

**UNIVERSITÀ DEGLI STUDI DI NAPOLI
“FEDERICO II”**



FACOLTÀ DI SCIENZE POLITICHE

DIPARTIMENTO DI TEORIE E METODI DELLE SCIENZE UMANE E SOCIALI

“TEOMESUS”

SEZIONE LINGUISTICA

DOTTORATO DI RICERCA IN LINGUA INGLESE PER SCOPI SPECIALI

XXIV CICLO

TESI DI DOTTORATO

**VAGUENESS AS A POLITICAL STRATEGY:
WEASEL WORDS IN SECURITY COUNCIL RESOLUTIONS
RELATING TO THE SECOND GULF WAR**

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*To S. M.,
who has shown me how 'Chance'
can radically change a life...*

Acknowledgments

It seems like yesterday that I entered the English for Special Purposes PhD course, but three years have passed and they have truly enriched my life.

Many people have helped me along this academic path, contributing invaluable suggestions and insightful comments to my work.

I would like to thank the doctoral board of the PhD in English for Special Purposes, in particular Professor Gabriella Di Martino for sincerely encouraging me in my research throughout these years.

I am deeply grateful to my supervisor Professor Giuditta Caliendo, who has been always there, supporting me through research and sharing true enthusiasm for my topic and findings. Thank you for your precious guidance!

I am particularly beholden to Professors Vanda Polese and Cristina Pennarola for having constantly supported me and spurred me on to 'dare'. It has been a pleasure to participate in academic life with you.

I also owe much to Professor Silvana La Rana, who has always placed trust in me and my research abilities since I started university and to Dr. Maria Mansi and Dr. Molly Rogers for their great support.

I also want to extend my gratitude to Mrs Mena Vilardi and Cinzia Della Monica, who are simply irreplaceable. Your precious work is immeasurable!

Finally, a special thanks to sr. Viola, Annamaria, and to the *Anema e Corde* workshop for helping me bear up under the many 'ups and downs' of this work.

Thank you all!

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Introduction

Over the last few years the diplomatic language of UN resolutions has been repeatedly questioned for the excessive presence of vagueness.

Vagueness is a pervasive phenomenon in natural language, as it appears to be expressed through nearly all linguistic categories. In daily experience, meanings are conveyed and understood even though many words of ordinary language are vague. Words such as ‘dangerous’, ‘wealthy’, and ‘happy’ are actually understood without knowing the precise meaning of them. Unfortunately, problems start with attempts of forcing continuums into a step function by assigning an arbitrary breakpoint. The issue becomes even more complex when it involves specific linguistic fields, such as law and diplomacy.

Applying vagueness to legal norms may appear paradoxical, as “vagueness seems repugnant to the very idea of making a norm” (Endicott 2005: 27). However, vagueness seems to be an intrinsic element of the legal and diplomatic field, because it can be used to express extremely generic concepts and therefore be applied to many different situations. Legal and diplomatic texts need to accomplish a double role on the one hand they must be precise and accurate, but on the other they must be all-inclusive (Bhatia 1993: 117) and have a wide applicability. For this reason, diplomatic texts in particular are characterised by a high number of words and expressions that have a very flexible and variable meaning. Such terms, whose meaning is strictly dependent on context and interpretation, have been defined by Mellinkoff (1963: 21) as “weasel words.”

In an era of expanding international contacts between different legal systems, many international instruments are the result of political compromise and delicate balance of interests between different parties. International institutions such as the United Nations are acquiring a growing weight over domestic legislations and are thus constantly faced with the need to overcome cultural divergences of the recipient countries. In order to meet these requirements, UN diplomatic texts may use calculated vague, general or ambiguous 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.”

The use of vague terms could be connected to the genre of diplomatic texts, as resolutions should be applicable to every international contingency. In a way, UN resolutions can be seen as a hybrid genre, as they use prescriptive legal language but also elements typical of diplomatic language that reflect the needs to set agreements in a mosaic of divergent legal systems such as the UN is.

Vagueness is thus generally accepted as essential and unavoidable in these texts; as Frade (2005: 133) observes: “the conventional use of vague language has been tacitly agreed on by legal drafters and interpreters.” In diplomacy, diplomats engaged in the negotiation of texts will often strive to persuade interlocutors to reach agreements on a word form that combines precision with ambiguity.

However, there are also positions against the use of vagueness and indeterminacy in legal texts. There are some cases in which vagueness and ambiguity represent a risk for the correct interpretation and implementation of a law. Ambiguous and vague agreements can give origin to severe intellectual conflicts, as each party tends to interpret the agreement to its own benefit. Parties could start critics over interpretation, which then may cause a serious rupture in their relations.

In particular, excessive vagueness could also lead to biased or even strategically-motivated interpretations of resolutions, triggering conflicts instead of diplomatic solutions. As a matter of fact, strategic agents are frequently intentionally vague, i.e. they deliberately choose less precise messages than they have to among the ones available to them in equilibrium. Due to their underinformativeness, the same linguistic devices that are used legitimately as tools of persuasion and information can be used illegitimately for manipulation. As van Dijk (2006: 372) notes, “as such, discourse structures are not manipulative; they only have such functions or effects in specific communicative situations.” Obviously, the boundary between illegitimate manipulation and legitimate persuasion is fuzzy and context dependent. Vague expressions, deliberate ambiguities and obscure meaning corrupt public language and obstruct people from formulating complex arguments. This language is used to legitimise what many see as indefensible (e.g. infringement of fundamental rights and liberties, war) and to make sentences more acceptable to the hearer/reader, thus increasing their chance of acceptance and ratification, reducing the risk of rejection.

Intentional vagueness does not always achieve the same consequences: it can be welfare enhancing in cases it is used to mitigate conflicts. In other cases it can have negative consequences, as happened for the second Gulf war, which is the main topic of this study.

This analysis is based on two main research objectives.

A first part of this research aims at investigating the issue of intentional vagueness used in UN resolutions by focussing 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.

Four main justifications have been indicated as the *casus belli of the Iraqi conflict*: pre-emption against a potential Iraqi threat, Iraq's alleged links to terrorism, material breach of precedent resolutions, and humanitarian intervention. At the end of the war (officially May 1, 2003), no evidence of weapons of mass destruction had been found; and what is more, the resolutions have been accused by the international community of being vague enough to allow 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 S/RES/678(1990), S/RES/687(1991) and S/RES/1441(2002) or it has been a violation of the UN system of collective security and unauthorised and illegal use of force. One of the vaguest passages of the corpus analysed is in S/RES/1441(2002) and is in fact related to the controversy over authorisation. Without Security Council authorisation, states do not have the right to use force to enforce the Council's resolutions. Thus, the lack of a UN authorization for the use of force in Iraq would determine that U.S. military action in that territory has been illegal. These accusals reveal that vagueness on the issue has further weakened and undermined the value and the strength of the UN.

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 nuclear crises, revealing a relationship between the choice of vague linguistic features and an overall legislative intent of using intentional vagueness and indeterminacy as a political strategy. In his "Axis of evil" speech held on January 29,

2002¹, President Bush warned that the proliferation of long-range missiles developed by Iran, along with North Korea and Iraq constituted an act of “terrorism” and was a “threat” for the United States. In particular, Iran has been accused of not respecting the Nuclear Non-Proliferation Treaty (NPT)² and UN resolutions issued to verify whether the three pillars of the NPT (non-proliferation of nuclear weapons, disarmament and the right to peacefully use nuclear energy) were being respected.

Through the analysis of Security Council resolutions related to this issue, this second part attempts to show how vagueness can be either used to lead to intentionally biased interpretations of the law as happened in the Iraq case, or to mitigate international tensions depending on the underlying intentions of the legislators, as was supposed for Iran.

As far as concerns the corpora, the analysis is based on two primary corpora and two additional corpora.

The first part of the study, focussing on vague language used in UN resolutions relating to the second Gulf War, is based on a collection of the 14 UN Security Council resolutions relating to Iraq, henceforth referred to as ‘SCRIraq1’. The time-span of the documents used for this first primary corpus 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.

A second primary corpus has been built collecting the 7 UN Security Council resolutions relating to Iran, henceforth referred to as ‘SCRIran1’. The time-span of the documents is from July 2006 to June 2010, including Security Council resolutions from S/RES/1696(2006) to the most recent resolution at the time in which this research is being written, S/RES/1929(2010), dated June 9, 2010.

Two additional corpora have been included respectively for U.S. Congress legislation relating to the authorisation for the second war against Iraq (named ‘SCRIraq 2’) and U.S. Congress legislation relating to the Iranian nuclear issue (named ‘SCRIran2’). The analysis of these additional corpora has been useful to reinforce the hypothesis of intentional vagueness, in order to analyse how vague and

¹ Source: <http://georgewbush-whitehouse.archives.gov/news/releases/2002/01/print/20020129-11.html> (Last accessed: June 2011).

² Source: <http://www.un.org/en/conf/npt/2005/npttreaty.html> (Last accessed: June 2011).

indeterminate expressions used in UN resolutions has been interpreted and implemented in U.S. national legislation.

As the study is based on quantitative and qualitative methods, it relies on two different softwares: the study combines 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*³, which will be of necessary importance especially for the sections analysing weasel words, adjectives and modals.

The theoretical framework is mainly provided by the qualitative Discourse-Historical approach (Wodak 1999 and 2001) because special attention is given to the historical/political consequences of the vagueness and indeterminacy used in the resolutions related to Iraq and Iran. By investigating historical, organisational and political topics and texts, the discourse-historical approach attempts to integrate knowledge about the historical sources and the background of the social and political fields in which discursive events are embedded. This approach has been very useful for the purposes of this research because it allows going beyond the mere linguistic aspects of a text, especially to understand intentionality.

Studies on vagueness in normative texts in general (Bhatia, Engberg, Gotti, Heller 2005) and Kurbalija and Slavik 2001) have had a fundamental importance in this study to understand the world of institutional and legal discourse. Particular attention has been devoted to theories on vagueness of ‘weasel words’ (Mellinkoff 1963), especially of adjectives. Studies carried out by Fjeld (2005 and 2001), Kerbrat-Orecchioni (1980), and Endicott’s (2005) have been a very valid support in the analysis of adjectives, which have revealed to be the vaguest group of weasel words as their interpretation is mainly subjective. Studies on modality ((Coates 1983, Garzone 2003, Gotti 2003, Trosborg 1997, Palmer 1990 and 2001) have also been a valid source 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 implied.

This study is divided into eight chapters. The mere linguistic analysis contained in chapters from 4 to 9 is preceded by an introductory theoretical section included in the first three chapters.

³ Source: <http://www.sketchengine.co.uk/> (Last accessed: June 2011).

Chapter 1 includes some introductory notes on the history of the United Nations, and also a description of its main organs focussing on the Security Council and the General Assembly. It also deals with the current debate on criticism against the United Nations and thus of the reform proposals.

Chapter 2 introduces the text type of resolutions. This section includes a description of definitions and functions of UN resolutions, establishing a difference between Security Council and General Assembly resolutions. Some notes are provided on the approval procedure of resolutions and on the translation process of these resolutions into the six official languages of the U.N.

Finally, Chapter 3 focuses on the definition of vagueness and its role in normative and diplomatic texts. Information is provided both on semantic vagueness (mainly on sorites and approaches to semantic vagueness) and on linguistic theories on vagueness and ambiguity. This section is concluded by approaching the main topic of this research, namely vagueness in Security Council resolutions related to Iraq, providing some information on the historical background that led to the second gulf war, on the accuses of vagueness of the resolutions and on the issue of legality of the conflict, on whether it has been authorised or not.

The subsequent chapters focus on the linguistic analysis.

The fourth chapter introduces the linguistic analysis by thoroughly describing in-depth aspects of the corpora, the search tools used for the quantitative analysis and the theoretical framework on which the qualitative analysis is grounded.

The fifth section is devoted to the description of the style and wording of Security Council resolutions, mainly on the analysis of preambulatory and operative phrases used in SCRIraq1. Reference is made to the United Nations Editorial Manual, which includes guidelines for drafting and editing Security Council resolutions, which the purpose of illustrating that for some issues the UN does establish rules, such as for the arrangement of paragraphs and subparagraphs, capitalisation, italicisation, and punctuation in general, while it leaves other aspects in vague conditions. The structure of UN resolutions is also analysed with a particular look into the relationship between lexical cohesion, coherence and rhetoric devices used in these resolutions. However, a main part of this section is devoted to the analysis of emotive wording used in preambulatory clauses and instructive wording used in operative clauses.

A sixth chapter focuses on the use of modality in SCRIraq1. After an introduction to the concepts of modalisation and the different types of modality, the chapter proceeds with an analysis of the modal verbs used in SCRIraq1: ‘shall’, ‘should’ and ‘must’, ‘may’ and ‘might’, ‘can’ and ‘could’, ‘will’ and ‘would’, paying attention to the value of vagueness that they contribute to the text.

A seventh chapter is based on the topic of ‘weasel words’ and evaluative adjectives found in SCRIraq1. After some introductory notes on weasel words and studies on adjectives and indeterminacy, the chapter proceeds with the analysis of the vague adjectives and nouns found in SCRIraq1 adopting Mellinkoff (1963) and Fjeld’s (2005) methodology of classification. This part is particularly relevant because this type of words lead to underinformativeness and subjective interpretations of the law, and in the case of Iraq they have been used for the legitimization of what can be seen as indefensible: war, infringement of fundamental rights and freedoms.

The hypothesis of intentional vagueness is further reinforced through the analysis of the American legislation related to the outbreak of the war, and to the most recent nuclear issue in Iran.

The eighth chapter contains a linguistic and legal comparative analysis between UN and U.S. documents and their drafts (corpus SCRIraq2), in order to demonstrate how vagueness was deliberately added to the final versions of the documents before being passed. In particular the analysis of S/RES/1441(2002) and its draft is reinforced by a letter dated 6 February 2003 written by the U.K.’s Foreign Minister Jack Straw to the Attorney General, in which he speaks of the existence of an implicit and explicit version of the resolution to authorise war. Then the chapter proceeds with the analysis of U.S. legislation related to the authorization for war, in order to see how vague expressions used in UN resolutions have allowed the U.S. to interpret them as a means to go to war.

Finally the last chapter analyses UN resolutions relating to Iran through a comparison with SCRIraq1 results. The contrastive analysis regards all the main topics affronted for Iraq, ranging from modals, adjectives, and weasel nouns to preambulatory and operative phrases. In a way similar to what has been done for SCRIraq1, the analysis includes observations on UN resolution related to Iran S/RES/1929 (2010) and its draft and on U.S. Public Laws relating to Iran (corpus SCRIran2), analysing differences and similarities between the Iranian and Iraqi results.

The final section drawing on conclusions indicates that vagueness in resolutions has triggered the Iraqi conflict instead of diplomatic solutions; and that although being less vague the Iranian

legislation still suggests the UN intentional use of some vague and indeterminate linguistic patterns as a political strategy.

Chapter 1

The Origins of the United Nations

More than ever before in human history, we share a common destiny. We can master it only if we face it together. And that, my friends, is why we have the United Nations.

(Kofi Annan)

1.1 Introductory Notes on the History of the United Nations

1.1.1 The UN Organisation

The United Nations (UN) is an organisation of 195 states that strives to achieve international peace and security, promote respect for human rights, and solve economic, political, and social issues through international cooperation. Its forerunner was the League of Nations, which was an organisation established in 1919 with the Treaty of Versailles to promote international cooperation and to achieve peace and security. Although the League was abandoned in 1946, most of its ideals and organisations were continued by the United Nations. UN Member States, which now include almost every country in the world, join the organisation by signing the Charter of the United Nations⁴. The Charter is both an international treaty and the Constitution of the United Nations organisation, as it establishes the rights and obligations of Member States and it defines the United Nations organs and procedures. The major principles of international relations codified by the Charter are: sovereign

⁴ For the full document of the Charter of the United Nations see: <http://www.un.org/en/documents/charter/intro.shtml> (Last accessed: June 2011).

equality of States, prohibition of the use of force in international relations and non-intervention in domestic affairs of States.

The official languages of the UN are 6: Arabic, Chinese, English, French, Russian, and Spanish. Five of the official languages were chosen when the UN was founded; Arabic was added later on, in 1973. More specifically, the United Nations Editorial Manual (1983), which is the authoritative manual of the rules to be followed in drafting, editing and reproducing all documents produced by the United Nations, specifies that the standard for English language documents is British usage and Oxford spelling, and the Chinese standard is Simplified Chinese. This replaced Traditional Chinese in 1971 when the UN representation of China was changed from the Republic of China to People's Republic of China (Taiwan).

1.1.2 The Establishment of the United Nations

Given the discredited reputation of the League, the UN could not be established directly on its foundations. The UN was thus conceived as an improvement of the League of Nations. As a matter of facts, the UN is more explicitly grounded in the principle of concerted action of the Great Powers, and it has a major role in social and economic affairs than the League had. The UN was seen as a way of maintaining the alliance between the victorious powers in World War II and a mechanism for countering the violation of human rights that had characterised the Nazi regime.

On January 1, 1942, twenty-six States at war with the Axis Powers, including the United States, the United Kingdom, China and the Union of Soviet Socialist Republics (USSR), subscribed a document that became known as the "Declaration by United Nations", which contained the first official use of the term "United Nations."

From October 18 to November 1, 1943, a Conference was held in Moscow, with the participation of the United States, the United Kingdom, the USSR and China, which ended with the adoption of a Joint Four-Nation Declaration⁵ in which the states:

⁵ Source: <http://www.un.org/aboutun/charter/history/moscowteheran.shtml> (Last accessed: June 2011).

recognize[d] the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-loving States, and open to membership by all such States, large and small, for the maintenance of international peace and security.

From November 28 to December 1, 1943, President Roosevelt, Prime Minister Churchill and Premier Joseph Stalin, met at the Tehran conference, where they again stated that countries should have worked together to recognise “the supreme responsibility resting upon us and all the United Nations to make a peace which will command the goodwill of the overwhelming mass of the peoples of the world and banish the scourge and terror of war for many generations”⁶.

In 1944, during the meeting at Dumbarton Oaks in Washington, DC, representatives of the U.K., the U.S. and the USSR and China prepared a blueprint for the international organisation. The resulting document published on October 9, 1944, became known as the “Proposals for the Establishment of a General International Organisation.” Negotiations continued at the Yalta Conference, with President Roosevelt, Prime Minister Churchill and Premier Stalin, from 4 to 11 February 1945. It was decided the summoning of a “United Nations conference on the proposed world organisation” in the United States on April 25, 1945. The meeting, attended by 50 countries, was held in San Francisco in April 1945.

1.1.3 The Role of the UN from its Origins to the First Decade of the 21st Century

The role of the UN has significantly changed throughout the years, and it has been subject to the influence of its main Member States.

During the Cold War, both Washington and Moscow used the UN to increase the opposition against each other. For instance, a U.S. Department of State memorandum in April 1946 observed: “the Charter of the United Nations affords the best and most unassailable means through which the

⁶ Source: http://www.ena.lu/final_communique_teheran_conference_december_1943-2-3123 (Last accessed: June 2011).

U.S. can implement its opposition to Soviet physical expansion” (in_Harbutt 2010:395). Moscow instead used its position in the Security Council to oppose to U.S.’s preferred candidates for the presidency of the General Assembly and for the post of the UN first Secretary-General.

The UN was also directly involved in the raising move against colonialism. For example, the UN actively intervened passing a resolution on November 29, 1947 that called for the creation of a Jewish state and an Arab state, with Jerusalem being put under international administration. This led to the reaction of the Arab delegates who responded by walking out of the General Assembly. The state of Israel was officially proclaimed on 14 May 1948, and this gave origin to the endless state of conflict between Israel and the Arab states.

By the late 1950s the UN was being revolutionised by a change in membership. After a long period in which new membership had been blocked by East-West rivalry, in 1955, sixteen new members were admitted, and thereafter expansion was rapid. With new expansion came voting realignment, which changed the previous assets creating the new voting blocks of the NATO nations, the Commonwealth nations, the Arab nations, and the Afro-Asian bloc.

With the end of the Cold War the main role of the UN concentrated on peacekeeping and security activities. This can be seen through some budgetary facts (Boyer 2001)⁷. For example, while the UN dispatched a total of 10,000 peacekeepers to five operations (with an annual budget of about \$233 million) in 1987, the total number of troops acting as peacekeepers under UN auspices by 1995 was 72,000. They were operating in eighteen different countries with a cost of over 3 billion dollars.

There are many contradictory aspects involving the UN peacekeeping actions, especially after the 1991 war. Although its peacekeeping forces awarded the Nobel Peace Prize in 1988 and in 2001, the organisation has been involved in many scandals. For instance, in 2004 the UN was involved in corruption in the oil-for-food programme that allowed Iraq to export oil to create an income to be used to purchase food and other humanitarian relief. Investigations led by the former U.S. Federal Reserve Chairman Paul Volcker, which began in 2004, revealed that Saddam Hussein and many outside Iraq received kickbacks through the programme and he accused the UN official who had headed the programme of personally benefiting from it.

⁷ Source: http://www.encyclopedia.com/topic/United_Nations.aspx#5 (Last accessed: June 2011).

Moreover, an important topic that began to emerge was the conventional idea that the UN has no right to intervene in domestic jurisdiction of any Member State (UN Charter Article 2 (7)). Until 1991 the UN played a relatively secondary role in most world crises, including the Arab-Israeli Wars of 1967 and 1973, the India-Pakistan War of 1971, the Vietnam War, and the First Afghanistan War.

However, this principle began to erode during the 1991 Persian Gulf War: the UN approved action in the Persian Gulf and supervised the cease-fire, the embargo, and the operations of disarmament. Although this war was not officially declared a UN war, the Security Council played an important role using resolutions to authorise the United States and its allies to drive Iraq out of Kuwait. The war persuaded UN diplomats and bureaucrats that the Security Council, as long as the United States and Russia agreed, could literally attempt anything.

1.2 The Main Organ of the United Nations: the Security Council

The Charter establishes the five major organs of the UN and defines their functions. These institutions are: the Security Council, which is responsible for the maintenance of peace and security; the General Assembly, which is the main deliberative assembly of the UN; the Secretariat led by the Secretary-General, who can be defined as the *de facto* spokesman and leader of the UN; the Economic and Social Council, which formulates economic and social policy recommendations addressed to Member States; and the International Court of Justice, which is the primary judicial organ of the United Nations. For the purposes of this research, the following paragraph will provide a detailed description of the UN Security Council, because it has played a primary role in the Iraqi issue⁸, as it is the only organ having the power to issue binding decisions on Member States.

The Security Council has the primary responsibility for the maintenance of international peace and security. While other organs of the United Nations can only make recommendations to member governments, the Security Council has the power to make binding decisions, under the terms of

⁸ For further information on UN organs, see the Charter of the United Nations. Source: <http://www.un.org/en/documents/charter/index.shtml> (Last accessed: June 2011).

Charter Article 25. The decisions of the Council are known as ‘United Nations Security Council Resolutions’.

When a complaint concerning a threat to peace is brought before it, the Council’s first action is usually to recommend to the parties to try to reach agreement by peaceful means. If peaceful agreement cannot be reached, and the parties threaten the use of intimidation or violence, the Security Council can then enact resolutions to solve the conflict or restore peace. Sometimes this second step includes trade embargoes or prohibitions on governments borrowing from international funds. It is important to notice that the Security Council is the only United Nations organisation that can authorize military action and maintain peacekeeping force. The role of peacekeeping troops in the international community is to preserve order, to protect civilian infrastructure and safety, and guard the delivery of humanitarian aid to better facilitate the diplomatic resolution of conflicts.

Furthermore, the Security Council is responsible for overseeing compliance with international agreements involving weapons and the illegal spread of nuclear technology. To enforce these treaties, such as international agreements on nuclear non-proliferation, the Security Council can authorize UN-led inspections of a nation’s military arsenal through the IAEA agency.

Other tasks are to recommend the admission of new Members; and to recommend to the General Assembly the appointment of the Secretary-General and, together with the Assembly, to elect the Judges of the International Court of Justice.⁹

As far as concerns its components, the Security Council is composed of five permanent Member States (China, France, Russian Federation, the United Kingdom and the United States), and ten non-permanent members. The five permanent members hold veto power over substantive but not procedural resolutions allowing a permanent member to block adoption but not to block the debate of a resolution unacceptable to it. These members of the Security Council are the only nations recognised as possessing nuclear weapons under the Nuclear Non-Proliferation Treaty¹⁰. The ten temporary seats are held for two-year terms with Member States voted in by the General Assembly on a regional basis. The African bloc chooses three members, the Latin America and the Caribbean, Asian, and Western

⁹ Source: http://www.un.org/Docs/sc/unsc_functions.html (Last accessed: June 2011).

¹⁰ Source: http://www.un.org/disarmament/WMD/Nuclear/pdf/NPTEnglish_Text.pdf (Last accessed: June 2011).

European and Others blocs choose two members each, and the Eastern European bloc chooses one member. One of the members is an Arab country, alternately from the Asian or African bloc.

Moreover, the Security Council is the only organ of the UN capable of issuing resolutions having a legally binding force. However, there is a general agreement among legal scholars outside the organisation that not all Security Council Resolutions are binding. According to UN experts such as Köchler (2001:21), Security Council Resolutions are legally binding only if they are made under Chapter VII (Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression) of the Charter. This unsettled dispute negatively affects the strength of the role of the Security Council in international issues, as will be seen in the cases of Iraq and Iran. As a matter of facts, especially in the aftermath of the 2001 crises and the Second Gulf War, there is awareness that the UN must enact some changes in its structure and procedures in order to continue its fundamental international role.

1.3 Criticism against the United Nations

In recent years, there have been many cases of criticism against the UN and calls for 'reform' of this organisation. However, there is little clarity about what exactly 'reform' might mean in practice.

One of the main objects of criticism concerns the administration of the UN in itself, especially of the Security Council. As a matter of fact, it is argued that the United Nations Security Council does not have true international representation, unlike the General Assembly. The Security Council has been accused of only addressing the strategic interests and political motives of the permanent members, especially in humanitarian interventions: for example, of protecting the oil-rich Kuwaitis in 1991 but not acting sufficiently for the resource-poor Rwanda in 1994 (Rajan 2006:3). The Council has also been accused of a lack of democracy. It has been suggested to expand the number of permanent members to include non-nuclear powers. Moreover, another criticism involves the veto power of the five permanent nations. One nation's objection, rather than the opinions of a majority of nations, may block any decision of the Council. Furthermore, criticism is also against the practice of

the permanent members meeting privately and then presenting their resolutions to the full Council as a *fait accompli*.

Moreover, major critics of the United Nations question its actual effectiveness because in most cases there are essentially no consequences for violating a Security Council resolution. The most evident example of this has been the Darfur crisis, in which militias, supported by the Sudanese government, committed acts of ethnic cleansing and genocide against the population. It has been estimated that 300,000 civilians have been killed, yet the UN has continuously failed to act against this severe and ongoing human rights issue.

The UN has been involved in a number of international scandals, among which child sexual abuses during peacekeeping actions. In the 1996 UN study *The Impact of Armed Conflict on Children*, the former first lady of Mozambique Graça Machel (1996:24) documented: “In 6 out of 12 country studies on sexual exploitation of children in situations of armed conflict prepared for the present report, the arrival of peacekeeping troops has been associated with a rapid rise in child prostitution.”

One of the most recent scandals has been the “Oil for food” scandal. The Oil-for-Food Programme established by the United Nations in 1996 and terminated in late 2003, was intended to allow Iraq to sell oil on the world market in exchange for humanitarian needs of ordinary Iraqi citizens under embargo. The Programme was ended in 2003 because of allegations of corruption; the former director, Benon Sevan of Cyprus, was first suspended and then resigned from the United Nations. Investigations by the former U.S. Federal Reserve Chairman Paul Volcker concluded that Sevan had accepted bribes from the former regime of Saddam Hussein. Under UN guidance, over U.S. \$65 billion worth of Iraqi oil was sold on the world market. Officially, about U.S. \$46 billion used for humanitarian needs, with additional revenue paying Gulf War reparations through a Compensation Fund, supporting UN administrative and operational costs for the program (2.2 per cent), and paying costs for the weapons inspection programme (0.8 per cent).¹¹ Also Kofi Annan, the Secretary General’s son, was implicated in the scandal, accused of having illegally procured UN oil-for-food contracts on behalf of the Swiss company Coctecna.

¹¹ Source: http://news.bbc.co.uk/2/hi/middle_east/4131602.stm (Last accessed: June 2011).

Moreover, it has been noticed that many UN interventions¹² have not solved in a positive ending. Some failures have been particularly dramatic, such as:

- Failure to act during the 1994 genocide in Rwanda, when the then Secretary General Kofi Annan oversaw peacekeeping forces there.
- Failure by MONUC (UNSC Resolution 1291) to effectively intervene during the Second Congo War, which claimed nearly five million people in the Democratic Republic of Congo, 1998-2002 (with fighting reportedly continuing), and in carrying out and distributing humanitarian relief.
- Failure to successfully deliver food to starving citizens of Somalia; the food was usually seized by local warlords instead of reaching those who needed it. A U.S. /UN attempt to apprehend the warlords seizing these shipments resulted in the 1993 Battle of Mogadishu.
- Failure to prevent the invasion of allied forces led by the United States in Iraq and Afghanistan.

In general, the UN has shown to be reluctant to act upon its resolutions, making the entire organisation appear as weak as the precedent League of Nation. All the criticism and failures described above stem from the UN's intergovernmental nature. The United Nations is still considered as an association of member states, and not an organisation in its own right.

The first step toward understanding the complexity of reform proposals made through the years is to bear in mind the fundamentally political nature of the United Nations. In short, much of the reform debate has been about three issues: who makes decisions; who implements them; and who pays for them. If these political questions are settled, then international cooperation on initiating the reform agenda will most assuredly flourish.

1.4 Reform of the United Nations

As the UN has been being pressed by global issues and criticism from every part of the world, a formal reform of the United Nations has become a priority concern of the Member States, with the overall aim of enhancing its relevance and effectiveness. In January 2008, Secretary-General Ban Ki-moon outlined the main areas of reform on which the United Nations needs to advance.

¹² Source: http://www.newworldencyclopedia.org/entry/United_Nations (Last accessed: June 2011).

The first point of his reform deals with developmental challenges of the poorest countries, giving particular attention to Africa. To respond to this challenge, the Secretary-General created in September 2007 the Millennium Development Goals (MDG) Africa Steering Group¹³, in order to identify effective mechanisms to implement commitments in the areas of health, education, infrastructure, agriculture and food security, and statistical systems.

A second area of reform includes changes in the ways to maintain international peace and security. In September 2006 all UN Member States agreed to a common strategic and operational approach to fight terrorism, adopting the UN Global Counter-Terrorism Strategy, which delineates the concrete measures for Member States to prevent and combat terrorism and strengthen their capacity to protect human rights and uphold the rule of law while countering terrorism.

Another crucial issue of reform involves human rights and humanitarian action. During the last years, the Office of the High Commissioner for Human Rights (OHCHR)¹⁴, which promotes and protects all human rights, has carried out some significant results by strengthening its capacity to carry out its mandate through a significant expansion of its presence in the field, with a presence in 47 countries by the end of 2007 and by giving more importance to economic, social and cultural rights, especially for women. Although many objectives have been reached, the Secretary-General has emphasized the need to guarantee all fundamental rights. In the 2005 World Summit Outcome Document adopted by 191 world leaders, the Secretary General emphasises all States' Responsibility to Protect, (R2P) that is to say the responsibility of States for protecting their own populations against ethnic cleansing, genocide or crimes against humanity and it holds the international community responsible for intervention if States fail to fulfil these obligations. Notwithstanding the number of proposals of reforms, many of them have not been achieved, as it is difficult to find a compromise between the UN and national interests of the Member States. Perhaps it should be realized that probably the future of the UN depends on its capacity of fulfilling these reforms.

¹³ Source: http://www.un.org/reform/dev_challenges.shtml (Last accessed: June 2011).

¹⁴ Source: <http://www.un.org/reform/responsibility.shtml> (Last accessed: June 2011).

Chapter 2

United Nations Resolutions

It is useless for the sheep to pass resolutions in favor of vegetarianism, while the wolf remains of a different opinion.

(William Ralph Inge)

2.1 Definition and Functions of UN Resolutions

Resolutions are the primary tools of discussion and action in the United Nations, as they represent the “formal expressions of the opinion or will of the UN organs” (United Nations 1983: 167). Depending on the body that issues a resolution, it can be a means to apply political pressure on Member States, express an opinion on an important issue, recommend, condemn or require actions to be taken by the United Nations, or to impose sanctions on the part of the Member States.

It is important to notice that most UN resolutions are not binding: for instance the General Assembly (GA) and Economic and Social Council (ECOSOC) may only ‘call for’ or ‘suggest’ actions. The only body that can produce binding resolutions is the Security Council. In some cases, final conventions or treaties issued by the General Assembly may also require action, but these are binding only for the signatory states.

2.2 Security Council Resolutions

A Security Council Resolution is a United Nations resolution voted on by the fifteen members of the United Nations Security Council. According to Article 27 of the UN Charter¹⁵, draft resolutions on “procedural matters” can be adopted on the basis of an affirmative vote by any nine Council members,

¹⁵ Source: <http://www.un.org/en/documents/charter/chapter5.shtml> (Last accessed: June 2011).

whereas draft resolutions on non-procedural matters are considered to be adopted only if nine or more of the fifteen Council members vote for the resolution and if it is not vetoed by any of the five permanent members. If the Council cannot reach consensus on a resolution, it may choose to produce a non-binding presidential statement instead of a resolution. This form is meant to apply political pressure on states, as presidential statements represent a sort of warning that the Council is paying attention to the issue and further action may follow.

There is an ongoing debate upon the binding nature of resolutions. In fact, some observers agree that all Security Council Resolutions are binding, while others state that only resolutions issued under Chapter VII of the UN Charter are to be considered legally binding. Article 25 of the UN Charter states that UN Member States are bound to carry out “decisions of the Security Council in accordance with the present Charter.” However, it has been argued that resolutions made under Chapter VII related to ‘Action with Respect to Threats to the Peace’ are considered binding, but not the ones issued under Chapter VI, which include decisions related to the Pacific Settlement of Disputes, and that puts forward Council proposals on negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies, and other peaceful means.. In 1971, however, in the non-binding *Namibia advisory opinion* written by the International Court of Justice (ICJ), it was asserted that all UN Security Council resolutions are legally binding¹⁶.

This assertion by the ICJ has been questioned by the Professor of International Constitutional Law at the Amsterdam Centre for International Law Erika De Wet (2004: 39-40) who argues that Chapter VI resolutions cannot be binding because:

Allowing the Security Council to adopt binding measures under Chapter VI would undermine the structural division of competencies foreseen by Chapters VI and VII, respectively. The whole aim

¹⁶“It has been contended that Article 25 of the Charter applies only to enforcement measures adopted under Chapter VII of the Charter. It is not possible to find in the Charter any support for this view. Article 25 is not confined to decisions in regard to enforcement action but applies to “the decisions of the Security Council” adopted in accordance with the Charter. Moreover, that Article is placed, not in Chapter VII, but immediately after Article 24 in that part of the Charter which deals with the functions and powers of the Security Council. If Article 25 had reference solely to decisions of the Security Council concerning enforcement action under Articles 41 and 42 of the Charter, that is to say, if it were only such decisions which had binding effect, then Article 25 would be superfluous, since this effect is secured by Articles 48 and 49 of the Charter.” *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*”, Advisory Opinion of 21 June 1971 at paragraphs 87-116. Source: <http://www.icj-cij.org/docket/files/53/5594.pdf> (Last accessed: June 2011).

of separating these chapters is to distinguish between voluntary and binding measures. Whereas the pacific settlement of disputes provided by the former is underpinned by the consent of the parties, binding measures in terms of Chapter VII are characterized by the absence of such consent [...].

As far as concerns Iraq, since 1991 the UN has adopted all resolutions relating to this nation under Chapter VII of the UN Charter. This meant that all the resolutions were meant to be binding in a situation in which Iraq was considered as a threat to international peace and security. Only in 2010, through S/RES/1956(2010), S/RES/1957(2010) and S/RES/1958(2010), the Council ended the main sanctions against Iraq. The resolutions it adopted included removing restrictions preventing Iraq from building nuclear, chemical or biological weapons; closing the oil-for-food programme; and ending the UN-supervised Development Fund for Iraq, which gave Baghdad immunity from legal claims during the Saddam Hussein era.

However, some sanctions have still not been lifted. Kuwait still receives war reparations from Iraq, and is demanding the return of its stolen property and an explanation of the fate of hundreds of missing Kuwaitis. At the time this research is being written, officials in both countries are working on a diplomatic settlement of the issue which could lead to the lifting of the remaining UN sanctions relating to Kuwait. Lifting Iraq from Chapter VII sanctions actually means that Iraq is also allowed to freely trade internationally again.

As far as concerns their classification, Security Council resolutions are always identified by the prefix ‘S/RES/’. They are consecutively numbered. Four digits representing the year of adoption are enclosed in parentheses immediately following the sequential number, for instance ‘S/RES/1500 (2003)’.

2.3 Resolutions as a Text Type

According to the *UN Editorial Manual* (United Nations 1983: 167), United Nations resolutions follow a common established format. They are composed of three sections: the ‘subject’, which is the name

of the body issuing the resolution (be it the Security Council, the General Assembly, a subsidiary organ of the GA, or any other resolution-issuing organisation), which serves as the subject of the sentence; the ‘preambulatory clauses’, which generally recite the considerations on the basis of which action is taken, an opinion expressed, or a directive given; and the ‘operative clauses’, which state the course of action the subject will take (if it is the Security Council or a UN organ making policy for within the UN) or recommends to be taken (for most General Assembly resolutions). The responsibility for ensuring that the texts of resolutions and amendments conform to the style laid down in the *UN Editorial Manual* rests with the Secretary of the Committee or other body from which the texts emanate (UN Editorial Manual 1983: 168).

In this section, examples retrieved from SCRIraq1 will be used to explain the style and functions of the different parts of which resolutions are composed of.

Especially in legal and diplomatic documents, style and format serve the goal of communicating the information as clearly as possible. Graphological devices help the reader understand the relationship between different levels of information. Drafters are supposed to think carefully about white space, column width, line spacing, and paragraph length, because these design elements determine the rate of complexity, which can interfere with the comprehensibility of a text. In fact, generous use of white space on the page enhances readability, and emphasizes important points.

In SCRIraq1, as in general in all UN resolutions, the dissection of the texts into sections, subsections, paragraphs, and other units and subunits according to the character of information that is being mediated, makes information easier to absorb in one quick glance, as can be seen in the following example (1) from a resolution which is part of the SCRIraq1 corpus, S/RES/1443 (2002):

(1) Resolution 1443 (2002)

Adopted by the Security Council at its 4650th meeting, on 25 November 2002

The Security Council,

Recalling its previous relevant resolutions, including resolutions 986 (1995) of 14 April 1995, 1284 (1999) of 17 December 1999, 1352 (2001) of 1 June 2001, 1360 (2001) of 3 July 2001, 1382 (2001) of 29 November 2001 and 1409 (2002) of 14 May 2002, as they relate to the improvement of the humanitarian programme for Iraq [...]

Taking note of the Secretary-General’s report S/2002/1239 of 12 November 2002,

Determined to improve the humanitarian situation in Iraq,

Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of Iraq,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to extend the provisions of resolution 1409 (2002) until 4 December 2002;

2. *Decides* to remain seized of the matter.

In terms of linguistic structures, a resolution is composed of a single long sentence and each section has its own peculiar stylistic rules to respect.

The preambles of a resolution state the considerations on the basis of which the actions described in the operative clauses are taken. Preambulatory clauses can include:

- References to the UN Charter.
- Citations of past UN resolutions or treaties on the topic under discussion (e.g. *Recalling* all its previous relevant resolutions, in particular resolution 1483 (2003) of 22 May 2003 [...] (S/RES/1500 (2003)).
- Mentions of statements made by the Secretary-General or a relevant UN body or agency; (e.g. *Having considered* the report of the Secretary-General of 15 July 2003 (S/2003/715) [...] (S/RES/1500 (2003)).
- Recognition of the efforts of regional or nongovernmental organizations in dealing with the issue.
- General statements on the topic, its significance and its impact (e.g. *Reaffirming* the sovereignty and territorial integrity of Iraq [...] (S/RES/1500 (2003)).

Each clause (one section of a resolution, containing one argument or one action) begins with a present participle, which is called ‘preambulatory phrase’ and ends with a comma. Preambulatory clauses are unnumbered:

(2) *Determined* to improve the humanitarian situation in Iraq [...]. (S/RES/1443 (2002))¹⁷

¹⁷ Source: <http://www.casi.org.uk/info/undocs/scres/2002/res1443e.pdf> (Last accessed: June 2011).

Sub-clauses should be indented and lettered (e.g. (a), (b)), as can be seen in example (3) below¹⁸:

(3) 4. *Endorses* the proposed timetable for Iraq’s political transition to democratic government

including:

(a) formation of the sovereign Interim Government of Iraq that will assume governing responsibility and authority by 30 June 2004;

(b) convening of a national conference reflecting the diversity of Iraqi society; and

(c) holding of direct democratic elections by 31 December 2004 if possible, and in no case later than 31 January 2005, to a Transitional National Assembly, which will, inter alia, have responsibility for forming a Transitional Government of Iraq and drafting a permanent constitution for Iraq leading to a constitutionally elected government by 31 December 2005 [...]. (S/RES/1546 (2004)) [Emphasis added]¹⁹

According to the *UN Editorial Manual*, some of the preambulatory phrases allowed in Security Council resolutions are:

Acknowledging	Affirming	Alarmed by	Approving
Aware of	Believing	Bearing in mind	Confident
Congratulating	Contemplating	Convinced	Declaring
Deeply concerned	Deeply conscious	Deeply convinced	Deeply disturbed
Deeply regretting	Deploring	Desiring	Emphasising
Expecting	Fulfilling	Fully alarmed	Fully aware
Fully believing	Further developing	Further recalling	Guided by
Having adopted	Having considered	Having examined	Having studied
Noting further	Noting with appreciation	Noting with approval	Noting with deep concern
Noting with regret	Noting with satisfaction	Observing	Pointing out

¹⁸ Bold emphasis in all the examples is added.

¹⁹ Source: <http://www.uniraq.org/documents/Resolution1546.pdf> (Last accessed: June 2011).

Reaffirming	Realizing	Recalling	Recognising
Referring	Reminding	Seeking	Taking into account
Taking into consideration	Taking note	Viewing with appreciation	Welcoming

Table 1: Preambulatory phrases used in Security Council resolutions

As concerns the third component of the structure of a resolution, operative clauses include the statements of policy in a resolution: they indicate the concrete actions that will be taken. Usually operative clauses are organised in a logical progression: each clause begins with a verb (called ‘operative phrase’) used to denote an action and each clause usually addresses no more than one specific aspect of the action to be taken. In the operative part of resolutions, there is a semicolon after each clause, which is numbered and there is a full stop at the end of it, which is the only full stop in a resolution (United Nations 1983: 183). If a clause requires further explanation, bulleted lists set off by letters or roman numerals can also be used. Some of the operative phrases used in Security Council resolutions are:

Accepts	Affirms	Approves	Asks
Authorises	Calls for	Calls upon	Condemns
Congratulates	Confirms	Declares accordingly	Demands
Deplores	Designates	Encourages	Endorses
Expresses its appreciation	Expresses its hope	Further invites	Further proclaims
Further recommends	Further requests	Further resolves	Hopes
Invites	Proclaims	Proposes	Recommends
Regrets	Requests	Resolves	Seeks
Strongly affirms	Strongly condemns	Strongly urges	Suggests
Supports	Trusts	Transmits	Urges

Table 2: Operative clauses used in Security Council Resolutions

The last operative clause used in Security Council resolutions, is almost always “*Decides* to remain (actively) seized of the matter.” The reason behind this custom is not very clear, but it appears to be an assurance that the Security Council will consider the topic in the future if necessary. In the case of Security Council resolutions, probably the reason for this usage is that it is employed with the hope of prohibiting the General Assembly from calling an ‘emergency special session’ on any unresolved matter, under the terms of the “Uniting for Peace resolution” (377 (V) A (1950))²⁰, which:

Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security.

2.4 Approval Procedure of Resolutions

The procedure of approval of a resolution includes several passages.

According to Wood (1998: 80-82), at a first stage a given agenda topic is proposed by a delegation through a first draft and discussed as a completely informal text with the so-called ‘missions’, which are groups working closely on a particular subject. This is often the most important stage of the approval process, with negotiations to agree on the underlying policy to be taken. At the end of this stage, one or more revisions of the preliminary draft are prepared.

At a second stage, the text is shared with all Council Members. This step consists in a preliminary discussion on the major points of the proposal, after which all members of the Council will seek instructions from their capitals.

The third stage is a paragraph- by- paragraph discussion by all Council members, at the end of which a series of new drafts may be prepared.

²⁰ Source: [http://www.undemocracy.com/A-RES-377\(V\).pdf](http://www.undemocracy.com/A-RES-377(V).pdf) (Last accessed: June 2011).

Finally the text is circulated as an official Council document, first ‘in blue’ (a nearly definitive form), to which further amendments are occasionally added, and then in the final form. The ‘in blue’ form may be reissued one or more times or amended orally at the formal council meeting at which it is adopted.

As far as concerns the voting process, non-procedural Security Council resolutions are passed by an affirmative vote of nine members of the Council including the votes of the five permanent members (China, France, Russian Federation, United Kingdom and Northern Ireland, United States of America). If a permanent member vetoes the draft, the text is not passed.

It is important to notice that most of the negotiating history of a resolution is not on the public record and so it may be known in full only by Council members or even a limited number of them. Therefore most of the political strategies and intentions are unknown by outsiders.

Moreover, these texts undergo a high risk of being unclear, because the first draft is often prepared by or with a lawyer, but thereafter the changes may be very fast and it is not always the case that legal input is available at each stage of the drafting in order to ensure that the resolution is as clear as possible. These texts are frequently not clear, simple, concise or unambiguous. According to H. Freudenschuss (in Wood 1983: 82) these texts are often:

[...] drafted by non-lawyers, in haste, under considerable political pressure and with a view of securing unanimity within the Council. This latter point is significant since it often leads to deliberate ambiguity, presumably thought at the time to be harmless.

Furthermore, other problems can occur during the translation process. As a matter of fact, only at the last stage, when the draft is circulated as an official Council document, it is translated into the six official languages of the UN, as the draft is usually begun and discussed in English. It is translators’ work that allows the reception of these texts in all UN countries.

2.5 Resolutions and UN Translation

There is a general consensus that translation is a complex form of action, requiring understanding of cultural aspects, because it is much more than a search for direct lexical and grammatical equivalences between two or more languages.

The connection between law, culture and language is especially evident in international organisations such as the UN, which, as Caliendo (2007: 387) remarks, can be considered as a sort of multilingual regime and can be described as “a neutral forum where different judicial systems converge in spite of their diversity.”

Over the recent years, as a consequence of globalisation and an increase of international relationships, there has been a spread of multilingualism in transnational politics and diplomacy. This has led to a request for accurate and official translations for those legislative acts that need to be translated into the languages used by different legal systems. While plurilingual countries such as Switzerland, Belgium, or Finland have a common judicial background, which facilitates translation work, this is not the case of international organisations such as the UN, where translators have to deal with a mosaic of divergent legal systems. Like any other translation, legal and diplomatic translation is not only a linguistic matter, but it is strongly linked to the numerous recipient cultures. Translating these texts requires both linguistic and legal competence, because translations have the same status of source law texts (Šarčević 1997).

Major complexity is due to the fact that although legal translation demands precision, clarity and monoreferentiality, it is bound to use abstractions in order to adapt to an international cultural and social context. As Caliendo (2007: 297) suggests, the coexistence of different legal cultures and systems may generate a certain degree of ambiguity which increases as they get more distant from each other:

At the international level, the use of broader expressions and definitions responds to the double need to find a political compromise between different countries and leave the text open to different interpretations. The lack of specificity in international law also favours all-inclusiveness, which helps to accommodate legal rules to different judicial systems and varying circumstances.

Difficulties arise when the source and target language relate to different cultures and legal systems, because perfect equivalence is rare. As Šarčević (1997: 236) remarks, in these cases, legal translators privilege “functional equivalence”: translators choose a target language term which embodies the nearest situationally equivalent concept. If no acceptable equivalents can be found, translators usually choose between one of these solutions: they decide to loan the source term explaining the meaning by adding information in parentheses or in a footnote; use an *ad hoc* neologism in the target language adding an explanatory footnote; or to paraphrase the source term through a description of the legal fact. The third option, paraphrases, is seen as a positive solution by Šarčević (1997) because the explanation makes the term accessible to a lawyer trained in that system.

The multi-racial, multi-cultural environment at the UN subjects translators to high quality and quantity requirements in order to provide translations of the highest possible standards. UN documents are produced in the six official languages (Arabic, Chinese, English, French, Russian, and Spanish) and are issued simultaneously when all the language versions are available.

The Department for General Assembly and Conference Management deals with all the issues related to documentation, including translation and general language management. It provides meeting support, technical secretariats, interpretation, and documents to the five main bodies of the UN. It is responsible for the publication of over two-hundred documents a day in the six official languages of the UN. Its fundamental tasks are:

- *Documentation programming and monitoring*: It consists in the revision of mandates from intergovernmental bodies for the preparation of reports, the determination of admissibility of documents and monitoring submission to ensure timely availability of documents for all meetings.
- *Documents control*: This function includes the scheduling and monitoring of the processing of documents in all official languages simultaneously.
- *Editorial control*: It assures that all texts are clear, comprehensible, grammatically and orthographically correct, and that all footnotes and other references are correct and that texts conform to UN style.

- *Reference and Terminology:* This task is to control the proper referencing to material previously translated or references to resolutions or other published materials.
- *Translation:* A document drafted in one of the six official languages is usually translated into the other five, and sometimes also into German. If a document urgently needs translation for ongoing deliberations, a provisional translation is quickly prepared by translators. These translations are subsequently reviewed before they are issued in their final form. The Documentation Division is directly responsible for the linguistic concordance among the six official languages of resolutions, decisions and other legal instruments. It provides reference and terminology services for authors, drafters, editors, interpreters, translators and it develops terminology databases that are available to users within the UN system and to the general public²¹.
- *Text processing and typographic style:* after being edited and translated, documents are sent for text processing, because documents must conform to the typographic UN standards. Final formatted versions in camera-ready and electronic form are sent to the Reproduction Section for printing and to the optical disk system for archiving.
- *Official Records:* editors ensure that all six language versions of resolutions and decisions and other official records comply with UN editorial standards.
- *Copy preparation and proof-reading:* the Copy Preparation and Proofreading Section prepares the texts for external typesetting and proof-reads materials in the six official languages.
- *Publishing:* the Publishing Section distributes documents and other printed materials to all recipients inside and outside the Organization and maintains an electronic document collection²².

²¹ For further information about translation technology used at the UN, see Cao and Zhao 2006

²² For further information see the Department for General Assembly and Conference Management website. Source: <http://www.un.org/Depts/DGACM/> (Last accessed: June 2011).

Therefore, linguists working for the UN are of fundamental importance to supply all UN nations with international legal instruments, and target texts have to maintain the same diplomatic, all-inclusive, and unbiased tone of the original document. This presupposes that translators should have not only language competence, but also knowledge of both the source and the target legal systems, and of the methods of interpretation as well as of the structure and operation of legal texts. As Caliendo (2007: 387) suggests, translation gives the sense of the real international and intercultural nature of the United Nations, and thus “translation becomes the herald of interculturality, the instrument to interpret single identities and harmonize the different needs dictated by national legislative settings.”

Chapter 3

Vagueness

If language is not correct, then what is said is not what is meant; if what is said is not what is meant, then what must be done remains undone; if this remains undone, morals and art will deteriorate; if justice goes astray, the people will stand about in helpless confusion.

Hence there must be no arbitrariness in what is said. This matters above everything.

(Confucius)

3.1 Vagueness: a Definition

Vagueness is a pervasive phenomenon in natural language, as it appears to be expressed through nearly all linguistic categories. Its multidimensional concept has motivated research over the years to analyse the sources as well as the varieties of vagueness. First of all, it is important to notice that, being an autological word, the concept of ‘vagueness’ itself escapes a stable and generally accepted definition. In general language, the word ‘vague’²³ is used to express something that is:

²³ *Oxford Advanced Learner’s Dictionary* 8th Edition, 2010.

1. not clear in a person's mind;
2. not having or giving enough information or details about something;
3. suggesting a lack of clear thought or attention;
4. not having a clear shape.

More precisely, according to Charles Sander Peirce's entry for 'vague' in the Dictionary of Philosophy and Psychology (1902: 748):

A proposition is vague when there are possible states of things concerning which it is *intrinsically uncertain* whether, had they been contemplated by the speaker, he would have regarded them as excluded or allowed by the proposition. [Emphasis added].

By "intrinsically uncertain", Peirce meant that the speaker's language habits were indeterminate, thus he did not attribute uncertainty as a consequence of ignorance on the part of the interpreter. However, this does not exclude the possibility of instances in which vagueness allows recipients to deliberately interpret these expressions according to their own needs.

Studies of vagueness analyse language that is inherently and intentionally imprecise, sometimes overlapping with the concept of implicitness, which refers to language dependent on context, and based on unspoken assumptions and unstated, and underlying meanings.

Channell (1994: 20) gives a comprehensive definition of vagueness which fully describes this overlap, in which she affirms that an expression or word is vague if:

- (a) it can be contrasted with another word or expression which appears to render the same proposition
- (b) it is purposely and unabashedly vague
- (c) the meaning arises from intrinsic uncertainty.

It is important to notice that vagueness is not only inherent, but also related to intentionality.

As Cheng and Warren (2001: 82) remark, vague language signals to the hearer that the utterance, or part of it, is not to be interpreted precisely. Thus "[...] while its meaning in a discourse is subject to negotiation by the participants, vague language does not achieve full specificity and so does not shed its status as vague language as a result of the joint negotiation process."

This study takes on these positions by analysing both inherently vague linguistic features and implicitness expressed through the use of vague language, while investigating on the intentionality underlying the use of such vagueness in the international context of Security Council resolutions and on the political and historical consequence they have led to.

Vagueness seems to be ubiquitous to some extent. However, in daily experience, meanings are conveyed and understood even though many words of ordinary language are vague. Words such as ‘dangerous’, ‘wealthy’, ‘thin’, and ‘happy’ are actually understood without knowing the precise meaning of them and it could be said that almost everything is describable in a continuous, not discrete, way. Humans have little difficulty with this in a natural environment and most things are perceived as a smooth transition from ‘black’ to ‘white’, from ‘cold’ to ‘hot’.

Unfortunately, problems in large structured societies such as those we live in start with attempts of forcing continuums into a step function by assigning an arbitrary breakpoint. A simple example could be the vague adjective ‘tall’ proposed by Roy Sorensen in *The Stanford Encyclopedia of Philosophy* 2008²⁴. For instance, a man who is 1,8 meters in height is neither clearly ‘tall’ nor clearly ‘not-tall’. No conceptual or empirical analysis can establish whether a 1,8 meter man is ‘tall’, because it is a relative concept, influenced by the context in which it is used. A 1,8 meter pygmy is ‘tall’ for a pygmy, but a 1,8 meter Masai is not ‘tall’ for a Masai. However, not even comparison in context fully solves the issue, as this reasoning does not eliminate borderline cases. There are shorter pygmies who are ‘borderline tall’ for a pygmy and taller Masai who are ‘borderline tall’ for a Masai.

The pervasiveness of vagueness both from a semantic and a linguistic viewpoint has thus fascinated and worried many scholars along the century, as will be seen in the following two paragraphs, because in general, any linguistic element whose contribution to truth conditions involves perception, categorization, or judgment of gradience can be considered to be vague.

²⁴ Source: <http://plato.stanford.edu/archives/fall2008/entries/vagueness/> (Last accessed: June 2011).

3.2 Semantic Vagueness and Sorites

Vagueness has been a long-lasting challenge for philosophers of logic and language. Among the oldest of the puzzles associated with vagueness is the ‘Sorites paradox’. This type of paradox, which is traditionally attributed to the pre-Socratic Greek philosopher Zeno of Elea, consists of two main premises. In the following sorite, usually referred to as the “heap paradox”, if the base step and the induction premise are accepted, then it follows that no matter how many grains of sand are added to a first grain, the result will never be a heap:

1. *Base step*: Two or three grains of sand **do not** make a heap.
2. *Induction step*: If n grains of sand **do not** make a heap, neither do $(n+1)$ grains.
3. *Conclusion*: If $(n+1)$ grains **do not** make a heap, neither do 10000000000 grains.

Yet eventually, if enough sand is added, there will come a point at which there is a heap, and a paradox is thus been created.

Paradoxes like this reveal that people are liable to accept propositions which seem to entail a contradiction rising from vague concepts, but they trigger questions on how much vagueness is actually in all linguistic and conceptual realities, indirectly raising the question on where to draw the breakpoint in a continuum. There is a wide range of opinions as to how to solve the issue. Every form of deviant logic has been applied in the hope of resolving the sorites paradox. Some theories try to explain vagueness using logic and philosophic devices; other theories try to explain vagueness from a semantic and linguistic point of view, as will be seen in the following paragraphs.

3.3 Linguistic Vagueness Theories

Traditional law and diplomacy are often criticised for the presence of “weasel words” (Mellinkoff 1963: 21), which are “words and expressions with a very flexible meaning strictly dependent on context and interpretation.”

The expression “weasel word” derives from the egg-eating habits of weasels, which are animals that have the ability to suck the content out of eggs but leaving the eggshell intact. The word has been transferred into the legal literature to indicate words used to avoid a direct statement of a position. As Jerome Frank stated (1970: 30):

Lawyers use what the layman describes as weasel words, so-called ‘safety-valve concepts,’ such as prudent, negligence, freedom of contract, good faith, due care, due process-terms with the vaguest meaning-as if these vague words had a precise and clear definition; they thereby create an appearance of continuity, uniformity and definiteness which does not in fact exist.

On the opposite, advocates of the use of weasel words in law claim that though these vague expressions can be used to obfuscate the underlying issues, they are often necessary. As Jerry Mashaw noted (1985: 86):

The demand for justice seems inextricably linked to the flexibility and generality of legal norms, that is, to the use of vague principles (reasonableness, fairness, fault, and the like) rather than precise rules.

Adjectives are the most frequent “weasel words”, as they are often evaluative and are therefore subjective by definition. They have been a central topic in Fjeld’s (2005) studies on vagueness in legal language.

According to Fjeld (2005), adjectives are linguistic instruments for specifying vague or indefinite nominals. But problems arise when indefinite adjectives modify general, normless nouns. A phrase such as “short stop allowed” could be intuitively understandable for an unskilled reader, but for a lawyer it is a stimulus to look for a definition in a legal sense (e.g. whether 15 minutes can be considered a short time).

Fjeld makes reference to Pinkal and Bierwisch’s 1985 work giving an overview of different types of adjectives, illustrated in Figure 1 below:

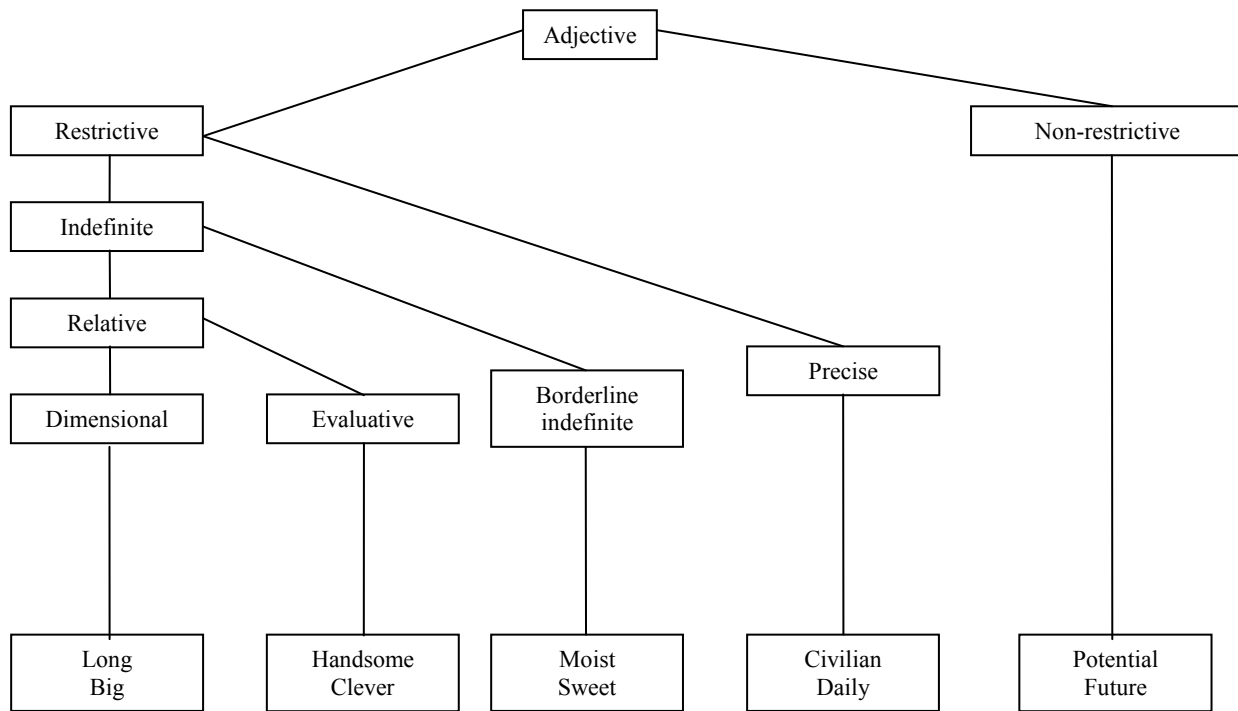


Fig. 1: Classification of adjectives (Pinkal and Bierwisch 2001: 644)

Normal restrictive adjectives can be divided into ‘indefinite’ and ‘precise’. All indefinite adjectives are gradable and vague because of their relativity or their ‘borderline indefiniteness’.

