Between Idealism and Realism: Britain, the UN, and NATO

1. Introduction

Since 1945, the UK government’s decisions to deploy troops have increasingly been made within international institutional frameworks. The UK, as a permanent member of the UN Security Council, and as an original party to the NATO Treaty of 1949, is both a member of a deficient—arguably idealist—global security system (the UN), and party to a discretionary realist regional defence alliance (NATO) that has its historical roots in the nineteenth century balance of power system. The end of the Cold War saw both the re-vitalization of the UN system and the reinvention of NATO, so that both organizations now claim to operate within similar legal and political contexts. The changing functions of both organizations and Britain’s role within them will be the key features of this chapter, in that they are essential for understanding the decisions to go to war or to deploy troops under international authority.

2. Britain and the Creation of the UN

During the early years of the Second World War, there were some intriguing debates in parliament relating to the idea of international organization, as the number and coordination of the Allies increased and improved. In 1941, the British government expressed satisfaction at the way the then nine Allies were working to fight Germany, but rejected the idea that a Joint Allied Council was necessary, dismissing the idea as an issue of method. The questioner responded by rhetorically asking ‘is there not a further question beyond that of method, the question of an international symbol—so many nations working together for a common object?’¹ Later in that year, the Prime Minister, Winston Churchill,

¹ *Hansard* HC vol 371, cols 827–8, 7 May 1941 (Mander).
spoke about a joint British and American declaration, known as the Atlantic Charter, made by the Prime Minister and President Roosevelt, the purpose of which (as reflected in the preamble) was to ‘make known certain common principles in the national policies of our respective countries on which they base their hopes for a better future’.

The Atlantic Charter was made on 14 August 1941 a few months before the United States was to enter the Second World War. It contained the two leaders’ vision for the post-war world. The principles included the right of peoples to self-government, increased economic collaboration, economic advancement and social security; issues which would require a high degree of collaboration. Furthermore, the abandonment of the use of force was declared as the final principle, which was accompanied by the statement that ‘pending the establishment of a wider and permanent system of general security’, the disarmament of potential aggressors would be necessary.

There was no real mention in the Atlantic Charter of any new institution or international legal order, though it was suggested in the debate. One member, Seymour Cocks, Labour MP for Broxtowe, said that there was a need for a ‘new order’ after the war aims of the Allies had been achieved and the peace aims had been formulated, on the basis that ‘this is no ordinary war, and the settlement must not be an ordinary one either’. He stated that the ‘design of the temple of peace depended on the area of ground cleared for its erection, as well as upon the materials available for its building’. However, he did suggest that ‘nations should be bound in some federation, or political union, or in several federations, closer in texture than anything contemplated in the Covenant of the League of Nations’.² Most contributors to the debate though were concerned with the immediate plight of the Soviet Union, under attack from Nazi Germany. The Prime Minister himself concentrated on the more traditional principles contained in the Atlantic Charter designed to achieve the ‘restoration of the sovereignty, self-government and national life of the States and nations now under the Nazi yoke’.³

By January 1942 it was reported to the House of Commons that twenty-six nations had accepted the principles of the Atlantic Charter,⁴ in fact a later brief explanation to the House made it clear that the representatives of those nations had gathered in Washington on 1 January 1942 to sign the ‘Declaration by the United Nations’.⁵ In adhering to the Atlantic Charter principles and pledging to use their resources to defeat the Axis Powers, these states were ‘convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom and to preserve human rights and justice in their own lands as well as in other lands’. The grim reality of nations united in a common war effort seemed a long way from the prospect of a global security organization,

² Hansard HC vol 374, cols 130–1, 9 Sept. 1941 (Cocks).
³ Ibid., col 69 (Churchill).
but the seeds had been sown. Interestingly, the Foreign Secretary, Anthony Eden, was soon referring to the ‘establishment of the United Nations’, which signified that the Allied aims could not be declared by any one state.⁶ The idea of a collective approach had taken hold, and in the aftermath of Allied victories in North Africa in November 1942, King George VI spoke to both the Houses, stating that ‘the declaration of the United Nations endorsing the principles of the Atlantic Charter provides a foundation on which international society can be built after the war’, mentioning that his government had entered into consultations with the governments of the United Nations about post-war reconstruction.⁷ Government ministers were soon mentioning a ‘future world organisation’.⁸

A year later following the Tehran Conference ending on 1 December 1943 between Stalin, Roosevelt, and Churchill, there appeared to be no further development in planning the peace, at least none such was evident from the conference declaration which was mainly concerned with the prosecution of the war. There was recognition of a responsibility on the three governments and the United Nations to make a peace that would ‘banish the scourge and terror of war for generations’. In the House, although the Foreign Secretary declared that the foundations of peace had been laid at Tehran, there was no indication of any detail. There were calls for more concrete planning for ‘a new chapter of permanent international co-operation’, and criticisms of the ‘lack of [any] pattern’ emerging from the series of conferences between the Big Three, which culminated with Tehran.⁹ The fact that the whole of the United Nations had not been involved in the discussions was also pointed to, in an echo of the criticisms that are often levelled at the permanent members of the Security Council today.¹⁰

In response to parliamentary pressure to reveal the plans for world peace, Prime Minister Churchill was moved to make the following statement in May 1944:

Scarred and armed with experience we intend to take better measures this time than could ever previously have been conceived in order to prevent a renewal, in the lifetime of our children or grandchildren at least, of the horrible destruction of human values which has marked the last and present world wars. We intend to set up a world order and organisations, equipped with all the necessary attributes of power, in order to prevent the breaking out of future wars, or the long planning of them in advance, by restless and ambitious nations. For this purpose there must be a World Council, a controlling Council, comprising the greatest States which emerge victorious from this war, who will be obligated to keep in being a certain minimum standard of armaments for the purpose of preserving peace. There must be a World Assembly of all Powers, whose relation to the world Executive... for the purpose of maintaining peace I am in no position to define.¹¹

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⁷ *Hansard* HC vol 385, cols 6–7, 11 Nov. 1942.
⁸ *Hansard* HC vol 385, col 156, 12 Nov. 1942 (Law).
¹⁰ *Hansard* HC vol 397, col 789, 22 Feb. 1944 (Guest).
¹¹ *Hansard* HC vol 400, col 784, 24 May 1944 (Churchill).
Churchill declared that this new world order ‘must be based upon a reign of law which upholds the principles of justice and fair play and which protects the weak against the strong if the weak have justice on their side’. In order to deter aggressors ‘we must arm our world organisation and make sure that, within the limits assigned to it, it has overwhelming military power’. He saw no incompatibility between existing relationships and arrangements such as the Commonwealth and the special relationship with the United States, as well as ‘the conception of a Europe truly united’, and the world organization.¹² Yet major enduring tensions in the post-1945 world order are between unilateralism (or bilateralism in the case of the invasion of Iraq in 2003) and multilateralism; and between universalism and regionalism, as shown in the uncertain legal basis of the NATO bombing of Serbia over Kosovo in 1999. There was some scepticism in the House in 1944 when one speaker warned against ‘paper theorising’. He went on to state that a ‘great deal of harm can be done by beautiful paper constitutions, for which there is no backing in reality’.¹³

