

# Appendix 9B. The future of chemical and biological weapon disarmament in Iraq: from UNSCOM to UNMOVIC

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## I. Introduction

After the 1991 Persian Gulf War the United Nations Security Council adopted Resolution 687, which among other things required Iraq unconditionally to destroy and ‘undertake not to use, develop, construct or acquire’ non-conventional weapons or ballistic missiles with a range greater than 150 kilometres.<sup>1</sup> In order to monitor Iraq’s implementation of this obligation the ceasefire resolution created the United Nations Special Commission on Iraq (UNSCOM). It had two basic functions: to inspect and oversee the destruction or elimination of Iraq’s chemical and biological weapon (CBW) and ballistic missile capabilities and its CBW and ballistic missile production and storage facilities; and to monitor Iraq over the longer term to ensure its continued compliance with the obligations of Resolution 687.

In 1999 UNSCOM was disbanded following a period in which Iraq systematically obstructed UNSCOM inspections and exploited the political disagreement among the permanent members of the UN Security Council to its advantage. At the end of 1999 the Security Council adopted Resolution 1284 which replaced UNSCOM with the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC).<sup>2</sup> It is uncertain whether UNMOVIC will be more successful than UNSCOM.

Section II of this appendix analyses the process which led to the creation of UNMOVIC and examines the provisions of Resolution 1284. Section III investigates the reasons for the failure of UNSCOM that may also hamper UNMOVIC. Section IV provides an overview of Iraq’s declarations with respect to its chemical and biological weapons, UNSCOM’s findings and the discrepancies between them. Section V presents the conclusions.

## II. Developments in 1999

Iraq suspended all cooperation with UNSCOM in 1998. Consequently, no inspections were carried out in 1999. The UN Security Council remained deeply divided as regards the future disarmament regime for Iraq and the conditions for lifting the sanc-

<sup>1</sup> UN Security Council Resolution 687, 3 Apr. 1991. The task of inspecting, destroying and removing all of Iraq’s nuclear weapon capabilities was assigned to the International Atomic Energy Agency (IAEA). UNSCOM’s mandate also included the obligation to assist and cooperate with the IAEA in its work in Iraq. The activities of UNSCOM are described in the 1991–99 SIPRI Yearbooks and in SIPRI, ‘Iraq: the UNSCOM experience’, *Fact Sheet*, Oct. 1998, reproduced at URL <<http://www.sipri.se/pubs/Factsheet/unsc.html>>.

<sup>2</sup> UN Security Council Resolution 1284, 17 Dec. 1999.

tions that have been imposed on Iraq.<sup>3</sup> In 1999 the UNSCOM findings were reviewed by independent panels, and the five permanent members of the Security Council began exploring alternatives to UNSCOM in order to break the deadlock on the issue of inspections.

### **The review panels**

On 30 January 1999 the Security Council adopted a Canadian proposal to establish three independent review panels, which were chaired by Security Council President Ambassador Celso Amorim of Brazil. The first panel worked on disarmament and issues related to the future monitoring and verification of Iraqi compliance with the UN resolutions. The second and third panels dealt with humanitarian matters and the return of prisoners of war and Kuwaiti property, respectively.<sup>4</sup>

The disarmament panel was asked to recommend measures to re-establish an effective disarmament and monitoring and verification regime in Iraq. Its report noted that some disarmament issues had not yet been satisfactorily resolved, and proposals were made for integrating the remaining disarmament tasks into a reinforced Ongoing Monitoring and Verification (OMV) system whose mechanisms for disarmament, monitoring and verification could reinforce each other.<sup>5</sup> The report stated that, although these mechanisms 'address different dimensions of the broader problematic', they could be implemented using the same or similar tools, including 'on-site inspections with full access, including no-notice inspections, sample analysis, aerial surveillance, evaluation of documentation, interviews [and] installed monitoring equipment'.<sup>6</sup> Because the relevant Security Council resolutions already permitted the use of such measures there was no need to rewrite the UNSCOM mandate. However, the intensity, frequency, intrusiveness and methods of the preparatory work had to be altered. The report noted that the implementation of the reinforced OMV was dependent on the firm and active support of the Security Council and on Iraqi acceptance of the OMV and cooperation. Iraq was required to provide access to all locations, documents and information and not to interfere with monitoring equipment or to conceal, remove or destroy relevant evidence.<sup>7</sup>

### **The end of UNSCOM**

UNSCOM Executive Chairman Richard Butler stepped down from his post when his contract expired on 30 June. He subsequently expressed his frustration with the

<sup>3</sup> The Security Council imposed economic sanctions prohibiting all exports and imports to and from Iraq following Iraq's invasion of Kuwait in 1990. Resolution 687 continued the sanctions in order to compel Iraq to meet the various ceasefire conditions. The sanctions were not absolute. Iraq was allowed to import certain goods for humanitarian purposes and to export fixed quantities of oil under UN supervision. Iraq viewed the sanctions and the food-for-oil arrangement as an infringement of its national sovereignty.

<sup>4</sup> Note by the President of the Security Council, UN document S/1999/100, 30 Jan. 1999.

