
UNSCOM: Between Iraq and a Hard Place

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Abstract

The article reviews the UNSCOM experience from 1991 to 1999 and the international community's attempt to neutralize Iraq's WMD threat. It draws some general lessons from this experience and identifies steps that could enhance the effectiveness of future international efforts of this type. It concludes with an assessment of the future of multilateral arms control. From the start UNSCOM encountered many difficulties. Indeed, for the Commission to work effectively it needed the cooperation of Iraq — something the Iraqi government provided only sparingly. Iraqi declarations of its non-conventional stockpiles and facilities proved time and again to be inaccurate. The scope of Iraqi concealment efforts came to the fore in 1995, with the defection of Saddam Hussein's son-in-law Lt. General Hussein Kamel. His revelations took most experts by surprise. It also marked a period of increasing confrontation between UNSCOM and the Iraqi government. Unfortunately for UNSCOM, political unity and cohesion in the UN Security Council began to unravel at precisely that moment. The US and its coalition allies had increasingly divergent ideas about how to resolve the situation with respect to Iraq.

In September 1990, US President George H.W. Bush rallied many nations around the world to overturn Iraq's invasion of Kuwait. Bush enunciated an expansive vision of international concerns and responsibilities in the post-Cold War era, which he hoped would lead to the creation of a 'New World Order'. This development, he envisaged, would mark the advent of 'a new era — freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace, an era in which the nations of the world, East and West, North and South, can prosper and live in harmony'. Bush observed:

A hundred generations have searched for this elusive path to peace, while a thousand wars raged across the span of human endeavor. And today that new world is struggling to be born, a world quite different from the one we've known, a world where the rule of law supplants the

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rule of the jungle, a world in which nations recognize the shared responsibility for freedom and justice, a world where the strong respect the rights of the weak. [Iraq's aggression] is the first assault on the new world that we seek, the first test of our mettle.¹

After a US-led international coalition drove Iraqi forces out of Kuwait in 1991, the United Nations Special Commission (UNSCOM) — established by the UN Security Council to identify, destroy, remove or render harmless Iraq's weapons of mass destruction (WMD) capabilities — was supposed to follow through, deny Iraq access to WMD, and stop it from threatening international peace and security in the future.²

More than 10 years later, Iraq continues to test the world's mettle. In the interim, US leadership and credibility have waned considerably. The international coalition that stood up to Iraq a decade ago has withered. Saddam Hussein is still in power in Baghdad, and it is widely believed that he continues to acquire weapons of mass destruction and advanced delivery systems such as long-range ballistic missiles. In November 2000, British Foreign Minister Peter Hain declared, 'We have good reason to suspect that Iraq is still hiding chemical, biological and weapons of mass destruction in a range of locations.'³ Western intelligence reports estimate that Iraq has hidden some 610 tons of precursor chemicals for the production of VX, a highly toxic nerve agent that can kill with just one drop. Western experts believe that Iraq has also stockpiled large amounts of growth media for biological agents such as anthrax.⁴ UN arms inspectors have been denied access to Iraq since December 1998, and UNSCOM was disbanded in 1999 without having completed its work. Its successor, the UN Monitoring and Verification Commission (UNMOVIC), has not been able to start operations in Iraq.⁵ Efforts by Colin Powell, the US Secretary of State, to reenergize the international coalition against Saddam Hussein and to get international inspections back on track in the spring and summer of 2001 failed.

When George W. Bush entered the White House in January 2001, the 'New World' called for by his father seemed a distant memory. The UN Security Council is again often at loggerheads. Moreover, George W. Bush, unlike his father, epitomizes a United States that prefers to go it alone, a United States that distrusts multilateral organizations and negotiations and is driven by national interests rather than the pursuit of justice or the rule of international law. Proliferation concerns are on the rise in many parts of the world, yet many in the new Bush Administration believe that such concerns are best addressed by developing unilateral and national countermeasures.

¹ George Bush, 'Presidential Address before a Joint Session of the Congress on the Persian Gulf Crisis and the Federal Budget Deficit', 11 September 1990. <<http://bushlibrary.tamu.edu/papers/1990/90091101.html>>.

² See SC Res. 687 (1991) of 3 April 1991.

³ 'Iraq: Saddam Hussein Reportedly Stockpiling Weapons', *UN Foundation: UN-Wire*, 20 November 2000, <www.unfoundation.org/unwire>.

⁴ *Ibid.* In 2000 and 2001, both Rolf Ekeus, Executive Chairman of UNSCOM from 1991 to 1997, and Richard Butler, the Executive Chairman from 1997 to 1999, repeatedly warned about Iraq's build-up of WMD capabilities. See also <www.iraqwatch.org>.

⁵ See SC Res. 1284 (1999) of 17 December 1999.

