

INDEPENDENT REVIEW

**into matters relevant to the deaths of Corporal Fintan Heneghan,
Private Mannix Armstrong and Private Thomas Walsh on 21st March
1989, while serving with ‘C’ Coy, 64th Infantry Battalion, United
Nations Interim Force in the Lebanon (UNIFIL)**

FINAL VERSION

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15 September 2011

CONTENTS

Preface		3
Part 1	Narrative of Events	
(1)	The Political and Military Background	6
(2)	The Sequence of prior episodes potentially relevant to landmine explosion 21 March 1989	14
(3)	The events of 21 March 1989 : the deaths in a landmine explosion of Corporal Fintan Heneghan, Private Mannix Armstrong and Private Thomas Walsh	41
(4)	The course of events leading to the establishment of the Independent Review	61
Part 2	Conclusions	
(1)	Whether the road was out of bounds	79
(2)	The routine administrative recce	86
(3)	The adequacy of the threat assessment	94
(4)	Other matters arising	99
(5)	The provision and deployment of equipment including mine detectors	100
(6)	Summary of conclusions	102
	Appendix 1 Terms of Reference	105
	Appendix 2 List of Witnesses	107
	Illustrations	109

PREFACE.

All the business of war, and indeed all the business of life, is to endeavour to find out what you don't know by what you do; that's what I call "guessing what was at the other side of the hill"

-Arthur Wellesley, Duke of Wellington¹

By warrant dated 19th April 2011, the Minister for Justice, Equality and Defence, Alan Shatter TD, appointed me to carry out an independent review into matters relevant to the deaths of Corporal Fintan Heneghan, Private Mannix Armstrong and Private Thomas Walsh on 21 March 1989, while serving with 'C' Coy, 64th Infantry Battalion, United Nations Interim Force in the Lebanon (UNIFIL). The terms of reference are set out in Appendix 1.

I should say something about the methodology of this review. I was given an admirably fair-minded preliminary briefing by Col Peter Richardson and Brigitta O'Doherty, the Principal of the Litigation Branch, at the Department of Defence in Newbridge on 18 April 2011. I was given copies of the relevant files and papers. Requests for further documents that arose on my part in the course of carrying out the review were efficiently addressed by Captain Stephen MacEoin in Military Archives in Cathal Brugha Barracks, Rathmines. I was provided with discs both of the "Brothers in Arms" programme of 28 September 2001, and of the *Prime Time* programme of 16 January 2003. I was also given and sent material by Mr Enda Heneghan and Mr Michael Walker. Captain Shane Keogh provided unstinted assistance.

As to witnesses, I was given a useful preliminary list of key people by Col Richardson.

¹ Quoted in John Wilson Croker, *Croker Papers* (1884) Vol iii, and cited in Trevor Royal *The Collins Dictionary of Military Quotations* (Glasgow, 1991) p 65

I met members of the families of Fintan Heneghan, Mannix Armstrong and Thomas Walsh at Finner Camp on 28 April 2011. I was given a list of witnesses on behalf of the families by Enda Heneghan. He proposed some further witnesses thereafter. There was then a third category of witnesses comprised of persons mentioned by others to whom I spoke as potentially relevant or who emerged in the course of the enquiry as persons who might have relevant evidence to offer. The list of those with whom I spoke is in the Appendix 2.

Technical matters were lucidly and fairly expounded by the former and serving officers to whom I spoke. I did not feel the need for and did not request independent expert military advice.

I completed the review on 18 August 2011. The number of typographical errors and the like were thereafter identified and corrected. On the advice of the Attorney General, the review was circulated by the Department to the officers referred to in the review. Observations were received from Lt Gen N D Bergin, Brig Gen James Sanderson, Comdt. R J Lane and Comdt. Larry Devaney. I made a small number of relatively minor changes to the review arising out of those observations. Obviously the absence of comment on the part of the officers who did not respond is not in any way indicative of agreement with the conclusions I have come to.

I am grateful to all of the persons who spoke to me for the purposes of this enquiry. There was not one of them who did not advance my understanding of what took place on 21 March 1989. There was no serving or former member of the Irish Defence Forces to whom I spoke who did not strive conscientiously to give a truthful account of his recollection of the events surrounding the deaths of Fintan Heneghan, Mannix Armstrong and Thomas Walsh.

Frank Callanan
15 September 2011.

PART I

NARRATIVE OF EVENTS

1. THE POLITICAL AND MILITARY BACKGROUND

(1) The Lebanon in time of war

In the early 1970s, conflict along the border between Israel and the Lebanon increased as a result of the re-location of Palestinian armed elements from Jordan to the Lebanon. Palestinian commando operations against Israel and Israeli reprisals against Palestinian bases increased. On 11 March 1978, a Palestinian Liberation Organisation (PLO) commando attack in Israel resulted in significant fatalities among the Israeli population. In response to the raid, Israeli forces in what was designated 'Operation Litani' invaded Lebanon on the night of 14/15 March 1978 and rapidly occupied the entire southern part of the country except for Tyre and its surrounding area.

On 15 March 1978, the government of the Lebanon submitted a protest to the Security Council of the United Nations against the Israeli invasion, stating that it had no involvement with the Palestinian raid into Israel. On 19 March the Security Council adopted resolutions 425 (1978) and 426 (1978) calling upon Israel immediately to cease its military action and withdraw its forces from all Lebanese territory. It also decided on the immediate establishment of the United Nations Interim Force in Lebanon (UNIFIL) with three broadly defined purposes : confirming the withdrawal of Israeli forces; restoring international peace and security; and assisting the government of Lebanon in restoring its effective authority in the area. The first UNIFIL troops arrived on 23 March 1978.

On 5 May 1978 the Irish government decided, at the request of the UN Secretary General, to provide a contingent for service with UNIFIL. The Dail approved participation by Ireland in UNIFIL on 9 May 1978. The Irish contingent was rotated with the approval of the government at six-monthly intervals.

On the morning of Sunday 6 June 1982, Israel again invaded the Lebanon. The aim of "Operation Peace for Galilee" according to the first Israeli communiqué was to "place the

whole of the civilian population in Galilee out of the range of the terrorists who have concentrated their base and their headquarters in Lebanon”. The purpose of the Israeli invasion exceeded the creation of a 40 kilometre wide “security belt” in Southern Lebanon, and looked to the creation of a new political order in the Lebanon. This strategic over-reach conducted to the Israeli facilitation of the Phalangist massacres in the Palestinian refugee camps of Sabra and Shatila in September 1982.

The Israeli invasion radically destabilized the political order of the Lebanon. The traditional primacy of the Maronites was undermined. The new assertiveness of the Shiite Muslims in the Lebanon was reflected in the emergence of the radical Islamist Hizbullah which began with the withdrawal of the PLO in 1982. Hizbullah drew inspiration from the Iran of Ayatollah Khomeini, and also drew support from Syria.

The initial rapid success of the Israeli army which reached and surrounded Beirut gave way to mounting casualties at the hands of the Shiite resistance. During the years 1982-5, UNIFIL remained behind the Israeli lines, its role limited to providing protection and humanitarian assistance to the local population so far as that was possible. On 6 June 1985, three years to the day after the commencement of the invasion, Israel effected a partial withdrawal, retaining a security zone or strip of about ten per cent of the country, comprising some one hundred and fifty small towns and villages, and about six per cent of the population of the Lebanon. The Israelis set up a “South Lebanese Army” that was officered primarily by Maronites, under the command of General Antoine Lahad². The South Lebanese Army’ was also referred to as ‘the De Facto Forces’.

The Security Council of the United Nations maintained its commitment to the territorial integrity, sovereignty and independence of the Lebanon. The Secretary General persevered in his efforts to persuade Israel to leave the occupied zone. The Security Council repeatedly extended the mandate of UNIFIL at the request of the government of Lebanon and on the recommendation of the Secretary General.

² David Hirst *Beware of small states: Lebanon, Battleground of the Middle East*, Faber & Faber (2000) PP135-205

There is an instructive passage in the second edition of *The Blue Helmets: A Review of United Peacekeeping*, a United Nations publication in its second edition published in 1990, the year after the events the subject matter of this review, which characterised the situation in the Lebanon since 1985 arising from the insistence of Israel on maintaining and indeed strengthening its control in southern Lebanon:

As a consequence, and indeed as forecast by the Secretary General in his reports to the Security Council, the IDF/SLA positions in Lebanon have remained targets for attacks by Lebanese groups opposed to the Israeli occupation. Such attacks have generally been on a small scale but occasionally have involved sizeable and co-ordinated military operations leading sometimes to pitched battles. The main targets have been the positions at the forward edge of the Israeli-controlled area, including those located inside UNIFIL battalion sectors. As a result, UNIFIL has often found itself between two fires: on the one hand the Lebanese groups attacking the Israeli forces and their Lebanese auxiliary, the SLA; on the other hand those very forces reacting, often with heavy weapons and with air support from Israel, to the attacks directed against them.

In carrying out its tasks in these difficult circumstances, UNIFIL has sustained numerous casualties including fatal ones. These have generally been the result of UNIFIL personnel being caught in cross fire or injured by explosive devices intended for others but, at times, members of the force have themselves become the target.³

In 2000 the newly-elected Prime Minister of Israel, Ehud Barak, withdrew Israeli Forces from Southern Lebanon to south of the internationally demarcated blue line between Israel and the Lebanon. This was attended by the collapse of the De Facto Forces/South Lebanese Army. As the operations of UNIFIL were scaled back, it was decided to bring

³ *The Blue Helmets, A Review of United Nations Peacekeeping* (2nd Edition, 1990) p150 .

to an end Ireland's 23-year involvement in the region with the completion of the tour of duty of the 89 Infantry Battalion in 2001.

In July 2006, the Israeli-Hizbullah war broke out leading to the Security Council passing resolution 1701 and the creation of an enlarged interim United Nations Force in the Lebanon, sometimes informally called UNIFIL 2. Following a request from the UN the Irish government sent troops to Lebanon as part of a joint Finnish-Irish Battalion (34 and 36 Infantry Groups) between October 2006 and November 2007, two rotations.

Ireland retains its commitment to UNIFIL. On 14 December 2010, the Minister for Defence announced that the government had approved the deployment of Defence Forces to the Lebanon. 440 members of the 104 Battalion were deployed to peace-keeping duty in the Lebanon, leaving Dublin on 23 and 27 June 2011. The Irish area of Operations measures some 140 square kilometres extending from Tibnin in southern Lebanon to the Blue Line along the border with Israel.

(2) The 64th Infantry Battalion.

The 64th Infantry Battalion served with the United Nations Interim Force in Lebanon from October 1988 to April 1989. The Irish Battalions are known as IRISHBATT while out in the Lebanon.

The Battalion consisted of a Battalion Headquarters Company, four operational companies 'A', 'B' and 'C', Recce Company and HQ Company.

Each Company contained three platoons. 'C' Company was comprised of men from the Western Command. The three infantry platoons that made up 'C' Company were comprised for the most part of men from particular battalions of the Western Command: the 1st Battalion stationed at Mellows Barracks Renmore, Co Galway, made up of men from Galway, North Clare and part of Mayo; the 6th Battalion from Custume Barracks in Athlone; and the 28th Battalion based at Finner Camp, Rock Hill in Letterkenny and

Lifford. Corporal Fintan Heneghan, Private Mannix Armstrong and Private Thomas Walsh all belonged to the Weapons Platoon of 'C' Company.

At the Battalion level, the Battalion Commander was Lt Col Patrick McMahon. The Second in Command was Comdt Harry Johnson. The Operations Officer was Comdt Jim Mortell. The Information Officer was Comdt William (Billy) Comber. The Quartermaster was Comdt Jim Sanderson. The Battalion Headquarters was in Tibnin.

While Comdt Billy Comber's title was Information Officer, his role in fact equated to that of Military Intelligence Officer. At the time of the creation of the United Nations none of the major powers wanted the UN to have intelligence officers. A practice was observed in the Irish Battalion in the Lebanon at the time, for the purpose of avoiding any suspicion by the parties to the conflict, of passing on information to the other side, that Comdt Comber would interface with the armed elements while the Operations Officer, Comdt Mortell, would deal with the Israeli Defence Forces and the De Facto Forces.

The Ordnance Officer was Comdt Ray Lane. The role of the Ordnance Section of the Irish Battalion in UNIFIL did not extend to Explosive Ordnance Disposal. It was limited to the maintenance of equipment and ammunition and Conventional Munitions Disposal (or CMD), which in the Lebanon meant principally the cluster munitions that were dropped by the Israeli Air Force. The Battalion included a Engineers Platoon called the Assault Pioneer Platoon, which was commanded by Captain Ciarán Spollen.

In 'C' Company, the Company Commander was Comdt Martin Coughlan. The Second in Command was Captain John Curley. The officer in command of the Weapons Platoon was Captain Kieran McDaid. The Company Sergeant was Michael Chapman. The Platoon Sergeant was Jimmy Flanagan.

The principal line of communication with Defence Headquarters in Dublin was between the officer commanding the 64th Battalion and the Director of Operations in Dublin. The Commanding Officer sent a monthly report to the Director of Operations in Dublin which

included annexed a report from the Intelligence Officer (G2) and a report from the Operations Officer (G3).

The Irish Battalion Area of Operations was divided into three sections. Each of the three companies had responsibility for a particular section. The 'C' Company area was to the south-east of the Irish Area of Operations and included Bra'shit and Shaqrah. The area for which 'A' Company had responsibility was to the west of this and the 'B' Company area was to the north of it.

Up until the early 1980s these areas were rotated between *companies* but this was found to be unsatisfactory. Thereafter areas assigned to particular companies did not rotate. Within each company the platoons were rotated. This would occur three times during a six-month tour of duty so that each platoon would spend two months in the camps and outposts that made up the company Area of Operations. In the Area of Operations of 'C' Company these were :

1. Camp 6-16, the company headquarters on the southern outskirts of the village of Bra'shit.
2. The area of Bra'shit (including posts 6-9B, or 6-9 Bravo, and 6-42).
3. The Shaqrah area.

(3) **IEDs**

The prevalent hazard in the Lebanese theatre comes from landmines, and improvised explosive devices (IEDs). An improvised explosive device is defined by NATO as:

A device placed or fabricated in an improvised manner incorporating destructive, lethal, noxious, pyrotechnic or incendiary chemicals and designed to destroy,

incapacitate, harass or distract. It may incorporate military stores but is normally devised from non-military components⁴.

The principal components that make up an IED are a main charge; an initiator; a firing system and a power source. In terms of firing systems, an IED can be time-set, victim activated, or command activated.

Somewhat loose references recur in the military records to “roadside bombs” (RSBs). This is an inexact term which could refer either to a conventional mine (especially an anti-tank mine) or to an IED. The term “roadside bomb” lumps mines and IEDs together indiscriminately.

The detection of IEDs and mines is a specialist Engineers function to be distinguished from Explosive Ordnance Disposal.

As of the present day Explosive Ordnance Disposal (EOD) comprises:

1. The disposal of Conventional Munitions or CMD. Conventional munitions are those manufactured in a factory to military specifications. This would extend to unexploded ordnance or debris. Conventional mines and cluster bombs would fall into the category of conventional munitions.
2. The disposal of Improvised Explosive Devices or IEDD. What began as a conventional munition would be modified to become an *Improvised* Explosive Device. An IED is made to an individual specific specification. A home-made pressure plate on a conventional mine would make it an IED. It was not possible for the Ordnance Officer at the time to establish whether the mine that killed Corporal Heneghan and Privates Armstrong and Walsh was a conventional mine or an IED.
3. Counter-IED or CIED. This is now the major preoccupation because of the prevalence of IEDs as the weapon of choice of terrorists. It is an all-arms

⁴ This definition is cited in Wesley Bourke ‘Exercise Green Zone, *An Cosantoir* Vol 70 No 17 p 15.

responsibility rather than a technical pillar. While the name is new and the concept more structured, the activity of countering IEDs was inherent to IEDD prior to 1989.

Outside the present context, EOD has a fourth pillar, of Conventional Biological Radiological Nuclear Explosives, CBRNE, (of which there are in turn IED variants).

Two decades on, IEDs have come to feature ever more prominently in the conflicts in Afghanistan and Iraq. There has been a hundred-fold increase in the number of annual IED related incidents in Afghanistan between 2003 and 2010. IED attacks account for over 60% of coalition casualties in Afghanistan. The Irish Defence Forces have considerable experience of exposure to IEDs, both in the Lebanon and previously during operations on the border with Northern Ireland. Of the Northern Ireland theatre 1970-1997, Col Brian Dowling has written: “While small arms attacks, more than IEDs, may have attributed more to security force casualties during the earlier phase of the paramilitary campaign, IED attacks became the preferred asymmetric weapon of choice in the latter years”. The elaboration of Counter-IED measures (CIEDs) has become a major subject of contemporary military thinking ⁵.

⁵ Colonel Brian Dowling “Countering the improvised explosive device (IED) – working together to save lives”, *An Cosantoir* (September 2010) pp. 20-21. Colonel Dowling is the director of the Ordnance Corp, and Chair of the Defence Forces Counter IED Steering Group.

2. THE SEQUENCE OF PRIOR EPISODES POTENTIALLY RELEVANT TO THE LANDMINE EXPLOSION OF 21 MARCH 1989

The principal threat to the 64th Infantry Battalion, UNIFIL, was from shelling by the De Facto Forces or the Israeli Defence Forces in particular from the compounds of the De Facto Forces. The Armed Elements (AEs in UN parlance) comprised Amal and its offshoots, and Hizbullah which drew inspiration and support from the Islamic Republic of Iran. While shelling by the De Facto Forces and the Israeli Defence Forces could be indiscriminate and unprovoked, it was frequently reactive. There was a persisting pattern of use of IEDs (and mines) by the Lebanese resistance principally to attack the personnel of the De Facto Forces. The casualties that followed led to retaliatory indiscriminate firing and shelling into the settlements in the Irish Battalion Area of Operations by the De Facto Forces/South Lebanese army. The principal though not the only issue that arises for the purposes of this Review is the extent to which discernible threat to the 64th Infantry Battalion existed from the Armed Elements that made up the Lebanese Resistance, and if so, whether further or other measures ought to have been taken to address that threat.

To elucidate that issue, it is necessary to set forth and examine the sequence of prior events that are potentially relevant to the land mine explosion of 21 March 1989 that killed Corporal Heneghan and Privates Armstrong and Walsh. That of course is necessarily a selective exercise and that sequence has to be understood in the context of the constant and unremitting exposure of the Irish UNIFIL Forces to shelling and gunfire emanating principally from the compounds of the De Facto Forces whether reactive or unprovoked.

By the same token, the threat from IEDs and roadside bombs of course did not commence with the killing of Lt Aongus Murphy, who was a member of the 59th Battalion, on 21 August 1986, and is discussed below, as the records of the tour of duty of the predecessor 58th Irish Battalion, November 1985 to May 1986, attest. The Commanding Officer, Lt

Col Michael Wright in his monthly report for January 1986, dated 6 February 1986, stated:

IRISHBATT troops are now at greater risk than before. This arises from IRISHBATT posts and patrols within the villages under fire, checkpoint operations leading to confiscations of weapons, and *operational patrols discovering roadside bombs and pre-set rockets*. This factor of security has led to a re-deployment within IRISHBATT AO and for an increased awareness, and consequent action, of individual post security”[My italics].

In his report for February 1986, dated 6 March 1986, Lt Col Wright stated that : “the incidence of the use of roadside bombs by unidentified elements against IDF/DFP re-supply and relief vehicles travelling to and from the CHARLIE and BRAVO compounds increased during the month”. This was an effective move and led to the IDF/DFP searching villages close by, and undertaking a major incursion on 17-22 February 1986. “The effect of these operations on UNIFIL has been to put IRISHBATT personnel in direct confrontation with AMAL/HIZBOLLAH elements seeking to infiltrate weapons in the AO and in physically monitoring IDF/DFP search teams during incursions”. The monthly report of Lt Col Wright for March 1986, dated 4 April 1986, noted that the operational situation had continued to develop along the pattern already identified. One of the appended reports to that report stated that “the sophistication and expertise of the Resistance Forces action continues to improve. The reported re-introduction of radio controlled IEDs, anti-handling devices and booby trap weapons, caches have increased the security problems facing the IDF/DFP significantly and will inevitably lead to further casualties”. In the wake of the withdrawal of the Israeli incursion force on 22 February 1986 the reluctance to surrender weapons or to allow weapons to be confiscated at UNIFIL checkpoints had hardened further with aggressive action being taken against UNIFIL. In consequence of the Israeli incursion, the Resistance were more determined than ever to carry out attacks against the Israelis. “The Resistance Forces are NO longer prepared to be frustrated in these efforts by UNIFIL”. It was noted that the senior Amal leadership believed that a good relationship with UNIFIL was beneficial. “However

there is a growing number of more radical elements who regard UNIFIL as an obstacle to the expulsion of the ISRAELIS from LEBANON”. Reactive changes in IDF/DFP defensive procedures were identified.