<sup>5</sup> Letters dated 27 and 30 March 1999, respectively, from the Chairman of the panels established pursuant to the note by the President of the Security Council of 30 January 1999 (S/1999/100) addressed to the President of the Security Council, UN document S/1999/356, 30 Mar. 1999. The 20-member panel included officials from UNSCOM, the IAEA, the Organisation for the Prohibition of Chemical Weapons (OPCW) and the United Nations.

<sup>6</sup> Letters dated 27 and 30 March 1999 . . . (note 5), p. 15. The original OMV proposal was based on the assumption that all disarmament issues would have been resolved.

<sup>7</sup> Letters dated 27 and 30 March 1999 . . . (note 5).

inability of the Security Council to uphold its own resolutions and questioned its ability 'to function as the guardian of international peace and security.' Butler called Russia Iraq's 'chief advocate' in the Security Council and alleged that Russia had pressured UNSCOM to accept Iraq's claim that it had fully met its disarmament requirements. Butler also harshly criticized UN Secretary-General Kofi Annan for what he regarded as misguided attempts to deal with Iraq through diplomacy.<sup>8</sup>

The expulsion of the UNSCOM inspectors from Iraq in 1998 was a major contributing factor to the US and British air strikes against Iraq in December.<sup>9</sup> The attacks caused deep divisions in the Security Council, and later events, such as the NATO air campaign in Kosovo in the spring of 1999, exacerbated the tensions. Furthermore, press reports in January and March claimed that the US intelligence services had used UNSCOM to spy on Iraq without UNSCOM's knowledge. UNSCOM was susceptible to such accusations because it utilized intelligence, weapon and other types of experts, who had been seconded to UNSCOM by UN member states, in order to obtain information which Iraq was attempting to conceal. Although Butler insisted that UNSCOM had not accepted or used such assistance from UN member states except for the purpose of disarming Iraq, UNSCOM's credibility with some Security Council members was severely damaged.<sup>10</sup> The claims reinforced Russia's view that UNSCOM was a US tool and Russia's UN Ambassador Sergey Lavrov even refused to attend a Security Council briefing by Butler in April.<sup>11</sup>

When UNSCOM withdrew from Baghdad in December 1998 some reference standards of chemical warfare agents (i.e., small amounts of chemicals used to calibrate equipment) and samples of mustard gas were left behind. When this became public in June 1999 Russia misrepresented the implications of the action and called for an emergency session of the Security Council. The amounts were too small to pose any danger, but Butler recommended that an expert team be dispatched to Baghdad to dispose of the chemicals.<sup>12</sup> Because Iraq refused to allow UNSCOM personnel to enter the country, four experts from the Organisation for the Prohibition of Chemical Weapons (OPCW), who did not have any previous connection to UNSCOM, were sent to Iraq. They destroyed the chemicals and closed the UNSCOM laboratory in the Baghdad Monitoring and Verification Centre in July.<sup>13</sup>

<sup>8</sup> Butler, R., *Talk*, Sep. 1999, URL <<http://www.talkmagazine.com>>; and Butler, R., 'Bewitched, bothered, and bewildered: repairing the Security Council', *Foreign Affairs*, vol. 78, no. 5 (Sep./Oct. 1999), pp. 9–12. Butler also reiterated claims based on intelligence reports that a senior Russian official had received personal payments from Iraq.

<sup>9</sup> Zanders, J. P., French, E. M. and Pauwels, N., 'Chemical and biological weapon developments and arms control', *SIPRI Yearbook 1999: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 1999), pp. 586–92.

<sup>10</sup> Gellman, B., 'Annan suspicious of UNSCOM role', *Washington Post*, 6 Jan. 1999, pp. A1, A22; Weiner, T., 'US admits spies worked as inspectors of Iraqi arms', *International Herald Tribune*, 8 Jan. 1999, pp. 1, 10; Weiner, T., 'US explains how spy put eavesdropping device in Iraq', *International Herald Tribune*, 9–10 Jan. 1999, pp. 1, 5; United States Information Service, 'UNSCOM's Butler says inspectors were not used for spying (UN Security Council will soon decide UNSCOM's future role)', *Washington File*, 11 Jan. 1999, URL <[http://pdqtest1.env?CQ\\_SESSION\\_KEY=AFTCNVBJRHBM&CQ\\_QUERY\\_HANDLE=124008&CQ\\_CUR\\_DOCUMENT=3&](http://pdqtest1.env?CQ_SESSION_KEY=AFTCNVBJRHBM&CQ_QUERY_HANDLE=124008&CQ_CUR_DOCUMENT=3&)>; and Gellman, B., 'US spied on Iraqi military via UN', *Washington Post*, 2 Mar. 1999, p. A1.

<sup>11</sup> Xinhua News Agency via CNN Custom News, 'Security Council meets on Iraq', 15 Apr. 1999, URL <<http://www.cnn.com>>.

<sup>12</sup> 'UN tentatively considers Iraq policy options amidst new UNSCOM controversy, from UNSCOM to UNCIM?', *Disarmament Diplomacy*, no. 38 (June 1999), p. 55.

