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Turkish Cross-border Operations into Northern Iraq: International Law and Use of Force Analysis

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Turkish Cross-border Operations into Northern Iraq: International Law and Use of Force Analysis

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INTRODUCTION

“Warfare is the greatest affair of state, the basis of life and death, the way to survival or extinction.” - Sun-tzu

Various warring peoples have gone to battle with, and against, one another since the dawn of time. The decision to go to war was, at one point, a simple affair; one of horses and men, of grain and water, of weapons and defense. As hostilities between families, tribes, and clans graduated into warfare amongst ‘states’, however, the decision to engage in these pitched battles became more complex with the introduction of new and multi-dimensional international legal restrictions. In fact, the concept of the modern ‘state’ was new, relatively speaking, in and of itself at the beginning of the 17th century.

The Peace of Westphalia 2 signified the triumph of individual nation-state preference over religious universalism (i.e. Catholicism) that up until 1648 reigned supreme. Indeed the word ‘catholicity’ (little ‘c’) means universality. St. Augustine, St. Thomas Aquinas, the Papacy and the Holy Roman Empire were all replaced by this principe d’équilibre. 3 Complementing this evolution was an ideal, a body of international law to serve as moderator of external conduct. 4 After several failed iterations preceding WWII, two principle segments of this ideal, as they relate to war amongst nations, emerged as jus in bello (The Laws of War - a.k.a. International Humanitarian Law) and jus ad bellum (The Laws on Use of Force). It is the latter of the two that this paper will address, as to both historical development and as to modern application in the context of Turkish cross-border operations into northern Iraq.

Specifically, this work will examine - via legal text and personal insight gained by your author as he both attended university at Bahçeşehir and worked in the Political/Economic Section of the U.S. Consulate General Istanbul - the decision by the Turkish Armed Forces (Türk Silahlı Kuvvetleri) to invade Iraq in an effort to route the

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1 Sun-tzu (1994). The Art of War (translated by Ralph D. Sawyer) pp. 167
2 The Peace of Westphalia (1648) marked the end of the Thirty Years War and, more importantly, the establishment of the modern state and the beginnings of what we now recognize as international law.
3 Brownlie, Ian (1981). International Law and the Use of Force by States. In Carter; Trimble; Bradley; International Law pp. 963
PKK (*Partiya Karkerên Kurdistan*) - a terrorist organization based, principally, in the tri-border region of Turkey, Iraq, and Iran. Your author will attempt to simultaneously supply and supplant arguments that were available at the time the decision to defend/invade was reached. The objective of this paper is to reach a conclusion as to whether the Turkish government acted legally (i.e. within the strictures of *jus ad bellum*) in its decision to conduct non-consensual military operations in the sovereign territory of another nation-state.
“In the field of abstract thought the inquiring mind can never rest until it reaches the extreme...But move from the abstract to the real world, and the whole thing looks quite different.” - Carl Von Clausewitz

The principe d’équilibre that followed the Peace of Westphalia was further solidified by the greatest of international relations’ hedges, the alliance. Small nations sought protection, both physically and financially, from larger more powerful states which, in turn, were promised exclusive access to markets, or materials, or artisans, or men of military age. While the alliance structure provided the essential interconnectedness that might stave off international conflict, it also had the antipodal potential of transforming a declaration of war into Armageddon. If so much as a single hair were harmed on an ally’s proverbial head, the entire system of promised combat would fall upon the international community like the sword of Damocles.

While the world was indeed aware that a declaration of war could bring about such devastation on a global scale, each sovereign demanded the retention of its military option. As a result, something of a stopgap was authored; ‘war’ was lawyered (i.e. technically subdivided) into lesser states of coercion. Anything less than a declaration of “war in the legal sense”⁶, e.g. reprisals, pacific blockades, justifiable interventions, naval demonstrations, etc. would not, in theory, implicate third party nations. There were other reasons too which made The State of War Doctrine - the codification of war as a legal status rather than a legal concept - attractive: 1. a constitutional declaration of war was neither expedient nor was it assured; 2. a declaration of war often, if not always, resulted in termination of commerce; 3. a declaration of war brought with it powerful psychological connotations of combat and death.⁷

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⁵ Clausewitz, Carl Von (1976). On War pp. 86, 87
⁶ Brownlie, Ian (1981). International Law and the Use of Force by States. In Carter; Trimble; Bradley; International Law pp. 963
In the end, clever drafting could not prevent Armageddon, and WWI began with an irreversible chain of troop commitments following the assassination of Archduke Ferdinand in Sarajevo. “The dramatic results of the failure to maintain peace by a system of alliances, the geographical extent of war, and the enormous loss of life, the chaos which followed, all these tended to create a climate favorable to a new approach.”\textsuperscript{8} This new approach, created on the heels of destruction - the likes of which the world had never before witnessed, sought a fanciful utopia, a world without war.

The League of Nations, as the most moderate of new approach vehicles - it attempted to restrict war rather than prohibit it outright, failed for lack of U.S. membership and, as Professor John Murphy notes, from world-wide default on League commitments due to the depression. As an aside, the depression facilitated, and the bankrupt League failed to check, the rise of authoritarian regimes in Germany, Italy, and Japan.\textsuperscript{9} Thus, the seeds of a second World War were sown before the causes of WWI could ever really be addressed.

Another of the new approach vehicles was The Kellogg-Briand Pact\textsuperscript{10} The Pact condemns recourse to war in Article I, and then explicitly prohibits it in all circumstances under Article II. Despite the express verbiage, however, and the radical limitations purported thereby, Michael Byers notes that the Pact included a side agreement between the U.S. and France that provided an exception for self-defense. He further notes that when the United States’ Senate voted in favor of the Pact, it did so on the explicit understanding that it did not imperil the Monroe Doctrine.\textsuperscript{11} If indeed every informal exception to a rule necessitates an erosion of that rule’s original authority, or lack thereof in this instance considering the absence of any enforcement mechanism, then one can understand why, despite having been ratified by over 60 parties and despite never having been terminated, the Pact is largely ignored by the international community in the practical sense.

\textsuperscript{8} Brownlie, Ian (1981). International Law and the Use of Force by States. In Carter; Trimble; Bradley; International Law pp. 973
\textsuperscript{9} Murphy, John (1982). International Law. In Carter; Trimble; Bradley; International Law pp. 974
\textsuperscript{10} While officially known as The General Treaty for the Renunciation of War (1928), it is referred to as Kellogg-Briand in honor of U.S. Secretary of State Frank Kellogg and French Foreign Minister Aristide Briand. Roberts, Adam; Guelff, Richard (2000). Documents on the Laws of War pp. 37
\textsuperscript{11} Byers, Michael (2005). War Law pp. 55
UNITED NATIONS CHARTER (1945)

“The chief foundations of all states, new as well as old or composite, are good laws and good arms…” - Niccolo Machiavelli

As The League of Nations and the Kellogg-Briand Pact before it, the United Nations Charter was touted as the document that would end war forever. The New York Times ran a story on June 27, 1945, a day after the signing in California, entitled “Hull Asks Nations to Affirm Charter; Says San Francisco Document Holds Key to the Survival of Civilization”.14 The Preamble to the Charter itself memorializes this idealistic mission:

We the people of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and …to ensure that armed force shall not be used, save in the common interest.15

The Charter, claims Thomas M. Frank, seemingly cures the…normative ambiguities [in the League of Nations’ Covenant] regarding states’ “threat or use of force” against each other.16 I agree with Frank’s assessment yet the level of clarification provided is finite in that the language he quotes, from Article 2(4) of the Charter, closely tracks that of the document he wishes to distinguish - the Covenant. The relevant portions of Article 2(4) read as follows: “All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state…”17 The relevant portions of Articles 10 and 11 of the Covenant read as follows: “In the case of any…aggression or in case of any threat or

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12 Machiavelli, Niccolo (1922). The Prince pp. 55
13 Former Secretary Cordell Hull
16 Frank, M. Thomas (2002). Recourse to Force. In Carter; Trimble; Bradley; International Law pp. 978, 979
17 Chapter I, Article 2(4) of the UN Charter: http://www.un.org/aboutun/charter/index.html
danger of such aggression the Council shall advise. Any war or threat of war, whether immediately affecting any Members of the League or not, is hereby declared a matter of concern to the whole League."  

In sum, the focus provided by 2(4) is this: whereas the Covenant made the threat or use of force a matter of concern to the Council and to its membership, the Charter makes the threat or use of force illegal period.

In addition to being a superior document in terms of clarity, it too is better equipped than its predecessors. The Charter includes a certain degree of flexibility in the exceptions (vide infra) that it provides to 2(4). Furthermore, it contains the enforcement mechanism that Kellogg-Briand lacked, namely, the establishment of the Security Council under Chapters III and V. Lastly, if textual improvements were not enough to imply preeminence, the Charter did so expressly in Article 103: “In the event of a conflict between the obligations of the Members and the United Nations under the present charter and their obligations under any other international agreement, their obligations under the present charter shall prevail.”

EXCEPTION ONE: SECURITY COUNCIL APPROVAL

“Risks become greater still in any war that is waged by a coalition. [Once] there is no longer the counter-balance of an opposing force to control the appetites of the victors, there is no check on the conflict of views and interests between the parties to the alliance.” - B. H. Liddell Hart

The Security Council was established under Chapter III of the UN Charter, its powers being enumerated in Chapter V and beyond. Chief among those powers, as stated in Article 42, is the authorization of use of force when it is “necessary to maintain or restore international peace and security.” Article 42 resolutions and, to a lesser extent, the economic sanctions provided under Article 41 make the Security Council quite powerful in theory. In practice, however, much of this power is tempered by procedure and bureaucracy.

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18 Avalon Project, Yale Law School: http://www.yale.edu/lawweb/avalon/leagcov.htm#art10
19 Chapter XVI, Article 103 of the UN Charter: http://www.un.org/aboutun/charter/index.html
21 Chapter VII, Article 42 of the UN Charter: http://www.un.org/aboutun/charter/index.html
The Security Council consists of 15 members, 5 are permanent and 10 are revolving. The five permanent members (the ‘P-5’) are the US, UK, China, Russia, and France; any veto from a member of this group is fatal to a prospective resolution. The 10 remaining chairs are informally distributed via geographical groupings on a revolving basis: 3 to Africa, 2 to Asia, 1 to Eastern Europe, 2 to Latin America, and 2 to Western Europe and Others. Members in the revolving group are elected to 2 year non-consecutive terms. Unlike the P-5, these members do not have an individual veto right, though they can kill any resolution with a collective abstention of 7. This is the so because for both procedural and substantive issues an affirmative vote of 9 is required. If 7 of the 15 abstain or cast negative votes there are only 8 members remaining.

