

## From UNSCOM to UNMOVIC: The United Nations and Iraq

Patricia LEWIS

*When you go after honey with a balloon, the great thing is not to let the bees know you are coming.*

*Winnie the Pooh, A.A. Milne*

*There is a simple reason why UNSCOM was a success. The success was due to the quality of the people and to the political element. So that is how it worked: the combination of high-quality practice methods, high technology, wonderful personnel and science. What in the end created problems was not the professional quality of UNSCOM but problems on the political side. That is the single, dominant and only reason it failed.*

Ambassador Rolf Ekeus, *Arms Control Today*, March 2000

UNSCOM, the United Nations Special Commission set up in 1991 to verify the destruction of weapons of mass destruction (WMD) in Iraq, was never intended to continue for as long as it did. Following the end of the Gulf War, most states and analysts believed — naively perhaps — that following Iraqi declarations and some minor cat and mouse play, the work would be all but over within one to two years. In the end UNSCOM collapsed in 1998 having learned most, but not all, of what there was to know about Iraq's nuclear, chemical and biological weapons and medium-range missile programmes. Despite gaps in the UNSCOM knowledge, particularly on biological weapons and aspects of the missile programme, much of the information had been pieced together. Although Iraq still maintained the capability to re-establish its WMD development programme, the material and technologies required had been destroyed and were, to a large extent, still being denied by supplier states.

Therefore, in technical terms UNSCOM was successful. However the price paid for that success was high and it was paid by ordinary Iraqi men, women and children. Because Iraq still had not fully complied with Security Council resolution 687 (1991), economic sanctions were still being imposed on Iraq even after UNSCOM collapsed. Since the implementation of the Oil for Food Programme, the blame for starving children and lack of medical supplies ought to have fallen more squarely at the Iraqi Government's door. Instead, the blame increasingly fell on UNSCOM and those states supporting the sanctions and UNSCOM. It is true to say that few people could have envisaged the sanctions being applied for so long — that was never the intention of the drafters of resolution 687.

The political effect of continuing sanctions was to split the permanent five members of the Security Council. Once split over the most effective way forward and over self-interest (trade),

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Dr Patricia Lewis is Director of UNIDIR.

reconciliation proved impossible. The timing of the split more or less coincided with allegations of how UNSCOM was used by the United States to carry out activities not connected with UNSCOM's mandate — spying for the United States. It was also alleged that UNSCOM's Chairman was aware of these activities — an allegation that was denied and never verified.

UNSCOM carried out what was to be its last set of inspections in Iraq between 8 and 15 December 1998. There were many impediments to the inspections and UNSCOM inspectors left Iraq on 16 December. That same day, following the report of UNSCOM's Chairman, Richard Butler, to the Security Council outlining continuing Iraqi non-compliance, the United States and the United Kingdom began bombing Iraq in Operation Desert Fox.

Following Desert Fox, Iraq refused to co-operate at even the most basic level with UNSCOM and no inspections of Iraqi facilities have taken place since the end of 1998. This has left the United Nations with two very real problems: first, how to make sure that Iraq cannot once again develop WMD, and second, how to re-establish the authority of the Security Council over this issue, particularly since its statement in 1992 that proliferation was a threat to international peace and security.

### *Amorin Panel and Report*

*If the string breaks, try another piece of string.*

*Winnie the Pooh, A.A. Milne*

When it became clear that Iraq was no longer going to allow UNSCOM inspections and the erosion of confidence in UNSCOM was not reversed, the United Nations established a panel headed by Ambassador Amorin of Brazil to report on disarmament and current and future ongoing monitoring and verification (OMV) issues and also to deal with humanitarian issues, prisoners of war and Kuwaiti property. Experts on this panel formed a wide range of political and technical representation (including UNSCOM and IAEA experts) and they met in February and March 1999.

