 11 October 1996 stated that work over the last two years had “led to the unmasking” of:

- Iraq’s biological weapons programme;
- “highly sophisticated and advanced work on the extremely lethal chemical warfare nerve agent VX”; and

¹²³ Statement Ekéus, 23 April 2011, page 6.

¹²⁴ UN Security Council, 11 April 1997, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1997/301).

- the development and production of SCUD-type missile engines.

280. UNSCOM's achievements demonstrated that:

"... international weapons inspections under the auspices of the United Nations, if applied with first-rate expertise and modern technology, can achieve effective results."

281. But UNSCOM was continuing its work because it could not state that Iraq had "accounted for all weapons, components and capabilities proscribed" in resolution 687 for a number of reasons, including Iraq's unilateral programme of destruction in contravention of resolution 687 and its policy of concealment "aimed at deceiving the inspectors and at retaining limited but significant proscribed capabilities".

282. Because of the "inadequacies, incompleteness and lack of evidentiary documentation" in Iraq's FFCDs, UNSCOM had been unable credibly to verify Iraq's declarations. In an effort to expedite that process, Mr Ekéus and Mr Aziz had agreed to adopt an innovative process whereby UNSCOM presented its detailed findings and an assessment of the outstanding problems at the "political level" in Baghdad. This process had started by addressing missile issues in December 1996, followed by discussions on chemical weapons in February and April 1997 and biological weapons in April 1997.

283. The process had "led to a much clearer understanding" by Iraq's political leadership of the problems and what Iraq needed to do to resolve them. UNSCOM hoped that this would help to overcome the lack of progress on technical issues.

284. The report stated that:

- The new process constituted "a fruitful approach" if Iraq was "fully co-operative and transparent in its response to the Commission's initiatives and concerns".
- "Tangible results" had "already been achieved" on missiles and chemical weapons.
- Agreement for remnants of missiles unilaterally destroyed by Iraq to be removed and analysed outside Iraq had not been reached until late February, and the work would require "several weeks or months before it was completed".
- More documentation on Iraq's proscribed programmes should exist and had been formally requested.
- Iraq had stated that there was no policy to withhold information and when documents were discovered they were given to UNSCOM.
- There were difficulties on biological weapons. Iraq had been asked to reconsider its position and provide a new declaration; and after some discussion had agreed on 5 April to do so.

285. UNSCOM also reported that the completeness and accuracy of Iraq's declarations and a clear understanding of the scope and history of its proscribed programmes were essential for an effective monitoring programme.

286. Since October 1996, there had been “a pattern of efforts” by Iraq “to restrict the Commission’s monitoring activities” which had caused “serious problems”. UNSCOM hoped that commitments given by Mr Aziz to Mr Ekéus during their meeting in April would be “translated into action”.

287. There was “not much” that was unknown about Iraq’s “proscribed weapons capabilities”, but what was “unaccounted for” could not:

“... be neglected. Even a limited inventory of long-range missiles would be a source of deep concern if those missiles were fitted with warheads filled with the most deadly of chemical nerve agents, VX. If one single missile warhead were filled with the biological agent, Anthrax, many millions of lethal doses could be spread in an attack on any city in the region. With that in mind, the Special Commission has undertaken extraordinary efforts to bring to a satisfactory conclusion the full accounting of Iraq’s weapons of mass destruction and long-range missiles, in order to be able to make sure that all the proscribed items have been disposed of.”

288. UNSCOM concluded:

“A solid framework with tested procedures is in place. It is now time for Iraq to make full use of this and to provide the material and data to give substance to its stated commitment of full co-operation. The remaining problems ... cannot be solved through a technical process ... Their solution requires the major political decision by Iraq’s leadership to give up, once and for all, all capabilities and ambition to retain or acquire the proscribed weapons ...”

289. UNSCOM’s activities between October 1996 and April 1997 and the discrepancies between its findings and Iraq’s declarations were set out in detail in an Appendix to the report.¹²⁵ Its key points included:

- Iraq had still not provided a credible account of quantities and types of “special warheads” which had been produced for proscribed missiles, and UNSCOM had “evidence that Iraq has provided incorrect information”.
- Not all chemical bombs had been declared by Iraq.
- The “final disposition of the programme for the production of ... VX” remained “unresolved”. Iraq claimed that it had only carried out activities “on the laboratory/pilot plant scale”, and that it had destroyed “hundreds of tons of VX precursors in 1991”. UNSCOM had “evidence that Iraq obtained the technology” and retained “equipment for the large-scale production of VX”.
- In December 1996, UNSCOM had presented its concerns that “In an attempt to mislead the Commission, Iraq had tried to falsify evidence” of missile destruction.

¹²⁵ UN Security Council, 11 April 1997, ‘Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1997/301), ‘Appendix I Inspection activities and operational, administrative and other matters’.

- Four complete missile engines which had not been declared were found in early 1997.
- In March 1997, IAEA excavations at declared burial sites had unearthed an undeclared “highly expensive cache of ... valves” for use in uranium enrichment.

A CHANGE OF TACTICS

290. Mr Ekéus told the Inquiry that it had started to become clear in spring 1997 that it was:

“... a matter of months rather than years before UNSCOM/IAEA could report the accomplishment of the WMD disarmament and the monitoring functionality in place.”¹²⁶

291. In May 1997, Mr Blair became Prime Minister of the UK.

292. From the middle of 1997, Saddam Hussein adopted more sharply confrontational tactics, and the humanitarian situation continued to deteriorate, with the result that Iraq climbed back up the international agenda. The five Permanent Members of the UN Security Council (the “P5”), and the international community more widely, were divided in their response.

293. Following four incidents in early June 1997, there was an exchange of letters between UNSCOM and Iraq, including two letters on 5 June from Mr Aziz to Mr Ekéus.

294. In one letter, Mr Aziz stated that UNSCOM’s activities gave “rise to profound disquiet” and raised “serious questions” about UNSCOM’s commitment to “complete its mandate ... expeditiously and in an impartial and businesslike manner”.¹²⁷

295. In a second letter, Mr Aziz stated that UNSCOM was conducting inspections “on the pretext of alleged concealment” and fabricating “crises and tensions” to “provide a pretext for directing ... unfounded accusations against Iraq” and prolonging its duties.¹²⁸

296. In response, Mr Ekéus wrote to the President of the Security Council suggesting that the Council “might wish to remind Iraq of its obligations”.¹²⁹

297. A Presidential Statement issued on 13 June expressed “serious concern” about the incidents in which “Iraqi personnel unacceptably interfered with helicopter flights operating in support of inspection” of designated sites. The Security Council deplored

¹²⁶ Statement Ekéus, 23 April 2011, page 6.

¹²⁷ UN Security Council, 16 June 1997, ‘Letter dated 5 June 1997 from the Deputy Prime Minister of Iraq addressed to the Executive Chairman of the Special Commission Established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991)’ (S/1997/462).

¹²⁸ UN Security Council, 13 June 1997, ‘Letter dated 5 June 1997 from the Deputy Prime Minister of Iraq addressed to the Executive Chairman of the Special Commission Established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991)’ (S/1997/456).

¹²⁹ UN Security Council, 13 June 1997, ‘Letter dated 9 June 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1997/455).

the incidents, reminding Iraq of its obligations and its support for UNSCOM's efforts to implement its mandate.¹³⁰

298. Mr Ekéus wrote to the President of the Security Council again on 12 June to report Iraq's decision to deny UNSCOM access to three sites on 10 and 12 June.¹³¹

299. In a response on 15 June, Mr Aziz set out at length Iraq's "serious and real concerns relating to Special Commission inspection teams' access to sites" which were "important" to Iraq's "sovereignty or national security".¹³²

300. Mr Aziz stated that, following their agreement of 22 June 1996, he had agreed with Mr Ekéus in October that "joint work should concentrate on reviewing" the missile, chemical and biological files in turn, and "working to close them". UNSCOM had, however, "altered" that approach when it "began to carry out large-scale inspections, the likes of which had not been conducted for several years" in March 1997. The inspections were based "on the pretext of verifying alleged claims of the concealment of proscribed items and activities" from the "intelligence sources of some States which provide the Special Commission with such fabricated information". Those sources were "tendentious and inaccurate".

301. In addition, Mr Aziz wrote that Iraq had "serious concern" that the facilities available to UNSCOM were being used as "a cover to detect the arrangements made for the security of Iraq, its leadership and the personnel involved". Mr Aziz was particularly concerned about the activities of Colonel Scott Ritter, a UN inspector and serving member of the US Army.

302. Mr Aziz stressed that:

- Allegations concerning concealment of proscribed items were "false", and UNSCOM had "no concrete evidence to substantiate them".
- Iraq had "pointed out ... that limited operations of no practical value were carried out in 1991 by Hussein Kamil and a very small number of individuals".
- The "facts and information related to those operations" had been made available to UNSCOM, and it had interviewed the personnel involved and visited the sites of concealment "over a period of several months".
- Iraq suspected that the aim was "to keep matters in a state of flux, and justify the endless continuation of the embargo", which served "the well-known purposes of a certain State".

¹³⁰ UN Security Council, '3789th Meeting Friday 13 June 1997' (S/PV.3789).

¹³¹ UN Security Council, 19 June 1997, 'Letter dated 12 June 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council' (S/1997/474).

¹³² UN Security Council, 16 June 1997, 'Letter dated 16 June 1997 from Deputy Prime Minister of Iraq addressed to the President of the Security Council' (S/1997/465).

- The agreement that missiles should be analysed outside Iraq, in response to Mr Ekéus’s “allegations” in 1996 “that Iraq might retain an operational missile force”, had not provided any results.
- Iraq had allowed access to 40 of the 43 sites designated for inspection and its actions “cannot be interpreted as a decision by the Government of Iraq to prevent the Special Commission implementing its mandate”.
- Col Ritter’s aim in gaining access to designated sites was “to achieve other purposes, unrelated to the Special Commission’s mandate”.

RESOLUTION 1115 (1997)

303. On 21 June, the Security Council unanimously adopted resolution 1115 (1997), condemning Iraq’s actions and demanding its full co-operation. Although the resolution was adopted unanimously, there were clear differences between the positions of the US and UK, and China and Russia.

304. Acting under Chapter VII of the UN Charter, in resolution 1115 the Security Council condemned the “repeated refusal of the Iraqi authorities to allow access to sites designated by the Special Commission”, which constituted a “clear and flagrant violation” of the provisions of previous resolutions. The Council reiterated its the demands for Iraq to:

- “co-operate fully”;
- allow “immediate, unconditional and unrestricted access” for the inspectors; and
- “give immediate, unconditional and unrestricted access” to officials whom the Special Commission wished to interview.

305. The resolution requested the Chairman of UNSCOM to include “an annex evaluating Iraq’s compliance” with those requirements in his future reports to the Council.

306. The resolution expressed the Council’s “firm intention ... to impose additional measures” on the officials responsible if Iraq did not comply.

307. In a statement before the vote, Sir John Weston, the UK Permanent Representative to the UN in New York, stated that the Council was meeting “to respond to the latest in a series of incidents” in which the Iraqi authorities had “sought to impose conditions”, which he described as an “Iraqi campaign to prevent the Special Commission carrying out the mandate given to it by this Council” which was “obviously directed from the highest levels in Baghdad”.¹³³

308. Sir John added that it was “simply incredible for Iraq to claim that this campaign of concealment was the work of the late Hussein Kamil and a few associates”. It was “essential” that the “mechanism of deception and concealment” was:

¹³³ UN Security Council, ‘3792nd Meeting Saturday 21 June 1997’ (S/PV.3792).

“... fully exposed and brought to an end. Otherwise we cannot know whether caches of equipment, documents, facilities, or entire programmes still exist of which we are unaware and which will therefore not be subject to monitoring.”

309. Sir John concluded that Iraq had “repeatedly assured” the Council of its “commitment to furnishing full co-operation” but had “failed to translate these assurances into reality”. The draft resolution was a “reasonable, proportionate and focused” way to remind Iraq of its obligations.

310. Mr Nabil Elaraby, Egyptian Permanent Representative to the UN, made it clear that an earlier draft of the resolution had proposed “additional sanctions to be imposed on Iraq at a time when the regional Arab, African and Islamic organizations and those associated with the Non-Aligned Movement wish the Special Commission to end its mission so as to put an end to the suffering of the Iraqi people”.

311. Mr Edward Gnehm, US Deputy Permanent Representative to the UN, stated that, far from complying, Iraq had “expended its best efforts to thwart the will of the Council, particularly in the crucial area of weapons of mass destruction”. Since 1991, it had:

“... made every effort to conceal its true weapons capabilities, to destroy evidence of its programmes and supply routes and to lie about it to this Council. In the last two years, Iraqi efforts to interfere with the Special Commission ... have intensified ... UNSCOM inspectors have observed blatant efforts to remove documents and other evidence from sites while the inspectors themselves have been prevented from entering; and UNSCOM inspectors have been refused permission to interview knowledgeable individuals.”

312. Mr Gnehm added that Iraq had abrogated the modalities in the joint agreement and its “obstructionist actions were taken under orders from the highest authorities in Baghdad”. UNSCOM was facing its most serious threat since it was established and Iraq’s failure was “a serious threat to the region’s peace and security”. Mr Ekéus’s briefing to the Council had confirmed that there had been “no improvement” in Iraq’s “alarming policies” since his April report and Iraq had “responded with contempt” to the Council’s resolutions and statements.

313. Mr Gnehm stated:

“... the time for mere words is over. Iraq has shown us that it will never voluntarily comply with resolutions of the Council unless the Council acts firmly and decisively to enforce its will. That is why we have brought forward this resolution today, which will demonstrate conclusively to Iraq that its actions have serious consequences ...

“... We have chosen these particular steps because they are measured and targeted ...

“Similarly, the Council expresses its intent to impose new measures, targeted precisely at those parties most responsible for the continued concealment of

Iraq's weapons programmes, if Iraq ... fails to comply ... with the substance of the Commission's authority to conduct inspections and interviews without interference of any sort."

314. In a statement after the vote, Mr Qin Huasun, Chinese Permanent Representative to the UN, stated that Iraq had "basically maintained its co-operation" and that UNSCOM had "made great progress in discharging the mandate entrusted to it". He added: "Under these circumstances, we should consider gradually lifting sanctions against Iraq in order to alleviate its humanitarian difficulties."

315. Mr Sergei Lavrov, Russian Permanent Representative to the UN, emphasised the importance of the Security Council's consensus on a "balanced", not "one-sided" response which reflected "both the very core of the problem and the broad range of views of the members of the Security Council", and was "not based on the logic of punishment but forms part of the Council's main thrust: to conclude this disarmament issue as quickly as possible and to achieve a lasting post-conflict settlement in the Persian Gulf on the basis of resolution 687 (1991)".

MR RICHARD BUTLER SUCCEEDS MR ROLF EKÉUS

316. On 1 July, Mr Richard Butler, an Australian diplomat and former Permanent Representative to the UN, succeeded Mr Ekéus as the Executive Chairman of UNSCOM.¹³⁴

317. From mid-September 1997 there were further serious incidents in which UNSCOM access to designated sites was denied or delayed, and material was moved or destroyed, which were reported to the Security Council.

318. On 3 September, the JIC stated that Iraq had:

"... claimed, however, that it had terminated the [BW] programme and destroyed its arsenal before UN inspections began in 1991. These admissions, while assessed to be largely accurate, are incomplete. We assess that Iraq has withheld information on key elements of its programme: reliable intelligence has described work on plague and suspicions persist of work on other pox viruses."¹³⁵

319. Following a briefing to Security Council members from Mr Butler about two incidents the previous weekend, the President of the Security Council told the press on 17 September that the Council viewed Iraq's failure to co-operate and to apply the procedures agreed on 22 June "in the gravest terms", and called on Iraq to co-operate fully with UNSCOM.¹³⁶

¹³⁴ UN Security Council, 6 October 1997, 'Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1997/774).

¹³⁵ *Review of Intelligence on Weapons of Mass Destruction* ["The Butler Report"], 14 July 2004, HC 898, page 135.

¹³⁶ United Nations Daily Highlights, 17 September 2007.

320. Despite that statement, inspection teams were prevented from inspecting three sites between 27 September and 1 October.¹³⁷ Constraints had also been imposed on two occasions on UNSCOM flights inside Iraq.

321. Mr Butler's report to the Security Council of 6 October acknowledged that progress had been made in "substantive areas" of UNSCOM's mandate, "in particular with respect to accounting for Iraq's proscribed long-range missiles and the destruction of chemical weapons-related equipment and materials".¹³⁸

322. In addition, since April there had been more than 170 site inspections by visiting teams and more than 700 site inspections by resident monitoring teams. The majority had been conducted "without let or hindrance". The "atmosphere in which consultations with the Government of Iraq had been conducted" had "improved" and a number of problems had been resolved through direct contacts between Mr Butler and Mr Aziz.

323. A work programme had been agreed with Mr Aziz in late July.

324. In relation to ballistic missiles, the work programme "put special emphasis on achieving a solid and verifiable material balance". Mr Butler reported that:

- UNSCOM had been able to account for 817 of the 819 missiles imported by Iraq before 1988, including 83 of the 85 missiles which Iraq had claimed it had unilaterally destroyed.
- Inspections in August and September 1997 had accounted for 14 mobile missile launchers, but there were questions arising from Iraq's different accounts of what had happened to the launchers and its concealment of the fact that it had initially retained four launchers, which were not destroyed until October 1991.
- UNSCOM had not yet been able to account for proscribed missile warheads or propellants or the destruction of guidance components.
- In September 1997, Iraq had offered a new account of its concealment and destruction of components for indigenous production of missile engines and the means for their production, but had not provided any documentation to support that declaration.
- UNSCOM questioned Iraq's claims that it was not withholding any relevant documents.
- UNSCOM needed a full understanding of the considerations that had led to Iraq's retention of proscribed assets.

¹³⁷ UN Security Council, 6 October 1997, 'Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1997/774).

¹³⁸ UN Security Council, 6 October 1997, 'Report of the Secretary-General on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1997/774).

- Iraq had increased its declarations on the number of special warheads for the Al Hussein missile, filled with chemical or biological agents, several times. UNSCOM had established that the minimum number produced was 75, and that five additional warheads had been used for trials. It also “had evidence of the probable existence of a number of additional special warheads”.
- UNSCOM had been unable fully to confirm Iraq’s unilateral destruction of 45 of those warheads.
- Accounting for proscribed warheads would “greatly increase” UNSCOM’s ability to report with confidence that Iraq did not possess a proscribed missile force.
- More work was required to account for Iraq’s indigenous production of proscribed missile systems.

325. In relation to Iraq’s chemical weapons programmes, UNSCOM was “still investigating the veracity” of Iraq’s claims that it had unilaterally destroyed weapons and agents.

326. Iraq had not declared the removal and concealment of some production equipment from al-Muthanna until August 1997 and its plans required further clarification.

327. The “most important” outstanding issues were:

- “accounting for special missile warheads”;
- the “material balance of 155mm mustard shells”;
- the “extent of the VX programme”; and
- the rationale for the acquisition of various types of chemical weapons.

328. Iraq had declared in June 1996 that 550 artillery munitions filled with mustard agent had been destroyed during the 1991 Gulf Conflict but had not yet provided evidence of that destruction.

329. UNSCOM had been unable to verify the destruction of Iraq’s stocks of precursor chemicals for the production of VX. In addition, while Iraq had declared, after 1995, that the project had failed and no large-scale production had ever taken place, UNSCOM had “recently obtained further sufficient evidence” that Iraq had “succeeded in acquiring VX production capabilities”.

330. Important progress had been made, but Iraq would need to provide “much more and accurate material and related access ... relevant to the warheads and VX questions” before UNSCOM would be able to “report positively on disarmament”.

331. UNSCOM reported to the Security Council on 6 October that Iraq’s total production and holdings of CW agents could not be verified:

- “Over a period of seven years Iraq had provided three formal FFCD (full and final complete declarations) and about 20 sets of clarifications ...”

- Iraq's acquisition and expenditure of munitions before 1988 could not be verified because of the absence of sufficient evidence from Iraq and its former foreign suppliers of the procurement of precursor chemicals, production and weaponisation of CW agents.
- In trying to determine a material balance of the munitions which had existed in 1991, UNSCOM had been unable to account for some 16,000 unfilled munitions and 550 munitions filled with mustard, primarily because of Iraq's unilateral destruction programme.
- There was also a "material balance" of around 4,000 tons of key precursor chemicals.
- Almost all of Iraq's production equipment had been destroyed in the 1991 conflict or subsequently under UN supervision.

332. Iraq's biological weapons programme was, however, an area which was "unredeemed by progress or any approximation of the known facts of Iraq's programme". There was "incomprehension" about Iraq's persistence in "refusing to make the facts known" and why it was "so insistent on blocking the Commission's own efforts to reach those facts".

333. A panel of experts drawn from 13 Member States of the Security Council had unanimously concluded that Iraq's latest FFCD was "not acceptable". The declaration was "incomplete", had "significant inaccuracies", and the outstanding problems with all aspects of proscribed activity were "numerous and grave". There were no insights into the decisions to commence the biological weapons programme, or to conceal it between 1991 and 1995.

334. In September, Mr Butler and Mr Aziz had agreed that the new FFCD on biological weapons, and all other FFCDs in UNSCOM's possession, should be regarded as final; and that the Commission would not further assist Iraq in the formulation of its account.

335. The report also stated that:

- Much greater resources could be required in the future to monitor and verify dual-capable facilities and the export and import of dual-capable items.
- The monitoring system could not be comprehensive until the Security Council had been "able to conclude that Iraq's prohibited programmes have been destroyed, removed or rendered harmless" and the "full extent" of Iraq's prohibited programmes was known.
- The Iraqi Government's stated willingness to comply fully with the requirements for monitoring had "not always been reflected, in practice, on the ground". While the number of incidents of concealment, deception and interference with the inspections process were "relatively small", they served to "reduce confidence in Iraq's commitment to the system".
- There was still "considerable uncertainty" about Iraq's retention of prohibited material and concealment systems.

- UNSCOM's view was that, "were it to have full access to all relevant sites and persons in Iraq", it was "highly likely that proscribed items would be discovered"; and that "Iraq's actions to impede or block the Commission's concealment investigations" tended to "affirm this view".
- Iraq had "increasingly failed to apply or behave in conformity with the modalities [agreed on 22 June]" and, "in more recent times", had "sought both to exclude them altogether with respect to certain sites and to define new categories of often very large sites from which the Commission inspectors would be forbidden".

336. The report concluded that UNSCOM was "convinced" that:

- The Security Council should "insist that Iraq meet its obligation to disclose fully all of its prohibited weapons and associated programmes". This was a "crucial requirement" for which there was "no substitute".
- It was "essential" for the Council to "reaffirm and demand Iraq's complete co-operation" with UNSCOM's exercise of "its rights to full access to sites and persons".

337. In a letter on 12 October, Mr Aziz set out Iraq's concerns about UNSCOM activities and the influence of the US and UK on UNSCOM's approach, including:

- The US "in particular, together with Britain, were doing their utmost ... to topple the national Government of Iraq and to eliminate its national leadership". That "seriously affected the composition" of UNSCOM, with the US "leading the hostile work against Iraq". An activity which was "supposed to be international and neutral" was "unbalanced".
- The US monopolised the intelligence means. Iraq wanted aerial surveillance using a plane from a neutral state.
- The justification for intrusive inspections was based on allegations of deliberate concealment and inaccurate information which were themselves inaccurate and being deliberately used by UNSCOM to procrastinate and to prolong the inspections process. For example, the delay in analysing missile fragments had been caused by UNSCOM's original insistence that the analysis should be conducted in the US.
- The reports submitted to the Council were "tendentious", using a method that was "intended to confuse the past with what has been newly achieved, in a manner that makes it difficult for the reader to differentiate between the positive and negative aspects"; and that many of the reports were "inaccurate". The Security Council and international community "were being deliberately misled with a view to fostering baseless suspicions about Iraq's capabilities".
- Iraq had not been asked in 1992 to preserve the remnants of the special warheads it had destroyed, and the subject had been "considered as closed" in UNSCOM's report in June 1995. In the absence of any missiles or means for their delivery, the warheads had no operational value. The renewed focus on special warheads was deliberately aimed at delay.

- UNSCOM should consider what had been achieved in relation to missiles and chemical weapons as sufficient to meet Iraq's obligations in section C of resolution 687.
- Iraq was "ready to start serious and extensive work to address the biological file in order to close it within a short time". It had "completely destroyed" all the biological agents in its possession and all "the sites, apparatuses and equipment used in the production of biological agents". All the 87 sites which UNSCOM considered could be capable of dual use for the production of biological agent were "under strict monitoring".
- Iraq was "ready to continue to work with the Special Commission in a serious, scientific, technical and objective manner" to close the files "so that the Council may proceed to implement its obligations towards Iraq" under paragraph 22 of resolution 687 (1991) (removal of the restrictions on trade in resolution 661).
- The people of Iraq could not "continue suffering this injustice". Iraq had "fulfilled the obligations imposed on it" and the Security Council should do the same, "starting at the earliest date". If the "imbalance" continued, the "situation" would become "absolutely unacceptable".¹³⁹

IAEA REPORT, OCTOBER 1997

338. Dr Blix submitted his final consolidated report as Director General of the IAEA on 6 October, which concluded that the IAEA investigation of Iraq's nuclear programme had reached the point of diminishing returns. The extent to which the remaining uncertainty was acceptable was a political judgement.

339. The Butler Report stated that, after 1995, the JIC consistently assessed that, "if all United Nations controls on Iraq's nuclear activities were removed, Iraq could possibly develop a nuclear device in around five years".¹⁴⁰

340. Dr Blix's final consolidated report assessed that the IAEA had a "technically coherent picture" which revealed a programme:

"... aimed at the production of an arsenal of nuclear weapons, based on implosion technology, which had involved:

- Acquisition of non-weapon-usable nuclear material through indigenous production and through overt and covert foreign procurement.
- Research and development programmes into the full range of uranium enrichment technologies culminating in the industrialisation of EMIS [Electro Magnetic Isotope Separation] and the demonstration of a proven prototype gas centrifuge.

¹³⁹ UN Security Council, 13 October 1997, 'Letter dated 12 October 1997 from the Deputy Prime Minister of Iraq addressed to the President of the Security Council' (S/1997/789).

¹⁴⁰ *Review of Intelligence on Weapons of Mass Destruction* ["The Butler Report"], 14 July 2004, HC 898, page 45.

- Development of metallurgical technologies necessary for the fabrication of the uranium components of a nuclear weapon.
- Research and development activities related to the production of plutonium ...
- Development of nuclear weapon designs and weaponisation technologies for implosion devices and the establishment of industrial-scale facilities for their further development and production.
- Research and development activities related to the integration of a nuclear weapon system with a missile delivery system.”¹⁴¹

341. Dr Blix added that the IAEA’s ability to understand the details of the programme had been “severely hampered by Iraq’s persistence in a policy of concealment and understatement of the programme’s scope and achievements”.

342. The report included a summary of Iraq’s actions since 1991 and the IAEA’s activities illustrating that point. Since May 1997, the IAEA had “received clarification of many matters”, although it had:

- “not provided a comprehensive statement of the membership, terms of reference and duration of authority of the Governmental Committee charged, *inter alia*, to ‘reduce the effect of NPT violation to the minimum’”;
- “stated that it has no further information regarding external assistance to its clandestine nuclear programme”;
- “declared itself unable to describe the motives behind the actions ascribed to the late Lt Gen Hussein Kamil which resulted in the concealment of the cache of documentation, material and equipment ‘discovered’ at the Haider House farm”;
- “declined to include, in its FICD a summary of the practical and theoretical achievements of Iraq’s clandestine nuclear programme”; and
- “yet to provide the promised written description of its post-war procurement system”.

343. Despite those issues, the IAEA report stated that:

- There were “no indications to suggest Iraq was successful in its attempts to produce nuclear weapons”, although there was “no documentation or other evidence” which showed “the actual status of the weapon design when the programme was interrupted”.
- Iraq was “at, or close to, the threshold of success in such areas as the production of HEU [Highly Enriched Uranium] through the EMIS process, the production and pilot ... of ... gas centrifuge machines, and the fabrication of the explosive package for a nuclear weapon”.

¹⁴¹ UN Security Council, 8 October 1997, ‘Fourth consolidated report of the Director General of the International Atomic Energy Agency under paragraph 16 of Security Council resolution 1051 (1996)’ (S/1997/779).

- There were “no indications to suggest that Iraq had produced more than a few grams of weapons-usable nuclear material”, and all of that had been removed from Iraq.
- There were “no indications” that Iraq had acquired other weapons-usable nuclear material.
- All the “safeguarded research reactor fuel, including the HEU fuel that Iraq had planned to divert to its ‘crash programme’, was verified and fully accounted for by the IAEA and removed from Iraq”.
- There were “no indications” that “any physical capability for the production of amounts of weapons-usable nuclear material of any practical significance”.

344. Dr Blix stated that there were “no indications of significant discrepancies” in Iraq’s latest declaration.

345. The report stated that a letter of 1 May from Iraq’s Minister of Foreign Affairs reflected “Iraq’s unconditional reaffirmation of its obligations under the NPT” and “its acceptance of its obligations, as interpreted by the IAEA, under Iraq’s Safeguards Agreement with the Agency”.

346. The report observed that:

“... taking into account the possibility, albeit remote, of undetected duplicate facilities or the existence of anomalous activities or facilities outside this technically coherent picture, no absolute assurances can be given with regard to the completeness of Iraq’s FFCD. Some uncertainty is inevitable in any country-wide technical verification process which aims to prove the absence of readily concealable objects or activities. The extent to which such uncertainty is acceptable is a policy judgement.”

347. The report said that the IAEA’s:

“... activities regarding the investigation of Iraq’s clandestine nuclear programme have reached a point of diminishing returns ... The IAEA is not ‘closing the books’ on its investigation ... and will continue to exercise its right to investigate any aspect of Iraq’s clandestine nuclear programme, in particular, through the follow-up of any new information ...”

348. In his memoir, Dr Blix wrote:

“There was general agreement ... that there were no significant ‘disarmament’ matters to clear up in the nuclear dossier, only some ‘questions’ to clarify.”¹⁴²

349. The Security Council considered the report from Mr Butler and a draft resolution on 23 October.¹⁴³ Dr Blix’s report was not formally tabled for discussion in the Security Council.

¹⁴² Blix H. *Disarming Iraq*. Bloomsbury, 2004.

¹⁴³ UN Security Council, ‘3826th Meeting Thursday 23 October 1997’ (S/PV.3826).

RESOLUTION 1134 (1997)

350. Resolution 1134 (1997), expressing the intention to impose travel restrictions in the event that UNSCOM reported that Iraq was not in compliance with resolution 1115, was adopted on 23 October.¹⁴⁴

351. The draft text which became resolution 1134 was co-sponsored by nine members of the Council and adopted by ten votes. Five members, including three Permanent Members, abstained – China, Egypt, France, Kenya and Russia.

