

## Indeterminacy and Vagueness in UN Resolutions Relating to the Second Gulf War

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### Abstract

*This study, which is part of a doctoral project, aims at investigating intentional vagueness in Security Council resolutions, by focussing on the analysis of the resolutions relating to the second Gulf war. Using the qualitative Discourse-Historical approach (Wodak 2000) and quantitative analysis tools (Antconc and Sketch Engine), special attention is given to the historical/political consequences of the vagueness used in that framework and to the study of vague 'weasel words' (Mellinkoff 1963), modals, and adjectives contained in the corpus. The hypothesis of intentional vagueness is reinforced through an analysis of the U.S. legislation related to the outbreak of the war, to reveal how the U.S. has interpreted UN legislation and to understand the purposes/consequences of vague language contained in it. The findings indicate that vagueness in resolutions has triggered the Iraqi conflict instead of diplomatic solutions through an intentional use of some vague linguistic patterns as a political strategy.*

**Keywords:** UN Security Council, vagueness, intercultural awareness, institutional-diplomatic language, Iraq, Iran.

### 1. Introduction

Over the last few years the diplomatic language of UN resolutions has repeatedly been questioned for the excessive presence of vagueness. In an era of expanding international contacts between different legal systems, many international instruments are the result of political compromises and delicate balances of interests between different parties. International institutions such as the UN are constantly faced with the need to overcome cultural divergences of their recipient countries. In order to meet these requirements, UN diplomatic texts may use vague words quite extensively. In Šarčević's (1997: 204) words "negotiators frequently reach compromises using vague, obscure or ambiguous wording, sacrificing clarity for the sake of obtaining consensus in treaties and conventions to represent the diverse interests of the participating State parties".

Such terms, whose meaning is very flexible, variable and strictly dependent on context and interpretation, have been defined by Mellinkoff (1963: 21) as "weasel words". The use of vague terms could be connected to the genre of diplomatic texts, as UN resolutions can be seen as a hybrid genre using prescriptive legal language but also typical elements of diplomatic language that reflect the needs to set agreements in a mosaic of divergent legal systems such as the UN is. However, although vagueness is generally accepted as unavoidable in these texts, excessive intentional vagueness is not always conflict mitigating. It could also lead to biased or even strategically-motivated interpretations of resolutions and it could trigger conflicts instead of diplomatic solutions, as is supposed to have happened for the second Gulf war, which is the main topic of this study.

### 2 AIMS

This study is part of a doctoral thesis project based on two main research aims:

A first part of the research, which will be discussed in this paper, aims at investigating on whether the use of strategic vagueness in Security Council resolutions relating to Iraq has contributed to the breakout of the 2002-2003 second Gulf war instead of a diplomatic solution of the controversies. As a matter of fact, resolutions relating to the 2002 Iraqi issue have been accused by the international community of being vague enough to have allowed a strategically-motivated interpretation by the U.S. of not impeding war. In particular, it was questioned whether the war had been implicitly authorised by precedent resolutions issued by the UN or it has been an illegal use of force.

A second section of the study was originated by the desire to understand whether the same patterns would be used in resolutions relating to the Iranian 2010 nuclear crises, revealing a relationship between the choice of vague linguistic features and an overall legislative intent of using intentional vagueness as a political strategy.

Through the analysis of Security Council resolutions related to this issue, it has been attempted to show how vagueness can be used either to lead to intentionally biased interpretations of the law as happened in the Iraqi case, or to mitigate international tensions, as was supposed for Iran.

### **3 CORPUS AND THEORETICAL FRAMEWORK**

#### **3.1 Corpus**

This paper is based on a corpus of 14 UN Security Council resolutions (henceforth “SCRIraq”). The time-span of these documents is from November 2001 to June 2004, including resolutions from S/Res/1382(2001), which is the first resolution issued against Iraq after September 11, 2001 to S/RES/1546(2004), which established an *interim* government in Iraq. The hypothesis of intentional vagueness is further reinforced through a sub-corpus (SUBCORIraq) including the draft of S/RES/1441(2002) and U.S. Congress legislation related to the outbreak of the war, to reveal how the U.S. has legally interpreted the vague and indeterminate expressions used in UN resolutions implementing UN decisions through U.S. national legislation.

#### **3.2 Theoretical Framework**

The study is based on a qualitative and quantitative method and relies on two different softwares combining the use of the concordance tools available in *AntConc* to investigate the co-text of specific words and phrases with the use of the function of automatic pos-tagging of *Sketch Engine*, used for the sections analysing weasel words.

The theoretical framework was mainly provided by the qualitative Discourse-Historical approach (Wodak 1999 and 2001) because special attention is given to the historical/political consequences of vagueness used in the resolutions related to Iraq and Iran. This approach allows going beyond the mere linguistic aspects of a text, especially to understand the political and ideological reasons underlying institutional discursive strategies.

