



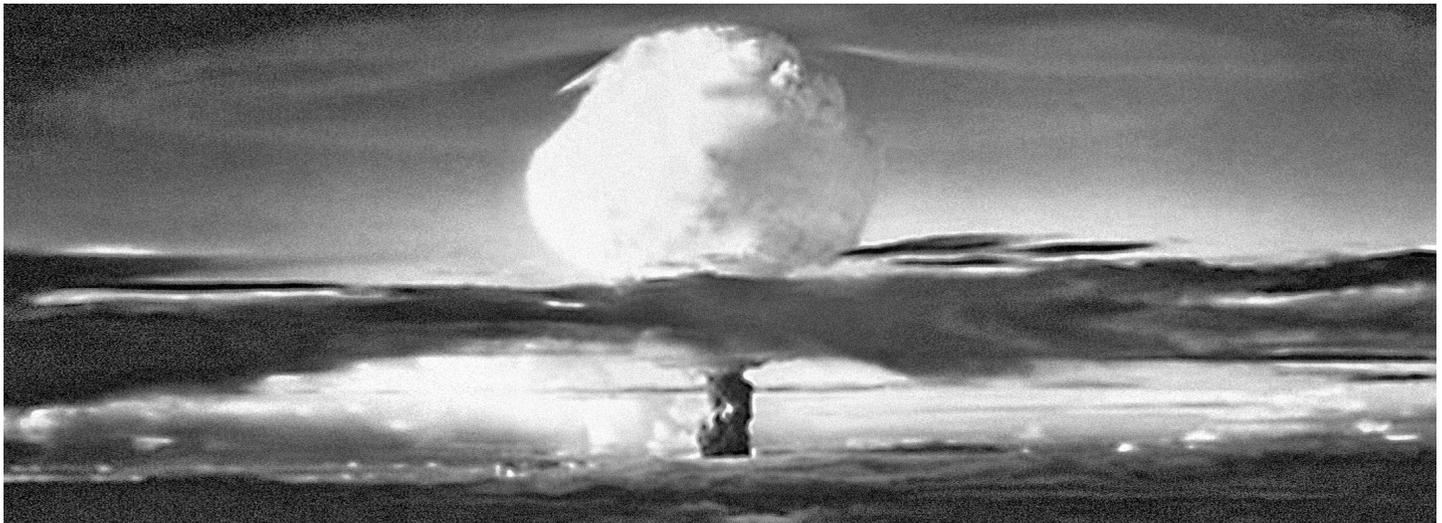
# SECURITY COUNCIL REPORT

## CROSS-CUTTING REPORT

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## The Security Council's Role in Disarmament and Arms Control: Nuclear Weapons, Non-Proliferation and Other Weapons of Mass Destruction

Security Council Report's series of Cross-Cutting Reports are designed to follow thematic issues on the Council's agenda and track the way in which thematic principles are applied by the Council in individual country-specific situations.

This report deals with the thematic issue which has been longest on the Council's agenda—arms control and disarmament. It was the UN Charter itself, in 1945, which in article 26 gave the Council this mandate.

In November 2008, at the initiative of Costa Rica, the Council returned to this wide and challenging responsibility. Following that debate Security Council Report began preparation of a detailed study of all aspects of the Council's role in disarmament.

This study is now being published in two parts. This first part deals with arms control, disarmament and non-proliferation of weapons of mass destruction (WMD) and is available to members in time for the summit-level Security Council meeting to be presided over by US President Barack Obama on 24 September 2009.

The second part will also be published in September. It addresses the Council's role in respect of conventional weapons and small arms. It also looks specifically, in a cross-cutting way, at the impact on disarmament at the local level deriving from Council action in country-specific situations, including arms embargoes, mandates for arms monitoring and disarmament of former combatants.

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## 1. Introduction

In 1945, when the United Nations was founded, the issue of disarmament and arms regulation was given a very prominent place in post-World War II security arrangements. The Security Council was given the principal responsibility to address this problem.

It was recognised in the UN Charter that the proliferation of arms of all kinds presented an ongoing risk to international security and constituted a huge opportunity cost, in terms of economic and social development, if resources were diverted towards arms.

This consensus was reflected in article 26 of the UN Charter which gives the Security Council the lead responsibility to develop plans and oversee programmes of disarmament and “arms regulation”.

This was in a sense the first thematic mandate for the Security Council. And it lends itself well to the cross-cutting methodology employed in this series of studies by Security Council Report, under which we examine thematic responsibilities of the Security Council and assess how these have evolved, both at the level of generic development and in terms of application to country-specific situations on the Council’s agenda.

At the outset, the Council tried to apply this mandate as intended in the UN Charter with a number of initiatives on disarmament and arms control, especially in relation to WMD. However, the problems of the Cold War quickly stifled any hope of progress. And for most of the UN’s first forty years—coinciding with the Cold War—those dynamics effectively drove questions of disarmament, non-proliferation and arms control

outside the Council. To the extent that these were subject to multilateral negotiation at all, this took place mainly in the General Assembly and the UN Conference on Disarmament, or outside the UN altogether and at the bilateral level involving the main Cold War protagonists, the US and the USSR.

The end of the Cold War did not bring the progress on arms control and disarmament that might have been expected. To the contrary, an even deeper malaise in the multilateral arms control negotiating environment seemed to set in. There was a complete stalemate for over a decade in the UN institutions set up by the General Assembly for this purpose.

In 2009, however, some initial signs of a more positive trend began to emerge.

- First, on 4 February UK Foreign Secretary David Miliband announced a new initiative on nuclear disarmament. This was elaborated in detail by Prime Minister Gordon Brown’s Road to 2010 strategy paper on 16 July.
- On 21 March French President Nicolas Sarkozy announced major cuts in the French nuclear arsenal and new levels of transparency.
- On 5 April US President Barack Obama, in a speech in Prague, pledged to reduce the US nuclear stockpile and committed to work with others to do the same with an ultimate goal of a world free of nuclear weapons. He also committed to support the treaty banning nuclear testing, the Comprehensive Test Ban Treaty, and a new treaty to end production of fissile materials for nuclear weapons.
- On 16 April, in the context of small arms, US President Obama announced in Mexico that he would push for ratification of the inter-American arms treaty designed to curb the flow of light weapons and ammunition in the region.