<sup>13</sup> United Nations, 'Agreement reached between UN and Government of Iraq on composition of technical mission to inspect and clean up UNSCOM's Baghdad Laboratories', Press Release, no. SG/SM/7044 IK/277, 24 June 1999; OPCW, 'Statement by the Director-General, OPCW experts mission to Iraq: an update', Press Release, no. 017/99, 20 July 1999; United States Information Service, 'Security

The reference standards for the nerve agent VX were at the centre of the controversy. While Iraq had admitted that it had produced VX, it had always denied that it had weaponized VX (i.e., prepared the agent to be delivered as a weapon). However, in 1998 UNSCOM announced that it had found the degradation products of VX on some remnants of missile warheads. Russia demanded additional analysis of the VX reference standards, implying that the UNSCOM inspectors had deliberately contaminated the warheads. As part of the agreement in the Security Council to destroy the VX standards, UNSCOM had to answer questions from China and France about the VX standards and provide sensitive information about its laboratory methods. The Security Council finally agreed to drop the issue in early September.<sup>14</sup>

At the same time US resolve about the disarmament of Iraq seemed to be waning.<sup>15</sup> The Clinton Administration appeared rather to pursue a policy of containment and a strong commitment to sanctions. This contributed to the almost continuous US bombing of military targets in northern and southern Iraq where Coalition aircraft enforced no-fly zones for Iraqi aircraft in order to protect the Kurdish and Shi'ite population. The USA shifted its focus to the removal of President Saddam Hussein from power and supported Iraqi opposition groups in exile. Under the 1998 Iraq Liberation Act President Bill Clinton was authorized to spend up to \$97 million in support of Iraqi opposition groups.<sup>16</sup> Iraq remained focused on denying UNSCOM inspectors access to its territory and on the abolition of the sanctions against it.

### The search for a new verification regime

Despite deep divisions between the five permanent members of the Security Council, diplomatic efforts to return inspectors to Iraq continued. By early 1999 it was clear that UNSCOM would have to be replaced by a new body. Although the Security Council members accepted the conclusion of the disarmament panel that unresolved disarmament issues should be addressed by a reinforced OMV system, disagreement on the future of the sanctions complicated the discussions. China, France and Russia held the view that concessions on the sanctions would induce Iraq to comply with its disarmament obligations. The United Kingdom and the United States, in contrast, maintained that Iraq must demonstrate full cooperation and compliance with the existing Security Council resolutions before the sanctions could be lifted. Several proposals for a new disarmament arrangement were circulated in the Security Council, including two draft resolutions, one by Russia and one by the UK and the Netherlands.<sup>17</sup>

Council allows destruction of VX samples in Iraq', *Washington File*, 27 July 1999, URL <<http://www.usia.gov/cgi-bin/washfile/display.pl?p=/products/washfile/latest&f=99072701.nlt&t=/products/washfile/newsitem.shtml>>; and OPCW, 'OPCW mission in Baghdad successfully completed', Press Release, no. 018/99, 29 July 1999.

<sup>14</sup> 'UN Council gets secret data on chemical weapons', Reuters via CNN News, 25 Aug. 1999, URL <<http://www.cnn.com>>; and 'Security Council drops Iraq laboratory controversy', Reuters via CNN News, 3 Sep. 1999, URL <<http://www.cnn.com>>.

<sup>15</sup> Hoagland, J., 'The Iraq mess', *Washington Post*, 6 Aug. 1999, p. A21; Crossette, B., 'America moves apart from the UN on Iraq', *New York Times* (Internet edn), 26 Dec. 1999, URL <<http://www.nytimes.com/library/.review/122699us-un-iraq-reviewhtml>>; and Byman, D., 'All talk, no action may be best with Iraq', *Washington Post*, 2 Jan. 2000, p. B04.

<sup>16</sup> Written Statement of Martin S. Indyk, Assistant Secretary for Near Eastern Affairs, Department of State, House International Relations Committee, 8 June 1999, reproduced at URL <<http://www.erols.com>>.

<sup>17</sup> Russian Federation, Draft Resolution on Iraq, 15 Apr. 1999, photocopied; and Britain and the Netherlands, Draft Resolution, 15 Apr. 1999, photocopied.

According to the Russian draft, the Security Council would approve a plan for the reinforcement of the OMV system to be submitted to the UN Secretary-General. Once the new OMV system had become fully operational, the UN sanctions would be lifted. In contrast, the British–Netherlands draft did not set any new conditions for the end of the sanctions but instead reaffirmed the provisions of Resolution 687. However, it proposed to replace UNSCOM with a Commission on Investigation, Inspection and Monitoring (UNCIIM), which would take over all assets, liabilities, staff and archives from UNSCOM and implement a reinforced OMV system based on the report of the disarmament panel.