Relative adjectives should be interpreted not only considering the noun they modify, but also according to a class of comparison. They can be dimensional or evaluative: dimensional adjectives such as ‘long’ and ‘big’ only require a measurable or standardised norm, while multi-dimensional evaluative adjectives like ‘handsome’ or ‘clever’ require a quality parameter recoverable from the context. Furthermore, the analysis of evaluative adjectives is more complex because while dimensional adjectives are very few (nearly 20) and might be considered as a closed class, evaluative adjectives are innumerable.

Dimensional adjectives are mostly used to qualify expressions for size, time and distance. They are interpreted according to external properties of the noun phrase they modify. Their value depends on the average of the class of comparison and so their only demand on context is for the recoverability of this class of comparison to which the noun belongs. (e.g. A tall woman)

In legal texts, dimensional adjectives are most often interpreted according to conventional norms, while on the contrary, evaluative adjectives must be interpreted according to an unpredictable and subjective norm related to the class of comparison of the noun (e.g. good income, handsome man,

necessary condition). They are quite difficult to quantify because they refer to a sort of prototype, but there are no inherent scales or norms to quantify them.

In one of her most recent works (2005: 165) Fjeld gives a general overlook on different types of adjectives:

Types of Adjectives	Definition	Examples
Modal adjectives	They express modal force ranging from necessity to desirability.	‘necessary’, ‘expedient’ ‘desirable’, ‘unpractical’ etc.;
Ethic adjectives	They are related to ethical standard.	‘right’, ‘equitable’, ‘responsible’, ‘justifiable’, ‘reasonable’ etc.;
Evidence adjectives	They express degrees of accordance between conditions and conclusions.	‘natural’, ‘unlikely’, and ‘likely’ etc.;
Consequence adjectives	They represent degrees of consequence attributed to the modified noun.	‘crucial’, ‘critical’, ‘serious’, ‘considerable’, ‘significant’ etc.;
Frequency adjectives	They represent one of the most complicated categories of adjectives because they denote the evaluation of the appearance of the noun related to some kind of a quantitative norm:	‘widespread’, ‘common’, ‘normal’, ‘usual’, ‘special’, ‘deviant’ etc.;
General qualities adjectives	express a quality relevant dimension in general	as ‘good’, ‘bad’, ‘useful’, ‘unacceptable’, ‘inadvisable’ etc.;
Relational adjectives	They convey relationship between nouns and fixed standards.	‘suitable’, ‘sufficient’, ‘appropriate’ etc.;

Table 3: Field’s 2005 classification of adjectives

As this classification seems to be one of the most complete works on adjectives, it will be used as a theoretical reference for linguistic analysis in this research.

Also Timothy Endicott (2005) has dedicated many studies to the usage of vague adjectives and expressions in legal texts, but advocating the use of vagueness in this kind of texts. He considers vagueness in legal and diplomatic texts as an integral and functional means in legislation. In fact, according to this scholar (2005: 27):

Far from being repugnant to the idea of making a norm, vagueness is of central importance to lawmakers (and other persons who craft normative texts). It is a central technique of normative texts: it is needed in order to pursue the purposes of formulating such texts.

Perhaps the most interesting part of these explorations is that Endicott has discussed about the concept of “dummy standard.” With this expression he intends “a provision that calls on a decision maker to set a standard” (Endicott 2000: 49). It includes provisions that prohibit excess, require proportionality or what is satisfactory, due or appropriate. Dummy standards require a decision maker to posit a standard within a context established by pragmatic considerations, which may leave residual pragmatic vagueness where evaluative considerations surrounding the application of an expression do not decisively incline competent application one way or another. They thus presuppose a standard without laying it down and so they are pragmatically based on a subjective interpretation.

3.4 Vagueness in Legal Tests

Applying vagueness to legal norms may appear paradoxical, as “vagueness seems repugnant to the very idea of making a norm” (Endicott 2005: 27). However, vagueness seems to be an intrinsic element of the legal field, because it can be used to express extremely generic concepts and therefore be applied to many different situations.

Legal texts accomplish a double role: on the one hand they must be precise and accurate, and on the other they must be all-inclusive (Bhatia 1993: 117) and have a wide applicability. Legal drafters are in fact “not exclusively devoted to the pursuit of precision, and on the frequent occasions on which some part of a document needs to leave room for the meaning to stretch a little, then in will come terms like ‘adequate’, ‘and/or’, ‘due care’, and ‘malice’” (Crystal and Davy 1969: 211). Furthermore, a lawyer “must go to great lengths to ensure that a document says exactly what he wants it to say, that is precise or vague in just the right parts and just the right proportions, and that it contains nothing that will allow a hostile interpreter to find it in a meaning different from what he intended” (Crystal and Davy 1969: 212).

Legal texts are characterised by a high number of words and expressions that have a very flexible and variable meaning. Such terms, whose meaning is strictly dependent on context and interpretation, have been defined as “weasel words” (Mellinkoff 1963: 21). Some instances can be seen in example (4) below:

- (4) *Requests* the Panel to provide the **necessary information** to the governments concerned as required in paragraph 12 and 13 of resolution 1457, with **due regard** to safety of sources, in order to enable them, if necessary, to take **appropriate action** according to their national laws and international obligations [...]. (S/RES/1499(2003))²⁵

Tiersma (1999: 79) emphasises context-dependency of the meaning of terms such as ‘reasonable’, as their meaning changes both along a synchronic and diachronic axis. Things considered legally ‘reasonable’ in the past may not be perceived as such nowadays. As a matter of fact, also concepts evolve together with changes within a society, and this demonstrates how much legal interpretation is connected with social factors.

Vagueness is generally accepted as essential and unavoidable in legal language; as Frade (2005: 133) observes: “the conventional use of vague language has been tacitly agreed on by legal drafters and interpreters.” However, there are some cases in which vagueness and ambiguity represent a risk for the correct interpretation and implementation of a law. Some institutions have some rules that protect against this risk, while others do not.

For instance, at a level of national law, in the American constitutional law, the legal concept of ‘Void for vagueness’ protects against vague legal texts. It states that a given statute is void and unenforceable if it is too vague for the average citizen to understand it. A law can be considered vague either when it does not specifically enumerate the practices that are either required or prohibited, and thus the citizen does not know what the law requires; or when a law does not specifically express the procedure that officers or judges should follow to approach and handle a case.

The approach to vagueness and ambiguity is quite different at an international level. In diplomacy, diplomats engaged in the negotiation of texts will often strive to persuade interlocutors to

²⁵ Source: [http://www.undemocracy.com/S-RES-1499\(2003\).pdf](http://www.undemocracy.com/S-RES-1499(2003).pdf) (Last accessed: June 2011). Emphasis will be added for all examples.

reach agreements on a word form that combines precision with vagueness. According to Professor Norman Scott (2001: 153) both precision and vagueness are fundamental in these cases because:

Precision will as a rule serve the purposes of his own side in stipulating claims or limits to commitments; the sought-for ambiguity will serve to allay anxieties on either side or to secure a margin for subsequent interpretation.

In the case of the UN, due to diplomacy, UN documents may use vague, general or ambiguous words quite extensively. “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” (Šarčević 1997: 204). As a matter of fact, strategic agents are frequently intentionally vague, i.e. they deliberately choose less precise messages than they have to among the ones available to them in equilibrium.

Arguments can be found both against and in favor of the use of vagueness and ambiguity in diplomacy. There are many proponents of ambiguity and vagueness, such as Pehar, who, in his *Use of Ambiguities in Peace Agreements* (2001), draws several factors in favour of the use of ambiguities and vagueness:

If an ambiguity makes it easier for negotiating parties to accept an agreement and therewith put a close to a war, or to a situation of increased friction or hostility, this should be taken as an argument supporting the use of ambiguities.

However, there are also positions against the use of ambiguities in legal texts. Ambiguous and vague agreements can give origin to severe intellectual conflicts, as each party tends to interpret the agreement to their own benefit. Parties could start critics over interpretation, which then may cause a serious rupture in their relations. According to Pehar (2001: 92):

Speaking metaphorically, the inclusion of ambiguous expressions in a peace agreement is comparable to reopening a repository of arms to the parties and inviting them to rearm themselves with a kind of intellectual weaponry. [...] Ambiguities thus, in all probability, prompt the parties to set in motion a new spiral of physical violence, or at the least put between them a barrier to firmly keep their positions far apart. Ambiguities are a kind of Machiavellian manipulative device

that brings but temporary satisfaction to the parties as it deceptively, but not really, meets their demands in full.

An instance of negative consequences of vagueness is given by the UN Security Council Resolution (S/RES/242 (1967)) relating to the Israel-Palestinian conflict. After the defeat that Israel inflicted on the Arab forces during the Six Day War in 1967, the UN Security Council agreed on the text of the famous S/RES/242 (1967)²⁶. The provision of the resolution, which prompted different and incompatible interpretations, reads:

The establishment of just and lasting peace in the Middle East should include the application of both the following principles:

- Withdrawal of Israeli armed forces from *territories occupied in recent conflict*;
- Termination of all claims or states of belligerency and respect for territorial integrity of every State in the area and their right to live in peace within secure and recognized boundaries.

This resolution, thoroughly discussed by Šarčević (1997: 205), uses the odd English construction “territories occupied in recent conflict”, without the definite article ‘the’. This proposition raised the question whether Israel was actually asked to withdraw from ‘all’ the territories occupied in the recent conflict, or to withdraw from only some territories. The issue became even more complex in the comparison with the official UN French version of the document, which introduced the definite article, reading: “*Retrait [...] des territoires occupés lors du récent conflit.*” This French version suggested that Israel had to withdraw from the territories that it had occupied during the Six Day War, interpreting the text in harmony with the demands of Arabs. Israel opposed the French interpretation. This linguistic situation raised the suspect of a use of intentional vagueness, which is strengthened by Pehar’s remark (2001: 178):

It seems that the sponsor of the resolution, Lord Caradon, had no intention of inserting the definite article either. By implication Israel did not have to withdraw to its pre-Six Day War borders, giving room for Israel to interpret UN SC Resolution 242 to its own advantage.

²⁶ Source: <http://domino.un.org/unispal.NSF/796f8bc05ec4f30885256cef0073cf3a/7d35e1f729df491c85256ee700686136> (Last accessed: June 2011).

Šarčević (1997: 205) recalls that Israel based its interpretation on the English text, while Arab supporters cited the French text:

Submitted by the United Kingdom, the draft resolution was in English and the original text was also in English [...]. It is noteworthy that the Spanish text had previously read *de territories* in the draft resolution and was later revised by the Spanish-speaking members of the Security Council. This revision is significant because it aligned the Spanish with the French text, thus resulting in two texts with and two without definite articles. In regard to the French text, legal experts have found it to be “an accurate and idiomatic rendering of the original English text, and possibly even the only acceptable rendering into French” (Rosenne 1971: 363).

Therefore, theoretical investigation on legal language cannot be de-contextualised because the reading of the law is always defined by its extralinguistic context, because legal and diplomatic texts communicate much more than their purely semantic and linguistic meaning.

The following sections will introduce the topic of this research, namely the study of vagueness in UN resolutions relating to the Second Gulf War and the investigation on how allegedly intentional vagueness used in Security Council resolutions has given rise to the conflict rather than to a peaceful settlement of the controversies.

3.5 Vagueness in UN Resolutions Relating to Iraq

3.5.1 A Brief History of a Long War

In order to understand the mechanisms underlying the Second Gulf War (officially March 19, 2003–May 1, 2003) it is fundamental to give an outline of Iraq’s main historical events since 1991, year of the outbreak of the first Gulf conflict.

The first Persian war (2 August 1990 – 28 February 1991), was a conflict between Iraq and a coalition of 32 nations including the United States, Britain, France, Egypt and Saudi Arabia. After successfully occupying Kuwait on August 2, 1990 the then Iraqi president Saddam Hussein declared that Kuwait had become part of Iraq and this triggered heavy objections from the United Nations. Hussein stated

that the invasion was a response to overproduction of oil in Kuwait, which had cost Iraq an estimated \$14 billion a year when oil prices fell²⁷. The Iraqi government described the Kuwaiti overproduction as a form of economic warfare, which was aggravated by Kuwait slant-drilling across the border into Iraq's Rumaila oil field.

On August 6, 1990, the Security Council adopted S/RES/660(1990)²⁸, the first of many resolutions issued to condemn Iraq's actions. It demanded Saddam's withdrawal from Kuwait and agreed to pass economic sanctions against Iraq. However, diplomacy failed and thus the Security Council adopted S/RES/678(1990)²⁹, which gave Iraq the ultimatum date of January 15, 1991, to fully implement S/RES/660(1990). Iraq refused to withdraw before the deadline, and Operation Desert Storm began the next day. Iraq was expelled from Kuwait on February 27, 1991. On April 3, 1991, the Security Council adopted S/RES/687(1991)³⁰, which established the conditions for a formal cease-fire, requiring Iraq, among other decisions readmit inspections in its territory³¹.

To carry out the inspections, a United Nations Special Commission (UNSCOM) was established to cooperate with the International Atomic Energy Agency (IAEA), which was to take custody of all of Iraq's nuclear-weapons materials. On April 6, 1991, Iraq officially accepted the terms and a formal cease-fire went into effect. However, throughout the subsequent years, Iraq resisted UNSCOM's mandate and many resolutions "condemn[ed] the continued violations by Iraq of its obligations under the relevant resolutions to cooperate fully and unconditionally with UNSCOM" (S/RES/1137(1997)) until December 15, when UNSCOM reported that it could not complete its mandate because of Iraq's obstructionism and the next day the United States and Britain began a seventy-hour bombing campaign in Iraq. As a result, Iraq refused inspections for other four years. In December 1999, UNSCOM was replaced by the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC). Meanwhile, the USA, supported by the UK- had moved towards a policy of supporting

²⁷ Source: http://www.unescobkk.org/fileadmin/user_upload/shs/EventInfo/InvasionofKuwait.pdf. (Last Accessed: June 2011).

²⁸ Source: <http://www.fas.org/news/un/iraq/sres/sres0660.htm> (Last accessed: June 2011).

²⁹ Source: <http://www.iraqwatch.org/un/unscresolutions/s-res-678.htm> (Last access: June 2011).

³⁰ Source: <http://www.fas.org/news/un/iraq/sres/sres0687.htm> (Last accessed: June 2011).

³¹ For further decisions, see S/RES/687 (1991) available at <http://www.un.org/documents/scres.htm>. (Last accessed: June 2011).

regime change in Baghdad, either by covert means or by providing assistance to Iraqi opposition groups, while continuing to insist on full Iraqi disarmament. Russia and France were against an enforced regime-change, supporting non-military sanctions and diplomatic relations with the regime. This created oppositions in the Security Council and an even greater uncertainty over Baghdad's compliance with disarmament resolutions, as no inspectors were admitted in Iraq. This situation of impasse continued until the terrorist attacks of September 11, 2001, when the Bush administration paid attention to new international threats.

In his *State of the Union* address in January 2002, the U.S. President Bush warned against states that sought the proliferation of weapons of mass destruction (WMD) and supported international terrorism. Iraq was listed among them. President Bush³² claimed:

States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States. In any of these cases, the price of indifference would be catastrophic.

On 16 September 2002, Iraq declared that it would have accepted an unconditional return of UN inspectors in its territory. At that time, the USA and UK were working on a Security Council resolution draft that aimed at establishing a precise inspection timetable for Iraqi compliance, and indicating consequences in case of non-compliance. After eight weeks of intensive negotiations there was sufficient agreement on the text to submit the draft to a vote.

The Security Council adopted S/RES/1441(2002)³³, which declared Iraq to be in material breach of previous Security Council resolutions and threatened 'serious consequences' in case of noncompliance. Iraq submitted a declaration on weapons of mass destruction on December 7, 2002, but the declaration was accused of being incomplete and inaccurate. President Bush stated on March 6, 2003 that Iraq had continued to produce missiles that violated the restrictions in S/RES/687(1991)

³² Source: http://articles.cnn.com/2002-01-29/politics/bush.speech.txt_1_firefighter-returns-terrorist-training-camps-interim-leader?_s=PM:ALLPOLITICS (Last accessed: June 2011).

³³ Source: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/682/26/PDF/N0268226.pdf?OpenElement> (Last accessed: June 2011).

and to hide biological and chemical agents and elements³⁴. This placed Iraq in material breach of S/RES/1441(2002) as well as of S/RES/687(1991). On these grounds, the United States led a “coalition of the willing” with which it invaded Iraq on March 19, 2003, eventually overturning Saddam Hussein’s regime. On May 1, 2003, President Bush announced that major combat operations in Iraq had ended and the United States assumed the status of an occupying power responsible for the reconstruction of Iraq, as recognized by the Security Council in S/RES/1483 (2003)³⁵.

Although UN resolutions related to the Second Gulf War have all been accused of being vague as a whole, there is one resolution, namely S/RES/1441(2002) whose vagueness has been particularly stigmatised. For this purpose, the following section will illustrate this resolution from a closer viewpoint and it will be recurrently quoted along this thesis.

3.5.2 UN Security Council Resolution 1441 (S/RES/1441 (2002))

In S/RES/1441(2002), Iraq was given “a final opportunity to comply with its disarmament obligations”, which had been set out in several previous resolutions.³⁶ In this resolution, the Council deplored Iraq to have failed to provide an accurate, full, final and complete report of its WMD and prohibited missile programmes, to not have fully and unconditionally cooperated with the inspection process, to not have complied with its obligations with regard to renouncing international terrorism, to not have ended the repression of its people, and to not have cooperated to free Kuwaiti and other nationals imprisoned during the invasion of Kuwait in 1990. The resolution repeated warnings that Iraq would “face serious consequences as a result of its continued violations of its obligations” (S/RES /1441(2002)).

³⁴ Source: <http://georgewbush-whitehouse.archives.gov/news/releases/2003/03/20030306-8.html> (Last Accessed: June 2011).

³⁵ Source: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N03/368/53/PDF/N0336853.pdf?OpenElement> (Last accessed: June 2011).

³⁶ S/RES/660(1990), S/RES/661(1990), S/RES/678(1990), S/RES/686(1991), S/RES/687(1991), S/RES/688(1991), S/ RES /707 (1991), S/RES/715(1991), S/RES/986(1995), and S/RES/1284(1999).

S/RES/1441(2002) was adopted under Chapter VII of the UN Charter, which is concerned with actions with respect to threats to or breaches of international peace and security and it allows the Security Council to authorise the use of force. The issue of a risk of automatic or implicit authorisation to conflict became of crucial importance during the draft voting debate. France, Russia and other states brought pressure during the negotiations to ensure that the resolution did not include an authorisation to go to war by issuing a statement giving their joint interpretation of the resolution, according to which the resolution excluded any automaticity in the use of force, omissions and false statements in declarations submitted by Iraq would have been considered further material breaches (paragraph 4), interference by Iraq with inspections had to be reported to the Council (paragraph 11) and that as a result, the Security Council would convene for consideration in the event of further material breach by Iraq's regime (paragraph 12).³⁷

After the vote of the resolution, the U.S. and British Governments stated that they would return to the Security Council in the event of a breach of S/RES/1441(2002).

In his explanation given for his vote³⁸, the UK Foreign Secretary Jack Straw expressed concern in relation to the risk of implicit authorisation for war. He concluded that:

We heard loud and clear during the negotiations the concerns about “automaticity” and “hidden triggers” – the concern that on a decision so crucial we should not rush into military action; that on a decision so crucial any Iraqi violations should be discussed by the Council. Let me be equally clear in response, as a co-sponsor with the United States of the text we have adopted. There is no “automaticity” in this Resolution. If there is a further Iraqi breach of its disarmament obligations (paragraph 4), the matter will return to the Council for discussion as required in Operational Paragraph 12. We would expect the Security Council then to meet its responsibilities.

Therefore, it can be said that according to the wording of the resolution, paragraph 4 (reporting a breach) could lead to paragraph 12 (assessment by the Security Council) only when paragraph 11 (a report by the inspectors) also applies. Although having a very high percentage of intertextuality, the

³⁷ For further information see: <http://lcn.org/global/CNDLegalOpinion.pdf>. (Last accessed: June 2011).

³⁸ Source: <http://lcn.org/global/CNDLegalOpinion.pdf>. (Last accessed: June 2011).

joint statement of interpretation gives a clear procedure to be followed in case of further material breach of UN resolutions relating to the Iraqi issue.

However, after the adoption of the resolution, President Bush commented: “The United States has agreed to discuss any material breach with the Security Council, but without jeopardizing our freedom of action to defend our country.”³⁹

On November 13 the Iraqi Foreign Minister Naji Sabri Ahmed wrote to the UN Secretary-General declaring that Iraq would have accepted S/RES/1441 (2002), but also announcing a further letter in which he would have given his opinion on some parts of the resolution that his government accused of being inconsistent with international law⁴⁰:

I should like to inform you that I shall address a further detailed letter to you in due course, stating our comments on the procedures and measures contained in resolution 1441 (2002) that are inconsistent with international law, the Charter of the United Nations, the established facts and the requirements of previous relevant Security Council resolutions.

These inconsistencies were conveyed by vague expressions. One of the vaguest passages of S/RES/1441(2002) is in fact related to the controversy over implicit authorisation. Without Security Council authorisation, states do not have the right to use force to enforce the Council’s resolutions.

Thus, the lack of a UN authorization for the use of force in Iraq would determine that U.S. military action in that territory has been illegal. However, in an attempt to find a legal justification for war, the U.S. has appealed to the right to self-defence, guaranteed by Article 51 of the UN Charter, as will be seen in the paragraph below.

³⁹ Source: <http://www.whitehouse.gov/news/releases/2002/11/print/20021108-1.html> (Last accessed: June 2011).

⁴⁰ Source: <http://www.parliament.uk/commons/lib/research/rp2002/rp02-064.pdf>. (Last accessed: June 2011).

3.5.3 Self-Defence Theory

The ban on the use of military force is established by Article 2(4)⁴¹ of the United Nations Charter:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Under the UN Charter, there are only two circumstances in which the use of force is permissible: in collective or individual self-defence against an actual or imminent armed attack, and when the Security Council has directed or authorised the use of force to maintain or restore international peace and security. The inherent right to self-defence is regulated by Article 51⁴² of the UN Charter:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Therefore, according to this article, the condition for self-defence is the ‘occurrence’ of an armed attack. However, going beyond the literal meaning of this expression, some authorities interpret Article 51 to permit anticipatory self-defence in response to an ‘imminent’ attack and when pursuing peaceful alternatives is not possible. However, International law does not give a precise definition of what is sufficiently ‘imminent’. Professor John C. Yoo⁴³ suggests that although the literal definition of ‘imminent’ generally focuses on time, under international law the concept of ‘imminence’ must include the probability that a threat will occur. Moreover, great importance must be given to the threatened magnitude of harm. The advent of nuclear weapons has dramatically increased the degree

⁴¹ Source: <http://www.hrweb.org/legal/unchartr.html> (Last accessed: June 2011).

⁴² Source: <http://www.un.org/en/documents/charter/chapter7.shtml> (Last accessed: June 2011).

⁴³ Source: <http://escholarship.org/uc/item/5xf8q46x> (Last accessed: June 2011).

of potential harm, slightly changing the importance of the temporal variable. In the *National Security Strategy of the United States of America*, released in September 2002⁴⁴, in which the Bush administration argued that:

[...] Iraq had been a continuing destabilizing factor in the Middle East region. It had sought to construct a nuclear weapon, it had invaded Iran in a bloody eight-year conflict, and it had invaded Kuwait in a war of conquest. It had attacked Israel during the Gulf War in an effort to spark an Israeli-Arab conflict. It had repressed its own population and had used chemical weapons against both its own people and Iran. It had supported terrorist groups in the past [...]. If we wait for threats to fully materialize, we will have waited too long.

Therefore, the concept of self-defence has slightly evolved throughout these years; however, ‘pre-emptive’ actions against states based on ‘potential’ threats arising from possession or development of chemical, biological, or nuclear weapons and links to terrorism is still an on-going debate.

The other exception for the use of force is a Security Council directed or authorised use of force to restore or maintain international peace and security according to Chapter VII of the UN Charter (Article 42)⁴⁵:

Should the Security Council consider that measures [not involving the use of force] provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

It was under Chapter VII that in 1990 the Security Council with S/RES/678(1990) authorised all “necessary means” to restore international peace and security in Iraq.

The United States were worried about states that possessed weapons of mass destruction, especially of Hussein’s regime. For this reason, Iraq had been prohibited any development of nuclear weapons by the Security Council in the 1991 resolution.

⁴⁴ Source: <http://www.whitehouse.gov/nsc/nss.pdf> (Last accessed: June 2011).

⁴⁵ Source: <http://www.un.org/en/documents/charter/chapter7.shtml> (Last accessed: June 2011).

However, according to an advisory opinion of the International Court of Justice, the sole possession of nuclear weapons is not illegal in customary international law and so possession without even a threat of use does not amount to unlawful armed attack⁴⁶:

In view of the current state of international law, and the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a state would be at stake.

A very interesting remark has been further made. Historically, the United States has argued against a right of pre-emptive self-defence. The United States would improbably wish a law according to which any state could initiate the use of force against other states using pre-emptive self-defence. To justify the war in Iraq as a pre-emptive use of force was greatly problematic, because according to the Chair in Law and Research Professor of International Dispute at the University of Notre-Dame Professor Mary Ellen O'Connell (2002: 19)⁴⁷:

If America creates a precedent through its practice, that precedent will be available, like a loaded gun, for other states to use as well. The pre-emptive use of military force would establish a precedent that the United States has worked against since 1945.

Pre-emptive self-defence reasoning would act as a loaded gun giving legal justification and a case of precedent to any state that believes another regime poses a possible future threat even without evidence, as is the case of Iraq.

“Illegal, but legitimate” were the words used by the leading American expert on international law Anne-Marie Slaughter in March 2003, to describe the case for war used by the United States to disarm Iraq⁴⁸. Legitimacy would be given by the evidence of weapons of mass destruction to be found

⁴⁶ Source: <http://www.asil.org/taskforce/oconnell.pdf>. (Last accessed: June 2011).

⁴⁷ Source: <http://www.scribd.com/doc/26499372/The-American-Society-of-International-Law-Task> (Last accessed: June 2011).

⁴⁸ Source: <http://coursenligne.sciences-po.fr/pierrebuhler/pdf/1468200811chap11militaryinterventionandsourcesmoflegitimacyprecopyeditingshortversion.pdf>. (Last accessed: June 2011).

and by the enthusiastic welcome the U.S. troops would have received from the Iraqi people, but this does not give evidence for legality. As Slaughter concludes⁴⁹:

When these two notions of legality and legitimacy apply to the use of force – in other words to questions as grave as war and peace – they touch the very foundations of domestic political society, its security, its cohesion, its future. They also affect the essence of international political society, the rules and standards that condition its existence and the forces that constantly challenge and destabilise it.

3.5.4 Have Security Council Resolutions Authorised the Use of Force?

As previously said, two of the vaguest passages of S/RES/1441(2002) are related to the controversy over implicit authorisation, and its connection with the Security Council Resolutions S/RES/678(1990) and S/RES/687(1991).

The debate is whether these resolutions, dating the first Gulf war, provided a basis for the use of force in the second war in Iraq. It is suggested that since the early 1990s, the United States and its allies have been in possession of a blank cheque enabling them to use force in Iraq whenever it is believed that Iraq failed to comply with the directions of the Security Council. Most of the controversies come from the wording of S/RES/678 that authorised the use of force.

One argument for the war's 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." The thesis favourable to the revival of the S/RES/678 (1990) argued that the ceasefire was conditional and if Iraq breached those conditions then the authorisation of the use of force had to be seen as still in force. These arguments sustain that Iraq's violation of resolutions 687 and 1441 allowed the United States and any of the other states who fought Iraq in the first Gulf War to attack Iraq. This argument uses treaty law to note that because the United

⁴⁹ Source: <http://coursenligne.sciences-po.fr/pierrebuhler/pdf/1468200811chap11militaryinterventionandsourceoflegitimacyprecopyeditingshortversion.pdf>. (Last accessed: June 2011).

States was a party of the ceasefire agreement included in S/RES/687(1991), Iraq's violation of that agreement broke the ceasefire and recreated the legal condition in which S/RES/678(1991) authorised force. According to Professor Yoo (2003), S/RES/687(1991) was basically an armistice; it did not terminate the state of war, but merely suspended military operations by mutual agreement. A ceasefire allows a party to a conflict to resume hostilities under certain conditions. He supports his position by remembering that under the Hague Regulations, "any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately."⁵⁰

The counterarguments, which stand that there has not been any authorisation for war, argued that once the objective of removing Iraq from Kuwait had been secured, the authorisation of the use of force was no longer current. The thesis against S/RES/678(1990) revival and thus of the authorisation of war maintains that S/RES/678 (1990) creates no mandate for the use of force that could be relied upon by the U.S. or UK in 2003 and even if it did, S/RES/678(1990) gave a mandate to a coalition, which cannot be interpreted as a right to use force for each member acting alone. Moreover, S/RES/687(1991) is said to create a 'formal ceasefire'. And 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" and concludes saying that Security Council "decides to remain seized of the matter."

Furthermore, at the Security Council meeting in which S/RES/1441(2002) was passed, it was agreed by all five permanent members that the resolution did not imply authorisation for the use of force. Ignoring this decision means to undermine the role and value of the UN. Finally, it cannot be argued that a reference to S/RES/678(1990) included in the S/RES/1441(2002) preamble section implies revival of this resolution as it is not referred to in the operative clauses as opposed to S/RES/687(1991) in which it is present throughout, as can be seen comparing example 5 from S/RES/1441(2002) with examples 6 and 7 from S/RES/687(1991) below:

- (5) *Recalling* that its resolution 678 (1990) authorized Member States to use all necessary means to uphold and implement its resolution 660 (1990) of 2 August 1990 and all relevant resolutions

⁵⁰ Source: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=492002 (Last accessed: June 2011).

subsequent to resolution 660 (1990) and to restore international peace and security in the area [...].

(S/RES/1441(2002))

- (6) 6. Notes that as soon as the Secretary-General notifies the Security Council of the completion of the deployment of the United Nations observer unit, the conditions will be established for the Member States cooperating with Kuwait in accordance with resolution 678 (1990) to bring their military presence in Iraq to an end consistent with resolution 686 (1991) [...].(S/RES/687(1991))
- (7) 33. Declares that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990) [...]. (S/RES/687(1991))

Another statement against the legality of war agrees that the revival argument has no basis because S/RES/687(1991) states that the Security Council “decides to remain actively seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the region”⁵¹. This clearly contemplates that the Security Council remains seized of the matter and should have itself decided the further steps of the implementation of S/RES/1441(2002). Therefore, sustainers of counterarguments argue that any hint of automaticity of a right to the application of force is excluded.

Furthermore, it is important to notice that, according to the International Court of Justice, in the interpretation of Security Council resolutions, regard should be given not only to the terms of the resolution, but also to the discussions leading to it, the Charter provisions invoked and, in general, to all the circumstances that might assist in determining the legal consequences.

The argument that force could be used in the absence of Security Council consensus is made more objectionable by the predominant contrary opinion in the Council in March 2003. On February 18 and 19 2003, the Security Council held an open meeting and invited all members of the General Assembly who wished to make a statement to do so. Of the almost 60 members who took up this

⁵¹ Source: <http://www.lawyersagainsthewar.org/legalaction/legalissues.doc>. (Last accessed: June 2011).

opportunity to speak, only eight were in favour of the US-UK position⁵². Five remained non-committed, and the rest (nearly 40) rejected the use of force and asked for further inspections⁵³. A great majority of states therefore rejected both the idea that the Security Council had authorised or should authorise the use of force and the notion that Iraq posed an imminent threat to international peace and security, giving even more strength to the hypothesis that the Second Gulf War was neither legal, nor accepted by the majority of the international community.

The following chapters will attempt to analyse the issue from a linguistic viewpoint, through an analysis of vagueness used in Security Council resolutions relating to the outbreak of the second Gulf war.

⁵² Albania, Australia, Georgia, Japan, Latvia, Macedonia, Nicaragua and Uzbekistan. Source: <http://www.austlii.edu.au/au/journals/MelbJIL/2003/6.html#fn132> (Last accessed: June 2011).

⁵³ UN SCOR, 58th session, 4709th mtg, UN Doc S/PV.4709 (2003) Source: <http://www.austlii.edu.au/au/journals/MelbJIL/2003/6.html#fn132> (Last accessed: June 2011).

Chapter 4

Description of the Instruments for the Analysis

4.1 Introduction to the Analysis

The first part of this study has attempted to set a theoretical background about the concept of vagueness and its application in documents relating to the diplomatic world of the United Nations.

Before introducing the second section of this thesis, which consists of the linguistic analysis of resolutions relating to the second Gulf war and a contrastive analysis with resolutions relating to the 2010 Iranian nuclear issue, the present section will provide an in-depth description of the instruments and methodological principles that have been used for the analysis. The section will thoroughly describe the corpora on which the analysis is based and the search tools that have been used for the quantitative analysis aspects. Furthermore, it will give further details on the theoretical framework used to conduct a qualitative analysis on the corpora under scrutiny.

4.2 Aims

This doctoral thesis project is based on two main research aims. A first part of the research aimed at investigating 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 to be the case for Iran.

4.3 Description of the Corpora

For the purposes of this analysis, four *ad hoc* corpora have been compiled: two primary corpora and, to allow for comparison and extension, two additional ones.

The first part of the study, focussing on vague language used in UN resolutions relating to the second Gulf War, is based on a collection of 14 UN Security Council resolutions relating to Iraq, henceforth referred to as ‘SCRIraq1’. This corpus, which is the first primary corpus, includes only Security Council resolutions and not General Assembly resolutions, as the former are the only UN resolutions having binding force. The time-span of the 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.

Table 4 below is a synopsis of SCRIraq1:

Resolution	Date	Description	Token (Tot. 14757)
S/RES/1382	November 29, 2001	On Improvement of the Humanitarian Programme for Iraq	514
S/RES/1409	May 14, 2002	On Arrangements for the Sale and Supply of Commodities and Products to Iraq as a Basis for the Humanitarian Programme	761
S/RES/1441	November 8, 2002	On Decision to Set up an Enhanced Inspection Regime to Ensure Iraq’s Compliance of its Disarmament Obligations	2026
S/RES/1443	November 25, 2002	On Measures to Provide for the Humanitarian Needs of the Iraqi People	216

S/RES/1447	December 4, 2002	On Extension of Provisions of Resolution 1409 (2002) On Humanitarian Programme for Iraq	503
S/RES/1454	December 30, 2002	On Adjustments and Revised Procedures for Implementation of the Goods Review List of the Humanitarian Programme in Iraq	498
S/RES/1472	March 28, 2003	On Providing Humanitarian Assistance to Iraq and Resuming the “Oil-for-Food” Programme Established under Resolution 986 (1995)	1491
S/RES/1476	April 24, 2003	On Providing Humanitarian Assistance to the People of Iraq	119
S/RES/1483	May 22, 2003	On Extension of the Mandate of the UN Iraq-Kuwait Observation Mission (UNIKOM)	3223
S/RES/1490	July 3, 2003	On Lifting the Economic Sanctions on Iraq Imposed by Resolution 661 (1990)	310
S/RES/1500	August 14, 2003	On Establishment of the UN Assistance Mission for Iraq	172
S/RES/1511	October 16, 2003	On Authorizing a Multinational Force Under Unified Command to Take all Necessary Measures to Contribute to the Maintenance of Security and Stability in Iraq	1724
S/RES/1518	November 24, 2003	On Establishment of a Committee to Continue to Identify Individuals and Entities Dealing with Iraq’s Funds or Other Financial Assets	307
S/RES/1546	June 8, 2004	On Formation of a Sovereign Interim Government of Iraq	2903

Table 4: Synopsis of SCRIraq1

The hypothesis of the use of intentional vagueness in resolutions relating to the second Gulf war will be further strengthened through a side investigation based on an additional corpus, henceforth referred to as ‘SCRIraq2’. Its purpose is to further investigate the consequences of vague language used in S/RES/1441 (2002), which left Member States infinite ranges of interpretation and implementation of the resolution at a national legislative level. ‘SCRIraq2’ can be defined as a heterogeneous corpus, consisting of 13 documents divided into three types of documents:

- A first type consists in the draft version of S/RES/1441(2002), which will be compared to the final version of S/RES/1441 (2002) to verify the hypothesis that vague language has been strategically inserted in the final version for political reasons, giving thus the possibility of infinite interpretations of its wording, including implicit authorization for war.

- A second type of documents includes the American legislation related to the outbreak of the war. The comparison between both UN and U.S. drafts is important to reveal how the U.S. has legally interpreted and implemented UN legislation and to understand the purposes and consequences of vague language contained in them. The U.S. Congress produced many bills on the issue, using its four sources of Congressional legislation: joint resolutions, House and Senate bills, concurrent resolutions and simple resolutions, each with some peculiar legal characteristics. However, for the purpose of this thesis, only joint resolutions have been considered because this form, together with House and Senate bills, is the only that has legal force, and that is used to produce Public Laws, which have binding force. The material thus consists of a total of ten documents: one Public Law (P.L. 107 -273), and its other 4 versions; 2 House Joint resolutions and 3 Senate Joint Resolutions, closely related to P.L. 107 -273 because they can be considered as ‘drafts’ of the final Public Law version, being steps towards the Public Law.

- A third type of documents used in SCRIraq2 includes 2 amendments proposed to H.J.RES.114 [107th] (later passed as P.L. 107 -273) that have not been accepted for the final version. They have been included because their acceptance by the Congress would have given a completely different interpretation to the UN vagueness on the Iraqi issue, by proposing a firm but diplomatic solution of the issue. These amendments, which will be analysed closely, demonstrate that there could have been other solutions rather than war, but they were deliberately put aside. The following table is a synopsis of SCRIraq2:

Resolution	Date	Description	Token (Tot. 20978)
Draft of S/RES/ 1441 (2002)	October 23, 2002	On Decision to Set up an Enhanced Inspection Regime to Ensure Iraq’s Compliance of its Disarmament Obligations.	1600
S. J. Res 41 [107th]	July 18, 2002	A joint resolution calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed.	691
S. J. Res 45 [107th]	September 26, 2002	Further Resolution on Iraq.	960
S. J. Res 46 [107th]	October 3, 2002	Authorization for the Use of Military	1940

		Force against Iraq.	
H. J. Res 109 [107th]	July 26, 2002	Calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed.	728
H. J. Res. 110 [107th]	September 23, 2002	Liberation of the Iraqi People Resolution.	1332
H.J.Res 114 [107th] - IH	October 16, 2002	Authorization for Use of Military Force against Iraq Resolution of 2002. (Introduced in House).	1917
H.J.Res 114 [107th] - RH	October 16, 2002	Authorization for Use of Military Force against Iraq Resolution of 2002. (Reported in House).	2021
H.J.Res 114 [107th] - EH	October 16, 2002	Authorization for Use of Military Force against Iraq Resolution of 2002. (Engrossed in House [Passed House]).	1916
H.J.Res 114 [107th] - RDS	October 16, 2002	Authorization for Use of Military Force against Iraq Resolution of 2002. (Received in Senate).	1931
P.L. 107- 243. (H.J.Res 114 [107th]-ENR)	October 16, 2002	Authorization for Use of Military Force against Iraq Resolution of 2002. Enrolled.	1942
H.Amdt. 608 to H.J.RES.114[107th]	October 10, 2002	Amendment in the nature of a substitute sought to have the United States 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.	779
H.Amdt.609 to H.J.RES.114[107th]	October 10, 2002	Amendment in the nature of a substitute sought to authorize the President to use U.S. armed forces pursuant to any resolution of the United Nations Security Council adopted after September 12, 2002 that provides for the elimination of Iraq's weapons of mass destruction.	3227

Table 5: Synopsis of SCRIraq2

The second part of the study will attempt to understand whether it is possible to talk about the emergence of specific and recurring patterns of vagueness in UN resolutions and if the same patterns would be used in resolutions relating to the Iranian nuclear crises, revealing a relationship between the

choice of vague linguistic features and an overall legislative intent of using intentional vagueness and indeterminacy as a political strategy. In order to do so, the last section of this study will be dedicated to the contrastive analysis between results obtained on SCRIraq1 and Security Council resolutions relating to the Iranian nuclear issue. These resolutions have been chosen for the second primary and additional corpus because, out of the three countries labeled as “Axis of Evil” (i.e. Iran, Iraq and North Korea) by the former U.S. President George W. Bush, the U.N. has issued more resolutions relating to Iran than to North Korea after Bush’s 2002 statement.

For these purposes, another primary corpus has been built, with a collection of the 6 UN Security Council resolutions relating to Iran, henceforth referred to as ‘SCRIran1’. The time-span of the documents is from July 2006 to June 2010, including Security Council resolutions from S/RES/1696(2006) to the most recent resolution at the time in which this research is being written, S/RES/1929(2010), dated June 9, 2010.

Table 6 below is a synopsis of the resolutions included in SCRIran1:

Resolution	Date	Description	Token (Tot. 13912)
S/RES/1696(2006)	July 31, 2006	On Suspension By Iran of All Enrichment-Related and Reprocessing Activities, Including Research and Development	1006
S/RES/1737(2006)	December 27, 2006	On Measures Against Iran in Connection with its Enrichment-Related and Reprocessing Activities, Including Research and Development	3371
S/RES/1747(2007)	March 23, 2007	On Further Measures against Iran in Connection with its Development of Sensitive Technologies in Support of its Nuclear and Missile Programmes	1676
S/RES/1803(2008)	March 3, 2008	On Further Measures against Iran in Connection with its Development of Sensitive Technologies in Support of its Nuclear and Missile Programmes	2671
S/RES/1835(2008)	September 27, 2008	On Iran’s Obligation to Comply with Security Council’s Resolutions and to Meet the Requirements of the IAEA Board of Governors	224
S/RES/1929(2010)	June 9, 2010	On Measures Against Iran in Connection with its Enrichment-Related and Reprocessing Activities, Including Research and Development	4964

Table 6: Synopsis of SCRIran1

Furthermore, another section will briefly take into exam the language used in the most recent resolution on Iran, S/RES/1929 (2010) and its concrete interpretation and implementation through U.S. Public Laws, as will have been done for the analysis of SCRIraq1. Therefore, another additional corpus, henceforth referred to as ‘SCRIran2’ has been built. This heterogeneous corpus consists of a total of three documents: the draft version of S/RES/1929(2010), chosen to observe the differences with the final version of the resolution, and two U.S. Public Laws relating to Iran, namely P.L. 109-293 signed by the then U.S. President Bush and P.L. 111-195 written under President Obama’s administration, in order to notice how the vague and indeterminate language used in UN resolutions relating to Iran has been interpreted by the U.S. Congress. It will be seen how vagueness and indeterminacy of UN resolutions have been interpreted under the two different administrations, in particular Bush’s interpretation keeping a vaguer language than the Bill issued under the current Obama administration. Table 7 below is a synopsis of SCRIran2:

Resolution	Date	Description	Tokens (Tot. 24447)
Draft of Security Council Resolution 1929 (2010)	June 4, 2010	On Measures against Iran in Connection with its Enrichment-Related and Reprocessing Activities, Including Research and Development	4718
P.L.109-293 (H.R. 6198 [109th])	October 12, 2006	Iran Freedom Support Act	2574
P.L.111-195 (H.R. 2194 [111th])	July 1, 2010	Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010	17185

Table 7: Synopsis of SCRIran2

As far as concerns the size of the corpora, SCRIraq1 has a total of 14757 tokens and SCRIran1 has 13912 tokens. The two additional corpora consist of 20978 tokens for SCRIraq2 and 24447 tokens for SCRIran2. The corpora are comparable for their sizes and so the results of their analysis will be compared to verify the hypothesis of the existence of patterns of vagueness used as a political strategy in both corpora.

4.4 Search Tools

The study is based on quantitative and qualitative methods, paying attention to both textual and contextual elements, in line with the Discourse-Historical Approach (Wodak 1996, 1999, 2000), which is the main approach followed in this study. Because of the nature of the information sought, automated interrogations will be supplemented with manually retrieved data and qualitative analysis.

In particular, the study will rely on two different softwares combining the functions of automatic pos-tagging of *Sketch Engine*⁵⁴ with the concordance tools available in *AntConc*⁵⁵.

AntConc is a freeware concordance programme for Windows, Mac OS X, and Linux systems developed by Laurence Anthony, Professor at the Waseda University of Japan. When it was first released in 2002, it was a simple KWIC concordancer programme, and since then it has been slowly progressing to become a rather useful freeware text analysis tool. Its features now also include word and keyword frequency generators, concordance distribution plots, and tools for clusters, n-grams, and collocates analysis. It also offers the choice of simple wildcard searches or regular expression searches, and has an easy-to-use, intuitive interface. This will be the main programme used for quantitative analysis in this research for its very useful concordance tools. However, recourse will be made to the *Sketch Engine* software, for its POS tagging tool, which will be of necessary importance especially for the sections concerning the analysis of weasel words, adjectives and modals.

Sketch Engine is available as a commercial product developed by Adam Kilgarriff, Pavel Rychly, Pavel Smrz, and David Tugwellet in 2004. This software is designed as an online corpus query system, based on a server holding the data and queries issued to the server from a web browser. The system incorporates an automatic pos-tagging tool, pre-loaded corpora in many languages for comparisons, word sketches, grammatical relations, and a distributional thesaurus. A word sketch is an automatic, corpus-derived summary of the grammatical constructions that a word is frequently found in, as well as its salient collocates within these constructions. Like *AntConc*, the software includes tools to analyse word clusters, n-grams, collocates, word frequencies, and keywords. .

⁵⁴ Source: <http://www.sketchengine.co.uk/> (Last accessed: June 2011).

⁵⁵ Source: http://www.antlab.sci.waseda.ac.jp/antconc_index.html (Last accessed: June 2011).

The quantitative results that will be found using these softwares will be integrated into manually retrieved information and qualitative analysis in the spirit of the Discourse Historical Approach.

4.5 A CDA Theoretical Framework: the Discourse-Historical Approach

Critical discourse analysis (CDA) is an interdisciplinary approach to the study of discourse that views language as a form of social practice and focuses on the ways social and political domination are reproduced by text and talk (Fairclough 1995). More specifically, CDA focuses on the ways discourse structures enact, confirm, legitimate, reproduce, or challenge relations of power and dominance in society.

There have been many attempts to systematize the methodology and the general principles of CDA. The most notable work has been conducted by Fairclough (1992a, 1995, 2000, and 2003), van Dijk (1998, 2001a and 2001b), and Wodak (1996 and 2001). Although varying considerably in technical specification, all CDA approaches share some common topics; the main are described below:

- *Dialectical Relationship between Language and Society*: CDA considers the relationship between language and society as dialectical. As a matter of fact, not only language is influenced by society but also society is, in turn, shaped by language.

- *Micro, Meso, and Macro Analysis Methodology*: following Fairclough's method, many CDA approaches combine micro, meso and macro-level interpretation, analysing syntax, metaphoric structures and other devices at a micro level; text production, consumption, and enactment of power relations at a meso-level; and at the macro-level, analysis is concerned with research on the broad, contextual and societal currents that affect a text.

- *Power and Dominance*: CDA is specifically interested in power abuses that go against laws and principles of democracy, equality and justice. This illegitimate abuse of power is referred to as "dominance." Dominance may sometimes be integrated in laws, rules, norms, taken-for-granted actions of everyday life and thus take the form of what Gramsci (1971) called "hegemony." One of the

fundamental cases of dominance is ideology, which reflects the basic aims, interests and values of groups. They may be metaphorically seen as “the fundamental cognitive programmes or operating systems that organize and monitor the more specific social attitudes of groups and their members” (Van Dijk 1993a: 258).

- *Explicit Socio-political Positioning*: critical discourse analysts explicit their point of view, perspective, principles and aims. Their work is admittedly and ultimately political.

- *Interdisciplinarity*: CDA is an approach which appeals to many other disciplines, on the basis of which CDA approaches can be divided into social, socio-cognitive and discourse-historical theories, each with its own analytical tools and approaches to a text.

Among all approaches used in critical discourse analysis, Wodak’s discourse-historical approach is the one which has been followed in this study because it has been the most suitable for the purposes of this research. By investigating historical, organizational and political topics and texts, the discourse-historical approach attempts to integrate knowledge about the historical sources and the background of the social and political fields in which discursive events are embedded. According to Wodak (2001a: 64), “research in CDA must be multi-theoretical and multi-methodological, critical and self-reflective” and researchers aim at “making opaque structures of power relations and ideologies manifest.”

To minimize the risk of critical bias and to avoid politicizing, the discourse historical approach follows the principle of “triangulation” (Wodak and Meyer 2009: 31), that is to say that depending on the object of investigation, it attempts to go beyond mere linguistic analysis to include the historical, political, sociological and/or psychological dimensions in the analysis and interpretation of a specific discursive occasion. This implies a concept of “context” which takes into account four levels of analysis (Wodak 2001: 67):

- (1) The immediate language context;
- (2) the intertextual and interdiscursive relationships between texts, genres and discourses;
- (3) the extralinguistic social situation; and
- (4) the wider historical context of the discursive event as well as the topic itself.

Analytically, the discourse historical approach (Wodak, de Cillia, Reisigl, and Liebhart 1999)

distinguishes three interrelated dimensions: content, discourse strategies and linguistic means that have to be analysed for a complete understanding of a text.

The first dimension is “content”, which is clearly represented by the *topos* or the *topoi* of the issue in consideration.

The second dimension includes discourse strategies, which aim at discerning the social actors’ “intentional plan of practices adopted to achieve a particular social, political, psychological or linguistic aim” (Wodak and Reisigl 2000: 44). The main discursive strategies are: nomination, predication, argumentation, perspectivation and intensification/mitigation. In order to exemplify these strategies, they will be illustrated with the aid of some examples retrieved from SCRIraq1:

- *Nominations*: they are “referential strategies by which social actors are constructed and represented.” (Wodak and Reisigl 2001: 45).

From an analysis of SCRIraq1, it can be noticed that the main strategies used in the corpus are depersonalization and “whole for part” synecdoches (Reisigl and Wodak 2001: 51). There is a preference to refer to the entire state (Iraq) instead of referring to the government, or to people involved in the breach of resolutions. However, SCRIraq1 makes a distinction between the “people of Iraq” when talking about humanitarian issues and it uses both “the government of Iraq” and synecdoches when talking about breaches of UN decisions expressed through the resolutions. Reference is also made to the international community, in which the international community assumes the role of a socio-political actor in diplomacy, as will be seen later in this research.

- *Predications*: once constructed, the social actors are “linguistically provided with predications, sometimes through stereotypical and evaluative attributions of negative and positive traits” (Wodak and Reisigl 2001: 54).

For example, in SCRIraq1, Iraq is seen as a “threat” to international peace and security, while the UN and the international community seem to be in an ‘us-versus-them’ relationship with Iraq, as will be explained further in this research.

- *Argumentations*: positive and negative attributions are justified through the use of argumentative *topoi*. Iraq was accused of being in material breach of UN resolutions by repeatedly obstructing IAEA and UNMOVIC inspections and of not giving a “full, accurate and complete”

disclosure of all its programmes on proliferation of weapons of mass destruction. On the other hand, UN action was determined to improve the “humanitarian situation” in Iraq.

The following Table 8 below helps look closer at the *topoi* used as argumentation strategies:

Strategy	Explanation	SCRIraq1
Usefulness/ Uselessness	If an action under a specific relevant point of view will be useful, then one should perform it <i>pro bono nobis</i> .	Iraq had to comply with UN resolutions to “secure international peace and security
Danger	If a political action bears threatening consequences, one should not perform it or if it is dangerous, one should do something against it.	Iraq is a “threat” to international peace and security
Law	If a norm prescribes a specific action, the action has to be performed.	In S/RES/1546 (2004) it was recalled that the Council had repeatedly warned Iraq that it would have faced serious consequences as a result of its “continued violations of its obligations.”
Responsibility	If a state is responsible for the emergence of specific problems, it should act to find solutions.	S/RES/1511 (2003) authorized a multinational force under unified command to take all necessary measures to “contribute to the maintenance of security and stability in Iraq”

Table 8: Argumentation *topoi* in SCRIraq1

These *topoi*, together with the humanitarianism and justice, were used to justify military intervention in Iraq as an action to ensure human rights in Iraq and to establish a representative government that would have ensured equal rights and justice to all Iraq citizens.

- *Perspectivation*: this strategy deals with framing by means of which “speakers or writers express their point of view in the reporting, description, narration or quotation of events or utterances” (Wodak and Reisigl 2001: 81).

The perspective assumed in SCRIraq1 is that of the UN, which is the legislative force issuing the resolutions against Iraq.

- *Intensification-Mitigation*: both intensifying and mitigating strategies help qualify and modify the epistemic status of a proposition by intensifying or mitigating the illocutionary force of utterances. They can sharpen or tone down an issue. Resolutions relating to Iraq seem to use more intensification than mitigation strategies referring mainly to “serious consequences” and “necessary

measures” to be taken, with a vague but strong language, without recurring to diplomatic and toned down range of expressions.

Returning to the three interrelated dimensions of content, discourse strategies and linguistic means, the third and last interrelated dimension of the discourse historical approach both regard linguistic means, which are primarily focused on lexical units and syntactic devices of a text. Together with the analysis of content, discourse strategies, historical, political, sociological and/or psychological contexts, linguistic analysis attempts at a complete and critical interpretation of a specific discursive occasion.

The following sections will therefore focus on the linguistic features of the Security Council resolutions relating to the outbreak of the second Gulf war. At first, it will be seen how these documents attempt to create a balance between structural precision and vagueness of content by analysing the UN’s strict rule of conduct for some aspects of UN resolutions such as their structure and graphological devices while it is very vague for other issues such as the precise meanings of preambulatory and operative phrases. Then the study will proceed with the linguistic analysis of modality, vague adjectives, vague expressions and weasel words, integrating the study with the analysis of the historical and legal context within which the linguistic aspects are framed, in the spirit of the discourse-historical approach.

Chapter 5

Structure and Wording of UN Resolutions: between Precision and Vagueness

Power is the most persuasive rhetoric.

(Friedrich von Schiller)

5.1 Precision in UN Resolutions: The UN Editorial Manual Guidelines

The purpose of this section is to let notice how the UN respects a very strict rule of conduct for some aspects of UN resolutions such as their structure and graphological devices while it is vague for other issues such as the precise meanings of preambulatory and operative clauses which will be analysed later in this chapter.

Professor David Crystal (2004: 194) has defined legal English as:

[...] an essentially visual language, meant to be scrutinised in silence: it is, in fact, largely unspeakable at first sight, and anyone who tries to produce a spoken version is likely to have to go through a process of repeated and careful scanning in order to sort out the grammatical relationships which give the necessary clues to adequate phrasing.

Graphological devices in legal and diplomatic documents help the reader understand the relationship between different levels of information. Drafters are supposed to think carefully about white space, column width, line spacing, and paragraph length, because these elements determine the rate of complexity, which can interfere with the comprehensibility of a text. In fact, generous use of white space on the page enhances readability, and emphasizes important points. The dissection of legal and diplomatic texts into sections, subsections, paragraphs, and other units and subunits according to the character of information that is being mediated, makes information easier to be absorbed in one quick glance.

As concerns United Nations documents, the first Security Council resolutions did not follow the fixed layout format that is used today.

Nowadays, the United Nations has adopted a comprehensive editorial manual, the *United Nations Editorial Manual* (1983), which represents an authoritative statement of guidelines of the style to be followed for the drafting United Nations documents, Security Council resolutions included.

It was first published in 1983, and since 2004 the United Nations has been compiling an online version which is being completed.⁵⁶ The *Manual* mainly focuses on style guidelines and includes a specific section on resolutions and other formal decisions of the United Nations organs, concerning both its system of identification drafting, and editing rules. It gives detailed guidelines on several aspects, including the use of capitalisation, the order of elements, numbering and arrangement of paragraphs, references to paragraphs and to other resolutions and decisions, use of italics and punctuation, abbreviations, wording of resolutions, references to the Secretariat, references to money, names of newly established bodies and annexes.

For instance, according to the *Manual*, italicisation has to be used for the names of organs and institutions (e.g. the Security Council); to stress preambulatory and operative phrases (e.g. *Taking note, Welcomes*); in case of two operative verbs in the same clause the second should not be italicised although the *Manual* suggests not putting two operative clauses in the same paragraph, unless they are closely interlinked, otherwise there could be the risk that these decisions could be underestimated.

Another section of the *Manual* gives guidelines on punctuation. According to the *Manual*, colons are to be used to introduce a quotation or lists of subparagraphs. Commas are used at the end of each preambulatory clause, while operative clauses are terminated with a semi-colon; the Saxon genitive should not be used with abbreviations or acronyms, countries, or organisations, preferring the form with 'of'.

Another section of the *Manual* regards the numbering and arrangement of paragraphs and subparagraphs. As already described in Chapter 2 of the present research, according to the current practice, preambulatory clauses are not numbered; operative paragraphs are numbered with Arabic numerals, but a single operative clause is not numbered. Moreover, if a preambulatory or operative clause is subdivided into subparagraphs, the first degree of subparagraphs is identified by lower-case

⁵⁶ Source: <http://69.94.137.26/editorialcontrol/index.htm> (Last accessed: June 2011).

letters between parentheses: (a), (b), (c), etc.; while a second degree subdivision is indicated by lower-case roman numerals between parentheses: (i), (ii), etc.

As far as concerns references, to make reference to an operative clause, it should be identified by its number (for example resolution 34/50, paragraph 5). The term “operative” should not be added, as only operative clauses are identified by numbers. When it is necessary to refer to a specific paragraph of a preamble, ordinal numbers should be used, for example “the first second preambular paragraph.”

The Manual also gives some indications on how to use wordings that have a slight difference between each other. In case of two or more consecutive paragraphs beginning with the same preambular/operative verb, the word “also” is added in the second occurrence and “further” is included in the third paragraph and the additional word should be italicised.

However, in some cases, such as in some resolutions relating to Iraq, the order between ‘also’ and ‘further’ has not always been respected, as in the following example:

(8) ***Deploring*** the fact that Iraq has not provided an accurate, full, final, and complete disclosure, as required by resolution 687 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than one hundred and fifty kilometres, and of all holdings of such weapons [...],

Deploring further that Iraq repeatedly obstructed immediate, unconditional, and unrestricted access to sites designated by the United Nations Special Commission (UNSCOM) [...],

Deploring also that the Government of Iraq has failed to comply with its commitments pursuant to resolution 687 (1991) with regard to terrorism, pursuant to resolution 688 (1991) to end repression of its civilian population [...]. (S/RES/1441 (2002))⁵⁷

The UN gives a very strict rule of conduct also for the structure of UN resolutions, as will be seen in the following subparagraph which illustrates the relationship between the structure of a resolution and some underlying rhetoric devices.

5.2 The Structure of UN Resolutions

The UN gives a very strict rule of conduct also for the structure of UN resolutions, which can be considered as a hybrid text type, because they are characterised both by prescriptive legal language, a high level of explicitness, formulaic and syntactic complexity, graphological means foregrounding the logical sequence of the text, but also by other elements typical of diplomatic language, such as rhetoric devices, which reflect the needs to settle agreements in international contexts.

At a first glance in particular, after an observation of the typical structure of a resolution, it has been found that the sections in which a resolution can be divided have some analogies with Cicero's classical canons of rhetoric, in particular with the canon of *dispositio*, which is the system that was used for the organisation of arguments in classical rhetoric composed of an *exordium*, a *narratio*, an *argumentatio* and a *peroratio*. These elements seem to establish further cohesion between the various parts of the text, and give support to diplomatic rhetoric.

In the *De Oratore*, (I, XXXI, 137-143) Cicero established the five canons involved in the elaboration of a discourse:

Inventio (invention) consists in the selection of the arguments necessary a cause.

Dispositio (arrangement) gives form and organization to the raw materials of invention setting them in a specific order.

Elocutio (elocution) is relative to style and language, not to the contents themselves. It is the phase in which the rhetor chooses an adequate vocabulary, a specific tone or style, rhetorical figures and tropes, always keeping in mind the aim of the most effective persuasion.

Memoria (memory) designates the stage of memorizing a discourse using mnemonic techniques to remember the discourse.

Actio (delivery) is the art of public performance; the rhetor must be a good speaker and actor taking care of the vocal and gestural aspects of his discourse.

Memoria and *actio* apply only to oral discourse, whereas *inventio*, *dispositio*, and *elocutio* apply to both written and oral forms.

Analysing the structure of UN resolutions, some similarities between the structure of resolutions and the phase of *dispositio* have been noticed.

The '*exordium*' is the introductory part, in which the subject and purpose of the discourse are announced. It leads the audience into the text informing of the subject and establishing authority. This element can thus be related to the very first lines of a resolution, which follows a fixed wording, including the date of the meeting and the body issuing the resolution, which in the case of the corpus used for this research is clearly the Security Council.