(1) Lieutenant Aongus Murphy

On 21 August 1986 Lieutenant Aongus Murphy from Tuam, serving with the 59th Infantry Battalion, was killed on the road between the villages of Haddathah and At-Tiri by an IED laid by or at the direction of Jawad Kasfi. He was 25 years old, the son of Brig Gen Kevin Murphy. Kasfi, an adherent of the radical Islamist resistance, was skilled and utterly ruthless in the fabrication and deployment of IEDs in which he had received some training in Czechoslovakia. Lieutenant Murphy was targeted and killed because of the valour and persistence with which he sought out and incapacitated IEDs planted by the Lebanese resistance. Like many of his confederates and Muslim fellow-countrymen, Kasfi considered it was no part of the business of the Irish or any other battalion of UNIFIL, to seek out, incapacitate and remove improvised explosive devices that were targeted not at UNIFIL, but at the Israeli Defence Forces, or the De Facto Forces. Kasfi was also jealously possessive of the improvised explosive devices he devised. Kasfi’s responsibility for the death of Lieutenant Murphy was a notorious fact, as he no doubt intended it to be. It is said that Kasfi actually admitted to the murder of Lieutenant Murphy, an affectation of remorse that was evidently intended to underscore the deterrent effect of the killing. Lieutenant Murphy’s death is significant in that he was intentionally targeted and killed: he was not an unintended collateral victim of hostilities between the Israeli Defence Forces, and the South Lebanese Army/ De Facto Forces on one side, and the Lebanese resistance on the other.

The killing of Lieutenant Murphy ought not to be seen as an isolated event. Lt Col J O’Shea, the Officer Commanding the 59th Battalion, in his monthly report for May 1986, dated 4 June 1986, put it that there was a marked increase in activity by the Lebanese Resistance resulting in indiscriminate retaliatory firing into villages from Israeli Defence Forces/De Facto Forces positions. “The effect of these operations on 59 IRISHBATT has

been to increase the risk to personnel from this indiscriminate, retaliatory firing, and from dangerous explosive devices placed by Amal/Resistance on or close to routes and positions used by the IDF/DFP". There was a steady incidence of "roadside bombs". The killing of Lt Murphy followed a series of incidents on the At-Tiri/Haddathah track. IEDs had been discovered on the track by Irish Battalion personnel on 29 July, 7 August and 19 August. As the Information Officer for the 59th Battalion noted in his report for August 1986:

The bombs on the 29th July and 19th August were probably intended for DFP personnel who used the track to rotate their Bravo compound on the Tuesday of each week. The bomb on the 7th August was placed and detonated to intimidate Irish Batt personnel. The bomb placed on the 21st August was deliberately placed and detonated to murder Irish Batt personnel. The group responsible are from AMAL Resistance Group based in the village of As Sultaniya in the Ghanbatt AO".

(2) The IEDs found near the Water Towers, 31 May 1988 (Comdt Laurence Devaney)

A further significant episode in this sequence occurred on 31 May 1988 involving Comdt Laurence Devaney, who was serving as Ordnance Officer with the 63rd Infantry Battalion. The operational summary for 31 May 1988 contains the following entry:

31 May 1988 – Two (2) 155mm high explosive artillery shells converted into bombs found buried in a roadside wall between posts 6-42 and 6-9B.
After negotiations with Jawad Kasfi, they were removed.

Documentary details in relation to this are lacking in the military records, but Comdt Devaney has provided an account of what happened. On 31 May 1988, he was asked to deal with a request to investigate suspicious cables on the road between the village of Bra'Shit, and the Water Towers (post 6-9B). On investigation he found a 155 mm high explosive shell placed in a stone wall near the village. A detonator had been placed in

plastic explosive, located in the fuse well of the shell. A second 155mm high explosive shell was also located some forty metres away on the opposite side of the road, again located in, and concealed by, a stone wall. Both shells were connected to cables that Comdt. Devaney traced back towards the village, and finally to a firing point from which they could be detonated, up a tree located just outside the village. These were highly effective devices designed to be detonated simultaneously by a command wire against foot patrols or military vehicles planted on a road used by patrols by the De Facto Forces and by Irish troops.

Comdt Devaney was about to carry out the demolition of the shells when several cars containing armed Amal personnel arrived on the scene. Significantly Jawad Kasfi was one of those present. They objected to the demolition of the IEDs. They threatened the explosive ordnance disposal team, and the small attendant security party. The Battalion Mobile Reserve was activated and sent to the scene. In the course of a stand-off of several hours, the Amal personnel threatened that if the shells were blown up, two sentries from the Irish Battalion would be shot. The Commanding Officer of the 63rd Battalion, Lt Col O'Grady, having responsibility for the safety of his own men, decided there was no alternative but to comply under threat with the Amal demand. After Comdt Devaney had, most reluctantly, removed the detonators and returned the high explosive shells to Kasfi, Kasfi placed them in his car, and drove off. Comdt Devaney wrote that night in his diary "one thinks of the futility of UNIFIL in such circumstances".

The episode, its location and the involvement of Kasfi are all of significance. The IEDs were no doubt targeted at the De Facto Forces, but were in the Area of Operations of the Irish Battalion.

(3) The IEDs found near Haddathah, 17-18 November 1988, (Comdt R J Lane)

(i) The IEDs

Comdt R J (Ray) Lane was the Ordnance Officer with the 64th Infantry Battalion and Comdt Devaney's successor. As he described in a report to the Director of Ordnance dated 21 November 1988, he was on 17 November 1988 tasked to investigate a suspected object on the main supply route between Haddathah and Hill 880 in the Irish Battalion Area of Operations (AO). When he arrived at the scene, he questioned witnesses who described what appeared to be a command wire initiated roadside bomb. Reconnaissance by Comdt Lane confirmed this. He returned immediately to inform the Battalion Operations Officer that this was now an IED, and as such was not his responsibility. The Battalion Operations Officer consulted the UNIFIL Standard Operating Procedures, which laid down that the French Explosives Ordnance Team would move to the scene of the IED. UNIFIL were informed. The French refused the request, as did the Swedish Engineering Company when asked to supply a team. A further request to the French was declined. It was stated, inaccurately as it transpired, that all EOD equipment was now in France. Amal confirmed both the presence of the roadside bomb, and the possibility of a secondary device. Action was deferred to the next day.

After a long discussion between Comdt Lane, the Battalion Commander, the Battalion Operations Officer and the Battalion Military Intelligence Officer, it was decided that action would have to be taken, as the device could not be left in situ. On the morning of 18 November 1988, Comdt Lane moved to deal with the device. After explosively clearing a route in, he found a container with approximately 45 lbs of TNT plus nails hidden in rocks. He blew it in situ. He had a discussion with Kasfi, described as "AMAL bomb expert, Kasfi", who was neither forthcoming nor candid. Comdt Lane discovered a device in the wall which turned out to be a 105mm high explosive projectile, partially hidden from view. There appeared to be high explosive at the mouth of the projectile, and the method of initiation of the projectile was not visible. Comdt Lane concluded that the projectile was planted for the survivors of the roadside bomb if they ran for cover to the wall. He blew the projectile in situ.

The specific location of the primary device was three to four metres off the track that formed the main supply route from the A Company HQ at 6-38 and the Irish Battalion

posts at Hill 880 (6-41) and at TIRI (6-44). The primary device was placed down from a swing gate that demarcated the Israeli Controlled Area. The secondary device was a little further on and set further back from the road in the direction of Haddathah.

The potential for a ‘double hit’ created by the planting of the primary and secondary devices to some degree corresponded with the disposition of the devices found by Comdt Devaney near the Water Towers six months previously.

(ii) The Immediate Reaction to the Haddathah IEDs within the Irish Battalion.

The discovery of the IEDs at Haddathah raised two significant issues. The first was in relation to Explosive Ordnance Disposal (EOD) capacity of UNIFIL as a whole. The second related to the nature of the threat posed to the Irish Battalion in its Area of Operations.

There was a difference of opinion between Comdt Ray Lane, the Ordnance Officer, and the Information Officer (who discharged the military intelligence role), Comdt Billy Comber.

In his monthly G2 Report for the period 16 November – 15 December 1988, dated 16 December 1988, Comdt Comber stated : “On the 17th November 1988 an RSB was found near IRISHBATT POSN 6-38B. It was thought to have been placed by AMAL Army. It was in anticipation of an IDF incursion into HADDATHAH Village”. Comdt Lane did not agree with the assessment of Comdt Comber, which was shared by Lt Col McMahon and others. He did not accept it was possible to say categorically that the device was not targeted at the Irish Battalion. The main device was some 120 metres north of the swing gate. In Comdt Lane’s opinion the Israeli Defence Forces/De Facto Forces did not come down that far at least on any regular basis. Even if one took the view that the device was directed against the Israeli Defence Forces/De Facto Forces, the planting of a sophisticated and lethal device by Jawad Kasfi against the background of the discovery of

the IEDs near the Water Towers by Comdt Devaney on the 31st May 1988, necessitated in Comdt Lane's view a thorough review of the threat confronting the Irish Battalion.

Comdt Lane was not involved in the area of threat assessment. He was nevertheless sufficiently concerned to advise his Commanding Officer of his concerns. Comdt Lane recalls a discussion with Lt Col McMahon. Comdt Lane's recollection is that he advised Lt Col McMahon of his concerns arising from the location of the devices, the role of Kasfi, the killing of Aongus Murphy and the finding of the IEDs by Comdt Devaney. He said that these disclosed a threat to the Irish Battalion, and that this created a new situation to which it was necessary to respond. Lt Col McMahon does not, across the interval of 20 years, have a recollection of a specific conversation to do with the nature of the threat facing the Irish Battalion. He recalls that he agreed with the assessment made by Comdt Comber over that of Comdt Lane, and that he took up and pursued the issue of the absence of a force Explosive Ordnance Disposal capacity.

On the basis of Comdt Lane's recollection of his views at the time, and his communication of them to his Commanding Officer, the issue of a change in the threat to the Irish Battalion that required assessment thus presented itself at this stage even before the abduction of Jawad Kasfi on 15 December 1988 and its immediate aftermath.

In his monthly report for November 1988 dated 2 December 1988 to the Director of Operations, Lt Col McMahon stated "Amal continued to assure us that they are pro-UNIFIL but the RSB incident at 6-38B on 17 NOV 88 was a cause for concern".

Comdt Lane already had a significant concern about the two IEDs found by Comdt Devaney on which Comdt Devaney had briefed him during the two week handover. This was against a background where he had been briefed before leaving Dublin that the IED threat was low, and had not been told that the French were no longer providing an EOD capacity within UNIFIL. It is necessary to consider the French withdrawal of its EOD team in the preceding period.

(iii) The Withdrawal of the French EOD Detachment

The instructions to Irish Battalion Ordnance Officers was premised on the provision of Explosive Ordnance Disposal (EOD) by the French Engineer Company. Thus, in the wake of the disposal of a roadside bomb at At Tiri on 13 November 1985, during the tour of the 58th Infantry Battalion, the then Director of Operations Colonel S Murphy in seeking clarification of the episode stated in a letter of 15 January 1986 to Lt Col Michael Wright, the Commanding Officer of the 58th Infantry Battalion, as follows :

The terms of reference for UNIFIL Irish Batt Ordnance Officers are as follows: -

- (a) Inspection and maintenance of Irish Batt, and Irish Component UNIFIL HQ, equipment
- (b) Demolition of conventional explosive war debris in Irish Batt AO.

Lt Col Wright replied clarifying that once the initial report was received the Battalion Ordnance Officer was despatched to the scene and investigated. When it became apparent that an IED was involved, EOD assistance was requested from the French Engineer Company. The role thereafter of the Battalion Ordnance Officer was confined to acting as liaison between Irish Batt and French Engineer Company. “The entire render safe and disposal operation was carried out by FRENCHENGCOY personnel”.

The anticipated withdrawal of the French Explosive Ordnance Detachment took place in the latter part of 1987. The withdrawal proceeded without UNIFIL having procured a replacement.

The report of the Secretary General on the United Nations Interim Force in Lebanon (for the period 12 January – 24 July 1987) issued on 24 July 1987 (S/18990) stated at paragraph 5:

The Foreign Minister of France has informed me of his government’s decision to withdraw during 1987 the explosive ordnance detachment which forms part of the

French composite battalion and is responsible for mine clearing and the defusion or destruction of explosives and ordnance. I have contacted other governments contributing troops to UNIFIL about the replacement of this important unit and I hope that this will be arranged shortly.

The next six-monthly report of the Secretary General on the United Nations Interim Force in Lebanon (for the period 25 July 1987 – 22 January 1988) issued on 22 January 1988 (S/19445) stated at paragraph 6:

During the period covered by the present report, the government of France carried out its decision (See S/18990, para 5) to withdraw the explosive ordnance detachment which formed part of the French composite battalion and was responsible for mine clearing and defusing or destroying explosive devices and ordnance. Regrettably, my efforts to obtain a replacement for this important unit have not so far been successful. I have asked the governments contributing troops to the Force to strengthen the capacity of their units to deal with explosives, since mines, unexploded ammunition and other explosives continue to be a danger to UNFIL personnel as well as to the civilian population in the area.

On 22 October 1987 the Secretary of the Department of Foreign Affairs in Dublin sent to the Secretary of the Department of Defence an excerpt from a minute of the Irish Mission to the UN of a meeting between troop-contributing states and Under Secretary General Marrack Goulding dealing with the issue that arose on the departure of the French bomb disposal unit from the UNIFIL Area of Operations in the Lebanon. The excerpt stated that Mr Goulding had referred to the fact that once the French bomb disposal unit which had served UNIFIL from its inception was withdrawn, individual UNIFIL contingents would be faced with coping with bomb disposal on a self-help basis. As a result the then Force Commander, Major General Hagglund, had requested that in future all new contingents arrive with some specialist capability in mines and unexploded ammunition. Expertise in radio-controlled or booby trapped devices would also be welcome.

A copy of the Foreign Affairs letter was sent by the Department of Defence to the Director of Operations on 23 October 1987 and this was followed by a memorandum dated 29 October 1987 enquiring as follows : “Will our present EOD capability meet the requirements of Irish Batt or is it proposed to recommend any increase in future contingents in the absence of a replacement for the French unit?”.

The Director of Operations, Col J N Bergin, replied on 30 October 1987 advising that the composition of the Ordnance Section of the Overseas Battalion was being reviewed with a view to determine what changes would be necessary to give the Overseas Battalion an adequate EOD capability.

On 2 February 1988, Col Bergin wrote to the Director of Ordnance advising that having examined the matter in all its aspects the Chief of Staff, Lt Gen Tadhg O’Neill had decided ‘to make no change in the capability of the Ordnance Section IRISHBATT’.

Lt Gen Noel Bergin informed me that the provision of Explosive Ordnance Disposal was in the first instance a matter for UNIFIL and for the Force Commander. He emphasised that the Chief of Staff was acutely conscious of the necessity of avoiding taking over the EOD role for UNIFIL as this would be overwhelming. There was a significant resource requirement in patrolling the border with Northern Ireland and providing an EOD capacity to the 64th Battalion had significant resource implications.

(iv) Correspondence and Memoranda following the finding of the IEDs near Haddathah

Comdt. Lane was extremely concerned at the finding of the IEDS near Haddathah . The report that he wrote to the Director of Ordnance in Dublin, dated 21 November 1988 concluded with the following observations:

1. There was great danger to life and the positioning of the device, and the quantity of H.E used. Action had to be taken, delay in dealing with these IEDs would allow the terrorist the opportunity to reset the devices.
2. The lack of IED demolition cover in the UNIFIL AO, and in particular Irish AO is a cause for great concern. The presence of roadside bombs, car bombs etc require trained and fully equipped teams. The absence of these teams placed me in a very difficult position.
3. Before leaving Ireland, I clarified the position of IED demolition with army operations. They referred me to UNIFIL SOPs. Action must now be taken to deal with this serious problem.

By memorandum of the same date, 21 November 1988, Lieutenant Colonel Patrick McMahon, the Commanding Officer of the Irish Battalion, wrote to the UNIFIL Force Commander. He drew attention to the UNIFIL Standard Operating Procedures. He pointed out that the request for assistance made of French EOD was refused on the grounds that UNIFIL did not have the trained personnel or equipment to carry out this type of task. It had been necessary for the Ordnance Officer of the Irish Battalion to deal with the devices, and destroy them in-situ, using controlled explosions. Lt Col McMahon pointed out that the roadside bomb could have been detonated by anyone using a power source (e.g. batteries being applied to the command wire, or omissions from a radio transmitter), whether deliberately or intentionally, and that the primary and secondary device represented a very sinister threat to life. He was at pains to emphasise the long held position of the Department of Defence and successive Irish Battalions:

With grave exceptions such as the subject of this letter, the Bn. Ord. Offr. will NOT deal with Improvised Explosive Device Demolition (IEDD) at any future stage in the IRISHBATT. AO. Under no circumstances will the Bn. Ord Offr. deal with IED's in the rest of UNIFIL AO.

Lieutenant Colonel McMahon expressed himself perturbed to find that UNIFIL was not equipped to deal with improvised explosive device demolition, and that the Force SOPs did not reflect the actual situation on the ground. He recommended in the final paragraph (numbered 7) that a Force EOD team be established as a matter of urgency, trained and properly equipped to deal with IEDs , and that in the interim the Force SOPs be amended to reflect the actual situation in UNIFIL.

Lieutenant Colonel McMahon wrote also to the Director of Operations in Dublin on 21 November 1988, enclosing Comdt Lane's report and his own letter to the Force Commander. Having referred to the Incident Report for 18 Nov 1989 and the UNIFIL SOPs. He continued:

1. Despite assurances received from UNIFIL Ops. through the Overseas Room in SEP 88 that the 64 Bn. Ord. Offr. would only have to deal with war debris (e.g. cluster bombs), and that all IEDs would be dealt with by reference to UNIFIL Ops, we found on 17 Nov. '88 that our request for EOD assistance was refused by UNIFIL Ops. on the grounds that UNIFIL did not NOT have the trained personnel or equipment to carry out this type of task.
2. As you are aware, 64 Inf. Bn. is NOT equipped to deal with IEDs. The French Engr. Coy. have the responsibility for dealing with IED demolition. All necessary equipment for that role was purchased from Ireland by UNIFIL. It is not the responsibility of the Bn Ord Ofr to deal with IEDs.
3. In the light of what occurred at 6-38B on 17-18 Nov. '88 the lack of IED demolition cover in the IRISHBATT AO must be resolved as a matter of great urgency.

On 22 November 1988, the UNIFIL Assistant Chief of Staff, Operations, Colonel Hautamacki, visited the site of the devices with Lieutenant Colonel McMahon. Lt Col McMahon impressed upon him the lacuna within UNIFIL for dealing with IEDs, and

requested that Comdt. Lane be given a slot in the forthcoming UNIFIL Force Commander's conference, scheduled for 29 November 1988, to outline the gravity of the situation. This was agreed, but in the event the Force Commander's conference on 29 November 1988 did not deal with the IED situation. At the end of that conference, Colonel Hautamacki advised Lieutenant Colonel McMahon that he had been tasked by the Force Commander to investigate the return of the UNIFIL IED equipment that was currently in Italy for repair or servicing. This was reported by Lieutenant Colonel McMahon to the Director of Operations in Dublin by letter of 30 November 1988. He enclosed a memorandum from the French contingent commander, Colonel Peltier to the Force Commander referring to the request made on 17 November 1988 by the Irish Battalion pursuant to the SOPs. He pointed out that Frenchlog did not have an EOD team since October 1987, and that the SOPs should be amended accordingly.

Colonel J N Bergin, the Director of Operations in Dublin sent a response to Lieutenant Colonel McMahon on 24 November 1988 stating that the gravity of the matter referred to in his correspondence concerning the incident at Haddathah was fully appreciated. He requested that Lieutenant Colonel McMahon inform headquarters in Dublin of the outcome of his representations to the Force Commander regarding the provision of a UNIFIL EOD team.

On the same date Colonel Bergin wrote to the Director of Ordnance enclosing the correspondence received from the 64th Infantry Battalion on the subject of the Haddathah device. He advised that the provision of an EOD team was primarily a matter for the Force Commander, and concurred with paragraph 7 of Lieutenant Colonel McMahon's letter to the Force Commander of 21 November 1988.

The concerns expressed by Comdt Lane were underscored by the memorandum dated 9 December 1988 from Col J K McGrath, the Director of Ordnance, from the Directorate of Ordnance in McKee Barracks in Dublin to the Director of Operations. He pointed out that the duties of the Battalion Ordnance Officer and the ordnance personnel might

extend to the disposal of conventional items or ordnance but did not include the rendering safe for disposal of Improvised Explosive Devices. He continued :

It should be noted that the schedule of equipment for EOD (IED) operations includes a considerable quantity of specialized items. This equipment must be available to an EOD Operator if he is to conduct EOD (IED) activities efficiently and with maximum safety. It should be further noted that the Bn Ord Offr is NOT Equipped with this specialist equipment and, consequently, an attempt to render safe or dispose of an IED places his life at unacceptable risk

Col McGrath was concerned that if a similar incident was to recur in the Irish Battalion Area of Operations, Comdt Lane would again be tasked. "In addition, it is considered possible that Comdt Lane may have to deal with or give advice on IEDs in the rest of UNIFIL AO in spite of the assurance given in the same reference, i.e. the Force Commander may have no other alternative". He found it difficult to understand why UNIFIL had neglected the urgent operational requirement for EOD.