The Amorin Panel reported on 30 March 1999 to the Security Council. Annex 1 dealt with disarmament and current and future OMV issues. The OMV Panel identified priority issues still to be resolved, such as the missing remnants of fifty conventional warheads for missiles, missing missile propellants, seven indigenously produced missiles and parts of missiles (nozzle assemblies and combustion chambers), the 550 mustard gas shells declared lost, 500 R-400 bombs, information on VX production, its weaponization and chemical weapon production equipment, and major gaps in knowledge and understanding of the whole biological weapons programme.

The Amorin Panel pursued the 'integrated approach' and proposed a 'reinforced OMV system' (following Security Council resolution 715, October 1991 that first agreed to this approach) to 'certify that present activities are in accordance with Security Council resolutions' and 'also to address unresolved issues' and, importantly, to re-establish baselines since the inspection hiatus. The Amorin Panel stressed that their report was building on all of the previous relevant Security Council resolutions on Iraq, specifically 687 (April 1991), 707 (August 1991), 715 (October 1991) and 1051 (March 1996). In other words, the Amorin Report was not recommending a supplanting of previous resolutions, but rather a building on those resolution so that they still apply.

Following the Amorin Report, Security Council resolution 1284 was adopted on 17 December 1999 and thus established the United Nations Monitoring, Verification and Inspection Commission, UNMOVIC. Of the permanent members of the Security Council, the United Kingdom and the

United States voted in favour of 1284 whereas the Russian Federation, China and France abstained. Despite their abstentions however, all three states have expressed their support for UNMOVIC now that it is established.

Like the Amorin Report, resolution 1284 reaffirms resolutions 687, 699, 707, 1051, 1154 and all other relevant resolutions, and thus established that the United Nations was building on its experience, not reversing its previous policies. In particular, 1284 reaffirms inspectors' rights to full, unconditional and unrestricted access to sites and facilities in Iraq.

Significantly, Iraq pays for UNMOVIC through oil sales via an escrow account (0.8% of oil revenues). This allows financial control over Iraqi assets for UNMOVIC, and thus gives the United Nations another set of dentures in its dealings with Iraq.

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The money from Iraq's oil sales also enables UNMOVIC to employ all of its staff, inspectors and technical experts on United Nations contracts (one-year or six-month duration). In so doing, 1284 deals with one of the main criticisms of UNSCOM, that staff were paid for by their governments and thus may have felt beholden to their individual governments rather than to the United Nations. This criticism was refuted by many involved in UNSCOM but the worry still persisted. Directly employing UNSCOM staff allows the United Nations to impose its rules on employee loyalty and significantly Article 100 of the United Nations Charter, which instructs staff not to seek or receive instructions from any government or from any other authority and charges Member States not to seek to influence staff in the discharge of their responsibilities.

There are several significant developments in the thinking on how to conduct the inspections in Iraq. For example, UNMOVIC and the IAEA are tasked with setting up a joint unit on export and import mechanisms in order to better co-ordinate and integrate information. In particular, the lifting of sanctions is not exclusively linked to full compliance with 687. While the lifting of sanctions remains available under full compliance with that resolution (eradication of Iraq's WMD programme), 1284 opens the possibility of a suspension of sanctions in return for full co-operation with UNMOVIC, including progress on key disarmament issues. If Iraq co-operates in all respects with UNMOVIC and the IAEA for 120 days after UNMOVIC has reported that it is 'fully operational' in Iraq, then sanctions could be suspended for a renewable period of 120 days. Resolution 1284 expresses the intention to consider action in accordance with the clause on suspension of sanctions within twelve months of the adoption of the resolution, if the necessary conditions are satisfied. (That twelve-month deadline passed without any co-operation from Iraq.) The suspension of sanctions could thus be continually renewed unless vetoed or unless the Executive Chairman reports to the Security Council that Iraq is no longer co-operating, then after five working days the Security Council would automatically reimpose sanctions (unless the Security Council decides otherwise). In comparison, resolution 687 (para. 22) has provision only to lift sanctions once compliance is demonstrated.