The Iraqi problem cannot be solved by the US alone. The US needs the active support of key allies in Europe and the Middle East to counter aggressive actions by Iraq. And — like it or not — the US needs the UN Security Council, which provides the legal basis for international actions to stop Iraq from acquiring WMD.

This is a propitious time to assess the successes and failures of UNSCOM. Even if UNSCOM may ultimately be labelled a failure — it had to cease its activities in Iraq before being able to provide the UN Security Council with assurances that Iraq was not engaged in prohibited activities — it did yield valuable lessons with respect to the sustainability of coercive international efforts and multilateral verification of arms control agreements. It also produced many technical innovations.

In this article, I will review the UNSCOM experience and the international community's attempt to neutralize Iraq's WMD threat. I will draw some general lessons from this experience and identify steps that could enhance the effectiveness of future international efforts of this type. I will conclude with an assessment of the future of multilateral arms control efforts.

1 UNSCOM (1991–1999): An Exercise in Coercive Disarmament

In April 1991, the UN Security Council established UNSCOM and directed it to identify and eliminate Iraq's weapons of mass destruction, as well as associated means of delivery. UNSCOM was also directed to design a system that could monitor and verify long-term Iraqi compliance with the disarmament provisions of the ceasefire resolution that ended the Gulf War. The resolution targeted nuclear, chemical and biological weapons as well as ballistic missiles with a reach of over 150 kilometres.⁶

Economic sanctions imposed in August 1990, following Iraq's invasion of Kuwait, remained in place to force Iraqi compliance with the disarmament provisions of the ceasefire resolution. In addition, the Security Council left open the use of military force in case of Iraqi opposition to the disarmament effort.⁷

From the start, UNSCOM encountered many difficulties. Indeed, for the Commission to work effectively it needed the cooperation of Iraq — something the Iraqi

⁶ See SC Res. 687 (1991) of 3 April 1991. See also SC Res. 707 (1991) of 15 August 1991 and SC Res. 715 (1991) of 11 October 1991. In 1994, the Baghdad Monitoring and Verification Centre (BMVC) was established and charged with long-term monitoring and verification of Iraqi compliance with UN Security Council resolutions. For the long-term export/import monitoring mechanism, see SC Res. 1051 (1996) of 27 March 1996.

⁷ As has been noted by Serge Sur, the legal basis for the use of force in this case is ambiguous: 'Either Iraq's breach of the commitments calls into question the cease-fire, which is conditioned by its acceptance of the resolution (para. 33), and the States of the coalition are justified in resuming military operations; or the Council, which remains seized of the matter and can take further steps as may be required for the implementation of the resolution (para. 34), is the only agency competent to act, which should forestall independent action by the Member States.' Sur argues that this ambiguity in the cease-fire resolution is in keeping with 'that which characterized all the military aspects of the conflict'. According to Sur, 'unless

government provided only sparingly. Iraqi declarations of its non-conventional stockpiles and facilities proved time and again to be inaccurate. There is no doubt that Iraq destroyed some of its prohibited capabilities and engaged in systematic deception and concealment efforts.⁸

For example, in April 1991 Iraq declared that it had 11,500 chemical shells and 1,000 tons of nerve and mustard gas. It declared 52 SCUD missiles with 30 chemical and 23 conventional high-explosive warheads. It denied that it had any biological or nuclear materials that would fall under UN Security Council Resolution 687 (1991). Within three months, inspectors found 46,000 chemical shells — four times the declared number. By October 1991, 100,000 chemical shells had been discovered — ten times what Iraq had declared. Elements of a non-declared nuclear programme were discovered after two months. Most of Iraq's biological weapon programme was discovered only in 1995. In the past 10 years Iraq has filed almost two dozen 'Full, Final and Complete Disclosures' of its weapons programme; each one was subsequently shown to be false.⁹

The scope of Iraqi concealment activities became public in 1995 when Lt. General Hussein Kamel, Saddam Hussein's son-in-law, Minister of Industry and Minerals, and former Director of Iraq's Military Industrialization Corporation, with responsibilities for all Iraq's weapons programmes, defected to Jordan. His revelations of the extent of Iraqi concealment efforts took most experts by surprise. They showed that the monitoring and verification techniques developed by UNSCOM had not detected many concealed weapon programmes.

Realizing at this point that they had been exposed, Iraqi officials took UNSCOM inspectors to Kamel's chicken farm and claimed that they had only recently discovered that Kamel had kept hidden a staggering amount of documents related to Iraqi WMD programmes. Despite this discovery and new Iraqi disclosures, for example, Iraq finally admitted to having a far more extensive biological weapon warfare programme than previously disclosed and admitted to weaponization, UNSCOM remained concerned that Baghdad continued to withhold vital information.

