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Wednesday, 30 June 2010

(10.00 am)

RT HON THE LORD JAY

THE CHAIRMAN: Welcome to our witness. At this session we are hearing from Lord Jay, who served as the Permanent Secretary at the Foreign and Commonwealth Office from 2002 until 2006. We will be asking Lord Jay about his role in leading the FCO's handling of Iraq issues, including the provision of advice for ministers, co-ordination between key government departments and staffing and resource issues.

Now, we recognise that witnesses give evidence based on their recollection of events and we are, of course, cross-checking what we hear against the papers to which we have access and which we are still receiving. We are particularly grateful to Lord Jay for sending us his statement, which is being published on our website now.

Lord Jay was unable to attend the previous session in January on the advice of his doctor and we are very pleased he is with us today.

I remind each witness on each occasion they will later be asked to sign a transcript of the evidence to the effect that the evidence they have given is truthful, fair and accurate.

Without more ado, I will ask Sir Roderic Lyne to

1 open the questions.

2 SIR RODERIC LYNE: You became Permanent Secretary
3 in January 2002 and that was a moment with regard to
4 Iraq where it was becoming clear that the approach of
5 the United States Government to the issue was changing.
6 At the end of January, President Bush gave his Axis of
7 Evil speech, for example, and other indications were
8 coming through different channels that the Americans
9 were beginning to think very seriously about possible
10 action against Iraq.

11 At this time, when you came in, say
12 around February 2002, what was the impression that you
13 and your colleagues had in the Foreign Office of
14 American policy, the American approach to Iraq?

15 RT HON THE LORD JAY: We thought that there was clearly
16 serious concern about Iraq. There was clearly, in the
17 United States, a growing sense that there was an
18 opportunity to deal with Iraq and I think those of us in
19 the Foreign Office thinking about these things were
20 concerned that this was going to be a very difficult
21 issues for us to handle. I don't think at that stage we
22 were on the same line really, as the United States were.

23 SIR RODERIC LYNE: What do you recall as being the reactions
24 of the then Prime Minister and the then Foreign
25 Secretary to these indications, that Washington was

1 moving Iraq up to the top of the priority list and maybe
2 really seeing Iraq as the target for action?

3 RT HON THE LORD JAY: I can speak more of the Foreign
4 Secretary than I can for the Prime Minister. The
5 Foreign Secretary's view was -- I think the Foreign
6 Secretary's reaction to the Axis of Evil speech, which
7 was criticised, as far as I remember, by President Bush,
8 was that this was for domestic political reasons as much
9 as for foreign policy reasons. I don't think at that
10 stage the prospect of a conflict, as it later turned
11 out, was very much at the top of our minds.

12 I should say that, at the beginning of 2002, I was
13 myself getting myself into the job. Iraq was one of
14 a large number of issues I was dealing with. It was not
15 at the top of my own agenda at the beginning of 2002.

16 I was travelling a lot, I was meeting everybody,
17 I was getting to know what the job involved, and Iraq at
18 that stage was a difficult issue but no more difficult
19 than many of the issues that we were dealing with.

20 SIR RODERIC LYNE: By the middle of that year, after you had
21 been in the job for half a year, where would Iraq have
22 stood on the Foreign Office's list of priority issues?

23 RT HON THE LORD JAY: I think it rose up during the first
24 half of 2002. It rose up the agenda, but it would be
25 wrong to think it was always at the top of the agenda.

1 My own recollection of the summer of 2002 was that
2 the prospect of war and possibly nuclear war between
3 India and Pakistan --

4 THE CHAIRMAN: Could you slow down a little?

5 RT HON THE LORD JAY: I'm so sorry.

6 THE CHAIRMAN: Thank you.

7 RT HON THE LORD JAY: The prospect of war, and possibly
8 nuclear war, between India and Pakistan in the summer of
9 2002 was a far more real and present danger to us than
10 conflict in Iraq. That said, when that had passed,
11 I think by the July/August/September 2002, it was clear
12 that the Americans were taking this much more seriously
13 and, therefore, it became a much more serious issue for
14 us because the -- our relationship with the
15 United States made it clearly a difficult issue to
16 handle.

17 SIR RODERIC LYNE: By that time it was obviously consuming
18 a lot of the time and energy of people like the
19 Prime Minister and the Foreign Secretary and the
20 Prime Minister's team.

21 As it rose up the agenda, as you say, what did the
22 Foreign Office do to gear itself up to deal with this
23 subject and with the possibility, the rising
24 possibility, of this leading to conflict?

25 RT HON THE LORD JAY: Certainly from September 2002 onwards,

1 it was becoming a serious -- an extremely serious issue
2 of foreign policy and one which required changes in the
3 way in which the Foreign Office operated and from then
4 on, we began to put more resources into Iraq; Iraq units
5 were set up, there was a lot of work done, I think,
6 from September 2002 onwards, with papers prepared on --
7 alternative contingencies for the handling of Iraq.

8 That really started in -- seriously started, I would
9 say, as far as my recollection goes, in
10 probably September 2002. I remember receiving papers
11 from Peter Collecott at that stage about possible
12 scenarios for Iraq.

13 SIR RODERIC LYNE: Peter Collecott being in what job?

14 RT HON THE LORD JAY: He was Director of Corporate Services,
15 what you used to call Chief Clerk and we call something
16 different.

17 SIR RODERIC LYNE: The head --

18 RT HON THE LORD JAY: The head of administration. Yes, and
19 was thinking through what the implications could be for
20 the Foreign Office staff, what the implications could be
21 for Iraq, if there were to be a conflict or if there
22 were to be a need for some sort of presence there.

23 SIR RODERIC LYNE: Did you feel at the time you had
24 sufficient resources to do this properly or were you
25 constrained?

1 RT HON THE LORD JAY: I never felt I had sufficient
2 resources to do anything I was doing in the Foreign
3 Office. You have to make the best you can with the
4 resources you've got. You are constantly -- it was
5 a constant battle throughout the five years I was there
6 of allocating scarce resources to the priorities that
7 mattered and, over the years we were dealing with Iraq,
8 we were constantly spending more money and more
9 resources on Iraq. Some of those we were getting -- we
10 got extra provision from the Treasury, often it was
11 a question of reprioritising the resources within the
12 Foreign Office.

13 At the worst, that meant closing posts in parts of
14 the world which were less important in order that we
15 could put people into Baghdad, Basra, Kabul and other
16 places which were of growing importance.

17 SIR RODERIC LYNE: To what extent would it be fair to say
18 that the Foreign Office had been hollowed out over this
19 period of constrained resources that you talk about?

20 RT HON THE LORD JAY: I don't think it had been hollowed
21 out. I think that what we were trying to do, what I was
22 trying to do when I was there at the Foreign Office was
23 to get people to focus on the issues that mattered and
24 get the right people to focus on the issues that
25 mattered. Where we had really high grade people in

1 embassies abroad focusing on the countries with
2 communications which meant they could relate directly to
3 people in London, you didn't need to have people in
4 London doing the job as well. That meant you could move
5 people from one part of the office to another.

6 THE CHAIRMAN: Speed is still a problem.

7 RT HON THE LORD JAY: Sorry.

8 SIR RODERIC LYNE: In this period, particularly, I suppose,
9 summer/autumn of 2002, were Number 10 and the
10 Cabinet Office seeking more and more expert advice about
11 Iraq and the region and the possible consequences of
12 conflict and what might follow a conflict and the
13 situation that one would be going into? Do you recall
14 those sort of demands or requests being made to the
15 Foreign Office?

16 RT HON THE LORD JAY: Yes, I think those demands were
17 constant. There were constant demands for Iraq. There
18 were constant demands on Afghanistan, there were
19 constant demands on the issues which were at the top of
20 Number 10's agenda. My recollection is we tried to
21 respond to those.

22 SIR RODERIC LYNE: What strengths did the Foreign Office
23 have in its ability to provide this expert input on the
24 region?

25 RT HON THE LORD JAY: Well, it had expertise in London on

1 the region. It had expertise -- very considerable
2 expertise, in our embassies in the region and that was
3 extremely valuable. It had, of course -- and this,
4 I think, is a real lesson for the future -- it had no
5 direct representation in Iraq since the Gulf War of
6 1991. That meant that we did not have first-hand
7 knowledge of what was going on inside Iraq, of how
8 Saddam Hussein and his government operated.

9 We had it second- or third-hand from other powers to
10 whom we spoke. We had it from people who would go up
11 from our embassy in Jordan to deal with residual
12 consular affairs in Baghdad. We had it, of course, from
13 the intelligence services. But what we did not have was
14 the day-to-day -- constant day-to-day contact between
15 well-qualified, Arabic-speaking diplomats in Baghdad
16 able to report back constantly on the ebb and flow of
17 power and influence and what that meant for us.

18 When I look back on this period, I think that that
19 was -- I can understand why, after the Gulf War in 1991,
20 relations had broken off, but it does seem to me, when
21 we are looking at the way in which the world operates
22 today, not to have relationships with countries that
23 matter to you, not necessarily in a good way, but matter
24 to you as in Iraq in rather a bad way, you really do
25 need people on the ground feeding stuff back. If you

1 don't have that, you are going to make mistakes.

2 SIR RODERIC LYNE: But you tried to tap into the expertise

3 of others and such sources of information as were

4 available, countries which had embassies there, EU

5 partners, that sort of thing?

6 RT HON THE LORD JAY: Yes, we did. I don't think we did

7 enough of that. One of the reasons I don't think we did

8 enough of that was because an obvious country to tap

9 into was France, who had an embassy there, but of course

10 our own position was rather different from France's and

11 therefore it was rather difficult to have the kind of

12 dispassionate discussions with the French about what was

13 happening in Iraq, because, as it were, on both sides

14 there was thought to be another agenda.

15 I don't think we did enough.

16 SIR RODERIC LYNE: How, then, was this picture pulled

17 together inside the Foreign Office from these different

18 sources?

19 RT HON THE LORD JAY: It was pulled together from -- from

20 the knowledge we had from other embassies, from other

21 countries, it was pulled together from our own people in

22 the region who were, of course -- did have -- people in

23 Jordan, for example, who had a good knowledge of what

24 was going on in Iraq. It was pulled together from the

25 intelligence agencies, who had their own sources of

1 intelligence and what was going on in Iraq.

2 But it was -- looking back on it, it was inevitably
3 a partial picture, and if I compare the knowledge we had
4 of Iraq at that time with the knowledge we had of other
5 countries, with which we were dealing, it was not good
6 and I think that was unfortunate.

7 SIR RODERIC LYNE: From the stream of reporting from
8 embassies that you have mentioned as well as this
9 analysis, such as we could do it, of the situation in
10 Iraq, what view was formed of the possible downsides of
11 the military action, the hazards within the country, the
12 consequences, and the way it would play in the
13 Middle East region?

14 RT HON THE LORD JAY: You would need to ask that question to
15 others who were involved in that more full-time. My
16 recollection is that the conclusions we drew from, say,
17 the Jordanians and others, was that the response to
18 a conflict -- response to a conflict which got rid of
19 Saddam Hussein quickly and easily, would not be by any
20 means all bad, that people would see that as rather
21 a good thing to have done, provided they were not
22 involved in it and only drew the consequences from it.
23 That, of course, is not how it turned out. But I think
24 that that was the sort of -- my recollection is that was
25 the informal evidence we were getting from a number of

1 those to whom we spoke.

