**Exhibit setting out examples of HMG statements on “proportionality”. (Appendix 01)**

**United Kingdom of Great Britain and Northern Ireland**

* At the Diplomatic Conference on Humanitarian Law (Geneva 1974 to 1977 – CDDH), the United Kingdom stated that the principle of proportionality as defined in Article 51(5)(b) of the 1977 Additional Protocol I was

“a useful codification of a concept that was rapidly becoming accepted by all States as an important principle of international law relating to armed conflict”.

 United Kingdom statement at the CDDH [[1]](#footnote-1), *Official Records*, Vol.VI CDD H/SR 41, 26 May 1977, p.164 para 120

* In 1991, in reply to a question in the House of Lords concerning the Gulf War, the UK Parliamentary Under-Secretary of State for Defence stated:

“The Geneva Conventions contain no provisions expressly regulating targeting in armed conflict. The Hague Regulations of 1907 and customary international law do, however, incorporate the twin principles of distinction between military and civilian objects, and of proportionality so far as the risk of collateral civilian damage from an attack on a military objective is concerned. These principles and associated rules of international law were observed at all times by coalition forces in the planning and execution of attacks against Iraq.”

 United Kingdom House of Lords, Statement by the Parliamentary Undersecretary of State for Defence, 22 July 1991, *Hansard*, volume 531, written answers, column 43

* In 1993, the United Kingdom government stated:

“The Rules of Engagement under which BRITFOR are operating in Bosnia allow them to return fire in self defence if the source can be identified; in doing so, they must attempt to minimise collateral damage and be mindful of the principle of proportionality.”

United Kingdom, House of Commons, Defence Committee, Six Special Report: Comment Reply to the Fourth Report from the Defence Committee, Session 1992 – 1993, p.X

* In 1993, in reply to questions in the Foreign Affairs Committee of the House of Commons about the launching of “around 40 Cruise missiles by the Americans which resulted in the killing of innocent civilians in places like the Al Rashid Hotel”, the UK Minister of Foreign Affairs stated:

“I do not believe the action was disproportionate. You know what it was aimed against; it was aimed against a plant that the Iraqis had themselves admitted was producing material for their nuclear programme … It seemed to me a proportionate target. It looks and sounds as if … one of the Cruise missiles went astray and killed innocent civilians in the Al Rashid Hotel. That clearly is to be deplored but I do not think the action as a whole can be regarded as disproportionate.”

United Kingdom Statement by the Minister fpr Foreign Affairs, Minutes of Evidence taken before the Foreign Affairs Committee, 28 January 1992 volume II, p.146

* In its written statement submitted to the ICJ in the *Nuclear Weapons case* in 1995, the United Kingdom stated:

“The principle of proportionality requires that even a military objective should not be attacked if to do so would cause collateral civilian casualties or damage to civilian objects which would be excessive in relation to the concrete and direct military advantage anticipated from the attack.”

United Kingdom, written statement submitted to the ICJ, Threat & Use of Nuclear Weapons advisory opinion, 16 June 1995, para 3.67

* In 2003, in reply to a written question in the House of Commons, the UK Minister of State for the Armed Forces, Ministry of Defence, wrote:

“Cluster bombs have been used against targets for which they were the most appropriate available weapon and where they could be used in accordance with international law, including with the principles of proportionality and discrimination.”

United Kingdom House of Commons, written answer by the Minister of State for the Armed Forces, Ministry of Defence, *Hansard,* 8 April 2003. Vol. 403. Written answers, col. 139W

* In 2003, in reply to a written question in the House of Commons, the UK Secretary of State for Defence wrote:

“The military campaign is crafted around the principle of minimum use of force. We attack only military objectives and combatants subject to the constraints of proportionality. If there is any expectation that harm will be caused to civilians, this must not be excessive when set against the direct and concrete military advantage anticipated from the attack.”

United Kingdom, House of Commons, written answer by the Secretary of State for Defence, *Hansard,* 9 April 2003, Vol. 403, written answers, Col.l 297 W

* In 2003, in reply to a written question in the House of Commons asking whether he would “make it his policy not to use cluster bombs in urban or populated areas in Iraq”, the UK Secretary of State for Defence wrote:

“Cluster bombs are only used strictly in accordance with international law. This includes the principles of distinction and proportionality as well as precautionary measures to be taken in planning and conducting an attack, as contained in the First Additional Protocol of 1977 to the Geneva Conventions of 1949. The targeting process takes account of these principles in matching the type of weapon used to the target to be attacked. There will be circumstances when it would be considered more appropriate to use other munitions than cluster bombs. These circumstances are more likely to arise in urban or populated areas as cluster bombs engage targets that cover an area.”