- In spite of previous failures, in May the Preparatory Committee for the 2010 Nuclear Non-Proliferation Treaty (NPT) Review Conference made encouraging progress.
- Also in May, in Geneva, the Conference on Disarmament made significant progress by agreeing, for the first time in over a decade, on a programme of work.
- On 6 July, following bilateral talks on nuclear weapons between US President Obama and Russian President Dmitry Medvedev, an outline agreement for a new strategic arms reduction treaty was signed. Commitments were announced to cut stockpiles to below 1700 warheads.
- Also in July, at the UN in New York, progress was made towards an arms trade treaty.

Regarding the Security Council, which is the focus of this report, a second trend can be observed. It began earlier and it marks a gradual but growing reemergence of the Security Council back into the field of disarmament that it had vacated during the early days of the Cold War. This evolving Council activism is manifested mostly in the context of country specific situations. But there is also an increasing body of thematic or generic statements by the Council on some key issues.

The Council in particular began to be more active in the area of weapons of mass destruction. It has dealt variously in the WMD field with the use of chemical weapons by Iraq; with Democratic People's Republic of Korea's (DPRK) withdrawal from the NPT and subsequent nuclear activities; nuclear tests conducted by India and Pakistan; and security assurances to non-nuclear weapon states. Following Iraq's invasion of Kuwait in 1990 and the 1991 Gulf War, the Council developed innovative

and ultimately effective mechanisms for weapons inspection and disarmament in Iraq.

In the case of conventional weapons, the Council began to develop tools including arms embargoes, support for regional initiatives, physical disarmament in post-conflict situations and strategies such as disarmament, demobilisation and reintegration in addition to security sector reform which address aspects of the problem at the local level.

At the thematic level the Council has tended to steer away from major thematic initiatives on disarmament in general. However, there are some exceptions, including on small arms and non-proliferation.

On non-proliferation the Council has gone well beyond measures applying to specific cases and adopted decisions establishing norms. It has also made some reasonably determined efforts at implementation, seeking to prevent non-nuclear weapon states and non-state actors in general from acquiring WMD.

Initially, the Council's efforts were hesitant and marked by inconsistency. Over time the Council has become more consistent and determined, but criticism of its consistency continues.

In January 1992, following a summit-level meeting, the Council declared that the proliferation of all weapons of mass destruction constituted a threat to international peace and security. Council members committed themselves to working to prevent the spread of technology related to the research for or production of such weapons.

In 2004, acting under Chapter VII of the UN Charter, the Council adopted resolution 1540 requiring all states to establish controls over WMD and the

means to deliver them and to enact and enforce the necessary national implementing legislation with the objective of prohibiting terrorists and other non-state actors from developing, acquiring and using WMD.

Council members are aware of the growing clamour from the majority of UN member states, and also from civil society, for a quantum leap forward on all disarmament issues especially on nuclear disarmament. There is pressure not only for more effective and consistent action against the proliferation of nuclear weapons but also for real collective input for the reduction of existing stockpiles of nuclear weapons held by all nuclear weapons states and action in respect of conventional weapons as well—especially small arms—and for strengthening the regimes that deal with all kinds of weapons and the disarmament machinery in general.

In November 2008, at the initiative of Costa Rica, the Council held a debate on these wider dimensions of disarmament. Council members in response stressed concern at the growth of global military expenditures and urged states to devote as many resources as possible to economic and social development (S/PV.6017 and resumption 1).

The debate in the Security Council in November 2008 demonstrated that there is also a concern by many about the unfinished business under the UN Charter itself. For instance, how will the responsibility be taken up to formulate plans to establish a system to regulate armaments in such a way that international peace and security could be maintained with a minimum of diversion of the world's human and economic resources into the production of or expenditure on armaments?

SIPRI, the Stockholm International Peace Research Institute, has just reported that global military expenditure increased by 4 percent in 2008 and 45 percent over the past decade. It has now reached \$1,464 billion.

The Security Council has shown, in recent times, that, in carrying out its primary responsibility for the maintenance of international peace and security, it has the potential—and the power, if it chooses to exercise it—to contribute to addressing both specific and broader disarmament dimensions of security issues. But its role has often been resisted as either inappropriate (given the parallel responsibilities of the General Assembly and wider objections to Council encroachment) or as ineffective because, in part, key stakeholders who need to be party to such decisions would be absent from the table.

The Council meeting in September 2009 may give some leads as to whether and to what extent the Security Council will pursue these issues in the future. Is article 26 of the UN Charter still relevant? If not what does this mean for the current efforts to reform the Security Council?

## 2. Issues for the Security Council

It seems unlikely that now, in 2009, it would be possible to roll back the clock and implement the Charter vision for the Security Council's role in disarmament exactly as set out in article 26. But the issue is whether the Council can find a role consistent with that vision which would add value. Unlike some other thematic issues where there is dispute about the legitimacy of the Council's role, in light of article 26, there can be no credible argument in that regard with respect to disarmament.

But there is a related practical issue. In general, experience shows that there is advantage if treaties which need to be widely ratified are negotiated in wider rather than narrower forums. Negotiating machinery open to all interested stakeholders has been established in Geneva via the 65-member Conference on Disarmament. What options are available to the Council under which it could both add value and have a positive synergy with this wider machinery?

A key issue in this regard is whether to simply leave everything to the machinery in Geneva. But a relevant factor, when considering this issue, is the failure of the Conference on Disarmament, both over the past decade and again very recently by failing to make progress in its current session due to procedural wrangling. The 2009 problems occurred despite the fact that P5 members (China, France, the Russian Federation, the UK and the US) are now playing a generally constructive role. This may suggest that there are serious issues about the working methods of the Conference, including abuse of the consensus rule. A related issue is the growing concern that failure to get back to substantive work after more than a decade in limbo will be detrimental to the prospects for next May's NPT Review Conference and to disarmament diplomacy in general. All this may suggest that there is an opening for strategic leadership from the Security Council.

The issue therefore becomes how the Council can add value with strategic leadership without itself becoming the negotiating forum and making the Conference on Disarmament redundant.

A related question is whether the Council is prepared to take a sustained interest in this vital, but technically complex set of issues. There is still deep

scepticism that P5 members intend anything more than rhetoric in their references to reenergising multilateral disarmament. There are also fears that the P5 are likely to revert to old habits of monopolising energy in multilateral forums to address their non-proliferation priorities, while quietly relegating negotiating efforts on disarmament (if any) to bilateral or non UN contexts. In practice, therefore, a Council event which is simply a "one shot" could end up being seen as essentially political rhetoric. It could even backfire and have precisely the opposite impact from the intended effect of "creating a new momentum."