Negotiations in the Security Council gradually brought the positions closer. A second draft resolution, submitted by Russia together with China and France, contained stricter disarmament requirements for Iraq. The sanctions would be suspended for a renewable period of 100 days rather than being lifted.<sup>18</sup> A 9 September draft resolution by China and Russia proposed replacing UNSCOM with a UN Monitoring and Inspection Commission (UNMIC). The sanctions would be suspended only after the new OMV system had been effectively and efficiently operational, with cooperation from the Government of Iraq, for 60 days.<sup>19</sup>

Meanwhile, the British–Netherlands draft was further refined and presented to the Security Council in June, this time co-sponsored by Argentina and Slovenia and supported by the USA. The draft resolution suggested replacing UNSCOM with a Special Commission on Inspection and Monitoring (UNCIM). The draft proposed to suspend the sanctions after Iraq had demonstrated full cooperation with UNCIM and the International Atomic Energy Agency (IAEA) for two consecutive periods of 120 days each and had completed the remaining disarmament tasks in accordance with a list prepared by UNCIM.<sup>20</sup>

Iraq continued to insist that it had already fully complied with its disarmament obligations and maintained that the inspectors could not return as long as sanctions remained in place. It rejected the proposals put forward by the disarmament panel, stating that it had not participated in the panel and that it would not comply unless its opinion was taken into account.<sup>21</sup> Iraq also declared that the efforts in the Security Council to devise a new disarmament regime were tactics to further delay lifting of the sanctions and vowed not to accept any resolution that only provided for a time-limited suspension of the sanctions.<sup>22</sup>

## Security Council Resolution 1284

At the end of 1999 pressure to reach consensus on a resolution for a new Iraqi disarmament and inspection system increased in the Security Council. The negotiations

<sup>18</sup> Center for Nonproliferation Studies, Monterey Institute of International Studies, Iraq Special Collection, 'Draft proposals for new UN Iraq monitoring body: China/France/Russia proposal', URL <<http://cns.miis.edu/research/iraq/uncim/draft1.htm>>.

<sup>19</sup> Working Paper by China and Russia, 9 Sep. 1999, photocopied.

<sup>20</sup> Center for Nonproliferation Studies, Monterey Institute of International Studies, Iraq Special Collection, 'Draft proposals for new UN Iraq monitoring body: UK/Netherlands/Argentina/Slovenia proposal', URL <<http://cns.miis.edu/research/iraq/uncim/draft2.htm>>.

<sup>21</sup> 'Iraq rejects UN inquiries on weapons, sanctions', Reuters via CNN Custom News, 9 Apr. 1999, URL <<http://www.cnn.com>>; and 'Ramadan rejects UNSC proposals', Baghdad Republic of Iraq Network in Arabic, Foreign Broadcast Information Service (FBIS) translated text, 1600 GMT 14 Apr. 1999, reproduced at URL <<http://www.erols.com>>.

<sup>22</sup> Olson, E., 'Iraqi bars compromise on lifting of UN sanctions', *International Herald Tribune*, 5 Nov. 1999, p. 5.

concentrated more and more on further development of the British–Netherlands draft resolution, which had the support of 11 of the 15 Security Council members: the UK, the USA and 9 non-permanent members. In November it also became clear that China, France and Russia would not veto the resolution. Resolution 1284 was adopted on 17 December by 11 votes and 4 abstentions. China, France and Russia as well as Malaysia criticized the resolution as too strict and ambiguous as regards the criteria for suspending the sanctions.<sup>23</sup>

Resolution 1284 created the United Nations Monitoring, Verification and Inspection Commission, which replaces UNSCOM and assumes the responsibilities previously mandated to it. Like UNSCOM, UNMOVIC is a subsidiary body of the Security Council; unlike UNSCOM, the Executive Chairman will not report directly to the Security Council, but via the UN Secretary-General. The role of the IAEA is reaffirmed in the resolution: it will continue its work with the cooperation and assistance of UNMOVIC. The resolution requested the Secretary-General to appoint an Executive Chairman of UNMOVIC who is to submit to the Security Council for its approval an organizational plan for UNMOVIC within 45 days of his appointment. Iraq is required to cooperate with UNMOVIC by giving it ‘immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transport which they wish to inspect in accordance with the mandate of UNMOVIC, as well as to all officials and other persons under the authority of the Iraqi Government whom UNMOVIC wishes to interview’.<sup>24</sup> Within 60 days after starting work in Iraq, UNMOVIC and the IAEA are each to draw up a work programme for approval by the Security Council. These work programmes should include the implementation of a reinforced OMV based on the recommendations of the disarmament panel and identify the key remaining disarmament tasks to be completed by Iraq. The resolution states that ‘what is required of Iraq for the implementation of each task shall be clearly defined and precise’.<sup>25</sup>

Resolution 1284 also addresses the sanctions against Iraq. The Security Council expressed its intention to suspend the sanctions for a period of 120 days upon receipt of reports from the Executive Chairman of UNMOVIC and from the Director General of the IAEA that Iraq has cooperated in all respects in fulfilling the work programmes and that the reinforced system of ongoing monitoring and verification is fully operational. The suspension is also subject ‘to the elaboration of effective financial and other operational measures to ensure that Iraq does not acquire prohibited items’ and other import and export restrictions elaborated in earlier Security Council resolutions. The sanctions will be automatically reimposed five days after UNMOVIC or the IAEA reports to the Security Council that Iraq is not in full cooperation or is in violation of any of the other conditions for suspension of the sanctions, unless the Security Council decides otherwise.<sup>26</sup> The 120-day suspension period is renewable if Iraq continues to cooperate. There will no longer be a limit on the amount of oil that Iraq can export. The revenues from oil exports will, in accordance with the food-for-oil programme, be put in an escrow account and used to purchase food and medicine.