2 But I should say -- I don't want to give the
3 impression that, during this period, all we were
4 concerned about was what the implications would be if --
5 in the region, if there were -- if there were a conflict
6 and if Saddam Hussein were to go. Much of the
7 concentration, our concentration on this time, was on
8 the UN Security Council Resolution, it was the
9 relationship with the United States, it was the -- it
10 was what lay around a decision, if there were to be
11 a decision, to go to war at some point in the following
12 year.

13 SIR RODERIC LYNE: To what extent was there a lively
14 internal debate about the strategy over Iraq, with
15 different views being argued to and fro?

16 RT HON THE LORD JAY: Well, within the Foreign Office there
17 was a constant and lively debate. Both formally --
18 I haven't seen all the papers, but my guess is -- I hope
19 that is reflected in the papers that you will have seen,
20 but also the meetings which I would hold -- for example,
21 two or three days a week I would have a meeting with all
22 senior staff at 10 o'clock, where people would raise
23 whatever issues they wanted to raise. Iraq was nearly
24 always raised at those meetings. You had around that
25 table -- you had the people who were dealing with the

1 Iraq, you had Elizabeth Wilmshurst. You had a pretty
2 lively debate going on about what was the right thing to
3 do. The idea that there was kind of one Iraq policy
4 which was expressed and that was all, was not the case.

5 SIR RODERIC LYNE: What impact did you feel the
6 Foreign Office's advice and expertise had on Number 10
7 and on the sort of central processes of decision-making
8 on this subject? Were people paying attention? Were
9 you getting positive feedback, Number 10 indicating that
10 it was getting what it wanted out of the Foreign Office?

11 RT HON THE LORD JAY: It always wanted more, but I think
12 that what it got, what it was getting, was -- my
13 understanding is that it was well received. But that's
14 a question you have to ask David Manning or Number 10
15 but --

16 SIR RODERIC LYNE: Did you get a sense at times that they
17 were looking elsewhere for advice?

18 RT HON THE LORD JAY: They were looking to the intelligence
19 services for advice because we did not have the people
20 on the ground, as I said earlier on. But, you know, the
21 advice on what was going on, the advice on what we
22 should do, I think that was -- my recollection is that
23 that was well-received, the advice from Jack Straw, the
24 advice from others who were dealing with the issue.

25 SIR RODERIC LYNE: So the advice that they were looking for

1 from the intelligence services would go beyond what
2 normally would come from the intelligence services
3 because it was in an area where you didn't have people
4 on the ground?

5 RT HON THE LORD JAY: I mean, I think that's a really
6 interesting question and I think the answer to that must
7 be yes, because we were not able, because we did not
8 have people on the ground, to provide the sort of
9 material that we would be routinely providing to
10 Number 10.

11 The way in which things worked in those days, and
12 I discovered when I was in Paris, the Prime Minister
13 would come on the phone, Jonathan Powell would come on
14 the phone. There would be constant contact between the
15 Ambassador and Number 10, the Ambassador and the Foreign
16 Secretary, the Ambassador and the key people in London
17 on issues which were important to us. That couldn't
18 happen in Baghdad. There was a hole in the information
19 that we were getting about what was going on in Baghdad
20 because we didn't have people there.

21 SIR RODERIC LYNE: Final question from me: did you at any
22 stage feel, you or your colleagues, that the
23 Prime Minister's mind was already made up on this issue
24 and that, therefore, there wasn't a lot of point in
25 putting contrary arguments to him?

1 RT HON THE LORD JAY: No, not at all. I had the impression
2 that he had his own views on how he should deal with his
3 relationship with President Bush. It was not how
4 I would have dealt with President Bush, but I was not
5 Prime Minister and there were things said and things
6 done and maybe commitments half-given which I would not
7 myself have given, but that was a part of his
8 relationship with President Bush. That was how he felt,
9 as I understood it, he was best able to influence
10 President Bush.

11 I never had the sense that, as it were, the game was
12 over because of something which had been said or done by
13 the Prime Minister in the lead-up to the conflict.

14 SIR RODERIC LYNE: Thank you.

15 THE CHAIRMAN: Thanks. Usha?

16 BARONESS USHA PRASHAR: Lord Jay, I want to ask two or three
17 questions about the decision-making process before the
18 conflict and your personal involvement in that.

19 RT HON THE LORD JAY: Yes.

20 BARONESS USHA PRASHAR: Because I would just like to
21 understand what was your personal involvement in the
22 decisions that were made leading up to the conflict.
23 I mean, what was your personal engagement with those
24 issues?

25 RT HON THE LORD JAY: My personal engagement -- I saw my

1 role as being twofold. The first was the role which was
2 to manage the diplomatic service at home and abroad,
3 there was nobody else could do that. I saw that as
4 a crucial part of my job. It was a difficult time
5 because we had a conflict in Afghanistan, we had the
6 prospect of conflict in Iraq, there were consular
7 crises, there were hurricanes, there were attacks. In
8 Istanbul, 12 of our own people were killed. One forgets
9 sometimes now -- one felt one was living through
10 a series of constant wars and terrorist attacks with our
11 own people being threatened. That was the feeling on
12 had at the time.

13 I saw, therefore, one of my most important jobs as
14 being to manage the diplomatic service at home and
15 abroad in such a way as it managed those sorts of issues
16 and also ensure the safety and security of our staff.
17 So that I saw as a key task. I also saw myself -- and
18 I think that Jack Straw saw me as his, if you like, main
19 adviser or a main adviser on the key policy issues.

20 I knew Jack well, I have known him well for many
21 years. I had a very good relationship with him.
22 I talked to him a lot outside the office. I always had
23 complete access to him and, you know, there were times
24 when he would want to discuss whatever was the difficult
25 issue on his mind, not necessarily with a lot of people

1 around who would take notes, but because he wanted to
2 talk things through, and I saw it as my job to do that.

3 So I don't want to give the impression that I was
4 not involved in the main policy issues, because that
5 would be a wrong impression.

6 BARONESS USHA PRASHAR: But what I'm trying to establish is,
7 what was the level of your engagement on the Iraq issue?
8 I mean, I get the picture that lots was going on, but
9 what was the level of your engagement with regard to
10 Iraq?

11 RT HON THE LORD JAY: It would -- I would see Jack Straw
12 once or twice a week during this period. It would often
13 be on the agenda, I would go to meetings at which Iraq
14 was on the agenda. He would come down to my office
15 sometimes and say, "Look, we have got a problem, what do
16 we do?" and we would talk it through.

17 So it wasn't a relationship in that I wasn't writing
18 all the great papers about Iraq, the sort of things that
19 the Chairman has just been talking about, of sending
20 papers over to Downing Street, but I was in fairly
21 constant contact with Jack Straw about the issues which
22 he was dealing with of which Iraq was quite near the top
23 of his agenda.

24 BARONESS USHA PRASHAR: What papers did you see which set
25 out the options and the risks and benefits, you know, of

1 engagement with Iraq or what might happen? Did you
2 have --

3 RT HON THE LORD JAY: Well, if I was in London and
4 I would -- I would have seen the key papers. They would
5 have been sent to my office, they would have been put to
6 me to see, I would have commented on them. Very often,
7 I didn't see the papers because I was travelling.
8 I wasn't there. But then the key people concerned,
9 whether it was Peter Ricketts or whoever, would, you
10 know, after one of my meetings, stay behind and say "Can
11 we talk about Iraq? I'm worried about this or that".

12 So I don't want to give the impression that, because
13 I did not see all the papers which I didn't see, I was
14 not involved in advising Jack Straw or advising senior
15 officials on Iraq matters.

16 BARONESS USHA PRASHAR: I mean, you were obviously copied
17 into all the papers. So were you satisfied that the FCO
18 had the opportunity to offer fully thought-through
19 advice at key stages of the process? Were you assured
20 that that was happening?

21 RT HON THE LORD JAY: It was a -- it was very high up the
22 agenda of the Foreign Office, different aspects of Iraq
23 were. The handling of the UN Security Council
24 Resolution, they were still talking about in the second
25 half of 2002, the relations with the United States, the

1 relations with France, and Iraq was very high up that
2 agenda.

3 I certainly had no sense that Iraq was not being
4 given, at that point, the attention which it needed,
5 with one exception, which you may come on to, and that
6 is the question of what happened after a conflict, and
7 I think there is a really difficult issue here, which is
8 how the people who are trying to prevent a conflict
9 happen prepare for the failure of that policy and for
10 what should happen after there is a conflict and what
11 happens afterwards. I don't think we had the right
12 structures for that.

13 BARONESS USHA PRASHAR: We will come to that, but I mean the
14 Iraqi conflict, did you feel there was an opportunity
15 for challenging what was being said, in a way in
16 providing options/advice? Was there an opportunity to
17 challenge what was being done at Number 10 or what was
18 happening at the FCO in relation to the departments, and
19 was there an opportunity for challenge, or were you just
20 having discussions with Jack Straw as and when things
21 arose?

22 RT HON THE LORD JAY: No, there was constant challenge.
23 When I look back on that period, Number 10 was acting as
24 Number 10 did. The Prime Minister had the views that he
25 did. We, of course, in the Foreign Office were

1 providing the advice that Number 10 wanted¹, but
2 I don't -- I have no recollection of there not being
3 a debate; rather, the opposite. I have recollection
4 certainly, at my morning meetings, of there being
5 extremely lively debate about what should and what
6 shouldn't happen in Iraq.

7 You know, there was genuine concern in the
8 Foreign Office. I had -- I forget exactly when it was
9 now -- but a meeting of all the staff in the Locarno
10 room, it is a huge room, absolutely packed, people
11 standing. "Why are we going down this road? What is
12 our policy? Where is the Prime Minister coming from?
13 What is the Foreign Secretary's view? What do we say
14 when we get home in the evening and go to the pubs and
15 say to our friends?" So there was a constant concern.

16 BARONESS USHA PRASHAR: Yes, there was concern, but what I'm
17 asking is: was there ability to sort of put advice,
18 which was an option to challenge the advice that was
19 being put up to ministers?

20 RT HON THE LORD JAY: Yes, I would say certainly, on that,
21 as on other issues.

22 BARONESS USHA PRASHAR: Okay, thank you.

23 THE CHAIRMAN: I'm about to turn to Sir Martin Gilbert. But
24 would you see the role of the Permanent Secretary and
25 the policy advice role as being essentially one of

¹ i.e. were responding to requests for advice from No.10

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1 quality control, if you like, to ensure that the policy
2 advice was well-prepared, timely, comprehensive?

3 RT HON THE LORD JAY: I think I would see it as being that
4 and as being available to provide advice to the Foreign
5 Secretary and to provide advice to senior officials who
6 wanted that advice and to be spotting the issues which
7 were going wrong and take those up with the Foreign
8 Secretary as necessary. But not as being somebody who
9 tried to get in the way of the relationship between the
10 people who were working 24 hours a day on these issues
11 and reporting directly to the Foreign Secretary on it.

12 Indeed, there were times had the Foreign Secretary
13 would say to me, "Look, I'm dealing with Iraq. I want
14 you to deal with these other things which I am afraid
15 are not going to get the attention that they would
16 otherwise get".

17 That didn't mean to say I wasn't dealing with Iraq
18 but it meant I wasn't dealing with Iraq with the same
19 intensity of those whose job it was to deal with it all
20 the time.