There was a high degree of realism in the negotiations leading up to the San Francisco Conference where the UN Charter was adopted in June 1945. Meetings between the major powers characterized the process of negotiation that led to the San Francisco Conference in 1945 at which over forty nations were present. A first draft of what was to become the UN Charter was negotiated by the US, UK, and the USSR, plus the Republic of China, at Dumbarton Oaks in August and October 1944. The detailed proposals for a general international organization as well as the basic principles that would govern post-war international relations adopted at Dumbarton Oaks included the prohibition on the threat or use of force, a re-affirmation of the sovereign equality of states, a weak General Assembly and Economic and Social Council, an International Court of Justice based on the Permanent Court of International Justice (and therefore based on the need for the consent of both parties), and a powerful Security Council with the competence to impose sanctions, and to take military action to maintain or restore international peace and security. It also included a provision for the Security Council to authorize any enforcement action by regional arrangements. The Security Council would have eleven members including five permanent members. The right of veto was refined at the Yalta Conference in February 1945, after a series of exchanges between the Soviet Union and the United States,¹⁴ at which Stalin, Churchill, and Roosevelt agreed on the formulation that is now contained in article 27(3) of the UN Charter, including the need to have the ‘concurring votes of the permanent members’, for all important resolutions of the Security Council.

In fact, as related by Paul Kennedy, most of the key provisions of the Charter were drafted by ‘American, British and Soviet policy makers’ in 1944–5 who

¹² Ibid., cols 784–6 (Churchill). ¹³ Ibid., col 802 (Thomas).
were ‘intent upon fashioning the world order’ not on the basis of ‘flaccid well-meaning declarations that, they suspected, had given the League of Nations such weak legs’, but on the basis that the ‘new security system had to have teeth’.¹⁵ The Foreign Secretary, Anthony Eden, made this clear in the House of Commons in May 1944 when he stated that the ‘responsibility in any future world organisation must be related to power, and consequently the world organisation should be constructed around the four great Powers’—the United States, the Soviet Union, Britain, and China.¹⁶ There was very little discussion of the Dumbarton Oaks proposals in the House of Commons during the period of their negotiation, despite the Prime Minister and Foreign Secretary being asked questions about them.¹⁷ The Deputy Prime Minister, Clement Attlee, defended the government from criticism about its reluctance to reveal any details of post-war institutions by stating in January 1945 that the ‘foreign policy of this Government is not a matter that is left to the impulse of the Prime Minister or to the sole discretion of a Foreign Secretary. These matters are debated and discussed very fully in Cabinet’.¹⁸ It was in February 1945 that the Prime Minister outlined to parliament the Dumbarton Oaks proposals as modified by the Yalta agreement. From his speech it was clear that the sticking issue, and one that probably prevented greater openness in parliament, had been the voting procedures in the Security Council. Without explaining the content of the agreement reached at Yalta, he justified the voting arrangements by saying:

It is on the Great Powers that the chief burden of maintaining peace and security will fall. The new world organisation must take into account this special responsibility of the Great Powers, and so must be framed as not to compromise their unity or their capacity for effective action if it is called for at short notice. At the same time, the world organisation cannot be based upon a dictatorship of the Great Powers. It is their duty to serve the world and not to rule it. We trust that the voting procedure on which we agreed at Yalta meets these two essential points and provides a system which is fair and acceptable . . . ¹⁹

The vision of a Council united in effective action with each permanent member under a duty to serve seems a long way from the veto-ridden inactive Cold War body, and even the selective, sometimes effective post-Cold War body. The truth is that the introduction of the veto was more likely to lead to the Council being a forum for diplomacy rather than one for action.²⁰

¹⁶ Hansard HC vol 400, col 1055, 25 May 1944 (Eden).
¹⁹ Hansard HC vol 408, col 1272, 27 Feb. 1945 (Churchill).
On 26 June 1945 the UK became an original signatory at San Francisco to the UN Charter. Indeed, along with the Soviet Union, the United States, and China, it was one of the sponsoring powers at the conference, attended by forty-six other states. The UK was a major force in the drafting of the Charter, during which there emerged different visions for collective security arrangements. Prime Minister Winston Churchill supported greater regionalism within a universal framework. His belief was that ‘it was only the countries whose interests were directly affected by a dispute [that] could be expected to apply themselves with sufficient vigour to secure a settlement’. He envisaged three regional Councils, but he also emphasized that ‘the last word would remain with the Supreme World Council’.²¹ Although there was no recognition of specific regional structures in the Charter, a relationship between regionalism and universalism was built into chapter VIII of that treaty, with the UN Security Council having ultimate authority over enforcement action.²² This limitation on regional autonomy has been tested on many occasions, possibly most significantly by the NATO bombing of the Federal Republic of Yugoslavia in 1999. Britain’s involvement in the NATO operation will receive separate analysis in chapter nine; suffice it to say at this juncture that on occasions Britain has regretted tying the right to take military enforcement action to the Security Council.

3. Britain and the Veto

The right of veto had its genesis in the desire to prevent the permanent members from being the potential objects of collective measures. However, article 27(3) was drafted on a much wider basis after the Yalta Conference of 1945. It was clear after Yalta that great power unity was destined to be an unachieved ideal with the veto extending beyond the enforcement provisions of chapter VII, to chapter VI, which granted the Council general, recommendatory powers for pacific settlement, unless one of the permanent members was a party to the dispute. Indeed, the Yalta formula, presented to the San Francisco conference in explanation of the right of veto, illustrated the permanent members’ desire to leave no loopholes to prevent their use of the veto. The Yalta formula introduced the prospect of the ‘double veto’, which meant that any decision regarding the ‘preliminary question’ as to whether a proposed resolution was important enough to be subject to the veto required the ‘concurring votes of the permanent members’.²³

However, the smaller powers’ objections at San Francisco were not directed at the double veto, but at the ‘chain of events’ theory outlined in the Yalta formula.