The resolution is unclear about whether the sanctions can be suspended following completion of the key remaining disarmament tasks or whether progress in achieving

<sup>23</sup> Press release: Security Council establishes new monitoring commission for Iraq adopting resolution 1284 (1999) by vote of 11-0-4, UN document SC/6775, 17 Dec. 1999.

<sup>24</sup> UN Security Council Resolution 1284 (note 2), para. 4.

<sup>25</sup> UN Security Council Resolution 1284 (note 2), para. 7.

<sup>26</sup> UN Security Council Resolution 1284 (note 2), paras 33, 35.

these goals suffices. Paragraph 34 of the resolution states that, in reporting to the Security Council, the Executive Chairman of UNMOVIC should take into account the progress made in completing the key remaining disarmament tasks as the basis for his assessment.<sup>27</sup> The UK and the USA stressed that the suspension of the sanctions depended on Iraqi cooperation and compliance with its disarmament obligations.<sup>28</sup>

Earlier drafts of the British–Netherlands proposal included a passage stating that the new inspection organization was to take over all of UNSCOM’s assets, liabilities, staff and archives. Resolution 1284 omits the word ‘staff’ and instead specifies that UNMOVIC staff should be drawn from the broadest possible geographical base.

A short time after Resolution 1284 was adopted it was rejected by Iraq. Iraqi Deputy Prime Minister Tariq Aziz reiterated the long-standing Iraqi position that Iraq has fulfilled its disarmament requirements in accordance with previous Security Council resolutions and that therefore the sanctions should be lifted unconditionally.<sup>29</sup> At the time of writing, the Security Council had reached consensus on the nomination of Hans Blix of Sweden, former Director General of the IAEA, as Executive Chairman of UNMOVIC after rejecting the nomination by Kofi Annan of UNSCOM’s first Executive Chairman Rolf Ekéus.<sup>30</sup> It remained unclear whether Iraq would allow the new inspections.<sup>31</sup> Earlier, the Russian representative to the Security Council, Sergey Lavrov, had pointed out that Iraq’s acceptance of renewed inspections depended not only on the choice of Executive Chairman, ‘but also [on] the composition of the inspection and monitoring staff and the list of issues that President Saddam Hussein’s government would have to address’.<sup>32</sup> It remains to be seen whether Iraq will be able to exercise a de facto veto in the Security Council through one of the permanent members that abstained from the vote on Resolution 1284.

### III. The legacy of UNSCOM

Although UNMOVIC represents a new beginning, its potential effectiveness may be hampered by the legacy of UNSCOM. Some of the practices that emerged during the stand-offs between Iraq and the UN Security Council, such as the intervention of the UN Secretary-General, have been formalized in Resolution 1284. In addition, UNMOVIC will start out with mostly new, and thus inexperienced, personnel, giving

<sup>27</sup> UN Security Council Resolution 1284 (note 2), para. 34.

<sup>28</sup> Foreign and Commonwealth Office, ‘Edited transcript of interview given by the Foreign Secretary, Robin Cook, for BBC Radio 4, London’, 18 Dec. 1999, URL <<http://www.fco.gov.uk/news/newstext.asp?3138>>; and Department of State, ‘Ambassador A. Peter Burleigh, US Deputy Permanent Representative to the United Nations, Statement on Iraq, UN Security Council’, 17 Dec. 1999, URL <<http://www.usia.gov/topical/pol/usandun/bur11217.htm>>.

<sup>29</sup> Permanent Mission of Iraq to the United Nations, ‘Commenting on the resolution which the Security Council adopted yesterday, Mr Tariq Aziz, the Deputy Prime Minister said’, Press Release, 18 Dec. 1999, URL <<http://www.Iraqi-Mission.org/pr121899.htm>>.

<sup>30</sup> Crossette, B., ‘UN straining to appoint top inspector of Iraqi arms’, *New York Times* (Internet edn), 17 Jan. 2000, URL <<http://www.nytimes.com>>; ‘Russia nixes UN chief’s choice of Ekéus for Iraq’, Reuters via Fox News, 17 Jan. 2000, URL <[http://www.foxnews.com/world/0117/i\\_rt\\_0117\\_60.sml](http://www.foxnews.com/world/0117/i_rt_0117_60.sml)>; ‘Iraq nomination hits trouble’, BBC News, 18 Jan. 2000, URL <[http://news.bbc.co.uk/hi/english/world/middle\\_east/newsid\\_607000/607502.stm](http://news.bbc.co.uk/hi/english/world/middle_east/newsid_607000/607502.stm)>; and Press release: Secretary-General appoints Hans Blix of Sweden Executive Chairman of UN Monitoring, Verification and Inspection Commission, UN document SG/A/721, 27 Jan. 2000.