Before the issue comes to a vote, in fact before the Council even sees the dispute, it must first go through the referral mechanisms as outlined in Articles 33-37. Even if referral is proper, the Council can not impose any measure until it has conducted its own threat determination under Article 39. Only then, and taking into account the political quagmire that is the voting process, can the Council make a Chapter VI recommendation (non-binding) or issue a Chapter VII resolution (legally binding).

If the Council does agree to use military force, authorization via resolution can take two forms: intervention and interdiction. An intervention authorizes ‘all necessary means’ to achieve a military or peace mission whereas an interdiction authorizes ‘use of minimal force’ to enforce blockades or the like. Depending on the scope of the mission at hand, large components of men may be required; so who provides these soldiers? Articles 43-47 speak of the structure and availability of the military contingent, but all is amiss if Members simply refuse to provide the manpower, for while the “Council can authorize Members to use force, it does not require them to use it.”

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EXCEPTION TWO: SELF-DEFENSE

“He who brings danger upon another has more spirit than he who repels it.” - Hannibal Barca

When religious texts that represent more than 50% of the global population call/provide for self-defense in some form, is it surprising that a legal text - one which purports to represent the global community - calls/provides for the same? Sûrah 9 At-Taubah: 13 asks “Will ye not fight a folk who broke their solemn pledges, and purposed to drive out the messenger and did attack you first?”

Exodus 21: 23 and 24 state that “…thou shalt give life for life, Eye for eye, tooth for tooth, hand for hand, foot for foot…”

Deuteronomy 19: 21 states that “…life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot.”

and Article 51 of the UN Charter states that “Nothing…shall impair the inherent right of individual or collective self-defense if armed attack occurs…”

When one gives Article 51 “ordinary meaning”, as is required by Article 31(1) of the Vienna Convention on the Law of Treaties, it is evident that a state may attack another once armed attack has occurred. What is less than evident, however, is the legality of extending this language to incorporate preemptive self-defense (i.e. attacking another without first having been attacked).

In 1837, the idea of preemptive self-defense as a right was thrust over the Niagara Falls and into the international legal stage when the British captured and destroyed a vessel docked at Fort Schlosser, New York, killing a U.S. citizen in the process. The Caroline was alleged to have been used in the smuggling of arms to rebels in Canada, still a British colony at the time. For her role, she was lit afire and sent adrift in the rapids. The British saw the operation as a legitimate use of force in that it denied further arms to rebels. The U.S., on the other hand, saw it simply as an invasion of sovereign

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26 Hart, Liddell (1926). Scipio Africanus pp. 94
28 Pickthall, Marmaduke (NA). The Glorious Qur’ân pp. 113
29 National Publishing Company (1978). King James Bible pp. 86
33 Byers, Michael (2005). War Law pp. 53
territory. In the end, through a series of letters by Secretary Daniel Webster and Lord Ashburton\textsuperscript{34}, the diplomatic crisis was resolved and the DNA of preemptive self-defense emerged; ‘necessity’ and ‘proportionality’ its molecules, susceptible to twisting.\textsuperscript{35}

Despite the ordinary meaning of those limitations provided in Article 51, states not only embraced the \textit{Caroline} criteria, but have adopted mutations of the ‘necessity’ and ‘proportionality’ elements in order to fit perceived threats. It must be said, if we are to be objective, that the threats themselves have mutated as to both form and lethality since 1837. The uniformed rank and file of traditional warfare has been replaced by amorphous terrorism, the black powder and ball bearings by WMD. Must one wait then until attacked by nuclear, chemical, or biological weapons before responding, in an attempt to comply with the ordinary meaning of Article 51? It would be ludicrous to hold states to that standard. And, in fact, the International Court of Justice seems to have reached the same conclusion in its July 1996 Advisory Opinion on The Legality of the Threat or Use of Nuclear Weapons:

The Court is led to observe that it cannot reach a definitive conclusion as to the legality or illegality of the use of nuclear weapons by a State in an extreme circumstance of self-defence [sic], in which its very survival would be at stake.\textsuperscript{36}

In light of the need for progressive interpretation, various states have poked and prodded at the established confines of both self-defense and preemptive self-defense. Israel, in 1976, “decisively contributed to a limited extension of the right of self-defense in international affairs to include the protection of nationals abroad.”\textsuperscript{37} Israeli commandos conducted a unilateral rescue operation in Entebbe, Uganda when pro-Palestinian hijackers seized control of an Air France plane full of Israeli citizens. The Ugandan government was either unwilling or unable (or both - more likely the case) to take action.

\textsuperscript{34} Lord Ashburton had an incentive to cooperate; his wife was the daughter of a US Senator. Byers, Michael (2005). War Law pp. 54
\textsuperscript{35} Carter; Trimble; Bradley (2003). International Law pp. 970
\textsuperscript{37} Byers, Michael (2005). War Law pp. 58
Nearly two decades later, and in the same region, the U.S. responded to embassy bombings in Nairobi, Kenya and Dar es Salaam, Tanzania which claimed 200 plus lives and injured thousands.\textsuperscript{38} The U.S. response: Tomahawk missiles targeted terrorist training camps in Afghanistan and the El-Shifa pharmaceutical plant in Sudan.\textsuperscript{39} Though later condemning the Afghani regime itself (i.e. the Taliban), the initial attacks on Khowst and Khartoum further extended the preemptive self-defense doctrine to include non-state actors. “Having now seized the opportunity to establish self-defense as a basis for military action against terrorism, the United States, and other countries, will be able to invoke it again in circumstances which are less grave, and where the responsibility of the targeted state is less clear.”\textsuperscript{40}

EXCEPTION THREE: REGIONAL AUTHORIZATION

\textit{“In September 1973 I attended the Non-Aligned Summit Conference in Algiers…Three weeks before Zero Hour the support of more than a hundred countries had been secured.”} - Anwar el-Sadat\textsuperscript{41}

Article 52 of the Charter allows for regional arrangements when appropriate action is required for international peace and security.\textsuperscript{42} This grant, however, comes with a caveat in the form of Article 53:

The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. \textit{But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council.}\textsuperscript{43}

\begin{footnotesize}
\begin{itemize}
  \item[\textsuperscript{38}] Byers, Michael (2005). War Law pp. 62
  \item[\textsuperscript{39}] Randal, Jonathan (2004). Osama pp. 45
  \item[\textsuperscript{40}] Byers, M. (2005). War Law pp. 67
  \item[\textsuperscript{41}] el-Sadat, Anwar (1978). In Search of Identity pp. 240
  \item[\textsuperscript{42}] Chapter VIII, Article 52 of the UN Charter: http://www.un.org/aboutun/charter/index.html
  \item[\textsuperscript{43}] Chapter VIII, Article 53 of the UN Charter: http://www.un.org/aboutun/charter/index.html
\end{itemize}
\end{footnotesize}
Though slightly emasculated by this governor, regional arrangements like the North Atlantic Treaty Organization (NATO) provide very real benefits in terms of potential application of military force. An example: whereas the Security Council can authorize, yet not mandate, its members to use force, NATO can require its members to take military action. Article V of the 1949 North Atlantic Treaty reads as follows:

The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them…will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force…

Article V of the North Atlantic Treaty was invoked after September 11, 2001. The military operation in Afghanistan that followed was a NATO coalition force lead by the United States. “UN Security Council Resolution 1386 (2001) replaced the coalition forces [as per its authority under Article V of the North Atlantic Treaty] with an International Security Assistance Force (ISAF) which since August 2003 has been led by NATO.”

A final potential contribution that regional arrangements make in use of force analysis comes, again, in the form of the right to self-defense under Article 51. Article 51 provides for “the inherent right of individual or collective self-defense…” A group of states could avoid having to submit to the Article 53 preauthorization imperative by claiming self-defense collectively. Furthermore, such a claim would be valid “until [read as ‘if’] the Security Council has taken measures necessary to maintain international peace and security.”

44 Article V of the North Atlantic Treaty: http://www.nato.int/docu/basictxt/treaty.htm
46 Chapter VII, Article 51 of the UN Charter: http://www.un.org/aboutun/charter/index.html
EXCEPTION FOUR (Contentious): HUMANITARIAN INTERVENTION

“Few would disagree that both the defense of humanity and the defense of sovereignty are principles that must be supported. Alas that does not tell us which principle should prevail when they are in conflict.” - Kofi Annan

Article 2(7) disallows “intervention” in cases that are deemed to be internal matters; “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.” That said, 2(7) would appear to be a solid addition to the prohibition of threat or use of force in Article 2(4). Does this 2(4), 2(7) combination then insulate despots from international accountability for brutalizing their people at home? If not, how does one explain the failure of the international community to do anything about Robert Mugabe for so long? If not, how does one explain Omar Hassan al-Bashir and inaction regarding the Darfur region of western Sudan? In theory, Anthony Aust argues (below) that humanitarian necessity acts as a 2(4), 2(7) override. In reality, your author feels quite the opposite is true.

The full text of 2(4) reads as follows: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." Aust argues that the “Purposes” referred to include the solving of problems of humanitarian character, as stated in Article 1(3). Therefore, the use of force in humanitarian aid would not be inconsistent with UN Purposes. “When the upholding of the Purposes comes into acute conflict with the sovereignty of a state that is the very obstacle to achieving them, respect for its territorial integrity or political independence has to give way to the overriding needs of humanity…”

As creative as that argument may be, Aust ignores entire portions of 1(3). Though 1(3) does list the solving of problems of humanitarian character, *inter alia*, as

47 Annan, Kofi (2000). Report to the Millennium Assembly of the U.N. In Carter; Trimble; Bradley: International Law pp. 981
48 Chapter I, Article 2 of the UN Charter: http://www.un.org/aboutun/charter/index.html
49 Chapter I, Article 2 of the UN Charter: http://www.un.org/aboutun/charter/index.html
one of its Purposes, that article is prefaced with this language “To achieve international co-operation in solving international problems of…” Unilateral humanitarian intervention (unilateral in the sense that it is done without Security Council approval) would not appear to rest beneath the umbrella of “international co-operation” unless it fell under collective self-defense or regional authorization, in which cases those exceptions to 2(4) would be invoked, not humanitarian intervention.

