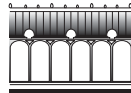# shared secrets

INTELLIGENCE AND COLLECTIVE SECURITY

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Executive summary

Is collective security possible when the evaluation of and response to threats depend on access to intelligence that cannot be shared openly? This Lowy Paper examines the role national intelligence does and could play in addressing threats to international peace and security, with particular reference to the contemporary threats of terrorism and proliferation of weapons of mass destruction.

The issue is important to those who believe that multilateral responses to emerging threats are inherently more legitimate than and therefore preferable to unilateral action. But it is also relevant to those who are wary of entrusting a nation's security to an international organisation: debates over whether the United States should share intelligence with and through the United Nations, for example, have arisen in many administrations and been won on every occasion by those who showed that it was in the US interest to do so. The question is no longer whether intelligence should be shared, but rather how and to what effect.

It is neither feasible nor desirable for the United Nations or other international organisations to develop an independent capacity to *collect* secret intelligence, in the sense of conducting clandestine operations. Much information gathered in the course of peace operations might properly be considered intelligence, but formalising such activity would create more problems than it would solve. Nonetheless two basic policy recommendations follow:

1. **Certain agencies within the United Nations and other international organisations must be able to *receive* sensitive information.**

The reforms needed to ensure the trust of those who possess such information cannot realistically be undertaken at a system-wide level. It is therefore appropriate to concentrate on those areas where such information is most important, notably counter-terrorism and counter-proliferation. Necessary reforms include protocols for the handling of sensitive information and corresponding security clearances for staff. There should be no illusion that the United Nations is ever going to make itself completely secure against espionage. When states with interests and resources are determined to acquire information they will probably succeed in doing so. Rather, the aim is to make this more difficult and to limit the routine leakage of information so that although secrets may still be stolen, they are not given away.

2. **In order to *use* shared intelligence, relevant international agencies must be able to assess its accuracy, relevance, and implications.**

This need not include the disclosure of the sources or methods that provided the intelligence, but does require an independent analytical capacity. Such a capacity should be directed also to assessing openly available information, which comprises the majority — typically the vast majority — of information needed to provide actionable policy advice.

As a middle power with a credible intelligence capacity, close ties to the United States, and a strong historical commitment to multilateralism, Australia is well positioned to influence debate on this topic. Bilateral intelligence sharing within our region is already used as a confidence-building mechanism and as a response to common threats.

Improving the ability of collective security institutions to handle intelligence will enhance international cooperation to combat terrorism and strengthen verification regimes to prevent the spread of weapons of

mass destruction. It may also increase the ability of such institutions to prevent conflict and ameliorate natural and man-made disasters. It will not guarantee good policy. More effective use of information should, however, make it harder to ignore emerging crises or adopt unworkable policies. It may also facilitate cooperation between states to address threats that no one state can address alone.

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Acknowledgments

List of acronyms

ASEAN	Association of Southeast Asian Nations
ASIS	Australian Secret Intelligence Service
CIA	Central Intelligence Agency
CTED	Counter-Terrorism Committee Executive Directorate
DPKO	Department of Peacekeeping Operations
EISAS	Executive Committee on Peace and Security Information and Strategic Analysis Secretariat
GCHQ	Government Communications Headquarters
HUMINT	human intelligence
IAEA	International Atomic Energy Agency
IMINT	imagery intelligence
JMAC	Joint Mission Analysis Cell
MONUC	UN Organization Mission in the Democratic Republic of the Congo
NATO	North Atlantic Treaty Organisation
ONA	Office of National Assessments
ONUC	UN Operation in the Congo
OPCW	Organisation for the Prohibition of Chemical Weapons
ORCI	Office for Research and the Collection of Information
PGP	Pretty Good Privacy
PSI	Proliferation Security Initiative
SIGINT	signals intelligence
UKUSA	United Kingdom–USA Intelligence Agreement
UNAMIR	United Nations Assistance Mission for Rwanda
UNMOVIC	UN Monitoring Verification and Inspection Commission
UNPROFOR	UN Protection Force
UNSCOM	UN Special Commission in Iraq
USC	United States Code

Introduction

The subject of intelligence attracts attention out of proportion to its real importance. My theory is that this is because secrets are like sex. Most of us think that others get more than we do. Some of us cannot have enough of either. Both encourage fantasy. Both send the press into a feeding frenzy. All this distorts sensible discussion.

— Sir Rodric Braithwaite, former Chairman of the British Joint Intelligence Committee, 2003[3]

Six weeks before the United States and Britain, together with Australia and Poland, commenced military operations against Iraq in March 2003, US Secretary of State Colin Powell addressed the United Nations Security Council to make the case for an invasion. Weapons inspectors had been on the ground in Iraq for almost three months and found no evidence of a 'smoking gun' that might have served as a trigger for war. Senior figures from the Bush administration continued to assert, however, that there was no doubt that Saddam Hussein's regime continued to manufacture weapons of mass destruction in violation of UN resolutions. Powell's presentation was intended to explain that certainty, drawing upon an impressive array of satellite images, radio intercepts, and first-hand accounts. 'My colleagues,' Powell said, 'every statement I make today is backed up by sources, solid sources. These

are not assertions. What we are giving you are facts and conclusions based on solid intelligence.'[4] Though he did not speak during the meeting, the Director of the Central Intelligence Agency, George Tenet, sat behind Powell for the entire 80-minute presentation — an apparent effort to dispel perceptions of discord in the US intelligence and defence communities about the threat posed by Iraq, but also underlining the unprecedented nature of this public display of the fruits of US espionage.

Three years later, the failure to substantiate most of the claims made by Powell before the Council has prompted little reflection as to what significance this episode might have for the United Nations and other institutions of collective security. The speech has been used by critics of the Bush administration as evidence of its alleged bad faith in the negotiations on alternatives to war; within the United States, a Senate committee issued a scathing report on the US intelligence community's pre-war assessments of Iraq's military capabilities.[5] When attention did turn to the United Nations, the emphasis tended to be on the larger questions of the organisation's 'relevance', which prompted the Secretary-General to create a high-level panel to rethink the mechanisms of collective security in a world dominated by US power and defined by its concerns.[6]

What these various accounts overlook is the more basic question of whether collective security is even possible when the evaluation of current threats and the calibration of responses turn on the use of national intelligence that, by its nature, cannot be shared openly. In this sense, Iraq is merely the most prominent example of a tension that runs through much of the current counter-terrorism and counter-proliferation agenda. Differences of policy on Iran's nuclear program or the Korean peninsula, for example, depend in large part on diverging intelligence assessments of Iran and North Korea's capacities and intentions. Since the basis of these assessments will not be discussed freely, they may as well be, to borrow Powell's phrase, 'assertions'. Similarly, the tools available to address even agreed threats depend increasingly on intelligence findings, ranging from targeted financial sanctions to extraordinary rendition of suspects and pre-emptive

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military action. Despite this increased practice, there has been no serious attempt to reconcile the fact that multilateral action is pursued on the basis of unilateral determinations.

This Lowy Institute Paper seeks to fill that gap by examining what role intelligence can and should play in collective security. The issue is important to those who believe that multilateral responses to emerging threats are inherently more legitimate than and therefore preferable to unilateral action. But it is also relevant to those who are wary of entrusting a nation's security to an international organisation: debates over whether the United States should share intelligence with and through the United Nations, for example, have arisen in many administrations and been won on every occasion by those who showed that it was in the US interest to do so. The question is no longer whether intelligence should be shared, but rather how and to what effect.

'Intelligence' is understood here in two senses. In the abstract, it will be used to refer to information obtained covertly — that is, without the consent of the government or body that controls the information. This is sometimes referred to as 'secret intelligence'. Within this heading, two subcategories of intelligence that have remained essentially unchanged since the Second World War are intelligence obtained wittingly or unwittingly from individuals, known as human intelligence or HUMINT, and signals intelligence or SIGINT, which comprises communications intercepts and other electronic intelligence. A newer subcategory is photographic or imagery intelligence (IMINT), now dominated by satellite reconnaissance. Many more -INTs appear in the literature, but these three will be the focus of the present paper.[7]

The abstract definition of intelligence is complemented by a broader understanding of the term as the analytical product of intelligence agencies, best understood as a risk assessment intended to guide action. This reflects an important distinction that must be made between collection of intelligence and the analysis of it. Though collection may be covert, analysis should generally draw upon a far wider range of sources, most of which — frequently the vast majority — will be publicly available or 'open'. These discrete functions are reflected in the structure of most Western intelligence services: more by accident than

design, the principle has evolved that those who collect and process raw intelligence should not also have final responsibility for evaluating it.[8] The top-level product of such analysis is known in Britain and Australia as an assessment; in the United States the term estimate is used. This is distinct from how such analysis should inform policy — a far broader topic.

How, then, should covertly obtained information and the product of intelligence agencies be used, if at all, in the pursuit of collective security? This may be broken into two distinct sets of issues, considered in the two chapters of the paper.

Chapter one surveys the relationships between international organisations and the intelligence agencies of their member states. Within the United Nations, intelligence has long been regarded as a 'dirty word', as the 1984 *Peacekeeper's Handbook* put it. Such discretion has not removed the need for a deep understanding of a theatre of operations and the parties to a conflict, however, leading to the adoption of 'military information' as the preferred euphemism.[9] Other international and regional organisations draw upon intelligence in different ways, ranging from the non-proliferation activities of the International Atomic Energy Agency (IAEA) and the sharing of criminal intelligence by Interpol, to somewhat more established relationships within the North Atlantic Treaty Organisation (NATO) and the European Union. Though it is neither feasible nor desirable for such organisations to develop an independent capacity to collect intelligence, the practice discussed here demonstrates that they must be in a position to receive it. If the sharing of sensitive information is to take place on more than an ad hoc basis it is necessary to develop protocols for the handling of sensitive information and corresponding security clearances for staff.

Chapter two examines in more detail how intelligence is used in such multilateral frameworks in the formulation and implementation of policy — as evidence of a threat and as a tool of coercion in responding to it. Though implicit in much of the conflict prevention work of the United Nations, the important role of intelligence has become explicit in the context of counter-terrorism and counter-proliferation,

most notably in the inspections regime that sought to ensure Iraq's disarmament following its expulsion from Kuwait in 1991. Intelligence has also, periodically, figured in fact-finding missions and the assessment of humanitarian emergencies. Performing these various functions effectively requires more than the ad hoc relationships that presently dominate practice. To make most effective use of sensitive information, the relevant international agency must be able to assess its accuracy, relevance, and implications. This requires an independent analytical capacity that can also draw upon openly available information with a view to providing actionable policy advice.

Underlying these considerations of the forums in which intelligence is aired, the weight attributed to it, and the responsibility for its use is the question of whether intelligence itself may be changing in character. Most states collect and analyse intelligence at least in part to understand and forestall threats to their security or to secure advantage in their foreign relations. But for many middle and smaller powers in particular, collection of intelligence is also a means of advancing foreign policy through sharing it with larger allies in exchange for more intelligence or other benefits. The conclusion develops this understanding of intelligence as a form of currency. The prospects of complete sharing of intelligence are even less likely than putting war-fighting troops under the direct command of the UN Secretary-General, but it is possible that some forms of intelligence work may follow the path of UN peace operations, where limited numbers of troops are put at the disposal of the United Nations as peacekeepers, and others operate under at least the formal authorisation of the UN Security Council.

This research is of importance to Australia as a good global citizen but also as a potential honest broker in the manner in which intelligence is used in multilateral institutions. Australia's close relationship to the United States is properly regarded as a cornerstone of Australian foreign and defence policy. As the war in Iraq began, Prime Minister John Howard was open about the influence that Australia's ties to the United States had on the decision to join what was then a very small coalition of the willing:

> There's also another reason [to commit Australian forces] and that is our close security alliance with the United States. The Americans have helped us in the past and the United States is very important to Australia's long-term security. … A key element of our close friendship with the United States and indeed with the British is our full and intimate sharing of intelligence material. In the difficult fight against the new menace of international terrorism there is nothing more crucial than timely and accurate intelligence. This is a priceless component of our relationship with our two very close allies. There is nothing comparable to be found in any other relationship — nothing more relevant indeed to the challenges of the contemporary world.[10]

The Prime Minister was correct about the importance of these intelligence-sharing relationships, even if too much faith was placed in the accuracy of US intelligence on Iraq. Fighting terrorism does indeed require timely and accurate intelligence, but developing a serious multilateral capacity to assist in this effort will require developing more such relationships, building trust, and establishing checks and balances to guard against the abuse of intelligence. As a middle power with a credible intelligence capacity, close ties to the United States, and a strong historical commitment to multilateralism, Australia should be able to influence or play a lead role in this task.

Improving the ability of collective security institutions to handle intelligence will enhance international cooperation in areas such as counter-terrorism and counter-proliferation. It may also increase the ability of such institutions to prevent conflict and ameliorate natural and man-made disasters. It will not, of course, guarantee good policy. Nevertheless, more effective use of information should make it harder to ignore emerging crises or formulate unworkable policies. It may also facilitate cooperation between states to address threats that no one state can address alone.

Chapter 1

Intelligence and

international organisations

The United Nations has no intelligence.

— Boutros Boutros-Ghali, Secretary-General
of the United Nations, 1993[11]

The use of national intelligence in the lead-up to the 2003 Iraq war was not limited to spying on Saddam Hussein's regime. As the United States and Britain sought support for a resolution in the Security Council authorising an invasion, an email was leaked by a translator at the British Government Communications Headquarters (GCHQ) that outlined plans by the US National Security Agency (NSA) to mount a 'surge' against the other 13 members of the Council. This message, sent between the US and British signals intelligence agencies, revealed a concerted effort to tap into the office and home telephone and email communications of delegations on the Council in order to collect information on their positions on the debate over Iraq, including alliances, dependencies, and 'the whole gamut of information that could give US policymakers an edge in obtaining results favourable to US goals

or to head off surprises.'[12] Though some expressed shock at the revelation, most diplomats in New York assume that their communications are routinely intercepted by the US and other intelligence services. One Council diplomat, when asked by a reporter in a telephone interview whether he believed his calls were being monitored, replied dryly: 'Let's ask the guy who's listening to us.'[13]

The United Nations has always been regarded as a source of intelligence as well as a potential recipient of its products. During the 1945 conference in San Francisco that drafted the UN Charter, the US Army's Signal Security Agency, the precursor of the NSA, was obtaining intercepts on at least 43 of the original 45 nations in attendance.[14] Any proposals to enhance the capacity of international organisations to use intelligence must therefore be tempered by the reality that most states' participation in such organisations is geared more towards gathering intelligence than sharing it.

The prospects of the United Nations or any other international organisation developing an independent intelligence collection capacity are remote. This is due to the understandable wariness on the part of states of authorising a body to spy on them, though the United Nations itself has been reluctant to assume functions that might undermine its actual or perceived impartiality. At the same time, however, this position reflects a larger anomaly in the status of intelligence under international law as an activity commonly denounced but almost universally practised: empowering an international organisation to engage in espionage might give the lie to this example of diplomatic doublethink.[15]

Where intelligence activity of any kind is authorised, it tends to be within narrowly defined parameters. On occasion, this has led to absurd results. From August 1988, for example, the United Nations had an observer group in place to monitor the suspension of hostilities between Iran and Iraq. Beginning in July 1990 these observers had noted the movement of large numbers of Iraqi units to the south, in the direction of the border with Kuwait. As the troops had not moved east, towards Iran, the observers were prevented from making an official report — and appear not even to have issued an informal report prior to Iraq's invasion of Kuwait the following month.[16]

This chapter surveys the practice of a series of post-war international organisations in relation to intelligence — the United Nations, counter-proliferation regimes, and other forms of cooperation such as police networks — before examining whether it is possible or desirable to formalise the manner in which intelligence is shared, and what institutional reforms might improve the manner in which shared intelligence is handled.

The United Nations

Universal membership of an international organisation is commonly understood to mean universal penetration of that body by the intelligence services of its member states. This need not imply improper activity: much of diplomacy consists of reporting back to capitals and the United Nations is in one sense merely a forum in which diplomatic activity takes place. Nevertheless, the evolving responsibilities of the United Nations in peace and security have led to periodic consideration of its capacity to gather or at least receive intelligence. As with much in the UN repertory, practice has led theory.

In its early years there appears to have been little consideration of intelligence within the United Nations as such. Its swift paralysis by the Cold War and limited operational activities meant that intelligence was for the most part confined to espionage by and against the various governments represented in the UN organs, and against the host nation in particular. The Korean War (1950–1953), though fought under UN auspices, was a United States affair, while the Suez crisis of 1956 indicated precisely the poverty of independent UN analysis — though this was by design of the French and British, who deceived the United States also.

Secretary-General Dag Hammarskjöld actively rejected proposals to establish a permanent UN intelligence agency in 1960, in part because of his conviction that the United Nations must have 'clean hands'.[17] It was only when the United Nations undertook its first major field operation that questions of intelligence had to be confronted directly.

Military information in the Congo

The UN Operation in the Congo (ONUC), which operated from 1960 to 1964, was the largest peacekeeping operation deployed during the Cold War and had by far the broadest mandate. Assistance was required after Congo's independence in 1960 led to widespread unrest, the collapse of essential services, attempted secession by the copper-rich Katanga province, and a military intervention by former colonial power Belgium. Originally mandated to provide the Congolese Government with 'such military and technical assistance as may be necessary' until national security forces were able to keep order on their own, the rules of engagement were strengthened after the assassination of former Prime Minister Patrice Lumumba in January 1961. Though UN staff maintained throughout the operation that force was being used only in self-defence, this became, in strategy and tactics, indistinguishable from a standard military campaign.[18]

As the situation in the Congo deteriorated, the mandate and military strength of the UN mission were expanded and the civilian leadership relaxed their opposition to any form of intelligence capacity. The body that was established was known by a euphemism that later became standard language in UN peace operations — the 'Military Information Branch' — although the first two chiefs of military information addressed themselves using the title 'Chief of Military Intelligence' and documents were occasionally marked as produced by the 'Military Intelligence Branch'.[19]

The branch engaged in fairly typical intelligence gathering activities, though it was substantially limited in its resources. It had an erratic capacity to monitor open radio broadcasts and to intercept and decrypt radio transmissions of secessionist Katangese forces. Given the lack of detailed maps of the Congo, aerial reconnaissance was essential but limited to two Indian Canberra jets with equipment designed to photograph bomb damage. This was supplemented by photographs taken through the windows of transport planes using hand-held cameras, though ONUC in any case lacked the capacity to develop or interpret imagery intelligence of higher quality. Significant improvement was

achieved only when the Swedish government agreed to send two Saab 29C aircraft equipped for photo-reconnaissance together with a photo-interpretation detachment.[20]

Human intelligence was more controversial. The Military Information Branch conducted hundreds of interrogations of prisoners of war and asylum-seekers from the Katangese gendarmerie and bureaucracy, apparently with scrupulous regard for Geneva Conventions, which were widely circulated among UN personnel connected with detentions.[21] The use of informants is harder to evaluate. Though portrayed initially as a somewhat comic enterprise restricted to the employment in Elisabethville of 'one Greek ex-policeman with an imperfect knowledge of French [and] … a few Baluba houseboys',[22] ONUC cultivated informants within the Katangese government, mercenary forces operating in the Congo, and at least a few foreign governments. The last type of relationship pushed at the limits of what was acceptable even in this exceptional UN operation: when the Branch was instructed by ONUC's Force Commander to conduct a 'special mission' to collect intelligence on neighbouring African countries, the mission was aborted when the commander of Canada's contingent refused to allow Canadian personnel to participate in any mission outside of the Congo without explicit approval from the Canadian government, which he thought unlikely given the covert nature of the operation.[23]

Intelligence was only a small part of the debate over the Congo operation, which split the Security Council, almost bankrupted the United Nations, and ensured that force was not used on a comparable scale for decades.[24] For the next quarter of a century, peacekeeping was limited to small observation or goodwill missions, most of them monitoring post-conflict situations.

The new interventionism

'Military information' continued to feature in subsequent peacekeeping operations, but there was little serious discussion of any form of UN intelligence capacity for the remainder of the Cold War.