352. Resolution 1134:

- reaffirmed the Security Council’s “determination to ensure” Iraq’s “full compliance ... with all its obligations under all previous resolutions”; and
- reiterated the Council’s “demand that Iraq allow immediate, unconditional and unrestricted access to the Special Commission to any site ... and in particular ... fixed wing and helicopter flights throughout Iraq for all relevant purposes ... without interferences of any kind and upon such terms and conditions as may be determined by the Special Commission”.

353. Acting under Chapter VII of the UN Charter, the measures adopted by the Council included:

- condemning Iraq’s actions detailed in UNSCOM’s report of 6 October;
- deciding that Iraq’s refusal to co-operate constituted a “flagrant violation” of its obligations and demanding its full co-operation;
- demanding that Iraq should “co-operate fully with the Special Commission in accordance with the relevant resolutions”;
- expressing the “firm intention”, if UNSCOM reported Iraq was not in compliance with paragraphs 2 and 3 of resolution 1115, “to adopt measures which would oblige all States to prevent without delay the entry into or transit through their territories of all Iraqi officials and members of the Iraqi armed forces who are responsible for or participate in instances of non-compliance ... [with the exception of] persons carrying out bona fide diplomatic assignments or missions”; and
- reaffirming its “full support for the authority of the Special Commission ... to ensure the implementation of its mandate”.

354. The record of the discussion demonstrates serious divisions in the Council over the approach adopted, with the UK and US speaking in strong terms about the need for action while the members who abstained argued that the terms of the resolution were unbalanced and unlikely to bring about a resolution of the problems faced by UNSCOM.¹⁴⁵

¹⁴⁴ UN Security Council resolution 1134 (1997).

¹⁴⁵ UN Security Council, ‘3826th Meeting Thursday 23 October 1997’ (S/PV.3826).

355. Sir John Weston stated that the “incidents described” in Mr Butler’s report of 6 October, and his inability to advise the Council that Iraq was “in substantial compliance with the demands of resolution 1115”, were “adequate justification to move forward from the decision” taken by the Council in June.

356. Sir John added:

“We shall regret it if a few Council members, for whatever reasons of their own, are unable to subscribe to this view. We have worked hard and in good faith to accommodate all members’ preoccupations on the text. But we were not willing to compromise the underlying purpose of the resolution or the responsibilities of the ... Council in order to appease Iraq ...”

357. Sir John also stated that Saddam Hussein had to take “the political decision to co-operate fully” with UNSCOM, and that:

“The regularity with which this Council has had to address this issue confirms that this decision has still not been taken. All we have heard from the Iraqi regime for the past six and [a] half years are lies and empty promises, while on the ground they have actively obstructed the Special Commission and concealed from it details of its illegal weapons programmes. These facts are borne out in the latest report of the Special Commission, which clearly states that, while progress has been made, serious deficiencies remain in all three weapons areas, in particular on chemical and biological warfare agents.”

358. Sir John concluded that, “until and unless” Iraq co-operated and told “the whole truth”, there could be “no prospect of the Council considering whether the demands of Section C of ... resolution 687 (1991)” had been met. He also referred to Iraq’s failure to meet its obligations in relation to missing Kuwaiti prisoners of war and property.

359. Ambassador Bill Richardson, US Permanent Representative to the UN, stated that the Baghdad regime was the only party “responsible for this very sad state of affairs”, and that it was refusing “to meet its most basic obligations, such as allowing UNSCOM inspectors to carry out their Security Council mandate without obstruction or harassment”. Mr Butler’s report recorded “a litany of Iraqi harassment, obfuscation, obstruction and deception”. Iraq had explained its actions by attacking the credibility of UNSCOM and questioning its judgement, and when that did not work, resorting to “time honoured tactics of bullying, burning and blackmailing”.

360. Ambassador Richardson added:

“Compliance with international obligations is not a voluntary act. Co-operation is not a matter of degree. Either Iraq is in compliance ... or it is in breach of those obligations.”

361. Ambassador Richardson challenged the description of Iraq’s “so-called co-operation over the past six months”, which was “too little, too late”.

362. Addressing comments by other members of the Council about Dr Blix's report, Ambassador Richardson stated:

"... even in this area it is clear that Iraq has not answered all the relevant questions necessary to have a full accounting of its programmes. The books cannot be closed. Furthermore, we now know, thanks to the efforts of Mr Blix and his staff, that Iraq lied and concealed an active weaponization programme for years in direct defiance of its commitments under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and its commitments to the IAEA. Iraq has lied about its programmes for too long and too recently for us to settle for anything less than absolute certainty that Iraq's nuclear ambitions have been completely neutralized.

"When accounting for nuclear weapons, close is not good enough. If you fail to account for just one nuclear device, that could mean the destruction of an entire city."

363. Ambassador Richardson concluded that Baghdad had "a clear and simple choice" while commending the approach of Mr Butler and his team and stating that the Council "must do everything" it could to support him. He regretted the decision of some members of the Council not to support the resolution, which would "carry the full weight of international law".

364. Japan, Poland, Portugal and Sweden spoke in support of the resolution, but in more moderate terms than either the US or UK.

365. Mr Elaraby drew attention to Dr Blix's report and the progress in some areas reported by Mr Butler, and set out conclusions in seven areas that Egypt would have liked to see included in the resolution for the evaluation of the implementation of the Council's resolutions and the Council's future actions. These were:

- The draft resolution should have taken into account the positive aspects reported by UNSCOM and the IAEA.
- The Council "must be the only body responsible" for making decisions, "following consultations and discussions on the basis of reports submitted by the Special Commission".
- The IAEA and Special Commission were responsible for "purely technical matters". While it was "difficult" for them "to assert that nothing remains to be destroyed" it was "important" for the Council to take the decision "defining the ultimate goal of the activities of those two bodies in order that the Council's resolutions can be fully implemented in detail".
- The Council should "take the time ... objectively" to study the differences in view between the Special Commission and Iraq about the interpretation of the modalities for inspections. Further co-operation was needed from Iraq, but the Special Commission also had to "make an effort" to co-operate so that it could discharge its responsibilities.

- The reports contained sporadic instances of non-co-operation; but the question was whether that was “recurring, systematic non-co-operation” and if it indicated “a real pattern of unwillingness to comply” or “isolated instances of differences”.
- Egypt was opposed in principle to additional sanctions.
- The Council should have mandated the UN Sanctions Committee to determine clear criteria for the modalities for the implementation of the resolution so that the Council could “avoid contributing to aggravating the tensions between Iraq and the Special Commission, which could complicate the task of eliminating weapons of mass destruction”.

366. Mr Elaraby concluded by stating that Egypt had asked for more time for “calm and constructive dialogue”, but the sponsors of the resolution:

“... had insisted on it being put to the vote ... without taking into account the majority of the proposals put forward in recent days ... so that the draft resolution would respect logic, legality and the provisions of resolution 1115 ... and ... inspire the Iraqi Government to co-operate more fully with the Special Commission.”

367. Mr Kipkorir Aly Azad Rana, Kenyan Deputy Permanent Representative to the UN, stated that he would abstain because the draft resolution did not “clearly portray the balance and tone of the reports” from the IAEA and UNSCOM.

368. Mr Liu Jieyi, Counsellor, Permanent Mission of China to the UN, stated that the priority should be to enhance the co-operation between Iraq and UNSCOM and that he would abstain because the draft resolution was “not conducive to the settlement of the problems concerned” and amendments proposed by “quite a number of delegations” had not been accepted.

369. Mr Lavrov stated that the IAEA and UNSCOM had recently produced “voluminous comprehensive reports on the significant work done on filling in the blank spaces in the Iraq disarmament dossier”. The UNSCOM report had noted “significant” and “important” progress, particularly in the missile and chemical areas, and the IAEA report “had a positive tone”. Iraq had not accounted for all the items proscribed by section C of resolution 687, and a number of questions remained “to be clarified in the biological sphere”. There were “deficiencies” in Iraq’s compliance and “isolated incidents”, but that could not “justify the immediate adoption of additional sanctions”. The problems should be addressed within the framework of planned consultations between Mr Butler and Baghdad.

370. Mr Lavrov added that there was “an obvious lack of balance” in the draft resolution which “Ignored ... various substantial elements of the fulfilment by Iraq of relevant provisions of resolution 687”.

371. Russia could not understand why there was “no mention of the IAEA report” and the significant progress on the Iraqi nuclear dossier, which could be “viewed as closed”. Mr Lavrov stated:

“The sponsors’ categorical refusal to refer to the IAEA report in the draft resolution raises most serious questions and is unacceptable to us.”

372. Mr Lavrov also pointed out that resolution 1115 had required “substantial compliance” by Iraq with UNSCOM’s requirements for access; and that continued in effect. The new resolution’s requirements would “confuse the criteria” for compliance with the UN’s resolutions.

373. Mr Lavrov concluded that Russia had been “prepared to continue working on the draft in order to make it more balanced and acceptable to all members of the Security Council”, but the sponsors were “unfortunately” not ready to do so. Russia was “forced to abstain”.

374. Mr Alain Dejammet, French Permanent Representative to the UN, stated that France had abstained “on a consideration of the merits of the text of the resolution” and the importance of the principle of “seeking unity within the Council”, both to “underline the authority” of UNSCOM’s actions and because France considered that unity had “contributed to the achievement of the significant progress” noted in UNSCOM’s report. France also thought that Mr Butler “should have received some encouragement, however modest, to continue with his efforts and enhance further the effectiveness of the Special Commission’s co-operation with Iraq”.

CONTINUED IRAQI NON-CO-OPERATION

375. Iraqi concerns about US intentions, and its decision to refuse US participation in UNSCOM activities in Iraq, were set out in a letter to the UN on 29 October.

376. Reflecting the concerns about US intentions and actions, set out in his letters of 15 June and 12 October, and the effect of resolution 1134, which clearly reflected the “arbitrary position imposed by the United States against Iraq, using pressure and blackmail”, Mr Aziz informed the President of the Security Council that Iraq had decided to continue co-operation with UNSCOM:

“... provided no individuals of American nationality shall participate in any activity ... inside Iraq, particularly inspections, interviews, and aerial and ground surveillance.”¹⁴⁶

¹⁴⁶ UN Security Council, 29 October 1997, ‘Letter dated 29 October 1997 from Mr Tariq Aziz, Deputy Prime Minister of Iraq, addressed to the President of the Security Council’ (S/1997/829).

377. Mr Aziz added that the decision would take effect the following day. He also requested UNSCOM to withdraw its cover for U-2 flights, which “had been spying on Iraq and its leadership in order to execute America’s hostile policy against Iraq under cover of the Special Commission’s operations”.

378. Mr Aziz wrote that Iraq was “confident” that it was “free of proscribed weapons” and had “no apprehension of actions to verify that by all practical means”. He emphasised Iraq’s “sincere desire for continuing the co-operation with the Special Commission” to fulfil its obligations, and demanded that the Security Council fulfil its obligations.

379. A Presidential Statement issued after a meeting of the Security Council to consider Iraq’s “unacceptable decision ... to seek to impose conditions on its co-operation with the Special Commission, thereby preventing the Special Commission from discharging its responsibilities”:

- recalled the Security Council demands in resolution 1134 “that Iraq co-operate fully with the Special Commission in accordance with the relevant resolutions”;
- condemned “the decision ... to try to dictate the terms of its compliance with its obligation to co-operate”;
- demanded that “Iraq co-operate fully ... without conditions or restrictions”;
- reminded Iraq “of its responsibility for the safety and security” of UNSCOM personnel; and
- warned “of the serious consequences of Iraq’s failure to comply immediately and fully with its obligations under the relevant resolutions”.¹⁴⁷

380. The statement concluded that the Council was “determined to ensure rapid and full Iraqi compliance with the relevant resolutions” and that it would “remain actively seized of the matter”.

381. On 30 October, Mr Butler advised the President of the Security Council that Iraq had refused entry for two UNSCOM officials, and one IAEA official, of US nationality.¹⁴⁸

382. In a letter of 31 October, Dr Blix informed Mr Annan that the IAEA had suspended its monitoring activities in Iraq on 29 October.¹⁴⁹ Dr Blix reported that Iraq had subsequently informed the IAEA that it wished its work to continue and that “all IAEA staff, inspectors and experts” would be “welcomed as usual”, there was “no reason whatsoever to suspend any IAEA activities in Iraq”.

¹⁴⁷ UN Security Council, 29 October 1997, ‘Statement by the President of the Security Council’ (S/PRST/1997/49).

¹⁴⁸ UN Security Council, 30 October 1997, ‘Letter dated 30 October 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1997/830).

¹⁴⁹ UN Security Council, 31 October 1997, ‘Letter dated 31 October 1997 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General’ (S/1997/833).

383. Dr Blix added that it was his view that, as the IAEA and Special Commission were acting “as organs of the Security Council” to contribute to “a common objective”, it was “essential” that they had a “common approach”. The IAEA would continue “for the time being ... to suspend the practical implementation of its ongoing monitoring and verification plan”.

384. On 2 November, Mr Nizar Hamdoon, Iraqi Permanent Representative to the UN, reiterated Iraq’s decision on U-2 flights in a letter to Mr Butler.¹⁵⁰ He wrote:

“In the light of current developments, Iraq anticipates that the United States will engage in military aggression ... as it has done on previous occasions. Accordingly, the entry of a United States spy plane into Iraqi airspace cannot be accepted. We therefore urge you to cancel the overflights scheduled ... on 5 and 7 November.”

385. On 2 November, Mr Butler informed the President of the Security Council that two UNSCOM personnel of US nationality had the previous day again been refused entry by Iraq.¹⁵¹

386. In further letters on 4 and 5 November, Mr Butler reported that US personnel in UNSCOM inspection teams had been denied access to Iraqi facilities, and that dual-use equipment had been moved without authorisation.¹⁵²

387. In his memoir, Mr Annan wrote that in November 1997 he had “personally stepped into the Iraq quagmire for the first time”.¹⁵³ He had known “full well” that his “interventions would be met with suspicion and manoeuvring on all sides”. He had appointed three senior diplomats to engage the Iraqis:

“Baghdad ... was clearly determined to re-engage the UN at a senior level, namely with me as Secretary-General, and it had made its negotiating position clear: it was not seeking confrontation; it had implemented all Security Council resolutions without receiving adequate respect for its sovereignty, integrity, and security; and that one member state – the United States – was using UNSCOM for its own purposes.”

¹⁵⁰ UN Security Council, 2 November 1997, ‘Letter dated 2 November 1997 from the Permanent Representative of Iraq to the United Nations addressed to the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 689 (1991)’ (S/1997/837).

¹⁵¹ UN Security Council, 3 November 1997, ‘Letter dated 2 November 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1997/836).

¹⁵² UN Security Council, 4 November 1997, ‘Letter dated 4 November 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1997/843); UN Security Council, 5 November 1997, ‘Letter dated 5 November from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1997/851).

¹⁵³ Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

388. Mr Butler sent a separate letter on 5 November, informing the President of the Security Council that, in response to a request from the UN Secretary-General, he had decided to postpone the U-2 flights on 5 and 7 November while Mr Annan's Personal Envoys were delivering a message to Iraq; but that the flights would resume the following week.¹⁵⁴

389. On 6 November, Iraq informed the President of the Security Council that it had requested US personnel not to enter a site, but UNSCOM had instructed the team to withdraw.¹⁵⁵ The letter added that, as a precaution against the possibility of US attacks, Iraq had moved equipment but the items would be returned for inspection and authentication and it would not be used for proscribed activities.

390. The letter concluded by stating that Iraq was "honouring our obligations under the monitoring plan" in resolution 715.

391. On 7 November, Mr Butler reported further incidents on 6 November and also drew attention to a further Iraqi request for cancellations of U-2 flights and to concerns about the visibility or absence of equipment being monitored by UNSCOM cameras.¹⁵⁶

392. On 10 November, Mr Mohammed Said Al-Sahaf, the Iraqi Minister for Foreign Affairs, wrote to Mr Annan reporting that a "United States U-2 spy plane together with several formations of United States warplanes fitted with all kinds of weapons and espionage equipment" had "violated" Iraq's airspace and sovereignty that morning. As a result it was "no longer to be considered, even nominally or formally, as one of the means used by the United Nations to conduct so-called inspections". Iraq would act against US aircraft to safeguard its sovereignty and security.¹⁵⁷

393. In a briefing for members of the Council on 10 November, Mr Annan stated that, "Had Iraq agreed to return to full compliance", he would have had "no hesitation" in recommending that Iraq should be "granted a hearing".¹⁵⁸

394. Despite diplomatic efforts by a number of Member States and Mr Annan, Iraq refused to rescind its decision of 29 October.

395. Significant differences in position remained within the Council, particularly in relation to any potential use of force.

¹⁵⁴ UN Security Council, 5 November 1997, 'Letter dated 5 November 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council' (S/1997/848).

¹⁵⁵ UN Security Council, 6 November 1997, 'Letter dated 6 November 1997 from the Minister for Foreign Affairs of Iraq addressed to the President of the Security Council' (S/1997/855).

¹⁵⁶ UN Security Council, 7 November 1997, 'Letter dated 7 November 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council' (S/1997/864).

¹⁵⁷ UN Security Council, 10 November 1997, 'Letter dated 10 November 1997 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General' (S/1997/867).

¹⁵⁸ UN Security Council, '3831st Meeting Wednesday 12 November 1997' (S/PV.3831).

RESOLUTION 1137 (1997)

396. On 12 November, the Security Council unanimously adopted resolution 1137 (1997), which:

- recalled the Council’s previous resolutions;
- stated its “grave concern” about recent developments;
- condemned Iraq’s continued violation of its obligations, “including its unacceptable decision ... to seek to impose conditions on co-operation” with UNSCOM;
- demanded Iraq rescind its decision of 29 October; and
- decided to impose a travel ban on designated Iraqi officials, as foreshadowed in resolution 1134.¹⁵⁹

397. The resolution also expressed the Council’s “firm intention to take further measures as may be required for the implementation of this resolution”.

398. In statements to the Council before and after the vote, all members of the Council supported united action and targeted sanctions in response to Iraq’s defiance of the UN, but significant differences in position remained.

399. Mr Elaraby drew attention to the impact of sanctions on the Iraqi people and the lack of hope that they would be lifted.¹⁶⁰ Iraq’s co-operation had “not been ideal”, but it had gone a long way. Iraq’s defiance and failure to respond to attempts to persuade it to change its position were unwise because it meant “squandering the achievements made on Iraq’s long road of co-operation with the Special Commission”. There were lessons from the crisis, including that the Council should “review” UNSCOM’s methods. Iraq should not be pushed “into believing that it has nothing to gain from its continued co-operation with the Commission and nothing to lose from a cessation of that co-operation”.

400. Mr Njuguna Mahugu, Kenyan Permanent Representative to the UN, stated that the current level of tension “must not be allowed to escalate any further”.

401. Mr Dejammet stated that he had believed reason would prevail and regretted Iraq’s refusal to rescind its decision. A “strong and unanimous reaction” was required, but it had to be “balanced and commensurate with the realities of the situation”. The “search for a peaceful solution” would not be hampered by the travel bans, and France continued “to advocate strongly that any action” should be “considered and led strictly within the framework of the Security Council”. The resolution did not “encourage or justify any escalation”. The Council should “persevere” in an “active search for a diplomatic solution”.

¹⁵⁹ UN Security Council resolution 1137 (1997).

¹⁶⁰ UN Security Council, ‘3831st Meeting Wednesday 12 November 1997’ (S/PV.3831).

402. Mr Dejammet added that the “basic goal” was continuing the work of the Commission:

“Nothing would be worse than to call into question the main strength of resolution 687 (1991) and United Nations relations with Iraq. The system of ongoing verification and monitoring cannot be suspended; the security of the region is at stake.”

403. Mr Dejammet said that unanimity of the Council in a crisis was a “very important condition” for France. If Iraq heeded the message from the Council it would “be possible to discuss their concerns regarding the working methods of the Special Commission and the manner in which it discharges its responsibilities”. There could also be discussions to “explore prospects for resolving the crisis and to take into account the significant progress ... on the substance, notably on the nuclear and ballistic areas”. The Iraqi population had paid an “exorbitant price”, which could not “go on rising indefinitely, amidst general indifference”.

404. Ambassador Richardson stated that the “unambiguous message to the leaders of Iraq” was that the Security Council was “united in its determination that Iraq must comply with the resolutions of the Council”; and that there would be “consequences for Iraq if it fails to do so”. Mr Aziz had been in New York lobbying for sanctions to be lifted, but Iraq did not “seem to understand that its objective can only be reached through full compliance”.

405. Ambassador Richardson added that Iraq had, for years, been “trying every trick to deceive” UNSCOM. Its actions were “gross violations” of its obligations. Iraq had:

“... failed in other areas mandated by the Council and it has given no sign that it will cease activities and policies intended to threaten its neighbours. Indeed, it gives every indication that it intends to continue to develop a dangerous arsenal of weapons of mass destruction. Which is what this is all about.”

406. Ambassador Richardson said that the US felt “compassion for the Iraqi people and empathy for their plight”, and looked forward to sanctions being lifted, but Iraq had first to “comply fully and unconditionally with ... relevant ... resolutions”.

407. Referring to a statement by Mr Robin Cook (the Foreign Secretary), Mr Stephen Gomersall (UK Deputy Permanent Representative to the UN in New York) stated that the UN had responded “swiftly, strongly and unanimously” to “provocation”. If Saddam Hussein returned to his senses and let UNSCOM resume its work, and then complied with all relevant resolutions, the process for lifting sanctions could be started. But if he continued to defy the will of the UN, “further measures” would be taken.

408. The Council was facing “the most serious challenge” from Saddam Hussein since the end of the Gulf Conflict. The successful completion of UNSCOM’s work was “essential for maintaining regional and international peace and security”, and its latest

report made clear that there was much to be done, “especially” on chemical and biological weapons.

409. There had been a lot of “special pleading from Iraq on the damage caused by six and a half years of sanctions” but it was:

“... clear that the humanitarian interests of the Iraqi people and their welfare have been subordinated to the misguided policies of the leadership and that it is these policies which are the fundamental problem.”

410. Mr Lavrov stated that Russia had been “working intensively” with others to “de-escalate the situation”, but had failed to achieve the desired results. The Security Council had “no other way out than to adopt concrete measures on the basis of the consensus ... established in June ... in resolution 1115”.

411. But Russia was “convinced” that any “complications” should be:

“... resolved exclusively by political means and strictly within the framework of the relevant resolutions of the Security Council. Any other approaches, particularly actions involving force or the threat of the use of force, could nullify all our achievements so far in reaching a post-crisis settlement in the Persian Gulf and take us all a long way back from the goal, already coming within our reach, of eliminating the threat to peace and security in that region.”

412. Mr Lavrov added that the resolution ruled out “the possibility of using the authority of the Security Council and the United Nations to justify any attempts to use force”.

413. Mr Lavrov concluded that inspections had:

“... confirmed that Iraq has no proscribed activities going on involving nuclear weapons, and the facilities and dual-use equipment are being reliably monitored. In this connection, the nuclear dossier can be deemed to be closed. The balance sheet is virtually completed on proscribed missiles. All capacity and components for the production of chemical weapons have been eliminated.

“Such serious results cannot pass by without adequate evaluation by the Security Council. We intend to revert to this question immediately after the current crisis situation around Iraq has been resolved.”

414. Mr Qin Huasun stated that China had called on Iraq to resume co-operation with the United Nations but had “always been of the view that Iraq’s sovereignty, territorial integrity and legitimate concerns for its own security should be respected”. He observed that the “causes of the current crisis” were “multifaceted and complex”: “three feet of ice could not have accumulated as a result of one day’s cold weather”.

415. Mr Qin Huasun suggested:

“The Security Council should hear the views of UNSCOM and Iraq on the question of inspections in order to make a fair and reasonable judgement on progress achieved in inspections. Problems ... should be appropriately settled through dialogue and co-operation. We are opposed to the use or the threat of force or any actions that might further exacerbate tensions. We hope that the parties concerned will exercise restraint and find a proper solution to the problem through co-operation and dialogue and avoid the escalation of tensions. In particular, the occurrence of armed conflict must be avoided.”

416. In his memoir, Mr Annan wrote:

“In late 1997, it was clear the United States had lost patience with the inspections process and was agitating for military action or full Iraqi compliance. UN inspectors ... destroyed more weapons of mass destruction than the coalition had during the Gulf War ... despite ... the regime’s attitude ... By this time, Iraq had identified a new reason to resist co-operation; namely, the national security and dignity of its Presidential sites ... I knew Saddam had to open these ... [to inspection], but I also felt deeply uneasy that the world could go to war over this issue ...”¹⁶¹

417. In response to Russian diplomatic activity, Iraq agreed to allow UNSCOM to resume its activities in Iraq.

418. During a visit to Moscow on 18 to 19 November, Mr Aziz and Mr Yevgeny Primakov, the Russian Foreign Minister, agreed that Iraq would allow the return of UNSCOM from 20 November.¹⁶²

419. The Joint Communiqué stated that Russia would:

“... actively contribute, on the basis of Iraq’s implementation of the relevant Security Council resolutions, towards a quick lifting of the sanctions imposed on Iraq, especially the implementation of paragraph 22 of resolution 687, to the letter and without additional conditions.”

420. *The Moscow Times* reported that Mr Primakov had been very careful to observe the substance of UN policy on Iraq, and that he had warned Iraq not to expect an end to economic sanctions until it had closed down its chemical and biological weapons programmes.¹⁶³ The composition of UN inspections teams would be slightly adjusted, but would retain many US inspectors.

¹⁶¹ Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

¹⁶² *BBC News*, 20 November 1997, *Text of Iraqi-Russian communiqué on return of UN inspectors*.

¹⁶³ *The Moscow Times*, 20 November 1997, *Russia can score points in Iraq crisis*.

Inspectors return to Iraq

421. UNSCOM and IAEA inspectors returned to Iraq on 21 November 1997.¹⁶⁴

422. At the request of the Security Council, the members of UNSCOM convened an emergency session on 21 November to discuss and advise on “ways to make the work of the Commission more effective”.¹⁶⁵ The outcome of the discussion was reported to the President of the Security Council the following day.

423. In relation to nuclear weapons, the members of the Commission understood, from a presentation made by the IAEA, that:

“... if the few clarifications required from Iraq in paragraph 75 of the IAEA report [of 8 October] are satisfactorily provided, and if Iraq were to co-operate in the use of fixed-wing aircraft within Iraq for monitoring purposes, IAEA would have a basis for an early favourable report to the Security Council.”

424. In relation to ballistic missiles and chemical weapons, the report identified priorities as:

- clarification of and accounting for Iraq’s indigenous production of proscribed missiles, conventional and special missile warheads, and major missile parts;
- the extent of Iraq’s efforts to produce and weaponise VX;
- the material balance of chemical munitions which Iraq declared had been destroyed during the 1991 Gulf Conflict; and
- the material balance of equipment procured by Iraq for production of chemical weapons.

425. In relation to biological weapons, the Security Council was advised to urge Iraq to overcome the deficiencies in its declarations that had been identified in UNSCOM’s October report.

426. The members of the Commission also:

- took note of Iraq’s systematic concealment activities which had a direct effect on its ability to fulfil its mandate, but no details were provided;
- emphasised that access was fundamental to its ability to accomplish its tasks and that greater clarity was needed in the reconciliation of Iraq’s legitimate concerns in respect of national security, sovereignty and dignity and the full practical application of UNSCOM’s mandate;
- suggested that UNSCOM staff should continue to document all examples of Iraqi efforts to frustrate their work;

¹⁶⁴ UN Security Council, 24 November 1997, ‘Emergency session of the United Nations Special Commission established under paragraph 9 (b) (i) of Security Council resolution 687 (1991)’ (S/1997/922).

¹⁶⁵ UN Security Council, 24 November 1997, ‘Emergency session of the United Nations Special Commission established under paragraph 9 (b) (i) of Security Council resolution 687 (1991)’ (S/1997/922).

- suggested that the Executive Chairman should assess the extent to which the temporary cessation of UNSCOM operations had set back its ability to complete its mandate;
- recommended a review of additional equipment which could facilitate its inspections;
- noted that additional aerial surveillance, including night surveillance if possible, could enhance UNSCOM effectiveness;
- recommended a review of the modalities for air operations; and
- recommended Governments should be encouraged to make experts available.

427. In response, and following consultations between members, the Security Council authorised a Presidential Statement on 3 December, which:

- endorsed the Commission's conclusions and recommendations;
- reiterated the demand that Iraq fulfil all its obligations and co-operate fully with UNSCOM and the IAEA in implementing their mandates;
- stressed that the "effectiveness and speed with which UNSCOM may accomplish its responsibilities" was "above all, determined by the degree to which the Government of Iraq co-operates in disclosing the full extent and disposition of its proscribed programmes and in granting UNSCOM unimpeded access to all sites, document records and individuals";
- acknowledged UNSCOM's conclusion to respect the legitimate concerns of Iraq in the application of its mandate;
- welcomed the progress made;
- encouraged intensified efforts, in line with the conclusions of the emergency session, to implement UNSCOM and IAEA mandates;
- acknowledged that, as Iraq complied with its obligations and the Council agreed, UNSCOM and the IAEA would make the transition from inspections to monitoring; and
- urged Member States to respond positively to UNSCOM requests for additional personnel, equipment and information.¹⁶⁶

428. Mr Butler, accompanied by his Deputy, Mr Charles Duelfer, and Commissioners from France, Russia and the UK, held talks to discuss the implementation of the mandate set out in the Presidential Statement of 3 December with an Iraqi delegation led by Mr Tariq Aziz.¹⁶⁷

429. Mr Butler reported that discussions on access for inspections had addressed five categories of sites identified by Iraq:

¹⁶⁶ UN Security Council, '3838th Meeting Wednesday 3 December 1997' (S/PV.3838).

¹⁶⁷ UN Security Council, 17 December 1997, 'Letter dated 17 December 1997 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Council' (S/1997/987).

- Normal – which could be visited without restriction.
- National Security – where the modalities for inspections of sensitive sites would apply, “except for the most secret rooms ... to which no access would be granted”. Mr Aziz had agreed to an improvement of the arrangements, including that:
 - The size of the inspection team would be proportionate to the size and complexity of the site and agreed on a case-by-case basis.
 - Iraq would take steps significantly to reduce the delay in entry.
 - Immediately a site was declared sensitive, the Chief Inspector and an Iraqi minder could enter to ensure that movement was frozen and that documents would not be burnt or destroyed.
- Presidential and sovereign – in relation to which Iraq’s “absolute” position was that inspections and overflights would not be allowed “under any circumstances”, which Mr Butler doubted would be acceptable to the Security Council.
- Civilian sites/private residences – in which the Government had no authority and UNSCOM would need the owner’s permission for inspections. Mr Butler expressed reservations about Iraq’s position.
- Foreign – where UNSCOM would have to deal directly with the owners.¹⁶⁸

430. Iraq asked again whether the U-2 surveillance flights could be replaced by Iraqi assets or those of another nation.

431. Iraq continued to state that it had “destroyed and/or no longer had any weapons of mass destruction” and had proposed technical “seminars” to address disagreement on issues of substance. Mr Aziz had stated “for the public record” that the Government of Iraq had decided in 1991 to “deny and obliterate traces of its biological weapons programme” on the grounds of “national security and survival”.