Resolution 1284 requests the United Nations Secretary-General to appoint an Executive Chairman for UNMOVIC and to appoint a College of Commissioners. The appointment of Dr Hans Blix as Executive Chairman has got UNMOVIC off to a good start. Due to his previous role as Director General of the IAEA (held between 1981 and 1997), Dr Blix not only has the required experience in directing an international inspection regime, but he encouraged radical changes to the Agency's safeguards regime following the discovery of an advanced nuclear weapons programme in Iraq. In steering through the Additional Protocol (INFCIRC 540) Dr Blix demonstrated an ability to effect change when many in the IAEA and in key Member States resisted any shift in direction. In addition, Iraq co-operated with the IAEA before and since the Gulf War and thus there is a hope that Iraq will find it hard to demonize the Executive Chairman of UNMOVIC in the way it attempted to do with both the UNSCOM chairmen.

Since its establishment UNMOVIC has set up its infrastructure, worked out its basic organization, employed core staff and equipped the offices. Three meetings of the College of Commissioners have been held and training courses have oriented staff to their tasks.

The College of Commissioners meets every three months, following which the Executive Chair reports to the Security Council. The Commissioners are drawn from Argentina, Brazil, Canada, China, Finland, France, Germany, India, Japan, Nigeria, the Russian Federation, Senegal, Ukraine, United Kingdom, United States, and the United Nations Department for Disarmament Affairs.

UNMOVIC has set up co-operative management structures so that there are organization-wide discussions, whilst respecting the need for high security on sensitive issues. There is an emphasis on cohesion within the divisions and co-operation between them. The divisions of UNMOVIC are: Administration; Technical and Training; Planning and Operations; Analysis and Assessment; and Information. The OMV centre in Baghdad comes under the Planning and Operations Division and the Information Division contains the UNMOVIC side of the joint export/import unit with the IAEA. A strong emphasis is placed on analysis and assessment across the biological weapons, chemical weapons, missile and (with the IAEA) nuclear fields. Multidisciplinary inspections and their analysis will assist this process of information integration. Monitoring the performance of UNMOVIC is an Activity Evaluation section in the Office of the Executive Chairman.

Hans Blix has reported to the Security Council that UNMOVIC is 'ready to go'. However, is Iraq ready to let UNMOVIC in?

### *Possible courses of action in the near future*

Iraq is still rejecting inspections. But Hans Blix is reported as being 'hopeful' and 'optimistic' (Pamela Hess, United Press International, 6 December 2000). Iraq is said to be discussing the meaning and terms of 1284 with United Nations officials and members of the Security Council. In June 2000, the Iraqi Government presented a detailed analysis of res. 1284 at the Organization of the Islamic Conference. There are continuing talks in the United Nations, with a strong push for resolution by March 2001, coinciding with the first anniversary of Hans Blix's appointment.

There is continuing pressure for the lifting of sanctions particularly from the Russian Federation, France and China. Even Under Secretary of State for Political Affairs Thomas Pickering said on 29 November 2000 that 'Time marches on and circumstances require us to adapt' (Pamela Hess, United Press International, 6 December 2000). There have been a number of commercial flights made into Iraq in defiance of sanctions with little response from the United States or the United Kingdom.

If by March 2001 the impasse is not resolved and UNMOVIC is still barred from carrying out its job in Iraq, what will happen? It seems to be generally felt that the first anniversary of UNMOVIC is 'crunch time'. While it is true that funding is not an issue — UNMOVIC is not reliant on the generosity and patience of Member States for its financing — morale is. How much longer can UNMOVIC staff go on preparing for something that may never happen? It is true to say that the hiatus, whilst detrimental to the need to discover all that has taken place in Iraq since late 1998, has given UNMOVIC the space and time necessary to set up and train.

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However, continuing delay with no clear signals of change could lead to a haemorrhaging of people away from UNMOVIC.

It is clear that P5 unity is needed in order to obtain Iraq's co-operation. Only if all the P5 were seriously putting pressure on Iraq would there be a likelihood of significant shifts in positions. Indeed, the carrot of suspending sanctions ought to be attractive to Iraq.

In order for Iraq to be deemed to be co-operating under 1284, they would need to:

- allow UNMOVIC access for baseline data collection and OMV;
- declare the current and updated status of sites and any changes; and
- respond to the list of unresolved disarmament issues.