In 1987 Secretary-General Javier Pérez de Cuéllar established an 18-member Office for Research and the Collection of Information (ORCI). Though the United States, together with Britain and France, had pushed for the creation of the office to save money and remove the preparation of a daily press summary from the Political Information News Service, which was seen as a Soviet redoubt, nine conservative US senators opposed its creation on the basis that the new office itself might provide a cover for Soviet spying in the United States. Undeterred by the fact that the office was run by Sierra Leonean James Jonah and essentially limited to summarising newspaper reports and other openly available material, a bill to block US funds for the office was introduced.[25] Cooler heads prevailed, but the tactic of legislating to limit the capacity of the United Nations to use intelligence returned during a period of genuine activism in the 1990s.

This activism, beginning with the expulsion of Iraq from Kuwait and ending with the failure to intervene in Rwanda in 1994, commenced with the disbanding of ORCI as a separate body in 1992. A second period of activism, which has seen the number of peacekeepers grow from a low of 12,000 in mid-1999 to over 60,000 in 2005, began with a failed attempt to establish a new information and strategic analysis secretariat as part of a package of reform proposals tabled in 2000.[26] Even in the most active periods of the United Nations, then, profound ambivalence about its having either a collection ability or analytical capacity manifested in a rejection of the former and fragmentation of the latter. Halting progress was made on systemic analytical capacities during the consolidation of the Department of Political Affairs in 1992, but again, real change in how the United Nations handled intelligence was seen only in the conduct of its peacekeeping operations.[27]

In the period 1990 to 1993 the United Nations doubled the number of peacekeeping missions and increased the number of troops deployed in the field by a factor of five. The complexity of these operations also increased, with the United Nations taking on ambiguous responsibilities in the former Yugoslavia and Somalia far removed from the traditional peacekeeping role of monitoring a ceasefire between standing armies. With size and difficulty came risk: more peacekeepers were killed in 1993 than in the entire preceding decade.

In April of the same year, a Situation Centre was created in the Department of Peacekeeping Operations to provide a continuous link between senior staff members at UN Headquarters, field missions, humanitarian organisations, and member states through their diplomatic missions in New York. In addition to monitoring specific operations, it drew on reports and open source information to provide daily situation reports on all peacekeeping and some political and humanitarian missions. An Information and Research Unit was added in September 1993, beginning with a single intelligence officer seconded from the United States and soon joined by representatives of Britain, France, and Russia, typically drawn from the intelligence branches of their respective militaries.[28]

This level of cooperation took place in a period of atypical enthusiasm for the United Nations at senior levels of the US government. President George H.W. Bush, who in 1990 heralded a 'new world order', included within this vision a United Nations that was able to back up its words with action.[29] In an address to the UN General Assembly two years later, he called on the members of the United Nations to develop planning, crisis management, and intelligence capabilities for peacekeeping and humanitarian operations.[30] US contributions in this area were reflected in the 1993 National Security Strategy, which noted that 'to the extent prudent, US intelligence today is … being used in dramatically new ways, such as assisting the international organizations like the United Nations when called upon in support of crucial peacekeeping, humanitarian assistance and arms control efforts. We will share information and assets that strengthen peaceful relationships and aid in building confidence'.[31] The Defense Intelligence Agency was identified as the most important channel for intelligence support to UN peacekeeping operations, though that support was subject to review on a case-by-case basis.[32]

The Clinton Administration inherited this policy and initially proposed to develop a Presidential Decision Directive (PDD) on multilateral peacekeeping operations that would have included a forward-leaning US policy on participation in peacekeeping, including provision of intelligence.[33] The death of 18 US soldiers in Somalia in October 1993 saw any such enthusiasm evaporate; what became

PDD 25 was released at the height of the genocide in Rwanda and widely interpreted as a manifesto for inaction.[34] On the question of intelligence sharing, the directive was restrained, referring throughout to 'information' rather than intelligence, though this 'information' was to be provided in a manner that protected the sources and methods of its acquisition.[35]

The Somalia debacle and suspicions that it might have been connected to intelligence leaks from the UN mission had led to a minor rebellion in Congress, with legislation proposed in November 1993 and January 1994 that would have substantially curtailed intelligence sharing with the United Nations.[36] When the Republican Party gained a majority that November, Newt Gingrich's 'Contract with America' elevated suspicion of the United Nations to the level of policy.[37] The discovery three months later of large quantities of classified US documents and imagery in open cabinets at a deserted UN office in Mogadishu was greeted with apoplexy: a series of amendments and entire bills were proposed that would have made sharing US intelligence with the United Nations virtually impossible.[38]

What is interesting about these legislative manoeuvres is that none of them was pursued with particular vigour. In part this was due to the threat of a presidential veto, but other reasons were revealed in hearings by a House intelligence committee concerning a provision that would have required the President and the Secretary-General to conclude a written agreement before any US intelligence could be provided to the United Nations.[39] Unclassified testimony sketched out the regime in place for selective transfer of intelligence to the United Nations, typically through representatives of the Joint Staff, one of whom would be based in the US Mission to the United Nations, with a second based in the UN Situation Centre. At the same time, a UN Support Desk in the National Military Joint Intelligence Center provided the UN with sanitised intelligence on a daily and ad hoc basis. The regime enabled the United States to use intelligence selectively in support of its foreign policy as and when it was helpful to do so, without requiring the provision of other intelligence or the revelation of sources and methods.[40]

Selectivity in shared intelligence is a recurring problem, with numerous UN staff suspecting — rightly — that intelligence is provided to them in support of national policy and frequently in order to manipulate the United Nations. A former military adviser to the Secretary-General cites the crisis in Eastern Zaïre as an example: one permanent member in favour of intervention provided intelligence showing large numbers of displaced persons in wretched conditions; a second permanent member opposing intervention offered intelligence suggesting a far smaller number of people subsisting in more reasonable conditions. It was, he concluded, a 'shameful exhibition'.[41]

Both the Situation Centre and its analytical unit were staffed by 'gratis military officers', on loan from member states from Australia to Zimbabwe but disproportionately drawn from Western countries. This led to considerable suspicion on the part of developing countries and protests under the auspices of the Non-Aligned Movement. By the late 1990s this had become a politically contentious issue and the United Nations began phasing out the practice in the period 1998–1999,[42] taking with it the Information and Research Unit.[43] This reduction in UN military expertise coincided with a resurgence in peace operations, as the United Nations assumed civilian responsibilities in Kosovo and temporary sovereign responsibilities for East Timor in the same year. A major review of UN peace operations was commissioned for the following year, its first meeting coinciding with the near collapse of a third mission in Sierra Leone as a result of poor planning, under-equipped and badly trained personnel, inadequate communication, weak to the point of mutinous command and control, and determined local spoilers.[44]

The Report of the Panel on UN Peace Operations, known as the Brahimi Report after the panel's Algerian chairman, was established in part to justify the expansion of the UN Department of Peacekeeping Operations to compensate for the lost gratis personnel. At the same time, it touched on intelligence issues in two ways. First, at the insistence of some of the members of the panel with military backgrounds, the report stated that UN peace operations 'should be afforded the field intelligence and other capabilities needed to mount a defence against

violent challengers.'[45] Though not elaborated upon, this reflected the emerging wisdom that the traditional aversion to collecting and using intelligence in peace operations was untenable.[46]

Secondly, however, the panel noted that the United Nations lacked a professional system for managing knowledge about conflict situations — gathering it, analysing it, and distributing it. To remedy this, the panel proposed the creation of an Information and Strategic Analysis Secretariat (EISAS).[47] The new body would be formed by consolidating the Department of Peacekeeping Operations Situation Centre and the handful of policy planning units scattered across the organisation, with the addition of a small team of military analysts.[48]

From the moment EISAS was referred to as a 'CIA for the UN' it was dead as a policy. Some states expressed concern about the United Nations being seen as involved in the business of espionage,[49] but the real concern appeared to be the potential for early warning to conflict with sovereignty. Following so soon after unusually blunt statements by the Secretary-General on the topic of humanitarian intervention in September 1999,[50] the defenders of a strict principle of non-interference found a receptive audience. The Secretary-General stressed that EISAS 'should not, in any way, be confused with the creation of an "intelligence-gathering capacity" in the Secretariat', but would merely serve as a vehicle to ensure more effective use of information that already exists.[51] In an effort to save at least the idea of system-wide policy analysis he later proposed a unit half the size and without media monitoring responsibilities,[52] but even this has failed to generate any traction.[53]

The lack of formal capacity has encouraged ad hoc responses. The Information and Research Unit has been replaced by informal links with military advisers from a handful of member states, supplemented as needed by states with particular expertise or capacity in a specific crisis area. When the United Nations commenced operations in Kosovo, a direct communications link was established with NATO Headquarters in Brussels, initially with an officer rotated every two months but quickly becoming a standard liaison position as joint operations expanded from the Balkans to Afghanistan and now Sudan.

New priorities

The 1990s was a period of high — perhaps excessively high — optimism for the United Nations. The end of the Cold War, a period of relative concord between the major powers, and the rhetoric of a new world order combined to raise hopes that the United Nations would not merely manage conflict but play a larger part in preventing it. The limitations of this concordat were displayed in African conflicts such as Somalia and Rwanda, suggesting that the new order depended more upon a coincidence of national interests than a genuinely innovative approach to international affairs. Meanwhile, the dysfunctional policy in the Balkans raised questions about the ability of industrialised countries to maintain peace or wage war even when their interests were involved.

The 11 September 2001 attacks against the United States transformed this strategic environment, as the world's most powerful country suddenly saw itself as among the most vulnerable. The UN Security Council swiftly passed a unanimous resolution condemning the 'horrifying terrorist attacks', which it regarded as a 'threat to international peace and security'. The Council further stressed that 'those responsible for aiding, supporting or harbouring the perpetrators, organisers and sponsors of these acts will be held accountable'. It also stated its readiness to take 'all necessary steps' to respond to the attacks.[54]

Though the Security Council did become central to the sweeping measures intended to deny terrorists financing, support, or safe haven, the implicit offer of a formal Council authorisation for the US military response was not pursued — apparently out of a desire to preserve the maximum flexibility as to how that response might be conducted.[55] Similarly, the United States did not seek the direct assistance of NATO, even though its members had invoked for the first time the collective self-defence provisions of Article 5 of the Washington Treaty.[56] The attacks also prompted the first official invocation of the ANZUS Treaty by the Australian government.[57] On 7 October 2001 the United States informed the Council that it was exercising its right of self-defence in taking actions in Afghanistan against Al Qaeda terrorist-training camps

and Taliban military installations. The letter to the Council stated that the United States had obtained clear and compelling information that Al Qaeda, which was supported by the Taliban regime, had a central role in the attacks: 'There is still much we do not know,' the letter continued. 'Our inquiry is in its early stages. We may find that our self-defense requires further actions with respect to other organizations and other States.'[58]

The 'war on terror' radically changed the manner in which the United States conceived its security and, correspondingly, how it approached the institutions of collective security. In contrast to the 'assertive multilateralism' of the Clinton Administration and the 'multilateralism à la carte' of the first months of the Bush White House,[59] President Bush outlined a future that would be more black and white: 'Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists.' At the same time, speaking only nine days after the attacks, he outlined the important role of cooperation with intelligence, police, and financial services around the world.[60]

For the United Nations, the war on terror presented many challenges, some of which revisited its longstanding ambivalence concerning intelligence. As indicated earlier, senior UN officials had long opposed any form of general collection capacity and had been denied an analytical arm. Both these principles were occasionally and later routinely violated in peace operations in the field; over time, this led to the establishment of basic support for such operations from headquarters with the acquiescence of member states. Now, however, in a conflict without geographical constraints, the United Nations was being asked to support a series of measures that included monitoring the compliance of governments in counter-terrorist efforts and authorising the freezing of worldwide assets of alleged terrorist financiers. Soon it would include a call to authorise the invasion of Iraq.

The manner in which intelligence was used in these different capacities will be discussed in chapter two. For present purposes, it is sufficient to note that the United Nations as an organisation was largely passive in the exchanges of intelligence that took place within

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its walls. As we shall see in the next section, this is consistent with most intelligence sharing relationships, in which exchanges tend to be directly between the intelligence services of states rather than between states as such. While appropriate in the context of purely political activity, however, such a passive involvement becomes less appropriate the more the United Nations becomes involved as an arbiter and an implementer of policy.

Intelligence sharing

Intelligence services generally regard their relationship with peers in other countries in terms of concentric rings. A first tier includes those countries with which an established relationship is built on history, trust, and shared protocols for the handling of information. The closest such relationships derive from formal intelligence alliances established during the Second World War, notably the relationship between the United States and Britain, later expanded to include Australia, Canada, and New Zealand. A second tier embraces trusted governments with common interests. For the United States this might include other NATO allies such as France (intelligence relationships are frequently more robust than their political counterparts), while for a country like Australia, it might mean Japan or Singapore. Specific interests at times encourage unusual candour, such as the intelligence shared between nuclear powers that may exceed their sharing of such intelligence with non-nuclear allies. Beyond this there is less a tier of relationships than a series of opportunistic exchanges. It is revealing that those who cannot keep a secret are often lumped in with those from whom secrets must be kept.

The reasons for intelligence sharing vary, but typically involve an exchange of information, analysis, or resources. The 'quid' may be access to a particular country, translation and analytical assistance, or the use of strategically important territory; the 'quo' might take the form of sharing the fruits of this labour, training, or the supply of related equipment. Intelligence may sometimes be treated as a kind of foreign assistance;[61] its withdrawal may be used as a kind of punishment.[62]

For the majority of countries, the most important partner in any such relationship is the United States. Despite having the largest intelligence budget of any country — approximately \$44bn per year[63] — even the United States relies on some assistance from countries such as Britain in relation to the Near and Middle East, Australia in relation to South-East Asia, and a series of other countries that support its global signals intelligence reach. A specific agency may be given the formal role of coordinating external intelligence relations, usually the national human intelligence service — the CIA; Britain's Secret Intelligence Service (SIS), commonly known as MI6; the Australian Secret Intelligence Service (ASIS); Israel's Mossad; and so on.

Burden sharing is normally tactical, but the Second World War saw a broad division between the use of British and US signals intelligence capacities to monitor Europe and East Asia respectively.[64] This unusual arrangement formed the basis for a longstanding relationship between the United States, Britain, and the three 'Old Commonwealth' countries of Australia, Canada, and New Zealand. The most formal links exist between the signals intelligence agencies of the 'five eyes' community rather than between their respective intelligence communities as a whole; in part this is driven by the functional nature of the relationship, in part by what one former intelligence official terms the rise of a kind of 'technical freemasonry in which national loyalties merge into professional, transnational ones.'[65]

Such multilateral intelligence relationships are the exception rather than the rule. For the most part intelligence sharing takes place bilaterally, or unilaterally with the provision of sanitised intelligence to a country or international organisation. The process of sanitisation depends on the perceived risk of material being mishandled: the higher the risk, the more general any information provided will become. Typically any reference to sources will be removed — this is normal even when exchanging material between agencies within one country. At higher levels of perceived risk, layers of detail may be removed to limit damage in the event that the information leaks. Finally, intelligence in such environments may be shown rather than shared, with an invitation to a policy-maker to view material in a secure room (within an embassy, for example) but not

provided with a copy of anything traceable to the sharing state. Thus a piece of intelligence such as 'On 4 February 2006 X used his satellite phone to agree with Y to meet Z at airport A on 3 March 2006' may be whittled down to a warning to the country operating airport A that Z may be passing through in the first week of March 2006.

Obvious problems arise when information is handled in this way. First, the lack of information about the source makes it difficult to assess reliability.[66] Secondly, lack of context can undermine preparation of an appropriate response. Finally, when isolated pieces of information are shared in this way a reasonable response of the recipient is to suspect that they are being manipulated. There is no easy way to resolve all these concerns, but one lesson from bilateral relationships is that appropriate protocols for receiving and protecting sensitive information is a useful start.[67]

Signals intelligence relationships

For much of the twentieth century it was human intelligence that captured the imagination of writers and conspiracy theorists, placing spies and double agents in locations sometimes more exotic and action-packed than their real world counterparts.[68] By the turn of the century, however, the spread of electronic communications and the rise of the Internet led to greater worries about eavesdropping and the perfect medium through which to share individual obsessions. Today, a quick search can locate once highly classified information, as well as lists of suggested words for email attacks designed to overwhelm the US-dominated signals intelligence network.

Though popular with paranoiacs, such concerns are not limited to them. A 1998 report to the European Parliament warned bluntly that all email, telephone, and fax communications in Europe were routinely intercepted by the US National Security Agency;[69] in April 2004 the EU committed €11 million over four years to developing secure communications based on quantum cryptography, which would theoretically be unbreakable by any surveillance system, specifically including the US-led ECHELON network.[70]

The reach and capacity of this network remains the subject of speculation, but its basic history is now essentially a matter of public record.[71] In 1947 the United States and Britain signed the United Kingdom–USA Intelligence Agreement, known by the shorthand 'UKUSA'; Australia, Canada, and New Zealand signed protocols the following year. The agreement forms the basis for a signals intelligence alliance that links the collection capacities of the US National Security Agency (NSA), Britain's Government Communications Headquarters (GCHQ), Australia's Defence Signals Directorate, the Canadian Communications Security Establishment, and New Zealand's Government Communications Security Bureau. Comparable to the burden sharing by the United States and Britain in the Second World War, the five UKUSA countries assumed responsibility for overseeing surveillance of different parts of the globe.[72] They also agreed to adopt common procedures for identifying targets, collecting intelligence, and maintaining security; on this basis, they would normally share raw signals intelligence as well as end product reports and analyses.[73] Other countries later joined as 'Third Parties',[74] but it is the five original members whose relationship is the closest — so close that it is said that 'home' and 'foreign' contributions can be difficult to distinguish.[75] Though almost certainly an exaggeration, the hyperbole reflects the deep and long-standing ties that emerged from the Second World War and were formalised at the beginning of the Cold War.[76]

The success of this relationship is clearly not replicable at a larger level. The trust that makes it possible derives from common interests, language, and protocols, as well as from the history that underpins them. Indeed, the foundation of the relationship appears to have depended significantly on the personal trust shared by Winston Churchill and Franklin D. Roosevelt. Nonetheless, it demonstrates the possibility for national agencies to have close, even automatic sharing of intelligence with foreign counterparts. This is easier, perhaps, in the case of signals intelligence that is more susceptible to combined efforts given the scale of information to be swept up and analysed. Human intelligence, by contrast, is valued precisely for its scarcity and sharing of HUMINT even among the UKUSA countries is limited.[77]

Regional organisations

Members of a regional organisation are more inclined to share intelligence based on shared threats rather than shared geography. The African Union does not have much experience in this area, nor do the various institutions established over the years in Asia and the Americas. The Association of Southeast Asian Nations (ASEAN), for example, pledged to expand intelligence exchange following the 11 September 2001 attacks, but meaningful cooperation at a multilateral level runs against three decades of more limited relations.[78] Western Europe, by contrast, has modest experience through the trans-Atlantic security alliance established with the United States and Canada during the Cold War, and more recently in efforts to develop a common foreign and security policy for the European Union. Such sharing as actually takes place, however, is largely bilateral rather than multilateral.

As was seen in the case of the United Nations, the military generally has a more pragmatic approach to intelligence sharing than its civilian counterparts. This is true of NATO. Though not as tightly knit as the UKUSA countries, NATO enjoys a level of mutual trust that is unlikely to form within the United Nations.[79] That trust is not unlimited, however, and has not extended to granting NATO any form of collection capacity. Instead, the Intelligence Division of NATO's International Military Staff relies on intelligence supplied by NATO member states, which it then collates, assesses, and disseminates. The Intelligence Division also coordinates the production of NATO strategic intelligence estimates and other intelligence products.[80] The limited amount of intelligence that is shared in this way is supplemented by a second, unofficial system of national cells said to exist 'behind green baize doors', which provide private briefings to selected audiences.[81]

Even operating under a UN mandate, NATO is less reticent about using terms like intelligence: in Bosnia and Herzegovina, intelligence formed the largest division in the Sarajevo headquarters of the NATO-led Stabilisation Force, with 75 intelligence professionals in the combined joint staff.[82] When conducting military operations, operational and tactical intelligence continues to be provided by national contingents.