On 1 December 1988 Colonel Hautamaki, the UNIFIL Assistant Chief of Staff, Operations, copied to the Commanding Officer of IRISHBATT his memorandum to the Force Commander, Lieutenant General Lars-Erik Wahlgren, on the subject of Explosive Ordnance Disposal. He stated that as the Force Commander was aware, there was not at that time and had not been for some time previously a UNIFIL Ordnance Disposal Unit. Furthermore, EOD equipment, should such a team be made available, was lacking. He referred to the Hobo Robots which were held in Frenchlog being unserviceable and requiring \$6,000 to repair. The expertise in bomb disposal varied dramatically between the national contingents. Some of the national battalions had no expertise while the Irish Battalion had a "very experienced and specially trained officer". He stated that "unfortunately in the recent past examples of all kinds of explosive devices have been found in this area and now a need exists greater than before". He advised that if, as was likely, a sophisticated bomb was discovered at a UN post or in a village or other built-up area UNIFIL would have no means of dealing with it without taking on unacceptable

risks. He understood that the contributing countries had been lobbied for the purpose of supplying a permanent EOD team with equipment to the UNIFIL Area of Operations but had declined. He recommended that UN New York should again be requested to make a UNIFIL EOD and mine clearing team available as soon as possible. He suggested that in the interim the Irish government be requested to make Commandant Lane available in an advisory capacity at least for UNIFIL HQ.

Col Hautamaki's memorandum was forwarded by the Commanding Officer of the Irish Battalion to the Director of Operations in Dublin. Lt Col McMahon continued:

3. The question of IEDD was raised during the Force Commander's visit to IRISHBATT AO. The Force Commander outlined the potential danger of IEDs in UNIFIL AO – Car Bombs, Road Side Bombs, Suicide Bomber. I stress the gravity of the situation in dealing with the Road Side Bomb on 18 November 88. Force Commander asked that Comdt Lane be made available to give a brief on IEDA situation and equipment available in UNIFIL AO.
4. Comdt Lane has been tasked by ACOS Logs to inspect the remote handling equipment and accessories based in NAQOURA for serviceability. This inspection will begin on Monday 19 December 88.

A letter was sent to the Secretariat of the United Nations by the Irish permanent mission on 18 January 1989 setting out the Irish position and reflecting the contents of the minute of the Department of Defence of 31 December 1988. The matter was also raised informally with the Secretariat.

The Secretary General of the United Nations made his report to the Security Council on the UNIFIL Mandate Renewal on 24 January 1989 (S/20416). Paragraph 7 of the Secretary General's report was as follows:

In January 1988, I informed the Council (CS/1944S, Para 6) of my efforts to obtain a replacement for the Explosive Ordnance Detachment, which had formed part of the French Composite Battalion but had been withdrawn in the second half of 1987 following a decision by the government of France. These efforts have not, so far, been successful. I am, therefore, again seeking the troop contributing Governments to ensure that their contingents have an improved capacity for dealing with explosive ordnance, particularly unexploded ammunition and mines.

In response to a memorandum from the Department of Defence dated 17 February 1989, the Permanent Mission to the United Nations sent a memorandum to the Department of Foreign Affairs that set out the state of play. It pointed out that the statement of the Secretary General reiterating the request to Troop Contributing Governments to ensure that their contingents had an improved EOD capacity “could be seen to supersede and to some extent represent a reply to our letter of 18 January”. The Department of Foreign Affairs might wish to consider with the Department of Defence what further action might be appropriate.

Thus the issue of a Force EOD capability remained in play between Ireland and UNIFIL and unresolved up until the time of the land mine explosion of 21 March 1989 that is the subject of this enquiry. The issue was of course to do with Explosive Ordnance Disposal and so did not have any direct bearing on the circumstances in which the three members of the Irish Defence Forces met their deaths. The distinction between EOD (an Ordnance matter) and the role of the Engineer Specialist Search Team (ESST) was succinctly made by what Comdt Lane as an Ordnance Officer said to me of ESST: ‘They find them. We blow them’. In the event as will be seen the measures which were taken after the fatalities of 21 March 1989 dealt with both the issue of EOD (through the deployment of the 65th Battalion of an EOD team) and the discrete issue of enhancing the search and detection capability with respect to IEDs and mines (through the deployment of an Engineer Specialist Search Team).

There was at least one beneficial consequence. Comdt Lane was aware that UNIFIL had as force assets, two Hobo robots. These were sophisticated camera-bearing remote control vehicles (RCVs), manufactured in Ireland, that were used in Explosive Ordnance Disposal. These were in the possession of the French Engineers for the purpose of carrying out the EOD role within UNIFIL. Comdt Lane went to the UNIFIL Assistant Chief of Staff, Colonel Hautamaki, to ascertain the whereabouts of the robots. Col Hautamaki believed they had been sent to UN Storage Facility in Brindisi. Comdt Lane, almost immediately thereafter, happened on a wooden container that transpired to contain one of the Hobos. He found other parts including the cameras in the French Camp vacated by the Engineers. Sergeant Paul Egan possessed the expertise in electronics to reassemble and render operational the Hobo RCV by late November 1988.

(3) The abduction Of Jawad Kasfi and retaliatory kidnapping of three members of the Irish Battalion, 15 -17 December 1988 and the immediate aftermath.

(i) The abduction of Kasfi

On 15 December 1988, in an extremely professionally executed covert operation, Israeli Shin Beth agents abducted Jawad Kasfi and three men from the locality. The Israeli personnel were disguised as Lebanese civilians. Kasfi was overpowered and taken into the security zone or into Israel in the bottom of a truck. Irish Battalion personnel were neither involved in nor privy to the abduction of Kasfi. They could not be considered culpable for his abduction. What was to have very serious consequences in the short term was that Kasfi was abducted from within the Irish Battalion Area of Operations, specifically from the area of "A" Company. This created an immediate peril for the Irish Battalion, whether due to a belief by the confederates of Kasfi that Irish Battalion was in some way complicit in the abduction of Kasfi, or from a determination on their part to take some form of assertive retaliatory action irrespective of whether those against whom such action was directed had any responsibility for the abduction. One might even hypothesise, as *Prime Time* did in 2003, a terroristic spiral in which the killing by Jawad

Kasfi of Lt Aongus Murphy was considered by his confederates to provide a motive for Irish complicity in Kasfi's abduction by the Israelis.

It was immediately clear that elements of Amal and others were proposing to hold the Irish responsible for Kasfi's abduction. A telex was sent by Lt Col McMahon just after noon to the Director of Operations in Dublin referring to the abduction and stating that "it has been alleged by Amal that the four were removed from the IRISHBATT AO through position 6-21B". There had also been firing into Camp Shamrock at Tibnin by Armed Elements but without casualties. The telex stated : "Situation tense. IRISHBATT on full alert".

(ii) The Retaliation against the Irish Battalion

There was an immediate and dramatic reprisal for the abduction of Kasfi by the Israeli Defence Forces. At 9.00 on the morning of 16 December 1988, two cars containing radical Islamist Armed Elements attacked an IRISHBATT position at 6-48, which was a checkpoint east of Tibnin village. The Armed Elements opened fire and overpowered the three Irish soldiers – a non-commissioned officer, and two privates - who were on checkpoint duty, and constrained in their capacity to respond in the presence of unarmed local civilians. They bundled them into a white Mercedes which drove off with the other car in the direction of Sultaniyah. The men taken were Cpl Pat Mackin, Pte 'Ted' McCaughey and Pte Jack Kearney, members of the anti-tank platoon of the Recce Company⁶. This created an extremely serious situation. The Lebanon from the mid-eighties had become notorious for the kidnapping of foreigners. Those taken hostage could experience long imprisonment, torture or death⁷. The three Irish soldiers were extremely vulnerable in the immediate aftermath of Kasfi's abduction.

The Commanding Officer of the Irish Battalion, Lieutenant Colonel Patrick McMahon, responded immediately. He met with high level militia leaders of Amal at Camp

⁶ History of 64th Infantry Battalion UNIFIL 1988-89, p85

⁷ David Hirst *Beware of Small States: Lebanon Battleground of the Middle East* pp225-32

Shamrock and impressed upon them that there had been absolutely no Irish involvement in the abduction of Kasfi and the three others. Arising from this, Amal leaders, and a liaison team from UNIFIL began negotiations for the release of the Irish personnel.

A senior Amal leader conveyed the regret of Amal, stating that the policy of Amal was to back UNIFIL, and Irish UNIFIL in particular, and not to disturb the operations of UNIFIL. At a meeting at Amal headquarters in Sila, at 17.30 on 15 December 1988, Amal communicated a message to the Irish Battalion. This stated that there would be no direct talking with the Irish Battalion until the hostages taken that morning were released. Amal would endeavor to prevent any attacks on Irish UN positions. The Irish should stay in their present positions. No major troop movements should be undertaken. Amal looked to UNIFIL to settle their problem and would use their influence at the highest political and diplomatic level. An anti-Irish campaign would be undertaken by Amal by diplomatic and political means if those abducted by the Israelis were not released. The message warned that the Irish Battalion had to be very careful for their own security and protection. Amal would still seek to support and protect UNIFIL, but, the message ominously concluded, 'beware: "a lot of people want to fish in the dark waters"'. At 9.46 hours on 17 December 1988, the three men were returned unharmed.

Camp Shamrock at Tibnin had come under attack from Armed Elements in the aftermath of Kasfi's abduction.

(iii) The Assessment of the Situation created by Kasfi's abduction

The evidence of a backlash against Irish Battalion arising from the abduction of the Kasfi and the three men taken with him by the Israelis resulted in the Battalion maintaining a state of high alert. The Information Officer Comdt Comber, writing in the *History of 64 Infantry Battalion UNIFIL 1988-1989*, pointed out with reference to the abduction of the three members of Recce Company that all checkpoints were vulnerable to hostage taking and virtually all posts were capable of being surrounded by hostile Armed Elements mixed with innocent civilians thus making it impossible for the defenders to fire for

effect.⁸ In the aftermath of the taking of the three soldiers, a number of exposed checkpoints were not physically occupied by Irish Army personnel.

Comdt Jim Sanderson thus described the situation in the Battalion history: “Jawad Kasfi’s abduction by IDF ruse and the subsequent blame by some zealous religious leaders on the doorstep of IRISHBATT placed the 64 Bn in a situation which was unusual and dangerous for an Irish battalion, i.e. the act of hostility of a good proportion of the local population. A population leavened by a fair sprinkling of people whose religious aspirations focused on the holy Iranian of Qom”⁹.

The Operations Officer, Comdt Jim Mortell, wrote in his G3 Report for December 1988:

The abduction of Jawad Kasfi highlighted the fact that there was a sizeable group of believers resistance personnel dormant for some time in GHANBATT/IRISHBATT AO Hizbollah Voice of Islam radio announced that Kasfi was Chief of Believers Resistance in South Lebanon. The abduction of three (3) Irish soldiers by Believers Resistance on 16 Dec 88 was engineered by a senior member of Amal in Bravo area (i.e. Abu Jihad) and was carried out by resistance members from As Sultaniyah, Khirbat Silm, Dayr Ntar, Bir As Sanasil.

In his monthly report for December 1988 to the Director of Operations dated 3 January 1989, Lt Col McMahon, the Commanding Officer of the Irish Battalion, referred as the two main events in the Battalion’s Area of Operations to the abduction of four civilians including Kasfi on 15 December in what “bore all the hallmarks of a very well planned IDF/GSS snatch operation”, and to the kidnapping of three Irish soldiers on 16 December by “a radical splinter group who accused Irish Batt of complicity in the IDF/GSS snatch operation”. He stated that “these incidents and the consequent threat, resulted in a complete review of all security and operational procedures, assessment of our security measures is an ongoing process”.

⁸ *History of 64 Infantry Battalion UNIFIL 1988-89* p17.

⁹ *History of 64 Infantry Battalion UNIFIL 1988-89* p20.

In his G3 report, which was attached to Lt Col McMahon's report, the Operations Officer Comdt Mortell, stated that "the volatility and unpredictability of South Lebanon was again proven by the assumption by a radical splinter group that IRISHBATT was complicit in the abduction by IDF/GSS of local civilians". The events of 15-17 December 1988 proved that all checkpoints as currently constituted and located were vulnerable to hostage taking and capable of being surrounded by hostile Armed Elements mixed with innocent civilians making it impossible for the defenders to fire for effect. "Due to the volatile situation, our security measures are receiving continuous assessment".

In his G2 report, the Information Officer, Comdt Comber, stated that :

Resistance activity is on the increase and is being marked at local level by obvious co-operation between the different strands i.e. Amal Army/Believers Resistance/Hizbollah/PLO. This development gives cause for concern and will in the near future guarantee that attacks on IDF/DFP Pers [onnel] and compounds will continue. These attacks will be better co-ordinated than heretofore and will be carried out with a greater degree of aggression and will provoke greater retaliation from DFF than is presently being meted out. The security of UNIFIL personnel and property will be endangered by the obvious spill-over effect of such activity. Security/safety measures are being strengthened to minimise the dangers to IRISHBATT personnel.

What the G2 report does not identify or address is any direct threat that might be posed to the Irish Battalion by the increase in Resistance activity, as distinct from the "spill-over" effect of an intensification of hostilities between Israeli Defence Forces/De Facto Forces and the various strands of the Lebanese resistance.

(iv) Security Measures after the Kasfi Abduction

The minutes of the Commanding Officers Conference of the 64th Battalion on 18 December 1988, which happen to have survived, give an indication of the security measures that were taken in the state of alert that followed the taking of Kasfi by the Israelis and the kidnapping of the three Irish soldiers.

4. ORDERS FROM CO.

DCO stated that the duration of the present alert will go on at least until Wednesday 21 December '88. All convoys to be escorted by armour. CHPs [checkpoints] to monitor all traffic from secure positions. No unnecessary movements in the AO.

5. MOVEMENT IN THE AO.

All convoys Water and Rations to be properly organised and be accompanied by armour. Trained security parties to be trained by each Coy who will properly secure the convoys. Convoy Comdrs to be also trained. Convoy Opord to be issued by G3.

6. RE-SUPPLY OF WATER GAS, POL, Rations etc.

The standard 0730 convoy to Naqoura to [be] escorted by armour. The veg convoy to Qana to be escorted by armour. The water convoy to be escorted by armour. All convoys outside IrishBatt AO to be escorted by Recce Coy. APCs for each Coy to escort to Camp Shamrock for Coy collections.

The requirement for armoured escorts made movement more difficult and cumbersome. As the Quartermaster, Comdt Jim Saunderson, noted in the Battalion history, "the situation in which IRISHBATT found itself both caused severe problems of re-supply and distribution of rations, water and ammunition. Each re-supply run had to be in

convoy and each convoy, including water convoys, required an armoured escort”¹⁰. Armoured vehicles and their crews were at full stretch. Comparing the months of November and December night patrols increased from 34 to 49, day patrols from 33 to 42 and security escorts from two to 56¹¹.

The Commanding Officer’s conference held on 31 December 1988 stated that the restraints on convoys had been lifted. It is not clear precisely at what point the remaining security measures adopted in the wake of the abduction of Kasfi and the response to it were relaxed but it appears to have been early in new year. In part 6 of the history of the Battalion which deals with Recce Company, it is stated that “the period after Christmas brought an easing of the restrictions imposed during that period. Recce Coy however continued its high level of activity with armoured patrols and checkpoints”¹²

Lt Col McMahon’s letter to the Director of Operations in Dublin dated 2 January 1989, headed “Threat to IRISHBATT” is in the following terms:

1. My letter to the Chief of Staff dated 21 Dec 88 refers.
2. The threat as mentioned in para 5 must still be taken seriously but appears to have receded. Two (2) of the four (4) abducted civilians have now been released: Mr Kasfi and Mr Yousseff Wasni are still detained.
3. It would appear that the Amal movement now exercise greater control over Believers Resistance. Amal have assured us that this is the situation which obtains. This assurance has come from a series of meetings with Amal leadership at local (Sila) provincial (Tyre) and national (Beirut) level. All these meetings were held in Camp Shamrock.
4. A complete review and assessment of our CHPs, patrolling and admin traffic has been carried out. Additional security measures have been adopted. AFVs are not now used to escort admin traffic.

¹⁰ *History of 64 Infantry Battalion UNIFIL 1988-89* p20.

¹¹ *History of 64 Infantry Battalion UNIFIL 1988-89* p86

¹² *History of 64 Infantry Battalion UNIFIL 1988-89*, P88

5. A gradual return to the situation obtaining in Irish Batt AO prior to 15 Dec 88 is taking place. However, due to the volatile situation, our security measures are receiving continuous assessment.

While the immediate urgency of the situation created by the Israeli abduction of Jawad Kasfi appeared to have receded, the officers commanding the Irish Battalion remained conscious of the level of threat that faced the Battalion. This was addressed in the light of the local intelligence and that pertaining to the Lebanon generally gathered by the Information Officer, Comdt Billy Comber, acting in liaison with the Operations Officer, Comdt Jim Mortell.

At the Commanding Officers' conference held in Camp Shamrock in Tibnin on 14 February 1989, the Commanding Officer, Lt Col McMahon is recorded as stating that Hizbullah were moving back into the AO. (The flux of partisans of the Lebanese Resistance between Beirut and South Lebanon afforded an index of the ebb and flow of the prospective level of activity of the Resistance in its attacks on the De Facto Forces and the Israeli Defence Forces to which the De Facto Forces and the Israeli Defence Forces would respond, and was watched accordingly). Lt Col McMahon noted and was perturbed by the decrease in security in the AO . He ordered that all unnecessary movement was to stop within the Area of Operation of the Irish Battalion with immediate effect. The minute noted the re-adoption of the security regime that had prevailed from mid-December 1988:

With effect from 15 FEB 89 the Bn will revert to the same security measures as obtained at Christmas 1988 viz:-

- (i) APCs to accompany Coy Comdrs to morning conference.
- (ii) APCs to accompany all Tpt movements wef 15 Feb 89.
- (iii) logs supplied to be tied in as per Christmas period.
- (iv) Only one (1) convoy to Naqoura duty pers only and those on leave (no R&R). Convoys to be kept to an absolute minimum. APCs not required.

- (v) Water Convoy : only one (1) convoy. No single vehicle from Coys.
- (vi) Any threats to posts/CHPs/Pers, all personnel to withdraw into compound and adopt defensive positions.

Road walking and jogging was to be suspended until further notice. These measures were to remain in place until 20 February 1989 when they would be reviewed.

The minutes of the Commanding Officers' conference of 18 February 89 records the statement of the Commanding Officer in the following terms:

A threat remains present at all times. Two comments, one from the laundry man that an Irish soldier would be taken/shot on 17 Feb. The second comment from an interpreter that an Irish soldier out jogging would be taken were noted. CO requests the views of Coy Cmdrs by Monday evening Conference on jogging/exercise etc.

Towards the Christmas of 1988, the Information Officer, Comdt Billy Comber, whose role it was to keep in touch with the Armed Elements, received a tip-off that was relayed from UNIFIL Headquarters of a threat to his life. Lt Col McMahon suggested that he leave Tibnin for three or four days. This Comdt Comber did, going to Naqoura and returning thereafter to Tibnin. This was not believed to have any direct connection to the abduction of Kasfi and its aftermath. By early 1989 there was reason for Comdt Comber to believe that Amal accepted that the Irish Battalion did not have any involvement in the abduction of Kasfi, and relations improved. That did not of course necessarily apply to more radical elements within the Lebanese resistance, and Kasfi's confederates in particular.

- (vi) The Death of Private Michael McNeela

On the morning of 24 February 1989, militia men of the South Lebanon army opened fire from the Haddathah compound on the Irish position 6-38 A at Haddathah. Private

Michael McNeela of 'A' Coy, who was from Dundalk, was standing on checkpoint duty inside the fortified structure, and was struck in the chest and killed. He was the twenty sixth Irish soldier serving with UNIFIL in the Lebanon to be killed.

3. THE EVENTS OF 21 MARCH 1989: THE DEATHS IN A LANDMINE EXPLOSION OF CORPORAL FINTAN HENEGHAN, PRIVATE MANNIX ARMSTRONG AND PRIVATE THOMAS WALSH.

(1) The Explosion at the Green Rooms

The area where the fatal detonation of the landmine took place was in the vicinity of what were described as the “Green Rooms”, an old UNIFIL position, on the outskirts of the village of Bra’shit. It was close to two Irish UNIFIL posts. It was approximately 650 metres from UNIFIL post 6-9B and 720 metres from post 6-42. It was some 1,150 metres from the compound of the De Facto Forces at Bra’shit. The track was not in frequent use for reasons that relate to its exposure to the De Facto Force’s compound. It was not the subject of an “earlybird” check for mines or IEDs as it was not a main supply route such as that which ran between posts 6-9B and 6-42.