The '*narratio*' is the part of a discourse or text in which a speaker or writer provides an account of what has happened and explains the nature of the case. In Security Council resolutions this is represented by the preambulatory section. The preamble of a resolution states the reasons for which the committee is addressing the topic and highlights past international action on the issue. It can include references to the UN Charter, citations of past UN resolutions or treaties on the topic under discussion, reference to statements made by the Secretary-General or a relevant UN body or agency, recognitions of the efforts of organisations in dealing with the issue, and general statements on the topic of the resolution.

The '*argumentatio*', in which the writer/speaker puts forward his/her views on the subject and presents his own arguments, can be compared to the operative part of a resolution, in which the actions or recommendations are listed.

Finally, the '*peroratio*' is the concluding part of a discourse/text. In Security Council resolutions it coincides with the final wording "Decides to remain (actively) seized of the matter", which is usually the last operative clause. This last clause appears to be an assurance that the Security Council will consider the topic addressed in the resolution in the future if it is necessary.

Thus, it can be said that this rhetoric structure underlying UN resolutions puts even more in evidence the relationship between language and the diplomatic world, because these linguistic mechanisms and structures are used to create influent political messages and to enact, reproduce, and to legitimate power and domination through law.

Above all, this structure reveals that, in some aspects, the UN intentionally structures its documents and procedures in a much studied manner. However, what the UN offers is 'guidance', not

obligatory standard rules, so drafters do not always adopt them. If this creates only slight problems when dealing with editorial and layout features, fallacies of an explicit standard rule become more risky when related to the use and meaning of some specific wording used in UN resolutions. This is what happens for preambulatory and operative phrases which will be analysed in the second part of this chapter, for which the Manual deliberately does not express a strict guidance rule and probably withholds a vague rule of conduct on purpose.

5.3 Vagueness in UN Resolutions: A Focus on Preambulatory and Operative Phrases Used in SCR Iraq1

To the best of my knowledge, there are no official studies, nor classifications of the wording to be used by the Security Council for preambulatory and operative phrases. Not even the *United Nations Editorial Manual* gives a detailed description for the usage of the clauses. These phrases seem to part of shared knowledge and common sense among UN members, without official records of their meaning and usage.

The only official data compilation was written by former Director of the General Legal Division of the United Nations Legal Office Blaine Sloan in 1988, who surveyed the wording used in General Assembly resolutions. However, this work simply counted the occurrences of specific words without any classification and furthermore, it only analysed General Assembly resolutions, which are different from Security Council resolutions.

A Law Fellow at Legacy Heritage Fellowship, Justin S. Gruenberg⁵⁸ attempted a classification of preambulatory and operative phrases arranging them in a hierarchical system and performing a content analysis on the wording of Security Council resolutions, specifically of emotive and instructive wording, as can be seen in Table 9 below:

⁵⁸ Legacy Heritage Fellowship is a year-long program providing gifted and highly-motivated individuals interested in a career in public service at the executive level with the opportunity to work in placements worldwide. It seeks to train and help create a global community of outstanding leaders and public servants, all of whom are passionate advocates for a sturdy and long-lasting peace in the Middle-East. For further information <http://legacyheritage.org/lhf/> (Last accessed: June 2011).

Emotive Words From Weakest to Strongest	Instructive Words From Weakest to Strongest
Concerned	Decide
Grieved	Call upon
Deplored	Recommend
Condemned	Request
Alarmed	Urge
Shocked	Warn
Indignant	Demand
Censured	

Table 9: Emotive and instructive words classified by Gruenberg (2009: 483-487)

This research is an important study, as the UN has no official wording classification. However, it needs further extension, as it focuses only on a negative gravity scale. In this chapter, the study proposed by Gruenberg will be further extended in order to include not only negative wording, but also positive institutional feelings, expressions of assertiveness and phrases expressing emphasis on a specific issue.

5.3.1 Emotive Wording in Preambulatory Clauses

The Security Council uses a range of phrases to describe its institutional feelings towards actions and situations regarding the ‘Subject’ of a resolution. In this study it has been noticed that preambulatory sections of resolutions are the richest of emotive language, while a scale of gravity-connoted words could be thought for the operative section of a resolution.

It has been quite challenging to create a hierarchical scale of emotive wording used in preambles, as there is a very wide range of institutional feelings that can be expressed by the UN. Some preambulatory phrases contain negative emotive language; others express positive feelings, while others are used to express assertiveness or to put emphasis on a topic. Tables 4, 5, 6 and 7 in this sub-paragraph include the occurrences and the definitions of the preambulatory clauses used in SCR Iraq1, divided into four groups: phrases expressing negative wording, positive words, expressions

of assertiveness and clauses expressing emphasis on an issue. Table 10 below contains the occurrences of negative emotive wording used in the preambulatory sections of SCR Iraq1⁵⁹:

Preambulatory Phrases Expressing Negative Institutional Feelings		
Preambulatory Phrases	Occurrences	Definition
Concerned	1	A feeling of strong worry, especially one that is shared by many people
Expressing the gravest concern	1	
Deploring	5	To strongly disapprove of something and criticize it, especially publicly
Regretting	1	To feel sorry about something you have done or about something that you have not been able to do ;

Table 10: Preambulatory phrases containing negative emotive wording

The most common negative word used in Security Council resolutions is ‘concerned’⁶⁰, which has been used 3065 times in the first 2018 resolutions issued by the Security Council⁶¹

- (9) **Concerned** that many Kuwaitis and Third-State Nationals still are not accounted for since 2 August 1990 [...]. (S/RES/1483 (2003))

The *Oxford Advanced Learner’s Dictionary* (8th ed. 2010) defines ‘concerned’ as “a feeling of strong worry, especially one that is shared by many people.”

According to Gruenberg’s study (2009: 484), ‘concerned’ is used 2,793 times in 1,794 resolutions and it is used by the UN to express the least urgent sentiment; it often indicates a variegated problem that the Security Council may examine.

However, there are some cases in which ‘concern’ is used in conjunction with an adverbial modifier, as in the preambulatory phrase, “expresses the gravest concern.”

⁵⁹ All definitions used in the Tables of this chapter are retrieved from the *Oxford Advanced Learner’s Dictionary*, 8th Edition, 2010.

⁶⁰ Emphasis added. All instances of preambulatory and operative phrases analysed in this paragraph will be emphasised in bold.

⁶¹ Data retrieved in November 2011,

(10) *Noting further* the letter dated 8 October 2002 from the Executive Chairman of UNMOVIC and the Director-General of the IAEA to General Al-Saadi of the Government of Iraq laying out the practical arrangements, as a follow-up to their meeting in Vienna, that are prerequisites for the resumption of inspections in Iraq by UNMOVIC and the IAEA, and **expressing the gravest concern** at the continued failure by the Government of Iraq to provide confirmation of the arrangements as laid out in that letter [...]. (S/RES/1441 (2002))

Adverbs such as ‘gravely,’ ‘solemnly,’ ‘strongly,’ ‘urgently,’ and ‘vigorously’ and their related adjective forms such as ‘gravest’ used in example (10), are used to increase the intensity of an emotive word. In particular, according to Gruenberg (2009: 491), these adverbs “serve an important role by incrementally increasing the intensity of a word without requiring the Security Council to use the next strongest emotive word in the hierarchical system.”

Another weak preambulatory phrase is ‘regret’, which Gruenberg did not include in his range of emotive words from the weakest to the strongest. ‘Regretting’ has been used once in the corpus. It is part of the wording used to express discontent.

(11) *Deploring* the absence, since December 1998, in Iraq of international monitoring, inspection, and verification, as required by relevant resolutions, of weapons of mass destruction [...] and **regretting** the consequent prolonging of the crisis in the region and the suffering of the Iraqi people [...]. (S/RES/1441(2002))

The phrase is used in the crucial resolution S/RES/1441(2002) and is connected to two objects: the ‘consequent prolonging of the crises’ and to ‘the suffering of the Iraqi people’, in a secondary position, presumably giving secondary importance to the latter humanitarian issue.

After ‘concerned’, the next strongest word in Gruenberg’s spectrum is ‘grieved’. According to his data, this term has been used twenty-three times by the Security Council only, but not always, to state its feelings about the loss of lives or damages to properties. In the case of SCRIraq1, the United Nations never declared to be ‘grieved’ for the loss of Iraqi civilians in war.

The next negative emotive word used in the corpus is ‘deploring’. ‘To deplore’ means “to strongly disapprove of something and criticize it, especially publicly.” To reach the level of ‘deplore’, the Subject of the resolution must be perceived as violating customary international law in some form.

In the corpus, there are five occurrences of ‘deploring’ in preambulatory phrases. Four of them are contained in S/RES/1441 (2002), which establishes that Iraq was in material breach of its obligations, as in example (12) below:

- (12) **Deploring** the fact that Iraq has not provided an accurate, full, final, and complete disclosure, as required by resolution 687 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than one hundred and fifty kilometres [...].
(S/RES/1441 (2002))

The Security Council also uses ‘deploring’ when criticising the destruction of property or loss of lives. It is the case of the other occurrence of ‘deploring’ in SCRIraq1:

- (13) [...] **deploring** the assassination of Dr. Akila al-Hashimi⁶², who died on 25 September 2003, as an attack directed against the future of Iraq. In that context, recalling and reaffirming the statement of its President of 20 August 2003 (S/PRST/2003/13) and resolution 1502 (2003) of 26 August 2003 [...].(S/RES/1551(2004))

Gruenberg’s list of negative emotive wording used in preambulatory clauses continues with other terms used in Security Council resolutions, which do not occur in SCRIraq1. However, it is worth giving a brief description of them, in order to support the hypothesis that the UN kept a vague and weak position on the issue, not strongly impeding the outbreak of the war.

Of all the negative emotive words used in Security Council resolutions, the term ‘condemn’ is probably the most familiar to laymen. It is the strongest emotive word that is commonly used in Security Council resolutions. According to the *Oxford Advanced Learner’s Dictionary 2010* ‘condemn’ means “to express strong disapproval of; to sentence to severe punishment; to pronounce guilty.” In his study, Gruenberg (2009: 484) affirms that this wording is mostly used for violations of human rights. For example it was used for resolution S/RES/1907(2009), relating to the situation in Somalia:

⁶² Dr. Akila al-Hashimi was a woman member of the U.S.-appointed Iraq's interim Governing Council. She had worked in the public affairs department of the foreign ministry under the ousted president Saddam Hussein.

- (14) **Condemning** all armed attacks on TFG officials and institutions, the civilian population, humanitarian workers and the African Union Mission to Somalia (AMISOM) personnel [...].
(S/RES/1907(2009))

In SCRIraq1 it is not used in preambulatory clauses, but there are two occurrences as an operative phrase to condemn acts of terrorism.

Next on the hierarchical list are the terms ‘alarmed’ and ‘shocked’. Neither of these terms is used very often. According to the *Oxford Advanced Learner’s Dictionary 2010* ‘alarmed’ means “anxious or afraid that something dangerous or unpleasant might happen.” The term is used to describe the failure of Members to comply with previous resolutions. For instance,

- (15) **Expressing alarm** at the rejection of Security Council resolution 672 (1990) by the Israeli Government, and its refusal to accept the mission of the Secretary-General [...].
(S/RES/673 (1990))

At a more severe level, the Security Council raises the negative wording to ‘shocked’. For example, the Security Council used this expression to condemn the killing of the President of Ruanda in 1994:

- (16) **Shocked** at the tragic incident that resulted in the death of the President of Rwanda [...].
(S/RES/912 (1994))

The Oxford Advanced Learner’s Dictionary 2010 defines ‘shocked’ as “a strong feeling of surprise as a result of something happening, especially something unpleasant.” Neither ‘alarmed’ nor ‘shocked’ have been used to define the Iraqi issue.

Another rare but powerful word is the term ‘indignant’, which means “strong displeased about something considered unjust, offensive, insulting, or base.” For example, the Security Council expressed that it was:

- (17) **Indignant** at the continued executions of freedom fighters by the illegal regime [of Southern Rhodesia] [...]. (S/RES/423(1978))

Thus, through the analysis of the preambulatory phrases used in SCRIraq1 to express negative institutional feelings, it could be said that the UN had a moderate negative reaction against the

outbreak of this conflict. This is sustained by the fact that, although there were many more severe and grave phrases that could have been used to express negative feelings, the UN preferred to use phrases that could be collocated at a low level of the scale of gravity proposed.

In preambulatory sections of UN resolutions, emotive wording is also used to express positive institutional feelings. These can be usually found in resolutions relating to the conclusion of an issue. In Table 11 below, a list of positive emotive preambulatory phrases found in the preambulatory phrases of SCRIraq1 is presented:

Preambulatory Phrases Expressing Positive Institutional Feelings		
Preambulatory Phrases	Occurrences	Definition
Commending	2	To praise somebody/something, especially publicly
Encouraging	1	To give somebody support, courage or hope
Expressing appreciation	1	To express pleasure when recognizing and enjoying the good qualities of somebody/something
Welcoming	13	To be pleased to receive or accept something

Table 11: Preambulatory phrases containing positive emotive wording

Appreciation in SCRIraq1 is expressed through preambulatory phrases such as ‘commending’ and ‘expressing appreciation’:

- (18) **Expressing its appreciation** for the substantial voluntary contributions made to the Observation Mission by the Government of Kuwait [...].(S/RES/1490 (2003))
- (19) **Commending** the superior role played by UNIKOM and Department of Peacekeeping Operations (DPKO) personnel, and noting also that UNIKOM successfully fulfilled its mandate from 1991 to 2003 [...]. (S/RES/1490 (2003))

Positive wording can also encourage and welcome efforts made by the parties:

- (20) **Encouraging** efforts by the people of Iraq to form a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or

gender, and, in this connection, recalls resolution 1325 (2000) of 31 October 2000 [...].
(S/RES/1483 (2003))

- (21) **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))

Therefore, in SCRIraq1, positive wording is used to encourage or stress the good willing towards the official termination of military action in Iraq.

Other preambulatory clauses of SCRIraq1 cannot be classified according to a positive-negative scale. This is the case of some clauses which seem to have an assertive function that do not express an actual emotive meaning. They seem to indicate determination and sureness of what is being stated. As a matter of fact, this group contains words such as 'determined' and its synonyms, as can be observed in Table 12 below:

Preambulatory Phrases Expressing Assertive Institutional Feelings		
Preambulatory Phrase	Occurrence	Definition
Affirming	5	To state firmly or publicly that something is true or that you support something strongly
Convinced	6	Completely sure about something
Determined	7	To make a firm decision to do it and you will not let anyone prevent you to discover the facts about something; to calculate something exactly
Determining	4	
Expressing resolve	1	To express strong determination to achieve something
Having considered	1	To think about something carefully, especially in order to make a decision
Resolved	1	Determined

Table 12: Preambulatory phrases containing assertive wording

The following are some examples found in SCRIraq1:

- (22) **Determined** to ensure full and immediate compliance by Iraq without conditions or restrictions with its obligations under resolution 687 (1991) and other relevant resolutions and recalling that the resolutions of the Council constitute the governing standard of Iraqi compliance [...]. (S/RES/1441 (2002))
- (23) **Convinced** of the urgent need to continue to provide humanitarian relief to the people of Iraq throughout the country on an equitable basis, and of the need to extend such humanitarian relief measures to the people of Iraq who leave the country as a result of hostilities [...]. (S/RES/1472 (2003))
- (24) **Resolved** that the United Nations should play a vital role in humanitarian relief, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance [...]. (S/RES/1483 (2003))
- (25) **Affirming** the need for accountability for crimes and atrocities committed by the previous Iraqi regime [...]. (S/RES/ 1483 (2003))

These words are difficult to classify; as they cannot be said to be completely neutral as they express a conviction of the United Nations members regarding an issue.

What seems to emerge from the perambulatory phrases used in SCRIraq1 is a sort of willingness to stress that Iraq is considered to be in “material breach” of resolutions precedent to the 2002 conflict. As a matter of fact, SCRIraq1 presents a high rate of intertextuality, especially of reference to resolutions issued during the first Gulf War. From a linguistic viewpoint, this has been stressed by the use of preambulatory clauses containing the prefix ‘re-’, which indicates repetition. Together with clauses such as ‘stressing’ or ‘taking note’, these clauses could form a group of preambulatory phrases used to put emphasis on a specific topic. From a linguistic viewpoint, they contribute to the cohesion and coherence of these texts, as if there was the willing to stress and justify military action against Iraq as a response to its perpetuation of not respecting UN resolutions. A list of these clauses found in the corpus is presented below, in Table 13:

Preambulatory Phrases Expressing Emphasis
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Preambulatory Clauses	Occurrences	Definition
Mindful of	1	Remembering somebody/something and considering them or it when you do something; conscious.
Noting	15	To notice or pay careful attention to something; to mention something because it is important or interesting
Reaffirming	18	To state something again in order to emphasize that it is still true
Recalling	30	To remember something
Recognizing	12	To admit or to be aware that something exists or is true to accept and approve of somebody/something officially
Reiterating	2	To repeat something that you have already said, especially to emphasize it
Stressing	6	To emphasize a fact, an idea, etc.
Underscoring	1	To underline
Taking note	4	To observe with care or pay close attention to

Table 13: Preambulatory phrases containing words expressing emphasis

The phrases ‘recalling’ and ‘reaffirming’ are the most used in SCRIraq1; they usually appear in the first preambulatory phrases of a resolution and they usually precede other preambulatory clauses containing negative emotive language:

- (26) **Recalling** its previous relevant resolutions, including its resolutions 986 (1995) of 14 April 1995, 1284 (1999) of 17 December 1999, 1352 (2001) of 1 June 2001 and 1360 (2001) of 3 July 2001, as they relate to the improvement of the humanitarian programme for Iraq [...]. (S/RES/1382 (2001))

- (27) **Reaffirming** the commitment of all Member States to the sovereignty and territorial integrity of Iraq [...]. (S/RES/1443(2002), S/RES/1382(2001), S/RES/1441(2002), S/RES/1447(2002), S/RES/1454(2002), S/RES/ 1472 (2003))

Emphasis is also expressed using clauses such as ‘stressing’ and ‘underscoring’:

- (28) **Stressing** the necessity to make every effort to sustain the operation of the present national food basket distribution network [...]. (S/RES/1472 (2003))
- (29) **Underscoring** that the sovereignty of Iraq resides in the State of Iraq [...]. (S/RES/ 1511(2003))

Other clauses use a more neutral ‘noting’ or ‘taking note’:

- (30) **Noting** that the letter dated 16 September 2002 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General is a necessary first step toward rectifying Iraq’s continued failure to comply with relevant Council resolutions [...]. (S/RES/1441 (2002))
- (31) **Taking note** of the Secretary-General’s report S/2002/1239 of 12 November 2002 [...].
(S/RES/1443(2002))

The expression ‘taking note’ is usually used when the object is a report, a statement, or a decision taken by another body, brought to attention for the first time in a resolution, while the phrase ‘noting’ is generally used when the object is a fact or an event.

Moreover, as far as concerns reference, a distinction can be made inside this group between phrases expressing repetition such as ‘re-emphasising’ or ‘reaffirming’ and the other phrases. The further express exophoric reference because their meaning is determined by reference outside the discourse rather than by preceding or subsequent expressions. The latter contribute more cohesion in the text as they express endophoric reference, recalling expressions or larger segments of the resolution. All these phrases are used to put particular emphasis on what is stated in the preambulatory clauses in which they are used or on decisions included in precedent resolutions.

However, in order to have a closer look into the meanings of preambulatory phrases expressing emphasis or assertiveness, the following sub-section will suggest a further classification on the basis of Halliday’s and Matthiessen (2004) processes of transitivity.

5.3.1.1 ‘Assertive’ and ‘Emphasising’ Preambulatory Phrases and Systemic Functional Grammar

For further specification and investigation on the categories of assertive and emphasising preambulatory phrases, they can be further classified on the basis of Halliday’s and Matthiessen (2004) theory of transitivity. According to these scholars, experiences are construed as structural configurations, based on a process (material, mental and relational), participants (Actor, Goal; Senser, Phenomenon; Carrier, Attribute, etc.), and circumstances in which the process occurs (Cause, Location, Manner, Accompaniment, etc).

The primary process types are “material”, “mental”, “verbal”, and “relational” and they can be motivated by their meaning and their structure.

According to Halliday and Matthiessen (2004), looked at ‘from above’, a material process type construes ‘doings and happenings’ (actions, events and participants involved in the action). Looked at ‘from below’, a material process type is characterized by the pattern ‘Actor + Process + Goal + Recipient’.

Looked at ‘from above’, a mental process type construes ‘sensing’ (perception, cognition, intention, and emotion); looked at ‘from below’, a mental process is characterized by a particular structural configuration ‘Senser+ Process + Phenomenon’.

Looked at ‘from above’, a relational process construes ‘being and having’ (true relational or existential); looked at ‘from below’, a material clause is characterized by the structure ‘Carrier (or Identified) +Process + Attribute (Identified).

Looked at ‘from above’, a verbal process construes ‘saying’ (verbalization); looked at ‘from below’, a verbal clause is characterized by the pattern ‘Sayer+ Process+ Verbiage+ Receiver’.

As far as concerns SCRIraq1, the ‘assertive’ and ‘emphasizing’ preambulatory phrases used in SCRIraq1 are limited only to the two categories of mental and verbal processes, while there are no occurrences of ‘material’ and ‘relational’ processes. Tables 14 and 15 below respectively illustrate phrases describing mental and verbal processes found in assertive and emphasising preambulatory phrases in SCRIraq1:

Mental	Occurrences	Structural Realization
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Process				
		Senser	Phenomenon (example)	Resolution
Convinced	6	The UN	“of the need as a temporary measure to continue to provide for the civilian needs of the Iraqi people [...]”	S/RES/ 1382 (2001)
Determined Determining	7 4	The UN	“to improve the humanitarian situation in Iraq [...]” “that the situation in Iraq, although improved, continues to constitute a threat to international peace and security [...]”	S/RES/ 1382 (2001) S/RES/ 1483 (2003)
Having considered	1	The UN	“the report of the Secretary-General of 15 July 2003 (S/2003/715) [...]”	S/RES/ 1500 (2003)
Noting	15	The UN	“the statement of 12 April 2003 by the Ministers of Finance and Central Bank Governors [...]”	S/RES/ 1483 (2003)
Recalling	30	The UN	“all of its previous relevant resolutions [...]”	S/RES/ 1518 (2003)
Recognizing	12	The UN	“the importance of international support [...]”	S/RES/ 1546 (2004)
Resolved	1	The UN	“that the United Nations should play a vital role in humanitarian relief [...]”	S/RES/ 1483 (2003)
Stressing	6	The UN	“the need for all parties to respect and protect Iraq’s archaeological, historical, cultural, and religious heritage [...]”	S/RES/ 1546 (2004)
Taking note	4	The UN	“of the dissolution of the Governing Council of Iraq [...]”	S/RES/ 1546 (2004)
Underscoring	1	The UN	“that the sovereignty of Iraq resides in the State of Iraq [...]”	S/RES/ 1511 (2003)

Table 14: Mental processes found in assertive and emphasising preambulatory phrases in SCR Iraq1:

Verbal Process	Occurrences	Structural Realization			
		Sayer	Verbiage (example)	Receiver	Resolution
Affirming	5	The UN	“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 [...]”	UN Member States/ Iraq	S/RES/ 1546 (2004)

Reaffirming	18	The UN	“the commitment of all Member States to the sovereignty and territorial integrity of Iraq and Kuwait [...]”	UN Member States/Iraq	S/RES/ 1490 (2003)
Expressing resolve	1	The UN	“that the day when Iraqis govern themselves must come quickly [...]”	UN Member States/Iraq	S/RES/ 1483 (2003)
Reiterating	2	The UN	“its resolve that the day when Iraqis govern themselves must come quickly [...]”	UN Member States/Iraq	S/RES/ 1511 (2003)

Table 15: Verbal processes found in assertive and emphasising preambulatory phrases in SCRIraq1:

Moreover, there is also an occurrence of ‘urging’ [to complete this process quickly] (S/RES/ 1511 (2003)), which has an overlapping meaning between a “mental”, “verbal”, and “material” process, as the *Oxford Advanced Learner’s Dictionary 2010* defines to “urge” as “to advise or try hard to persuade somebody to do something to recommend something strongly.”

Comparing the number of occurrences, it can be noticed that there is a majority of mental processes rather than verbal clauses. This could give further support to the hypothesis that the UN did not express a firm position against military operations or with regard to the Iraqi crises in general. Therefore, from a closer look into the preambulatory phrases chosen by the UN to show assertiveness and emphasis, it can be suggested that most issues actually remained at a ‘mental’ level, more than explicitly affirming its position.

The preambulatory phrases used in SCRIraq1 can be thus analysed on the basis of the four-group classification and with Halliday’s classification. However, there are two clauses which probably are worth of a more detailed analysis, namely the occurrence of the verb ‘allow’ in some preambulatory clauses in SCRIraq1, and the phrase “Acting under Chapter VII of the United Nations Charter”, which will be analysed below.

5.3.1.2 “Allows the Council to Take Further Action”: a Veiled Authorisation for War?

Although not officially defined, the meanings and usages of preambulatory and operative phrases selected by the UN are supposed to be intentionally and carefully chosen and weighed during the drafting procedure of resolutions. In such a fundamental international legal context, each word carries a significant value, actually able to cause great consequences all around the world. Assuming that these choices are made intentionally, it is a personal opinion that it is worth to analyse more closely the presence of the verb “to allow” in a preambulatory clause in SCRIraq1, as its presence is quite questionable outside the operative section. This usage could be presumed to be a veiled permission to act without giving an explicit authorization for war, an act of ‘tolerance’ and of intentional vagueness because calls for specific actions are usually contained in the operative section of a resolution, which is the most important part of a resolution.

According to the *Oxford Advanced Learner’s Dictionary*, to ‘allow’ means “to let somebody/something do something; to let something happen or be done.” The same preambulatory clause is repeated five times in the corpus, in subsequent resolutions (S/RES/1382 (2001), S/RES/1409 (2002), S/RES/1443 (2002), S/RES/1447(2002), S/RES/1454 (2002)).

S/RES/661 (1990)⁶³ mentioned in the preambulatory clause below is the resolution which established the financial and trade embargo on Iraq:

(32) **Convinced** of the need as a temporary measure to continue to provide for the civilian needs of the Iraqi people until the fulfilment by the Government of Iraq of the relevant resolutions, including notably resolutions 687 (1991) on 3 April 1991 and 1284 (1999), **allows** the Council to take further action with regard to the prohibitions referred to in resolution 661 (1990) of 6 August 1990 in accordance with the provisions of these resolutions [...].

The above provision began in August 1990, after Iraq’s invasion of Kuwait and continued until May 2003, after the fall of Saddam Hussein’s government. Its purpose was to force Iraqi military to withdraw from Kuwait, and to compel Iraq to pay reparations to Kuwait. After the end of the 1991

⁶³ Source: <http://www.uncc.ch/resolutio/res661.pdf> (Last accessed: June 2011).

Gulf War, S/RES/687 (1991) and S/RES/1284 (1991)⁶⁴ perpetuated the sanctions to compel Hussein to remove all weapons of mass destruction. The sanctions banned all trade and financial resources except for medicine and foodstuffs “in humanitarian circumstances” (S/RES/661 (1990)). The same clause was used in other 8 resolutions⁶⁵, dated precedent to the resolutions which are part of SCR Iraq1, relating to the First Gulf War and the period between the two wars.

From a legal viewpoint, “to allow” is to give approval or permission to someone to act without prohibition or hindrance. In practice ‘to allow’ can be seen as a synonym for “to tolerate”, “to permit”, thus without any explicit recognition of rights.

On the other hand, “to authorize” is to give the permission and power to act in a way that is officially or formally granted by law or order.

Although ‘to allow’ is apparently not as strong as ‘to authorize’, it gives permission to act; in the case of the Iraq resolutions being examined the action involved is “to take further actions” of sanctions against Iraq, with reference to S/RES/661 (1990).

It is a personal opinion that the presence of such a term is quite questionable in a preambulatory clause. Calls for specific actions are usually contained in the operative section of a resolution, which is the most important part of a resolution. This usage could be presumed to be a veiled permission to act without giving an explicit authorization for war, through the use of intentional vagueness.

5.3.1.3 “Acting Under Chapter VII”: Continuity between the First and the Second Gulf War?

The most severe resolutions of the UN Security Council are specifically adopted “Acting under Chapter VII”⁶⁶ of the UN Charter, which deals with “Threats to Peace, Breaches of the Peace and Acts

⁶⁴ Source: <http://www.un.org/Depts/unmovic/new/documents/resolutions/s-res-1284.pdf> (Last accessed: June 2011).

⁶⁵ S/RES/ 1111 (1997), S/RES/ 1143 (1997), S/RES/ 1153(1998), S/RES/ 1210 (1998), S/RES/ 1281 (1999), S/RES/ 1302 (2000), S/RES/ 1330 (2000), and S/RES/ 1352 (2001).

⁶⁶ Source: <http://www.un.org/en/documents/charter/chapter7.shtml> (Last accessed: June 2011).

of Aggression.” It is important to recall that since the first Gulf War, all decisions related to Iraq have been taken under this Chapter of the UN Charter.

The use of this formula, never having lifted Iraq from the restrictions imposed by precedent resolutions, seems to reinforce the continuity between the First and the Second War, rather than the idea of an imminent danger connected to the post-September 11, 2001 ‘war on terrorism’.

The specific preambulatory formula “Acting under Chapter VII” refers to one of the two chapters of the UN Charter that clarify the enforcement powers of Security Council.

Resolutions adopted under Chapter VI are intended to be implemented through negotiated settlements between the concerned parties. According to Article 33 of the UN Charter:

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. (Ch.VI, Art.33)

It is important to notice that this chapter authorizes the Security Council to issue recommendations but it cannot make binding resolutions. The binding nature is reserved only to Chapter VII of the UN Charter.

Chapter VII allows the Council to “determine the existence of any threat to the peace, breach of the peace, or act of aggression” (Art. 39). Resolutions adopted under Chapter VII invest the Security Council with power to issue resolutions that require nations to comply with the terms set forth in the resolution. Furthermore, Article 41 and 42 recognise the need for special military and non-military action to restore international peace and security if a Chapter VII resolution is ignored by an aggressor. This leaves no room to negotiate a settlement with the affected parties. Article 41 regards non- military actions, while Article 42 deals with military authorisation:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations. (CH. VII, Art. 41)

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations. (CH. VII, Art. 42)

Sometimes many resolutions are passed throughout years to extend the mandate of the first Chapter VII resolution as the concerned situation evolves.

When Iraq invaded Kuwait in 1990, the UN Security Council adopted all its resolutions against Iraq under Chapter VII of the UN Charter, as Iraq had engaged in a clear-cut act of aggression in the First Gulf War.

The formula continued to be used throughout the First Gulf War and also the resolutions relating to the second war in Iraq, which constitute SCRIraq1. At the present, July 2010, Iraq is still under Chapter VII of the UN Charter. According to the Chapter, large sums of Iraq's accounts in world banks were frozen with the aim of paying damages for persons harmed by the invasion of Kuwait.

The use of this formula, never having lifted Iraq from the restrictions imposed by precedent resolutions, seems to reinforce the continuity between the First and the Second War, rather than the idea an imminent danger connected to the post-September 11, 2001 'war on terrorism'.

5.3.2 Instructive Wording Used in Operative Clauses

The words that matter most to the target of a Security Council resolution are typically the instructive words, commonly known as the 'operative phrases'.

Operative phrases include the statements of policy in a resolution: they indicate the concrete actions that will be taken by the Security Council. The choice of wording thus reveals the amount of

authority the Security Council intends to convey and the severity of the issue. The stronger the instructive word, the greater risk an Entity takes by ignoring it. If disregarded long enough, the Security Council may decide to impose sanctions or authorise military engagement against the Entity.

There are two sub-types of instructive words used in Security Council resolutions: some regard the actions to be taken by the Security Council itself and others that instruct a subject to perform an action, as can be seen in Table 16 and Table 17 respectively:

Operative Phrases Expressing actions to be Taken by the Security Council		
Operative Clauses	Occurrences	Definition
Affirms	1	To state firmly or publicly that something is true
Approves	1	To officially agree to a plan, request, etc.
Authorizes	3	To give official permission for something, or for somebody to do something
Decides	73	To think carefully about the different possibilities that are available and choose one of them or to make an official or legal judgment
Declares	1	To say something officially or publicly
Directs	5	To carry out the organizing, energizing, and supervising of
Determines	2	To decide definitely to do something
Emphasizes	5	To give special importance to something to give extra force to a word or phrase when you are speaking, especially to show that it is important
Re-emphasizes	1	
Encourages	3	To give somebody support, courage or hope
Endorses	3	To say publicly that you support a person, statement or course of action
Expresses deep sympathy and condolences	1	To demonstrate sympathy with a person who has experienced pain, grief, or misfortune
Expresses its appreciation	1	To show admiration, approval, or gratitude
Expresses readiness	3	To show to be mentally or physically prepared for some experience or action
Notes	10	To notice or observe with care to record or preserve in writing
Takes note	1	
Reaffirms	9	To state something again in order to emphasize that it is

		still true
Recalls	3	To remember something
Recognizes	5	To admit or to be aware that something exists or is true to accept and approve of somebody/something officially
Reiterates	3	To repeat something that you have already said, especially to emphasize it
Reminds	1	To help somebody remember something, especially something important that they must do
Stresses	2	To emphasize a fact, an idea, etc.
Supports	3	To help or encourage somebody/something by saying or showing that you agree with them/it
Underlines	2	To emphasize or show that something is important or true
Welcomes	8	To be pleased to receive or accept something

Table 16: Operative clauses containing actions to be taken by the Security Council itself

It has been noticed through the analysis of the operative phrases used in SCRIraq1 that although these resolutions regard the outbreak and development of a war that has been internationally criticised, the UN has adopted phrases with a weak operative strength.

The gentlest instructive word the Security Council uses for actions to be taken by the Security Council itself is ‘decides’. According to *the Oxford Advanced Learner’s Dictionary*, the term means “to think carefully about the different possibilities that are available and choose one of them or to make an official or legal judgment.”

It is the most commonly used operative phrase in Security Council resolutions; according to Gruenberg’s study (2009: 487) it has been used more than three thousand times in Security Council resolutions written at the time of his research and thus before 2009. As far as concerns SCRIraq1, the term is used 73 times in the corpus. An example is provided below:

- (33) 4. **Decides** that, beginning at 0001 hours, Eastern Daylight Time, on 30 May 2002, the funds in the escrow account established pursuant to paragraph 7 of resolution 986 (1995) may also be used to finance the sale or supply to Iraq of those commodities or products that are authorized for sale or supply to Iraq under paragraph 3 above, provided that the conditions of paragraph 8 (a) of resolution 986 (1995) are met [...]. (S/RES/1409 (2002))

Moreover, all the resolutions in SCRIraq1 conclude with the clause “decides to remain seized of the matter.” The last resolution, S/RES/1546(2004) adds the adverbial modifier ‘actively’ before ‘seized.’ The phrase generally indicates that the Security Council may return to the issue dealt with in that resolution at a future time if proper actions are not taken by the Entity concerned. Other phrases belonging to this are ‘Notes’, ‘Takes note’, ‘Affirms’, ‘Declares’, ‘Determines’, and ‘Directs’.

Other phrases used for actions taken by the UN itself express either positive feelings, such as ‘Encourages’ or ‘Supports’, or put emphasis on an issue (e.g. ‘Reiterates’, ‘Reminds’, ‘Stresses’, ‘Underlines’).

The strongest phrase used in actions taken by the UN is ‘authorizes’, which occurs three times in SCRIraq1. It is used “to give official permission for something or for somebody to do something.” In one occurrence it gives some general directions to the Secretary General (S/RES/1472 (2003)); in another case it is used to authorize “the sale or supply of any commodities or products other than commodities or products referred to in paragraph 24 of resolution 687 (1991)” (S/RES/1409 (2002)). The third instance is a quite particular case:

- (34) 13. Determines that the provision of security and stability is essential to the successful completion of the political process as outlined in paragraph 7 above and to the ability of the United Nations to contribute effectively to that process and the implementation of resolution 1483 (2003), and authorizes a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq, including for the purpose of ensuring necessary conditions for the implementation of the timetable and programme as well as to contribute to the security of the United Nations Assistance Mission for Iraq, the Governing Council of Iraq and other institutions of the Iraqi interim administration, and key humanitarian and economic infrastructure [...]. (S/RES/1511 (2003))

The peculiarity of this operative clause is that not only it contains two operative phrases, which is discouraged by *the UN Editorial Manual*, but also that a strong and important operative phrases as ‘authorizes’ collocated in the middle of the clause. Probably this phrase should have formed a separate operative clause, because this secondary position does not put emphasis on such an important decision,

which authorizes “a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq.”

The idea of a deliberate choice of weak operative phrases is further confirmed by the operative phrases instructing a subject to perform an action required by the Security Council, which all belong to the low part of the gravity scale, as can be seen in Table 17 below:

Operative Phrases Instructing a Subject to Perform an Action Required by the Security Council		
Operative Clauses	Occurrences	Definition
Appeals	5	To make a serious and urgent request
Calls for	1	To need something to publicly ask for something to happen
Calls on	5	To ask or demand that somebody do something
Calls upon	13	
Demands	3	To make a very firm request for something;
Invites	2	To ask somebody formally to go somewhere or do something
Requests	29	To ask for something formally and politely
Urges	5	To advise or try hard to persuade somebody to do something to recommend something strongly

Table 17: Operative clauses that instruct a subject to perform an action required by the Security Council

The weakest instructive phrase that actually instructs an Entity to perform an action is ‘calls upon’, which means “to ask or demand that somebody do something.”

According to Gruenberg (2009: 488), “when the Security Council “calls upon” an Entity to do something, it is asking the Entity to comply with that clause of the resolution simply as a matter of principle.”

However, in the following examples retrieved from SCRIraq1, probably a stronger operative phrase could have been used, as the issues dealt with are a humanitarian crises and the respect of the Geneva Conventions and other important regulations:

(35) 2. **Calls upon** all Member States in a position to do so to respond immediately to the humanitarian appeals of the United Nations and other international organizations for Iraq and to help meet the humanitarian and other needs of the Iraqi people by providing food, medical supplies, and resources necessary for reconstruction and rehabilitation of Iraq's economic infrastructure [...].

(S/RES/ 1483 (2003))

(36) 5. **Calls upon** all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907 [...].

(S/RES/ 1483 (2003))

Another operative clause slightly similar to 'call upon' is 'calls for', which means to publicly ask for something to happen. Here is an example excerpted from the corpus:

(37) 10. **Takes note** of the intention of the Governing Council to hold a constitutional conference and, recognizing that the convening of the conference will be a milestone in the movement to the full exercise of sovereignty, **calls for** its preparation through national dialogue and consensus-building as soon as practicable and requests the Special Representative of the Secretary-General, at the time of the convening of the conference or, as circumstances permit, to lend the unique expertise of the United Nations to the Iraqi people in this process of political transition [...]. (S/RES/ 1511(2003))

Also 'requests' expresses a mild instruction. The Security Council 'requests' certain actions more commonly than others. For instance, the clause is chosen anytime something is asked to the Secretary General. It is the second most used operative phrase in SCRIraq1, with 29 occurrences. Another verb with a very close meaning is 'appeals' which has 5 occurrences in the corpus. It has a slightly stronger meaning than 'request', as it is defined as "to make a serious and urgent request." They are used in the examples below:

(38) 9. **Requests** the Secretary-General immediately to notify Iraq of this resolution, which is binding on Iraq; [...]. (S/RES/1441 (2002))

(39) 4. **Appeals** to all States to continue to cooperate in the timely submission of technically complete applications and the expeditious issuing of export licenses and to take all other appropriate

measures within their competence in order to ensure that urgently needed humanitarian supplies reach the Iraqi population as rapidly as possible [...]. (S/RES/1454 (2002))

In case of requests for something from multiple parties, the Security Council usually makes the request using the verb ‘urges’, to ask them to follow the appeal it has made. It exercises a mild pressure on the Entity. It is used 5 times in the corpus:

(40) 14. **Urges** Member States to contribute assistance under this United Nations mandate, including military forces, to the multinational force referred to in paragraph 13 above [...].

(S/RES/ 1511(2004))

The next strongest instruction used by the Security Council is ‘warns’, which is defined as “to give advance notice to; to advise to be careful; admonish.” It is used when the Security Council wants to indicate that it is chastising the Entity for its current act and it will not tolerate future transgressions similar to the current issue of its resolutions. According to Gruenberg’s study (2009: 490), the Security Council has ‘warned’ a party only seventeen times in the history of the United Nations, for example in S/RES/265(1969) relating to Israel to “condemn the premeditated air attacks launched by Israel on Jordanian villages.” Although in SCR Iraq1 there is no occurrence of ‘warns’ as a first verb in a preambulatory phrase, it is used in an indirect way in an operative clause:

(41) 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))

In example (41) above, ‘warned’ is preceded by ‘repeatedly’, which gives even more emphasis and strength to the wording.

One of the strongest instructive words commonly used by the Security Council is ‘demands.’ ‘Demands’ is defined as “to ask for with authority; a very firm request for something”; there are two occurrences in the corpus, both in the same operative phrase of S/RES/1441(2002):

(42) 9. **Requests** the Secretary-General immediately to notify Iraq of this resolution, which is binding on Iraq; **demands** that Iraq confirm within seven days of that notification its intention to comply fully with this resolution; and **demands further** that Iraq cooperate immediately, unconditionally, and actively with UNMOVIC and the IAEA [...]. (S/RES/1441 (2002))

Therefore, it has been seen that the UN has allegedly used weak operative phrases although in other past international crises it has used stronger phrases. Naturally, some of the choices of weak expressions may also depend on the addressees of the UN requests, preferring relatively strong phrases for Iraq and weaker phrases for other Member States and for the Secretary -General probably to avoid face-threatening acts. However, the UN has a wider range of wordings that it deliberately chose not to use for the Iraqi crises.

In some aspects, such as style and layout, the UN intentionally structures its documents and procedures in a much studied manner while for other aspects it deliberately does not express a strict guidance rule as has been seen for preambulatory and operative phrases, probably withholding a vague rule of conduct on purpose. It could be suggested that the weak phrases used in SCRIraq1, together with the study of vague elements included in the corpus which will be analysed in further chapters of this study, were part of a project of deliberate vagueness used by the UN.

Thus, throughout this chapter it has been seen how cohesion and coherence can contribute to fulfill the text producer's overall intention and it has been noticed how coherence, cohesion and rhetorical devices used in UN resolutions seem to be connected because the frequent use of rhetorical structures in diplomatic /legal discourse contributes to the creation of a cohesive and coherent text.

In particular, it has been seen how the sections in which a resolution can be divided have some analogies with Cicero's classical canon of *dispositio*, and that these elements seem to establish further cohesion between the various parts of the text, while giving support to diplomatic rhetoric.

Moreover, this structure reveals that in some aspects the UN intentionally structures its documents and procedures in a much studied manner, while in other cases, it deliberately does not express a strict guidance rule and probably withholds a vague rule of conduct on purpose. This is for instance what happens in the case of the use of preambulatory and operative phrases for which to the best of my knowledge, there are no official studies, nor classifications of the wording to be used.

These phrases contribute to the general cohesion of the text while describing the UN's institutional feelings towards actions and situations regarding the 'Subject' of a resolution. It has been noticed that preambulatory sections of resolutions are the richest in emotive language, while a scale of gravity-connoted words could be thought for the operative section of a resolution.

In particular, preambulatory clauses have been divided into four groups: phrases expressing negative wording, positive words, expressions of assertiveness and clauses expressing emphasis on an issue.

The analysis of the preambulatory phrases used in SCRIraq1 to express negative institutional feelings has revealed that the UN had a moderate negative reaction against the outbreak of this conflict. This is sustained by the fact that although there were many more severe and grave phrases that could have been used to express negative feelings, the UN preferred to use phrases that could be collocated at a low level of the scale of gravity proposed, using this practice coherently throughout all the texts in SCRIraq1.

Preambulatory phrases also included emotive wording used to express positive institutional feelings, especially when referring to the conclusion of the conflict.

What seems to emerge from the preambulatory phrases used in SCRIraq1 was a sort of willingness to stress that Iraq is considered to be in “material breach” of resolutions prior to the 2002 conflict. SCRIraq1 presents a high rate of intertextuality, especially of reference to resolutions issued during the first Gulf War. From a cohesive viewpoint, this has been stressed by the use of preambulatory clauses containing the prefix ‘re-’, which indicates repetition. Together with clauses such as ‘stressing’ or ‘taking note’, these clauses could form a group of preambulatory phrases used to put emphasis on a specific topic.

As far as concerns the operative sections, it has been noticed that although these resolutions regard the outbreak and development of a war that has been internationally criticised, the UN has adopted phrases with a weak operative strength coherently throughout all the texts in SCRIraq1.

The idea of a deliberate choice of weak operative phrases is especially confirmed by the operative phrases instructing a subject to perform an action required by the Security Council, which all belong to the low part of the gravity-connoted scale of operative phrases delineated in this chapter.

Thus, it can be said that cohesive and coherent devices used in the construction of these texts put even more in evidence the relationship between language and the diplomatic world, because these linguistic mechanisms and structures are used to create influent political messages and to enact, reproduce, and to legitimate power and domination through law.

The following chapter will focus on the forms of modality used in SCRIraq1, which enable the expression of non-categorical attitude towards propositions and to express the speaker's sense of obligation or inclination toward proposals. They are connected to vagueness because of their high level of subjectivity dependent on the modal source.

Chapter 6

Modality in UN Resolutions

What must be shall be; and that which is a necessity to him that struggles, is little more than choice to him that is willing.

(Marcus Annaeus Seneca)

6.1 Modalisation and Modality

According to Systemic Functional Linguistics, language is a social process that contributes to the realisation of different social contexts (Halliday 1985). Since language is viewed as semiotic potential, the description of language is a description of choices made by speakers and writers. The available choices depend on aspects of the context in which the language is being used and on the speakers/writers' intention of expressing a specific meaning to obtain a result. Language choices are thus connected to 'intentionality', which concerns "the text producer's attitude not only to produce a cohesive and coherent text, but also the aim to use the text to pursue and fulfill his/her intentions" (De Beaugrande and Dressler 1981: 22). This is an important aspect for the purpose of this work, because sometimes legal and diplomatic text producers intentionally speculate on the receivers' attitude of acceptability presenting texts containing vague elements that require important contributions in order to make sense. In these cases the receivers are left free to interpret the text supplying missing information also on the basis of subjective needs. To a certain degree it is as if the text receivers make the assertion themselves, and so their interpretation cannot be contested because the text producer's text was vague enough to allow actually any interpretation, either intentionally or not.

Language involves three contextual dimensions: 'field' (the topics and actions which language is used to express), 'tenor' (the relationship between speakers and hearers), and 'mode' (the channel through which communication is carried out and expectations for how particular text types should be

organised). These contextual variables are respectively realised through ‘ideational’, ‘interpersonal’, and ‘textual’ resources and choices of language.

Modality, the topic of this section, pertains to the interpersonal function that essentially regards “clauses and other linguistic units as ‘exchanges’ of propositions, whereby a proposition involves an exchange of information” (Halliday and Matthiessen 2004: 146-147).

In general, the exchange of information through propositions regards whether something ‘is’ (affirmative) or ‘is not’ (negative), but it is possible to “construe the area of meaning that lies between yes and no – the intermediate ground between positive and negative polarity” (Hasan and Perrett 1994: 209) using what systemic linguists call ‘modalisation’, which is the basis of modality.

Modality can be defined as:

the grammaticalization or lexicalization of the speaker’s attitude concerning the possibility or necessity of whether a given proposition is true or false (epistemic modality) or, second, of a modal source’s attitude concerning the bringing about of a given event or situation (deontic modality). (Lauridsen 1992: 45)

The modal source can be either a person or an institution that is the original sender of the modal proposition. Modality may also be the grammaticalisation or lexicalisation of the possibility, or necessity of a given characteristic supposed to be inherent in the referent of the noun phrase which constitutes the subject of the modalised expression (dynamic modality). However, it is common usage to analyse deontic and dynamic modality together as opposed to epistemic modality.

These two layers of modality, epistemic and deontic/dynamic, can be realised not only in an explicit way, but also through metaphorical devices. This means that the modal source can express its ‘modal responsibility’ not only in an explicitly subjective way, i.e. by choosing forms such as ‘I think’ or ‘I suppose’ to convey its attitude toward the proposition in the subordinate clause, but also in an indirect way.

While the explicit form is a means to put the writer/speaker cognitively “onstage” (Langacker, in Takahashi 2009: 11), emphasising the subjective perspective of the writer/ speaker, metaphoric modal forms such as ‘it is possible that’ and ‘it is necessary that’ can be used to transform a subjective viewpoint into a proposition as if it were something explicitly objective. For instance:

(43) *Noting* that the Government of Cyprus is agreed that in view of the prevailing conditions on the island **it is necessary to keep** the United Nations Peacekeeping force in Cyprus (UNFICYP) beyond 15 December 2009 [...]. (S/RES/1898 (2009))⁶⁷

These ‘metaphors of modality’, especially the objective type, have an important role in legal and diplomatic writing because opinions and statements about legal issues are usually required to be expressed in a very objective manner in order to affirm the authoritativeness of the issuer. In Halliday and Matthiessen’s words (2004: 630):

The metaphorical objectification of modality serves as a device enabling speakers/writers to distance themselves from stated propositions by representing the relevant evidence for such propositions as a projection by someone other than the speakers/writers themselves.

However, these formulae include a risk of vagueness and indeterminacy, because structures such as ‘it is...that’, without an explicit reference to the subjects, allow the writer/speaker to “hide behind an ostensibly objective formulation” (Egins 1994: 182).

As will be analysed later in this section, ambiguity and vagueness are also involved in the expression of modality in the institutional legal language of UN resolutions. It is true that some vagueness and ambiguities are functional to the text type in which they can be found because, as suggested by Caliendo (2003: 297), at an international level:

[...] the use of broader expressions and definitions responds to the double need to find a political compromise between different countries and leave the text open to different interpretations. The lack of specificity in international law also favours all-inclusiveness, which helps accommodate legal rules to different judicial systems and varying circumstances.

However, there are cases of excessive indeterminacy that reduce the acceptability of the text, and thus communication and comprehensibility can be diverted. Therefore it is necessary to “determin[e] the cutoff point of a word, delineating its semantic boundaries thereby reducing the degree of fuzziness that would appear to be inherent in any lexical item” (Williams 2005: 205).

⁶⁷ Source: [http://www.unic.or.jp/security_co/pdf/res1898\(2009\).pdf](http://www.unic.or.jp/security_co/pdf/res1898(2009).pdf) (Last accessed: June 2011).

This is what has happened in the interpretation of UN resolutions related to the second Gulf war, which is the main topic of this study. The excessive use of indeterminate and vague expressions has led to a subjective interpretation of the law. Instead of being a means to help diplomatic negotiations and solutions of the issue, allegedly intentional vagueness included in these texts has been used as a blank cheque to engage in war against Iraq. Vagueness used in UN resolutions allowed the U.S. to build its own legislation authorizing war, and according to van Dijk (2006: 371)⁶⁸ it was also used as a means of manipulation of ‘social cognition’ relating to the Iraqi issue. According to this scholar, a well-known case of vagueness that led to social cognition manipulation was the *casus belli* with which the US legitimated the attack on Iraq in 2003: ‘knowledge’ about weapons of mass destruction, knowledge which later on turned out to be false. As van Dijk explained, one of the best ways to avoid manipulation attempts is to have knowledge about an issue. This is why dominant groups tend to give vague and biased information to ‘outsiders’:

Information that may lead to knowledge that may be used critically to resist manipulation, for instance about the real costs of the war, the number of deaths, the nature of the ‘collateral damage’ (e.g. civilians killed in massive bombing and other military action), and so on, will typically be hidden, limited or otherwise made less risky, and hence discursively de-emphasized, for instance by euphemisms, vague expressions, implicitness, and so on. [...] It will thus be in the best interests of dominant groups to make sure that relevant and potentially critical general knowledge is not acquired, or that only partial, misguided or biased knowledge is allowed distribution.

By exploiting the vague language used in the UN resolutions relating to Iraq, and using vague language itself, the U.S. coalition was allowed to give a biased interpretation of the law although the Security Council members had agreed that the resolutions gave no ‘automaticity’ for war.

⁶⁸ Source: <http://www.discourses.org/OldArticles/Discourse%20and%20manipulation.pdf> (Last accessed: November 2011).

6.2 Constitutive and Prescriptive Rules

In order to analyse modality in UN resolutions, it is important to make a first distinction between two types of rules: constitutive rules and prescriptive rules. According to Austin (1962), constitutive or constative rules are statements used to describe some events, processes or states-of-affairs, and they have the property of being either true or false, and they have immediate legal effect.

From a point of view of acceptability, constitutive rules generally lack an explicit recipient. Carcaterra (in Caliendo 2004: 245) observes that “as they are self performative, they cannot be rejected, so the specific addressee can be omitted.” In the case of the UN resolutions analysed in this study, the addressee is usually Iraq or the United Nations’ member states as a whole, as can be seen in the following examples that have been retrieved from SCRIraq1:

- (44) 1. Decides that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12 and subject to paragraph 15 of resolution 1284 (1999), and the provisions of paragraphs 2, 3 and 5 to 13 of 1360 (2001) **shall remain in force** for a new period of 180 days beginning at 0001 hours, Eastern Standard Time, on 1 December 2001 [...]. (S/RES/1382 (2001))
- (45) 6. Endorses the 8 October 2002 letter from the Executive Chairman of UNMOVIC and the Director-General of the IAEA to General Al-Saadi of the Government of Iraq, which is annexed hereto, and decides that the contents of the letter **shall be binding** upon Iraq [...]. (S/RES/1441 (2002))

In these examples, by means of ‘shall’, the assertion of the legal condition corresponds to its same performance.

On the opposite, prescriptive utterances are used to do something, such as to give permissions, orders or prohibitions; they do not have a truth-value. These rules oblige a subject to perform (or not) an action within a given deadline.

Moreover, it is important to notice that legal performatives are ‘*erga omnes*’ because “the ‘state of the world’ generated by a legal performative has a full binding force even for those who haven't any awareness of the relation that obliges them” (Fiorito 2006: 109).

From a semantic viewpoint, the presence of an animate recipient of the obligation is typical of prescriptive discourse. For instance, most obligations included in SCRraq1 are addressed to Iraq, as can be seen in the following example:

- (46) 3. Decides that, in order to begin to comply with its disarmament obligations, in addition to submitting the required biannual declarations, **the Government of Iraq shall provide** to UNMOVIC, the IAEA, and the Council, not later than 30 days from the date of this resolution, **a currently accurate, full, and complete declaration** of all aspects of its programmes to develop chemical, biological, and nuclear weapons, ballistic missiles, and other delivery systems [...].
(S/RES/1441 (2002))

Moreover, constitutive rules use performative language, while prescriptive rules use prescriptive language; the former simultaneously perform the action that is being mentioned in the present, while the latter prescribe or direct the recipient's behavior, which will be enacted in consecutive times. Caliendo (2004: 246) schematises the differences between the procedural stages of constitutive and prescriptive rules, going from the imposition of the command to its actual fulfillment:

Text Type	Stages	Time	Effect
Constitutive	Imposition=action	Present	Simultaneous
Prescriptive	Imposition, Recognition, Action	Future	Consecutive

Table 18: Constitutive and prescriptive text types (Caliendo 2004: 246)

6.3 Deontic and Epistemic Modality

Modality can be used to express a wide range of meanings and purposes. In the descriptive literature on modality, there is taxonomic exuberance far beyond these basic distinctions.

The following categories, as described by von Fintel⁶⁹ (2006) however, are of primary importance:

⁶⁹ Source: <http://mit.edu/fintel/fintel-2006-modality.pdf> (Last accessed: June 2011).

- **Epistemic modality** (from the ancient Greek *πιστήμη* for ‘knowledge’ or ‘science’) concerns what is possible or necessary given what is known and what the available evidence is.
- **Deontic modality** (from the ancient Greek *δέον*, meaning ‘duty’) concerns what is possible, necessary, permissible, or obligatory, given a body of law or a set of moral principles or the like.
- **Bouletic modality**, (from the ancient Greek *βούλομαι* meaning ‘to will’, ‘to desire’) sometimes bouloimaic modality, concerns what is possible or necessary, given a person’s desires.
- **Circumstantial modality**, sometimes dynamic modality, concerns what is possible or necessary, given a particular set of circumstances.
- **Teleological modality** (from the ancient Greek *τέλος* for ‘end’, ‘purpose’, or ‘goal’) concerns what means are possible or necessary for achieving a particular goal. (adapted from von Fintel: 2006)

It is important to notice that, as previously said, the same modal can have various meanings, and thus also modality can become a source of ambiguity and vagueness. For instance, in the following examples ‘have to’ is used to give examples of epistemic, deontic, bouloimaic, circumstantial and teleological modality:

- It has to be raining. (After observing people coming inside with wet umbrellas; epistemic)
- Visitors have to leave by six pm. (Hospital regulations; deontic)
- You have to go to bed in ten minutes. (Stern father; Bouloimaic)
- I have to sneeze. (Given the current state of one’s nose; circumstantial)
- To get home in time, you have to take a taxi. (Teleological)
- (Von Fintel 2006: 2)

For the purposes of this research, this study will mainly focus on deontic and epistemic modality, as these forms of modality are the most relevant in the legislative language of UN resolutions. According to Jenkins (1972: 52), the main English modals have a double meaning: root (deontic/dynamic) and epistemic, which have been schematised in Table 19 below:

Modal	Root Meaning	Epistemic Meaning
May	Permission	Possibility
Must	Necessity	Logical entailment
Will	Volition	Future prediction
Can	Ability	Possibility

Table 19: Root and epistemic meanings of the main English modals, adapted from Jenkins (1972: 52)

In the corpus investigated, the majority of modals express a root meaning, with only few cases of epistemics. There are also cases of ambiguity, which will be analysed in the following pages.

An adequate treatment of modal verbs is necessary for determining the attitudes of the speaker (in the case of the Iraq corpus the Security Council) concerning the state of affairs expressed by the proposition asserted.

6.4 Analysis of Modal Verbs used in SCRIraq1

In the corpus of UN resolutions relating to the second gulf in Iraq, the most frequent modal auxiliary verbs are: ‘shall’, ‘will’, ‘may’, ‘would’, ‘should’, ‘can’ and ‘must’, as can be seen in Table 20 below. These results are consistent with previous studies according to which the most frequent modals in legal texts convey obligation and permission (see Caliendo 2003: 244):

Modal	Occurrences	Percentages
SHALL	73	52,5 %
WILL	28	20,1%
MAY	13	9,3%
WOULD	8	5,7%
SHOULD	6	4,3%
CAN	5	3,5%
MUST	4	2,8%
COULD	1	0,7%
MIGHT	1	0,7%

Table 20: Occurrences of modal auxiliary verbs in the Iraq sub corpus

These modals will be analysed in further detail in the following paragraphs, especially ‘shall’, which has a central role in legal and diplomatic English.

6.4.1 ‘Shall’

Lawyers and linguists both strive to understand the meaning of ‘shall’ in diplomatic and legal English, because to the lawyer ‘shall’ is a word of authority “conferring rights and obligations and prohibitions - whose function is to impose an obligation” (Thornton 1979 in Foley 1992: 186); to the linguist,

‘shall’ is a modal auxiliary, a lexico-semantic category studied in great detail (see Coates 1983 and Palmer 1986) to describe and account for the variety of meanings it expresses.

Many of the problems created by the interpretation of this modal are due to its different usage in general and legal language. In common usage it is not understood as imposing an obligation. In Williams’ words (2006: 246):

In general English, interrogative shall before we signals offer invitation or suggestion. In legal English, declarative ‘shall’ entails an obligation, ‘shall not’ a prohibition.[...] if we look at the other two most frequently used deontic modals in legal discourse may and must, [they] are just as much projected into the future as shall. It is simply that shall is more tangibly related to the future in our minds because we associate it with will.

As far as concerns legal/diplomatic language, there is an extent to which the modal auxiliary ‘shall’ can be considered to be vague or indeterminate in terms of its actual usage in prescriptive legal texts in English.

In fact, in legal language, ‘shall’ has been used to express both future and obligation since the 16th century. According to Williams (2005: 201):

The auxiliary ‘shall’ has survived and flourished in legal English for hundreds of years to such an extent that for organizations which draft authentic texts in English it constitutes by far the most commonly used of all modal constructions in prescriptive legal texts.

‘Shall’ thus expresses authoritativeness both in affirmative (obligation) and negative constructions (prohibition) and its meaning implicitly covers futurity. Its usage contributes to the highly impersonal style of writing obtained with the use of the third person and passive forms to avoid specifying the agent(s) and reinforces the idea of “impartiality and authoritativeness” of the law (Williams 2005: 114).

The use of ‘shall’ is also for sake of tradition: it is a means to “sustain the myth of precision in legal language and also perpetuating a style and language that differentiates the genre from that of other professions” (Bhatia 1993 in Polese 2006: 103).

It is still used although it has been marked as ‘legalese’: “The tradition of precision instills in the legal profession a prescriptivist orientation to language, exercised both consciously and subconsciously on new writers, e.g., draftspersons and practicing lawyers” (Foley 2001: 185).