432. Iraq had declined UNSCOM’s invitation to develop an additional joint work programme, but agreed to technical evaluation meetings on missile warheads and VX in January, with a meeting on biological weapons to follow “as soon as practicable”.

433. The report confirmed that, where facilities had been visited, dual-use equipment had been returned and the Commission had found no evidence of proscribed activities.

434. In December 1997, the JIC noted that Iraq “may have retained hidden production equipment, agent and delivery systems” and that it “could ... regenerate a significant offensive BW capability within months”.¹⁶⁹

¹⁶⁸ UN Security Council, 17 December 1997, ‘Report on the visit to Baghdad from 12 to 16 December 1997 by the Executive Chairman of the Special Commission established by the Secretary-General under paragraph 9 (b) (i) of Security Council resolution 687 (1991)’ (S/1997/987).

¹⁶⁹ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 48.

435. In a Statement by the President of the Security Council, issued after consultations on Mr Butler's report on 22 December, the Council reiterated its demand that Iraq co-operate fully with UNSCOM and allow inspection teams "immediate, unconditional access", and stated that any failure to do so would be "unacceptable and a clear violation of the relevant resolutions". The Council also acknowledged that discussions on the practical arrangements were continuing, reiterated its full support for the Commission and Mr Butler, and called on the Government of Iraq to co-operate fully.¹⁷⁰

436. On 12 January 1998, the Government of Iraq announced that, on the basis of the nationalities present, a team would not be permitted to conduct further inspections in Iraq.¹⁷¹

437. On 14 January, the President of the Security Council issued a further statement deploring the Iraqi statement of 12 January and its "subsequent failure to fulfil its obligations to provide the Special Commission with full, unconditional, and immediate access to all sites". The Council determined that "failure" was "unacceptable and a clear violation of the relevant resolutions".¹⁷²

438. The Council also:

- recalled its statement of 29 October 1997 condemning Iraq's decision to try to dictate the terms of its compliance with its obligations to co-operate with UNSCOM;
- reiterated its demand in resolution 1137 for co-operation;
- expressed its full support for the Special Commission and its Executive Chairman; and
- requested a "full briefing" from Mr Butler after his planned talks with Iraq so that it could "decide as necessary on the appropriate response".

439. On 15 January, the IAEA's report of its visit to Iraq in December was made available to the Security Council.¹⁷³ The purpose of the visit had been to clarify five points identified in paragraph 75 of the earlier report, specifically:

- "... information provided by Iraq in respect of its post-war procurement procedures will contribute to the ability of IAEA to identify actions that might indicate Iraq's clandestine procurement of proscribed or dual-use equipment and materials."
- "The specification of the scope and content for the summary of the technical achievements of Iraq's clandestine nuclear programme that IAEA handed to

¹⁷⁰ UN Security Council, 22 December 1997, 'Statement by the President of the Security Council' (S/PRST/1997/56).

¹⁷¹ UN Security Council, 16 April 1998, 'Report of the Executive Chairman on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1998/332).

¹⁷² UN Security Council, 14 January 1998, 'Statement by the President of the Security Council' (S/PRST/1998/1).

¹⁷³ UN Security Council, 15 January 1998, 'Report on the International Atomic Energy Agency technical team visit to Iraq, 19 to 31 December 1997' (S/1998/38).

the Iraqi counterpart should facilitate the production by Iraq of a document that will provide further assurance that the technically coherent picture of Iraq's clandestine nuclear programme is comprehensive."

- It had not been possible to verify Iraq's statement in relation to a specific instance of external assistance offered to its clandestine nuclear programme, or its statements regarding the "government committee" or of the actions attributed to Lt Gen Kamil.
- The IAEA had "no information that contradicts Iraq's statement that it had never identified nuclear weapon design options beyond those preliminary concepts described in its report", but ongoing monitoring would be based on the assumption that Iraq retained "the technical capability to exploit, for nuclear weapons purposes, any relevant material to which it might gain access".
- The IAEA intended to implement an aerial radiation survey in Iraq, based on Iraqi co-operation with the use of fixed-wing aircraft.

440. On 22 January, Mr Butler sent a report of his recent visit to Iraq to the President of the Security Council.¹⁷⁴

441. During his visit, Iraq had proposed a three-month moratorium on any attempt by UNSCOM to visit Presidential and sensitive sites, pending completion of initial technical evaluation meetings.

442. Iraq also rejected a request to allow the Commission's fixed-wing aircraft to exercise their right to use airbases throughout Iraq. Mr Butler wrote:

"I must remind the Security Council that full access is required not only for disarmament purposes but also in the context of ongoing monitoring and verification. Access relinquished now could be needed in important ways in the future."

Liberal interventionism

Sir Christopher Meyer, British Ambassador to the US from 1997 to 2003, drew the Inquiry's attention to a speech made by Mr Blair in January 1998 in which he said:

"We have a clear responsibility in the interests of long term peace in the world to stop Saddam Hussein from defying the judgement of the world's community. He must be either persuaded by diplomacy or made by force to yield up his long cherished ambition to develop nuclear, chemical and biological weapons; weapons which threaten not only his immediate neighbours in the Middle East, but pose a direct and fundamental challenge to world peace.

¹⁷⁴ UN Security Council, 22 January 1998, 'Report of the visit to Baghdad from 19 January to 21 January 1998 by the Executive Chairman of the Special Commission established by the Security Council under paragraph 9 (b) (i) of Security Council resolution 687 (1991)' (S/1998/58).

“All our experience of him teaches us that it is sometimes hard to succeed with him via diplomacy, but one thing is for sure: diplomacy stands no chance of success at all unless he knows that if he fails to listen to reason, we have the force to back it up.”¹⁷⁵

In his press conference on 20 December 1998, Mr Blair said:

“... the patience of the international community cannot be tried indefinitely ... when it is right and when the will of the international community is at stake we will act to enforce it because the first stirrings of a new global reality are upon us. Those who abuse force to wage war must be confronted by those willing to use force to maintain peace, otherwise the simple truth is that war becomes more likely. We cannot do everything, that is true, but what we can do reasonably we should do.”¹⁷⁶

443. Lord Wilson of Dinton, Cabinet Secretary from 1998 to 2002, told the Inquiry that between January 1998 and January 1999 he had attended and noted 21 Ministerial discussions on Iraq; 10 in Cabinet, of which seven had “some substance”; five in the Defence and Overseas Policy Committee (DOP); and six ad hoc meetings, including one JIC briefing.¹⁷⁷

444. Iraq was discussed in one of Lord Wilson’s first Cabinet meetings on 28 January 1998.¹⁷⁸ Lord Wilson recalled that Mr Cook told his colleagues things which were “entirely recognisable four or five years later”, namely:

“... a serious situation is building; we would be ready to use force if necessary, because not being ready to use force would undermine our leverage over Saddam Hussein; and thirdly, the United States were clear that they had legal authority to take action whereas our legal advice was more nuanced.”

445. Lord Wilson commented that those points could be transposed to March 2002.

446. The Cabinet Office has informed the Inquiry that there was no discussion of Iraq in DOP in 1999 or 2000, and that the four discussions in Cabinet in early 1999 (the last on 7 March) were confined to brief updates on the NFZs. There is no record of any Cabinet discussion of Iraq in 2000.¹⁷⁹

447. In a joint press conference with Dr Albright on 31 January 1998, Mr Cook said:

“No option is ruled out but the best prospect of us achieving a solution by diplomatic measures is to leave Saddam Hussein in no doubt about our resolve to win this struggle and no doubt in his mind that all options are open to us.”¹⁸⁰

¹⁷⁵ Public hearing, 26 November 2009, page 43.

¹⁷⁶ Transcript of Press conference by Mr Blair, 20 December 1998.

¹⁷⁷ Public hearing, 25 January 2011, page 11.

¹⁷⁸ Public hearing, 25 January 2011, pages 73-74.

¹⁷⁹ Email Cabinet Office to Aldred, 5 July 2011, ‘FOI request for joint MOD/FCO memo on Iraq Policy 1999’.

¹⁸⁰ House of Commons Library Research Paper 98/28, 16 February 1998, ‘The Iraq Crisis’.

448. Mr Alastair Campbell, Mr Blair's Director of Communications and Strategy, wrote in his diary on 2 February:

"Iraq was the main focus with the French and Russians trying to get a diplomatic solution, but TB was pretty clear where it was heading."¹⁸¹

449. The Butler Report stated that the JIC concluded on 4 February that:

"UNSCOM and the IAEA have succeeded in destroying or controlling the vast majority of Saddam Hussein's 1991 weapons of mass destruction (WMD) programme."¹⁸²

450. On the same date, Mr Campbell recorded: "We turned the factual briefing into a paper for the media showing the extent of Saddam's capability and the damage he could do."¹⁸³

451. During Defence Questions on 9 February, Mr George Robertson, the Defence Secretary, told the House of Commons that he was making available new information on Iraq's chemical weapons capability at the time of the Gulf War, concerning "recently received intelligence that Iraq may have possessed large quantities of a chemical weapons agent known as Agent 15 since the 1980s".¹⁸⁴ Mr Robertson described Agent 15 as "a mental incapacitant".

452. Mr Campbell recorded that Mr Blair chaired the first meeting of the Iraq media management group on 16 February, and was "alarmed at how poor the FCO/MOD propaganda effort was".¹⁸⁵

453. On 19 February, Mr Campbell recorded that Cabinet was "mainly Iraq and Ireland", and that Mr Blair said "it was not an option to do nothing. We either got the inspectors in or we had to take action." Mr Blair was concerned that "Saddam would pitch a response perfectly to Kofi ... to get the French and Russians into a different position to the rest of us." That concern was also discussed in a call with President Bill Clinton on 22 February.

454. On 20 February, the Security Council adopted resolution 1153 (1998) which increased the size of the Oil-for-Food programme, "to avoid any further deterioration of the current humanitarian situation".¹⁸⁶

455. On 23 February, Mr Annan obtained an undertaking from the Iraqi Government to resume co-operation. In an MOU signed by Mr Annan and Mr Aziz, the Government of Iraq reconfirmed "its acceptance of all relevant resolutions of the Security Council"

¹⁸¹ Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

¹⁸² *Review of Intelligence on Weapons of Mass Destruction* ["The Butler Report"], 14 July 2004, HC 898, page 45.

¹⁸³ Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

¹⁸⁴ House of Commons, *Official Report*, 9 February 1998, column 11.

¹⁸⁵ Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

¹⁸⁶ UN Security Council resolution 1153 (1998).

and undertook “to accord UNSCOM and the IAEA immediate, unconditional and unrestricted access”.

456. The MOU contained details of special procedures for the inspection of the eight Presidential sites, including having diplomats, not just technical experts, in the inspection teams.¹⁸⁷

457. Mr Annan wrote that Secretary Albright had travelled to New York on 22 February to set out “red lines” before he left for Baghdad. He had “had to remind her” of his role and that, as Secretary-General, he was “answerable to 191 other Member States” and that it was his “duty to seek peaceful resolution of disputes”. His objective had been to give Saddam Hussein a ladder to climb down so that inspections could resume.

458. Mr Annan wrote that he considered it “critical” that Iraq was “given a sense of light at the end of the tunnel” as an incentive to co-operate with an inspections regime that required “a degree of scrutiny without precedent”, and that the talk in Washington of never lifting sanctions was not helpful:

“The United States and its allies were entitled to state this position as a matter of national interest. However, they could not expect to have a United Nations committed to the peaceful disarmament of Iraq to simply play along. Nor could they have been unaware that this gave Saddam the excuse to tell the rest of the world that the game was fixed no matter what he did. We need the inspections to work toward resolving the ongoing crisis in Iraq. Until then, the Gulf War would not truly be over.”

459. In a statement to the House of Commons on 24 February, Mr Blair said the UN inspectors had found and destroyed “horrific amounts of chemical and biological weapons ... despite systematic obstruction, deceit and concealment by Saddam Hussein”. The crisis over access to Presidential palaces had “not been an artificial argument about some theoretical threat, but a reflection of real alarm ... about the use of those sites to conceal both evidence and actual weapons”.¹⁸⁸

460. Mr Blair added:

“We should never forget that if we do not stop Saddam Hussein acting in breach of his agreement on weapons of mass destruction, the losers will not just be those threatened by him, but the authority and standing of the UN itself ...”¹⁸⁹

461. In Mr Blair’s view, “nothing else” apart from “effective diplomacy and firm willingness to use force” would have changed Saddam Hussein’s mind and produced a signed agreement with the UN:

¹⁸⁷ Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

¹⁸⁸ House of Commons, *Official Report*, 24 February 1998, column 173.

¹⁸⁹ House of Commons, *Official Report*, 24 February 1998, column 174.

“Throughout the dispute, our aim has been a peaceful, diplomatic settlement. There was no desire on either side of the Atlantic to use force, but it was also clear to us throughout that Saddam Hussein only understands and respects force ...

“... As Kofi Annan said in Baghdad: ‘You can achieve much by diplomacy, but you can achieve a lot more when diplomacy is backed by firmness and force.’

“I would put it this way: with Saddam, diplomacy plus force equals success.”¹⁹⁰

462. Mr Blair concluded:

“Saddam Hussein has spent seven years playing for time, but has been thwarted by the resolve of the international community. It is now clearer than ever that his games have to stop once and for all. If they do not, the consequences should be clear to all.”¹⁹¹

463. Mr Campbell recorded that, when Cabinet discussed Iraq on 26 February, Mr Cook said there were “really worrying signs about what UNSCOM can do. We were pursuing a twin track approach – light at the end of the tunnel on sanctions, allied to clear warnings if Saddam breaks the agreement.”¹⁹² Mr Blair said “he was assured by [President] Chirac he agrees the language makes clear military action will follow if Saddam breaks the agreement.”

RESOLUTION 1154 (1998)

464. On 2 March, the Security Council unanimously adopted resolution 1154 (1998).¹⁹³ It:

- endorsed the MOU of 23 February and looked forward to its full implementation;
- stressed the need for Iraq to comply with its obligations to provide access to UNSCOM and the IAEA which was necessary for the implementation of resolution 687;
- stated that “any violation would have severest consequences for Iraq”;
- reaffirmed its intention to act in accordance with the relevant provisions of resolution 687 on the duration of prohibitions (sanctions);
- noted that Iraq’s failure to comply with the relevant obligations had delayed that action; and
- decided, “in accordance with its responsibility under the Charter, to remain actively seized of the matter, in order to ensure the implementation of this resolution, and to secure peace and security in the area”.

465. It is clear from the statements in the Council meeting on 2 March, made before and after the vote, including from seven States who were not members of the Council, that

¹⁹⁰ House of Commons, *Official Report*, 24 February 1998, columns 174-175.

¹⁹¹ House of Commons, *Official Report*, 24 February 1998, column 176.

¹⁹² Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

¹⁹³ UN Security Council resolution 1154 (1998).

there had been significant tensions about the Secretary-General's mission and the text of the draft resolution co-sponsored by the UK and Japan.¹⁹⁴ Tensions centred on the Security Council determining whether the use of force was appropriate and authorising such action, not individual Member States.

466. In his statement to the Council, Mr Annan stated that, in travelling to Baghdad to seek a peaceful solution to the crisis, he had acted to fulfil his:

“... constitutional obligation under the United Nations Charter and ... commitment to the General Assembly ... a sacred, moral obligation and commitment to act, any time, anywhere, without seeking or accepting instructions from any Government, whenever that action may be helpful in reducing a grave threat to international peace and security.”

467. Mr Annan added that Iraq's refusal to honour its commitments had constituted such a threat which had been averted by the agreement of 23 February. But the agreement would be “empty words unless both parties now implement it fully, fairly and without delay”.

468. Iraq's “complete fulfilment” of those obligations was “the one and only aim” of the agreement, and “nothing more and nothing less” would make the completion of the disarmament process possible and “thus speed the lifting of sanctions”.

469. The agreement was also a call for the UN to look to the future and its “inherent obligation to remember that even the bitterest of enmities among nations do not last for ever”.

470. Mr Annan said that the agreement was also a reminder of why the UN had been established:

“... to prevent the outbreak of unnecessary conflict when the will of the international community can be achieved through diplomacy; to seek and find international solutions to international problems; to obtain respect for international law and agreements from a recalcitrant party without destroying for ever that party's dignity and willingness to co-operate; to secure, in this case, through on-site inspections and negotiations, the assured destruction of weapons of mass destruction that aerial bombardment can never achieve.”

471. In conclusion, Mr Annan pledged “to strive, to seek to find and not to yield” in the fulfilment of his duty.

472. Sir John Weston described the crisis which had led to Mr Annan's “last ditch effort to find a diplomatic solution” as “just the latest and the most serious in a series of Iraqi provocations”. His success was “not a success for diplomacy alone but a success for

¹⁹⁴ UN Security Council, ‘3858th Meeting Monday 2 March 1998’ (S/PV.3858).

diplomacy firmly backed by the willingness to use force if diplomacy should fail”, and no one could “seriously imagine” the same result without that.

473. Sir John said that there were two important messages in the resolution:

- Iraq was obliged to provide access at all sites, “not just in the eight so-called Presidential sites which have up to now been the pretext for so much delay and obstruction”.
- The Iraqi regime had a choice. If it fulfilled its commitments, the way would “be open for the lifting of sanctions”; but if it failed to comply, that would “not be tolerated”. The Council was “determined that any violation will result in the severest consequences”.

474. Sir John concluded that, if Iraq doubted the will of the international community, it would:

“... not for the first time, be making a grave mistake.

“There is a great need at such moments to face up with courage and intellectual honesty to unpalatable truths. Regional security, the future of non-proliferation under international auspices, and the authority of the United Nations and its Secretary-General are all involved, and are all at stake, in our collective efforts to get the case of Iraq right.”

475. Welcoming Mr Annan’s success and the text of the draft resolution, Mr Fernando Berrocal Soto, Costa Rican Permanent Representative to the UN, emphasised the “key concept of international legality and the primacy of the provisions of the Charter over any political considerations”. Bringing the MOU agreed on 23 February into the legal framework authorised by Chapter VII left “no political or legal doubt whatsoever about the seriousness and gravity of this warning by the Security Council”. The “prerogatives and legal competences” were “exclusively of the Security Council” and could not be delegated.

476. Mr Celso Amorim, Brazilian Permanent Representative to the UN, referred to the strain the crisis had placed on a multilateral system “still learning to cope with the challenges of the post-cold-war era” and the Security Council’s wisdom in encouraging the Secretary-General to “undertake a personal mission”. Mr Annan had “succeeded in a mission that sceptics had considered doomed from the start”; and his “determination ... to keep this matter under his close personal supervision ... provides the Security Council with a fair chance to put the problem of the relations between Iraq and the United Nations on a more stable foundation”.

477. Mr Amorim also pointed out that, in resolution 687, the Security Council had decided “to take such further steps as may be required for the implementation of the present resolution”, rather than the “ritual formula” of deciding to “remain seized of the matter”. As a result, he concluded that:

“Only the Security Council has the authority to determine if, when and under what conditions the formal cease-fire it declared on 3 April 1991 holds or not.”

478. Mr Amorim added that members of the Council had been “assured by its sponsors” that they did not intend the draft resolution “to imply any automaticity in the authorisation of the use of force in case of a possible violation by Iraq”. Brazil was satisfied that nothing in the resolution delegated the “authority” that belonged to the Security Council.

479. Mr Hans Dahlgren, Swedish Permanent Representative to the UN, stated that it was “very important” that the Council’s responsibility for international peace and security was “not circumvented”, and that the last paragraph of the draft resolution was “an expression of the need to safeguard this responsibility”.

480. Mr Hisashi Owada, Japanese Permanent Representative to the UN, emphasised that paragraph 3 of the resolution reflected the Council’s wish “to register its firm resolve that violation would have the severest consequences for Iraq” but that it was “not meant to address the issue of so-called automaticity”; the draft resolution was “not designed to prejudge the issues of the future”.

481. Mr Qin Huasun stated that China greatly appreciated “the wise decision made by the Secretary-General at the critical juncture between war and peace” and that it supported his diplomatic efforts. He added:

“The situation in the Gulf region is complex and sensitive. If it is dealt with appropriately there will be peace. Any imprudence, however, may trigger a war, which is in no one’s interest ... We are not in favour of resorting to or threatening to use force ... It would only cause heavy civilian casualties and possibly even more severe consequences.”

482. Mr Qin Huasun added that the Chinese delegation had “repeatedly and unambiguously demanded that the draft resolution should contain no automatic authorisation of the use of force against Iraq”. He had “listened very carefully to the explanations offered by the sponsors of the draft resolution”, but they had not eliminated his “misgivings about the possible abuse of the draft resolution”.

483. Mr Qin Huasun stressed that adoption of the resolution would:

“... in no way mean that the Security Council is automatically authorising any State to use force against Iraq. The Council cannot and should not prejudge whether Iraq will violate its resolutions; even less should the Council predetermine the course of future action. The Security Council can make judgements and decisions only on the basis of prevailing circumstances.”

484. Mr Qin Huasun concluded that Iraq was “a sovereign State and its sovereignty, dignity and legitimate security concerns should also be respected”. The Security Council should “make a timely and objective assessment of Iraq’s implementation of its resolutions”. China hoped that UNSCOM would “complete its task of verification and the

destruction of Iraq's weapons of mass destruction at an early date, so that steps can be taken to lift the sanctions against Iraq at the earliest possible date".

485. Mr Dejammet welcomed the draft resolution and the confirmation of the authority of the MOU. The resolution addressed a serious warning to Iraq about complying with its obligations, but it also underscored "the prerogatives of the Security Council in a way that excludes any question of automaticity". It was:

"... the Security Council that must evaluate the behaviour of a country, if necessary to determine any possible violations, and to take the appropriate decisions."

486. Mr Dejammet concluded by paying tribute to Mr Annan's achievements, stating:

"Nothing will be possible without the constant involvement of the Secretary-General in our work and in our deliberations."

487. Speaking after the vote, Ambassador Richardson stated that the US was "deeply grateful" to Mr Annan for his:

"... courageous and diligent efforts. Through his diplomacy, backed by America's willingness to use force, he has achieved what could be, if implemented fully by Iraq, a breakthrough."

488. Ambassador Richardson also expressed scepticism about whether, "after six years of broken promises", Iraq would live up to its words or the Security Council's demands. The resolution provided "for a new beginning for Iraq"; but the "choice" was Iraq's.

489. Mr Lavrov stated that Russia had "unswervingly striven to bring about Iraq's complete fulfilment of its obligations", and that "the first step" would be to lift the oil embargo once all Iraq's "disarmament dossier" issues have been dealt with and moved to the long-term-monitoring stage". As a result of Mr Annan's mission, there was "a real opportunity to speed up the process of achieving a comprehensive settlement".

490. Russia's main goals were:

"... the need for full elimination of Iraq's weapons of mass destruction, maintaining United Nations monitoring in this field and avoiding the extremely dangerous consequences for the entire region in the event of an uncontrolled development of the situation."

491. Mr Lavrov said that the resolution contained "a political warning to Iraq", "whereby new violations by that country will have extremely serious consequences", but:

"At the same time, there has been full observance of the legal prerogatives of the Security Council ... The resolution clearly states that it is precisely the Security Council which will directly ensure its implementation, including the adoption of appropriate decisions. Therefore, any hint of automaticity with regard to the

application of force has been excluded; that would not be acceptable for the majority of the Council's members.”

492. Argentina, Egypt, Kuwait, Malaysia, Mexico, Pakistan and Peru all asked to participate in the discussion. With the exception of Kuwait, the statements focused on the peaceful resolution of disputes as opposed to the use of force and their concerns about the adverse consequences of military action for the people of Iraq, and for peace and security in the region.

493. Kuwait welcomed Mr Annan's achievements but asked the Security Council to attach the same importance to Kuwaiti issues, including the destiny of the detainees and prisoners taken by Iraq in 1990-1991 who constituted one percent of the population of Iraq, as it had attached to saving others in the region from the threat from weapons of mass destruction.

494. On 5 March, UNSCOM inspectors returned to Iraq and successfully carried out a number of site inspections.¹⁹⁵ A baseline survey of the eight Presidential sites by a team including senior diplomats was successfully carried out between 25 March and 4 April.

495. During a visit by Mr Blair to Paris on 24 March, Mr Campbell recorded that, on Iraq, Mr Blair and President Jacques Chirac were “in very different places, TB claiming a success for diplomacy backed by force, Chirac basically saying we were killing children through sanctions”.¹⁹⁶

496. In his report of 3 April, Mr Butler set out UNSCOM's responsibility for reporting whether Iraq had met the requirements set out in paragraphs 8 to 10 of resolution 687, and that those reports were the “sole criteria” for assessing Iraq's actions to provide the basis for a Council decision on lifting the provisions of paragraph 22 prohibiting the imports of commodities and products originating in Iraq.¹⁹⁷

497. Describing them as the “indispensable context” for the Council's consideration of Iraq's compliance, Mr Butler set out:

- “Iraq's claim that it has no more prohibited weapons ‘in the control of the Government of Iraq, in the territory of Iraq’”; and that it had “made available ... all that is necessary to enable the Commission to verify that claim and that nothing further, of substance, will be made available by Iraq.
- Iraq's claim, which it had not been possible for the Commission to verify, did not “satisfy the three step system the Council established in order to enable Iraq to fulfil its obligations”. Those steps, which were “not separable” were:
 - full declaration by Iraq;

¹⁹⁵ UN Security Council, 16 April 1998, ‘Report of the Executive Chairman on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1998/332).

¹⁹⁶ Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

¹⁹⁷ UN Security Council, 16 April 1998, ‘Report of the Executive Chairman on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1998/332).

- verification by the Commission; and
- destruction, removal or rendering harmless under international supervision.
- Iraq’s “consistent refusal” to provide “the information and materials needed to verify its claim, clearly fails to satisfy the second step”; and that made the third step “impossible”.
- This “difficult circumstance” had been made “even more complicated by Iraq’s claim that it has unilaterally destroyed those prohibited weapons which were not destroyed under international supervision”; and the Commission’s inability to verify “all” those claims.
- Mr Aziz’s view was that UNSCOM’s “lack of technical competence and bias against Iraq” was the “main reason” why Iraq’s claim was not accepted.
- The Commission’s view was that Iraq’s “basic declarations of its holdings and capabilities in prohibited weapons areas” had “never been ‘full, final or complete’”, and that Iraq’s failure to “fill in the gaps” in its declarations and “acts of unilateral destruction” had “significantly obfuscated the situation”.

498. Addressing the standard of verification needed for credible reports to the Council under paragraph 22 of resolution 687, Mr Butler stated that:

- where prohibited weapons had existed, UNSCOM “must be able to verify positively that they have been destroyed, removed or rendered harmless”; and
- where items and facilities for the potential production of such weapons existed, UNSCOM “must be able to verify negatively that prohibited weapons are not being created”.

499. The remainder of the report set out UNSCOM’s concerns about lack of substantive progress on the priority issues set out in its previous report, including concerns about the impact of the technical evaluation meetings requested by Iraq, which were attributed to Iraq’s failure to deliver the information and documents requested.

500. In three areas, new concerns had arisen:

- Following Iraq’s insistence that it was not necessary to account for all extant munitions on the grounds that any CW agent would have degraded to an inert state, analysis of four 155mm artillery shells “filled with mustard of the highest quality”, showed that they “could be stored for decades without any loss of quality”.
- In March 1998, the Commission had discovered a document, dated 1994, which “indicated the existence, at a site monitored by ... [a] missile monitoring team, of a programme for the manufacture of nozzles for spray dryers to be delivered to Al Hakam, Iraq’s principal biological weapons production facility”.
- Also in March 1998, the Commission discovered documents, dated 1993, that reflected a systematic attempt to deceive the Commission at that time, contrary to Iraq’s claim that it had ended its concealment activities in 1991 and

dismantled its concealment mechanisms. This underscored “the importance of continued vigilance and activity ... on the issue of concealment”.

501. Mr Butler also expressed concern about the dangers of producing a list for action by Iraq, on the grounds that it was “not unreasonable to consider that Iraq might take action to satisfy that list positively” but not address any issues the Commission did not know about. This would “effectively transfer the onus of establishing the basic facts from Iraq to the Commission”. The Commission’s list “would become the standard of proof, not Iraq’s ... compliance with the resolutions and decisions of the Council”.

502. Mr Butler concluded that:

“Iraq’s heightened policy of disarmament by declaration, no matter how vigorously pursued or stridently voiced, cannot remove the need for verification as the key means through which the credibility of its claim can be established.”

503. On 7 April, Dr Mohamed ElBaradei, Director General of the IAEA, submitted his first report to the Security Council on Iraq. He stated that there were no indications of prohibited activities at any of the sites inspected by the IAEA and that all equipment and materials which had been moved by Iraq had been returned to their former locations. Initial inspections of the designated “Presidential sites” had “revealed no immediate indications” of prohibited materials, equipment or activities.¹⁹⁸

504. Dr ElBaradei reported that the IAEA had “no independently verifiable information” to verify Iraqi claims that:

- Lt Gen Kamil had taken actions on the nuclear programme that were “independent, unauthorized and without the knowledge of the Government of Iraq”.
- It had not followed up any offer of foreign assistance to its nuclear programme other than the declared foreign assistance to its centrifuge programme.
- The “high governmental committee”, which had initially been described as having been established in June 1991 and headed by Mr Aziz, “had not, in fact, been an established entity”.

505. Dr ElBaradei also reported that Iraq had “satisfactorily completed its undertaking to produce a consolidated version of its full, final and complete declaration of its clandestine nuclear programme” and “fulfilled its obligation to produce ... a summary of the technical achievements”. The latter document was regarded as “consistent with” the “picture” of the programme developed by the IAEA.

¹⁹⁸ UN Security Council, 9 April 1998, ‘Letter dated 7 April 1998 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General’ (S/1998/312).

506. Following consultations between the members of the Security Council on the UNSCOM and IAEA reports, the President issued a statement on behalf of the Council on 14 May which:

- welcomed the improved access for UNSCOM and the IAEA;
- expressed the hope that the Government of Iraq's agreement to fulfil its obligations would "reflect a new Iraqi spirit with regard to providing accurate and detailed information in all areas of concern";
- expressed concern that the reports indicated that Iraq had "not provided full disclosure in a number of critical areas, in spite of repeated requests from the Special Commission";
- noted that discharge of UNSCOM and the IAEA's mandates required full co-operation from Iraq, "including fulfilment by Iraq of its obligations to provide full, final and complete declarations of all aspects of its prohibited programmes";
- noted that the IAEA's investigations over several years had "yielded a technically coherent picture of Iraq's clandestine nuclear programme, although Iraq has not supplied full responses to all of the questions and concerns of the IAEA", including enacting penal laws on prohibited activities and whether any Government document existed recording a government-level decision to abandon the nuclear programme; and
- affirmed its intention "upon receipt of a report (in October) from the Director General of the IAEA stating that the necessary technical and substantive clarifications have been made, including provision by Iraq of the necessary responses to all IAEA questions and concerns", to adopt a resolution agreeing that the IAEA should dedicate its resources to ongoing monitoring and verification.¹⁹⁹

507. Mr Ekéus explained to the Inquiry that he had had "little belief" that Saddam Hussein would have been attracted by the idea of keeping WMD sensitive material in his private residence; and that events proved this assumption was correct.²⁰⁰

508. In response to a meeting of the Security Council on 27 April at which sanctions had been discussed, Mr Al-Sahaf forwarded an open letter from Iraq's Revolution Command Council and the leadership of the Iraqi branch of the Arab Socialist Ba'ath Party complaining about the injustice of continued sanctions.²⁰¹ It asserted that the purpose of sanctions was to "hurt the Iraqi people and to force the Security Council to remain the pawn of a single member [the US], assisted by the old imperialist devil, the English policeman". The letter also complained about "unfounded accusations and blatant lies" in Mr Butler's reports to the Council.