Despite the European Union's ongoing identity crisis, it has been generally accepted that joint EU operations and, eventually, a common foreign and security policy require the sharing of intelligence.[83] Activity in this area has developed fitfully and has also focused on joint military activity but with the potential for greater cooperation in civilian activities and strategic intelligence to develop common threat assessments. The limits of such cooperation were exposed when Austria and Belgium proposed the creation of a new European Intelligence Agency in March 2004 as part of EU counter-terrorism efforts. This was rejected by larger European powers jealous of their secret intelligence functions,[84] but also because it would complicate Britain's relationship with the United States — precisely the intention of some other EU members — and might run foul of EU civil liberties protections.

An Intelligence Division does exist within the EU Military Staff, but it is restricted to compiling threat assessments based on national intelligence for dissemination through the European Security and Defence Policy structure. This may comprise strategic planning, but responsibility ends when the EU political authorities approve a military strategic option.[85] Intelligence support for ongoing operations is fed directly into the chain of command, complementing intelligence produced by deployed forces.[86]

The European Union also has an imagery intelligence agency, the EU Satellite Centre in Torrejón, Spain. The name of this body is somewhat misleading, however, as it neither owns nor operates any satellites. Instead it obtains images from the Helios I satellite (jointly operated by France, Spain, and Italy) and purchases others commercially. There is also limited sharing in the area of border police, though the Schengen Information System and Customs Information System are essentially decentralised networks that function as a kind of 'wanted' list.[87] Both are examples of a proliferation of EU-wide networks that share information but not necessarily intelligence as understood in the present context.

Europol, by contrast, defines itself as the EU 'law enforcement organisation that handles criminal intelligence'.[88] Established as a clearing house for intelligence on terrorism and serious international crime, Europol lacks executive powers and operates in significant part

through Europol Liaison Officers seconded from national agencies. As an intelligence sharing forum it may be less important than the Club of Berne, a regular gathering of European security intelligence chiefs that has met since 1971.[89]

Finally, the European Union has a Joint Situation Centre. Established in 2000, it was initially composed of staff from the Intelligence Division and the Policy Planning and Early Warning Unit tasked with preparing daily reports and press summaries. It later assumed a more traditional intelligence function with the secondment of intelligence analysts from seven EU states.[90] This caused none of the angst experienced by its counterpart in the UN Department of Peacekeeping Operations[91] and is explicitly intended as a channel for the intelligence agencies of those states to feed information into the European Union. The centre is given a 'Watchlist' and establishes priorities for assessments that are disseminated to the High Representative, the Political and Security Committee, the EU Military Staff, and the Policy Planning and Early Warning Unit.[92] Its capacity was substantially limited by its total number of analysts remaining at seven, though from 2004 this has been increased.

Arms control regimes

Members of arms control and non-proliferation agreements have a clear shared interest in verifying the implementation of such agreements. Intelligence has long formed a part of this process but in an unusual way: a number of such agreements — prominently the Anti-Ballistic Missile Treaty and the Strategic Arms Limitation (SALT I) Treaty of 1972 — rather than encouraging sharing instead merely prohibit interference with intelligence efforts ('national technical means') aimed at verifying compliance. Unilateral verification still remains the most important check on compliance, but the establishment of comprehensive regimes in the area of nuclear proliferation has begun to change this.

Originally established in 1957 as an 'atoms for peace' organisation, the International Atomic Energy Agency (IAEA) promotes the peaceful use of nuclear technology and verifies that it is not being used for military purposes. This dual role has led to predictable conflicts

and occasional calls for the division of the agency into two entities. The Nuclear Non-Proliferation Treaty, signed a decade after the IAEA was created, segregated the world into nuclear and non-nuclear states, requiring those without nuclear weapons to accept 'safeguards' negotiated with the IAEA to prevent the diversion of nuclear energy from peaceful uses.[93] Formally, the administration of these safeguards consists of verifying information provided by the state in question; in practice, there is considerable reliance on information provided by other states.[94]

The IAEA lacks a collection capacity as such, but employs experts who are able to assess information in their possession. This works when states provide information but is least effective against those with the most to hide. By the mid-1990s the rules governing inspection and verification had come to be seen as inadequate and the IAEA developed a more stringent Model Additional Protocol, though only one-third of states parties to the Non-Proliferation Treaty have ratified it.[95] In 2004 the UN High-level Panel on Threats, Challenges and Change recommended that the IAEA Board of Governors should recognise the Model Additional Protocol as a new basic standard for IAEA safeguards.[96]

The role of third states in providing information is explicitly provided for in the IAEA Statute, article VIII of which states that each member should 'make available such information as would, in the judgement of the member, be helpful to the Agency'.[97] The IAEA itself is to 'assemble and make available in accessible form' all such information, but there is no evidence that this requirement is taken literally.[98] On the contrary, there are occasional suggestions of the importance of intelligence provided by third states in the verification process. In the case of Iran, for example, the IAEA's Board of Governors passed a resolution in 2003 calling for 'urgent, full and close co-operation' by third states in clarifying outstanding questions on Iran's nuclear programme[99] and later 'noting with appreciation' that it had 'received some information from other states that may be helpful'.[100]

One of the reasons the IAEA can be relatively open about such activity is that its role in handling confidential information is long-standing.

The IAEA Statute prohibits staff disclosing 'any industrial secret or other confidential information'.[101] The Model Additional Protocol goes further, requiring the agency to maintain 'a stringent regime to ensure effective protection against disclosure of commercial, technological and industrial secrets and other confidential information', which includes protocols for the handling of confidential information, conditions of staff employment relating to the protection of such information, and procedures to deal with breaches of confidentiality.[102]

Similar provisions are included in the Chemical Weapons Convention, drafted in 1993, which has a 'Confidentiality Annex' aimed largely at protection of commercially sensitive information. Among other things, the annex provides that dissemination of confidential information within the Organisation for the Prohibition of Chemical Weapons (OPCW) shall be strictly on a 'need-to-know basis' and that staff shall enter into individual secrecy agreements covering their period of employment and five years afterward. In the case of a serious breach, the Director-General may waive the immunity protecting a staff member from prosecution under national law.[103] These protections exist even though the OPCW has significantly less intrusive inspection powers than available under the IAEA's Model Additional Protocol.[104] The Biological and Toxin Weapons Convention presently lacks any form of inspection regime; the most recent efforts to develop an inspection protocol foundered in mid-2001, in large part due to opposition by the US biodefence establishment and objections from the US pharmaceutical and biotechnology industries that inspections would be costly and might compromise trade secrets.[105]

One way of avoiding concerns about international organisations handling sensitive information is to bypass them. On 31 May 2003 US President George W. Bush announced the creation of the Proliferation Security Initiative (PSI), a partnership of countries drawing upon national capacities to interdict shipments of weapons of mass destruction. As a kind of ongoing coalition of the willing, PSI provides a framework for 'rapid exchange of relevant information' and cooperation in the interception and searching of vessels and aircraft suspected of transporting illicit weapons.[106] It has been effective as a means of

enhancing participation in this US-led endeavour — primarily intended to deter trade in prohibited weapons with North Korea — but at the cost of criticism for its lack of public accountability and its political divisiveness. PSI is also seen as undermining more traditional (and, it is argued, more legitimate) mechanisms such as the United Nations and the emerging regime of the Law of the Sea.[107]

Police cooperation

Police cooperation is one of the newer areas in which intelligence may be shared bilaterally or through an international organisation such as Interpol and Europol.[108] Since many countries have domestic legal constraints on their police assuming intelligence functions, it is also one of the more controversial activities. A second problem is how to reconcile the police function of gathering evidence for possible prosecution in court, with the intelligence function of assessing threats for a more active response. (This will be considered further in chapter two, below.)

The International Criminal Police Organisation, known as Interpol, was established in 1923 to facilitate cross-border criminal police cooperation; today it has 182 member countries. It provides three 'core services': a communications network linking national police forces, maintaining databases and analytical services on criminal activity, and proactive support for police operations worldwide.[109] These activities are in increasing order of their controversy, as Interpol's operational responsibilities have traditionally been heavily circumscribed. Interpol's 'red notices', for example, are not international arrest warrants but rather requests to national authorities for provisional arrest of an individual, pending extradition to another state. Intelligence sharing has nonetheless become increasingly important as Interpol assumes a more active presence in counter-terrorism through initiatives such as the Fusion Task Force. To be effective, this will need to overcome long-standing cultural barriers to the sharing of information between intelligence agencies and police, and among police forces themselves.[110]

Improving the handling of intelligence within international organisations

Increasing intelligence cooperation with multilateral organisations faces many difficulties. Multilateral intelligence sharing remains unusual — in part due to concerns about how sensitive information is handled, but also due to the ways in which bilateral intelligence sharing itself can be used to further the national interest. That being said, the practice of ad hoc intelligence sharing in multilateral forums has grown significantly and will continue to do so.

Although bodies such as the UN Security Council or the IAEA Board of Governors may occasionally call for 'information' sharing in particular areas, there are no practical ways of compelling countries to divulge intelligence unless it bears on their own alleged misdeeds and can be the subject of punitive action. Drawing upon the practice of intelligence sharing in the range of institutions discussed in this chapter, however, it is possible to sketch out some means of encouraging more efficient and effective cooperation.

Central, of course, is the building of trust. But trust can be understood as embracing three distinct elements that encourage closer intelligence ties. The first is recognition of common interests — most obviously in the case of the US–British alliance formed during the Second World War, but also applicable to ongoing US–Russian intelligence contacts on nuclear weapons. Secondly, the strength of a relationship may be connected to its longevity; states and their intelligence services are rightly wary of untested partners. Thirdly, candour in such relationships depends on reliance on the recipient's capacity to handle information appropriately, with the strongest intelligence relationships reflected in common classification levels and procedures.

Replicating all of these at the international or even the regional level is not possible: almost by definition the national interest broadly understood requires the pursuit of advantage over other states; historical trust takes time, though it may be supplemented by strong personal relationships; and security protocols are only as good as their implementation. Nevertheless, states increasingly recognise that

counter-terrorism and counter-proliferation depend on international cooperation and that effective cooperation requires good intelligence. And, as this chapter has demonstrated, such intelligence sharing through international organisations does indeed have a history — albeit an inconstant one. What remains is to examine how the ability of international organisations to handle classified information provides an ongoing barrier to intelligence sharing. This will be considered in the areas of structures, procedures, and culture.

Structures

Bilateral intelligence sharing rarely takes place between governments as such; instead, it tends to operate between specific agencies or sometimes at the working level. Strengthening the capacity to receive intelligence requires the identification of appropriate paths through which it may flow.

These need not be located within the organisation. The UN peace operation in the Congo during the 1960s, for example, relied upon the secondment of existing national capacities for technical collection such as signals intelligence and imagery; this practice was repeated in subsequent operations, most prominently during inspections in Iraq. If such secondment or, more accurately, subcontracting becomes more common, it is possible that intelligence collection under the auspices of the United Nations could develop in a manner comparable to the use of force. The provisions in the UN Charter concerning Security Council enforcement actions presume the existence of agreements with member states to make forces available to the Council 'on its call'.[111] No such agreements have been concluded and action now takes place either in the form of peacekeeping — creatively located by UN Secretary-General Dag Hammarskjöld in 'Chapter VI½' of the Charter — or delegated action under Chapter VII. The precise legal basis for such delegation remains in dispute but with more than ten operations authorised to use 'all necessary means' that dispute will remain confined to the pages of law journals.[112] Subcontracting out intelligence collection is a way of keeping such activities at arm's length from the organisation, but merely defers the question of how the product is handled and begs the question

of how it is analysed. Unless the organisation has a capacity to handle the raw product it will not be provided with resources to evaluate it.

Another way of avoiding structural change is through reliance on certain trusted nationals within a given organisation. In the United States, this is specifically endorsed in legislation limiting intelligence sharing with the United Nations to protect sources and methods: provision of intelligence to 'appropriately cleared United States Government personnel serving with the United Nations' is exempted from the general requirement for the president to report to congressional committees on the volume and types of intelligence that have been provided to the United Nations.[113] Even within NATO the 'green baize doors' referred to earlier allow member states to share information with their nationals that they would not share with the organisation as a whole. Such an approach remains common in practice, but has been opposed as an explicit policy within the United Nations — demonstrated by the gratis military officers episode.[114] Within headquarters this can lead to occasional misunderstandings; in the field it can be disastrous. The first force commander of the UN Protection Force in the former Yugoslavia, Lieutenant General Satish Nambiar, had no access to NATO intelligence because he was an Indian national;[115] a Canadian in the same operation who had NATO clearance received US satellite photographs but was not permitted to show the images to his French commanding officer.[116]

The question of which agencies within international organisations should be designed to receive intelligence must be considered together with the question of how that intelligence will be analysed. Some options will be considered below in chapter two. Suffice to say that intelligence is more likely to be shared with a unit that is seen as supporting the national interest of the state concerned and is able to offer some assurance that the information provided will not leak. In practice, this means a unit concerned with counter-terrorism or counter-proliferation and one that is small and isolated from the larger workings of the international organisation. Other forms of sharing will continue — notably the provision of tactical intelligence to peace operations — but terrorism and proliferation will be the focus of discussion here.

Processes

The United Nations is — with justification — regarded as something of a sieve.[117] Historically this was due to penetration by its members' intelligence services; today it is more generally attributed to a lack of rigour.[118] The UN Secretariat, for example, has no official policy on information security. Practices have emerged over time with occasional efforts at codification, but even where policies do exist there is little or no guidance on how they should be implemented. As a result, security classifications tend to be applied subjectively and inconsistently — the first assessment of the security risk associated with a document is frequently made only when a member of the public seeks to retrieve it from the UN archives.[119]

A 1984 administrative instruction provided guidelines for handling sensitive information originating with the Secretary-General. 'SG-Confidential' (formerly 'Secret') was to be applied to records the disclosure of which 'could be expected to cause damage to the proper functioning of the United Nations'. 'SG-Strictly Confidential' (formerly 'Top Secret') was to be applied to records the disclosure of which 'could be expected to cause grave damage to confidence in the Secretary-General's Office(s) or to the United Nations'.[120] These categories are now used across the Secretariat, as evidenced by a document on humanitarian contingencies prepared three months before the 2003 war in Iraq marked 'strictly confidential' — and swiftly posted on the Internet.[121] Code cables (encrypted faxes) from UN missions are by default categorised as strictly confidential, though this is frequently unjustified by the content.[122] Classification is, in any case, of limited use as it does not correspond to specific protocols either for protecting information or disseminating it.[123] In the field, military officers serving in UN peacekeeping operations have been known to misread the ad hoc term 'UN-Classified' as 'unclassified'.

In the absence of a coherent policy, an informal practice has emerged of using routing slips to limit distribution of a document by marking it 'no distribution', 'eyes only', or 'UN restricted'. Though controlling dissemination is an important part of document security, limiting

protection in this way loses the central purpose of estimating the damage caused by information being disclosed and thus putting in place procedures to guard against that occurring. A warning that a file should not be distributed beyond a specific office or department does not advise how that office or department should protect its contents. It may, in fact, cause other problems by preventing cooperation or exacerbating turf battles between departments if that is the level at which dissemination is limited.

If the United Nations or any other international organisation is to develop a capacity to use intelligence provided by national agencies it must develop its capacity to control sensitive information.[124] Indeed, US law requires the President to certify that procedures are in place to prevent the unauthorised disclosure of sources and methods connected to any information that might be shared with the United Nations.[125] Such procedures could be restricted, initially at least, to specific agencies dealing with counter-terrorism and counter-proliferation, perhaps also extending to peace operations and the Executive Office of the Secretary-General, and would comprise four basic elements.

First, security levels should reflect an assessment of the potential damage that disclosure of information would cause. The vast majority of states have adopted classification levels of confidential, secret, and top secret; if the aim of improved security protocols is to facilitate receipt of classified information from governments it makes sense to model classification on their own systems.[126] Drawing upon the practice of states, each marking would be applied to information, the unauthorised disclosure of which could reasonably be expected to cause different levels of damage to the United Nations, its personnel, or its mission. The person classifying the information should be able to describe the damage as well as estimating its severity. 'Confidential' would denote the possibility of damage, such as prejudicing relations with member states or undermining confidence in the United Nations. 'Secret' would mean the possibility of serious damage, for example raising international tensions with the possibility of conflict, or seriously damaging the operational effectiveness of the United Nations. 'Top secret' would denote the possibility of exceptionally grave damage, such as leading to widespread loss of life or threatening directly

the stability of a member state, or severely undermining the capacity of the United Nations to function. Staff should be encouraged to classify documents as low on this scale as possible, given the burdens that higher classification imposes.[127]

Secondly, these classifications must correspond to tiered security protocols. For example, all material that is classified confidential or higher should be physically locked away in hard copy and password protected in soft copy. Secret and top secret material should be distributed only with a chain of receipts, with top secret documents being distributed only in numbered copies; in some governments this has traditionally been done in hard copy but it is possible to have comparable electronic procedures using commercially available software. The ability to receive such material should reflect some form of security clearance and background check — although in practice most likely relying heavily on previous access to sensitive information within the organisation — but should also be limited by a need-to-know principle that staff only seek and receive access to classified material necessary for their work. At the same time, the process of classification should normally set an in principle date for declassification.[128]

Thirdly, staff of an international organisation should be required to sign confidentiality agreements and educated to regard sensible use of information as an integral part of their work. It is common in intelligence agencies and some foreign services to find large posters warning of the dangers of loose lips, reminders to lock desks, and so forth. Such campaigns could easily be adapted to an organisation like the United Nations, or at least specific units within it. This should ideally be part of a larger effort to change the way information — classified and unclassified — is handled.[129] UN Secretariat staff do sign a declaration or code of conduct in which they are enjoined not to 'intentionally alter, destroy, misplace or render useless any official document', though this is not the same thing as keeping such documents secure.[130] Standards of conduct adopted by the International Civil Service Commission cite the serious consequences that disclosure of confidential information may have for the efficiency and credibility of an organisation; such obligations, it is stressed, do not cease upon separation from service.

But these injunctions are then followed by an extraordinary rider: 'It is understood that these provisions do not affect established practices governing the exchange of information between the secretariats and member States, which ensure the fullest participation of member States in the life and work of the organizations.'[131] It may be unrealistic to expect UN employees to feel patriotism of the kind encouraged by intelligence agencies, but in order for the reforms advocated here to work established practices will need to change.

Finally, there should be disciplinary procedures available in cases of breach of these obligations. It should be emphasised that this is envisaged for very limited circumstances within selected units of an organisation like the United Nations and is not intended to prevent whistle-blowers disclosing abuse or misconduct within the organisation. Nonetheless, if the organisation is to increase its ability to draw upon sensitive information it must reassure governments that those handling such information bear some responsibility comparable to their national counterparts. Though the United Nations is unable to threaten the sort of penalties imposed by states,[132] appropriate measures could range from the lowering of an employee's security clearance and demotion, to dismissal and the waiving by the Secretary-General of the individual's immunity from prosecution in a country whose national security legislation had been breached.

There should be no illusion that the United Nations is ever going to make itself completely secure against espionage. When states with interests and resources are determined to acquire information they will probably succeed in doing so. Rather, the aim is to make this more difficult and to limit the routine leakage of information so that although secrets may still be stolen, they are not given away.