An important question for much of the UN membership is that, if the non-proliferation track is to continue to be a priority for collective effort in multilateral forums, then it should be matched by a serious collective effort and negotiation on nuclear disarmament in multilateral forums. The way in which the Security Council members address this issue seems likely to be an important first test of whether the current encouraging developments are seen as really positive or as essentially rhetoric.

## 3. Options for the Security Council

Clearly, there are a huge range of important options that Council members can pursue in their national capacities that would have positive impacts on the disarmament and non-proliferation agenda.

**National statements in the 24 September 2009 debate:** One of the first of these is how they address the key issues in their statements in the Security Council on 24 September 2009. (There have been many important Security Council debates where no major resolution or



other action was decided but where the collective weight of 15 voices, laying out clearly and frankly a concerted set of priorities, have been hugely influential.)

But there are also options for the Council members on what they can do collectively, as the Security Council.

**Commit the Security Council to playing a regular role on disarmament issues:**

Council members could decide, in principle, that the Council would meet at least quarterly to follow up the issues of disarmament and non-proliferation. This would help to ensure that momentum is sustained and also perhaps allow the Council to focus each meeting on more specific aspects of the issues. This is particularly relevant because all of the issues are inherently complex and sustained attention requires some specialisation.

**Decide to have an annual high-level meeting to review at the strategic level progress on arms control disarmament and non-proliferation both inside the existing UN machinery and elsewhere:** Council members could signal an intention to repeat the September high-level event so that the opportunity exists to take comprehensive stock each year.

**Decide to schedule an early open Council debate for wider participation including relevant briefings:** The 24 September 2009 meeting will have limited time due to other commitments of participants. An open meeting that day is therefore not possible. But a significant option exists for improved acceptance of a Security Council role if Council members were to agree on scheduling promptly a wider debate allowing participation from interested UN members and inviting participation and briefings by the UN High Representen-

tative for Disarmament, the Director General of the IAEA, the Director General of the Organisation for the Prohibition of Chemical Weapons and the Executive Secretary of the Comprehensive Nuclear-Test-Ban Treaty Organization.

**Respond to concerns that the real action will take place outside the UN and decide to use the Council as a preliminary forum for airing initiatives:**

Perhaps the Security Council offers a place where it would be possible for the P5 to work on plans that would essentially be a positive response to the concerns among the wider UN membership that real disarmament work—especially on the nuclear issues—will continue to be excluded from meaningful discussion in the UN. The Council may offer P5 members a forum where they can float ideas together but also in synchronisation with a UN organ which permits collective multilateral discussion. The Council is a place—more than any other—where there is skill and daily experience in bridge building among the P5 members and in interacting with elected members. It is never easy. It is far from perfect, but possibly the Council is more likely to be successful at such a role than any other existing UN forum. It may therefore be a possible option that the Council could become the place in which some major new initiatives would be floated for initial multilateral airing. In as much as such an initial airing could be said to be discussion of a plan, it would be entirely consistent with article 26. However, there are two big provisos which would need to be met to maintain the legitimacy of the Council's role. First, Council members would need to recognise some restraint and be firm in their commitment that the Council's role was preliminary. The Council would need to pass the

work after an initial stage to a treaty negotiating body of wider membership for detailed negotiation. (This is consistent with both articles 26 and 11(2) of the Charter.) Secondly, the Council's working methods in dealing with such matters would need some very careful thought. A key issue would be which non-members of the Council were such critical stakeholders that they needed to be at the table as a participant, in a true sense of the word, (albeit without the right to vote) under article 31 of the UN Charter. (It is worth noting in this regard that this issue would arise regardless of reform of the Security Council membership. None of the proposals for expansion would ensure that all key stakeholders were participants. Moreover, the necessary participants might be quite different depending on the actual disarmament issue to be discussed [e.g. nuclear, biological, chemical, small arms, proliferation etc].)

**Establish a high-level subsidiary body to support the Council in discharging a strategic level role in the area of disarmament, arms control and non-proliferation:** The Council has many subsidiary bodies. Often they work less than optimally because they draw their personnel from the already overstretched delegations covering issues in the Council itself. And sometimes their working methods, which often give every committee member a veto, stall action for years on end. On the other hand, there are examples of both formal and informal subsidiary bodies which have been extremely successful. The UN Compensation Commission is an example of a Council body that has its own expertise and does not rely on New York delegations. The Working Group on Children and Armed Conflict is an example of a body that has produced significant outcomes on sensitive and

complex issues. The Council could therefore, in due course, consider the option of whether a high-level body, which was staffed by Council members in such a way that it did not compete with resources for other Council business, could assist it to develop a constructive, legitimate and effective role in giving momentum to disarmament, arms control and non-proliferation.

**Develop an omnibus Council resolution bringing together and updating (without trying to add new policy content) all of the existing resolutions, statements and other decisions of the Council to date containing thematic outcomes on issues of disarmament, arms control and non-proliferation:**

This would have the perhaps surprising effect of demonstrating how much common ground already exists in terms of existing Council decisions. It would also add to the sense of momentum in a practical way but without straining Council consensus too much at the very first hurdle.

**Options for the Future:** Council members may want to highlight a number of critical substantive issues which might benefit from some preliminary work in the Security Council, once it has a framework—or some general understandings—within which members are comfortable.

- Plans to universalise the NPT
- Plans to universalise the IAEA Additional Protocol
- A plan for a better Council role in monitoring NPT and IAEA Protocol compliance once certain triggers are met
- A plan for provisions that control withdrawal from the NPT and IAEA Protocol
- Plans for similar measures for biological weapons

- A plan for a Council role in receiving regular reporting about progress with implementing obligations under existing nuclear disarmament treaties (especially article VI of the NPT) and monitoring compliance
- Plans for and inspection capability for nuclear or biological violations.
- Developing plans for a capacity—perhaps modelled on the current work of its subsidiary body, the Counter-Terrorism Committee and the Counter-Terrorism Committee Executive Directorate—to assist states to develop consistent and effective legislation to secure, track, control and criminalise, as appropriate, exports of WMD related technology and resources and developing and monitoring minimum standards
- Actively leading with plans for new processes for the establishment of nuclear free zones (e.g. in the Middle East)
- Steering away from simple rhetoric about nuclear disarmament and focusing instead on plans which have practical, time-bound, measureable steps that would ensure that the focus on nuclear disarmament is not dependent on vague factors in the security environment but has a trajectory that will ensure a serious reduction by stages in nuclear arsenals even if it does not specify an actual date for their elimination (although that goal might need to be mentioned in order to be consistent with the pronouncements and aspirations of many leaders)

## 4. International Framework for Disarmament, Non-Proliferation and Arms Control

### 4.1 UN Charter Provisions and Early Decisions on Disarmament

The Charter of the UN recognised that disarmament and arms control (“regulation of armaments”) would be necessary elements in maintaining international peace and security and creating an environment favourable to ensuring human advancement (article 11). The Security Council, on which was conferred the “primary responsibility for the maintenance of international peace and security”, was given a central role to “ensure prompt and effective action by the United Nations” (article 24).