¹⁹⁹ UN Security Council, '3880th Meeting Thursday 14 May 1998' (S/PV.3880).

²⁰⁰ Statement Ekéus, 23 April 2011, page 4.

²⁰¹ UN Security Council, 1 May 1998, 'Letter dated 1 May 1998 from the Minister for Foreign Affairs of Iraq addressed to the President of the Security Council' (S/1998/368).

509. Following informal discussions in the Security Council on 27 April in which Iraq's compliance with resolution 1137 was raised, Mr Butler reported to the Council on 6 May that, since the MOU of 23 February:

- Iraq had “granted unrestricted and unconditional access” to all sites UNSCOM had wished to inspect and also granted unrestricted access to equipment.
- The issue of access to means of transportation and to officials UNSCOM wished to interview had “not arisen”.
- Mr Butler hoped that Iraq would provide the records UNSCOM had requested.²⁰²

510. Mr Butler stated that, “under the circumstances”, the requirements of resolution 1137 were being “sufficiently implemented” to allow travel restrictions to be lifted.

511. On 1 May, the President of the Security Council provided members with a letter written to him by Mr Al-Sahaf, which said:

“The fact that, after eight years, the sanctions against Iraq have not been lifted demonstrates the Security Council's lack of impartiality in dealing with this matter. The Security Council has failed to discharge its responsibilities under the Charter of the United Nations, whereas Iraq has satisfied all the requirements and conditions set forth in Security Council resolution 687 (1991), section C. The Security Council must now do its part, meeting its obligations towards Iraq by implementing resolution 687 (1991), paragraph 22, without further delay.”²⁰³

512. An UNSCOM “informal paper” providing a “statement of specific tasks and information” which would need to be completed and verified before a report could be made, pursuant to resolution 687 (1991), that Iraq had completed the disarmament actions required, was presented to the Security Council on 4 June.²⁰⁴ In addition, the Commission would need to conclude that Iraq had ceased concealment of proscribed programmes.

513. The tasks included:

- Completion of a “material balance” for:
 - missile warheads;
 - “special munitions”, including 155mm mustard shells and R-400 chemical/biological aerial bombs;

²⁰² UN Security Council, 6 May 1998, ‘Letter dated 6 May 1998 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1888/377).

²⁰³ UN Security Council, 4 May 1998, ‘Letter dated 1 May 1998 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council’ (S/1998/368).

²⁰⁴ UN Security Council, 17 June 1998, ‘Report by the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991), on his mission to Baghdad, 11-15 June 1998’, ‘Appendix I – Informal paper presented to the Security Council on 4 June 1998’ (S/1998/529).

- major components used for the indigenous production of missiles;
- chemical weapons production equipment; and
- acquisition, production and destruction of materials and equipment, agents and munitions for biological weapons.
- Provision of information and documents relating to:
 - production, filling and deployment of special missile warheads;
 - Iraq's declarations on VX;
 - use and status of equipment evacuated from chemical weapons facilities before the adoption of resolution 687; and
 - destruction of missile propellants.

514. On 16 June, following a visit to Baghdad, Mr Butler reported that, although Mr Aziz did not accept all the tasks listed in the UNSCOM paper were disarmament issues, they had agreed a schedule of work to be carried out over two months to “try to resolve the outstanding disarmament issues”.²⁰⁵ Mr Butler described the talks as “cordial and professional”, reflecting “the new spirit of co-operation between both sides” following the signature of the MOU on 23 February. If Iraq met its undertakings to provide full co-operation, it “should be possible for the Commission to resolve remaining issues and begin to formulate reports ... pursuant to paragraph 22 of resolution 687 (1991)”.

515. It is clear from the detailed record of the discussions, however, that there were still significant differences between UNSCOM and Iraq.

516. During the talks, Mr Aziz challenged UNSCOM's pursuit of “many trivial matters not related to disarmament”: “Iraq had destroyed its proscribed weapons, and the details were unimportant.”

517. Mr Aziz also stated that Iraq:

- had not achieved the capability indigenously to produce engines and gyroscopes for proscribed missiles and, therefore, “accounting fully for such components was unnecessary”;
- would not clarify the extent of its attempts to produce VX: the issue was “closed” and Iraq was only ready to discuss the evidence available to UNSCOM of incorrect declarations;
- had already presented all the evidence available on biological weapons and no additional information or documentation would be provided; and
- refused to provide access to one document previously seen by the UNSCOM on the grounds that it was unrelated to its work.

²⁰⁵ UN Security Council, 17 June 1998, ‘Report by the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991), on his mission to Baghdad, 11-15 June 1998’ (S/1998/529).

518. UNSCOM made clear it did not accept those positions, stressing the “particular importance” of trying “to verify the total amount of proscribed weapons produced by Iraq” and a shift in methodology in the biological weapons area to focus on munitions.

519. The report also stated that Iraq had been informed that France was initiating additional aerial surveillance and further capability was being discussed with Russia, but that this activity would complement the U-2 flights not replace them as requested by Iraq.

520. Mr Butler and Mr Aziz agreed that the results of the work programme should be assessed during their next round of talks, to be held in Baghdad during the second week of August. Mr Aziz declined Mr Butler’s invitation to hold a special meeting to discuss concealment activities.

521. UNSCOM later described the method it had used as focusing:

“... on unaccounted proscribed weapons and to set aside other aspects such as fully verifying production capacities, research activities, etc. Satisfactory resolution of the specific ‘priority issues would make it easier to conclude that other unverified elements were of lesser substantive importance. Conversely, the inability of Iraq to satisfy these issues would point to more ominous explanations for other unverified parts of Iraq’s declarations. Whether these other parts will ultimately be addressed is an open question, but one which has a direct bearing upon confidence in future monitoring.”²⁰⁶

522. This approach became the method for establishing whether an “acceptable material balance” could be produced for weapons within UNSCOM’s remit.

523. The Butler Report records that there were two meetings between UK officials and UNSCOM representatives, including Col Ritter, in May and June 1998 at which discussions took place about how to make public the traces of VX which had been discovered on missile warheads.²⁰⁷ A Secret Intelligence Service (SIS) operation, “Operation Mass Appeal” was set up for that purpose, but was abandoned after the UNSCOM report was leaked to the press in Washington.

524. On 17 July, in a speech marking the thirtieth anniversary of the 1968 Iraqi revolution, Saddam Hussein drew attention to the letter to the Security Council of 1 May, which he described as “not just a protest cry”, but evidence of “a will and alternative strategy” if “other means and methods” failed “to return life to its natural track”.²⁰⁸

²⁰⁶ UN Security Council, 29 January 1999, ‘Letter dated 25 January 1999 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1999/94).

²⁰⁷ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 121.

²⁰⁸ Transcript, 17 July 1998, ‘Speech of His Excellency President Saddam Hussein on the 30th Anniversary of 17-30 July 1968 Revolution’ (www.al-moharer.net).

525. On 18 July, a document relating to expenditure of four types of “special” munitions, a term which denoted chemical and biological agent delivery, was discovered during an inspection of the headquarters of the Iraqi Air Force.²⁰⁹ UNSCOM was not allowed to copy or remove the document but it was agreed that it would be jointly sealed and stored in the custody of Iraq’s National Monitoring Directorate.

526. In a letter to Mr Butler on 23 July, Mr Aziz wrote that the meetings of biological experts in Baghdad on 17 to 22 July had not succeeded in “closing the gaps between the two sides”. Iraq deemed it “highly important to devote sufficient time to this issue during our next meeting ... to be able to study it intensively from the political and technical angles”. That might require a longer visit than planned and the participation of the largest possible number of experts.²¹⁰

527. Mr Butler responded on 24 July that he had not yet seen the Chief Inspector’s report of the meetings but:

- He had “a problem with the notion of ‘gaps’ between the two sides because it, fundamentally, misrepresents both the nature of the relationship” between UNSCOM and Iraq and the terms of reference for the meetings in Baghdad. The relationship was that “Iraq should declare in full and truthfully all relevant proscribed programmes” and UNSCOM “should seek to verify those declarations”.
- Describing UNSCOM’s inability to carry out its work as “a mere ‘gap’” departed “very far from the fact of the inadequacy of Iraq’s past declarations”.
- The proposal was similar to one Mr Aziz had made in June, when Mr Butler had made clear that the issue was “establishing facts, not of negotiation between two positions”.
- If the team’s report was “unsatisfactory”, they would “need to analyse why”. But it was “premature ... to conclude that political level discussions ... would correct a problem which has been long-standing, repeatedly addressed and has always rested on the failure of Iraq to provide concrete and verifiable technical information”.
- UNSCOM’s “firm position” continued to be that resolution of the biological weapons issues could “be accomplished with the provision of further documents and other verifiable information” which Iraq possessed.²¹¹

²⁰⁹ Federation of American Scientists, 22 July 1998, ‘Text of Amb. Butler letter to UNSC protesting latest Iraqi obstruction’. Letter Butler to Lavrov [President of Council], 22 July 1998.

²¹⁰ UN Security Council, 14 August 1998, ‘Letter dated 23 July 1998 from the Deputy Prime Minister of Iraq addressed to the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991)’ (S/1998/718).

²¹¹ UN Security Council, 14 August 1998, ‘Letter dated 24 July 1998 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the Deputy Prime Minister of Iraq’ (S/1998/718).

528. UNSCOM subsequently reported that its team had concluded that none of the components of the material balance for biological weapons could be verified.²¹²

529. As requested in the Presidential Statement of 14 May, Dr ElBaradei submitted an “interim status report” on 27 July.²¹³ The report contained little new information, although it did state that Iraq had been unable to locate any additional documents about the decision to abandon the nuclear programme.

530. In addition, Dr ElBaradei reported that Mr Aziz had reiterated that Iraq’s programme of declarations and unilateral destruction had been “an undocumented ad hoc progression of activities undertaken in reaction to events”; and he had stated “unequivocally” that “no Government decree existed which formalised Iraq’s abandonment of its nuclear programme”. Mr Aziz had added that, “had such a decree existed, it would clearly have been in the best interests of Iraq to make it available to the IAEA”.

531. Dr ElBaradei observed:

“It is perhaps of little practical significance whether a so-called ‘high government committee’ was formally constituted or was ... an ad hoc group of varying composition brought together to deal with problems as they arose.”

532. In relation to the actions attributed by Iraq to Lt Gen Kamil, Dr ElBaradei added that it was “beyond debate that concealment of components of Iraq’s clandestine nuclear programme continued until at least August 1995”, and it remained “difficult for IAEA to distinguish the actions of such a senior Government official from that of the Government itself”.

533. Dr ElBaradei also reiterated the importance, given the inherent uncertainties arising from a verification process with the aim of proving the absence of readily concealable items, of continuing intrusive inspections as part of the ongoing monitoring and verification of Iraq’s activities. This was necessary to “provide a significant probability of detecting prohibited equipment, materials or activities at other locations” as well as assurance of the absence of those items at routinely inspected locations.

534. After its visit to Iraq in April 1998, the IAEA reported that it had “found no indications that Iraq has retained the physical capability – in terms of hardware and facilities – to produce weapons-usable nuclear material. Nor are there any indications of Iraq having achieved its programme goal of producing nuclear weapons”.²¹⁴ The IAEA could not provide assurances that there were no “readily concealable items such as components of centrifuge machines”. In addition, because of the progress that

²¹² UN Security Council, 6 October 1998, ‘Report of the Executive Chairman of the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1998/920).

²¹³ UN Security Council, 27 July 1998, ‘Interim status report of the Director General of the International Atomic Energy Agency in response to the Presidential statement on Iraq of 14 May 1998’ (S/1998/694).

²¹⁴ Interim Status Report on Nuclear Inspections in Iraq, IAEA Press Release PR 98/12, 28 July 1998.

it had made in weaponisation technologies before 1991 and the existence of a “cadre of experienced personnel who were employed in the clandestine nuclear programmes”, Iraq had the “knowledge and the technical capability to exploit, for nuclear weapons purposes, any relevant materials or technology to which it may gain access in the future”.

535. Sir Jeremy Greenstock, UK Permanent Representative to the UN in New York from July 1998 to 2003, told the Inquiry that in July/August 1998, the Security Council had been:

“... close to agreeing that Iraq was no longer pursuing nuclear weapons capability, but the United States blocked a certification of that status because Saddam Hussein had not fulfilled absolutely all the detailed requirements. The chemical, biological and missile development files were left open.”²¹⁵

536. The *Strategic Defence Review*, published in July 1998, stated that “Saddam Hussein’s Iraq” represented a “continuing threat”; and that:

“The size of the military forces available and the presence and potential spread of ballistic missiles, chemical and biological weapons and even nuclear weapons add to the risks. These dangers seem unlikely to diminish and may grow.”²¹⁶

537. On 30 July, the Iraqi leadership made a statement which set out concerns about the deliberations on the “nuclear file” currently under way in the Security Council, “the arbitrary and aggressive position” of the US, and the “failure of the Security Council to adopt a fair and equitable resolution”.²¹⁷

538. The statement concluded that, “As a result of the way in which the nuclear file has been dealt with ... and of the manoeuvres of the Special Commission”, Iraq faced the prospect of the embargo continuing for “an unknown and unspecified period” and the Special Commission continuing to “destroy and squander” the property of Iraq. Iraq had agreed arrangements for access to Presidential sites with the UN Secretary-General with the objective of awakening “the conscience of the Security Council and the international community regarding the facts”, and that it would lead to the lifting of the embargo. But there had not been “any perceptible result”.

539. The statement declared Iraq’s intention to “call for a comprehensive national debate ... and on the position that should be adopted” in the near future; and that the forthcoming meeting with the Special Commission would be “an essential indication” of its attitude.

²¹⁵ Statement, November 2009, page 1.

²¹⁶ Ministry of Defence, *Strategic Defence Review*, July 1998.

²¹⁷ UN Security Council, 30 July 1998, ‘Letter dated 30 July 1998 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council’ (S/1998/703).

540. During his visit to Baghdad in early August to assess implementation of the work schedule agreed in June, Mr Butler had also proposed to address substantive issues outside the agreed work programme, including VX, concealment and the implications of the document found on 18 July, and to propose a further programme of intensive work “directed at bringing [the] remaining issues in the missile and chemical weapons areas to closure” before UNSCOM’s next report to the Security Council in October.²¹⁸

541. Mr Aziz had rejected both proposals and “insisted” that he should immediately report to the Security Council that “there were no more proscribed weapons and [related] materials in Iraq”.

542. Mr Aziz also stated that Iraq would “never” give UNSCOM the document found on 18 July and, since Mr Butler was not prepared to report immediately that Iraq was in compliance with its obligations, engaging further with the programme would be “useless”. As a result, the discussions were terminated. Mr Butler reported:

“Under the circumstances, I judged that the best course of action was to report immediately to the Council.”

543. Mr Annan wrote that Iraq had “clearly taken a strategic decision to force the issue”, demanding that UNSCOM should report Iraq had fully disarmed or lose the regime’s co-operation.²¹⁹

544. Mr Annan added that Mr Butler was:

“... of course ... not able to do this – but his position had been weakened further by increasing allegations, including from within UNSCOM itself, that the mission had been used by national intelligence agencies for information gathering un-related to its disarmament mission. The Iraqis seized on this and won support from Russia in denouncing UNSCOM, and Butler in particular as untrustworthy.”

545. On 5 August, the Revolutionary Command Council and the Iraqi Regional Command of the Arab Ba’ath Socialist Party issued a statement recording the decision to suspend “co-operation with the Special Commission in its current form” and with the IAEA.²²⁰

546. The decision also:

- called on the Security Council to apply paragraph 22 of resolution 687 “as a first step on the road leading to the complete and total lifting of sanctions”;

²¹⁸ UN Security Council, 5 August 1998, ‘Letter dated 5 August 1998 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1998/719).

²¹⁹ Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

²²⁰ UN Security Council, 14 August 1998, ‘Statement issued by the Revolution Command Council and the Iraqi Regional Command of the Arab Ba’ath Socialist Party’ (S/1998/718).

- requested the Security Council to re-establish the Special Commission, including:
 - creating a “new executive bureau to lead and direct all the activities and functions” of the Commission: it should comprise “an equal number of members who represent the nations that are Permanent Members of the Security Council”, with the chairmanship of the bureau filled on a rotation basis. “Iraq should participate as an observer in the bureau’s work”;
 - restructuring the Commission’s offices in New York, Bahrain and Baghdad on the same basis; and
 - moving the Commission’s main office from New York to either Geneva or Vienna “to insulate it from the direct influence” of the US;
- stated that “The Security Council and all its members, particularly the Permanent Members, should observe – legally, politically and in practice – the resolutions of the Council which stipulate that the sovereignty of Iraq should be respected”. They should also abide by the Charter of the UN and the 23 February MOU;
- stated that the Security Council should “call to account” members who violated those principles, including banning “flights over the northern and southern parts of Iraq by certain Permanent Members of the Council”; and
- stated that, to express “its good intentions” and its desire that “its decisions should be correctly interpreted and not tendentiously explained as non-compliance”, Iraq would permit monitoring activities to continue provided that the individuals responsible strictly respected provisions of the 23 February MOU in relation to the sovereignty, security and dignity of Iraq.

547. Providing the context for its decision, Iraq stated that it had fulfilled all the obligations imposed on it in the hope that this would lead to the lifting of “unjust sanctions” but the US had:

“... resorted to all ways and means to maintain the unjust sanctions ... and to obstruct and prevent any action by the Security Council that would recognize what Iraq has achieved in fulfilling the requirements of the Security Council ...”

548. Iraq stated that the Special Commission was “foremost” among the instruments used by the US, and that the US controlled its “leadership, activities and mode of operation”. This had turned the Commission into a:

“... disgraced instrument for implementing the criminal American policy against Iraq either by finding pretexts and fabricating crises with a view to maintaining the sanctions or by spying on Iraq and threatening its national security and sovereignty.”

549. Iraq also stated that:

- The Commission continued “to fabricate false pretexts and to perpetuate its work indefinitely”.

- The US had “committed flagrant and gross violations of Iraq’s sovereignty and territorial integrity”, including “imposing an illegal air siege” and openly declaring “criminal schemes against Iraq by allocating funds to finance illegal activities aimed at intervening in Iraq’s internal affairs to commit acts of sabotage and terrorism”.
- Since May 1998, Iraq had been calling on the Security Council, the Secretary-General and the international community to “adopt a fair and firm position”.
- Iraq’s “serious and sincere statements” had remained “unheeded” and the Special Commission had “refused to endorse officially the substantive facts about Iraq’s compliance”.
- The US had “rejected” the recent proposals to the Security Council to “move the nuclear item from the status of disarmament to that of monitoring”.

550. Iraq concluded that the “current circumstances” confirmed that Iraq would “always be under siege regardless of what it does, and regardless of its fulfilment of the Security Council’s requirements”.

551. Mr Aziz forwarded the decision in a letter to the President of the Security Council on 5 August.²²¹

552. Mr Aziz stated that the Special Commission:

“... had refused to inform the Security Council of the substantive facts ... Instead, the Special Commission has continued its old and well-known methods of concentrating on details of no value with respect to the requirements of section C of resolution 687 (1991). It has also continued with its methods of raising marginal issues, to confuse and mislead the Council and world public opinion into thinking that those issues are of some importance with respect to the requirements of disarmament. In addition, it has attempted to conjure up the crises and provocations which characterized the work of the Special Commission throughout the past years. The purpose of this was entirely clear, namely to perpetuate the embargo pursuant to the policy of the United States of America.”

553. Mr Aziz set out in detail Iraq’s position on UNSCOM’s approach to the agreed work programme and his meeting with Mr Butler on 3 August. The points made by Mr Aziz included:

- The Special Commission teams discussing missiles had raised “trivial” or “marginal” additional questions, rather than focusing on the fact of the destruction of special warheads and Iraq’s lack of success in producing engines and gyroscopes for ballistic missiles.
- Iraq had “proved that the material balance for R400 bombs was complete”.

²²¹ UN Security Council, 14 August 1998, ‘Letter dated 5 August 1998 from the Deputy Prime Minister of Iraq addressed to the President of the Security Council’ (S/1998/718).

- The missing 155mm shells were less than 5 percent of the total stock, and had been destroyed in early 1991 when a truck was set on fire. The remnants were still being investigated and they should not be regarded as a serious obstacle to closing the chemical file.
- The Special Commission could have found traces of VX, but there were a number of possible explanations which could be investigated. If Iraq had weaponised VX, there would have been “no reason why it should not declare this”; concealment would have been “a silly act”.
- The Special Commission had, since 1996, “been giving a distorted and falsified picture of the biological programme” which “deliberately ignored the fundamental facts” and “raised lies and fabrications using intelligence methods in co-ordination with American parties”.
- The biological weapons programme had been “newly established”, had not been completed, and “remained without a specialised top management”. Iraq had been unable to import any specialised equipment for the production of biological agents. Iraq had “destroyed this programme completely in 1991”.
- Since 1995, monitoring teams had interviewed 256 personnel and carried out 1,048 inspections at 334 sites without finding any biological weapons or agents and had not found “any proof on the existence of biological activities, current or previous, in sites other than those declared by Iraq which were destroyed”. 95 sites were still under “strict and very intrusive monitoring”.
- Iraq had “accepted the sacrifice” involved in the destruction of the Al Hakam plant, including facilities for civilian purposes, “after the Special Commission promised ... that ... was the most important step for closing the biological file”.
- When Iraq had given examples of the verification procedures adopted by the US individual in charge of the biological file to a delegation led by Mr Lakhdar Brahimi on 5 November 1997, they had produced “surprise and sarcasm”.
- In the technical evaluation meetings in March and July, the Commission had pursued questions which “bore no relation to the fundamental questions of disarmament”.
- In response to the “vicious circle created by the Special Commission”, Mr Aziz had proposed on 23 July that he and Mr Butler should supervise the file, but his proposal had been rejected.

554. In the concluding section of his letter, Mr Aziz wrote that Iraq had raised the working methods of the Special Commission many times, and some measures had recently been taken, including the participation of experts from Permanent Members other than the US and UK, but:

- The “real situation” had “not changed”, as the US and UK were “still leading all its activities and define all the discussions of the Special Commission”.
- It was “well known” that the US and UK had “tendentious political objectives against Iraq”.

- The Special Commission was “not prepared to tell the truth by announcing that the main task entrusted to it ... has been completed”.
- That was “an illegal” and “tendentious political position” which was “not based on any scientific or technical foundation”.
- The US and UK had refused to acknowledge when there was a technical basis for closing a file and had “obstructed practically any step which the Security Council attempted to take in the direction of achieving justice and equity”.
- That had happened in July in relation to the nuclear file.
- Iraq’s warnings on 1 May, 17 July and 30 July had not been heeded.

555. Mr Annan wrote that he had been contacted by Secretary Albright and Mr Samuel (Sandy) Berger, the US National Security Advisor, who insisted that Iraq’s stance was an attack on the UN and on Mr Annan’s own position as it was his MOU that had been violated.²²² His response to the “standoff” was to propose “a comprehensive review of the UN’s relationship with Iraq, including the role of UNSCOM”. The US had opposed such a move on the grounds that it was “bargaining” with Saddam Hussein, but:

“... the broader Council, including the UK, understood the value of engaging the Iraqis in a process whereby they would come back into compliance and we would set out on a path to a conclusion rather than permanent crisis.”

556. On 11 August, Dr ElBaradei confirmed that, as a result of Iraq’s decision, the IAEA was carrying out limited monitoring and verification tasks which fell “far short of full implementation of the OMV plan” and resulted in a “significantly reduced level of assurance” which could be provided for the Council.²²³

557. On 12 August, Mr Butler reported that Iraq’s decision had brought “to a halt” all UNSCOM’s disarmament activities, including discussions at the political and technical level, and monitoring activities were “limited to sites previously declared by Iraq or designated by the Commission”. UNSCOM fully shared the IAEA’s conclusions on the impact on its ability to provide assurance.²²⁴

558. The President of the Security Council responded to both letters on 18 August, stating that the members of the Council noted “with concern that Iraq’s decision to

²²² Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

²²³ UN Security Council, 18 August 1998, ‘Letter dated 11 August 1998 from the Director General of the International Atomic Energy Agency addressed to the President of the Security Council’ (S/1998/766).

²²⁴ UN Security Council, 18 August 1998, ‘Letter dated 12 August 1988 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1998/767).

suspend co-operation” prevented the IAEA and UNSCOM from carrying out the full range of its mandated activities and the “significantly reduced level of assurance”.²²⁵

559. The initial reaction of the members of the Security Council was that Iraq’s announcement was “totally unacceptable” and that it contravened the MOU signed on 23 February. They also noted “with regret that the announcement was made after a period of improved co-operation and achievement of some tangible results”.

560. Members of the Council expressed their support for the IAEA and UNSCOM, and “for the continuing efforts of the Secretary-General and his Special Envoy”. They emphasised the “need for an early resumption of dialogue” and that they would “be ready to respond favourably to future progress made in the disarmament process”.

561. In a letter to Mr Aziz of 19 August, Mr Butler proposed that Iraq and UNSCOM should resume the full range of activities and that Iraq should confirm it would co-operate.²²⁶ There was no formal response.

562. Following discussions in the Council on 1 September, Mr Butler provided briefing notes on:

- the discovery of VX degradation products and degradation products of VX stabilisers on warhead remnants;
- the material balance of special munitions; and
- “a change in the accounting of the weaponization of biological warfare agents”.

563. On 3 September, Mr Butler briefed members of the Security Council on the current position, including three instances when Iraq blocked UNSCOM’s monitoring.

RESOLUTION 1194 (1998)

564. On 9 September, the Security Council unanimously adopted resolution 1194 (1998), which:

- reiterated the points in the Presidential Statement of 18 August;
- reaffirmed its commitment to comprehensive implementation of its resolutions, in particular resolution 687;
- stressed the unacceptability of any attempts by Iraq to deny access to any site or to refuse to provide the necessary co-operation; and

²²⁵ UN Security Council, 18 August 1998, ‘Letter dated 18 August 1998 from the President of the Security Council addressed to the Director General of the International Atomic Energy Agency’ (S/1998/768); UN Security Council, 18 August 1998, ‘Letter dated 18 August 1998 from the President of the Security Council addressed to the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991)’ (S/1998/769).

²²⁶ UN Security Council, 6 October 1998, ‘Report of the Executive Chairman on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)’ (S/1998/920).

- welcomed the Secretary-General's proposal for a comprehensive review and expressed "its readiness to consider, in a comprehensive review, Iraq's compliance with its obligations ... once Iraq has rescinded its ... decision and demonstrated that it is prepared to fulfil all its obligations".²²⁷

565. Acting under Chapter VII of the Charter, the Council:

- condemned Iraq's decision which was a "totally unacceptable contravention of its obligations";
- demanded that the decision should be rescinded and that Iraq should co-operate fully with its obligations and resume a dialogue with UNSCOM and the IAEA; and
- decided not to conduct the review of sanctions scheduled for October and not to conduct any further such reviews until Iraq had rescinded its decision and UNSCOM and the IAEA reported to the Council that they were "able to exercise the full range of activities provided for in their mandates, including inspections".

566. On 20 September, the JIC concluded that:

"Some biological warfare (BW) production equipment, stocks of agents and even weapons are probably retained by Iraq."²²⁸

567. Mr Annan wrote that Sir Jeremy Greenstock, in his capacity as President of the Security Council, was authorised "by all members of the Council" to engage Mr Aziz on the terms proposed by Mr Annan but because of the "fundamental mistrust between Iraq and UNSCOM", the "standoff continued for another month".²²⁹

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568. Mr Butler's consolidated UNSCOM report of 6 October rehearsed the developments over the preceding six months.²³⁰

569. Mr Butler reported that the outstanding issues in relation to missile warheads were:

- UNSCOM was "able to account for the destruction of between 43 and 45 of the 45 operational special warheads declared by Iraq as having been unilaterally destroyed". That was a "major accomplishment".
- The VX issue needed to be resolved.

²²⁷ UN Security Council resolution 1194 (1998).

²²⁸ *Review of Intelligence on Weapons of Mass Destruction* ["The Butler Report"], 14 July 2004, HC 898, page 49.

²²⁹ Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

²³⁰ UN Security Council, 6 October 1998, 'Report of the Executive Chairman on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)' (S/1198/920).

- UNSCOM had “arrived at an assessment ... that Iraq’s declarations on the unilateral destruction of the special warheads did not match all the physical evidence”. Iraq was asked to discuss the issue on 3 August.
- UNSCOM and Iraq had been “able to identify jointly steps to clarify some of the problems related to Iraq’s actions of 1991 to hide special warheads”, but the effort was terminated by Iraq on 30 July when it refused to provide access to relevant sites or to discuss the issue any further.
- There were outstanding issues relating to the remnants of “some 50 conventional warheads ... that have not been recovered”. Some 30 of those had been indigenously produced.

570. In relation to missiles, the outstanding issues were:

- Iraq’s missile force was in possession of seven indigenously produced missiles in 1991. Iraq maintained that they were training missiles which had been unilaterally destroyed, but no remnants of the missiles or their engines had been found.
- A team of international experts had assessed in July that, by the end of 1990, Iraq had the capability to assemble a limited number of engines for its indigenously produced proscribed missiles and Iraq should account for the key components from that programme. A “rough material balance” had been developed but additional verification work was recommended.
- Iraq had refused to address proscribed liquid missile propellants.
- Iraq continued its development of the Al Samoud missile system which had a declared range of less than 150km, but the issue of its reuse of Volga engines from surface to air missiles was “unresolved”.

571. In relation to chemical weapons, outstanding issues were:

- Iraq had provided “only preliminary information” on its investigation of the 550 missing 155mm shells filled with mustard.
- Accounting for about 500 of the 1,000 bombs unilaterally destroyed was “not possible owing to the state and extent of destruction”. UNSCOM wanted to verify the maximum number of R-400 aerial bombs to facilitate the final accounting for chemical bombs. The quantity and composition of biological bombs was still an issue.
- There were “serious discrepancies” between Iraq’s declarations and the report of its consumption of special munitions in the 1980s.
- UNSCOM’s view was that Iraq was “certainly able to produce VX, and probably produced it in quantity”. There was “significant doubt” about Iraq’s claim that it had not weaponised VX.
- Iraq had provided clarification of the production equipment removed from al-Muthanna in July 1998 but field verification had been “blocked” since 5 August.