The general theoretical framework draws upon studies on vagueness in normative and diplomatic texts (Bhatia *et al.* (2005), Kurbalija and Slavik (2001)). From a semantic and pragmatic perspective, particular attention has been devoted to “weasel words” (Mellinkoff 1963), and of adjectives (Fjeld 2005 and 2001), which have revealed to be the vaguest group of weasel words, as their interpretation is mainly subjective; on modality ((Coates (1983), Garzone (2003), Gotti (2003), Trosborg (1997)) because modals can contribute to the vagueness of the sentences in which they occur by clearly expressing the will of the text producer or leaving its intention implicit.

### **4. POLITICAL AND HISTORICAL BACKGROUND**

UN resolutions relating to the 2002-2003 Iraqi conflict have been accused by the international community of being vague enough to leave the US-UK coalition free to interpret them as giving an implicit authorisation to use force against Iraq. In an attempt to find a legal justification for war, the U.S. appealed not only to the right to self-defence, guaranteed by Article 51 of the UN Charter, but also to the argument that the war had been implicitly authorised by Security Council resolutions S/RES/678(1990) and S/RES/687(1991) dating back to the first Gulf war and mentioned in S/RES/1441(2002) relating to the second Gulf war. This resolution has been strongly stigmatized for its vagueness related to the controversy over authorisation.

One argument for legality states that S/RES/678(1990) authorised to use “all necessary means to uphold and implement S/RES/660(1990) and all subsequent relevant resolutions and to restore international peace and security in the area”. According to advocates of authorization, such as Professor Yoo of the University of California, S/RES/687(1991) was basically an armistice; it did not terminate the state of war, but merely suspended military operations by mutual agreement. The counterarguments argued that once the objective of removing Iraq from Kuwait had been secured the authorisation of the use of force was no longer current. S/RES/678 (1990) created no mandate for the use of force that could be relied upon in 2003 and even if it did, it gave a mandate to a coalition, not to a single Member. It explicitly states that it is for the Security Council “to take such further steps as may be required for the implementation of the present resolution” remaining “seized of the matter”. Furthermore, it was agreed by all five permanent members that the resolution did not imply authorisation for the use of force.

### **5 ANALYSIS OF ‘WEASEL WORDS’ USED IN SCRIraq**

#### **5.1 Classification of ‘weasel words’**

Crucial Security Council resolutions related to the authorization for war such as S/RES/1441(2002) have been accused of a high presence of vague ‘weasel words’, which according to Mellinkoff (1963: 21) are “words and expressions with a very flexible meaning strictly dependent on context and interpretation”.

The expression derives from the egg-eating habits of weasels, which are animals that have the ability to suck the content out of eggs leaving the eggshell intact. The word has been transferred into the legal literature to indicate expressions used to evade a direct statement or position. Moreover, many 'weasel words' have been used in resolutions relating to the second Gulf war to put emphasis on the moral aspect of legitimacy of war rather than on legality of military action. In order to study weasel words contained in SCR Iraq, the corpus has been scrutinised both manually and with Antconc in a multilayered process of analysis.

At first, drawing on Mellinkoff's list of indeterminate words (1963:22), the corpus has been scrolled to find adjectives, expressions and nouns enumerated by Mellinkoff. Table 1 in the appendix includes the adjectives and expressions listed by Mellinkoff found in SCR Iraq.

Mellinkoff's list has been a very valuable resource for the purposes of this research; however, as he did not include a more specific classification, for further investigation the adjectives and expressions found in the corpus have been analysed using Fjeld's 2005 parameters for the classification of adjectives, while a separate group has been added for weasel nouns.

According to Fjeld (2005:165), the most frequent 'weasel words' are adjectives, as they are often evaluative and therefore subjective by definition because they refer to a non-fix standard. In one of her most recent works (2005:165) Fjeld gives a general overlook on different types of adjectives, which can be seen in Table 2 (see appendix). Drawing on this classification, the adjectives found in SCR Iraq have been divided into nine categories, six of which belonging to Fjeld's classification, while the groups of location, quantity, temporal adjectives and weasel nouns have been added. The part of the analysis reported in this paper will focus on some instances of consequence and modal adjectives, and weasel nouns.

## **5.2 Consequence Adjectives in SCR Iraq**

Consequence adjectives represent degrees of consequence attributed to the noun being modified (Fjeld 2005:165). This category includes adjectives such as 'crucial', 'critical', 'serious', and 'considerable'. The only expression containing a consequence adjective in SCR Iraq is "serious consequences", and although there is only one occurrence in SCR Iraq, it has played an important role due to its vagueness and its subjective interpretability:

- (1) 13. Recalls, in that context, that the Council has repeatedly warned Iraq that it will face **serious** consequences as a result of its continued violations of its obligations; [...] (S/RES/1441 (2002))

Scrolling all the UN Security Council resolutions issued since 1946, it has been noticed that the expression "serious consequences" has been used other two times, once in S/RES/1137(1997) relating to the first Gulf war and then in S/RES/871(1993) relating to the Serbian/Croatian war:

- (2) 5. Declares that continued non-cooperation in the implementation of the relevant resolutions of the Security Council or external interference, in respect of the full implementation of the United Nations peace-keeping plan for the Republic of Croatia **would have serious consequences** and in this connection affirms that full normalization of the international community's position towards those concerned will take into account their actions in implementing all relevant resolutions of the Security Council [...]

