

## ***ILLUSTRATIVE ALTERATIONS TO A SECURITY COUNCIL RESOLUTION ON NON-PROLIFERATION AND DISARMAMENT***

March 30, 2004

*The underlying text is the Draft Resolution on Non-Proliferation dated March 24, 2004. The alterations, shown by underlined text, are supplied by the Lawyers' Committee on Nuclear Policy and the Reaching Critical Will initiative of the Women's International League for Peace and Freedom. They are intended to highlight issues raised by the proposed resolution and to suggest possible improvements.*

The Security Council,

[1] Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery\*, constitutes a threat to international peace and security,

[2] Affirming the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent the proliferation in all its aspects of all weapons of mass destruction, [like the first clause, from S/23500 cited in what is now 4<sup>th</sup> PP – see <http://projects.sipri.se/cbw/docs/cbw-uncsc23500.html>]

[3] Affirming that all disputes between States should be peacefully resolved in accordance with the provisions of the United Nations Charter, [again from S/23500]

[4] Recalling affirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including that all disputes between States should be peacefully resolved in accordance with the provisions of the Charter,

[5] Affirming its support for the multilateral treaties whose aim is to ~~eliminate prevent the proliferation or illicit acquisition of~~ nuclear, chemical, or biological weapons and to prevent their proliferation and the importance for all states to adopt and fully implement them ~~in order to promote international stability,~~

[6] Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation,

[7] Affirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

[8] Affirming that prevention of proliferation of nuclear, chemical and biological weapons, their means of delivery, and related materials\* should be conducted in accordance with principles of universality, transparency, proper regard for legitimate commercial and security interests, verifiability, and equity, should rely upon and develop objective standards by which States are determined to be in good standing with the relevant treaty regimes, should strengthen and develop mechanisms within the relevant treaty regimes to determine prohibited and permitted

activities and to verify compliance, and should reinforce non-proliferation and disarmament obligations and commitments;

[9] Gravely concerned by the threat of the nexus between international terrorism and efforts to acquire, traffic in or use nuclear, chemical or biological weapons and by the involvement in such actions of non-state actors\* such as those identified in the UN list established and maintained by the Committee established under Security Council Resolution 1267 and those to whom Resolution 1373 applies,

[10] Gravely concerned by the threat of ~~fr-illieit~~ trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials\*, which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

[11] Recognizing the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

[12] Recognizing that most states have undertaken binding legal obligations aimed at preventing the proliferation of nuclear, chemical or biological weapons and accomplishing their elimination, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

[13] Recognizing further the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery and to accomplish their elimination,

[14] Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

[15] Determined to facilitate an effective response to global threats in the area of disarmament and non-proliferation,

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

1. Calls upon all States to refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport or use nuclear, chemical or biological weapons and their means of delivery;
2. ~~Decides that~~Calls upon all States ~~to shall~~ adopt and enforce appropriate effective laws which prohibit any non-state actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them, and recommends negotiations on appropriate international legal instruments to further this end;

3. Calls upon States party to the Chemical Weapons Convention and the Biological and Toxin Weapons Convention to adopt and enforce appropriate effective laws to prohibit any state-affiliated natural or legal person from the manufacture, acquisition, possession, development, transport or use of chemical or biological weapons, or their means of delivery, as well as attempts to engage in such activities, participate in them as an accomplice, assist or finance them; non-nuclear weapon States party to the Nuclear Non-Proliferation Treaty to adopt and enforce appropriate effective laws to prohibit any state-affiliated natural or legal person from the manufacture, acquisition, possession, development, transport or use of nuclear weapons, or their means of delivery, as well as attempts to engage in such activities, participate in them as an accomplice, assist or finance them; nuclear-weapon States party to the Nuclear Non-Proliferation Treaty and nuclear-weapon possessing States not party to that treaty to take effective measures to meet with all due speed the unequivocal undertaking to eliminate nuclear arsenals and the legal obligation applicable to all States to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control; States party to the Nuclear Non-Proliferation Treaty to make regular reports on implementation of the nuclear disarmament obligation pursuant to that treaty's strengthened review process; and recommends negotiations on appropriate international legal instruments to further these ends;