572. In relation to biological weapons:

- UNSCOM had been unable to verify the production and destruction warheads for the Al Hussein missile. Iraq had declared that five warheads had been filled with anthrax and 16 with botulinum toxin. A week after the July meeting of experts in Baghdad, a senior Iraqi official had stated that there had been 16 warheads filled with anthrax and five filled with botulinum toxin. The “new explanation contradicted all accounts of the unilateral destruction of special warheads” provided over “the previous three years by Iraqi personnel directly involved in warhead filling and destruction activities”.
- No evidence existed about the number of R-400 bombs filled with biological agent, and Iraq had provided “no consistent explanation” for the allocation of biological agents to weapons.
- Iraq had pursued the development of drop tanks for dissemination of biological agent “with the utmost vigour”, but the team of international experts had assessed that Iraq’s account of the project could not be verified.
- Iraq had modified commercial chemical insecticide equipment to develop aerosol generators to disseminate biological agents. A document submitted by Iraq reported successful testing of such devices in August 1998. Iraq had not accounted for the “final disposition” of the devices produced.
- The level of production of biological agents remained unverifiable, and it was not possible to determine if agents had been dried to enhance storage stability.
- The material balance of biological growth media acquired and consumed was “full of uncertainties”.

573. Mr Butler stated that, after Lt Gen Kamil’s departure from Iraq, UNSCOM had been “confronted with the fact that Iraq had successfully implemented concealment on a large scale”. UNSCOM’s understanding of Iraq’s programmes had been achieved “largely through forensic methods”. The verification of Iraq’s declarations had been made “far more difficult than should have been the case” as a result of Iraq’s:

- “policy and practice of concealment”;
- “unilateral destruction” of weapons and related materials; and
- “repeated denial of the existence of relevant documents on proscribed activities, with the exception of those Iraq unilaterally chooses to provide”.

574. UNSCOM also continued to find dual-use items and materials which should have been declared by Iraq.

575. The report stated that Iraq had rejected a request for a Russian AN-30 aerial surveillance aircraft and its support unit to be based at the Rasheed airbase on security grounds. The Commission had rejected an Iraqi suggestion that the aircraft be based at Habbaniyah, 120km from Baghdad.

576. Mr Butler concluded that:

- Disarmament of Iraq’s proscribed missile and chemical weapons was “possibly near its end”, but a “satisfactory resolution” of the questions on VX would be necessary.
- This was not the case for biological weapons where Iraq’s declarations were “neither credible nor verifiable” and it had “failed to take” the opportunity to disclose its activities.
- Development of monitoring was “vital to the future”, but Iraq was permitting activity “only at a less than satisfactory level”. Monitoring would be particularly important if UNSCOM was unable to provide 100 per cent verification of items unilaterally destroyed by Iraq.
- Full disclosure of materials and information was the “crucial ingredient for both an end to the disarmament process and future monitoring”. Iraq’s demands that UNSCOM should prove that Iraq continued to possess prohibited weapons and associated capabilities would, if accepted, “reverse the onus of disclosure clearly placed on Iraq by the Security Council”.

577. In his report of 7 October, Dr ElBaradei confirmed that there was no evidence or indications of prohibited activity at sites inspected before Iraq’s decision of 5 August to cease co-operation.²³¹ There were still some difficulties, including Iraq’s instructions that personnel should not respond to any questions about Iraq’s clandestine nuclear programme, the quality of Iraq’s declarations. Greater transparency “would contribute considerably to clarifying the few remaining questions and concerns”.

578. These issues “would not of themselves prevent the full implementation” of the Agency’s plan for ongoing monitoring and verification (OMV). That was:

“... predicated on the assumption that Iraq has the knowledge and technical expertise to exploit, for nuclear weapons purposes, any relevant materials or technology to which it may gain access in the future. Nonetheless, it must be recognised that Iraq’s direct acquisition of weapon-usable material would present a serious technical challenge to OMV measures, and great reliance must continue to be placed on international controls.”

579. Following informal consultations in the Security Council on 13 October, Mr Butler submitted an experts’ report of the findings from analysis of special missile warhead fragments excavated in Iraq to the President of the Security Council on 26 October.²³²

²³¹ UN Security Council, 7 October 1998, ‘Sixth consolidated report of the Director General of the International Atomic Energy Agency under paragraph 16 of Security Council resolution 1051 (1996)’ (S/1998/927).

²³² UN Security Council, 26 October 1998, ‘Letter dated 26 October 1998 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to President of the Security Council’ (S/1998/995).

580. Mr Butler stated that he would also be giving the report to Iraq's Permanent Representative to the UN in New York, asking him to transmit it to the authorities in Baghdad. Mr Butler also wrote that the Commission would be willing "to resume work at the earliest possible moment with competent Iraqi authorities in order to address the questions posed by the report".

581. The report recommended that Iraq be invited to explain:

"... the presence of degradation products of nerve agents ... [T]he presence of compound known as VX stabiliser and its degradation product, and to provide more information on the Iraqi efforts during the period from mid-1998 to the end of 1990 to develop and produce VX by improved synthetic routes."²³³

Iraq and VX

Mr Butler's report included a report of a meeting of international experts on VX, held in New York on 22 and 23 October. The report revisited the sequence of events in relation to VX sampling as follows.

In April 1997, following Iraq's declaration of a VX production facility and a dump site where agent had been disposed of, samples of equipment and soil at the site, taken and analysed in the US, were found to contain VX degradation products as well as compounds known as VX stabiliser and its degradation products. This was confirmed in further analysis of samples from the same site in February 1998.

The US laboratory was also asked to analyse samples of 46 fragments from 45 "special warheads" to verify Iraq's declaration that 25 had been filled with biological agent and 20 with a mixture of "alcohols" (isopropanol and cyclohexanol).

In June 1998, the laboratory reported to UNSCOM that it had found chemicals similar to those found at the VX dump site.

In July 1998, UNSCOM asked the US laboratory to analyse samples from different fragments from the 20 warheads Iraq had declared had been filled with alcohols. No chemical warfare compounds were found, but degradation products from a decontamination compound were found in five samples. In addition "signatures of unidentified non-phosphorous compounds were found in many samples".

A French laboratory analysing samples from 40 different fragments from the same 20 warheads reported the presence of a degradation product from a "G- or V-" nerve agent in one sample.

A Swiss laboratory analysing samples from the same 40 fragments did not find any chemical-warfare-related chemicals.

Both the French and Swiss laboratories identified chemicals known to be the degradation products of a decontamination compound and found that a large number of the samples contained the same unidentified non-phosphorous compounds as the US laboratory had identified.

²³³ UN Security Council, 26 October 1998, 'Report of the Group of International Experts on VX' (S/1998/995).

The French experts “noted that the decontaminant could also have been used for ... chemical destruction of biological warfare agents”.

There was “no obvious explanation” for the presence of compounds in the June/July samples which were “completely absent” from the April samples.

The US laboratory reported that it had re-evaluated all activities to confirm that no cross-contamination or other mistakes had occurred.

As a result of further French investigation, ethyl – and methyl – phosphoric compounds could no longer be confirmed in two samples.

582. After intensive consultations, a letter from the President of the Security Council to Mr Annan was agreed on 30 October, “describing the Council’s initial views” on the proposed comprehensive review of Iraqi compliance in two phases: the first dedicated to disarmament and the second other requirements, including those relating to Kuwaiti missing persons and property.²³⁴ The letter reflected a consensus that the assessment should be designed to lead to the definition of an agreed course of action and timetable which, if followed, would allow the Council to act.

583. On the evening of 31 October, the National Monitoring Directorate of Iraq (NMD) informed UNSCOM’s representative in Baghdad that the Revolutionary Command Council and the Ba’ath Party had decided “to suspend, stop or cease all activities of the Special Commission, including monitoring”.²³⁵ Iraq made clear that it was not asking the monitoring teams to leave Iraq and its cameras and other equipment would remain in place. The IAEA would be allowed to continue its monitoring activities, provided they were independent of UNSCOM.

584. In a statement to the press on 31 October, the President of the Security Council reported that the members had “unanimously condemned” Iraq’s decision and demanded that it should be rescinded “immediately and unconditionally”.²³⁶ Once Iraq had rescinded this decision, and its decision of 5 August to limit co-operation, the members of the Council remained ready “to implement a comprehensive review of Iraq’s compliance”.

585. The statement described Iraq’s decision and the continuing restrictions on the work of the IAEA as “deeply disturbing”. The Council would “remain actively seized of this matter, in order to ensure the full implementation of the relevant resolutions and secure peace and security in the region”.

²³⁴ UN Security Council, ‘3939th Meeting Thursday 5 November 1998’ (S/PV.3939).

²³⁵ UN Security Council, 31 October 1998, ‘Letter dated 31 October 1998 from the Deputy Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991 addressed to the President of the Security Council’ (S/1998/1023).

²³⁶ UN Security Council Press Statement, 31 October 1998, ‘Text: UNSC Condemns Iraq’s decision on weapons inspectors’.

586. In response to a request from the Security Council, Mr Butler submitted a report on the consequences of Iraq's decision of 31 October, on 2 November.²³⁷

587. Mr Butler stated that Iraq's decisions of 5 August and 31 October made it "impossible for the Commission to implement its disarmament and monitoring rights and responsibilities" and that it was "not in a position to provide the Council with any level of assurance regarding Iraq's compliance with its obligations".

588. Mr Butler's report also confirmed that routine logistic and maintenance work had not been prohibited.

US policy: regime change in Iraq

On 26 January 1998, a Washington think tank, the Project for the New American Century, published an open letter to President Clinton calling for a stronger approach:

"The only acceptable strategy is one that eliminates the possibility that Iraq will be able to use or threaten to use weapons of mass destruction. In the near term, this means a willingness to undertake military action as diplomacy is clearly failing. In the long term, it means removing Saddam Hussein and his regime from power."²³⁸

The 18 signatories included Mr Donald Rumsfeld, Mr Paul Wolfowitz, Mr John Bolton, Mr Richard Armitage and Mr Robert Zoellick, each of whom became prominent members of the administration of President George W Bush.

In February, a wider, bipartisan US group, the "Committee for Peace and Security in the Gulf", published a further open letter to President Clinton, which said:

"For years, the United States has tried to remove Saddam by encouraging coups and internal conspiracies. These attempts have all failed ... Saddam must be overpowered; he will not be brought down by a coup d'état ... Iraq today is ripe for a broad-based insurrection."²³⁹

A bipartisan group of members of Congress drafted a bill, which made it the policy of the US to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime. It authorised expenditure of US\$97m to provide military support to the Iraqi opposition. It was approved by the House of Representatives by 360 votes to 38, and unanimously by the Senate. It was signed into law by President Clinton on 31 October 1998 as the Iraq Liberation Act, and regime change in Iraq became the official policy of the US.

²³⁷ UN Security Council, 4 November 1998, 'Letter dated 2 November 1998 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council' (S/1998/1032).

²³⁸ Letter Project for the New American Century to Clinton, 26 January 1998.

²³⁹ Feith DJ. *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*. Harper Collins, 2008.

RESOLUTION 1205 (1998)

589. The Security Council unanimously adopted resolution 1205 (1998), condemning Iraq's decision to cease co-operation with UNSCOM, on 5 November.²⁴⁰

590. The resolution:

- noted “with alarm” Iraq’s decision to cease co-operation”;
- stated that the Council was determined to ensure Iraq’s “full compliance ... without conditions or restrictions with its obligations under resolution 687 (1991) ... and other relevant resolutions”; and
- reaffirmed the Council’s “readiness to consider” Iraq’s compliance in a “comprehensive review” once Iraq had “rescinded” its decisions of 5 August and 31 October and “demonstrated that it is prepared to fulfil all its obligations, including” the MOU of 23 February.²⁴¹

591. Acting under Chapter VII of the Charter, the Council:

- condemned Iraq’s decision to cease co-operation with UNSCOM “as a flagrant violation” of resolution 687 and other relevant resolutions;
- demanded that Iraq rescind its decisions of 5 August and 31 October;
- reaffirmed its full support for UNSCOM and the IAEA and their efforts to implement their mandates;
- expressed full support for the efforts of the Secretary-General to seek full implementation of the 23 February MOU;
- reaffirmed its intention to act in accordance with the relevant provisions of resolution 687 “on the duration of the prohibitions” in that resolution and noted that by failing to comply with its obligations, Iraq had “delayed the moment when the Council can do so”; and
- decided “in accordance with its primary responsibility under the Charter for the maintenance of international peace and security, to remain actively seized of the matter”.

592. The record of the Security Council’s discussion demonstrates the surprise and incomprehension which Iraq’s decision caused amongst the members of the Council.

593. Russia and other members of the Council explicitly stated that the resolution did not authorise the use of force.

594. Mr Dejammet stated that the Security Council’s decision demonstrated its unity and sent a firm message to Iraq in response to its “unacceptable and irrational” decision.²⁴² Iraq was “turning its back on the Council’s clearly expressed intention to proceed without

²⁴⁰ UN Security Council, ‘3939th Meeting Thursday 5 November 1998’ (S/PV.3939).

²⁴¹ UN Security Council resolution 1205 (1998).

²⁴² UN Security Council, ‘3939th Meeting Thursday 5 November 1998’ (S/PV.3939).

delay to a comprehensive review of the implementation of its resolutions as soon as the restrictions imposed ... on 5 August were lifted”.

595. Mr Danilo Türk, Slovenian Permanent Representative to the UN, described Iraq’s reaction as “really astonishing”:

“While the Council was patiently moving towards meeting Iraqi concerns, Iraq chose to move in the opposite direction. It is difficult to understand the motives for this reaction. It is also difficult to see how this grave challenge to the Council’s authority can result in anything other than a serious aggravation of the situation.”

596. Mr Lavrov stated that Iraq’s decision had “jeopardised the search of recent months for a solution to the Iraqi problem” and ran “counter to the agreements” reached with Mr Annan that Baghdad “would rescind its decision of 5 August and that the Security Council would conduct a comprehensive review”, which had “opened the way to the lifting of sanctions on Iraq”.

597. Mr Lavrov added:

“The way to overcome this new crisis lies ... exclusively in political and diplomatic efforts alongside the active role of the Secretary-General. Any attempt to resolve the problem by force would have highly unpredictable and dangerous consequences, both for the United Nations ability to continue to monitor proscribed military activity in Iraq and for peace and stability in the region and in the Middle East as a whole.

“We are pleased to note that the draft resolution ... seeks precisely a political solution ... and contains no language that could be arbitrarily interpreted as some kind of permission to use force ...

“Without in any way attempting to justify Iraq’s actions, I wish to stress the exceptional importance of total clarity with regard to the Security Council’s intentions to implement its own resolutions. The draft resolution clearly reaffirms the Council’s intention to take a decision on the current sanctions in accordance with the relevant provisions of resolution 687 (1991).”

598. Mr Antonio Monteiro, Portuguese Permanent Representative to the UN, stated that Iraq’s decision had been greeted with “dismay and incomprehension”.

599. Mr Dahlgren stated that it was Sweden’s “sincere hope” that Baghdad would not miss the “exit sign ... for the route out of sanctions”. He added that the final paragraph of the resolution reflected the “very important principle” that:

“The Security Council’s primary responsibility for the maintenance of international peace and security ... must not be circumvented. We see this paragraph as an expression of the desire of members to safeguard that responsibility.”

600. Mr Amorim stated that Mr Annan’s “possible concept of a comprehensive review” constituted a “thoughtful and balanced approach which could allow for progress” and

that Brazil had learned of Iraq's decision "with a deep sense of dismay". He also drew attention to the "special importance" of the provisions in the resolution which stressed "that the Security Council will continue to be seized of this issue, in accordance with its primary responsibility ... for the maintenance of international peace and security".

601. Mr Mahugu stated that the resolution contained "nothing that could open the door in any eventuality for any kind of action without the clear and precise authority of the Security Council".

602. Mr Qin Huasun stated that the Council "should seriously reflect on the root causes of the present situation". There was "no doubt" that Iraq had to fulfil its obligations in a comprehensive manner, but the Council also had "the responsibility to make a fair and objective assessment" of Iraq's compliance. China's view was that some weapons files were "ripe to move" to the next phase of monitoring and verification. The fact that the Security Council had been "unable to make such a political decision" was "regrettable".

603. Mr Qin Huasun added that Mr Annan's proposals and ideas, which had been "warmly received and supported by an overwhelming majority of the Council members". China believed that conducting a comprehensive review was "still a way out of the present impasse". Dialogue, consultation and confidence building was the only way out. He appealed "to all sides to exercise restraint" and to "refrain from any actions that might sharpen the conflict and exacerbate tensions".

604. Mr Qin Huasun concluded that there were "still elements" in the draft resolution which were "not totally to our liking", but he would vote in favour because it had:

"... incorporated amendments put forward by China and other interested countries by taking out the part which determines that the situation in Iraq poses a threat to international peace and security, and by adding that it is the primary responsibility of the Security Council to maintain international peace and security, reiterating its support for the Secretary-General in his efforts to ensure the implementation of the Memorandum of Understanding ...

"... We hope that this resolution will facilitate the resumption of co-operation between Iraq, on the one hand, and UNSCOM and IAEA, on the other, to allow an early comprehensive review which will in turn free the Iraqi people from sanctions."

605. Speaking after the vote, Sir Jeremy Greenstock stated that Iraq's decisions of 5 August and 31 October had put it "in flagrant violation of its obligations" and it was "right that the Council should react formally and unanimously to this latest attempt to challenge its authority and that of the United Nations as a whole". "Co-operation not confrontation" was "the only way out from sanctions for Iraq".

606. Commenting on the views expressed by other speakers on the meaning of this resolution as regards the possible use of force, Sir Jeremy added that the view of the UK was that it was:

“... well established that the authorisation to use force given by the Security Council in 1990 may be revived if the Council decides that there has been a sufficiently serious breach of the conditions laid down by the Council for the cease-fire.

“In the resolution we have just adopted, the Council has condemned the Iraqi decision to cease all co-operation as a flagrant violation of its obligations.

“This resolution sends a clear message to Iraq: resume co-operation now. If Iraq does so, the Council has spelt out unambiguously that it stands ready to conduct a comprehensive review of Iraq’s compliance with its obligations ... and what steps remain to be taken. We hope that Iraq will respond positively and resume full co-operation soon.”

607. Mr Peter Burleigh, US Deputy Permanent Representative to the UN, stated that the Council had “sent a clear and unmistakable message to Iraq” that “non-compliance will not be rewarded or tolerated”. The restrictions which Iraq had imposed on UNSCOM and the IAEA were “intolerable”. Mr Annan had “expressed his own view” that Iraq’s decision of 31 October was a “serious breach and major violation” of the 23 February MOU. President Clinton and Secretary Albright had “emphasized that all options are on the table”, and the US had “the authority to act”.

608. Mr Burleigh concluded:

“Iraq should recognise the gravity of the situation it has created. Iraq must turn back from the dangerous and self-defeating course it has chosen. The United States sincerely hopes that Iraq will heed the clear message of this resolution and take the necessary steps without delay.”

609. On the evening of 10 November, Mr Butler decided to remove all UNSCOM personnel from Iraq.²⁴³ He stated, in a letter to the President of the Security Council the following day, that the “prime consideration which motivated the decision, and the speed at which it was executed, was the safety of the Commission’s staff”. He had consulted the President of the Security Council, Dr ElBaradei and the Chilean Acting Permanent Representative to the UN in New York. “Discussions were also held” with Mr Annan’s office. Mr Butler regretted that it had not been possible to hold wider consultations.

610. In his memoir, Mr Annan recounts learning of UNSCOM’s withdrawal through a telephone call from Dr ElBaradei at 0330 on the morning of 11 November and his anger at what he considered to be Mr Butler’s “deeply unprofessional behaviour”.²⁴⁴

²⁴³ UN Security Council, 11 November 1998, ‘Letter dated 11 November 1998 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security council resolution 687 (1991) addressed to the President of the Security Council’ (S/1998/1059).

²⁴⁴ Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

611. On 11 November, Mr Annan issued a press statement containing a personal appeal to Saddam Hussein to take the necessary steps for a diplomatic solution to the crisis.²⁴⁵ It expressed “surprise” at Iraq’s decision when the Security Council had “agreed a way forward on a comprehensive review”.

612. Mr Blair wrote in his memoir that Saddam Hussein had “thrown out the weapons inspectors, who had written a damning report on the outstanding issues relating to weapons of mass destruction and Saddam’s continuing ambitions to develop a programme for them” and “President Clinton was contemplating a military strike”.²⁴⁶ At a meeting with Mr Robertson, Mr Cook and General Sir Charles Guthrie, Chief of the Defence Staff, on 11 November, Mr Blair had been briefed on the military options. Cabinet had been taken through the issue the following day, with Mr Robertson warning that it was “the most serious development” since the Gulf Conflict.

613. Mr Campbell wrote that Mr Robertson had told Cabinet that Saddam Hussein had broken the cease-fire agreement, broken his word to Mr Annan, and was rebuilding chemical and biological weapons programmes.²⁴⁷ He was weaponising nerve agents. These were “ferocious weapons” and “his neighbours believe there is intent”. Mr Campbell wrote: “TB made clear this was the US demanding and us complying, but that our own independent judgement was that he [Saddam Hussein] must be forced to comply. He said there was a real breach, not a technical breach.”

614. On 12 November, the Iraqi Permanent Representative to the UN in New York was given a private warning that, if Iraq did not return to full compliance very quickly it would face a substantial military strike.²⁴⁸

615. Following discussions in the Security Council in which “all the members ... expressed preference for a diplomatic solution”, Mr Annan wrote to Saddam Hussein on 13 November asking for “an early response” to the appeal in his press statement of 11 November, which had been “unanimously endorsed” by the Security Council.²⁴⁹

616. Mr Aziz’s response on 14 November stated that Iraq had put its trust in Mr Annan and his good faith but, because of US objections, the deliberations of the Security Council on the procedures for the comprehensive review had not provided a clear picture.²⁵⁰ On the basis of Mr Annan’s appeal and messages from Russia, China, France, Brazil and other States, Iraq had “decided to resume working with the Special Commission and the IAEA and to allow them to perform their normal duties”. He also

²⁴⁵ UN Security Council, 14 November 1998, ‘Letter dated 13 November 1998 from the Secretary-General addressed to the President of the Republic of Iraq’ (S/1998/1077).

²⁴⁶ Blair T. *A Journey*. Hutchinson, 2010.

²⁴⁷ Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

²⁴⁸ House of Commons, *Official Report*, 16 November 1998, column 609.

²⁴⁹ UN Security Council, 14 November 1998, ‘Letter dated 13 November 1998 from the Secretary-General addressed to the President of the Republic of Iraq’ (S/1998/1077).

²⁵⁰ UN Security Council, 14 November 1998, ‘Annex II’ (S/1998/1077).

provided points which had been passed to Russia, France and China on how the comprehensive review should be conducted.

617. In a press statement on 15 November, the President of the Security Council noted Mr Aziz and the Iraqi Permanent Representative had informed the Council that:

- “Iraq has decided, clearly and unconditionally, to co-operate fully with the Special Commission and the International Atomic Energy Agency (IAEA)”.
- The decision constituted “a rescinding of the decisions of 5 August and 31 October, and that Iraq’s co-operation with the Special Commission and the IAEA will allow the return of inspectors to resume all their activities on an immediate, unconditional and unrestricted basis, in accordance with the relevant resolutions and with the Memorandum of Understanding of 23 February 1998.”²⁵¹

618. The press statement also said that “Taking note of past experience”, Council members had “underlined that their confidence in Iraq’s intentions” needed to be “established by unconditional and sustained co-operation”, and:

“... reaffirmed their readiness to proceed with a comprehensive review, once the Secretary-General has confirmed, on the basis of reports from the Special Commission and the IAEA, that Iraq has returned to full co-operation, on the basis of resolution 1194 (1998) and the Council President’s letter of 30 October to the Secretary-General.”

619. The US and the UK had already authorised air strikes when Mr Aziz’s letter was received.

620. Mr Blair wrote that air strikes had been due to begin at 4.30pm on 14 November, but President Clinton “had decided to pause” when Iraq’s letter was received. Mr Blair described Iraq’s response as “full of holes, typical Saddam rubbish”, but early on 15 November action was suspended.²⁵²

621. Mr Blair wrote that Mr Cook was relieved, but he had been “determined to keep the US alliance intact and functioning at what was a crucial moment”.

622. Mr Campbell wrote that Mr Blair understood why President Clinton had decided to pause, “but our general view was that we should have gone ahead”.²⁵³ He wrote: “TB was worried we would end up diluting the support we had. Clear breach would get us support. If we were signalling we weren’t sure, or it didn’t matter, we would dissipate it.” Mr Blair and President Clinton spoke eight times over an 18-hour period.

²⁵¹ UN Press Release, 15 November 1998, ‘Security Council notes agreement of Iraq to rescind earlier decisions, allow resumption of UNSCOM and IAEA activities’ (SC/6596 IK/258).

²⁵² Blair T. *A Journey*. Hutchinson, 2010.

²⁵³ Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

623. Mr Campbell recorded in his diary a conversation with Mr Blair on the morning of 15 November, in which he said that “the US were still talking about going in today. This was a nightmare, he said.”

624. In a statement to the House of Commons on 16 November, Mr Blair explained why the UK Government had been prepared to take military action, why it had stayed its hand and why it remained “ready to strike” if Iraq failed to comply fully with its obligations.²⁵⁴

625. Mr Blair stated that Iraq had “built up a vast arsenal of weapons of mass destruction” before the Gulf Conflict and that, since then, he had “been trying to hide them, and to acquire more”. After the agreement of the MOU in February 1998, Iraq had “resumed superficial co-operation”, but that changed on 5 August. The issue was not “technical breaches of UN resolutions, but ... a pattern of behaviour” that continued “to pose actual huge risks”.

626. Mr Blair stated that two hours before the attacks were due to start, word had been received that Iraq had told Mr Annan that they would be responding positively to his appeal. The US and UK had decided to put the attack “on hold for 24 hours to give us a chance to study the details of the Iraqi response”.

627. Mr Blair added:

“The first Iraqi letter appeared to agree to resume co-operation with UNSCOM and the IAEA. It was described as unconditional by Iraqi spokesmen, but the full text of the letter, and in particular nine assurances that the Iraqis were seeking about the comprehensive review ... left that unclear. We and the Americans spelled out that that was unacceptable, and that there could be no question of any conditions.

“During the course of Saturday night and Sunday morning, the Iraqis offered a stream of further written and oral clarifications, making it clear that their compliance was unconditional ...

“The clarifications, taken together, mean that Saddam Hussein has completely withdrawn his positions of August and October. No concessions of any kind were offered to him in exchange. There was no negotiation of any kind. Nor could there have been. Nor will there be in future.”

628. Mr Blair cautioned:

“We do not take Iraqi words at face value. Long experience has taught us to do the opposite ... we and the Americans have suspended further military action while we bolt down ... every detail of what the Iraqis have said, and while we test the words in practice ...

²⁵⁴ House of Commons, *Official Report*, 16 November 1998, columns 607-623.

“As ever, we do not rely on the good faith of Saddam Hussein. He has none. We know, however, that under the threat of force, we can make him move. We will be watching him with extreme care and a high degree of scepticism ... we and the Americans remain ready, willing and able to go back to the use of force at any time. There will be no further warnings. The inspectors will now carry out their work.”

629. Mr Blair emphasised that the position was different from that in February 1998. There was “now a very clear diplomatic basis for action without further need for long discussion in the Security Council or elsewhere”. If there was “a next time ... everyone will know what to expect ... I shall have no hesitation in ordering the use of force.”

630. Mr Blair concluded:

“This is far from over. It is merely in a different phase. Our course is set: complete compliance and nothing less, and we shall not be moved from that course.”

631. Mr William Hague, the Leader of the Opposition, asked whether, given Saddam Hussein’s “continued breaches of faith, and the continuing threat to peace that he presents to the whole of the Middle East and thus to the interests of the United Kingdom”, meant that, although there would be “formidable difficulties”, the “prime objective of western policy should now be the removal of Saddam from power?”

632. Mr Blair responded:

“Of course we want to see the Iraqi people governed by a regime other than that of Saddam Hussein. We are looking with the Americans at ways in which we can bolster the opposition and improve the possibility of removing Saddam Hussein altogether. I entirely share the sentiments that President Clinton expressed on that point.”

633. In a press conference on 14 December looking at the challenges ahead in the coming year, asked whether Iraq deserved a comprehensive review, Mr Annan responded that the Security Council itself “would want to know, after eight years of sanctions, where it stands, what has been achieved, what needs to be done, and within what reasonable time frame it can be done”.²⁵⁵

634. Asked about “any inherent conflict of interest” between multilateral interests in the UN and the US, Mr Annan stated that there were “areas” where Washington’s policies diverged from the UN, including:

“... Iraq, where the Council has made it clear that we should disarm Iraq, and the moment we get the indication from the inspectors ... that Iraq has been disarmed, sanctions will be lifted. American policy goes beyond that, but I am guided only by the United Nations policy.”

²⁵⁵ UN Press Release, 14 December 1998, ‘Transcript of Press Conference by Secretary-General Kofi Annan at Headquarters, 14 December’ (SG/SM/6837).

635. Mr Annan submitted reports from the IAEA and UNSCOM covering the period since 17 November to the President of the Security Council on 15 December.²⁵⁶

636. The report from Dr ElBaradei, of 14 December, was very short, simply listing the IAEA's activities and reporting that Iraq had "provided the necessary level of co-operation" to enable it to complete the tasks "efficiently and effectively". In discussions on "the few remaining questions and concerns related to Iraq's clandestine nuclear programme", Iraq had "expressed its intention to continue to co-operate with the IAEA on the resolution of the issues".²⁵⁷

637. Mr Annan told the Security Council that the report from UNSCOM presented "a mixed picture" and concluded that "UNSCOM did not enjoy full co-operation from Iraq".²⁵⁸

638. In his report of 15 December, Mr Butler briefly rehearsed the impact of Iraq's policies on UNSCOM's ability to carry out its tasks before 17 November, adding that, since its return on 17 November, UNSCOM had focused on four main areas:

- requests for information through access to documents and interviews of Iraqi personnel;
- monitoring inspections;
- inspection of capable sites; and
- disarmament inspections relating to proscribed weapons and activities.²⁵⁹

639. Mr Butler reported that UNSCOM had asked for 12 sets of documents related to chemical weapons and missiles and access to the archives of Iraq's Ministry of Defence and the Military Industrialisation Corporation. In response, Iraq had provided only one set of documents, and a preliminary assessment indicated that they did not contain the information sought.

640. Other points included:

- UNSCOM had repeated its request for the return of the document seized at the Iraqi Air Force headquarters in July 1998, which detailed Iraq's consumption of special warheads in the 1980s. Iraq had refused, stating that it was "ready only to 'consider' ... relevant portions of the document" in the presence of the Secretary-General's Special Representative.