²² Art 53 of the UN Charter.
²³ UN Conference on International Organization (UNCIO), vol 11, 713.
The smaller powers demanded that the veto should be confined to questions concerning enforcement action. The Australian delegate argued that ‘the Council has the duty rather than a right to conciliate disputants’ and that it was essential that no member should have the right to veto resolutions aimed solely at pacific settlement of disputes.²⁴ The major powers stuck to the somewhat fallacious argument presented in the Yalta formula that any pacific measures ‘may initiate a chain of events which might in the end require the Council under its responsibilities to invoke measures of enforcement’.²⁵ It might well be that such a chain of events could occur, but it did not appear necessary to allow the veto to occur at the pacific settlement stage as long as the permanent members could operate it at the enforcement stage. The ‘chain of events’ theory was, in reality, a mechanism whereby the whole field of Council action would be the subject of the veto. The smaller powers continued to object, but it became clear that an expansive right of veto would have to be accepted as the ‘Big Five decided to let it be known that unless the voting provision was accepted, there would be no Organisation’.²⁶ It was no longer a question of preserving great power unanimity but of preserving the organization.

The applicability of the double veto and the chain of events theory peppered exchanges in the Council during its first decade. These have been thoroughly reviewed elsewhere.²⁷ Such debates petered out in the face of the permanent members developing a practice which enabled them to use the veto to defeat any sort of proposal under chapter VI or chapter VII, unless it was clearly procedural.

In accordance with UK constitutional practice,²⁸ the UN Charter was presented to the House of Commons for approval on 22 August 1945. In introducing it to the House, Prime Minister Attlee stated that ‘the Charter was voted and discussed in accordance with the best traditions of democracy’.²⁹ It was clear that he was referring to the debates between states at the drafting conference at San Francisco earlier that year, not the debate he was opening in parliament where formal approval for ratification was sought and duly granted.³⁰ The Prime Minister outlined the ‘outstanding points’ of the Charter. First, the position of the great powers in the Charter was ‘commensurate with their importance and with the responsibilities they had to assume’, and that the smaller states had accepted the veto in a Charter that ‘corresponded to the realities of the situation that exists in the world to-day’. Remarkably, in anticipation of the more expansive powers of the Council witnessed since the end of the Cold War during which it has acted not simply as an executive body but also in a legislative sense, the Prime Minister

²⁵ UNCIO, vol 11, 714.
²⁹ *Hansard* HC vol 413, col 660, 22 Aug. 1945 (Attlee).
³⁰ Ibid., col 950.
stated that the ‘British delegation took a foremost part in seeking to make the Security Council something more than a policeman’ who is called in when there is already a danger of a breach of the peace.

We sought, and sought successfully, to make it a place where the policies of the States, and especially the greater States, could be discussed and reconsidered for the time, especially when they showed signs of such divergencies as to threaten the harmony of international relations. Collective security is not merely a promise to act when an emergency occurs, but it is active co-operation to prevent emergencies occurring.³¹

It is clear from this that the British government had realized that the idea of collective security as embodied in the UN Charter was much wider than the balance of power system that had dominated much of international relations in the eighteenth and nineteenth centuries. Though he did not point to any Charter provisions, the fact that the Security Council was ‘organized so as to be able to function continuously’, and could address disputes and situations that were ‘likely to endanger the maintenance of international peace and security’ under chapter VI of the Charter (dealing with the pacific settlement of disputes), and threats to the peace under chapter VII of the Charter (providing for action with respect to such threats or breaches of the peace),³² gave support to the Prime Minister’s contention, even though today it is sometimes still argued that the Council cannot step beyond an executive role.³³

The Prime Minister stressed that the General Assembly would be of ‘immense value in focusing public opinion on the great issues that arise between nations’. Attlee was also prescient in anticipating the flexibility in the Charter stating that ‘the success of the new organisation will not depend so much on the exact provisions’ of the treaty ‘as on the spirit in which they are worked’. This was made even more so by the wide purposes and principles upon which the UN was founded in comparison to the more limited version in the Dumbarton Oaks proposals; even the principle of non-intervention by the UN was qualified to allow for Security Council enforcement action.³⁴ In any case Attlee declared that there could be no doubt ‘that the kind of treatment that was meted out by Hitler and the Nazis to the Jews is a matter that far transcends a question of mere domestic jurisdiction’,³⁵ thus anticipating collective humanitarian action by the UN, and more controversially by others.

As for a definition of collective security, Anthony Eden, who had negotiated at San Francisco as Foreign Secretary, but who spoke in the House as Deputy Leader of the opposition after Labour’s 1945 victory, described it as a method ‘under which most of the nations of the world would band themselves together

³¹ Ibid., cols 659–63 (Attlee).
³² Arts 28(1), 34, 39 of the UN Charter.
³⁴ Art 2(7) of the UN Charter.
³⁵ Hansard HC vol 413, cols 663–6, 22 Aug. 1945 (Attlee).
and would have sufficient power to prevent any nation that wished to disrupt the peace, or any other nation that wished to work with it, from being successful’. He also decried any criticism of the Charter as a product of big power diplomacy saying that each provision was discussed in commissions or committees and that every item had to be carried by two-thirds majority—‘if…there was ever an international document which represented the consensus of opinion of nations in conference, I claim this Charter is in fact such a document’.³⁶ While this appears to have vastly downplayed the influence of the major powers on the Charter, the fact is that the document has lasted, and has maintained its position as the most important treaty—some would argue international constitution³⁷—of the international community. While MPs welcomed the Charter and approved without dissent its ratification,³⁸ a number were critical of the veto. For instance, Evan Durbin, Labour MP for Edmonton, spoke in the following terms:

Yet all this powerful apparatus of force, all this machinery of coercion, more ambitious than anything ever conceived in the League of Nations, rests upon the extremely insecure foundation of unanimity amongst the great Powers—the permanent members of the Security Council.³⁹

Others though were more concerned with the threats that would arise out of the extreme poverty many countries were experiencing in the immediate post-war period, but above all with the threat of the atomic bomb, the destructive power of which had been witnessed a few weeks earlier in Japan. Above all a number of speakers warned that the idealism of the Charter as expressed in the preamble, which flew in the face of a state-based system of international relations in declaring ‘we the peoples of the United Nations determined to save succeeding generations from the scourge of war’, was going to have to be balanced against the realism of a world dominated by those powerful states possessing the most destructive weapons known to mankind.⁴⁰

By October 1946 the tide of realism had risen to the extent that Prime Minister Attlee declared that:

At San Francisco we agreed to the creation of the veto, but I am quite certain that we all regarded this as something to be used only in the last resort in extreme cases where the five Great Powers might be involved in conflict. We never perceived it as a device to be used constantly whenever a particular power was not in full agreement with the others. Yet that is what has happened recently. The veto was used for very trifling things and that is reducing to a nullity the usefulness of the Security Council. What is more it is leading to disrespect, whereas the Security Council was created in order to create confidence, to