Henry Kissinger once said “It is easy for human rights crusaders and peace activists to insist on perfection in this world. But the policymaker who has to deal with reality learns to seek the best that can be achieved rather than the best that can be imagined.” Václav Havel, on the other hand, said “If humanity has any hope of a decent future, it lies in the awakening of a universal sense of responsibility…” It is the moral (rather than legal) implication within this statement from our Gandhi Peace Prize recipient, coupled with the creative legal reading of the Charter - required to reach Aust’s conclusion, that makes this fourth exception to 2(4) so contentious. That said, both India and the United Kingdom have put forth unilateral humanitarian intervention, in the form of rhetoric or formal legal argument, as justification for the use of force.

In 1971, after the arrest of the Awami League leader Sheikh Mujibur Rahman and the subsequent ‘Declaration of Emancipation’ issued by East Pakistan, General Yahya Khan surged into Dacca. “At least one million people were killed in the following nine months, many of them children and most of them Hindu.” As India was providing immediate shelter to those fleeing and, later, succor to the Bengali Liberation Movement, war between Pakistan and India was inevitable. After mere days of fighting, India emerged from the war victorious and Bangladesh emerged independent. Victory was due in part to the Soviet Union’s veto of a Security Council resolution calling for a ceasefire and immediate withdrawal of Indian troops - the delay bought India the time to win outright. As an aside, it is rather ironic that the first to introduce humanitarian

54 Bangladeshi Government Website: http://www.bangabhaban.gov.bd/mujibur.html
55 Byers, Michael (2005). War Law pp. 93
intervention as a justification were two\textsuperscript{57} of the loudest critics of “humanitarian”
intervention in Kosovo in 1999. In the end, and despite the military victory for India, not
a single country endorsed its humanitarian intervention claim.

In 1991, the US, British, Dutch, French, and Italian militaries were deployed in
northern Iraq under Security Council Resolution 688. The Resolution “Condemns the
repression of the Iraqi civilian population in many parts of Iraq, including most recently
in Kurdish-populated areas, the consequence of which threatens international peace and
security in the region.”\textsuperscript{58} While this language is rather broad, paragraph 6 of the same
resolution makes clear the humanitarian character of the mission: “Appeals to all Member
States and to all humanitarian organizations to contribute to these humanitarian relief
efforts.” In fact, the mission was itself given the warm fuzzy name ‘Operation Provide
Comfort’.

Given both the apparent meaning of the resolution language and the general
character of the mission itself, it should come as no real surprise that the British chose
this occasion to argue the doctrine of humanitarian intervention. The UK Foreign Office
said the following:

We believe that international intervention without the invitation of the country
concerned can be justified in cases of extreme humanitarian need. This is why we
were prepared to commit British forces to Operation Haven\textsuperscript{59}, mounted by the
coalition in response to the refugee crisis involving the Iraqi Kurds.\textsuperscript{60}

The Foreign Office further stated, however, that this justification should be subjected to
rather strict limitations. No right to intervene exists unless 1. there is urgent and extreme
humanitarian distress, 2. the target of intervention is either unwilling or unable to act, 3.
there is no practical alternative, and 4. the action is limited in time and scope.\textsuperscript{61}
Ultimately, despite the addition of these anodyne qualifiers, England thought it wise not

\textsuperscript{57} I am, admittedly, considering the Soviet Union and Russia as one and the same
\textsuperscript{58} UN Security Council Resolution 688 (1991):
http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/596/24/IMG/NR059624.pdf?OpenElement
\textsuperscript{59} So referred for the purported “safe havens” established to protect the Kurds
\textsuperscript{60} Byers, Michael (2005). War Law pp. 99
to advance this claim in the UN. That proved to be rather sage, for nearly a decade later in Kosovo “133 developing countries…twice adopted declarations unequivocally affirming that unilateral humanitarian intervention was illegal under international law.”62

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TURKISH CONTEXT

“The safety of the fatherland and the happiness of the nation require above all that the world should be shown that our army is still the army that had planted its lance in the walls of Vienna.” - Atatürk

REMNANTS OF EMPIRE

The Ottoman Empire once spanned three continents and seven seas; “It was [simultaneously] the guardian to the holiest shrines of…Judaism, Christianity and Islam.” However, even the greatest of empires is susceptible to decline. For the Ottomans, like the Romans before them, declination was precipitated by a confluence of events that were too far developed to be remedied upon discovery. Massive debt, financial mismanagement, systemic graft at the highest levels, imperial greed, and natural disaster rotted the once-great empire from the inside out.

Throughout the Crimean War, the British and French were eager to loan money, on favorable terms, to their ally. After the war, however, the Ottoman’s saw their massive war debts coupled with domestic budgetary deficiencies. In want of cash, they were forced to continue with a cycle of borrowing from European money lenders - this time at predatory rates (often as much as 60% of face-value).

Many Ottoman subjects, already suspicious of the great powers, looked upon these treasury depleting arrangements with a fair amount of skepticism, not only for their fiscal irresponsibility but for the leverage they provided Europe. Disquiet reached fever pitch when during the global economic crisis of 1873 European brokers like Dent, Palmer & Company (London) - who arranged more loans to Turkey between 1853 and the crisis than any other house - slammed their doors in the face of the Ottoman government in an attempt to repatriate desperately needed cash. Add to this drama a severe drought the

63 Mango, Andrew (1999). Atatürk pp. 90
64 Glenny, Misha (1999). The Balkans pp. 70
66 Glenny, Misha (1999). The Balkans pp. 88, 100
previous year and the worst winter in decades the year of the crisis, and the situation became dire.\(^{67}\)

The vulnerabilities of the empire were apparent to more than just those Ottoman subjects being taxed at higher and higher rates; the Russians, for one, smelled blood. In 1877, Russia declared war on the Ottomans in the name of pan-Slavism. By 1878, the weakened empire was forced to capitulate in the form of the Treaty of San Stefano. This treaty granted Russia unquestionable dominance over much of the Balkans, and as such the other superpowers, namely the British, refused to allow the treaty to stand on its terms. In an attempt to stave off war between Russia and the UK, the Berlin Conference, hosted by Prince Otto von Bismark, was called to divide the Balkan spoils in a more equitable manner.

According to Misha Glenny, the Ottomans were summoned to the Congress for no other reason than to watch the superpowers distribute their lands to others.\(^{68}\) In the end, the distribution appeared as follows: Serbia, Romania, and Montenegro were granted full independence from the empire. Russia would remain in Bulgaria as occupying power, and Bosnia and Hercegovina were more or less deeded to Austria-Hungary. “Istanbul’s only substantial remaining holdings, Macedonia and Albania, left the Porte with many more problems than advantages”\(^{69}\) - the same could be said of the entire region. The resultant “network of mutually exclusive claims…primed several bloody future conflicts.”\(^{70}\) In fact, the Balkan Wars which were to follow were a direct result of this experiment in imperial cartography.

By 1914 the Ottoman Empire was already a mere shell of its former glory, yet things were about to get much worse. The Turks decided to back Germany and the Central Powers in WWI. The culmination of this poor choice of bedfellows was the Treaty of Sèvres, signed in 1920 by the Istanbul government. “Sèvres…prescribed territory for an Ottoman successor entity in northern Anatolia with Istanbul as its

\(^{67}\) Glenny, M. (1999). The Balkans pp. 100, 101  
\(^{68}\) Glenny, M. (1999). The Balkans pp. 141  
\(^{69}\) Glenny, M. (1999). The Balkans pp. 147  
\(^{70}\) Glenny, M. (1999). The Balkans pp. 149
With this stroke of the pen two things happened: 1. Turkey was effectively dismembered, and 2. Turks by the thousands flocked to Mustafa Kemal as their savior.72

Mustafa Kemal (later Mustafa Kemal Atatürk - quoted at the beginning of this section), was an incredibly gifted Turkish general who became legend earlier in the war at Chunuk Bair ridge, in Gallipoli. At that battle, after tenacious close-quarters fighting, the men under his command routed the Allied powers scoring one of the few victories for Turkey in that war. The Clausewitz maxim “what an enormous contribution the heart…can make to the sum total of its…war potential, and fighting strength”73 is certainly applicable here where 70,000 Turks lost their lives in the defense of the Aegean front. Mustafa Kemal emerged from the fighting as a sorely needed hero in a floundering country.74

And, it was again, upon the signing of the Sèvres Treaty, that his countrymen would turn to him for help. From Ankara, Kemal slammed the Istanbul government for the treaty signing, which he considered tantamount to treason. Cloaked in nationalist pride, he declared war on the Allies and beat back the encroaching Greeks, striking the definitive blow to Greek ambitions by 1922.75 This surprising triumph resulted in the Turks emerging “with all the land that the Sèvres treaty had awarded to Greece, Italy, the Kurds and the Armenians, along with most of what had been the French zone.”76 The most precious trophy of war, however, was the overturning of Sèvres and the institution of Lausanne on July 24, 1923. Lausanne officially recognized the independence of the Turkish Republic, replete with sovereignty over all the territory under its control at the time (aside from Mosul).77

71 Robins, Philip (2003). Suits and Uniforms pp. 103
73 Clausewitz, Carl Von (1976). On War pp.258
74 Glenny, Misha (1999). The Balkans pp. 325
76 Kinzer, Stephen (2001). Crescent & Star pp. 41
THREAT PERCEPTIONS REMAIN:

“Dig tunnels deep, store grain, and never seek hegemony.” - Mao Zedong

Though Turkey thrives today, the Turks have never forgotten just how close they came to losing their lands to European whim and to the overreach of neighbors. This historical/psychological sticking point has been termed the “Sèvres Syndrome” by various commentators. Central to this construct is an us-versus-them-mentality in which military and foreign policy, even to this day, is couched. This goes a long way in explaining the draw of the National Action Party - MHP (Milliyetçi Hareket Partisi) - agenda, one which pushes (sometimes violently it is alleged) for a Turkey for the Turks.