UNSCOM consequently set up a concealment investigative unit and embarked on a more active and intrusive approach to collecting information on Iraqi weapon programmes. This put it on a collision course with Baghdad and the Special Security Organization (SSO). The SSO is one of the most important arms of the Iraqi government, responsible for the security of President Saddam Hussein, including his immediate family, and believed to be in charge of Iraqi weapon concealment efforts.¹⁰

the Council reacts effectively and promptly, the States of the coalition, and especially the United States, would feel free to take any military measures they deemed appropriate by themselves'. See S. Sur, 'Security Council Resolution 687 of 3 April 1991 in the Gulf Affair: Problems of Restoring and Safeguarding Peace', *UNIDIR Research Papers*, No.12, 1992, at 59.

⁸ See, for example, the Report of the UN Secretary-General, S/1998/1172, 15 December 1998, and the last UNSCOM Report, S/1999/94, 29 January 1999.

⁹ See Kay, 'Iraq and US Non-Proliferation Policy', in B. Finel and J. E. Nolan (eds), *The Future of Non-Proliferation Policy* (2002).

¹⁰ See S. Ritter, *Endgame: Solving the Iraq Problem Once and For All* (1999), at 118–130.

Once UNSCOM started investigating Iraq's presidential and national security infrastructure, it struck at the heart of the regime. Not surprisingly, Iraqi officials increasingly denied UNSCOM teams access to sites they wanted to inspect. Baghdad accused UNSCOM of being a tool of the United States and not respecting 'the sovereignty, territorial integrity, legitimate security concerns and dignity' of Iraq.

UNSCOM nonetheless pushed forward with its intelligence-gathering efforts. This led to numerous confrontations between UNSCOM and Iraqi officials in 1996. To take into account Iraq's legitimate security concerns, the Executive Chairman of the Commission Rolf Ekeus worked out a deal with Iraqi Deputy Prime Minister Tariq Aziz on modalities of inspecting so-called sensitive sites in June 1996. Tensions subsided somewhat thereafter.¹¹ In May 1997 Ekeus stepped down as Executive Chairman of UNSCOM; in July he was succeeded by Richard Butler. A major crisis erupted in the fall of 1997 when the Iraqi government denied access to several sites on the grounds that the sites were 'presidential sites', which Baghdad claimed were off-limits to UNSCOM inspectors. Faced with Iraqi attempts to expand the sensitive site agreement concluded with Ekeus — Iraq claimed more than 1,000 buildings and storage sites as 'presidential sites'! — Butler argued that this was an agreement between Ekeus and Aziz, but not between UNSCOM and Iraq. Hence, he was not bound by this agreement.¹² In October 1997 Iraq announced that it would no longer work with US nationals working for UNSCOM. Aziz wrote to the President of the UN Security Council, demanding that all Americans leave the country and that UNSCOM stop U-2 reconnaissance flights. The Council responded by calling the Iraqi demands unacceptable and by imposing travel restrictions on the Iraqi officials responsible for interfering with UNSCOM.¹³ The following day, Iraq expelled all Americans working for UNSCOM. This led the Executive Chairman of UNSCOM to withdraw most UNSCOM personnel from Iraq, leaving only a skeleton staff in Baghdad to supervise and maintain its premises and equipment. Intense Russian diplomatic efforts kept the crisis from escalating, but more troubles lay ahead.

In January 1998, Baghdad again blocked the work of UNSCOM inspection teams on the ground that it had too many individuals from the US and the UK on its staff. Moreover, the issue of the 'presidential sites' remained unresolved.

US threats to launch air strikes against Iraq in early 1998 led the UN Security Council to authorize UN Secretary-General Kofi Annan to go to Baghdad and broker a

¹¹ It may also be noted that in 1996, Iraq finally decided to accede to the UN's oil-for-food programme, a programme that had been in place since August 1991. Under the terms of this programme, revenues from the sale of Iraqi oil were deposited in a UN escrow account, where they could subsequently be used to pay for food and medicine.

¹² See R. Butler, *The Greatest Threat: Iraq, Weapons of Mass Destruction, and the Crisis of Global Security* (2000), at 88–91.

¹³ See SC Res. 1137 (1997) of 13 November 1997.

deal on the modalities for inspecting Iraqi ‘presidential sites’.¹⁴ Annan brokered a fundamentally flawed compromise in February 1998. The agreement stipulated that inspections at ‘presidential sites’ would only be undertaken under the supervision of a group of senior ambassadors. This of course took away the element of surprise and gave the Iraqis ample time to take concealment measures. By the time these inspections finally got under way at the end of March and early April, the sites had been sanitized.

Emboldened by this success, Baghdad continued to obstruct the work of UNSCOM throughout the summer of 1998. In August, talks collapsed between the Executive Chairman of UNSCOM and Iraqi officials on a series of final UNSCOM inspections. Aziz wanted Butler to tell the UN Security Council that all disarmament provisions had been met. Butler, however, refused to do so, particularly since it became known in the summer of 1998 that Iraq had tipped missile warheads with the toxic nerve agent VX, something that Baghdad had repeatedly denied. Iraq then suspended all UNSCOM disarmament activities.