~~4.3. Calls upon~~ ~~Decides also that~~ all States ~~toshall~~ take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery and to accomplish their elimination, including by establishing controls over related materials, and to this end ~~toshall~~:

- (a) develop and maintain appropriate effective measures to account for and secure such items in production, use, storage and transport;
- (b) develop and maintain appropriate effective physical protection measures;
- (c) develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;
- (d) establish, develop, review and maintain appropriate effective national export and transshipment controls over such items, including appropriate laws and regulations to control export, transit, transshipment and re-export and controls on providing funds and services related to such export and transshipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

and recommends negotiations on appropriate international legal instruments to further these ends.

~~4.5.~~ Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

~~5. Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory~~

~~infrastructure, implementation experience and/or resources for fulfilling the above provisions;~~

6. Calls upon all States:

- (a) to promote the adoption, full implementation and, where necessary, strengthening of multilateral treaties whose aim is to ~~eliminate prevent the proliferation of~~ nuclear, biological or chemical weapons and to prevent their proliferation;
- (b) to adopt national rules and regulations, where it has not yet been done, ensuring compliance with respect to their commitments under the key multilateral disarmament and non-proliferation treaties;
- (c) to renew their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of disarmament and non-proliferation;
- (d) develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

7. Calls upon all states to promote dialogue and cooperation on disarmament and non-proliferation so as to counter the threat posed by the existence and proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

8. Further to counter that threat, ~~requests calls upon all~~ states, in accordance with their national legal authorities and legislation and ~~consistent with~~ international law including the principles of the Law of the Sea Convention and any decisions of the Council or the competent multilateral treaty-based international organizations, bodies, and tribunals including the International Law of the Sea Tribunal, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

9. ~~Requests the Secretary-General to establish an implementation body, Decides to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no more than two years, six months, a committee of the Security Council and calling on other expertise calling upon, inter alia, the expertise of the Department for Disarmament Affairs, IAEA, OPCW, UNMOVIC, the governing bodies of the NPT, CWC, and BWC, and civil society, as appropriate, to monitor report on~~ implementation of this resolution, to elaborate definitions of its terms and to ensure consistency in its application, and to offer assistance to States in implementation; ~~and calls upon States to report to the committee, no later than 90 days from the date of adoption of this resolution, on their implementation of this resolution;~~

~~7~~10. Requests all member States to report to the Secretary-General President of the Security Council on measures undertaken by them as called for by this resolution as well as the types of assistance they may need to ensure its implementation-, and on information submitted pursuant to regular reports on implementation of the nuclear disarmament obligation within the strengthened review process of the Nuclear Non-Proliferation Treaty and pursuant to the review processes of the Chemical Weapons Convention and Biological Weapons Convention, with such

reports to be submitted within six months from the day of its adoption; and requests the ~~Secretary-General~~ ~~President~~ to make such reports available to the members of the Council;

~~10~~11. Expresses its intention to monitor closely the implementation of this resolution and, ~~at the appropriate level,~~ to take further decisions which may be required to this end;

~~11~~12. Decides that ~~none of the obligations set forth in~~ this resolution shall not be interpreted so as to conflict with ~~or alter the rights and obligations of State Parties to~~ the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention ~~or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;~~

~~9~~13. Decides that any decisions or action regarding implementation of this resolution or arising from its subject matter shall be taken in accordance with the United Nations Charter and only by the Council or, when appropriate, by the competent multilateral treaty-based international organizations, bodies and tribunals or, when appropriate, the General Assembly;

~~12~~14. Decides to remain seized of the matter.

\* Definitions for the purpose of this resolution only:

Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-state actor: individual or entity, not acting under the lawful authority of any State in conductive activities which come within the scope of this resolution.

Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

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