(S/RES/871(1993))

It is worth to have a closer look at the historic background of this resolution because in this case, 'serious consequences' had a different historic outcome from the Iraqi 2002 case. Initially the UN did not take part in the 90's Balkans crisis. Considering it as an internal dispute, especially the U.S. insisted on a strict interpretation of Article 2 of the UN Charter, which does not allow UN intervention "in matters which are essentially within the domestic jurisdiction of any State". However, the UN eventually intervened with a peace-keeping operation led by UNPROFOR (United Nations Protection Force).

However, UNPROFOR was accused of 'false humanitarianism' because it gave assistance but it did not attempt to stop terrorism and ethnic cleansing. In this case, 'serious consequences' did not receive the interpretation of UN military intervention, as happened instead for Iraq. Referring to present day events, the UN has not used the expression 'serious consequences' since S/RES/1441(2002). However, it has been used in international politics several times, probably imitating its vague hint to threats of military intervention as used in S/RES/1441(2002).

For instance, the former U.S. Vice President Dick Cheney used the expression in his October 21, 2007 speech to the Washington Institute for Near East Studies, warning Iran that it will face “serious consequences” if it refuses to stop enriching uranium without specifying whether those consequences would include military action or not.

On January 28, 2008, the counterpart represented by the Iranian Foreign Minister Mottaki warned of “serious consequences” if the UN Security Council adopted further sanctions against Iran for its refusal to halt sensitive nuclear work. Mottaki said “If a resolution is passed [...] it will have serious and logical consequences and we will announce it later”. No further specifications have been given. What was an expression used by the UN in the Iraqi case has now become a tool used by single states towards the UN.

### 5.3 Modal Adjectives

According to Fjeld (2005:165), modal adjectives are evaluative adjectives expressing “a modal force ranging from necessity to desirability.” Also adjectives belonging to the modal category can be vague if there is no clear specification of a normative ordering source. The adjectives and modal expressions found in SCR Iraq are listed in Table 3 (see appendix). The modal adjective “necessary” has the highest frequency in the corpus, and it is related to what is “needed for a purpose or a reason or that must exist or happen and cannot be avoided.” Although many occurrences indicate the purposes for which something is necessary, the word still retains its subjective nature of interpretation. This can be seen especially when ‘necessary’ is used as an adjective. Table 4 (see appendix) shows the frequency of the ‘necessary + noun’ structure. Some occurrences of ‘necessary’ in SCR Iraq have been notoriously criticised for their subjective interpretability and vagueness. The example below is alleged to have given the possibility of using military intervention, because expressions such as ‘all necessary measures’ or ‘all necessary means’ allow infinite interpretations:

- (3) 10. Decides that the multinational force shall have the authority to take **all necessary measures** to contribute to the maintenance of security and stability in Iraq  
[...] (S/RES/1518 (2003))

Other instances of ‘necessary’ express circumstantial modality, which according to Coates (1983: 18) is concerned with what is “possible or necessary, given a particular set of circumstances”:

- (4) 25. Decides to review the implementation of this resolution within twelve months of adoption and to consider further steps that might be **necessary**;  
[...] (S/RES/1483 (2003))

The vagueness of the adjective in se and its circumstantial use gives a degree of open-endedness to the paragraph, which could be adapted for future necessities, as has been alleged to have happened for S/RES/678(1990).

### 5.4 ‘Weasel Nouns:

#### 5.4.1 ‘Terrorism’ in SCR Iraq

‘Terrorism’, ‘terrorists’ and ‘terrorist attacks’ are some of the main weasel nouns at the core of the Iraq issue since Iraq had been mentioned as part of the ‘axis of the evil’ involved in terrorism by the ex-President G.W. Bush. These words have been used and misused since then, for any attack related to Iraq. The word ‘terrorism’ is politically and emotionally charged and there is no precise definition for it. The concept of terrorism is in itself is controversial as it is often used by state authorities to delegitimise political or other opponents, or to potentially legitimise a state’s own use of armed force against opponents. President G.W. Bush consistently referred to the Iraq war as “the central front in the War on Terror”, and the 2006 National Intelligence Estimate<sup>1</sup>, which outlined the considered judgment of all 16 U.S. intelligence agencies, held that “the Iraq conflict has become the ‘cause celebre’ for jihadists, breeding a deep resentment of U.S. involvement in the Muslim world and cultivating supporters for the global jihadist movement.” UN resolutions that are part of SCR Iraq refer mostly to ‘terrorism’ in general, condemning all acts and feeling sympathy for some specific actions connected to proofed terroristic attacks:

- (5) 16. Emphasizes the importance of developing effective Iraqi police, border enforcement, and the Facilities Protection Service, under the control of the Interior Ministry of Iraq, and, in the case of the Facilities Protection Service, other Iraqi ministries, for the maintenance of law, order, and security, including combating **terrorism** [...]