21 THE CHAIRMAN: Thank you. Over to Sir Martin.

22 SIR MARTIN GILBERT: I would like to turn to the
23 negotiations at the UN on what became UNSCR 1441 and the
24 subsequent attempt earlier in 2003 to agree to a second
25 resolution.

1 Sir Jeremy Greenstock told us that he had advised
2 you in October 2002 that he might have to consider his
3 position if it became UK policy to go along with
4 abandoning the UN route and to go to the use of force
5 without the UN Resolution. Was that ever a possibility
6 in UK policy?

7 RT HON THE LORD JAY: No. I mean, I saw Sir Jeremy said
8 that. I remember Jeremy ringing me. I don't remember
9 him saying that because -- it wasn't a conceivable
10 possibility, as I recollect it.

11 Clearly, we needed to have a UN Resolution,
12 Jack Straw was absolutely determined that there should
13 be a UN Resolution. We were all behind him. So -- and
14 supporting Jeremy in doing a fantastically good job as
15 he did in ensuring we got one. So I'm sure I would have
16 noted what he had said, but I wouldn't have been -- as
17 it were, felt threatened by what he said because it was
18 what we all wanted to do anyway.

19 SIR MARTIN GILBERT: It didn't relate to something which was
20 being discussed --

21 RT HON THE LORD JAY: No, not that I can recollect.

22 SIR MARTIN GILBERT: We also asked Sir Jeremy whether, after
23 1441 was agreed, he felt it was wise to risk weakening
24 1441 by going for a second resolution, and he said to
25 us:

1 "You will hear from other witnesses, particularly
2 those in London, that there was a debate in London as to
3 whether this was a wise route to go."

4 Was there such a debate and did you participate in
5 it in any way?

6 RT HON THE LORD JAY: On whether it was wise to --

7 SIR MARTIN GILBERT: On whether it was wise to go for
8 a second resolution.

9 RT HON THE LORD JAY: I think there was a debate on whether
10 it was wise to go for a second resolution. I think that
11 a number of us believed that there should be a second
12 resolution, that the first resolution was good but it
13 was not sufficient and that there needed to be a second
14 resolution. I certainly believed that.

15 I remember having a discussion with Andrew Turnbull
16 at the Cabinet Office, and we were discussing these
17 things and we both agreed that there needed to be
18 a second resolution. I think we believed there should
19 be a second resolution. The first resolution had been
20 essential, had been necessary, but there needed to be
21 a second one as well.

22 SIR MARTIN GILBERT: From your perspective of the time, to
23 what extent did the military timetable, particularly, of
24 course, the American military timetable, create
25 a deadline for the diplomatic process?

1 RT HON THE LORD JAY: It created a deadline in the sense
2 that we kept hearing that it would get too hot
3 around March/April and tanks wouldn't work and,
4 therefore, we had to have a decision on the diplomatic
5 process, whether it would continue or not by then.

6 I never fully understood that argument. It seemed
7 to me that tanks operate in whatever conditions in
8 whatever part of the world and that they have done over
9 the years, but it was clearly a view strongly felt and
10 strongly put and did act, without any question at all,
11 as a constraint on the negotiating process.

12 When we got to the second resolution, and there were
13 a number of us who felt that there needed to be more
14 time and we were not clear just how real -- I wasn't
15 clear in the Foreign Office at least at how real that
16 constraint was, and there were people who said "It is
17 a real constraint". There were others who said "It is
18 not a real constraint, you know, in modern warfare you
19 expect to fight when it is hot".

20 But clearly the diplomatic arguments were for --
21 I thought were for continuing until there was a second
22 resolution or a resolution which would bring the
23 United Nations and the Security Council behind the
24 conflict. I felt very uncomfortable at the prospect of
25 a conflict without UN Security Council Resolution.

1 SIR MARTIN GILBERT: How do you feel that this military
2 timetable pressure affected the actual conduct of our
3 negotiations? Did it impact on or even impede what we
4 were doing?

5 RT HON THE LORD JAY: I think it impacted it in the sense
6 that it became -- it became clear during the course of,
7 I suppose March 2003, that the likelihood was of the
8 United States taking action and, therefore, the question
9 for us became: do we take part in that with them or not?

10 The question of whether we had the second
11 resolution, which a number of us thought was necessary,
12 then became a relevant factor in that decision.

13 THE CHAIRMAN: Was it necessary to provide the firmest
14 achievable legal base in case there was a military
15 conflict? Was that the insufficiency that concerned
16 you?

17 RT HON THE LORD JAY: The insufficiency that concerned me
18 was much more political. I had no reason to dissent
19 from the judgment made by the Attorney General that
20 acting without a second resolution was -- was legally
21 acceptable. He was the government's legal adviser, it
22 was for him to make that judgment. That judgment needed
23 to be made, and not least because we had staff in much
24 of the country -- much of that -- the region, who we
25 thought at the time were going to be -- or were liable

1 to be attacked, and including attacked by nuclear
2 weapons, and clearly it would have been inconceivable to
3 have accepted a -- not nuclear weapons, I'm sorry,
4 chemical biological weapons.² I'm sorry. I saw
5 Sir Lawrence's face and I withdraw that.

6 SIR LAWRENCE FREEDMAN: A little too far.

7 THE CHAIRMAN: I remember Sir Jeremy Greenstock in his
8 evidence that 1441 made, in his judgment, the
9 possibility of conflict legal, but the legitimacy issue
10 was about the international community giving sufficient
11 support.

12 RT HON THE LORD JAY: That was a view which I shared. It
13 seemed to me that to take a step as important as going
14 to war without the support of the international
15 community was something I would prefer not to have done.

16 SIR MARTIN GILBERT: One final question from me on this
17 point. As Permanent Undersecretary with these
18 tremendous pressures and the different parts of the FCO
19 machinery involved, the United Nations mission, London,
20 the different embassies abroad, the diplomatic
21 negotiations that are going on to try to secure
22 support -- how do you, as Permanent Undersecretary,
23 ensure that it is operating as a coherent unity?

24 RT HON THE LORD JAY: Well, it is not easy, not least
25 because it is not the only really difficult issue which

² Lord Jay was referring to the following material from the written witness statement he had already submitted to the Iraq Inquiry: "Saddam Hussein had attacked neighbouring countries during the 1991 conflict, and had used chemical weapons against Iraq during the Iran/Iraq war and in an attack on a Kurdish village in Iraq. It would have been wholly irresponsible to assume that he would not seek to attack coalition nationals, including Embassies, in neighbouring states a second time."

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1 you are dealing with at that time. There are probably
2 half a dozen others which are forcing themselves on you.
3 You have to try to ensure you have got the right
4 structures and you have got the right people and that
5 you are taking people away from the lower priority and
6 giving them to the higher priority jobs. You are never
7 going to feel that you have got everything right. You
8 are going to feel, if you are lucky, that you have got
9 things about as right as they can be in very difficult
10 circumstances.

11 I think when things were going well, that's what
12 I felt.

13 SIR MARTIN GILBERT: Thank you.

14 THE CHAIRMAN: Thank you. To Baroness Prashar now. I think
15 we are into legal country.

16 BARONESS USHA PRASHAR: Indeed. I just have a few questions
17 on the provision of legal advice. We have heard
18 evidence from a number of witnesses on the legal advice
19 that ministers received and a number of documents have
20 been declassified. The one, for example, is
21 24 January 2003. The FCO legal adviser Sir Michael Wood
22 wrote to the Foreign Secretary to say:

23 "I hope there is no doubt in anyone's mind that
24 without a further decision of the Council, absent
25 extraordinary circumstances, the UK cannot lawfully use

1 force or use force without Security Council authority.
2 It would amount to a crime of aggression."

3 The Foreign Secretary I think wrote back on
4 29 January and said he did not accept this advice. As
5 you are probably aware, Lord Goldsmith intervened in the
6 correspondence between the Foreign Secretary and
7 Sir Michael and he told us that he did not like the
8 tone, what he saw as a rebuke of a legal senior adviser
9 for expressing this view.

10 Were you aware of this correspondence and did you
11 have concerns that the Foreign Secretary appeared to be
12 rebuking his legal adviser?

13 RT HON THE LORD JAY: I was aware of it and I discussed it
14 with both the Foreign Secretary and with
15 Sir Michael Wood. It was a very tense time and a very
16 difficult time to manage. Michael Wood's views and
17 Elizabeth Wilmshurst's views were strongly felt and they
18 were not shared by the Foreign Secretary.

19 Ultimately, the decision on the legality of the
20 conflict rested with the Attorney General. As far as
21 I was concerned, that was what we were -- we had
22 ultimately -- to rely on. He was the legal adviser to the
23 government. It was his advice that the Prime Minister
24 would, I imagine, take, and that was the advice which we
25 would need if we were going to have, in my case, our

1 embassy staff in the region in some danger, supporting
2 military activity.

3 BARONESS USHA PRASHAR: So you were aware there were
4 different views --

5 RT HON THE LORD JAY: Absolutely, and discussed them at
6 great length with Michael Wood and with the Foreign
7 Secretary.

8 BARONESS USHA PRASHAR: In your statement to us, you argue
9 that the FCO required a clear statement by the Attorney
10 General as to the legality.

11 RT HON THE LORD JAY: Yes.

12 BARONESS USHA PRASHAR: When did you do this and in what
13 form?

14 RT HON THE LORD JAY: Sorry, when did I do what?

15 BARONESS USHA PRASHAR: When did you require a clear
16 statement by the Attorney General on the legality of the
17 war?

18 RT HON THE LORD JAY: I mean, I said that -- I discussed
19 that with the Cabinet secretary. I discussed with it
20 the Chief of the Defence Staff. I knew that he took the
21 same view. I discussed it with my own staff and
22 I discussed it with the Foreign Secretary and I am
23 afraid I cannot remember the basis on which it was
24 written down, but it was something which was absolutely
25 fundamental part of our approach to the conflict.

1 I could not see how the staff we had in the region could
2 be -- how they could be acting, if they were not doing
3 so on the basis of a legal -- legal advice which said
4 that what they were doing, the support they were giving
5 the troops was in accordance with international law.

6 BARONESS USHA PRASHAR: Thank you.

7 THE CHAIRMAN: I would just like to ask Lord Jay, this very
8 tense issue within the Foreign Office legal advisers'
9 community, was it a unified opinion that they held or
10 were there differing views within the legal advice?

11 RT HON THE LORD JAY: My recollection is that there were
12 nuances of views, that there was a strongly-held view by
13 the Legal Adviser and I think also by
14 Elizabeth Wilmshurst.

15 My recollection -- and it is only a recollection and
16 I haven't looked at any of the papers -- is that in some
17 other parts of the legal advice, perhaps in New York,
18 there were slightly different views taken. But I'm not
19 a lawyer myself.

20 Ultimately, what I was concerned with was that there
21 was a proper legal basis for the action that our staff
22 would need to take in support of a conflict, if there
23 were a conflict. That required a very clear view from
24 the Attorney General as the government's legal adviser.

25 THE CHAIRMAN: Thank you. Lawrence, I think you had --

1 SIR RODERIC LYNE: I have one. The Foreign Secretary, when
2 we discussed this with him, pointed out that in some
3 earlier papers provided for the Attorney General,
4 Sir Michael Wood had looked at different sides of the
5 argument, including what eventually became the Attorney
6 General's view, whereas, at the time of his
7 disagreements with Sir Michael Wood in January 2003,
8 Sir Michael was only giving one side of the picture.