The Security Council was also tasked with formulating plans “for the establishment of a system for the regulation of armaments” (article 26). The purpose behind that responsibility was to promote the establishment of international peace and security with the least diversion of the world’s human and economic resources into armaments.

The General Assembly, in resolution 41 of 14 December 1946, recommended that the Council formulate practical measures to provide for the general regulation and reduction of armaments and armed forces, and to assure that such regulation and reduction would be generally observed, in effect reaffirming the Council’s obligations under the UN Charter.

Plans for a system for the regulation of armaments were required under article 26 to be submitted by the Council to members of the UN.

Under article 39 of the UN Charter, a determination by the Council that a

situation or action constitutes a threat to international peace and security allows it to decide under Chapter VII of the UN Charter on measures, including economic and military sanctions, which are binding.

Finally, article 47 envisaged that the Security Council would receive advice and assistance from a Military Staff Committee on all questions relating to the Council's military requirements for maintaining peace and security, including "the regulation of armaments, and possible disarmament."

#### **4.2 Short History of Efforts to Implement Charter Provisions on Disarmament**

In resolution 18 of 13 February 1947, the Security Council recognised that the general regulation and reduction of armaments and armed forces would constitute a real opportunity to strengthen international peace and security. In an effort to implement its Charter obligations, the Council established the UN Commission for Conventional Armaments (UNCCA) to deal with armaments other than weapons of mass destruction with a mandate to make proposals for the general reduction of armaments.

But discussions within UNCCA quickly became deadlocked because of the underlying Cold War political dynamics. The Soviet Union pressed for immediate reduction of armaments. The US supported reductions but linked agreement to progress on an effective framework for collective security. In 1950 the Soviet Union used the issue of the representation of China in UNCCA as a basis for withdrawing participation. This effectively ended the work of the Commission, which was dissolved in 1952 in Council resolution 97.

From that point on, with the Council stalemated in performing its role on armament regulations and disarmament, the General Assembly began to take up issues of disarmament, arms control and non-proliferation in application of article 11 of the UN Charter.

Mindful of the situation in the UNCCA (and, as we shall see, the United Nations Atomic Energy Commission, UNAEC), the Assembly decided in 1952 to establish a new Disarmament Commission (resolution 502 (VI) of 11 January). Interestingly, it provided that this Commission should be accountable to the Security Council and tasked it to address both conventional and atomic weapons. However, this new Commission produced nothing substantive.

Progressively disarmament issues were removed from the collective discussion table at the UN in favour of smaller forums.

Twenty years passed before the UN was able to establish clear institutional arrangements to address multilateral disarmament and arms control. During this period there were ongoing efforts involving mixed tracks of bilateral, trilateral and multilateral negotiation (with some UN involvement as well). These produced eight multilateral arms limitation agreements (including on WMD) relating to specific environments and weapons systems, and weapons testing.

In 1978 there was a minor breakthrough at the United Nations with agreement on convening the General Assembly's first Special Session on Disarmament, UNSSOD1 (see resolution S-10/2 of 30 June). This was made possible as a by-product of the limited détente of the era, but also due to an initiative by developing countries (and the Non-

Aligned Movement in particular) concerned that military expenditures remained larger than those spent globally on health, education and economic development.

UNSSOD1 created a framework that includes:

- the First Committee of the General Assembly was made responsible for preparing resolutions for adoption by the General Assembly;
- the Disarmament Commission, which was expanded to include the full UN membership and transformed into a subsidiary organ of the General Assembly with the role of a deliberative body and for making recommendations in the field of disarmament; and
- the Conference on Disarmament was established in 1979 to serve as the world's single multilateral disarmament negotiating forum. It currently has 65 members, and replaced its smaller predecessors such as the Eighteen Nation Disarmament Committee referred to below.

The Disarmament Commission, although not a negotiating body, has been unproductive for many years. The First Committee of the General Assembly conducts routine annual business (voting on resolutions, receiving reports, conducting thematic debates). It has seen a lot of unproductive rhetoric, and its main output has been mechanical, essentially non-substantive, outcomes.

The Conference on Disarmament in earlier times managed to achieve the negotiation of a number of international treaties, as described later. However, despite the end of the Cold War, no issue on the agenda of the Conference has culminated in a successful negotiation since 1996. The Fissile Material Cutoff Treaty is currently the most widely

supported priority on the Conference's agenda, but proceedings were stalemated for over a decade with members being unable to agree on the priorities that would comprise their future programme of work. Although some hopeful signs emerged in April 2009, meaningful negotiations eluded the Conference on Disarmament for most of its 2009 session. It remains to be seen, even with positive engagement by P5 members, whether the Conference can become an effective negotiating forum.

In this connection, it should be noted that the Conference on Disarmament and other forums in the disarmament arena, such as the Conventional Weapons Convention, proceed on the basis of taking decisions only by consensus. This rule of procedure (or practice, in the case of the Convention) has had stultifying consequences in dealing both with WMD as well as with conventional weapons. In the case of the Conference on Disarmament, no proposal for an annual work programme achieved consensus for over a decade. In the case of the Conventional Weapons Convention, the failures inherent in proceeding by consensus led directly to decisions by groups of like-minded states to pursue their objectives in parallel negotiations outside the Convention on cluster munitions and on anti-personnel mines.

Curiously, this consensus approach brings to the General Assembly negotiating bodies the same weakness so often criticised in the Security Council—a veto. The veto, in this sense, is therefore perpetuated outside the Security Council.

### **4.3 Emergence of Disarmament Measures Addressing WMD**

The Charter was adopted shortly before

atomic bombs were dropped on Hiroshima and Nagasaki. It does not recognise in any way the special characteristics of such weapons.

However, as the implications of the nuclear age became progressively clear, the UN began to make an important distinction between nuclear weapons (and other WMD) on the one hand, and conventional armaments on the other.