(S/RES/1546(2004))

<sup>1</sup> Source: [http://www.dni.gov/press\\_releases/Declassified\\_NIE\\_Key\\_Judgments.pdf](http://www.dni.gov/press_releases/Declassified_NIE_Key_Judgments.pdf) (Last accessed: June 2011).

- (6) 17. Condemns all **acts of terrorism** in Iraq, reaffirms the obligations of Member States under resolutions 1373 (2001) of 28 September 2001, 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1390 (2002) of 16 January 2002, 1455 (2003) of 17 January 2003, and 1526 (2004) of 30 January 2004, and other relevant international obligations with respect, inter alia, to terrorist activities in and from Iraq or against its citizens [...]

(S/RES/1546 (2004))

The problem of this vague word is to understand what concrete attacks had to be interpreted as acts of ‘terrorism’. In one case, in S/RES/1511 (2003) UN refers to specific terrorist attacks that have been proven to be so:

- (7) Affirming that the terrorist bombings of the Embassy of Jordan on 7 August 2003, of the United Nations headquarters in Baghdad on 19 August 2003, of the Imam Ali Mosque in Najaf on 29 August 2003, and of the Embassy of Turkey on 14 October 2003, and the murder of a Spanish diplomat on 9 October 2003 are attacks on the people of Iraq, the United Nations, and the international community, and deploring the assassination of Dr. Akila al-Hashimi, who died on 25 September 2003, as an attack directed against the future of Iraq[...]

(S/RES/1511(2003))

However, the UK/US coalition seemed to give a different and much wider interpretation of the word. In the March 27th press conference<sup>2</sup>, Bush referred to the guerrilla tactics used against U.S. troops as ‘terrorism’. However, as the economist Paul de Rooij has noted:

When US generals and Rumsfeld complain about violence against US troops, the label “terrorism” sounds increasingly hollow. Violence against a fully armed occupation force is not terrorism. [...] Any hostile action by regular or irregular Iraqis against an American aggressor force is not terrorism.

It seems like any violence of the resistance was calculated as ‘terrorism’, even acts of defence against armed attacks. Probably such an insistence on ‘terrorism’ was used as a justification for the war after that the UNMOVIC had failed to find WMD in Iraq. Moreover, the CIA director’s think tank Chairman Robert L. Hutchings, commenting on the operations said that during the Iraq war, Iraq “[was] a magnet for international terrorist activity”.<sup>3</sup> He explained that the U.S. troops were functioning as a “magnet” that would have attracted “the terrorists” to attack U.S. soldiers in Iraq rather than people in the United States. But the ‘magnet’ justification raises the ethic and political issue of using a country for such a purpose, in the name of an indefinite ‘terrorism’ that in modern time cannot be restricted inside any state borders. The UN has the duty of condemning all actions of ‘terrorism’, which is one of the most serious problems today; however, the word has a degree of subjective interpretation which allows applying it to many situations, which are not always strictly definable as acts of ‘terrorism’.

#### 5.4.2 “Medicine, Health Supplies, Foodstuffs and other Materials and Supplies”

The words “medicine, health supplies, foodstuffs and other materials and supplies”, which could seem neutral, have created problems for their vagueness and generality. An example found in the corpus is included below:

- (8) 4. Authorizes the Secretary-General and representatives designated by him to undertake as an urgent first step, and with the necessary coordination, the following measures:  
[...] (b) to review, as a matter of urgency, the approved funded and non-funded contracts concluded by the Government of Iraq to determine the relative priorities of the need for adequate **medicine, health supplies, foodstuffs and other materials and supplies for essential civilian needs** represented in these contracts [...]

(S/RES/1472 (2003))

As done for other cases previously analysed, also the linguistic analysis of this expression needs to be integrated some background information in order to be fully understood. The *Oil-for-Food* programme, established by the UN in 1995 and terminated in 2003, had the stated intent to allow Iraq to sell oil at an international level in exchange for food, medicine, and other humanitarian needs of Iraqi civilians. Only in 1996, S/RES/1051(1996) established an import/export monitoring system according to which Iraq and countries exporting to Iraq had to notify the UN of any ‘dual-use’(civilian and military) items contained in the so-called ‘1051 List’ later modified by S/RES/1409 (2002) becoming the Goods Review List (GRL). Since then, the goods not included in the list could be sold without restrictions and controls, in order to facilitate the aids process.

<sup>2</sup> Source: <http://www.counterpunch.org/rooij04012003.html> (Last accessed: June 2011).

<sup>3</sup> Source: <http://www.washingtonpost.com/wp-dyn/articles/A7460-2005Jan13.html> (Last accessed: June 2011).

However, the list was accused of being greatly vague. Already in February 2000, the Clinton Administration had accused the Iraqi government of using illicit funds to import non-essential items such as cigarettes and liquor, rather than to alleviate the sufferings of the Iraqi people. Alcohol is classified as ‘food’, and thus its importation was technically legal under the international sanctions regime in place since Iraq’s August 2, 1990 invasion of Kuwait. In the case of the second war, the generality of the words “medicine, health supplies, foodstuffs and other materials and supplies for essential civilian needs” and the vagueness of some parts of the GRL also allowed the entrance in Iraq of some uncontrolled hypothetical dual-use items, among which there were suspected weapons of mass destruction (WMD)-related dual-use goods.