9 Now, when you tried to sort this out by talking to
10 the different parties, did you try to persuade
11 Sir Michael Wood to take a slightly less rigid view or
12 did you feel that he and Elizabeth Wilmshurst were dug
13 into a very, very strong personally-held view that was
14 possibly too rigid, given that there were these
15 different nuances around the system?

16 RT HON THE LORD JAY: No, I didn't see it as my -- I'm not
17 a lawyer. I didn't see it as my job to question the
18 advice that lawyers were giving. I discussed it with
19 them and the relationship that -- what this meant with
20 the relationship that they had with the Foreign
21 Secretary. That was the advice which the Legal Adviser
22 had given. The question was whether that would be
23 supported by the Attorney General or not.

24 SIR RODERIC LYNE: So when you perceived that there were
25 different legal views held around New York, London, the

1 Foreign Secretary, who was also a lawyer, albeit not an
2 international lawyer, you weren't worried that your
3 senior legal adviser was too dug in on one particular
4 point of view? That wasn't something that concerned
5 you?

6 RT HON THE LORD JAY: It concerned me because it affected
7 his relationship with the Foreign Secretary --

8 SIR RODERIC LYNE: Sorry, I interrupted you.

9 RT HON THE LORD JAY: That concerned me because that clearly
10 had an impact on the other work that he was doing, the
11 legal advisers were doing, that required a degree of
12 management by the Permanent Undersecretary.

13 SIR RODERIC LYNE: Did that relationship between
14 Sir Michael Wood and the Foreign Secretary break down
15 effectively at this point?

16 RT HON THE LORD JAY: I wouldn't say it broke down, I think
17 it was very difficult for a while and I think that it
18 became perfectly okay again afterwards, and I think
19 Sir Michael Wood is an extremely good lawyer and speaks
20 his mind extremely clearly. I'm very pleased that he
21 got a knighthood, which he deserved, but there was
22 a time when that relationship was a difficult
23 relationship.

24 BARONESS USHA PRASHAR: Can I just ask a question following
25 on from that?

1 Sir Michael Wood was giving advice and the
2 Attorney General's view was that, as an adviser, he was
3 entitled to give that advice, even if he disagreed with
4 it. I mean, what is your understanding of the Legal
5 Adviser within the FCO?

6 RT HON THE LORD JAY: That he is giving advice. I would not
7 see it as my job to try to interfere with or to try to
8 change the advice of a Legal Adviser who is giving legal
9 advice to the Foreign Secretary. It is for the Foreign
10 Secretary to decide whether he wants to accept it or not
11 and, ultimately, if there is a difference of opinion, it
12 is for the Attorney General, as the government's legal
13 adviser, to provide the answer. That's what happened in
14 the end here.

15 BARONESS USHA PRASHAR: But did the Foreign Secretary's
16 reaction, which was perceived as a rebuke by the
17 Attorney General, concern you?

18 RT HON THE LORD JAY: Yes, I spoke to the Foreign Secretary
19 about it.

20 THE CHAIRMAN: There is a phrase that goes around, isn't
21 there, in legal circles -- I'm not a lawyer either --
22 that "A lawyer who takes his own advice has a fool for
23 a client". Would you like to comment?

24 RT HON THE LORD JAY: No, I don't think so.

25 THE CHAIRMAN: In that case, I'll turn to Sir Martin.

1 SIR MARTIN GILBERT: I would like to turn now to the
2 question of aftermath planning.

3 My first question is, given our close relationship
4 with the United States right across the board on Iraq
5 policy, do you feel we could have asserted greater
6 influence over post-conflict planning in this early
7 stage, at the end of 2002?

8 RT HON THE LORD JAY: I don't think so. I mean, it is
9 a question which I asked myself a lot. It would be
10 wonderful to think that we could have done. I think
11 there are two things. I think there was a pretty
12 incoherent state of mind in the United States
13 administration at that point, it was difficult to know
14 who one would try to influence.

15 We tried to influence the State³ -- and I think there
16 were -- there were good relations with the
17 State Department and I think that we had some influence
18 on discussions with the State Department. Ultimately --
19 and it was important for us -- and this happens
20 sometimes -- that the Prime Minister should make certain
21 that the views which we had were also expressed to the
22 President. But it was a rather incoherent state in
23 Washington at that time, and it was not -- and we were,
24 of course, in any way, the junior partner. It was
25 a difficult issue on which to influence the

³ the State Department

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1 United States as a whole.

2 Could we have done more? I don't know whether we
3 could have done more. I think we tried really hard.

4 SIR MARTIN GILBERT: Given the sensitivities across the whole
5 planning area in the summer and autumn of 2002, were
6 there any restraints put on the Foreign Office by
7 Number 10 with regard to having a sort of high profile
8 or profile with regard to aftermath planning? Do you
9 recall that?

10 RT HON THE LORD JAY: I recall that there were concerns
11 about planning too obviously for an aftermath because
12 that would give the impression that the search for
13 a peaceful solution was not a genuine one.

14 I think this is a really difficult issue and that is
15 why I thought it important, together with the
16 Permanent Secretaries at the Ministry of Defence and
17 DFID, that we should try to set up some systems after
18 the conflict, so that in future conflicts there would be
19 some separation between those who were, as it were, planning or
20 trying to stop the conflict happening and those whose
21 job it was to plan for the failure of that policy and
22 for a conflict that might happen.

23 It was extremely difficult to have the same people
24 planning -- trying to avoid a conflict and to plan for
25 its failure.

1 SIR MARTIN GILBERT: If I could come to UNSCR 1483, this did
2 not give the United Nations the lead role on
3 reconstruction. Did you feel that it undermined our
4 objective for a major UN role which we had been pressing
5 for for some time?

6 RT HON THE LORD JAY: We had always -- I was not involved in
7 the details of negotiations of 1483. We had always
8 wanted the UN to play a larger role in post-conflict
9 reconstruction than the Americans had wanted and we
10 would have wanted, I think, 1483 to have given the UN
11 a larger role than it did.

12 To that extent, it was a disappointment, but there
13 was not no role for the UN. Of course, the role became
14 more difficult later on.

15 SIR MARTIN GILBERT: 1483, of course, established us as
16 joint occupying powers with the United States, and yet,
17 essentially, the decision-making power was in Baghdad
18 and was with the United States.

19 What were the implications, from the Foreign Office
20 perspective, of us accepting responsibility of joint
21 occupying power? What was the impact on the actual
22 responsibilities that we would have and how we would
23 carry them out?

24 RT HON THE LORD JAY: I'm not sure I have a very clear
25 answer to that question. There was -- there was

1 a period when we were -- when we were in that position.
2 My own concern at that point was more with how we
3 managed the staff that we were sending to the -- to
4 Baghdad, rather than the legal position. I'm sorry, I'm
5 not being very coherent here.

6 SIR MARTIN GILBERT: Who would have been responsible for the
7 sort of FCO influence with regard to Baghdad and ORHA
8 and the CPA and the --

9 RT HON THE LORD JAY: Well, I would have been responsible as
10 far as the staff were concerned and the people there,
11 but as far as the kind of legal position and the proper
12 mandate and so on that they had, that would have been
13 the people who were in Baghdad at the time reporting
14 back to the Iraq Directorate in London.

15 SIR MARTIN GILBERT: Thank you.

16 THE CHAIRMAN: I think -- Lawrence?

17 SIR LAWRENCE FREEDMAN: Just going back a bit -- you had an
18 Iraq Planning Unit that was established.

19 RT HON THE LORD JAY: Yes.

20 SIR LAWRENCE FREEDMAN: This wasn't established
21 until February.

22 RT HON THE LORD JAY: February 2003.

23 SIR LAWRENCE FREEDMAN: Why was it so late in being
24 established?

25 RT HON THE LORD JAY: I can't remember. I know that sounds

1 a silly thing to say and it clearly should have been
2 established earlier. The work was going on earlier, in
3 the sense that there was contingency planning going on,
4 that there were relations with the -- discussions with
5 the United States and that was going on, I think, from
6 about September 2002, so the work was being done.

7 But looking back on it, I mean, clearly we should
8 have had a proper unit, which was properly staffed,
9 which was dealing with all that, which drew in other
10 Whitehall departments as well, before February 2003.

11 My recollection -- and this may be false, I don't
12 know. My recollection is that there were -- there were
13 difficulties -- Whitehall difficulties about getting it
14 set up earlier and that I ultimately said, "Look, we
15 need this. Just set it up in the Foreign Office. Get
16 it set up. Get someone good in charge of it. Get it
17 working, because we can't not have it any longer".

18 SIR LAWRENCE FREEDMAN: Were those Whitehall difficulties
19 the ones --

20 RT HON THE LORD JAY: I can't remember, I'm sorry. I can't
21 remember and I couldn't find -- I could find papers on
22 setting up the unit, I couldn't find papers on what the
23 position is beforehand.

24 SIR LAWRENCE FREEDMAN: I think Sir Roderic will want to
25 have more questions on this, but just -- naming the

1 units can be quite important. "Planning" has one
2 connotation, "policy" has another, and this unit seems
3 have been ambivalent as to which it was.

4 Do you think "planning" perhaps suggested an
5 aspiration that was going to be hard to achieve at that
6 time?

7 RT HON THE LORD JAY: I am afraid I don't remember the
8 arguments about the name of it.

9 SIR LAWRENCE FREEDMAN: Okay, thank you.

10 THE CHAIRMAN: Martin, are you done? Right. Roderic, over
11 to you.

12 SIR RODERIC LYNE: Looking into the post-conflict period as
13 the situation became more and more difficult because it
14 hadn't been planned for and such mechanisms as were
15 initially put in proved to be ineffective -- indeed,
16 have been repeatedly described by witnesses and in
17 official papers as chaotic with regard to ORHA -- at
18 this stage Number 10 and the Cabinet Office set up some
19 formal committees and subcommittees and official level
20 committees to deal on a very regular basis with the
21 post-conflict period, a degree of formality of mechanism
22 that had not existed before the conflict.

23 Did that improve the quality of decision-making and
24 advice and by implication, therefore, should we have had
25 that before the conflict, as well as after?

1 RT HON THE LORD JAY: I think the answer to the second
2 question is yes, and the answer to the first question is
3 yes, and I think we should have had -- we should have had
4 more formal mechanisms before the conflict as well.

5 I hope -- sorry, I think that's one of the lessons
6 that we need to learn from this. That's what we were
7 rightly or wrongly -- trying to set up and --
8 in setting up the Post-conflict Reconstruction Unit
9 after the conflict, trying to ensure that there would in
10 future be something -- it may not have been the right
11 thing, but there needed to be some kind of mechanism
12 beforehand for preparing properly for conflict which may
13 or may not happen.

14 One hopes they won't, but if they are going to, they
15 needed to be properly prepared, which was something we
16 didn't do.

17 SIR RODERIC LYNE: Lord Turnbull commented to us that he
18 thought there was a problem with the lack of challenge
19 in the system. I was talking about challenge, and so
20 was Baroness Prashar, in the earlier context with regard
21 to the way strategy was formed. A lot of difficult
22 decisions had to be made, post-conflict. Were these new
23 mechanisms providing for real challenge or was it being
24 driven very much from the centre, without a lot of
25 disagreement?