For WMD, both disarmament and non-proliferation were seen as important objectives. However, it was accepted that the central goal for conventional weapons should be regulation rather than disarmament, bearing in mind that a minimum level of conventional weapons was thought necessary for states' national defence, as enshrined in article 51 of the UN Charter.

#### ***Nuclear Weapons***

In 1946 the US was the only power with nuclear weapons. An internal debate existed between those that supported a policy of disarmament (giving up atomic armaments) coupled with non-proliferation. This was based on the judgement that proliferation was otherwise inevitable given that the scientific knowledge to make an atomic bomb could not be monopolised forever. Opponents favoured trying to maintain a US monopoly over atomic force based on the belief that for the immediate future nuclear weapons would be necessary to deter aggression.

Initially, there was agreement between the US and the Soviet Union on a proposal to pass responsibility for nuclear issues to a UN commission. The very first resolution adopted by the General Assembly, on 25 January 1946, established UNAEC, comprised of the Security Council member states (plus Canada) to deal with problems of

controlling uses of atomic energy, including the development of nuclear weapons. (Canada was included as the world's then largest producer of uranium.)

Another interesting feature of this resolution is that it called not only for the elimination of atomic weapons but also of "all other major weapons adaptable to mass destruction."

The US conditioned disarmament of its nuclear weapons on securing a non-proliferation agreement binding all other countries which would be effective in preventing production of atomic bombs by other powers. An adequate system of inspections was a critical component of this policy. The Soviet Union (already beginning to develop its own nuclear weapons programme) proposed that the US first eliminate all its nuclear weapons before negotiating any mechanisms of controls and inspections. Failure to agree led to stalemate within UNAEC. The US responded to this situation by embarking on an extensive nuclear weapons testing and deployment programme, including development of the hydrogen bomb. The Soviet Union detonated its first nuclear device in August 1949. In that same year UNAEC decided to adjourn indefinitely.

The failure of UNAEC to secure agreement on international control of nuclear weapons is widely seen as the turning point that led to the nuclear arms race. Significantly, it also saw a turning away by the Security Council from its mandate under article 26 of the Charter.

For much of the post-World War II period (and until the emergence of the case of Iraq using WMD against Iran in the 1980s) WMD issues have been generally addressed outside the Security Council, mainly in the General Assembly



and the Conference on Disarmament (or its predecessors). Progress on nuclear disarmament may have been regarded at various times as important by individual members of the Security Council but the Council itself was not active through much of the post-war period in promoting these ends as an exercise of its primary responsibility for the maintenance of peace and security under the UN Charter.

As we have seen above, with the failure of the UNAEC in 1949, nuclear disarmament was effectively off the table and this was not revisited until the mid 1960s when work began on the NPT.

Faced with growing international interest in civilian applications of nuclear technology, the attention of the nuclear powers quickly began to turn to maintaining their monopoly. In a speech by US President Dwight D. Eisenhower to the General Assembly on 8 December 1953, he proposed a deal to permit peaceful use of nuclear energy (the atoms for peace solution). This proposal led to the creation of the IAEA which was established as a specialised agency within the UN system. The IAEA's objectives are to promote the peaceful uses of atomic energy but also to prevent its diversion for military purposes (constraining, it was hoped, further nuclear weapons proliferation).

Under article III.B.4 of its statute, the IAEA must notify the Security Council, "if in connection with the activities of the Agency there should arise questions that are within the competence of the Security Council." In addition, under article XII.C of the statute dealing with the application of safeguards, "the IAEA Board shall report non-compliance to all members and to the Security Council and General Assembly of the United Nations."

Neither a notification under article III nor a report under article XII of the IAEA statute is necessary to place an issue affecting threats to international peace and security on the Council's agenda. The Council can act on its own initiative. Nor is a report or a notification under the IAEA statute binding on the Council, which will consider the question and exercise its own judgement. There is no necessary legal connection between IAEA reports and the Council agenda, although such reports can play a very important evidentiary role.

The establishment of the IAEA did little to address the nuclear arms race (often called vertical proliferation) between the US and the Soviet Union. The relationship remained tense and escalation of the nuclear deterrents became the norm—complicating efforts amongst them and their allies to negotiate nuclear disarmament accords. In addition, new countries were starting to master nuclear weapons technology. The safeguards prescribed in the IAEA's statute were binding only on IAEA members and, as a result, were seen as inadequate to deter proliferation.

The risk that more nuclear players would reduce overall security soon inspired attempts to prevent the emplacement of nuclear weapons in defined environments (the first of which was the Antarctic Treaty in 1959).

In 1959, in resolution 1378 (XIV) the General Assembly had put "general and complete disarmament under effective international control" on its agenda. This term encompasses not only the total elimination of all weapons of mass destruction but also the limitation of conventional arms to specific purposes of self-defence and peacekeeping. The purported objective of general and complete disarmament was to create a

world where lasting peace and security were assured, a goal, of course, that was already recognised in the UN Charter. This resolution grew largely out of the military situation in Europe where the expansion of NATO's nuclear weapons capability was seen as a necessary response to the Warsaw Pact's perceived superiority in conventional armaments. The idea, thus, was to address both conventional and nuclear arsenals in parallel as a means of generating some impetus towards nuclear disarmament.

In 1961 an important development was resolution 1665 (XVI), adopted by the General Assembly on 4 December, which called for legally binding commitments and comprehensive safeguards to stop the further spread of nuclear weapons and to work towards their eventual elimination.

Some success was achieved in the ensuing period through various multilateral arms reduction and disarmament treaties affecting nuclear weapons. These included the Partial Test Ban Treaty (1963), the Treaty on Nuclear Non-Proliferation (1968), and most recently the Comprehensive Test Ban Treaty (1996). (The latter two agreements were negotiated in the Conference on Disarmament (or a precursor) while the former was the result of trilateral negotiations among the USSR, the UK and the US.)

#### ***Nuclear Non-Proliferation Treaty***

The climate in which the NPT had its genesis was, as already noted, one of palpable tensions over nuclear aspects of European security, stalled nuclear disarmament negotiations among major powers, and the emergence of the notion of regional approaches such as delimiting specific geographical areas as nuclear weapon-free zones.

In 1965, the General Assembly adopted resolution 2028 containing guidelines for the negotiation of a treaty on the non-proliferation of nuclear weapons, and work began early the following year in the Eighteen Nation Disarmament Committee culminating in the passing of a draft treaty to the General Assembly in June 1968. The treaty, which addresses both nuclear disarmament as well as non-proliferation, was opened for signature on 1 July 1968.