However, ‘shall’ has been involved in endless debate. It has been defined as “ubiquitous, imprecise, and royal sounding” (Mowat 1994), an “imprecise word that creates ambiguity and uncertainty” (Cheek 2003 in Williams 2005: 201)

Some scholars call for its total elimination from future legal texts, claiming that “it is used as a kind of totem, to conjure up some flavour of the law” (Bowers 1989: 294), suggesting substituting ‘shall’ with ‘must’ (Lauchman 2002: 47, Cheek 2003). Other authors suggest the use of the simple present (Elliott 1981: 89), or of ‘be to’ (Australian Office of Parliamentary Council’s Plain English Manual 2000: 19⁷⁰).

On the other hand, other scholars argue in favour of ‘shall’. Horn (2002) is against the substitution of ‘shall’ because its replacement would sideline the legal character of law in favour of perceived improvements in the communicative function of a legal text. According to this author, there is a subtle but important semantic difference between ‘shall’ and ‘must’: the latter expresses an obligation whereas ‘shall’ enacts an obligation.

There is also a third proposal, supported by scholars such as Bowers (1989: 34) and Trosborg (1997: 136), who suggest to restrict the use of ‘shall’ to the indication of obligations where a human agent is specified or easily recoverable from context. In her study of ‘shall’ in British statutes, Trosborg (1997 : 105-106) concluded that although ‘shall’ has been defined as a modal verb expressing legal obligation, in her corpus of legal English “[...] 65.1% of the observed instances of ‘shall’ occurred with non-human subjects which could not be given orders or assigned obligations.”

To investigate this hypothesis empirically, the 73 occurrences of ‘shall’ contained in SCRIraq1 have been scrutinized for the occurrence of a human or non-human subject and in the cases in which the sentence was passive and had a human agent, whether the agent was expressed in a passive clause or had to be recovered from context. The occurrences and percentages obtained are presented in Table 21 below:

⁷⁰ Source: <http://www.opc.gov.au/about/docs/pem.pdf> (Last accessed: June 2011).

Agents	Occurrences	Percentages
Human agents in active sentences	28	38,3%
Human agents in passive sentences	4	5,4%
Human agents recoverable from context	20	27,3%
Non- human agents	20	27,3 %

Table 21: Frequency of human and non-human agents in clauses containing the modal ‘shall’

The occurrences reveal to be equally distributed between clauses containing human agents in active sentences, passive sentences with human agents, human agents recoverable from the context and cases of non-human agents, although the majority (38, 3%) is constituted by active sentences with human agents:

- (47) 5. Decides **that Iraq shall provide UNMOVIC and the IAEA immediate, unimpeded, unconditional, and unrestricted access to any and all**, including underground, areas, facilities, buildings, equipment, records, and means of transport which they wish to inspect [...]. (S/RES/1441 (2002))

Human agents in passive sentences represent 5, 4% of the occurrences in SCRIraq1:

- (48) – **Security of UNMOVIC and IAEA facilities shall be ensured by sufficient United Nations security guards** [...]. (S/RES/1441 (2002))

Human agents recoverable from the context or meaning of the verb are used for 27, 3% of the instances of ‘shall’ in SCRIraq1:

- (49) 23. Emphasizes that the International Advisory and Monitoring Board IAMB referred to in paragraph 12 of resolution 1483 (2003) should be established as a priority, and reiterates **that the Development Fund for Iraq shall be used in a transparent manner as** set out in paragraph 14 of resolution 1483 (2003) [...]. (S/RES/1511 (2003))

Finally, non- human agents are used in combination with ‘shall’ in 27, 3% cases:

- (50) [...] and decides further that **all such funds or other financial assets or economic resources shall enjoy the same privileges, immunities, and protections** as provided under paragraph 22 [...].
(S/RES/1483 (2003))

Although the majority of the occurrences of ‘shall’ is used in combination with a human agent, if one adopts relatively strict criteria for agency, e.g. that the logical and grammatical subjects coincide and that the subject is human, almost 62% of the occurrences of ‘shall’ analysed in SCRIraq1 are unmotivated, obtaining almost the same results as Trosborg. If the passives are included as agents, then some 56% of the occurrences of ‘shall’ in this data would be unmotivated according to Trosborg’s categories.

An important amount of cases (27, 3%) have subjects recoverable from the context of the clause in which they are used. These cases of agent suppression serve as a device for issuing directives without explicit mention of the addressee as the regulated part. In Trosborg’s analysis, they are not accounted for, but in this analysis they have been attributed a separate group, because the verbs used with ‘shall’ in these 20 occurrences all require an implicit human agent to be accomplished and thus the subject is clearly human, as in the following examples:

- (51) 5. Decides to conduct regularly thorough reviews of the Goods Review List and the procedures for its implementation and to consider any necessary adjustment and further decides that **the first such review and consideration of necessary adjustment shall be conducted prior to the end of the 180-day period** established pursuant to paragraph 1 above [...]. (S/RES/1409 (2002))
- (52) 13. Notes further that the funds in **the Development Fund for Iraq shall be disbursed at the direction of the Authority**, in consultation with the Iraqi interim administration, for the purposes set out in paragraph 14 below [...]. (S/RES/1476 (2003))

Other verbs used in these types of construction are ‘transfer’, ‘use’, ‘disburse’, ‘conduct’, ‘interpret’, etc., which all require a human agent to be performed.

27, 3% of the occurrences are used with non-human subjects who could not be given orders or assigned obligations. Typically, non-human subjects represent semantic categories referring to the resolution or parts of it (such as provisions, resolutions, and contents) in 9 occurrences. Example (53) provides an instance:

(53) 10. Decides that [...] all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and **subsequent relevant resolutions**, including resolution 778 (1992) of 2 October 1992, **shall no longer apply** [...]. (S/RES/1483 (2003))

Moreover, it is important to notice that 16 of the 20 non-human agent occurrences are used in constitutive forms, as are example 54 below. These rules are used to describe events, processes or states-of-affairs, and they have immediate legal effect. Being a constitutive rule, it lacks a specific recipient:

(54) 26. [...] further decides that, following a 120-day transition period from the date of adoption of this resolution, the Interim Government of Iraq and its successors shall assume responsibility for certifying delivery of goods under previously prioritized contracts, and that **such certification shall be deemed to constitute the independent authentication** required for the release of funds associated with such contracts, consulting as appropriate to ensure the smooth implementation of these arrangements [...]. (S/RES/1546 (2004))

However, ‘shall’ predominantly occurs in deontic agent-oriented sentences. This is in accordance with previous studies, such as Gotti’s (2003) study on the role of ‘shall’ in legal language. This structure uses human agents which are either explicitly expressed or retrievable from the context.

The majority of non-human occurrences are connected to a constitutive clause, mostly referring to parts of a resolution. The choice could be connected to legal style and are part of ‘legalese’. In fact, according to Gotti (2003: 93), who has analysed the variation of verbal modality in a corpus of Middle and Early Modern legal English texts, “[t]he frequent adoption of ‘shall’ in this register may be explained by its double possibility of expressing both obligation and futurity, implicit in the very nature of regulative acts.” However, these cases could have been written choosing a different formula rather than ‘shall’ to be clearer in meaning. Forms such as a simple present (e.g. ‘are deemed’ instead of ‘shall be deemed’) could be preferred in these cases.

6.4.1.1 Structures and Meanings of Verbal Phrases Containing ‘Shall’

As regards the verb phrases in which ‘shall’ is used, the most frequent use of ‘shall’ in SCRIraq1 is with a bare infinitive (63,01%); while the second most frequent pattern is ‘shall’ + passive infinitive (36, 9%) as can be seen in the Table 22 below, as well as in examples 55 and 56:

Structures	Occurrences	Percentages
Be passive	27	36,9%
Bare infinitive (total)	46	63,01%
Affirmatives	42	57,5%
Negatives with ‘shall not’+ infinitive	3	4,10%
Negatives with ‘shall no longer + infinitive’	1	1,3%

Table 22: Verbal structures of ‘shall’ in SCRIraq1

- (55) 19. Decides to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six month period called for in paragraph 16 above and further decides that **the Committee shall identify individuals and entities** referred to in paragraph 23 below [...]. (S/RES/1483 (2003))
- (56) 24. Notes that, upon dissolution of the Coalition Provisional Authority, **the funds** in the Development Fund for Iraq **shall be disbursed solely at the direction of the Government of Iraq**, and decides that **the Development Fund for Iraq shall be utilized in a transparent and equitable manner** and through the Iraqi budget including to satisfy outstanding obligations against the Development Fund for Iraq [...]. (S/RES/ 1546 (2004))

Out of the 46 occurrences of bare infinitive forms, 57,5% are affirmative, while 5,4% are negatives, with 3 occurrences of ‘shall not’+ bare infinitive (4,10%) and 1 occurrence of ‘shall no longer+ infinitive’ (1,3%). Thus ‘shall’ is used to express an obligation in 94, 5% of the occurrences of ‘shall’ used in SCRIraq1 and a prohibition in 5, 4% of the occurrences.

In order to analyse the co-text in which ‘shall’ has been used in the corpus, Table 23 below contains the clusters of ‘shall’ found in SCRIraq1:

Rank	Frequency	Clusters
1	27	shall be
2	9	Iraq shall

3	7	IAEA shall
4	7	shall have
5	6	resolution shall
6	5	shall remain
7	3	force shall
8	3	shall continue
9	3	shall enjoy
10	3	shall expire
11	3	shall not
12	3	which shall
13	2	and shall
14	2	Iraq, shall
15	2	resolution 1483 (2003) shall
16	2	resolution, shall
17	2	shall assume
18	2	shall include
19	2	shall provide
20	2	shall take
21	2	States shall
22	2	successors shall
23	1	above shall
24	1	adjustment shall
25	1	arrangements shall
26	1	Board shall
27	1	certification shall
28	1	Committee shall
29	1	contracts shall
30	1	costs shall
31	1	Council shall
32	1	direction, shall
33	1	facilities shall
34	1	foodstuffs, shall
35	1	IAMB shall
36	1	immediately shall
37	1	letter shall
38	1	mandate shall
39	1	members shall
40	1	October 1992, shall
41	1	of 1360 (2001) shall
42	1	paragraph shall
43	1	personnel shall
44	1	requirement shall
45	1	resolution 1472 (2003) shall
46	1	resolution 986 (1995) shall
47	1	resolutions shall
48	1	resources shall
49	1	responsibilities shall
50	1	sales shall
51	1	shall cause
52	1	shall constitute
53	1	shall determine
54	1	shall freeze
55	1	shall identify
56	1	shall involve
57	1	shall no
58	1	shall review
59	1	shall: (a

Table 23: Clusters of 'shall' in the Iraq corpus

As can be seen in Table 24, ‘shall’ mainly co-occurs with ‘be’ and ‘have’ on the left side and ‘Iraq’ and ‘IAEA’ on the right and the high frequency of ‘Iraq’ on the left is consistent with previous studies (Gotti 2003 and Trosborg 1997) according to which deonticity is connected to agent-orientedness.

However, by observing the concordances of ‘shall be’ which is the cluster with the highest number of occurrences in Table 24, it can be seen that the high number of occurrences of this cluster in the corpus is mostly due to its use in structures in which the agent is not explicitly expressed:

Rank	KWIC		
1	the 150-day period established by that resolution	shall be	interpreted to refer to the 180-day period establ
2	review and consideration of necessary adjustment	shall be	conducted prior to the end of the 180-day period
3	the 150-day period established by that resolution	shall be	interpreted to refer to the 180-day period establ
4	reto, and decides that the contents of the letter	shall be	binding upon Iraq; 7. Decides further that, in vi
5	ollowing revised or additional authorities, which	shall be	binding upon Iraq, to facilitate their work in Ir
6	ities; Security of UNMOVIC and IAEA facilities	shall be	ensured by sufficient United Nations security gua
7	and data to be collected, the results of which	shall be	reported to the Council by UNMOVIC and the
8	the 150-day period established by that resolution	shall be	interpreted to refer to the 180-day period establ
9	r than medicines, health supplies and foodstuffs,	shall be	reviewed by the Committee established pursuant to
10	r that the funds in the Development Fund for Iraq	shall be	disbursed at the direction of the Authority, in c
11	Underlines that the Development Fund for Iraq	shall be	used in a transparent manner to meet the humanita
12	ts own determination as to whether such contracts	shall be	fulfilled; (c) to provide the Security Council wi
13	period defined above, following which these costs	shall be	borne by the United Nations; (d) to consolidate i
14	any necessary settlement payments, which	shall be	made from the escrow accounts established
15	(b), 8 (d), and 8 (f) of resolution 986 (1995)	shall be	transferred at the earliest possible time to the
16	owing the date of the adoption of this resolution	shall be	made consistent with prevailing international mar
17	paragraph 21 below, all proceeds from such sales	shall be	deposited into the Development Fund for Iraq unti
18	of the proceeds referred to in paragraph 20 above	shall be	deposited into the Compensation Fund established
19	ensation Fund, decide otherwise, this requirement	shall be	binding on a properly constituted, internationall
20	um products, and natural gas originating in Iraq	shall be	immune, until title passes to the initial purchas
21	and reiterates that the Development Fund for Iraq	shall be	used in a transparent manner as set out in parag
22	her that the mandate for the multinational force	shall be	reviewed at the request of the Government of Iraq
23	rity, the funds in the Development Fund for Iraq	shall be	disbursed solely at the direction of the Governme
24	, and decides that the Development Fund for Iraq	shall be	utilized in a transparent and equitable manner an
25	ernment of Iraq and that appropriate arrangements	shall be	made for the continuation of deposits of the pro
26	pment Fund for Iraq and for the role of the IAMB	shall be	reviewed at the request of the Transitional Gover
27	rioritized contracts, and that such certification	shall be	deemed to constitute the independent authenticati

Table 24: Concordances of ‘shall be’ in SCRIraq1

Therefore, it has been shown that ‘shall’ is essentially deontic in this corpus of resolutions and that most of the occurrences are agent-oriented, as legislation is directive and influences UN State Members’ behaviours. It is used either for obligations, for permissions or to confer rights. However, there are some cases in which it would be incorrect to define some occurrences of ‘shall’ as deontics, for instance:

- (57) 3. Decides that, for the purposes of this resolution, **references** in resolution 1360 (2001) to the 150-day period established by that resolution **shall be interpreted to refer to the 180-day period** established pursuant to paragraph 1 above [...].(S/RES/1447 (2002))

- (58) 1. Decides that **the provisions** of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12, and the provisions of paragraphs 2, 3 and 6 to 13 of resolution 1360 (2001) and subject to paragraph 15 of resolution 1284 (1999) and the other provisions of this present resolution, **shall remain in force** for a new period of 180 days beginning at 0001 hours, Eastern Standard Time, on 5 December 2002 [...].(S/RES/1447 (2002))

These statements, which are examples of a ‘performative’ use of ‘shall’, contain conditions that will become an actual fact with the passing of the acts in which they are contained. They are constitutives because “they do not only perform an act, but have the immediate effect of giving rise to a new state of things, bringing about a change in reality” (Garzone 2003: 158) and they create new legal relationships and statuses. In these performative ‘shalls’ the assertion of a legal condition corresponds to its same performance so that the effect is produced *ipso jure* (Carcattera 1994: 222- 223) and “the impossibility of contravening the legal dictum is also denoted by the absence of a specific addressee” (Caliendo 2004: 247). Cases such as examples (57) and (58) are used probably because of their self-performativeness. For this reason they not only have an immediate legal effect, but they also cannot be rejected, nor discussed by the recipients that just have to accept the decision included in the clause.

While the presence of an animate recipient of the obligation is typical of prescriptive discourse, the performative ‘shall’ usually occurs with inanimate or dummy subjects. Performativity and directives can also be distinguished on the basis of *aktionsart*, which is “the internal temporal constituency of a situation denoted by a given predicate” (Bache 1985: 10), because the former is possible only with a verb that has a stative meaning, while deontics require non-stative verbs, as can be seen in examples (59) and (60) below:

- (59) 7. Decides that **all Member States shall take appropriate steps** to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990 [...]. (S/RES/1476 (2003))
- (60) 10. Decides that [...] **subsequent relevant resolutions**, including resolution 778 (1992) of 2 October 1992, **shall no longer apply** [...].(S/RES/1483 (2003))

Example (59) above is an expression of deontic modality, as it imposes the obligation of taking “appropriate steps” to facilitate the safe return of Iraqi cultural property to Iraqi institutions on Member States, whereas the second example is a performative use of the modal, because it orders that the prohibitions previously established are not to be applied anymore.

Analysing the occurrences of ‘shall’ in SCRIraq1, these can be divided into two major groups: ‘shall’ with a performative value and ‘shall’ expressing a deontic value. The second group can be further subdivided into expressions of pure deontic value of obligation and cases of permission or granting of rights:

Types	Occurrences	Percentages
Performative ‘shall’	11 (of which 1 negative)	15,06%
Deontic ‘shall’ of obligation/prohibition	51 (of which 3 negatives)	69,8%
Deontic ‘shall’ of permission	11	15,06%

Table 25: Performative and deontic ‘shall’s in the Iraq corpus

The following examples illustrate the different types of uses:

Performative ‘shall’ (15,06%):

- (61) 1. Decides that the provisions of resolution 986 (1995), [...] **shall remain in force** for a new period of 180 days beginning at 0001 hours, Eastern Daylight Time, on 30 May 2002; (S/RES/1409 (2002))

Deontic ‘shall’ of obligation (69,8%):

- (62) 19. Decides to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six month period called for in paragraph 16 above and further decides that **the Committee shall identify individuals and entities** referred to in paragraph 23 low [...]. (S/RES/1441 (2002))

Deontic ‘shall’ of prohibition (4, 1%):

- (63) 8. Decides further **that Iraq shall not take or threaten hostile acts** directed against any representative or personnel of the United Nations or the IAEA or of any Member State taking action to uphold any Council resolution [...]. (S/RES/1441 (2002))

There are also clauses with ‘shall’ expressing permission and granting of rights, which seem to be quite a particular case. Usually in legal texts as resolutions, permission is given by means of the discretionary ‘may’. However, there are cases in which ‘shall’ has been chosen, as in example 64: they represent 15, 06% of the occurrences of ‘shall’ in the corpus:

- (64) – **UNMOVIC and the IAEA shall have the free and unrestricted use and landing** of fixed- and rotary-winged aircraft, including manned and unmanned reconnaissance vehicles [...]
(S/RES/1441 (2002))

In other cases the modal is used in clauses that establish a right and thus ‘shall’ co-occurs with ‘have the right to’, as seen previously:

- (65) – **UNMOVIC and the IAEA shall have the right** at their sole discretion verifiably **to remove, destroy, or render harmless all prohibited weapons**, subsystems, components, records, materials, and other related items, and the right to impound or close any facilities or equipment for the production thereof [...]. (S/RES/1441(2002))

The occurrences of ‘shall have the right’, ‘shall have the free and unrestricted use’, ‘shall have unrestricted rights’ in SCRIraq1 always collocate with ‘UNMOVIC and the IAEA’. In these cases ‘shall’ seems to convey a sense of permission or establishment of rights given by the authority (the Security Council), but also an implicit obligation for others to not impede or interfere with what has been permitted.

As will be seen in the final part of this study relating to the analysis of Security Council resolutions on the Iranian nuclear issue, there is no use of ‘shall’ to grant rights to the IAEA. There seems to be no need for explicitation, as this right is taken implicitly for granted. This can be seen as a linguistic strategic device that can be explained by CDA as one of the devices used in dominance and hegemony to allow the acceptance of something through -for- granted actions.

On the opposite, in the case of Iraqi resolutions, the linguistic strategic device of explicitation seems to be used not only to strengthen IAEA’s rights of inspection, but also to implicitly oblige others not to impede what has been permitted. This could be probably because the

Iraqi counterpart is perceived as strongly likely to not accept the IAEA's granting of rights, far more than the Iranians.

6.4.1.2 Misuses of 'Shall'

There are some cases in which 'shall' is overused and for sake of clarity it could be substituted by the present tense. In the following example retrieved from SCRIraq1 the use of 'shall' simply over-emphasizes the sense of obligation which is already fully expressed by the verb 'to bind':

(66) 21. [...] **this requirement shall be binding on a properly constituted, internationally recognized, representative government of Iraq and any successor** thereto [...].

(S/RES/1546 (2004))

Redundancy in these cases is used to give even more strength to the obligation.

It is sometimes possible to find 'shall' used to provide intertextual references rather than imposing any kind of obligation, as in example (67), in which reference to another provision is being quoted:

(67) 3. Decides that, for the purposes of this resolution, **references** in resolution 1360 (2001) to the 150-day period established by that resolution **shall be interpreted to refer to the 180-day period** established pursuant to paragraph 1 above [...].(S/RES/1447 (2002))

These cases could probably be avoided, by substituting 'shall' with other forms such as the present tense, but they are retained probably because they are part of legal tradition and style.

Moreover, in general legal language, a reason of misuse of 'shall' is due to the belief that deontic 'must' and 'shall' are interchangeable. "Clearly, there will often be in practice a considerable degree of semantic overlap between the two but they cannot be deemed as being identical in meaning" (Williams 2005: 208).

In legal discourse a distinction is commonly made between commands and requirements: 'shall' denotes mandatory intent, in which non-compliance is punishable by sanctions or renders the

instrument or procedure invalid (Šarčević 2000: 138), while generally ‘must’ has the function of establishing requirements or conditions.

The following examples from Tiersma (1999) illustrate the correct use of ‘shall’ and ‘must’ according to this rule:

(68) The Vendor **shall** ensure that the delivery fulfills all prevailing requirements.

Payment **must** take place on due date.

The difference between ‘must’ and ‘shall’ can also be explained through aktionsart, which is the inherent semantic property of a word: ‘shall’ is used in non-stative active forms, while ‘must’ contains statives, because requirements or conditions are statements about what people or things must ‘be’ rather than what they must ‘do’. This can be seen in the following examples retrieved from SCRIraq1:

(69) Stressing the right of the Iraqi people freely to determine their own political future and control their own natural resources, welcoming the commitment of all parties concerned to support the creation of an environment in which they may do so as soon as possible, and expressing resolve that **the day when Iraqis govern themselves must come quickly** [...]. (S/RES/1483 (2003))

(70) 3. Decides that, in order to begin to comply with its disarmament obligations, in addition to submitting the required biannual declarations, **the Government of Iraq shall provide** to UNMOVIC, the IAEA, and the Council, not later than 30 days from the date of this resolution, **a currently accurate, full, and complete declaration** of all aspects of its programmes to develop chemical, biological, and nuclear weapons, ballistic missiles [...]. (S/RES/1441 (2002))

However, there is a case in the corpus in which the choice of ‘shall’ would have probably been better than ‘must’. If ‘shall’ denotes a mandatory intent, in which non-compliance is punishable by sanctions (Šarčević 2000: 138), while ‘must’ establishes requirements or conditions, the use of ‘must’ in one clause of the Iraq corpus seems to clash with some contextual aspects related to the second Gulf conflict.

As a matter of fact, on May 22, 2003, and thus after the official termination of the major combat operations in Iraq, the Security Council resolution issued S/RES/1483 (2003), containing the following clause, in which ‘must’ was used:

(71) 11. **Reaffirms that Iraq must meet its disarmament obligations**, encourages the United Kingdom of Great Britain and Northern Ireland and the United States of America to keep the Council informed of their activities in this regard, and underlines the intention of the Council to revisit the mandates of the United Nations Monitoring, Verification, and Inspection Commission and the International Atomic Energy Agency as set forth in resolutions 687 (1991) of 3 April 1991, 1284 (1999) of 17 December 1999, and 1441 (2002) of 8 November 2002 [...]. (S/RES/1483 (2003))

Clearly, ‘shall’ and ‘must’ have a certain degree of semantic overlap, and it could also be that ‘must’ is here used in the general sense of obligation, as it is used in general English.

However, the clause is part of a legal text, and thus the modal is expected to be used according to legal usage. If this is the case, it would be interesting to understand why a ‘must’ of requirement is used instead of ‘shall’ of obligation here, although non-compliance of disarmament had been one of the reasons for which Iraq was punished with war. Probably a stronger ‘shall’ would have been more adapt in this occurrence.

The issue could also be explained as a new tendency in legal language. For instance according to Williams (2007: 124-125) the overuse of ‘shall’ in legal texts is impairing its strength because:

[...] shall is used so abundantly and ‘promiscuously’ in legal texts and it is even used sometimes in subordinate clauses where it has no prescriptive force. [...] must tends to be preserved for cases where expressing strong mandatory obligation or urgent necessity. Thus, because must is used relatively sparingly in most legal texts, it may sometimes be used to convey this idea of enhanced obligation with respect to shall which, in turn, tends to be used to convey enhanced obligation with respect to the present simple.

However, in the case of example (71) above, it is impossible to know whether the ‘use of ‘must’ can be explained on the basis of Williams’ observations or if it is to be considered a misuse. Its interpretation really depends on the text producer.

Therefore, ‘shall’ continues to have a wide application in legal and diplomatic texts used in SCRIraq1 to express obligations, permissions, requirements and performatives in constitutive clauses. Its flavour of futurity makes it a valuable *passe-partout* in this type of texts; however, this form can often give rise to vagueness, misuses and thus questionable interpretations of the modal.

6.4.2 Should and Must

In legal/diplomatic language, ‘should’ and ‘must’ share with ‘shall’ some pragmatic roots of demanding action and expressing obligation. In particular, ‘should’ “can be vested with a performative or a prescriptive communicative function” (Caliendo 2004: 249).

All of the six occurrences of ‘should’ found in the Iraq corpus are expressions of deontic modality. They express weaker obligations than the ones containing ‘shall’ or ‘must’ and they seem to have been deliberately chosen to convey values and principles. As a matter of fact, all the occurrences of ‘should’ are found in clauses that deal with the provision of humanitarian relief to the Iraqi people, as can be seen in the following examples:

- (72) Recalling the establishment of the United Nations Assistance Mission for Iraq (UNAMI) on 14 August 2003, and affirming that the United Nations **should** play a leading role in assisting the Iraqi people and government in the formation of institutions for representative government [...]. (S/RES/ 1546 (2004))
- (73) 23. Emphasizes that the International Advisory and Monitoring Board IAMB referred to in paragraph 12 of resolution 1483 (2003) **should** be established as a priority, and reiterates that the Development Fund for Iraq shall be used in a transparent manner as set out in paragraph 14 of resolution 1483 (2003); (S/RES/1511 (2003))
- (74) Noting that under the provisions of Article 55 of the Fourth Geneva Convention (Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949), to the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it **should**, in particular, bring in the necessary

foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate [...].(S/RES/1472 (2003))

(75) 3. Recognizes that additionally, in view of the exceptional circumstances prevailing currently in Iraq, on an interim and exceptional basis, technical and temporary adjustments **should** be made to the Programme so as to ensure the implementation of the approved funded and non-funded contracts concluded by the Government of Iraq for the humanitarian relief of the people of Iraq, including to meet the needs of refugees and internally displaced persons, in accordance with this resolution [...]. (S/RES/ 1472 (2003))

(76) Resolved that **the United Nations should play a vital role in humanitarian relief**, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance [...]. (S/RES/1483 (2003))

(77) 8. Resolves that **the United Nations**, acting through the Secretary-General, his Special Representative, and the United Nations Assistance Mission in Iraq, **should strengthen its vital role in Iraq**, including by providing humanitarian relief, promoting the economic reconstruction of and conditions for sustainable development in Iraq, and advancing efforts to restore and establish national and local institutions for representative government [...]. (S/RES/1511(2003))

Example (72), which is a preambulatory clause, seems to express even less deontic force than example (73) retrieved from an operational section. The different degree of deonticity in this case could be connected to contextual purposes, due to the fact that operative clauses identify the concrete actions and decisions made in a resolution, while preambulatory clauses only explain the purpose of the resolution and state the main reasons of the resolution.

‘Should’ is also used in combination with other modals, as it seems to better specify obligations introduced by ‘shall’ or other expressions of modality as can be seen in examples (78) and (79) below:

(78) Noting that under the provisions of Article 55 of the Fourth Geneva Convention (Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949), to the fullest extent of the means available to it, **the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary**

foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate [...]. (S/RES/1472 (2003))

- (79) 23. Emphasizes that **the International Advisory and Monitoring Board IAMB** referred to in paragraph 12 of resolution 1483 (2003) **should be established as a priority**, and reiterates that **the Development Fund for Iraq shall be used in a transparent manner** as set out in paragraph 14 of resolution 1483 (2003) [...]. (S/RES/1511(2003))

While in example (78) ‘should’ is strengthened by the expression ‘has the duty’ that precedes it, example (79) puts emphasis of the different deontic power of ‘shall’ and ‘should’. In this case the International Advisory and Monitoring Board (IAMB) was an NGO appointed to oversee the Coalition Provisional Authority’s disbursements from the humanitarian Development Fund for Iraq. This fund was established to hold the proceeds of petroleum export sales from Iraq, as well as remaining balances from the UN Oil-for-Food Program and other frozen Iraqi funds. Its disbursements were said to have to be obligatorily used uniquely for the benefit of the Iraqi people. Thus, ‘should’ could be connected to the audit oversight nature of the IAMB, which did not have any legislative power, while ‘shall’, with its strong deontic force, has been used to emphasise the mandatory intention of the clause.

However, being part of the group of vaguest modal auxiliaries together with ‘may’, ‘might’, ‘could’ and ‘would’ (Gotti 2005: 238) and expressing a ‘weak’ deontic force, the strength and actual application of ‘should’ remains a source of vagueness. In relation to the cases found in the corpus, it is questionable to what extent the role of giving humanitarian relief to the Iraqi people was mandatory, what had to be concretely done, and to what extent the organisations, such as the UN, had the legal - apart from the moral - duty to intervene in the Iraqi issue.

As far as concerns ‘must’, this modal has two meanings: an epistemic meaning of ‘logical necessity’ or ‘confident inference’ and a root meaning of ‘obligation’ or ‘necessity’, with socially-oriented deontic necessity being interpreted as an obligation.

The original meaning of must was that of “being allowed or able to do something” (Mitchell/Robinson in Williams 2007: 122). It is not known how its meaning has been transformed into obligation or duty in general language. The gradual spread of ‘must’ as expressing obligation led to the weakening of ‘shall’, which slowly began to express futurity except in legal language,

As a matter of fact, ‘must’ is still not very common in legal language, “constituting little more than three per cent of all finite verbal constructions today” (Williams 2007: 123).

However, many movements such as the Plain English Movement advocate the substitution of ‘shall’ with ‘must’ in legal and institutional language, for sake of clarity, in order to avoid confusion between general and legal language meanings.

In the Iraq corpus, there are four occurrences of ‘must’, all of them expressing a deontic meaning. However, if the occurrences are analysed more closely, it can be said that they do not express all the same deontic meaning. Compare the examples below:

(80) Stressing the right of the Iraqi people freely to determine their own political future [...], and expressing resolve that **the day when Iraqis govern themselves must come quickly** [...]. (S/RES/1483 (2003))

(81) 11. Reaffirms that **Iraq must meet its disarmament obligations**, encourages the United Kingdom of Great Britain and Northern Ireland and the United States of America to keep the Council informed of their activities in this regard, and underlines the intention of the Council to revisit the mandates of the United Nations Monitoring, Verification, and Inspection Commission and the International Atomic Energy Agency as set forth in resolutions 687 (1991) of 3 April 1991, 1284 (1999) of 17 December 1999, and 1441 (2002) of 8 November 2002 [...]. (S/RES/1483 (2003))

(82) 18. Unequivocally condemns the terrorist bombings of the Embassy of Jordan on 7 August 2003, of the United Nations headquarters in Baghdad on 19 August 2003, and of the Imam Ali Mosque in Najaf on 29 August 2003, and of the Embassy of Turkey on 14 October 2003, the murder of a Spanish diplomat on 9 October 2003, and the assassination of Dr. Akila al-Hashimi, who died on 25 September 2003, and emphasizes that those responsible **must** be brought to justice [...]. (S/RES/1511 (2003))

(83) Underscoring that the sovereignty of Iraq resides in the State of Iraq, reaffirming the right of the Iraqi people freely to determine their own political future and control their own natural resources, reiterating its resolve that the day when Iraqis govern themselves **must** come quickly, and recognizing the importance of international support, particularly that of countries in the region, Iraq's neighbours, and regional organizations, in taking forward this process expeditiously [...]. (S/RES/1511 (2003))

Of the four occurrences of ‘must’ found in the corpus, only examples (81) and (82) seems to express the core deontic meaning of imminent obligation, while the other three cases express an objective to be achieved in time. Its use could also be connected to its meaning of ‘requirement’, which distinguishes deontic ‘must’ from ‘shall’.

6.4.3 May and Might

‘May’ is one of the central modals in legal discourse. Since the main value of this modal is permission, it is fundamental to understand what is permitted and what is not, especially when granting specific rights or solving complex issues, such as the ones involved in the Second Gulf war.

The modal ‘may’ has two main uses. In the epistemic functions, the knowledge-oriented use of ‘may’ indicates that an event is judged to have an equal possibility of occurring or not. The other meaning is connected to deontic modality, because its meaning involves social authority having the power to create or prevent the possibility of an event, either as ‘asking permission’ or ‘giving permission’.

The performative deontic possibility is also known in the legal and diplomatic profession as ‘discretionary may’ (Lauridsen 1992), because the legislature is the deontic source that permits the referent of the subject noun phrase in the active clause to carry out, at their discretion, the events expressed by the main propositions.

In example (84) below ‘may’ co-occurs with the expression “at their discretion”; in other cases it is implicit in the modal, as in example (85):

- (84) 5.[...] further decides that **UNMOVIC and the IAEA may at their discretion conduct interviews** inside or outside of Iraq, **may facilitate the travel of those interviewed** and family members outside of Iraq, and that, at the sole discretion of UNMOVIC and the IAEA, **such interviews may occur without the presence of observers** from the Iraqi Government; and instructs UNMOVIC and requests the IAEA to resume inspections no later than 45 days following adoption of this resolution and to update the Council 60 days thereafter [...]. (S/RES/1441 (2002))

- (85) 1. Decides that **the provisions** contained in paragraph 4 of resolution 1472 (2003) shall remain in force until 3 June 2003 and **may be subject to further renewal** by the Council [...].
(S/RES/1476 (2003))

As regards epistemic negatives, ‘may not’ negates the event of the main proposition, whereas deontic ‘may not’ negates the modal proposition. There are no occurrences of negative ‘may’ in the Iraq corpus.

In the corpus, 9 of 13 occurrences of ‘may’ are used to express root ‘permission’, as illustrated in the following examples:

- (86) 4. Decides that, beginning at 0001 hours, Eastern Daylight Time, on 30 May 2002, **the funds** in the escrow account established pursuant to paragraph 7 of resolution 986 (1995) **may also be used to finance the sale or supply to Iraq of those commodities or products** that are authorized for sale or supply to Iraq under paragraph 3 above, provided that the conditions of paragraph 8 (a) of resolution 986 (1995) are met [...]. (S/RES/1409 (2002))
- (87) 23. [...] unless otherwise addressed, claims made by private individuals or non-government entities on those transferred funds or **other financial assets may be presented to the internationally recognized, representative government of Iraq**; and decides further that all such funds or other financial assets or economic resources shall enjoy the same privileges, immunities, and protections as provided under paragraph 22 [...]. (S/RES/1483 (2003))

Moreover, it is quite interesting to notice that the open-endedness of the two clauses is reinforced by the use of the conjunction ‘also’ and the indefinite ‘other’. They seem to allow to ‘stretch’ the meaning of the already vague expressions they refer to, in order to allow further action if necessary.

Four are cases of epistemic possibility:

- (88) 4. Requests the Secretary-General to provide a comprehensive report to the Council, [...] **including in his reports any observations which he may have** on the adequacy of the revenues to meet Iraq’s humanitarian needs [...]. (S/RES/1447 (2002))
- (89) 28. Welcomes the commitments of many creditors, including those of the Paris Club, to identify ways to reduce substantially Iraq’s sovereign debt, calls on Member States, as well as

international and regional organizations, to support the Iraq reconstruction effort, urges the international financial institutions and bilateral donors to take the immediate steps necessary to provide their full range of loans and other financial assistance and arrangements to Iraq, recognizes that the Interim Government of Iraq will have the authority to conclude and implement such agreements and other arrangements as **may** be necessary in this regard, and requests creditors, institutions and donors to work as a priority on these matters with the Interim Government of Iraq and its successors [...]. (S/RES/1546 (2004))

- (90) 22. Noting the relevance of the establishment of an internationally recognized, representative government of Iraq and the desirability of prompt completion of the restructuring of Iraq's debt as referred to in paragraph 15 above, further decides that, until December 31, 2007, unless the Council decides otherwise, petroleum, petroleum products, and natural gas originating in Iraq shall be immune, until title passes to the initial purchaser from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution, and that all States shall take any steps that **may** be necessary under their respective domestic legal systems to assure this protection, and that proceeds and obligations arising from sales thereof, as well as the Development Fund for Iraq, shall enjoy privileges and immunities equivalent to those enjoyed by the United Nations [...]. (S/RES/1483 (2003))

- (91) Noting further that other States that are not occupying powers are working now or in the future **may** work under the Authority [...]. (S/RES/1483 (2003))

Thus, in this corpus, 'may' is principally used by the Security Council to give permission.

There is also one occurrence of 'might' in the corpus. Usually 'might' is used to express permission, in the past or possibility and probability. The example included in the corpus expresses a possibility:

- (92) 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))

6.4.4 Can and Could

The modal ‘can’ is usually associated with three meanings: ‘ability’, ‘permission’ and ‘possibility’. In particular, the meanings of ability and permission express the so-called ‘dynamic modality’, which usually refers not only to modal meanings related to the concept of ‘ability’ or ‘tendency’ in general, but also to possibility due to external or internal circumstances.

According to Coates (1983: 86), the concepts of ‘permission’ and ‘ability’ correspond to the root meaning of ‘can’, while ‘possibility’ is the meaning assigned to cases found in the area that overlaps between permission and ability. Coates (1983: 93) summarizes the distinction between the different meanings of can in the following way:

I can do it = PERMISSION – human authority / rules and regulations allow me to do it.

I can do it = POSSIBILITY – external circumstances allow me to do it.

I can do it = ABILITY - inherent properties allow me to do it.

As far as concerns SCRIraq1, the 7 occurrences of ‘can’ found in the corpus (5 in the affirmative form and 2 negatives), cover all three uses of the modal. 2 occurrences clearly refer to the dynamic root meaning of ability (e.g. example 93), while 2 express inability, in the form of ‘cannot’ (e.g. example 94):

(93) 4. Calls upon the Authority, consistent with the Charter of the United Nations and other relevant international law, to promote the welfare of the Iraqi people through the effective administration of the territory, including in particular working towards the restoration of conditions of security and stability and the creation of conditions in which **the Iraqi people can freely determine their own political future** [...]. (S/RES/ 1483 (2003))

(94) 2. **Directs the Secretary-General to negotiate** the transfer of UNIKOM’s non-removable property and of **those assets that cannot be disposed otherwise to the States of Kuwait and Iraq**, as appropriate [...]. (S/RES/1490 (2003))

One occurrence (example 95) expresses ‘permission’, which is usually expressed by ‘may’ with its root meaning of discretionary permission:

- (95) 2. Decides to adopt the guidelines (reference SC/7791 IK/365 of 12 June 2003) and definitions (reference SC/7831 IK/372 of 29 July 2003) previously agreed by the Committee established pursuant to paragraph 6 of resolution 661 (1990), to implement the provisions of paragraphs 19 and 23 of resolution 1483 (2003), and further decides that **the guidelines and definitions can be amended by the Committee in light of further considerations** [...]. (S/RES/1518 (2003))

Finally, the two remaining occurrences have a slight ambiguous meaning. The only way of understanding their sense is to read them in context. However, they retain a flavour of ambiguity that can divert the full comprehension of the clauses. In example (96) the meanings of possibility and ability can overlap even if they have a slight difference in meaning, but in example (97) ‘can’ is readable both in the sense of prohibition or of inability:

- (96) 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 which can be shipped** within the period of this mandate, to proceed with these contracts in accordance with such priorities [...]. (S/RES/1472 (2003))

- (97) [...] (e) to negotiate and execute new contracts for essential medical items under the Programme and to authorize issuance of the relevant letters of credit, notwithstanding approved distribution plans, provided that **such items cannot be delivered** in execution of contracts pursuant to paragraph 4 (b) and subject to the approval of the Committee established pursuant to resolution 661 (1990) [...]. (S/RES/1472 (2003))

In the last case, prohibition coming from legislature would differ from concrete inability to do something, in this case to deliver items. The meaning is derivable only from context in which the clause is inserted.

As far as concerns ‘could’, there is only one occurrence of ‘could’ in the corpus and it is used in a hypothetical structure with the root meaning of ability, and thus it is a dynamic modal:

- (98) 5. Invites the Government of Iraq to consider how **the convening of an international meeting could support the above process**, and notes that it would welcome such a meeting to support the Iraqi political transition and Iraqi recovery, to the benefit of the Iraqi people and in the interest of stability in the region [...]. (S/RES/1546 (2004))

6.4.5 Will and Would

In general and legal language, ‘will’ is not uniquely used to refer to future time. It is also commonly used as a modal verb, although all meanings of ‘will’ are associated to willingness, intention, and prediction which are closely related to concepts of futurity.

However, it is worth to analyse the shades that this modal assumes in SCRIraq1.

Of the 28 occurrences of ‘will’, 17 are strictly expressions of the plain future tense, as can be seen in example (99):

- (99) 22. Noting [...] that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection, and that proceeds and obligations arising from sales thereof, as well as the Development Fund for Iraq, shall enjoy privileges and immunities equivalent to those enjoyed by the United Nations except that the abovementioned **privileges and immunities will not apply with respect to any legal proceeding** in which recourse to such proceeds or obligations is necessary to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill, that occurs after the date of adoption of this resolution [...]. (S/RES/1483 (2003))

In particular, in some cases ‘will’ is used to introduce a consequence (4 occurrences, e.g. example 100), or a condition (2 cases, example 101) which will be fulfilled in a future time:

- (100) 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))
- (101) 12. Decides further that the mandate for the multinational force shall be reviewed at the request of the Government of Iraq or twelve months from the date of this resolution, and that this mandate

shall expire upon the completion of the political process set out in paragraph four above, **and declares that it will terminate this mandate earlier if requested** by the Government of Iraq [...]. (S/RES/1546 (2004))

Moreover, there are two occurrences of ‘will’ with the root meaning of volition (commissive speech acts):

(102) 2. Notes the proposed Goods Review List (as contained in Annex 1 to this resolution) and the procedures for its application (as contained in Annex 2 to this resolution) and decides **that it will adopt the List and the procedures**, subject to any refinements to them agreed by the Council in light of further consultations, for implementation beginning on 30 May 2002 [...]. (S/RES/1382 (2001))

(103) 14. Recognizes that **the multinational force will also assist in building the capability of the Iraqi security forces and institutions**, through a programme of recruitment, training, equipping, mentoring, and monitoring [...]. (S/RES/1546 (2004))

Thus in SCRIraq1 corpus most of the occurrences of ‘will’ express a non-modal usage, although all cases are connected to a meaning of futurity.

As concerns ‘would’, this modal usually functions both as the past tense form of ‘will’ and as a general hypothetical marker. In SCRIraq1, there are 8 occurrences of ‘would’. As with ‘will’, epistemic meaning of future prediction occurs more than the root meaning.

Of the occurrences found in the corpus, 5 cases of ‘would’ express a conditional meaning that could be realised in the future if a determinate condition is fulfilled, as in example (104):

(104) Recalling that in its resolution 687 (1991) the Council declared that **a ceasefire would be based on acceptance by Iraq of the provisions** of that resolution, including the obligations on Iraq contained therein [...]. (S/RES/1441 (2002))

Other 2 occurrences can be interpreted as having both the epistemic value of future and the root meaning of volition, as can be seen in the following examples:

(105) 19. **Calls upon Member States to prevent the transit of terrorist to Iraq, arms for terrorists, and financing that would support terrorists**, and emphasizes the importance of strengthening

the cooperation of the countries of the region, particularly neighbours of Iraq, in this regard [...].

(S/RES/1511(2002))

(106) 5. Invites the Government of Iraq to consider how the convening of an international meeting could support the above process, and notes **that it would welcome such a meeting** to support the Iraqi political transition and Iraqi recovery, to the benefit of the Iraqi people and in the interest of stability in the region [...]. (S/RES/1546 (2004))

6.5 Some Conclusive Remarks

The analysis of modal verbs in SCRIraq1 has revealed that although vagueness and ambiguity paradoxically clash with the requirements of certainty and precision in legal texts, also modality can become a means of indefiniteness, because a same modal can have various and not always precise meanings. In the corpus investigated, the majority of modals express a root meaning, with only few cases of epistemics. This is predictable with reference to the text types under examination. The most frequent modal auxiliary verbs are: ‘shall’, ‘will’, ‘may’, ‘would’, ‘should’, ‘can’ and ‘must’, consistent with previous studies according to which the most frequent modals in legal texts convey obligation and permission .

‘Shall’ is the most frequently used modal (52,5%) and it seems to convey more than one meaning: it is used with a performative value and with a deontic value of obligation, permission or granting of rights.

Clauses expressing permission and granting of rights with ‘shall’ seem to be quite a particular case because legal permission is usually given by means of the discretionary ‘may’. However, there are cases in which ‘shall’ has been chosen and they seem to convey a sense of permission or establishment of rights given by the authority (the Security Council), but also an implicit obligation for others to not impede or interfere with what has been permitted.

In SCRIraq1 ‘shall’ predominantly occurs in deontic agent-oriented sentences, in which the human agent is either explicitly expressed or retrievable from the context. For the cases in which the

subject is recoverable from the context of the clause in which they are used, agent suppression serves as a device for issuing directives without explicitly mentioning the addressee as the regulated part.

However, there are some cases in which 'shall' has been overused and it could be substituted by a present tense for sake of clarity. For instance, the majority of non-human occurrences are connected to a constitutive clause, mostly referring to parts of a resolution, and thus 'shall' is used to provide intertextual references rather than imposing any kind of obligation. Other cases of misuse regard its interchangeability with 'must'. These cases could probably be avoided to be clearer in meaning. 'Should', one of the value modals used in legal English, is used in SCRIraq1 to express deontic modality in all the occurrences in the corpus. It expresses weaker obligations than 'shall' or 'must' and it seems to be deliberately chosen to convey values and principals connected to provision of humanitarian relief to the Iraqi people. Its different degree of strength even depends on the function of the type of clause in which it is inserted, whether in a preambulatory or operational clause, because operative clauses identify the concrete actions and decisions made in a resolution, while preambulatory clauses only explain the purpose of the resolution and state the main reasons of the resolution. Expressing a 'weak' deontic force, the strength and actual application of 'should' remains a source of vagueness. In relation to the cases found in the corpus, it is questionable to what extent the role of giving humanitarian relief to the Iraqi people was mandatory, what had to be concretely done, and to what extent the organisations, such as the UN, had the legal - apart from the moral- duty to intervene.

'Must' is still not as used as 'shall' in legal texts, although the Plain English Movement advocates the substitution of 'shall' with 'must' in legal/diplomatic language. Of the four occurrences of 'must' found in the corpus, only one seems to express the core deontic meaning of imminent obligation, while the other three cases express an objective to be achieved in time.

'May' is principally used to give permission in the form of a 'discretionary may', because the legislature is the deontic source that permits the referent of the subject noun phrase in the active clause to carry out, at his discretion, the events expressed by the main propositions. However, some occurrences are used in the classical epistemic meaning of possibility. There is also an occurrence of 'might' which expresses less possibility than 'may'.

The modal 'can' in the corpus is associated with the three meanings of 'ability', 'permission' and 'possibility'. Some occurrences have a slight ambiguous meaning. Even reading them in context they retain a flavour of ambiguity that can divert the full comprehension of the clauses. These cases include overlaps of possibility and ability, and prohibition or inability. In the latter, prohibition coming from legislature would differ from concrete inability to do something. Moreover, there is only 1 occurrence of 'could' in the corpus and it is used in a hypothetical structure with the root meaning of ability.

Most of the occurrences of 'will' are strictly expressions of the plain future tense. But it is also used to introduce consequences or conditions which will be fulfilled in a future time and the root meaning of volition, although all cases are connected to a meaning of futurity. Also the occurrences of 'would' express more the epistemic meaning of future prediction than the root meaning of volition.

Thus, also modals can be a source of vagueness and interpretation is possible only if one takes into consideration the linguistic as well as the non-linguistic elements of the utterance. Sometimes it is not possible to grasp the thorough meaning of the utterance unless the intention of the authority is overtly expressed.

Chapter 7

Evaluation and Weasel Words in UN Resolutions

One of our defects as a nation is a tendency to use what have been called weasel words. When a weasel sucks eggs the meat is sucked out of the egg. If you use a weasel word after another there is nothing left of the other.

(Theodore
Roosevelt)

7.1 Weasel Words

Traditional law and diplomacy are often criticised for the presence of “weasel words” (Mellinkoff 1963: 21), which 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 having 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 or retreat from a direct or forthright statement or position” (Reza Dibadj 2006: 1325). According to advocates of the use of weasel words in law and diplomacy, although these vague expressions can be used to obfuscate the underlying issues, they are often necessary because, as Jerry Mashaw noted (1985: 86): “the demand for justice seems inextricably linked to the flexibility and generality of legal norms, that is, to the use of vague principles rather than precise rules.” On the opposite, scholars such as Jerome Frank (1970: 30) have noticed that weasel words are used as “safety-valve concepts”, to create an appearance of continuity, uniformity and definiteness which does not in fact exist.

As a matter of fact, excessive intentional indeterminacy and vagueness do not always have positive effects, above all because they lead to underinformativeness (Sorensen 1989: 175), subjective interpretations of the rules, and possible manipulation of language for personal intents.

Underinformativeness clashes with Grice's (1975: 45–47) "maxim of quantity" ("make your contribution as informative as is required for the current purposes of the exchange"), while vagueness in general clashes with the "maxim of manner" ("avoid obscurity of expression").

Legal language is sufficiently open to permit judges to determine how certain terms should be applied in some cases. H.L.A. Hart described this feature of legal language as its "open texture." As a matter of fact, in some situations, judges need to exercise their discretion when a case is not governed by any existing rule of law. The open-textured nature of language give judges discretion to apply legal rules in cases falling outside the rule's core, but within the rule's penumbra. This gives rise to what Carl Schmitt (2008: 85) referred to as "dilatatory formal compromise": drafters adopting vague terms allow the arbitrator greater freedom. Discretionary powers are guaranteed by expressions such as 'necessary measures', where the evaluation of what is to be considered a 'necessary' is left to arbitrators. For instance, this expression has been much criticised in UN resolutions relating to Iraq because its vagueness gave the possibility of interpreting it as meaning also 'military action'.

Due to their underinformativeness, the same linguistic devices that are used legitimately as tools of persuasion and information can be used illegitimately for manipulation. As van Dijk (2006: 372) notes, "as such, discourse structures are not manipulative; they only have such functions or effects in specific communicative situations." Obviously, the boundary between illegitimate manipulation and legitimate persuasion is fuzzy and context dependent. Vague expressions, deliberate ambiguities and obscure meaning corrupt public language and obstruct people from formulating complex arguments. This language is used to legitimise what many see as indefensible (e.g. infringement of fundamental rights and liberties, war) and to make sentences more acceptable to the hearer/reader, thus increasing their chance of acceptance and ratification, reducing the risk of rejection. For instance many 'weasel words' used in SCRIraq1 put emphasis on the moral aspect of legitimacy of war rather than on legality of military action in order to find a justification for war that could be acceptable for the international community and the UN.

This chapter will thus deal with the ‘weasel words’ occurring in Security Council resolutions relating to the Second Gulf War. In particular, it will focus on the use of adjectives and expressions conveying vagueness and indeterminacy.

7.2 Studies on Adjectives and Vagueness

In *The Language of the Law* (1963), Mellinkoff posited:

The principle of simplicity would dictate that the language used by lawyers agree with the common speech, unless there are reasons for a difference [...]. If there is no reason for departure from the language of common understanding, the special usage is suspect [...]. The remaining reasons for a difference are few [...] and apply only to the tiniest part of the language of the law.

Despite the recurring claim that precision is a prominent feature of legal/diplomatic discourse and one of its distinctive qualities, diplomatic texts include many weasel words and adjectives are the most frequent, as they are often evaluative, particularly gradable and vague because of their borderline indefiniteness (Fjeld 2001: 644) and therefore the decodification of their semantic value is subjective by definition. Their characteristics allow using discretion in deciding on their interpretation and applicability based on circumstances.

Many scholars such as Mellinkoff (1963), Fjeld (2005) and Kebrat-Orecchioni (1980) have conducted studies on the nature of such indeterminacies especially found in adjectives.

In *The Language of the Law* (1963), Mellinkoff’s landmark work, this scholar has listed over a hundred words and expressions used by lawyers because they are usefully “flexible.” They are listed in Table 26 below:

Mellinkoff’s List of Indeterminate Expressions			
About	Abuse of discretion	Adequate	Adequate cause
Adequate compensation	Adequate consideration	Adequate remedy at law	And/or
And others	Apparently	Approximately	Appropriate
As soon as possible,	As rapidly as possible	Available	Average

Care	Clean and neat condition	Clear and convincing	Clearly erroneous
Commerce	Comparable	Completion	Convenient
Desire	Doubtless	Due care	Excessive
Existing	Extraordinary compensation	Extraordinary services	Extreme cruelty
Free elections	Few	Fixture	Gross
Habitual	Improper	In conjunction with	In regard to
Inadequate	Incidental	Inconvenience	Intention
Intoxicated	It would seem	Large	Lately
Luxury	Malice	Manifest	Many
Mere	More or less	Modify	Near
Necessaries	Need	Negligence	Neighbourhood
Net profit	Nominal sum	Normal	Notice
Objectionable	Objective	Obscene	Obstruct
Obvious	On or about	Ordinary	Overhead
Palpable	Percentage of the gross	Possible	Practicable
Preceding	Prevent	Profits	Promptly
Proper	Provide for	Public	Reasonable care
Reasonable man	Reasonable speed	Reasonable suspicion	Reasonable time
Regular	Regulate	Remote	Reputable
Resident	Respecting	Safe	Satisfaction
Satisfactory	Satisfy	Serious and willful	Serious illness
Serious misconduct	Severe	Shorts after	Similar
Slight	Sound mind	Structure	Substance
Substantial	Sufficient	Suitable	Take care of
Temperance	Temporarily	Thereabout	Things
Transaction	Trivial	Try	Under the influence of a person
Under the influence of liquor	Understand	Understanding	Undue influence
Undue interference	Undue restraint	Unreasonable	Unsafe
Unsatisfactory	Unsound	Unusual	Usual
Valuable	Vicinage	Want	Welfare

Wish	Worthless		
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Table 26: List of Mellinkoff's (1963: 22) indeterminate expressions

Field (2005: 165), instead, has classified vague adjectives commonly employed in normative texts according to their main semantic properties:

Classification of Adjectives		
Categories of Adjectives	Use	Examples
General qualities adjectives	They convey a general quality	Good, bad, useful
Modal adjectives	They express modal force, such as necessity and desirability	Necessary, expedient, unpractical
Relational adjectives	They convey relationship between nouns and fixed standards	(Un) suitable, (in) sufficient, (in) appropriate
Ethic adjectives	They are semantically related to moral code or ethical standard	right, equitable, responsible
Consequence adjectives	They represent different degrees of consequence expressed by the modified noun	Crucial, critical, serious, considerable
Evidence adjectives	They express degrees of accordance between conditions and conclusions	Natural, unlikely, marked
Frequency adjectives	They denote the evaluation of the appearance of the noun related to some kind of a quantitative norm.	Widespread, common, normal, usual, special, deviant

Table 27: Classification of adjectives (adapted from Fjeld 2005: 165)

All these adjectives can be considered multidimensional because they refer to “not-fixed and non-stable dimensions.” (Field 2005: 165)

Kerbat-Orecchioni (in Tutin 2008) goes further in this classification, noting an important distinction to be made between “non-axiological” quantity based adjectives such as those expressing vague quantities or temporal expressions, and axiological adjectives

Non-axiological evaluative adjectives are those that imply a qualitative or quantitative evaluation of the modified noun and do not reflect any emotional compromise on the part of the speaker/writer (1980: 111-113). The use of these adjectives is relative to what the speaker/writer considers to be the evaluation norm for a given category of objects. Having a gradual nature, adjectives denoting size, quantity and temporal expressions belong to this category.

On the opposite, axiological evaluative adjectives are fully subjective, as they imply a qualitative evaluation, adding either a positive or a negative judgment to the modified noun. As a consequence, they are subjective, and they reveal some peculiarities about the speaker's cultural or ideological background, though the subjective degree varies according to the evaluation parameter on which the adjectives depend. Thus, axiological evaluative adjectives are more difficult to measure, as there are no inherent scales or norms for interpreting their dimensions.

Although it is said that the meaning of these adjectives is usually based on common sense, it would be interesting to understand the mechanisms and the subjects involved in the establishment of the standards of comparison for axiological and non-axiological evaluative adjectives.

This leads us to the main topic of this section, namely the linguistic analysis of the evaluative adjectives used in SCRIraq1, some of which can be considered “weasel words”, and then to the analysis of “weasel nouns.” At the same time, following the Discourse Historical Approach, the analysis will integrate knowledge about the historical, social and political background in which the discursive events are embedded. These elements, together with content, discourse strategies and linguistic means are fundamental for a complete understanding of the UN resolutions involved in this research.

7.3 Methodology for the Analysis of ‘Weasel Words’ Used in SCRIraq1

In order to study the use of vague, indeterminate and general adjectives, expressions and nouns contained in UN resolutions relating to the second conflict in Iraq, SCRIraq1 has been scrutinised both manually and by using 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 and nouns enumerated by Mellinkoff. In order to give a more complete list, some other adjectives, nouns and expressions found in the Iraq corpus that were hypothesized of being vague have also been included.

Mellinkoff’s list has been a very valuable resource for the purposes of this research; however, as he was a law professor at the University of California-Los Angeles and a lawyer, his analysis and considerations are not based on a strict linguistic perspective. His concept of “weasel words” needs to be applied through the support of further classifications of scholars of linguistics. Thus, for the purposes of this thesis, the vague and general adjectives contained in the corpus have been categorised using Fjeld’s 2005 adjective classifications, while a separate group has been added for nouns.

The adjectives have been divided into 9 categories, 6 of which belonging to Fjeld’s classification (relational, ethic, general quality, modal, consequence, and frequency adjectives), while the groups of quantity and temporal adjectives have been added because although they were not included in Fjeld’s classification, it is a personal opinion that also the vagueness of these adjectives have contributed to the vagueness of the resolutions contained in SCRIraq1.

Table 28 includes the adjectives and expressions listed by Mellinkoff found in SCRIraq1:

Adjectives and Expressions Listed by Mellinkoff and Found in SCRIraq1			
Adequate	And/or	And others	As soon as possible
As rapidly as possible	Available	Completion	Desire
Existing	Free elections	Inadequate	Intention
Improper	Many	Modify	Necessary
Need	Objectionable	Objective	Possible
Practicable	Preceding	Promptly	Proper
Provide for	Public	Reasonable suspicion	Regular
Respecting	Safe	Satisfy	Structure
Substantial	Sufficient	Understanding	Welfare
Wish			

Table 28: Indeterminate adjectives and expressions found in SCRIraq1 (adapted from Mellinkoff 1963: 22)

Other adjectives that were considered in this study although not included in Mellinkoff’s list are ‘appropriate’ and ‘serious’, quoted in Field’s (2005: 165) classification, and others that have been added because personally considered vague: ‘qualified’, ‘fair’, ‘further’, ‘related’, ‘subsequent’, ‘temporary’, and ‘voluntary’.

After this first query, the adjectives contained in this list have been analysed using Fjeld’s parameters for the classification of adjectives, as will be seen in the following paragraphs. For the

purposes of this research, the analysis reported in this chapter will focus on relational, ethic, modal and consequence adjectives, on expressions of quantity and time, and weasel nouns.

7.3.1 Relational Adjectives in SCRIraq1

According to Fjeld (165: 2005), relational adjectives “denote the relative requirements between the noun and some objectively fixed or indisputable standards or requirements.”

The keyword of this quotation is “fixed standards.” The interpretation of what is meant to be the “fixed standard” reveals the subjective nature of these axiological evaluative adjectives. Their subjectivity gives the instrument of power of interpretation to who uses them because they are both context-dependent and context-changing, especially in the case of diplomatic documents such as UN resolutions. The value of the implicit standard is not specified in the lexical entry of the word, but is rather set contextually, and so it may vary in different utterance contexts. For instance what counts as ‘appropriate’ in one context could probably not be ‘appropriate’ in another context. Furthermore, the use of relational adjectives and of evaluative axiological adjectives in general affects the context with respect to which subsequent uses of vague predicates get evaluated. For example, when something that has been indicated as ‘appropriate’ gives origin to a war, it can be appealed to for subsequent cases because the wording has created a precedent. This risk cannot be underestimated in diplomatic texts, and so these words should be used with caution, because their meaning may depend on factors external to the adjective, such as the meaning of the noun, or the context of the utterance, unless their meaning has been expressly agreed on and legally defined.