1 RT HON THE LORD JAY: Well, my recollection is that, after
2 the conflict, it was being driven very much by Baghdad.
3 They were the people who were -- they were in the
4 operation in Baghdad. It was their advice that we were
5 very much dependent on. Is that the question?

6 SIR RODERIC LYNE: For decision-making or for the
7 implementation of decisions in the post-conflict period,
8 was there an effective transmission link between all of
9 this activity now taking place in London at
10 Prime Ministerial level, Cabinet level, senior official
11 level? Was that translated into action on the ground in
12 Baghdad, which, as you say, had become the centre of
13 operations or were we still having trouble in really
14 influencing how things happened?

15 RT HON THE LORD JAY: I think it is a question of who "we"
16 are here. Are "we" --

17 SIR RODERIC LYNE: The British Government.

18 RT HON THE LORD JAY: -- the United Kingdom or -- it was
19 not, after all, the United Kingdom that was running the
20 show. It was the Americans basically running it. So
21 the question is: did we have the right kind of
22 mechanisms ourselves to exert the maximum influence on
23 the American operations in Baghdad?

24 They were a lot better after the conflict than they
25 were beforehand. I do not recollect any difficulties or

1 questions about the extent to which decisions made in
2 London after the conflict were translated, transmitted
3 to our people in Baghdad.

4 Now, were there difficulties in relations with the
5 United States? Yes, there were difficulties in relation
6 to the United States. Was it the right thing to do when
7 Bremer got there, to -- the policy of de-Ba'athification
8 and the dismissing much of the army? No, it wasn't the
9 right thing to do, because that removed from the
10 administration in Iraq an awful lot of the people who
11 were needed to ensure that there was a proper
12 administration there.

13 These were people that it had always seemed to me --
14 maybe I'm wrong -- who were not members of the
15 Ba'ath Party because they believed in everything
16 Saddam Hussein was doing, but because they needed a job,
17 and we all know countries where people belong to the
18 central party because they need a job and that is the
19 only way of getting a job. Those were the people who
20 could have been strong supporters of a coalition --
21 a temporary coalition government.

22 SIR RODERIC LYNE: In London, in this period, do you feel
23 that the key departments involved, the Foreign Office,
24 the Ministry of Defence, DFID and so on were now working
25 to the same agenda?

1 RT HON THE LORD JAY: They were working better than they
2 were beforehand. I think there were very good relations
3 in Baghdad, the people who were there. I think that --
4 I had constant contacts with the Cabinet Secretary, with
5 the Permanent Secretary, in Ministry of Defence, the
6 Permanent Secretary in DFID throughout this period, on
7 the -- with the aim of ensuring we had the right people
8 in Baghdad doing the right jobs on the right terms,
9 which was not at all easy, and I have the sense that
10 in -- the relationships were pretty good.

11
12 They were not perfect. There were differences over security
and safety and

13 the conditions in which people should or should not go
14 to Baghdad, how they should operate when they were
15 there, how they should be looked after. I think we
16 evolved a mechanism for relatively satisfactorily
17 ensuring their security and ensuring that they could
18 also do the job they were doing.

19 SIR RODERIC LYNE: I think we will want to come back on duty
20 and care in a minute, but that's okay.

21 THE CHAIRMAN: Lawrence, over to you.

22 SIR LAWRENCE FREEDMAN: Just out of interest, you have
23 described concerns about the formal mechanisms for
24 co-ordination of policy across Whitehall before the war.
25 Did you discuss this concern with the Cabinet Secretary

1 at the time? Was there discussion amongst
2 Permanent Secretaries about how this could be improved?
3 RT HON THE LORD JAY: I can't remember. I think there must
4 have been discussions with the Cabinet Office.
5 Certainly -- yes, there were discussions. I had
6 discussions with the Cabinet Office. When we set up the
7 unit before the conflict, which had DFID and the
8 Ministry of Defence as part of that, then that was all
9 done with the agreement of the Cabinet Office as well.
10 What I can't remember now is why it wasn't set up in
11 the Cabinet Office, which it should have been.
12 SIR LAWRENCE FREEDMAN: But you don't recall discussing this
13 with the Cabinet Secretary as an option at the time?
14 RT HON THE LORD JAY: I don't recall doing so.
15 SIR LAWRENCE FREEDMAN: In previous conflicts, of which I'm
16 aware, there has been a committee of
17 Permanent Secretaries set up -- under the
18 Cabinet Secretary -- to ensure that there was
19 co-ordination of policy and that decisions being taken
20 at a Cabinet level were being fully implemented and so
21 on. Was there anything of that sort in existence?
22 RT HON THE LORD JAY: There was not a formal committee of
23 Permanent Secretaries, no. Permanent Secretaries met
24 every week and -- in any event, and Iraq was a regular
25 topic on the agenda there and that was an opportunity

1 for me to bring people up-to-date and, in order to try
2 to ensure a more coherent approach and in the immediate
3 aftermath, the immediate run-up to and the immediate
4 aftermath of the conflict, to ensure that other
5 government departments were working to second people to
6 ORHA and to the provisional administration in Baghdad.

7 SIR LAWRENCE FREEDMAN: Was there a sort of formal machinery
8 at all around this that would ensure that, when you were
9 searching for people, this wasn't just requests going
10 out -- but that there was a way of making sure the right
11 people were being found, that they were being properly
12 prepared, properly briefed and so on. Were you
13 comfortable with the way that that aspect of things
14 worked?

15 RT HON THE LORD JAY: These were not perfect times. What
16 happened was that I -- my recollection is that there
17 were discussions at Permanent Secretaries' meeting and
18 I then, with the agreement of the Cabinet Secretary and
19 after discussion with Andrew Turnbull, as
20 Cabinet Secretary, wrote around to Permanent Secretaries
21 saying "These are the sorts of people that we need", and
22 then we set up mechanisms to ensure that volunteers came
23 forward, that they were properly briefed, that they were
24 trained and, in particular, that the security concerns
25 which people would have would be properly looked after.

1 We were trying to get people quite quickly to go to
2 Baghdad. I'm sure if times had been more measured, the
3 arrangements would have been more measured.

4 SIR LAWRENCE FREEDMAN: But these are the sorts of things
5 that you might have expected if there had been prior
6 planning of a more extensive nature before the war,
7 there might have been processes --

8 RT HON THE LORD JAY: This is exactly the sort of thing that
9 we were trying -- when we set up the Post-Conflict
10 Reconstruction Unit after the war that its terms of
11 reference and mandate would have been to ensure that
12 they had, for example, lists of people from different
13 government departments of different sorts of skills, who
14 would be prepared to go and serve at short notice in
15 different parts of the world. That was what -- that was
16 clearly a need which came out of the --

17 SIR LAWRENCE FREEDMAN: So the unit was, in effect,
18 a response to perceived failings and problems?

19 RT HON THE LORD JAY: Yes, absolutely, and if you look at
20 the papers setting it out, it was very clear that people
21 are looking back and saying, "Look, this didn't work
22 beforehand". This is one of the clear lessons, that we
23 need to have a unit that is planning properly, which is
24 separate from the policy-making units, it is planning
25 for the failure of policy, ie planning for a possible

1 conflict, and is ensuring that we have got the -- got
2 what we need for that.

3 SIR LAWRENCE FREEDMAN: Just a final question on the
4 relationship between the staff in Baghdad, and Basra
5 eventually, and London. Did you feel that the reports
6 that you were getting back were sort of frank, accurate,
7 authoritative from Baghdad and Basra? Were you getting
8 a sense of what it was really like on the ground?

9 RT HON THE LORD JAY: Yes, I think so. I never had the
10 impression that we weren't. There were reports coming
11 back, there were telephone calls, there was constant
12 to-ing and fro-ing, people were flying in and out.
13 I went myself in 2004.

14 SIR LAWRENCE FREEDMAN: You went in January 2004?

15 RT HON THE LORD JAY: January 2004, with the head of the --
16 the person in the Iraq Unit who was concerned with
17 personnel and so on. I went to Basra and I went to
18 Baghdad. Maybe I'm wrong, but I don't have a sense that
19 we weren't getting an accurate picture of what life was
20 like.

21 SIR LAWRENCE FREEDMAN: When you went, what struck you?
22 Were you surprised by anything that you found --

23 RT HON THE LORD JAY: Yes, I wasn't used to going to war
24 zones. Flying into Baghdad in a Hercules which has got
25 red blobs on the radar screens saying "That's where the

1 missiles were fired the last time round" concentrates
2 the mind a bit. This was not a normal diplomatic post
3 I was visiting. You go and you see people who are
4 living in containers in an underground car park because
5 that's the safest thing for them to do. These were not
6 normal conditions.

7 These were, I thought, very brave, very able people
8 from a wide range of government departments doing
9 a fantastic job in very, very difficult circumstances
10 and you come back thinking, "Gosh! You have really got
11 to focus on their safety. It is hugely important that
12 they continue to do this job as well as they are doing
13 it at the moment". But you have got to have huge
14 responsibility for their safety.

15 But I never had any sense that I was not getting --
16 maybe I'm wrong, but I never got a sense I wasn't
17 getting back in London an accurate account of the kind
18 of life that they were living. I was constantly aware
19 of it.

20 SIR LAWRENCE FREEDMAN: Thank you.

21 THE CHAIRMAN: Lord Jay, I would like to take up the theme
22 of policing. We have already had quite a lot of general
23 evidence from military and other witnesses and not just
24 about the UK's contribution, but policing in
25 a stabilisation/reconstruction situation is one of the

1 most difficult things to get right or to do effectively,
2 and certainly it seemed to have been so in Iraq.

3 This Inquiry is just beginning a series of questions
4 with police practitioners and others but, as background,
5 the FCO had the policy lead on policing in post-invasion
6 Iraq. Was this simply an inheritance from previous
7 conflict situations abroad, that the FCO just naturally
8 had that lead for policing?

9 RT HON THE LORD JAY: I don't know the answer to that
10 question. I'm conscious that policing is high on your
11 agenda at present and I don't have a recollection of
12 particular specific discussions myself on policing.
13 That may be something which we will need to look at as
14 to why that was so -- I cannot recollect any discussions
15 specifically about policing, nor have I been able to
16 come across any papers.

17 THE CHAIRMAN: The United Kingdom was exposed to
18 a considerable degree of both risk and responsibility by
19 reason of becoming, under 1483, a joint occupying power
20 clearly. Before that, we also had, until 1483,
21 responsibilities under the Geneva Convention and the
22 Hague regulations for security.

23 What awareness was there, not your own but in your
24 department, of the salience of policing as an issue that
25 would need to be addressed?

1 RT HON THE LORD JAY: I do not -- I do not recollect
2 discussions specifically about policing. That is not --
3 I mean, I'm sure they took place. I do not myself
4 recollect discussions about policing.

5 THE CHAIRMAN: We have a statement, which is on our website
6 already, from Paul Kernaghan, who is the Chief Constable
7 of Hampshire who took an interest in this, and he says
8 in his statement:

9 "I do not believe there was ever a clear,
10 comprehensive, realistic, strategic plan for policing in
11 Iraq."

12 But he then goes on to talk about how the US
13 addressed the issue and then how we did on, in numbers
14 terms, a pretty small scale and slow to arrive. We also
15 had evidence just yesterday from Douglas Brand, who was
16 on the ground, that -- I'm quoting from him:

17 "If chief police officers" -- he meant senior
18 officers, I think generally -- "are to be deployed in
19 these circumstances in the future, the Foreign and
20 Commonwealth Office and the Association of Chief Police
21 Officers should seek properly to support them so that
22 they can operate effectively."