In his Military Police Witness Statement, dated 22 March 1989, Private George Shaw stated that the track was never used by the Israeli Defence Forces or the De Facto Forces, nor by locals driving. The only vehicles were UN vehicles using the track to gather rocks for gabions. He had been stationed at Post 6-9B for nearly two weeks and nearly every day the rock gathering was going on. Two local civilians made statements to the Military Police. Mrs Atiffa Farhat stated that the road was not used by anybody except shepherds and those shepherds started to use the road when they saw it being used in safety by IRISHBATT. She described the Irish as using the road about a month before the explosion. Mrs Maryam Kassem stated that the track was not used especially after the invasion in 1986. She said it became an unsafe place until March 1989 when IRISHBATT started to use the road and at that time some shepherds felt it safe to use the road which they did on foot.

Captain (now Lt Col) Kieran McDaid, in his statement of 5 April 1989, stated :

The track where the explosion occurred was in extremely bad repair, where to conceal a mine would not be difficult. The track had been in regular use by C Coy personnel since arrival in Lebanon. Only UNIFIL vehicles of C Coy used this track. In the area of the explosion none of the houses are occupied on a permanent basis. The people who own them work the fields etc during the day and leave at dusk.

While the use of the track to access rocks for gabions seems to have commenced at an earlier stage of the tour of duty of the 64th Battalion, it was used most intensively over a number of days in the period of one to two weeks prior to the detonation of the mine on 21 March 1989.

The 64th Infantry Battalion was coming to the end of its tour of duty and its officers wanted to ensure that the Company headquarters at 6-16 on the outskirts at Bra'shit was as secure as possible for their successors in the 65th Battalion. That entailed the construction and enhancement of stone gabions around the camp at Bra'shit. It was normal for each Battalion to undertake something to improve the camps in the course of its tour.

The details that were tasked on the previous days with the gathering of rocks for gabions¹³ at the Green Rooms were more numerous than the detail that set out on 21 March 1989. That only three men were sent out was due to a combination of the fact that there were other tasks to be undertaken by 'C' Company personnel that day, and that because of the stage the construction of the gabions had reached, a lesser quantity of rocks was required than had been gathered on previous expeditions.

Those who were sent on the rock collecting detail to the area near the Green Rooms on the morning of Tuesday 21 March 1989 were Corporal Fintan Heneghan, Private Mannix

¹³ A gabion is a wire cage filled with stones. It is defined in the *Oxford English Dictionary* (Second Edition) as "a wicker basket, of cylindrical form, usually open at both ends, intended to be filled with earth, for use in fortification and engineering". The practice of building gabions in the Lebanon is a subject of an article written in *An Cosantoir* in 1988 by Lt Maoiliosa O Culachain "*Connemara Dry Stone Walling*" reprinted in Comdt B O'Shea Ed "*In the Service of Peace: Memories of Lebanon* (Mercier, 2001), pp114-5.

Armstrong and Private Thomas Walsh. They headed out from Bra'shit camp. The vehicle in which they were travelling was a soft skin flat-bed Renault truck. Private Mannix Armstrong was driving. Corporal Heneghan as the NCO occupied the passenger seat, and Thomas Walsh the back seat. They went up the track. They loaded the rocks. They then passed back along the track. At approximately 9.33 hours the truck, now more laden than when it had passed up the track, drove over and detonated a landmine containing 35 kilograms of high explosive, probably TNT.

There was a massive blast. The explosion was audible over a wide area and was visible from the blockhouse of Post 6-9B. Private Michael McDonnell who was on duty as a sentry in the blockhouse heard a bang and saw a big cloud of smoke with the truck in the air and saw the truck coming to the ground followed by showers of debris. The explosion left a large crater, and the truck was tossed over an olive tree into a field some metres off the track. The truck landed upright, its cab completely destroyed. Corporal Heneghan, Private Armstrong and Private Walsh were thrown a considerable distance from the truck.

Irish Battalion personnel came immediately to the site of the explosion from various starting points. It seems likely that the three men on the detail died instantaneously. Comdt John Moriarty, the Irish Battalion Medical Officer, arrived on the scene and pronounced Corporal Heneghan dead at 9.55 hours and Privates Walsh and Armstrong dead at 9.56 hrs. It was his opinion that all three had died instantly. Corporal Heneghan's remains were heli-medevaced to Swedemed Company at UNIFIL headquarters, Naqoura. The remains of Privates Walsh and Armstrong were taken by ambulance to the regimental aid post at Camp Shamrock in Tibnin and thence to Swedemed Company. The bodies were subsequently taken for autopsy to Greenberg Institute of Forensic Science, Tel Aviv.

The Irish Battalion personnel on the scene were conscious of the possibility of the presence of a second device and took care to ensure that any secondary device was not

activated by vehicular traffic containing soldiers coming to the rescue of Corporal Heneghan, Private Armstrong and Private Walsh. In this they were prescient.

At approximately 11.00 hours the Ordnance Officer, Comdt Ray Lane, arrived at the scene with the Ordnance Section. He cleared the area of people and sealed off the area. A route was cleared to the scene of the explosion using the Hobo robot that Comdt Lane had found and Sgt Egan had rendered operational in November 1988. The second phase was to clear beyond the crater which again was achieved by use of the Hobo robot. It was noted at a distance from the crater that the earth had been dug up and replaced. Using the claw of the robot the earth was cleared away to disclose a second anti-tank mine. This appeared to be a Russian mine MB4/62 containing approximately 2.5 kgs of explosive. Due to failing light, the operation was deferred until the following day. At approximately 11.05 hours on 22 March 1989, the second mine was exploded by robot. The area, placed out of bounds after the explosion, continued to be such while the Military Police investigations were carried out.

Comdt Lane prepared a report dated 24 March 1989 for the Commanding Officer. Comdt Lane's assessment was that the truck had passed up the road and was struck as it returned loaded with rocks. 'This would suggest that it either missed the device on the way up or it was an anti-tank mine and the vehicle was not heavy enough to activate the mine or it had a double action fuse'

It was possible that the explosives could have been packed in a container buried into the ground with a pressure plate on top so that once the vehicle rolled over the plate, the main charge detonated. However, Comdt Lane noted that this method of attack would take a long time to set and that it would be difficult to have missed the plate on the way up. He felt it more likely that the mine was an anti-tank mine either with extra bulk explosive or a number of mines strapped together buried in the ground with a double action fuse such that the first vehicle would activate the mine and the second vehicle would cause it to detonate, inflicting maximum damage and casualties or that the vehicle empty was not heavy enough to detonate the mine but with a load caused the mine to detonate.

It is therefore likely that the intention of the persons who laid the two mines was that the original truck would have detonated the smaller mine further up the track and that the explosion would have drawn a greater number of army personnel in a rescue vehicle to the scene, activating the larger mine. As the Military Police Report concluded: “The design and layout of the explosives could indicate that the smaller one was meant for the rock-gathering detail and the larger one for vehicles, possibly an APC in the follow-up rescue mission”. In the event, for whatever reason, the truck did not activate the lesser device further up the track but on its way back down detonated the larger mine.

The disposition of the two mines was thus characterised by Comdt Lane:

The situation as painted above is a typical “Come On” scenario. The smaller mine would have struck the vehicle causing damage and casualties, in the ensuing movement of rescue services into the area, main charge would have detonated causing maximum damage and casualties. We have already encountered this situation in HADDATHAH 17 NOV 88 with the roadside bomb and secondary device (previously reported).

Comdt Harry Johnson, the Second in Command to Lt Col McMahon, wrote on 22 March 1989, the day after the explosion, to the Director of Operations referring to what had transpired:

On the morning of 21MAR 89, the a/m personnel were detailed to collect rocks to fill gabion cages in 6-16. They were ordered to collect them at the usual location (AMR 1928-2859). On the previous day five (5) truck-loads of rocks had been collected from the same location using the same route and track. ...

It is NOT possible at this stage to state when the mine was laid. However, there was a very heavy mist in that area on the night of 20/21 Mar 89 which would have blinded both the IDF/DFP and our night-vision equipment. This mist lasted until

0615z [Zulu or GMT] on 21 Mar 89, and would have facilitated the laying of a mine. The site of the explosion is out of sight of the DFF BRA'SHIT COMPOUND, as is the site of the second suspect explosive device in the same area.

Comdt Johnson speculated that members of Hizbullah who had returned from Beirut on the week ending 5 March 1989 might have been responsible for laying the mine:

The motive for such action in laying a mine on a track used almost exclusively by IRISHBATT is not known but represents a very sinister turn of events in an area where C Coy had built up excellent relations with the local civilian population.

The number of casualties could have been much greater had the detail comprised more than three men as the details sent out on the previous days had been; or if the truck carrying the detail had detonated the smaller device further up the track (as it well might have done if it required a greater load of rocks and had to proceed further up the track) and a later vehicle coming to the rescue had activated the larger device, as those who had planted the devices had evidently hoped.

(2) The Deceased

Corporal Fintan Heneghan was born on 13 March 1961. He lived in Ballinrobe, Co Mayo. It was his fourth tour of duty in the Lebanon. He was survived by his father, Sean (Jack) Heneghan and his five brothers and two sisters. In the army he had, as his family discovered in the course of his obsequies, been generally known as 'Ernie'. Fintan Heneghan was a fine handballer. He was not married.

Private Mannix Armstrong was born 2 February 1963. He enlisted in the Permanent Defence Forces on 22 February 1980, and for most of his service was employed as a military transport driver in HQ Company, 28th Infantry Battalion, Finner Camp. It was his second tour of duty in South Lebanon. He lived in Sligo. He was survived by his widow,

Grainne (née Moran) whom he had married on 23 November 1987, his mother Josephine, his brother and four sisters. Mrs Grainne Armstrong was expecting their first child weeks after her husband's death. Shannon Mannix Armstrong was born seven weeks after her father's death on the 13th May 1989.

Private Thomas Walsh was born on 10 April 1959. He enlisted on 14 October 1980. It was his second tour of duty in the Lebanon. He was survived by his widow Pauline (née O'Hagan) and their three daughters, Donna, Laura and Paula; by his mother, Breda, eight brothers and four sisters. He lived at Tubbercurry, Co Sligo. One of his brothers, Private Tony Walsh was serving with him in the 64th Infantry Battalion in the Lebanon when he was killed. He heard the explosion without knowing his brother was on the detail. Thomas and Tony Walsh were married to sisters.

On 21 March 1989, the Secretary General of the United Nations expressed his condolences to the government of Ireland and through it to the bereaved families and stated he had instructed the Force Commander of UNIFIL to carry out a full investigation of the incident and to report to him as soon as possible. The Irish Government issued a statement expressing its sympathy and condolences with the families, relatives and friends of Corporal Heneghan, Private Walsh and Private Armstrong and stating that it had been informed that the UN was carrying out a full investigation to include an immediate review of all security arrangements. The Permanent Representative of Lebanon to the United Nations extended the condolences of the Lebanese government and the Lebanese people to the Irish Permanent Representative in New York on the same day.

On 22 March 1989, the Minister for Defence, Michael J Noonan TD, travelled to Sligo, Tubbercurry and Ballinrobe to express his sympathy to the families of the three men and requested the Chief of Staff to visit Lebanon to assess the situation and liaise with the United Nations authorities in their investigation.

On 24 March, some 250 people representing the village of Bra'shit came to Post 6-16 to express their anger at the killing of the three men. A representative of the village spoke on behalf of the villagers and expressed their sadness at what had happened¹⁴.

On the same day the remains of the three men were repatriated to Dublin via London from Ben Gurion Airport, Tel Aviv. That evening the remains were received at the Church of the Sacred Heart Arbour Hill. The next morning, Saturday 25 March 1989, after a removal service in Arbour Hill, the bodies were taken to Columb Barracks Mullingar after which the funeral parties departed for Ballinrobe, Sligo and Tubbercurry.

Fintan Heneghan's funeral took place on the morning of Easter Sunday, 26 March 1989, at St Mary's Church Ballinrobe and he was buried at Ballinrobe cemetery. On the morning of Monday 27 March 1989, the funeral mass of Thomas Walsh took place in the Church of St John the Evangelist, Tubbercurry and he was buried in Rhue Cemetery Tubbercurry. Mannix Armstrong's funeral mass took place on the afternoon of 27 March 1989 in the Cathedral of the Immaculate Conception Sligo and he was buried in Sligo Cemetery.

A memorial ceremony took place in Naqoura on 28 March attended by over 50 persons from 'C' Company.

(3) The Report of the UN Board of Inquiry

An interim Military Police Report, reference 592/01/89, was prepared pending the receipt of autopsy reports, and was circulated by the Force Provost Marshal of UNIFIL HQ in Naqoura dated 20 April 1989. The Military Police Report, compiled by Captain Ian Hanna, comprised a report with statements and annexes attached, and was itself referenced in and attached to the report of the UN Board of Inquiry.

The final substantive paragraph of the Military Police Report was in the following terms:

¹⁴ *History of 64 Infantry Battalion UNIFIL 1988-89* p80.

j. Consideration must be given to the following facts:

1. The track was only used by IRISHBATT vehicular traffic.
2. It was being used since NOV 88 and particularly in MAR 89.
3. No IDF/DFP personnel used this track since 1986.
4. No locals drove vehicles on the track.
5. There is no possibility that the devices were planted a long time ago.
6. The distance from BRASHIT compound to the explosion site is approx. 1,150 metres.
7. The location of both devices was out of sight of BRASHIT compound.

The report of the UN Board of Inquiry was made and submitted to the Force Commander, Lieutenant General Lars-Erik Wahlgren, pursuant to his convening order of 19 April 1989. The board convened under the chairmanship of Lt Col T Solvang on 21 April 1989 and conducted its proceedings at UNIFIL headquarters 24-28 April 1989.

The final report of the UN Board of Inquiry was signed by the members of the Board of Inquiry on 28 April 1989, and a copy communicated by the Force Commander to Mr Marrack Goulding, Under-Secretary General for Special Political Affairs by letter dated 2 June 1989.

The Board of Inquiry had no reason to believe that there was any breach of the existing rules as laid down in the IRISHBATT Standard Operating Procedures. It concluded that no UNIFIL personnel could be made responsible for the accident.

(4) The Report of the Contingent Board of Inquiry

A Contingent Board of Inquiry was convened under the chairmanship of Comdt. E O'Brien, and issued its report dated 10 June 1989.

From the report of the Contingent Board of Inquiry, it is clear that the members of the board considered that the two mines were targeted at IRISHBATT personnel.

The opinions of the Board were stated as follows:

- (1) The mines were planted by persons with an in-depth knowledge in these matters.
- (2) The mines were planted by persons with an in-depth knowledge of the area.
- (3) The mine was designed to inflict maximum casualties on Irish UNIFIL personnel.
- (4) It is most unlikely that the mines were planted by IDF/DFF.
- (5) Apart from inflicting casualties on Irish UNIFIL personnel NO other reason can be deduced for the planting of the mines in that particular area.
- (6) No blame can be attached to any member of the 64 Irish Inf. Bn.

The recommendations of the Contingent Board of Inquiry reflect the reassessment that had been carried out in the wake of the fatalities of 21 March 1989 in the vicinity of the Green Rooms. Some of the measures had by that time already been implemented in relation to the successor 65th Battalion to the 64th. The recommendations were as follows:

- (1) That IRISHBATT SOPs para. 243-50 "Safety Precautions - Mines" be revised to reflect the recent acquisition of sophisticated mine detection equipment.
- (2) That all Companies in the Irish Battalion train personnel in the use of the equipment, and their employment drills.
- (3) That only roads essential to the operational needs of the battalions be used.
- (4) That all non-tarred roads in use by the Irish UNIFIL battalion be mineswept each day before use.

- (5) No UNIFIL personnel to use roads in any Company area without prior clearance of local company commander.
- (6) Each UNIFIL battalion should have a trained SST/EODT team in their establishments.
- (7) On discovery, the SST/EODT teams should be tasked to deal with any suspect device.
- (8) The SST teams to be tasked with the training of personnel at Company level.

‘SST’ designates ‘Specialist Search Team’.

(5) The Response to the Events of 21 March 1989

The Chief of Staff, Lt Gen Tadhg O’Neill, travelled to the Middle East between Sunday 26 March 1989 and Tuesday 4 April 1989 to examine the circumstances in which Cpl Heneghan and Pte Walsh and Pte Armstrong met their deaths. He was accompanied by the Director of Operations, Col J N Bergin, and a Staff Officer, Comdt B O’Sullivan.

Lt Gen O’Neill had met the United Nations Under Secretary General for Special Political Affairs, Marrack Goulding; the UNIFIL Force Commander Lt Gen Walhgren; the Officer Commanding the Irish Battalion and his staff. He also met the Amal leadership in South Lebanon who were directed to meet him by Nabbi Berri, the Beirut-based leader of Amal. He met the Muktar and representatives of the people of Tibnin and attended a public meeting in Tibnin of sympathy and support.

Lt Gen O’Neill submitted a report to the Minister for Defence dated 6 April 1989. He pointed out that the mine was set on the night before the incident with the deliberate intention to take life: “It was NOT an old mine from previous warfare in this area”. It was skilfully laid. An investigation had been initiated by the United Nations as well as by Amal. In relation to the state of investigation to date, Lt Gen O’Neill’ stated that there

was “no indication that the Israeli Defence Forces or their surrogates the De Facto Forces (SLA) were responsible”. A second hypothesis, the possibility that the mine was laid by a Lebanese faction such as Hizbullah, Believers Resistance, the PLO or some other of the factions who intended to inflict casualties on the Israeli Forces/De Facto Forces but mistakenly laid the mine on a track used almost exclusively by the Irish, could not be ruled out. The third hypothesis, which he considered the most plausible was that the mine was laid deliberately to kill Irish soldiers. He set forth the premise for this as follows:

On 21 August 1986 Lt Aongus Murphy was killed by a roadside explosive device. It is generally accepted the device was planted by a known explosive expert named KASFI. This same KASFI was forcefully abducted by the Israelis on 15 December 1988 as he is also held by them to be responsible for deaths of numerous ISRAELI soldiers by similar devices. He was abducted from the Irish UNIFIL area and taken to ISRAEL, concealed in a motor van, through an Irish UN checkpoint. This immediately became known to the local Lebanese, including KASFI’s supporters, and gave rise to a suspicion in their minds of Irish complicity for revenge motives in the ISRAELI abduction of KASFI. Their resentment was clearly evidenced by the immediate surrounding and threatening of Irish positions and by the abduction of three Irish soldiers on 16 December 1988. They were subsequently recovered by AMAL. It is a distinct possibility that the killing of the three Irish soldiers was an act of revenge by KASFI supporters for his abduction.

Lt Gen O’Neill then turned to the matter of the operational response to the incident and stated as follows :

Because of this new threat from explosive devices and because of the continuing risk to life from various other firings, special measures are now necessary. In discussions with Mr Goulding and Lt Gen Wahlgren the following measures to enhance the safety of Irish personnel were agreed –

- a. The Irish Battalion to be increased by the addition of a Corp of Engineers Specialist Search Team trained in mine discovery. The task of this team will be to conduct searches in the Irish area for mines and explosives and also to conduct training in TIBNIN of similar search teams from other UNIFIL contingents.
- b. The Irish Battalion will also be increased by the addition of a Bomb Disposal Team from the Ordnance Corp whose task will be to demolish/neutralise explosive devices in the Irish area and it will also maintain the UNIFIL bomb disposal robots in Tibnin and will train in Tibnin other contingents' personnel in bomb disposal techniques.
- c. The addition of these two teams will increase the strength of the Irish contingent by nine (9) men.

Other measures not arising from the episode of 21 March 1989 were also agreed. In his report Lt Gen O'Neill addressed other matters to do with the role of UNIFIL, the present disposition of its forces, a proposal to persuade Israel to assist in the creation of a Zone of Separation between the main factions in South Lebanon and the future participation of Ireland in UNIFIL, that do not have a direct bearing on the subject matter of this report.

The measures, that were agreed with UNIFIL at a meeting in Amman in Jordan, are also set forth in a memorandum of Col J N Bergin, the Director of Operations, dated 7 April 1989 which he communicated to inter alia the Department of Defence, the Department of Foreign Affairs and the Force Commander as well as to the Commanding Officers of the 64th and 65th Irish Battalion. I propose to cite that memorandum in full.

MEMO - HANDLING OF EXPLOSIVE DEVICES IN IRISHBATT AO

1. At a meeting of the USG [Under Secretary General] Mr M Goulding and FC [Force Commander] UNIFIL Lt Gen L E Wahlgren with COS [Chief of Staff] and

party, it was agreed to implement the following measures designed to counter the increased threat through the use of Explosive Devices in IRISHBATT AO.