To be fair, it must be said many a perceived threat to the Turkish nation is rooted in truth. I list just two examples here. Firstly, the US did pull its missiles out of Turkey in a bargain with the Soviets over Cuba. Yes, the initial decision to remove those missiles was made prior to, and independent of, the Cuban missile crisis, but their absence nonetheless left Turkey - a NATO member - feeling exposed to the north. This sense of vulnerability is of no small consequence given that the Ottomans fought 13 wars with czarist Russia, losing most of them.78 “As a consequence, Turkey is both more concerned about containing Russian power as well as more eager to avoid antagonizing Russia than are most other NATO allies.”79

Secondly, the Syrians have, at times, looked to the annexation of Hatay - an ethnically Arab province in southern Turkey that was considered to be a part of Syria until the early twentieth century - with more than just a passing interest. And, given that Syria was/is a Russian client, Turkish sensitivities to encroachment in the south are particularly heightened for the reasons above. Beyond Hatay, and of greater significance here, is the safe haven that the Syrians once provided for the Kurdistan Workers’ Party - the PKK. And, though the Syrians no longer provide succor, the PKK, now based in northern Iraq, still remains an active threat to Turkish national security.

78 Khalilzad, Zalmay; Lesser, Ian; Larrabee, Stephen (2000). The Future of Turkish-Western Relations pp. 22
THE PKK

“I don’t like having to bring conspirators to trial, for the government invariably loses when the condemned man becomes a public hero.” - Napoleon Bonaparte

The Kurdistan Workers’ Party - PKK (Partiya Karkerên Kurdistan) - was founded in 1978 in Diyarbakır province. Twenty two self-styled revolutionaries, Abdullah Öcalan (a.k.a. Abd Allah Öcalan) chief among them, there created the foundations of a Marxist-Leninist/ ethno-nationalist movement.

Of the 22…present…seven were later murdered at Öcalan’s orders, five were denounced as traitors…, another five were later interrogated and humiliated by party leadership, two committed “suicide” (quotations added) in prison, and one was murdered by the northern Iraqi Kurdish party of Jalal Talabani, the Patriotic Union of Kurdistan - the PUK.

This violence, present at the group’s very inception, proved to be a PKK hallmark. Less than two years after its foundation, the PKK had already killed 354 men and had injured 366 more.

Aside from an arrest in 1972 for distributing “an illegal proclamation”", the leader of this organization largely managed to stay out of the spotlight until the founding of the PKK. That said, 1978 was by no means Öcalan’s first introduction to armed conflict. As early as 1975 ‘Apo’, as he is commonly known, withdrew to the Kurdish marshes with an ever growing collection of leftist militants from Urfa, Elazığ, Tunceli, Gaziantep, and Kahramanmaraş. From here the ‘followers of Apo’ (the Apocular) conducted village raids targeting the local agha and “agents of the state”. From these pitiable village raids and the whoring out of their “services” to prominent families in

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80 Schom, Alan (1997). Napoleon Bonaparte pp. 273
82 Mango, Andrew (2005). Turkey and the War on Terror pp. 34
83 Mango, A. (2005). Turkey and the War on Terror pp. 34
84 Mango, A. (2005). Turkey and the War on Terror pp. 33
Urfa\textsuperscript{86}, PKK attacks graduated, compliments of training received abroad, into more spectacular events of carnage. From 1978 to 2002, the PKK managed to kill more than 35,000 people. To put these numbers into perspective the Basque Separatist Group ETA (\textit{Euskadi ta Askatasuna})\textsuperscript{87} and the IRA, in the same period, killed 800 and 1,800 respectively.\textsuperscript{88}

Much of the PKK’s success was/is due to the assistance, particularly funding from Europe, received from sources outside of Turkey. In fact, nearly all of the 400-500 million euros per year that the PKK collects stems from abroad.\textsuperscript{89} This is despite the existence of Security Council Resolution 1566 (2004), which demands the extradition or prosecution of those involved in the financing of terrorism.\textsuperscript{90} In addition to the money, the Iraqis provided the PKK with real estate when in 1998 they were welcomed to the neighborhood. Öcalan was free to operate from northern Iraq as long as he provided intelligence to Baghdad. Specifically, the PKK reported on the movements of Barzani’s Kurdistan Democratic Party (an Iran ally) and on Turkish troop positions.\textsuperscript{91} However, even after the success of “Operation Safari” in 1999 - culminating in the arrest of Öcalan in Nairobi - the PKK was able to retain its’ Iraqi stronghold.

The PKK is listed as a terrorist organization by the United States. The Europeans also recognize the organization as such. However, lax policing efforts with regards to donations and the broadcasting of information intended to incite violence within the Kurdish population - not to mention the celebrity status that Leyla Zana has been afforded - is enough to have some commentators questioning the efficacy of that Euro designation. Bottom line: funds, arms, and men continue to make their way to northern Iraq and from northern Iraq to Turkey where they are used in such heinous acts as the bombing of a minibus filled with schoolchildren.\textsuperscript{92}

\textsuperscript{86} McDowall, D. (2004). A Modern History of the Kurds pp. 421
\textsuperscript{87} Reinares, Fernando (2001). Patriotas de la muerte pp. 10
\textsuperscript{88} Mango, Andrew (2005). Turkey and the War on Terror pp. 31
\textsuperscript{89} Mango, Andrew (2005). Turkey and the War on Terror pp. 31
\textsuperscript{90} Today’s Zaman: http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=136169
\textsuperscript{92} US Department of State; Office of the Coordinator for Counterterrorism: http://www.state.gov/s/ct/rls/crt/2006/82732.htm
CROSS-BORDER OPERATIONS

“Victories in the field count for little if the right decisions are not taken at home” - Marcus Tullius Cicero

On August 7, 2007 the Turkish and Iraqi Prime Ministers, Recep Tayyip Erdoğan and Nouri al-Maliki respectively, signed a Memorandum of Understanding (MoU) in Ankara. While the MoU spoke of energy cooperation, the Joint Iraqi-Turkish Economic Committee, and the opening of additional Consulate-Generals, the very first paragraph of the MoU made clear its true purpose: “Turkey and Iraq, expressed their commitment to good neighbourly [sic] relations based on...non-interference in each other’s internal affairs.” As the Iraqis were well aware, the public pressure being placed on the Turkish military - the pressure to do something with regards to the recent upswing in terrorist attacks in the southeast - was increasing in orders of magnitude. Add to that realization the fact that many of the terrorists involved were based in northern Iraq, and the Iraqi incentive to couch negotiations in terms which reiterate territorial integrity (Iraqi) and prohibit encroachment (by the Turkish military) becomes patent.

Strategically speaking, the Turks could afford to acquiesce to the incorporation of this language for two reasons. Firstly, the Turkish government provided additional, and arguably more potent, language of its own.

The two Prime Ministers, expressed their joint will to fight against terrorist organizations and activities including PKK/KONGRA-GEL and reiterated their common understanding to activate every effort to isolate, pacify, and eradicate the presence of all terrorist organizations in Iraq.

Secondly, many Turks consider the PKK problem to be an internal matter of their own, one their military is best equipped to deal with. Giving credit to this argument, US Major

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94 Turkish Ministry of Foreign Affairs: Document provided in ANNEX
95 Turkish Ministry of Foreign Affairs: Document provided in ANNEX
General Richard Sherlock said the following: “The PKK is a terrorist organization that are [sic] largely made up of Kurdish people from Turkey - Turkish citizens of Kurdish descent who have migrated into northern Iraq and are using areas as safe havens to try to strike different targets both in northern Iraq and in Turkey.”

How can attacks on Turkey by Turkish citizens not be a Turkish issue? Promising non-interference, therefore, is likely to mean one thing to Iraqis and quite another to both Turks and to some of the US general staff.

The MoU was followed by a meeting in September between the Turkish and Iraqi Interior Ministers. The objective of this terrorism-heavy meeting for the Turks was to secure consensus on a “hot pursuit” provision - a temporary grant of permission by the Iraqi government allowing the Turkish security forces to pursue PKK terrorists into Iraq once engaged - but by the conclusion of the meeting Turkish Interior Minister Beşir Atalay was forced to announce that no consensus had been reached. He went on to say, however, that "the two countries pledged to prevent the use of their territories by terrorist groups for accommodation, training, planning and propaganda and for staging terrorist attacks on other countries.”

By October, in light of growing popular and governmental malcontent in Turkey, it became evident that the mere failure to secure an agreement on ‘hot pursuit’ would not bar military action. The Erbil-based Kurdish Regional Government (KRG), an Iraqi regional government having broad administrative authority over Erbil, Suleimaniah, and Dohuk, was prompted by this growing sentiment to post the following on its official website. Note the use of the same “internal affairs” language that was used in the MoU.

The Kurdistan Regional Government of Iraq (KRG) is concerned by the decision of the Turkish Parliament granting a one-year authorisation [sic] for the Turkish government to conduct military operations in the Kurdistan Region in Iraq against the Kurdistan Worker's Party (PKK). We appeal to our friend and neighbour [sic] Turkey to refrain from military action in Iraq. We do not and will not allow our territory to be used by anyone to attack or undermine Turkey or any of our

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97 Xinhua News Agency: September 29
neighbours [sic]. We do not interfere in the internal affairs of Turkey, and we expect the same in return.  

By early November, the situation had reached crisis levels. As such, the Iraqi Expanded Neighbors Conference (also know as the Ministerial Conference of the Neighboring Countries of Iraq, Egypt and Bahrain and the Permanent Members of the UN Security Council and the G-8), held in Istanbul on November 2nd and 3rd, could not have come at a more opportune time. The more relevant conference participants included the Foreign Ministers or Deputy Foreign Ministers of Iran, Iraq, Syria, Turkey, the US, and the UK as well as the Secretary General of the United Nations. The “Final Communiqué” of the meeting stated that the participants agreed to:

Reaffirm the independence, full sovereignty, national unity, territorial integrity… of Iraq; commit to…non-interference in Iraq’s internal affairs,

Condemn all acts of terrorism in all its forms in Iraq…supports the Iraqi Government’s increasing efforts in combating terrorism including all efforts to prevent Iraqi territory from being used as a base for terrorism against Neighboring Countries,

Reaffirm the obligations of all states, in accordance with international law…UN Security Council Resolution 1546 and other relevant resolutions, to combat terrorist activities and prevent the use by terrorists of their territory for supplying, organizing, and launching terrorist operations

For the Turks, the condemnation of the use of Iraqi territory for the staging of terrorist attacks on neighboring countries served as vindication. Of greater significance, however, was the reference to international law in general and Security Council

98 KRG official website:
99 Turkish Ministry of Foreign Affairs:
Resolution 1546 in particular. Resolution 1546 calls for, *inter alia*, the prevention of the transit of terrorists to and from Iraq.\(^{100}\) 1546 represents the first (in the period just before CBOs commenced) official and express mention of a document with international legal consequence, and it just so happens that the document was beneficial to the Turkish legal position.