Culture

The UN predisposition against intelligence originally extended even to avoiding encrypted transmissions. This is no longer official policy but may still lead to perverse results. At one point in the Bosnian conflict, Scandinavian soldiers in the UN Protection Force (UNPROFOR)

were monitoring the impact of mortar fire from Serb units outside a besieged Muslim town and duly reporting to UN force headquarters the location of the hits. Unknown to them, the Serb forces were listening to UN radio communications and using this information to improve their accuracy.[133]

Some of the reforms proposed in this section are taking place already — though typically in an ad hoc and reactive manner. Members of the UN Special Commission (UNSCOM) in Iraq, for example, at one point despaired of the weak encryption offered by their standard UN software, which they soon discovered was being intercepted and decrypted by Iraqi intelligence (and which they assumed was being monitored by the United States). Unable at the time to obtain stronger US software, they switched to the freeware program Pretty Good Privacy (PGP).[134] Also beginning with the Iraq inspections process, the Security Council has passed resolutions mandating that certain information be protected as confidential. This has included information provided by governments concerning Iraqi efforts to acquire weapons[135] and, more recently, information provided to the Al Qaeda Sanctions Committee.[136] In a slightly different context, the International Criminal Tribunal for the Former Yugoslavia has been given the power to enforce contempt of court orders against publishing the names of witnesses that had been ordered suppressed.

Changing the culture of an organisation like the United Nations takes time; in contrast to the foreign ministries with which it deals, the United Nations lacks the benefit of decades or centuries of administrative experience. It is also clear, however, that dysfunctional practices have been encouraged by the lack of any strategic guidance from the secretaries-general. Even as such a cultural change is encouraged, however, two caveats must be lodged concerning the possible impact of greater access to classified material.

The first is the danger of overvaluing intelligence. Officials with limited past access to intelligence may attach disproportionate weight to information bearing the stamp 'secret', or which is delivered by the intelligence service of a member state. Since any such material will normally be provided without reference to the sources and methods that produced it, credulity must be tempered by prudence.

The second caveat is the corresponding danger of undervaluing unclassified or open source material. Intelligence is sometimes likened to quality journalism; a reasonable corollary is that good journalists frequently produce material that is comparable to the intelligence product of some services. The United Nations itself collects large amounts of information and analysis, though it tends not to be organised systematically. In addition, non-governmental organisations are increasingly providing better and timelier policy advice than the United Nations and, on occasion, its member states. One of the more prominent is Crisis Group: despite its centrality as a threat for Australia and its obvious interest to the United States, the best work on the nature and structure of Jemaah Islamiyah (JI) was undertaken by Crisis Group's Sidney Jones.[137] In a speech in December 2004 the British Secretary of State for International Development alluded to the importance of such organisations:

> The world, including the UN, has insufficient early warning and strategic analysis capability. We are not good at foreseeing the need for or reacting swiftly to develop peace support, preventative and peacebuilding operations. In the past, developing countries have been opposed to development of such capacity at the UN, perceiving it as an intelligence capability. To compensate, donors have funded external capacity within academic institutions in New York which the UN has used. This is no substitute for internal UN capacity. We must convince developing countries of the case for strengthening the UN's information gathering, analysis and policy capacity as we grapple with what to do about states that are failing.[138]

This caused considerable anxiety among some of the organisations concerned, whose effectiveness depends in part on not being identified with intelligence activities at all.

There are limits to what is possible in terms of developing a UN capacity to handle sensitive information. But there is reason to

hope that it might be improved. When Iraq delivered a declaration of its weapons programmes in December 2002 as required by Security Council resolution 1441 (2002), it was provided to the UN Monitoring Verification and Inspection Commission (UNMOVIC) for transmission to the Council. Shortly after the 12,000 page report arrived in New York, however, it was taken by US officials to Washington — ostensibly due to the 'superior photocopying facilities' of the United States, but in reality to ensure security during the photocopying and to have sensitive nuclear-weapons material removed prior to distribution to the non-permanent members of the Council.[139] On the one hand this demonstrated the limited trust on the part of the United States for the United Nations to protect the information during the sanitising and copying procedures. At the same time, however, the reasons for US anxiety were that nuclear-weapons material might reach the ten non-nuclear states; some small encouragement might therefore be taken from the fact that UNMOVIC was allowed to handle the document at all.

Chapter 2

Intelligence and evidence

Interested policy-makers quickly learn that intelligence can be used the way a drunk uses a lamp post — for support rather than illumination.

—Thomas Lowe Hughes,
The Fate of Facts in a World of Men, 1976[140]

Over two years after the 2003 war in Iraq, London's *Sunday Times* published a secret memorandum that recorded the minutes of a meeting of British Prime Minister Tony Blair's senior foreign policy and security officials. Convening eight months prior to the invasion, their discussion of Iraq policy focused more on Britain's relationship with the United States than on Iraq itself. John Scarlett, head of the Joint Intelligence Committee, began the meeting with a briefing on the state of Saddam's regime. This was followed by an account of meetings with senior officials of the Bush Administration from Sir Richard Dearlove, head of Britain's Secret Intelligence Service (MI6), known as 'C'. His report was summarised in the memorandum as follows:

> C reported on his recent talks in Washington. There was a perceptible shift in attitude. Military action was now seen as inevitable. Bush wanted to remove Saddam, through military action, justified by the conjunction of terrorism and [weapons of mass destruction]. But the intelligence and facts were being fixed around the policy. The [US National Security Council] had no patience with the UN route, and no enthusiasm for publishing material on the Iraqi regime's record. There was little discussion in Washington of the aftermath after military action.[141]

Selectivity and apparent manipulation of intelligence in the lead-up to the Iraq war has been the subject of considerable discussion, as has the failure to plan for post-conflict operations.[142] Less attention has been paid to the manner in which intelligence was eventually introduced into the United Nations.

Prior to Colin Powell's February 2003 presentation there had been much talk of an 'Adlai Stevenson moment', referring to the tense scene in the Security Council in October 1962 when the US Ambassador to the United Nations confronted his Soviet counterpart on its deployment of missiles in Cuba. 'Do you, Ambassador Zorin, deny that the USSR has placed and is placing medium- and intermediate-range missiles and sites in Cuba?' Stevenson had asked in one of the more dramatic moments played out in the United Nations. 'Don't wait for the translation! Yes or no?' 'I am not in an American courtroom, sir,' Zorin replied, 'and I do not wish to answer a question put to me in the manner in which a prosecutor does—' 'You are in the courtroom of world opinion right now,' Stevenson interrupted, 'and you can answer yes or no. You have denied that they exist, and I want to know whether I have understood you correctly. I am prepared to wait for my answer until hell freezes over, if that's your decision. And I am also prepared to present the evidence in this room.' Zorin did not respond. In a *coup de théâtre* Stevenson then produced poster-sized photographs of the missile sites taken by US spy planes.[143]

This exchange highlights the problem Powell confronted four decades later and a key dilemma in the use of intelligence in bodies such as

the United Nations. Powell was presenting intelligence on Iraq that was intended to demonstrate Saddam Hussein's non-compliance with previous Security Council resolutions. His audience heard, however — and was intended to hear — evidence. This was perhaps necessary given the various audiences to whom Powell was speaking: the members of the Council, the US public, world opinion more generally. But it meant that the onus of proof subtly shifted from Iraq being required to account for the dismantling of its weapons to the United States asserting that such weapons were in fact in Iraq's possession. Lacking evidence as compelling as Stevenson's, Powell persuaded only those who were already convinced.

The fact that US and British intelligence was essentially wrong on the central question of Iraq's weapons programmes naturally dominates consideration of this issue — though it bears repeating that UNMOVIC's Executive Chairman Hans Blix also believed that Iraq retained prohibited weapons.[144] This chapter examines the somewhat different question of how comparable intelligence might be used in bodies such as the Security Council in future. Ambassador Zorin was correct, of course, that the Council is not a courtroom; it lacks the legitimacy and the procedures necessary to establish guilt or innocence. Nonetheless, as Stevenson replied, it may function as a chamber in the court of world opinion. In such circumstances, the limitations of intelligence as a form of risk assessment intended to guide action may conflict with the desire of policymakers to use intelligence — like the drunk at the lamppost — to support their decisions.

These issues will be considered in four sets of circumstances in ascending order of controversy: when intelligence is used as a tool of conflict prevention by the United Nations; when it is used in the context of counter-proliferation; when it supports counter-terrorism measures; and when it justifies a pre-emptive military intervention. The reason the United Nations is used in such situations is the legitimacy it gives to actions that might otherwise be deemed unwise or illegal; if that legitimacy is to apply to decisions made on the basis of intelligence then the UN needs some form of capacity to evaluate it.

Early warning and conflict prevention

The United Nations was established to save succeeding generations from the scourge of war.[145] Early warning and the prevention of conflict would therefore seem to be one of its most natural tasks; indeed, the sole power given to the Secretary-General in the UN Charter is that of bringing to the attention of the Security Council any matter that, in his opinion, threatens international peace and security.[146] Common sense suggests that the Secretary-General's opinion should ideally be an informed one. Common sense rarely determines the structure of international organisations, however. In practice, as discussed earlier, there has been great reluctance to provide the office with any form of analytical support. Even with existing capacities, however, the manner in which intelligence and other information has been used as a tool of conflict prevention leaves much to be desired. Rwanda was the most prominent but hardly the only example of this.

The failure to prevent or halt the genocide that began in Rwanda in April 1994 is rightly regarded as a failure of political will; it also gives the lie to any assumption that improved intelligence will necessarily improve decision-making. There was no shortage of information about the genocide in Rwanda — certainly not after the killing began. There was, on the contrary, a concerted effort on the part of some states to avoid using the language of genocide that might have invoked obligations under the Genocide Convention to respond.[147] Better use of the available intelligence probably would not have prevented the genocide, but it might have made it harder for key actors to ignore it.

In August 1993, a week after the signing of the Arusha Peace Agreement between the Rwandan government and the Rwandese Patriotic Front, the United Nations published a report by Bacre Waly Ndiaye, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions. He documented massacres and assassinations, often some distance from the hostilities then underway between the government and rebel forces. Though he stated that it was not his role to determine whether genocide as such was taking place, he noted that Tutsis were being targeted solely due to their membership of that ethnic group.[148] He

recommended a series of steps intended to prevent further massacres, but a subsequent inquiry found that his report was largely ignored by key actors within the UN system.[149]

A more urgent warning came on 11 January 1994 when the Canadian force commander of the UN mission helping implement the Arusha Agreement (UNAMIR), Major-General Roméo Dallaire, sent a code cable to UN Headquarters under the title 'Request for Protection for Informant'. Drawing upon information from a highly placed government source (later revealed to be the Prime Minister designate, Faustin Twagiramungu), the cable detailed preparations for the massacre of Tutsis and plans to kill Belgian peacekeepers in the expectation — subsequently proven correct — that this would cause Belgium to withdraw its troops from UNAMIR. In addition to safeguarding his informant, Dallaire proposed to seize some of the weapons being stockpiled. Acknowledging the potential dangers, he nevertheless concluded with a call to action: '*Peux ce que veux. Allons-y.*' ['Where there's a will, there's a way. Let's do it.']ial[150] Then Under-Secretary-General for Peacekeeping Kofi Annan, in a cable signed off by his deputy, Iqbal Riza, ruled out any forceful action on the basis that it would have exceeded the mandate given to UNAMIR by the Security Council. Dallaire and the civilian Special Representative of the Secretary-General, Jacques-Roger Booh-Booh, were instructed instead to report the matter to the Rwandan President. The response from UN Headquarters ended with the pointed statement that 'the overriding consideration is the need to avoid entering into a course of action that might lead to the use of force and unanticipated repercussions.'[151]

These exchanges have been the subject of inquiries and some criticism of the United Nations and the man who three years later became Secretary-General.[152] It is now clear, however, that the intelligence services of France, the United States, and Belgium knew at least as much or more than the United Nations about the preparations for genocide in Rwanda. The French human intelligence service, the Direction Générale de la Sécurité Extérieure, was then actively supporting the Hutu-dominated government; diplomats and military officers had discussed the risk of genocide from around 1990 and

some had predicted it from October 1993.[153] In late January 1994 an analyst at the Central Intelligence Agency produced three estimates of the loss of life in the event of renewed conflict in Rwanda, the worst of which was half a million deaths. His superiors appear not to have taken this assessment seriously.[154] And in February 1994 the Belgian Ministry of Foreign Affairs wrote to its ambassador to the United Nations warning of a potential genocide and urging him to strengthen UNAMIR to avert this.[155]

Days after the genocide began, US officials appear to have gathered satellite imagery and other intelligence indicating the scale of violence in the capital.[156] In a memoir written a decade after his service in Rwanda, Dallaire noted that US intelligence agencies shared such intelligence with UNAMIR 'once in a blue moon'.[157] While the killings were underway he was informed that the United States had learned of plans for his assassination: 'I guess I should have been grateful for the tip,' he writes, 'but my larger reaction was that if delicate intelligence like this could be gathered by surveillance, how could the United States not be recording evidence of the genocide occurring in Rwanda?'[158]

The UN Secretariat, for its part, was complicit in playing down the bloodshed. Though the United States notoriously cautioned its officials in writing to avoid the word 'genocide',[159] other countries and the Secretariat also engaged in euphemisms. At the height of the genocide, Boutros Boutros-Ghali referred to the Rwandans as a people who had 'fallen into calamitous circumstances' — suggesting that the genocide was some kind of natural disaster.[160] Stating that UNAMIR's position had become untenable, Boutros-Ghali outlined three options for the Security Council's consideration: a massive reinforcement; reduction of the UN's commitment to a small group headed by the Force Commander and supported by a staff of about 270, which would attempt to bring about agreement on a cease-fire; or complete withdrawal.[161] The members of the Council accepted the political cover provided by the Secretary-General and in resolution 912 (1994) decided to 'adjust the mandate of UNAMIR … as set out in paragraphs 15 to 18 of the Secretary-General's report'. Thus the Council embraced the second option, meaning that the number of

peacekeepers would be reduced by nine-tenths, even as the number of corpses continued to grow.[162]

Five years later, an independent inquiry concluded that a major problem in the UN response was the weakness of political analysis in both UNAMIR and at UN Headquarters. UNAMIR lacked a capacity for intelligence analysis; Headquarters lacked the resources for early warning and risk analysis. 'Much could have been gained by a more active preventive policy aimed at identifying the risks for conflict or tension, including through an institutionalised cooperation with academics, NGOs and better coordination within different parts of the United Nations system dealing with Rwanda.'[163] Responsibility for this lack of analytical capacity was said to fall primarily on the Secretariat under the leadership of the Secretary-General.[164]

Even as the report on Rwanda was being written in 1999, the United Nations was preparing for a popular consultation in East Timor (Timor-Leste) that also suffered more from a poverty of analysis than a lack of intelligence. Despite reports of militia preparing for violence in the event of a vote for independence, Indonesia's consent to the process was dependent on retaining responsibility for peace and security. It was therefore not possible to push for international troops on the ground. The Indonesian cabinet, meanwhile, appeared to rely on remarkably bad intelligence of its own that in a free vote the Timorese would choose to remain within Indonesia — or, perhaps, that the result would be close enough to dispute. Officials in the United Nations and concerned governments anticipated precisely the opposite result, but were constrained from planning openly for independence by the delicate political balance that had made a vote possible in the first place. This set the stage for a very swift transition, with little planning for either the logistics of independence or management of the inevitable political crisis it would cause within Indonesia.[165]

The use of Australian intelligence at this time remains a topic of some controversy. Reports subsequently emerged of efforts on the part of Canberra to downplay concerns about security in East Timor raised by, among others, the United States; an Australian Defence Intelligence Organisation liaison officer at the Australian Embassy

in Washington, DC, committed suicide in June 1999 while under investigation for passing AUSTEO (Australian Eyes Only) material to his US counterparts. Whatever the merits of the specific allegations, the episode clearly strained US–Australian relations in the short term.[166]

There are many other examples of failed or inadequate early warning. The number of successful cases is harder to establish — as Sherlock Holmes once observed, it is difficult to establish why a dog *didn't* bark on a given night. A possible success is Nepal, where seminars were convened and experts brought in to discuss a potential UN operation well in advance of deployment and, thus far, the descent into outright civil war.

Once again, Iraq provides an ambiguous example: early planning for what might happen after a US invasion did begin in late 2002 but was abruptly terminated in December over concerns that the very existence of a planning cell might undermine the position of UN weapons inspectors then in Iraq. A confidential internal 'pre-planning' report was then commissioned in February 2003 and promptly leaked to the press.[167] The United Nations is rightly wary of the impact of such contingency-planning on crisis situations and its own effectiveness, but gets into more trouble when there is no planning at all.

A decade earlier, at the height of expectations of what the United Nations might achieve after the Cold War, Boutros Boutros-Ghali laid out grand plans in *An Agenda for Peace*. Among other things, he called on member states to 'be ready to provide the information needed for effective preventive diplomacy'.[168] One problem with this approach, where the United Nations served as the passive recipient of crumbs of intelligence, is that those countries on the brink of internal conflict tend not to be where the major powers with intelligence capacity are directing their efforts. A second problem, as indicated in the case of Rwanda and the earlier discussion of Eastern Zaïre,[169] is that where intelligence is provided it is typically done in a self-serving manner to help implement rather than formulate policy.

The difficulty of developing the capacity to assess the intelligence and other publicly available information within the United Nations has not stopped efforts to do so. In addition to the short-lived Office

for Research and the Collection of Information and the abortive Information and Strategic Analysis Secretariat, the High-level Panel convened in 2004 called for the creation of a Peacebuilding Commission with an early warning capacity and a support office that would submit six monthly early warning analyses. These were designed to help the Commission organise its work.[170] When the Secretary-General drew upon this to present his own vision of the Peacebuilding Commission, he specifically removed any suggestion of an early warning function — anticipating the reaction of governments wary that they might be precisely the ones under scrutiny.[171] A second attempt by the High-level Panel to strengthen early warning by creating a Deputy Secretary-General for Peace and Security was dropped entirely.[172] The outcome document of the 2005 World Summit did resolve to develop early warning systems for natural disasters, in particular tsunamis, but early warning of man-made disasters was the subject for a more tepid call for the international community to support the United Nations in developing such a capability at some point in the unspecified future.[173]

Counter-proliferation

The more direct threat posed by the proliferation of weapons of mass destruction focuses attention more squarely on the need for intelligence. As a result, this area of practice provides the clearest examples of systematic cooperation between an international organisation and the intelligence services of its members — as well as the dangers inherent in such relationships. Intelligence sharing in counter-proliferation has been considered in general terms earlier; here the focus will be on the efforts to disarm Saddam Hussein's regime in Iraq.[174] To be sure, Iraq was a highly unusual case of intrusive inspections in the context of the extraordinary series of measures adopted by the UN Security Council following the expulsion of Iraq from Kuwait in 1991. Nevertheless, the lessons learned from the two inspection missions — UNSCOM and UNMOVIC — bear directly on the larger question of what role the United Nations and other organisations can and should play in counter-proliferation activities in the future.

Security Council resolution 687 (1991), which provided the ceasefire terms at the end of Operation Desert Storm, established a 'Special Commission' (UNSCOM) to implement the destruction of Iraq's chemical and biological weapons programmes; the IAEA was to play a similar role in relation to Iraq's nuclear programme.[175] A subsequent resolution encouraged states to provide UNSCOM with 'the maximum assistance, in cash and in kind' in fulfilling its mandate — support that was understood at the time to include intelligence.[176]

The initial attitude of UN officials to such a relationship with member states was cautious. An UNSCOM inspection team leader noted national fears that sharing intelligence might compromise sources and methods, while at the same time the United Nations and the IAEA were anxious that 'their moral purity would be ruined' if they had that access.[177] Over time such reticence appears to have diminished. In addition to increased informal contacts, the Security Council in 1996 specifically called upon states to supply UNSCOM and the IAEA with 'such information as may be sought by them' in implementing the mechanism controlling Iraqi imports and exports.[178] By 2002 intelligence cooperation with UNSCOM's successor mission was being more openly requested:

> [The Security Council requests] all Member States to give full support to UNMOVIC and the IAEA in the discharge of their mandates, including by providing any information related to prohibited programmes or other aspects of their mandates, including on Iraqi attempts since 1998 to acquire prohibited items, and by recommending sites to be inspected, persons to be interviewed, conditions of such interviews, and data to be collected, the results of which shall be reported to the Council by UNMOVIC and the IAEA.[179]

The nature of intelligence cooperation with UNSCOM can be considered in three discrete areas. First, in the area of technical collection, UNSCOM had access to imagery from high-altitude U-2 planes from the United States. The U-2 operations were initially closely held by the

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United States, from mission tasking to development and control of the images. Later UNSCOM assumed some control of tasking and, with US approval, the handling and sharing of imagery.[180] US satellite imagery was also provided, though at times with reduced detail in order to protect sources and methods. Video cameras and other unmanned sensors were installed at sensitive dual-use sites, transmitting information to the Baghdad Monitoring and Verification Centre. The German government provided helicopters with ground penetrating radar. Signals intelligence was supported by Britain, which provided sensitive communication scanners to monitor Iraqi military communications.[181] The Baghdad office also employed counterintelligence measures to guard against Iraqi espionage, supplemented by unorthodox tactics such as running air conditioners as loud as possible and using a large whiteboard instead of speaking.[182] This was unlikely to be effective against surveillance by those states providing the hardware and, in some cases, the personnel for UNSCOM's operations.