- A. Searching for Devices - An Engineer Specialist Search Team of six personnel appropriately trained and equipped, will form part of 65 IRISHBATT with tasks as follows :-
- (1) Search for explosive devices in Irish Batt AO.
 - (2) To assist UNIFIL by conducting search training in TIBNIN for personnel of other contingents nominated by FC UNIFIL.
- B. EOD – An EOD team of three personnel appropriately trained and equipped will form part of 65 Irish Batt with tasks as follows :-
- (1) To demolish to neutralise Explosive Devices in the Irish Batt AO.
 - (2) To carry out the maintenance of the UNIFIL remote control robots located in TIBNIN.
 - (3) To assist UNIFIL by conducting EOD Training in TIBNIN for personnel or other contingents nominated by FC UNIFIL.
- C. Both the Engineer SST and EOD team will conduct their operations within Irish Batt AO ONLY . Whenever other contingents require the use of this equipment, they will take possession of the robots in TIBNIN, provide their own personnel for the operation and return the robots to TIBNIN on completion.
- D. Establishment. The permitted strength of the IRISH Contingent will be increased by nine personnel.

(6) The effect of the deployment of the Engineer Specialist Search Team (ESST) with the 65th Infantry Battalion

In the 64th Battalion, Engineers' Platoon, called at that time the Assault Pioneer Platoon, comprised Captain Ciaran Spollen as the Engineer Officer and some 20 soldiers. The other personnel would have various qualifications as carpenters and tradesmen and the like and would have done an entry level combat engineering course to equip them for military engineering tasks.

The Engineering Specialist Search Team sent out in 1989 in the wake of the explosion at the Green Rooms was headed by Captain Conor Furey. The successor to Captain Spollen as Platoon Commander was Captain Willie Donagh. The 65th Battalion had thus two officers who were engineers being the officer commanding the Platoon and the head of the ESST. Captain Furey answered directly to the Battalion Commander.

The effect of the deployment of the Engineer Specialist Search Team was to change radically the practices of the incoming 65th Battalion for dealing with IEDs and land mines and greatly raised the awareness of the threat that they posed. This entailed something of an institutional revolution.

Traditionally the role of engineers in the Irish Battalion in the Lebanon had, following the historical pattern of the deployment of engineers in the Irish Army at home, frequently tended to be directed to the construction and maintenance of buildings and fortifications. There was a constant demand on the Engineers in the Lebanon in relation to force protection works such as the construction of bunkers and of defensive positions, bern walls, firing points and the like. Because of its avowedly interim or temporary nature, UNIFIL had a predilection for pre-fabricated buildings which were in constant need of repair work. The individual Companies got on with looking after security in their Areas of Operations.

The deployment of the Engineer Specialist Search Team (ESST) with the 65th Battalion, was attended by a conceptual shift in emphasis from conventional warfare techniques to counter-terrorism, albeit in what remained a peace-keeping context.

A major significant innovation was the adoption of a routine classification system based on a vulnerability assessment. Every road was colour-coded either red (for roads used by De Facto Forces/Israeli Defence Forces or rural roads used only by the Irish Battalion, which latter category was for a brief period coloured amber rather than red) and green (for roads that did not present a threat, commonly roads deep in the Battalion area that were used by everyone and where the local population would not tolerate the deployment of IEDs or mines). It was not permitted to drive on red roads unless they had been cleared by an ESST or a Specialist Route Clearance Team (SRCT). Some Company areas had more red stretches of road than others. The difficulty was in some degree mitigated by the fact that if the Israelis or the DFF passed along the route such as the long red route that ran from Haddathah to Hill 8-80 and on to At Tiri the road could be treated as having been thereby cleared.

The key innovation was the rapid training up of men in the Battalion as Specialist Route Clearance Teams (SRCTs) by the Engineer Specialist Search Team. The Specialist Route Clearance Teams were made up of selected infantry personnel who were given specialist training in route clearance. They were deployed for route clearance tasks that would be considered routine, such as the regular “earlybird” reconnaissance. They represented a first level of intervention, and were not tasked with high risk clearance such as might arise where there was specific reason to suspect the presence of a mine or an IED in which event the ESST would become involved.

The introduction of SRCTs coincided in time with but was distinct from the introduction on the Northern Irish border of Specialist Search Teams in area searches to engage along with the Gardaí.

The sending out of the ESSTs and the training and deployment of the SRCTs created what was virtually a new layer of security. The allocation of resources to SRCTs and the requirement to train SRCTs in the Areas of Operations of the Companies encountered a degree of initial skepticism or resistance at the Company Commander level but the changes were quickly accepted. What ensured that acceptance was the fact that the ESST

had been incorporated in the 65th Battalion at the direction of Colonel J N Bergin, the Director of Operations, and of course the memory of the fatalities of the 21st March 1989.

The fact that around a complement of some 20 soldiers in each company were trained as members of SRCTs had a significant impact in raising the consciousness of the men of the 65th Battalion in relation to the threat posed by IEDs and mines.

In relation to equipment, there were a number of American 4C metal detectors of British manufacture which were already in situ in the Lebanon under the 64th Battalion and its predecessors but which were not immediately operational, and had not been used for some time, whether on “earlybird” recess or otherwise. A couple of the 4Cs in the recollection of Captain Conor Furey, were broken and were cannibalised to provide spare parts for those that were not.

These were re-calibrated by the ESST and were put into use. While the 4C detectors were fairly old (and very heavy), they were effective and were deployed in the route clearance work undertaken by ESSTs and SSTs in the 65th battalion. The non-use of the 4C detectors prior to the use by the 65th Battalion is explained in part by the fact that Engineers, even when they were ESST-qualified had tended not to be deployed as combat engineers.

The 4C detectors were supplemented in the 65th Battalion by the following :

1. “A” Company had one Valon metal detector.
2. The ESST had two Ferex, which were very expensive items of equipment for finding deep-buried bombs.
3. The Battalion had a number of RDK buried wire detectors.

Of the items of equipment used in searches for mines and IEDS the RDK cable detectors proved the most valuable.

The actual modus operandi in relation to route clearance involved an SRCT comprising eight men. Two men with C4 or Valon metal detectors made up the road party. They waited while three men on either side proceeded to check the area beyond the road for command wires. The first soldier in each of these flanking parties of three had a C4 or Valon metal detector, the second had an RDK buried wire detector, and the third provided cover. The two flanking parties travelled an equal distance in parallel out from the road and after a fixed distance converged towards the road each crossing on to the others' side so as to permit a repetition of the exercise over the next stretch of road. At that point, when the area adjacent to the road has been cleared for command wires, the road party could proceed up the road looking for mines. The innovation of having the path of the two flanking parties of three describe as it were a figure 8 as they moved along the road in advance of the road party rather than simply proceeding parallel to but further out from the road, was to address the contingency of a command wire having been laid parallel to rather than perpendicular to the road.

Captain Conor Furey introduced the system of SRCTs in the 65th Battalion and this was subsequently consolidated by Captain John O'Dea in the 66th Infantry Battalion. In November 1990 Comdt Jim Burke was sent out to the Lebanon to report to the Director of Engineering and the Director of Operations on how the new system was working. While there were some problems in relation to the repair of equipment, the system was on the whole working well.

The techniques that were operated and the training given by the ESST reflected what was prescribed in the SOPs of the School of Engineers. It is not clear at what point they were incorporated into the Battalion SOPs. The earliest Irish Battalion Standing Operating Procedures on this subject that have come to hand date from 1997. These reflect the practices that were introduced with the 65th Battalion as well as subsequent changes. SOP 3-10 relates to Specialist Search Operations. The SOP is stated to be concerned with the organisation equipment training and operation of Special Route Clearance Teams (SRCTs) and Engineer Specialist Search Teams (ESSTs) within the Irish

Battalion. The route categories were to be decided by the Unit Commander and notified to sub-units as required, and the route categories are published as annex to the SOP. Routes within the Irish Battalion Area of Operations were categorised as green, amber or red. The SOP attests to the continuing refinement of the techniques and practices pertaining to IED and mine detection that have their inception with the 65th Battalion in the wake of the fatalities of 21 March 1989. They of course also reflect a response to the ever-increasing sophistication of IEDs in particular. The instructions for SRCTs that are annexed state that “while by far the most serious threat to UNIFIL personnel came from Remote Controlled Devices, the use of Electronic Counter Measures (ECM) by the De Facto Forces /Israeli Defence Forces has resulted in a tendency to use command wire activated devices”.

I was surprised and somewhat taken aback to ascertain that there was a complement of 4C mine detectors which were not used, in particular for “earlybirds”, in the course of the tour of duty of the 64th Battalion. It appears that the 4Cs were present from 1978 and may have been used by some of the earlier Battalions. I only became conscious of this in the closing phase of this review. While there had been intermittent suggestions that there were mine detectors in the course of the enquiry, I failed to pick up on them and the first definitive confirmation that there were 4C metal detectors were from former Comdt Ciaran Spollen, former Captain Conor Furey and Lt Col Jim Burke in the final phase of the inquiry. As a result, I was not able to elucidate from witnesses to whom I had earlier spoken the reasons why the 4Cs were not used.

In his Military Police statement dated 5 April 1989, Captain Kieran McDaid stated that there was no mine detecting equipment in the Company. Captain Ian Hanna in the Military Police report stated that there were no mechanical detectors in Irish Batt and indeed stated among his conclusions that there was a need for modern mine detectors in Irish Batt.

I was able to raise the matter with Lt Col Kieran McDaid. He confirmed to me that he was not aware of the presence of the 4Cs nor of their being used at any time by the 64th

Battalion. He pointed out that the officers and men (outside the Engineers Platoon) were not trained to use them. They were specialised items not capable of being used except by trained personnel, and searching for IEDs and mines was a specialised task.

On reviewing the documentation it transpires that the presence of the 4Cs did arise in the course of the review carried out by Ciaran Murphy in 2003. Lt Col Jim Foley advised that “a number of mine detectors were available if required” and this was referred to in a note from Overseas Operations to the Director of Operations. Maj Gen Sreenan, the Deputy Chief of Staff (Support) wrote to Ciaran Murphy on 15 September 2003 as follows:

My understanding of this (without any documentary evidence) is that at the time of the initial deployment to UNIFIL, when support arrangements would NOT have been clearly defined, the Irish Engineer Element took with them a number of mine detectors on a “just in case” basis. It must also be noted that the Irish Battalion like other Battalions did have expertise and equipment available to it from a force asset –French ENGR Company.

This is a matter to which I will revert in my conclusions. At this juncture I should note that Conor Furey emphasised to me that the issue that arose in relation to the events of 21 March 1989 were to do with technique - the operational application of a proper threat assessment - rather than technology.

4. THE COURSE OF EVENTS LEADING TO THE ESTABLISHMENT OF AN INDEPENDENT REVIEW

(1) The Concerns of the Families

Grainne Armstrong, the widow of Mannix Armstrong, from very shortly after she learnt of her husband's death, received information that there were issues in relation to the circumstances of the deaths of the three men, including an assertion that the track to the Green Rooms was out of bounds. She received similar information in the course of the funeral.

Grainne Armstrong instituted proceedings under part IV of the Civil Liability Act 1961 by plenary summons dated 6 September 1990 in an action entitled *The High Court, Record no. 1990/12414P* between Grainne Armstrong *Plaintiff* and Ireland and the Attorney General and Minister for Defence, *Defendants*. A statement of claim was delivered on 13 February 1991, and a defence denying liability was delivered on behalf of the State on 19 November 1993. The proceedings for long remained in abeyance.

For a period of some twelve years Enda Heneghan, the brother of Fintan Heneghan, took the death of his brother and his two comrades as an act of war where everything had been done to ensure their safety. Around 2001, he happened to meet in Rockhill Barracks, Private Michael Walker who had served in the 64th Battalion. He was subsequently contacted by Mr Walker who stated that he believed inter alia that the route was unapproved, that the mission was unnecessary, and that no mine sweeping had been done. He said that others who had served in the 64th Irish Battalion shared some or all of his concerns. Mr Heneghan was taken aback, and initially sceptical. He spoke to others who had served as Privates in the 64th Battalion. He thereafter began to raise his concerns and queries with the army authorities.

The Department of Defence arranged a visit by relatives of the three deceased members of the Defence Forces to the scene in the Lebanon on 9 April 2001.

On 11 June 2001, Enda Heneghan wrote to Kofi Annan, the Secretary General of the United Nations seeking the report of the UNIFIL Board of Inquiry, and any other relevant report. Mr Heneghan stated:

The members of the three families concerned visited the scene of the incident on April 9 2001, courtesy of Ireland's Department of Defence. However, from my family's point of view, elements of confusion and uncertainty remain, regarding whether or not landmine sweeping was in operation in the area at that time. During our visit we were also given the impression that this particular road was "out of bounds" to UN personnel.

The United Nations gave consideration to the release of the extracts containing factual information.

The Secretariat of the United Nations responded on 8 October 2001 to the Permanent Mission of Ireland to the United Nations in relation to the letter of Enda Heneghan to the Secretary General of 11 June 2001. The Secretariat explained that in accordance with the long standing policy of the United Nations, Board of Inquiry reports were internal and confidential documents of the organization. It further explained that in appropriate cases such as incidents involving peacekeepers killed or injured in UN peacekeeping operations, Board of Inquiry reports were made available on a confidential basis to troop contributing states which were responsible for providing a factual account of the accident to the families concerned. The Secretariat attached on a confidential basis for the exclusive information of the Government of Ireland, a copy of the full UNIFIL Board of Inquiry report, and a factual account of the accident that might be released to Corporal Heneghan's family. On 16 November 2001, the Department of Defence advised Mr Enda

Heneghan by letter of the decision of the UN on his request, and forwarded it to him the factual account of the incident.¹⁵

On 30 November 2001, RTE broadcast a documentary entitled “Brothers in Arms”. This programme was concerned with the deaths of four Irish soldiers in the Lebanon. It dealt first with Lieutenant Aongus Murphy, who was killed on 21 August 1986. It dealt also with the deaths of the three soldiers that are the subject of this review, Corporal Heneghan, Private Armstrong and Private Walsh. Jawad Kasfi was identified as the person who had directed the killing of Lieutenant Murphy, and it was his abduction that was stated to have led to the laying of the landmines that killed the three soldiers near Bar’shit on 21 March 1989. The programme contained reconstructions in the making of which the Defence Forces assisted. Mustapha Durani, a friend and ally of Kasfi was referred to as the person probably responsible for planting the mines.

On 22 February 2002, Enda Heneghan wrote on behalf of the Heneghan family under the Freedom of Information Act 1997 to the Defence Force Headquarters at Parkgate, seeking the records pertaining to Cpl Fintan Heneghan, the military police record and copy of any UNIFIL investigation reports. By letter of Col P N Ryan of 26 March 2002 the request was granted in relation to the personal file of Mr Heneghan’s brother. Col Ryan advised that Courts of Inquiry fell outside the scope of Section 46 of the Freedom of Information Act 1997 and that “the Military Police investigation and the United

¹⁵ In *Mary O’Brien v Minister for Defence, Ireland and the Attorney General* ILRM [1998] 2 156, the Plaintiff’s proceedings arose from the death of her husband in South Lebanon in December 1986. On the Plaintiff’s application for discovery it was ultimately conceded in the Supreme Court proceedings and that the report of the United Nations Board of Inquiry was privileged. The Supreme Court held the *statutory* privilege created by the Defence Act 1954 and the Rules of Procedure (Defence Forces) 1954 extended only to the findings and recommendations of a domestic Court of Inquiry, leaving open the question as to whether executive privilege or legal professional privilege could extend to documents in relation to the Court of Inquiry (which the Plaintiff’s counsel submitted did not enjoy the same privilege or immunity as the documents in relation to the United Nations Board of Inquiry) until such time as those documents had been enumerated in the Defendant’s affidavit of discovery and a claim made of privilege under a specific head or heads in respect of them.

Nations report were exempt records under Section 24 (2) and 26(1)(a) of the Freedom of Information Act. The request was responded to on behalf of the Department by letter of 28 March 2002 of Margaret Barrett, Principal Officer.

Enda Heneghan met in early 2002 Brigadier General Frederick Swords, the Officer commanding the Western Brigade. He sought a meeting on a more formal basis.

On 7 March 2002, Lieutenant General C E Mangan, the Chief of Staff, wrote to Mr Heneghan reiterating his sympathy, his concern to alleviate the suffering of the family and had made every effort to obtain the information that was sought. He reiterated his readiness to meet the families. He wrote :

Your brother, while on a work detail with two others, was killed when a mine exploded under their vehicle on 21 March 1989. The road in question was not out of bounds during the tour of duty in 1989 because it was not perceived as being under any threat at that time. It was placed out of bounds by the unit after the incident. The road was not the subject of an “earlybird” as it was used exclusively by Irish Batt and in general “earlybirds” were carried out only on routes used by the Israeli Defence Forces and the South Lebanese army in the Irish Batt area.

Lebanon was a dangerous volatile and hostile environment where perceived wrongs were used to initiate and justify acts of murder. I sincerely hope that the meeting will assist in allaying your concerns and in providing some understanding of how and why Fintan and his two colleagues were killed in 1989.

In May 2002, Enda Heneghan and his sister Anne met the Chief of Staff, Lt Gen C E Mangan, Colonel Martin Coughlan and Lieutenant Colonel Kieran McDaid. Mr Heneghan was again unhappy with the responses and proposed an independent inquiry to see where the truth lay.

Enda Heneghan had by this time made contact with Grainne Armstrong, the widow of Mannix Armstrong, and with Tony Walsh and Pauline Walsh respectively, the brother and widow of Thomas Walsh and thereafter acted as the liaison for the families.

On 16 January 2003 *Prime Time* broadcast a programme concerned with the deaths of 21 May 1989. It was presented by Sean O'Rourke as had been the earlier "Brothers in Arms" documentary. The programme relied extensively on new witnesses who had come forward. The case that the programme sought to advance was that the track where the explosions took place was out of bounds and not used until the week of the tragedy; that there was a failure to check for booby traps, roadside bombs and landmines, and that in any event the Irish Battalion did not have proper equipment for a full landmine sweep. One of the interviewees stated that somewhere in the army records there must be written proof that the road was out of bounds. Captain Paul Connors, acting as a spokesman for the Defence Forces, said that the Defence Forces could categorically state that the particular track was authorised for use by UN personnel through the period. He stated that the threat assessment indicated that the threat of landmines was low and that the drill of walking in front of the vehicle was considered sufficient. The Standard Operating Procedures of UNIFIL and of the Irish Battalion had been complied with. The concern of the families was evident from the programme. Enda Heneghan, the brother of Fintan Heneghan, felt that the army had not let the facts come out. In seeking a further enquiry into the circumstances of the deaths of the men, Grainne Armstrong, the widow of Mannix Armstrong, said it was not about blame but just to know what happened.

Enda Heneghan wrote on behalf of the three families to the Minister for Defence, Michael Smith TD, by letter of 14 February 2003. This stated that the circumstances of the deaths of Corporal Heneghan and Privates Armstrong and Walsh "has been of the utmost concern to us for the past three years, as a result of the emergence of new evidence, facts and sworn declarations from witnesses who served with, not only the 64th Battalion at the time, but also the previous 63rd Battalion". This new evidence contradicted the version of events put forward by the army. The screening of the *Prime Time* programme of 16 January 2003 "only served to demonstrate the hugely different

versions as to why this tragedy occurred". Mr Heneghan requested a meeting with the Minister to discuss the carrying out of an independent investigation into the tragedy.

On 19 February 2003, the Minister responded to a parliamentary question from Deputy Dinny McGinley. He stated that he was advised by the Military Authorities that no new evidence had been presented to date in relation to the tragedy and that he had had no meetings with the relatives of the three deceased men.

(2) The 2003 Departmental Review of Ciaran Murphy

On 1 May 2003, a meeting took place between the Minister for Defence, Michael Smith TD, and officials of his department and representatives of the army, with representatives of the families of the men who lost their lives on 21 March 1989. This was at the request of the families in the wake of the *Prime Time* broadcast. In the course of the meeting the families said that they had statements from serving and retired members of the Defence Forces that conflicted with the official version of events. The Minister stated that if the statements were made available on a confidential basis he would review the statements and consider whether a further enquiry was warranted. The families advised that they would consult the witnesses and revert to the Minister.

On 14 May 2003 Enda Heneghan wrote to the Minister enclosing six statements. Some of these were from persons who had appeared in the *Prime Time* programme and none of them were from persons who had made statements on which the UN Board of Inquiry had relied. These statements were from Michael Walker who had already made a statement to the Department of Defence, Brian Ward, James O'Neill, Conleth Tourish, Michael Geoghegan, Declan Gaffney and Noel McBride.

Following receipt of the statements, the Minister for Defence appointed a senior official in his department to review the statements, the content of the *Prime Time* programme and the report of the UNIFIL Board of Inquiry. The person appointed to carry out the review was Ciaran Murphy, a Principal of the Executive Branch. Mr Murphy proceeded to carry

out a review which of its nature was based on the existing documentation and on further enquiries of the Defence Forces in relation to the new matters that had been raised. Mr Murphy sought and obtained the advice of the Office of the Attorney General.