Table 29 below contains the relational adjectives found in SCRIraq1:

Relational Adjective	Frequency
Appropriate	16
Duly qualified	2
Inadequate	1
Practicable	1
Reasonable	1

Table 29: Relational adjectives used in SCRIraq1

In SCRIraq1 some relational adjectives are used more frequently than others. One of these is ‘appropriate’. According to *the Oxford Advanced Learner’s Dictionary*, ‘appropriate’ is what is “suitable, acceptable or correct for the particular circumstances.” In order to analyse this adjective further, Table 30 below shows its co-occurrences in the corpus, followed by examples:

Clusters of ‘Appropriate’ in SCRIraq1		
Rank	Frequency	Cluster
1	2	all other appropriate
2	2	appropriate measures within
3	2	organizations, as appropriate
4	2	other appropriate measures
5	1	and appropriate Iraqi
6	1	and appropriate, to
7	1	and that appropriate
8	1	appropriate and not
9	1	appropriate arrangements shall
10	1	appropriate implementation procedures
11	1	appropriate Iraqi ministers
12	1	appropriate Iraqi ministries
13	1	appropriate steps to
14	1	appropriate support of
15	1	appropriate to ensure
16	1	appropriate with the
17	1	appropriate, civil society
18	1	appropriate, the costs
19	1	appropriate, to assist
20	1	appropriate, to compensate
21	1	appropriate; 3. Decides to
22	1	as appropriate and
23	1	as appropriate to
24	1	as appropriate with
25	1	as appropriate, civil
26	1	as appropriate, to
27	1	as appropriate; 3. Decides
28	1	consulting as appropriate
29	1	cooperation as appropriate
30	1	Council and appropriate
31	1	ensure that appropriate
32	1	force as appropriate
33	1	including, where appropriate
34	1	Iraq, as appropriate
35	1	necessary and appropriate
36	1	responsible to appropriate
37	1	shall take appropriate
38	1	take appropriate steps
39	1	that appropriate arrangements
40	1	that appropriate implementation
41	1	the appropriate support
42	1	to appropriate Iraqi
43	1	where appropriate, the
44	1	with the appropriate

Table 30: Clusters of ‘appropriate’ in SCRIraq1

(107) 6. Calls upon the Authority, in this context, to return governing responsibilities and authorities to the people of Iraq as soon as practicable and requests the Authority, in cooperation as **appropriate** with the Governing Council and the Secretary-General, to report to the Council on the progress being made [...]. (S/RES/1511(2003))

(108) 25. Requests that the United States, on behalf of the multinational force as outlined in paragraph 13 above, report to the Security Council on the efforts and progress of this force as **appropriate** and not less than every six months [...]. (S/RES/1511(2003))

As seen, the cluster ‘as appropriate’ is the most frequent in the corpus, and it seems to be used as sort of *passe-partout* giving discretion to the subjects involved. The definition of ‘appropriate’ in itself (“suitable or proper for the particular circumstances”) recalls its contextual and situational dependency for interpretation and application. In the corpus, there are many occurrences of the adjective ‘appropriate’ as a noun modifier, co-occurring with several nouns, as can be seen in Table 31 and examples below:

Clusters of ‘Appropriate’ + Noun in SCRIraq1		
Rank	Frequency	Cluster
1	2	appropriate measures
2	1	appropriate arrangements
3	1	Appropriate implementation procedures
4	1	appropriate Iraqi ministers
5	1	appropriate Iraqi ministries
6	1	appropriate steps
7	1	appropriate support

Table 31: Clusters of ‘appropriate’+ noun in SCRIraq1

(109) 21. Decides that the prohibitions related to the sale or supply to Iraq of arms and related materiel under previous resolutions shall not apply to arms or related materiel required by the Government of Iraq or the multinational force to serve the purposes of this resolution, stresses the importance for all States to abide strictly by them, and notes the significance of Iraq’s neighbours in this regard, and calls upon the Government of Iraq and the multinational force each to ensure **that appropriate implementation procedures** are in place [...]. (S/RES/1546 (2004))

(110) 5. Appeals to all States to continue to cooperate in the timely submission of technically complete applications and the expeditious issuing of export licences, and to take all other **appropriate measures** within their competence in order to ensure that urgently needed humanitarian supplies reach the Iraqi population [...]. (S/RES/1382 (2001))

The use of ‘appropriate’ indicates evaluation in relation to a system of values, which are thus subjective. In a diplomatic context its subjectivity gives complete discretion of applicability to the parties involved to decide what would be ‘appropriate’. For instance, S/RES/1483(2003) uses the expression ‘appropriate steps’:

(111) 7. Decides that all Member States shall take **appropriate steps** to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and calls upon the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph [...]. (S/RES/1483 (2003))

Several nations implemented this resolution with particular legislative or administrative actions. The European Union enacted Council Regulation 1210/2003⁷¹, which, in paragraph 3, prohibits the import, export or dealing in Iraqi cultural materials “if there is reasonable suspicion that the goods were removed in breach of Iraqi’s law and regulations.”

The UK enacted Statutory Instrument 2003 No. 1519, which prohibits the import or export of any illegally removed Iraqi cultural property. The dealing in any such items constitutes a criminal offence unless the individual “proves that he did not know and had no reason to suppose that the item in question was illegally removed Iraqi cultural property.”

The U.S. has continuously maintained a prohibition on import of, or other transactions involving Iraqi cultural materials as described in the UN Resolution. Moreover, as Stone, Bajjalay, and

⁷¹ Source: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:169:0006:0023:EN:PDF> (Last accessed: June 2011).

Fisk (2008: 189) note, the ‘Emergency Protection for Iraqi Cultural Antiquities Act’ allows the President to exercise his authority under the *Cultural Property Implementation Act* to impose import restrictions on any cultural material illegally removed from Iraq after August 1990. The statute defined “cultural materials” in accordance with S/RES/1483(2003) and more broadly than the *Cultural Property Implementation Act*. This legislation ensures that there are no gaps in the import restrictions by eliminating the process for Iraq to bring a formal request for import restrictions and eliminating review of the request by the Cultural Property Advisory Committee. However, President Bush never exercised this authority and the import restriction on Iraqi cultural materials remains in place under Executive Order, thereby continuing the original sanctions.

Therefore, the term ‘appropriate’ has left room to dishomogeneous and subjective implementation of the resolution. The resolution has worked in a way similar to directives, but on an international level. Probably it would have been better to have a stricter rule of conduct directly from the Security Council.

A typical relational adjective is ‘(in) adequate’. Two examples are included below:

- (112) Noting that under the provisions of Article 55 of the Fourth Geneva Convention (Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949), to the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are **inadequate** [...]. (S/RES/1472 (2003))
- (113) 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 which can be shipped within the period of this mandate, to proceed with these contracts in accordance with such priorities [...]. (S/RES/1472 (2003))

The first example is a quotation from the Geneva Convention, while the second deals with the delicate issue of guaranteeing medicine and food in Iraq. The wording “to determine the relative priorities of the need for adequate medicine, health supplies, foodstuffs and other materials and supplies for essential civilian needs”(S/RES/1472(2003)) has given rise to many polemics during these years related to the way of dealing with the post-war and embargo and blockade humanitarian crises in Iraq. Notwithstanding the *Oil for Food* project and humanitarian supplies, a March 2003 WHO estimation⁷² suggested that 18 million out of a population of 24.5 million people in Iraq lacked secure access to food. At that time, almost 60% of the population was solely dependent on food distributed by the government each month. Almost half of Iraq's total population of 24.5 million were children. UN agencies estimated that one out of eight children died before the age of five; one-third of Iraqi children were malnourished; one-quarter were born underweight and one-quarter did not have access to safe water. Many essential public health services, such as blood transfusion and water quality control services have not been functioning optimally due to shortages of laboratory reagents. Although significant quantities of medicine and medical supplies and equipment have reached Iraq under after these resolutions, probably ‘adequate’ was actually not ‘enough’.

Another relational adjective that can be found in the corpus is ‘reasonable’:

- (114) 7. Decides that all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which **reasonable suspicion** exists that they have been illegally removed [...].
(S/RES/1483 (2003))

In legal language, ‘reasonable suspicion’ is a legal standard of proof that is less than ‘probable cause’, the legal standard for arrests and warrants, but more than an inchoate and unparticularised suspicion or hunch. According to the Merriam-Webster’s Collegiate Dictionary (2004), it is “an objectively

⁷² Source: http://www.who.int/features/2003/iraq/briefings/iraq_briefing_note/en/index1.html (Last accessed: June 2011).

justifiable suspicion that is based on specific facts or circumstances and that justifies stopping and sometimes searching (as by frisking) a person thought to be involved in criminal activity at the time.”

It is thus a commonsense, nontechnical concept that deals with the practical considerations of everyday life on which non- legal experts act. As such, the standard depends on the discretion of an objectively ‘reasonable’ officer. Thus in the case of the paragraph from S/RES/1483 (2003), its application could either be widespread, guaranteeing maximum protection to Iraqi cultural material or its subjective discretion could lead to the loss of many objects of Iraq’s cultural heritage forever.

7.3.2 Quantity Adjectives in SCRIraq1

The category of quantity adjectives was not included in Fjeld’s classification. However, their presence in the corpus has been studied because they are mentioned in Mellikoff’s list and they contribute to vagueness in the resolutions analysed.

A good predictor for subjectivity of quantitative adjectives is gradability, due to the relativism in interpretation of gradable words. Gradability is the semantic property that enables a word to participate in comparative structures and to accept modifying expressions that act as intensifiers or diminishers (Sapir 1944). Gradable adjectives express various degrees and they are related to a norm either explicitly or implicitly expressed by the noun. They can combine with a degree phrase (e.g. very), a comparative morpheme, or, in the case of a bare positive construction, with a phonologically null degree morpheme (see Kennedy 2007)⁷³. Typical gradable adjectives are scalar adjectives. They do not strictly subdivide a domain: there is a range of values of the variable property lying between those covered by the opposite terms which do not apply properly to either of the two. Table 32 below shows the quantity adjectives retrieved from SCRIraq1:

Quantity Adjectives Used in SCRIraq1	
Quantity Adjectives	Frequency
Additional	7

⁷³ For further information <http://semanticsarchive.net/Archive/zFkZGUzZ/vaguenessandgrammar-final.pdf> (Last accessed: June 2011).

All	88
Broader	1
Many	2
Most	3
Remaining	2
Residual	1
Sufficient	1

Table 32: Quantity adjectives used in SCRIraq1

One of the most used quantity adjectives in the corpus is ‘additional’. Its use in resolutions belonging to SCRIraq1 allows dealing with possible future situations which can only be hypothesized at the drafting stage. As a matter of fact, its co-occurrence is mainly with words belonging to the field of future expenses, as can be seen in Table 33 below and subsequent examples, containing the co-occurrences of ‘additional’.

Clusters of ‘Additional’ in SCRIraq1		
Rank	Frequency	Clusters
1	1	additional authorities, which shall be binding
2	1	additional full voting member a duly
3	1	additional functions with the necessary coordination
4	1	additional funds available, including from the
5	1	additional operational and administrative costs resulting
6	1	additional shipping, transportation and storage costs
7	1	additional task of observing Member States

Table 33: Clusters of ‘additional’

(115) 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:

(g) to use [...] funds deposited in the accounts created pursuant to paragraphs 8 (a) and (b) of resolution 986 (1995), as necessary and appropriate, to compensate suppliers and shippers for agreed **additional** shipping, transportation and storage costs incurred [...];

(h) to meet **additional operational and administrative costs** resulting from the implementation of the temporarily modified Programme by the funds in the escrow account established pursuant to paragraph 8 [...]. (S/RES/1472 (2003))

(116) 6. Expresses further its readiness to consider making **additional funds** available, including from the account created pursuant to paragraph 8 (c) of resolution 986 (1995), on an exceptional and reimbursable basis, to meet further the humanitarian needs of the people of Iraq [...]. (S/RES/1472 (2003))

While granting the financial needs for operations in Iraq, the use of vague quantity expressions such as ‘additional’ can also trigger criminal offences: the open-endedness of the clauses and the indefinite quantity of funds that can be requested could also enhance illicit use and appropriations of funds.

Without further specifications on amounts, the indeterminacy of the word could have easily given rise to speculation. Actually, the Coalition was widely criticised for failing to implement adequate financial controls and of failing to make expenditures from the Development Fund for Iraq in an open and transparent manner.

Another expression of quantity giving potentially unlimited power to the Secretary-General can be found in paragraph 11 of S/RES/1472 (2003): “all measures required.” Other expressions of all-inclusiveness are ‘all necessary measures’ and ‘all necessary means’. There are 88 occurrences of ‘all’ in the corpus; however these combinations cited above have a particular importance, as they employ coded language that appears to mean many indeterminate things to the general population but have a more specific meaning for a targeted subgroup of the audience. What seem to be indeterminate claims of all-inclusiveness expressed by “all necessary means” or “all measures required” actually allude to war:

(117) 11. Requests the Secretary-General to take **all measures required** for the implementation of the present resolution and to report to the Security Council prior to the termination of the period defined in paragraph 10 [...]. (S/RES/1472 (2003))

(118) Recalling that its resolution 678 (1990) authorized Member States to use **all necessary means** to uphold and implement its resolution 660 (1990) of 2 August 1990 and all relevant resolutions subsequent to resolution 660 (1990) and to restore international peace and security in the area, United Nations [...]. (S/RES/1441 (2002))

“Broadly representative” is another expression of quantity included in the corpus. In the aftermath of war, the UN welcomed the establishment of a broadly representative government, reflecting the diverse composition of the Iraqi people, regardless of religious sects or ethnic backgrounds:

(119) 1. Welcomes the establishment of the **broadly representative** Governing Council of Iraq on 13 July 2003, as an important step towards the formation by the people of Iraq of an internationally recognized, representative government that will exercise the sovereignty of Iraq [...]. (S/RES/1500 (2003))

Some issues have emerged related to the adjective ‘broadly’. On 13 July 2003, the Broadly Representative Iraqi Governing Council was formed, its 25 members were appointed by the occupation authorities, who had consulted with the major anti-Saddam groups that had worked with Washington before the Iraq war. The UN representative in Iraq, Sergio Vieira de Mello, killed August 19, 2003, also advised on the Council’s makeup. The ethnic and religious makeup of this first Governing Council was far more representative than any previous Iraqi government, and the Shiite majority, for the first time in Iraqi history, had a leading voice in politics. The Council also included representatives not closely aligned with American views (including a communist and at least one Shiite representative whose group has ties with Iran), and three members were women.

However, the broadness of this Council has been also criticised because returned Iraqi exiles were disproportionately represented and there was limited representation of tribal leaders, who represent a potent force in traditional Iraqi society. The Council lacked legitimacy with ordinary Iraqis, who did not view it as independent of occupying authorities. Thus, in this case the expression ‘broadly’ resulted to be rather questionable for its subjective interpretation⁷⁴.

⁷⁴For further discussion see <http://www.cfr.org/publication/7665/iraq.html> (Last accessed: June 2011).

Typical vague quantity adjective is ‘many’. This adjective belongs to the scalar adjectives group and it is used here because of its indefiniteness, which is functional to the meaning it wants to convey in these paragraphs, as further specification in numeral terms is not possible in numeral terms. However, its use seems to be quite awkward and unexpected in diplomatic/legal texts:

(120) Concerned that **many** Kuwaitis and Third-State Nationals still are not accounted for since 2 August 1990 [...]. (S/RES/1483 (2003))

(121) 28. Welcomes the commitments of **many** creditors, including those of the Paris Club, to identify ways to reduce substantially Iraq’s sovereign debt, calls on Member States, as well as international and regional organizations, to support the Iraq reconstruction effort, urges the international financial institutions and bilateral donors to take the immediate steps necessary to provide their full range of loans and other financial assistance and arrangements to Iraq [...].(S/RES/1546 (2004))

A last adjective of quantity questionable for its vagueness in its use in the corpus is ‘sufficient’, as can be seen in the following example:

(122) – Security of UNMOVIC and IAEA facilities shall be ensured by **sufficient** United Nations security guards [...]. (S/RES/1441 (2002))

The problem in the use of ‘sufficient’ here is due to the fact that there Iraq has been required to accept this resolution allowing foreign military presence in its territory, with no further specification of the actual number of the security ‘guards’ nor of the concrete action they would have had in the territory.

7.3.3 Expressions of Time used in SCR Iraq1

Temporal reference can be expressed in three different ways: by explicit reference (e.g. March 20, 2003), indexical reference (e.g. ‘today’, ‘last week’), and through vague reference (‘in several weeks’, ‘as soon as possible’). The elements of this last group include temporal information that cannot be

precisely located on a time line. Vague temporal relationships inevitably lead to the vagueness of the entire utterance or text.

The following Table 34 includes the vague temporal references retrieved from SCRIraq1:

Vague Temporal References Used in SCRIraq1	
Temporal Expressions	Frequency
Expeditious	3
Future	11
Immediate	21
Previous	23
Prompt	1
Quickly	3
Rapidly	2
Soon	6
Temporary	7
Timely	2
Upcoming	1
Urgent	2

Table 34 : Vague temporal expressions in SCRIraq1

Some of these expressions are adverbs of time used in paragraphs dealing with the humanitarian needs of the Iraqi people. Some instances are ‘quickly’, ‘rapidly’, ‘soon’, and ‘timely’ as in the examples below:

(123) Welcoming the decision of the Governing Council of Iraq to form a preparatory constitutional committee to prepare for a constitutional conference that will draft a constitution to embody the aspirations of the Iraqi people, and urging it to complete this process **quickly** [...]. (S/RES/1511(2003))

(124) Stressing the right of the Iraqi people freely to determine their own political future and control their own natural resources, welcoming the commitment of all parties concerned to support the creation of an environment in which they may do so as **soon** as possible, and expressing resolve that the day when Iraqis govern themselves must come **quickly** [...]. (S/RES/1483 (2003))

(125) 4. Appeals to all States to continue to cooperate in the **timely** submission of technically complete applications and the expeditious issuing of export licences and to take all other appropriate measures within their competence in order to ensure that urgently needed humanitarian supplies reach the Iraqi population as rapidly as possible [...]. (S/RES/1454 (2002))

Their indeterminacy gives no dead-line for the actual implementation of these decisions.

Other expressions refer to ‘future’, either as a noun or a modifier:

(126) Reaffirming also the right of the Iraqi people freely to determine their own political **future** and control their own natural resources [...]. (S/RES/1546 (2004))

(127) 15. Decides that the Council shall review the requirements and mission of the multinational force referred to in paragraph 13 above not later than one year from the date of this resolution, and that in any case the mandate of the force shall expire upon the completion of the political process as described in paragraphs 4 through 7 and 10 above, and expresses readiness to consider on that occasion any **future** need for the continuation of the multinational force, taking into account the views of an internationally recognized, representative government of Iraq [...]. (S/RES/1511 (2003))

The expression “any future need for the continuation of the multinational force”, contained in example (127) from S/RES/1511 (2003) is characterised by an open-endedness comparable to the expression contained in S/RES/678 (1990) that authorized member states co-operating with Kuwait “to use all necessary means to uphold and implement resolution 660 and all subsequent relevant resolutions and to restore international peace and security in the area.” This expression was appealed to as having given the authorisation to the second Gulf war. The example retrieved from S/RES/1511 (2003) seems to have the same structure and possibility to be recalled to in the future if required.

Moreover, it is important to notice that temporal expressions play a key role in influencing the prescriptivity or performativity of an utterance. In SCRIraq1, it has been seen that there are some cases in which a relatively vague temporal expression reinforces the prescriptive value of the modal with which it co-occurs. This happens for instance when the adjective ‘immediate’ co-occurs with deontic ‘shall’ as in the following example:

(128) 23. Decides that all Member States in which there are:

(a) funds or other financial assets or economic resources of the previous Government of Iraq [...] **immediately shall cause** their transfer to the Development Fund for Iraq [...].
(S/RES/1483 (2003))

On the opposite, in cases in which there is a prescriptive modal expressing weak deontic force, it is not uncommon to find a more indefinite and vague temporal expression, which decreases the force of the modal even more. In the case of SCRIraq1, expressions such as ‘as soon/quickly as possible’ co-occur with the modal ‘may’ expressing dynamicity or permission, or with ‘must’, expressing requirements when referring to the moment in which Iraqis would have governed themselves:

(129) Stressing the right of the Iraqi people freely to determine their own political future and control their own natural resources, welcoming the commitment of all parties concerned to support the creation of an environment in which they **may** do so **as soon as possible**, and expressing resolve that the day when Iraqis govern themselves **must** come **quickly** [...]. (S/RES/1483 (2003))

The same is true for the co-occurrence of ‘temporary’ and ‘should’:

(130) 3. Recognizes that additionally, in view of the exceptional circumstances prevailing currently in Iraq, on an interim and exceptional basis, technical and **temporary** adjustments **should** be made to the Programme so as to ensure the implementation of the approved funded and non-funded contracts concluded by the Government of Iraq for the humanitarian relief of the people of Iraq, including to meet the needs of refugees and internally displaced persons, in accordance with this resolution [...]. (S/RES/1472 (2003))

It can therefore be said that the combination of deliberately chosen modals and temporal expressions can be used to contribute to the degree of prescriptivity intentionally desired by the text producers.

7.3.4 Ethic Adjectives

In order to analyse the role of ethic adjectives in SCRIraq1, it is worth to make a brief digression on some ethic issues and historic background facts related to the events of the Second Gulf War.

The war in Iraq has raised significant ethic questions related the U.S. *jus ad bellum*, both for the use of force itself and for the modalities that have been used. There are four main justifications that have been indicated as the *casus belli*: pre-emption against a potential Iraqi threat, Iraq’s alleged links to terrorism, material breach of precedent resolutions, and humanitarian intervention.

According to the UN Charter, states are only allowed to use force against another state for reasons of self-defense or if authorised by the Security Council as necessary “to maintain or restore international peace and security” (Chapter VII). The notion of “international peace and security” is flexible enough to allow for a broad range of interpretations and the Iraqi issue the Security Council has invoked it as a justification for actions that seemed primarily humanitarian in character.

As a matter of fact, of the four justifications described above, only the material breach of precedent resolutions and humanitarian intervention are mentioned in UN resolutions relating to the Second Gulf War. Throughout SCRIraq1, many occurrences of adjectives related to the field of ethics have been found. As other categories of adjectives previously described, also ethic adjectives are characterised by subjectivity, because they are related to an ethical standard (Fjeld 2005: 165).

A first adjective which is worth of note is the term ‘humanitarian’ in itself. The use of humanitarian reasons to justify interventions, together with the fact that the governments involved in these military operations are usually also the main financiers of the humanitarian system, has led to ongoing debates among international humanitarian organisations on the ethical principles of humanitarian action. Table 35 below contains the collocates of ‘humanitarian’ in the Iraq corpus:

Collocates of ‘Humanitarian’ in SCRIraq1		
Rank	Frequency	Cluster
1	8	humanitarian relief
2	6	humanitarian programme
3	6	humanitarian supplies
4	5	humanitarian situation
5	4	humanitarian and
6	4	humanitarian assistance
7	4	humanitarian organizations

8	3	humanitarian needs
9	1	humanitarian appeal
10	1	humanitarian appeals
11	1	humanitarian law

Table 35: Collocates of ‘humanitarian’ in SCRIraq1

The most frequent collocate of ‘humanitarian’ is ‘relief’, which according to the OCHA Glossary of Humanitarian Terms In relation to the Protection of Civilians in Armed Conflict is “aid that seeks to save lives and alleviate suffering of a crisis-affected population.”⁷⁵ Specific relief activities include distribution of food and other essential non-food items, provision of basic services such as health, water, sanitation and hygiene, education, agricultural support, and protection activities.

Although ‘humanitarian’ action in Iraq has played an important role in saving Iraqis during the war, there is criticism against the justification of this war as a ‘humanitarian intervention’, which is the most debated issue in the UN resolutions on Iraq. According to NGOs such as ‘Human Rights Watch’, which is one of the world’s leading independent organisations in the defense and protection of human rights, and ‘Doctors without Borders’, the use of the adjective ‘humanitarian’ which recalls the field of ethics and morality, is misleading⁷⁶. The former president of Doctors without Borders Rony Brauman⁷⁷ has noticed:

The term ‘humanitarian’, when employed in such conditions, is purely propaganda. Under the laws of armed conflict, it is the responsibility of the occupying power to meet the vital needs of the population and treat prisoners properly. These are legal obligations, not humanitarian gestures: calling the provision of water and food to Iraqi civilians a ‘humanitarian act’ is equivalent to claiming that sparing the life of prisoners of war is a ‘humanitarian act’.

⁷⁵ Source: <http://ochaonline.un.org/HumanitarianIssues/ProtectionofCiviliansinArmedConflict/DocumentsLibrary/tabid/1142/language/en-US/Default.aspx> (Last accessed: June 2011).

⁷⁶ Source: <http://www.unhcr.org/refworld/pdfid/402ba99f4.pdf> (Last accessed: June 2011).

⁷⁷ Source: <http://www.doctorswithoutborders.org/publications/article.cfm?id=1385&cat=ideas-opinions> (Last accessed: June 2011).

Referring to military action as for humanitarian purposes could be seen as an intent to create a positive international opinion to justify war.

There are other ethic adjectives in the corpus, which are strictly related to the concept of ‘loaded or emotive’ language. In rhetoric, loaded language is wording that attempts to influence the listener or reader by appealing to emotions beyond their literal meaning. Emotive Language plays a dual role, because it is not only used to express personal feelings but it also to arouse feelings in others (Chaffee 2000). Ethic adjectives, which are part of loaded language and express emotive arguments, are particularly persuasive because they prey on human weaknesses for acting immediately based upon an emotional response, without further judgment. They arouse emotions to create empathy. Table 36 below lists the occurrences of ethic adjectives found in SCRIraq1 on the basis of Fjeld’s (2005: 165) classification:

Ethic Adjectives Used in SCRIraq1	
Ethic Adjectives	Frequency
Equal	2
Equitable	3
Fair	1
Gravest	1
Innocent	1
Representative	20
Tragic	1
Hostile	1
Transparent	3
Unified	1

Table 36: Ethic adjectives used in SCRIraq1

Most of these adjectives appeal to Iraqi’s rights to equality, freedom, and to fair elections of a representative government for a unified Iraq, as can be seen in the examples below:

- (131) Encouraging efforts by the people of Iraq to form a representative government based on the rule of law that affords **equal** rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender, and, in this connection, recalls resolution 1325 (2000) of 31 October 2000 [...].
(S/RES/1483 (2003))

(132) 3. Reaffirms the right of the Iraqi people **freely** to determine their own political future and to exercise full authority and control over their financial and natural resources [...].(S/RES/1546 (2004))

(133) 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))

(134) Welcoming the commitment of the Interim Government of Iraq to work towards a federal, democratic, pluralist, and **unified** Iraq, in which there is full respect for political and human rights [...]. (S/RES/1546 (2004))

Other adjectives stress that funds and humanitarian aids have to be used in a ‘transparent’ and ‘equitable’ way:

(135) 4. Requests the Secretary-General to provide a comprehensive report to the Council, at least one week prior to the end of the 180-day period, on the basis of observations of United Nations personnel in Iraq, and of consultations with the Government of Iraq, on whether Iraq has ensured the **equitable** distribution of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian needs, financed in accordance with paragraph 8 (a) of resolution 986 (1995), including in his reports any observations which he may have on the adequacy of the revenues to meet Iraq’s humanitarian needs [...]. (S/RES/1447 (2002))

Some other expressions of loaded language indirectly connected to ethics appeal to the emotive sphere, such as can be seen in the examples below. The first example, containing the adjectives ‘tragic’, ‘deep’, and ‘innocent’ create empathy with the people of Iraq, while the other two examples use expressions against the former Iraqi government:

(136) 17. **Expresses deep** sympathy and condolences for the personal losses suffered by the Iraqi people and by the United Nations and the families of those United Nations personnel and other innocent victims who are killed or injured in these **tragic** attacks [...]. (S/RES/1511(2003))

(137) Noting further the letter dated 8 October 2002 from the Executive Chairman of UNMOVIC and the Director-General of the IAEA to General Al-Saadi of the Government of Iraq laying out the practical arrangements, as a follow-up to their meeting in Vienna, that are prerequisites for the

resumption of inspections in Iraq by UNMOVIC and the IAEA, and expressing the **gravest** concern at the continued failure by the Government of Iraq to provide confirmation of the arrangements as laid out in that letter [...]. (S/RES/1441 (2002))

- (138) 8. Decides further that Iraq shall not take or threaten **hostile** acts directed against any representative or personnel of the United Nations or the IAEA or of any Member State taking action to uphold any Council resolution [...]. (S/RES/1441 (2002))

The use of ethic adjectives and emotive wording in these resolutions can be seen as a means to justify the military intervention as a humanitarian intervention aiming at giving humanitarian relief to the Iraqis and freeing them from a dictatorship. Notwithstanding these two positive purposes, the issue is an ongoing debate, because the UN Charter recognises the territorial integrity and political independence of all States, and the use of military intervention justified as a humanitarian action is ethically and legally questionable. Furthermore, the delicate question of whether humanitarian intervention can ever be purely philanthropic and actually apolitical, even in cases of violations of human rights, remains unanswered.

7.3.5 Modal Adjectives

Modal adjectives are evaluative adjectives expressing a modal force. Also adjectives belonging to the modal category can be vague, if there is no clear specification of a normative ordering source. As a matter of fact: “when the ordering source for a modal adjective is unspecified, the modal phrase is vague, and the adjective will be responsible for its vagueness.” (Fjeld 2005: 167).

Modal adjectives are speaker-oriented adjectives expressing a modal force ranging from necessity to desirability. The adjectives found in SCRIraq1 are listed in Table 37 on the basis of Fjeld’s (2005: 165) classification of modal adjectives:

Modal Adjectives Used in SCRIraq1	
Modal Adjectives	Frequency
<i>Essential</i>	11

Fundamental	2
Vital	3
<i>Important</i>	2
Necessary	37
Possible	8
If	5
Whether	3

Table 37: Modal adjectives in the Iraq corpus

After a close analysis of these adjectives in their context, it has been noticed that apart from the typical deontic modality, many of the modal adjectives used in SCR Iraq1 can be categorised as expressing teleological or circumstantial modality. Circumstantial modality is concerned with what is “possible or necessary, given a particular set of circumstances”, while teleological modality concerns what “means are possible or necessary for achieving a particular goal” (Coates 1983: 18).

The deontic modality expressed by modal adjectives in this corpus is based on a set of moral or legal principles, while the function of issuing directives, permissions or obligations is left to modal verbs.

The modal adjective ‘necessary’ has the highest frequency in the corpus. It is related to what is “needed for a purpose or a reason or that must exist or happen and cannot be avoided” In order to weigh the degree of vagueness of this adjective, its use in context is shown in Table 38 and Table 39, the first including occurrences of ‘necessary’ expressing teleological modality, while the second includes the occurrences of the modal expressing circumstantial modality:

Rank	KWIC		
1	the Security Council, including any clarification	necessary	for the implementation of resolution 1284 1999);
2	on 678 (1990) authorized Member States to use all	necessary	means to uphold and implement its resolution 660
3	resolution 687 (1991) imposed obligations on Iraq as a	necessary	step for achievement of its stated objective of r
4	s of Iraq addressed to the Secretary-General is a	necessary	first step toward rectifying Iraq’s continued failure
5	Calls on Iraq immediately to take the decisions	necessary	in the interests of its people and the region; 3.
6	1995) on an exceptional and reimbursable basis as	necessary	to ensure the delivery of essential humanitarian
7	costs of milling, transportation and other costs	necessary	to facilitate the delivery of essential humanitarian
8	by providing food, medical supplies, and resources	necessary	for reconstruction and rehabilitation of Iraq’s e
9	the Authority, including by taking the following	necessary	measures: (a) to facilitate as soon as possible t
10	which recourse to such proceeds or obligations is	necessary	to satisfy liability for damages assessed in conn
11	blished under resolution 687 (1991) are no longer	necessary	to protect against threats to international security
12	international force under unified command to take all	necessary	measures to contribute to the maintenance of secu
13	ty in Iraq, including for the purpose of ensuring	necessary	conditions for the implementation of the timetable
14	needs of the Iraqi people by providing resources	necessary	for the rehabilitation and reconstruction of Iraq
15	tional force shall have the authority to take all	necessary	measures to contribute to the maintenance of secu

16	and bilateral donors to take the immediate steps necessary to provide their full range of loans and other fi
----	--

Table 38: Concordances of teleological ‘necessary’ in SCRIraq1

R	KWIC
1	urges for its implementation and to consider any necessary adjustment and further decides that the first success
2	that the first such review and consideration of necessary adjustment shall be conducted prior to the end of
3	include in the report recommendations on any necessary revision of the Goods Review List and its procedure
4	Ton 5 December 2002; 2. Decides to consider) necessary adjustments to the Goods Review List (S/2002/515
5	d to include in the report recommendations on any necessary revision of the Goods Review List and its procedure
6	rn Standard Time, on 5 December 2002 and consider necessary adjustments to the Goods Review List (S/2002/515
7	egur agenda and recommend to the Security Council necessary additions to, and/or deletions from, the Goods Re
8	population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if
9	o undertake as an urgent first step, and with the necessary coordination, the following measures: (a) to establish
10	-direct shipments of goods to those locations, as necessary ; (b) to review, as a matter of urgency, the approval
11	he precise location of contracted goods and, when necessary , to require suppliers to delay, accelerate or div
12	r divert shipments; (d) to negotiate and agree on necessary adjustments in the terms or conditions of these c
13	raphs 8 (a) and (b) of resolution 986 (1995), as necessary and appropriate, to compensate suppliers and ship
14	eneral to perform additional functions with the necessary coordination as soon as the situation permits as
15	in need of assistance and to make available all necessary facilities for their operations and to promote the
16	arian relief of the people of Iraq, including, as necessary , negotiating adjustments in the terms or condition
17	gotiating, in the most cost effective manner, any necessary settlement payments, which shall be made from the
18	that all States shall take any steps that may be necessary under their respective domestic legal systems to
19	ption and to consider further steps that might be necessary ; 26. Calls upon Member States and international a
20	including by providing international experts and necessary resources through a coordinated programme of dono
21	such agreements and other arrangements as may be necessary in this regard, and requests creditors, institute

Table 39: Concordances of circumstantial ‘necessary’ in SCRIraq1

Most occurrences of ‘necessary’ express a teleological modality, which, by specifying a goal, give a broad degree of limit to what is ‘necessary’:

(139) 28. Welcomes the commitments of many creditors, including those of the Paris Club, to identify ways to reduce substantially Iraq’s sovereign debt, calls on Member States, as well as international and regional organizations, to support the Iraq reconstruction effort, urges the international financial institutions and bilateral donors to take the immediate **steps necessary** to provide their full range of loans and other financial assistance and arrangements to Iraq, recognizes that the Interim Government of Iraq will have the authority to conclude and implement such agreements and other arrangements as may be **necessary** in this regard, and requests creditors, institutions and donors to work as a priority on these matters with the Interim Government of Iraq and its successors [...].(S/RES/1518 (2003))

(140) Recognizing that the continued operation of UNIKOM and a demilitarized zone established under resolution 687 (1991) are no longer **necessary** to protect against threats to international security posed by Iraqi actions against Kuwait [...]. (S/RES/1490 (2003))

Although many occurrences indicate the purposes for which something or an action is necessary, the word still retains its subjective nature of interpretation. This can be seen especially when ‘necessary’ is used as an adjective. The following Table 40 shows the frequency of the ‘necessary + noun’ pattern:

Frequency of the ‘Necessary + Noun’ Pattern in SCRIraq1		
Rank	Frequency	Clusters
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
14	2	resources necessary
15	1	costs necessary
16	1	decisions necessary
17	1	steps necessary

Table 40: Clusters of the ‘necessary+ noun’ pattern in SCRIraq1

Some occurrences of ‘necessary’ in SCRIraq1 have been notoriously criticised for their subjective interpretability and vagueness. The examples below are alleged to have given the possibility of using military intervention in Iraq, because expressions such as ‘all necessary measures’ or ‘all necessary means’ allow infinite interpretations:

(141) 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))

(142) 8. Urges all parties concerned, consistent with the Geneva Conventions and the Hague Regulations, to allow full unimpeded access by international humanitarian organizations to all people of Iraq in

need of assistance and to make available all **necessary** facilities for their operations and to promote the safety, security and freedom of movement of United Nations and associated personnel and their assets, as well as personnel of humanitarian organizations in Iraq in meeting such needs [...]. (S/RES/1472 (2003))

Another use of ‘necessary’ is with circumstantial modality. The vagueness of the adjective *per se*, added to 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):

(143) 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))

(144) 16. Requests also that the Secretary-General [...]:

(a) to facilitate as soon as possible the shipment and authenticated delivery of priority civilian goods as identified by the Secretary-General and representatives designated by him, in coordination with the Authority and the Iraqi interim administration, under approved and funded contracts previously concluded by the previous Government of Iraq, for the humanitarian relief of the people of Iraq, including, as **necessary**, negotiating adjustments in the terms or conditions of these contracts and respective letters of credit as set forth in paragraph 4 (d) of resolution 1472 (2003); [...]. (S/RES/1483 (2003))

In SCRIraq1, circumstantial modality is further expressed by means of ‘if’, ‘whether’ and the adjective ‘possible’. According to *the Oxford Advanced Learner’s Dictionary*, ‘if’ is used to say that “something can, will or might happen or be true, depending on another thing happening or being true”, while the more formal ‘whether’ is used to “express a doubt or choice between two possibilities.” ‘Possible’ has several definitions expressing different types of modality. If it expresses something “being within the limits of ability, capacity, or realization” it expresses dynamic modality; if it describes “something that may or may not occur” it expresses a circumstantial modality and if it is used to indicate “something that may or may not be true or actual” it expresses an epistemic modality.

In SCRIraq1, all occurrences of ‘if’, ‘whether’ and ‘possible’ have a circumstantial meaning:

(145) 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**, and in no case later than 31 January 2005, to a Transitional National Assembly, which will, inter alia, have responsibility for forming a Transitional Government of Iraq and drafting a permanent constitution for Iraq leading to a constitutionally elected government by 31 December 2005 [...]. (S/RES/1546 (2004))

(146) 3. Decides that the mandate of the Committee referred to in paragraph 1 above will be kept under review and to consider the **possible** authorization of the additional task of observing Member States' fulfilment of their obligations under paragraph 10 of resolution 1483 (2003) [...]. (S/RES/1518 (2003))

Thus, the actual meaning of all these modal adjectives depends on the interpretation that is given by the ordering source.

7.3.6 Consequence Adjectives in SCR Iraq 1

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 the Iraq corpus is "serious consequences", and although there is only one occurrence in the Iraq corpus, it has played an important role due to its vagueness and its subjective interpretability:

(147) 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))

Analysing all the UN Security Council Resolutions issued since 1946, it has been noticed that the expression in the future tense 'will face serious consequences' has been used for the first time in this resolution S/RES/1441(2002), while the pattern 'serious consequences' has been used other three times, two of which in a way similar to how it has been used in the Iraq case.

Example (148) below is retrieved from S/RES/1137 (1997) relating to the First Gulf War:

(148) Recalling further the Statement of its President of 29 October 1997 (S/PRST/1997/49) in which the Council condemned the decision of the Government of Iraq to try to dictate the terms of its compliance with its obligation to cooperate with the Special Commission, and **warned of the serious consequences** of Iraq's failure to comply immediately and fully and without conditions or restrictions with its obligations under the relevant resolutions [...]. (S/RES/1137 (1997))

This expression actually reported a statement by the then Security Council President Juan Somavia, from Chile⁷⁸:

The Security Council warns of the **serious consequences** of Iraq's failure to comply immediately and fully with its obligations under the relevant resolutions. The Council is determined to ensure rapid and full Iraqi compliance with the relevant resolutions and for that purpose will remain actively seized of the matter. (S/PRST/1997/49)

Another case, from S/RES/1209 (1998) dealing with illicit arms flows to and in Africa restricts the application of 'serious consequences' to the fields of "development and humanitarian situation in the continent":

(149) 1. Expresses its grave concern at the destabilizing effect of illicit arms flows, in particular of small arms, to and in Africa and at their excessive accumulation and circulation, which threaten national, regional and international security and **have serious consequences for development and for the humanitarian situation in the continent** [...]. (S/RES/1209 (1998))

This restriction does not occur in the following example, from S/RES/871 (1993) relating to the war in former Yugoslavia:

(150) 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

⁷⁸ Source:<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N97/291/26/PDF/N9729126.pdf?OpenElement>(Last accessed: June 2011).

Security Council including those relating to the United Nations peace-keeping plan for the Republic of Croatia [...]. (S/RES/871(1993))

Resolution S/RES/871 (1993) above is related to the Serbian/Croatian war of independence. It is worth to have a closer look at the historic background of this resolution for the purposes of this study, because in this case, ‘serious consequences’ had a different historical outcome from the Iraq S/RES/1441 (2002) case.

As a matter of fact, initially the UN didn’t 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”⁷⁹. However, the UN intervened with a peace-keeping operation led by UNPROFOR (United Nations Protection Force), appealing to Chapter VII of the Charter permitting whatever measures necessary “to maintain or restore international peace and security.” Acting under Chapter VII of the United Nations Charter, S/RES/871(1993) authorised the use of force by UNPROFOR acting in self-defense to ensure its security and freedom of movement.

However, although UNPROFOR was given increasing coercive responsibilities, the force was not given the authority or the means to carry out the Chapter VII tasks. Actually, UNPROFOR was essentially a humanitarian intervention, accompanying UNHCR relief activities. It was accused of ‘false humanitarianism’ because the UN gave assistance but it did not protect fundamental human rights, by attempting to stop terrorism and ethnic cleansing. On the grounds of proven violation of human rights it has been argued that a much more aggressive UN intervention should have taken place to stop abuses such as genocide and the large-scale movement of people. In this case, ‘serious consequences’ did not receive the interpretation of UN military intervention, as happened instead for Iraq.⁸⁰

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).

⁷⁹Source: <http://un.org/en/documents/charter/chapter1.shtml> (Last accessed: June 2011).

⁸⁰Source: <http://www.aph.gov.au/library/pubs/rp/1995-96/96rp15.pdf> (Last accessed: June 2011).

With reference to the acceptance of the Sudanese government of a UN peacekeeping force to end the violence in Sudan's Darfur region, in 2006 the former U.S. Secretary of State Condoleezza Rice demanded an immediate cease-fire and stated that the U.S. was "conferring with rebels who want[ed] peace" and that it was "seeking to address their legitimate concerns, and [would] support them if they chose peace." However, she added "if the rebels refuse, then they will face serious consequences, including targeted UN sanctions."⁸¹ Since that time, the expression 'serious consequences' has been concretised into new U.S. economic sanctions against Sudan and the U.S. ushered in the passage of S/RES/ 1769 on July 31, 2007, which deployed a joint African Union/United Nations peacekeeping force to Darfur (UNAMID).

However, the conflict remains unsolved, and according to the UN Darfur 2008 report⁸², some 2.7 million people have fled their homes since the conflict began, and about 300,000 have died, mostly from diseases. Thus in this case the expression 'serious consequences' did not lead to the end of the issue.

The expression has also been used in international political opinions related to Iran. The former Vice President of the United States Dick Cheney used it in his October 21, 2007 speech to the Washington Institute for Near East Studies⁸³, warning Iran that it will face 'serious consequences' if it refuses to stop enriching uranium:

The Iranian regime needs to know that if it stays on its present course, the international community is prepared to impose serious consequences [...]. The United States joins other nations in sending a clear message: We will not allow Iran to have a nuclear weapon [...].

Cheney did not specify whether those consequences would include military action or not.

On January 28, 2008, the counterpart represented by Iran Foreign Minister Manouchehr Mottaki warned of 'serious consequences' if the UN Security Council adopted further sanctions against Iran for its refusal to halt sensitive nuclear work. Commenting on the Security Council review

⁸¹ Source: <http://www.washingtonpost.com/wp-dyn/content/article/2006/09/27/AR2006092701362.html> (Last accessed: June 2011).

⁸² Source: http://www.unsudanig.org/docs/DHP33_narrative_1%20October%202008.pdf (Last accessed: June 2011).

⁸³ Source: http://www.whitehouse.gov/briefing_room/ (Last accessed: June 2011).

of a proposed third set of sanctions over Tehran’s refusal to halt uranium enrichment, 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 Iraq case has now become a tool used by a single state towards UN.

7.3.7 Weasel Nouns in SCRIraq1

Some nouns found in UN Resolutions relating to Iraq and listed in Table 41 are also characterized by a degree of vagueness:

Weasel nouns	Frequency
Existence of weapons of mass destruction	5
Chemical, nuclear and biological weapons	1
Terrorism, terrorists, terrorist (adj)	15
Medicine, Health supplies, Foodstuffs and other Materials and other Supplies	14
Democracy, democratic Iraq, democratic government, democratic elections, democratically elected government	6
Sustainable development	2

Table 41: Weasel nouns in SCRIraq1

The meaning and background of these words will be discussed in the following paragraphs.

7.3.7.1 Existence of Weapons of Mass Destruction

A crucial topic connected to weasel words is about ‘weapons of mass destruction’, one of the main *casus belli* appealed to for asking UN authorization for war.

The UN was particularly concerned with the issue and concretely operated through IAEA and UNMOVIC to attempt to find evidence of existence of such material and provide for disarmament:

- (151) Deploring the absence, since December 1998, in Iraq of international monitoring, inspection, and verification, as required by relevant resolutions, of **weapons of mass destruction** and ballistic missiles, in spite of the Council's repeated demands [...]. (S/RES/1441(2002))
- (152) Deploring the fact that Iraq has not provided an accurate, full, final, and complete disclosure, as required by resolution 687 (1991), of all aspects of its programmes to develop **weapons of mass destruction** and ballistic missiles with a range greater than one hundred and fifty kilometres, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes, including any which it claims are for purposes not related to **nuclear-weapons-usable material** [...]. (S/RES/1441(2002))

This issue is one of the vaguest because it includes a wide range of items, such as concrete weapons, dual-use items, and unaccounted items, which give an endless interpretation to the word. The discovery of this material was of fundamental importance to the United States coalition to justify their action in Iraq. In the aftermath of war, many reports such as the ones by UNMOVIC and the Iraq Survey Group (ISG) revealed that no evidence of weapons of mass destruction (WMD) had ever been found in Iraq. However, statements released from the UNMOVIC continued to have a vague and uncertain flavour, perpetuating elusiveness on the issue.

As a matter of fact, the WMD Commission's Executive Chairman Dr Hans Blix, introducing the thirteenth quarterly report of the UNMOVIC, said that apart from the Al Samoud 2 missiles, 50 of which had been destroyed under the Commission's supervision, significant quantities of proscribed items had not been found. That did not necessarily mean that such items could not exist. But long lists of items remained unaccounted for and "it [was] not justified to jump to the conclusion that something exists just because it is unaccounted for."⁸⁴

Moreover, the Pentagon and Central Intelligence Agency organised the Iraq Survey Group (ISG), a 1,400-member international team to hunt for the alleged stockpiles of WMD, including chemical and biological agents, and any supporting research programmes and infrastructure that could be used to develop WMD, which had been the main ostensible reason for the invasion of Iraq. The ISG was sent in Iraq after the 2003 invasion.

⁸⁴ Source: <http://www.un.org/apps/news/story.asp?NewsID=7319&Cr=Iraq&Cr1=inspect> (Last accessed: June 2011).

The findings of the CIA and the DCI Special Advisor Report on Iraq's WMD⁸⁵ (also known as the Duelfer report), dated September 30, 2004 are listed below:

Weapons Delivery System:

- The Iraq Survey Group (ISG) has uncovered no evidence Iraq retained Scud-variant missiles, and debriefings of Iraqi officials in addition to some documentation suggest that Iraq did not retain such missiles after 1991.
- While other WMD programs were strictly prohibited, the UN permitted Iraq to develop and possess delivery systems provided their range did not exceed 150 km. This freedom allowed Iraq to keep its scientists and technicians employed and to keep its infrastructure and manufacturing base largely intact by pursuing programs nominally in compliance with the UN limitations. This positioned Iraq for a potential breakout capability.

Nuclear Key Findings:

- Although Saddam clearly assigned a high value to the nuclear progress and talent that had been developed up to the 1991 war, the program ended and the intellectual capital decayed in the succeeding years.
- Nevertheless, after 1991, Saddam did express his intent to retain the intellectual capital developed during the Iraqi Nuclear Program. ISG, for example, uncovered two specific instances in which scientists involved in uranium enrichment kept documents and technology. Although apparently acting on their own, they did so with the belief and anticipation of resuming uranium enrichment efforts in the future.
- Aggressive UN inspections after Desert Storm forced Saddam to admit the existence of the program and destroy or surrender components of the program.

Chemical Key Findings

- Although Saddam and many Iraqis regarded CW as a proven weapon against an enemy's superior numerical strength and a small number of old, abandoned chemical munitions have been discovered, ISG

⁸⁵ Source: https://www.cia.gov/library/reports/general-reports-1/iraq_wmd_2004/Comp_Report_Key_Findings.pdf (Last accessed: June 2011).

judges that Iraq unilaterally destroyed its undeclared chemical weapons stockpile in 1991. There are no credible indications that Baghdad resumed production of chemical munitions thereafter, a policy ISG attributes to Baghdad's desire to see sanctions lifted, or rendered ineffectual, or its fear of force against it should WMD be discovered.

- ISG did not discover chemical process or production units configured to produce key precursors or CW agents. However, site visits and debriefs revealed that Iraq maintained its ability for reconfiguring and 'making-do' with available equipment as substitutes for sanctioned items. ISG uncovered information that the Iraqi Intelligence Service (IIS) maintained throughout 1991 to 2003 a set of undeclared covert laboratories to research and test various chemicals and poisons, primarily for intelligence operations.

Biological Key Findings:

- There is no indication of resumed nuclear activities in those buildings that were identified through the use of satellite imagery as being reconstructed or newly erected since 1998, nor any indication of nuclear-related prohibited activities at any inspected sites. There is no indication that Iraq has attempted to import uranium since 1990.

Briefly summarising Iraq's position of the basis of UNMOVIC and the ISG report, there is no evidence that Iraq had nuclear, chemical or biological WMD at the break out of the Second Gulf War. Instead, it has been demonstrated that some U.S. troops have used chemical weapons against Iraqis: on November 16, 2005, the Pentagon "acknowledged using incendiary white-phosphorus munitions in a 2004 offensive against insurgents in the Iraqi city of Fallujah and defended their use as legal, amid concerns by arms control advocates"⁸⁶ According to this news, while seeking for UN authorisation for war to unveil Iraq's alleged WMD power, the U.S. itself used chemical weapons during the war, breaching the UN Chemical Weapons Convention (CWC)⁸⁷ that prohibits the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons by States Parties.

The issue of the alleged presence of weapons of mass destruction in Iraq seems to remain unsolved. The ISG concluded that actually Saddam's ambitions in these areas were secondary to his prime objective of ending UN sanctions. It cannot be known if he would have reviewed his intentions after the removal of sanctions.

⁸⁶ Source: <http://www.globalsecurity.org/org/news/2005/051117-white-phosphorus.htm> (Last accessed: June 2011).

⁸⁷ Source: <http://www.opcw.org/chemical-weapons-convention/> (Last accessed: June 2011).

However, the alleged presence of ‘vague’ weapons of mass destruction has given strength to the U.S. pre-emption theory, but has revealed to be vacuous in the aftermath of the war, as the lack of evidence of weapons of mass destruction did not provide any proof to justify the war.

7.3.7.2 ‘Terrorism’ in SCRIraq1

‘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 Estimate⁸⁸, 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 SCRIraq1 refer mostly to ‘terrorism’ in general, condemning all acts and feeling sympathy for some specific actions connected to proofed terroristic attacks:

- (153) 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**, and requests Member States and international

⁸⁸ Source: http://www.dni.gov/press_releases/Declassified_NIE_Key_Judgments.pdf (Last accessed: June 2011).

organizations to assist the Government of Iraq in building the capability of these Iraqi institutions [...]. (S/RES/1546(2004))

- (154) 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 [...]. (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:

- (155) 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, In that context, recalling and reaffirming the statement of its President of 20 August 2003 (S/PRST/2003/13) and resolution 1502 (2003) of 26 August 2003 [...].(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 conference⁸⁹, 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.

⁸⁹ Source: <http://www.counterpunch.org/rooij04012003.html> (Last accessed: June 2011).

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.”⁹⁰ 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’.

7.3.7.3 ‘Medicine, Health Supplies, Foodstuffs and other Materials and Supplies’

Resolutions relating to the second war in Iraq appeal to the need for ‘adequate medicine, health supplies, foodstuffs and other materials and supplies for essential civilian needs’. These words, which could seem neutral, have created problems for their vagueness and generality. Examples found in the corpus are included below:

(156) 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**

⁹⁰ Source: <http://www.washingtonpost.com/wp-dyn/articles/A7460-2005Jan13.html> (Last accessed: June 2011).

needs represented in these contracts which can be shipped within the period of this mandate, to proceed with these contracts in accordance with such priorities [...]. (S/RES/1472 (2003))

(157) 2. Calls upon all Member States in a position to do so to respond immediately to the humanitarian appeals of the United Nations and other international organizations for Iraq and to help meet the humanitarian and other needs of the Iraqi people by providing **food, medical supplies, and resources necessary for reconstruction and rehabilitation of Iraq's economic infrastructure** [...]. (S/RES/1483 (2003))

(158) Relative to the Protection of Civilian Persons in Time of War of August 12, 1949), to the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and **medical supplies** of the population; it should, in particular, bring in the **necessary foodstuffs, medical stores and other articles** if the resources of the occupied territory are inadequate [...]. (S/RES/1472 (2003))

As in other cases already analysed, also the linguistic analysis of these expressions needs to be integrated with an explanation of some historic and political background information in order to be fully understood.

The *Oil-for-Food* programme, established by the United Nations in 1995 with S/RES/986(1995) and terminated in 2003, was established with the stated intent to allow Iraq to sell oil at an international level in exchange for food, medicine, and other humanitarian needs for ordinary Iraqi citizens. S/RES/661(1990) had limited exports to Iraq for medical supplies, foodstuffs, and other items relating to humanitarian needs, and the UN required that all 'dual-use' (civilian and military) goods requested by Iraq had to be approved by a UN Sanctions Committee prior to exportation.

However, in the period between 1990 and 1996, UN Member States were allowed a free and thus subjective interpretation of what hypothetical 'dual-use goods' were suitable for export to Iraq.

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' items contained in the so-called '1051 List' annexed to the resolution. This list of dual-use goods was later modified by S/RES/1409 (2002) becoming the basis of 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; Member States were permitted to sell dual-use goods not included on the GRL with the

approval of the Sanctions Committee, while exports of goods described by the GRL had to be submitted to the UN for further consideration and approval. Military goods, including equipment, component parts, technology, and software (for the development and production of military goods) were banned for export to Iraq.

Notwithstanding a further expansion of the already 300-pages Goods Review List with S/RES/1454(2003), the general expressions ‘medicine, health supplies, foodstuffs and other materials and supplies for essential civilian needs’ have been vague and general enough to potentially allow the exportation of actually anything.

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 the importation of these products were technically legal under the international sanctions regime in place since Iraq’s August 2, 1990 invasion of Kuwait.⁹¹

In the case of the second war in Iraq, 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 have allowed the entrance of some uncontrolled hypothetical dual-use items, among which there were suspected WMD-related dual-use goods.

The Iraq Survey Group (ISG)⁹² has made a list of contracts, attempted transactions, and suspected dual-use goods found in Iraq. The following Table 41 includes examples of these items divided in the groups of ‘possible violations of UN Sanctions for chemical items’, ‘biological dual-use related procurement’, ‘possible procurement of dual-use drugs’, and ‘nuclear dual-use related procurement’.

These goods could have had a dual-use and consequently could have been imported thanks to the vagueness of general terms used in resolutions or to the incompleteness of the GRL, and thus used by Iraq for the development of WMD. However, without full technical specifications of the items or

⁹¹ Source: <http://fpc.state.gov/documents/organization/19851.pdf> (Last accessed: June 2011).

⁹² The Iraq Security Group (ISG) was a fact-finding mission sent by the multinational force in Iraq after the 2003 Invasion of Iraq to find the alleged Iraqi weapons of mass destruction (WMD) that had been the main ostensible reason for the invasion.

knowledge of whether UN approval was granted, ISG could not determine whether UN sanctions have been actually breached.

Possible Violations of UN Sanctions for Chemical items		
France	2001—Attempt To Procure Mobile Laboratory Trucks	A French firm known for violating UN sanctions submitted a request for bids to a South Korean and a German company for 20 mobile laboratory trucks in August 2001. The end-user for the trucks was purported to be the Iraqi General Company for Water and Sewage.
India	1999—NEC Company Assists Iraq in the Purchase of Chemical Equipment and Precursors	<p>Reportedly, the Indian company NEC and the Iraqi company Al-Basha'ir combined resources in 1999 to set up a front company called Technology Trading S.A. (TTSA). TTSA appeared to conduct research on herbicides, pesticides and other agriculture-related issues. Baghdad could have directed TTSA to research and development of chemical dual-use programs for the Iraqi government.</p> <ul style="list-style-type: none"> •Iraq used TTSA and NEC to purchase chemical laboratory equipment and precursors from India. •These items were shipped by land via the Syrian and Jordanian borders using false cargo manifests and bribes to preclude customs inspections.
Biological Dual-Use Related Procurement		
Austria	2001—Negotiations to Procure Autoclaves	<p>AGMEST and the Al Rafad Scientific Bureau for Promoting Drugs and Medical Appliances, both located in Baghdad, negotiated a contract for the Iraqi Ministry of Health for autoclaves from an Austrian firm in early 2001.</p> <ul style="list-style-type: none"> •Two of the autoclaves were reportedly intended for the Vaccine and Serum Institute in Baghdad, a probable reference to the Amiriyah Serum and Vaccine Institute (ASVI).
Germany	2001—Attempts To Acquire Biotechnology and Biological Weapons-Related Technology and Expertise	<p>The Amman, Jordan office of the Iraqi front company Winter International forwarded offers for dual-use laboratory equipment from a German firm to the Winter International office in Baghdad, in March 2001. The end-user of this equipment was purported to be the Iraqi MoI. The equipment offered included:</p> <ul style="list-style-type: none"> • •A refrigerated ultracentrifuge, a micro centrifuge, a low temperature freezer (between -30 and -80 degrees Celsius), and an automatic DNA-analysis system with mono-laser. This equipment is on the UN dual-use monitoring lists and would have required verification. •
Italy	2002—Attempt To Procure Biotechnology and Bio Weapons Related	In January 2002, the Al-Mazd Group for Medical and Engineering Systems and Technology (AGMEST) in Baghdad requested a quotation for 10 freeze dryers through the Iraqi Ministry of Health

	Technology and Expertise 2002—Attempt To Procure Dual-Use Autoclaves	from an Italian firm. In March 2002 the Iraqi firm Al Mutasem Engineering used a Jordanian intermediary company, to contact an Italian firm and receive a price quote for dual-use autoclaves. •Autoclaves are commonly used in laboratories to sterilize equipment. They are not a vital part of a BW program as there are other means to sterilize equipment.
Turkey	2002—Procurement of CBW Protective Equipment	A Turkish firm sold and transferred atropine auto injectors to the Iraqi government starting in August 2002. The company also provided coordination in response to Iraqi requests for chemical protective equipment, unspecified laboratory chemicals and biological growth media.
Possible procurement of Dual-Use Drugs		
India	2003— Ciprofloxacin	In January 2003, an Indian firm offered to deliver 10 metric tons of bulk Ciprofloxacin to the Iraqi State Company for Manufacturing of Drugs and Medical Appliances, Kimadia's Samarra Drug Industries. •Ciprofloxacin is a widely used antibiotic that could also be used to treat Anthrax infection. It was specifically added to the UN Goods Review List (GRL), pursuant to UNSCR 1454. •Iraq's procurement and stockpiling of Ciprofloxacin would have facilitated the country's employment of BW against coalition forces, Iraq's neighbours, and/or its own citizens. •There is insufficient data available to confirm the completion of this deal.
India	2003—Transfer of Hormone Tablet Production Manufacturing Technology	An Indian firm working through representatives of the Syrian Group Company (SGC) Baghdad offices provided an offer for a hormone tablet facility to Iraq in late January 2003. The client for the facility was identified as "M/S Al-Amin" which is very likely the Al-Anaam Pharmaceutical Company.
Nuclear Dual-Use Related Procurement		
Romania	2000—Production Lines of Anisotropic and Isotropic Cast AlNiCo Magnets	The MIC Company Al-Tahadi had two contracts for production lines for magnets. The first contract was signed in approximately 2000 with a Romanian company, Uzinimportexport, for production lines of both anisotropic and isotropic cast AlNiCo magnets. •The contract was worked through the private front company Al-Sirat. •Al-Tahadi received other offers for this production line. For example, an Indian company, NEC bid on the contract through the front company Al-Najah, but the Romanian company had a better price. •Al-Tahadi did not receive equipment or materials from this contract.

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Table 42: Contracts, attempted transactions, and suspected dual-use goods found in Iraq by the ISG

These are only some items in the ISG list which have been brought in Iraq. It is not possible to have knowledge of the items which have been brought in Iraq during the 1990-1996 period, in which the approval of what ‘medicine, health supplies, foodstuffs and other materials and supplies for essential civilian needs’ were adequate and permissible depended on the subjective interpretation of UN Member States and of individuals of the Sanction Committee. 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.

7.3.7.4 ‘Democracy’

Another weasel noun used in SCRIraq1 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 Bratton⁹³ 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.

⁹³ 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).