³⁶ Ibid., cols 674–9 (Eden).
³⁸ Hansard HC vol 413, col 950, 23 Aug. 1945 (Bevin).
³⁹ Hansard HC vol 413, col 708, 22 Aug. 1945 (Durbin).
⁴⁰ See for example Hansard HC vol 413, col 872 (Beamish) and cols 890–1 (Davies), 23 Aug. 1945.
command confidence as a quasi-judicial body in matters of differences between States which involved the danger of war.⁴¹

By this time the Soviet Union had used its veto in the Security Council seven times and France once. But in the first ten years of the UN’s existence, the Soviet Union used its veto on forty-two occasions, France used it twice, and China once.⁴² While the UN was western dominated in this period, the defensive use of the veto by the Soviet Union to block applications for membership, but also to stop any progress being made on difficult issues such as the remaining Fascist regime in Spain and the Greek civil war, seriously undermined the credibility of the Security Council, as predicted by the Prime Minister. Such arguments still plague the Security Council after the end of the period of the superpower veto (1945–89), because although the veto is no longer regularly cast, it still shapes all negotiations in the Council, leading to a collective security system that while more active, is inevitably inconsistent and selective.

In 1946 the Prime Minister bemoaned the failure of the Military Staff Committee, and by implication the demise of any binding agreements on the provision of troops to the UN as required by article 43 of the UN Charter. It is interesting to note that the enabling legislation adopted by the UK Parliament (the United Nations Act of 1946) was a limited statute enabling effect to be given to non-forcible measures ordered by the Security Council under article 41 of the UN Charter. In effect this represented the only practical intrusion into British sovereignty; that non-forcible measures should bind individuals and companies and require them not to trade with states targeted by Security Council sanctions. British freedom of action on decisions to deploy troops was in effect unimpaired by the UN Charter. As shall be seen in the next chapter it became accepted practice that decisions to deploy troops under Security Council mandated operations were to be made by the government on the basis of political, military, moral, and legal considerations, but those legal considerations would not include any international obligation to contribute troops to the operation.

Though there were plenty of questions in the first decade in the House of Commons about reform of the UN Charter by means of a review conference,⁴³ it was not until 1965 that there was any significant change of the United Nations, with the Security Council being increased from eleven to fifteen members, in effect from 1 January 1966. There was no debate on this matter in the House of Commons, it being made clear on a number of occasions that there would be no reform of the veto.⁴⁴

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⁴³ As provided by art 109(3) of the UN Charter. See for example Hansard HC vol 561, col 1005, 3 Dec. 1956 (Rippon).
4. Britain, the UN, and Collective Security

Britain’s record at the UN has been fashioned by its permanent seat in the Security Council, and, within the context of a reform debate re-started in the UN in the 1990s, its express desire to maintain that status despite its world position as a middle ranking power. The reform debate has stalled over the issue of the size and composition of any new executive body, and the inevitable disagreements about the value of the veto. The fact that the permanent members control the reform debate, and that any amendment to the Charter must be agreed to by all these members, makes any drastic changes to the veto, or to those states that hold it, very unlikely. In 2004 the British government made its position on the veto clear. The government was asked ‘whether they will review the criteria governing the use of veto power by the permanent members of the United Nations Security Council; and whether they consider that these criteria should be re-defined and narrowed’. The government responded that there were ‘no criteria governing the use of the veto’, though ‘the UK encourages all permanent members of the Security Council to use the veto with restraint and only in accordance with the values of the United Nations’. The government noted that the UK had not used the veto since 1989 and stated that any formal change to the scope of the application of it would require an amendment to the Charter, something that that government would not be pursuing. This rather benign picture of the veto, as something rarely used in the modern era, and then only used responsibly, paints over the many possibilities that might have been explored further by the Security Council if it were not for the fact that they were threatened with the veto. The public use of the veto during the Cold War has been replaced by private debate that is still shaped by the veto. Britain values its permanent membership and the power this gives it to block any actions, though it has tried to justify its status as one of the five privileged members of the Council.

An example of Britain’s perception of the duties of permanent membership is drawn from the crisis in the Great Lakes region of Africa in the mid-1990s, in the aftermath of the Rwandan genocide of 1994. In 1996 the Security Council had authorized a coalition of the willing built around Canadian and British contingents to intervene in the humanitarian and refugee crisis in eastern Zaire. In a Commons debate, faced with questions about British military involvement in a country far from British shores, the Conservative Defence Secretary, Michael Portillo stated:

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46 Arts 108, 109(2) UN Charter.
48 SC Res. 1078, 9 Nov. 1996.
The House will rightly ask why Britain should become involved in a place far from our country and where no vital interest is engaged. It is because we are a civilized nation. We can see that people are about to die in their thousands, and we are one of the few nations on earth that has the military capability to help at least some of them. We recognise our humanitarian obligation. We take pride in our permanent membership of the United Nations Security Council, but it carries with it clear duties. Some of our leading allies in NATO are willing to assist, and our place is with them.49

In fact the force was not deployed following a decision of the contributing states that the crisis had receded, illustrating the level of control that states have over their deployments under UN mandates.

The operation in Zaire would have been a chapter VII military operation with robust rules of engagement, in contrast to the consensual peacekeeping operations under the UNEF I model (created in the aftermath of the Suez Crisis of 1956). Such blue-helmeted peacekeeping operations normally have more restricted rules of engagement, centred around defence of the force. The UK has not, until recently, been a significant contributor to consensual peacekeeping operations, although ironically, it was the French and British flawed military action in Suez that precipitated the development of such forces. The British and French vetoes in the Security Council did not prevent the invocation of the Uniting for Peace procedure transferring the matter to the General Assembly,50 where UNEF I was duly authorized.51 The UK abstained on the vote on the crucial Assembly resolution establishing UNEF I, reluctantly conceding that what it called its ‘police’ action was to be replaced by an international one.52

The UK’s grudging acceptance of UN peacekeeping, combined with the tacit agreement during the Cold War that largely ruled out permanent member participation in consensual peacekeeping operations, restricted UK involvement mainly to the occasional logistical support operation such as an airlift of Ghanaian troops at the beginning of the UN operation in the Congo in 1960. The one exception to this non-involvement, in the case of the UK, was in Cyprus in 1964 when intercommunal violence led to debate about the need for British intervention.