United Kingdom House of Commons. Written answer by the Secretary of State for defence. *Hansard*, 14 April 2003. Vol. 403, written answers, col 571W

* In 2004, in a written answer to a question concerning, *inter alia*, guidance given to UK forces to ensure compliance with the principles of necessity and proportionality, the UK Parliamentary Under-Secretary of State, Ministry of Defence, stated:

“All use of force is governed by United Kingdom forces’ rules of engagement (ROE). The ROE take into account the UK’s obligations under national and international law, of which necessity and proportionality are fundamental principles.”

United Kingdom , House of Commons. Written answer by the Parliamentary Under-Secretary of State for Defence, Ministry of Defence. *Hansard,* 9 June 2004, Vol. 42, written answers, Col. 420 W

* In 2006, in a written answer to a question concerning, *inter alia*, “the implications under the Geneva Conventions of the targeting by Israel of civilian facilities and infrastructure in Gaza”, the UK Minister of State for the Middle East, Foreign and Commonwealth Office, stated:

“We are opposed to the targeting of civilian facilities and call upon Israel to respect international law and, in particular, the requirement of proportionality and the duty to take all feasible precautions to avoid civilian casualties.”

United Kingdom, House of Commons. Written answer by the Minister of State for the Middle East, Foreign & Commonwealth Office. *Hansard*, 10 July 2006. Vol. 488, written answers, Col. 1522W

* In 2006, in a reply to a question in the House of Lords concerning “[w]hat representations [the UK Government] have made to the Government of Israel regarding their military response to the kidnapping of one Israel Defense Force soldier”, the UK Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, stated:

 “Any military steps taken should avoid civilian casualties, abide by international law and observe the principle of proportionality.”

United Kingdom, House of Lords. Statement by the Parliamentary under-Secretary of State, Foreign & Commonwealth Office. *Hansard,* 10 July 2006, Vol. 684, Debates, Col. WA91

* In 2006, in a written ministerial statement, the UK Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, stated:

“While Israel has the right to defend itself and to secure the release of Corporal Shalit, its actions should be proportionate and in accordance with international law, as we, the G8 and the EU have made clear. We call on Israel to exercise restraint and to do everything possible to avoid civilian casualties.”

United Kingdom, House of Lords. Written statement by the Parliamentary under-Secretary of State, Foreign & Commonwealth Office. *Hansard*, 11 July 2006, Vol. 684, written statements, Col..WS 39

* In 2006, during a debate in the House of Lords, a statement by the UK Prime Minister was read by the Lord President of the Council. With regard to military action taken by Israel in Lebanon, the following was stated:

“In Lebanon, more than 230 people have been killed, the vast majority of them civilians. Houses, roads, essential infrastructure, factories and Lebanese Army facilities have been damaged. Once again, we have made it clear to Israel that it is essential to take account of the humanitarian situation, and ensure that military action is proportionate.”

United Kingdom, House of Commons. Statement by the Prime Minister of the United Kingdom. *Hansard,* 18 July 2006, Vol. 648, Debates, Col. 1142

* In 2007, in its response to the Foreign Affairs Committee’s report on the Middle East, in which the question was raised whether the Government considered the use of cluster munitions by Israel in Lebanon proportionate, the UK Government stated:

“As the UK made clear during the conflict last year, we were deeply concerned by the deaths of civilians and damage to infrastructure in both Lebanon and Israel. We consistently urged Israel to act proportionately, to conform to international law, and to do more to avoid civilian death and suffering.”

“The Government recognises the UN statistics that the Committee highlights in its report. It is concerned by the estimate that one million cluster bombs remained unexploded; that 26% of Lebanon’s cultivable land had been contaminated; and that 90% of the cluster bombs dropped on Lebanon occurred in the last 72 hours of the conflict. The Government is concerned by the findings of both the UN Commission of Inquiry’s investigation into the conflict in Lebanon and Human Rights Watch’s September 2007 report, both of which conclude that Israel’s use of force was disproportionate and failed to adequately distinguish between military and civilian targets. However, it should be noted that the UN Commission of Inquiry itself recognises in its Report (para. 20) that the Report cannot constitute a full and final accounting of all alleged violations.”

United Kingdom, Eighth Report of the Foreign Affairs Committee, Session 2006 – 7. ‘Global Security: the Middle East. Response to the Secretary of State for Foreign & Commonwealth Affairs. Cmmd. 7212, October 2007, p.17

1. **CDDH** Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (Conférence diplomatique sur la réaffirmation et le développement du droit international humanitaire applicable dans les conflits armés), 1974-1977 [↑](#footnote-ref-1)