<sup>31</sup> Crossette, B., ‘Iraqis seem less hostile to new weapons inspector’, *New York Times* (Internet edn), 28 Jan. 2000, URL <<http://www.nytimes.com>>.

<sup>32</sup> Crossette, B., ‘Annan faces growing split over arms inspector for Iraq’, *New York Times* (Internet edn), 19 Jan. 2000, <<http://www.nytimes.com>>.

Iraq a significant edge if it attempts to conceal CBW operations during the first phases of UNMOVIC's operations. Consequently, if UNMOVIC were to report early this would meet with suspicion from some Security Council members. If it were to report late other Security Council members might accuse it of wilful procrastination in order to hamper lifting of the sanctions. The following discussion describes the confrontations between Iraq and UNSCOM, which, if repeated, may result in renewed paralysis of the inspection and monitoring activities.

The disarmament regime defined in UN Security Council resolutions 687, 707 and 715 required Iraq to declare all of its chemical and biological weapons, and UNSCOM inspectors were given access unprecedented in the history of arms control to all suspected Iraqi CBW sites.<sup>33</sup> Nevertheless, it soon became clear that Iraq was systematically concealing as much as possible of its prohibited weapon programmes. The Security Council repeatedly determined that Iraq was in 'material breach' of its obligations under Resolution 687 after Ekéus had presented evidence to that effect. As early as February 1992 Iraq began to argue that it had fully disclosed its weapon programmes and that the sanctions should be lifted.<sup>34</sup> It consistently maintained this position for the next seven years irrespective of unequivocal evidence demonstrating the falsehood of the claim. The defection of Lieutenant General Hussein Kamal in August 1995 forced the Iraqi Government to admit that 'it had been engaged in a dedicated concealment effort to hide proscribed items and documents from the Commission' and that 'its full, final and complete disclosures over a number of years have been deliberately misleading'.<sup>35</sup>

However, support for UNSCOM in the Security Council was on the decline in the mid-1990s. As the consequence of the lack of consensus in the Security Council, Ekéus could no longer obtain a determination by the Security Council that Iraq was in material breach of Security Council resolutions in response to specific Iraqi violations. In June 1996, in order to be able to continue UNSCOM's work in the face of Security Council inaction, Ekéus compromised for the first time on the authority of UNSCOM as established by Security Council resolutions when he agreed on the 'modalities' of visits to sites to be inspected. The compromises were minor, but Iraq used them as a precedent to appeal for special conditions and to negotiate. The unwillingness of the Security Council to make an issue of each Iraqi obstruction hardened Iraq's resolve. On 23 October 1997 China, France and Russia abstained rather than supported UNSCOM's determination that Iraq had not fulfilled the terms of UN Security Council Resolution 1115.<sup>36</sup> Iraq immediately exploited this support from three of the five permanent members of the Security Council. Within days it demanded that all US personnel be withdrawn from UNSCOM, which precipitated another crisis.

<sup>33</sup> Resolution 687 (note 1); UN Security Council Resolution 707, 15 Aug. 1991; and UN Security Council Resolution 715, 11 Oct. 1991.

<sup>34</sup> Trevan, T., *Saddam's Secrets: The Hunt for Iraq's Hidden Weapons* (Harper Collins: London, 1999), pp. 158–59.

<sup>35</sup> Report of the Secretary-General on the Activities of the Special Commission Established by the Secretary-General Pursuant to paragraph 9(b)(1) of Resolution 687 (1991), UN document S/1996/258, 11 Apr. 1996.

<sup>36</sup> UN Security Council Resolution 1115, 21 June 1997, demanded that Iraq give UNSCOM inspectors immediate, unconditional and unrestricted access to all sites and records which UNSCOM wished to inspect.

The interventions by Kofi Annan following the departure of Ekéus as Executive Chairman were far more significant.<sup>37</sup> This development offered an opportunity for Iraq to undercut UNSCOM and the role of new Executive Chairman Butler. Iraq had succeeded in bypassing UNSCOM. Annan and his senior envoys in effect became interlocutors for Iraqi claims that the Security Council resolutions placed an unfair burden on Iraq. The fact that Iraq remained in non-compliance with Security Council Resolution 687 became irrelevant. The Memorandum of Understanding (MOU) which was negotiated and signed by Annan with Iraq on 23 February 1998 compromised UNSCOM's basic authority and the Security Council resolutions.<sup>38</sup> It was only a matter of months before Iraq violated the MOU, and by the end of 1998 Annan was reluctantly forced to admit that this had happened. In short order, Iraq expelled UNSCOM entirely from the country. With crucial assistance from members of the Security Council Iraq had successfully faced down the United Nations.