As a matter of fact, the Iraq Survey Group (ISG), a 1,400-member mission sent in Iraq after the 2003 invasion to find WMD, has compiled a list of contracts, attempted transactions, and suspected dual-use goods found in Iraq. The items are related to nuclear, medical, biological and chemical dual-use items procured through many states around the world. For instance, in 2002 Italy was accused of providing biotechnology and bio weapons-related technology and expertise. Other countries such as France, India, and Germany were accused of biological, chemical and nuclear dual-use items procurement. Thus, the generality of these words referring to goods which were meant to be used to alleviate the sufferings of the Iraqi people has allowed importing items allegedly destined to non-peaceful purposes.

### 5.4.3 “Democracy”

Another weasel noun used in SCRIraq is ‘democracy’. Its vagueness is due mainly to contextual and extra-linguistic reasons. It is a case more related to semantic vagueness, rather than to purely linguistic features.

First of all, in general language, there is a problem with the concept of democracy itself. ‘Democracy’ is only apparently a common-sensical issue, an abstract value to aspire to, or a matter of shared and uncontested meaning. Actually many people are not able to specify what exactly the word is supposed to represent, and it is not intended in the same way around the world and even within the same society. Some authors such as Professor Michael Bratton<sup>4</sup> have explored relations between citizens’ generic preferences for democracy and other measures of support for democratic ideas and institutions on the basis of individual-level data. For instance, Bratton has cross-tabulated support for democracy with the rejection of authoritarian rules (military dictatorship, personal dictatorship, one-party rule and traditional rule). He found that almost one-third of respondents said they preferred democracy, but failed to consistently reject all forms of authoritarian rule.

As concerns Iraq, the concept of ‘democracy’ is a critical issue as this country is coming out of years of despotism.

At an international level, there is an ongoing debate concerning the relationship between Islam and democracy. Advocates of Islamic democracy argue that the ‘Oneness of God’ requires a form of democratic system: “no Muslim questions the sovereignty of God or the rule of Shari’ah” (the Islamic legal path). According to most Muslims “the sovereignty of one man contradicts the sovereignty of God, for all men are equal in front of God [...] Blind obedience to one-man rule is contrary to Islam.”<sup>5</sup> According to this viewpoint thus, Islam virtually requires a democratic system because humans are all equal and any system that denies that equality is not Islamic. On the other hand, conservatives claim that the idea of the sovereignty of the people contradicts the sovereignty of God, because in Islam, only God reserves the right to make laws, while in democracy, people make laws. On these grounds, western-like democracy is incompatible with Islam.

This opposition reflects a further distinction that can be made between an ‘Islamic’ democracy which is a democratic state recognizing Islam as the state religion and where Islam is not the only source of law (as in Malaysia, Pakistan or Algeria); and an ‘Islamist’ democracy, which endeavours to institute the *Shari’ah*. Islamist democracy has more comprehensive inclusion of Islam into the affairs of the state.

As far as concerns SCRIraq, in the aftermath of the second conflict, the UN stressed the importance of a general ‘democratic’ government and ‘democratic’ elections for Iraq, as can be seen in some examples given below:

<sup>4</sup> Professor Michael Bratton is a University Distinguished Professor of Political Science and African Studies at Michigan State University. Source: <http://www.afrobarometer.org/papers/AfropaperNo19.pdf> (Last accessed: June 2011).

<sup>5</sup> Source: <http://addm.az.iatp.net/conen.html> (Last accessed: June 2011).

- (9) Affirming the importance of the rule of law, national reconciliation, respect for human rights including the rights of women, fundamental freedoms, and **democracy** including free and fair elections [...] (S/RES/1546 (2004))
- (10) 4. Endorses the proposed timetable for Iraq's political transition to **democratic government** including:  
(c) holding of direct **democratic elections** by 31 December 2004 if possible [...] (S/RES/1546(2004))
- (11) Welcoming the beginning of a new phase in Iraq's transition to a **democratically elected government**, and looking forward to the end of the occupation and the assumption of full responsibility and authority by a fully sovereign and independent Interim Government of Iraq by 30 June 2004 [...] (S/RES/1546 (2004))

In the specific case of Iraq, 'democracy' corresponded to a federal separation of powers, as suggested in the report *Democratic Principles report of the Conference of the Iraqi Opposition* (in Meyerson 2003), which asserted that no future state in Iraq would be democratic unless it had a federal structure, because there was no unified political group that stood likely to win power in all of Iraq's 18 provinces. The elections held on January 30, 2005 were for a 275-seat National Assembly, for a provincial assembly in each of Iraq's 18 provinces, and for a Kurdistan regional assembly (111 seats). The Assembly voted a Prime Minister who had to choose his cabinet and then be subject to confirmation by a majority vote of the Assembly. The National Assembly then drafted a constitution put to a national referendum vote on October 15, 2005.