For the Iraqis, the Final Communique transmuted the mere use of “internal affairs” into an established theme, one which would be carried by Iraq and the KRG throughout. By November, this identical language had been used by 3 distinct bodies: one a sovereign nation, one a regional government, and one a group representing the international community at-large. Many Iraqis assumed, thereby, that a consolidated message would force the Turkish government to accept a diplomatic solution. In fact, both the Iraqi Foreign Minister, Hoshyar Zebari, and the Chief of Staff to the KRG president, Dr. Fuad Husein, made comments to that effect.

They don’t appear to have considered, however, the lack of clarity of message conveyed to the Turks or, alternatively, the lack of importance they had attached to it. Granted it is difficult to surmise the subjective perceptions of others, but what about the amassing of thousands of Turkish soldiers on the Iraqi border, the growing numbers of Turkish protestors calling for outright war, the agreement to establish a joint US-Turkey Intelligence Center\(^{101}\), and the dropping of warning leaflets over Çukurca (Hakkari province) from Turkish military aircraft?\(^{102}\) If these overt actions were simply taken as a bluff, the Iraqi government not only misjudged the situation at hand but misread a long history of the Turkish military doing exactly what it says it’s going to do.

In 1998, when General Atilla Ateş, then-commander of Turkish land forces, warned Syria to expel PKK leader Abdullah Öcalan or face retaliation,\(^{103}\) the Syrian government took heed. The same warning signs were there: the demands to cease PKK sheltering, the threats of retaliation should that sheltering continue, the general unrest of the Turkish population, and the dispatch of Turkish troops to the border with Syria. The only difference, whether Bashar al-Asad will admit to it now or not, is that the Syrians

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103 Mango, Andrew (2005). Turkey and the War on Terror pp. 44
knew the Turks would do exactly as they had threatened to do. That said, whether the Iraqis were incapable of forecasting the storm ahead,\textsuperscript{104} whether they felt safe in ignoring the gathering clouds due to the US presence in-country, whether the central administration lacked clout within the KRG, whether the KRG lacked the power to expel PKK, or whether a combination of the above are true, the result is the same: PKK attacks on Turkey continued.

On December 18th, at a joint US-Iraq press conference in Baghdad, US Secretary of State Condoleezza Rice and Iraqi Foreign Minister Hoshyar Zebari addressed the first of several Turkish air-strikes in northern Iraq. Minister Zebari said that although he understood the concerns that Turkey had “any unilateral actions to destabilize the situation will harm Iraq’s interests and Turkish interests at the same time.”\textsuperscript{105} Despite the minister’s comments, however, the Turks not only continued with the air-strikes, but increased their intensity. By January 15th, 4 aerial assaults into Iraq had taken place - the last of which comprised of nearly 60 targets\textsuperscript{106}.

Late January and early February brought a flurry of action. General Ergin Saygun, Deputy Chief of the Turkish General Staff, held “anti-PKK talks” in Washington with US General James Cartwright, Vice Chairman of the US Joint Chiefs of Staff, among others.\textsuperscript{107} General Cartwright then responded in kind by attending a meeting with his Turkish counterparts in Ankara\textsuperscript{108}. On February 19th CNN Turk aired an interview with Turkish Foreign Minister Ali Babacan in which he said that ground forces were still an option. Masoud Barzani, president of the KRG, responded immediately, via Al-Araba TV, first by slamming the Iraqi government for doing nothing to stop the Turkish air-raids and then by implying that the KRG might act on its own. Days later, on February 21, Reuters reported that the Turkish military had begun shelling crossing points into Iraq, destroying a bridge in Nerva Rikan (Dohuk Province).\textsuperscript{109} In addition, Al Jazeera reported that Turkish artillery hit the village of Bassiam in the Khawarkurk

\begin{footnotes}
\item[104] I refuse to believe this given that the Turks have conducted past CBOs into Iraq
\item[105] US Department of State: http://www.state.gov/secretary/rm/2007/12/97735.htm
\item[109] Reuters: http://www.reuters.com/article/gc05/idUSL2178808520080221
\end{footnotes}
region as well as various targets in Qalirach.\textsuperscript{110} Most of the news media correctly speculated that the shelling was a prelude to boots on the ground.

On February 22nd, massive ground operations began - the largest in over a decade. Initial estimates placed the primary surge at between 8,000 and 10,000 soldiers. Over the course of days, the fighting was localized to an area within just 16 kilometers of the Turkish border; where the PKK’s Hakurk and Zap camps are located.\textsuperscript{111} 240 terrorists, 27 soldiers, 126 caves, 290 shelters, 12 command centers, 11 communications centers, 18 transport facilities, 40 artillery depots, and 59 anti-aircraft dugouts later, the troops returned to a satiated Turkish public on the 29th of February.\textsuperscript{112} While the return of ground forces essentially spelled the end to hostilities, it did not effectuate an end to all operations. In fact, one Turkish paper reported that the army plans to establish 11 temporary bases south of the Turkish border in Zap, Avaşin, Hakurk, Zinhat Pass, Zeli, Mezi, Haftanin, Qanimasi, Mergasor, and Barzan.\textsuperscript{113} And, as late as April 17, 2008, targeted air strikes continued in the Avaşin-Basyan region - near the Turkish border town of Çukurca\textsuperscript{114} - despite mounting calls by the international community for the cessation of operations and despite a March 7th visit to Ankara by Jalal Talabani.\textsuperscript{115}

\begin{footnotes}
\footnotetext[110]{Al Jazeera: http://english.aljazeera.net/NR/exeres/4944295C-3C14-4276-9DAF-DDCAB3501E09.htm?FRAMELESS=true&NRNODEGUID=%7b4944295C-3C14-4276-9DAF-DDCAB3501E09%7d}
\footnotetext[111]{Today’s Zaman: http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=135019}
\footnotetext[113]{Today’s Zaman: http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=135196}
\footnotetext[115]{The New Anatolian: http://www.thenewanatolian.com/tna-31574.html}
\end{footnotes}
Hiding in Rugged Terrain

Since 2001, the Kurdish Workers' Party, a separatist rebel group, has reestablished its presence in the mountainous areas of northern Iraq, according to Soner Cagaptay, director of the Turkish Research Program of the Washington Institute for Near East Policy. During the 1990s, the Turkish military made regular incursions into Iraq to push the group back. But after Saddam Hussein was deposed, the incursions ceased, allowing the rebel group, also known as the PKK, to rebuild.

On the diagram at right, Mr. Cagaptay and his colleague, H. Alkin Uner, provide some background about how they believe the group operates.

Recent Clashes

Much of the fighting in recent months between PKK militiamen and the Turkish military has been in this sparsely populated region around Mt. Qudi and Mt. Qabor. Kurdish rebels roam freely, working back and forth along the ridges. PKK raids into Turkey conducted from Iraq have killed at least 42 people in the past month, according to Turkish authorities.

The Spark

In a brazen ambush here on Oct. 21, PKK militiamen killed 12 Turkish soldiers and captured 8 others. The attack touched off the recent escalation in Turkey-Iraq tensions.

Dispersing

The Leadership

Most of the PKK leadership is based in Gandil. As many as several thousand rebels were in this area last year, but the group dispersed much of its leadership this year.

A Strategic Corridor

PKK positions along these two ridges give them control of a key route for drugs from Afghanistan heading into Turkey. Tunnels and hideouts created in these mountains were well mapped by the Turkish military in the 1990s, so the PKK is less likely to use them as permanent bases.
THE RULES APPLIED

“They dare not admit the truth,
Though writ in letters red,
That men shall triumph now as then
By blood, which man has shed.”
- Gen. George Patton\textsuperscript{116}

UNITED NATIONS CHARTER

The former Democratic Society Party - the DTP (Demokratik Toplum Partisi) - Turkish parliamentary group leader, Ahmet Türk, declared that the actions of his country were violative of the laws of the international community. His exact words: “Entering another country is a violation of the security rights of the country in question, (and) a breach of international law.”\textsuperscript{117} Article 2(4) of the United Nations Charter reads as follows: “All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state…”\textsuperscript{118} Therefore, read in isolation, Ahmet Bey’s comment is correct yet incomplete. It is incomplete in the sense that one need not actually enter another country to violate 2(4) one must simply threaten to do so. Read in context (i.e. considering the exceptions to the 2(4) ban), however, Ahmet’s statement is not only incomplete, but incorrect. One may indeed enter another country if by doing so they act with Security Council approval, in self-defense, with regional authorization, or (possibly) under the guise of humanitarian intervention.

\textsuperscript{116} Hirshson, Stanley P (2002). General Patton pp. 84
\textsuperscript{117} Today’s Zaman: http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=135023
\textsuperscript{118} Chapter I, Article 2(4) of the UN Charter: http://www.un.org/aboutun/charter/index.html
EXCEPTION ONE: SECURITY COUNCIL APPROVAL

Under Article 42 of the UN Charter, the Security Council may authorize the use of force when it is “necessary to maintain or restore international peace and security.”119 As of the writing of this paper, the Security Council has neither explicitly approved nor explicitly condemned Turkey’s actions in northern Iraq. Though, inevitably, creative lawyers on either side will argue that the lack of condemnation implies acquiescence and, conversely, that the lack of approval implies condemnation, neither argument is very strong without actual Council action. It should be noted, however, that evidence of Security Council intention might here exist via incorporation. In the August 7th MoU, Turkey and Iraq agreed to the inclusion of the following language:

They…emphasize their obligation to implement in full UN Security Council Resolutions 1373 (2001), 1546 and 1566 (2004) and 1624 (2005), as well as their common desire to cooperate effectively in combating the terrorist activities perpetrated by the terrorist groups…120

Under Resolution 1373 (2001), States are encouraged to “cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks…”121 This language not only establishes the authority of the MoU - a bilateral agreement - but demands its implementation. I use the term ‘demands’ here for the Resolution language quoted above succeeds the phrase “Acting under Chapter VII of the Charter of the United Nations.” And, as per our discussion in the Rules of the Game chapter, we now know that Chapter VII resolutions are legally binding.