These developments could not have occurred without the split in the Security Council. Although all of the relevant Security Council resolutions were mandated under Chapter VII of the UN Charter, recourse to the use of force depended always and almost entirely on the willingness of the UK and the USA to conduct military activities. Even in those instances when China, France and Russia voted to condemn Iraq's non-compliance, they did not support the use of force. As long as Iraq perceived that it had support for its non-compliance in the Security Council, it had no reason to comply. Iraq's central administration was clearly able to withstand the sanctions. It had also evaded the sanctions for a number of years and exported oil products by land and sea routes.<sup>39</sup> Nonetheless, Iraq had forfeited six or seven years of oil export earnings, commonly estimated at \$100 billion,<sup>40</sup> as the trade-off for its decision not to comply with Security Council resolutions. The disaffection in 1997 and 1998 of US allies in the Persian Gulf and the support for Iraq in the Security Council caused US political decision makers to become increasingly reluctant to bear the cost and face the criticism of upholding the disarmament regime that the Security Council resolutions had imposed on Iraq.

China, France and Russia were no longer primarily concerned with the elimination and the future acquisition of non-conventional weapons by Iraq, which undermined the integrity of the Security Council and its resolutions. In the case of the chemical reference samples Russia established a context in which evidence provided by UNSCOM was questioned and rejected. There are numerous references to the economic motives of China, France and Russia.<sup>41</sup> France and Russia have sought the repayment by Iraq of outstanding debts from the 1980s, and companies in all three

<sup>37</sup> Zanders, French and Pauwels (note 9), pp. 586–92; and SIPRI, 'Iraq: the UNSCOM experience' (note 1).

<sup>38</sup> Memorandum of Understanding between the United Nations and the Republic of Iraq, 23 Feb. 1998, URL <<http://www.un.org/NewLinks/uniraq.htm>>. According to the MOU, UNSCOM inspectors were to have immediate, unconditional and unrestricted access in conformity with UN resolutions. UNSCOM pledged to respect the legitimate concerns of Iraq relating to national security, sovereignty and dignity. At the presidential sites the inspectors were to be accompanied by diplomats 'friendly' to Iraq and experts who would ensure that Iraq's national sovereignty and dignity were respected. The MOU is discussed in Zanders, French and Pauwels (note 9), p. 587.

<sup>39</sup> US Department of State, 'Palaces and oil smuggling', *Saddam Hussein's Iraq*, 13 Sep. 1999, URL <<http://usinfo.state.gov/regional/nea/iraq/iraq99.htm>>.

<sup>40</sup> Oxford Institute for Energy Studies (OIES), Rosser, K., 'Suspending sanctions on Iraq: make haste, slowly', *OIES Monthly Comment*, Nov. 1999, URL <<http://associnst.ox.ac.uk/energy/>>.

<sup>41</sup> Black, I., 'The impasse of Iraq', *The Guardian*, 1 July 1999, p. 7; Whitney, C. R., 'France heads for UN clash over US-led Iraq bombing', *International Herald Tribune*, 20 Aug. 1999, p. 5; and Crossette, B., 'Oppose arms monitors, Baghdad warns Paris', *International Herald Tribune*, 6 Dec. 1999, p. 1.

countries have already made new contractual relationships pending the termination of sanctions. It is likely, however, that political and economic considerations have played an equally important role. Changes in Russian domestic politics since 1994 have led to a sharp deterioration in US–Russian international political collaboration, and a similar development has taken place in US–Chinese relations. In addition, both China and Russia have opposed Security Council operations carried out under the provisions of Chapter VII of the UN Charter. Finally, it seems to have become more important for China, France and Russia to oppose international policies driven by US political objectives than to act on the basis of the substantive issues involved. In addition, irritation developed in the UN bureaucracy regarding UNSCOM's privileges and power.

#### IV. Summary of the UNSCOM findings

On 25 January 1999 the Security Council received two comprehensive and detailed UNSCOM reports.<sup>42</sup> The first dealt with Iraq's declarations regarding missiles and CBW and presented UNSCOM's assessment of the declarations. The second report was on the current situation as regards monitoring and verification.

Iraq's uncooperative behaviour and refusal to comply with its disarmament obligations is a recurrent theme in the first report, which also contains an annexe on Iraq's actions to obstruct the disarmament process. UNSCOM deemed all eight 'full, final and complete' disclosure statements submitted by Iraq (as well as eight additional drafts) to be inaccurate and incomplete. Various special expert commissions, which were set up in response to the demands of Iraq, France and Russia, assessed UNSCOM's findings; all of them concluded that UNSCOM's assessments were correct. The Chinese and Russian experts who served with UNSCOM agreed that Iraq had not fully disclosed its CBW programmes or turned over all of the relevant materials related to those programmes. However, these analyses did not affect the positions taken by the governments of China, France and Russia.

Tables 9B.1 and 9B.2 present an overview of Iraq's CBW declarations and UNSCOM's findings and estimates of weaponry and equipment that are still unaccounted for based on UNSCOM's January 1999 report. By the end of 1999 the accounting of Iraq's BW-related activities was still incomplete. Many questions also remain with respect to Iraq's chemical weapon programme.