Though there was a good deal of discussion about British involvement in Cyprus there was no full debate nor any vote. The initial British position, revealed to the House of Commons in response to questions,53 was for a joint British/Turkish/Greek ‘peacemaking’ force to be interposed between the two warring communities.54 Conservative Prime Minister, Sir Alec Douglas-Home, declared the Treaty of Guarantee between Britain, Turkey, Greece, and Cyprus to be a regional arrangement under chapter VIII of the UN Charter in answering a question on the matter in the House.55 The Foreign Secretary, Rab Butler, was

49 Hansard HC vol 285, cols 487–9, 14 Nov. 1996 (Portillo).
52 GA 563rd plen. mtg, 3 Nov. 1956, paras 292–3.
55 Hansard HC vol 688, col 530, 30 Jan. 1964 (Douglas-Home)
asked by Konni Zilliacus (Labour MP for Manchester Gorton) to recognize that article 53 of the UN Charter signified that ‘no international force or individual forces may be used for any purpose except defence against armed attack without the authority of the Security Council’. Butler refused to acknowledge this. The proposed force also met with Soviet criticism that it constituted NATO enforcement action, which combined with the desire of the Cypriot government to have a UN presence, led to the UK agreeing to a UN peacekeeping force and, moreover, contributing to it.

The participation of the United Kingdom was at the time without precedent in the history of UN peacekeeping... Although the initial Charter intention had been to involve the permanent members of the Security Council in the establishment of UN forces, the path that UN peacekeeping had in fact followed (away from enforcement towards peacekeeping by consent) had led to a consistent practice of excluding them. British participation in UNFICYP had to be seen as stemming from the singular historical circumstances of the Cyprus case. Before the UN was called in British forces had, for three months, exercised powers under the Treaty of Guarantee and had sought impartially to restore peace in the island. The British Sovereign Bases on the island would clearly be also of the greatest importance to the United Nations for logistical support. Britain therefore provided some forces for the UN command.

Moreover, the UK submitted its troops to UN command as noted by the Secretary General when establishing the Force. ‘The Force is under the exclusive command of the United Nations at all times. The Commander of the Force is appointed by and exclusively responsible to the Secretary General. The contingents comprising the Force are integral parts of it and take their orders exclusively from the Force Commander’.

The Cold War limited UK involvement in peacekeeping. The post-Cold War period is characterized by an increased level of UK contributions to observation, monitoring and traditional peacekeeping, as well as more widely drawn peace operations with a peacebuilding element. Generally, consensual peacekeeping operations consisted of contributing states’ military contingents under UN command and control—specifically the Secretary General acting under delegated authority from the Security Council, exceptionally the General Assembly. This should be contrasted with the enforcement model that emerged out of chapter VII of the Charter under which a coalition of the willing is authorized by the

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56 Hansard HC vol 688, col 816, 3 Feb. 1964 (Zilliacus). See also vol 689, cols 11–12, 10 Feb. 1964 (Zilliacus).
60 UN Doc. S/5950 (1964). See also HC Hansard HC vol 690, col 1528w, 5 March 1964 (Thomas).
Security Council with command and control being vested in the contributing state(s) or organization.⁶¹

The Brahimi Report of 2000 both recognized and developed the change that had occurred in peacekeeping in the late 1990s, by using the term ‘peace operation’ to reflect the more typical UN operation, which combines peacekeeping and peacebuilding.⁶² The UK has generally contributed only small number of troops to modern peace operations, such as UNAMSIL in Sierra Leone emplaced between 1999–2005,⁶³ and MONUC in the Democratic Republic of the Congo in situ since 1999.⁶⁴ The latter force was emplaced in a civil war situation that had claimed a minimum of two million lives, a situation in which MONUC struggled to uphold the 1999 Lusaka Peace Accords, though elections were eventually successfully held in 2006. From a limited force of 5,500 with a limited mandate,⁶⁵ MONUC was built into a more effective peace operation of nearly 17,000 with a broader chapter VII mandate to deter violence and protect civilians.⁶⁶

The UK has also been at the forefront of contributions to several UN authorized enforcement operations both to combat aggression and to enforce international mandates—principally Korea (1950), the Gulf (1991), the aborted mission in Zaire (1996), IFOR/SFOR/EUFOR in Bosnia (1995–), KFOR in Kosovo (1999–), and the multi-national force sent to East Timor in September 1999. While a number of these will be returned to in later chapters, it is interesting to note that the level of parliamentary debate and discussion regarding some of these deployments appeared to be inadequate.

When Indonesian inspired violence broke out in East Timor following the independence vote in that country in 1999, Britain contributed to the Australian-led INTERFET force deployed to the island in September 1999. The UK had previously contributed to the small UNAMET team, which organized and conducted the referendum on the independence of East Timor under a Security Council mandate;⁶⁷ notably by providing the head of mission. Despite the precarious position of the mission, there was very little parliamentary discussion of the continuing violence in the lead up to the referendum. The government simply expressed ‘cause for concern’ at the security situation in East Timor, and then only in a written answer in the House of Lords.⁶⁸

The entirely predictable collapse of security that followed the referendum in East Timor of 30 August 1999 when a large majority voted for independence, eventually led to the establishment of a coalition of the willing which arrived in East Timor on 20 September 1999. The force was established under chapter VII of

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⁶¹ See chapter four.
the UN Charter, though it also had the consent of the Indonesian government. Its main function was to secure peace and security in East Timor. With the various armed groups on the island this was clearly an extremely dangerous operation.

In these circumstances it is surprising that the Labour government’s decision to send 275 troops (mainly Gurkhas based in Brunei) in the first wave was subject to no discernible parliamentary scrutiny. There were written and oral questions and answers in the upper house in October and November, and in the lower house in November and December 1999. The questions and answers were perfunctory and related to the cost (£7.5m compared to over £100m for the Kosovo operation), the duration, level of contribution, and date of Gurkha withdrawal from the operation (which occurred on 8 December 1999). The minimal amount of scrutiny of this operation cannot simply be explained by the much lower level of UK contribution—it was still disproportionately low. The lack of valuable parliamentary time dedicated to East Timor is more a reflection of both the lack of public concern on the issue, and also by the fact that parliament was content with the government’s decision. The presence of a clear Security Council mandate, combined with the consent of the Indonesian government, may well have persuaded parliament that there was no need for the type of scrutiny achieved in the Kosovo campaign.

A contrast can be drawn with the UK’s response to the escalating crisis in Sierra Leone in May 2000. The lack of a clear Security Council mandate for the Labour government’s despatch of 700 troops to the country on 8 May appears to have led to a higher level of debate in parliament. The initial lack of clarity as to the function of the military operation, in particular whether it was intended to shore up the ailing UN peacekeeping operation (UNAMSIL), or whether it was merely to evacuate British nationals, led to a sharp exchange in the Commons, with the opposition making clear its objections to a wider use of the troops and claiming that the British public would only support a rescue of nationals. Mission creep did occur, however, despite continued criticism in parliament. With the public largely indifferent, the government’s large majority again enabled it to withstand the protests of the opposition.