The most important revelations, however, came from a second area: human intelligence. Though UNSCOM was not running spies as such, high-level defections encouraged far greater disclosure by Iraqis than anything discovered through technical collection. One defector, Hussein Kamal, had directed Iraq's Military Industrial Commission and was one of Saddam Hussein's sons-in-law. Cooperation with UNSCOM was not the purpose of his defection — it is assumed that he was attempting to gain international support for a *coup* against Saddam — but his disclosures to UNSCOM, Western intelligence agencies, and the media about Iraq's deception of the inspectors prompted a flood of new documents from Iraq, 1.5 million of which were 'discovered' on a chicken farm belonging to Kamal southeast of Baghdad. Failure to disclose the documents was explained by Iraq as due to Kamal's own 'illegal' conduct, and accompanied by new pledges of cooperation with the inspectors. (Six months later, Kamal and his brother, also married to one of Saddam Hussein's daughters, had been fully debriefed and were becoming an embarrassment to their hosts in the Jordanian royal court. A move to more humble accommodation and the homesickness of the two women appear to have persuaded them to take seriously the offer of a complete pardon from Saddam Hussein. The

couples duly returned to Iraq and within twenty-four hours the Kamal brothers were divorced and executed.)[183]

A third aspect of UNSCOM's intelligence activities was the creation of an analytical capacity. From its inception in 1991 UNSCOM depended heavily on both US information and analysis. In August that year it created an Information Assessment Unit to analyse and store imagery and inspection reports, as well as to conduct liaison with nations providing information to UNSCOM. The first four staff members were, not coincidentally, from Canada, Australia, France, and the United States.[184] Six years later, as he left UNSCOM, UNSCOM's first Executive Chairman, Rolf Ekéus looked back on the creation of the unit as a singular achievement.

> This capability of UNSCOM changed the character of the sharing of intelligence data with us from a mere trickle to a broad stream of data, supported by professional and multilayered cooperative efforts. The confidence in UNSCOM's competence in this area has grown quickly over the years so that now several governments allow the sharing of information on a large scale involving high-quality intelligence. As a consequence, UNSCOM is now much better informed about most aspects of Iraq's activities related to its weapons of mass destruction programs than is any individual government.[185]

Ekéus had earlier cited the unit as part of a response to Iraqi challenges that UNSCOM employed CIA agents. Naturally inspectors received briefings from various services, he acknowledged, but such information was then evaluated by the Information Assessment Unit: 'Sometimes it's impressive, sometimes it's useless.'[186] It later became clear, however, that UNSCOM's relations with intelligence services went beyond the mere provision of information. Such accusations dogged Ekéus' successor, Australian diplomat Richard Butler, whom Scott Ritter, a former inspector, later accused of putting US interests ahead of the UN's.[187] Writing in the *New Yorker*, Seymour Hersh detailed

efforts by the CIA to use UNSCOM to collect information about Iraq that was unrelated to inspections. From April 1998, Hersh wrote, the CIA took control of a recently enhanced information system that had been penetrating Iraqi efforts to conceal its weapons programme but now was focused on monitoring Saddam Hussein himself.[188]

Butler disputes allegations of collusion with US intelligence: 'Is it possible that some member state could have somehow taken advantage of UNSCOM personnel or facilities for its own intelligence-gathering purposes? I can't know for certain. It is conceivable that a supplier country could have hidden some intelligence-gathering capability into equipment it had supplied us. If that happened, however, it was without my knowledge or approval.'[189] At the very least he appears to have been misled by US officials, though to little effect in the short term. As Hersh concluded, the result of the US hijacking of UNSCOM's intelligence activities — actual or perceived — was that Saddam survived but UNSCOM did not.[190]

The relationship between UNSCOM and member states providing intelligence was always going to be fraught. As indicated earlier, intelligence is rarely shared on an altruistic basis; at the very least interests must be seen to be aligned. In addition to the United States, UNSCOM's relationship with Israel's military intelligence service, Aman, raised eyebrows — U-2 imagery sent to Israel for assistance in analysis could easily be used for other purposes, such as future espionage or military operations.[191] Such concerns were made unusually explicit in a report submitted to the Security Council in March 1999, four months after the withdrawal of UNSCOM staff from Iraq and the ensuing US military strikes known as Operation Desert Fox:

> Any information should be assessed [by future inspectors] strictly on the basis of its credibility and relevance to the mandate. The substantive relationship with intelligence providers should be one-way only, even if it is recognized that dialogue with providers may be necessary for clarifications and refinement of assessments. The [ongoing monitoring and verification] mechanism should not be

used for purposes other than the ones set forth in Security
Council resolutions.[192]

By the time UNMOVIC commenced inspections in Iraq the process
could not have been more politicised. The role of intelligence providers
was also being discussed more openly. Briefing the Council on
19 December 2002, UNMOVIC Executive Chairman Hans Blix noted
that sites to be inspected in Iraq following the return of inspectors
included not only those that had been declared by Iraq or inspected in
the past, but also 'any new sites which may become known through
procurement information, interviews, defectors, open sources,
intelligence or overhead imagery.'[193] In February 2003, as the prospects
for avoiding war diminished, Blix responded to Colin Powell's briefing
of the Security Council. 'We are fully aware that many governmental
intelligence organizations are convinced and assert that proscribed
weapons, items and programmes continue to exist,' he observed.
Governments, of course, had access to sources of information that were
not available to inspectors. Intelligence had, however, been useful to
UNMOVIC. 'In one case, it led us to a private home where documents
mainly relating to laser enrichment of uranium were found. In other
cases, intelligence has led to sites where no proscribed items were found.
Even in such cases, however, inspections of these sites were useful in
proving the absence of such items and in some cases the presence of
other items — conventional munitions. It showed that conventional
arms are being moved around the country and that movements are not
necessarily related to weapons of mass destruction.'[194]

The number of states participating in this effort also increased.
US U-2 and French Mirage surveillance aircraft were soon to be
supplemented by night vision capability through an aircraft offered to
UNMOVIC by Russia, as well as German unmanned aerial vehicles for
low-level surveillance. Blix was able to thank these countries publicly
for their assistance, as well as Cyprus for the use of its airfields.[195] At
the same time, in an effort to avoid the problems experienced by his
predecessors, Blix endeavoured to limit intelligence flows to one-way
traffic. This led to some criticism that such a policy cut UNMOVIC off

from lower-level intelligence contacts that would not share findings without something in return.[196]

The inspections regime in Iraq was exceptional in both its intrusiveness and its explicit reliance on intelligence provided by the services of interested states. Larger lessons are, therefore, to be drawn with caution. UNSCOM and UNMOVIC are, arguably, a warning to the United Nations against relying upon the intelligence agencies of member states and thereby being tainted with accusations of collusion.[197] They are also examples of both a precedent for and the effectiveness of an analytical capacity in a UN operation handling intelligence. In part it was the ad hoc and contingent nature of cooperation with intelligence services that appears to have undermined the inspectors' independence; if one is quite literally dependent on the United States for imagery, Israel for analysis, Britain for communications intercepts, and so on, it is not a strong bargaining position from which to insist that this assistance should come without conditions.

More than ten years into the inspections there was some evidence of capacity being developed. Though Ekéus might have been indulging in hyperbole in 1997 when he suggested that UNSCOM knew more than any government about Iraq's weapons,[198] by early 2003 Hans Blix and Mohamed ElBaradei, Director General of the IAEA, were in a position to question assertions made by the United States before the Security Council about what Iraq did and did not possess. This is seen by some as precisely the reason why the United Nations should *not* be allowed to develop this capacity — an odd coincidence of views that aligns such states with those who possess the illicit weapons.

The question of whether such activities are appropriate for the United Nations will remain linked to the troubled question of Iraq policy for some time to come. It is possible that intrusive inspections will be used again in the context of disarmament — Iran and North Korea are plausible candidates — but for the time being the Security Council has focused its attention on more general obligations in the area of counter-proliferation. In April 2004, following the revelations of nuclear smuggling by Pakistani scientist A.Q. Khan, the Council passed resolution 1540 (2004), requiring all states to criminalise proliferation

of weapons of mass destruction to non-state actors and impose effective domestic controls over such weapons and their means of delivery.[199] This suggested a slightly different role for the Council, more akin to that which it was playing in the area of counter-terrorism.

Counter-terrorism

The United Nations is unlikely to become a significant actor in counter-terrorism activities in an operational sense for the foreseeable future. Direct action against terrorists by police and military actors will be undertaken by national agencies; monitoring of specific terrorist activities will be closely held by the interested states. The importance of the United Nations lies in its universal membership, providing opportunities for exchange of information, adoption of common standards, and implementation of broad responses such as targeted financial sanctions.

Universality comes at a price. In the September 2005 World Summit delegates adopted the strongest statement recorded in the United Nations against terrorism, but were unable to agree on a definition of what they were condemning.[200] The United Nations may be a useful forum for sharing information, but exchanges tend to remain bilateral, with limited scope for UN involvement beyond encouraging this.[201] The High-level Panel on Threats, Challenges and Change urged the United Nations to promote a comprehensive strategy on counter-terrorism, including better instruments for global counter-terrorism cooperation, including in the areas of 'law enforcement; intelligence-sharing, *where possible*; denial and interdiction, when required; and financial controls'.[202]

UN efforts to provide a normative framework for counter-terrorism had been in limbo for some years before the 11 September 2001 attacks on the United States. Twelve international conventions had been concluded on various aspects of the problem — one from the 1960s, four each from the 1970s and 1980s, and a further three from the 1990s — but ratification had been patchy, with only Botswana and Britain being party to all twelve conventions.[203] Two weeks after the attacks on

the World Trade Center and the Pentagon, the Security Council passed resolution 1373 (2001), a highly unusual document that filled many of the normative gaps left by this patchwork of conventions through Security Council fiat.[204] The resolution required all states to prevent and suppress the financing of terrorist acts, freeze terrorist funds, and criminalise the perpetration of terrorist acts.[205] Among other things, it also established a Counter-Terrorism Committee and called upon states to report in 90 days on the steps they had taken to implement the resolution.[206]

Agreement on resolution 1373 (2001) was possible in part because of the extraordinary circumstances in which it was adopted, but also because it neatly avoided the question of defining terrorism.[207] The question of whether such resolutions of general application — rather than responding to a specific threat to international peace and security — are an appropriate expression of the Council's power has been the subject of vigorous debate in the international legal literature.[208] Here the focus will be on what these developments have meant for the sharing of intelligence.

Resolution 1373 called on states to increase cooperation in the sharing of information,[209] but the greatest impact has been in the work of the Counter-Terrorism Committee. This committee of the whole — that is, consisting of all fifteen members of the UN Security Council — adopted guidelines for the conduct of its work a few weeks after its creation. One of the three guiding principles was said to be transparency, but prudence dictated that the Committee would normally meet in closed session and put in place mechanisms to keep information confidential if the provider requested it or the Committee thought it appropriate to do so.[210]

The Counter-Terrorism Committee does not handle intelligence in the manner that, say, UNSCOM did. As originally constituted, it relied exclusively on reports from member states and lacked any independent capacity to determine whether those states were in fact implementing the measures reported. By early 2004 a consensus had emerged that the Committee required greater powers. A January 2004 report proposed 'the creation of a small team dedicated to gather information from other sources or the possibility to ask for concrete information to other

parts of the UN System'.[211] A subsequent 'Revitalisation Report' set as one of its goals the improvement of the Committee's 'ability to collect information for monitoring the efforts of member States in their fight against terrorism'.[212] This was broadly endorsed by the Council and led to a reorganisation of the Committee and the creation of the Counter-Terrorism Committee Executive Directorate (CTED).[213] This move raises the possibility that the Committee's current allotment of carrots, in the form of technical assistance, may at some point be supplemented by some sticks.

Speaking at a meeting in Russia of the heads of intelligence and law enforcement agencies in March 2005, Javier Rupérez, Executive Director of the CTED, stressed the important role of such services as the first line of defence in fighting terrorism. Intelligence services in particular 'have the capacity to observe the evolution of the terrorist phenomenon, to prevent its actions and to alert governments to its threat and new modalities'; combating the common enemy of terrorism requires conducting such activities in harmony.[214]

The role of the United Nations in any such harmony will not extend beyond that of chorus. Facilitating information sharing and norm development will remain important tasks, with an agreed definition of terrorism remaining a high priority. But an unresolved question is whether the functions currently delegated to subsidiary organs of the Security Council, such as the Counter-Terrorism Committee and its Executive Directorate, will expand. Creation of the Executive Directorate regularised the positions of consultants who had previously fulfilled the monitoring function of the Counter-Terrorism Committee; they continue to operate separately from other groups of consultants hired to assist other committees of the Security Council working on sanctions against Al Qaeda and the Taliban, sanctions and other measures against other terrorist actors, and counter-proliferation. If only for reasons of efficiency it appears desirable to rationalise these various supporting offices whose mandates are recognised as overlapping.[215]

More ambitiously, this group of about three dozen staff, many of whom come to the United Nations from the intelligence services of member states, could form the basis of a small analytical unit that would do more

than monitor implementation of specific Security Council resolutions and instead advise on areas where Council activity is required. The experience of other sanctions regimes does not suggest that this is a probable turn of events. Though the Council now routinely provides for assessments of the humanitarian consequences of sanctions and investigations of violations, it has strongly resisted any efforts to create a capacity to determine whether a given regime is actually working to bring about the desired political change.[216]

Pre-emptive military intervention

There is even less enthusiasm for entrusting greater responsibility to the United Nations for determining when the use of force is appropriate. The Charter's general prohibition in this area is probably its most important normative achievement. The only two exceptions to the prohibition are self-defence and Security Council authorised enforcement action. The Charter did not offer a complete definition of self-defence, however, providing instead in article 51 that the Charter should not impair the 'inherent right of individual or collective self-defence if an armed attack occurs'. With respect to Security Council action, the only formal requirement to invoke the enforcement powers of Chapter VII of the Charter is a determination that a 'threat to the peace' exists and that measures short of the use of force would be inadequate. In neither case is there an indication in the Charter of what evidence, if any, must be adduced in order to justify a claim of self-defence or recourse to Chapter VII. Thus, when the United States presented evidence of Iraq's alleged violations of past Council resolutions, there were no procedures to evaluate the veracity and accuracy of that evidence or, indeed, to make any independent findings of fact.

These problems are not new to the United Nations. In the area of self-defence, the emergence of nuclear weapons led to sustained debate as to whether the requirement for an armed attack to occur should be taken literally. 'Anticipatory self-defence' became a sub-theme in the literature, which typically cites Israel's actions in the Six-Day War of 1967 and its destruction of Iraq's Osirak nuclear reactor in 1981. The

normative impact of either case is debatable, however. The 1967 war provoked mixed views in the General Assembly;[217] the Osirak incident, which successfully derailed Iraq's nuclear programme for some years, is viewed positively today but was unanimously condemned at the time by the Security Council as a clear violation of the Charter.[218] Other incidents are occasionally cited by commentators, but states themselves have generally been careful to avoid articulating a right of self-defence that might encompass the first use of force — even if they have been unable or unwilling to rule it out completely.[219]

One year after the 11 September 2001 attacks, the United States released a National Security Strategy that justified and elaborated a doctrine of pre-emptive intervention.[220] The document recognised the new strategic reality in which non-state actors were an increasing threat to countries like the United States and not susceptible to deterrence. Raising the spectre of a terrorist or rogue state attack using weapons of mass destruction, it stated that the United States would act pre-emptively to 'forestall or prevent such hostile acts by our adversaries'.[221] This sparked vigorous debate about the limits of such a policy, particularly when combined with the stated aim of dissuading potential adversaries from hoping to equal the power of the United States and when followed so swiftly by the US-led invasion of Iraq — though the formal basis for that war was enforcement of Security Council resolutions.[222] In part due to the difficulties experienced on the ground in Iraq, the rhetoric from the White House toned down significantly over the following years, though this has not removed the need for greater consideration of the circumstances in which self-defence might legitimately be invoked against a non-state actor or a state manifestly unable to be deterred.

The High-level Panel attempted to address this problem by drawing a line between the controversial issue of pre-emptive action and an even more radical doctrine of preventive war. Where the former was broadly consonant with earlier arguments for a right of anticipatory self-defence, the latter was a direct challenge to the prohibition of the use of force itself. The Panel concluded that a state may take military action 'as long as the threatened attack is *imminent*, no other means

would deflect it and the action is proportionate.'[223] This glossed over the many legal questions discussed earlier but was intended to discredit the larger evil of a right of preventive war: if good arguments can be made for preventive military action, with good evidence to support them, the Panel concluded, these should be put to the Security Council, which can authorise such action if it chooses to do so.[224]

But is the Council in a position to assess such evidence and make such decisions? The history of Council decision-making when authorising military action does not inspire confidence: it has been characterised by considerable flexibility of interpretation, tempered mainly by the need for a pre-existing offer of a state or group of states to lead any such action.[225] There have been attempts to make Council decision-making more rigorous, including efforts to limit the veto power of the five permanent members, but these will remain the most politicised of all questions raised in the United Nations.

It is possible, then, that the Council's consideration of the threat posed by Iraq in late 2002 and early 2003 was as much as could be expected. The provision of intelligence by the United States, though it produced no Adlai Stevenson moment, was an attempt to use the Council as a forum for decision-making as well as a vehicle for advancing a foreign policy agenda. Indeed, one reason the US was prepared to share so much intelligence was that — whatever the outcome of discussion in the Council — the human and technical sources of that intelligence were not going to remain in place much longer.

Yet it remains striking that the three countries most active in the initial hostilities had significantly different assessments of Iraq's actual weapons of mass destruction capacity. Drawing upon similar but more limited material available to the United States and Britain, for example, Australian assessments of Iraq's weapons of mass destruction tended to be more cautious and, as a result, closer to the facts. This was true on the issues of sourcing uranium from Niger, mobile biological weapon production capabilities, the threat posed by smallpox, Iraq's ability to deliver chemical and biological weapons via unmanned aerial vehicles, and links between Al Qaeda, Iraq, and the September 11 terrorist strikes in the United States.[226] A multilateral approach to intelligence sharing

might not get beyond using a body such as the United Nations as a forum, but even that — if done effectively — would mark a significant advance on current practice.

Developing analytical capacity

From the preceding discussion of early warning, counter-proliferation, counter-terrorism, and pre-emptive action it is evident that the United Nations, despite its present lack of a general capacity to handle sensitive information, is nonetheless a forum in which intelligence is frequently used to justify or implement policies. The question underlying the anecdotal evidence presented in this section is whether it is possible and desirable to equip the organisation with the means to make a substantive contribution to such policy questions. Member states have historically been wary of giving the United Nations an independent voice, sticking to a general divide between governance and management responsibilities: governance remains the province of the member states, while management falls to the Secretariat. This theory has never been quite so neat in practice. The best example of the ambiguity that frequently results is the role of the UN Secretary-General: at once chief administrative officer of the United Nations, the incumbent also functions as a kind of secular pope; he or she depends on states for both the legitimacy and resources that make the United Nations possible, even as his limited powers have been supplemented by delegated authority, political influence, and moral standing.[227] Similar observations have been made of the High Commissioner for Human Rights and the High Commissioner for Refugees.