Furthermore, Resolution 1373 reaffirms the principle that “every State has the duty to refrain from…acquiescing in organized activities within its territory directed towards the commission of such acts.” Then, again, under a Chapter VII mandate, the Resolution calls for the prevention “of those who…plan, facilitate or commit terrorist

120 Turkish Ministry of Foreign Affairs: document provided in ANNEX
acts from using their respective territories for those purposes against other States…” Thus, under 1373, states have both a duty to prevent the emanation of terrorist attacks from their territories and a duty to cooperate in that effort.

Resolution 1546 (2004), calls for the prevention of the transit of terrorists to and from Iraq. \[122\] And, Resolution 1566 (2004) calls for the denial of terrorist “safe havens” on the basis of the extradite or prosecute principle. \[123\] Lastly, under Resolution 1624 (2005), the UN “Calls upon all states to…strengthen the security of their international borders.” \[124\]

In conclusion, when one notes that more than 35,000 people have been killed since 1978 as a result of PKK violence \[125\], it is hard to conclude that either of the duties under Resolution 1373 has been satisfied. That conclusion is particularly difficult to reach when one notes the amount of arms and men that enter Turkey via Iraq, thus a violation of both 1546 and 1624. And, finally, the KRG consistently refuses to extradite key PKK leadership to Turkey or prosecute them at home \[126\], thus a violation of Resolution 1566.

If these resolutions are applicable to the situation at hand - and I argue that they are based on both the express language used and their incorporation via reference in the MoU - then what is the result if Iraq refuses to comply with them? Michael Wood, Legal Advisor to the British Foreign Office, advanced the argument during the 1999 Kosovo crisis that there was a presumption of use of force authorization when states did not comply with Security Council Resolutions. \[127\] On the other hand, the former director of the Max Planck Institute for International Law, Jochen Frowein, argues for a more restrictive textual approach. Frowein argued that Security Council Resolutions mean only what they say, therefore, “there is…an interpretive presumption against the authorization of military force” \[128\] when there is no express language of authorization.

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\[125\] Mango, Andrew (2005). Turkey and the War on Terror pp. 31
\[127\] Byers, Michael (2005). War Law pp. 47
\[128\] Byers, Michael (2005). War Law pp. 48
And, in 2004, Kofi Annan seconded Mr. Fowein by expressing his opinion that the Iraq War was illegal for “it was up to the Security Council to approve or determine what the consequences should be for Iraq’s non-compliance with previously adopted resolutions.”\(^{129}\) In conclusion, though here Iraq, and particularly the KRG, is in violation of previously adopted resolutions, without more from the Security Council there appears to be little that Turkey can do under this exception to 2(4).

**EXCEPTION TWO: SELF-DEFENSE**

Article 51 of the UN Charter states that “Nothing…shall impair the inherent right of individual or collective self-defense if armed attack occurs…”\(^{130}\) Since Eruh and Şemdinli were first attacked across the Turkish-Iraqi border in 1984\(^ {131}\), the “if armed attack occurs” qualifier has been satisfied. Since that time, tens of thousands of bodies serve as evidence of the fact that attacks continue. Furthermore, the August 7th MoU - a document endorsed by both the Turkish and Iraqi governments - reaffirmed the right to self-defense by incorporating Security Council Resolution 1373.\(^ {132}\) As such, when Prime Minister Erdoğan defended his country’s military action by saying that “Turkey’s cross-border operation is a result of its legitimate right to self-defense”\(^ {133}\) he is, under the Article 51 exception to 2(4), in the right.

Pentagon spokesman, Bryan Whitman, seemed to agree with the Prime Minister’s assessment when he responded to news of Turkey’s Iraq incursion with the following: “the US respects Turkey’s need to protect its population.”\(^ {134}\) Further evidence of Turkey’s defensive posturing can be found in the military operations themselves. While the largest of PKK camps are located along the Iraq-Iran border on Mount Qandil\(^ {135}\), Turkey chose to concentrate the thrust of its efforts on the Hakurk and Zap camps which


\(^{130}\) Chapter VII, Article 51 of the UN Charter: http://www.un.org/aboutun/charter/index.html

\(^{131}\) Mango, Andrew (2005). Turkey and the War on Terror pp. 36, 37


\(^{135}\) Mango, Andrew (2005). Turkey and the War on Terror pp. 49
are within just 16 kilometers of the Turkey-Iraq border.\textsuperscript{136} The choice to target bases that were proximate to the Turkish population, rather than those higher value targets further a field suggests the defensive, rather than offensive, nature of those operations.

In an effort to be thorough, it is of some worth here to mention preemptive self-defense and the \textit{Caroline} criteria \textit{viz} necessity and proportionality.\textsuperscript{137} The reason for mere mention rather than application is that preemptive self-defense, in Use of Force analysis, is applied only when there is an absence of prior attack. Here, it has been established that Turkey had been subjected to attack from the territory of northern Iraq on numerous occasions. What does, however, merit more than passing mention is the extension, via the US response to terrorist attacks in Kenya and Tanzania, of the preemptive self-defense and traditional self-defense doctrines to include retaliation against non-state actors. As Michael Byers comments, “Having now seized the opportunity to establish self-defense as a basis for military action against terrorism, the United States, and other countries, will be able to invoke it again in circumstances which are less grave, and where the responsibility of the targeted state is less clear.”\textsuperscript{138}

\textbf{EXCEPTION THREE: REGIONAL AUTHORIZATION}

In public statements both the Iranian Foreign Minister, Manouchehr Mottaki, and Syrian Foreign Minister, Walid Mouallem, condemned PKK attacks on Turkey. Mottaki even went as far as saying that “Iran condemns (the) use of northern Iraq territory as a launching pad for terrorist operations against Turkey and is fully prepared to combat terrorism at any place.”\textsuperscript{139} As an aside, and in line with typical Iranian duplicity, Iran later demanded that territorial integrity be respected with regards to Turkish operations.\textsuperscript{140} By extension, it then appears that Iran is ready to tackle terrorism “at any place” as long as it is within Iranian borders. And, although this would be a great place for them to start, it would do little for Turkey. I digress. In addition to Iranian and

\textsuperscript{136} Today’s Zaman: http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=135019
\textsuperscript{137} Carter; Trimble; Bradley (2003). International Law pp. 970
\textsuperscript{138} Byers, Michael (2005). War Law pp. 67
\textsuperscript{139} Islamic Republic News Agency: http://www2.irna.ir/en/news/view/line-17/0710291015150619.htm
\textsuperscript{140} Reuters: http://uk.reuters.com/article/worldNews/idUKL1332871520080313
Syrian support, the Iraqi president, Jalal Talabani, has himself pledged cooperation against the PKK.\textsuperscript{141} The US too, as is widely known, has offered material support to Turkey in the form of actionable intelligence.\textsuperscript{142}

All of the pledges and promises above, however, do not amount to regional authorization. While Article 52 of the UN Charter allows for regional arrangements when appropriate action is required for international peace and security\textsuperscript{143}, the formation of an “arrangement”, in the formal sense of the word, requires more than a collection of sound bites. Yes, the US has provided material support, but what more have Iran, Syria, and Iraq done? In fact, it was Iraqi inaction which precipitated cross-border operations to begin with.

Lastly, even if a series of informal bilateral press conferences were enough to establish the basis for a regional arrangement, the Article 53 barrier still remains. Article 53 of the UN Charter acts as a caveat to the initial power grant within Article 52; it reads as follows:

\begin{quote}
The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. \textit{But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council.}\textsuperscript{144}
\end{quote}

And, as stated above, no Security Council authorization has been given.

\textbf{EXCEPTION FOUR: HUMANITARIAN INTERVENTION}

Article 2(4) of the UN Charter prohibits the threat or use of force. Article 2(7) adds to that prohibition by making matters that are essentially domestic off-limits to interference by the international community. Anthony Aust, however, argues that

\begin{flushleft}
\textsuperscript{141} Today’s Zaman: http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=136466
\textsuperscript{142} Reuters: http://www.reuters.com/article/politicsNews/idUSN2434235320080324
\textsuperscript{143} Chapter VIII, Article 52 of the UN Charter: http://www.un.org/aboutun/charter/index.html
\textsuperscript{144} Chapter VIII, Article 53 of the UN Charter: http://www.un.org/aboutun/charter/index.html
\end{flushleft}
humanitarian necessity acts as a 2(4), 2(7) override. He argues that the use of force is not violative of the “Purposes of the United Nations” - as stated in 2(4) - when used to solve “problems of humanitarian character” - as stated in 1(3). “When the upholding of the Purposes comes into acute conflict with the sovereignty of a state that is the very obstacle to achieving them, respect for its territorial integrity or political independence has to give way to the overriding needs of humanity…”

Though I generally disagree with Aust’s argument, for the reasons stated supra, his argument is given a dose of credibility in the facts of the case at hand. Security Council Resolution 1373, as incorporated in the MoU, states that “knowingly financing, planning, and inciting terrorist acts are…contrary to the purposes and principles of the United Nations.” That credibility is short-lived, however, given that the information does not indicate, nor does the Turkish government insinuate, that Iraq is taking such an affirmative role in the terrorist attacks.

A different approach was taken in 1991, when US, British, Dutch, French, and Italian militaries were deployed in northern Iraq under Security Council Resolution 688. The Resolution “Condemned the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, the consequence of which threatens international peace and security in the region.” The British used the language of this resolution as the basis to argue for humanitarian intervention. Perhaps the Turks could do the same with regards to the Turkmen - an ethnic minority group “in Kurdish-populated areas” that claims to be repressed.