23 Is it the case that really we did not work out
24 a coherent policing strategy alongside the United States
25 and is there a lesson there? You talked already about

1 appropriate structures for aftermath planning separated
2 from those involved in the actual run-up. Do you think
3 this is a significant gap in the arrangements we had at
4 the time?

5 RT HON THE LORD JAY: Well, I have no reason to disagree
6 with the evidence you have got and I imagine that one of
7 the conclusions you will reach is that it was and it
8 seems to me that it is something which, had there been
9 a proper unit beforehand, we would have looked at and
10 should have looked at.

11 THE CHAIRMAN: After -- I'm thinking now 2004/2005.
12 Clearly, there was a major problem with the attempt to
13 reform the Iraqi police service. It hadn't been
14 disbanded in its various levels and areas, but it was
15 anything but an effective and satisfactory force --
16 that's clear -- in the immediate aftermath and for some
17 time afterwards, if not indeed still.

18 Is that a problem that came up on to your radar
19 screen at any point or was it just part of the general
20 background wash?

21 RT HON THE LORD JAY: "Background wash" isn't exactly how
22 I would describe Iraq, I don't think, during my time,
23 but I don't remember that issue coming up, no. I'm very
24 struck by the fact that this is clearly a matter of
25 importance and it is not something that I remember

1 discussing. I may have done and it may -- but I think
2 that's -- you know, one would need to discuss how far
3 this was a matter for the people in Baghdad and in the
4 Iraq Unit.

5 THE CHAIRMAN: Just a last point on this, because it was in
6 2005, I think, after the Jameat police station incident,
7 which we have all heard about, the lead role for
8 policing in Whitehall went from the Foreign and
9 Commonwealth Office to the Ministry of Defence. Do you
10 recall what the rationale for that was at all?

11 RT HON THE LORD JAY: No.

12 THE CHAIRMAN: Okay. Right, let's move on to money.
13 Lawrence?

14 SIR LAWRENCE FREEDMAN: It is an issue I'm sure you will
15 recollect, which is funding the Foreign Office's
16 involvement in Iraq, and you have already indicated that
17 you -- there was never enough resource to go round. So
18 perhaps you could just tell us about the difficulties
19 you did experience in funding the Foreign Office's
20 involvement in Iraq and how you addressed them.

21 RT HON THE LORD JAY: First of all, the formal mechanisms.
22 There was a comprehensive spending review in 2002 and
23 there was a comprehensive spending review, I think, in
24 2005⁴. Now, clearly the 2005 comprehensive spending
25 review, we were concerned there to ensure that we

⁴ The Comprehensive Spending Review was in 2004

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1 received the money that we would want for Baghdad -- for
2 Iraq issues. The difficulties arose that it was in
3 between the spending rounds that the real requirements
4 were -- for Iraq were needed. There we did two things.
5 We had -- we approached the Treasury when we needed to
6 approach the Treasury for certain funds. I think, for
7 example, of the protective suits in neighbourhood
8 regions just before the conflict, and also we were
9 prioritising constantly within the FCO because we knew
10 we were not going to get the money that we needed for --
11 we judged that we wouldn't get the money that we
12 needed -- all the money that we needed and that we were
13 only, therefore, going to meet the needs if we also
14 reprioritised.

15 There was a constant need and constant pressure of
16 moving funds from lower to higher priorities so that we
17 could ensure that we had the funds needed for staffing
18 Baghdad, staffing Basra and, in particular, the very
19 high costs of security there.

20 SIR LAWRENCE FREEDMAN: We have heard from witnesses about
21 delays experienced in getting Treasury agreement for
22 additional funding. Just in your experience of securing
23 additional funding from the Treasury for your Iraq
24 expenditure.

25 RT HON THE LORD JAY: Yes, there were always difficulties

1 the negotiations with the Treasury were never easy, were
2 never straightforward. I think the one exception
3 I would say to that was, when we did want extra
4 resources for support for our posts -- at
5 the time of the conflict when there were clearly very
6 considerable threats to regional posts -- we did get
7 support from the Treasury there.

8 But, no, there was a constant battle, and it wasn't
9 that we were just -- it wasn't just Iraq that was the
10 issue here. I mean, there were constant demands for
11 elsewhere as well. This was -- there were constant
12 negotiations, constant tussles with the Treasury. It is
13 all part of life.

14 But what I think would be a mistake, would be to
15 think that -- I did not think this was just a question
16 of any further money we needed, we needed to get that
17 from the Treasury. We also needed constantly to be
18 thinking about how we reorganised, reprioritised
19 ourselves in the Foreign Office to meet the demands that
20 we knew we were going to have in the future. That was
21 a constant concern of mine.

22 SIR LAWRENCE FREEDMAN: But the Ministry of Defence has the
23 mechanism of urgent operational requirements?

24 RT HON THE LORD JAY: Yes.

25 SIR LAWRENCE FREEDMAN: You do not really have an equivalent

1 where you can get money from the contingency reserve in
2 the same sort of way?

3 RT HON THE LORD JAY: No, I mean, it seems to me that one of
4 the conclusions to draw is that -- from this, is that,
5 when there is a crisis of the same magnitude as Iraq,
6 which affects a number of different departments, then
7 the Treasury needs to look, not at the budgets of
8 individual departments, but at the overall need and to
9 ensure that each department concerned in the operation
10 gets the funds that it needs to carry it out.

11 Now, that is true for Iraq, it is true for
12 Afghanistan, it is true for others as well. But it
13 doesn't seem to me at all sensible to be thinking of
14 giving large sums of money for a military operation, if
15 you are not giving similar sums of money for the
16 diplomatic support that that military operation needs,
17 and those need to be looked at together, and I don't
18 think they were, and I think they should be in the
19 future.

20 SIR LAWRENCE FREEDMAN: Part of that is, when we moved to
21 the south, where we were clearly going to have
22 a particular role -- indeed this phrase "exemplary" has
23 often been mentioned -- as to whether an ambition was
24 being set for what we were going to be doing in the
25 south, that we were not willing the means to support

1 that.

2 RT HON THE LORD JAY: I mean, there is always -- everything
3 you do in the public service, there is never enough
4 money for what you want to do, you are constantly having
5 to trim what you want to do for the funds available to
6 seek further funds for it. That was -- that, I'm sure,
7 was true in Basra and the regions in the south as well.

8 SIR LAWRENCE FREEDMAN: I mean, you will presumably have had
9 a chance to have conversations with Hilary Synnott about
10 what was going on in Basra. Was he able to make these
11 sort of --

12 RT HON THE LORD JAY: Yes, very much so. He was very
13 trenchant about the need for further funds and he did
14 that from Basra anyway, and he did that when I visited
15 Basra and had discussions with him there, yes.

16 You know, we took back to London from the calls
17 on Baghdad and on Basra, the need for proper funding.
18 It was something which was constantly there. I know it
19 was very much at the minds of the Iraq Unit who were
20 trying to ensure that there was proper funding
21 available.

22 SIR LAWRENCE FREEDMAN: As you became aware that this was
23 likely to be a much, perhaps, longer-term commitment
24 than perhaps people had hoped for in the spring of 2003,
25 were -- and you have mentioned all the efforts you had

1 to make to rebalance your budget, but were there
2 measures that you were able to take to institutionalise
3 the particular demands of Iraq in terms of a drain on
4 your budget?

5 RT HON THE LORD JAY: I can't recollect now that we were
6 able to, let us say, ring-fence Iraq and protect Iraq
7 from other pressures. I can't remember whether we did
8 that or not, and that is always a nice thing to be able
9 to do, but that then does have consequences down the
10 line because other things get squeezed.

11 SIR LAWRENCE FREEDMAN: You have already indicated some
12 thoughts on how you do fund these sorts of operations.
13 Were there any more, in terms of cross-governmental --

14 RT HON THE LORD JAY: I think -- I do think there needs to
15 be, as I say -- there needs to be agreement and I think
16 it has to be run by the Cabinet Office and organised by
17 the Cabinet Office -- that in certain circumstances,
18 there are certain items of government expenditure or
19 certain government policies which are only going to work
20 if the funding for them is given for that policy and
21 allocated appropriately among government departments
22 rather than if you fight it out government department by
23 government department. Some get enough, some don't get
24 enough and that inevitably causes distortions on the
25 ground.

1 So I do think there is a need for a different
2 approach, certainly to conflict here, in which the
3 budgets in -- I would say certainly of the
4 Ministry of Defence and the Foreign Office and DFID are
5 looked at as being part of the need to follow
6 a particular policy. I don't think that happened.

7 SIR LAWRENCE FREEDMAN: Do you think the Post-conflict Unit
8 helped in that?

9 RT HON THE LORD JAY: I think it did. I do not know whether
10 the Post-conflict Reconstruction was the right unit. At
11 the time, it seemed a sensible thing to do and I'm quite
12 certain that people who are now looking at what -- with
13 all the lessons that have been learned and the time that
14 has been passed, will find a better way of doing it.

15 SIR LAWRENCE FREEDMAN: It has obviously moved on to the
16 stabilisation.

17 RT HON THE LORD JAY: It has moved on a lot, and I think it
18 has transformed into something else, but it seems to me
19 that, first of all, you need a policy. You need a very
20 clear direction from the Prime Minister that this is of
21 sufficient importance for there to be a funding
22 arrangement which falls outside the usual funding
23 arrangements and negotiations between the Treasury and
24 government department. It has to be looked at as
25 something that is special. Within a war it has got to

1 be funded in a different way.

2 If you are going to do that effectively, then
3 I think you need to have some sort of unit, like the
4 Post-Conflict Reconstruction Unit, which is going to say
5 "We are looking at this as an interdepartmental unit.
6 We are not looking at this just as unit by unit. We
7 have got DFID here, we have got the Foreign Office, we
8 have got the Ministry of Defence, and these are the
9 things which we think are going to be needed if we are
10 going to fund this properly", and then you have got
11 a proper bureaucracy, which is feeding into a proper
12 Prime Minister-led unit to deal with the Treasury.

13 SIR LAWRENCE FREEDMAN: Just a final point. You have
14 mentioned for Prime Minister-led, which at times --

15 RT HON THE LORD JAY: Or Cabinet Office-led.

16 SIR LAWRENCE FREEDMAN: There has been a suggestion that you
17 actually need a minister of some sort who is driving
18 this sort of thing along, otherwise it is very hard to
19 get all the responses you --

20 RT HON THE LORD JAY: It is always really difficult. This
21 is one of the most difficult issues in government,
22 I think, that if you appoint a special minister to do
23 it, you immediately create tensions between that
24 minister and the minister whose job up to now it has
25 been and you risk then creating new tensions there which

1 you didn't have before.

2 So I think you need to think very carefully about
3 whether the right thing is to set up a minister, or
4 whether the right thing is to set up a proper -- there
5 is a piece of the bureaucracy in which there is a very
6 clear instruction from the Prime Minister, which
7 includes the Chancellor, that this is going to happen
8 and these are the people who are going to make it
9 happen.

10 SIR LAWRENCE FREEDMAN: In your view, it has to come right
11 from the top?

12 RT HON THE LORD JAY: I think it has to come right from the
13 top, otherwise you risk creating further tensions at
14 senior government level, which is the last thing you
15 want when you need some quick decisions from a rather
16 complicated scenario.