According to the UN Programme on Governance in the Arab Region, more than 8 million out of 14 million eligible citizens participated in the elections rendering a participation rate of 59%.<sup>6</sup> Kofi Annan commented in a statement<sup>7</sup>: "Anecdotal evidence shows that there has been a good turnout, that it was inclusive and that security was well maintained. [...] These are all good measures of success". Elections were thus considered to have been a success, considering also that people voted facing the risk of attacks, and voted under a condition of foreign occupation. It can be seen as a step further to the 'democracy' cited in the UN resolutions contained in SCR Iraq.

However, 'democracy' does not only consist of free and fair elections. The UN preferred to keep a vague position on democracy in Iraq. As a matter of fact, Iraq still has to guarantee human rights which are fundamental elements of democracy. It is furthermore a matter of understanding how democracy should or could be adopted in this territory.

## **6 VAGUENESS IN PROGRESS: A COMPARATIVE ANALYSIS BETWEEN UN AND U.S. OFFICIAL DOCUMENTS AND RELEVANT DRAFTS**

### **6.1 Comparative Analysis between S/RES/1441(2002) and its Draft**

Vague language used in S/RES/1441(2002) seems to have responded to the need to find a political compromise between UN State Members by leaving the text deliberately open to different interpretations. During negotiation on the resolution jointly proposed by the U.S. and the U.K., a cautiously worded document was asked for especially by Russia, France, and China, which threatened of vetoing the document to avoid formulae which could have triggered an authorization to use force. However, the final version of S/RES/1441(2002) turned out to be extremely and deliberately vague, giving the possibility of infinite interpretations, including implicit authorization for war.

The linguistic analysis of the final version of S/RES/1441(2002) compared to its draft reveals how strategic vagueness has played a crucial role in UN resolutions related to Iraq. The hypothesis of strategic vagueness could be confirmed by a letter on S/RES/1441(2002) sent by the UK's Foreign Minister Jack Straw to the Attorney General. This letter, dated 6 February 2003, has been part of secret documents and has only recently been declassified. In particular, in the passage reported below, Straw refers to a letter from the Attorney to the ex-Foreign Office legal adviser Elizabeth Wilmshurst, dated 30 January 2003, which as far as my knowledge is still secret nowadays. The importance of this letter is that it explicitly states that there were two versions of the draft, namely an "explicit" and an "implicit" version and that they would have both "provided[d] the necessary legal authority for military advice":

<sup>6</sup> Source: <http://www.undp-pogar.org/countries/theme.aspx?t=3&cid=6> (Last accessed: June 2011).

<sup>7</sup> Source: <http://www.un.org/apps/news/story.asp?NewsID=16954&Cr=Iraq&Cr1=elections> (Last accessed: June 2011).

It goes without saying that a unanimous and express Security Council authorization would be the safest legal basis for the use of force against Iraq. I have doubts about the negotiability of this in current circumstances. We are likely to have to go for something less. You will know that the UK attaches high priority to achieving a second resolution for domestic political reasons and to ensure wide international support for any military action. I have seen your office's helpful letter of January 30 to Elizabeth Wilmshurst confirming that both 'explicit' and 'implicit' versions of the draft we have developed would provide the necessary legal authority for military advice.

The differences between the "implicit" and "explicit" versions of S/RES/1441(2002) become evident in a comparative linguistic analysis between US/UK's proposed draft and the amended version of the law. For instance, a crucial passage in this resolution is Paragraph 12. The underlined parts indicate additions to the final version, while the omitted parts are crossed out:

- (12) 12. *Decides to convene immediately upon receipt of Iraq's obligations, and that such breach*  
~~authorizes member states a report in accordance with paragraphs 4 or 11 above, in order to use~~  
consider the situation and the need for full compliance with all necessary means of the relevant  
Council resolutions in order to restore secure international peace and security [...]

In Straw's letter to the Attorney General, the background debate on the meaning of the word "convene" is explained:

What the Security Council agreed to do was exactly that to consider the situation. We did not agree, as earlier wording had proposed, that the council would decide, if we had wanted that to be the sense that would have been the verb used. Instead we chose the verb consider precisely because it covers a range of possibilities from look at thoughtfully, to contemplate doing something" (Chambers). Significantly in the dictionaries I have consulted, definitions of consider stop short of decide.

Then Straw explains the compromise that this vague wording led to:

What F/R/C got was further discussion and time, further reports- and an ability to influence events, in return for no automatic second resolution being necessary. And in return- a major US concession. The US/UK agreed not to rely on 1441 as an authorization for the use of force immediately after its adoption (so called automaticity).

Thus, in the final version of S/RES/1441(2002) it was within the Security Council power to take any measures that it considered appropriate. It did not do so. Its vagueness left room to many interpretations. It is important to notice that the draft resolution had decided that "material breach" of UN resolutions would have given power to Member States "to use all necessary means to restore international peace and security". However, the straight and strong expression "all necessary means" used in the draft was substituted by the vague modal consequence adjective "serious" [consequences] in paragraph 13 of the final version, allowing endless possibilities of interpretation:

- (13) 13. *Recalls*, in that context, that the area; Council has repeatedly warned Iraq that 11 .it will face serious consequences as a result of its continued violations of its obligations [...]