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.”⁹⁴ 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 SCRIraq1, 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:

(159) 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))

(160) 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, and in no case later than 31 January 2005, to a Transitional National Assembly, which will, inter alia, have

⁹⁴ Source: <http://addm.az.iatp.net/conen.html> (Last accessed: June 2011).

responsibility for forming a Transitional Government of Iraq and drafting a permanent constitution for Iraq leading to a constitutionally elected government by 31 December 2005 [...]. (S/RES/1546(2004))

(161) 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%.⁹⁵ Kofi Annan commented in a statement⁹⁶: "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 Iraq1.

⁹⁵ Source: <http://www.undp-pogar.org/countries/theme.aspx?t=3&cid=6> (Last accessed: June 2011).

⁹⁶ Source: <http://www.un.org/apps/news/story.asp?NewsID=16954&Cr=Iraq&Cr1=elections> (Last accessed: June 2011).

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.

7.3.7.5 Sustainable Development

Another weasel expression used when the future of Iraq is referred to in SCR1483 is ‘sustainable development’. The proliferation of definitions of this expression is an evidence of its contestability and vagueness. The most widely used definition, used in the Brundtland Report⁹⁷, is that “sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

‘Sustainable development’ seems to promise something to everyone. Some aims include the elimination of poverty, global equity, reductions in military expenditure, wider use of technologies, democratisation of institutions and a shift away from consumerist lifestyles.

The vagueness of the expression comes out also when “the needs of the present” have to be concretely defined. It is not clear whose needs have to be fulfilled, because citizens’ needs are not the same all around the world and the different interpretations of ‘sustainable development’ range from technocentric to ecocentric points of view. The vagueness and elusiveness of this concept may also have a political strength. Its optimistic message promotes new possibilities for everyone, but not even Agenda 21⁹⁸ sets out the policies and instruments needed for concrete sustainable development.

When resolutions relating to Iraq cite ‘sustainable development’, no further explanations on how to interpret and concretely realise this aim are given:

- (162) 8. Resolves that the United Nations, acting through the Secretary-General, his Special Representative, and the United Nations Assistance Mission in Iraq, should strengthen its vital role

⁹⁷ Source: <http://www.fathom.com/course/21701763/session2.html> (Last accessed: June 2011).

⁹⁸ Agenda 21 is a comprehensive plan of action to be taken globally, nationally and locally by organizations of the United Nations System, Governments, and Major Groups in every area in which human impacts on the environment. Source: <http://www.un.org/esa/dsd/agenda21/> (Last accessed: June 2011).

in Iraq, including by providing humanitarian relief, promoting the economic reconstruction of and conditions for **sustainable development** in Iraq, and advancing efforts to restore and establish national and local institutions for representative government [...]. (S/RES/1511 (2003))

The strategy -and the willingness- to go towards a sustainable development of Iraq are not clear.

In Iraq, the war of occupation, the near total destruction of infrastructures, desertification, political corruption, and mismanagement of resources have created serious damages to Iraqi ecosystems, which were some of the most important in the world.

As a matter of facts, according to Global Research⁹⁹, Iraq has the oldest agricultural traditions in the world. Historic, genetic and archaeological evidence, including radiocarbon dating of carbon-containing materials, show that the area of the Fertile Crescent, including modern Iraq, dated around 8000 BC, has been the centre of domestication for today's primary agricultural crops and livestock animals. Many of Iraqi cereal varieties have been exported and adapted worldwide.

Agriculture, which should be one of the primary steps for sustainable development on the basis of the Iraqi citizens' needs, seems to be held in consideration for Iraq's 'sustainable development', but with negative scopes for Iraq citizens, fulfilling foreign 'needs'.

During the second Gulf war, the seed bank in Abu Ghraib, where Iraq had kept its precious natural seed varieties, vanished. Fortunately the Iraqi Agriculture Ministry had created a back-up seed bank in neighbouring Syria. During and after the war, corporate tax rates were drastically reduced allowing foreign companies to own 100% of Iraqi assets and take 100% of the profits earned out of the country, transforming Iraq into a capitalist paradise.

Moreover, Paul Bremer, the head of the Coalition Provisional Authority and U.S. Administrator to Iraq charged with overseeing that country's reconstruction after the 2003 invasion introduced some laws that were designed to transform Iraq's food production into a model for Genetically Modified or GMO agribusiness, thus destroying Iraq's agricultural system forever.

Bremer's Order 81 in particular facilitated the introduction of genetically modified crops or organisms (GMOs) to Iraq, aiming to force Iraqi farmers to plant so-called "protected" crop varieties

⁹⁹ Centre for Global Research on Globalization
<http://www.dailykos.com/story/2008/4/9/13738/98820/681/492574> (Last accessed: June 2011).

most likely genetically modified. U.S. agricultural biotechnology corporations, such as Monsanto and Syngenta would be the beneficiaries. Iraqi farmers were obliged to buy their seeds from these corporations by way of the Ministry of Agriculture which distributed GM seeds at discounted prices. Once farmers began using the seeds, under the regulations of Order 81, they would be forced to buy new seeds every year from the seed companies. Moreover, as per Order 81, cited by Global Research¹⁰⁰:

If a large international corporation developed a seed variety resistant to a particular Iraqi pest, and an Iraqi farmer was growing another variety that did the same, it was illegal for the farmer to save his own seed. Instead, he is obliged to pay a royalty fee for using Monsanto's GMO seed.

This procedure has been accused of being total 'biopiracy'¹⁰¹.

Therefore, the vagueness without further specification of the expression 'sustainable development' in the Iraq corpus in this case seems quite questionable. Who defines the criteria for a development that in the Iraqi case has almost led to the destruction of the world's most ancient agriculture? Does sustainable development mean the imposition of capitalistic rules and exploitation by another state with the total inaction of the UN?

A universally acceptable definition is needed, with a list of measurable criteria against which it would be possible to judge progress towards sustainability.

The words illustrated in this part of the research on weasel words have been seen to have contributed to the general vagueness of the resolutions relating to the second Gulf War. They have revealed the double face strength of such vague and general substantives. Weasel words are positive in the sense that they guarantee a wide degree of applicability; however, the subjective interpretability can become a source of manipulation or elusiveness, depending on the intentions of the interpreter of laws.

¹⁰⁰ Source: <http://www.globalresearch.ca/index.php?context=va&aid=1447> (Last accessed: June 2011).

¹⁰¹ Source; <http://www.organicconsumers.org/politics/iraq121305.cfm> (Last accessed: June 2011).

Chapter 8

Vagueness in Progress: A Linguistic and Legal Comparative Analysis between UN and U.S. Official Documents and Relevant Drafts

See, in my line of work, you got to keep repeating things over and over and over again for the truth to sink in, to kind of catapult the propaganda.

(George W. Bush)¹⁰²

8.1 Some Introductory Notes

As previously said in this research, vague language used in S/RES/1441(2002)¹⁰³ seems to have responded to the need to find some political compromise between UN State Members leaving the text open to different interpretations. The wording of the resolution had been at the centre of heated negotiations already from the onset of its draft, which was jointly proposed by the United States and the UK and it required several negotiations, especially with Russia, France, and China, which threatened of vetoing the document for its wording, as will be analysed below. During negotiation on the resolution a more cautiously worded document was asked for, especially to avoid formulae which could have triggered an authorization to use force. However, as a result the final version of S/RES/1441(2002) turned out to be extremely and deliberately vague, giving thus the possibility of infinite interpretations of its wording, including implicit authorization for war.

¹⁰² Speech held during the Social Security Conversation at the Athena Middle and High School in New York, on May 24, 2005. Source: <http://georgewbush-whitehouse.archives.gov/news/releases/2005/05/20050524-3.html> (Last accessed: June 2011).

¹⁰³ Source: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/682/26/PDF/N0268226.pdf?OpenElement> (Last accessed: June 2011).

The role of vagueness expressed in S/RES/1441 (2002) has a fundamental importance. The linguistic analysis of the final version of S/RES/1441(2002) compared to its draft with the addition of some background information relative to the approval of the definite version, reveals how strategically used vagueness has played a crucial role in UN resolutions related to Iraq, especially in the outbreak of the war and in relevant legislation produced by the United States for its Congressional authorization for war.

The American legislation related to the outbreak of war includes only one Public Law (P.L. 107 -273). However, before approving the final version, which can be considered as a national law approved to implement S/RES/1441(2002), the Congress had produced several not approved bills (both including joint resolutions and House and Senate resolutions, which are the two forms of legislation that become Public Laws if passed). The confrontation between both UN and U.S. drafts is important to reveal how the U.S. has legally interpreted UN legislation and to understand the purposes and consequences of vague language contained in them.

The hypothesis of a strategic use of vagueness in these documents is also confirmed by a letter¹⁰⁴ sent by the UK's Foreign Minister Jack Straw to the Attorney General, regarding his comments on the Attorney General's opinion on S/RES/1441(2002). This letter, dated 6 February 2003, has been part of secret documents only recently declassified. In particular, in this following 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 reference to this last 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":

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

¹⁰⁴ Source: http://www.iraqinquiry.org.uk/media/43520/doc_2010_01_26_11_05_30_485.pdf (Last accessed: June 2011).

‘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) referred to become evident in a linguistic analysis of confrontation between US/UK’s proposed draft and the amended version of the law, as will be seen in the following section of this research.

8.2 Comparative Analysis between S/RES/1441(2002) and its Draft

For an in-depth analysis, the main preambulatory and operative paragraph of the draft and of the final version of S/RES/1441(2002) will be quoted and then analysed subsequently. The analysis is composed of both a linguistic and legal interpretation: in addition to personal linguistic analysis, quotes from *An Analysis of the United Nations Security Council Resolution 1441* (hereinafter IPA1441) prepared by the U.S. Institute of Public Accuracy¹⁰⁵ are added, for a more specific legal analysis. The underlined parts indicate additions to the final version, while the omitted parts are crossed out.

In the first preambulatory clause of the final version of S/RES/1441(2002), resolutions referred to are re-organised in a chronological sequence according to the date of approval and reference to two more resolutions is added, namely S/RES/707 (1991)¹⁰⁶ and S/RES/715 (1991)¹⁰⁷:

(163) Adopted by the Security Council at its 4644th meeting, on 8 November 2002

The Security Council,

Recalling all its previous relevant resolutions, in particular its resolutions 661(1990) of 6 August 1990, ~~686 (1991) of 2 March 1991~~, 678 (1990) of 29 November 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 April 1991, 688 (1991) of 5 April 1991, 707 (1991) of 15 August 1991, 715

¹⁰⁵ Source: <http://www.accuracy.org/1027-an-analysis-of-the-united-nations-security-council-resolution-1441/> (Last accessed: June 2011).

¹⁰⁶ Source: <http://www.fas.org/news/un/iraq/sres/sres0707.htm> (Last accessed: June 2011).

¹⁰⁷ Source: <http://www.fas.org/news/un/iraq/sres/sres0715.htm> (Last accessed: June 2011).

(1991) of 11 October 1991, 986 (1995) of 14 April 1995, and 1284 (1999) of 17 December 1999,
and all the relevant statements of its President [...].

Recalling these two resolutions adds emphasis to the gravity of the historical context of S/RES/1441(2002), because they used a very strong wording against Iraq, with reference to the 1991 war. In particular, through S/RES/707(1991) the UN “condemned” Iraq’s violations of its obligations under S/RES/687(1991) regarding cooperation with the IAEA.

Of all the emotive words used in Security Council resolutions, the operative phrase ‘condemn’ is probably the strongest one that is commonly used “to express strong disapproval of; to sentence to severe punishment; and to pronounce guilty.”¹⁰⁸ Therefore, although the word ‘condemns’ is not expressly used in S/RES/1441(2002), it is indirectly evoked by recalling S/RES/707 (1991) in which it is mentioned.

As far as concerns the other resolution added in the final resolution, S/RES/715 (1991), this resolution among other things, demanded Iraq to “unconditionally” meet all its obligations and to “fully” cooperate with the IAEA.

‘Demands’ is another strong instructive word commonly used by the Security Council, to instruct the Entity or Entities of a resolution to cease hostilities or fighting. This resolution, as the others cited, requires once more Iraq to comply with its obligations, thus stressing Iraq’s perpetuating condition of non-compliance with what had been decided by the UN, increasing the gravity of Iraq’s condition at the time of S/RES/1441(2002).

The second preambulatory clause of S/RES/1441(2002) reads:

(164) Recalling also its resolution 1382 (2001) of 29 November 2001 and ~~noting the additional resolution [] issued by the Council as a companion hereto,~~ its intention to implement it fully
[...].

¹⁰⁸Source:<http://business.highbeam.com/408869/article-1G1-206988297/analysis-united-nations-security-council-resolutions> (Last accessed: July 2010).

The additions and omissions contained in this paragraph are quite puzzling. Professor Glen Rangwala, lecturer in politics and fellow of the Cambridge University in England¹⁰⁹ who has analysed this resolution with other members of the Institute for Public Accuracy in IPA1441, has commented:

Resolution 1382 does not commit the Council to lift economic sanctions -- either the import or the export prohibition -upon Iraqi compliance with its disarmament obligations: preambular paragraph 2 of 1382 only lists compliance in disarmament as a necessary, not sufficient, condition for the lifting of sanctions. According to reports, certain Council members wanted to relink Iraq's effective and verifiable disarmament to the lifting of sanctions. The U.S. and U.K. may present this preambular paragraph as a concession to this argument, but in reality it is no concession at all.

Moreover, the clause also omits reference to a "companion resolution" mentioned in the draft but it is not possible to know which is this "companion resolution" the paragraph referred to.

The fourth and fifth paragraphs have fundamental implicatures. These clauses have played a key role in the justification for war without the need of a new, explicit authorisation:

(165) *Recalling* that its resolution 678 (~~1991~~1990) authorized ~~member states~~ Member States to use all necessary means to uphold and implement its resolution 660 (1990) of 2 August 1990 and all relevant resolutions subsequent to ~~Resolution—resolution~~ 660 (1990) and to restore international peace and security in the area [...].

(166) *Further recalling* that its resolution 687 (1991) imposed obligations on Iraq as a necessary step for achievement of its stated objective of restoring international peace and security in the area [...].

In IPA1441, Rangwala supposes that the clauses suggest that:

[...] resolution 678 authorized the use of force to implement all resolutions on Iraq from 1990 to the present day. This is clearly untrue: 678 only justifies the use of force to implement resolutions on Iraq passed between 2 August and 29 November 1990. This is a position that has been repeated by Council members ad nauseam since 1991, with no state but the U.K. and U.S. holding anything other than a literal and meaningful construction of 678.

¹⁰⁹ All quotes by the members of the U.S. Institute for Public Accuracy Glen Rangwala, Sam Hussein, Jim Jennings, Phyllis Bennis, Rahul Mahajan and Michael Ratner, cited in this paragraph can be found in *An Analysis of the United Nations Security Council Resolution 1441* at <http://www.accuracy.org/1027-an-analysis-of-the-united-nations-security-council-resolution-1441/> (Last accessed: June 2011).

From a legal viewpoint, the revival theory as put forward by the UK/US proposal rests on the idea that the authorisation to use force in S/RES/678 (1990) was suspended, not terminated, by S/RES/687(1991). This means that the authorisation to use force laid dormant waiting for ‘further material breach’.

However, S/RES/ 678 (1990) was a collective measure enacted to facilitate the removal of a threat to international peace and so the same explicit authorization should have been waited for in the 2002/2003 case. Silence or lack of clarity in S/RES/1441 (2002) cannot detract from the UN Charter¹¹⁰, according to which military force cannot to be employed absent explicit authorisation decided by the Security Council under Chapter VII; otherwise the competence of the Security Council would have to be considered usurped.

The next original draft paragraph has been divided into two in the final resolution, to give more importance to each statement. In fact, the formula “immediate, unconditional, and unrestricted access”, is introduced in the first lines of the final version, giving more visual emphasis to it, while it was postponed in the draft.

(167) *Deploing further* that Iraq repeatedly ~~refused to allow~~ obstructed immediate, unconditional, and unrestricted access to sites designated by the United Nations Special Commission (UNSCOM), ~~refused~~ and the International Atomic Energy Agency (IAEA), failed to cooperate fully and unconditionally with UNSCOM and ~~International Atomic Energy Agency (IAEA)-IAEA~~ weapons inspectors, as required by resolution 687 (1991), and ultimately ceased all cooperation with UNSCOM and the IAEA in 1998, ~~and for the last three years has failed to~~ [...].

(168) *Deploing the absence, since December 1998, in Iraq of international monitoring, inspection, and verification, as required by relevant resolutions, of weapons of mass destruction and ballistic missiles, in spite of the Council’s repeated demands that Iraq* provide immediate, unconditional, and unrestricted access to the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), ~~established in resolution 1284 (1999) as the successor organization to UNSCOM, and the IAEA, as it was first obliged to do pursuant to resolution 687 (1991), and as the Council~~

¹¹⁰ Chapter VII confers on the Security Council the duty of determining the existence of any threat to the peace, breach of the peace, or act of aggression, and the duty of deciding what action should be taken to maintain or restore international peace and security (Article 39). Source: <http://www.un.org/en/documents/charter/index.shtml> (Last accessed: June 2011).

~~has repeatedly demanded that it do,~~ and the IAEA, and regretting the consequent prolonging of the crisis in the region and the suffering of the Iraqi people [...].

Moreover, the draft form reiterates the use of ‘refuse’ (‘refused to allow access’, ‘refused to cooperate fully and unconditionally with UNSCOM’), while the final version prefers to use ‘fail to cooperate’, which gives more the sense of not having respected conditions imposed by the UN. In the first paragraph, ‘refused to allow’ has been substituted with ‘obstructing’, probably because the former would have implied a less active sense than ‘obstructed’, thus reinforcing Iraq’s negative position of breach.

In the second paragraph, there is the addition of the preambulatory phrase ‘deplore’, usually used when the Entity of the resolution is perceived as violating customary international law, thus this choice gives strength and solemnity to the utterance. The substitution of “the Council has repeatedly demanded that it do” with the nominalization “in spite of the Council’s repeated demands”, gives more formality to the sentence.

Moreover, in the last sentence of the second preambulatory clause, the use of the adjective ‘consequent’ in “regretting the consequent prolonging of the crisis in the region and the suffering of the Iraqi people” creates and implies a consequential connection between Iraq’s non-compliance with weapon inspectors and the suffering of the Iraqi people. In IPA1441, the communications director of the Institute for Public Accuracy Sam Hussein sustains:

This is fundamentally false. [...] Contrary to what is stipulated in 687, the U.S. government has repeatedly stated that it would continue the economic sanctions even if Iraq were to fully comply with the weapons inspectors. This means the U.S. policy over the last decade gave a disincentive for Iraqi compliance with the weapons inspectors and ensured an indefinite continuation of the devastating economic sanctions with no legitimate cause.

The next paragraph refers to unspecified ‘terrorism’:

(169) *Deploing also* that the Government of Iraq has failed to comply with its commitments pursuant to resolution 687 (1991) with regard to terrorism, pursuant to resolution 688 (1991) to end repression of its civilian population and to provide access by international humanitarian organizations to all those in need of assistance in Iraq, and pursuant to resolutions 686 (1991), 687 (1991), and 1284

(1999) to return or cooperate in accounting for Kuwaiti and third country nationals wrongfully detained by Iraq, or to return Kuwaiti property wrongfully seized by Iraq.

The use of ‘all’ in the claim that Iraq has “failed to comply [...] in providing access by international humanitarian organizations to all of those in need of assistance in Iraq” expresses all-inclusiveness which is not concretely possible to realise, thus creating another pretext for war.

The subsequent section contains an important misquote of resolution S/RES/687 (1991):

(170) *Recalling* that in its resolution 687 (1991) the Council declared that a ceasefire would be based on acceptance by Iraq of the provisions of that resolution, including the obligations on Iraq contained therein [...].

In fact, according to S/RES/687 (1991), the ceasefire was not simply based on Iraq’s acceptance of the resolution because, as S/RES/687(1991) reads, the UN:

(171) 33. *Declares* that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990) [...].

(S/RES/687(1991),

para. 33)

Thus the cease-fire depended on “official notification by Iraq to the Secretary-General and to the Security Council of its acceptance” of that resolution, not just on Iraq’s approval of the provisions included in S/RES/687(1991). The omission is of fundamental importance. In IPA1441, according to Rangwala:

The ceasefire is portrayed as continually conditional upon Iraqi compliance. This is contrary to the position of every other Council member since 1991: this consistent position has been that the ceasefire can only be terminated if there is new Council authorization to use force. Through this paragraph, the U.S. and the U.K. are attempting to award themselves the legal right to use force if they alone perceive Iraq as non-compliant.

The wording of the clause implies discretionary power for the U.S. to break the ceasefire if it judged that Iraq was no longer accepting its full disarmament obligations. This actually implied that the U.S. could use force against Iraq without a further explicit Council authorisation.

Iraq was asked to implement this resolution that is concretely impossible to be fulfilled in the short term, because such a resolution takes time to be implemented.

(172) *Determined* to ensure full and immediate compliance by Iraq without conditions or restrictions with its obligations under resolution 687 (1991) and other relevant resolutions and recalling that the resolutions of the Council constitute the governing standard of Iraqi compliance [...].

The statement including the expression “full and immediate compliance” seems to be extremely all-inclusive. It was quite unrealistically possible to implement UN’s requirements imposed in this way, unless the UN desired result was war.

The final three preambulatory clauses listed below were not included in the first draft:

(173) *Noting further* the letter dated 8 October 2002 from the Executive Chairman of UNMOVIC and the Director-General of the IAEA to General Al-Saadi of the Government of Iraq laying out the practical arrangements, as a follow-up to their meeting in Vienna, that are prerequisites for the resumption of inspections in Iraq by UNMOVIC and the IAEA, and expressing the gravest concern at the continued failure by the Government of Iraq to provide confirmation of the arrangements as laid out in that letter.

(174) *Reaffirming* the commitment of all Member States to the sovereignty and territorial integrity of Iraq, Kuwait, and the neighbouring States [...].

(175) *Commending* the Secretary-General and members of the League of Arab States and its Secretary-General for their efforts in this regard [...].

Rangwala notes that these sections omit that Iraq has given a response to the letter sent by the Executive Chairman of UNMOVIC, through its Foreign Minister’s letter dated 16 September 2002, making an unconditional offer to allow inspectors into Iraq again. Thus it cannot be said that Iraq simply ‘remained’ in material breach of UN resolutions. As Rangwala claims in IPA1441, “by

labelling compliance as violation, the message from the Council to Iraq is that acting in accordance with the terms of the Council's resolutions is a purposeless and unproductive activity.”

As far as concerns the operative section, the draft of the first operative clause used the expression “Iraq is still and has been for a number of years in material breach of its obligations”, substituted by “has been and remains in material breach” in the amended document:

(176) *Determined* to secure full compliance with its decisions,

Acting under ~~chapter~~ Chapter VII of the Charter of the United Nations,

1. *Decides that Iraq is still, and has been for a number of years, and remains* in material breach of its obligations under relevant resolutions, including resolution 687 (1991), in particular through Iraq’s failure to cooperate with United Nations inspectors and the IAEA, and to complete the actions required under paragraphs 8 to 13 of resolution 687 (1991) [...].

From a pragmatic viewpoint, there has been a probably strategic exchange of the theme and the rheme in this sentence in the final resolution. In the draft case, “Iraq has been” (accompanied by the indefinite quantifier ‘for a number of years’) is proposed as the rheme of the sentence, while in the final resolution, major emphasis is given to the fact that Iraq remains in material breach, using ‘remains’ as the rheme of the sentence.

In operative paragraph 4, this resolution created a new enhanced inspection regime different from the one used in 1991. It put extreme pressure on Iraq, as any imprecision would have been considered a ‘further material breach’:

(177) ~~3.4. Decides that false statements or omissions in the declarations submitted by Iraq pursuant to this resolution and failure by Iraq at any time to comply with, and cooperate fully in the implementation of, this resolution shall constitute a further material breach of Iraq’s obligations and will be reported to the Council for assessment in accordance with paragraphs 11 and 12 below~~
[...].

In IPA1441, John Burroughs, executive director of the Lawyers’ Committee on Nuclear Policy, states that this paragraph demonstrates that U.S. action was totally illegal, because:

In an ordinary contract, if there has been a material breach, the injured party has the option of declaring the contract void. Here the injured party would be the Security Council, not the United States. And under the UN Charter, it is the Security Council that is responsible for the maintenance of international peace and security [...]. It is for the Security Council to decide, unambiguously and specifically, that force is required for enforcement of its requirements.

As a matter of fact, the paragraph states that a further material breach would “be reported to the Council for assessment in accordance with paragraphs 11 and 12 [...].” In Jack Straw’s letter to the Attorney General, Straw reported the background negotiating debate on the word ‘assessment’, introduced in the final version of S/RES/1441(2002). Wording was carefully weighed, as Straw arguments:

You say in your letter of 21 January (para 11) that you did not find much difference between the French proposal ‘shall constitute a further material breach when assessed by the Security Council’ and the final wording. With respect, there’s all the difference in the world. The final wording of 1441 in substance defines material breach and indicates that the material breach as so defined will be passed to the Council for assessment under ops 11 and 12- the French text, by contrast, would have given the Security Council, at its op12 meeting, the exclusive right to determine whether there had been an OP4 further material breach. We resisted that because it automatically bound us into a second resolution to authorize the use of force. You say in paragraph 9 that someone must assess ether or not the breach is material and then you assert that this someone must be the Council. But this is to ignore both the negotiating history and the wording; we were deliberate in not specifying who would determine that there had been a material breach.

As a matter of fact, France, Russia and China included a Statement¹¹¹ to expressly outline their interpretation of S/RES/1441(2002) on Iraq, in which it was declared that the resolution excluded automaticity in the use of force. Thus, one of the results that the UN obtained was that it adopted a resolution that did not provide the United States with the authority it sought and the Member States stated their understanding that the resolution was intended to preclude this authority.

¹¹¹ Source: <http://www.staff.city.ac.uk/p.willetts/IRAQ/FRRSCHST.HTM> (Last accessed: June 2011).

An ample amount of paragraphs are dedicated to UNMOVIC and IAEA inspections. For instance Iraq is asked to accept the presence of a vague number of ‘sufficient United Nations security guards’ on its territory. The vagueness conveyed by the indeterminate quantity expression ‘sufficient’ does not specify neither the quantity, nor the type of security guards that should enter Iraq’s territory, triggering the possibility that Iraq would not have agreed:

(178) – ~~Security Council may recommend to~~ of UNMOVIC and IAEA sites facilities shall be ensured by sufficient United Nations security guards;

Moreover, in the progression from the draft to the final version, unlimited military occupation, expressed by the wording “shall have the right to declare for the purposes of this resolution no-fly/no-drive zones, exclusion zones, and/or ground and air transit corridors [...]” has been watered down to “the creation of exclusion zones, including surrounding areas and transit corridors, in which Iraq will suspend ground and aerial movement so that nothing is changed in or taken out of a site being inspected”, for inspection purposes:

(179) – UNMOVIC and the IAEA shall have the right to declare, for the purposes of freezing a site to be inspected, exclusion zones, including surrounding areas and transit corridors, in which Iraq will suspend ground and aerial movement so that nothing is changed in or taken out of a site being inspected; ~~shall have the right to declare for the purposes of this resolution no fly/no drive zones, exclusion zones, and/or ground and air transit corridors, [which shall be enforced by UN security forces or by member states [...].~~

However, the size of ‘exclusion zones’ is left undefined, possibly leaving another opening for an outbreak of conflict. During the investigations, Iraq was demanded not to “take or threaten hostile acts directed against any representative or personnel of the United Nations or the IAEA or of any Member State”:

(180) 8. Decides further that Iraq shall ~~immediately cease, and~~ not take or threaten hostile acts directed against any representative or personnel of the United Nations or the IAEA or of any Member State taking action ~~pursuant to uphold any Security Council Resolution~~ resolution [...].

This concretely means a demand of unconditional surrender of Iraq. As Jennings remarks in IPA1441:

The presence of armed guards at any site, or merely slowing or stopping vehicles for normal checks, might be taken as such a threat. This language places the entire UNMOVIC process in Iraq on a hair trigger war alert. It is difficult to see how conflicts can be avoided under these circumstances.

As a matter of facts, the use of the vague expression “not take or threaten hostile acts” could potentially include anything.

A crucial passage in this resolution is Paragraph 12:

(181) 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,¹¹² the background debate on the meaning of the word “convene” is explained:

Paragraph 12 then has the council deciding to convene immediately “[...] in order to consider the situation and the need for full compliance. 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 specific 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 U.S.

¹¹² Source: http://www.iraqinquiry.org.uk/media/43520/doc_2010_01_26_11_05_30_485.pdf (Last accessed: June 2011).

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).

In the final version of S/RES/1441(2002), the process thus consists of report, assessment, and consideration. It was within the Security Council power to take any measures that it considered to be appropriate, not only forcible measures. It did not do so. Its vagueness left room to many interpretations.

The U.S. interpretation allowed independent determination of Iraq's further non-compliance on the basis of a UNMOVIC/IAEA report. In this case, the introduction of deliberately vague wording in the passage from the draft to the final version did not help halt this interpretation. In the final version the rejection of the wording "that such breach authorises Member States to use all necessary means to restore international peace and security" implicated that the Security Council did not accept U.S. action at all. The UK's interpretation was more nuanced, requiring a further Security Council "discussion", but not necessarily required further resolutions to authorise war. The meeting would have been a "procedural formality", after which Member States could have used military force anyway.

As far as concerns authorisation to action, the draft resolution decided that 'material breach' gave power to Member States "to use all necessary means to restore international peace and security":

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

The straight and strong expression 'all necessary means' used in the draft has been substituted by the vague modal consequence adjective 'serious consequences' in paragraph 13 of the final version, leaving endless possibilities of interpretation, as can be seen in the comparison between the final version and the draft below:

(183) 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 [...].

Moreover, the expression “to restore international peace and security” used in the draft is substituted by “to secure international peace and security.” “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. The verb “to secure” can only be linked to the thesis of pre-emptive war, implicitly claiming that Iraq is a threat to international peace and security.

In the aftermath of the adoption of S/RES/1441 on 8 November 2002, the ambassadors to the United Nations from the 15 members of the Security Council made public statements relating to the negotiating debate and to the authorization for military action. The statements from the ambassadors of France, Russia and China, in common with those of many other of 15 Security Council members, welcomed the inclusion in the resolution of the ‘two-stage approach’ whereby the Security Council in the words of the French ambassador ‘maintains control of the process at each stage’, and the absence of all traces of ‘automaticity’, as can be read in their Joint statement cited in this chapter.

UK and U.S. ambassadors agreed that there was no “automaticity” in the resolution; however they expressly continued to give their interpretation of S/RES/1441(2002), which did not exclude the unilateral use of force, notwithstanding customary international law and the UN Charter. As a matter of fact the U.S. Secretary of State Colin Powell¹¹³ 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. As Phyllis Bennis noted in IPA1441:

In other words, if the Council decision does not match what the Bush administration has unilaterally decided, Washington will implement its own decision regardless. This represents a

¹¹³Source:

<http://www.nytimes.com/2002/11/06/international/middleeast/06NATI.html?ex=1037250000&en=daaa4967935aa6c2&ei=5040&partner=MOREOVER> (Last accessed: June 2011).

thoroughly instrumentalized view of the United Nations that its relevance and authority are defined by and limited to its proximity to Washington's positions.

This position can be further confirmed through the comparison between S/RES/1441(2002) and legislation passed in the U.S. for the authorization for war, with the Public law P.L.107-273 and its draft bills, as will be done in the following paragraphs.

8.3 U.S. 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 situation in Iraq, in particular relating to the Congressional position in authorization for war.

The final Public Law P.L. 107-243¹¹⁴ and all proposals that remained at the draft status are of fundamental importance to understand the consequences of vague language used in S/RES/1441 (2002), which left Member States infinite ranges of interpretation and implementation of the resolution at a nation legislative level.

The U.S. Congress produced many bills on the issue, using its four sources of Congressional legislation: joint resolutions, House and Senate bills, concurrent resolutions and simple resolutions, each with some peculiar legal characteristics. For the purpose of this thesis, only joint resolutions have been considered because this form, together with House and Senate bills, is the only that has legal force, and that is used to produce Public Laws, which “result from the passage of public bills or joint resolutions that affect the general public or classes of citizens. A legislative proposal agreed to in identical form by both Chambers becomes a law if it: receives Presidential approval, is not returned with objections to the House in which it originated within 10 days while Congress is in session, or, in the case of a proposal that has been vetoed by the President, receives a two-thirds vote overriding the veto in each Chamber.”¹¹⁵ They are generally used for limited matters or particular issues such as continuing or emergency appropriations or the designation of a commemorative holiday and they may

¹¹⁴ Source: <http://www.govtrack.us/congress/billtext.xpd?bill=hj107-114> (Last accessed: June 2011).

¹¹⁵ Source: http://www.lexisnexis.com/help/cu/Serial_Set/About_Bills.htm#pub (Last accessed: June 2011).

be used to propose amendments to the Constitution. Therefore this was the legislative form chosen by the Congress for the debate on the authorization for war in Iraq.

Joint resolutions require the approval of both Chambers and the signature of the President in order to have the force of law. These bills are prefixed with ‘H.J. Res.’ or ‘S.J. Res.’, followed by the number of the Congress in brackets, and they are assigned sequential numbers in the order in which they are introduced to the House or the Senate, with a numeration that starts all over again at the beginning of each Congress.

The procedure of approval follows the following steps: a House or Senate joint resolution is introduced in the Chamber, referred to the Committee (a legislative sub-organisation in the United States Congress that handles a specific duty), amendments are evaluated, it is voted in the Chamber that has issued the proposal and then in the other Chamber that has to approve the text in the identical form, and finally the President is asked to sign the bill. The bill becomes law only after this final signature.

As far as concerns the documents analysed for this study, the sub-corpus used in this section for the analysis of U.S. legislation is composed of: S. J. Res 41[107th]¹¹⁶, H. J. Res 109 [107th]¹¹⁷, H. J. Res.110 [107th]¹¹⁸, which have all been put aside after being referred to the Committee; S. J. Res 45[107th]¹¹⁹, that has been amended; S. J. Res 46 [107th]¹²⁰ reported by the Committee but not approved, and finally H. J. Res 114 [107th]¹²¹, which became P.L. 107- 243 and its 5 amended versions¹²².

It is important to notice thus that only P.L. 107- 243 has become effectively a law. However, S. J. Res 46 [107th], S. J. Res 45[107th], and H. J. Res 114 [107th], can be considered as ‘drafts’ of the

¹¹⁶ Source: <http://www.govtrack.us/congress/billtext.xpd?bill=sj107-41> (Last accessed: June 2011).

¹¹⁷ Source: <http://www.govtrack.us/congress/billtext.xpd?bill=hj107-109> (Last accessed: June 2011).

¹¹⁸ Source: <http://www.govtrack.us/congress/billtext.xpd?bill=hj107-110> (Last accessed: June 2011).

¹¹⁹ Source: <http://www.govtrack.us/congress/billtext.xpd?bill=sj107-45> (Last accessed: June 2011).

¹²⁰ Source: <http://www.govtrack.us/congress/billtext.xpd?bill=sj107-46> (Last accessed: June 2011).

¹²¹ Source: <http://www.govtrack.us/congress/billtext.xpd?bill=hj107-114> (Last accessed: June 2011).

¹²² Source: <http://thomas.loc.gov/cgi-bin/query/z?c107:H.J.RES.114> (Last accessed: June 2011).

final Public Law version, as they seem to be amendments of each other; S. J. Res 41[107th] and H. J. Res 109 [107th] (which are identical but issued by different chambers) propose to pass a law authorizing war; and finally H. J. Res.110 [107th] is a first proposal of law, but it is almost completely different from S.J. Res 45, S.J. Res 46, and H.J. RES.114.

The differences between these bills, which gradually led to the final approval of P.L. 107-243, will be analysed in the following sections.

8.3.1 Linguistic Analysis of S.J.Res 41[107th] and H. J. Res 109 [107th]

S. J. Res 41 [107th] and H. J. Res 109 [107th] are identical but issued respectively one by the Senate and the other by the House. They both express the need for “Calling for Congress to consider and vote on a resolution for the use of force by the United States Armed Forces against Iraq before such force is deployed” in their title. These joint resolutions take for granted that Iraq was in material breach of UN resolutions, by developing weapons of mass destruction, including chemical and biological capabilities, and by making positive progress toward developing nuclear weapons capabilities.

The interesting point of these resolutions is that they expressly reveal background information relating to the so-called ‘Axis of the Evil’, claiming that although Iran, North Korea, and Iraq had been all mentioned under that label, Iraq would have undergone different consequences, implying war:

(184) Whereas in his January 29, 2002 ‘State of the Union’ address the President characterized Iraq, Iran, and North Korea as an ‘axis of evil’; (S. J. Res 41 [107th]/ H. J. Res 109 [107th])¹²³

¹²³ All examples used in this paragraph are retrieved from H. J. Res 109 [107th] and (S. J. Res 41 [107th]). Source: <http://www.govtrack.us/congress/billtext.xpd?bill=hj107-109> (Last accessed: June 2011).

(185) Whereas in his February 12, 2002 testimony, the Secretary of State specifically stated, 'With respect to Iran and with respect to North Korea, there is no plan to start a war with these nations', raising the implication that the United States had a plan to start a war with Iraq [...].

These bills also include quotes from Vice-President Cheney and President Bush's declarations:

(186) Whereas there have been repeated reports in the news media on U.S. plans to use force against Iraq and statements by the President and the Vice President on the intention of the United States to use force against Iraq:

The New York Times, February 16, 2002, quoting Vice President Cheney saying, "The President is determined to press on and stop Iraq [...] from continuing to develop weapons of mass destruction and intends to use 'the means at our disposal--including military, diplomatic and intelligence to address these concerns";

New York Times on July 9, 2002, quoting President Bush on Iraq: "It's the stated policy of this government to have regime change and it hasn't changed. And we'll use all tools at our disposal to do so [...].

While Cheney's quote is explicit in expressing that with reference to WMD he would have used "the means at our disposal-including military, diplomatic and intelligence to address these concerns", Bush claims determination for a regime change using "all tools at disposal", with no further specification on what means would be used, left interpretation open to military force.

The bill proceeds remembering that the authorization for war comes only from the Congress under Article I, Section 8 of the United States Constitution and implicitly thus not from the President. However, the President can, according to Article II, Section 2 "take military action in an emergency when Congress does not have time to deliberate and decide on a declaration of war or the equivalent authorization for the use of force" (S. J. Res 41 [107th]), as had already happened in "unilaterally initiated military actions in Korea, Vietnam, Grenada, Lebanon, Panama, Somalia, and Kosovo" (S. J. Res 41 [107th]). However, in the 2002 case, the Congress stated that there was "adequate time for the Congress to deliberate and decide on the authorization to initiate military action against Iraq" (S. J.

Res 41 [107th]), implicitly claiming that there was no imminent risk of attack. The Congress was determined to decide on the issue because:

(187) Whereas if Congress takes no action in the current situation where there is adequate time to deliberate and decide, there will be a significant further, if not virtually complete, erosion of congressional authority under Article I, Section 8 of the United States Constitution [...].

However, the open-endedness of the last preambulatory clause is quite puzzling, as it does not take a definite position whether Congress authorisation should be granted or not:

(188) Whereas this resolution takes no position on whether such authorization should or should not be granted by Congress, it simply decides that Congress consider and vote on a resolution authorizing the use of force by the United States Armed Forces against Iraq before such force is deployed against Iraq [...].

The operative paragraph of S.J.Res.41 [107th] and H. J. Res 109[107th] concludes that Congress was resolved to consider and vote on a resolution authorising the use of force by the United States Armed Forces against Iraq before such force is deployed against Iraq (S. J. Res 41 [107th]), and a first attempt of legislation expressly authorizing war tried with H.J. Res 110 [107th], as will be analysed in the following paragraph.

8.3.2 H.J.RES.110 [107th]: A First Attempt to Authorise War

The first proposal of a law authorising war against Iraq is in H.J. Res 110 [107th], which was only referred to the Committee.

H.J. Res 110 [107th] recalls the reasons for engaging in war, with reference to the *Iraq Liberation Act of 1998* (Public Law 105–338). This paragraph has been retained in P.L. 107-243 with some important substitutions:

(189) Whereas ~~Congress, in the Iraq Liberation Act of 1998 (Public Law 105–338), has~~ expressed ~~its~~ the sense of Congress that it should be the policy of the United States to support efforts to remove

from power the current Iraqi ~~political structure~~ regime and promote the emergence of a democratic government to replace that ~~political structure;~~ regime [...].

The expression ‘political structure’ has been substituted with ‘regime’, which according to the *Oxford Advanced Learner’s Dictionary* is “a government in power; administration form of government or rule; political system a government, especially an authoritarian one, a structure of control.” This gives a negative connotation to the Iraqi system, which is no longer considered as a neutral “political structure”, but a structure of control.

In the last preambulatory sections, the Congress recalls that “[...] the Constitution reserves to Congress the sole authority to declare war” and that:

(190) Whereas the United States has never engaged in a pre-emptive strike against another sovereign nation and must resort to this course of action when, and only when, all other avenues for disarming the threat to its vital interests have been explored and exhausted. (H.J. Res 110 [107th])

This last preambulatory clause with the expression “when, and only when, all other avenues for disarming the threat to its vital interests have been explored and exhausted” wanted to ensure that the U.S. had already tried all peaceful measures before declaring war.

In the operative section, the short title proposed for the resolution was “*Liberation of the Iraqi People Resolution*”; thus it can be inferred that the threat of WMD was of secondary importance, because the key of the entire resolution was to “remove from power the current Iraqi political structure and promote the emergence of a democratic government to replace that political structure” (H.J. Res 110 [107th]). As a matter of fact, in SEC. 2. of the Statement of Policy, which is expressed only in this bill and omitted in the others, the Congress uses very strong emotive wording to “(1) condemn Saddam Hussein’s ongoing efforts to repress the freedoms of the Iraqi people;” and to express empathy with the Iraqi people by “(5) express[ing] its heartfelt concern for the safety, health, and well-being of the people of Iraq.” (H.J. Res 110 [107th])

Section. 3 outlines the conditions for an authorisation for use of United States armed forces, according to which the President had to ensure that he had:

(191) [...] sought from the United Nations Security Council a thorough and robust resolution expressing its dissatisfaction regarding Iraq's noncompliance with United Nations Security Council Resolutions 687 and 949 and those resolutions specified in subparagraph (C) [...]. (H.J. Res 110 [107th], SEC.3(b).1.(D)))

Thus, the U.S. did not ask specific authorisation from the UN; the U.S. just had to ask the UN for a resolution expressing “dissatisfaction.” This reinforces once again that the UN was not recognised as the sole institution having the institutional power to authorise war against Iraq.

Thus, except for some paragraphs retained in the final P.L. 107-243, this resolution has been totally changed. It certainly dealt more with a justification for a war that had the main objective of changing the political government in Iraq and its policy expressed the requirements the President had to ensure in order to obtain authorisation with much more details, if confronted with the other further draft bills which are much vaguer.

8.3.3 Towards H.J.RES.114 [107th]: a Linguistic Comparative Analysis between S. J. Res 45 [107th] and S. J. Res 46 [107th]

As previously said, S. J. Res 45 [107th] and S. J. Res 46 [107th] can be considered as the first preliminary drafts to the final P.L. 107-243, although several amendments can be noticed. Both draft bills recall that Iraq's noncompliance with Security Council resolutions urged the President “to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations”, with reference to Public Law 105–235.¹²⁴ It is important to notice the use of the relational adjective ‘appropriate’: this kind of adjective, which has been analysed in Chapter four of this study, is used to express relationships between nouns and fixed standards. As ‘appropriate’ is a vague adjective, its interpretation is totally dependent on the President's subjective decision of defining which could be the ‘appropriate’ action to be taken against Iraq.

¹²⁴ Source: <http://www.lawandfreedom.com/site/historical/PL105-235.pdf> (Last accessed: June 2011).

In the following paragraph, it can be seen that in the passage from S. J. Res 45 [107th] to S. J. Res 46 [107th] a significant omission has been made:

(192) Whereas Iraq persists in violating resolutions of the United Nations Security Council by continuing to engage in brutal repression of its civilian population, ~~including the~~ thereby threatening Kurdish peoples, thereby threatening international peace and security in the region, by refusing to release, repatriate, or account for non-Iraqi citizens wrongfully detained by Iraq, including an American serviceman, and by failing to return property wrongfully seized by Iraq from Kuwait [...].

All reference to the Kurdish people included in the first bill has been cancelled, while an explicit reference to the wrongful detention of an American serviceman has been added. This choice is probably linked to the need of the U.S. to find a concrete and national reason to engage in military action against Iraq.

Moreover, Iraq's faults are stressed using negative ethic adjectives such as 'brutal [repression]', or adverbs such as 'wrongfully [detained]' or 'wrongfully [seized]' and finally verbs such as 'threatening [international peace and security]', 'refusing [to release, repatriate or account for non-Iraqi citizens]', and 'failing to return [property]'. This can emphasise the legitimacy of war, due to Iraq's hostility and willingness to attack.

In further preambulatory clauses, the U.S. claims that Iraq has the "capability and willingness to use weapons of mass destruction against other nations and its own people" and "to attack the United States", accusing Iraq of "aid[ing] and harbor[ing]" international terrorist organisations. Furthermore, in one of the paragraphs related to WMD, the wording is changed from S. J. Res 45 [107th] to S. J. Res 46 [107th]:

(193) Whereas the attacks on the United States of September 11, 2001, underscored the gravity of the threat ~~that Iraq will~~ posed by the transfer acquisition of weapons of mass destruction ~~to~~ by international terrorist organizations [...].

It has been chosen to pass from a taken for granted and questionable "Iraq will transfer weapons of mass destruction to international terrorist organizations", using a volitive 'will', to a construction that

focuses more on the active role of international terrorists, claiming that “the gravity of threat posed by the acquisition of weapons of mass destruction by international organization” had been underscored. This substitution could have been probably made to perorate the cause of the war against Iraq as a war against international terrorism, without making an explicit reference to Iraq.

In the following clause, amendments create a mitigation of tone, by stating a simple ‘risk’, not a ‘high risk’ of an Iraqi surprise attack and using the vague expression ‘action’ instead of the explicit ‘use of force’ by the US.

(194) Whereas Iraq’s demonstrated capability and willingness to use weapons of mass destruction, the ~~high~~ risk that the current Iraqi regime will either employ those weapons to launch a surprise attack against the United States or its Armed Forces or provide them to international terrorists who would do so, and the extreme magnitude of harm that would result to the United States and its citizens from such an attack, combine to justify action by ~~the use of force by the~~ United States ~~in order~~ to defend itself [...].

This choice left the paragraph open to several interpretations, among which an implicit use of military force.

In the final version of the following paragraph there is a structural change from the S. J. Res 45 [107th] to the S. J. Res 46 [107th] version of this paragraph:

(195) Whereas ~~Iraq is in material breach of its disarmament and other obligations under~~ United Nations Security Council Resolution 678 authorizes the use of all necessary means to enforce United Nations Security Council Resolution 660 and subsequent relevant resolutions and to compel Iraq to cease certain activities that threaten international peace and security, including the development of weapons of mass destruction and refusal or obstruction of United Nations weapons inspections in violation of United Nations Security Council Resolution 687, to cease repression of its civilian population that threatens international peace and security under in violation of United Nations Security Council Resolution 688, and ~~to cease~~ threatening its neighbors or United Nations operations in Iraq ~~under in violation of~~ United Nations Security Council Resolution 949, and United Nations Security Council Resolution 678 authorizes use of all necessary means to compel Iraq to comply with these “subsequent relevant resolutions” [...].

The former uses the violation of S/RES/660,687, 688, 949 as a premise to conclude that S/RES/678 (1990) has given the authorisation to use “all necessary means” to compel Iraq to comply with those resolutions. It further refers to the requirement of ceasing repression of its civilian population, and to the end of threats to neighbours and international peace and security. On the opposite, S. J. Res 46 [107th] immediately introduces the topic of S/RES/678 (1990) and its authorisation to use “all necessary means.” It first recalls that S/RES/678 (1990) authorizes the use of force to compel Iraq to cease “certain activities that threaten international peace and security, including the development of WMD” which was not included in S. J. Res 45 [107th]. The use of the vague expression “certain activities [...], including [...]” gives a wider margin of applicability and interpretability to the formula.

In another clause, the changes from S. J. Res 45 [107th] to S. J. Res 46 [107th] create a causal connection between the elements of the sentence:

(196) Whereas Congress in the Authorization ~~for~~ of Use of Military Force Against Iraq Resolution (Public Law 102–1) has authorized the President “to use ~~the Armed Forces of the United States~~ Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve ~~full~~ implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677, pursuant to Security Council ~~677~~; ~~Resolution 678~~ [...].

While in the former resolution it is stated that the Congress had given authorisation to enforce a list of resolutions, among which S/RES/ 678 (1990), in the latter it is claimed that the authorisation for military force is given ‘pursuant to’ a specific resolution, namely S/RES/678(1990), which allows to use “all necessary measures” to achieve the implementation of precedent resolutions. Thus, it is stressed that the initial legal authorisation to use force was given by the UN and not just by the U.S. Congress.

The second version of the following paragraph prefers not to refer to P. L.102–190¹²⁵, but to P. L. 102–1¹²⁶. The quote is the same in both resolutions; however, the former comes from a general

¹²⁵ Source: <http://www.dsca.osd.mil/programs/LPA/2006/getdoc.cgi?dbname=109conpubliclaws&docid=fpubl102.109.pdf> (Last accessed: June 2011).

¹²⁶ Source: <http://thomas.loc.gov/cgi-bin/query/z?c102:H.J.RES.77>: (Last accessed: June 2011).

National Defense Authorization Act for Fiscal Years 1992 and 1993, while the latter quotes the *Authorization for use of Military Force against Iraq Resolution*, used for the first Gulf war:

(197) Whereas in December 1991, Congress in section 1095 of Public Law 102-190 expressed its sense ~~has stated~~ that it “supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 687 as being consistent with the Authorization ~~for~~ of Use of Military Force Against Iraq Resolution (Public Law 102-1),” that Iraq’s repression of its civilian population violates United Nations Security Council Resolution 688 and “constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region,” and that Congress, “supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 688”[...].

This creates a semantic connection between the two situations and authorizations, stressing Iraq’s continuous non-compliance with UN resolutions. Moreover, S. J. Res 46 [107th] passes from a neutral ‘the Congress has stated’ to a more emotionally loaded formula ‘expresses its sense’:

Other two sections have been entirely added to S. J. Res 46 [107th], and they seem to implicate that although the U.S. and the UN had a ‘common challenge’ and wanted to work on the necessary resolutions, if the demands for peace were not met, a vague ‘action’ would have been unavoidable. The U.S. use of ‘action’ can be compared to the UN ‘serious consequences’(S/RES/1441(2002)), as it is a vague expression, although clearly implying an ellipsis of the adjective ‘military’:

(198) Whereas on September 12, 2002, President Bush committed the United States to “work with the United Nations Security Council to meet our common challenge” posed by Iraq and to “work for the necessary resolutions,” while also making clear that “the Security Council resolutions will be enforced, and the just demands of peace and security will be met, or action will be unavoidable” [...].

The second paragraph, claiming that Iraq’s support to terrorists and development of WMD was in direct violation of 1991 cease-fire conditions, makes the meaning of the word ‘action’ explicit, specifying that the enforcement included the use of force if necessary. Naturally, the modal adjective

‘necessary’ left room for a subjective interpretation of which conditions would require a ‘necessary’ use of force:

(199) Whereas the United States is determined to prosecute the war on terrorism and Iraq’s ongoing support for international terrorist groups combined with its development of weapons of mass destruction in direct violation of its obligations under the 1991 cease-fire and other United Nations Security Council resolutions make clear that it is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary [...].

The same can be said for the use of the relational adjective in the expression ‘appropriate measures’ used in the following paragraph:

(200) Whereas the President and Congress are determined to continue to take all appropriate actions against international terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations [...].

In S. J. Res 45 [107th], the use of force is said to have the role of defending “national security interests”, while S. J. Res 46 [107th], has been reformulated to state that it was “in the national security of the U.S. to restore international peace and security”, creating a connection between U.S. national security and its depending on the situation in the Persian Gulf region:

(201) ~~Whereas the President has authority under the Constitution to use force it is in order to defend the national security interests of the United States~~ to restore international peace and security to the Persian Gulf region [...].

This paragraph stresses that the action of force is legal, at least from the U.S. view, pursuant to the Public Law that gave the authorisation. It is important to notice that U.S. bills continue to use the wording “restore peace and security”, as it was used in resolutions relating to the 1991 war, while the UN used the term ‘secure’ in S/RES/1441(2002). UN wording implies that the 2002 situation is not the same as in 1991, but the U.S. seems to see no difference.

As far as concerns the operative part of the resolutions, the following section was introduced in S. J. Res 46 [107th]. It clearly stated that there was a request for the President to act through the Security Council and to obtain prompt and decisive action from it. This claim probably prepares the ground both to assure that the President acted pursuant to Security Council resolutions and to justify the use of force in case of UN inaction:

(202) SEC. 2. SUPPORT FOR UNITED STATES DIPLOMATIC EFFORTS.

The Congress of the United States supports the efforts by the President to—

(1) strictly enforce through the United Nations Security Council all relevant Security Council resolutions applicable to Iraq and encourages him in those efforts; and

(2) obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and noncompliance and promptly and strictly complies with all relevant Security Council resolutions [...].

In the authorisation section, S. J. Res 46 [107th] is much stricter than S. J. Res 45 [107th]. In the latter, the President is explicitly allowed to use the armed force when it is ‘necessary and appropriate’, excluding any other solution which were instead implicated in S. J. Res 45 [107th], in which force was given as only one 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. In S. J. Res 46 [107th], the reasons for the authorisation are given in a different order, probably reflecting priority of importance. As a matter of fact, in the second version, priority is given to the defence of the national security of the U.S. against the “continuing threat posed by Iraq”:

(203) 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 [...].

Moreover, 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’), 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 for authorisation to use force is related to the enforcement of UN resolutions, and S. J. Res 46 [107th] prefers to be all-inclusive, referring to “all relevant resolutions regarding Iraq”, instead of using “the resolutions referred above.”

A third reason omitted in S. J. Res 46 [107th] stressed the importance of restoring international peace and security. It has probably 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.

The following section on presidential determination includes the conditions for war according to which the President had to refer to the Congress not later than 48 hours from the outbreak of war, specifying that no diplomatic or peaceful means would have protected the U.S. or wouldn’t have enforced UN resolutions:

(204) (b) PRESIDENTIAL DETERMINATION.—In connection with the exercise of the authority granted in subsection (a) to use force the President shall, prior to such exercise or as soon thereafter as may be feasible, but not later than 48 hours after exercising such authority, make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that— (1) reliance by the United States on further diplomatic or other peaceful means alone either (A) will not adequately protect the national security of the United States against the continuing threat posed by Iraq or (B) is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and (2) acting pursuant to this resolution is consistent with the United States and other countries continuing to take the necessary actions against international peace terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed or aided the terrorists attacks that occurred on September 11, 2001[...].

This was a crucial issue, because the decision for war depended on the subjective opinion of the President (and of his entourage) that no other peaceful measures were adaptable against a nation that

had allegedly planned terrorist attacks. The UN Charter leaves room for several peaceful means including “negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements, or other peaceful means” (UN Charter Art.33.1), and also to sanctions imposed by the UN. It is quite questionable that there was no other alternative to a direct war.

Thus, these two Joint resolutions appear to be a first step towards H.J.Res 114 [107th], which became P.L.107-243 that authorised the U.S. use of force against Iraq. The apparently slight differences between the two bills have revealed how actually cautious vague wording and amendments have been deliberately chosen to authorise war but seeking to seem to act pursuant to the UN Charter and UN resolutions. Another proof that the U.S. wanted to interpret UN vague wording as allowing war is that several amendments had been proposed for S.J.45 [107th], giving different interpretations of the UN will, but they were all rejected except for Sen. Lieberman’s amendment S. Amdt. 4856, which became the bill proposal S. J. Res. 46 [107th]. The most significant amendment proposal was probably Senator Robert Byrd’s proposal, Amendments 4869 which asked the authorisation “to provide a termination date for the authorization of the use of the Armed Forces” had to terminate after 12 months, although the President could extend it for a period or periods of 12 months each, if necessary and not disapproved by the Congress. This amendment was not approved, because according to Senator Lieberman¹²⁷ it would have given notice to the enemies that there was a limit to the authority given to the President.

Thus, as none of the amendments were approved, it can be said that the U.S. chose to use military on purpose. In the Senate thus, the vague “serious consequences” referred to in S/RES/1441(2002) were interpreted as a unilateral attack against Iraq, not requiring neither UN approval, nor a limit in time, and it could have occurred even if no imminent threat had been proven to be possible.

¹²⁷ Source: <http://thomas.loc.gov/cgi-bin/query/C?r107:./temp/~r107RzanLs> (Last accessed: June 2011).

8.3.4 A Comparative Analysis between H.J.Res 114 [107th] and its Amendment Proposals

This section includes an analysis comparing H.J.Res 114 [107th] to its not approved amendments, in order to illustrate how the U.S. wanted to deliberately interpret vagueness contained in S/RES/1441(2002) as an authorization for war.

H.J.Res. 114 [107th], almost identical to S.J. Res 46 was eventually passed in an identical form in both the House and the Senate and signed by the President to become P.L.107-243. Also in this case, the approval of this joint resolution 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. Amendments and international opinion did not stop the legislative procedure that led to the President’s signature of P.L.107-243.

The House members Barbara Lee and John Spratt from the Democratic Party had proposed two very significant amendments to H.J.Res.114 [107th], which would have given a completely different interpretation to UN vagueness on the Iraqi issue. These amendments, which will be analysed closely, demonstrate that there were other solutions rather than war, but they were deliberately put aside.

The Democratic representative Barbara Lee proposed an amendment (H.Amdt.608)¹²⁸ to H.J.Res 114 [107th] on October 10, 2002, to have the United States work through the United Nations to seek to resolve the matter of ensuring that Iraq was not developing weapons of mass destruction, through mechanisms such as the resumption of weapons inspections, negotiation, enquiry, mediation, regional arrangements, and other peaceful means. The first paragraphs of this amendment focus on Iraq’s demonstration of willing to accept the conditions for the cease-fire established by S/RES/687(1991), while the first paragraphs of the final H.J.Res.114 [107th], stress U.S. activities as an action to defend the national security of the U.S. by recalling Iraq’s war of aggression and illegal occupation.

¹²⁸ Source: <http://thomas.loc.gov/cgi-bin/query/C?r107:/temp/~r1078yAUvD> (Last accessed: June 2011).

As far as concerns the withdrawal of weapon inspectors from the zone, in H.J.Res.114 [107th], Iraq's acts of thwarting inspectors' activities is put in a consequential link with the withdrawal of inspectors:

(205) Whereas Iraq, in direct and flagrant violation of the cease-fire, attempted to thwart the efforts of weapons inspectors to identify and destroy Iraq's weapons of mass destruction stockpiles and development capabilities, which finally resulted in the withdrawal of inspectors from Iraq on October 31, 1998 [...]. (H.J.Res.114 [107th])

H. Amdt. 608, instead, used the passive form 'were withdrawn'. Passive structures indicate that the action expressed by the verb is acted upon by an external agency. In the amendment form, the inspectors' withdrawal from the Iraqi territory is not explained as a consequence of Iraq's acts of thwarting inspections. The choice of a passive structure suggests that the inspectors did not suspend their activities by themselves, but that the decision depended on an external agent; it probably implies that the withdrawal was decided by the U.S. or the UN, not necessarily connected to Iraq's action. The amendment further stresses that no inspections had been taken since:

(206) Whereas in 1998, UNSCOM weapons inspectors were withdrawn from Iraq and have not returned since [...].

While H.J. Res. 114 [107th] takes for granted that Iraq continued to possess and develop a significant chemical and biological weapons capability, this certainty does not seem to be expressed in H. Amdt. 608, as the continued development of weapons of mass destruction are said to be "unknown and cannot be known without inspections":

(207) Whereas the true extent of Iraq's continued development of weapons of mass destruction and the threat posed by such development to the United States and allies in the region are unknown and cannot be known without inspections [...]. (H.Amdt.608)

Moreover, H. Amdt. 608 stresses that the UN had remained seized of the matter, implicating that the UN was still considering the issue:

(208) Whereas the United Nations remains seized of this matter [...]. (H.Amdt.608)

S.J. Res.114 [107th] tried to justify action by the United States to defend itself recalling S/RES/678 (1991) by insisting on the fact that the Iraqi regime demonstrated its capability and willingness to use weapons of mass destruction against other nations and its own people, and that Iraq continued to aid and harbor other international terrorist organisations. H. Amdt. 608, instead, stressed the negative consequences that a war would have had not only for Iraq but also on the US, in terms of losses of lives, diplomatic consequences and costs. From a diplomatic viewpoint, the amendment considers the U.S. attack as ‘undermining’, ‘dangerous’, and ‘weakening’ as it is not only unilateral, but also pre-emptive. Talking about a unilateral attack would have excluded all justifications for a pre-emptive attack:

(209) Whereas war with Iraq would place the lives of tens of thousands of people at risk, including members of the United States armed forces, Iraqi civilian non-combatants, and civilian populations in neighboring countries [...].

(210) Whereas unilateral United States military action against Iraq may undermine cooperative international efforts to reduce international terrorism and to bring to justice those responsible for the attacks of September 11, 2001 [...].