The NPT is perhaps the most significant treaty of the nuclear arms control and disarmament regime. It is certainly the most widely adhered to multilateral arms control agreement. Today, all but three states (India, Pakistan and Israel) are parties to the NPT. (The DPRK on 10 January 2003 unilaterally declared that it was withdrawing from it—a party may withdraw from the NPT “if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardised the supreme interests of its country.”)

The NPT rests on three pillars.

- **Non-Proliferation:** The five countries which possessed nuclear weapons (Russia, China, the US, the UK and France) agreed not to transfer nuclear weapons to non-nuclear weapons states, nor to assist them in developing nuclear weapons. Non-nuclear weapons states agreed not to seek to acquire nuclear weapons and to allow the IAEA to inspect and oversee all their nuclear facilities.
- **Disarmament:** The five nuclear weapons states agreed to pursue in good faith negotiations on nuclear disarmament.
- **Peaceful Use of Nuclear Energy:** The treaty recognised the inalienable right of sovereign states to develop and use nuclear energy for peaceful

purposes, as long as the right was exercised in conformity with non-proliferation obligations.

The NPT is a framework agreement, supplemented by institutions and certain arrangements stemming from its review cycle every five years. A pivotal part of the NPT’s implementation was the negotiation of a detailed safeguarding, (i.e. verification system, administered by the IAEA, to monitor the presence and use of all fissile material declared by individual non-nuclear weapon state parties to be within their jurisdiction).

The initial safeguards system negotiated in the IAEA was essentially a compromise between those states for which the principle of securing early warning of diversion from a civil fuel cycle was paramount and those, mainly larger, non-nuclear weapon states, which wanted minimum interference in the operation and cost of their nuclear energy systems.

When Iraq’s vast clandestine nuclear weapons programme, developed in violation of the NPT, was brought to light—and, as we shall see below, to the attention of the Security Council—in 1991, it became very apparent that while there was overall very good implementation of the non-proliferation objectives in the NPT, there were important weaknesses in the NPT safeguards system.

As a result, an additional protocol was developed to enable the IAEA to provide indirect, as well as direct, assurances that a state’s fissile material declarations were complete by auditing all activities that could indicate the existence of undeclared materials. Today 123 states have signed the Additional Protocol, but it is in force in only 91 of them.

Implementation of the NPT disarmament obligations is also a problem. The NPT contains in article VI a binding undertaking by the five permanent members of the Security Council to negotiate in good faith effective measures relating to the cessation of the nuclear arms race and to nuclear disarmament “and on a treaty on general and complete disarmament under strict and effective international control”. The disparity of results between these two pillars of the NPT has become an increasing source of political disenchantment with the multilateral system in general and the NPT in particular.

#### **Comprehensive Nuclear-Test Ban Treaty (CTBT)**

With the disarmament front essentially stalled, many UN members turned to alternative approaches to constrain the existing nuclear weapons states and focused on achieving commitments to limit the testing of weapons. This culminated in the proposal for CTBT, to ban all nuclear explosions in all environments, for military or civilian purposes. Opened for signature in 1996, it has been signed by 181 states, of which 148 have ratified it to date. The treaty has not yet, however, entered into force as the 44 states listed in Annex II of the treaty need first to ratify it and nine (China, the DPRK, Egypt, India, Indonesia, Iran, Israel, Pakistan, and the US) have still to do so. The universal banning of explosions would inhibit the development of nuclear weapons, contributing to nuclear disarmament and preventing further damage to the environment. As the CTBT governs explosions, not simulated computer tests, its impact is necessarily qualified to this extent.

In addition to multilateral approaches outlined in this report, willingness to prevent nuclear weapons proliferation and the means of their delivery has found

regional expression in a number of bilateral and plurilateral treaties and arrangements that seek specifically to reduce or eliminate certain categories of nuclear weapons, sometimes in a particular region. In particular, several bilateral treaties between the US and Russia have been adopted:

- the 1972 Anti-Ballistic Missile Treaty which barred the US and the Soviet Union from deploying nationwide defences against strategic ballistic missiles—now defunct after the US withdrew on 13 June 2002;
- the 1979 framework for Strategic Arms Limitations Talks agreement (SALT II);
- the 1991 Treaty on the Reduction and Limitation of Strategic Offensive Arms (START I) which barred the US and the Soviet Union from deploying more than 6000 nuclear warheads atop a total of 1600 intercontinental ballistic missiles, submarine-launched ballistic missiles, and bombers;
- the 1993 START II which banned the use of multiple independently targetable re-entry vehicles on intercontinental ballistic missiles (but still not in force);
- the 1997 START III with the goal of reducing nuclear stockpiles to 2000-2500 warheads (the 2002 decision by the US to withdraw from the Anti-Ballistic Missile Treaty stymied START III which was superseded by the weaker Strategic Offensive Reductions Treaty, or SORT); and
- the 2002 SORT which limits the nuclear arsenal of both the US and Russia to 1700-2200 warheads each—it came into force on 1 June 2003 and is set to expire 31 December 2012.

Other initiatives with containment objectives included the negotiation of regional nuclear weapons-free zones in which the testing, use, development or

deployment of nuclear weapons would be banned. Currently, there are five such zones, covering Latin America and the Caribbean, the South Pacific, South-east Asia, Africa (not yet entered into force) and Central Asia. Antarctica, as mentioned above, is effectively a sixth nuclear free zone. Within these regions, countries may only use nuclear energy for peaceful purposes and cannot allow nuclear weapons states to station or transport nuclear weapons on or across the territory of states within the zone. Their establishment is recognised by article VII of the NPT. The UN General Assembly outlined the criteria for nuclear weapons-free zones as a total absence of nuclear weapons in the zone and establishment of an international system of verification and control to guarantee compliance.

On the non-proliferation pillar, export control regimes were designed to reinforce NPT obligations by establishing collaborative forums and to govern decisions on export of sensitive materials and technologies. The recipient state has to meet certain standards to be eligible to participate in nuclear trade. Those regimes include the Zangger Committee, the Nuclear Suppliers Group and the Missile Technology Control Regime.

As a final observation on the treatment of nuclear weapons within the international legal framework, there is growing international concern, notably in civil society, for greater leadership towards nuclear disarmament. There are recent signs that nuclear-weapon states have begun to recognise the symbiotic relationship between actively reducing their nuclear arsenals and reducing the incentives for the acquisition of nuclear weapons by new possessors (proliferation).