17 SIR LAWRENCE FREEDMAN: Thank you very much.

18 THE CHAIRMAN: We have got just a couple more themes to
19 cover. So I think we ought to take a short break, just
20 five minutes, time for a cup of coffee.

21 (11.23 am)

22 (Short break)

23 (11.30 am)

24 THE CHAIRMAN: I think we would like to pick up on something
25 that was mentioned very briefly already and that's the

1 issue of the duty of care of the interested staff. So,
2 Baroness Prashar?

3 BARONESS USHA PRASHAR: Lord Jay, you were talking earlier
4 about your visit to Iraq. You said you came away
5 concerned about the safety of the staff, but impressed
6 with what they were doing on the ground. How did you
7 balance the tension between the need to have staff on
8 the ground and the limits of the ability to deliver as
9 a result of the security situation?

10 RT HON THE LORD JAY: We developed -- I developed an
11 approach to this which I think was -- I think worked
12 reasonably well in rather difficult circumstances,
13 which -- first of all, that all the staff from Whitehall
14 who went to Baghdad or Basra, should be volunteers.
15 There should be no compulsion on anybody to go, that
16 they should only stay there in Baghdad or Basra or
17 elsewhere, if they could carry out the functions for
18 which they were there. We did not want people who were
19 just going to sit in their containers underneath the
20 concrete car parks and not be able to get out and do
21 their jobs. They had to be able to get out and do their
22 jobs.

23 The management in Baghdad and in London had to take
24 all the reasonable care they could to ensure that they
25 were safe and secure and that they should be properly

1 briefed about what the security problems were and that
2 if, at any time, they decided that this was not for
3 them, they should be -- without any stain at all -- be
4 quite -- should leave the job to go back to London.

5 I think that there were, from time to time,
6 differences of opinion between us and some other
7 government departments, but on the whole I think that
8 that kind of approach worked reasonably well.

9 BARONESS USHA PRASHAR: Were there any issues about people
10 volunteering and having the right kind of skills and
11 experience and expertise? I mean, if they were
12 volunteers, they may not necessarily have the relevant
13 expertise to do the job.

14 RT HON THE LORD JAY: No. First of all, we were only
15 looking for people with certain kinds of expertise. So
16 one was asking for volunteers with the right expertise.
17 We weren't looking for someone who would be a volunteer
18 no matter what the expertise.

19 Of course, from time to time, you are going to have
20 to make some difficult judgments and make a compromise
21 here and there. But you are not looking to send
22 somebody there who wasn't going to be able to do an
23 effective job.

24 BARONESS USHA PRASHAR: What kind of issues were there
25 between different government departments? You said

1 there were certain tensions. What were they? Were they
2 differences in terms of duty of care?

3 RT HON THE LORD JAY: I think, to be honest, they reflected
4 more attitudes in London and some departments -- and
5 some individuals -- were rather more gung-ho and rather
6 more prepared to take risks. Others were rather less
7 prepared to take risks.

8 Some of the DFID people were rather less used than
9 those of us in the Foreign Office or elsewhere, to be
10 working in very difficult conditions. These were
11 completely understandable differences and they never
12 became serious issues, as far as I'm aware, but
13 sometimes they had to be resolved. They were the sort
14 of things that I discussed with the
15 Permanent Secretaries concerned, so that we reached
16 agreement on the right approach.

17 BARONESS USHA PRASHAR: We have had evidence that this sort
18 of -- you know, different standards and duty of care had
19 implications on the ground, because some were able to go
20 out, others not. Did that actually ever come to the
21 table of the Permanent Secretaries in discussing the
22 question of duty of care?

23 RT HON THE LORD JAY: I think there were occasions. I do
24 remember one or two conversations when some departments
25 were less willing than others to go out into the field.

1 I think that's inevitable. I think this is just part of
2 the management of an extraordinarily difficult set of
3 circumstances.

4 You have got to have -- you have got to have your
5 duty of care at the top of the agenda and you have also
6 sometimes got to say to people, "I know that you say you
7 are willing to do that, but if you get killed, your
8 parents are not necessarily going to thank you for that
9 or thank us." So there have to be rules which have to
10 be observed in these circumstances.

11 BARONESS USHA PRASHAR: Were there any issues around the
12 locally-engaged staff that you would like to touch on?

13 RT HON THE LORD JAY: There were very difficult issues
14 around locally-engaged staff, as is the case elsewhere
15 in Kabul and other countries, where people are
16 constantly torn between working for their employers and
17 the pressures they get, sometimes threats of death,
18 sometimes attacks on them. Those were always extremely
19 difficult issues. Those issues have to be managed --
20 they are clearly a concern for us, very much so, in
21 London, but they have to be managed by the people on the
22 ground, because only in Baghdad and in Basra are you
23 aware of just what pressures people are under, whether
24 it is right to ask people to continue to come to work or
25 not.

1 But this was something we were constantly aware of,
2 the difficulties for our local staff. We had to rely on
3 local staff and I met the local staff when I was in
4 Baghdad and in Basra. Life was very difficult for them.

5 BARONESS USHA PRASHAR: When you look at the cost of the UK
6 involvement in Iraq, it is striking how much of the
7 total was spent on security of staff. How did you and
8 the FCO Board reach a view of the balance between the
9 value of the activities and the cost of achieving them?

10 RT HON THE LORD JAY: We had to take advice from the staff
11 in Baghdad and in Basra. It would have been quite
12 wrong, in my view, for us to have had staff on the
13 ground, if we did not feel that they were properly
14 secure.

15 Of course, there are always judgments that you have
16 to make as to whether people are secure and how much you
17 spend on that, but my judgment is that, if we had
18 found -- if we had felt on the board in London that we
19 were not able to afford the security for people, then we
20 shouldn't have people on the ground. We should not have
21 had people there if we did not feel that we could
22 provide them with the security which they deserved,
23 always given the conditions which I have already set
24 out, which is that they should be volunteers, they
25 should themselves be aware of the risks that they are

1 facing, and that they should be able to do the job that
2 they were doing.

3 BARONESS USHA PRASHAR: Looking back, I mean, are there
4 lessons that we learn from Iraq about managing risk and
5 balancing delivery of policy?

6 RT HON THE LORD JAY: I'm sure there are. I think --
7 I hadn't thought it through beyond what I have said, but
8 I think that -- as I say, I think -- you know, the
9 arrangements which we had in Baghdad and Basra worked
10 there. If there were -- which I hope there won't be --
11 if there are similar circumstances elsewhere, I think
12 one has to think whether those are appropriate or no.

13 BARONESS USHA PRASHAR: Fine. Thank you very much.

14 THE CHAIRMAN: The last key theme I think. Martin?

15 SIR MARTIN GILBERT: Yes, there was of course continuing,
16 deterioration in the security situation in Iraq, first
17 in Baghdad and then in Basra in the south from 2003
18 onwards -- you left the Foreign Office in July 2006,
19 which was three years after --

20 RT HON THE LORD JAY: I did, though from 2005 and onwards
21 I was -- as I say, I was working for the Prime Minister
22 on G8 issues and, therefore, was less concerned with --
23 myself, with the day-to-day concerns than I was up
24 until January 2005.

25 SIR MARTIN GILBERT: My question is a slightly more general

1 one, and that is we have we have heard from various
2 witnesses and indeed in the documents this phrase
3 "strategic failure" regarding the end period, at the
4 time you were leaving. Did you feel that in fact there
5 was a risk of failure?

6 RT HON THE LORD JAY: Yes. I mean -- I don't think any of
7 us thought -- none of us could discount the possibility
8 that there would be an implosion of some kind in Iraq
9 which would have caused a sort of civil war, which would
10 have caused us to leave and would have left it in chaos.
11 I think we would have been naive if we thought that that
12 was an impossible scenario. I don't think we ever
13 thought that it was a probable scenario, but there were
14 times when we thought that things were getting pretty
15 bad.

16 SIR MARTIN GILBERT: Do you recall other scenarios being
17 discussed at that time?

18 RT HON THE LORD JAY: I don't, I am afraid.

19 SIR MARTIN GILBERT: Looking back over the whole period,
20 both with the benefit of hindsight but also with regard
21 to your thinking at the time, do you feel we had
22 unrealistic expectations of what we could achieve in
23 Iraq and an unrealistic timescale?

24 RT HON THE LORD JAY: I have thought about that quite a lot
25 and I bow to Sir Lawrence Freedman on this. I think it

1 is an interesting question as to whether one would go
2 into any war, if one knew what the war was going to be
3 like when one gets into it. But, of course, you don't
4 know what it is going to be like when you get into it.

5 I don't think that we had -- as we have said before,
6 I don't think we had thought through as much as we
7 should have done what the implications were going to be
8 of an invasion of a country such as Iraq. I think if we
9 had had an embassy there -- if we had had people -- if
10 we had -- I wished we had had a better understanding of
11 what Iraq was like in the 1990s, early 2000s before
12 a decision was taken to invade.

13 Were the -- there is a question as to whether or
14 not -- whether it was the right thing to do to join the
15 invasion. Given that the invasion happened, did we
16 underestimate the dislocation? Yes, we did. Was that
17 partly a result of a policy which was not our policy, of
18 getting rid of structures in the military and elsewhere?
19 Yes, it was.

20 Could we have done things differently? Yes, I'm
21 sure we could have done things differently. Will we end
22 up with an Iraq which we can say in 10 or 15 years' time
23 "This was all worthwhile"? I don't know.

24 SIR MARTIN GILBERT: Thank you.

25 THE CHAIRMAN: I think that brings us pretty much to the end

1 of this morning, but I would like to pick up on one or
2 two particular points and I think, Roderic you have got
3 one you want to raise.

4 SIR RODERIC LYNE: One puzzle that we have had, I think, all
5 the way through the evidence we have heard has been the
6 question, which we have heard different accounts of from
7 different witnesses of whether the Foreign Office and,
8 I suppose also DFID, were on the same page as other
9 elements of the British Government in the year before
10 the conflict.

11 Others who were in close contact with the Bush
12 administration and privy to some of their planning at
13 least, by which I would include Number 10, the
14 leadership of our military, and also SIS, had clearly
15 come to a conclusion in the course of -- in some cases
16 fairly early in 2002, that the Bush administration had
17 decided to remove Saddam Hussein by one means or another
18 and that, as a result of that, the conflict was almost
19 certain to happen because he would act in a way that
20 obliged them to go to war to make that happen.

21 While this was happening, the Foreign Office, under
22 Jack Straw's leadership, was doing all that it could to
23 avert a conflict, as Jack Straw himself told us in
24 evidence, and was doing it very much through the axis of
25 Jack Straw's partnership in Colin Powell and the

1 Foreign Office's relationship with the State Department,
2 not only through that, also in New York and so on.

3 As a result of that, it appears that the
4 Foreign Office was quite naturally, and for rather good
5 reasons, reluctant to admit the inevitability of the
6 conflict until the very last moment.

7 I suppose the question that arises from this is: was
8 the Foreign Office too slow to see this coming and,
9 therefore, too late in making full preparations for what
10 was going to happen?

11 RT HON THE LORD JAY: The first question was about
12 DFID, I think. Let me answer that secondly.

13 On the second question, on the inevitability
14 of the conflict, I think there are two points there,
15 aren't there? There is, was it our judgment that,
16 whatever happened, the Americans were likely to go to
17 war in Iraq and, secondly, if they did, was it
18 inevitable that we should join them?