(211) Whereas a pre-emptive unilateral United States first strike could both set a dangerous international precedent and significantly weaken the United Nations as an institution [...].

As far as concerns the operative part of the amendment, while H.J. Res. 114 [107th] gives authorisation for military attack if no further diplomatic or other peaceful means alone were adequate to protect the US, H. Amdt. 608 proposed to ensure that Iraq was not developing WMD through several peaceful means, such as the resumption of weapons inspections, negotiation, enquiry, mediation, regional arrangements, which would have all been ‘serious’, although peaceful.

(212) 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)

During the debate related to the approval of Lee's amendment¹²⁹, the representative claimed that President Bush's doctrine of pre-emption violated international law, the United Nations Charter and U.S. long-term security interests, because H.J. Res. 114 [107th] was establishing a "new foreign policy doctrine that gives the President the power to launch a unilateral and pre-emptive first strike against Iraq before we have utilized our diplomatic options." H. Amdt. 608 urged the United States to re-engage the diplomatic process to eliminate any Iraqi weapons of mass destruction through United Nations inspections, instead of engaging in a pre-emptive war that would have "set a precedent that could come back to haunt the US."

The opposition, above all the Republican Henry Hyde, claimed that representative Lee's "amendment suffer[ed] from terminal anaemia. It [was] like slipping someone an aspirin who has just been hit by a freight train." As a matter of fact, the opponents to this amendment requested a strongly worded Congressional resolution giving the President "the flexibility he need[ed]" to enforce the Iraqi regime to comply with existing or new UN resolutions, while the Lee amendment was considered to be a "well-intentioned but perilous receipt for inaction, based on wishful thinking, and that is what makes it so dangerous." H. Amdt. 608 was rejected on October 10, 2002 by 72 Yeas, 355 nays and 4 non-voting.

The Democratic John Spratt also proposed an amendment (H.Amdt.609)¹³⁰ on October 10, 2002 to authorise the President to use U.S. armed forces pursuant to a new Security Council resolution adopted after September 12, 2002 that provided for the elimination of Iraq's weapons of mass destruction.

The difference between H.J.Res. 114[107th] and this amendment is that it gave much more precise reference from a legal viewpoint. While H.J.Res. 114[107th] referred to Iraq's obligations citing WMD "among other things", H.Amdt.609 specifically referred to all Iraq obligations contained in Security Council resolutions 707, 715, 1051, 1060, 1115, 1134, 1137, 1154, 1194, and 1205, demanding Iraq to "destroy all weapons of mass destruction, cease further development of chemical, biological, and nuclear weapons, stop the acquisition of ballistic missiles with a range exceeding 150

¹²⁹ Source: http://peaceispatriotic.org/bills/War_IraqRes.html (Last accessed: June 2011).

¹³⁰ Source: <http://thomas.loc.gov/cgi-bin/query/C?r107:./temp/~r107nbALA7> (Last accessed: June 2011)

kilometres, and to end its support of terrorism.” It also recalls S/RES/ 687(1991), listing the 1991 cease-fire conditions, according to which Iraq had to “destroy, remove, or render harmless all chemical and biological weapons [...] all ballistic missiles with a range greater than 150 kilometres; could not acquire or develop “any nuclear weapons, nuclear-weapons-usable material, nuclear-related subsystems [...]” and it was obliged to permit “immediate on-site inspection of Iraq’s biological, chemical, and missile capabilities [...].”

Although the conclusions in the preambulatory clauses are the same, that is to say that Iraq had materially breached its international obligations by “retaining and continuing to develop chemical and biological weapons, by actively seeking a nuclear weapons capability and ballistic missiles with ranges exceeding 150 kilometres, and by supporting international terrorism” (H.J.Res. 114 [107th]), and although according to Congress Members such as Lee, this conclusion was unfounded, H.Amdt.609 would have been a much more legally precise version than the final law, containing less vagueness.

H.Amdt.609 makes also reference to H. Res. 322 [105th],¹³¹ which requested to resolve the Iraq issue in a peaceful but determined way “through diplomatic means, but in a manner which assures full compliance by Iraq with United Nations Security Council resolutions regarding the destruction of Iraq's capability to produce and deliver weapons of mass destruction”:

(213) Whereas in H. Res. 322 of the 105th Congress, the House of Representatives affirmed that the “current crisis regarding Iraq should be resolved peacefully through diplomatic means, but in a manner which assures full compliance by Iraq with United Nations Security Council resolutions regarding the destruction of Iraq’s capability to produce and deliver weapons of mass destruction” [...]. (H.Amdt.609)

Thus the amendment proposes to force Iraq to comply with its obligations, but using diplomatic means, in opposition to H.J.Res.114 [107th], which frequently refers to military action in Iraq as a “war on terrorism.”

¹³¹ Source: <http://www.gpo.gov/fdsys/pkg/BILLS-105hres322ih/pdf/BILLS-105hres322ih.pdf> (Last accessed: June 2011)

As far as concerns the operative part of H. Amdt. 609, the short title chosen for this amendment was “Elimination of Weapons of Mass Destruction from Iraq Resolution.” Thus there was no reference to the authorisation to use of force, meaning that its purpose was totally different from H.J.Res.114 [107th]. In Section 2, related to “The Sense of Congress”, while H.J.Res.114 [107th] limited diplomatic efforts, H. Amdt. 609 expressed that the President “should be commended for calling upon the United Nations to address the threat to international peace and security posed by Iraq” (SEC. 2. (1)), that he “should [have] continue[d] to seek, and the Security Council should [have] approve[d], a resolution demanding “full and unconditional compliance by the Government of Iraq with all disarmament requirements [...]” (SEC. 2. (3.A)), “mandate[d] the immediate return to Iraq of United Nations arms inspection teams” (SEC. 2. (3.B)), and eventually authorised:

(214) [...] 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 and he should have formed a “coalition of allies as broadly based as practicable to support and participate with United States Armed Forces, and should [have] also [sought] multilateral cooperation and assistance, specifically including Arab and Islamic countries, in the post-conflict reconstruction of Iraq”; (SEC. 2. (5)).

Finally, Section 8 of Spratt’s amendment explicitly affirms the inherent right to self-defence with a dedicated section, according to which:

(215) Nothing in this joint resolution is intended to derogate or otherwise limit the authority of the President to use military force in self-defense pursuant to the Constitution of the United States and the War Powers Resolution. (H.Amdt.609, SEC.8)

This paragraph was probably added in order to clinch that the amendment did not want to impede self-defence, it was, on the contrary, meant to give a legal base of justification for war based on a documented presence of WMD in Iraq after a reintroduction of inspectors in the territory;

Opponents to H.Amdt.609, such as the Republican Henry Hyde, claimed that the amendment did not recognize nor protect American sovereignty, because the President had to wait:

[...] until the U.N. acts or if it does not act or if it does not act properly, and God only knows how long that will take, then the President must return to Congress for further authorization for the use of force. And then once authorization is obtained, the use of force is limited to dealing with weapons of mass destruction and ballistic missile threats, but what about other threats to the U.S. national security such as the use of conventional weapons or Iraqi terrorism? [...] Iraq is a terrorist nation. Evidence exists that Iraqi operatives met with al Qaeda terrorists. This amendment does not allow the President to use force now even if an immediate or imminent terrorist threat is present.

H.Amdt.609 was rejected by 155 ‘Yeas’, 270 ‘Nays’, and 6 non-voting.

8.4 Some Conclusive Remarks

The linguistic analysis of the final version of S/RES/1441(2002), compared to its draft with the addition of some supplementary background information about the negotiation debates, has revealed how strategically used vagueness has played a crucial role in UN resolutions related to Iraq in the outbreak of the war, and in relevant legislation produced by the United States for its Congressional authorisation for war.

In particular, the comparison between both UN and U.S. drafts has revealed how the U.S. had legally interpreted UN legislation and the purposes and consequences of vague language contained in them. Although the UK and the U.S. agreed that there was no ‘automaticity’ in S/RES/1441(2002), they expressly continued to give their interpretation of the resolution, because vague UN resolutions wording did not have enough strength or will to exclude the unilateral use of force. By giving their personal interpretation of the resolution, the U.S. and the UK actually ignored the international value of the UN and of its decisions. This thoroughly instrumentalised view of the United Nations revealed that its relevance and authority were defined by and limited to its proximity to Washington’s positions.

This was further confirmed by the comparison between S/RES/1441(2002) and legislation passed in the U.S. for the authorisation for war, with the Public law P.L.107-273 and its draft bills.

The differences between these bills, which gradually led to the final approval of P.L. 107- 243, have revealed that vague UN wording left room for U.S. legislation authorizing war on a national and not international basis. Already in the first attempt to pass a resolution authorising the use of military force, the wording proposed did not imply a request of specific authorisation from the UN; the U.S. just had to ask the UN for a resolution expressing “dissatisfaction.” This reinforces once again the idea that the UN was not recognised as the sole institution having the institutional power to authorise war against Iraq. Furthermore, the first proposal revealed that, at the beginning, the main objective of a war against Iraq was of changing the political government in Iraq and its policy expressed the requirements the President had to ensure in order to obtain authorisation with much more details, if confronted with the other further draft bills which are much vaguer.

As the U.S. needed to justify the war on the basis of a war against international terrorism, further resolutions based their justifications for war more on the accusation that Iraq was still producing WMD, as was seen in S. J. Res 45 [107th] and S. J. Res 46 [107th], which can be considered as the first preliminary drafts to the final P.L. 107-243. The apparently slight differences between the two bills have revealed how actually cautious vague wording had been deliberately chosen to authorise war while seeking to seem to act pursuant to the UN Charter and UN resolutions.

Another proof that the U.S. wanted to interpret UN vague wording as allowing war is that the amendments proposed for S.J.45 [107th], giving different interpretations of the UN will, were all rejected except for Sen. Lieberman’s amendment S. Amdt. 4856, which became the bill proposal S. J. Res. 46 [107th]. On the basis of these rejections, it could be said that in the Senate the vague “serious consequences” referred to in S/RES/1441(2002) was interpreted as a unilateral attack against Iraq, requiring neither UN approval, nor a limit in time, and it could have occurred even if no imminent threat had been proven to be possible.

The last resolution, H.J.Res 114 [107th], became P.L.107-243. Also in this case, all the amendments proposed were rejected. Their analysis has revealed that the 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. As a matter of fact, the Congress willingly put aside a proposal of re-engaging in a diplomatic process to eliminate any Iraqi weapons of mass destruction through United Nations inspections, instead of engaging in a pre-emptive war, and also another amendment that

wanted to give a legal base of justification for war based on a documented presence of WMD in Iraq after a reintroduction of inspectors in the territory.

Therefore, the comparative analysis between S/RES/1441(2002) and U.S. legislation has evidenced that that there would have been diplomatic solutions to the Iraq crises which were not synonymous of light-handed intervention against Iraq, but deliberately 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.

Chapter 9

Analysis of UN Resolutions Relating to Iran: a Comparison with SCRIraq1 Results

The United States wants the Islamic Republic of Iran to take its rightful place in the community of nations. You have that right — but it comes with real responsibilities, and that place cannot be reached through terror or arms, but rather through peaceful actions that demonstrate the true greatness of the Iranian people and civilization.

(Barack H. Obama)

9.1 Introduction

In previous sections, it has been shown how excessive vagueness and indeterminacy in the formulation of the UN resolutions relating to Iraq contributed to the breakout of the Second Gulf War instead of a diplomatic solution of the controversies.

This section will attempt to understand whether it is possible to talk about the emergence of specific and recurring patterns of vagueness in UN resolutions and if the same patterns would be used in resolutions relating to the Iranian nuclear crises, revealing a relationship between the choice of vague linguistic features and an overall legislative intent of using intentional vagueness and indeterminacy as a political strategy.

In order to do so, the following sections will be dedicated to the contrastive analysis between results obtained on the SCRIraq1 corpus and the corpus of resolutions relating to Iran (SCRIran). Adopting a Critical Discourse Analysis perspective, in particular the theoretical framework of historical discourse analysis (Wodak 1996, 1999) the first sections of this chapter will focus on

modals, preambulatory and operative phrases, and weasel words. Then, in order to complete the linguistic and contextual analysis, another section will briefly take into exam the language used in the most recent resolution on Iran, S/RES/1929 (2010) and its concrete interpretation and implementation through U.S. Public Laws, as was done for the analysis of SCRIraq1.

9.2 Some Notes on the Iranian Nuclear Issue

In his “Axis of evil” speech held on January 29, 2002¹³², President Bush warned that the proliferation of long-range missiles developed by Iran, along with North Korea and Iraq, constituted an act of “terrorism” and was a “threat” for the United States. In particular, Iran has been accused of not respecting the Nuclear Non-Proliferation Treaty (NPT)¹³³ and UN resolutions issued to verify whether the three pillars of the NPT (non-proliferation of nuclear weapons, disarmament and the right to peacefully use nuclear energy) were being respected.

Iran’s nuclear programme has always received technological and technical support from other countries¹³⁴: in the late 1960s, the United States supplied Iran with a five megawatt research reactor, hot cells and 93% enriched uranium reactor fuel, to produce plutonium, a second fissile material that can be used to fuel nuclear weapons and Russia has supplied Iran a 1,000 megawatt pressurised light-water reactor, in Bushehr. However, although being an area of economic interest for many countries all around the world, it is also an area of “serious concern” for the UN, even if there have been no explicit reports that Iran has worked on weaponisation to produce a device that could cause the uranium or plutonium to explode in a nuclear chain reaction.

Iran has been subjected to four rounds of United Nations Security Council sanctions in relation to its nuclear programme:

¹³² Source: <http://georgewbush-whitehouse.archives.gov/news/releases/2002/01/print/20020129-11.html> (Last accessed: June 2011)

¹³³ Source: <http://www.un.org/en/conf/npt/2005/npttreaty.html> (Last accessed: June 2011).

¹³⁴ Source: <http://www.iranwatch.org/wmd/wponac-nuclearhistory-0904.htm> (Last accessed: June 2011).

In July 2006, through S/RES/1696 (2006)¹³⁵, the Security Council demanded Iran to suspend all uranium enrichment programmes by August 31 2006 because it was “seriously concerned” that the IAEA was unable to provide assurances about Iran’s undeclared nuclear material. In December 2006, after Tehran’s failure to comply with suspension of the nuclear programme, the Council issued S/RES/1737(2006)¹³⁶, calling on states to block Iran’s import and export of “sensitive nuclear material and equipment” and to freeze the financial assets of those involved in Iran’s nuclear activities.

In March 2007, S/RES/1747 (2007)¹³⁷ also restricted the travel of people deemed to be involved in the nuclear programme and it banned all of Iran’s arms exports.

In March 2008, S/RES/ 1803(2008)¹³⁸ called upon countries to inspect cargo planes and ships entering or leaving Iran if there were “reasonable grounds” to believe they were goods prohibited by previous resolutions.

In June 2010, after the discovery that Iran was building a uranium enrichment facility in a mountain near Qom, in Iran, the Council adopted S/RES/ 1929 (2010)¹³⁹ by a vote of 12 in favour, 2 against (Brazil and Turkey), and 1 abstention (Lebanon). Through this resolution, the Council decided that all States shall prevent the transfer to Iran of military equipment and it requested the Secretary-General to create a panel of experts to monitor implementation of the sanctions. This resolution also stresses the willingness of the so-called ‘E3+3’ (China, France, Germany, Russian Federation, United Kingdom and the United States) to further enhance diplomatic efforts to resolve the crisis. The Council affirmed that it would suspend the sanctions if, and so long as, Iran suspended all enrichment-related and reprocessing activities, as verified by the IAEA, to allow for good-faith negotiations. However, it also affirmed its determination to apply “further measures” if Iran continues to defy resolutions.

¹³⁵ Source: http://www.iaea.org/newscenter/focus/iaeaairan/unsc_res1696-2006.pdf (Last accessed: June 2011).

¹³⁶ Source: http://www.iaea.org/newscenter/focus/iaeaairan/unsc_res1737-2006.pdf (Last accessed: June 2011).

¹³⁷ Source: http://www.iaea.org/newscenter/focus/iaeaairan/unsc_res1747-2007.pdf (Last accessed: June 2011).

¹³⁸ Source: http://www.iaea.org/newscenter/focus/iaeaairan/unsc_res1803-2008.pdf (Last accessed: June 2011).

¹³⁹ Source: http://www.iaea.org/newscenter/focus/iaeaairan/unsc_res1929-2010.pdf (Last accessed: June 2011).

Although in 2006 the Iranian President Ahmadinejad expressed his willingness of diplomatic cooperation, it has been demonstrated that President Bush's position was to go to war with or without Iran's breach of UN resolutions. In August 2005, Philip Giraldi, a former CIA officer, stated that the American Vice President Dick Cheney had instructed the United States Strategic Command (STRATCOM)¹⁴⁰ to prepare:

[...] a contingency plan to be employed in response to another 9/11-type terrorist attack on the United States...[including] a large-scale air assault on Iran employing both conventional and tactical nuclear weapons...not conditional on Iran actually being involved in the act of terrorism directed against the United States.

Moreover, on April 18, 2006 when a journalist asked President Bush: "Sir, when you talk about Iran, and you talk about, how you have to have diplomatic efforts, you often say all options are on the table. Does that include, the possibility of a nuclear strike, is that something that your administration has plans about?." The President replied: "All options are on the table."¹⁴¹

Therefore, notwithstanding Iran's attempt of diplomacy, President Bush seemed to be intentioned to not listen to them. The Public law issued under his government, P.L. 109-223, is quite different from President Obama's policy represented by P.L.111-195. Both laws will be analysed in the last section of this chapter.

On the opposite, President Obama's position seems to be directed towards a diplomatic but firm solution of the issue. After his election, the U.S. administration has issued a number of bills relating to Iran, one of which has passed becoming P.L. 111-195, in order to implement UN resolutions relating to Iran, expressing the willingness of using all diplomatic means permitted by the UN Charter to resolve controversies, above all economic prohibitions and IAEA inspections.

During the last years, the IAEA has confirmed the non-diversion of declared nuclear material in Iran, but has also said it "needs to have confidence in the absence of possible military dimensions to

¹⁴⁰ Source: www.stratcom.mil (Last accessed: June 2011).

¹⁴¹ Source: [http://physicsworldarchive.iop.org/index.cfm?action=summary&doc=19%2F6%2Fphwv19i6a20 %40pwa-xml&qt=](http://physicsworldarchive.iop.org/index.cfm?action=summary&doc=19%2F6%2Fphwv19i6a20%40pwa-xml&qt=) (Last accessed: June 2011).

Iran's nuclear programme.”¹⁴² The only proofed violation of UN decisions come from the February 2009 IAEA report¹⁴³, in which it is said that Iran continued to enrich uranium contrary to the decisions of the Security Council and has produced over a ton of low enriched uranium.

In order to analyse resolutions relating to Iran, the following sections will be dedicated to the contrastive analysis between results obtained on the SCRIraq1 corpus and SCRIran1 as far as concerns modals, preambulatory and operative phrases, and weasel words. Another section will make observations on the language used in S/RES/1929 (2010) and its concrete interpretation and implementation through U.S. Public Laws. This type of linguistic and contextual analysis can be set up in the theoretical framework of the historical discourse approach, described in the introduction of this thesis.

9.3 The Discourse-Historical Approach Applied to SCRIraq1 and SCRIran1

As previously illustrated, among all approaches used in critical discourse analysis, Wodak's discourse-historical approach is the one which has been followed in this study because it has been the most suitable for the purposes of this research.

By investigating historical, organisational and political topics and texts, the discourse-historical approach attempts to integrate knowledge about the historical sources and the background of the social and political fields in which discursive events are embedded.

As previously explained in the introduction to this study, the discourse-historical approach (Wodak, de Cillia, Reisigl, and Liebhart 1999) distinguishes three interrelated dimensions: content, discourse strategies and linguistic means that have to be analysed for a complete understanding of a text.

The first dimension is “content”, which is clearly represented by the *topos* or the *topoi* of the issue in consideration.

¹⁴² Source: http://www.isis-online.org/uploads/isis-reports/documents/IAEA_Report_Iran_18Feb2010.pdf (Last accessed: June 2011).

¹⁴³ Source: http://www.isis-online.org/uploads/isis-reports/documents/IAEA_Report_Iran_18Feb2010.pdf (Last accessed: June 2011).

The second dimension includes discourse strategies, which aim at discerning the social actors' "intentional plan of practices adopted to achieve a particular social, political, psychological or linguistic aim" (Wodak and Reisigl 2000: 44). The main discursive strategies used in SCRIraq1 and SCRIran1 are: nomination, predication, argumentation, perspectivation and intensification/mitigation.

As far as concerns nominations, which are "referential strategies by which social actors are constructed and represented" (Wodak and Reisigl 2001: 45), from a comparison between SCRIran1 and SCRIraq1, it can be noticed that the main strategies used in both corpora are depersonalisation and "whole for part" synecdoches (Reisigl and Wodak 2001: 51). There is a preference to refer to the entire state (Iraq or Iran) instead of referring to the government, or to people involved in the breach of resolutions.

However, while SCRIraq1 makes a distinction between the "people of Iraq" when talking about humanitarian issues and it uses both "the government of Iraq" and synecdoches when talking about breaches, in SCRIran1 there is no reference neither to "the Iranian people", nor to "the Iranian government." Iran is referred to only as a state as a whole. Reference is also made to the international community, less in SCRIraq1 than in SCRIran1, in which the international community assumes the role of a socio-political actor in diplomacy, as will be seen later in this chapter. It could be assumed that major reference to the international community is a consequence of what had happened in the Iraqi case, in order to stress that action does not come from a single Member State acting by itself, but it is instead a concern of the entire UN community as a whole.

Through predications the social actors are "linguistically provided with predications, sometimes through stereotypical and evaluative attributions of negative and positive traits." (Wodak and Reisigl 2001: 54). For example, in SCRIraq1, Iraq is seen as a "threat" to international peace and security. Iran instead is a "serious concern", while the international community is said to be "willing to work positively to a diplomatic solution" a group of which Iran has to gain "confidence" that its nuclear programme includes only peaceful purposes.

In both corpora, the UN and the international community seem to be in an 'us-versus-them' relationship with Iran and Iraq, although this position is more mitigated in SCRIran1 than in SCRIraq1, as will be explained further in this chapter.

As regards argumentations used to justify positive and negative attributions, Iraq was accused of being in material breach of UN resolutions by repeatedly obstructing IAEA and UNMOVIC inspections and of not giving a “full, accurate and complete” disclosure of all its programmes on proliferation of weapons of mass destruction. On the other hand, UN action was determined to improve the “humanitarian situation” in Iraq.

Iran is accused of non-compliance with UN resolutions because it has not suspended uranium enrichment, and it hasn’t taken all steps required by the IAEA that are essential to build “confidence” in its nuclear production for peaceful purposes. Looking closer at the topoi used as argumentation strategies, it can be said that SCRIraq1 and SCRIran1 share many of them, as is explained in Table 43 below:

Argumentation Topoi in SCRIran1 AND SCRIraq1			
Strategy	Explanation	SCRIran1 Case	SCRIraq1 Case
Usefulness/ Uselessness	If an action under a specific relevant point of view will be useful, then one should perform it <i>pro bono nobis</i> .	Re-engaging with the international community and the IAEA would be “beneficial” for Iran.	Iraq had to comply with UN resolutions to “secure international peace and security”
Danger	If a political action bears threatening consequences, one should not perform it or if it is dangerous, one should do something against it.	Iran is a “serious concern” for international peace and security	Iraq is a “threat” to international peace and security
Law	If a norm prescribes a specific action, the action has to be performed.	Pursuant to S/RES/1929 (2010), all States shall take the necessary measures to prevent the entry into or transit through their territories of individuals designated in Annex C, D and E of resolution 1737 (2006)	In S/RES/1546 (2004) it was recalled that the Council had repeatedly warned Iraq that it would have faced serious consequences as a result of its “continued violations of its obligations.”
Responsibility	If a state is responsible for the emergence of specific problems, it should act to find solutions.	In S/RES/1696 (2006) the UN expressed to be mindful of its primary responsibility under the Charter of the United Nations for “the maintenance of international peace and security.”	S/RES/1511 (2003) authorized a multinational force under unified command to take all necessary measures to “contribute to the maintenance of security and stability in Iraq”

Table 43: Argumentation topoi in SCRIran1 and SCRIraq1

Other *topoi* are peculiar only to SCRIraq1, especially humanitarianism and justice. These *topoi* were used to justify military intervention in Iraq as an action to ensure human rights in Iraq and to establish a representative government that would have ensured equal rights and justice to all Iraq citizens.

As far as concerns the strategy of perspectivation, which deals with framing by means of which speakers or writers express their point of view in the reporting, description, narration or quotation of events or utterances (Wodak and Reisigl 2001: 81), in both corpora, the perspective assumed is that of the UN, which is the legislative force issuing the resolutions against Iraq and Iran..

Finally, both intensifying and mitigating strategies have been used in SCRIraq1 and SCRIran1 to help qualify and modify the epistemic status of a proposition by intensifying or mitigating the illocutionary force of utterances. They can sharpen or tone down an issue. As will be seen in the following sections, resolutions relating to Iran seem to use more mitigation strategies than those relating to Iraq. While SCRIraq1 refers mainly to “serious consequences” and “necessary measures” to be taken, with a vague but strong language, SCRIran1 also has a firm position regarding the nuclear issue in Iran, but its resolutions adopt a more diplomatic and toned down range of expressions.

Returning to the three interrelated dimensions of content, discourse strategies and linguistic means, the third and last interrelated dimension of the discourse historical approach regards linguistic means, which are primarily focused on lexical units and syntactic devices of a text. Together with the analysis of content, discourse strategies, historical, political, sociological and/or psychological contexts, linguistic analysis attempts at a complete and critical interpretation of a specific discursive occasion.

The following sections will focus on the linguistic features of modality, preambulatory and operative phrases and weasel words, integrating the analysis of the historical and legal context with which they interact. The contrastive analysis with results obtained by the investigation on SCRIraq1 will evidence the differences but also the similarity of patterns used in the two corpora.

9.4 Contrastive Analysis between Modals in SCRIraq1 and SCRIran1

Table 44 below reports the frequencies of modal auxiliary verbs in SCRIran1 and SCRIraq1:

Modal Occurrences in SCRIran1 AND SCRIraq1					
Modals	Frequencies in SCRIran1	%		Frequencies in SCRIraq1	%
SHALL	81	53,6		68	52,3
WOULD	24	15,8		6	4,6
MAY	12	7,9		13	10
COULD	12	7,9		1	0,7
WILL	13	7,9		26	20
CAN	5	3,3		7	5,3
SHOULD	5	3,3		6	4,6
MIGHT	0	0		1	0,7
MUST	0	0		4	3,07
Tot.	151			132	

Table 44: Modal occurrences in SCRIran1 and SCRIraq1

For the purposes of this research, discussion on results will be limited to remarks on the use of ‘shall’, ‘will’ and the conditional modals ‘may’, ‘would’, ‘could’, and ‘should’, as these are the most relevant as far as concerns their frequencies and their function in SCRIran1, as the quantitative data in Table 43 suggest.

9.4.1 ‘Shall’

‘Shall’ is the most frequently used modal in both corpora, and it is used to express several meanings, which is typical of this modal. As Williams (2005: 204) summarizes:

Its frequent and prolonged adaptation can be accounted for because of its capacity for expressing obligation and futurity, both of which are implicit in the very nature of regulative acts (Gotti 2001: 93) and also because of its depersonalized nature with respect to ‘will’ (Rissanen 2000: 122); in negative contexts it is often adopted to express prohibition. Another major use in prescriptive texts has been in dynamic (i.e. non deontic) predictive contexts, and [...] mainly in subordinate clauses because of the need to qualify an assertion in order to avoid ambiguity or specify certain conditions.

As in SCRIraq1, also in SCRIran1 the modal is used to convey a performative value and a deontic value of obligation. It has a percentage of 53, 6% and 81 occurrences.

The main difference between the two corpora is that in SCRIran1 there are no occurrences of ‘shall’ used to convey the meaning of permission or granting of rights, as it was in SCRIraq1. Example (216) below from SCRIraq1 illustrates the use of ‘shall’ for granting rights, while the second includes a deontic ‘shall’ retrieved from SCRIran1:

(216) UNMOVIC and the IAEA **shall have the right** to declare, for the purposes of freezing a site to be inspected, exclusion zones, including surrounding areas and transit corridors, in which Iraq will suspend ground and aerial movement so that nothing is changed in or taken out of a site being inspected [...]. (S/RES/1441 (2002))

(217) 2. Demands, in this context, that Iran **shall suspend** all enrichment-related and reprocessing activities, including research and development, to be verified by the IAEA [...]. (S/RES/1696(2006))

The occurrences of ‘shall have the right’, ‘shall have the free and unrestricted use’, ‘shall have unrestricted rights’ in SCRIraq1 always collocate with ‘UNMOVIC and the IAEA’. In SCRIran1, there is no use of ‘shall’ to grant rights to the IAEA. There seems to be no need for explicitation, as this right is given implicitly for granted. This can be explained by CDA as one of the devices used in dominance and hegemony to allow the acceptance of something through taken-for- granted actions.

As far as concerns the relationship between agency and ‘shall’, also SCRIran1 has been scrutinised to verify Trosborg’s (1997: 105- 106) thesis according to which although ‘shall’ has been defined as a modal verb expressing legal obligation, many instances of ‘shall’ occur with “non-human subjects which could not be given orders or assigned obligations.”

The 81 occurrences of ‘shall’ contained in SCRIran1 have been analysed for the occurrences of human or non-human subjects, and in the cases in which the sentence was passive and had a human agent, whether the agent was expressed in a passive clause or had to be recovered from context. The occurrences and percentages obtained are presented in Table 45 below:

AGENCY IN SCRIran1 AND SCRIraq1				
AGENTS	Frequencies in SCRIran1	%	Frequencies in SCRIraq1	%
Human agents in active sentences	60	74.07	23	33.8
Human agents in passive sentences	0	0	3	4,4
Human agents recoverable from context	4	4,9	17	25
Non- human agents	17	20.9	25	36.7

Table 45: Agency in SCRIran1 and SCRIraq1

It should be recalled that in SCRIraq1 the occurrences have revealed to be equally distributed between all types of clauses and that a significant 61.7% would be unmotivated according to Trosborg's criteria.

SCRIran1 presents a higher percentage of 'shall' used with human agents, while it is used less in situations recoverable from the text, and it is not present at all in passive sentences. If one adopts relatively strict criteria for agency, i.e. that the logical and grammatical subjects coincide and that the subject is human, almost 26% of the occurrences of 'shall' analysed in SCRIran1 are unmotivated, against the 61.7% of SCRIraq1.

4.9% of the cases in SCRIran1 have subjects recoverable from the context of the clause in which they are used. In both corpora, these cases of agent suppression serve as a device for issuing directives without explicit mention of the addressee as the regulated part. In Trosborg's analysis, they are not accounted for, but in this analysis they have been attributed a separate group, because the verbs used with 'shall' in these occurrences all require an implicit human agent to be accomplished, and thus the subject is clearly human, as in the following example:

(218) 16. Decides that technical cooperation provided to Iran by the IAEA or under its auspices shall only be for food, agricultural, medical, safety or other humanitarian purposes, or where it is necessary for projects directly related to the items specified in subparagraphs 3 (b) (i) and (ii) above, but that no such technical cooperation **shall** be provided that relates to the proliferation sensitive nuclear activities set out in paragraph 2 above [...]. (S/RES/1737 (2006))

As in SCRIraq1, also in SCRIran1 a certain percentage of occurrences (20, 9% for Iran and 36,7 % for Iraq) included non-human subjects which could not be given orders or assigned obligations. Typically,

non-human subjects represent semantic categories referring to the resolution or parts of it (such as provisions, resolutions, and contents) and they are used in constitutive forms, as in example (219):

(219) 14. Decides that the mandate of the Committee as set out in paragraph 18 of resolution 1737 (2006) **shall** also apply to the measures imposed in resolution 1747 (2007) and this resolution [...]. (S/RES/1803 (2008))

The majority of non-human cases occur in a constitutive clause, mostly referring to parts of a resolution, and thus ‘shall’ is used to provide intertextual references rather than imposing any kind of obligation. These occurrences are constitutive because “they do not only perform an act, but have the immediate effect of giving rise to a new state of things, bringing about a change in reality” (Garzone 2003: 158) and they create new legal relationships and statuses. In these performative ‘shalls’ the assertion of a legal condition corresponds to its same performance so that the effect is produced *ipso jure* (Carcattera 1994: 222- 223).

By analysing the clusters of ‘shall’ found in SCRIran1, it can be noticed that the high frequency of ‘Member States’ (26 occurrences) and ‘Iran’ (17 occurrences) on the left of ‘shall’ is consistent with previous studies according to which deonticity is connected to agent-orientedness. Moreover, having a closer look at the context in which these clusters can be found, it is interesting to note the higher amount of occurrences of ‘Member States’, which ‘shall take the necessary measures’, ‘freeze the funds’, ‘prohibit procurements’, ‘prevent’ provisions to Iran, in comparison to the fewer occurrences of ‘Iran’ that has to ‘suspend enrichment’, ‘provide access’ to its sites, and ‘take the steps required’ by the IAEA. The major presence of occurrences of ‘Member States’ as subjects could be read as a primary role given to the international community as an important social actor to persuade it to implement sanctions on Iran and to avoid that Iran could provide itself military material.

Moreover, as far as concerns prohibitions, excluding the performatives “this paragraph shall not apply”, all the occurrences of the negative form “shall not” refer to ‘Iran’, as can be seen in the KWIC Table 46 below:

Hit	KWIC		
1	Phs 3 and 4 above 7. Decides that	Iran shall not	export any of the items in documents S/2006/814 a
2	o this resolution 5. Decides that	Iran shall not	supply, sell or transfer directly or indirectly f
3	nd enrichment-related activities,	Iran shall not	begin construction on any new uranium-enrichment,
4	related facility; 7. Decides that	Iran shall not	acquire an interest in any commercial activity in

Table 46: KWIC of 'shall not' in SCRIran1

Therefore, as in SCRIraq1, also in SCRIran1 'shall' predominantly occurs in deontic agent-oriented sentences, in which the human agent is either explicitly expressed or retrievable from the context. The majority of non-human occurrences are connected to a constitutive clause, mostly referring to parts of a resolution. The choice could be connected to legal style and are part of 'legalese', therefore these cases could have been written choosing a different formula rather than 'shall' to be clearer in meaning. The flavour of obligation and futurity of 'shall' makes it all-encompassing and its usage contributes to the highly impersonal style of writing reinforces the idea of impartiality and authoritativeness of the law. In fact, according to Gotti (2003: 93) "[t]he frequent adoption of 'shall' in this register may be explained by its double possibility of expressing both obligation and futurity, implicit in the very nature of regulative acts."

However, after the comparison between the two corpora, it could be said that SCRIran1 could reflect a UN practice of going towards a more correct use of 'shall', which according to Trosborg (1997) and Gotti should be used with human agents. As a matter of fact, although SCRIran1 includes 20.9% of occurrences of 'shall' with non-human agents, the percentage of 74.07% of occurrences with human agents in active structures is strikingly higher than the 33.8% occurrences used in SCRIraq1.

9.4.2 'Will'

As far as concerns 'will', in SCRIran1 as in SCRIraq1 it has been used to express future time, willingness and prediction.

Of the 13 occurrences of 'will' in SCRIran1, 12 are used to express plain futurity, in particular it is used most to introduce a consequence (6 occurrences, e.g. examples 220 and 221), or a condition (6 occurrences, examples 222 and 223):

(220) [...] noting the confirmation by these countries that once the confidence of the international community in the exclusively peaceful nature of Iran's nuclear programme is restored, it **will** be

treated in the same manner as that of any Non-Nuclear Weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons [...]. (S/RES/1803 (2008))

(221) 3. [...] underlines the willingness of the international community to work positively for such a solution, encourages Iran, in conforming to the above provisions, to re-engage with the international community and with the IAEA, and stresses that such engagement **will** be beneficial to Iran [...]. (S/RES/1696 (2006))

(222) 9. Confirms that such additional measures **will** not be necessary in the event that Iran complies with this resolution [...]. (S/RES/1696 (2006))

(223) 8. Expresses its intention, in the event that Iran has not by that date complied with this resolution, then to adopt appropriate measures under Article 41 of Chapter VII of the Charter of the United Nations to persuade Iran to comply with this resolution and the requirements of the IAEA, and underlines that further decisions **will** be required should such additional measures be necessary [...].(S/RES/1696 (2006))

Moreover, there is one occurrence of ‘will’ with the root meaning of volition (commissive speech act):

(224) 1. [...] affirms its decision that Iran shall without delay take the steps required in paragraph 2 of resolution 1737 (2006), and underlines that the IAEA has sought confirmation that Iran **will** apply Code 3.1 modified [...]. (S/RES/1803 (2008))

Thus, as in SCRIraq1, also in SCRIran1, most of the occurrences of ‘will’ express a non-modal usage, although all cases are connected to a meaning of futurity. In particular, the occurrences are all in clauses attempting at assuring Iran’s compliance with UN resolutions, either reassuring Iran that compliance will be beneficial for the nation, or firmly stating that vague and unspecified “further decisions” and “additional measures” ‘will be required’ if Iran does not engage in compliance with UN resolutions.

9.4.3 ‘May’, ‘Would’, ‘Could’ and ‘Should’

As far as concerns conditional modal auxiliaries, it can be evidenced that there is a preponderating presence of ‘would’, ‘could’ and ‘should’ in SCRIran1 used in their epistemic meaning of hypothetical modals. This usage reveals the hedging function of these verbs, as these Iran-related documents are supposed to be very low-playing given the fact that Iran is only alleged to be producing nuclear energy for non-civil purposes.

‘Would’ usually functions both as the past tense form of ‘will’ and as a general hypothetical marker. While in SCRIraq1 ‘would’ has a percentage of 4,6%, in SCRIran1 ‘would’ has a higher percentage of 15,8%, and it is used as a hypothetical and hedging device. The following example has been retrieved from SCRIran1:

- (225) 17. Calls upon all States to exercise vigilance and prevent specialized teaching or training of Iranian nationals, within their territories or by their nationals, of disciplines which **would** contribute to Iran’s proliferation sensitive nuclear activities and development of nuclear weapon delivery systems [...]. (S/RES/1737 (2006))

Through the use of ‘would’, example (225) above reveals a toning down approach aiming at a diplomatic and peaceful solution of the issue. The same can be said also for the uses of ‘could’ and ‘should’. The only occurrence of ‘could’ in SCRIraq1 expresses the root meaning of ability (dynamic modality), while the 12 occurrences of ‘could’ in SCRIran1, which represent 7, 9% of the modals used, all seem to express the double meaning of root ability and epistemic possibility. In the example below, the distinction between the epistemic and the root meaning is not clear-cut. It expresses dynamic modality if it is analysed as related to the concept of an implicit ability and will to use the listed items for the development of nuclear weaponry, or it could express a mere possibility to do so, connected with “external circumstances” (Coates 1983: 93) that could occur:

- (226) 13. Decides that for the purposes of the measures specified in paragraphs 3, 4, 5, 6 and 7 of resolution 1737 (2006), the list of items in S/2006/814 shall be superseded by the list of items in INFCIRC/254/Rev.9/Part 1 and INFCIRC/254/Rev.7/Part 2, and any further items if the State

determines that they **could** contribute to enrichment-related, reprocessing or heavy water-related activities or to the development of nuclear weapon delivery systems [...]. (S/RES/1929 (2010))

Finally, there is a main difference between the meaning of ‘should’ in SCRIraq1 and SCRIran1: all the 6 occurrences of ‘should’ found in SCRIraq1 express weak deontic modality and they are chosen to convey values and principles related to the provision of humanitarian relief to the Iraqi people (example 227). In SCRIran1 instead, ‘should’, which represents 3, 3% of the modals, is used with a hypothetical meaning, as can be seen in the second example (228) below:

(227) Resolved that the United Nations **should** play a vital role in humanitarian relief, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance [...]. (S/RES/1483 (2003))

(228) 8. Expresses its intention, in the event that Iran has not by that date complied with this resolution, then to adopt appropriate measures under Article 41 of Chapter VII of the Charter of the United Nations to persuade Iran to comply with this resolution and the requirements of the IAEA, and underlines that further decisions will be required **should** such additional measures be necessary [...]. (S/RES/1696 (2006))

The same clause is repeated 5 times throughout the corpus and it is a quite odd structure, as its prototypical usage in legal and diplomatic language is meant to express weak deonticity. For sake of simplicity it could be substituted with ‘if’.

Furthermore, the preponderance of the hypothetical structure of SCRIran1 is confirmed by a major presence of conditional conjunctions present in SCRIran1, as can be seen in Table 47:

Conditional Conjunctions in SCRIran1 AND SCRIraq1			
Conditional Conjunction	Frequencies in SCRIran1		Frequencies in SCRIraq1
As long as	1		4
If	19		5
Unless	1		4
Whether	12		3

Table 47: Conditional Conjunctions in SCRIran1 and SCRIraq1

Through the comparison of modals used in SCRIran1 and SCRIraq1, it has been seen that although SCRIran1 uses a toning down approach with prevalent hypothetical structures and conditional modals aiming at a diplomatic and peaceful solution of the issue, there are some patterns and similarities between SCRIran1 and SCRIraq1. In both corpora, 'shall' is the most used modal and it predominantly occurs in deontic agent-oriented sentences, while the majority of non-human occurrences of 'shall' are used in constitutive clauses. Moreover, even if SCRIran1 possibly reflects a UN practice of going towards a more correct use of 'shall' using it more for agent-oriented sentences, the modal still contributes to the highly impersonal style of writing reinforces the idea of impartiality and authoritativeness of the law.

Therefore, it could be said that the comparison of the modals used in SCRIran1 and SCRIraq1 has mostly revealed that the UN resolutions use modal patterns as discursive strategies to convey the UN's intentions. While SCRIraq1 used strong modals expressing a root meaning to impose and justify intervention in Iraq, SCRIran1 uses a pattern of hypothetical and deontic modals to express its firm determination to solve the Iranian nuclear issue, but through a cautious and diplomatic approach. This toned down pattern used for the Iranian issue is further confirmed by the data emerging from the analysis of preambulatory and operative phrases chosen in SCRIran1, as will be seen in the following section.

9.5 Contrastive Analysis between Preambulatory and Operative Phrases Used in SCRIran1 and SCRIran1

As previously said, the Security Council uses a range of wording to describe its institutional feelings towards actions and situations regarding the Subject of the resolution. The preambulatory section of resolutions is the richest of emotive language, while a scale of gravity-connoted words is used in operative sentences.

9.5.1 Comparison between Emotive Wordings Used in Preambulatory Phrases in SCRIran1 and SCRIraq1

As for SCRIraq1, also in SCRIran1 the wide range of institutional feelings expressed can be divided into four groups: preambulatory clauses containing negative emotive language, clauses expressing positive feelings, clauses used to express assertiveness and words used to put emphasis on a topic.

Most preambulatory clauses in SCRIran1 express negative feelings, as can be seen in Table 48 below:

Preambulatory Phrases Expressing Negative Feelings			
SCRIran1 occurrences		SCRIraq1 occurrences	
Noting with serious concern	10	Noting with serious concern	0
Concerned	5	Concerned	1
Deploring	4	Deploring	5
Noting with concern	2	Noting with concern	0
Expressing the gravest concern	0	Expressing the gravest concern	1
Regretting	0	Regretting	1

Table 48: Preambulatory phrases expressing negative institutional feelings in SCRIran1 and SCRIraq1

‘Concerned’ is the most common negative phrase used in SCRIran1 and in UN resolutions in general. It is used in UN resolutions to express less urgent sentiments and to indicate a variegated problem that the Security Council may examine:

(229) Noting with serious **concern** the many reports of the IAEA Director General and resolutions of the IAEA Board of Governors related to Iran’s nuclear programme, reported to it by the IAEA Director General, including IAEA Board resolution GOV/2006/14 [...]. (S/RES/1696 (2006))

Probably this weak wording, also used in the expressions ‘noting with serious concern’ and ‘reiterating its serious concern’, although expressing negative feelings, can be considered as a toning down hedged warning: the UN has probably chosen not to use a stronger preambulatory phrase (e.g. ‘condemning’) because there is no proof that Iran is using nuclear energy in a non-peaceful way, and because there is a willingness of diplomacy.

Another negative emotive phrase used in SCRIran1 is ‘deploring’. According to *the Oxford Advanced Learner’s Dictionary*¹⁴⁴, ‘to deplore’ means “to strongly disapprove of something and criticize it, especially publicly.” To reach the level of ‘deplore’, the Subject of the resolution must be perceived as violating customary international law in some form. In SCRIran1, there are four occurrences of ‘deploring’, of which an example is given below:

(230) Recalling the latest report by the IAEA Director General (GOV/2007/8) of 22 February 2007 and **deploring** that, as indicated therein, Iran has failed to comply with resolution 1696 (2006) and resolution 1737 (2006) [...]. (S/RES/1747 (2007))

From the comparison of the two corpora, it can be noticed that in general although also SCRIraq1 includes 5 occurrences of ‘deploring’ and 1 of ‘expresses the gravest concern’, it does not emphasise negative feelings as much as SCRIran1 does.

Another group of preambulatory phrases includes positive emotive wording, illustrated in Table 49 below:

Preambulatory Phrases Expressing Positive Feelings			
SCRIran1 occurrences		SCRIraq1 occurrences	
Welcoming	6	Welcoming	13
Commending	2	Commending	2
Expressing its appreciation	0	Expressing its appreciation	1
Encouraging	0	Encouraging	1

Table 49: Preambulatory phrases expressing positive institutional feelings in SCRIran11 and SCRIraq1

It can be noticed that while SCRIraq1 includes more occurrences of phrases used to express positive feelings such as ‘commending’, ‘encouraging’, and ‘welcoming’, SCRIran11 includes a more limited use of these phrases, having only 6 occurrences of ‘welcoming’ and 2 occurrences of ‘commending’.

Examples (231) and (232) are retrieved from SCRIran11:

¹⁴⁴ All definitions quoted in this chapter are retrieved from *the Oxford Advanced Learner’s Dictionary* 8th Edition, 2010.

(231) Reiterating its determination to reinforce the authority of the IAEA, strongly supporting the role of the IAEA Board of Governors, **commending** the IAEA for its efforts to resolve outstanding issues relating to Iran's nuclear programme in the work plan between the Secretariat of the IAEA and Iran (GOV/2007/48, Attachment), **welcoming** the progress in implementation of this work plan as reflected in the IAEA Director General's reports of 15 November 2007 (GOV/2007/58) and 22 February 2008 (GOV/2008/4)[...] (S/RES/1803 (2008))

(232) [...] welcoming the continuing commitment of China, France, Germany, the Russian Federation, the United Kingdom and the United States, with the support of the European Union's High Representative to seek a negotiated solution [...] (S/RES/1737 (2006))

Some Probably the major use of positive emotive wording in SCRIraq1 is due to the fact that in this corpus the UN expresses its positive institutional feelings towards post-conflict reconstruction in Iraq, while in SCRIran1 positive wording is used uniquely to refer to the IAEA, which is 'commend[ed]' for its efforts to "resolve outstanding issues relating to Iran's nuclear programme" and towards the P5, which is 'welcomed' for its seeking "a negotiated solution" to the issue, as can be seen in example (233) below:

(233) **Emphasizing the importance of political and diplomatic efforts** to find a negotiated solution guaranteeing that Iran's nuclear programme is exclusively for peaceful purposes, and noting that such a solution would benefit nuclear nonproliferation elsewhere, and **welcoming** the continuing commitment of China, France, Germany, the Russian Federation, the United Kingdom and the United States [...] (S/RES/1737 (2006))

As in SCRIraq1, also in SCRIran1 some preambulatory clauses of the corpus cannot be classified in a positive-negative scale. This is the case of some clauses which seem to have an assertive function, without expressing an actual emotive meaning. They seem to indicate determination and sureness of what is being stated. As a matter of fact, this group contains words such as 'determined' and its synonyms:

Preambulatory Phrases Expressing Assertiveness			
SCRIran1 occurrences		SCRIraq1 occurrences	
Determined	5	Determined	6
Expressing the firmness	2	Expressing the firmness	0
Having regard	2	Having regard	0
Recognizing	1	Recognizing	11
Affirming	0	Affirming	5
Determining	0	Determining	4
Expressing resolve	0	Expressing resolve	1
Having considered	0	Having considered	1
Resolved	0	Resolved	1
Urging	0	Urging	1

Table 50: Preambulatory phrases expressing assertiveness in SCRIran1 and SCRIraq1

It is difficult to classify these words, as they cannot be said to be completely neutral, because they express the firmness of the United Nations members regarding an issue.

Another group that cannot be analysed in a positive-negative emotive scale is the group of phrases used to express emphasis on a particular issue:

Preambulatory Phrases Expressing Emphasis			
SCRIraq1 Occurrences		SCRIran1 Occurrences	
Recalling	25	Recalling	18
Reaffirming	18	Reaffirming	10
Emphasizing	0	Emphasizing	6
Noting	13	Noting	9
Stressing	6	Stressing	3
Reiterating	2	Reiterating	2
Taking note	4	Taking note	1
Underlining	0	Underlining	1
Underscoring	1	Underscoring	0

Table 51: Preambulatory phrases expressing emphasis in SCRIran1 and SCRIraq1

This group delineates the main difference between the two corpora in the use of preambulatory clauses. What seems to emerge from the preambulatory phrases of SCRIraq1 is a sort of willingness to put emphasis on the fact that Iraq was considered to still be in “material breach” of precedent resolutions and to stress that Iraq had been repeatedly warned about its transgressions. The analysis of assertive and emphasizing phrases in SCRIran1 reveals that, although resolutions relating to Iran have adopted a firm position against Iran’s non-compliance with UN decisions, the UN does take

care of emphasizing the willingness of the international community to resolve the issue through diplomatic means, as can be seen in the following examples:

(234) **Emphasizing** the importance of political and diplomatic efforts to find a negotiated solution guaranteeing that Iran’s nuclear programme is exclusively for peaceful purposes, and noting that such a solution would benefit nuclear nonproliferation elsewhere, and welcoming the continuing commitment of China, France, Germany, the Russian Federation, the United Kingdom and the United States, with the support of the European Union’s High Representative to seek a negotiated solution [...]. (S/RES/1747 (2007))

(235) **Emphasizing** also, however, in the context of these efforts, the importance of Iran addressing the core issues related to its nuclear programme [...]. (S/RES/1929 (2010))

As done for SCRIraq1 in Chapter 4 of this study, for further specification and investigation on the categories of assertive and emphasising preambulatory phrases, also for SCRIran1 occurrences of assertive and emphasising preambulatory phrases have been further classified on the basis of Matthiessen and Halliday’s (1997) theory of transitivity. The primary process types are “material”, “mental”, “verbal”, and “relational” and they can be motivated by their meaning and their structure.

As in SCRIraq1, also in SCRIran1 the occurrences are limited only to the two categories of mental and verbal processes. Tables 52 and 53 below respectively illustrate phrases describing mental and verbal processes found in assertive and emphasising preambulatory phrases in SCRIran1:

Mental Process	Occurrences	Structural Realization		
		Senser	Phenomenon	Resolution
Determined	5	The UN	“to give effect to its decisions by adopting appropriate measures [...]”	S/RES/1737 (2006)
Recognizing	1	The UN	“the progress made by the Global Initiative to Combat Nuclear Terrorism [...]”	S/RES/1887 (2009)
Recalling	18	The UN	“the Statement by its President adopted at the Council’s meeting held on 19 November 2008 (S/PRST/2008/43) [...]”	S/RES/1887 (2009)

Emphasizing	6	The UN	“the importance of political and diplomatic efforts to find a negotiated solution guaranteeing that Iran’s nuclear programme is exclusively for peaceful purposes [...]”	S/RES/1929 (2010)
Noting	9	The UN	“that such a solution would benefit nuclear non-proliferation elsewhere [...]”	S/RES/1696 (2006)
Stressing	3	The UN	“that China, France, Germany, the Russian Federation, the United Kingdom and the United States are willing to take further concrete measures [...]”	S/RES/1803 (2008)
Taking note	1	The UN	“of the 15 September 2008 Report by the Director General of the International Atomic Energy Agency [...]”	S/RES/1835 (2008)
Underlining	1	The UN	“that the NPT remains the cornerstone of the nuclear non-proliferation regime [...]”	S/RES/1887 (2009)

Table 52: Mental processes found in assertive and emphasising preambulatory phrases in SCRIran1:

Verbal Process	Occurrences	Structural Realization			
		Sayer	Verbiage (example)	Receiver	Resolution
Expressing the conviction	1	The UN	“that the suspension set out in paragraph 2 of resolution 1737 (2006) would contribute to a diplomatic, negotiated solution [...]”	Member States/Iran	S/RES/1929 (2010)
Reaffirming	10	The UN	“the Statement of its President adopted at the Council’s meeting at the level of Heads of State [...]”	Member States/Iran	S/RES/1887 (2009)
Reiterating	2	The UN	“its determination to reinforce the authority of the IAEA[...]”	Member States/Iran	S/RES/1929 (2010)

Table 53: Verbal processes found in assertive and emphasising preambulatory phrases in SCRIran1

Moreover, there are two occurrences of the phrase ‘Having regard’ [to States’ rights and obligations relating to international trade] (S/RES/1929 (2010)) which has an overlapping meaning between a ‘mental’, and ‘material’ process.

As has been seen in SCRIraq1, comparing the number of occurrences, it can be noticed that there is a majority of mental processes rather than verbal clauses. In this case, this could give further support to the hypothesis that the UN is keeping a toned- down position against Iran in search of a diplomatic solution of the issue. Therefore, from a closer look into the preambulatory phrases chosen by the UN to show assertiveness and emphasis, it can be suggested that the UN used these phrases to emphasize its diplomatic intentions towards Iran, although using verbal process phrases to speak out its determination to solve the issue.

Thus, also on the basis of this further classification, it can be said that although using the same main preambulatory clauses, in SCRIraq1 there is a prevalence of repetition of warnings, underlining Iraq’s continuation of material breach of UN resolutions using especially assertive wording, while SCRIran1 uses a less wide range of preambulatory clauses, the majority of them focusing on an expression of concern for the impossibility to understand whether Iran is using nuclear energy for non-peaceful purposes.

Moreover, SCRIraq1 has a wider range than SCRIran1 of positive expressions of feelings, probably due to the conclusion of the conflict and UN involvement in post conflict reconstruction. At the same time however, also SCRIran1 uses some positive preambulatory phrases, but to emphasize that the international community would like to find a diplomatic and political solution to the issue. This diplomatic and cautious intent of SCRIran1 is confirmed by the use of certain operative phrases that will be analysed below.

9.5.2 Comparison between Instructive Wordings Used in Operative Clauses in SCRIran1 and SCRIraq1

As previously said, operative clauses include the statements of policy in a resolution: they indicate the concrete actions that will be taken. The choice of wording thus reveals the amount of authority the Security Council intends to convey the severity of the Subject. In general, the stronger the instructive word, the greater risk an Entity takes by ignoring it. Some operative clauses regard the actions to be taken by the Security Council itself, while others instruct a subject to perform an action, as can be seen in Table 54 and Table 55 respectively:

Operative Phrases on Actions to be Taken by the Security Council			
SCRIran1 Occurrences		SCRIraq1 Occurrences	
Decides	45	Decides	52
Underlines	17	Underlines	2
encourages	13	Encourages	3
Affirms	9	Affirms	1
Reaffirms	8	Reaffirms	8
Stresses	7	Stresses	2
Decides to remain seized	6	Decides to remain seized	12
Commends	5	Commends	0
Supports	4	Supports	3
Welcomes	4	Welcomes	8
Expresses the conviction	3	Expresses the conviction	0
Requires	3	Requires	0
Acknowledges	2	Acknowledges	0
Emphasizes	2	Emphasizes	5
Notes	2	Notes	10
Reiterates	2	Reiterates	3
Confirms	1	Confirms	0
Deplores	1	Deplores	0
Directs	1	Directs	5
Endorses	1	Endorses	3
Expresses its determination	1	Expresses its determination	0
Expresses its intention	1	Expresses its intention	0
Recalls	1	Recalls	3
Regrets	1	Regrets	0
Takes note	1	Takes note	1
Approves	0	Approves	1
Authorizes	0	Authorizes	3
Condemns	0	Condemns	2
Decides to remain actively seized	0	Decides to remain actively seized	1
Declares	0	Declares	1
Determines	0	Determines	2
Expresses its appreciation	0	Expresses its appreciation	1
Expresses deep sympathy	0	Expresses deep sympathy	1
Expresses its readiness	0	Expresses its readiness	3

Instructs	0	Instructs	1
Recognizes	0	Recognizes	5
Re-emphasizes	0	Re-emphasizes	1
Reminds	0	Reminds	1
Resolves	0	Resolves	1

Table 54: Operative phrases used for actions to be taken by the Security Council itself

Operative Phrases Instructing a Subject to Perform an Action			
SCRIran1 occurrences		SCRIraq1 occurrences	
Calls upon	27	Calls upon	13
Requests	9	Requests	27
Appeals	0	Appeals	5
Demands	1	Demands	2
Urges	1	Urges	5
Calls for	0	Calls for	1
Calls on	0	Calls on	4
Invites	0	Invites	2

Table 55: Operative phrases used to instruct a subject to perform an action in SCRIran1 and SCRIraq1

The gentlest instructive word used in both corpora is ‘decides’. The term means “to think carefully about the different possibilities that are available and choose one of them or to make an official or legal judgment.” For instance:

(236) 3. **Decides** that all States shall take the necessary measures to prevent the supply, sale or transfer directly or indirectly from their territories, or by their nationals or using their flag vessels or aircraft to, or for the use in or benefit of, Iran [...]. (S/RES/1737 (2006))

The second most used operative phrase in SCRIran1 is ‘underlines’. It is thoroughly ‘underlined’ that although there is a willingness of the international community to find a “diplomatic, negotiated solution that guarantees Iran’s nuclear programme is for exclusively peaceful purposes”, there is a “necessity of the IAEA continuing its work to clarify all outstanding issues relating to Iran’s nuclear programme” (S/RES/1747 (2007)), and that “further decisions will be required should such additional measures be necessary” (S/RES/1737 (2006)) if Iran is found to be non-compliant with UN resolutions. Thus the operative phrase ‘underlines’ is used to stress both resolve for a diplomatic solution to the issue, but also determinacy to engage in further decisions if the UN’s will is not respected.

The willing of a diplomatic solution is further confirmed by the third most used operative phrase in SCRIran1, which is ‘encouraged’. It is used to encourage IAEA both to continue its action of investigation, and to re-engage with the international community and with the IAEA, as can be seen in the example below:

(237) 20. Expresses the conviction that the suspension set out in paragraph 2 above as well as full, verified Iranian compliance with the requirements set out by the IAEA Board of Governors, would contribute to a diplomatic, negotiated solution that guarantees Iran’s nuclear programme is for exclusively peaceful purposes, underlines the willingness of the international community to work positively for such a solution, **encourages** Iran, in conforming to the above provisions, to re-engage with the international community and with the IAEA, and stresses that such engagement will be beneficial to Iran [...]. (S/RES/1737 (2006))

As far as concerns phrases used to instruct a Subject to perform an action, although SCRIraq1 has a wider range of these operative clauses, the two corpora are similar in that the two most used phrases are ‘call upon’ and ‘requests’.

‘Call upon’ is the weakest instructive phrase used by the UN, and it means “to ask or demand somebody to do something.” The phrase is usually chosen to ask an Entity to comply with a clause simply as a matter of principle.

(238) 4. **Calls upon** Iran to comply fully and without delay with its obligations under the above-mentioned resolutions of the Security Council, and to meet the requirements of the IAEA Board of Governors. [...] (S/RES/1835 (2008))

Also in SCRIraq1 ‘calls upon’ is used to convey mild force, even in cases in which it would have been probably better to use stronger phrases. As a matter of facts, in both SCRIraq1 and SCRIran1 ‘call upon’ is used also for quite important requests, asking Member States to “exercise vigilance over transactions” (S/RES/1696(2006)) and Iran to “act strictly in accordance with the provisions of the Additional Protocol” (S/RES/1737 (2006)) in SCRIran1 and to call upon Member States to “respond immediately to the humanitarian appeals of the United Nations”(S/RES/ 1483 (2003) in the case of SCRIraq1. They are all very crucial issues which could have been dealt with stronger language; however, the UN prefers to use these hedging and less face-threatening formulae.