It remains to be seen whether nuclear weapon states will also accept that plans for vertical proliferation (i.e. modernisation of their nuclear arsenals) also complicate their efforts to prevent horizontal proliferation.

The Stockholm-based independent, high-level body, the Weapons of Mass Destruction Commission, made the following observation about proliferation:

*The global proliferation of nuclear weapons actually poses a wide spectrum of threats to regional and global security. The threats multiply as more countries acquire such weapons. The most fundamental danger is that proliferation will increase the risk of use. As stated in the preamble of the NPT, 'the proliferation of nuclear weapons would seriously enhance the danger of nuclear war'...The appearance of a new nuclear-weapon programme could have a domino effect, producing fear, alarm and possibly countermeasures involving WMD in neighboring states. Even suspicions of such a programme can trigger severe actions, as illustrated by the invasion of Iraq and by the pressures exerted on Iran to refrain from enrichment-related activities.*

UN Secretary-General Ban Ki-moon, in an address to the East-West Institute on 24 October 2008, called for the Council's permanent members to:

*Commence discussions, perhaps within its Military Staff Committee, on security issues in the nuclear disarmament process. They could unambiguously assure non-nuclear-weapon states that they will not be the subject of the use or threat of use of nuclear weapons. The Council could also convene a summit on nuclear disarmament. Non-NPT*

*states should freeze their own nuclear-weapon capabilities and make their own disarmament commitments.*

#### **Other WMD: Biological**

Biological weapons were never taken up in the Security Council during its early phase of implementation of its article 26 mandate. It was only in 1968 that the issues of chemical and biological weapons appeared on the agenda of the Eighteen Nation Disarmament Committee in Geneva (which has since become the Conference on Disarmament). One year later, UN Secretary-General U Thant published an influential report entitled *Chemical and Bacteriological (biological) weapons and the effects of their use* presented to the General Assembly in November 1969. The report concluded that chemical and biological weapons cannot be confined in their effects in space and time and might have grave and irreversible consequences for man and nature. Negotiations on a draft treaty continued in the Eighteen Nation Disarmament Committee in Geneva until 1972 when a text was presented to the UN General Assembly in New York early that year.

The Biological Weapons Convention (BWC) was signed in 1972 and entered into force in 1975. It required parties not to develop, stockpile, or acquire biological agents other than for peaceful purposes. Because at the time there were doubts on verification—in particular because biological materials are capable of both peaceful and hostile uses—the Convention does not have formal verification arrangements. Growing concerns—particularly after the discovery in Iraq of biological weapons programmes—led to efforts to negotiate a formal verification protocol but to date no agreement has been reached.

The Security Council was given an important role in the enforcement of the Convention. Article VI of the Convention empowers the Security Council to investigate alleged breaches of the agreement. Moreover, any state party that finds that another party is acting in breach of its obligations may lodge a complaint with the Security Council. Each party undertakes to cooperate in carrying out any investigation the Council may initiate, and the Council shall inform the parties to the Convention of the results of the investigation. Article VII stipulates that if the Council decides that a party has been exposed to danger as a result of violation of the treaty, each state party should provide support to this party if it so requests. Finally, article XIII provides that if a state party decides to withdraw from the agreement it has to give three months notice to the Council and to all other states parties.

One hundred and sixty-three states have now ratified the BWC. The depositary governments are Russia, the UK and the US. The state parties have created a small Implementation Support Unit, housed within the UN Office for Disarmament Affairs in Geneva, to assist with the implementation of this agreement.

#### **Other WMD: Chemical**

The negotiations on chemical weapons proved much more complex and difficult. After 12 years of negotiations, the Chemical Weapons Convention (CWC) was adopted by the Conference on Disarmament in Geneva on 3 September 1992. It entered into force in 1997. It established a legally binding standard outlawing acquisition, possession or use of chemical weapons, and reinforced the 1925 Geneva Protocol prohibiting the use of “asphyxiating gas, or any other kind of gas, liquids,

substances or similar materials.” The Convention is administered by the Organisation for the Prohibition of Chemical Weapons, or OPCW (not part of the UN). As of 21 May 2009, 188 states were party to the Convention. Two states (Israel and Myanmar) had signed but not ratified. Five states (Angola, DPRK, Egypt, Somalia and Syria) had neither signed nor acceded to the Convention.

Today individual chemical weapons munitions and containers that have been destroyed under the CWC represent just over a quarter of the declared items, and to this extent threats from remaining stockpiles remain. OPCW inspectors monitor and verify the deactivation and destruction of chemical weapons production facilities as well as chemical weapons stockpiles, while at the same time monitoring the non-diversion of chemicals. The OPCW also promotes international cooperation on training in implementation of the treaty, safe chemical management and the facilitation of adoption of national legislations.

Article VIII.36 of the Convention stipulates that the Executive Council of the OPCW shall, in cases of particular gravity and urgency, bring the matter directly to the attention of the General Assembly and the Security Council. Likewise, article XII.4 on measures to redress a situation and to ensure compliance, including sanctions, stipulates that the conference of the state parties shall, in cases of particular gravity, bring the issue to the attention of the General Assembly and the Security Council. Finally, according to article XVI.2, if a state party decides to withdraw from the Convention it has to notify the Security Council and all other state parties ninety days in advance.

The Council took up the use of chemical weapons for the first time—as a country specific issue—in the Iran-Iraq War. However, as we shall see below, its action was very tentative. Iraq was never identified as the perpetrator and there was no attempt to follow-up.

#### 4.4 Conventional Weapons

Conventional weapons in general do not have the potential to inflict the same level of destruction as WMD. However, former UN Secretary-General Kofi Annan aptly stated, “The death toll from small arms dwarfs that of all other weapons systems...In terms of the carnage they cause, small arms, indeed, could well be described as ‘weapons of mass destruction’” The NGO, Oxfam, a driving force behind the Arms Trade Treaty initiative, has calculated that 1000 people die each day from armed violence, and hundreds of thousands more are displaced, maimed or lose their livelihood.

The humanitarian impact of the use of small arms and their potential to destabilise entire regions—whether experiencing conflict or not—has also been recognised as a threat to international peace and security. Likewise, because of their impact on civilians, landmines, cluster munitions and other explosive remnants of war have been subject to international agreements that regulate or ban their use and which are considered as part of international humanitarian law.

Since the signing of the UN Charter, progress on conventional arms regulation through universal multilateral institutions has been very limited.