Baghdad, afraid that inspections would uncover continuing Iraqi non-compliance, alleged that further on-site inspections were ploys by the United States to topple the Iraqi regime.¹⁵ The Iraqis, of course, had a point. Since the late 1990s, US officials had made it clear that sanctions would only be lifted if Saddam Hussein was removed from power.¹⁶ This policy was criticized by Washington’s allies, who argued that it did not give Iraq any incentive to cooperate on disarmament issues.

The August 1998 resignation of Scott Ritter, a former US Marine and the Head of UNSCOM’s Concealment Unit, could not have come at a better moment for Iraq.¹⁷ Although his resignation was motivated by frustration with US policy, which he alleged was holding UNSCOM back, his accusations that Butler was beholden to the Americans played into Iraqi hands. Similarly, his accusations that UNSCOM was a conduit for unrelated US intelligence collections in Iraq benefited the Iraqis in their ongoing propaganda campaign.

In October 1998, Iraq announced that it would cease all further interaction with UNSCOM. This action was condemned unanimously in the UN Security Council, and in the Arab world — the Gulf Cooperation Council, Egypt and Syria all condemned Iraq. On 11 November the United States began deploying additional military forces in the Gulf and US President Bill Clinton declared that the US must be prepared to act

¹⁴ The US went along with the diplomatic initiative of the UN Secretary-General in part because of domestic politics. This was the time when the Monica Lewinsky story broke. Moreover, in an attempt to explain US policy and prepare public opinion for possible air strikes against Iraq, US Secretary of State, Madeleine Albright, US Secretary of Defense, William Cohen, and US National Security Advisor, Samuel Berger, addressed the American public in a town hall meeting in Columbus, Ohio. The meeting, covered live by CNN, was a fiasco. Angry citizens opposed to air strikes berated the three senior officials from Washington.

¹⁵ See *Iraq: The UNSCOM Experience*, SIPRI Factsheet, October 1998, at 5.

¹⁶ See, for example, Madeleine Albright’s speech of 12 March 1997 at Georgetown University, and the *Iraq Liberation Act of 1998*, US Senate document S.2525, 19 September 1998.

¹⁷ Ritter resigned after Butler asked him to ‘redefine’ his team and hold off on a planned inspection. For Ritter’s account of his time in UNSCOM, see Ritter, *supra* note 10.

forcefully to end Iraq's defiance of the UN. However, Iraq again managed to forestall US air strikes on Iraq by promising at the last minute to cooperate unconditionally with UNSCOM.

The UNSCOM inspectors who returned to Iraq in late November continued to encounter many obstacles. On 15 December, Butler informed the Security Council that Iraq was continuing to block inspection and monitoring efforts by UNSCOM.

US and UK air strikes were launched on 16 December, while Butler was briefing the Security Council on Iraqi non-compliance. *Operation Desert Fox* lasted for four days. It marked the end of UNSCOM. The Commission was formally disbanded in December 1999 and replaced with the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC).

2 Lessons for International Coercive Actions

The UNSCOM experience generates a number of important lessons for international coercive efforts. Four are of particular relevance.

A Defining Objectives

Coercive actions should have clear objectives. Remarkably, international actors often do a poor job of defining their long-term strategic and political goals. The result is muddled policy, incrementalism, improvisation, and sub-optimal outcomes. Having a clear objective requires political unity and cohesion. Indeed, if multiple actors are involved, one must make sure that all of the major players are in accord about the purpose and direction of the collective effort.

Unfortunately for UNSCOM, political unity and cohesion in the UN Security Council began to unravel precisely when UNSCOM needed that unity and cohesion the most. Frictions among the members of the Security Council, particularly among the Permanent Five (P-5), were not limited to Iraq; they included a wide array of issues, including peacekeeping, military intervention for humanitarian purposes, NATO expansion, and more generally the international behaviour of the United States. As to the latter, many states resented Washington's imperial attitude and its willingness to push multilateral organizations aside when these organizations could not agree on courses of action that were to the liking of the United States.