As far as concerns stronger operative phrases, while SCRIraq1 has an average percentage of phrases such as ‘appeals’, ‘urges’ and ‘demands’, SCRIran1 has only two occurrence of ‘urges’ and one of ‘demands’, and none of ‘appeals’. For instance:

(239) 2. **Demands**, in this context, that Iran shall suspend all enrichment-related and reprocessing activities, including research and development, to be verified by the IAEA [...]. (S/RES/1696 (2006))

(240) 30. **Urges** all States, relevant United Nations bodies and other interested parties, to cooperate fully with the Committee and the Panel of Experts, in particular by supplying any information at their disposal on the implementation of the measures decided in resolutions 1737 (2006), 1747 (2007), 1803 (2008) and this resolution, in particular incidents of non-compliance [...]. (S/RES/1929 (2010))

(241) [...] Also noting the resolution of the IAEA Board of Governors (GOV/2009/82), which **urges** Iran to suspend immediately construction at Qom [...]. (S/RES/1929 (2010))

Out of the three, ‘demands’ is one of the strongest instructive words commonly used by the Security Council. It is used “to ask for with authority.” It can be therefore said that both corpora use the same phrases though with different percentages. What can be noticed as a difference is that while SCRIraq1 uses a more incisive and decisive language, imposing more and stronger requests on Iraq, in SCRIran1 language is toned down, with a prevalence of ‘calling upon’ Iran rather than imposing deontic decisions on Iran. This is probably due to the international willingness of not engaging in the risk of a conflict with Iran which could also trigger the proliferation of nuclear weapons rather than finding a diplomatic solution to the issue, and to the fact that effectively Iran is only alleged to be preparing nuclear energy for non-peaceful purposes. In the Iraq case, there was a firmer will of engaging in war with Iraq to enforce it to comply with UN resolutions, but above all to overthrow Hussein’s regime, which was one of the U.S. President Bush’s main international political aims. Probably the more hedged and cautious language used in SCRIran1 is also due to the understanding of the negative consequences of the strong but vague and indeterminate language that had been used for the Iraqi issue.

9.6 Comparison between Weasel Words Used in SCRIran and SCRIraq1

The purpose of this section is to analyse the use of “weasel words” (Mellinkoff 1963: 21) contained in UN resolutions relating to Iran, and to compare the results with those emerging from the search of SCRIraq1, in order to illustrate the differences but also to find patterns of similarity in UN discursive practices. As anticipated in Chapters 3 and 6 of this study, “weasel words” are words and expressions with a very flexible, vague and indeterminate meaning, strictly dependent on context and interpretation. They can be used to “evade or retreat from a direct or forthright statement or position” (Reza Dibadj 2006: 1325), but also to intentionally obfuscate underlying issues.

In previous chapters it has been seen how the vagueness and indeterminacy of weasel words in UN resolutions related to Iraq have led to a subjective interpretation of the law and to unilateral US-UK attack against Iraq.

As done for SCRIraq1, also SCRIran has been scrutinised both manually and by using Antconc and Sketch Engine, in a multilayered analysis. At first, drawing on Mellinkoff’s list of indeterminate words (1963: 22), the corpora have been scrolled to find adjectives and nouns enumerated by Mellinkoff. Synonyms of the words listed by Mellinkoff found in the corpora have also been included. For further investigation, the vague and general adjectives contained in the corpora have been categorised using Fjeld’s (2005) adjective classification, with an addition of two other groups related to quantity and temporal adjectives.

In this section, the analysis reported will focus on weasel nouns and relational, ethic, and modal adjectives, because these groups are the most interesting for the scope of this research as these adjectives are the most indeterminate and subjective.

9.6.1 Relational Adjectives in SCRIran

According to Fjeld (2005: 165), relational adjectives “denote the relative requirements between the noun and some objectively fixed or indisputable standards or requirements.” The inherent vagueness

of these adjectives gives an instrument of power of interpretation to who uses them. The following Table 56 contains the relational adjectives found in SCRIraq1 and SCRIran:

Relational Adjectives in SCRIran AND SCRIraq1		
Relational Adjective	Frequencies in SCRIran	Frequencies in SCRIraq1
Appropriate	16	16
Primary	5	0
Reasonable	9	1
Acceptable	3	0
Large	2	0
Proper	2	0
Adequate	0	1
Duly qualified	0	2
Inadequate	0	1
Practicable	0	2

Table 56: Relational adjectives in SCRIran and SCRIraq1

From the comparison between SCRIran and SCRIraq1, it can be seen that the most used relational adjective in both corpora is ‘appropriate’. As far as concerns co-occurrences, in SCRIran, the highest co-occurrence of ‘appropriate’ is with ‘measures’ (11 occurrences). An example is given below:

(242) 8. Expresses its intention, in the event that Iran has not by that date complied with this resolution, then to adopt **appropriate** measures under Article 41 of Chapter VII of the Charter of the United Nations to persuade Iran to comply with this resolution [...].(S/RES/1696 (2006))

It is interesting to note that in SCRIraq1 ‘appropriate’ is used only when dealing with the humanitarian situation in Iraq.

In SCRIran, there is no reference to a humanitarian issue. The cautious and toning down ‘appropriate’ is used “to persuade Iran to comply with resolutions” (S/RES/1696 (2006)), to “prohibit financial institutions within their territories” (S/RES/1929 (2010)), and to warn Iran that if resolutions are not respected the UN could take ‘appropriate measures’ under Art.41 of Chapter VII of the UN Charter (S/RES/1696 (2006)). However, it also “underlines that further decisions will be required should such additional measures be necessary” (S/RES/1696 (2006)).

Another interesting case is ‘appropriate action’, which gives discretionary power to the Sanction Committee established pursuant to S/RES/1737(2006). The meaning of this expression is quite vague and open-ended:

(243) 18. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks [...] (c) to examine and take **appropriate** action on information regarding alleged violations of measures imposed by paragraphs 3, 4, 5, 6, 7, 8, 10 and 12 of this resolution[...].
(S/RES/1737 (2006))

In SCRIraq1, the term ‘appropriate’ has left room to disparate and subjective implementation of the resolution by the single Member States. Probably the same thing could happen in the case of Iran. Its subjectivity gives complete discretion of applicability to the parties involved to decide what would be ‘appropriate’. Probably in the case of Iran it would be better to have a stricter rule of conduct directly from the Security Council, which should expressly decide what the ‘appropriate measures’ to be taken are, in order to avoid the consequences that vague and indeterminate wording had in the Iraq case.

9.6.2 Ethic Adjectives in SCRIran1

Another group of adjectives that have been analysed are ethic adjectives, which are also characterised by subjectivity, because they are related to an ethical standard (Fjeld 2005: 165). In both corpora there seems to be a connection between the concept of ‘international peace and security’ and the use of ethic adjectives. In the analysis of SCRIraq1, the notions of ‘international peace and security’ and ethic issues have been used to find a justification for war against Iraq. In fact, the conflict was claimed to have been initiated for humanitarian intervention, for ‘equitable and fair elections’ in a ‘unified’ Iraq, and because Iraq was in material breach of UN resolutions. On the other hand, SCRIran1 resolutions appeal to ‘international peace and security’ to stop uranium enrichment, alleging that it could be used for military purposes. However, there are some similarities between the two corpora and Table 57 below illustrates the occurrences of ethic adjectives in SCRIran1 and SCRIraq1:

Ethic Adjectives in SCRIran1 AND SCRIraq1		
Ethic Adjectives	Occurrences in SCRIran1	Occurrences in SCRIraq1
Peaceful	28	0
Serious concern	15	0
Humanitarian	9	43
Illicit	5	0
Impartial	3	0
Representative	2	18
Reliable	1	0
Equitable	0	3
Equal	0	2
Fair	0	1
Gravest	0	1
Hostile	0	1
Innocent	0	1
Tragic	0	1
Transparent	0	3
Unified	0	5

Table 57: Ethic adjectives in SCRIran1 and SCRIraq1

While in SCRIraq1 most of these adjectives appeal to Iraqi's rights to 'equality', 'freedom', and 'fair elections of a representative government for a unified Iraq', in SCRIran1 the most frequent adjective is 'peaceful'. Its number of occurrences reflects the UN's willingness to verify that Iran will use nuclear energy only in ways that are not in breach with the Nuclear Non-Proliferation Treaty and that will not pose a threat to international peace and security, as can be seen in the example below:

- (244) 11. Reiterates its determination to reinforce the authority of the IAEA [...], underlines the necessity of the IAEA, which is internationally recognized as having authority for verifying compliance with safeguards agreements, including the non-diversion of nuclear material for **non-peaceful** purposes, in accordance with its Statute, to continue its work to clarify all outstanding issues relating to Iran's nuclear programme. (S/RES/1747 (2007))

Particularly loaded language is expressed through the clause 'serious concern', which 15 occurrences in SCRIran1. In SCRIraq1 'serious' was used as a consequence adjective to warn that Iraq would have faced 'serious consequences' if it had not respected resolutions (S/RES/1441(2002)). In SCRIran1 it is used to express UN institutional feelings (e.g. concern) related to Iran's nuclear programme issue:

(245) Noting **with serious concern** the many reports of the IAEA Director General and resolutions of the IAEA Board of Governors related to Iran’s nuclear programme, reported to it by the IAEA Director General, including IAEA Board resolution GOV/2006/14 [...]. (S/RES/1696 (2006))

Therefore, although choosing different adjectives to give different justifications for action against Iraq and Iran, SCRIraq1 and SCRIran1 are both characterised by the use of ethic adjectives to justify their appeal to Chapter VII of the UN Charter, in an attempt of creating empathy among UN members to find support in the international community.

9.6.3 Modal Adjectives

Modal adjectives are evaluative adjectives expressing a modal force. Also adjectives belonging to the modal category can be vague, if there is no clear specification of a normative ordering source. The adjectives found in the corpora are listed in Table 58 below:

Modal Adjectives in SCRIran1 and SCRIraq1		
Modal Adjectives	Frequencies in SCRIran1	Frequencies in SCRIraq1
Necessary	29	36
Essential	9	11
Possible	2	8
Potential	1	0
Vital	0	3
Important	0	2
Fundamental	0	2

Table 58: Modal adjectives in SCRIran1 and SCRIraq1

As in SCRIraq1, also in SCRIran1 the modal adjective ‘necessary’ has the highest frequency in the corpus; in order to weigh the degree of vagueness of this adjective, its use in context is shown in Table 59:

Hit	KWIC	
1	ll be required should such additional measures be	necessary
2	onfirms that such additional measures will not be	necessary
3	e IAEA 3. Decides that all States shall take the	necessary

4	equipment, goods and technology, determined as	necessary	by the Security Council or the Committee establis
5	Systems 4. Decides that all States shall take the	necessary	measures to prevent the supply, sale or transfer
6	6. Decides that all States shall also take the	necessary	measures to prevent the provision to Iran of any
7	ve been determined by relevant States:(a) to be	necessary	for basic expenses, including payment for foodstu
8	five working days of such notification (b) to be	necessary	for extraordinary expenses, provided that such de
9	y the relevant States to the Committee (d) to be	necessary	for activities directly related to the items spec
10	ty or other humanitarian purposes, or where it is	necessary	for projects directly related to the items specif
11	hs 9, 13 and 15 above (e) to determine as may be	necessary	additional items, materials, equipment, goods and
12	of paragraph 3 above (f) to designate as may be	necessary	additional individuals and entities subject to th
13	12 above (g) to promulgate guidelines as may be	necessary	to facilitate the implementation of the measures
14	ll be required should such additional measures be	necessary	25. Decides to remain seized of the matter.
15	ll be required should such additional measures be	necessary	14. Decides to remain seized of the matter.
16	Ngaged 5. Decides that all States shall take the	necessary	measures to prevent the entry into or transit thr
17	-2007 8. Decides that all States shall take the	necessary	measures to prevent the supply, sale or transfer
18	ctors, and where such supply, sale or transfer is	necessary	for technical cooperation provided to Iran by the
19	ngdom and the United States with a view to create	necessary	conditions for resuming talks 17. Emphasizes the
20	ortance of all States, including Iran, taking the	necessary	measures to ensure that no claim shall lie at the
21	ll be required should such additional measures be	necessary	20. Decides to remain seized of the matter.
22	the importance of ensuring that the IAEA have all	necessary	resources and authority for the fulfilment of its
23	issile technology, and that States shall take all	necessary	measures to prevent the transfer of technology or
24	lties; 10. Decides that all States shall take the	necessary	measures to prevent the entry into or transit thr
25	resolution, unless provision of such services is	necessary	for humanitarian purposes or until such time as t
26	has been inspected, and seized and disposed of if	necessary	, and underlines that this paragraph is not intend
27	ngdom and the United States with a view to create	necessary	conditions for resuming talks, and encourages Ira
28	ortance of all States, including Iran, taking the	necessary	measures to ensure that no claim shall lie at the
29	ll be required should such additional measures be	necessary	; 38. Decides to remain seized of the matter.

Table 59: KWIC of ‘necessary’ in SCRIran1

Also in SCRIran1 most occurrences of ‘necessary’ express a teleological modality, which, by specifying a goal, give a broad degree of limit to what is ‘necessary’, as in the following example:

(246) 4. Decides that all States shall take the **necessary** measures to prevent the supply, sale or transfer directly or indirectly from their territories, or by their nationals or using their flag vessels or aircraft to, or for the use in or benefit of, Iran [...]. (S/RES/1737(2006))

Also SCRIran1 seems to repeat the expression ‘necessary measures’ that has been notoriously criticised for their subjective interpretability and vagueness in Iraq resolutions. The other use of ‘necessary’ is with circumstantial modality. The vagueness of the adjective per se, added to its circumstantial use, frequently associated with the use of ‘if’ or ‘whether’, 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) related to Iraq. In SCRIran1 the open-endedness of the phrase gives full power to the Sanction Committee established with S/RES/1737(2006) with no limit in time or control over it, as can be seen in the following example retrieved from SCRIran1:

(247) 24. Affirms that it shall review Iran’s actions in the light of the report referred to in paragraph 23 above, to be submitted within 60 days, and [...]

(c) that it shall, in the event that the report in paragraph 23 above shows that Iran has not complied with this resolution, adopt further appropriate measures under Article 41 of Chapter VII of the Charter of the United Nations to persuade Iran to comply with this resolution and the requirements of the IAEA, and underlines that further decisions will be required should such additional measures be **necessary**. (S/RES/1737(2006))

9.6.4 Weasel Nouns and Noun Phrases

Some nouns found in SCRIran1 and SCRIraq1 are characterised by a degree of vagueness and indeterminacy. Some ‘weasel nouns’ and noun phrases are common to both corpora, while others are unique to one of the two as can be seen in Table 60 below:

Weasel Nouns and Noun Phrases Used in SCRIran1 AND SCRIraq1		
Weasel Words	Frequencies in SCRIran1	Frequencies in SCRIraq1
Measures	73	11
Items	48	9
Materials	26,	5
Equipment	20	9
Technologies	20	0
Goods	18	7
Action/s	17	12
Agricultural, medical or other humanitarian purposes	3	4
Weapons of mass destruction	3	4
Foodstuff	1	5
Sustainable development	1	2
Democracy	0	6
Terrorism, terrorists, terrorist (adj)	0	15

Table 60: Weasel nouns in SCRIran1 and SCRIraq1

The weasel noun ‘weapons of mass destruction’ is common to both corpora. This issue is one of the vaguest because it includes a wide range of items, such as concrete weapons, dual-use items, and unaccounted items, which leave the definition open to an endless number of interpretations. It is one of the main *casus belli* appealed to when asking for UN authorisation for war in SCRIraq1 and a crucial issue in SCRIran1 because Iran is asked to demonstrate that it is not using nuclear energy

production for non-peaceful reasons. In both cases this expression is recurrent: the UN is particularly concerned with the issue and has operated through the IAEA to attempt at finding evidence of the existence of such material and to provide for disarmament.

However, there is a fundamental difference of usage of this word in SCRIran1 and SCRIraq1: while in SCRIraq1 it is expressly deplored that “Iraq has not provided an accurate, full, final, and complete disclosure, [...] of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles” (S/RES/1441 (2002)), Iran is not directly accused of having programmes to develop WMD; it is said that Iran has to demonstrate that its programmes are not for “non-peaceful purposes” and that “ [...] a solution to the Iranian nuclear issue would contribute to global non-proliferation efforts and to realizing the objective of a Middle East free of weapons of mass destruction, including their means of delivery.” (S/RES/1747 (2007)).

It is likely that the UN has decided not to make direct accusations against Iran, and thus it has chosen a toned down language as it might be willing to change its strategies after the Iraq case, in which the alleged presence of weapons of mass destruction has revealed to be vacuous in the aftermath of the war, founding the basis for an illegality of war.

As in SCRIraq1, also resolutions relating to Iran use generic words such as ‘medicine’, ‘health supplies’, ‘food’ and general ‘supplies’. In particular, in SCRIran1 it is claimed that “technical cooperation provided to Iran by the IAEA or under its auspices shall only be for food, agricultural, medical, safety or other humanitarian purposes” (S/RES/1737 (2006)) ,without making reference to the Goods Review List that had been introduced in S/RES/1409(2002). As a matter of fact, ‘humanitarian purposes’ has also been one of the main issues used as a justification for war against Iraq (with the word ‘humanitarian’ having 43 occurrences in SCRIraq1). These words and others such as ‘items’, ‘materials’, ‘equipment’, ‘goods’ and ‘technologies’, which apparently seem innocuous, could create the same problems that they have created in Iraq because of their vagueness and indeterminacy. The reference to goods and supplies using such a general wording could become a means of permission to import actually anything, including illegal dual-use items. The same can be said for words such as ‘measures’ and ‘action’. As said for resolutions relating to Iraq, these vague words are open to subjective interpretations. In clauses such as examples (248) and (249) below, it cannot be said whether ‘measures’ and ‘action’ imply also non-peaceful meanings:

(248) Determined to give effect to its decisions by adopting appropriate **measures** to persuade Iran to comply with resolutions 1696 (2006), 1737 (2006), 1747 (2007) and 1803 (2008) [...].
(S/RES/1929 (2010))

(249) 18. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks [...]

(c) to examine and take appropriate **action** on information regarding alleged violations of measures imposed by paragraphs 3, 4, 5, 6, 7, 8, 10 and 12 of this resolution. (S/RES/1737(2010))

Another weasel word used in both corpora is ‘sustainable development’. The main difference is that while in Iraq it is referred to as something positive to be achieved, in SCRIran1 its occurrence is followed by a “disclaimer”, which according to historical discourse analysts van Dijk (2000: 41) is a “specific semantic move that realizes in one sentence the strategy of positive self-presentation and negative other-presentation”:

(250) **Recognizing that access to diverse, reliable energy is critical for sustainable growth and development**, while noting the potential connection between Iran’s revenues derived from its energy sector and the funding of Iran’s proliferation sensitive nuclear activities, and further noting that chemical process equipment and materials required for the petrochemical industry have much in common with those required for certain sensitive nuclear fuel cycle activities [...].
(S/RES/1929 (2010))

In this case the clause follows the pattern of an “apparent concessional disclaimer” (van Dijk 2000: 41). This pattern is called “apparent” because it is composed of a first introductory positive part which has the function of not damaging the recipients’ “negative face” (Brown and Levinson 1987) (“Recognizing that access to diverse, reliable energy is critical for sustainable growth and development”), and then of a negative disclaiming part that contains the topic of the sentence (“the potential connection between Iran’s revenues derived from its energy sector and the funding of Iran’s proliferation sensitive nuclear activities” and “chemical process equipment and materials required for the petrochemical industry have much in common with those required for certain sensitive nuclear fuel cycle activities”).

While in SCRIraq1 the vague expression without specification was questionable because it seemed to concretely mean the imposition of capitalistic rules and exploitation by other states in Iraq with the total inaction of the UN, in SCRIran1 ‘sustainable development’ seems to be discouraged.

If it is true that “sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs”¹⁴⁵, probably it can be said that the different use of ‘sustainable development’ in SCRIraq1 and SCRIran1 is due to whose needs have to be fulfilled in the two cases: probably Iraq’s ‘sustainable development’ was connected to foreign interests in Iraq’s raw material, while in Iran it would be mainly controlled by Iranians’ needs.

Finally, it is interesting to note that in the Iranian case, the UN seems to be acting in a pre-emptive way, just like the U.S. did for Iraq, though not engaging in military action. The UN is asking Iran to totally stop its nuclear activities, for peaceful purposes included. Iran is asked to stop all “enrichment-related, reprocessing or heavy water-related activities or to the development of nuclear weapon delivery systems” S/RES/1929 (2010) until its position has been attested.

The words illustrated in this part on weasel nouns and evaluative adjectives has evidenced that they have contributed to the general vagueness and indeterminacy of both corpora. Although they guarantee a wide degree of applicability, which is useful in an international context such as the UN, their possibility of subjective interpretability can become a source of manipulation or elusiveness, depending on the intentions of the interpreter of these laws.

The results of this contrastive analysis between some linguistic features of SCRIraq1 and SCRIran1 can be further confirmed through a global analysis of the S/RES/1929 (2010), which is the latest UN resolution on Iran, and of P.L. 109-293 and P.L. 111-195, which are the two public laws related to Iran issued by the U.S. Congress, and can be seen as the concrete national implementation of the UN resolutions. This could be useful to reinforce the research hypothesis that vagueness and indeterminacy of UN resolutions has and can allow a far too subjective interpretation by Member States, which could use the wording of resolutions also with manipulative intentions; and that the UN

¹⁴⁵ Source: <http://www.fathom.com/course/21701763/session2.html> (Last accessed: June 2011)

uses some linguistic patterns intentionally as a set of discursive strategies to manage with some international issues.

9.7 Observations on S/RES/1929 (2010) and its Draft: a Linguistic and Legal Comparative Analysis

S/RES/1929 (2010) was adopted on the 9th of June 2010 by twelve votes in favour, two against from Brazil and Turkey, and one abstention from Lebanon. It represents the fourth round of sanctions against the country after S/RES/1696(2006), S/RES/1737(2006), S/RES/1747 (2007), and S/RES/1803 (2008).

In the preambulatory section of the resolution, the UN expresses “serious concern” that “Iran has not established full and sustained suspension of all enrichment-related and reprocessing activities and heavy water-related projects [...]”, in particular that Iran has enriched uranium to 20%, constructed an enrichment facility at Qom in Iran, and that Iran has “taken issue with the IAEA’s right to verify design information which had been provided by Iran that the IAEA’s right to verify design information provided to it is a continuing right, which is not dependent on the stage of construction of, or the presence of nuclear material.”

However, while emphasizing its concerns, the resolution stresses that there is an intention of a diplomatic solution to the issue, by reaffirming that “confidence built in the exclusively peaceful nature of Iran’s nuclear programme [...]” verified by the IAEA “would contribute to a diplomatic, negotiated solution” and “global non-proliferation efforts and the Middle East region free of weapons of mass destruction.” As a matter of fact, the approved version of the resolution adds further reference to diplomatic efforts which were not included in the draft:

(251) Emphasizing the importance of political and diplomatic efforts to find a negotiated solution guaranteeing that Iran’s nuclear programme is exclusively for peaceful purposes and noting in this

regard the efforts of Turkey and Brazil towards an agreement¹⁴⁶ with Iran on the Tehran Research Reactor that could serve as a confidence-building measure [...]. (S/RES/1929 (2010))

(252) Emphasizing also, however, in the context of these efforts, the importance of Iran addressing the core issues related to its nuclear programme [...]. (S/RES/1929 (2010))

Through these two paragraphs, the UN intended to express its appreciation for diplomatic moves, but also affirm its willingness to resolve the nuclear threat.

In the preambulatory section, reference is made also to financial issues, in particular the UN claimed to be:

(253) Welcoming the guidance issued by the Financial Action Task Force (FATF) to assist States in implementing their financial obligations under resolutions 1737 (2006) and 1803 (2008), and recalling in particular the need to exercise vigilance over transactions involving Iranian banks, including the Central Bank of Iran, so as to prevent such transactions contributing to proliferation-sensitive nuclear activities, or to the development of nuclear weapon delivery systems [...]. (S/RES/1929 (2010))

At the beginning, the U.S. wanted to sanction import of petrol from Iran and prevent Member States from having any contact with the Iranian Central Bank. At the end, however, the resolution simply asks to exercise “vigilance” over transactions involving Iranian banks, including the Central Bank of Iran. This wording gives only restricted power to Member States. Therefore, the U.S. did not receive what it had initially required.

The most important difference between resolutions relating to Iran and to Iraq is that in S/RES/1929 (2010), while the resolution continues to express the UN determination to give effect to its decisions by adopting “appropriate measures to persuade Iran to comply with resolutions 1696 (2006), 1737 (2006), 1747 (2007), and 1803 (2008)”, it expressly notes that “nothing in this resolution

¹⁴⁶ The agreement referred to in this section is the May 2010 Joint declaration by Iran, Turkey and Brazil which ended with Tehran agreeing to send 1,200 kilograms of its 3.5 percent enriched uranium over to Turkey in exchange for a total of 120 kilograms of 20 percent enriched uranium for the Tehran Research Reactor (TRR) to produce medical isotopes. The political result of this agreement was that Brazil and Turkey, which have recently intensified their commercial relationship with Iran, did not back this resolution.

compels States to take measures or actions exceeding the scope of this resolution, including the use of force or the threat of force”, while resolutions related to Iraq recalled the right of self-defence.

A difference that can be noticed between SCRIraq1 and SCRIran1 is that the latter refers only to resolutions issued in 2006 onwards, without going back to precedent resolutions relating to Iran. On the contrary, the Iraq issue was mainly based on the resumption of precedent resolutions.

The Council also decided that Iran should comply with the Safeguards Agreement with the IAEA, with some changes between the draft and the final version:

(254) 5. Decides that Iran shall without delay comply fully and without qualification with its IAEA Safeguards Agreement, including through the application of modified Code 3.1 of the Subsidiary Arrangement to its Safeguards Agreement, calls upon Iran to act strictly in accordance with the provisions of the Additional Protocol to its IAEA Safeguards Agreement that it signed on 18 December ~~18,~~ 2003, ~~urges~~ calls upon Iran to ratify promptly the Additional Protocol, and reaffirms that, in accordance with ~~Article~~ Articles 24 and 39 of Iran’s Safeguards Agreement, ~~no element of Iran’s safeguards obligations can~~ Iran’s Safeguards Agreement and its Subsidiary Arrangement, including modified Code 3.1, cannot be modified-amended or suspended-changed unilaterally by Iran, and notes that there is no mechanism in the Agreement for the suspension of any of the provisions in the Subsidiary Arrangement. (S/RES/1929 (2010))

A first difference that can be noticed between the draft and the final version of S/RES/1929 (2010) is the change from the verb ‘urges’ to ‘call upon’. Although the first is used generally for multiple parties, in this case the difference seems to be used as a tuning down device connected to the willingness of a diplomatic solution to the issue, as ‘calls upon’ expresses less strength than the impelling ‘urges’. However, more strength is given to the sentence through the inclusion of the temporal adverb ‘promptly’ (‘to ratify promptly the Additional Protocol’). The last part of the paragraph changes for a strong negative with a ‘negative structure’ instead of the ‘no-affirmative’ formula. Moreover, while the first version simply states that Iran’s Safeguards Agreement and its Subsidiary Arrangement cannot be ‘modified’ or ‘suspended’, the final version states that it can neither changed nor amended and it explicitly declares that there is “no mechanism in the Agreement for the suspension of any of the provisions in the Subsidiary Arrangement”, to give further precision to the paragraph in order to avoid any manipulative interpretation.

Member States were further “called upon” to “take appropriate measures” to prohibit financial institutions operating in their territories from opening offices and accounts in Iran if they would contribute to Iran’s proliferation sensitive activities; to prevent the provision of fuel, supplies and servicing of Iranian vessels if they are involved in prohibited activities; and to provide information to the Committee concerning attempts to evade the sanctions by Iran Air or Iran Shipping Lines to other companies. Terms such as ‘called upon’ and ‘appropriate measures’ are vague and indefinite enough to be open to a wide range of different interpretations and implementations in national laws. Furthermore, the Member States are given the authority to:

(255) [...] seize and dispose of (such as through destruction, rendering inoperable, storage or transferring to a State other than the originating or destination States for disposal) items the supply, sale, transfer, or export of which is prohibited by paragraphs 3, 4 or 7 of resolution 1737 (2006), paragraph 5 of resolution 1747 (2007), paragraph 8 of resolution 1803 (2008) or paragraphs 8 or 9 of this resolution.(S/RES/1929 (2010))

This authority should have probably required more UN guidance, as the seizure and disposition of prohibited items could become a danger also in countries other than Iran.

A very frequent expression in this resolution calls upon Member States to ‘exercise vigilance’. States are asked to ‘exercise vigilance’ when dealing with Iranian individuals or entities if such business could contribute to Iran’s sensitive nuclear activities, in particular “over transactions involving Iranian banks, including the Central Bank of Iran; over the supply, sale, transfer, provision, manufacture and use of all other arms; and over those transactions involving the Revolutionary Guard Corps that could contribute to Iran’s proliferation-sensitive nuclear activities or the development of nuclear weapon delivery systems. Therefore, the formula limits nations’ power to “vigilance”, not ‘intervention’ against Iran. This device contributes to the more cautious wording used in SCRIran1 than in SCRIraq1.

After establishing a “panel of experts” to assist the Sanction Committee’s mandate, the final part of the resolution “stresses the willingness” of diplomatic efforts by the five plus one (China, France, Germany, Russia, the United Kingdom and United States) to resolve the nuclear issue:

(256) [...] **with a view to seeking a comprehensive, long -term and proper solution of this issue on the basis of the proposal made by China, France, Germany, the Russian Federation, the United Kingdom and the United States on 14 June 2008**, which would allow for the development of relations and wider cooperation with Iran based on mutual respect and the establishment of international confidence in the exclusively peaceful nature of Iran's nuclear ~~program~~programme [...]. (S/RES/1929 (2010))

Finally, if compliance was reported, the Council would review the sanctions regime and would lift provisions or consider further measures in the light of non-compliance with Security Council resolutions. In particular, the UN decided to “suspend” the implementation of measures “if and for so long as Iran suspends all enrichment-related and reprocessing activities [...] to allow for negotiations”; to “terminate” the measures “if Iran met the requirements of the IAEA Board of Governors” and to “adopt further appropriate measures” in the event that “the report shows that Iran has not complied with resolutions.” The situation seems to be quite similar to inspections in Iraq, because there was no time limit on inspections, it was impossible to define what a full compliance with UN resolutions meant and inspections could be endless because depending on the IAEA's will.

Furthermore, it is possible to find the same open-endedness of SCRIraq1 resolutions in SCRIran1, because the resolution states that “further decisions will be required should such additional measures be *necessary*” [emphasis added]. These decisions based on a possibly subjective ‘necessity’ could actually include any interpretation, military action included. However, the UN retains its decisional power by including the closing formula “Decides to remain seized of the matter”, which in theory gives the UN the last word on the issue. This clause seemed to be underestimated by the U.S. and its allies in the Iraq case, which has probably considered it as a formulaic feature overlooking its semantic, politic and legal meaning.

9.8 U.S. Legislation Related to Iran: Observations on Differences and Similarities between SCRIran1 and Public Laws Relating to Iraq

The section below will briefly take into exam the two U.S. Public Laws relating to Iran P.L. 109-293 signed by the then President Bush and P.L. 111-195 written under President Obama's administration, in order to notice how the vague and indeterminate language used in UN resolutions relating to Iran have been interpreted by the U.S. Congress. It will be seen how vagueness and indeterminateness of UN resolutions have been interpreted under the two different administrations, in particular Bush's interpretation keeping a vaguer language than the Bill issued under the current Obama administration.

9.8.1 P.L.109-293

On September 29, 2006, the 109th Congress approved H.R. 6198 [109th] ¹⁴⁷, which is known as the "Iran Freedom Support Act" ("IFSA"), by unanimous vote of both Houses and once signed by President G.W. Bush it has become P.L.109-293. This resolution is a first action of U.S. national implementation of UN Resolutions relating to Iran.

Title I of IFSA codifies sanctions, controls, and regulations relating to exports and other transactions with Iran. Through amendments and linguistic strategies, P.L.109-293 tightens sanctions on Iran, and expresses more power of control to be given to the Congress although leaving an amount of discretionary power to the President. As a matter of fact, some important amendments to ILSA are connected with Presidential decisions: instead of acting unilaterally under the International Emergency Economic Powers Act ("IEEPA") as allowed in ILSA, the President now may only terminate these sanctions with 15 days prior notice to Congress.

However the Act specifies that:

In the event of **exigent circumstances**, the President may exercise the authority set forth in the preceding sentence without regard to the notification requirement stated therein, except that such

¹⁴⁷ Source: <http://www.govtrack.us/congress/billtext.xpd?bill=h109-6198> (Last accessed: June 2011)

notification shall be provided as early as practicable, but in no event later than three working days after such exercise of authority. (P.L.109-293)

The meaning of the indeterminate expression ‘exigent circumstances’ is not further explained; however, while it still grants the President flexibility to terminate the existing sanctions, IFSA requires an explanation be provided to Congress.

Title II of IFSA modifies the existing ILSA sanctions regime against Iran established in 1996 in order to implement UN resolutions by taking the “appropriate measures” to persuade Iran to comply with resolution 1696 (2006) and also to constrain Iran’s development of sensitive technologies.

As a preliminary matter, IFSA removes the restrictions that had been in place on Libya under ILSA, because Libya’s designation as a state sponsor of terrorism has been rescinded due to its cooperation in eliminating weapons of mass destruction.

With regard to sanctions for petroleum investments, IFSA extends the ILSA sanctions against investment in Iran’s petroleum industry but states that the President weakly “should” initiate investigations into the possible imposition of sanctions upon receipt of vague “credible information” that a person is engaging in such investment activity in Iran, and should conclude such investigations within 180 days:

(1) IN GENERAL- The President should initiate an investigation into the possible imposition of sanctions under section 5(a) against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section. (P.L.109-293)

In this paragraph, ‘should’ and ‘credible information’ create some linguistic problems. The modal ‘should’ is meant to convey a weak imposition rather than a strong one, while the expression ‘credible information’ depends on subjective interpretation. The modal will be changed in H.R. 2194 [111th] with ‘shall’, which expresses strong deontic force, while ‘credible information’ is retained.

Title III authorizes the President to provide financial and political assistance to groups supporting and promoting democracy in Iran. In particular, the Congress expresses the sense that the U.S. ‘should support’ Iranians in their requests of democratic elections and ‘draw international attention’ to violations of human rights in Iran:

[...] (e) It is the sense of Congress that--(1) support for a transition to democracy in Iran should be expressed by United States representatives and officials in all appropriate international fora;

(2) officials and representatives of the United States should [...]

(B) draw international attention to violations by the Government of Iran of human rights, freedom of religion, freedom of assembly, and freedom of the press. (P.L.109-293)

The wording ‘should support’ could trigger an interpretation of military intervention. However, P.L.109-293 expresses an explicit will of not wanting the bill to be interpreted as an authorisation for war against Iran. As a matter of fact, the “Rule of Construction” section specifies that “Nothing in the Act shall be construed as authorizing the use of force against Iran.” This “rule of construction” has been added probably retrieving experience from what happened for Iraq, probably implying that in the case of a future war against Iran, there should be an explicit authorisation from the Congress, because this bill explicitly leaves no room for interpreting it as giving authorisation for war.

Title IV states a sense of Congress that it “should” be U.S. policy not to bring into force any agreement with another nation that is assisting Iran’s nuclear program or transferring advanced conventional weapons or missiles to Iran, unless the president determines that Iran has (i) suspended all enrichment- and reprocessing-related activity or (ii) that the government of the other nation has suspended all nuclear assistance to Iran until Iran does so. Once again the weak modal ‘should’ leaves room for possible exceptions.

The last title of IFSA is designed to prevent money laundering in support of WMD. Title V amends the United States Code (which is a codification by subject matter of the general and permanent laws of the United States) by including evidence that entities involved in the proliferation of WMD have transacted business in a certain jurisdiction as a factor in determining whether a transaction is a primary money laundering concern.

The amended form, with the amendments stressed in bold, reads:

[...] (B) Institutional factors.— In the case of a decision to apply 1 or more of the special measures described in subsection (b) only to a financial institution or institutions, or to a transaction or class of transactions, or to a type of account, or to all 3, within or involving a particular jurisdiction—

(i) the extent to which such financial institutions, transactions, or types of accounts are used to facilitate or promote money laundering in or through the jurisdiction, **including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles** [...]. (P.L.109-293)

Thus P.L.109-293 changes not only ILSA, but also the U.S. code in order to adapt it to new international WMD dangers.

While strengthening sanctions on Iran, it has been seen that the Act includes some indeterminate features and shows weak deontic language in cases in which a more assertive language would have been more appropriate, creating a risk of subjective and manipulated interpretation of the law. Some of these elements have been later modified in P.L.111-195 (and will be analysed in the following section), while others have been retained.

9.8.2 P.L.111-195

H.R. 2194 [111th],¹⁴⁸ the “Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010” (CISADA) was passed by the U.S. Congress on June 24, 2010, with a vote of 99-0 in the Senate and 408-8 in the House of Representatives and after President Obama’s signature it has become P.L.111-195. The Public Law expands upon the restrictions of the Iran Sanctions Act of 1996 (ISA). This Public Law has been issued under President Obama’s administration. CISADA covers a significantly broader range of areas than the ILSA, which makes it of particular interest to companies related to Iran. As P.L. 109-223, also this Act can be seen as an implementation of UN Resolution S/RES/1929 (2010) to prohibit financial institutions operating in their territories from opening offices and accounts in Iran if they would contribute to Iran’s proliferation sensitive activities, and to prevent the provision of fuel, supplies and servicing of Iranian vessels if they are involved in prohibited activities.

CISADA significantly amends ISA in a number of ways, as described below:

¹⁴⁸ Source: <http://www.gpo.gov/fdsys/pkg/PLAW-111publ195/pdf/PLAW-111publ195.pdf> (Last accessed: June 2011)

- *Mandatory Investigations*: CISADA now requires that the President “shall initiate” investigations (not ‘should’ as in H.R.6148 [109th]) into potential imposition of sanctions on those persons that contribute to Iran’s supply of refined petroleum, directly or indirectly:

(1) IN GENERAL- The President **should** initiate an investigation into the possible imposition of sanctions under section 5(a) against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section. (P.L.111-195)

- *Sanctions to be Applied*: the new legislation

- *Presidential Waiver*: under the ISA, the President had the authority to waive the requirement to impose sanctions if the President determined that it was “important to the national interest of the United States” to do so. CISADA amends the presidential waiver of sanctions provisions revising the standard from ‘important’ to U.S. national interest to ‘necessary’:

[...] (1) **Authority**: The President may waive the requirement in section 5 to impose a sanction or sanctions on a person described in section 5(c), and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 30 days or more after the President determines and so reports to the appropriate congressional committees that it is ~~important~~ necessary to the national interest of the United States to exercise such waiver authority. (P.L.111-195)

- *New Strict Visa, Property and Financial Sanctions*: these are imposed on Iranians whether the President determines that a person is complicit in ‘serious human right abuses’ against other Iranians on or after June 12, 2009 (the date of the most recent presidential election in Iran):

[...] (1) IN GENERAL- Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a list of persons who are officials of the Government of Iran or persons acting on behalf of that Government (including members of paramilitary organizations such as Ansar-e-Hezbollah and Basij-e Mostaz’afin), that the President determines, based on credible evidence, are responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against citizens of Iran or their family members on or after June 12, 2009, regardless of whether such abuses occurred in Iran. (P.L.111-195)

Thus ‘serious’ gives discretion of interpretation of the entire clause; at the moment in which this research is being written, no action has been taken with reference to this clause. It should be seen how this paragraph would be concretely implemented in the future. It should be noted that this Act presents many sections dedicated to term definitions, revealing a very firm intention of circumscribing its use of terms for sake of clarity and to discourage subjective and manipulated interpretations of its wording. For instance, Title III, on Prevention of Diversion of Certain Goods, Services, and Technologies to Iran, is meant to disrupt international black market proliferation networks. This provision requires the Director of National Intelligence (DNI) to identify countries which allow diversion through the country of certain goods, services, or technologies to Iranian end-users or Iranian intermediaries. The terms ‘divert’ and ‘diversion’ are said to refer to “the transfer or release, directly or indirectly, of a good, service, or technology to an end-user or an intermediary that is not an authorized recipient of the good, service, or technology.” The text further defines such goods, services, or technologies as those that:

[...] originated in the United States and would make a material contribution to Iran’s development of nuclear, chemical, biological, ballistic, or advanced conventional weapons, or support for international terrorism, and are on the Commerce Control List or the United States Munitions List. (P.L.111-195)

Finally, Title IV amends the provisions from December 31, 2011 to December 31, 2016.

CISADA’s most notable result could be its effect on the Iranian financial sector as it is a clear goal of this legislation to require non-U.S. businesses to choose between engaging in business with the U.S. or with the sanctioned Iran. The law puts pressure on Iran by requiring sanctions on those who invest in Iran’s development of petroleum resources and production capability, on financial institutions facilitating certain activities involving Iran, on the Islamic Revolutionary Guard Corps, and other sanctioned entities. Although retaining some vagueness and indeterminacy, this Act seems to have a better balance between firmness and flexibility. As a matter of fact, during his speech¹⁴⁹ after the

¹⁴⁹ Source: <http://www.nepia.com/cache/files/4591-1278338808/2010-017aStatementbythePresidentonHR2194.pdf> (Last accessed: June 2011).

signature of this Law, President Obama recognised that P.L.111-195 was both a “powerful tool against the development of nuclear weapons” but also a ‘flexible’ means for the calibration of sanctions:

The Act provides a powerful tool against Iran’s development of nuclear weapons and support of terrorism, while at the same time preserving flexibility to time and calibrate sanctions. In particular, it provides new authority for addressing the situation of those countries that are closely cooperating in multilateral efforts to constrain Iran. The Act appropriately provides this special authority to waive the application of petroleum-related sanctions provisions to a person from such a closely cooperating country, out of recognition for the key role such a country plays in ongoing multilateral efforts to constrain Iran. The Act permits the President to exercise this authority flexibly, as warranted, and when vital to the national security interests of the United States.

Conclusions

This study has investigated on how excessive vagueness and indeterminacy in the formulation of the UN resolutions relating to Iraq contributed to the breakout of the Second Gulf War instead of a diplomatic solution of the controversies.

Resolutions can be considered as a hybrid text type, because in the case of those issued by the UN Security Council they are characterised both by prescriptive legal language and by other elements typical of diplomatic language, such as vagueness and general words, which reflect the need to settle agreements in international contexts.

However, the excessive use of indeterminate and vague expressions has led to a subjective and variable interpretation of the law. In the case of the second Gulf war, allegedly intentional vagueness used in UN resolutions has not been a means to help diplomatic negotiations, but a blank cheque to engage in war against Iraq. Thus in this case deliberate vagueness has been used in the framework of a political strategy.

In the first chapters of this work it has been seen how, in some cases, the UN intentionally structures its documents in a much studied manner, by giving quite specific guidelines especially on style, through the *UN Editorial Manual*. It has also been noticed how the sections in which a resolution can be divided have some analogies with Cicero's classical canon of *dispositio*, which is the system once used for the organisation of arguments in classical rhetoric composed of an *exordium*, a *narratio*, an *argumentatio* and a *peroratio*. The '*exordium*' can be related to the very first lines of a resolution, which follows a fixed wording, including the date of the meeting and the body issuing the resolution; the '*narratio*' is represented by the preambulatory section of a resolution; the '*argumentatio*' can be compared to the operative part of a resolution, in which the actions or recommendations are listed; finally, the '*peroratio*' coincides with the final wording "Decides to remain (actively) seized of the matter", which appears to be an assurance that the Security Council will consider the topic addressed in the resolution in the future if it is necessary.

These elements seem to establish further cohesion and coherence between the various parts of the text, and they evidenced all the more the relationship between language and the diplomatic world,

because these linguistic mechanisms and structures are used to create influential political messages and to enact, reproduce, and to legitimate power and domination through law.

However, in other cases, the UN deliberately does not express a strict guidance rule and probably withholds a vague rule of conduct on purpose. This is for instance what happens in the case of the use of preambulatory and operative phrases for which to the best of my knowledge, there are no official studies, nor classifications of the wording to be used by the Security Council for preambulatory and operative phrases. These phrases contribute to the general cohesion of the text while describing the UN's institutional feelings towards actions and situations regarding the 'Subject' of a resolution. It has been quite challenging to create a hierarchical scale of emotive wording used in preambles, as the range of institutional feelings that can be expressed by the UN is quite wide.

In SCRIraq1, the analysis of the preambulatory phrases used to express negative institutional feelings has suggested that the UN had a moderate negative reaction to the outbreak of this conflict. This is sustained by the fact that although there were many more severe phrases that could have been used to express negative feelings, the UN preferred to use phrases that could be collocated at a low level of the scale of gravity proposed, using this practice coherently throughout all the texts in SCRIraq1.

Preambulatory phrases used to express positive institutional feelings have been used to encourage or stress the good will towards the official termination of military action in Iraq.

Other preambulatory clauses of SCRIraq1 cannot be classified according to a positive-negative scale. This is the case of some clauses which seem to have an assertive function that do not express an actual emotive meaning. They seem to indicate determination and sureness of what is being stated. What seems to emerge from the preambulatory phrases used in SCRIraq1 was a sort of willing to stress that Iraq is considered to be in 'material breach' of resolutions precedent to the 2002 conflict. As a matter of fact, SCRIraq1 presents a high rate of intertextuality, especially in terms of reference to resolutions issued during the first Gulf War. From a cohesive viewpoint, this has been stressed by the use of preambulatory clauses containing the prefix 're-', which indicates repetition. From a linguistic viewpoint, all these elements contribute to the cohesion and coherence of these texts, as if there was the willingness to stress and justify military action against Iraq as a response to its perpetuation of not respecting UN resolutions.

As far as concerns the operative sections, it has been noticed that although these resolutions regard the outbreak of an amply criticised war, the UN has allegedly deliberately adopted phrases with weak operative strength coherently throughout the texts in SCRIraq1 although in other past international crises it had used stronger phrases.

The analysis of modal verbs in SCRIraq1 has revealed that although vagueness and ambiguity paradoxically clash with the requirements of certainty and precision in legal texts, also modality can become a means of indefiniteness, because some modals have various and not always precise meanings. In the corpus investigated, the most frequent modal auxiliary verbs are: 'shall', 'will', 'may', 'would', 'should', 'can' and 'must', consistent with previous studies according to which the most frequent modals in legal texts convey obligation and permission.

'Shall' is the most frequently used modal and seems to convey more than one meaning: it is used with a performative value and with a deontic value of obligation, permission or granting of rights.

There are some cases in which 'shall' has been overused and it could be substituted by a present tense for the sake of clarity. For instance, the majority of non-human occurrences are connected to a constitutive clause, mostly referring to parts of a resolution, and thus 'shall' is used to provide intertextual references rather than imposing any kind of obligation. Other cases of misuse regard its interchangeability with 'must'. These cases could probably be avoided to be clearer in meaning.

Other modals such as 'should' have been used in SCRIraq1 to express rather weak obligations and seem to be deliberately chosen to convey values and principals connected to provision of humanitarian relief to the Iraqi people. Expressing a 'weak' deontic force, the strength and actual application of 'should' remains a source of vagueness. In relation to the cases found in the corpus, it is questionable to what extent the role of giving humanitarian relief to the Iraqi people was mandatory, what had to be concretely done, and to what extent the organisations, such as the UN, had the legal - apart from the moral- duty to intervene.

Other modals such as 'can' express more than one meaning in the corpus. In SCRIraq1 some occurrences of 'can' have a slightly ambiguous meaning: even reading them in context they retain a flavour of ambiguity that can divert the full comprehension of the clauses. These cases include

overlaps of possibility and ability, or prohibition or inability. In the latter, prohibition coming from legislature would differ from concrete inability to do something.

Resolutions included in SCRIraq1 have been accused of a high presence of “weasel words” (Mellinkoff 1963: 21), which are words and expressions with a very flexible meaning strictly dependent on context and interpretation. They seem to be a characteristic of diplomatic texts because “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” (Šarčević 1997: 204).

However, these words frequently lead to underinformativeness (Sorensen 1989:175), subjective interpretations of the rules, and possible manipulation of language for personal intents. Due to their underinformativeness, the same linguistic devices that are used legitimately as tools of persuasion and information can be used illegitimately for manipulation. For instance many ‘weasel words’ used in SCRIraq1 put emphasis on the moral aspect of legitimacy of war rather than on legality of military action in order to find a justification for war that could be acceptable for the international community and the UN.

Drawing upon Mellinkoff’s list of indeterminate words (1963:22) and Fjeld’s 2005 adjective classifications,

This study has investigated on the presence of weasel words in SCRIraq1, with a focus on adjectives and nouns.

As far as concerns relational adjectives, the interpretation of what is meant to be the “fixed standard” revealed the subjective nature of these evaluative adjectives. Their subjectivity gives the instrument of power of interpretation to who uses them.

Vagueness has also involved expressions of time used in paragraphs dealing with the humanitarian needs of the Iraqi people. Some instances are ‘quickly’, ‘rapidly’, ‘soon’, and ‘timely’. Their indeterminacy gives no dead-line for the actual implementation of these decisions. Other expressions refer to ‘future’, either as a noun or a modifier. It could be suggested that the expression “any future need for the continuation of the multinational force”, contained in S/RES/1511 (2003) is characterised by an open-endedness comparable to the expression contained in S/RES/678 (1990) that authorized member states co-operating with Kuwait “to use all necessary means to restore

international peace and security in the area” appealed to as having given the authorisation to the second Gulf war. The example in S/RES/1511 (2003) seems to have the same structure and possibility to be recalled to in the future if required.

Throughout SCRIraq1, many occurrences of adjectives related to the field of ethics have been found and they are characterised by subjectivity, because they are related to an ethical standard (Fjeld 2005:165). The use of ethic adjectives and emotive wording in these resolutions can be seen as a means to justify the military intervention as a humanitarian intervention aiming at giving humanitarian relief to the Iraqis and freeing them from a dictatorship. Notwithstanding these two positive purposes, the issue is an ongoing debate, because the UN Charter recognises the territorial integrity and political independence of all States, and the use of unilateral military intervention not guided by the UN justified as a humanitarian action is ethically and legally questionable.

As far as concerns modal adjectives, 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.” Some occurrences of ‘necessary’ in SCRIraq1 have been notoriously criticised for their subjective interpretability and vagueness. Expressions such as ‘all necessary measures’ or ‘all necessary means’ are alleged to have given the possibility of using military intervention in Iraq because allow infinite interpretations. ‘Necessary’ is also used to express circumstantial modality: the vagueness of the adjective in se, added to its circumstantial use, gives a degree of open-endedness to the paragraphs in which they are used, which could be adapted for future necessities, as has been alleged to have happened for S/RES/678 (1990).

A part of the analysis of weasel words focused on vague nouns and expressions, such as ‘weapons of mass destruction’, ‘terrorism’, ‘medicine, health supplies, foodstuffs and other materials and supplies’, ‘democracy’, and ‘sustainable development’. In particular, the three main *casus belli* ‘weapons of mass destruction’, ‘terrorism’ and the establishment of a ‘democracy’ in Iraq resulted to be part of these ‘weasel words’.

The issue of ‘weapons of mass destruction’ is one of the vaguest because it includes a wide range of items, such as concrete weapons, dual-use items, and unaccounted items, which give an endless interpretation to the word. The discovery of this material was of fundamental importance to the United States coalition to justify their action in Iraq. In the aftermath of war, statements released

by the UNMOVIC continued to have a vague and uncertain flavour, perpetuating elusiveness on the issue. Therefore, the issue of the alleged presence of weapons of mass destruction in Iraq seems to remain unsolved.

‘Terrorism’, ‘terrorists’ and ‘terrorist attacks’ are some 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 then U.S. President G.W. Bush. Although the UN has the duty of condemning all actions of ‘terrorism’, 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’. For instance, it seems like any violence of the Iraqi resistance was calculated as ‘terrorism’, even acts of defence against armed attacks.

Also ‘democracy’ can be seen as a weasel word, because it is only apparently a common-sensical issue, 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.

Although elections were considered to have been a success, considering also that people voted facing the risk of attacks and under a condition of foreign occupation, ‘democracy’ is not only composed of free and fair elections. Iraq still has to guarantee human rights which are fundamental elements of democracy.

Although UN resolutions related to the Second Gulf War have all been accused of being vague as a whole, there is one resolution, namely S/RES/1441(2002) whose vagueness has been particularly stigmatised for its vagueness, which has been alleged to be intentional. The linguistic analysis of the final version of S/RES/1441(2002), compared to its draft with the addition of some supplementary background information about the negotiation debates, has revealed how strategically used vagueness has played a crucial role in UN resolutions related to Iraq in the outbreak of the war, and in relevant legislation produced by the United States for its Congressional authorisation for war.

In particular, the comparison between both UN and US drafts has revealed how the US had legally interpreted UN legislation and the purposes and consequences of vague language contained in them. Although the UK and the US agreed that there was no ‘automaticity’ in S/RES/14441(2002), they expressly continued to give their interpretation of the resolution, because vague UN resolutions wording did not have enough strength or will to exclude the unilateral use of force. By giving their personal interpretation of the resolution, the US and the UK actually ignored the international value of

the UN and of its decisions. This thoroughly manipulated view of the United Nations revealed that its relevance and authority were defined by and limited to its proximity to Washington's positions.

This was further confirmed by the comparison between S/RES/1441(2002) and legislation passed in the US for the authorisation for war. The differences between these bills, which gradually led to the final approval of P.L. 107- 243, have revealed that vague UN wording left room for US legislation authorizing war on a national and not international basis. In particular, the first proposal revealed that, at the beginning, the main objective of a war against Iraq was of changing the political government in Iraq and its policy expressed the requirements the President had to ensure in order to obtain authorisation with much more details, if confronted with the other further draft bills which are much vaguer.

As the US needed to justify the war on the basis of a war against international terrorism, further resolutions based their justifications for war more on the accusation that Iraq was still producing WMD, as was seen in S. J. Res 45 [107th] and S. J. Res 46 [107th], which can be considered as the first preliminary drafts to the final P.L. 107-243. The apparently slight differences between the two bills have revealed how actually cautious vague wording had been deliberately chosen to authorise war while seeking to seem to act pursuant to the UN Charter and UN resolutions.

Another proof that the US wanted to interpret UN vague wording as allowing war is that the amendments proposed for S.J.45 [107th] and H.J.Res 114 [107th] which became P.L.107-243 giving different interpretations of the UN will, were all rejected except for Sen. Lieberman's amendment S. Amdt. 4856, which became the bill proposal S. J. Res. 46 [107th]. On the basis of these rejections, it could be said that in the Senate the vague "serious consequences" referred to in S/RES/1441(2002) was interpreted as a unilateral attack against Iraq, requiring neither UN approval, nor a limit in time, and it could have occurred even if no imminent threat had been proven to be possible.

Therefore, the comparative analysis between S/RES/1441(2002) and US legislation has evidenced that that there would have been diplomatic solutions to the Iraq crises which were not synonymous of light-handed intervention against Iraq, but deliberately vague UN wording allowed the US to build its own legislation with a personal interpretation implying that the UN did not impede military action.

Finally, the last section of the study was originated by the desire to understand whether the same patterns of vagueness used in SCRIraq1 would be used in resolutions relating to the Iranian nuclear crises, revealing a relationship between the choice of vague linguistic features and an overall legislative intent of using intentional vagueness and indeterminacy as a political strategy.

By using the Historical Discourse Approach for a contrastive analysis between SCRIran1 and SCRIraq1, it has been observed that the main discursive strategies used in SCRIraq1 and SCRIran1 are: nomination, predication, argumentation, and intensification/mitigation.

As far as concerns nominations, it has been noticed that the main strategies used in both corpora are depersonalisation and “whole for part” synecdoches (Reisigl and Wodak 2001: 51). There is a preference to refer to the entire state (Iraq or Iran) instead of referring to the government, or to people involved in the breach of resolutions. However, while SCRIraq1 makes a distinction between the “people of Iraq” when talking about humanitarian issues and it uses both “the government of Iraq” and synecdoches when talking about breaches, in SCRIran1, there is no reference neither to the government, nor to the Iranian people. Iran is referred to only as a state as a whole. Reference is also made to the international community, less in SCRIraq1 than in SCRIran1, in which the international community assumes the role of a socio-political actor in diplomacy.

With regard to predications, in SCRIraq1, Iraq is seen as a “threat” to international peace and security, Iran instead is a “serious concern”, while the international community is said to be “willing to work positively to a diplomatic solution.” The community is represented as a group of which Iran has to gain “confidence” that its nuclear programme includes only peaceful purposes. However, in both corpora, the UN and the international community seem to be in an ‘us-versus-them’ relationship with Iran and Iraq, although this position is more mitigated in SCRIran1 than in SCRIraq1.

As regards argumentations used to justify these attributions, Iraq was accused of being in material breach of UN resolutions by repeatedly obstructing IAEA and UNMOVIC inspections and of not giving a “full, accurate and complete” disclosure of all its programmes on proliferation of weapons of mass destruction. On the other hand, UN action was determined to improve the “humanitarian situation” in Iraq.

Iran is accused of non-compliance with UN resolutions because it has not suspended uranium enrichment, and it has not taken all steps required by the IAEA that are essential to build “confidence” in its nuclear production for peaceful purposes.

Finally, both intensifying and mitigating strategies have been used in SCRIraq1 and SCRIran1 to help qualify and modify the epistemic status of a proposition by intensifying or mitigating the illocutionary force of utterances. Resolutions relating to Iran seem to use more mitigation strategies than those relating to Iraq: while SCRIraq1 refers mainly to “serious consequences” and “necessary measures” to be taken, with a vague but strong language, SCRIran1 also has a firm position regarding the nuclear issue in Iran, but its resolutions adopt a more diplomatic and toned down range of expressions.

The other sections of the last chapter have focused on the linguistic features of modality, preambulatory and operative phrases and weasel words, integrating the analysis of the historical and legal context with which they interacted.

Through the comparison of modals used in SCRIran1 and SCRIraq1 it has been seen that although SCRIran1 uses a toning down approach with a prevalent hypothetical structure and conditional modals aiming at a diplomatic and peaceful solution of the issue, there are some patterns and similarities between SCRIran1 and SCRIraq1. In general it can be noticed that both corpora use modal patterns as discursive strategies to convey some of the UN’s political intentions. While SCRIraq1 used strong modals expressing a root meaning to impose and justify action and intervention in Iraq, SCRIran1 uses a pattern of hypothetical and deontic modals to express its firm determination to solve the Iranian nuclear issue, but through a more cautious and diplomatic approach.

This toned down pattern to the Iranian issue is further confirmed by the preambulatory and operative phrases chosen in SCRIran1. Both corpora use the same phrases although with different percentages; however, while SCRIraq1 uses a more incisive and decisive language, imposing more and stronger requests on Iraq, in SCRIran1 language is toned down, with a prevalence of “calling upon” Iran rather than prescribing deontic decisions on Iran. This is probably due to the international willingness of not engaging in the risk of a conflict with Iran which could also trigger the proliferation of nuclear weapons rather than finding a diplomatic solution to the issue, and to the fact that effectively Iran is only alleged to be preparing nuclear energy for non-peaceful purposes.

As far as concerns weasel words, both corpora use vague and indeterminate nouns and adjectives that led and can still lead to subjective implementation of the resolution by Member States. This has already happened for the Iraqi case and probably the same thing could happen in the case of Iran. In particular, some relational adjectives such as ‘appropriate’ (in ‘appropriate measures’), give complete discretion of applicability to the parties involved. Probably in the case of Iran it would be better to have a stricter rule of conduct directly from the Security Council, which should expressly decide what are the ‘appropriate measures’ to be taken, in order to avoid the consequences that vague and indeterminate wording had had in the Iraq case.

As regards ethic adjectives, although choosing different adjectives to give different justifications for action against Iraq and Iran, SCRIraq1 and SCRIran1 are both characterised by the use of ethic adjectives to justify their appeal to Chapter VII of the UN Charter, in an attempt of creating empathy among UN members to find support in the international community.

As far as concerns modal adjectives, also SCRIran1 repeats the use of vague and indeterminate adjectives such as ‘necessary’ [measures], which have been notoriously criticised for their subjective interpretability and vagueness in Iraq resolutions. The UN continues to use this pattern also in SCRIran1, notwithstanding it has been widely criticised because of its allowance for infinite interpretations. Their use gives a degree of open-endedness to the paragraph, which could be adapted for future necessities as happened in Iraq.

Furthermore, it is interesting to note that in the Iranian case, the UN seems to be acting in a pre-emptive way, just like the U.S. did for Iraq, but not engaging in military action. The UN is asking Iran to totally stop its nuclear activities, also activities related to ‘peaceful purposes’. Iran is asked to stop all “enrichment-related, reprocessing or heavy water-related activities or to the development of nuclear weapon delivery systems” S/RES/1929 (2010) until its position has been attested.

The results of this contrastive analysis between some linguistic features of SCRIraq1 and SCRIran1 have been further confirmed through a global analysis of the UN S/RES/1929 (2010) and the American Public Laws P.L. 109-293 and P.L. 111-195, which are the two public laws issued by the U.S. Congress related to Iran, and can be seen as the concrete national implementation of the UN resolutions relating to Iran. Their analysis has been useful to reinforce the research hypothesis that vagueness and indeterminacy of UN resolutions has and can allow a too subjective interpretation by

Member States, which could use the wording of resolutions also with manipulative intentions; and that the UN uses some linguistic patterns intentionally as a set of discursive strategies to manage international issues.

The two American Acts have implemented S/RES/1929 (2010), but with some differences between them. P.L. 109-293, issued under President Bush's administration, uses weaker and more indeterminate language to implement the Security Council resolutions than P.L. 111-195, approved under President Obama's legislature. Although retaining some vagueness and indeterminacy, P.L.111-195 seems to have a better balance between firmness and flexibility. In theory it is both a "powerful tool against the development of nuclear weapons" but also a "flexible" means for the calibration of sanctions. These changes could probably be connected to the understanding of the negative effects that vague wording had had in the precedent Iraqi case.

Only history can reveal the concrete effect of their wording, in the hope that the international community has learnt from the experience of the effects of vague and indeterminate UN wording has had in Iraq.

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