Proposals to develop general analytical capacities at the United Nations have tended to be abortive or short-lived. Realism is therefore necessary in making recommendations about institutional reform. In that spirit, this subsection will outline possibilities for intelligence analysis within the United Nations — some of which are most certainly unrealistic — before moving from the conceivable to the possible and the probable.

An independent UN Intelligence Agency

It is revealing that an Internet search for 'UN Intelligence Agency' locates among its most prominent results an on-line role-playing game and an elaborate account of how the United Nations has conspired to suppress evidence of extraterrestrial life. Although the word 'intelligence' itself is no longer regarded as an inappropriate topic of discussion in the United Nations, there is little prospect of an independent collection capacity being created in the foreseeable future.

The possible exception is within peace operations. As discussed earlier, peace operations have in practice developed at least tactical intelligence to respond to threats on the ground and have typically drawn upon the intelligence of member states with regard to knowledge of the theatre and the parties. A more recent innovation dating from around 2003 is the proposal to create Joint Mission Analysis Cells (JMACs)[228] to bring together the various analytical capacities of an operation with a view to providing guidance to the head of mission. Tolerated at the field level in a handful of operations — though formally established only in Haiti[229] — there has been strong resistance from some members of the Non-Aligned Movement to allowing such an analytical capacity to be extended to the strategic level. A driving force in this area has been mission security, especially following the bombing of the UN compound in Baghdad in August 2003. To date JMACs have been dominated by their military components: these provide most of the information as well as analytical competence; tactical military units are also the first to seek access to the relevant product in order to inform their day to day operations in the field. In the Democratic Republic of the Congo — four decades after the ONUC operation set up the first quasi-intelligence capacity — the current UN peacekeeping operation has expanded this to include what is effectively an intelligence component of the Eastern Division of MONUC, comprising basic signals and imagery intelligence capacity, as well as a special forces component.[230]

Strategic analysis in the Secretariat

A more plausible proposal is to develop some kind of strategic analysis capacity within the Secretariat. This would not collect intelligence as such, but integrate what the United Nations receives from member states with the large amount of information gathered by the UN itself in reports from the field and the array of open source material publicly available. This has, of course, been tried before and failed.[231] Such experience is a reason for caution but not despondency.

Avoiding the pitfalls of past efforts depends in part on clarifying the difference between collection and analysis or assessment. At the same time, those countries most concerned about the United Nations assuming a more active role in early warning are frequently those also concerned about the fact that it is presently beholden to the intelligence services of the United States and, to a lesser extent, Europe. Developing a capacity to evaluate intelligence provided to the United Nations should make it more independent: it would enable the United Nations itself to determine whether information is useful, rather than relying on national agencies deciding whether the UN 'needs to know'; it would give greater opportunity for the corroboration of different sources; and, if it led to more routine intelligence cooperation, it would mitigate concerns that when occasional pieces of intelligence are shared the information provided is partial or biased.

It is worth repeating that secret intelligence as such plays a very small role in formulating an assessment and generating policy. Indeed, a danger with developing an analytical capacity is that it could magnify the problems traditionally associated with intelligence: that it is often taken out of context, that it is over-valued because of the moniker 'secret', and that it leads to the corresponding under-evaluation of unclassified material.[232] Any such analytical body should therefore be designed not merely to be able to handle sensitive information, but also to draw effectively upon the vast amount of openly available material that is relevant to the functions of the United Nations.

The structure of such a body could vary. At its most anodyne, it could function as a kind of UN think tank. An alternative model would

be an assessments agency, similar to Australia's Office of National Assessments (ONA). Or it could take the form of a joint intelligence committee, functioning like the British body of the same name, with a small staff of its own but empowered to task member states or UN agencies with intelligence requirements and to evaluate the product that results. This last model is the least likely in the short term; the choice between the think tank and the assessments agency might turn less on the body's function than on how best to package it in a form acceptable to member states.

More important to its success and effectiveness would be the location of such an analytical capacity within the organisation. The first possibility is that it could advise the Secretary-General. The Information and Strategic Analysis Secretariat proposed in the Brahimi Report would have reported to the Secretary-General through the Department of Political Affairs and it was precisely this top-level analysis that proved most controversial. Though attitudes may have changed slightly in recent years, this is a fight with the member states that can be avoided. In any case, a small unit will not be able to cover all of the issues with which the Secretary-General is tasked. It also misses a more obvious transformation, which is to refocus the activities of the Department of Political Affairs itself on providing more strategic analysis. This might entail spinning off its operational capacities, such as the Electoral Affairs Division, and handing over responsibility for 'political missions' to the Department of Peacekeeping Operations (DPKO) — this would reflect reality, as nominally political missions in Afghanistan and Timor-Leste are in fact directed and supported by DPKO.

A second approach would be to develop an analytical capacity in support of Security Council decision-making. Though the Council frequently requests reports from the Secretary-General that may incidentally draw upon intelligence sources, what is envisaged here is, instead, a more direct form of support that would rationalise the already existing capacities associated with committees of the Council working on sanctions, counter-terrorism, and counter-proliferation.[233] This is also not a new idea, though the idea may now have greater

traction given the practice of hiring consultants to support committees of the Security Council.[234] The Director-General of the Organisation for the Prohibition of Chemical Weapons proposed something similar in 2002, suggesting the creation of a unit working for the Security Council that would facilitate intelligence cooperation under stringent confidentiality guidelines.[235] As indicated earlier, there has been great reluctance to empower the Secretariat to second guess the political decisions of the Council, though this formulation might be successful if only for reasons of efficiency.

The third possibility would be to attach an analytical capacity to specific activities, such as counter-proliferation or weapons inspections. The experience of UNMOVIC should be drawn upon here — perhaps literally. It took UNSCOM and its successor UNMOVIC some years to develop working relationships with intelligence agencies and to design systems and practices to safeguard information, quite apart from the time and expense of training staff. Though that work remains controversial, it is highly probable that the Security Council will require similar functions to be fulfilled in the future. Consequently, it has been suggested that the United Nations should maintain some sort of standing capacity in this area. One option would be to establish a new agency with comparable functions, drawing perhaps upon UNMOVIC staff as it winds down operations in Iraq. Such a body would need to coordinate its activities and expertise with the International Atomic Energy Agency, where similar reforms could be implemented. But a minimalist approach is simply to prevent UNMOVIC from completing its mandate. According to this model, UNMOVIC would be kept operating in Iraq for the foreseeable future, not on the basis that weapons are yet to be found or the new regime policed, but instead to maintain preparedness for an eventual redeployment in the next 'exceptional' operation. This would avoid the political battle over establishing a new unit in the absence of a specific crisis, while also reducing the expense of responding to that crisis. UNMOVIC's current budget is $12 million per year, in contrast with $80 million for the year 2002–2003 that included the start-up costs of the three months of inspection preceding the war. Although it has been unable to redeploy to Iraq, it maintains 60 staff in New York

and a small local staff in Baghdad, as well as maintaining a rostered inspectorate of almost 400 experts and standing arrangements with 11 laboratories around the world for sample analysis.[236] A slightly different battle would concern UNMOVIC's funding, which continues to be drawn from Iraqi oil revenues. This will soon have to be replaced by other sources of funding — ideally assessed contributions of the United Nations in order to avoid either funding shortfalls or the perception of conflict of interest were it to be funded through voluntary contributions. If successful in a small number of cases, this 'exceptional' response might lay the foundation for a more permanent body with general jurisdiction, as the International Criminal Tribunals for the former Yugoslavia and Rwanda did for the International Criminal Court.[237]

Reform of political bodies

It may be, however, that the governance-management dichotomy referred to earlier will preclude the transfer of true analytical power to the Secretariat. If so, an alternative model to be considered is reforming the structure of the UN Security Council to improve multilateral decision-making processes. A general concern about the nature of the Iraq debates of 2002–2003 was that they were so deeply politicised — both in the obvious sense of the members of the Council having different national interests that were being pursued, but also that the public theatre of the Council precluded any serious dialogue within that setting. Critics of how the United Nations was used as a forum prior to the Iraq war tend to focus on whether the United States embraced multilateralism or retreated to unilateralism; in reality, the concern for smaller states holding rotating seats on the Council was US *bi*lateralism, as the superpower sought to pressure them one by one to fall into line on Iraq. Though it would hardly guarantee an improvement in the outcome, reforms that would encourage a more genuine exchange of ideas between the powers represented on the Security Council are at least worth exploring.

It would be possible to hold special sessions of the Security Council for this purpose, perhaps encouraging annual meetings of intelligence

officials from those countries represented on the Council. An alternative would be to draw upon an existing arrangement whereby the five permanent members of the Council meet every two weeks at the professional level. The Military Staff Committee was established in 1945 to advise and assist the Security Council on the 'employment and command of forces placed at its disposal'.[238] As no forces were ever placed at the disposal of the Council, this provision remains little more than a curiosity. The Military Staff Committee has, nonetheless, continued to meet once every two weeks since February 1946; in over fifty years, it has done nothing of substance since it reported to the Council in July 1948 that it was unable to complete the mandate given to it two years previously. Meetings, which comprise representatives of the joint chiefs of staff of the five permanent members of the Security Council, presently last a couple of minutes. There have been occasional proposals to revive the Committee, but insofar as these have presumed that the Security Council should exercise oversight of national military forces they have not been taken seriously. Efforts to abolish it, however, as recommended by the High-level Panel and the Secretary-General in recent reform proposals, have been unsuccessful due to the opposition of member states — notably those represented on the Committee.[239]

The possibility of using the Military Staff Committee as a forum for exchanging intelligence was discussed briefly in the High-level Panel process but regarded as a non-starter. This appears to have been part of a Russian proposal that has been aired from time to time and would give the body a greater role in coordinating the military aspects of the Council's work, including intelligence sharing. An obvious problem with such an approach is that it privileges the permanent members of the Security Council, which are the only standing members of the Committee. (The UN Charter provides for other members to be invited as needed, as well as the possibility of establishing regional sub-committees.[240]) But these members are privileged already. Speaking in April 2005, Russian Foreign Minister Sergey Lavrov, who had previously served as Russia's Ambassador to the United Nations, opposed the abolition of the Committee, urging that it could help avoid what he regarded as the inappropriate custom of forcing states participating in

a UN enforcement operation to align themselves behind a 'lead nation'. At the same time, he stressed the possibility that such an arrangement would encourage a move from bilateralism to multilateralism:

> In bilateral affairs a confidential relationship has become established between each of the permanent members of the UN Security Council, and the transfer of this trust into the Military Staff Committee format as well, probably, would send a very important signal to all those who are talking about the need to somehow review the bases of the functioning of the UN, once the Organization is not always efficient.[241]

It may be that such proposals from Russia, echoed by China,[242] are in reality attempts to leverage their permanent status on the Security Council into greater influence on US rather than UN decision-making. Even so, the possibility of the Council meeting at the professional level — and the chance that the representatives discussing intelligence on the matters on its agenda might actually know what they are talking about — is worth exploring.

Encouraging multilateralism

A fourth approach to potential reform would be through encouraging multilateralism in intelligence assessments. If member states are not prepared to empower an international organisation to prepare assessments, or to develop multilateral institutions to encourage a freer exchange of intelligence, it is possible that some states might, on an ad hoc basis, present joint findings to a multilateral body that would have greater credibility than their individual assessment alone. If, for example, it were not the United States making an assertion about Iran's nuclear weapons capabilities or North Korea's intentions, but an agreed assessment prepared by the United States together with Britain, or a common European Union position, this might be seen as more persuasive than a unilateral assertion.

There is a danger that pressure to come to an agreed conclusion might put additional political pressure on an intelligence service to reach conclusions that satisfy the larger political imperatives of maintaining an alliance. Nevertheless, one lesson from Iraq has been that uncritical reliance on the intelligence of alliance partners can lead to bad policy. This is true both for Australia's reliance on US intelligence concerning Iraq, but also for the United States' treatment of British intelligence, most spectacularly the inclusion in President Bush's 2003 State of the Union Address of the sixteen words: 'The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.'[243]

Maintaining the status quo

Finally, it might be argued that the present arrangement is either tolerable or the best that can be expected. The Council, in the end, did not support US assertions as to Iraq's weapons programmes and as a result the United States bore most of the financial and human consequences — contrasting, for example, with the 1991 Gulf War in which most of the expenses of the war were covered by US allies. Some would go further and suggest that the experience of how intelligence was used and abused in the lead-up to the Iraq war will make the United States more cautious about how it makes a case before the Council in future and other states more wary of believing it. This is probably true and is precisely the problem that the reforms outlined in this section are intended to address: the danger now is not that the Council will be overly credulous but that it will ignore both good intelligence and bad. The reforms outlined in this chapter are intended in part to improve the manner in which intelligence is used in multilateral forums such as the United Nations, but also to encourage greater participation in the decision-making process itself.

Conclusion

If it were a fact, it wouldn't be intelligence.

— Lt. Gen. Michael V. Hayden,
Director of the US National Security Agency, 2002 [244]

Shortly after the Madrid bombings of 11 March 2004, the UN Security Council passed a resolution condemning the attacks, which it stated were 'perpetrated by the terrorist group ETA.'[245] The resolution was adopted despite German and Russian efforts to include in the text the modifier 'reportedly' to reflect uncertainty about this attribution, which appeared to be intended to bolster the Aznar government's chances in a national election held three days later. It was soon established that the uncertainty was well-founded, though even the subsequent arrest of extremist Islamists did not prompt a correction, an apology, or even a statement from the Council.[246]

There are few consequences for the Council itself when it is wrong. Entrusted to deal with 'threats' to international peace and security, it was designed as an inherently political body and cannot be expected to function as a court of law — though it is no longer tenable to pretend that it does not at least function as a kind of jury. The latter role has been expanded by the Council's move into areas where the determination of a threat to the peace is far more complex than tracking troop movements across international borders. This is only part of a

larger transformation in the activities of the Council: instead of merely responding to such threats, it increasingly acts to contain or pre-empt them. Its expanding responsibilities have ranged from the listing of alleged terrorist financiers for the purposes of freezing their assets to administering territories such as Timor-Leste and Kosovo. These activities have prompted calls for greater accountability of the Council, or at least wider participation in its decision-making processes.

As the Council has begun to act in the sphere of counter-terrorism and counter-proliferation, its dependence on intelligence findings has introduced slightly different legitimacy problems. A useful thought experiment is to consider what would have happened if the Council had accepted Colin Powell's February 2003 presentation at face value, voting to authorise a war to rid Iraq of its concealed weapons of mass destruction. For President Bush and Prime Minister Blair, the absence of weapons was a political embarrassment that could be survived. For the Council, it would have undermined the one thing that the United Nations could bring to the issue: some small amount of legitimacy.

Such situations will occur more frequently in the future. In the short term, the Council is highly likely to deal with one or both of Iran and North Korea's disputed weapons programmes. In the case of Iran there is a danger that differences of policy will be articulated in the language of differences of fact. (North Korea's assertion that it possesses nuclear weapons simplifies this issue somewhat, though not completely.) Enhancing the capacity of multilateral forums to handle intelligence and perhaps form independent assessments should help interested parties — including Iran — agree on some of the facts in order to have the necessary discussion of policy. Even if it is not possible to agree on facts, such an independent capacity might at least help limit or discredit demonstrably false assertions.

This paper has sought to begin a more serious discussion of whether and how collective security bodies such as the United Nations can and should draw upon intelligence from national agencies. The most basic conclusion is to emphasise that they already do and they must. In the absence of an international intelligence gathering capacity, states will remain the primary actors in this sphere. International organisations are

thus forced to draw upon national agencies. The result is not multilateral intelligence per se, but applications of national intelligence to serve national interests that happen to correspond to international security.[247] The prescriptions outlined in the paper are intended to ameliorate the obvious concerns of selectivity and partiality in how that intelligence is provided, and maximise the collective benefits of cooperation.

Chapter one argued that the ad hoc manner in which intelligence is provided to international organisations is at least partly driven by a lack of trust. It will not be possible to build such trust quickly, but developing processes to receive sensitive information might at least establish some basic credibility in this area and the possibility for more consistent cooperation. Chapter two explored how independent analysis might compensate for the presumed bias in what is selectively provided to an international organisation.

It is far from certain that states will be willing to expand their intelligence sharing in this way. As the discussion of bilateral intelligence relationships showed, intelligence sometimes functions as a form of currency — a fungible item that may be exchanged for other intelligence, foreign aid, or the avoidance of penalties. The value of any currency, however, depends on its scarcity. This is especially true of intelligence, where its value may be inversely proportional to its use: knowing something secret may be more important than acting on it, if to act would reveal the fact of one's knowledge. Since 11 September 2001, however, many states have significantly increased their intelligence exchanges with respect to counter-terrorism information in particular. Moving from bilateral to multilateral exchanges is a significantly riskier prospect, but practice does provide some basis to think that it is possible.

For a country like Australia this presents an opportunity and a challenge. The opportunity is that enhanced multilateral exchanges, through the United Nations or bodies such as ASEAN and its Regional Forum, offer an important means of addressing the threats posed by terrorist groups and the proliferation of weapons of mass destruction without the financial cost of expanding Australian operations or the political cost of relying overtly on US assistance. Bilateral relationships

are already cultivated in this way, but the threat posed by non-state actors requires a regional or global response. As a middle power with close ties to the United States, a credible intelligence capacity of its own, and a strong historical commitment to multilateralism, Australia has much to contribute and much to gain from such a move. The challenge is that the closeness of the US relationship and the credibility of Australia's intelligence community are enhanced precisely by the lack of a strong regional framework, which might provide new partners for the United States or dilute Australia's bilateral leverage. Quite apart from predictable concerns over closer intelligence relationships with Indonesia, China, and others, Australia must be wary of compromising its ties to the United States or being too open about its own intelligence capacity and thus demonstrating limitations and weaknesses. That being said, Australia remains in a position to influence debate on this topic, perhaps beginning with the most established international organization — the United Nations — and focusing on generally accepted threats requiring multilateral responses: the proliferation of weapons of mass destruction and terrorism.

Better intelligence and analysis will not, of course, guarantee better decisions — either at the international level or domestically. During the Second World War, Stalin is reported to have ignored eighty-four separate warnings from his intelligence services of the German invasion that took place in June 1941.[248] With respect to Iraq there appears, with hindsight, to have been little that might have derailed US plans for a military action.[249] The test should not be, however, whether reforms will prevent great powers of the day from pursuing foreign policy objectives decided at the highest levels of government. Rather, more effective use of intelligence would lay a foundation for more effective use of the multilateral forum, making it harder for states participating in that forum to ignore emerging crises or embrace unworkable policies. Over time, it may also encourage greater cooperation between states to address those threats that no one state — even the most powerful — can address alone.

Notes

1   Martin Sieff, Terrorist driven by hatred for US, Israel. *Washington Times*, 21 August 1998.
2   Patrick Radden Keefe, Cat-and-mouse games. *New York Review* LII (9), 26 May 2005.
3   Sir Rodric Braithwaite, Defending British spies: The uses and abuses of intelligence. The Royal Institute of International Affairs, Chatham House, London, 5 December 2003. Available at http://www.riia.org/pdf//R % 20Braithwaite % 205 % 20December % 2003 % 20final.doc.
4   Powell's address, presenting 'deeply troubling' evidence on Iraq. *New York Times*, 6 February 2003.
5   See Report on the US intelligence community's prewar intelligence assessments on Iraq. Washington, DC, US Senate Select Committee on Intelligence, 7 July 2004. Available at http://intelligence.senate.gov, p 14.
6   See A more secure world: Our shared responsibility (Report of the High-level Panel on Threats, Challenges and Change). UN Doc A/59/565. 1 December 2004. Available at http://www.un.org/secureworld.
7   See Michael Herman, *Intelligence power in peace and war*. Cambridge, Cambridge University Press, 1996, pp 61–81. Wider definitions of intelligence are sometimes used, such as 'information designed for action', but this would appear to encompass any data informing policy at any level of decision-making. See generally Michael

Warner, Wanted: A definition of intelligence. *Studies in Intelligence (Unclassified Edition)* 46 (3) 2002, pp 15–22.