With respect to Iraq, the US and its coalition allies had widely divergent ideas about how to resolve the situation. The US had personalized the conflict and demonized Saddam Hussein, much in the same way as it had reduced the conflict in the Balkans to the nature and policies of Slobodan Milosevic. Washington compared Hussein to Adolf Hitler, which made negotiations difficult, if not impossible. Most American commentators and politicians believed that the only solution to the Iraqi problem was the removal of Hussein. This view was amplified in 1995 when the extent of Iraqi concealment efforts came out into the open. This view became law when Clinton

signed a bill which stipulated that US policy should seek the removal of Saddam Hussein and assist in replacing his regime with a democratic government.¹⁸

Unlike the Americans, the French believed that negotiations with Saddam Hussein were possible. They believed that the only exit strategy in Iraq was to allow Iraq to reintegrate into the international community and to offer Iraq a 'light at the end of the tunnel'. The absence of such a light 'could only encourage the worst suicidal tendencies of the Saddam Hussein regime'.¹⁹

In addition, Paris and Washington viewed the Iraqi WMD threat differently. Dominique Moisi explains:

If the French scientific experts in the various UN agencies have been among the first to single out and denounce the dangers of Iraqi accumulation of weapons of mass destruction, be they of a chemical or biological nature, the political authorities in Paris have been, to say the least, much more 'relaxed' in their interpretations of the figures released by their experts.²⁰

France was also eager to resume commercial relations with Iraq, as was Russia. Iraq owed the French between \$4 billion and \$7.5 billion, and it owed Russia over \$8 billion.²¹

Finally, the US and other powers were divided over the continuation of economic sanctions. The US insisted that a clean bill of health on the WMD issue was not sufficient: it made the removal of Saddam Hussein a prerequisite for the lifting of sanctions against Iraq. In March 1997, US Secretary of State, Madeleine Albright delivered a speech at Georgetown University in which she argued that sanctions would likely not end until Saddam Hussein was replaced.²² Others — particularly France and Russia — argued for a partial lifting of sanctions, as part of a 'light at the end of the tunnel' strategy.²³ They believed (or claimed to believe) that the unintended humanitarian consequences of the sanctions regime were too high a price to pay. According to Paris and Moscow, the international community was not absolved of its humanitarian responsibilities simply because Saddam Hussein was largely responsible for the dismal situation in which the Iraqi population found itself. (Even after Iraq's 1996 acceptance of the UN's oil-for-food programme, Iraqi officials would frequently order insufficient food and medical supplies, hoard supplies in warehouses, or illegally re-export them — all of which led to great pain and suffering among the Iraqi people.)

In the spring of 2001, the new Bush administration embarked on a new strategy with respect to sanctions — a position more in tune with the European position. Realizing that the sanction regime had virtually ceased to exist, the Bush adminis-

¹⁸ See *Iraq Liberation Act of 1998*, United States Senate, document S.2525, 19 September 1998.

¹⁹ See Moisi, 'Iraq', in R. N. Haass (ed.), *Trans-Atlantic Tensions: The United States, Europe and Problem Countries* (1999), at 133 and 134.

²⁰ *Ibid.*, at 133.

²¹ *Ibid.*, at 129, and Juster, 'Iraq: An American Perspective', in Haass, *supra* note 19, at 107.

²² Madeleine Albright, 12 March, 1997, Georgetown University.

²³ The UK is more in tune with the American position and believes that sanctions should be lifted only after Iraq has complied fully with all disarmament obligations as specified in the relevant Security Council resolutions.

tration endorsed a May 2001 British proposal that called for the lifting of all economic sanctions on civilian goods in exchange for strict controls on military and dual-use items.²⁴ Money from oil sales would remain in a UN-supervised escrow account.²⁵ This was one of Colin Powell's messages in his February 2001 trip to the Middle East. Initial reactions from other members of the Security Council were positive, but discussions on the list of dual-use items proved to be more acrimonious.²⁶ Moreover, the Iraqis were strongly opposed to the plan and received strong backing from the Russians. Faced with continuing Russian opposition, as well as opposition from countries in the region, discussion on a new sanction strategy was postponed to December 2001.²⁷

B Using Force

Coercive strategies are not for the weak of heart. Ultimately, such strategies need to be backed up by the use of force. Threats to use force to back up UNSCOM inspection activities have generally not received strong international opposition, but the brunt of this coercive effort had to be borne by one country — the United States.²⁸

The United States was often hesitant to use military force. Force was threatened many times, but US military reactions to Iraqi provocations were often limited. Washington's reluctance to use force was displayed not only in the Iraqi case, but also in Bosnia, Haiti, Kosovo and Rwanda. This tendency did not go unnoticed in Baghdad, and US credibility eroded over time. Kenneth I. Juster elaborates:

the more that the United States and other governments warned Iraq about the use of force in response to provocations without actually taking substantial action, the more difficult it became to generate support for such action at a later date. This made the threat to use force less credible over time, progressively raised the threshold for an international consensus on the use

²⁴ In September 2000, Russia and France started airline flights to Baghdad. Jordan, Yemen, the UAE, Syria, Turkey, Egypt, China and others followed. Oil smuggling rose, due in part to the reopening in 2001 of the pipeline between Syria and Iraq. Some analysts have estimated the flow of Iraqi oil to Syria to be around 250,000 barrels a day. Oil smuggling by truck through Turkey is estimated between 40,000 to 150,000 barrels per day. Total unmonitored illicit oil sales provides the regime in Baghdad with close to \$5 million a day or some \$3 billion a year. To put this in perspective, in the second half of 2000 Iraq sold \$7.8 billion worth of oil under UN supervision. See Motz, 'British-American Sanctions Plan Shelved and Continued Pressure from Oil Smuggling', <www.iraqwatch.org>.