19 On the first point I think, if one looks back on
20 this, I would not put it as inevitable. I think I would
21 say it was -- it seemed by -- certainly towards the end
22 of 2002 quite difficult to see the scenario in which the
23 Americans would conclude that they would not try to seek
24 Saddam Hussein by force. I don't think it was
25 inevitable. It was always possible that Saddam Hussein

1 could go. At one point that was part of our policy,
2 to try to get him to go, to try to put pressure on other
3 regional states to get rid of him in the hope that, if
4 he went, then it would be possible to have some kind of
5 change of regime in Baghdad which would not have
6 involved conflict. That would clearly have been
7 preferable.

8 I would never say that conflict was inevitable.
9 I would say that, from the end of 2002 onwards, it was
10 probable. There was a separate question as to whether
11 Britain would take part in that. When one looks back on
12 it now, with all that has been said since then, the
13 inevitability of Britain taking part seems much greater
14 than it did at the time. It did not seem clear at the
15 end of 2002 and the beginning of 2003 -- it did not seem
16 clear to me, it did not seem clear to us in the
17 Foreign Office, that a British participation in the
18 conflict was inevitable. There was an option not to
19 take part in it.

20 That was an option which some of us thought was the
21 right option, that we should not take part in the
22 conflict itself after we hadn't got the second
23 resolution, but that we should do all we could with the
24 Americans and others to ensure that, if there were
25 a conflict without us, we would try to ensure that Iraq

1 recovered afterwards.

2 Did we -- given that scenario, did we do all we
3 could have done and should have done in the
4 Foreign Office to have prepared for a conflict which was
5 likely to happen, even if we were not going to be
6 involved in it ourselves? The answer is we should have
7 done more, and we could have done more, and that,
8 I think, is one of the main questions, when I look back
9 on this, that I see as lessons for the future; that we
10 need to have some mechanism, even when one is trying to
11 avoid something that you do not want to happen
12 happening, you need to have some mechanism independent
13 of those who were involved in those decisions for
14 working out what happens if you fail and making the best
15 possible preparations for that failure.

16 It is an extremely difficult thing to do in the
17 minds of the same people, to try to prevent something
18 happening and to prepare for that failure and I don't
19 think we had the structures available to us to do that,
20 and I hope that that is one of the things that we will
21 get right in the future.

22 So that is, I think, my answer to the second
23 question that you asked.

24 The first question you asked was about the
25 relationship with DFID. I have to say that I started my

1 career in what was the Ministry of Overseas Development
2 and I have always had very close relations with them.
3 I had a very good relationship with Clare Short and
4 I used to see her privately and saw Suma Chakrabarti, as
5 the Permanent Secretary, regularly throughout this
6 period to discuss the relationships between us.

7 No, we were not on the same page, the FCO and DFID
8 were not on the same page in the lead-up to the war.
9 Not on the same page because, essentially, there were
10 differences between our ministers on the desirability
11 and the likelihood of war and on how war would cut
12 across what DFID was doing. I think DFID was an
13 exceptionally good department. DFID changed the terms
14 in which development aid was given and it deserves huge
15 credit for that and so does Clare Short.

16 What we were faced with in the run-up to the war in
17 Iraq was not something which DFID had been geared up to
18 do or Clare Short found comfortable. That inevitably
19 translated itself into a difficult relationship with
20 those of us who were on a different page. So it was
21 different. That does not mean to say that there wasn't
22 good cooperation, and there were missions. There were
23 FCO and DFID missions to New York and to Washington in
24 the autumn of 2002, which I think were effective and
25 were necessary.

1 So it would be wrong to think that there was no
2 cooperation. But we did not have the sort of
3 togetherness which I think would have been good at such
4 a crucial time in making a policy and which would,
5 I think, be possible, if we were to have the sort of
6 arrangements which I mentioned earlier on.

7 SIR RODERIC LYNE: Thank you for that very full and very
8 clear answer. Did you feel that the FCO and Number 10
9 were on the same page in the year running up to the war?

10 RT HON THE LORD JAY: I thought that the relationships which
11 we had -- certainly the relationship which I had with
12 David Manning, the relationships which we had with
13 Number 10, were extremely good, were extremely frank and
14 were extremely clear.

15 The relationship also which David Manning had with
16 the Foreign Secretary was extremely good.

17 So there was no difficulty about individual
18 contacts, about the sharing of information. I think
19 there was a difference of opinion between the
20 Prime Minister and the Foreign Secretary on the
21 relationship with the United States, on the relationship
22 with President Bush and that translated into a different
23 approach on the prospect of conflict in Iraq. That,
24 I think, showed itself throughout this period. So, yes,
25 there were differences between the two of them and,

1 therefore, between Number 10 and us, but there was no
2 sense of conflict between individuals here at all. We
3 were all working together. I think extremely well,
4 throughout that period.

5 SIR RODERIC LYNE: Thank you.

6 THE CHAIRMAN: I would like to ask you in a moment for any
7 further reflections of a general character you would
8 like to share but, firstly, out of pure curiosity
9 actually, when you took on the G8 responsibility in 2005
10 and 2006, did that leave you with enough time still to
11 take on those responsibilities you described at the
12 opening of this session, as Permanent Undersecretary at
13 the Foreign Office and head of the diplomatic service,
14 or did you make other arrangements?

15 RT HON THE LORD JAY: I had to make other arrangements. It
16 was -- I was asked to do this at very short notice.
17 I mean, you know, one day to the next, I think
18 in January or February 2005, and it was six months
19 before the Gleneagles summit. There was very little
20 time.

21 I talked to Jack Straw about it and we agreed that
22 it would be -- if the Prime Minister wanted me to do
23 that, it was right that I should do it. It would
24 inevitably have an impact on the work, and the agreement
25 I reached with him, as I say, was that I would continue

1 to focus on the management issues, inevitably it meant
2 that on some of the other issues I had to ensure that
3 there was proper delegated authority, that people knew
4 that I was not going to be as much involved in the
5 future over those six months as I had been in the past.

6 So there had to be different arrangements. There
7 were different arrangements. I was less involved over
8 that period than I would otherwise have been.

9 THE CHAIRMAN: More weight presumably fell on the shoulders
10 of your Political Director?

11 RT HON THE LORD JAY: Yes. It fell on the
12 Political Director, it fell on the Directors General, it
13 fell on those who were responsible for whatever the
14 policies were. I did not, of course, come out of it
15 altogether. I continued to see Jack Straw regularly
16 and, when I did, we would talk about these issues. It
17 also meant, of course, that I saw the Prime Minister
18 more regularly.

19 THE CHAIRMAN: One last specific point from me. Whatever
20 one thinks, and there is, as we all recognise, huge
21 controversy about the United Kingdom's involvement in
22 the Iraq invasion and the aftermath, but looking at the
23 involvement of FCO and, indeed, many other Crown
24 servants and staff in Iraq and about Iraq, how do you
25 rate the contribution that they made? Leave aside the

1 controversy about the big decision.

2 RT HON THE LORD JAY: I think they did a fantastic job and
3 I'm glad you asked that question because I think it is
4 an important point to make.

5 I think particularly the staff in Iraq, in Baghdad
6 and in Basra, did an extraordinarily good job in very,
7 very difficult and often very dangerous circumstances,
8 and they were volunteers, they were working night and
9 day, there was a sort of -- I found a sort of
10 camaraderie, which was rather British and rather
11 admirable, and I think they did a terrific job. So
12 I hope that, whatever happens, that will continue to be
13 recognised because I think it is a very important part
14 of the equation.

15 I think that the staff in London, they were working
16 in difficult circumstances,
17 The views within the Foreign Office probably mirrored
18 the views in the country as a whole about the
19 desirability of war in Iraq. We are
20 a multi-racial ministry in London, multi-racial,
21 multi-ethnic, multi-religious. People were having the
22 sorts of debates among themselves in the office as they
23 were having at home. So it was not an easy time as you
24 were approaching a very controversial policy.

25 I think the individual staff did an extraordinarily

1 good job. I think there are real lessons to learn about
2 the structures that you need in approaching a difficult
3 issue such as this. I don't think we got that right,
4 and I think there are lessons to be learned which I hope
5 this Inquiry will point out to us.

6 But I have huge admiration for the staff who were
7 working for me, both in Baghdad and in Basra and in
8 London during that time.

9 THE CHAIRMAN: Thank you. You have already drawn attention
10 particularly to early on in this session the issue of
11 ground awareness in the absence of an embassy or
12 diplomatic relations with a country. You have stressed
13 the difficulty of, if you like, planning for the failure
14 of a policy, or at least its non-achievement, at the
15 same time as planning for the policy itself and its
16 success, and you draw attention to structural lessons
17 that you suggest can be improved, not least in funding
18 but also in decision-making more generally.

19 Are there any other general reflections that you
20 would like to share?

21 RT HON THE LORD JAY: I think those are the most important
22 ones. Those are the ones which, when I was reflecting
23 on it, I thought were the key lessons to learn, they
24 have come out during the course of the discussion.

25 I think the only other one I would make is -- it is

1 a different kind of issue. It is looking through the --
2 some of the papers that I saw or were copied to me over
3 these years -- the numbers I actually saw were tiny and
4 I do wonder whether we have got into a kind of habit in
5 Whitehall, really out of wanting to protect ourselves in
6 a way, of sending far too many copies of papers to far
7 too many people and thereby risking a sort of
8 dissipation of where real authority lies.

9 I think there is a question, therefore, as to
10 whether there shouldn't be some kind of move back
11 towards a sort of closer, clearer involvement of those
12 concerned in the formulation and execution of policy,
13 but I think it is quite difficult to square this with
14 another trend, which is freedom of information and the
15 need, therefore, inevitably -- concern to ensure that
16 all those who are involved are aware of what's going on.

17 But I think, if I were back in government again,
18 I would be concerned about the sheer proliferation of
19 papers and knowledge and not the focus on people who
20 are -- whose real responsibility it is to carry
21 something out.

22 THE CHAIRMAN: You didn't mention technology, but you
23 implied it, I think, as well, as a contributory factor.

24 RT HON THE LORD JAY: Well, I think that technology has made
25 a huge change to the way in which we operate and it is

1 one of the things which made me realise that there were
2 huge opportunities for the Foreign Office in technology,
3 in that we could rely far more on our ambassadors and
4 our embassies because in real time they could feed
5 information back to London on the issues which really
6 counted with first-hand knowledge. In that sense, you
7 needed fewer of the people in London who had
8 traditionally done things.

9 It comes back in a way to the question about
10 hollowing out. I don't think this is a hollowing out.
11 I think this is a reflection of the way in which
12 technology has changed, the way in which ministries
13 operate. We have got really good people around the
14 world. We need to be tapping their expertise day by day
15 by day, hour by hour by hour, and then you need maybe
16 a smaller centre in order to ensure that that is
17 properly processed.

18 THE CHAIRMAN: Well, our thanks to our witness, to Lord Jay,
19 thank you very much. I'll close the session at this
20 point and we will resume again at 2.00 pm this
21 afternoon, when our witness will be Iain McLeod, who
22 served as legal adviser to the United Kingdom mission to
23 the United Nations from 2001 to 2004. Thank you.

24 (12.01 pm)

25 (The short adjournment)

FINAL