Mr Murphy made enquiries of the Defence Forces in relation to the Standard Operating Procedures (SOPs) for the 64th Irish Battalion which were not extant save for the single page dealing with 'Safety Precautions – Mines' annexed to the Military Police Report of 20 April 1989. The only SOPs available in the archives dated from 1998. This was due to the fact that the Standard Operating Procedures of the Irish Battalion was, as it were, an organic document that were physically passed on to successor Battalions in the Lebanon and whose provisions were constantly modified in the light of changing operational requirements. Enquiries were made of personnel serving in UNIFIL at the time in relation to a sign which it was asserted stood on the road where the landmine was detonated stating that the road was out of bounds from military personnel.

A draft or initial report was compiled by Mr Murphy at the end of May. He then undertook further enquiries which involved a review of the Standard Operating Procedures for IRISHBATT and enquiries in relation to the alleged existence of a sign stating that the road was out of bounds. Major General Sreenan, the Deputy Chief of Staff (Support) made a number of short factual observations in relation to the draft report in August and September 2003. Further comments were elicited from the office of the Attorney General.

Mr Murphy on 20 October 2003 submitted his review to the Minister of Defence of the statements submitted following the meeting with the families, and the *Prime Time* programme on the incident.

In his review, Mr Murphy enumerated the main assertions of the families of the deceased men as follows:

- (a) The road on which the incident occurred was out of bounds;

- (b) The requisite daily recce procedures were not followed, specifically that the road was not subjected to an “earlybird” examination for mines and/or roadside explosives;
- (c) There was a sign on the road to the effect that it was out of bounds to UNIFIL personnel;
- (d) The road was not used by UNIFIL personnel;
- (e) Before being used for stone gathering, the road was not subjected to a comprehensive mine sweep;
- (f) Having regard to the above, the families allege that the military authorities were negligent and that they deserve a full apology;
- (g) The families state that the information in the *Prime Time* programme provides new evidence to the extent that it justifies the holding of an enquiry.

I now proceed to summarise Mr Murphy’s conclusions.

(a) The road on which the incident occurred was out of bounds.

Mr Murphy stated that at the time of the incident the Standard Operating Procedures relating to “Operations – Safety Precautions” provided no indication that the roads were out of bounds. Later SOPs such as those of July 1998 suggested that roads were categorized as green, amber and red with different precautionary standards applicable to each category. It was accepted by the authorities that particular roads might not be used for some time or avoided at certain times. The military authorities advised that roads were used or not used as the case might be on the basis of need and fulfillment of operational requirements. “In such cases there were procedures to be used to make the road safe prior to use which are detailed in section 5, serial 27 of the SOPs of the time”.

(b) The requisite daily recce procedures were not followed, specifically the road was not subjected to an “early bird” examination for mines and/or roadside explosives.

Mr Murphy stated that there were defined regular supply routes used by UNIFIL vehicles on a daily basis which were subject to a daily recce by UNIFIL forces referred to as an “earlybird”. The military authorities stated that notwithstanding the use of the road where the explosion occurred for rock gathering, it was not a regular supply route and that only regular supply routes were subject to an “earlybird”. Mr Murphy states that an alternative procedure applied in respect of roads that had not been the subject of an “earlybird”. The alternative procedures involved two of the personnel walking ahead of their vehicle making a visual examination. He states that this was the standard operating procedure as contained in the Battalion SOPs of the time. As the detail were aware, an ‘earlybird’ had not been carried out and the alternative procedure should have been carried out. He pointed out that one of the statements in the *Prime Time* programme clearly indicated that the personnel were aware of the procedure to be followed where an earlybird was not carried out, while indicating that the procedure was not always followed fully.

(c) There was a sign on the road to the effect that it was out of bounds to UNIFIL personnel.

Two of the statements submitted by the families stated that there was a blue sign with white writing in both English and Arabic at the junction of the road saying it was out of bounds to UN personnel. Mr Murphy asked the military authorities to enquire as to whether anyone remembered ever seeing such a sign at the location or indeed at any time. He was advised by them that no officer recalled ever seeing such a sign at the time of the incident or for some time thereafter. “Officers from the 64th, 65th and 89th Infantry Battalions have stated that there was no ‘out of bounds’ or ‘no entry’ sign in the Bra’Shit/Green Rooms area during their tours”.

(d) The road was not used by UNIFIL personnel.

Mr Murphy stated that the fact that the road had not been used for some time prior to it being used to gather rocks was not in dispute. He stated that the road had been used for

at least some weeks prior to the incident and that this fact was accepted by the families and substantiated by a number of statements by Defence Force personnel annexed to the UN Board of Inquiry report. These statements included two statements by Bra'Shit residents that the road was considered unsafe locally until UNIFIL started using the road in around March 1989. Of these Mr Murphy stated "I am advised that many of the routes used in the area would fall into a similar classification and for this reason would require to be walked by personnel looking for mines or roadside devices, in accordance with the standard operating procedure whereby an earlybird was not conducted, before being used".

- (e) Before being used for stone gathering, the road was not subjected to a comprehensive mine sweep.**

Mr Murphy stated that it was not in dispute that the road was not subjected to a mine sweep by sappers using mine detection equipment. He was advised that mine detection equipment would generally only be used where there was a reasonably positive suspicion that there was a device on a road or that an area had been mined. Such equipment and the expertise to use was available as a force asset through the French Engineer Company. The procedures were significantly changed following the deployment by the Defence Forces of a search capacity and the augmentation of the Engineer element following the incident of 21 March 1989. Mr Murphy suggested that it may be the case that the event was being considered in the light of the revised procedures rather than of the limited capacity which was actually available at the time of the incident.

- (f) Having regard to the above, the families allege that the military authorities were negligent and that they (the families) deserve a full apology.**

Mr Murphy states that the standing procedures for mine precautions were laid down in the SOPs. He stated :

While it cannot be stated with certainty that they were followed on the day in question or whether they assumed that the road had already been checked nor can it be certain that the procedures, if used, would have discovered a well-concealed device. Even in the case of the earlybird recce, the same procedure of two persons walking the road looking for devices was used. As such, the question of whether an earlybird recce would have discovered the device, which was obviously not discovered by the three deceased, is open to debate and will never be known as there are no witnesses to the incident.

On the question of the adequacy of the procedures the Contingent Board of Inquiry made a number of recommendations in relation to procedures to take account of the need to revise procedures in light of the acquisition of sophisticated mine detection equipment by Irish Battalion and the need for cross checks to confirm that roads had been cleared prior to use. Mr Murphy stated that “it is fair to say that all procedures were updated in light of experience, and in light of changing circumstances on the ground. What is considered safe today is not necessarily considered or actually safe tomorrow”. He considered that the recommendations of the United Nations Board of Inquiry and the Contingent Board of Inquiry were not of such a quantum as to suggest that the procedures were deficient in a manner that should have been obvious to those who had a duty of care to the deceased.

Mr Murphy notes that the only SOPs available post the 64th Battalion were those from July 1998, which later SOPs took account of the augmentation of the Engineer element and the deployment of sophisticated detection equipment by the Defence Forces in the Lebanon and provided for the categorisation of routes and the procedures for clearing them. He points that it is not clear from the 1998 SOPs as to when the new procedures were introduced (which indeed would be likely to reflect a process of accretion rather than a single change to the SOPs). Mr Murphy observed that whether the 1998 SOPs which reflected a further nine years of experience following on from the deaths of the three men in 1989 could be deemed to reflect a breach of a duty of care as of 1989 was debatable. He continued : “The fact is that, at the time of the incident, there is no

evidence to indicate that the threat assessment identified or considered that there was any significant or imminent threat to IRISHBATT from mines and explosive devices”.

(g) The families state that the information in the *Prime Time* programme provides new evidence to the extent that it justifies the holding of an enquiry.

Mr Murphy had made enquiries as to the observance of the practice on roads that were not subject to an ‘earlybird’ sweep. The military authorities confirmed that the precautions indicated applied to all roads inside the Irish Area of Operations irrespective of whether they were regular supply roads and therefore the subject of an earlybird or not. While there was no reference in the written procedures to the ‘earlybird’ only being carried out on regular supply routes nor to the procedure of two persons walking ahead of the vehicle where the earlybird was not carried out, the witness statements had made it clear that such a procedure was in place.

Having considered each of these heads, Mr Murphy then set forth his conclusions. He addressed the issue of whether it was likely that any further enquiry on the basis of the content of the statements now submitted (even if there were further statements of a similar nature) could come to any different conclusion than the UN Board of Inquiry or could find that the military authorities were negligent and failed in their duty of care to the deceased men.

In relation to the issue of checking for mines, Mr Murphy concluded that “in the absence of witnesses to the actual incident, no firm conclusion can be drawn as to what happened or how it happened or whether the procedure was or was not used by the deceased”.

On the second principal issue that required evaluation, Mr Murphy stated:

The only other issue which it would seem remains in debate is whether the Defence Forces should have foreseen the threat and employed more rigorous procedures including the deployment of sophisticated search equipment and

Engineer support to counteract the threat prior to this incident. I am advised by the military authorities that the fact that there is no evidence that the Irish battalion commander sought additional support from UNIFIL HQ or from home would certainly indicate that he did not perceive a threat requiring additional resources. Against this background it was not considered necessary to have sophisticated mine detection equipment and engineering support deployed in theatre with IRISHBATT in UNIFIL and the availability of the central resource was seen as adequate. Immediately following the incident, which obviously signalled a change in the threat, the requisite resources were deployed and more rigorous procedures were put in place. Moreover, the UN BoI, which was conducted independently of the Defence Forces, concluded that “no blame can be attached to any member of the 64 Irish Inf Bt”.

The operative part of Mr Murphy’s conclusions are in the following terms: “Given the passage of time, the lack of contemporaneous accounts, and the subjective nature regarding the question of whether military commanders should or should not have foreseen a situation, such as the one which resulted in the deaths of these three personnel, it is difficult to see how a further enquiry, 14 years after the event, could come to an alternative view to that in the UN BoI”.

(3) After the Departmental Review

On 28 November 2003 the Minister for Defence, Michael Smith TD, wrote to Enda Heneghan, advising that he had received and reviewed the report of the departmental official appointed by him and the advice of the Attorney General’s office. He continued:

As I stated at our meeting, the road on which the deceased were travelling had been used for some time for collecting rocks and as such could not be deemed “not in use” or “out of bounds”. The question of using or not using a road was subject to ongoing operational requirements and to taking appropriate precautions as laid down in Standard Operating Procedures (SOPs). The personnel involved were

aware that this road was not subject to an “earlybird” recce, and, as such would have been aware of the requirement to take the appropriate precautions on such a road. “Earlybird” recce was only undertaken on the main UNIFIL supply routes. While one might argue that the road on which the incident occurred, having been used for at least a month, should have been the subject of an “earlybird” recce, it is the case that the “earlybird” recce procedure (i.e. two people walking ahead of a vehicle examining the road surface and margins) is no different from that which was required to be employed by personnel using any route. Moreover, the question of whether an “earlybird” recce would have discovered the device, which was obviously not discovered by the deceased, will never be known. It would seem to me that, in the absence of witnesses to the actual incident, no firm conclusions can be drawn as to what happened or how it happened.

The Minister stated that he did not believe that a further enquiry into the events surrounding the deaths of Corporal Heneghan, Private Armstrong and Private Walsh, would be likely to lead to any different conclusions.

The Minister thanked Mr Heneghan for his patience. He added: “As we look back, with the benefit of hindsight, we wonder whether something should have been done differently or should have been foreseen. In my time as Minister, I have asked myself these same questions on many occasion. It is in the nature of such events and their impact on our lives and families that bring these questions to fore. Often there are no clear answers to bring closure to the event. I feel this is one of those cases”.

The families retained Messrs O’Regan Little, Solicitors, to act on their behalf to seek a further enquiry or review. On 7 May 2004, Messrs O’Regan Little, on behalf of Enda Heneghan, Martin Walsh and Gráinne Armstrong, wrote to the Minister. They asserted that from their perusal of the documentation they had seen it was clear that relevant issues in the case had not been addressed comprehensively and that what they termed “central issues” remained. These might be summarised as follows:

1. The road on which the deceased were travelling was not in use for a number of months. “At the time of the incident we are instructed that the road was again being used only for a period of approximately one week. The fact that the said road was deemed not appropriate for use for a significant period of time is demonstrative of the risk assessment and status ascribed to that road by the Military Authorities”.
2. There was a sign indicating that the road was out of bounds.
3. There were witness statements to the effect that complaints had been made about the continued direction by the military authorities to use the road when it had not been the subject of an earlybird reconnaissance.
4. There had been a UN Board of Inquiry. It was not clear “whether an Irish Battalion Board of Inquiry had been convened under paragraph 12, Defence Force Regulations CS.5, Courts of Inquiry which of course should be held by the Irish Military Authorities, independent of the United Nations Board of Inquiry, in respect of overseas service where death etc results from gunfire, explosion”.
5. It was clear that the road was under threat because it was not used for a number of months previously. “It was also suggested that Cpl Heneghan and Pte Walsh and Armstrong were obliged to carry out some sort of anti-mine reconnaissance themselves on the morning in question which obligation is entirely refuted by unequivocal evidence that no such brief or instruction were provided to other members who had carried out similar duties”.

Messrs O'Regan Little concluded with a reiteration that fresh evidence and further statements containing relevant information were now at hand and that this new evidence should be “reviewed by the Military Authorities in order that they can be satisfied that any Irish Battalion Court of Inquiry conducted has reported in circumstances where all relevant evidence has been laid before it”. They went on to call for “a review of all of the further evidence by the Military Authorities in the context of any Court of Inquiry which

has reported and also for a public enquiry into the events surrounding the tragic deaths of the relevant members of the Defence Forces of the 21st March 1989”.

Ms Patricia Troy, the Private Secretary to the Minister wrote on 10 June 2004 to Messrs O’Regan Little pointing to the review that had been carried out and to his letter of 28 November 2003 to Enda Heneghan. She added that “in relation to the final paragraph of your letter, I should advise you that no Court of Inquiry was convened in this case as the matter was being investigated by the United Nations Board of Inquiry. As such the question of a Court of Inquiry being re-convened to consider additional evidence does not arise”.

Messrs O’Regan Little responded by letter of 20 July 2004 asserting that there was a statutory obligation on the Defence Forces to convene an enquiry. This was stated to be a fortiori the case in circumstances where fresh and relevant evidence is to hand and provided”.

Messrs O’Regan Little were not correct in their assertion that there was a statutory obligation to hold a Court of Inquiry. Ciaran Murphy, then a Principal Officer in the Executive Branch, responded on behalf of the Department, to the letter of O’Regan Little on 9 August 2004. He pointed out that there was no such statutory obligation as that which O’Regan Little asserted and drew their attention to the regulations in force at the time in *Rialacháin Oglaiigh na hEireann* CS7, Section IV Paragraph 12 of which dealt with Courts of Inquiry. The request by the families for the holding of an independent investigation had already been addressed.

(4) The Establishment of the Independent Review

Graine Armstrong subsequently resumed the prosecution of the proceedings that she had instituted in 1990 on behalf of the statutory dependents of Mannix Armstrong in which Messrs O’Regan Little were now acting on her behalf. The case was listed for hearing on 6 April 2011.

The State defendants carried out in the interim an extensive review of the evidence for the purposes of defending Grainne Armstrong's action. Arising out of that exercise the incoming Minister for Defence, Alan Shatter TD, determined that there was sufficient new material to warrant the carrying of an independent review.

The Secretary General of the Department of Defence, by letters of 4 April 2011 and at a meeting with the families at Finner Camp, Co Donegal on 7 April 2011, attended also by Brigitta O'Doherty, Principal, Litigation Branch, advised them of the intention to hold an independent review. Grainne Armstrong's case was adjourned on consent.

I was appointed to carry out the review on 19th April 2011.

The proceedings brought by Grainne Armstrong were settled without admission of liability. The settlement was approved by the High Court on 10 June 2011.

PART II

CONCLUSIONS

In this part I set out the conclusions I have reached in carrying out this review.

(1) Whether the road was out of bounds

In the controversy that has arisen in relation to the circumstances in which Corporal Heneghan, Private Armstrong and Private Walsh lost their lives, perhaps the single issue that has predominated is whether the track in the vicinity of the Green Rooms on which they were killed was out of bounds. The reason for this is the firm conviction of many of the men who served with the 64th battalion or in predecessor battalions that the track was out of bounds. I propose to deal first with a matter that is a sub-set of the larger issue, namely whether there was a sign present putting the track out of bounds.

(i) The Existence of a Sign Putting the Track on the approach to the Green rooms out of Bounds

Half of those who served as Privates in the 64th Infantry Battalion whom I interviewed referred to the existence of a sign putting the track at the Green Rooms out of bounds. The sign was stated to be in English and Arabic putting the track out of bounds to UNIFIL personnel. Two witnesses seemed to recall the sign was slightly leaning to one side. None of the officers (other than an NCO who was unsure) recalled seeing such a sign and almost all expressed themselves certain that there was no such sign.

Lt Col Kieran McDaid, who was definite that there was no such sign, pointed to the implausible corollary of the presence of such a sign: that officers would have directed men to go up a track past a sign putting the track out of bounds, and indeed that the men would have complied with this direction without querying it. The existence and open defiance of a sign presumably placed by UNIFIL putting a road out of bounds would suggest that the officers of 'C' Company were disposed to act in disregard of clear UNIFIL instructions. I note that Col W A Knott, the Director of the Legal Service and Deputy Judge Advocate General, in a memorandum prepared in the course of the Ciaran Murphy review of 2003, made the same point as Lt Col McDaid made to me in writing

that : “There is no doubt that the road was in constant daily use by ‘C’ Company for the collection of stones, which would mean that personnel of ‘C’ Company would have had to ignore the sign each time a truck passed, an unlikely scenario”.

There is also the fact that none of the witness statements to the Military Police, taken in the immediate aftermath of the fatalities on 21 March 1989, made any reference to the existence of a sign. This is not in itself dispositive, to the extent that the entire issue of the road being out of bounds was not raised in the statements of any of the witnesses. It remains surprising that the existence of a sign, if sign there was, was not adverted to and addressed in any of the witness statement.

It also seems highly improbable, given that none of the witnesses who asserted that there was a sign claimed that the sign was taken down in the immediate aftermath of the explosion, that the existence of a sign would not be adverted to or addressed in circumstances where UNIFIL had its own means of knowledge of the locus in quo, whether acquired before or after the events of 21 March 1989.

Lt Col McDaid and other officers also observed that if a road was put out of bounds UNIFIL, this would be much more likely to be done by a physical barricading or blocking of the route by a barrier or by boulders than by the erection of a sign in its vicinity as a sign might not be adequate.

While those of the men who served in the ranks of the 64th Infantry Battalion who stated that there was a sign putting the route out of bounds were firm and sincere in their belief, I am driven to the clear conclusion that there was no such sign.

The myth of the sign, if I may call it that, is easy to understand as a belief that was engendered by men straining in good faith to recollect events that are now over two decades ago. Several of the privates serving in ‘C’ Company had concerns in relation to what had happened at the time, though these concerns may not have found clear expression, and were of course for any number of reasons unlikely to have been

ventilated officially. Those concerns grew over time, as perhaps did the number of former members of the 64th battalion by whom they came to be shared. The road sign became a symbol of the belief that there remained more to be elucidated about the events of 21 March 1989, and a broader range of questions to be considered than UN Board of Inquiry or the Contingent Board of Inquiry had been required to address.

I turn now to the broader issue of whether the track in the vicinity of the Green Rooms was out of bounds.

(ii) Whether the Track in the vicinity was out of bounds.

Many of the men who gave evidence told me that the track and the immediate vicinity was out of bounds. This is disputed by the military authorities and was denied by the officers with whom I discussed the question.

There was a certain difference in the use of the term “out of bounds” by those who take different sides on this issue, although their conflict is certainly not reducible simply to a matter of terminology. Broadly the men to whom I spoke often used the term “out of bounds” in a looser sense or to mean different things, while the officers understood the term in a more formal sense. The different usages are of course perfectly understandable.

Very few of those who served as privates in the 64th Battalion asserted that they had been advised by their officers that the track or immediate vicinity was out of bound (or indeed ordered not to go up the track on which the three men ultimately met their deaths).

The gravamen of the evidence I was given by those who told me that the track or the area in which it lay was out of bounds was that it was regarded and understood to be such by the men serving in the ranks and non-commissioned officers, and they had no reason to think that the commissioned officers thought otherwise. I was also told of the fact that the area was out of bounds was passed on to and by the men serving in the different ‘C’ Companies that formed part of successive Irish Battalions in UNIFIL.