²⁵ See Crosette, 'U.S. and Britain Seek to Restore Trade with Iraq', *New York Times*, 17 May 2001, at A1 and A10.

²⁶ In June the list of dual-use items, the so-called 'Goods Review List', had been considerably shortened. Chinese acquiescence was said to be obtained after the US unfroze more than \$80 million worth of Chinese telecommunications contracts with Iraq. That same month, the US unblocked over \$50 million of Iraqi contracts with French companies, and in September 2001 it approved an Iraqi purchase of close to \$75 million worth of telecommunications equipment from the French company Alcatel. See Lynch, 'US Allows Iraq-France Phone Deal: Pressure at U.N. Helped Clear Equipment Sale', *The Washington Post*, 5 September 2001.

²⁷ In May Tariq Aziz warned its neighbours that cooperation with the new US plan would entail serious reprisals.

²⁸ On the contrary, threats and air strikes to enforce the no-fly zones were the subject of great international criticism. The February 2001 strikes, for example, were widely criticized by US allies such as France.

of force, and made it more likely that when the United States and the United Kingdom did use force, they appeared to some as the aggressors.²⁹

Contemporary commentators occasionally claim that things were simpler during the Cold War, when the United States faced a determined, powerful adversary and when debates about American action were said to be more muted. This wistful, nostalgic view of the Cold War mischaracterizes the past. In fact, from the late 1940s and into the 1980s, American foreign policy was wracked by debates about the appropriate use of US military power. The debate over US involvement in Vietnam — an intensely divisive chapter in American history — stands out in this regard.

With the collapse of the Soviet empire in Eastern Europe in 1989 and the break-up of the Soviet Union itself in 1991, the strategic landscape changed in fundamental ways. The United States is no longer engaged in a global struggle over the balance of power. The strategic context for US decisions about the use of military force in Africa, Asia, Europe, Latin America, and the Middle East has therefore changed. America's interests in these regions have stayed largely the same, but the threats to these interests have changed dramatically. Calculations about the costs, benefits and risks of using US military forces in these regions have changed accordingly.³⁰

Although there seems to be a consensus in the US that the Iraqi problem will only be solved with the removal of Saddam Hussein, there is no consensus in the US on the best way of bringing this about. Some favour a long-term containment strategy, while others would be willing to depose Saddam Hussein through the use of military force. Finally, there are those who believe that muddling through — that is, a mixture of containment and support for opposition groups in Iraq — will ultimately lead to the downfall of Saddam Hussein. The new Bush administration will probably continue on this latter path, in part because more forceful actions are unlikely to garner international support.

C Developing Short- and Long-term Strategies

Coercive actions by themselves are unlikely to bring about political change in target countries. Moreover, they are difficult to sustain over long periods of time. Therefore, coercive actions should always be accompanied by long-term non-coercive strategies designed to bring about political change. The development of both short-term and long-term strategies requires that outside actors have a clear understanding of the local situation.

The international coalition that evicted Iraq from Kuwait failed to develop such strategies. The members of the coalition — the US, in particular — thought that

²⁹ Juster, *supra* note 21, at 115.

³⁰ For more on the debate in the US about the use of military force, see Brown and de Jonge Oudraat, 'The United States and Military Intervention: When to Say No and When to Go', Paper Presented at the Conference on 'Military Intervention: Issues for a New Presidential Administration', George Bush School of Government and Public Service, Texas A&M University, 30 November–1 December 2000.

UNSCOM would complete its job quickly.³¹ Many coalition members believed that UNSCOM's job would take as little as one year.³² The original timetable for the inspection and destruction of the WMD programmes was 120 days, after which the ban on Iraqi exports would be reviewed.³³ Long-term concerns would be considered in light of Iraq's domestic political situation. It was generally assumed that Saddam Hussein's regime would fall sooner than later. This short-term game plan collapsed when the problem became long-term in nature.

In this as in other recent cases where the UN Security Council took enforcement actions — notably in the peacekeeping field — best-case assumptions prevailed.³⁴ This set UNSCOM and the UN up for failure. Indeed, when troubles developed, UNSCOM and the UN found themselves lacking both material and political support. This happened time and again in the 1990s, not only in Iraq but in the Balkans, Somalia, Rwanda, Sierra Leone and elsewhere.

D *Gathering Intelligence*

UNSCOM was given far-reaching authority. It was allowed to use national intelligence information, something that was unprecedented for a multilateral verification organization or a body from the UN. It used no-notice inspections — that is, it could go anywhere and anytime. Similarly, no restrictions were placed on its personnel, equipment and sampling methods. Overflights and environmental sampling were all fair game for UNSCOM. Even so, UNSCOM was not capable of uncovering deliberate cheating by Iraq.