The Turkmen (or Turcoman) belong to an ethnic group hailing from Turkmenistan - though a large number live in Afghanistan, Iraq, and Iran. Turkmen have an affinity for Turkish nationals for the common culture and language they share; they are largely Sunni Muslim and their language is one of the Oguz languages, along with Turkish and Azeri. In addition to ethnic ties, many Iraqi Turkmen feel they have a shared security interest with their big brothers to the north. In fact, as recently as

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146 UN Security Council Resolution 1373(2001):
http://daccessdds.un.org/doc/UNDOC/GEN/N01/557/43/PDF/N0155743.pdf?OpenElement
http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/596/24/IMG/NR059624.pdf?OpenElement
149 Brummell, Paul (2005). Turkmenistan pp. 16
March Sadun Köprülü, Turkey representative of the Iraqi Turkmen Front (ITF) - a loud pro-Ankara organization swearing allegiance to Turkey - made headlines by praising the “CBO as an end to the imaginary ‘Kurdistan’ project.”\textsuperscript{150} In addition, Sadun Bey claimed that the Turkmen were subject to constant danger and “dirty tricks”, implying that the demographic structure of the Turkmen regions in Iraq were being altered to intentionally disenfranchise the Turkmen.

Should the Turkish government argue this position (i.e. humanitarian intervention on behalf of the repressed Turkmen), they would, presumably, submit to the limitations that the British provided when they themselves made the argument in 1991. The British argued that the availability of the doctrine applied only when: 1. there is compelling humanitarian distress, 2. the target of force is unwilling or unable to act, 3. there are no practical alternatives, and 4. intervention is limited in time and scope.\textsuperscript{151} Applying our facts, we don’t even make it past limit 1; a diminution of power is not a compelling humanitarian distress. And, as the limitations are to be read conjunctively, the failure of one is the failure of them all. Therefore, even in this intellectual and creative extreme, humanitarian intervention is a losing argument. For the record, in reality this contentious fourth exception is rarely tried and never successful.

\textsuperscript{150} Turkish Daily News: http://www.turkishdailynews.com.tr/article.php?enewsid=98261  
\textsuperscript{151} Byers, Michael (2005). War Law pp. 99
Iraq and Its Peoples

- **Shia Arabs, 55%**
- **Kurds, 21%** (Sunni, Shia, Yezidi)
- **Sunni Arabs, 18.5%**
- **Assyrians, Chaldeans, Armenians, 3.5%** (Christians)
- **Turkmen, 2%** (Shia and Sunni)
- **Mandaeans, 0.5%** (Sabaeans)

**Sparsely populated**

Remarks: Persians, once numerous, have been largely expelled since early 1980s. Armenians are found only in the major cities. After the 1950s, there are about 400 Jews left in Iraq.
CONCLUSION

“I have come…with the hope, which has been increased by my success, that I should carry home victory and not terms of peace. Still, though I had victory in a manner within my grasp, I would not refuse accommodation, that all the nations might know that [I] both undertake and conclude wars with justice.” - Scipio Africanus

It is the conclusion of this paper that the decision by the Turkish government to use force against a terrorist organization based in northern Iraq was legally justified under international law and under the strictures of jus ad bellum in particular. Article 2(4) of the United Nations Charter bans the “threat or use of force against the territorial integrity or political independence of any state”, but as we have noted that prohibition is not absolute. One may in fact use force against the territory of another state when doing so under either: 1. Security Council approval, 2. self-defense, 3. regional authorization, or 4. humanitarian intervention.

Aside from the implied intent of the Security Council, as evidenced by the Iraqi breach of Security Council Resolutions 1373, 1546, 1566, and 1624, as incorporated in the MoU, there is neither express authorization nor condemnation of Turkish military activities in northern Iraq. As such, and despite British creativity, the majority view, as embodied in Jochen Frowein, appears to limit military authorization to explicit grants by the Security Council. Therefore, this exception to the 2(4) ban was not available to the Turks. Nor were the regional authorization and humanitarian exceptions in the absence of either a regional consensus or a compelling humanitarian distress.

The self-defense exception to 2(4) does, however, here apply. Article 51 states that “Nothing…shall impair the inherent right of individual…self-defense if armed attack occurs.” We have established that attacks emanating from northern Iraq have, on multiple occasions and with deadly effect, occurred within Turkey. We have also established the legitimacy of extending the self-defense doctrine to non-state actors (i.e. terrorists such as the PKK), thereby, bringing Turkey within this exception to 2(4).

Therefore, Turkish use of force in northern Iraq is legally justifiable under the Article 51 self-defense exception to 2(4) of the United Nations Charter.

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152 Hart, Liddell (1926). Scipio Africanus pp. 151
MILT:

Turkey has the second largest standing army in NATO. This fact provides tremendous indirect benefit to the US. Without having to fire a single shot, the mere presence of a large well-trained military contributes to stability in a rough neighborhood - a neighborhood with which we are inextricably linked. On that note, Turkey’s strategic geography also provides a direct benefit to the US military; Incirlik Air Force Base is within 1,000 miles (or very nearly so) of Riyadh, Baghdad, and Tehran. Lastly, when Turkish troops are tasked to, for example, the NATO mission in Afghanistan one sees just how crucial of a role they play. It is worthy of notation here that General Buyukanıt recently refused to send more troops to Afghanistan as long as his men were fighting the PKK in northern Iraq.

It should also be noted that Turkey is in the process of lobbying for Security Council Membership. From 821 United Nations Plaza NY, NY a tremendous effort to secure one of the 10 revolving seats for the 2009-2010 term is underway. The most recent diplomatic push has been geared towards smaller island nations. In fact, in April representatives from Nauro, the Republic of Vanuatu, the Solomon Islands, the Marshall Islands, the Cook Islands, Tuvalu, Papua New Guinea, the Republic of Palau, Fiji, the Federated States of Micronesia, Samoa and Tonga all arrived in Istanbul for discussions.\(^{153}\)

ECON:

Habur Gate, the only border gate between Turkey and Iraq, is the door through which thousands of trucks carrying vital supplies daily pass. Those trucks, and the trade they represent, make up a large portion of the three billion dollars of bilateral trade that exists between Turkey and Iraq.\(^{154}\) Within that three billion dollar trade is the Turkish


\(^{154}\) Turkish Ministry of Foreign Affairs: http://www.mfa.gov.tr/MFA/ForeignPolicy/Regions/MiddleEast/Iraq/Iraq_Political.htm
supply of 50% of Iraq’s and 90% of northern Iraq’s refined oil products.\textsuperscript{155} In addition, Turkey is poised to provide nearly a fourth of Iraq’s entire electricity requirement in the near to mid term.\textsuperscript{156} The continuation of this trade, and the resultant stability of mission it brings, is dependent upon peace in the border region - through which all of these goods have to pass.

\textsuperscript{155} Turkish Ministry of Foreign Affairs: http://www.mfa.gov.tr/MFA/ForeignPolicy/Regions/MiddleEast/Iraq/Iraq_Political.htm
\textsuperscript{156} Turkish Ministry of Foreign Affairs: http://www.mfa.gov.tr/MFA/ForeignPolicy/Regions/MiddleEast/Iraq/Iraq_Political.htm
Figure 65. A truck holding area near Habur Bridge BCP showing the high volume of border traffic into Iraq.
SOURCES

Books:
1. Handbook of International Law - Anthony Aust
2. International Law (casebook) - Carter, Trimble, Bradley
3. War Law - Michael Byers
4. Documents on the Laws of War - Adam Roberts, Richard Guelff
5. The Politics of International Law - Christian Reus-Smit
6. The State and International Relations - John M. Hobson
7. World Politics and International Law - Francis Anthony Boyle
9. Turkey and the War on Terror - Andrew Mango
10. Atatürk - Andrew Mango
11. Suits and Uniforms: Turkish Foreign Policy Since the Cold War - Philip Robins
12. Crescent and Star: Turkey Between Two Worlds - Stephen Kinzer
13. Turkish Foreign Policy in an Age of Uncertainty - Stephen Larrabee, Ian Lesser
14. Modern History of the Kurds - David McDowall
15. The Balkans - Misha Glenny
16. A Global Agenda: Issues Before the 56th General Assembly of the UN
17. The Art of War - Sun-tzu
18. My American Journey - Colin Powell
19. Scipio Africanus - Liddell Hart
20. Strategy - Liddell Hart
21. General Patton - Stanley P. Hirshson
22. Cicero - Anthony Everitt
23. On War - Carl Von Clausewitz
24. Rommel: The Desert Fox - Desmond Young
25. The Prince - Niccolo Machiavelli
26. Kissinger - Walter Isaacson
27. The Art of the Impossible - Václav Havel
28. Napoleon Bonaparte - Alan Schom
29. In Search of Identity - Anwar el-Sadat
30. Turkmenistan - Paul Brummell
31. Culture and Customs of the Central Asian Republics - Rafis Abazov
32. Osama - Randal Jonathan
33. King James Bible - National Publishing Company
34. The Glorious Qur’ân - Marmaduke Pickthall
35. Patriotas de la muerte - Fernando Reinares
36. The Future of Turkish-Western Relations: Toward a Strategic Plan - Zalmay Khalilzad, Ian Lesser, Stephen Larrabee

Legal Documents:
37. The Peace of Westphalia
38. United Nations Charter
39. UN Security Council Resolutions: 688, 1373, 1386, 1546, 1566, and 1624
40. Turkey-Iraq Memorandum of Understanding
41. The North Atlantic Treaty
42. July 1996 ICJ Advisory Opinion on the Threat or Use of Nuclear Weapons
43. Kellogg-Briand Pact
44. Wilson’s 14 Points
45. League of Nations Covenant
46. The Stimson Doctrine
47. Treaty of San Stefano
48. Treaty of Sèvres
49. Treaty of Lausanne
50. Vienna Convention on the Law of Treaties

Newspapers:
51. Turkish Daily News
52. Today’s Zaman
53. The New Anatolian
54. New York Times

Websites:
55. Reuters
56. Al Jazeera
57. Islamic Republic News Agency (IRNA)
58. Xinhua News Agency
59. US Department of Defense
60. US Department of State
61. The United Nations
62. International Court of Justice
63. CIA World Factbook
64. Centre for Research on Globalization
65. Turkish Ministry of Foreign Affairs
66. KRG official website
67. Bangladesh official website
68. Vaclav Havel official website
69. Avalon Project, Yale Law School
ANNEX

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF IRAQ

AND

THE GOVERNMENT OF THE REPUBLIC OF TURKEY

(07 August 2007)

Turkey and Iraq, expressed their commitment to good neighbourly relations based on mutual respect, solidarity, friendship and non-interference in each other’s internal affairs.