Iraq would not have to demonstrate full compliance as before, merely co-operation in all respects (including progress in the resolution of key disarmament issues) and then sanctions could be suspended. Continuing co-operation would mean that sanctions could remain suspended. On the other hand, lack of co-operation could, for example, be defined by no access for inspections and no security for the inspectors.

One of the biggest problems facing UNMOVIC, should Iraq grant access, is that the information gap since 1998 is big and there are large uncertainties as to what might have occurred in that period. The so-called 're-baselining' where inspections are designed to fill in the information gap, is expected to take at least three months — a highly intensive all-out effort that would then allow UNMOVIC to start drawing up a work programme.

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Completion of the baseline inspections and the installation of OMV equipment could fulfil the 'fully operational' clause, which could then receive the Security Council's green light for the UNMOVIC work programme. This process would then lead to the 120 day renewable suspension of sanctions — hence the whole process, should Iraq co-operate, need not take very long. Unless Iraq has something to hide (a fear articulated by many analysts) then it would be in their interests and in the interests of all the P5 states to co-operate and quickly get the sanctions regime suspended.

However, even if UNMOVIC manages to restart inspections in Iraq there are real fears that the suspension of sanctions could lead to a new arms build-up in Iraq. And despite UNMOVIC being a new creation, the burden of UNSCOM's history will mean that the organization's credibility will constantly be scrutinized.

Confidence in the Security Council's determination will continue to be questioned. What if, following the suspension of sanctions, UNMOVIC declares that Iraq is again no longer co-operating, will the Security Council act as it states in res. 1284 and wait five days and automatically re-impose sanctions? Will that be politically possible once sanctions have been suspended? Judging by past performance, it seems likely that if sanctions are ever suspended, Iraq will test the resolve of the Security Council by forcing them to go ahead with this process and take the necessary financial steps.

Another point for discussion is how the Security Council might act if evidence came to light that suggested another country was making WMD or components of WMD or missiles for Iraq. Can res. 1284 be applied to other Member States and provide the legal basis for an inspection by UNMOVIC on another state's territory?

### *Longer-term lessons*

*Sometimes the more you think, the more there is no real answer.*

*Winnie the Pooh, A.A. Milne*

Although it is true that the Iraqi regime is primarily responsible for the humanitarian disaster that is now Iraq and the regime leaders may well be called to account in an international court, it is worth repeating that the Security Council never intended for sanctions to be imposed for nearly ten years.

Perhaps the Security Council would not have been so eager to have imposed the types of sanctions agreed in 1991 if the members could have seen what Iraq's response was to be and for how long this situation would endure.

It has been said that the situation with Iraq is more like a hostage siege than a confrontation and just like in a hostage siege, the police and politicians do all they can to protect the hostages and at the same time to get the terrorists. Perhaps the Security Council could begin to think in this way rather than keep on railing against a regime that is prepared to wait out the hardships caused by sanctions and prepared to sacrifice the hostages.

When it comes to sanctions on authoritarian regimes, 'those who bear the pain have no power; those who have the power bear no pain' and so it has often been suggested to consider the use of so-called 'smart sanctions' such as targeting the elite of a state by, for example, freezing the foreign assets of regime individuals or prohibiting foreign travel for a named list of individuals and so on. Would they have an effect? In the last ten or so years, the United Nations has imposed twelve sanctions regimes (most not enforced, however). Between 1945 and 1990, the United Nations imposed only two regimes (Rhodesia, 1966 and South Africa, 1977). These last ten years are known at United Nations Headquarters as 'the sanctions decade'.

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Perhaps the ultimate irony that arises from the last decade of experience with Iraq, UNSCOM and now UNMOVIC is that in an attempt to prevent another major humanitarian disaster through Iraqi use of WMD, a different sort of humanitarian disaster was created. The call for disarmament arises out of deep concern for humanity and so perhaps with every new disarmament proposal, undertaking an impact assessment on the humanitarian aspects (along with environmental and security impact assessments) could be one way of obtaining some much needed hindsight in advance.