With chapter VII operations authorized by the UN Security Council being in essence the delegation of power to states to take military action, the Security Council debates, level of Council control, and accountability of those states acting under UN authority to the Security Council, are limited. This must be

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72 Hansard HL vol 349, col 1890, 12 May 2000 (Attlee).
contrasted with consensual UN peacekeeping forces and most peace operations where command and control is normally with the UN, and the force is kept within a more tightly controlled renewable mandate. Under the non-consensual chapter VII provisions, with no agreements arrived at under article 43 of the Charter, there is no question of the Security Council obliging member states to supply troops for military operations. Instead, as the Korean operation reviewed in chapter four established, states in essence volunteer for such operations, and command and control is vested in the states or state according to political and military considerations.

It follows that an important element in considering the legitimacy of chapter VII operations is the enabling resolution and the debate surrounding it. It is at this stage that the other members of the Security Council can challenge the legality and necessity of the proposed military action and can block it, if either a sufficient number vote against or a permanent member casts its veto. Once the resolution has been secured there is very little member states can do to halt the prosecution of the war. There is no requirement that approval be sought from the General Assembly, although the legitimacy of the operation would be increased immensely if such approval was achieved. In many of the chapter VII operations to date the General Assembly has adopted a supportive resolution, but normally only after the use of force has commenced.75

Parallels can be drawn between the international decision-making processes and those on the domestic stage. In the UK the executive, or rather a small part of it, makes the decisions committing British forces to combat; Cabinet and parliamentary support need only be sought after that. At UN level, the executive organ, the Security Council, or rather the P3 or P5, will make a decision on the deployment of forces, which will, unless blocked, later be endorsed by the full Security Council and then possibly by the plenary body—the General Assembly. The latter though will normally only endorse after the operation has started.76

Lack of accountability to the more representative body seems to exist both at the international level and the domestic level. At the international level there is the possibility of veto in the executive body, which is not present at the domestic level. Increased control of the executive, both at the national and international levels may be desirable. At the moment, decisions to go to war appear to suffer from a democratic deficit. Against this must be balanced the requirements of acting quickly and effectively to deploy troops, not only in defence of the nation but in order to prevent humanitarian catastrophes in other countries.

The UK’s contribution in a wider sense to military operations authorized by the UN has been considerable. In the case of UN peacekeeping this was perhaps

76 For enforcement operations there is no funding issue either, since in general the operations are funded by contributing States rather than the UN. This can be contrasted with the case of UN peacekeeping.
unintended in the case of Suez in 1956. Nevertheless, the UK’s contribution to observation, monitoring, traditional peacekeeping and complex peacekeeping operations has grown. This culminated in June 1999 with the Labour government signing a memorandum of understanding with the UN Secretary General, giving the UN access to rapidly deployable troops. This represented an addition to the UK’s commitments under the UN standby arrangements made in 1994. However, the final decision to commit UK troops to UK operations remains with the government.

In the case of enforcement action, the UK shares responsibility for the shaping of a decentralized military option in the Security Council, quite different from that intended in the Charter. Indeed, dissatisfaction with the deadlocked Security Council led to the UK sponsoring, along with other states, the Uniting for Peace resolution of 1950, in which the General Assembly claimed recommendatory military enforcement powers. The UK government regretted this decision at a later date (in the Suez crisis for instance), and certainly seemed to ignore the possibility of using the General Assembly for much of the Cold War period and thereafter. However, there it can strongly be argued that Uniting for Peace is still a valid legal precedent, indeed in many ways it can be argued that it simply recognized powers already possessed by the Assembly. Its practical impact has been limited, though it may be argued that in extreme circumstances (arguably in the case of the NATO bombing of the FRY in 1999), it should be reactivated. Surprisingly this was the conclusion of the House of Commons Foreign Affairs Select Committee in its report on the Kosovo crisis produced on 7 June 2000, considered further in chapter nine.

5. Britain and the Founding of NATO

As well as supporting a strengthened world security organization, Britain was also forcefully behind the development of a strong collective defence entity. Indeed, the formation of NATO in 1949 ‘was a response to the demonstrated incapacity of the United Nations to deal with the fundamental cleavage of the post-war period, and that NATO rather than the United Nations had become the hub of British foreign policy’. The need for NATO was made clear in the House of Commons when in reply to a rather mischievous question as to whether

78 GA Res. 377, 3 Nov. 1950.
80 Bailey and Daws, The Procedure of the UN Security Council, 296. This was in essence the UK government’s position when informing the House of Commons of the resolution: Hansard HC vol 480, cols 328–9, 5 Nov. 1950 (Davies).
82 Goodwin, Britain and the United Nations, 57.
the Soviet Union would be invited to join the proposed North Atlantic Pact, the
government minister stated:

No, Sir, and for this reason. The negotiation of a North Atlantic Pact would never have
been necessary had not all the attempts to organise collective security directly under the
United Nations been made impossible (temporarily it is to be hoped) by the obstruction,
suspicion and non-co-operation of the Soviet Government.\(^{83}\)

Despite this significant shift in foreign policy, it is accurate to state that while ‘the
United Nations was, and is, a tribute to the ideal and NATO a response to reality,
the ideal lived on’,\(^{84}\) in the hope that the restrictions in the UN were only tem-
porary. Indeed the issue in the post-Cold War era is to re-define the relationship
between the ideal and the real, between the UN and NATO.

The post-Second World War debate in the UK was between a Western
European entity and one that involved the United States. While the Foreign
Office preferred the former, which would enable Britain to play a leading ‘Third
Force’ role, the Chiefs of Staff argued for a close military relationship with the
United States in view of the already perceived post-war threat from the Soviet
Union.\(^{85}\) Post-war reality led to the negotiation and signing of the North Atlantic
Pact in Washington on 4 April 1949.

Britain was not able to provide the resources to pursue a global strategy and at the same
time back up its aspirations to play a leading role in Europe … it gradually became clear
to the Foreign Office that a much more substantial American role would be necessary to
match the power of the Soviet Union. As a result the ‘Third Force’ idea gave way to the
search for an Atlantic Alliance and a ‘special relationship’ with the United States.\(^{86}\)

There was no opportunity to debate the proposed North Atlantic Pact in the
House of Commons before the Foreign Secretary signed it in Washington on
4 April 1949.\(^{87}\) The twelve original parties to the North Atlantic Treaty,\(^{88}\) ‘rea-
firmed their faith in the purposes and principles’ of the UN Charter and stated
their determination to ‘safeguard the freedom, common heritage and civilisa-
tions of their peoples, founded on the principles of democracy, individual  liberty
and the rule of law’. From this it is clear that NATO’s purpose is to protect
Western civilization and values from attack, not to export those values (at least
by military means). Article 1 supports the principles of the UN Charter com-
mitting states to settle their disputes by peaceful means and to refrain from the

\(^{83}\) Hansard HC vol 461, col 15, 7 Feb 1949 (McNeil).