[8] Herman, *Intelligence power*, pp 111–112.

[9] International Peace Academy, *Peacekeeper's handbook*. New York, Pergamon Press, 1984, pp 39, 59–62, 120–121. See also Carl von Horn, *Soldiering for peace*. 1st American edn. New York, David McKay, 1967, p 222.

[10] The Hon. John Howard, Address to the nation. Prime Minister of Australia, Canberra, 20 March 2003. Available at http://www.pm.gov.au/news/speeches/speech79.html.

[11] Georgie Anne Geyer, Limited tools for complex tasks. *Dallas Morning News*, 28 September 1993. Cf Warren Strobel, UN's brave new world: Peacekeeping turns complex, violent. *Washington Times*, 12 July 1993 (quoting Canadian Major-General Lewis MacKenzie to the same effect).

[12] Martin Bright, Ed Vulliamy, and Peter Beaumont, US dirty tricks to win vote on Iraq war. *Observer* (London), 2 March 2003.

[13] Colum Lynch, Spying report no shock to UN. *Washington Post*, 4 March 2003.

[14] Stephen Schlesinger, *Act of creation: The founding of the United Nations*. Boulder, CO, Westview, 2003, pp 93–94.

[15] See Simon Chesterman, 'International Law and Intelligence' (forthcoming).

[16] Cees Wiebes, *Intelligence and the war in Bosnia, 1992–1995*. Münster, LIT Verlag, 2003, pp 25–26.

[17] Connor Cruise O'Brien, *To Katanga and back*. New York, Simon & Schuster, 1962, p 76; Brian Urquhart, *Hammarskjöld*. New York, Knopf, 1972, pp 159–160.

[18] SC Res 143 (1960), para 2; SC Res 161 (1961).

[19] A. Walter Dorn and David J.H. Bell, Intelligence and peacekeeping: The UN operation in the Congo 1960–64. *International Peacekeeping* 2 (1) 1995.

[20] Ibid.

[21] Ibid.

[22] O'Brien, *To Katanga and back*, p 76.

23   Dorn and Bell, Intelligence and peacekeeping.

24   Trevor Findlay, *The use of force in UN peace operations*. SIPRI. Oxford, SIPRI & Oxford University Press, 2002, pp 51–86.

25   Nine senators try to block funds for UN office asked by US. *New York Times*, 16 April 1987; Lewis H. Diuguid, Soviets are changing their obstructionist ways at UN. *Washington Post*, 24 July 1988; A UN office looks to prevent wars. *New York Times*, 16 April 1989.

26   See the discussion of the Brahimi Report below at n 45–48.

27   Brief consideration of creating an intelligence capacity focused on early warning, encouraged by the European Community, Russia, the Scandinavian countries, Australia, Canada, and New Zealand was quickly killed: Leonard Doyle, Washington opposes spy role for UN. *Independent* (London), 20 April 1992; Mark Curtis, *The great deception: Anglo–American power and world order*. London, Pluto Press, 1998, pp 200–201.

28   Robert E. Rehbein, Informing the blue helmets: The United States, UN peacekeeping operations, and the role of intelligence. Kingston, ON, Centre for International Relations, Queen's University, 1996. Available at http://www.queensu.ca/cir/pdf/Martello16.pdf, p 30.

29   George H.W. Bush, Address before a joint session of the congress on the Persian Gulf crisis and the federal budget deficit. Washington, DC, 11 September 1990. Available at http://millercenter.virginia.edu/scripps/diglibrary/prezspeeches/ghbush/ghb_1990_0911.html.

30   George H.W. Bush, Address to the United Nations General Assembly. United Nations, New York, 21 September 1992. Available at http://bushlibrary.tamu.edu/research/papers/1992/92092100.html.   See also National security directive 74: Peacekeeping and emergency humanitarian relief policy. Washington, DC, White House, 24 November 1992. Available at http://bushlibrary.tamu.edu/research/nsd/NSD/NSD % 2074/0001.pdf.

31   George H.W. Bush, National security strategy of the United States. Washington, DC, White House, January 1993, p 18.

32   Wiebes, *Intelligence and Bosnia*, p 33.

33   This was the subject of a classified Presidential Review Directive 13, as reported in Jeffrey Smith and Julia Preston, United States plans

wider role in UN peace keeping. *Washington Post*, 18 June 1993.

[34] See, e.g., Trotting to the rescue. *Economist* (London), 25 June 1994.

[35] Clinton administration policy on reforming multilateral peace operations. Washington, DC, White House, Presidential Decision Directive 25 (PDD-25), 3 May 1994. Available at http://www.fas.org/irp/offdocs/pdd25.htm.

[36] International Peacekeeping Policy Act of 1993, introduced on 10 November 1993 and referred to the House Subcommittee on International Operations: 103rd Congress, 1st Session, HR 3503; Peace Powers Act of 1994, introduced on 26 January 1994 and referred to the House Subcommittee on International Operations: 103rd Congress, 2nd Session, HR 3744.

[37] The proposed National Security Restoration Bill resulted in the National Security Revitalization Act of 1995, passed by the US House of Representatives in February 1995 and referred to the Senate Committee on Foreign Relations with no further action taken: 104th Congress, 1st Session, HR 7.

[38] R. Jeffrey Smith and Julia Preston, US probes security for Somalia files; secret documents left unprotected by UN. *Washington Post*, 12 March 1995; Richard A. Serrano, Halt secret-sharing with UN, GOP urges congress: Republican leaders call for cutoff after classified data is left behind in Somalia. *Los Angeles Times*, 18 March 1995.

[39] National Security Revitalization Act of 1995, introduced on 5 January 1995, HR 7 (IH), s 512.

[40] Permanent Select Committee on Intelligence, Intelligence support to the United Nations (open session). Washington, DC, United States Congress, House of Representatives, One Hundred Fourth Congress, first session, CIS 96 H431-1, 19 January 1995, p 12 (statement by Toby T. Gati, Assistant Secretary of State for Intelligence and Research).

[41] F. van Kappen, Strategische inlichtingen en de Verenigde Naties. *Militaire Spectator* 170 (11) 2001, in Wiebes, *Intelligence and Bosnia*, p 31

[42] GA Res 51/243 (15 September 1997); UN: Fifth committee approves draft texts on financing and support staff for peacekeeping. *M2 Presswire*, 29 June 1998.

43   William J. Durch et al., The Brahimi report and the future of UN peace operations. Washington, DC, Henry L. Stimson Center, 2003. Available at http://www.stimson.org, p 38.

44   David M. Malone and Ramesh Thakur, UN peacekeeping: Lessons learned? *Global Governance* 7 (1) 2001.

45   Report of the panel on United Nations peace operations (Brahimi report). UN Doc A/55/305-S/2000/809. 21 August 2000. Available at http://www.un.org/peace/reports/peace_operations/, para 51.

46   See, e.g., UN Department of Peacekeeping Operations, Comprehensive report on lessons learned from United Nations assistance mission for Rwanda (UNAMIR). New York, Lessons Learned Unit, December 1996. Available at http://www.un.org/Depts/dpko/lessons/UNAMIR.pdf, p 4.

47   The initial 'E' denotes yet another acronym: the Executive Committee on Peace and Security, which was established in 1997 as 'the highest policy development and management instrument within the UN Secretariat on critical, cross-cutting issues of peace and security': Comprehensive review of the whole question of peacekeeping operations in all their aspects. UN Doc A/C.5/55/46/Add.1. 8 August 2001. Available at http://www.stimson.org/fopo/pdf/pbimprepAC55546Add1.pdf, para 3.2.

48   Brahimi report, paras 65–75. The existing units included DPKO's Policy Analysis Unit (DPKO); DPA's Policy Planning Unit; OCHA's Policy Development Unit; and the Department of Public Information's Media Monitoring and Analysis Section.

49   Brazil, for example, noted that the Secretariat should not be transformed into an intelligence-gathering institution: Fourth committee: Agenda item 86 — comprehensive review of the whole question of peacekeeping operations in all their aspects (continued). UN Doc A/C.4/55/SR.21. 16 March 2001, para 75.

50   See generally Kofi A. Annan, *The question of intervention: Statements by the secretary-general*. New York, UN Department of Public Information, 1999.

51   Report of the secretary-general on the implementation of the report of the panel on United Nations peace operations. UN Doc

A/55/502. 20 October 2000. Available at http://www.un.org/apps/docs/ws.asp?m = A/55/502, para 45.

52 Implementation of the recommendations of the special committee on peacekeeping operations and the panel on United Nations peace operations. UN Doc A/55/977. 1 June 2001. Available at http://www.un.org/apps/docs/ws.asp?m = A/55/977, paras 301–307.

53 See generally Owen Philip Lefkon, Culture shock: Obstacles to bringing conflict prevention under the wing of UN development … And vice versa. *New York University Journal of International Law and Politics* 35, 2003, pp 711–715.

54 SC Res 1368 (12 September 2001), paras 1, 3, 5.

55 Michael Byers, Terrorism, the use of force and international law after 11 September. *International and Comparative Law Quarterly* 51, 2002.

56 NATO Secretary-General Lord Robertson, Statement at NATO headquarters. NATO, Brussels, 2 October 2001. Available at http://www.nato.int/docu/speech/2001/s011002a.htm.

57 Robert Garran, Howard invokes ANZUS pact to back retaliation. *Weekend Australian*, 15 September 2001.

58 Letter dated 7 October 2001 from the permanent representative of the United States to the United Nations addressed to the president of the Security Council. UN Doc S/2001/946. 7 October 2001.

59 Simon Chesterman and Heiko Nitzschke, Les nations unies et la 'nation indispensable' dans l'ombre de l'Irak. *Le Banquet* 2004.

60 George W. Bush, Address before a joint session of the congress and the American people. Washington, DC, 20 September 2001. Available at http://www.whitehouse.gov.

61 See, e.g., Dale F. Eickelman, Intelligence in an Arab gulf state. In Roy Godson, ed. *Comparing foreign intelligence: The US, the USSR, the UK, and the third world*. Washington, DC, Pergamon-Brassey's, 1988 (discussing British intelligence assistance to Oman in the 1970s).

62 In early 1985, for example, New Zealand's newly elected Labour government announced that it would no longer allow US nuclear-armed or -powered vessels access to its ports. In response the United States threatened, among other things, to curtail signals intelligence sharing: Duncan H. Cameron, Don't give New Zealand the ANZUS

heave-ho. *Wall Street Journal*, 29 July 1986. The relationship was quietly restored soon afterwards, though the intelligence New Zealand receives today differs in quality and depth from that of the other partners. Canada has more recently suffered similar exclusion from limited intelligence following its stance on the Iraq war.

63 Scott Shane, Official reveals budget for US intelligence. *New York Times*, 8 November 2005.

64 F.H. Hinsley et al., *British intelligence in the second world war: Its influence on strategy and operations*. London, HMSO, 1981, vol 2, p 49.

65 Herman, *Intelligence power*, p 208.

66 Assessment is considered further in chapter two.

67 Cf. Preparing for the 21st century: An appraisal of US intelligence. Washington, DC, Commission on the Roles and Capabilities of the United States Intelligence Community, 1 March 1996. Available at http://www.access.gpo.gov/int/report.html, p 130.

68 For an excellent overview of this topic, see Frederick P. Hitz, *The great game: The myth and reality of espionage*. New York, Alfred A. Knopf, 2004.

69 Steve Wright, An appraisal of the technologies of political control. Brussels, European Parliament, STOA Interim Study, PE 166.499/INT.ST, 1998.

70 See Soyoung Ho, EU's quantum leap. *Foreign Policy* 144, 2004. For further information, visit http://www.secoqc.net.

71 In 1999, for example, the director of Australia's Defence Signals Directorate referred to its cooperation 'with counterpart signals intelligence organisations overseas under the UKUSA relationship': Martin Brady, Letter dated 16 March 1999 sent to the 'Sunday' Program, in Annual report 1998–1999. Canberra, Inspector-General of Intelligence and Security, Australia, 5 October 1999. Available at http://www.igis.gov.au, Annex 2.

72 Though not necessarily formalised in the agreement itself, Britain assumed responsibility for covering Europe and Africa, Australia for South-East Asia, Canada the polar regions (most importantly northern Russia), and New Zealand for the western Pacific.

73 See generally Jeffrey T. Richelson and Desmond Ball, *The ties that*

bind: Intelligence cooperation between the UKUSA countries, the United Kingdom, the United States of America, Canada, Australia, and New Zealand. Sydney, Allen & Unwin, 1985.

[74] These are said to include Norway, Denmark, Germany, Italy, Greece, Turkey, Austria, Japan, South Korea, Thailand: Jeffery T. Richelson, *The US intelligence community*. 4th edn. Boulder, CO, Westview, 1999, p 293.

[75] Herman, *Intelligence power*, p 203.

[76] See above n 64.

[77] See further Richelson and Ball, *Ties that bind*; Nicky Hager, *Secret power: New Zealand's role in the international spy network*. Nelson, NZ, Craig Potton, 1996.

[78] 2001 ASEAN declaration on joint action to counter terrorism. Bandar Seri Begawan, ASEAN, 2001. Available at http://www.aseansec.org/12636.htm (promising to enhance 'information/intelligence exchange to facilitate the flow of information, in particular, on terrorists and terrorist organisations, their movement and funding, and any other information needed to protect lives, property and the security of all modes of travel'). See further David Martin Jones and Michael Smith, The perils of hyper-vigilance: The war on terrorism and the surveillance state in south-east Asia. *Intelligence and National Security* 17 (4) 2002; Dini Djalal, Asia's intelligence gap. *Foreign Policy* 2003.

[79] Robert D. Kaplan, *The coming anarchy: Shattering the dreams of the post cold war*. New York, Random House, 2000, pp 180–181.

[80] NATO handbook. Brussels, NATO, 2003. Available at http://www.nato.int/docu/handbook/2001, ch 11.

[81] Herman, *Intelligence power*, pp 364–365.

[82] Capt. Luis Barber, CJ2 intelligence. *SFOR Informer* 102, 2000.

[83] See, e.g., Javier Solana, A secure Europe in a better world: The European security strategy. Brussels, European Council, 12 December 2003. Available at http://ue.eu.int/cms3_fo/showPage.ASP?id = 266.

[84] Patrick E. Tyler, EU aides reject a CIA for Europe. *International Herald Tribune* (Paris), 20 March 2004.

[85] Council decision 2001/80/cfsp on the establishment of the military

staff of the European union. 22 January 2001. Available at http://
ue.eu.int/uedocs/cmsUpload/l_02720010130en00070011.pdf.

[86] Björn Müller-Wille, For our eyes only? Shaping an intelligence
community within the EU. Paris, Institute for Security Studies,
European Union, Occasional Paper No 50, January 2004, p 23.

[87] Ibid, pp 21–22, 25.

[88] See http://www.europol.eu.int/index.asp?page = facts.

[89] Richard J. Aldrich, Transatlantic intelligence and security
cooperation. *International Affairs* 80, 2004, p 738. Also known as
the Berne Group, it began with six members and has grown to 17.

[90] Britain, France, Germany, Italy, the Netherlands, Spain, and Sweden:
Müller-Wille, For our eyes only?, p 29.

[91] See above n 28.

[92] Müller-Wille, For our eyes only?, p 29.

[93] Treaty on the non-proliferation of nuclear weapons. Done at
Washington, London, and Moscow. 1 July 1968. In force 5 March 1970.
Available at http://www.state.gov/t/np/trty/16281.htm., art 3.

[94] Statute of the International Atomic Energy Agency. Done at New
York. 23 October 1956. In force 29 July 1957. Available at http://
www.IAEA.org/About/statute_text.html., arts III, VIII.

[95] Model protocol additional to the agreement(s) between state(s) and the
agency for the application of safeguards - Vienna, International Atomic
Energy Agency, INFCIRC/540, 1997. Available at http://www.iaea.
org/Publications/Documents/Infcircs/1998/infcirc540corrected.pdf.
See Laura Rockwood, The IAEA's strengthened safeguards system.
Journal of Conflict and Security Law 7 (1) 2002.

[96] High-level Panel report, para 129.

[97] IAEA statute, art VIII(a).

[98] Ibid, art VIII(b).

[99] IAEA Board of Governors, Implementation of the NPT safeguards
agreement in the Islamic Republic of Iran, resolution adopted by the
board. GOV/2003/81, 26 November 2003. Available at http://www.iaea.
org/Publications/Documents/Board/2003/gov2003-81.pdf, para 6.

[100] IAEA Board of Governors, Implementation of the NPT safeguards
agreement in the Islamic Republic of Iran, resolution adopted by

the board. GOV/2004/49, 18 June 2004. Available at http://www.iaea.org/Publications/Documents/Board/2004/gov2004-49.pdf, preambular para (h).

[101] IAEA statute, art VII(F).

[102] Model additional protocol, art 15.

[103] Convention on the prohibition of the development, production, stockpiling, and use of chemical weapons and on their destruction. Done at Paris. 13 January 1993. In force 29 April 1997. Available at http://www.opcw.org., Annex on the Protection of Confidential Information ('Confidentiality Annex'), paras 2(h), 9.

[104] The routine inspection powers of the IAEA and OPCW are comparable, but it is in the area of challenge inspections that the IAEA — at least under the Model Additional Protocol — has greater power. As yet neither regime of challenge inspections has been seriously tested: Trevor Findlay, A standing United Nations WMD verification body: Necessary and feasible. Ottawa, Canadian Centre for Treaty Compliance, Norman Paterson School of International Affairs, Carleton University, December 2005. Available at http://www.carleton.ca/npsia/research_centres/cctc/docs/CC1.pdf, p 11.

[105] Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) and toxin weapons and on their destruction. Done at Washington, London, and Moscow. 10 April 1972. In force 26 March 1975. Available at http://www.opbw.org.; Michael R. Gordon, Germ warfare talks open in London; US is the pariah. *New York Times*, 24 July 2001. See further Jonathan B. Tucker, Strengthening the BWC: A way forward. *Disarmament Diplomacy* 78, 2004.

[106] Proliferation security initiative: Statement of interdiction principles. Washington, DC, The White House, Office of the Press Secretary, 4 September 2003. Available at http://www.state.gov/t/np/rls/fs/23764.htm.

[107] Mark J. Valencia, *The proliferation security initiative: Making waves in Asia*. Adelphi paper 376. Abingdon, Routledge, 2005, pp 71–73.

[108] See the brief discussion of Europol above at n 88.

[109] Interpol was established in 1923 as the International Criminal Police

Commission; 'Interpol' became the commission's telegraph address but was incorporated into the new name adopted in 1956.

110 This is also a concern for Europol. See Monica den Boer, Intelligence exchange and the control of organised crime: From Europeanisation via centralisation to dehydration? In Malcolm Anderson and Joanna Apap, eds. *Police and justice co-operation and the new European borders*. The Hague, Kluwer Law International, 2002, pp 159–161.

111 UN Charter, art 43(1). Such agreements were to be negotiated 'as soon as possible': art 43(3).

112 See Simon Chesterman, *Just war or just peace? Humanitarian intervention and international law*. Oxford monographs in international law. Oxford, Oxford University Press, 2001, pp 165–171.

113 50 USC 404g(b)(2).

114 See above p 19–24.

115 Hugh Smith, Intelligence and UN peacekeeping. *Survival* 36 (3) 1994, p 177.

116 A. Walter Dorn, The cloak and the blue beret: Limitations on intelligence in UN peacekeeping. *International Journal of Intelligence and Counterintelligence* 12 (4) 1999, p 428.

117 See, e.g., the views of a former Secretary-General: 'The diplomatic missions have always felt that security in the Secretariat is lax and that any confidential information provided to the Secretariat would quickly be widely circulated. In general, this is true …'. Javier Pérez de Cuéllar, *Pilgrimage for peace: A secretary-general's memoir*. New York, St Martin's Press, 1997, p 168.