In the final version the rejection of the wording "such breach authorises Member States to use all necessary means" implicated that the Security Council did not intend to accept U.S. action at all. However, the introduction of deliberately vague wording in the final version did not help halting the U.S. /U.K. interpretation, according to which the resolution allowed independent determination of Iraq's further non-compliance. Moreover, the expression "to restore international peace and security" used in the draft was substituted by "to secure". "To restore" was the formula used in S/RES/678 (1990), in the context of Iraq's invasion of Kuwait that effectively broke a condition of peace and security. Immediately before the outbreak of the second Gulf war, the context was different: there was no peace to restore. Thus, the verb "to secure" can only be linked to the thesis of preemptive war, implicitly claiming that Iraq was seen as a threat to international peace and security. In the aftermath of the adoption of S/RES/1441 on 8 November 2002, although the five permanent members had agreed that the resolution did not imply automaticity, the U.S. Secretary of State Colin Powell stated:



[...] if Iraq violates this resolution and fails to comply, then the Council has to take into immediate consideration what should be done about that, while the United States and other like-minded nations might take a judgment about what we might do about it if the Council chooses not to act.

Therefore, the U.S. actually ignored the international value of the UN and of its decision.

This position has been further confirmed through the comparison between S/RES/1441(2002) and legislation approved by the U.S. Congress for the authorization for war, with the Public Law P.L. 107-273 and its draft bills, as will be briefly discussed in the following paragraph.

## 6.2 U.S. Congress Legislation Related to the Authorization for War

Before the outbreak of war, the U.S. Congress produced a number of bill proposals relating to the Congressional position on authorization for war.

The final Public Law P.L. 107-243 and all proposals that remained at a draft status are of fundamental importance to understand the consequences of vague language used in S/RES/1441 (2002) when it was implemented at a national legislative level. Comparing the bill proposals with P.L.107-243, it can be seen how the wording was cautiously changed in the final version.

For instance, this can be noticed comparing the *Authorization for the Use of Armed Force* section used in the bill proposal S. J. Res 45 [107<sup>th</sup>] and H.J.Res 114 [107<sup>th</sup>] that was eventually approved as P.L.107-243:

(14) AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION.—The President is authorized to use all means that the Armed Forces of the United States as he determines to be necessary and appropriate, including force, in order to— enforce the United Nations Security Council Resolutions referenced above, (1) defend the national security interests of the United States against the continuing threat posed by Iraq, and restore and (2) enforce all relevant United Nations Security Council Resolutions regarding Iraq. [...]

In P.L.107-243, the President is explicitly allowed to use the Armed Forces when it is “necessary and appropriate”, excluding any other solutions which were instead implicated in S.J.Res 45[107<sup>th</sup>], in which force was given only as an option included in “all means” that the President could have used. The use of the modal adjective ‘necessary’ gives further strength to the unavoidability of the use of force.

Moreover, in P.L.107-243, the reasons for the authorisation are given in a different order, probably reflecting priority of importance. As a matter of fact, in the final version, priority is given to the defence of the national security of the U.S. against the “continuing threat posed by Iraq”.

Furthermore, this reason has been slightly changed in its wording, with the omission of “interests”, in “national security interests” (which could have recalled connections with other American ‘interests’ e.g. economic interests), and the addition of “continuing” [threat posed by Iraq], to give the sense of a major and perpetual violation of UN resolutions.

The second reason given is related to the enforcement of UN resolutions, for which P.L.107-243 prefers to be all-inclusive, referring to “all relevant resolutions regarding Iraq”.

A third reason omitted in P.L.107-243 stressed the importance of restoring international peace and security. Probably it has been omitted to avoid reference to Chapter VII of the UN Charter, according to which the UN is the only institution allowed to use force and has to supervise actions of self-defence.

## 6.3 A Comparative Linguistic Analysis between H.J.Res 114 [107<sup>th</sup>] and its Amendment Proposals

Also the approval of P.L.107-243 led to a heated negotiation debate, during which some amendments were proposed but rejected. Their analysis revealed that the “serious consequences” and the other vague wording included in S/RES/1441 (2002) could have been interpreted in different ways, but the Congress willingly opted to interpret it as meaning war. The Democratic representative Barbara Lee proposed an amendment (H.Amdt.608) to H.J.Res 114 [107<sup>th</sup>] on October 10, 2002. While H.J. Res. 114 [107<sup>th</sup>] gave authorisation for military attack if no further diplomatic means were possible, H. Amdt. 608 proposed to ensure that Iraq was not developing WMD through several peaceful means provided by Art.33.1 of the UN Charter which would have all been ‘serious’, although peaceful:

- (15) Now, therefore, be it *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, that the United States should work through the United Nations to seek to resolve the matter of ensuring that Iraq is not developing weapons of mass destruction, through mechanisms such as the resumption of weapons inspections, negotiation, enquiry, mediation, regional arrangements, and other peaceful means. (H.Amdt.608)

Strongly opposed by the Republicans, H. Amdt. 608 was rejected on October 10, 2002 by 72 Yeas, 355 nays and 4 non-voting. The Democratic representative John Spratt also proposed an amendment (H.Amdt.609) on October 10, 2002. Although also this amendment concluded that Iraq had materially breached its international obligations, the difference between H.J.Res. 114[107<sup>th</sup>] and this amendment is it would have been much more legally precise than the final version.