\(^{84}\) Goodwin, Britain and the United Nations, 58.

\(^{85}\) J. Baylis, The Diplomacy of Pragmatism: Britain and the Formation of NATO 1942–1950

\(^{86}\) Ibid., 124.

\(^{87}\) Hansard HC vol 461, col 538, 10 Feb. 1949 (Warbey); vol 462, col 1400, 10 March 1949
(Chamberlain).

\(^{88}\) Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, Netherlands, Norway,
Portugal, UK, US. There are currently twenty-six state parties.
threat or use of force. Article 4 provides for consultations between the parties if any of them feels their security is threatened, and article 9 establishes the North Atlantic Council consisting of all parties to facilitate effective decision-making, though in the absence of any voting provisions, decisions must be made with the consent of all parties.

This very traditional form of consensus organization is finally reflected in the key obligation in article 5 under which each party agrees to come to the assistance of any party attacked in Europe or the North Atlantic area. In essence the North Atlantic Treaty embodies a precise contractual obligation under which each party pledges to come to the defence of an attacked state in exchange for protection and assistance if it is itself attacked. This also constitutes a promise to the attacking state or organization that NATO states will come to the aid of an attacked member. It is also interesting to see how article 5 rests very clearly on the UN Charter by stating that it is based on article 51 and further that any collective defensive measures will be reported to the Security Council and will be ‘terminated when the Security Council has taken the measures necessary for the maintenance of international peace and security’.

It was not until 12 May 1949 that the House of Commons had the opportunity to debate the Treaty, when the Foreign Secretary, Ernest Bevin, moved ‘that this House approves the North Atlantic Treaty signed in Washington on 4th April, 1949, relating to the promotion of stability and wellbeing in the North Atlantic area and to collective defence for the preservation of peace and security’. He clearly re-stated that the need for a defensive pact was due to the failure of the Security Council because of the extensive (ab)use of the Soviet veto, and the growing threat from the Soviet Union. Further, he argued that a guarantee that NATO members would come together in defence of Western Europe and North America was needed to prevent another world war breaking out due to the calculations of an aggressor that democracies would prevaricate when faced with an attack. He denied that the NATO treaty abandoned ‘the idea of world security system’ by declaring that the treaty was ‘fully in conformity with the United Nations’. As to the international legal basis of NATO Bevin stated:

The Treaty is not a regional arrangement under Chapter VIII of the Charter. The action which it envisages is not enforcement action in the sense of Article 53 at all. The Treaty is an arrangement between certain States for collective self-defence as foreseen by Article 51 of the Charter. It is designed to secure parties against aggression from outside until such time as the Security Council has taken the necessary measures. Enforcement action by a regional group is something quite different.

The Foreign Secretary accurately analysed the position of collective self-defence pacts under the UN Charter. The right of self-defence in response to an armed

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89 *Hansard* HC vol 464, col 2011, 12 May 1949 (Bevin).
90 Ibid., col 2018.
attack does not require Security Council authority, while a regional arrangement proposing to deal with a threat to the peace by taking action that is not defensive but constitutes enforcement action against a state, must gain the authorization of the Security Council under article 53. By being founded squarely on article 51 NATO retained the freedom of action inherent in the sovereign right of self-defence. That the sovereignty of the parties to the treaty was unimpaired was made clear by the Foreign Secretary at the end of his speech when he states that ‘the constitutional rights of the individual Parliaments’ of each state party were ‘preserved’ despite the obligation to come to the aid of an attacked state party. By this he meant that decisions to deploy troops were still subject to the approval of each state according to their constitutions.

The pact was welcomed by the vast majority of the House in essence because it was about the defence of the nation, an issue around which people with different views can unite. As was stated by one Member: ‘free peoples will unite in a war of defence, but of defence only; not in a war of aggression.’ The North Atlantic Treaty was approved by the House of Commons by 333 votes in favour to 6 against.

**6. Britain and the Evolution of NATO**

While NATO arguably was fundamental in maintaining a level of global peace and security during the Cold War, its raison-d’être—the defence of Western Europe from Soviet attack—seemed to have been lost when the Eastern bloc collapsed and the Soviet Union disintegrated in the period 1989–91. In the instability arising out of the collapse of the Berlin Wall it was unsurprising that the British government was concerned that NATO continue to exist, despite the collapse in 1991 of its mirror organization in the Eastern bloc (the Warsaw Pact). However, it became clear that NATO would have to adapt and adapt quickly to the changing circumstances. The Alliance reacted speedily enough in a meeting of heads of state and government held in Rome in November 1991, where the parties agreed to adopt a Strategic Concept to reflect the changing global conditions. This did not take the form of a new or amended treaty but was more akin to a policy document.

The 1991 Strategic Concept recognized that ‘risks to Allied security’ were ‘less likely to result from calculated aggression against the territory of the Allies, but rather from the adverse consequences of instabilities that may arise from the serious economic, social and political difficulties, which are faced by many countries...

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91 Ibid., col 2021.
92 Ibid., col 2032 (Clement Davies). For criticism of the Treaty see col 2073 (Zilliacus).
93 Ibid., col 2128. See also approval in the House of Lords: Hansard HL vol 162, cols 804–34, 18 May 1949.
in central and eastern Europe’. Such concerns underlined the need to retain NATO but to ‘frame its strategy within a broad approach to security’. However, the document still reiterated the ‘purely defensive’ purpose of the Alliance, even going so far as to state that ‘none of its weapons will be used except in self-defence’. It did, however, recognize a non-defensive role by stating that the Allies could ‘be called upon to contribute to global stability and peace by providing forces for United Nations missions’.⁹⁵

By the time of its 50th anniversary in 1999, Alliance Heads of State and Government were much bolder in declaring a new Strategic Concept on 24 April 1999. Adopted amidst the NATO air campaign against Serbia to try to prevent the repression occurring in Kosovo, the Strategy developed the functions of NATO within a broader notion of security to include the possibility of it taking action other than of a defensive nature under article 5 of the North Atlantic Treaty, namely in crisis management tasks which would require NATO ‘to stand ready, case-by-case and by consensus to contribute to effective conflict prevention and to engage actively in crisis management, including crisis response situations’. The document points to the risks of a ‘wider nature’ than just the threat of attack, to include ‘acts of terrorism, sabotage and organised crime’ as well as the disruption of vital resources and massive flows of refugees. In the light of these threats the Strategy declares that NATO ‘will seek, in cooperation with other organizations, to prevent conflict, or, should a crisis arise, to contribute to its effective management, consistent with international law, including through the possibility of conducting non-Article 5 crisis response operations’.⁹⁶

While the 1999 Strategic Concept refers to acting in conformity with international law, and states that the development of NATO is consistent with article 7 of the NATO treaty which refers to the primary responsibility of the Security Council for peace and security, the very idea of a ‘non-article 5 operation’ appears both to contradict the NATO treaty itself and the UN Charter, unless approval is given by the Security Council for enforcement actions either under chapter VII or chapter VIII of the Charter.