118 Preparing for the 21st century. p 129.

119 A draft standard on recordkeeping released by the UN archives in June 2003 had provision for recording classification levels of documents but made clear the need for a UN manual on protective security of documents: Arms standard on recordkeeping metadata. New York, United Nations Archives and Records Management Section, Exposure Draft, June 2003. Available at http://www.un.org/Depts/archives/ARMS_MetadataStandard.pdf.

120 Administrative instruction: The United Nations archive. UN Doc ST/AI/326. 28 December 1984. Available at http://www.un.org/

Depts/archives/UNDoc % 20- % 20ARMS % 20- % 20AI-326.doc, Annex I. An administrative instruction is a binding directive but does not set UN policy at the level of a Secretary-General's bulletin.

[121] Likely humanitarian scenarios. New York, United Nations, internal planning document marked 'Strictly Confidential', 10 December 2002. Available at http://www.casi.org.uk/info/undocs/war021210scanned.pdf.

[122] The 'strictly confidential' classification also includes the discontinued security classifications of 'Confidential (Class III)' and 'For Your Eyes Only', as well as 'Top Secret'. Records may also be marked 'Privileged', 'Personal', or 'Limited': United Nations records: Access and declassification. New York, United Nations Archives and Records Management Section, Information Sheet 5, May 2003. Available at http://www.un.org/Depts/archives/Researcher % 20- % 20Info % 205 % 20- % 20Access % 20and % 20declassification.doc.

[123] ST/AI/326, Annex I. The administrative instruction does provide guidance on declassification, with confidential documents being automatically declassified after 20 years, while strictly confidential documents are reviewed for declassification after the same period.

[124] For unclassified examples of this view, see Results of investigation into Somalia classified documents. Washington, DC, US Department of Defense, No. 205–95, 18 April 1995. Available at http://www.defenselink.mil/releases/1995/b041895_bt205-95.html; Preparing for the 21st century. p 129.

[125] 50 USC 404g(a)(l). This may be waived if the President certifies that it is in the national interest to do so: 50 USC 404g(a)(2).

[126] See National industrial security program operating manual. Washington, DC, Department of Defense, DoD 5220.22-M, revised February 2001, January 1995. Available at http://www.dss.mil/isec/nispom.pdf, appendix B. Many states also have a 'restricted' level.

[127] Cf. Executive order 13292: Further amendment to executive order 12958, as amended, classified national security information. Washington, DC, White House, 25 March 2003. Available at http://www.fas.org/sgp/bush/eoamend.html, s 1.2(a). Similar categories are used in Australia, Britain, Canada, and New Zealand. See, e.g.,

Protective security manual (PSM). Canberra, Attorney-General's Department, 2005. Available at http://www.ag.gov.au/agd/www/ Protectivesecurityhome.nsf/HeadingPagesDisplay/Protective + Sec urity + Manual?OpenDocument.

[128] Cf. Dorn, Cloak and the blue beret. pp 434–435.

[129] See the work of the 'Low-Level Panel' on knowledge management: available at http://www.lowlevelpanel.org.

[130] See, e.g., Staff rules 301.1 to 312.6 governing appointments for service of a limited duration. UN Doc ST/SGB/2005/3. 1 January 2005. Available at http://documents.un.org, rule 301.3(g).

[131] Standards of conduct for the international civil service. Report of the International Civil Service Commission for the Year 2001. UN Doc A/56/30, Annex II. 2001. Available at http://documents.un.org; welcomed in GA Res 56/244 (2002).

[132] See, e.g., 18 USC 793 (gathering, transmitting, or losing defence information); Official Secrets Act 1989 (UK); Intelligence Services Act 2001 (Australia).

[133] Dorn, Cloak and the blue beret. p 416.

[134] Wiebes, *Intelligence and Bosnia*, p 24.

[135] SC Res 1051 (1996), para 8; SC Res 1454 (2002), para 18.

[136] SC Res 1617 (2005), para 6.

[137] See, e.g., International Crisis Group, Indonesia backgrounder: How the Jemaah Islamiyah terrorist network operates. Jakarta/Brussels, ICG Asia Report No. 43, 11 December 2002. Available at http:// www.crisisgroup.org; International Crisis Group, Jemaah Islamiyah in south east Asia: Damaged but still dangerous. Jakarta/Brussels, ICG Asia Report No. 63, 26 August 2003. Available at http://www. crisisgroup.org. Disclosure: The author was seconded to Crisis Group as its Director of UN Relations in the New York office from late 2003 to early 2004.

[138] Hilary Benn, Reform of the international humanitarian system: ODI. Department for International Development, London, 15 December 2004. Available at http://www.dfid.gov.uk/news/files/Speeches/ bennaidsystemreform.asp.

[139] Iraq: Developments since UN Security Council resolution 1441.

London, House of Commons Library, Research Paper 03/22, 13 March 2003. Available at http://www.parliament.uk/commons/ lib/research/rp2003/rp03-022.pdf, p 25; Carola Hoyos and Mark Turner, Disquiet at US move on Iraq papers. *Financial Times*, 10 December 2002. This was done with the consent of the Colombian ambassador, who held the rotating Council presidency, but under clear pressure from the United States. The non-permanent members of the Council were also non-nuclear-weapons states within the meaning of the Nuclear Non-Proliferation Treaty.

[140] Thomas Lowe Hughes, *The fate of facts in a world of men: Foreign policy and intelligence-making*. New York, Foreign Policy Association, 1976, p 22.

[141] Iraq: Prime minister's meeting (memorandum by David Manning; secret and strictly personal — UK eyes only). London, s 195/02, 23 July 2003, available in The secret Downing Street memo. *The Sunday Times* (London), 1 May 2005.

[142] In addition to the reports cited earlier, see also Intelligence and analysis on Iraq: Issues for the intelligence community. Langley, VA, Central Intelligence Agency, 29 July 2004. Available at http://www. gwu.edu/ ~ nsarchiv/news/20051013/kerr_report.pdf, pp 2–3: 'In an ironic twist, the policy community was receptive to technical intelligence (the weapons program), where the analysis was wrong, but apparently paid little attention to intelligence on cultural and political issues (post-Saddam Iraq), where the analysis was right.'

[143] See generally Robert F. Kennedy, *Thirteen days: A memoir of the Cuban missile crisis*. New York, W.W. Norton, 1969; Robert A. Divine, ed., *The Cuban missile crisis*. Chicago, Quadrangle Books, 1971.

[144] Hans Blix, *Disarming Iraq*. New York, Pantheon, 2004.

[145] UN Charter, preamble.

[146] UN Charter, art 99.

[147] Philip Gourevitch, *We wish to inform you that tomorrow we will be killed with our families*. London, Picador, 1999, pp 152–154; Chesterman, *Just war*, p 146.

[148] Report by Mr. B.W. Ndiaye, special rapporteur, on his mission to Rwanda from 8 to 17 April 1993. Commission on Human Rights, 50th

Session, Item 12 of the provisional agenda. UN Doc E/CN.4/1994/7/ Add.1. 11 August 1993. Available at http://www.un.org/Docs/ journal/asp/ws.asp?m = E/CN.4/1994/7/Add.1, paras 28–29, 79.

[149] Report of the independent inquiry into the actions of the United Nations during the 1994 genocide in Rwanda. UN Doc S/1999/1257. 15 December 1999. Available at http://www.un.org/Docs/journal/ asp/ws.asp?m = S/1999/1257, p 7.

[150] Code cable from Dallaire/UNAMIR/Kigali to Baril/DPKO/ UNations (New York), subject: Request for protection of informant. 11 January 1994. Available at http://www.pbs.org/wgbh/pages/ frontline/shows/evil/warning/cable.html.

[151] Code cable from Annan, UNations, New York to Booh-Booh/ Dallaire, UNAMIR only (no distribution), number: UNAMIR 100, subject: Contacts with informant. 11 January 1994. Available at http://www.pbs.org/wgbh/pages/frontline/shows/evil/warning/ unresponse.html.

[152] See, e.g., Rwanda report.

[153] Gérard Prunier, *The Rwanda crisis: History of a genocide* [1995]. New York, Columbia University Press, 1997, pp 176–178; Assemblée nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, pp 226, 281, Tome II, Annexes pp 133–4, quoted in Human Rights Watch, Leave none to tell the story: Genocide in Rwanda. New York, Human Rights Watch, March 1999. Available at http:// www.hrw.org/reports/1999/rwanda, 'Warnings, Information and the U.N. Staff'.

[154] Human Rights Watch, Leave none to tell the story.

[155] Quoted in Ibid.

[156] Alan J. Kuperman, *The limits of humanitarian intervention: Genocide in Rwanda*. Washington, DC, Brookings Institution, 2001 ('US officials did know, within two days after the Rwandan president's plane was shot down, about the bloody coup, the large-scale violence in the capital, and the renewed civil war. But they also expected the Tutsi rebels to win quickly').

[157] Roméo Dallaire, *Shake hands with the devil: The failure of humanity in Rwanda*. Toronto, Random House Canada, 2003.

158 Ibid.

159 Human Rights Watch, Leave none to tell the story. See generally Samantha Power, *A problem from hell: America and the age of genocide*. New York, Basic Books, 2002.

160 Special report of the secretary-general on the United Nations assistance mission for Rwanda. UN Doc S/1994/470. 20 April 1994. Available at http://www.un.org/Docs/journal/asp/ws.asp?m = S/1994/470, para 12.

161 Ibid, paras 13–21.

162 SC Res 912 (21 April 1994), para 7(c).

163 Rwanda report. p 42 (emphasis removed).

164 Ibid, p 43.

165 Simon Chesterman, *You, the people: The United Nations, transitional administration, and state-building*. Oxford, Oxford University Press, 2004, pp 60–61.

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167 James Bone, UN leaders draw up secret blueprint for postwar Iraq. *The Times* (London), 5 March 2003. Cf. the humanitarian contingency planning discussed earlier.

168 An agenda for peace: Preventive diplomacy, peacemaking and peace-keeping (report of the secretary-general pursuant to the statement adopted by the summit meeting of the Security Council on 31 January 1992). UN Doc A/47/277-S/24111. 17 June 1992, para 25(b).

169 See above n 41.

170 High-level Panel report, paras 263–264, 267.

171 In larger freedom: Towards development, security, and human rights for all. UN Doc A/59/2005. 21 March 2005. Available at http://www.un.org/largerfreedom, para 115.

172 High-level Panel report, paras 98, 293–294.

173 2005 world summit outcome (follow-up to the outcome of the millennium summit). UN Doc A/60/L.1. 20 September 2005. Available at http://www.un.org/summit2005, paras 56(f), 138.

174 See above p 33–35.

[175] SC Res 687 (1991), para 9.

[176] SC Res 699 (1991), para 4.

[177] David Kay, Arms inspections in Iraq: Lessons for arms control. *Bulletin of Arms Control* 7 (August) 1992, p 6.

[178] SC Res 1051 (1996), para 12.

[179] SC Res 1441 (2002), para 10.

[180] Dorn, Cloak and the blue beret. p 446 n 447.

[181] Ibid. pp 437–438.

[182] Scott Ritter, *Endgame: Solving the Iraq problem — once and for all.* New York, Simon & Schuster, 1999, p 25.

[183] Ibid, pp 47–48; Dorn, Cloak and the blue beret. p 439.

[184] Chantal de Jonge Oudraat, UNSCOM: Between Iraq and a hard place. *European Journal of International Law* 13, 2002, p 150; Wiebes, *Intelligence and Bosnia*, p 23.

[185] Rolf Ekéus, Leaving behind the UNSCOM legacy in Iraq (interview). *Arms Control Today* 27 (4) 1997, p 6.

[186] Judy Aita, UN expects to resume weapons inspections in Iraq. *United States Information Agency*, 19 January 1993.

[187] Ritter, *Endgame*, p 196.

[188] Seymour M. Hersh, Saddam's best friend. *New Yorker*, 5 April 1999.

[189] Richard Butler, *Saddam defiant: The threat of weapons of mass destruction and the crisis of global security*. London, Weidenfeld and Nicolson, 2000, p 182.

[190] Seymour M. Hersh, Saddam's best friend. *New Yorker*, 5 April 1999.

[191] Dorn, Cloak and the blue beret. p 440.

[192] Report of the first panel established pursuant to the note by the president of the Security Council on 30 January 1999 (s/1999/100), concerning disarmament and current and future ongoing monitoring and verification issues (amorim report). UN Doc S/1999/356, Annex I. 30 March 1999. Available at http://documents.un.org, para 57.

[193] Hans Blix, Briefing of the Security Council: Inspections in Iraq and a preliminary assessment of Iraq's weapons declaration. New York, UNMOVIC, 19 December 2002. Available at http://www.unmovic.org.

[194] Hans Blix, Briefing of the Security Council: An update on inspections.

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[195] Hans Blix, Briefing of the Security Council: Oral introduction of the 12th quarterly report of unmovic. New York, UNMOVIC, 7 March 2003. Available at http://www.unmovic.org.

[196] I am grateful to Trevor Findlay for this observation. See generally Findlay, Standing UN verification body.

[197] See, e.g., Christopher Hitchens, Weapons of mass distraction. *Vanity Fair*, March 1999 (concerning Iraq weapons inspections and Operation Desert Fox in 1998).

[198] See above n 185.

[199] SC Res 1540 (2004), paras 1–3.

[200] World summit outcome, para 81.

[201] See, e.g., High-level Panel report, para 25.

[202] In larger freedom, para 148(c) (emphasis added).

[203] Eric Rosand, The Security Council as 'global legislator': Ultra vires or ultra innovative? *Fordham International Law Journal* 28, 2005, p 549; Anne-Marie Slaughter and William Burke-White, Focus: September 11, 2001 — legal response to terror: An international constitutional moment. *Harvard International Law Journal* 43, 2002, p 11.

[204] The Council had adopted previous resolutions condemning terrorism, though without the comprehensive consequences included in resolution 1373 (2001). See SC Res 731 (1992); SC Res 1189 (1998); SC Res 1214 (1998).

[205] SC Res 1373 (2001), paras 1–2.

[206] SC Res 1373 (2001), para 6.

[207] Shibley Telhami, Conflicting views of terrorism. *Cornell International Law Journal* 35 (581) 2002, p 584. Had another two weeks elapsed it would have been unlikely that consensus on a text could have been reached.

[208] See, e.g., José Alvarez, Hegemonic international law revisited. *American Journal of International Law* 97, 2003; Stefan A. Talmon, The Security Council as world legislature. *American Journal of International Law* 99, 2005.

[209] SC Res 1373 (2001), para 3.

[210] Security Council committee established pursuant to resolution 1373 (2001) concerning counter-terrorism: Guidelines by the committee for the conduct of its work. UN Doc S/AC.40/2001/CRP.1. 16 October 2001. Available at http://www.un.org/Docs/sc/committees/1373/guidelines.htm.

[211] Report by the chair of the counter-terrorism committee on the problems encountered in the implementation of Security Council resolution 1373 (2001). UN Doc S/2004/70, Annex. 26 January 2004. Available at http://documents.un.org, p 12.

[212] Proposal for the revitalization of the counter-terrorism committee. UN Doc S/2004/124, Annex. 19 February 2004. Available at http://documents.un.org, para 7(f).

[213] SC Res 1535 (2004).

[214] Javier Rupérez, Remarks. Federal Security Service of Russia, Novosibirsk, 1 March 2005. Available at http://www.un.org/news.

[215] Cf. Measures to eliminate international terrorism (report of the secretary-general). UN Doc A/60/228. 12 August 2005. Available at http://documents.un.org, para 126.

[216] See Simon Chesterman and Béatrice Pouligny, Are sanctions meant to work? The politics of creating and implementing sanctions through the United Nations. *Global Governance* 9, 2003.

[217] Bruno Simma (ed.), *The charter of the United Nations: A commentary*. 2nd edn. Oxford, Oxford University Press, 2002, Vol I, 803–804.

[218] SC Res 487 (1981), para 1.

[219] See generally Thomas M. Franck, *Recourse to force: State action against threats and armed attacks*. Hersch Lauterpacht memorial lectures. Cambridge, Cambridge University Press, 2002, pp 97–108.

[220] The national security strategy of the United States of America. Washington, DC, President of the United States, September 2002. Available at http://www.whitehouse.gov/nsc/nss.html.

[221] Ibid, p 15.

[222] Ibid, p 30. See Simon Chesterman, Just war or just peace after September 11: Axes of evil and wars against terror in Iraq and beyond. *New York University Journal of International Law and Politics* 37, 2005.

223 High-level Panel report, para 188.

224 Ibid, para 190.

225 See generally Chesterman, *Just war*.

226 Report of the inquiry into Australian intelligence agencies (flood report). Canberra, Australian Government, 22 July 2004. Available at http://www.pmc.gov.au/publications/intelligence_inquiry, pp 27–28.

227 See, e.g., Ian Johnstone, The role of the UN secretary-general: The power of persuasion based on law. *Global Governance* 9, 2003.

228 Sometimes referred to as Joint Mission Assessment Cells (or Centres) or Joint Military Analysis Cells.

229 SC Res 1608 (2005), para 9 (Haiti). JMACs have also been created in Western Sahara, Sierra Leone, Liberia, Burundi, and the Democratic Republic of the Congo: Report of the secretary-general on the situation concerning Western Sahara. UN Doc S/2005/648. 13 October 2005. Available at http://documents.un.org, para 20 (Western Sahara); Sixth progress report of the secretary-general on the United Nations mission in Liberia. UN Doc S/2005/177. 17 March 2005. Available at http://documents.un.org, para 83 (Sierra Leone and Liberia); Special report of the secretary-general on elections in the Democratic Republic of the Congo. UN Doc S/2005/320. 26 May 2005. Available at http://documents.un.org, para 41 (Democratic Republic of the Congo).

230 See Budget for the United Nations organization mission in the Democratic Republic of the Congo for the period from 1 July 2005 to 30 June 2006. UN Doc A/60/389. 28 September 2005. Available at http://documents.un.org, pp 10, 97.

231 See the discussion of ORCI and EISAS above p 19–24.

232 See above p 43–45.

233 SC Res 1540 (2004) uses the term 'non-proliferation' but includes measures that are clearly more coercive and in the mould of counter-proliferation.

234 See above n 216. On earlier recommendations concerning support to the Council, see, e.g., Gareth Evans, *Cooperating for peace: The global agenda for the 1990s and beyond*. Sydney, Allen & Unwin, 1993, p 163.

235 Letter dated 11 January 2002 from director-general José Bustani to United Nations under-secretary-general Jayantha Dhanapala on

the subject of possible United Nations responses to global terrorist threats. 11 January 2002. Available at http://www.opcw.org/resp/html/possible.html.

236 Trevor Findlay, Looking back: The UN monitoring, verification and inspection commission. *Arms Control Today* 35 (7) 2005. See also Findlay, Standing UN verification body.

237 Cf. Richard Butler, Improving nonproliferation enforcement. *Washington Quarterly* 26 (4) 2003, pp 141–144 (calling for creation of a Council on Weapons of Mass Destruction with an expert secretariat).

238 UN Charter, art 47(1).

239 See World summit outcome, para 178.

240 UN Charter, art 47.

241 Sergey Lavrov, Transcript of speech by Russian minister of foreign affairs Sergey Lavrov. Russian–Norwegian–Swedish Seminar on Peaceful Settlement (unofficial translation from Russian), Moscow, 7 April 2005. Available at http://www.ln.mid.ru/brp_4.nsf/0/8dd801905724b0cbc3256fdd004d5a71?OpenDocument.

242 See, e.g., Letter dated 8 June 2005 from the permanent representative of China to the United Nations addressed to the secretary-general. UN Doc A/59/842. 10 June 2005. Available at http://documents.un.org, p 19 ('China has serious reservations on abolishing the Military Staff Committee and is of the view that reform does not mean abolition. We may, through consultation, entrust the Military Staff Committee with new mandates in peacekeeping operations and security areas').

243 George W. Bush, State of the union address. Washington, DC, 28 January 2003. Available at http://www.whitehouse.gov.

244 Bob Woodward, *Plan of attack*. New York, Simon & Schuster, 2004.

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248 Barton Whaley, *Codeword Barbarossa*. Cambridge, MA, MIT Press, 1973, chapters 3–5.

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