The origins of the belief that the track and the immediate area was out of bounds derive from the abandonment of the outpost at the Green Rooms. Specifically, post 6-19 was shut on the direction of UNIFIL on 12 March 1987. An increp (Incident Report) telex from the Commanding Officer of the 60th Irish Battalion to the Director of Operations in Dublin, dated 12 March 1987 stated that : ‘Post 6-19 AMR 1926-2861 had been closed with effect from 11.00 hours local time on 12 March 1987 on the direction of UNIFIL Ops’. A new post at AMR 1921-2866 designated 6-42 was established with effect from same time. The new post was stated to be an outpost on a temporary basis with an APC and a section located there. Work on a compound was stated to be in progress. The replacement post at 6-42 was not far distant from the site of the explosion of 21 March 1989

I have not been in a position to establish definitively the precise circumstances in which the former post 6-19 was closed which was a decision of UNIFIL. The post appears to have been exposed to a significant degree to fire from the De Facto Force compound. Lt Col McDaid doubted that that would be sufficient to explain why the compound was shut given the extent of the overall exposure to fire from the forces of the De Facto Force compounds in the southern part of the Irish Battalion Area of Operations. However, from the evidence of a number of men who had served in the 60th Battalion, post 6-19 does appear to have been exceptionally exposed as well as somewhat isolated and it seems reasonable to assume that that is why it was abandoned in favour of post 6-42.

A number of witnesses suggested to me that the area of the Green Rooms and the track were put out of bounds at that time. Mr Michael Walker, who was with the 64th Battalion as a Private and has conducted a very extensive correspondence with the Department of Defence, has written that the dirt track was put out of bounds in January 1987 when post 6-19 was closed down and post 6-42 was put into operation. Other men spoke to me to the same effect. There is however no extant documentary evidence that the area in which the track was situate was put of bounds in 1987 during the tour of duty of the 60th Battalion, never mind that a situation in which the area continued to be out of bounds

pertained as of March 1989. One could not exclude the possibility that the area was put out of bounds informally or verbally in the immediate aftermath of the closure of post 6-19. However, there is no satisfactory evidentiary basis on which one could conclude that any informal putting out of bounds or discouragement of entry into the area was either put on a formal basis or was extended in time beyond the tour of the 60th Battalion. I therefore conclude that the track on which the three men of the 64th Infantry Battalion met their deaths on 21 March 1989 had not been placed out of bounds.

Given the emotiveness of this issue, which I fully appreciate, it is I think worthwhile to make the point that Corporal Heneghan, Private Armstrong and Private Walsh were not killed by gunfire or shelling from the adjacent compound of the De Facto Forces which is what primarily rendered post 6-19 vulnerable and is likely to have led to its closure.

This of course does not dispose of the issue that is linked to (and in some degree tends to merge with) that of whether the road was out of bounds, namely whether the three men on the rock gathering should have been sent up the track near the Green Rooms where the track had not been previously cleared for mines or IEDs. On this issue the co-relation of opinion to army rank partially breaks down.

It is the case that several of the men serving with the 64th Battalion had concerns about the detail being sent up the track near the Green Rooms whether from a sense that the track was not in general use and should not be used unless it was actually necessary (whether or not this went so far as a belief that the track was “out of bounds”) or was not the subject of prior clearance for mines as had the supply routes that were the subject of the “earlybird” recce. Moreover there is evidence which I accept that that sense of unease pre-dated 21 March 1989.

In relation to the belief that the area around the Green Rooms was either out of bounds or unsafe to venture into, the evidence of Padraig McDonnell is illustrative. Private Padraig McDonnell served as a member of C Company with the 64th Irish Battalion. He was stationed at Post 6-9B. He made a statement to the Military Police dated 21 March 1989,

the day of the explosion. He is a serving member of the Defence Forces. He heard the explosion and was one of the first persons on the scene. He had earlier served with the 62nd Battalion. He spoke to me on 15 July 2011. He said the Green Rooms had then been totally out of bounds when he was with the 62nd Battalion. He said this was not repeated to him on the 64th Battalion but that he believed that it continued to apply. The route to the old Green Rooms was not in use and he said you did not need to be told it wasn't good for you to pass along it, which he said was "like standing on a railway track". He said everyone on 69-B knew it was out of bounds. When he first saw the detail going up to collect rocks he was shocked and asked how they were allowed go up there. This was a thought he uttered aloud, or a question which he addressed to someone of his own rank. He never saw any sign putting the area out of bounds but did not think this was necessary.

Declan Gaffney served as a Corporal with the 64th Infantry Battalion. Some days before Tuesday 21 March 1989, he was detailed as one of three to go and collect rocks for the gabions near the Green Rooms. Working from a diary kept by another soldier he believes that this was on Sunday 19 March. He was not happy with the order because the track was not in general use, was close to the compound of the De Facto Forces and had not been mineswept. He raised his concerns with Sergeant Jimmy Flanagan. He wanted Sgt Flanagan to confirm the order with the relevant superior officer. Sgt Flanagan went off and came back to tell Declan Gaffney "You have to go". Declan Gaffney, who did not know to whom Sgt Flanagan had spoken, told me he was "unhappy, but you don't disobey orders, so I went". He said he had raised the concern for his own safety and that of the other two men assigned to the detail and anyone else who might be asked to go on such a detail. He was unable to recall if he was aware of a detail being sent gathering rocks to the area of the Green Rooms on the previous days.

CQM Sergeant Jimmy Flanagan agreed that Corporal Gaffney had raised his concerns about the use of the Green Room area with him. There is a difference in their recollection as to the date. CQM Sgt Flanagan's recollection was that this was at an earlier date around January 1989 when the area was being used to construct gabions at

post 6-42. CQM Sgt Flanagan believes that Corporal Gaffney raised the issue at that time without absolutely ruling out the possibility that it might have been raised again on a later occasion. CQM Sgt Flanagan had been out with the 60th Battalion when, he stated to me, the route leading to the Green Rooms had been placed out of bounds. He shared the concerns of Cpl Gaffney as did other NCOs and he raised these with Captain John Curley, the second in command to Comdt Martin Coughlan in 'C' Company, who told him that the area had already been used to gather rocks without misadventure. Declan Gaffney stands by his recollection as to the date when he raised this. He does not believe there was rock-gathering from the Green Rooms for the construction of gabions at 6-42, and further does not see why Captain Curley would have been involved if the exchange had occurred at 6-42.

John Curley, who served in the 64th Battalion as a Captain and was the Second in Command to Comdt Martin Coughlan, has no recollection of any such conversation with Sgt Flanagan. He pointed that the order to enhance the gabions at 6-16 would have had to come in the first instance from the Commanding Officer of the Battalion. He has no recollection of who first directed that the area around the Green Rooms was to be used for the gathering of rocks. He was aware that the area was being used for that purpose on a continuous basis and that rocks were available at the Green Rooms. The area was barren and the land was not being worked. All that took place there was a little grazing. He did not regard the area as inherently dangerous and pointed out that the whole purpose of the work on the gabions was troop protection and that he would not have countenanced the use of the area had he considered it dangerous. Lt Col Kieran McDaid could not recall when a direction was first given to gather rocks in the Green Rooms area. He did not himself remember giving such a direction but was aware that the area was being used and saw no objection to its use.

A number of officers pointed out that Irish Battalion had responsibility for its Area of Operation, that it could not simply remain within outposts, and had to be free to move within its Area of Operations. Comdt Larry Devaney however pointed out, referring of course to his experience with the 63rd Infantry Battalion, that there were whole swathes of

land that one would not venture into between roads as they could be mined or contain concealed IEDs.

(2) The Routine Administrative Recce

The matter of the “Routine Administrative Recce” featured prominently in the analysis by the military authorities of the circumstances of the detonation of the mine on 21 March 1989, and in the account that was given through the Military Police report and the statements annexed to the UN Board of Inquiry.

It is not, as I understand it, suggested that the term “routine administrative recce” was in currency. It is in essence a convenient name for a more general mine/IED search procedure that is to be distinguished from the “earlybird” recce. Essentially the “routine administrative recce” was the procedure which it is stated was in force where a road or track had not been the subject of a prior “earlybird” recce. The ‘earlybird’ recce was confined to designated named supply routes and undertaken every morning.

The position is summarised in the exemplary Military Police report prepared by Captain Ian Hanna (now Lieutenant Colonel) and submitted to the UN Board of Inquiry. Under the heading of “Mine Searching and Recce”, the Military Police Report states as follows :

(a) 64 IRISHBATT SOPs state that it is the responsibility of the Coy to ensure the tracks have been cleared for UNIFIL vehicle movement. Annex (F) attached. In statements that were recorded from COMDT COUGHLAN and CAPT MCDAID, both attached, C Coy have three (3) different types of mine recce in operation. There are :

1. “EARLYBIRD” recce.
2. Coy signals personnel recce.
3. Routine Admin recce.

- (b) The drills, common to all three (3) types involves two (2) persons walking along the track approx.. 50-100 metres in front of the vehicle, looking for signs of mine placing. When the route is cleared, Coy HQ is informed.
- (c) 'C' Coy carried out training in mine searching and recce in Ireland during UNIFIL training and also on their arrival in LEBANON. These drills are a normal part of every day Coy routine and are performed by all Coy personnel.
- (d) A mine recce would have been carried out on the track on 21 MAR 89 as part of Coy SOP, Training and Operational Drills, by the personnel on the track gathering detail.
- (e) There are NO mechanical mine detectors in IRISHBATT.

The Commander of 'C' Company, Commandant Martin Coughlan stated as follows in his Military Police Witness Statement of 29 March 1989 :

In 'C' Coy area of operation there are three (3) types of mine recce. The first which is called "earlybird" is carried out by the recce section of the weapons platoon on the tracks of the main supply routes daily. This involves two (2) persons dismounting from the APC and walking along the track approximately fifty (50) to one hundred (100) metres ahead of the APC. When this "earlybird" recce is completed, Coy HQ are informed and the track is opened for use. The second type of clearance is carried by the Coy Signal personnel. The drills are exactly similar to "earlybird" except that soft skin vehicles are used. The third type is for routine administrative duties such as rock collection for gabion building. The drills are similar to "earlybird" drills except that soft skin vehicles are used. On the morning of 21 Mar 89, the personnel on the rock gathering detail would have carried out a recce on their way up the track to collect the rocks.

Captain Kieran McDaid, Platoon Commander, Weapons Platoon, 'C' Company, stated as follows in his statement of 5 April 1989 :

Regarding routine recce procedures within 'C' Coy, there are three types of drill. Training in all three (3) types of drill was conducted during the pre-UNIFIL departure, and all Coy personnel were completely familiar with the drills used. As part of the Coy familiarisation on arrival in LEBANON, these drills were repeated by all the personnel and were a normal part of Coy daily routines. These drills involved personnel dismounting from vehicles, walking approximately 50 – 100 metres in front of the vehicles looking for signs of mine placing. If suspicion was aroused the procedure is to close the track and call in ordnance personnel to investigate further. The mine Recce Coy SOP for all operational and administrative journeys on all designated routes [sic]. There is no mine detecting equipment in the Coy.

While the point is not specifically addressed or conceded, the account given to and summarised by Captain Hanna does seem to come close to an acceptance that it was necessary to have some form of mine and IED clearance before the detail proceeded up the track, whether the exercise was carried out by the members of the detail or previously by a dedicated mine and IED clearance team.

I should mention that there was some evidence at a relatively advanced stage of the inquiry that the "earlybird" ordinarily involved four rather than two persons dismounting from the APC which contained the driver and gunner and walking along the track. Seamus Griffin served as a Sergeant in the 64th Irish Battalion and participated in "earlybird" recces. He informed me that the norm would be to have two men on either side of the track and two men flanking them on the ground further out from the road. The two men on the road would be looking for disturbances to the road surface. The role of the outer two men was to look for command wires. This rendered the 'earlybird' more effective and safer. Mr Griffin's recollection is supported by two photographs of 'earlybird' recces conducted, he informed me, during the tour of duty of the 64th Battalion. These show former Sergeant Griffin and three colleagues out in front of the armoured vehicle in the manner he described. Lt Col McDaid confirmed the recollection

of Seamus Griffin, pointing out it would be easier to conceal a short piece of command wire on the edge of the road rather than over a larger distance stretching beyond the road.

In the evidence given to me, many of the Privates of 'C' Coy disputed that the "routine administrative recce" was a prevalent practice and some denied it was ever operated. As against this, I was struck by the response of Lt Col, formerly Captain, Kieran McDaid when I asked him whether if he saw a truck containing army personnel heading along the route that had not been the subject of an "earlybird" recce. Captain McDaid was adamant that he would have been taken aback and would have certainly taken it up with the personnel concerned.

I do not think that the conflict of evidence is altogether as stark or as unbridgeable as it might seem. It is quite possible that the military authorities believed that the practice of the "routine administrative recce" was in force and in practice but that this was not reflected on the ground. This is especially so given that part of the rationale for the "routine administrative recce" was that it was something that would suggest itself as a matter of prudence or good military practice if soldiers were proceeding along a road or track that had not been cleared for mines and IEDs and were mindful of their own safety and that of their comrades. (Lt Col Ian Hanna, who served as a captain in the Military Police in the 64th Battalion, stated that one was always told to do a visual check for mines if one went off the tarmacked roads and every officer and soldier knew that).

I put this to Lt Col Kieran McDaid. He did not accept that this could have been so. The procedure designated by the term "routine administrative recce" was one that was known to the men and to the NCOs in circumstances where the procedure was one with which they had a duty and obligation to comply. He also pointed out that the 'earlybird' procedure provided a sort of template for the routine administrative recce. The "earlybird" was a procedure that was very well known beyond those in the recce section who carried it out. These would be supplemented by ordinary soldiers from the platoon where members of recce section were on leave or off duty. The "earlybird" procedure was moreover conspicuous and visible. I had drawn to his attention the observation that

was made to me by Private Tony Walsh that I refer to below and he considered this to be indicative of a general awareness in C Company by a good soldier that this was a practice that ought to be complied with.

There are however clear limits to how far one could equate the “routine administrative recce” procedure with that of the “earlybird” recce. There was an officer assigned to the “earlybird” and it was a formal procedure. The completion of the earlybird was recorded by the signalman on duty and communicated to Battalion Headquarters in Tibnin. The “earlybird” involved an armoured personnel vehicle. Indeed the operation of the procedure designated as a “routine administrative recce” was in contrast to the rigorous manner in which the ‘earlybird’ recce was carried out early in the morning along the main supply routes before any other movements along those routes took place.

I am driven by the weight of what I have heard and read to the conclusion that the practice of the “routine administrative recce” was not something that was sufficiently impressed on the men of C Company, nor was it rigorously or universally enforced.

For that reason, if it was the case that the procedure designated as a ‘routine administrative recce’ in the Military Police Report was not carried out, I do not think it is possible to impute any responsibility to the three deceased members of C Coy, or to Corporal Heneghan in particular as the NCO in charge of the detail, for the events that led to their deaths.

A few witnesses also made the point to me that if the three men in the rock-gathering detail were expected to carry out a recce en route up the track, this was something that they should have been specifically directed to do before they set out from the camp at Bra’shit. Private Tony Walsh, the brother of Thomas, told me that if you were going certain places you might be told to do a check for mines or IEDs walking in front of the transport vehicle. There is no suggestion that the detail was so directed on the morning of 21 March 1989. CQM Sergeant Jimmy Flanagan was clear he simply told them what their task was. This point has some force both in itself and in relation to a more general

failure to enforce the practice of the “routine administrative recce”. Likewise it is not suggested that the men comprising the detail were specifically advised of the risk of mines or IEDs on a track had not been the subject of an ‘earlybird’.

The proposition that the undertaking of a “routine administrative recce” was clearly enunciated and enforced moreover finds little support by reference to the Standard Operating Procedures that are invoked. For reasons already stated, all that survive of the Standard Operating Procedures that were in force at the time is a single page setting forth paragraphs 243 - 247 of Section 5, Serial 27 of the Standard Operating Procedures. This page is annexed as Annex F to the Military Police Report. These Operating Procedures are as follows:

SECTION 5. OPERATIONS

Serial 27 SAFETY PRECAUTIONS – MINES

243. The discovery of anti-tank mines in IRISHBATT AO and other contingent areas emphasises the need for a thorough system of search to locate possible mines.
244. The mines are usually laid in dirt tracks or in badly broken areas of previously hard surface roads.
245. In order to prevent serious injury or loss of life the following will apply :-
 - a. It is the responsibility of the Coy to ensure the tracks have been cleared for UNIFIL vehicular movement.
 - b. If there is anything on a track which might indicate the presence of mines the area will be marked, protected and BN HQ informed. BN HQ will then contact ENGR COY whose responsibility it is to clear mines in the UNIFIL AO.

- c. When the patrol is satisfied that there is nothing to indicate the presence of mines, it will inform its COY HQ who will then order the track open to vehicular traffic.
246. Hard surfaced roads need not be patrolled daily. A vehicle patrol will patrol these roads and those areas where the surface is badly broken will be checked on foot before the vehicle passes over those broken areas. If any signs exist to give indication of the presence of mines the procedure is outlined in Para 255 b [not extant] will be observed.
247. When roads SOUTH of compounds have been cleared by DFF/IDF the code word “EARLYBIRD” will be transmitted to BN HQ, by Posn overlooking ENCLAVE through respective Coy HQ.

This could certainly encompass the ‘routine administrative recce’ but does not set out the procedure designated by that term. It does not seem to me insofar as the SOPs are relied upon that they enunciate a definite requirement on any vehicular patrol to carry out its own reconnaissance for mines and IEDs on routes which had not been the subject of an “earlybird”.

I pressed Lt Col McDaid on this point. He fairly accepted that the provisions on the surviving page of the SOPs could not be said specifically to define or mandate the procedure designated by the term “routine administrative recce”. He believed that the Standard Operating Procedures did prescribe the procedure perhaps in a part of the SOPs that are not extant. The difficulty with this is that this was the page that was annexed to the Military Police Report and was relied upon by the military authorities before the UN Board of Inquiry and the Contingent Board of Inquiry. Lt Col McDaid believes that the Company SOPs would certainly have prescribed a requirement to carry out the routine administrative recce procedure. It is the case that one would expect a higher level of

detail in the Company SOPs than that in the Battalion SOPs which reflected broader principles which would be given effect to by the Battalion Operations Officer in conjunction with the Company Commanders by means inter alia of the Company SOPs. He also emphasised that while each of the three Companies had their own SOPs, that the routine administrative recce was a Battalion-wide requirement and practice. The ‘C’ Company Standard Operating Procedures are no longer extant and it would be idle to attach weight to what they might or might not have contained, particularly in circumstances where their provisions were not alluded to in the statements annexed to the Military Police report when Section 5 serial 27 of the Battalion SOPs were specifically relied upon.

Even if the routine administrative recce procedure had been enforced, and had been carried out by the three men on the detail, there is absolutely no assurance that it would have been adequate to protect them. The terrain, comprising a rough and partly overgrown track between semi-collapsed walls, was one in which the identification of IEDs and landmines was not easy. To carry out a search procedure safely and effectively these men would need to have been acculturated to the risk of land mines and IEDs to a greater extent than they were and had greater training than they received in the identification of IEDs and the risk they posed and the measures to be taken. Given the nature of the particular track, to engage in route clearance they would also need to have been equipped with mine detectors and of course be trained in their use. Without a acculturation training and appropriate equipment the carrying out of the routine administrative recce procedure would have been neither effective nor safe to those required to undertake it.

An issue arose in the course of the interviews as to whether an “earlybird” recce had in fact been undertaken on the morning of 21 March 1989. I had not been aware and was perhaps myself slow to apprehend that this was a matter in issue. Corporal Finbar (Barry) Campbell did not believe that there had been an “earlybird” before the explosion occurred near the Green Rooms. Padraic Morgan, who was on gate duty at 6-16, likewise did not believe that an “earlybird” had taken place and the APC had gone out of 6-16 for

repair or maintenance. It is of course not suggested that the route near the Green Rooms would have been the subject of the “earlybird”. The point as I understand it has a more limited significance, namely, that no one was to set forth until the “earlybird” had been completed. If the “earlybird” had not been completed then the detail ought not to have headed out from the Company headquarters and would not have found themselves heading up the track towards the Green Rooms. I could of course not possibly make any determination on this issue as it is not one that I have been able to explore systematically from the outset with the entirety of the witnesses.

(3) The Adequacy of the Threat Assessment.

Probably the major issue that falls to be determined in this review is whether the threat assessment was adequate.

That issue falls to be addressed in the context of the situation of the Irish Battalion in general and having regard to the sequence already identified of :

1. The killing of Lt Aongus Murphy by an IED on 21 August 1986.
2. The finding of the two IEDs near the Water Towers on 31 May 1988 by Comdt Laurence Devaney, the Ordnance Officer with the 63rd Infantry Battalion.
3. The finding of the two IEDs near Haddathah on 17 November 1988 by Comdt Ray Lane, the Ordnance Officer with the 64th Infantry Battalion.
4. The Israeli abduction of Jawad Kasfi and the reprisals or threat of reprisals against the personnel of the Irish Battalion including the kidnapping of the three members of Recce Company.

Threat assessment looks to capacity and intent.