In the amendment, only when all diplomatic tools had been tried authorisation for military action would have been given. The U.S. would not have been authorised to work alone, but as an aid to the UN:

- (16) [...] if the President deems advisable, a military force, formed under the auspices of the United Nations Security Council but commanded by the United States, to protect and support arms inspectors and make force available in the event that Iraq impedes, resists, or in any way interferes with such inspection teams.

(H.Amdt.609, SEC. 2. (3.C))

Furthermore, according to SEC. 2. (4), in case the UN did not take any provisions, the President should have sought authorisation from the Congress to use military force with the aid of a coalition of allies and should have also sought “multilateral cooperation and assistance, specifically including Arab and Islamic countries, in the post-conflict reconstruction of Iraq.”

Opponents to H.Amdt.609, such as the Republican Henry Hyde, claimed that the amendment did not recognize nor protect American sovereignty and thus H.Amdt.609 was rejected by 155 ‘Yeas’, 270 ‘Nays’, and 6 non-voting.

## **7 Conclusions**

The comparative linguistic analysis between the final version of S/RES/1441(2002) and its draft has revealed how strategically used vagueness has played a crucial role in the outbreak of the war, and in relevant legislation produced by the U.S. for its Congressional authorisation for war. There could have been diplomatic solutions to the Iraqi crises which would not have been synonymous of light-handed intervention against Iraq, but intentionally vague UN wording allowed the U.S. to build its own legislation with a personal interpretation implying that the UN did not impede military action. The analysis of “weasel words”, such as adjectives, nouns, expressions and preambulatory and operative phrases used in SCR Iraq has suggested that the UN had a moderate negative reaction against the outbreak of the conflict. This is sustained by the fact that although there were many more severe and less vague phrases that could have been used to express opposition to the war, the UN preferred to use phrases that could be collocated at a low level of a scale of gravity and vague expressions.

What seems to emerge is a sort of willing to stress and justify military action as a response to its perpetuation of being in “material breach” of resolutions precedent to the 2002 conflict. As a matter of fact, SCR Iraq presents a high rate of intertextuality, especially of reference to resolutions issued during the first Gulf War. Moreover, many ‘weasel words’ belonging to the groups of adjectives, modals and nouns put emphasis on the moral aspect of legitimacy of war rather than on legality of military action. Although the U.K. and the U.S. agreed that there was no ‘automaticity’ in S/RES/1441(2002), they expressly continued to give their own interpretation of the resolution, ignoring the international value of UN decisions. Vague UN wording did not have enough strength or will to exclude the unilateral use of force. This thoroughly instrumentalised view of the United Nations suggests that its relevance and authority could be defined by and limited to its proximity to Washington’s positions.

## Appendix

Table 1. Indeterminate adjectives and expressions listed by Mellinkoff (1963: 22) found in SCR Iraq

<b>Adjectives and Expressions Listed by Mellinkoff and found in SCR Iraq</b>			
Adequate	And/or	And others	Appropriate
As soon as possible	As rapidly as possible	Available	Completion
Desire	Existing	Free and fair elections	Further
Inadequate	Intention	Improper	Many
Modify	Necessary	Need	Objectionable
Objective	Possible	Practicable	Preceding
Promptly	Proper	Provide for	Public
Reasonable	Regular	Related	Respecting
Safe	Satisfy	Serious	Structure
Subsequent	Substantial	Sufficient	Technical
Temporary	Understanding	Voluntary	Welfare

Table 2. Fjeld's 2005 Adjectives Classification

<b>Categories</b>	<b>Examples</b>
General qualities adjectives	good - bad- useful
Modal adjectives	necessary - expedient - desirable
Relational adjectives	suitable - sufficient - appropriate
Ethic adjectives	right - equitable - responsible
Consequence adjectives	crucial - critical - serious
Frequency adjectives	widespread - common - normal

Table 3. Modal adjectives in SCR Iraq

<b>Modal Adjectives Used in SCR Iraq</b>	
<b>Modal Adjectives</b>	<b>Frequency</b>
Necessary	37
Possible	8
If	5
Whether	3

Table 4: Clusters of the 'necessary+ noun' structure in SCR Iraq

<b>Frequency of the 'Necessary + Noun' Structure in SCR Iraq</b>		
<b>Rank</b>	<b>Frequency</b>	<b>Clusters</b>
1	3	necessary adjustments
2	3	necessary measures
3	2	necessary adjustment
4	2	necessary coordination
5	2	necessary revision
6	1	necessary additions
7	1	necessary conditions
8	1	necessary facilities
9	1	necessary foodstuffs
10	1	necessary means
11	1	necessary resources
12	1	necessary settlement
13	1	necessary step

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