²⁵⁶ UN Security Council, 15 December 1998, 'Letter dated 15 December 1998 from the Secretary-General addressed to the President of the Security Council' (S/1998/1172).

²⁵⁷ UN Security Council, 15 December 1998, 'Letter dated 14 December 1998 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General' (S/1998/1172).

²⁵⁸ UN Security Council, 15 December 1998, 'Letter dated 15 December 1998 from the Secretary-General addressed to the President of the Security Council' (S/1998/1172).

²⁵⁹ UN Security Council, 15 December 1998, 'Letter dated 15 December 1998 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the Secretary-General' (S/1998/1172).

- Iraq had provided a report on its analysis of samples from special warhead fragments.
- Iraq had claimed that VX contamination of missile fragments from special warheads, found by a US laboratory, was the result of a deliberate act of tampering with the samples.
- Iraq had refused to allow missile engine components to be removed for analysis.
- Iraq did not provide specific documents requested by a biological inspections team and had not responded to a request for new, substantial information on its biological weapons programmes.
- There had been some difficulties in interviews with students in a university where declarable research on biological weapons had taken place.

641. In relation to monitoring inspections:

- Iraq was reconsidering its refusal since 5 August to provide data collected by Iraq during tests on indigenously produced missiles and rocket engines.
- Iraq had placed unacceptable conditions on photographs during a chemical inspection on 5 December.
- Undeclared dual-capable items and materials subject to chemical and biological monitoring had been discovered.
- A team had been refused access on 11 December in line with Iraq's policy of facilitating entry "during the working days of the week, except Fridays".

642. In relation to disarmament inspections, Mr Butler reported that, "In the light of clear evidence that Iraq had taken advance actions at certain of the locations planned for inspection", he had "decided not to conduct the full range of inspections the team had planned". The examples given included:

- There had been some difficulties negotiating access at one site designated as sensitive which resulted in Iraq's introduction of new requirements, including a formal letter of request indicating what was being sought at the site.
- At the former headquarters of the Special Security Organisation, the building had been emptied and Iraq would not disclose where the materials were held.
- At the management offices of the Military Industrialisation Corporation, the site "had been prepared to avoid any disclosure of relevant materials and the team assessed Iraq had expected their arrival".

643. Mr Butler reported that Iraq had still not taken action to enact the required legislation to prohibit activity which was prohibited by Security Council resolutions and to enforce such legislation.

644. Mr Butler concluded that it was "evident" from the report that Iraq had not provided the full co-operation promised on 14 November, and:

“... during the period under review, Iraq initiated new forms of restrictions upon the Commission’s work. Amongst the Commission’s many concerns about this retrograde step is what such further restrictions might mean for the effectiveness of long-term monitoring activities.

“In spite of the opportunity presented ... including the prospect of a comprehensive review, Iraq’s conduct ensured that no progress was able to be made in either the fields of disarmament or accounting for its prohibited weapons programmes.

“... in the absence of full co-operation by Iraq, it must regrettably be recorded ... that the Commission is not able to conduct the substantive disarmament work mandated ... by the Security Council and, thus, to give the Council the assurances it requires with respect to Iraq’s prohibited weapons programmes.”

645. Mr Annan also circulated a letter of 14 December from Mr Aziz, reporting in detail on the activities of the IAEA and UNSCOM between 18 November and 13 December and stating that, despite concerns about aspects of UNSCOM’s actions, Iraq had provided full co-operation.²⁶⁰

646. Mr Aziz’s concerns included:

- A large inspection team to address allegations of concealment had arrived without the agreed advance notification and had “carried out its work in an intrusive and provocative manner, showing no respect for the procedures agreed between Iraq and UNSCOM”.
- UNSCOM had not responded to Iraq’s requests to send teams to work with Iraq to investigate two areas of importance in relation to the material balance of chemical weapons: “the fate of the 155mm shells with mustard” and verification of the “tail units of the R-400” which were “at the Iraqi Air Force stores”.

647. Mr Annan suggested that the Council might want to consider three possible options:

- “That the experience over the period since 17 November 1998 does not provide a sufficient basis to move forward with a comprehensive review at this time.”
- “That Iraq has not provided full co-operation but that it should be permitted additional time to demonstrate its commitment to do so.”
- “That the Council may wish to proceed with a comprehensive review on the premise that it is sufficiently important to know precisely what has been achieved in the area of disarmament over the entire period since 1991.”²⁶¹

²⁶⁰ UN Security Council, 15 December 1998, ‘Letter dated 14 December 1998 from the Deputy Prime Minister of Iraq addressed to the Secretary-General’ (S/1998/1173).

²⁶¹ UN Security Council, 15 December 1998, ‘Letter dated 15 December 1998 from the Secretary-General addressed to the President of the Security Council’ (S/1998/1172).

648. Mr Campbell wrote that a meeting of DOP took place on 15 December.²⁶² Mr Cook considered that Mr Butler's report was sufficient reason for action. Mr Blair had given explicit authority for the UK to participate if the US decided to go ahead with strikes.

UNSCOM and IAEA withdraw

649. On 16 December, a spokesman for Mr Annan briefed the press that, overnight, Mr Annan had received a telephone call from Mr Burleigh, who had advised him that US personnel in Iraq were being asked to leave.²⁶³ Mr Butler had also been advised to withdraw UNSCOM personnel, and had instructed them to do so.

650. On the same day, Dr ElBaradei informed the Council that he had decided IAEA personnel should be "temporarily" relocated to Bahrain once UNSCOM, "on whose logistic support IAEA activities in Iraq" depended, had decided to withdraw its personnel.²⁶⁴

651. During Prime Minister's Questions on 16 December, action against Iraq was raised.²⁶⁵

652. Mr Hague assured Mr Blair "of the full support of the Opposition for the use of military action ... provided that action has clear and achievable objectives" and asked whether removing Saddam Hussein "must now be a prime objective of western policy".

653. Mr Blair responded that no-one who read Mr Butler's report could seriously doubt its conclusion that UNSCOM was unable to do its job properly, and that it stated there were "greater restrictions now than previously". The report detailed "not merely the obstruction", but the fact that it related to:

"... documents, sites and personnel that would give a clue to the whereabouts of the weapons of mass destruction and the capability to make them. It is not obstruction simply for the sake of it, but a plan of deceit to prevent those weapons of mass destruction from being located and destroyed."

654. Mr Blair added that, if he was allowed to develop those weapons, Saddam Hussein would pose a threat "not only to his neighbourhood but to the whole world".

655. Subsequently, in response to a question from Mr Tony Benn suggesting that military action would be illegal and that he should take "an independent view" rather than do as he was told by President Clinton, Mr Blair responded that the question was how to stop Saddam Hussein building weapons of mass destruction. He added that the cease-fire in 1991 had depended on the fulfilment of obligations accepted by Iraq. The

²⁶² Campbell A & Stott R. *The Blair Years: Extracts from the Alastair Campbell Diaries*. Hutchinson, 2007.

²⁶³ UN Security Council, 16 December 1998, 'Press Briefing'.

²⁶⁴ UN Security Council, 16 December 1998, 'Letter dated 16 December 1998 from the Director General of the International Atomic Energy Agency addressed to the President of the Security Council' (S/1999/1175).

²⁶⁵ House of Commons, *Official Report*, 16 December 1998, columns 959-960.

requirement for Iraq to fulfil those obligations had been confirmed in successive Security Council resolutions.²⁶⁶

656. Mr Blair added that, when the MOU between Mr Annan and Iraq had been agreed in February:

“... the Security Council said that any breach by Iraq of its obligations ... would result in ‘the severest consequences’. The Council has condemned Iraq’s decision to end co-operation again and again. On 14 November, we gave Iraq a further chance to come back into compliance. Given Iraq’s manifest failure to co-operate in the past month, I am satisfied that, if we should choose to use force, we have the necessary legal authority to do so.”

Operation Desert Fox

657. The US and UK launched air attacks against Iraq, Operation Desert Fox, at 2200 on 16 December.²⁶⁷

658. Military action began while the Security Council was holding informal discussions on the IAEA and UNSCOM reports and the options identified by Mr Annan.²⁶⁸

659. Mr Annan issued a press statement in which he said it was “a sad day for the United Nations, and for the world” as well as a “very sad day” for him personally. Throughout the year, he had “done everything” in his power “to ensure peaceful compliance with Security Council resolutions, and to avert the use of force”. It had “not been an easy or a painless process”, but “the United Nations had to try as long as any hope for peace remained”.²⁶⁹

660. Mr Annan concluded:

“I deeply regret that today these efforts have proved insufficient.

“What has happened to day cannot be reversed. Nor can any of us foresee the future. All we know is that tomorrow, as yesterday, there will still be an acute need, in Iraq and the wider region, for humanitarian relief and healing diplomacy. In both these tasks, the United Nations will be ready, as ever, to play its part.”

661. In a public statement, President Clinton said that, while other countries had weapons of mass destruction and ballistic missiles, the international community had good reason to impose restrictions on Iraq because it had “repeatedly” used them,

²⁶⁶ House of Commons, *Official Report*, 16 December 1998, columns 961-962.

²⁶⁷ *BBC News*, 16 December 1998, *Blair’s statement on Iraq strikes: Full text*.

²⁶⁸ UN Security Council, ‘3955th Meeting Wednesday 16 December 1998’ (S/PV.3995).

²⁶⁹ UN Press Release, 16 December 1998, ‘Secretary-General deeply regrets that United Nations efforts to seek peace in Iraq have proved insufficient’ (SG/SM/6841).

including against civilians. He had “no doubt” that “left unchecked” Saddam Hussein would use them again.²⁷⁰

662. President Clinton described the conclusions in Mr Butler’s report as “stark, sobering and profoundly disturbing”. Iraq had “abused its final chance”. The situation presented a “clear and present danger to the stability of the Persian Gulf and the safety of people everywhere”. Action was necessary because:

- “... without a strong inspection system, Iraq would be free to retain and begin to rebuild its chemical, biological and nuclear weapons programmes in months, not years.”
- If Saddam Hussein “crippled the weapons inspection system and got away with it, he would conclude that the international community – led by the US” had “simply lost its will”. He would “surmise that he has free reign to rebuild his arsenal of mass destruction”.
- “Third, in halting ... air strikes in November” Saddam Hussein had been given “a chance, not a license”. If the US turned its back on his defiance, “the credibility of US power as a check against Saddam” would be “destroyed”. That would “fatally undercut the fear of force” that stopped Saddam “from acting to gain domination in the region”.

663. The air strikes were “designed to degrade Saddam’s capacity to develop and deliver weapons of mass destruction, and to degrade his ability to threaten his neighbours”. The US was pursuing “a long-term strategy to contain Iraq and its weapons of mass destruction and work toward the day when Iraq has a government worthy of its people”, through being prepared to use force when necessary and maintaining and enforcing sanctions for as long as Iraq remained “out of compliance”.

664. But President Clinton added that, as long as Saddam Hussein remained in power, he threatened:

“... the well-being of his people, the peace of the region, the security of the world.

“The best way to end that threat once and for all is with a new Iraqi government ... Bringing change in Baghdad will take time and effort. We will strengthen our engagement with the full range of Iraqi opposition forces and work with them effectively and prudently.”

665. In a statement on 16 December, Mr Blair said:

“This action could have been avoided. Since the Gulf War, the entire international community has worked to stop Saddam Hussein from keeping and developing nuclear, chemical and biological weapons and from continuing to threaten his neighbours.

²⁷⁰ CNN, 16 December 1998, *Transcript: President Clinton explains Iraq strike*.

“For the safety and stability of the region and the wider world, he cannot be allowed to do so. If he will not, through reason and diplomacy, abandon his weapons of mass destruction programme, it must be degraded and diminished by military force.”²⁷¹

666. Mr Blair said that Saddam Hussein had “no intention of abiding by the agreements he has made”. The report from Mr Butler had been “damning”; it was “a catalogue of obstruction” based on a desire to develop weapons of mass destruction. There was a threat “now” to Saddam Hussein’s neighbours, his people, “and to the security of the world”. If he was not stopped, the consequences would be “real and fundamental”, and that could not “responsibly” be allowed to happen.

667. Mr Blair concluded that there was “no realistic alternative to military force”: “We have exhausted all other avenues. We act because we must.”

668. Mr Burleigh informed the President of the Security Council that “Coalition forces” were making “substantial” military attacks against “Iraq’s weapons of mass destruction programmes and its ability to threaten its neighbours”.²⁷²

669. Mr Burleigh stated that:

- The action was a “necessary and proportionate response to the continued refusal of the Iraqi Government to comply with the resolutions of the Security Council”.
- It had been “undertaken only when it became evident that diplomacy had been exhausted”. The coalition had “acted out of necessity” and the Government of Iraq bore “full responsibility” for the consequences of the military action. The US had not acted “precipitately”, but had worked “with its partners in the Security Council over the past months in a sincere and sustained effort to bring about a peaceful resolution of the confrontation created by Iraq”. “For reasons best known to Saddam Hussein, Iraq chose to reject that effort.”
- Iraq had “repeatedly taken actions” which constituted “flagrant material breaches” of the provisions in relevant Security Council resolutions: “On a number of occasions, the Council has affirmed that similar Iraqi actions constituted such breaches, as well as a threat to international peace and security.” The US view was that “the Council need not state these conclusions on each occasion”.
- Iraq had “once again, acted in flagrant and material breach of Security Council resolution 687 (1991)” by “refusing to make available documents and information requested by UNSCOM ... by imposing new restrictions on the weapons

²⁷¹ *BBC News*, 16 December 1998, *Blair’s statement on Iraq strikes: full text*.

²⁷² UN Security Council, 16 December 1998, ‘Letter dated 16 December 1998 from the Charge D’Affaires AI of the United States Mission to the United Nations addressed to the President of the Security Council’ (S/1998/1181).

inspectors and by repeatedly denying access to facilities which UNSCOM wished to inspect”.

- The coalition was exercising “the authority given by the Security Council” in resolution 678 (1990) “for Member States to employ all necessary means to secure Iraqi compliance with the Council’s resolutions and to restore international peace and security in the area”.
- The resort to military force was “necessitated” by Iraq’s “policy of unremitting defiance and non-compliance”.

670. In a parallel letter to the President of the Security Council, Sir Jeremy Greenstock stated that the action was taken “following a long history of non-co-operation by Iraq”.²⁷³ Iraq had promised on 14 November to co-operate fully, but Mr Butler’s letter of 15 December stated “clearly that Iraq did not provide the full co-operation it promised”, and that UNSCOM was “unable as a result to conduct the substantive work mandated to it by the Security Council”.

671. Sir Jeremy added that the UK’s objective was:

“... compliance by the Iraqi Leadership with the obligations laid down by the Council. The operation was undertaken when it became apparent that there was no prospect of this being achieved by peaceful means. It will have the effect of degrading capabilities which have been the subject of Security Council resolutions over the past nine years. Targets have been carefully chosen to avoid civilian casualties.”²⁷⁴

672. In the subsequent meeting of the Council, Mr Hamdoo condemned the “aggression” of the US and UK and the decision to flout international law and the UN Charter.²⁷⁵

673. Mr Hamdoo also criticised Mr Butler’s “partiality, lack of integrity and lack of objectivity” by singling out five incidents from 300 inspections as “categorical evidence of lack of co-operation” when the circumstances did not justify that conclusion, and for withdrawing the inspectors without the knowledge or authority of the Council “to pave the way completely for the military aggression”.

674. Sir Jeremy Greenstock recalled the “long road” to the crisis citing Iraq’s use of chemical weapons against Iran and its own civilians and its behaviour since 1991, including:

- “never” giving UNSCOM the co-operation it needed to complete its tasks;

²⁷³ UN Security Council, ‘Letter dated 16 December 1998 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council’ (S/1998/1182).

²⁷⁴ UN Security Council, ‘Letter dated 16 December 1998 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council’ (S/1998/1182).

²⁷⁵ UN Security Council, ‘3955th Meeting Wednesday 16 December 1998’ (S/PV.3995).

- concealing the “evidence of its past and current programmes”;
- engaging in a “policy of harassment and deceit”;
- blocking inspections “whenever it feared that anything incriminating would be found”; and
- failing to produce documents.

675. Sir Jeremy added that Iraq had “deliberately provoked a series of crises” since October 1997 “in an attempt to wear down the will of the international community”. When military action had been called off on 14 November, Saddam Hussein had been warned that, if he broke his word “once more, there would be no second chances”.

676. Sir Jeremy stated that Mr Butler’s report of 15 December made clear that Iraq had “yet again failed to keep its promises”.

677. Sir Jeremy stated that resolutions adopted by the Security Council provided:

“... a clear legal basis for military action ... Resolution 1154 (1998) made it clear that any violation by Iraq of its obligations to allow the Special Commission and the International Atomic Energy Agency unrestricted access would have the severest consequences ... Resolution 1205 (1998) established that Iraq’s decision of 31 October 1998 to cease co-operation with the Special Commission was a flagrant violation of resolution 687 (1991), which laid down the conditions for the 1991 cease-fire. By that resolution, therefore, the Council implicitly revived the authorisation to use force given in resolution 678 (1990). And Ambassador Butler’s report makes clear that, despite its undertakings ... Iraq has not only failed to resume full co-operation with the Special Commission but has imposed new restrictions on its work.”

678. Mr Burleigh rehearsed the points in his letter to the President of the Security Council. He also praised the “outstanding professional work” of UNSCOM and Mr Butler.

679. Slovenia and Japan supported military action but China and Russia were sharply critical of unilateral action.

680. Mr Lavrov stated that the military action had caused casualties, destroyed “valuable material goods” and created a threat “to peace and security not only in the region but beyond it”.

681. Mr Lavrov added that the action had done “Grave harm” to the work on a post-crisis settlement and to dismantle Iraq’s weapons of mass destruction and their delivery systems. It also “called into question” the system which had been “so carefully set up over a long period of time to monitor” Iraq’s prohibited programmes. Russia objected to the US and UK action. It was “an unprovoked act of force” which “grossly violated the Charter of the United Nations, the principles of international law and the generally recognized norms and rules of responsible behaviour on the part of States in the international arena”.

682. Mr Lavrov stated that “the Security Council alone” had “the right to determine what steps should be taken ... to maintain or restore international peace and security”. Russia rejected “the attempts” of the US and the UK “to justify the use of force on the basis of a mandate that was previously issued by the Security Council”. The actions were a violation of Security Council resolutions. No one was:

“... entitled to act independently on behalf of the United Nations, still less assume the functions of a world policeman.”

683. Although there were problems in respect of Iraq’s co-operation, the crisis had been “created artificially”. Partly that was the result of “irresponsible acts” by Mr Butler in presenting a report on 15 December which “gave a distorted picture of the real state of affairs and concluded that there was a lack of full co-operation on the part of Iraq”, which was “not borne out by the facts”. He had also “grossly abused his authority” by withdrawing UNSCOM without consultation and the media had received a leaked copy of his report before the Security Council itself.

684. Mr Qin Huasun said that the US and UK had “started a military attack ... which violated the ... Charter and norms governing international law”. China was “deeply shocked” and condemned the “unprovoked military action” which was “completely groundless”. The differences between UNSCOM and Iraq could “properly be settled through dialogue and consultation” while the use of force:

“... far from helping to reach a settlement, may create serious consequences for the implementation of Security Council resolutions, for relations between Iraq and the United Nations and for peace and stability in the world and in the region.”

685. Mr Qin Huasun called on the US and UK immediately to stop all military action. He added that Mr Butler had “played a dishonourable role” in the crisis, submitting reports to Mr Annan that “were one-sided and evasive regarding the facts”. The purpose of those reports might have been to provide “the main argument for the use of force”, but there was “in fact no excuse or reason for the use of force”.

686. Costa Rica, Kenya and Sweden voiced more muted but still explicit criticism.

687. Mr Bernd H Niehaus, Costa Rican Permanent Representative to the UN, stated that Costa Rica had learned of the air strikes “with great and profound disquiet” and reaffirmed its “long-standing position rejecting the unilateral use of force and insisting on adherence to international legal instruments”. Nonetheless, it had “witnessed with frustration” Iraq’s policy of “defying and ignoring international obligations” and “forcefully and vigorously” appealed “to Iraq to put an end, once and for all and unconditionally, to its provocative actions.”

688. Mr Dahlgren stated that Iraq had “again and again ... refused to abide by the clear obligations that a unanimous Security Council” had decided upon, and that Sweden would have been ready “to support a decision in the Council on military action

as a last resort” when Iraq “seriously violates its obligations, and when all diplomatic means have been exhausted”. But, “that would be a decision for the Security Council”. Instead “without such a decision”, military action had been taken while the Council were meeting in informal consultations. Sweden regretted the attacks and the consequences they might have for civilians in Iraq, and the “fact that the Security Council has been presented with a *fait accompli*”. It feared that the strikes would “not be of much help in getting the inspections going again” when the “Council’s overriding aim must remain to rid Iraq of its programmes” for developing weapons of mass destruction.

689. Mr Mahugu reiterated Kenya’s position that “any decision to take further action against Iraq remains the sole responsibility of the Security Council”, and that it was “difficult to understand the reason’s for today’s attack”. The reports to the Council did not “in any way indicate that UNSCOM suffered a total lack of co-operation”.

690. Mr Mahugu added:

“Any decision taken to force compliance by Iraq with resolutions without the Council’s prior authority ... is contrary to the spirit and purpose of those very resolutions, because it also deprived the Council of an opportunity to analyse the reports ... and to take a collective decision on them.”

691. Brazil, France, Gabon, Gambia and Portugal each adopted a more equivocal position.

692. Mr Amorim deplored the fact that circumstances had led to the use of force, but also stated that, when the use of force was contemplated, it “should take place within a multilateral framework”.

693. Mr Mamour Jagne, Gambian Permanent Representative to the UN, stated that the die was cast, but Gambia “would like to see the unity of the Council restored”. If it was not, the Council’s primary responsibility for maintaining international peace and security would be “seriously impaired”.

694. Mr Dejammet stated that France:

- deplored “the chain of events that led to American military strikes ... and the serious human consequences that they may have”;
- regretted that Iraqi leaders had not been “able to demonstrate the spirit of full co-operation” called for by the February MOU; and
- thanked Mr Annan and supported his “tireless and persistent actions to ensure that the law prevails, despite the obstacles and pitfalls encountered”.

695. Sir Jeremy Greenstock told the Inquiry:

“The US and UK came under intensive criticism from all other members of the Council, and the UN as a whole, for taking matters in their own hands in this way but there was no formal motion of condemnation put forward.”²⁷⁶

696. The military action was supported by the main political parties in the UK.

697. Mr Blair made a statement to the House of Commons on 17 December.²⁷⁷ He said that the objectives of the military operation were:

“... clear and simple: to degrade the ability of Saddam Hussein to build and use weapons of mass destruction, including command and control and delivery systems, and to diminish the threat that Saddam Hussein poses to his neighbours by weakening his military capability.

“... the action is proportionate to the serious dangers Saddam Hussein poses ... The targets, throughout Iraq, have been very carefully selected to reflect these objectives ...”

698. Other points made by Mr Blair included:

- The inspectors had been “constantly harassed, threatened, deceived and lied to. A special and elaborate mechanism to conceal Iraqi capability was out in place involving organisations close to Saddam, in particular his Special Republican Guard.”
- UNSCOM had achieved a huge amount, but “too much” remained “unaccounted for”, and Iraq had “consistently sought to frustrate attempts to look at the records and destroy the remaining capability”.
- A report by the UN Special Rapporteur on Human Rights in October 1998 had “documented massive and extremely grave violations of human rights”.
- Saddam Hussein’s obstruction had begun “in real earnest” after “the full extent of the weapons programme was uncovered in 1996 and early 1997”. It included casting doubt on the independence of the inspectors and seeking to exclude US and UK nationals.
- Saddam Hussein had been given a “last chance” in mid-November, and warned that, if he broke his word and obstructed the work of the inspectors, “there would be no further warnings or diplomatic arguments ... we would strike”.
- Saddam Hussein was “a man to whom a last chance to do right is just a further opportunity to do wrong. He is blind to reason.”
- Saddam Hussein’s attitude was “as much deliberate obstruction as he thought he could get away”, which he had used “deliberately to try to blackmail the international community into lifting sanctions”.

²⁷⁶ Statement, November 2009, page 1.

²⁷⁷ House of Commons, *Official Report*, 17 December 1998, columns 1097-1102.

- There had been “a stark choice” between letting “the process continue further, with UNSCOM more and more emasculated” or, “having tried every possible diplomatic avenue and shown endless patience”, tackling Saddam Hussein’s “remaining capability through direct action”. In Mr Blair’s view, there was “only one responsible choice”.

699. Addressing the issue of whether the objective was to remove Saddam Hussein, Mr Blair stated:

“The answer is: it cannot be. No one would be better pleased if his evil regime disappeared as a direct or indirect result of our action ... Even if there were legal authority to do so, removing Saddam through military action would require the insertion of ground troops on a massive scale – hundreds of thousands ... Even then, there would be no absolute guarantee of success. I cannot make that commitment responsibly.”

700. Mr Blair concluded:

“Whatever the risks we face today, they are as nothing compared to the risks if we do not halt Saddam Hussein’s programme of developing chemical and biological weapons of mass destruction.”

701. Mr Hague supported the action, adding that the Conservative party believed that “the overall objective” of policy towards Iraq should be “to remove Saddam from power rather than temporarily checking his ambitions”.

702. Mr Blair agreed that “a broad objective” was “to remove Saddam Hussein and to do all that we can to achieve that”, but he did not think he could “responsibly” make a commitment to that outcome as an “objective of this military action”. Mr Blair expected that military action would “significantly degrade and diminish Saddam as a threat to his neighbours and his weapon-making capability”.

703. Mr Menzies Campbell stated that the Liberal Democrats supported the action “as a painful necessity and last resort to which we have been driven when all other options have been exhausted”. Without Saddam Hussein’s “repeated defiance and deception, the issue ... could have been resolved several years ago”.

704. The Rev. Martin Smyth stated that “the greater number of people in Northern Ireland support the attacks whole-heartedly”.

705. Mr Blair’s statement was followed by a debate on the military action.²⁷⁸

706. Mr Cook stated that action had been taken because of Saddam Hussein’s failure to keep the commitments he had made, and “with the full authority of repeated Security Council resolutions, supported by all members of the Council”. The background was

²⁷⁸ House of Commons, *Official Report*, 17 December 1998, columns 1112-1193.

“the 10 months since Saddam first threw out the inspectors last February” when “two successive resolutions have given us the authority to carry out this action”.

707. Mr Cook described the threat as, “not an arsenal of completed weapons” but the “capacity to produce weapons of terror ... within months if we turn our backs”. The Government had two objectives. The first was “to defeat Saddam’s ambitions to continue to develop such weapons, with which he could terrorise his neighbours”. The second was “to reduce the threat to Saddam’s neighbours by diminishing his military war machine”.

708. In the debate that followed the statement, the majority of speakers supported military action.

709. There was, however, a significant minority which spoke against the action, questioning the legal basis for the action, whether it would help to disarm Iraq, and its potential impact on radicalising opinion in the region. A procedural device was used to avoid a vote.

710. At a press conference on 20 December, Mr Blair explicitly rejected what he called “an ‘if you can’t remove him [Saddam Hussein], do nothing’ fallacy”. He argued:

“I do not accept that for instance we could only guarantee to bring him [Saddam Hussein] down by a land war in Iraq ... But just because we can’t get in the cage and strike him down it doesn’t mean we should leave the cage untouched and the bars too fragile to hold him. What we have done is put him back securely and firmly in the cage ...

“We have reduced the danger Saddam poses consistent with common sense and a proportionate use of force.”²⁷⁹

711. In Mr Blair’s view, military action had sent:

“... a very clear message indeed to Saddam Hussein that we will not sit by; it also sends a message to others ... that the patience of the international community cannot be tried indefinitely and that when it is right and when the will of the international community is at stake we will act to enforce it because the first stirrings of a new global reality are upon us. Those who abuse force to wage war must be confronted by those willing to use force to maintain peace ... We cannot do everything ... but what we can do reasonably we should do.”

712. In relation to Iraq, Mr Blair called for:

- “... a future strategy that is based on containment and stability for the region. First and foremost, we must maintain a threat of force which Saddam now

²⁷⁹ *Le Monde diplomatique*, 20 December 1998, *Conférence de presse du premier ministre britannique Anthony Blair*.

knows to be credible ... ready to strike ... if he again poses a threat to his neighbours or develops weapons of mass destruction”;

- radical improvement of sanctions-enforcement;
- “... an intensive diplomatic process ... to forge a new strategy for stability in relations between the international community and Iraq”; and
- “... ways in which an effective inspections and monitoring regime ... can be resumed”.

713. The UK would “continue to engage with the Iraqi opposition to help them develop their vision of a better Iraq”.

714. Mr Blair stated that nearly 100 sites were attacked, US and UK forces fired more than 400 cruise missiles and there were more than 200 aircraft strikes between 16 and 19 December.²⁸⁰

715. The sites which were targeted comprised:

- 30 sites which the UK government described as being involved in Iraq’s weapons of mass destruction programmes;
- 20 command, control and communications targets, which Saddam Hussein used to control military and internal security forces;
- 10 Republican Guard targets;
- 27 air defence targets;
- six airfields, including those associated with helicopter forces used for internal repression; and
- an oil refinery near Basra associated with sanctions breaking.²⁸¹

716. The International Institute for Strategic Studies stated that “a limited number of workshops in half a dozen declared missile facilities were bombed and damaged, including the final assembly and production lines of the al-Samoud”.²⁸²

717. In an Assessment in May 2001, the JIC recorded that Operation Desert Fox had targeted:

- “• WMD related industrial facilities, including those connected with ballistic missile production and a castor oil plant that could be used to support the production of BW;

²⁸⁰ *Le Monde diplomatique*, 20 December 1998, *Conférence de presse du premier ministre britannique Anthony Blair*.

²⁸¹ *Le Monde diplomatique*, 20 December 1998, *Conférence de presse du premier ministre britannique Anthony Blair*; House of Commons, *Iraq: ‘Desert Fox’ and Policy Developments*, 10 February 1999, Research Paper 99/13, page 17; In his speech to the National Press Club on 23 December 1998, Mr Samuel (Sandy) Berger, National Security Advisor to the President, stated that the targets included TV and radio transmitters.

²⁸² IISS Strategic Dossier, 9 September 2002, *Iraq’s Weapons of Mass Destruction – A Net Assessment*, page 65.

- Airfield facilities housing the L-29 remotely piloted aircraft;
- Sites used by regime security organisations also involved in WMD.”²⁸³

718. The Assessment added: “Other WMD-related facilities were not targeted.”

719. In February 1999, the MOD assessed that the effect of Operation Desert Fox on Iraq’s military programmes had been:

- to set back the ballistic missile programme by between one and two years; and
- to disrupt for several months WMD related work of the Iraqi Ministry of Industry and Military Industrialisation Headquarters in Baghdad.²⁸⁴

720. The bombing had “badly damaged, possibly destroyed outright” the L-29 unmanned aerial vehicle programme. The rebuilding of the Republican Guard infrastructure was estimated to take up to a year.