Unlike the 1991 Strategic Concept, the 1999 version was discussed in the House of Commons, with Prime Minister Tony Blair stating that it depicted the ‘fundamental security tasks of the alliance and how we intend to fulfil them’.⁹⁷ Inevitably the debate was dominated by the Kosovo campaign, though the Prime Minister seemed to accept that NATO was a regional alliance, but that did not mean it needed the authority of the Security Council to act although it would be desirable.⁹⁸

The Kosovo air campaign of March–June 1999 witnessed an overt move by NATO from article 5 (mutual defence) action to non-article 5 operations to

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⁹⁷ Hansard HC vol 330, col 22, 26 April 1999 (Blair).
⁹⁸ Ibid., col 35, 26 April 1999 (Blair). See also Hansard HL vol 600, col 29, 26 April 1999.
combat threats to the peace.⁹⁹ Bruno Simma points to a problem of ‘democratic legitimacy of such re-invention’ in relation to Germany, where parliamentary consent was given to the 1949 treaty but not to its radical development by subsequent practice.¹⁰⁰

It is doubtful whether this is such a great problem for the UK, with its more fluid constitution. The UK government made it clear in March 1949 that it did not need the prior consent of parliament before signing the Atlantic Treaty. In response to a request for a debate before the Pact was signed, the government minister stated that ‘proper British Parliamentary practice’ would be followed, namely ‘that the Government take their responsibility in entering into a treaty and the House of Commons has its perfectly free responsibility to approve or not approve of what the Government has done’.¹⁰¹

Given the legality of the government undertaking these international obligations without prior parliamentary approval, there appears little doubt that the government could agree with its other NATO partners to expand the nature of NATO, without seeking prior parliamentary approval. Of course, the House of Commons can express its disapproval retrospectively of what the government has done, but this is unlikely since ‘the House of Commons is enmeshed with and supports the Government of the day’.¹⁰² Even if such an event were to occur, the legal obligations undertaken by the UK on the international plane would not be undone, unless it led to the government withdrawing from the treaty.¹⁰³

Despite the limitations of the NATO treaty of 1949, limitations made clear by the Foreign Secretary Ernest Bevin when opening the debate in the House of Commons in that year, the constitutional practice in the UK does not prevent the government of the day agreeing to a re-interpretation of treaties without any prior approval by parliament. Thus there appears to be no incompatibility in British constitutional law between the British involvement in NATO actions in Bosnia and Kosovo in the 1990s and the statement made by Bevin in 1949 that the treaty only envisaged collective self-defence under article 51, and was not creating a regional arrangement empowered to take enforcement action under chapter VIII.

Subsequent parliamentary disapproval of such developments remains a possibility, though a theoretical one. In effect the House of Commons debates on Kosovo in 1999 after the launching of the NATO bombing operations, amounted to approval of non-article 5 operations. Further approval was given by the House of Commons Defence Select Committee in its Third Report of 31 March 1999

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⁹⁹ B. Simma, ‘NATO, the UN and the Use of Force: Legal Aspects’ (1999) 10 EJIL 14–21.
¹⁰⁰ Ibid., 18–19.
¹⁰¹ Hansard HC vol 464, col 2292, 17 March 1949 (Morrison).
on the challenges facing NATO at the forthcoming Washington Summit. The report produced, soon after the bombings had started, supported non-article 5 action dismissing argument that NATO was in need of reform as ‘theological debate’; and furthermore declared that insisting Security Council authority be sought for such operations would ‘covertly’ give ‘Russia a veto over Alliance action’. The Committee was confident that a decision arrived at by consensus in the NATO Council would be in accordance with international law.¹⁰⁴

In the light of this it is somewhat surprising that the Foreign Affairs Committee in its review of the Kosovo crisis published on 7 June 2000, took the position that ‘the North Atlantic Treaty gives NATO no authority to act for humanitarian purposes’. The Committee strongly recommended the adoption of a new legal instrument by NATO.¹⁰⁵ The 1999 Strategic Concept was very much wrapped up in the immediacy of the Kosovo action. In the cold light of day, as reflected in the report of the Foreign Affairs Committee, the future of non-Article 5 operations seems a great deal less clear at least from Britain’s perspective than it was during the bombings and in their immediate aftermath.

7. Conclusion

Britain has played a central role in the shaping of both the United Nations and NATO. It is a sad fact that the idealism found in Parliament during the dark years of the Second World War, when the form of the future world organization was debated with such enthusiasm, largely gave way in the face of the reality of the looming veto in the Security Council, effectively agreed by Churchill, Roosevelt and Stalin at Yalta in February 1945. The idealism remaining at the end of the war quickly dissipated in the face of the Soviet veto which led Britain and its allies to revert to a fully realist approach to international relations, falling back on tried and tested notions of balance of power reflected in a strong defensive alliance.

That realism was continued in the Security Council where Britain used its veto when it needed to protect its interests or actions, and it shows no willingness to give up this privilege. With a veto-locked Security Council and a purely defensive NATO, the Cold War did not produce conflicting practices between the two organizations. Indeed, with NATO being based squarely on article 51 of the UN Charter, there appeared to be no real conflict between them, though they did represent different visions of collective security. NATO was there to protect its members from attack in the certain knowledge that the Security Council would be unable to take action, and furthermore it had the clear right in international law to do so.

¹⁰⁴ Select Committee on Defence, Third Report, 13 April 1999, paras 176–80 (HC 39).
¹⁰⁵ HC Foreign Affairs Select Committee Fourth Report, 7 June 2000, para 135 (HC 28-I).
However, the end of the Cold War has put NATO and the UN on a collision course, with NATO showing signs of a willingness to take enforcement action without Security Council approval if necessary, a scenario that finally materialized in the Kosovo air campaign of 1999, reviewed more fully in chapter nine. With both organizations focusing on security in a much broader sense than just defence in the face of attacks, the potential exists for further confrontation as well as co-operation.