Intelligence gathering by international organizations is a very delicate matter, but it is essential if they are engaged in coercive disarmament efforts, as UNSCOM and the UN have been in Iraq.³⁵ The intelligence question became a hot topic in the Iraqi case, particularly with the resignation of Scott Ritter in 1998. Two questions emerged. First, what was the proper use of intelligence information? Second, was UNSCOM

³¹ Iraqi officials were guilty of similar thinking. Iraqi officials believed that sanctions would quickly collapse after the liberation of Kuwait. They were of the opinion that the embargo would last no more than two or three years. See Alkadiri, 'Saddam's Survival Strategy', *The World Today*, January 1999, at 7.

³² See the remarks of Richard Butler at the Carnegie International Non-Proliferation Conference, 11–12 January 1999, Washington D.C.

³³ See D. L. Byman and M. C. Waxman, *Confronting Iraq: U.S. Policy and the Use of Force Since the Gulf War* (2000), at 43.

³⁴ In the 1990s, outside actors often did a poor job of assessing local political conditions and the risks associated with international actions. For example, in the peacekeeping field, a common mistake was failing to appreciate that humanitarian assistance almost always had political ramifications in conflict settings, and that local actors did not always see humanitarian assistance as benign. Because outside actors often failed to appreciate the political implications of humanitarian assistance, they consequently failed to appreciate that their operational environments were often less benign than they appeared to be. Underestimation of risks and dangers was common — and highly problematic. (See Somalia, Bosnia, Rwanda.) The lesson to be derived from this is that interveners should make worst-case assumptions about their operating environments and potential adversaries, even when international actors are engaged in seemingly benign relief efforts.

³⁵ Intelligence gathering has also become a very important issue in UN peacekeeping operations. See, Smith, 'Intelligence and UN Peacekeeping', 36 *Survival* (Autumn 1994) 174.

independent, or had it been captured by Western — particularly US and Israeli — intelligence agencies? ³⁶

Regarding the first question, it must be recalled that UNSCOM was set up by the UN Security Council as a subsidiary body of the Council. UNSCOM was ultimately accountable to the Council and to the Council alone. Members of the Council made a deliberate decision to make UNSCOM independent from the UN Secretariat.³⁷ UNSCOM was therefore unencumbered by normal UN reporting rules and hiring procedures. This in turn enabled UNSCOM to make use of national intelligence information. Indeed, UNSCOM could not operate without the political and operational support of key members of the Council. The staffing and operations of UNSCOM reflected this reality.

The US was a main contributor to UNSCOM; it provided not only the Deputy Executive Chairman but also seconded or loaned many experts to the Commission, as did many of the other permanent members of the Council. In addition, the US made available a U-2 surveillance aircraft, which provided UNSCOM with panoramic photographic information about sites it wanted to inspect or monitor. Other countries also provided intelligence-gathering capabilities. For example, Germany provided helicopters and a C-160 transport plane. Although the helicopters were primarily used for transportation purposes, they also served as platforms for taking close-range pictures of certain sites.

UNSCOM's Information Assessment Unit and its Concealment Unit compiled and analysed not just the information collected by the U-2, the helicopters, and its on-site inspections, but also information provided by member states. Because of the multinational nature of UNSCOM, states — including the United States — were often reluctant to share information with UNSCOM. Help in interpreting U-2 photographs was not always forthcoming from the US, and UNSCOM had no in-house interpretation capacity. This was one of the reasons why UNSCOM (Ritter) went to the Israeli and other intelligence services. Since 1994 the Israelis had provided UNSCOM with information on Iraqi WMD programmes.³⁸ Given Israel's position in the Middle East, it is not surprising that once this became public knowledge, it immediately became an issue of contention.

The problem with the provision of national intelligence information lies in the fact that such information is provided at the discretion of the governments concerned. UNSCOM often did not know the sources of the information it received; hence, it was impossible to verify the information it was given. This left UNSCOM open to external manipulation.³⁹

This brings us to the accusation that UNSCOM was used by the US for purposes other than the disarmament of Iraq. Butler rightly calls French and Russian

³⁶ The intelligence issue had also arisen in 1991. At the time, Iraq also accused UNSCOM of being a front for US spy efforts. However, because the coalition was still tightly knit, the storm quickly died down.

³⁷ This created tensions between UNSCOM and the UN Secretariat. UNMOVIC, unlike UNSCOM, reports to the UN Secretary-General, who then reports to the UN Security Council.

³⁸ See Ritter, *supra* note 10.