In this vein, Turkey wishes to see security established in Iraq and condemns all terrorist activities in this country.

This visit allowed the reconfirmation of Turkey’s support to the Iraqi process of reconciliation and democratization.

The two Prime Ministers reaffirmed that they view the relations between Turkey and Iraq, covering economy, energy and security as well as social and cultural aspects as a whole and underscored their commitment to make full use of this multi-dimensional relationship for the benefit of their peoples and the region. In this respect, they look upon this relationship from a wider and long term perspective. As two countries whose economies complement and reinforce one another, Turkey and Iraq are determined to mobilize all existing bilateral cooperation opportunities.

The two Prime Ministers and their respective delegations held very fruitful and positive consultations. Bilateral relations and opportunities for
cooperation were discussed and a full and frank exchange of views took place concerning the political process in Iraq including security. This memorandum of understanding provides a framework for cooperation between Turkey and Iraq in preventing and suppressing terrorism and organized crime.

Both countries acknowledge the existing cooperation between Turkey and Iraq on security and law enforcement matters, and desire to strengthen and expand that cooperation to combating terrorism;

The two Prime Ministers, expressed their joint will to fight against terrorist organisations and activities including PKK/KONGRA-GEL and reiterated their common understanding to activate every effort to isolate, pacify and eradicate the presence of all terrorist organisations in Iraq.

Both countries recognize that, regarding the legal and judicial matters, the Ankara Agreement signed on 5 June 1926, Friendship and Good Neighbourly Relations Agreement between Turkey and Iraq, signed on 29 March 1946 and the Agreement Between the Republic of Turkey and the Republic of Iraq on Legal and Judicial Matters signed on 19 September 1989 are in force between the two states,

They also emphasize their obligation to implement in full UN Security Council Resolutions 1373 (2001), 1546 and 1566 (2004) and 1624 (2005), as well as their common desire to cooperate effectively in combating the terrorist activities perpetrated by the terrorist groups,

In this respect, the two Prime Ministers instructed their relevant authorities to expedite and finalize the work on “The Agreement on Combating Terrorism” and “The Memorandum of Understanding between Interior Ministries on Cooperation to Combat Terrorism and Organised Crime” within two months time. To this end, the Iraqi Minister of Interior will visit Turkey in two weeks to prepare the said agreements.

The two Prime Ministers expressed their satisfaction with the signing of “The Memorandum of Understanding between the Energy Ministries” and instructed their respective competent authorities to finalize as soon as possible the “Comprehensive Economic Partnership Agreement” within the framework of the Joint Iraqi-Turkish Economic Committee.
Turkey has reactivated its Consulate-General in Mosul in line with its comprehensive approach towards Iraq. Now, the Iraqi Prime Minister welcomed Turkey’s decision to open a second Consulate-General in Basra. The two Prime Ministers agreed that Iraqi side would provide every support to Turkey to complete the preparations of the opening of the new consular mission. Iraqi side declared its interest to open a second Consulate-General in Turkey, probably in Gaziantep.

At their initial meeting of the enlarged ministerial meeting of neighbours of Iraq in Sharm al Sheikh, the Foreign Ministers had agreed to hold their second meeting in İstanbul. In this context, the two Prime Ministers underlined the importance they attach to this process and worked on the preparations of the second meeting. The Enlarged Foreign Ministers Meeting of the Neighbours of Iraq is planned to be held in the coming months.

With a view to furthering the bilateral relations and materializing the strategic perspective they agreed upon, the two Prime Ministers decided to strengthen their political dialogue and cooperation and intensify the contacts, including establishment of new mechanisms through proper official channels and to better utilize the existing structures such as the Joint Economic Committee.

For the Government of Iraq For the Government of Turkey
Resolution 1373 (2001)

Adopted by the Security Council at its 4385th meeting, on 28 September 2001.

The Security Council,


Reaffirming also its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts,

Reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security,

Reaffirming the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368 (2001),

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Deeply concerned by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism,

Calling on States to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism,

Recognizing the need for States to complement international cooperation by taking additional measures to prevent and suppress, in their territories through all lawful means, the financing and preparation of any acts of terrorism,

Reaffirming the principle established by the General Assembly in its declaration of October 1970 (resolution 2625 (XXV)) and reiterated by the Security Council in its resolution 1189 (1998) of 13 August 1998, namely that every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,

Acting under Chapter VII of the Charter of the United Nations,
Resolution 1386 (2001)

Adopted by the Security Council at its 4443rd meeting, on 20 December 2001

The Security Council,

Reaffirming its previous resolutions on Afghanistan, in particular its resolutions 1378 (2001) of 14 November 2001 and 1383 (2001) of 6 December 2001,

Supporting international efforts to root out terrorism, in keeping with the Charter of the United Nations, and reaffirming also its resolutions 1368 (2001) of 12 September 2001 and 1373 (2001) of 28 September 2001,

Welcoming developments in Afghanistan that will allow for all Afghans to enjoy inalienable rights and freedom unfettered by oppression and terror,

Recognizing that the responsibility for providing security and law and order throughout the country resides with the Afghan themselves,

Reiterating its endorsement of the Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions, signed in Bonn on 5 December 2001 (S/2001/1154) (the Bonn Agreement),

Taking note of the request to the Security Council in Annex 1, paragraph 3, to the Bonn Agreement to consider authorizing the early deployment to Afghanistan of an international security force, as well as the briefing on 14 December 2001 by the Special Representative of the Secretary-General on his contacts with the Afghan authorities in which they welcome the deployment to Afghanistan of a United Nations-authorized international security force,

Taking note of the letter dated 19 December 2001 from Dr. Abdullah Abdullah to the President of the Security Council (S/2001/1123),

Welcoming the letter from the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom of Great Britain and Northern Ireland to the Secretary-General of 19 December 2001 (S/2001/1117), and taking note of the United Kingdom offer contained therein to take the lead in organizing and commanding an International Security Assistance Force.
Resolution 1546 (2004)

Adopted by the Security Council at its 4987th meeting, on
8 June 2004

The Security Council,

Welcoming the beginning of a new phase in Iraq's transition to a
democratically elected government, and looking forward to the end of the
occupation and the assumption of full responsibility and authority by a fully
sovereign and independent Interim Government of Iraq by 30 June 2004,

Recalling all of its previous relevant resolutions on Iraq,

Reaffirming the independence, sovereignty, unity, and territorial integrity of
Iraq,

Reaffirming also the right of the Iraqi people freely to determine their own
political future and control their own natural resources,

Recognizing the importance of international support, particularly that of
countries in the region, Iraq's neighbours, and regional organizations, for the people
of Iraq in their efforts to achieve security and prosperity, and noting that the
successful implementation of this resolution will contribute to regional stability,

Welcoming the efforts of the Special Adviser to the Secretary-General to assist
the people of Iraq in achieving the formation of the Interim Government of Iraq, as
set out in the letter of the Secretary-General of 7 June 2004 (S/2004/461).

Taking note of the dissolution of the Governing Council of Iraq, and
welcoming the progress made in implementing the arrangements for Iraq's political
transition referred to in resolution 1511 (2003) of 16 October 2003,

Welcoming the commitment of the Interim Government of Iraq to work
towards a federal, democratic, pluralist, and unified Iraq, in which there is full
respect for political and human rights,

Stressing the need for all parties to respect and protect Iraq's archaeological,
historical, cultural, and religious heritage,

Affirming the importance of the rule of law, national reconciliation, respect for
human rights including the rights of women, fundamental freedoms, and democracy
including free and fair elections,
Resolution 1566 (2004)

Adopted by the Security Council at its 5053rd meeting, on 8 October 2004

The Security Council,

Reaffirming its resolutions 1267 (1999) of 15 October 1999 and 1373 (2001) of 28 September 2001 as well as its other resolutions concerning threats to international peace and security caused by terrorism,

Recalling in this regard its resolution 1540 (2004) of 28 April 2004,

Reaffirming also the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations and international law,

Deeply concerned by the increasing number of victims, including children, caused by acts of terrorism motivated by intolerance or extremism in various regions of the world,

Calling upon States to cooperate fully with the Counter-Terrorism Committee (CTC) established pursuant to resolution 1373 (2001), including the recently established Counter-Terrorism Committee Executive Directorate (CTED), the "Al-Qaeda and Taliban Sanctions Committee" established pursuant to resolution 1267 (1999) and its Analytical Support and Sanctions Monitoring Team, and the Committee established pursuant to resolution 1540 (2004), and further calling upon such bodies to enhance cooperation with each other,

Reminding States that they must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law,

Reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security,

Considering that acts of terrorism seriously impair the enjoyment of human rights and threaten the social and economic development of all States and undermine global stability and prosperity,

Emphasizing that enhancing dialogue and broadening the understanding among civilizations, in an effort to prevent the indiscriminate targeting of different
Resolution 1624 (2005)

Adopted by the Security Council at its 5261st meeting, on 14 September 2005

The Security Council,


Reaffirming also the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations, and also stressing that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights law, refugee law, and humanitarian law,

Condemning in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security, and reaffirming the primary responsibility of the Security Council for the maintenance of international peace and security under the Charter of the United Nations,

Condemning also in the strongest terms the incitement of terrorist acts and repudiating attempts at the justification or glorification (apologue) of terrorist acts that may incite further terrorist acts,

Deeply concerned that incitement of terrorist acts motivated by extremism and intolerance poses a serious and growing danger to the enjoyment of human rights, threatens the social and economic development of all States, undermines global stability and prosperity, and must be addressed urgently and proactively by the United Nations and all States, and emphasizing the need to take all necessary and appropriate measures in accordance with international law at the national and international level to protect the right to life,

Recalling the right to freedom of expression reflected in Article 19 of the Universal Declaration of Human Rights adopted by the General Assembly in 1948 ("the Universal Declaration"), and recalling also the right to freedom of expression