It might be just possible to have taken the view that the killing of Lt Aongus Murphy was a tragic “one-off”. It has to have at the very least been a cause of very considerable concern given the lethal efficacy of the IED that was deployed in the Irish Battalion Area of Operations; the role, personality, technical capacity and radical Islamist affiliations of Jawad Kasfi; and the fact that the reason that Lt Murphy was specifically targeted had to do with the vexed issue of the protection and incapacitation by soldiers serving with UNIFIL of IEDs that were regarded as assets by the Islamic resistance in their operations against the Israeli Defence Forces and the De Facto Forces. The IEDs found near the Water Towers in May 1988 by Comdt Devaney in which Jawad Kasfi was again involved, were a further demonstration of the capability of Jawad Kasfi and others to deploy lethal devices. While the consensus view at the time among the relevant offices of the Irish Battalion was that this device was not targeted at the Irish Battalion, it is difficult to quarrel with the opinion contemporaneously held and expressed by Comdt Lane that the location of devices of this sophistication within the Irish Battalion Area of Operations required a considered re-assessment of the threat facing the Irish Battalion.

If the three earlier episodes established capability on the part of radical armed elements, the abduction of Kasfi and the actions and threats made in response established the element of intent.

Certainly by that time, 15-17 December 1988, what I have read and heard in the course of this review persuades me that there ought to have been a formal and thorough reassessment of the threat confronting the 64 Irish Battalion and the adoption of appropriate force protection measures arising from that reassessment.

It was no longer sufficient to proceed in the wake of the Kasfi abduction on the basis that the only real or sustained threat facing the Irish Battalion was that of sustaining casualties from firings close and shelling by the Israeli Defence Forces and the De Facto Forces or as collateral victims of land mines and IEDs deployed by the armed elements against the Israelis and their Lebanese surrogates. Even if the threat of a targeted attack on the Irish Battalion was to be discounted on the assumption that the crisis created by the abduction

of Kasfi had passed, the threat to the personnel of the Irish Battalion as “collateral victims” had reached a level that required a sustained and considered response. The four prior episodes identified could not be treated as discrete and disconnected events that could not recur save fortuitously and the threat of which could not be mitigated. Those ‘headline’ episodes moreover required to be assessed in relation to the frequency with which other landmines and IEDs were found in the Irish Battalion Area of Operations.

In his discussions with me, Comdt Larry Devaney, while making it clear that it would not be for an ordnance officer to decide the general levels of threat assessment, spiritedly disputed the proposition that the threat assessment was deficient. While he did have criticisms to make of what had transpired in March 1989, these were at an operational level. He considered that the threat assessment was probably correct at a strategic level. He believed that the important issue was the application of measures on the ground. He saw the concept of threat assessment as strategic, and felt it was being used too loosely and was being applied anachronistically. He pointed out that it was very difficult to apply modern standard of threat assessment to 1989. Much greater forces of larger states had shown themselves incapable of assessing asymmetric forces. As he put it conversationally in this context “if we didn’t do a proper threat assessment neither did anyone else”. To that extent, he considered criticism of the 64th Infantry Battalion in UNIFIL in relation to the fatalities of 21 March 1989 at the level of a deficient threat assessment as artificial and contrived. In relation to the argument as to anachronism one is left with the fact that Comdt Lane told me, and I accept, that in addition to the immediate EOD issue that arose on 17-18 November 1988 which was the subject of his formal report and was vigorously taken up by Lt Col McMahan, he had and communicated his concerns in relation to the threat assessment.

Even if Comdt Devaney is correct in thinking that criticism of the sending of the detail up the track leading to the Green rooms on 21 March 1989 in the circumstances that occurred is artificial in terms of actually prevailing international military practice at the time, there are criticisms that can be made on more ad hoc basis at an operational level principally in relation to the sending of the rock-gathering detail into the area of the

Green rooms without prior clearance for mines and IEDS which lead to the same result so that my conclusion would be unaltered. I should make clear that I do not think that the analysis of what went wrong on the track up to the Green Rooms on 21 March 1989 primarily in terms of a failure to carry out an adequate threat and risk assessment is academic or intellectually grandiose. It is not sufficient to analyse what happened in terms of a series of discrete failures or oversights that interacted with bad luck and the malignity of terrorists to bring about the deaths of the three men of the 64th Infantry Battalion. Everything I have heard in the course of this review has impressed upon me the necessity of the undertaking of clear and coherent threat and risk assessments and adoption and observance of force protection measures derived from them. Instinct or intuition may no longer be enough.

Force Protection Measures might in particular instances entail an order only to use armoured vehicles; to train troops in IED recognition or in a particular aspect of it; to stay off non-metalled roads; to wear helmets and flak jackets; that all soldiers be given adequate orders on the threats facing them before setting out on an assignment; the deployment of metal detectors; that the Military Intelligence Officer be tasked to ascertain information on a particular risk and for there to be no patrols in the meantime.

An example of the application of a properly conceived threat assessment might be in relation to the deployment of Irish Battalion personnel over a number of days to the area of the Green Rooms. While a pattern in the use without misadventure of the area around the Green Rooms for the purpose of gathering rocks for fortification was taken as providing a degree of reassurance that the area was safe, a threat assessment which addressed the contingency of a targeted attack by radical Islamist Armed Elements on Irish Battalion personnel could have served to highlight the danger that the repeated use of the route up to and the area of the Green Rooms could have afforded those planting the landmines the fore-knowledge and the opportunity to carry out the attack on Irish Battalion personnel. The application of an adequate threat assessment could have resulted in a direction to avoid unnecessary repeated journeys along the same routes or to

the same places where other routes could be availed of, or that other areas be resorted to whether for the purpose of rock gathering or otherwise.

In this instance the undertaking of a formal and thorough threat assessment and the application of that assessment would have resulted in measures which would have ensured that the consciousness of the entire Battalion of the level and sophisticated nature of the threat from IEDs and landmines and the imparting to the men of the Battalion of training in methods that would better ensure their own safety and that of their fellow soldiers. The level of training (which appears to have been largely confined to pre-deployment basic mine awareness) information and awareness in relation to IEDs and landmines did not match the threat.

It does not appear that a formal threat assessment was carried out. There were no protocols in place for the carrying out of a threat assessment and officers doing this were assigned to the intelligence role by the General Staff without specialised training in intelligence. What the carrying out of a threat assessment would have entailed would have been the formulation of a threat assessment by the Information or Military Intelligence Officer through all-source intelligence gathering in conjunction with the Operations Officer. Both are answerable to the Battalion Commander who makes the ultimate decision. The Operations Officer would then have made a risk assessment. In the light of the threat assessment and risk assessment, the Battalion Commander would then decide on the Force Protection Measures to be adopted. This is not simply a matter for the Irish Battalion on the ground with UNIFIL. The Director of Operations who was in receipt of Incident Reports and Monthly Reports would potentially have had a role in relation to the querying, modifying or accepting any threat assessment or risk assessment made or Force Protection Measures adopted in the Lebanon. The Director of Intelligence could have been consulted by the Director of Operations (the role of the Director of Intelligence has only become more independent of Operations in recent times).¹⁶

¹⁶ Lt Gen Noel Bergin does not accept what is stated in this or the preceding sentence. He states that the functions in relation to the threat assessment are those of the Battalion Commander in conjunction with the Force Commander UNIFIL and his staffs at Naqoura.

(4) Other Matters Arising

(i) Whether the site of the explosion was within the Israeli controlled area.

This is a point that has been pressed in particular, and indefatigably, by Michael Walker who was a Private in the 64th Infantry Battalion and a friend of the three deceased men.

The relevance of this point is that under the UNIFIL Standard Operating Procedures movement in the Israeli controlled area (ICA) would be more restricted. The ICA is stated in the UNIFIL SOPs to extend forward of the border and to be in effect under Israeli occupation. UNIFIL deployment and freedom of movement was restricted in the ICA and the prescribed activities of UNIFIL limited.

Mr Walker relies in particular on UNIFIL maps 1985-1995. I considered in particular the map showing UNIFIL deployment as of July 1988. There were red diagonal stripes extending up into the area south of Bra'shit and further west extending to the area south of Haddathah and including within the ICA At-Tiri. These stripes were stated in the map's legend to indicate the "approximate area under Israeli control in UNIFIL Area of Operations.

No officer to whom I spoke was of the view that the track at the Green Rooms was within the ICA. There was absolutely nothing to suggest that, either at the time of the UN Board of Inquiry or at any other time, UNIFIL drew to the attention of the 64th Irish Battalion that the route up to the Green Rooms was within the ICA or that the Irish Battalion was failing to conduct its operations in compliance with that classification.

From the evidence that I have heard, it does not seem as if the area in the vicinity of the Green Rooms could be considered to have been "in effect under Israeli occupation". The

fact that it was exposed to fire from the compound of the De Facto Forces does not place it within the ICA.

I accordingly cannot accept the assertion that the locus in quo was within the ICA on the basis of UNIFIL maps which designate by indicative diagonal stripes no more than “the approximate area under Israeli control”.

(ii) Local Resistance to the taking of rocks from the vicinity of the Green Rooms

There were assertions from a number of witnesses that the army is to be criticized for directing or permitting the collecting of rocks from the area of the Green Rooms in circumstances where this risked offending, and did in fact give offence to the local population in circumstances where the rocks could have been purchased for a very modest sum elsewhere in the area of South Lebanon. Some witnesses observed that the rocks in the Green Room area would have some significance for the local population from the point of view of maintaining irrigation. Some believed that the locals had expressed objection to the removal of the rocks, but this was in almost all instances second or third hand information.

Noel McBride told me that he had heard that the Muktar of Bra'shit had come to the camp to warn the Irish Battalion to desist from taking stones from the area. This came rather late in the sequence of interviews that I conducted and there was no first-hand evidence of any such warning though at least one other witness did say that he had heard the same thing said at the time. This therefore remains strictly in the realm of rumour. I do not find that the area around the Green Rooms was a source of stones that ought not to have been accessed, or that the gathering of stones was persisted in in disregard of local objections that had been communicated to the Irish Battalion.

(5) The provision and deployment of equipment including mine detectors

It is a striking circumstance that the Irish Battalion in fact held a number of 4C mine detectors which were not deployed. These were subsequently repaired, reconditioned and rendered operational and by the Engineer Specialist Search Team that came out to support the 64th Battalion under the direction of Captain Conor Furey.

I have decided that it is neither necessary nor appropriate for me to make any findings in relation to this.

In the first instance, the failure to utilise the 4Cs did not of itself give rise to or contribute to the circumstances in which the deaths of Corporal Heneghan, Private Armstrong and Private Walsh met their deaths.

I would add however that it is not the case that the conduct of the “earlybird” recess without mine detectors was ineffective. Corporal Finbar Campbell queried the loose description of the “earlybird” as a mine-sweep on the basis that there is no such thing as a visual mine-sweep. He pithily compared the carrying out of a mine search without mine detectors as “golf without clubs”. While this is pungent and thought-provoking, I do not think it is correct. The visual inspection is certainly not, as Col Brian Dowling the Director of Ordnance confirmed, futile or a nullity, although it is evident that the efficacy of the route clearance and the safety of those carrying it out, would have been enhanced by the use of mine detectors. Lt Col Michael Murphy, who spoke to me on behalf of the Director of Intelligence, told me that a visual inspection was of some importance (while fairly adding that British troops on the border would not have been walking around looking at the sides of the road). Comdt Lane pointed out the importance of not placing disproportionate emphasis on the provision of equipment. The 4C detectors –which did not always work – were only tools. Proper training of officers and men was and is required to deal with IEDs and landmines. Col Brian Dowling made the point that the problem would not, in his view, be a lack of metal detectors or EOD equipment if by reason of a poor appreciation of the threat for whatever reason, certain force measures that might have been taken were not taken.

It does not appear to me that the impasse that had been reached prior to 21 March 1989 in relation to the replacement, either on a national or Force basis, of the lacuna created by the withdrawal of the French Explosive Ordnance Disposal capacity from UNIFIL has a bearing on the deaths of Fintan Heneghan, Mannix Armstrong and Thomas Walsh or requires comment in the context of this review.

6. Summary of Conclusions

As the person appointed by the Minister for Defence to carry out an independent review into the circumstances of the deaths of Corporal Fintan Heneghan, Private Mannix Armstrong and Private Thomas Walsh on 21 March 1989 in the vicinity of the Green Rooms outside Bra'shit in the Southern Lebanon, my conclusions are as follows:

1. Given the recurrence of incidents involving lethal and sophisticated land mines and Improvised Explosive Devices and in particular the sequence of prior events that commenced with the killing of Lt Aongus Murphy on 21 August 1986, there was a deficient assessment of the threat confronting the 64th Infantry Battalion in UNIFIL both from IEDs and landmines placed by the Lebanese Resistance in the Irish Battalion Area of Operations and from the danger of a targeted attack by radical Islamist Armed Elements on the personnel of the Irish Battalion, and a failure to adopt appropriate Force Protection Measures.
2. The detail comprising Corporal Fintan Heneghan, Private Mannix Armstrong and Private Thomas Walsh should not have been sent from Company Headquarters up the track in the vicinity of the Green Rooms where they met their deaths in a land mine explosion without the track being first cleared for IEDs and land mines.
3. The procedures for checking for the presence of Improvised Explosive Devices and land mines on routes that had not been the subject of an "earlybird" recce were insufficiently defined and applied, and the training and acculturation of the soldiers of the 64th Battalion in relation to the threat of IEDs and landmines was deficient.

In relation to other matters that arose in the course of the review, the track on which Cpl Heneghan, Pte Armstrong and Pte Walsh met their deaths had not been placed out of bounds either by the erection of a road sign or otherwise, and did not lie within the Israeli Controlled Area (ICA) of South Lebanon.

In relation to the five specific matters that I was required by the Terms of Reference to enquire into as part of what was a general enquiry into all relevant matters leading to or surrounding the deaths of Cpl Heneghan, Pte Armstrong and Pte Walsh:

- **Whether the Standard Operational Procedures of 64th Infantry Bn were appropriate and adequate to ensure the safety of the members of the unit, given the operational situation in which the Bn was deployed.** No.
- **Whether adequate cognisance was given to the nature of the various operational threats faced by the members of the Unit, with particular reference to the threat to Irish personnel from persons opposed to the presence and activities of the Israeli Defence Forces (the IDF) and the Israeli-backed militia, the De Facto Forces (the DFF) otherwise known as the South Lebanon Army (the SLA).** No. There was a failure to carry out an adequate threat assessment and to adopt appropriate force protection measures arising from that threat assessment.
- **Whether the location where the deaths occurred was “out of bounds” to Irish troops and if not, whether it should have been so placed.** No. The location was not out of bounds. There was no reason to place it out of bounds by reason of its proximity to the Israeli Controlled Area or exposure to the DFF compound at Bra’shit. The route to the Green Rooms should not however have been used until after it had been cleared for IEDs and mines.
- **Whether the device which killed the three soldiers should have or could have been detected before it detonated.** Yes.

- **Whether the persons deployed had adequate training in the circumstances.**

No.

These conclusions fall to be understood in the setting of the multiple and diverse hazards and difficulties facing the officers of the 64th Infantry Battalion and of 'C' Company in particular, the constraints placed on the Irish Battalion by its peacekeeping role, and the advent of changes in the nature of the threat confronting the Irish Contingent in the Lebanon arising from the increased frequency and sophistication in the placement of IEDs and mines by the Lebanese Resistance, and by the increasing radicalisation of the Lebanese Resistance.

APPENDIX 1

Terms of Reference.

Independent Review into matters relevant to the deaths of Cpl Fintan Heneghan, Pte Mannix Armstrong and Pte Thomas Walsh, on 21st Mar 1989, while serving with 'C' Coy, 64th Infantry Battalion, United Nations Interim Force in the Lebanon (UNIFIL)

The review shall encompass both a review of all relevant documents and interviews of such persons as considered appropriate by the appointed person.

Terms of reference:

- **To enquire into all relevant matters leading to or surrounding the deaths of three members of the 64th Infantry Battalion (Bn), on 21st March 1989 near the village of Bra Chit, South Lebanon.**
- **To specifically enquire into the following matters;**
 - **Whether the Standard Operational Procedures of 64th Infantry Bn were appropriate and adequate to ensure the safety of the members of the unit, given the operational situation in which the Bn was deployed.**
 - **Whether adequate cognisance was given to the nature of the various operational threats faced by the members of the unit, with particular reference to the threat to Irish personnel from persons opposed to the presence and activities of the Israeli Defence Forces (the IDF), and the Israeli-backed militia, the De Facto Forces (the DFF), otherwise known as the South Lebanon Army (the SLA).**
 - **Whether the location where the deaths occurred was 'out of bounds' to Irish troops, and if not whether it should have been so placed.**
 - **Whether the device which killed the three soldiers should have or could have been detected before it detonated**
 - **Whether the persons deployed had adequate training in the circumstances.**

The reviewer shall be provided with access to all available documentation relevant to the events or to the service in UNIFIL of the 64th Infantry Battalion and any other documentation requested by the reviewer.

The reviewer shall be provided with the names of all relevant persons, including serving or retired members of the Defence Forces, members of

the families of the deceased, or other persons the reviewer considers appropriate. The reviewer shall endeavour to interview or take statements from all relevant persons.

The Dept of Defence and the Defence Forces shall each appoint a liaison officer to provide the necessary information required in order to conduct the review, and to identify the relevant witnesses. The families will also appoint a contact person for interaction with the reviewer.

The review shall be submitted to the Minister for Defence before the 19th day of August 2011.

APPENDIX 2 WITNESSES

Commandant R J Lane

Lieutenant Col Kieran McDaid (Retired)

Col Harry Johnson (Retired)

Brian Ward

Lt Col William Comber (Retired)

Michael Walker

Col Martin Coughlan (Retired)

Col Jim Mortell

Derek Croghan

Lt Col Ian Hanna

Sgt James O'Neill (Retired)

Brig Gen James Sanderson (Retired)

Lt Col Patrick McMahon (Retired)

Ray McEvoy

Cpl Declan Gaffney

Comdt John Curley (Retired)

Billy Boland

Col Brian Dowling

Noel McBride

Tony Malone

Lt Gen N D Bergin (Retired)

Tony Walsh

Padraig McDonnell

Cpl Finbar (Barry) Campbell

CQM Sgt Jimmy Flanagan

Sgt Gerry McCabe

Michael Geoghegan

Lt Col Michael Murphy

John Coyle

Comdt Larry Devaney

Sgt Seamus Griffin (Retired)

George Shaw

Comdt Ciaran Spollen

Padraic Morgan

Captain Conor Furey (Retired)

Lt Col Jim Burke

ILLUSTRATIONS

No. 1. Section of a map of South Lebanon showing the relevant parts of the Area of Operations of the Irish Battalion. The Security Zone is south of the area edged in black with the Lebanon/Israel border lying further south.

The quadrant on the left is the Area of Operations of “A” Company. To the right of that is the Area of Operations of ‘C’ Company. The Area of Operations of “B” Company lies to the north.

In the east of the ‘C’ Company AO the village of Bra’shit can be seen. The ‘C’ Company headquarters, 6-16, lie to the north of the village of Bra’shit. Post 6-42 which is a platoon headquarters lie to the south of 6-16 and is closer to the village of Bra’shit. To the east of post 6-42 can be seen post 6-9B, sometimes referred to as the “Water Towers”. Post 6-42 and 6-9B are connected by a main supply route and the track to the “Green Rooms” lies off that route.

The compounds are marked by red pyramids. The Bra’shit compound of the De Facto Forces can be seen to the south of Bra’shit.

Haddathah is in the north east of the “A” Company AO. To the south west of Haddathah lies Hill 880, and beyond it the village of At-Tiri.

The headquarters of the Irish Battalion at Tibnin (“Camp Shamrock”) lies to the north of the “A” Company AO.

The Area of Operations of the Nepalese Battalion lay to the east, and that of the Ghanian Battalion to the north of the AO of the Irish Battalion.

No. 2-3 Photographs of an “earlybird” recce conducted during the tour of duty of the 64th Battalion in the possession of Seamus Griffin who served as a sergeant in the 64th Battalion.

The first photograph is taken looking back at the armoured personnel carrier, painted white with the distinctive livery of the United Nations, with four men out in front - two on either side of the road and two out from the road.

The second photograph is taken from the perspective of the APC. Sergeant Griffin is second from the right, turning back to face the APC.

The men are armed but are not carrying mine detectors.

The locale is near post 6-9B known as the “Water Towers”.

The road or track is well used, unlike the track in the vicinity of the Green Rooms where Corporal Heneghan, Private Armstrong and Private Walsh met their deaths on 21 March 1989.

No 4-5. Photographs of the first of the two IEDs found on 31 May 1988 by Comdt Larry Devaney near the “Water Towers”. The rocks by which the device was concealed have been partially removed. It is just possible to make out on the right hand side extending from the shell a thin white wire. This is the command wire. It was connected in parallel to a second device. The devices were designed to be detonated simultaneously by command wire. The shell used is an Israeli shell that did not detonate, for example as a result of the fuse falling off, and was salvaged by the Lebanese resistance and re-directed against the Israeli Defence Forces/De Facto Forces.

No 6 The scene of the explosion in in the area of the Green rooms in which the three men were killed on 21 March 1989. The field in which the truck landed lies to the left of the photograph. In the foreground is part of the crater left by the explosion.

No. 7 The truck after the explosion, its cab completely destroyed.