³⁹ See, for example, Sur, *supra* note 7, at 57–59.

complaints about UNSCOM's gathering of intelligence information and its beholdenness to the US as hypocritical. France, Russia and many others had experts with intelligence backgrounds on UNSCOM teams, and these experts briefed their governments on what UNSCOM was doing. Indeed, as noted above, the multinational composition of UNSCOM made most governments wary, and many withheld information that could have been useful to UNSCOM inspectors. Because of Iraqi deception techniques, UNSCOM could only make progress uncovering Iraqi weapon programmes if it received help from outside intelligence agencies.

Butler admits using listening devices for a short period of time and requesting US assistance for installing and operating the system. However, the system did not work well, and he ordered it to be removed shortly after installation. Butler writes:

In retrospect, I think it may have been better not to have approved even the initial test of technology because it *could* have been used to collect information having nothing to do with disarmament. Any step that could support an accusation that UNSCOM was engaged in spying — even if untrue — would have harmed us. The brief deployment of this monitoring equipment is the closest we came to making such a mistake.⁴⁰

The United Nations has recently turned to private intelligence companies to strengthen its ability to enforce UN sanctions and decrease its dependence on US and other Western intelligence agencies. For example, the UN Security Council Sanction Committee on Angola is reported to have hired Kroll Associates, a US corporate security company, to trace the financial assets of UNITA's Jonas Savimbi.⁴¹ Similarly, UNMOVIC is said to be in discussions with Space Imaging Inc., a Colorado-based satellite-imaging company, to buy photographs of Iraqi industrial and weapon sites.⁴² Hans Blix, the head of UNMOVIC, declared 'We have no particular inhibitions about going to the private sector if we can get good and effective instruments. Our ambition is to place ourselves as far out on the launching pad for inspections as we can.'⁴³

Whether the hiring of private intelligence companies circumvents the political problems related to intelligence gathering by the UN is doubtful. On the contrary this may exacerbate the problem. In any case, it is unlikely that UN Member States will provide enough resources to make this a serious endeavour. Indeed, most states do not like to see the UN endowed with independent intelligence-gathering and analysis capabilities. For example, Kofi Annan's proposal in 2000 to create an in-house conflict prevention unit that would integrate the various databases of the UN as well as sift through the reports from tens of thousands of UN officials was stalled by governments, who saw this as an attempt by the UN to create its own Central Intelligence Agency.

⁴⁰ Butler, *supra* note 12, at 182 (emphasis in original).

⁴¹ See Lynch, 'Private Firms Aid UN on Sanctions: Wider Intelligence Capability Sought', *Washington Post*, 21 April 2001, at A15. The UN paid \$100,000 for this job.

⁴² *Ibid.*

⁴³ *Ibid.*

3 UNSCOM and the Future of Arms Control

UNSCOM was an instrument created by the UN Security Council for one specific purpose — to find and eliminate Iraq's non-conventional weapons arsenal. Many believed that UNSCOM would promote confidence in multilateral non-proliferation regimes. Neither of these objectives has been achieved.

While lessons will be learned in the technical bodies of existing verification agencies such as the IAEA, OPCW and the Test Ban Treaty Organization, it is unlikely that other verification organizations will be endowed with comparable widespread authority in the near future. If the negotiations over the Biological Weapon Verification Protocol are an indication, the tendency is toward less intrusive inspections.

Ironically, the end of the Cold War has coincided with a steady decline in interest in multilateral non-proliferation regimes. The United States in particular has lost much of its interest in multilateral arms control efforts. UNSCOM's experience provides ample ammunition for those who want to gut the whole multilateral arms control edifice established since 1945: If UNSCOM, they wonder, with its intrusive inspection authority was not able to uncover clandestine programmes, who or what can?

The UNSCOM experience proves that countries whose proliferation ambitions are motivated by strong security concerns will try to cheat, even if a robust international verification and monitoring mechanism is in place. Whether positive incentives and greater engagement can make a difference is questionable. Faced with countries such as Iraq, most policy options are unattractive and outcomes are uncertain. It therefore becomes all the more important to build politically-unified coalitions in opposition to aggressors. Both engagement and containment strategies need strong international coalitions to function effectively.

Unfortunately, the United States has not been playing a strong, effective leadership role in this regard. Many commentators, even American conservatives such as Robert Kagan, worry that the new Bush administration is likely to 'neglect its responsibilities' as the world's dominant power. Kagan argues that there is a danger that this administration will 'allow the international order that it [the US] created and sustains to collapse'.⁴⁴ If the United States does not shift course and begin leading in ways that only it can, multilateral arms control efforts will weaken.

This will weaken not just international law and organizations, but the security of every state in the international system. Ironically, the state with the most far-flung interests around the globe — the United States — is the one most likely to suffer from its growing opposition to collective international action.

⁴⁴ Kagan, 'The World and President Bush', 43 *Survival* (Spring 2001) 7. Kagan is a Republican and Co-editor with William Kristol, of the conservative *Weekly Standard*.