721. Following the 1998 *Strategic Defence Review*, which had identified the importance of preparations to overcome the possible threat from biological and chemical weapons particularly in the Gulf, the MOD published a paper in July 1999 setting out the results of a further review.²⁸⁵ In his foreword to the paper, Mr Robertson stated that knowing what the threat was, how to reduce it, and how to protect against it, was “a constantly developing process” which he regarded as one of his “highest priorities”.

722. The paper stated that many countries of concern had biological or chemical weapons capabilities, or both; and several were in areas in which the UK was most likely to face challenges to its interests, including in the Gulf. The potential threat from those weapons was “now greater than that from nuclear weapons”. Iraq had already used chemical weapons. No country of concern had ballistic missiles which could threaten the UK with chemical or biological warheads, but capabilities continued to improve and the ballistic missiles being developed could threaten British forces deployed overseas.

723. The UK’s policy rested “on four inter-related pillars”:

- Arms control. Since the First World War, the UK had been at the forefront of international efforts to control and eliminate biological and chemical weapons through arms control agreements.
- Preventing supply. Export controls at national and international levels were “effective in preventing a significant number of undesirable transfers”.
- Deterring use. Potential aggressors should be assured that: the use of biological and chemical weapons would “not be allowed to secure political or military advantage”; it would “on the contrary, invite a proportionately serious response”

²⁸³ [JIC Assessment, 10 May 2001, ‘Iraqi WMD Programmes: Status and Vulnerability’.](#)

²⁸⁴ House of Commons, *Iraq: ‘Desert Fox’ and Policy Developments*, 10 February 1999, Research Paper 99/13.

²⁸⁵ Ministry of Defence, *Defending Against the Threat from Biological and Chemical Weapons*, July 1999.

and those “responsible for any breach of international law relating to the use of such weapons” would be “held personally accountable”.

- Defending against use. Possession of an effective range of defensive capabilities was required to enhance the other three pillars “by helping to make clear to a potential aggressor that the threatened, or actual, use of biological or chemical weapons” would “not limit our political options, or determine the outcome of a conflict”.

724. The paper stated that the UK’s military posture comprised three elements:

- the “ability to remove or reduce the threat by taking direct action”;
- measures to minimise vulnerability to the weapons; and
- capabilities, training and equipment which protected British forces and allowed them to manage battlefield risks.

725. Eliminating or reducing a threat before an aggressor was able to use biological or chemical weapons was “preferable to having to manage the consequences of their use”. Action to reduce the threat would “take a variety of forms”. The UK would, “In broad terms, where legally justified”, take “whatever action” was “required to reduce an opponent’s capability to use biological and chemical weapons against the UK, our interests, or British and coalition forces”. The possibilities included “Attacks on production facilities, storage sites, logistics chain and delivery systems”.

726. The paper also emphasised the importance of “accurate and timely intelligence” on which direct action was “heavily” dependent, “both to alert us to the threat and ... provide vital targeting information”.

727. The paper stated that the threat from the proliferation of nuclear weapons was “well known”, but biological and chemical weapons had a longer history and posed “the greater potential threat” in the current operational environment. The foundation for managing the risks was diplomatic, but a “balanced range of military capabilities” was also needed, including defensive and protective measures “and the ability to take action where necessary to remove or reduce a specific threat”. The UK had an important dialogue with the US on biological and chemical defence issues and the UK would “continue to pursue close consultations with them and with other allies”.

728. In relation to Iraq, the paper stated that it had:

“... made significant efforts to develop a wide range of biological agents and their delivery means, including missile warheads. The programme has included the development and production of anthrax and botulinum toxin, and other agents, including ones that can attack plants and animals.

“We also know that Iraq has a programme to convert L29 trainer aircraft for use as Unmanned Aerial Vehicles (UAVs). We assess that, if equipped with spray tanks

to deliver chemical and biological agents, these would be capable of causing large-scale casualties.

“In 1998 we judged that, unless stopped:

- Iraq would be capable of regenerating a chemical weapons capability within months;
- Iraq had the expertise and equipment to regenerate an offensive biological weapons capability within weeks;
- work on 650km range missiles which could hit important targets in the Middle East might have begun. It could have been completed within a year, and biological weapons produced in the same timeframe;
- if Iraq could procure the necessary machinery and nuclear materials, it could build a crude air delivered nuclear device in about five years.”

729. The paper stated that UNSCOM had “destroyed, or made harmless, a ‘supergun’; 48 SCUD missiles; 38,000 chemical munitions, 690 tonnes of chemical agents; 3,000 tonnes of precursor chemicals; and biological and chemical warfare-related factories and equipment”. The IAEA had “found a nuclear weapons programme far more advanced than suspected, and dismantled it”. Saddam Hussein had “consistently sought to avoid his responsibility to declare his entire biological and chemical capabilities” and had “deliberately and systematically sought to conceal and retain them”:

“UNSCOM has discovered a document, which the Iraqi regime refuses to release, appearing to indicate major discrepancies in Iraq’s declarations over the use of chemical munitions during the Iran-Iraq war. Iraq also claims that it unilaterally destroyed 31,000 chemical munitions and 4,000 tonnes of precursor chemicals, but these still have to be properly accounted for. And Iraq has consistently denied that it weaponised VX, one of the most toxic of the nerve agents. But analysis by an international team of experts of the results of tests on fragments of missile warheads has shown that, contrary to its claims, Iraq did weaponise VX.”

730. The attacks on Iraq’s missile production and research facilities and the destruction of infrastructure associated with the concealment of biological and chemical programmes in December 1998 had caused Saddam Hussein “severe difficulties”. They had:

- “damaged or destroyed” 87 percent of the 100 targets attacked;
- “severely damaged” the base for the L-29 trainer “which could be used to deliver biological and chemical agents”;
- “significantly degraded” some key facilities associated with Iraq’s ballistic missile programme, “setting this back one to two years”;
- “seriously weakened” Iraq’s “ability to deliver biological or chemical weapons by ballistic missile”;

- destroyed some key buildings of the Iraqi Directorate of General Security, which were believed to contain “key equipment and documents”; and
- “set back” Iraq’s ability to regenerate its biological and chemical capability.

731. The UK could not afford to ignore the problem of Iraq. Saddam Hussein continued “to pose a significant threat to his neighbours” and would “reconstitute his biological and chemical weapons capabilities if allowed”. UK forces would stay in the region for as long as it was judged necessary and sanctions would remain in place until Iraq complied with its obligations.

LEGAL AUTHORISATION FOR OPERATION DESERT FOX

732. The USA and the UK did not seek specific authorisation from the UN Security Council for Operation Desert Fox and instead drew their authority from previous resolutions, especially resolution 1205.

733. Their interpretation of the legal authority provided by those resolutions was not supported by other Security Council members. Russia in particular disputed the legal basis for military action. Resolution 1205 had used the formulation “flagrant violation” rather than “material breach”, the recognised phrase derived from the law of treaties for a breach which would entitle another party to argue that a cease-fire had been broken.

734. Sir Jeremy told the Inquiry:

“... my use of resolution 1205 seriously annoyed my Russian counterpart, because he realised that I had succeeded in establishing ... a declaration of material breach²⁸⁶ of Iraq which he hadn’t intended should be allowed by the resolution, which then lay the basis for the use of force in December 1998.”²⁸⁷

735. On 24 September 1998, the JIC had assessed:

“We cannot rule out the possibility that Saddam retains a handful of missiles ... these could be available for use within a matter of weeks or perhaps even days. Provided it still has key components – and that is unclear – Iraq could within a few months build, with little risk of detection, missiles capable of hitting Israel and key targets in Saudi Arabia. If it needs to make or acquire the components, production of such missiles could begin within a year ...”²⁸⁸

736. The Butler Report concluded that JIC readers in December 1998 would have had the impression that Iraq had the ability “to regenerate a small number of ballistic missiles, either through bringing back into use missiles that had been hidden or by re-assembling missiles from hidden components”.

²⁸⁶ Resolution 1205 refers only to “flagrant violation”.

²⁸⁷ Public hearing, 27 November 2009, page 35.

²⁸⁸ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 52.

After Operation Desert Fox

737. All No-Fly Zone patrols were suspended during Operation Desert Fox and France withdrew from operations stating that the aim was no longer humanitarian. US and UK patrols resumed in the southern zone on 22 December 1998 and in the northern zone on 28 December.

738. In a speech on Iraq on 23 December, Mr Berger dismissed the proposition that the threat from Saddam Hussein could be downgraded, stating that his “external aggression and internal repression” still posed a “genuine threat to his neighbours and the world”.²⁸⁹ Saddam Hussein had proved he sought WMD “not for some abstract concept of deterrence, but for the very real purpose of using them”. His “history of aggression” left “little doubt that he would resume his drive for regional domination and his quest for weapons of mass destruction if he had the chance”.

739. The US had “met that threat with a consistent policy of containment”. In the face of “periodic challenges”, this strategy had “essentially held Saddam Hussein in check”. But “over the past year in particular”, he had “tried to cripple the UN inspection system” and:

“If Saddam could eviscerate UNSCOM without a firm response, not only would there be no effective UNSCOM; there would be no deterrence against future aggression because the threat of force would no longer be credible. And there would be no prospect for keeping his program of weapons of mass destruction in check.”

740. Mr Berger admitted that Iraq could not be disarmed from the air “as precisely as we can from the ground”, but inspections had been “thwarted” by Saddam: for “much of the last year”, Iraq had only allowed UNSCOM to look where it knew there was nothing to be found.

741. Mr Berger stated that the purpose of Operation Desert Fox had not been to “dislodge Saddam from power”, and ruled out the idea of deploying American ground troops:

“The only sure way for us to effect his [Saddam Hussein’s] departure now would be to commit hundreds of thousands of American troops to fight on the ground inside Iraq. I do not believe that the costs of such a campaign would be sustainable at home or abroad. And the reward of success would be an American military occupation of Iraq that could last years.”

742. Addressing the policy for the future, Mr Berger stated that the strategy the US could and would pursue was, therefore, to:

“... contain Saddam in the short and medium term, by force if necessary, and to work toward a new government over the long term.”

²⁸⁹ Speech to the National Press Club by Samuel (Sandy) Berger, National Security Advisor to the President, 23 December 1998.

743. The best option was for Saddam Hussein to allow the inspectors to return and Mr Butler had “proposed a roadmap to compliance that would take between three and six months to complete” if Saddam Hussein had the will to end confrontation. But intransigence should not be rewarded by “watered down monitoring mechanisms” or “helping Iraq create the illusion of compliance”.

744. Without verification that Iraq had fulfilled its obligations, however, Mr Berger argued that force should be used if it was determined that Saddam Hussein was reconstituting his biological, chemical or nuclear programme or the missiles to deliver his WMD. The US strategy would be simple: “if he rebuilds it, we will come”.

745. Mr Berger recognised that containment would be a “difficult policy to sustain in the long run”. It was “a costly policy in economic and strategic terms”, and “even a contained Iraq” was “harmful to the region” and condemned “the Iraqi people to a future of unending isolation in a murderous police state”. That was why the US was “doing all we can to strengthen the Iraqi opposition so that it can seek change inside Iraq”.

746. Mr Berger stated that the “responsibility to mount an effective movement that appeals to people inside Iraq and inspires them to struggle for change” lay with the opposition leaders, but there was much that the US could and would do. It had “reconciled the two Kurdish factions and worked with them to improve the lives of the three million Iraqis” who lived outside Saddam Hussein’s control in the North; set up Radio Free Iraq; and was “intensifying ... contacts with the entire spectrum of opposition groups ... to help them become a more effective voice for the aspirations of the Iraqi people”.

747. Mr Berger concluded:

“When the time is right and the opposition is ready, we will decide what kind of additional support it will need to overcome Saddam’s apparatus of violence and terror. We will not overreach. But we are willing to use whatever means are appropriate to advance our interests in Iraq, as long as the means are effective.

“We will also stand ready to help a new government in Iraq ...

“We will pursue this strategy with patience and resolve and with confidence that our goals will be met ... We know from experience that when people struggling for freedom gain the moral and material support of the American people, they usually prevail ...

“Change will come to Iraq, at a time and in a manner that we can influence but cannot predict ...”

748. The approach set out by Mr Berger remained the strategy of President Clinton’s Administration towards Iraq during its remaining two years in office.

749. In his memoir, Mr Blair wrote that following the UNSCOM report in mid-December, President Clinton had decided to act.²⁹⁰ The air strikes had been “nerve wracking” and the operation was “a limited success”. He added:

“The general feeling was that Saddam had got away with it again.”

750. In his memoir, Mr Annan wrote that Mr Butler’s management and leadership had been:

“... a gift to Saddam – allowing him, with a growing body of evidence – to claim that he was all for disarming and co-operating with the international community, but that UNSCOM’s approach made this impossible.”²⁹¹

751. Mr Annan wrote that this was “entirely untrue”; but Mr Butler “and his backers in Washington and London” had “failed to understand” how it “undermined his own position” and that of the inspections.

752. Mr Annan also wrote that whenever the military option had been floated during negotiations in the previous year, he had asked what would happen after any bombing of Iraq; but that question had never been answered. Desert Fox had:

“... ushered in a four year period without inspections and without a dialogue with Iraq about its place in the international system, even as sanctions continued to devastate its people and hand Saddam the ultimate propaganda tool – to be able to blame the West, and not his own misrule for the misery of his people.”

753. Sir Jeremy Greenstock wrote in his statement for the Inquiry:

“When those attacks were called to a halt, the Security Council was left divided and the inspectors were unable to return to the country.”²⁹²

The impact of Operation Desert Fox

The MOD assessed that the effect of Operation Desert Fox on Iraq’s military programmes had been to set back the ballistic missile programme by between one and two years, that the WMD-related work of the Iraqi Ministry of Industry and Military Industrialisation Headquarters in Baghdad had been disrupted for several months at least, and that the bombing had “badly damaged, possibly destroyed outright” the L-29 unmanned aerial vehicle programme.²⁹³ Rebuilding the Republican Guard infrastructure was estimated to require up to a year.

²⁹⁰ Blair T. *A Journey*. Hutchinson, 2010.

²⁹¹ Annan K. *Interventions: A Life In War And Peace*. Allen Lane, 2012.

²⁹² Statement, November 2009, page 1.

²⁹³ House of Commons, *Iraq: ‘Desert Fox’ and Policy Developments*, 10 February 1999, Research Paper 99/13.

Mr Webb told the Inquiry the MOD had looked at how effective the action in 1998 had been in “keeping the WMD lid on by bombing ... and we concluded that it was not effective and we were not able to offer any reassurance that you have been able to deal with the WMD problem solely by air power.”²⁹⁴ In response to a further question, he said it was “Not conclusively ineffective, but it hadn’t achieved a result of which one felt assured”. Mr Webb added: “It did have a very useful effect on reducing the capacity of the Iraqi Integrated Air Defence System, which was posing a threat to the aircraft.”

Dr Condoleezza Rice wrote in her memoir that, in July 2003, it became clear that “the air assault on Iraq’s WMD in 1998 had been more successful than we had known, and serious damage had been done to Saddam’s capabilities at the time”.²⁹⁵

The *Review of Intelligence on Weapons of Mass Destruction* concluded in 2004 that JIC assessments in 1998 would have left the impression “of suspicion and concern about Iraq’s break-out capability, coupled with possible possession of chemical [and biological] agent stockpiles, in breach of its [Iraq’s] United Nations obligations” and “concern about the ability of Iraq to regenerate a small number of ballistic missiles” in the minds of readers.²⁹⁶

Professor Marc Weller, Professor of International Law and International Constitutional Studies at the University of Cambridge, suggests that Operation Desert Fox had three important consequences for future policy towards Iraq:

“First, Iraq terminated all co-operation with the UN arms inspection regime, arguing that the action demonstrated that inspections would only be used to prepare for further military action. Second, support for any further action by the Council resulted in a stalemate due to the ‘breakdown in the Security Council’ after the bombing campaign ... Finally, and most damaging for the negotiations leading up to resolution 1441 (2002), several states resolved not to be lured again into the finding of a breach that might be invoked to justify the use of force, as had been the case with resolution 1205.”²⁹⁷

754. Operation Desert Fox had created a deep fissure at the United Nations and within the P5. The Kosovo campaign, bitterly opposed by Russia and not mandated by the Security Council (because of the certainty of a Russian veto), was a further complicating element.

755. After Operation Desert Fox, Iraq embarked on a policy of uncompromising defiance of the UN rather than partial and intermittent co-operation.

756. Iraq repudiated the NFZs, and attacks on aircraft became a common occurrence. Iraq fired surface-to-air missiles and anti-aircraft artillery or targeted aircraft by fire control radar, although no coalition aircraft were ever shot down. In response to this threat, coalition aircraft targeted a variety of different elements of Iraq’s Integrated Air Defence System (IADS), such as radar sites and associated communications and control networks, surface-to-air missile batteries and anti-aircraft artillery positions.

²⁹⁴ Public hearing, 24 November 2009, page 76.

²⁹⁵ Rice C. *No Higher Honour: A Memoir of My Years in Washington*. Simon & Schuster, 2011.

²⁹⁶ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 52.

²⁹⁷ Weller M. *Iraq and the Use of Force in International Law*. Oxford University Press, 2010.

RAF Jaguars flying reconnaissance operations in the northern NFZ did not carry or drop air-to-ground ordnance, but RAF Tornado aircraft in the southern NFZ did so on numerous occasions.

757. Although Iraq did not succeed in shooting down an aircraft the risk was taken extremely seriously by both the US and the UK. That raised a number of serious issues about the extent of the actions which could be taken in self-defence and the nature of operations to rescue any downed aircrew. Those are addressed in Section 1.2.

758. The Butler Report stated that a JIC Assessment on 7 January 1999 had reached “somewhat firmer judgements than in 1997” that:

- “Following the 1991 Gulf War Iraq concealed BW [biological warfare] production equipment, stocks of agents and perhaps even BW weapons ...”
- “... Iraq has sufficient expertise, equipment, and materials to produce BW agents within weeks.”²⁹⁸

759. The Butler Review was told that the reason for shortening the timescales for production of biological agent to “within weeks” was “intelligence of Iraqi requests for large quantities of growth media”, which was “judged to be greatly in excess of Iraq’s likely legitimate requirements”.²⁹⁹ But it was “not known” if Iraq had actually obtained the growth media.

UNSCOM’s findings, January 1999

760. Mr Butler produced two reports on 25 January 1999, one on the disarmament of Iraq’s weapons of mass destruction and one on monitoring and verification, which were formally circulated to the Security Council on 29 January.³⁰⁰

761. The report on disarmament described the work of UNSCOM since 1991 and its methodology, and set out “material balances” for the proscribed missile, chemical and biological weapons in three detailed annexes. It also included an annex “on actions by Iraq to obstruct disarmament”.

762. The report drew a distinction between UNSCOM’s activities before and after Lt Gen Kamil’s departure from Iraq in August 1995, commenting that Iraq’s subsequent disclosures:

“... indicated that, during the first four years of its activities, the Commission had been very substantially misled by Iraq both in terms of its understanding of Iraq’s

²⁹⁸ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 58.

²⁹⁹ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 59.

³⁰⁰ UN Security Council, 29 January 1999, ‘Letter dated 25 January 1999 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1999/94).

proscribed weapons programmes and the continuation of prohibited activities ... Positive conclusions on Iraq's compliance ... had to be revised ... Analysis of the new material shaped the direction of the Commission's work including the emphasis on: obtaining verifiable evidence including physical materials or documents; investigation of the successful concealment activities by Iraq; and, the thorough verification of the unilateral destruction events."

763. The report also stated that the Commission had been "obliged to undertake a degree of forensic work which was never intended to be the case". Iraq's "inadequate disclosures, unilateral destruction and concealment activities" had made that task more difficult and continued "in many cases" after 1995. The "concerted obstructions" raised the question of Iraq's motives.

764. UNSCOM could not verify Iraq's claims that it had fulfilled all its disarmament obligations, ceased concealment activities, and had neither proscribed weapons nor the means to make them. Despite Iraq's denials, the Commission's "strong view" was that documentation still existed in Iraq; and that its provision was "the best hope for revealing the full picture" on Iraq's activities.

765. The "priority issues" for disarmament identified in June 1998 had focused on unaccounted for weapons and "set aside other aspects such as fully verifying production capacities, research activities". This approach was based on the view that "satisfactory resolution" of the specific priority issues "would make it easier to conclude that other unverified elements were of lesser substantive importance".

766. The report added, however, that:

"Conversely, the inability of Iraq to satisfy these issues would point to more ominous explanations for other unverified parts of Iraq's declarations."

767. The report stated that Iraq had "once considered" mobile production facilities.

768. UNSCOM described Iraq's declarations as "fraudulent" and "wholly lacking credibility". Iraq had declared in August 1995 that it had filled 25 Al Hussein missile warheads with BW agents. It also declared that 200 R-400 aerial bombs had been produced for BW purposes but the number filled with agents was a "guess". Iraq had also pursued aerial drop tanks, aerosol generators and helicopter spray tanks and there were questions about programmes for other munitions.

769. UNSCOM was concerned about the uncertainties surrounding the extent of weaponisation, the production of bulk BW agent, imports of raw materials, organisation and planning, research and development, and past and continuing efforts of deception. UNSCOM could report with confidence on the destruction of some facilities, but it had "no confidence that all bulk agents have been destroyed; that no BW munitions or weapons remain in Iraq; and that a BW capability does not still exist in Iraq."

It also raised “serious doubts” about Iraq’s claim that it had “obliterated” the BW programme in 1991.³⁰¹

770. UNSCOM recorded uncertainties about the destruction of Iraq’s “special weapons”, warheads for ballistic missiles filled with chemical and biological agent. It also recorded its inability to verify Iraq’s destruction of seven indigenously produced Al Hussein missiles, and imports of proscribed liquid propellant and major components, particularly missile engines and guidance systems.

771. The Commission stated that actions by Iraq “in three main respects” had “had a significant negative impact upon the Commission’s work”. Those were:

- “Iraq’s disclosure statements have never been complete”.
- “... contrary to the requirement that destruction be conducted under international supervision, Iraq undertook extensive unilateral and secret destruction of large quantities of proscribed weapons and items”.
- “... a practice of concealment of proscribed items ... and a cover up of its activities in contravention of Council resolutions”.

772. The annex on “Actions by Iraq to obstruct disarmament” stated that UNSCOM’s work in Iraq had been “plagued by co-ordinated efforts to thwart full discovery of Iraq’s proscribed programmes” which had begun “immediately following the adoption” of resolution 687 (1991).³⁰²

773. In a “brief summary” of its “current understanding of the evolution of these concealment policies and practices”, the report stated:

- The Iraq Presidency had “collected reports on weapons remaining with Iraq’s Armed Forces” in spring 1991.
- A “decision was taken by a high-level committee”, of which Mr Aziz was a member, to provide UNSCOM with “only a portion of its proscribed weapons, their components and production capabilities and stocks”.
- UNSCOM “deduced” that Iraq’s policy was based on:
 - providing “a portion of their extant weapon stocks, with an emphasis on those which were least modern”;
 - retaining “production capability and the ‘know-how documentation’ necessary to revive programmes when possible”;
 - concealing “the full extent of chemical weapons programmes, including its VX project” and retaining “production equipment and raw materials”;

³⁰¹ UN Security Council, 29 January 1999, ‘Letter dated 25 January 1999 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1999/94).

³⁰² UN Security Council, 29 January 1999, ‘Letter dated 25 January 1999 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the President of the Security Council’ (S/1999/94).

- concealing “the number and type of BW and CW warheads for proscribed missiles”;
- concealing “indigenous long-range missile production” and retaining “production capabilities, specifically with respect to guidance systems and missile engines”; and
- concealing “the very existence of its offensive biological weapons programme” and retaining “all production capabilities”.
- After an incident at Abu Ghraib in June 1991, when IAEA inspectors had obtained photographic evidence of retained nuclear weapons production components, Iraq had decided “in late June 1991 to eliminate some of these retained proscribed materials, on its own, and in secret and in such a way that precise knowledge about what and how much had been destroyed would not be achievable”.
- Iraq did not admit its programme of unilateral destruction until March 1992, when UNSCOM had “indicated it had evidence that Iraq retained weapons after its supervised destruction”.
- Iraq stated that “The unilateral destruction was carried out entirely unrecorded. No written and no visual records were kept, as it was not foreseen that Iraq needed to prove the destruction to anybody.”
- In 1992, UNSCOM had not recognised that the programme “was a determined measure taken to conceal evidence which would reveal retained capabilities”.
- It was only after 1995 that UNSCOM had become aware of “concerted deception efforts and was forced to re-examine the 1991-1992 period”.
- Investigations, including “extensive excavation efforts with Iraq”, “extensive interviews with Iraqi participants in the destruction”, and analysis of overhead imagery, had produced “mixed” results. There was “some evidence supporting Iraqi declarations” but other data raised “serious concerns about the true fate of proscribed weapons and items”.
- Questions arose about the reasons for Iraq’s actions including the following:
 - Iraq made an admission in August 1997 that missile launchers had been destroyed in October not July 1991.
 - The precise locations of warhead filling and destruction had been revised several times.
 - Claimed movements of concealed warheads had “been proven to be false”.
 - Explanations of concealment and movement of retained chemical weapons production equipment had been “shown to be false”.
 - Iraq had not declared the concealment of “production equipment and critical components related to Iraq’s indigenous proscribed missile programmes” in a private villa in Abu Ghraib, until March 1992, when it had been retrieved and moved by the Special Republican Guard.

- Iraq “conceded” in July 1998 that it had misled UNSCOM over the previous two years about “unilateral destruction of components for its indigenous missile engine programme”.
- Imagery showed that “several shipping containers had been removed” from the Haider farm “shortly before” Iraq led UNSCOM to the site to hand over documents; and there were “clearly defined gaps” in the records handed over by Iraq in relation to WMD production techniques, the military and the Ministry of Defence.
- Iraq’s deception and concealment activities involved a number of Iraqi organisations:
 - Iraq had admitted the continued involvement of the Military Industrial Corporation.
 - Direct evidence of the involvement of the Iraq General Intelligence Service, the Mukhabarat, in procurement activities was provided when imports of equipment for long-range missiles was discovered in late 1995.
 - Movements of material by the Special Republican Guards.
 - UNSCOM “assessed” that the Special Security Organisation (SSO) “appeared” to provide “overall direction” for concealment activities.
- Iraq claimed all concealment activities had been terminated in 1995.
- UNSCOM had used interviews and inspections in an attempt to elicit “a true picture of concealment actions and confirmation it had or would be ended” in 1996-1998, but “missing files, cleansed rooms, purged computers and other techniques were encountered on a regular basis at sites under inspection”. Convoy movements in response to inspection activity “provided still more evidence that concealment was ongoing”.
- UNSCOM had “recently” received information “from multiple sources” identifying organisations which “direct and implement the concealment effort in Iraq”, which agreed that:
 - Concealment-related decisions were made “by a small committee of high ranking officials”, chaired by “The Presidential Secretary, Abed Hamid Mahmoud”.
 - The committee directed a unit “responsible for moving, hiding, and securing the items which are being concealed from the Commission”.
 - The SSO played “a key role in the operation of this unit and in the tracking and surveillance” of UNSCOM’s activities.

774. There was no mention in the report of plague.

775. An intelligence report issued in 1999 stated that the informant was unaware of any Iraqi work on plague as a BW agent.³⁰³

The Amorim Review

776. In late January 1999, the Security Council established three panels chaired by Mr Amorim, who was the President of the Security Council at that time:

- a panel on disarmament and current and future ongoing monitoring and verification issues which would “assess all the existing and relevant information available ... relating to the state of disarmament in Iraq”, and make recommendations to re-establish an effective regime;
- a panel on humanitarian issues to “assess the current humanitarian situation in Iraq and make recommendations” for improvements; and
- a panel on prisoners of war and Kuwaiti property which would “make an assessment ... of Iraqi compliance” and make recommendations.³⁰⁴

777. The panel on “disarmament and current and future ongoing monitoring and verification” reported on 27 March.³⁰⁵

778. The report stated that the panel’s “main objective” was “to make recommendations ... on how ... to reestablish an effective disarmament/ongoing monitoring and verification [OMV] regime in Iraq”. To meet that remit, it had considered “refocusing ... the approach towards disarmament/ongoing monitoring and verification, without departing from the existing framework of rights and obligations laid down in Security Council resolutions” as a way “to enlarge the scope of policy options” for the Council. While the panel “could not ignore the political and ... legal context”, its recommendations were technical.

779. The report briefly rehearsed the panel’s discussions on what UNSCOM and the IAEA had achieved and the priority issues which remained, noting that “different shades of opinion were expressed”. It concluded that it would be possible to pursue “the resolution of remaining issues” within an OMV framework.

780. The panel acknowledged that “some uncertainty” would be “inevitable”, and the extent to which that would be acceptable would be “a policy judgement”.

781. The panel suggested changes to the practices and procedures of UNSCOM to ensure an effective and credible system, including:

³⁰³ *Review of Intelligence on Weapons of Mass Destruction* [“The Butler Report”], 14 July 2004, HC 898, page 135.

³⁰⁴ UN Security Council, 30 January 1999, ‘Note by the President of the Security Council’ (S/1999/100).

³⁰⁵ UN Security Council, 30 March 1999, ‘Letter dated 27 March 1999, from the Chairman of the panels established pursuant to the note by the President of the Security Council of 30 January 1999 (S/1999/100) addressed to the President of the Security Council’ (S/1999/356).

- restructuring the Commission as a collegiate body which could provide the Executive Chairman with independent advice, guidance and general oversight as agreed by the Security Council;
- recruiting staff as international civil servants in accordance with the provisions of the UN Charter;
- training programmes, including “Particular emphasis ... on the importance of understanding national sensitivities”;
- ensuring that the Commission’s relationship with intelligence providers should be “one-way only”;
- ensuring that public comment was “limited and restricted to the factual”, leaving “political evaluations or comments that carry obvious political implications” to the Security Council.

782. The panel also noted that “the longer inspection and monitoring activities remain suspended, the more difficult the comprehensive implementation of Security Council resolutions becomes”. This increased “the risk that Iraq might reconstitute its proscribed weapons programmes or retain proscribed items” and, if that risk materialised as a result of the absence of inspections, it “would have extremely negative consequences for the credibility of international non-proliferation efforts in general, and for the credibility of the United Nations and IAEA in particular”.

783. The panel added that it was:

“... essential that inspections teams return to Iraq as soon as possible. The current absence of inspectors in Iraq has exponentially increased the risk of compromising the level of assurance already achieved, since it is widely recognised that the re-establishment of the baseline [of the status of Iraq’s activity] will be a difficult task. The loss of technical confidence in the system could become irretrievable.”

784. The panel concluded that the “effectiveness of the monitoring and verification regime” depended on its being “comprehensive and intrusive” with the “full exercise of the rights of full and free access set forth in relevant Security Council resolutions”. At the same time, the mandate should be “carried out objectively in a technically competent and thorough manner with due regard to Iraqi sovereignty, dignity and sensitivities”.