#### V. Conclusions

It is highly uncertain whether UNMOVIC will be able to complete UNSCOM's tasks. The three permanent members of the Security Council that criticized UNSCOM most—China, France and Russia—abstained in the vote on Resolution 1284 establishing the new body, and it is unclear whether they will refrain from interfering in its work. Russia, for instance, blocked the appointment of one nominee for the position of Executive Chairman on grounds that the person was unacceptable to Iraq. Iraq has so far rejected UNMOVIC and it remains to be seen whether the Security Council

<sup>42</sup> Both reports are contained in Letter dated 27 January 1999 from the Permanent Representatives of the Netherlands and Slovenia to the United Nations addressed to the President of the Security Council, UN document S/1999/94, 29 Jan. 1999.

Table 9B.1. Chemical weapons in Iraq, as of January 1999

Iraqi declarations		UNSCOM findings						
A. Type of weapon or equipment	B. Holdings as of Jan. 1991	C. Amount destroyed in 1991 Persian Gulf War	D. Unilateral destruction	E. Amount of C accounted for	F. Amount of D accounted for	G. Destruction under UNSCOM supervision	H. Other	I. Discrepancy
Special munitions <sup>a</sup>	127 94 <sup>b</sup>	41 998	29 662	± 34 000	13 660	40 048	16 263	± 23 970
<i>Bulk CW agent (tonnes)</i>								
Mustard	295.0	..	..	..	..	295.0	..	..
Tabun	76.0	..	..	..	..	76.0	..	..
Sarin and its mixtures	40.0	..	..	..	..	40.0	..	..
VX	1.5	..	1.5	..	–	..	..	1.5
Total	412.5	..	1.5	..	–	411.0	..	1.5
CW precursor chemicals (tonnes)	3915 (5 650) <sup>c</sup>	823	242	823	153 <sup>c</sup>	2 610 <sup>c</sup>	200 + 40 <sup>c</sup>	129 – 40 <sup>c</sup> (1 864 – 40 <sup>c</sup> )
CW production equipment	553	152	..	75	..	405 <sup>c</sup>	– <sup>c</sup>	73 <sup>c</sup>

<sup>a</sup> Includes aerial bombs, artillery shells, rockets and missile warheads for both chemical and biological warfare agents.

<sup>b</sup> Including 28 615 munitions filled with chemical or biological warfare agents.

<sup>c</sup> The UNSCOM report states '16 263 munitions were not destroyed, but nevertheless accounted for by UNSCOM. These include 15 616 munitions which were converted by Iraq for conventional weapons purposes in 1993–94. These also include 438 filled munitions destroyed to Iraq, during a fire accident.' A further 2 munitions were removed for analysis outside Iraq. The report gives no explanation for the remaining 207 munitions. However, it adds that the 'numerical discrepancy of several hundred munitions in the overall accounting can be attributed to minor clerical counting of large piles of weapons'. Letter dated 27 January 1999 from the Permanent Representatives of the Netherlands and Slovenia to the United States addressed to the President of the Security Council, UN document S/1999/94, 29 Jan. 1999, appendix 2, 'Status of the verification of Iraq's weapons programme', para. 10 (a) and table 1, col. 3, rows 5, 12.









members will act in unison if and when Iraq refuses to cooperate with UNMOVIC or to allow inspectors inside the country or otherwise constrains their activities.

Resolution 1284 contains ambiguities as a consequence of the need to secure as broad a consensus as possible. It makes the UN Secretary-General a gatekeeper between the Executive Chairman of UNMOVIC and the Security Council. The diplomatic compromises between Iraq and UNSCOM that were worked out by Kofi Annan signalled that the basic provisions of Resolution 687 were negotiable and emboldened the Iraqi leadership in its policies of resistance and concealment. Iraq took advantage of the internal divisions in the Security Council when it violated the agreed compromises and ultimately expelled the UNSCOM inspectors. Iraq will now be able to lodge its complaints with the Secretary-General over the head of the Executive Chairman of UNMOVIC. As demonstrated by the 1998 MOU regarding the presidential sites, the interposition of the Secretary-General between the Security Council and the Executive Chairman opens the door for diplomatic compromises on Iraq's basic obligations under international law.

No inspections or monitoring have been conducted in Iraq since December 1998. UNMOVIC will have to redo the work done by UNSCOM—including the highly confrontational no-notice inspections of sensitive sites—because Iraq has moved relevant materials, equipment and files. In contrast to 1991, Iraq has since perfected its concealment operations while UNMOVIC will have to start out with inexperienced personnel.

Between 1991 and 1999 the Security Council, succumbing to the short-term interests of some members, was unable to deal with Iraq's blatant and determined violation of its rules and of the generally accepted norms against the acquisition, possession or use of chemical, biological or nuclear weapons. For major disarmament treaties, such as the 1993 Chemical Weapons Convention or the 1972 Biological and Toxin Weapons Convention, the Security Council is the ultimate arbiter in the case of material breaches. The UNSCOM experience raises serious doubts about the ability or willingness of the Security Council to uphold fundamental norms in the name of the international community when confronted by a determined and persistent violator. Few cases will be as clear-cut as that of Iraq.