785. “Given the difficulties experienced in the past” this was likely to require “firm and active support by the Security Council”:

“To be effective, any system has to be deployed on the ground, which is impossible without Iraqi acceptance. How this acceptance will be obtained is the fundamental question before the Security Council.”

786. The final reports of the panels on humanitarian issues and prisoners of war and Kuwaiti property were delivered on 30 March.³⁰⁶

787. Work began in the Security Council to follow up the recommendations of the three Amorim panels, but agreement proved elusive. A number of different approaches and draft resolutions were discussed informally over the following months and it was eventually decided that the subject should be remitted to the P5, although not all the elected members were happy with that approach.³⁰⁷

788. Sir Jeremy Greenstock told the Inquiry:

“Under initiatives proposed by Canada and Brazil, the Council again attempted to complete a comprehensive review of the degree of Iraqi compliance with the relevant resolutions. This laid the ground for a long negotiation, mostly between the Permanent Members of the Security Council, over the creation of a new inspection organisation for Iraq. The US and UK argued for continuation of the regime stemming from SCR 687, but with tougher measures to ensure co-operation with and access for the inspectors, under the continuing threat of sanctions if Iraq did not comply; while Russia, France and China opposed the continuation of sanctions, but were interested in getting the inspectors back into the country.”³⁰⁸

Mr Blair’s Chicago speech

789. In the context of a visit to the US, for a Summit in Washington to mark the 50th anniversary of NATO’s creation and an attempt to persuade the US that ground forces were needed in Kosovo, Mr Blair made a widely publicised speech to the Economic Club of Chicago on 23 April 1999.³⁰⁹

790. In response to a request from Mr Jonathan Powell (Mr Blair’s Chief of Staff), Sir Lawrence Freedman submitted ideas for the speech. These were set out in the attachment to Sir Lawrence’s letter to Sir John Chilcot on 18 January 2010.³¹⁰

791. Mr Blair argued that globalisation was not just economic it was also a political and security phenomenon. This meant that problems could only be addressed by international co-operation. New rules were needed for that, and new ways of organising international institutions. The time was right to work in earnest “in a serious and sustained way” on the principles of the doctrine of “international community” and on the institutions that delivered them.

³⁰⁶ UN Security Council, 30 March 1999, ‘Letter dated 27 March 1999, from the Chairman of the panels established pursuant to the note by the President of the Security Council of 30 January 1999 (S/1999/100) addressed to the President of the Security Council’ (S/1999/356).

³⁰⁷ UN Security Council, ‘4084th Meeting Friday 17 December 1999’ (S/PV.4084).

³⁰⁸ Statement, November 2009, page 2.

³⁰⁹ Speech, Blair, *Doctrine of the International Community*, 23 April 1999.

³¹⁰ Paper Freedman [undated], ‘Chicago Speech: Some Suggestions’.

792. In a reference to international security, Mr Blair identified “two dangerous and ruthless men – Saddam Hussein and Slobodan Milosevic” as the cause of “many of our problems”. Iraq had been “reduced to poverty, with political life stultified through fear”. Mr Blair suggested that international security should be addressed at the NATO Summit by establishing a new framework:

“No longer is our existence as states under threat ... our actions are guided by a more subtle blend of mutual self-interest and moral purpose in defending the values we cherish. In the end values and interests merge. If we can establish and spread the values of liberty, the rule of law, human rights and an open society then that is in our national interest too.

“The most pressing foreign policy problem we face is to identify the circumstances in which we should get actively involved in other people’s conflicts. Non-interference has long been considered an important principle of international order. And it is not one we would want to jettison too readily ... But the principle of non-interference must be qualified ...

“So how do we decide when and whether to intervene.”

793. Mr Blair set out “five major considerations” to guide such a decision:

“First, are we sure of our case? War is an imperfect instrument for righting humanitarian distress; but armed force is sometimes the only means of dealing with dictators. Second, have we exhausted all diplomatic options? We should always give peace every chance, as we have in the case of Kosovo. Third, on the basis of a practical assessment of the situation, are there military operations we can sensibly and prudently undertake? Fourth, are we prepared for the long term? In the past, we talked too much of exit strategies. But having made a commitment we cannot simply walk away once the fight is over; better to stay with moderate numbers of troops than return for repeat performances with large numbers. And finally, do we have national interests involved?”

794. Mr Blair argued that acts of genocide could never be a purely internal matter, and that when oppression produced massive flows of refugees which unsettled neighbouring countries, that could “properly be described as ‘threats to international peace and security’”; a reference to the provisions of the UN Charter (see Box, ‘The Charter framework for the use of force’, earlier in this Section).

795. The five considerations were not to be “absolute tests”; they were the “kind of issues we need to think about in deciding in the future when and whether we will intervene”.

796. Mr Blair also argued that the new rules would only work if there were reformed international institutions to apply them and that “If we want a world ruled by law and by international co-operation then we have to support the UN as its central pillar.”

797. In a message specifically to the US, Mr Blair warned that “those nations which have the power, have the responsibility” and that the US should “never fall again for the doctrine of isolationism”. He added:

“... in Britain you have a friend and an ally that will stand with you, work with you, fashion with you the design of a future built on peace and prosperity for all, which is the only dream that makes humanity worth preserving.”

798. The speech attracted considerable attention and acclaim, including in the US. In his memoir, Mr Blair described it as “an explicit rejection of the narrow view of national interest”.³¹¹ The Inquiry addresses the military intervention in Iraq in relation to the principles set out in the speech and Mr Blair’s message to the US in Section 3.

Cabinet discusses Iraq strategy, May 1999

799. Mr Cook and Mr Robertson circulated a Joint Memorandum on Future Strategy towards Iraq to members of DOP on 17 May 1999.³¹² It set out the short, medium and long-term objectives for UK policy against a background of international concern about the adverse humanitarian impact of sanctions and a shortfall in “Oil-for-Food” revenues (US\$4bn in the previous year) against assessed need (US\$10.6bn per annum recommended by Mr Annan). There had been “extensive deterioration of essential infrastructure and social services, a sharp decline in industrial and agricultural output and worsening social indicators”. The Joint Memorandum identified the Government’s policy objectives towards Iraq since 1991 as:

“... in the short term, to reduce the threat Saddam poses to the region, including by eliminating his Weapons of Mass Destruction (WMD) programmes; and, in the longer term, to reintegrate a territorially intact Iraq as a law-abiding member of the international community.”

800. The Joint Memorandum recorded that the UK had sought to achieve those aims “by a policy of containment, through active support of UNSCOM/IAEA efforts to complete WMD disarmament in Iraq, diplomatic pressure and sanctions, backed by the threat and, as necessary, use of military force”. That had been the US approach “although they flirt with a harder line”.

801. On the success of that policy and its longer-term prospects, the Joint Memorandum stated:

“Containment has kept the lid on Saddam ... But containment has disadvantages: it does not produce rapid or decisive results; it is resource-intensive, requiring constant diplomatic effort and a significant military presence; and it is not always

³¹¹ Blair T. *A Journey*. Hutchinson, 2010.

³¹² Joint Memorandum Secretary of State for Foreign and Commonwealth Affairs and the Secretary of State for Defence, 17 May 1999, ‘Iraq: Future Strategy’.

easy to justify to public opinion, as criticisms of UK/US air strikes and of the humanitarian impact of sanctions has shown.”

802. Addressing future policy, the Joint Memorandum stated:

“However difficult it may become to sustain a policy of containment, it is not clear what the alternative would be. To simply walk away from the problem would be an admission of failure, and leave Saddam free to pose once more a major threat to regional security and British interests. On the other hand, a policy of trying to topple Saddam would command no useful international support ...

“Containment, therefore, remains the only viable option for achieving our policy objectives. *If* Iraq complied with UNSCRs, we should then lift sanctions ...

“If, on the other hand, Iraq does not co-operate with the UN (let alone comply with the UNSCRs), we face the prospect of indefinite containment from outside Iraq, based on sanctions, external monitoring and control, and the threat of military force if Saddam seeks to threaten his neighbours or reconstitute his WMD capabilities ...”

803. The Joint Memorandum recommended that securing international support would require a willingness to agree a package of measures “which ‘middle-ground’ UNSC opinion would regard as reasonable”. It suggested a draft UNSCR, offering a balanced package based on increasing and improving the “Oil-for-Food” programme, the prospect of permitting foreign investment in Iraq’s oil infrastructure to increase output, and the possible suspension of export restrictions in return for co-operation and substantial progress towards compliance and effective arms control with some prospect of sanctions lift. The ideal would be an in-country arms control regime but “not at any price”: the UK should continue to press the US to offer “light at the end of the tunnel”, but not “buy Iraqi co-operation by prematurely suspending or lifting sanctions”.

804. The Joint Memorandum concluded that the policy of containment remained the only viable way to pursue the UK’s policy objectives. Iraq was unlikely to accept the package immediately but “might be persuaded to acquiesce eventually”.

805. Ms Clare Short, the International Development Secretary, commented that containment would not solve the pressing issue of ensuring that the basic needs of the Iraqi people were met; and that, although there had been “an extensive exchange of correspondence”, she hoped it would be “possible to have the opportunity to discuss these very difficult issues with Ministerial colleagues”.³¹³ Mr Phillip Barton, a No.10 Private Secretary, advised Mr Blair that there was no need for a DOP discussion “unless you [Mr Blair] particularly want one”.³¹⁴ Mr Blair endorsed the conclusions of

³¹³ Letter Smith to Pakenham, 24 May 1999, ‘Iraq, the Way Forward’.

³¹⁴ Minute Barton to Prime Minister, 27 May 1999, ‘Iraq: Future Strategy’.

the Joint Memorandum,³¹⁵ and a revised draft UNSCR, including language on sanctions suspension, was agreed.³¹⁶

Resolution 1284 (1999)

806. Throughout 1999, debate and negotiation continued in the UN Security Council about the degree of Iraqi compliance with UN resolutions and the creation of a new inspection organisation to replace UNSCOM against a background of growing unpopularity for sanctions and the desire of a number of States, including P5 members, to remove sanctions and resume normal relations with Iraq.

807. The deadlock on a resolution addressing all the outstanding issues on Iraq led to difficulties in agreeing the bi-annual rollover of the “Oil-for-Food” programme and the adoption, on 19 November, of resolution 1275 (1999) which extended the programme until 4 December. That was followed on 3 December by resolution 1280 (1999), which extended the regime for a further seven days to allow extra time for negotiations among the Permanent Members on a “comprehensive resolution”.

808. Mr Dejammet stated that the draft resolution, which had been submitted by the US, was drafted in such a way that it would be incapable of implementation, and that France had been told that the vote was being used to bring pressure to bear on the members of the Security Council in relation to discussions on a separate resolution (the resolution which became resolution 1284).

809. Mr Tan Sri Hasmy Agam, Malaysian Permanent Representative to the UN, stated that the seven-day extension clearly established a linkage to the discussions on the comprehensive resolution. Malaysia was unhappy about the underlying assumptions of that linkage, including that the difficulties could be resolved within a week when the Permanent Members of the Council had already been discussing a draft for five months and had not reached agreement.

810. Mr Gennadi Gatilov, Russian Deputy Permanent Representative to the UN, referred to an earlier Russian draft resolution proposing an extension of UN humanitarian operations in Iraq, reflecting recommendations from the UN Secretary-General and the recommendations of the humanitarian panel chaired by Mr Amorim. Russia regarded the attempt to set “artificial time limits” on the need to reach agreement on the remaining serious problems in the comprehensive resolution as “totally inappropriate”.

811. Mr Qin Huasun stated that the resolution was “mainly intended to force the Council to adopt, as soon as possible, a new omnibus resolution on Iraq”. China was “extremely dissatisfied and disappointed” by the deadlock, but the unilateral military strike in December 1998 was the “main reason” the UN arms-verification programme

³¹⁵ Letter Barton to Barrow, 2 June 1999, ‘Iraq: Future Strategy’.

³¹⁶ Letter Barton to Barrow, 14 June 1999, ‘Iraq: Future Strategy’.

had been suspended and those countries which had launched those strikes “should now show flexibility”.

812. Resolution 1284, adopted on 17 December, welcomed the reports of the three panels chaired by Mr Amorim, which had been subject to “comprehensive consideration” by the Council, and stressed the “importance of a comprehensive approach to the full implementation of all relevant Security Council resolutions ... and the need for Iraqi compliance with those resolutions”.³¹⁷

813. The resolution also acknowledged the “progress made by Iraq towards compliance with the provisions of resolution 687”, but noted that “as a result of its failure to implement the relevant Council resolutions fully, the conditions do not exist which would enable the Council to take a decision ... to lift the prohibitions referred to in that resolution”.

814. The resolution comprised four sections: disarmament; repatriation of Kuwaiti and third-country nationals and property; the humanitarian situation; and the arrangements for considering the suspension and lifting of sanctions.

815. The provisions on disarmament included that the Security Council:

- decided to replace UNSCOM with the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), which would operate as the Amorim panel recommended, to provide “a reinforced system of ongoing monitoring and verification, which will implement the plan approved by the Council in resolution 715 (1991) and address unresolved disarmament issues”;
- reaffirmed the role of the IAEA;
- reaffirmed the provisions of relevant resolutions requiring Iraq’s compliance and affirmed that Iraq’s obligations to co-operate with the Special Commission would apply in respect of UNMOVIC;
- decided “in particular” that Iraq should “allow UNMOVIC teams immediate, unconditional and unrestricted access” to all sites or facilities it wished to inspect and to all individuals under the authority of the Iraqi Government it wished to interview;
- requested the Secretary-General to appoint an Executive Chairman and, in consultation with him and Council members, to appoint “suitably qualified experts as a College of Commissioners for UNMOVIC” which would “meet regularly to review the implementation” of the resolution and other relevant resolutions, and “provide advice and guidance to the Executive Chairman, including on significant policy decisions and on written reports to be submitted to the Council through the Secretary-General”;

³¹⁷ UN Security Council resolution 1284 (1999).

- requested the Executive Chairman to put forward proposals for the organisation of UNMOVIC within 45 days of his appointment;
- decided that UNMOVIC and the IAEA would, “not later than 60 days after they have both started work in Iraq”, each draw up a work programme for the discharge of their mandates for approval by the Council; the programmes would “include both the implementation of the reinforced system of ongoing monitoring and verification, and the key remaining disarmament tasks to be completed by Iraq pursuant to its obligations”;
- further decided that what was “required of Iraq for the implementation of each task shall be clearly defined and precise”;
- requested the Executive Chairman of UNMOVIC and the Director General of the IAEA were also to review and update the list of items and technology controlled by resolution 1051 (1996); and
- requested the Executive Chairman of UNMOVIC to “report immediately when the reinforced system of ongoing monitoring and verification [OMV] is fully operational in Iraq”.

816. The resolution reiterated Iraq’s obligations in respect of Kuwait and third-country nationals and property, and called on the Government of Iraq to resume co-operation with the Tripartite Commission and asked the Secretary-General to report to the Council every four months on Iraq’s compliance.

817. The provisions on humanitarian issues included:

- abolishing the ceiling on the export of Iraq’s petroleum and petroleum products by authorising States to permit the import of “any volume”, notwithstanding the provisions of resolution 661 (1990);
- deciding that only items subject to the provisions of resolution 1051 (1996) would need to be submitted for approval to the Committee established by resolution 661 (1990), and requesting that Committee to appoint a group of experts which would be mandated speedily to approve “contracts for the parts and equipments necessary to enable Iraq to increase its exports of petroleum and petroleum products”;
- requesting the Secretary-General to maximise the benefits of the arrangement set out in resolution 986 (1995) and to ensure that all supplies under the humanitarian programme were utilised as authorised;
- calling on the Government of Iraq to:
 - “take all steps to ensure the timely and equitable distribution of humanitarian goods”;
 - “address effectively the needs of vulnerable groups ... without any discrimination”;
 - “prioritise applications for humanitarian goods”;

- “ensure that those involuntarily displaced receive humanitarian assistance”; and
- requesting the Secretary-General to establish a group of experts, to report within 100 days of the adoption of the resolution, “on Iraq’s existing petroleum production and export capacity and to make recommendations ... on alternatives for increasing” that capacity.

818. Finally, the resolution expressed the Council’s intention “upon receipt of reports from the Executive Chairman of UNMOVIC and the Director General of the IAEA” that Iraq had “co-operated in all respects with UNMOVIC and the IAEA and in particular in fulfilling the work programmes ... for a period of 120 days after” the reinforced system of OMV was reported to be fully operational, to “suspend” sanctions on the import of materials originating in Iraq or the export of items to Iraq (other than those referred to in paragraph 24 of resolution 687 (1991) or controlled by the mechanism established by resolution 1051 (1996)), “for a period of 120 days renewable by the Council”. Action to suspend sanctions would be considered “no later than 12 months” from the adoption of the resolution, “provided the conditions set out” in this paragraph had been “satisfied by Iraq”.

819. The draft resolution had been tabled by the UK, and many members of the Council praised the skill and perseverance of Sir Jeremy Greenstock and his delegation in producing a draft which the majority of the Council could support after almost a year of deadlock on Iraq.³¹⁸ It is clear, however, that there were still significant differences about the interpretation of the resolution and the way ahead. As a result, China, France, Malaysia and Russia abstained in the vote, but there was no veto.

820. Mr Lavrov explicitly blamed the use of force by the US and UK in December 1998 for the deadlock in the Council, stating that the action had been “provoked by the biased and tendentious report” from UNSCOM. Russian proposals in April 1999, for a draft resolution approving the recommendations of the Amorim panels and instructing the Secretary-General “to prepare practical steps for implementing them”, had been “blocked by those who wanted ... to continue using the burden of anti-Iraq sanctions in order to attain their own unilateral goals, going beyond the scope of United Nations decisions”.

821. Mr Lavrov welcomed the provisions to suspend sanctions, the “radical improvements in the humanitarian programme”, and the measures related to speeding up action on missing persons and Kuwaiti property. He also welcomed the corrections to “harmful provisions” in previous drafts of the resolution, including:

- removing the “discredited argument about full co-operation”; Russia had “always stressed that the wording ‘full co-operation’” was “extremely dangerous”, and “Nobody has forgotten that it was under the pretext of an absence of full

³¹⁸ UN Security Council, ‘4084th Meeting Friday 17 December 1999’ (S/PV.4084).

co-operation from Iraq that the former Special Commission provoked large-scale strikes by the United States and Great Britain against Iraq in December last year, circumventing the Security Council”;

- introducing a “clarification ... to the effect that progress on the remaining disarmament tasks – not their virtual completion – would be grounds for assessing the conditions necessary to the suspension of sanctions”; vague wording in an earlier draft would have “provided certain members of the Council” with “an opportunity to ... require virtually full completion of the key disarmament tasks ... and then, on that pretext, to postpone suspension endlessly”;
- removing wording about “control of the financial aspects of the suspension, which essentially predetermined the continuation of the sanctions regime in another guise”; and
- spelling out more clearly the reference to Chapter VII “so as not to provide any legal grounds for unilateral actions of force against Iraq contrary to positions held in the Security Council”.

822. Russia could not support the draft resolution because of “deficiencies of the draft resolution and some hidden dangers that remain” and it would “not forget that certain countries still have their own agendas with respect to Iraq that may be at variance with the collective position of the Security Council”. The Council had “never authorized the establishment of the ‘No-Fly Zones’”, nor had it authorised “subversive acts against the Iraqi Government”. If the Council sought “truly new approaches ... to a long-term settlement in the Gulf, such illegal, unilateral actions must end”.

823. But Russia had decided “not to hinder” adoption of the resolution because “serious changes” had been introduced which offered “an opportunity to break the Iraqi stalemate”.

824. Mr Lavrov warned:

“The fact that we are not blocking the adoption of this imperfect draft resolution should not be taken to indicate that we are obliged to play along with attempts to impose its forcible implementation ...

“... Judging from existing objective assessments, Iraq is already no threat to international and regional peace and security. In any event, no concrete proof has been submitted to the Council in recent years.

“It is now up to the Security Council to act objectively and in an unbiased way ...

“... it is important that ... it has been possible to avoid a split ... and to confirm the key role of the Council in the political settlement of the most important problems of the world today ... Russia will continue to do its utmost to strengthen that role.”

825. Mr Hasmy stated that the issue before the Council was “not just ... asserting its authority and reclaiming its credibility ... but equally importantly ... restoring confidence

and trust between the Council and Iraq”. The draft resolution did not incorporate concerns expressed by Malaysia and others, including:

- the omission of financial modalities;
- the vague language “full of conditionalities” in respect of the triggering of suspensions;
- the absence of a definite benchmark or timeframe for the final lifting of sanctions;
- the indefinite continuation of the sanctions which violated “the very spirit and purposes” of the UN Charter;
- the improvements in arrangements for humanitarian programmes which were “selective” and would “only lead to incremental improvements and address a small fraction of the needs of the Iraqi people”; and
- Malaysia’s proposal that the Council should give a hearing to Iraq’s views, on the basis that “engaging Iraq, rather than isolating and demonizing it”.

826. The draft resolution was:

“... driven largely by political, rather than humanitarian, considerations. It is aimed at keeping Iraq under continued isolation rather than bringing it out into the mainstream of international life ... The language of the draft resolution is ambiguous in some important parts, so that it may lend itself to unilateral interpretation and/or action in its implementation, which must be avoided.”

827. Mr Qin Huasun stated that three core issues would have to be addressed in formulating new policies on Iraq:

- An “objective, impartial, transparent and accountable” inspection commission should replace UNSCOM which “under the leadership of its previous Executive Chairman ... continuously concealed information from the Council, deceived and misled the Council and even went so far as to act presumptuously without authorisation by the Council, thus playing a dishonourable role in triggering the crisis”.
- The remaining disarmament issues should be “defined clearly and precisely and resolved gradually and effectively”.
- There was “an urgent need to relieve the ... tremendous, inhumane suffering” of the people of Iraq.

828. Mr Qin Huasun added that those issues could be resolved only if the resolution could be implemented; and that was “highly questionable” because it did not give Iraq the “light at the end of the tunnel”. The Council was being “rushed ... into action” which would “not help to resolve” the issue. Nor would it “really help to preserve the authority and role of the Council”. There had been “a worrying trend” over the past year. Iraq and Kosovo had “clearly demonstrated that the wilful use of force, especially unilateral

actions taken without the Council’s authorisation”, severely damaged the status and authority of the Council and complicated the situation.

829. Mr Qin Huasun concluded by calling for an end to the NFZs, which flew “in the face of international law and the authority of the Council”.

830. Mr Dejammet stated that France had observed in January 1999 that the top priority was the restoration of security and stability with the “long-term presence on the ground of professional inspectors” to prevent the arming of Iraq and ensuring that sanctions did not punish the Iraqi population. The Council had agreed that the “relationship between Iraq and the United Nations needed to be set on a new footing”.

831. Mr Dejammet stated that the draft resolution called upon Iraq “to accept the return of the inspectors without knowing what arrangement will exist in the period after suspension”. If the interpretations of the text diverged, the Chairman of the new Commission would not be able to carry out his mandate and it was not clear how the Council would be able to reach a decision on when sanctions should be suspended.

832. Mr Burleigh stated that the resolution did not raise the bar on what was required of Iraq on disarmament, but nor did it lower it. There was no lack of clarity about the sequence of events, Iraq’s compliance “must precede all else”. Identifying the “key remaining disarmament tasks” needed to be addressed. If Iraq fulfilled those tasks and met the requirements in the resolution:

“... the Council, including the United States, can decide whether to recognize that co-operation and compliance by suspending sanctions.

“Similarly, if Iraq meets the full range of obligations ... the Council can make a decision regarding the lifting of sanctions.”

833. Mr Burleigh added that the US was “not seeking an excuse to use force”, but Iraq held the key. The US had “no illusion that the Iraqi regime” was “likely to change its spots”. Compliance was “highly unlikely” while Saddam Hussein remained in power.

834. Mr Burleigh also stated that, before sanctions could be suspended, there would be a need to decide the exact terms for lifting prohibitions to “prevent any revenues from being diverted for prohibited purposes” and “effective control measures” for civilian imports into Iraq were of the “utmost importance”.

835. Mr Jassim Mohammed Buallay, Bahraini Permanent Representative to the UN, drew attention to the fact that Iraq “had already declared its total rejection of the resolution”.

836. Mr Peter van Walsum, Dutch Permanent Representative to the UN, said that the statements of the Iraqi authorities gave no indication that they would be prepared to co-operate “other than on the basis of an unconditional lifting of the sanctions, and no member of the Council has shown any readiness to meet that condition”. He also

disputed the suggestion that Iraq could not see light at the end of the tunnel. The existing resolutions already clearly illuminated “the exit” and the present resolution added “significantly to that by offering Iraq a possible suspension of sanctions well before full compliance”. But co-operation was not “a question of attitude” but about “performance”; and he thought it was “not realistic to expect an early positive signal from Baghdad”.

837. Sir Jeremy Greenstock stated that holding Iraq to its obligations and containing the threat to the peace and security of the region was “one of the most important responsibilities of the international community, and in particular of the Security Council”. Throughout 1999, the Council had worked to find a “new approach” to business with Iraq which was “firmly set in the framework of a collective responsibility exercised within the United Nations”. The resolution preserved “the original disarmament standards for Iraq” and met humanitarian concerns while belatedly recognising “just how dire Iraq’s response has been to its obligations with regard to missing Kuwaiti citizens and property”. “Most significantly”, it set out “a series of clear, logical steps, using the new concept of suspension to bring Iraq out of sanctions and back into the international community”. But that would happen “only if Iraq at last begins to act according to the rules of international law”; and its track record and recent rhetoric were “hardly encouraging”.

838. Sir Jeremy concluded by calling for full support in the Council in bringing the provisions of the mandatory resolution into effect, for the benefit of “the peoples of Iraq and of the region” and in the “interests of the future authority” of the UN.

839. The UK’s short-term objective had been “an agreed Security Council approach on the way forward ... allowing us to draw a line under the differences which developed over Operation Desert Fox”.³¹⁹

840. A note for No.10 on the background to the inspections process, produced in March 2002 by FCO Research Analysts, stated that the “main feature” of resolution 1284 was that it offered Iraq “a suspension of sanctions in return for co-operation with the weapons inspectors, including progress on key disarmament tasks”, in contrast to resolution 687 (1991) which offered lifting of sanctions “only when the inspectors say disarmament is complete”.³²⁰ Iraq regarded the latter as “an unattainable goal”, claiming that the resolution was “so ambiguous” that the US could “easily deny” that co-operation had been “adequate”.

841. The paper also stated:

“We recognise there are ambiguities ... They are there for a good reason: the P5 was unable to reach agreement. If positions remain as entrenched as they were during ... negotiations, there is little prospect of the situation changing ...”

³¹⁹ [Letter Goultly to McKane, 20 October 2000, \[untitled\]](#).

³²⁰ [Letter McDonald to Manning, 15 March 2002, ‘Iraq’ attaching Paper FCO, \[undated\], ‘Iraq: Weapons Inspectors’](#).

842. Mr Ekéus commented to the Inquiry that the Security Council had “dissolved ... arguably [the] most successful inspection regime in disarmament history” and suggested it was “the British Government and its Foreign Secretary Robin Cook that enforced the dissolution of UNSCOM ... in spite of American doubts and hesitations”.³²¹

UNMOVIC begins work

843. Dr Hans Blix, the Director General of the IAEA until November 1997, was appointed Executive Chairman of UNMOVIC and took up his appointment in New York on 1 March 2000.

844. Dr Blix wrote:

“The inspectors were gone. The sanctions were condemned by a broad world opinion and ... they had become less painful, and were eroding ... The revenues from the Oil-for-Food Program provided many billions of dollars and huge purchase orders were so placed as to produce maximum political benefit – or punishment.”³²²

845. In an interview published in March 2000, Mr Ekéus stated that UNSCOM had been “highly successful”, but had not destroyed “everything”; and the “contradictions” in Iraq’s declarations meant that there was “reason to be careful”.³²³ There was “new information about procurement efforts by Iraq” and useful information from individuals who had left Iraq.

846. Mr Ekéus added that, in his view, there were “no large quantities of weapons”. Iraq was not “especially eager in the biological and chemical area to produce such weapons for storage” because it viewed them as “tactical assets” and its aim was “to keep the capability to start up production immediately should it need to”.

847. Mr Ekéus stated that it was “striking” that resolution 1284 (1999) said “nothing about investigation and elimination” of Iraq’s prohibited weapons, but focused on monitoring activities. The Security Council was trying to get UNMOVIC “to be more precise” about its tasks. He considered that Iraq would “probably co-operate” if it judged the provisions on suspending sanctions were acceptable. The unity of the Security Council was essential; political problems in the Council were “the single, dominant and only reason” for the failure of UNSCOM.

848. In his statement to the Inquiry, Sir Jeremy Greenstock wrote:

“In 2000, little new work was done on Iraq, with the Security Council largely exhausted with the subject ... Sanctions continued, but the regime remained vulnerable to Iraqi non-co-operation and deceit and the feeling that sanctions

³²¹ Statement, 23 April 2011, pages 4-5.

³²² Blix H. *Disarming Iraq*. Bloomsbury, 2004.

³²³ Arms Control Association, March 2000, ‘Shifting Priorities: UNMOVIC and the Future of Inspections in Iraq: An Interview with Ambassador Rolf Ekéus’.

were gradually unravelling increasingly took hold internationally. The Oil-for-Food programme also attracted greater criticism because of the loopholes and corruption which surrounded the handling of the programme in Iraq. And the Security Council remained divided.”³²⁴

849. Sir Jeremy also wrote that UNMOVIC had stronger investigative powers than UNSCOM and that the abstentions had diminished the political force of the resolution.

850. Mr Tom McKane, Principal Private Secretary to the Defence Secretary from 1997 to 1999 and subsequently the Deputy Head of the Overseas and Defence Secretariat in the Cabinet Office from 1999 to 2002, told the Inquiry that the resolution was:

“... designed to make progress on controlling Iraq’s WMD while at the same time alleviating the impact of sanctions on the Iraqi people by lifting the ceiling on Iraq’s oil exports under the Oil-for-Food programme”.³²⁵

851. Mr McKane subsequently told the Inquiry that, after resolution 1284 until the spring of 2001, there was a sense that Iraq was in “a more manageable state” and “didn’t need urgent day-to-day attention”.³²⁶

852. The UK’s short-term objective in 1999 had been “an agreed Security Council approach on the way forward, allowing us to draw a line under the differences which developed over Operation Desert Fox”.³²⁷

853. Although resolution 1284 was a step forward for the Security Council and a hard-won compromise, it did not bridge the gap between opposing viewpoints.

³²⁴ Statement, November 2009, page 2.

³²⁵ Statement, 8 December 2010, page 2.

³²⁶ Public hearing, 19 January 2011, pages 26-27.

³²⁷ [Letter Goulty to McKane, 20 October 2000, ‘Iraq’ attaching Paper FCO, ‘Iraq: Future Strategy’.](#)