A second report by Security Council Report, to be issued shortly after the present one, will address these issues in detail and focus specifically on the role and impact of the Security Council.

## 5. Security Council and Weapons of Mass Destruction

This section examines the Security Council’s approach to weapons of mass destruction including efforts to prevent proliferation of such weapons. It looks at proliferation by states and by non-state actors and the different kinds of responses by the Security Council.

In general, issues have largely been tackled at the country or case-specific level. There has been little willingness from the Council to address general rules.

One major exception was the Council decision on 31 January 1992, at a meeting at the heads-of-state level, that proliferation of WMD is in itself a threat to international peace and security (S/23500). The significance of this decision is that it constitutes a generic finding in terms of Chapter VII of the UN Charter and opens the way for the Council to impose measures under Chapter VII against any party that is seeking to acquire or transfer nuclear weapons or to require all members of the UN to support such measures.

The Council has used different techniques depending on whether the proliferation threat comes from states or from non-state actors. The P5—all of whom have nuclear weapons—seem unusually united about compliance with the non-proliferation obligations in the NPT and preventing other states and non-state actors from acquiring nuclear weapons. However, the Council’s record of effectively addressing the parallel obligations on the P5 under article VI of the NPT is almost completely absent in any practical sense.

Council action against state proliferation has been uneven and is often criticised as selective—although it has become

more consistent over time. The action has ranged from no action to simple expression of concern in some cases to detailed intrusive inspection regimes accompanied by a full-range of sanctions.

It has acted firmly against nuclear programmes in Iraq, the DPRK and Iran. Nuclear weapons programmes in Israel, Pakistan and India were largely ignored.

The Council has been strong in its preventive response to threats by non-state actors.

### 5.1 Council Action at the Country-Specific Level Regarding WMD Proliferation by States

Eight cases addressed by the Council are:

- the use of chemical weapons by Iraq in its war against Iran;
- Israel’s nuclear programmes in 1981;
- Iraq’s WMD programme from 1991-2007;
- DPRK’s nuclear programme and withdrawal from the NPT (1993-present);
- Nuclear tests conducted by India and Pakistan in 1998;
- Iran’s non-compliance with demands from the IAEA to establish confidence in the peaceful nature of its nuclear programme (since 2006);
- Libya’s unlawful nuclear activities; and
- the ban on member states from cooperation with South Africa on its nuclear programme in 1977.

#### *Iraq’s Use of WMD in the War against Iran*

Between 1984 and 1987, the Council received several reports from an international team of experts dispatched by Secretary-General Javier Pérez de Cuéllar to investigate allegations of the use of chemical weapons in the Iran-Iraq War.

In 1982 Iraq used WMD in the form of gas against Iranian troops. Starting in

1983, the use of chemical weapons by Iraq, including mustard gas and nerve agents, became more systematic triggering strong Iranian protests.

The Iranian government first raised Iraq's use of chemical weapons with the Security Council in August 1983 (S/15934). In November 1983, in a communication to the UN, Iran repeated its charge that chemical weapons were being used by Iraq (S/16128) and requested that the Secretary-General send a second mission to determine the types of weapons used against civilians. (The Secretary-General had already sent in May and June of 1983 a first mission to inspect civilian areas within Iran and Iraq which had been subject to military attacks (S/15834).)

In a notable departure from its traditional policy, the International Committee of the Red Cross (ICRC) decided to make a public statement and on 7 March 1984 announced that 160 cases of wounded Iranian combatants visited in Tehran hospitals by an ICRC team "presented a clinical picture whose nature leads to the presumption of the recent use of substances prohibited by international law". It said publicly that the use on the battlefield of chemical substances was incompatible with humanitarian principles. Following these announcements, the Secretary-General dispatched a team of experts from Australia, Spain, Sweden and Switzerland to investigate Iran's claims of Iraq's use of chemical agents. The fact-finding mission had the mandate to examine the damage to civilian targets, including determining the type of munitions that might have been used. Secretary-General Pérez de Cuéllar, in the first mission's report (S/16433 of 26 March 1984), deplored that chemical weapons had been used in the form of aerial bombs, in contravention of international law. The report

however did not indicate the extent to which these agents had been used.

In March 1988, the Iraqi government launched a chemical attack against the mainly Kurdish town of Halabja in northern Iraq. Secretary-General Pérez de Cuéllar dispatched another investigative mission. In a report to the Council presented on 25 April 1988, the mission said that there had been an increase in the intensity of the chemical attacks in terms of both the number of victims and the severity of injuries. Also, a high proportion of victims were civilians (S/19823).

It was later discovered that between 5000 and 8000 people, mostly civilians, had been killed in the attack on Halabja while many more were injured and later died. Human Rights Watch claimed that the attack was an act of genocide. To date this remains the largest-scale chemical weapons attack directed against a civilian-populated area in history.

Between 1984 and 1987, the Council considered several other reports of fact-finding missions and adopted four presidential statements in 1984, 1985, 1986 and 1987. These condemned the use of chemical weapons against Iranian soldiers and demanded that the 1925 Geneva Protocol be respected. (At that time the Chemical Weapons Convention was still being negotiated and the 1925 Geneva Protocol was therefore the only international legal document on the use of chemical weapons.)

In 1986 the Council addressed the use of chemical weapons in the Iran-Iraq War in resolution 582, and again in 1988 in resolution 612. It deplored the use of chemical weapons, vigorously condemned their continued use in the conflict, expected both sides to refrain from their use, and finally broadened the scope of Council involvement by calling upon all states to adopt strict controls

over transferring chemical products to any country believed to have used chemical weapons. It also decided to consider further measures should there be any future use of such weapons wherever and by whomever.

In 1988 the Council again indicated that it would consider measures against responsible parties (S/RES/620). However, no measures were ever adopted. Of the approximately 500,000 Iranians killed during the Iran-Iraq war, gas attacks killed approximately 60,000 (both soldiers and civilians, especially in Halabja) and more than 100,000 veterans and civilians have suffered from the effects of exposure, according to the Iranian government.

The Council, however, never specifically condemned Iraq for its use of chemical weapons, although reports from the investigating teams left no doubt about Iraq's responsibility. Nor did it specifically condemn the death of civilians from chemical weapons in the Halabja attack. It seems, especially at the beginning of the conflict, that some of the P5—France, the UK and the US—were reluctant for the Council to criticise the use of chemical weapons by Iraq. Progressively, and in the face of mounting evidence, both the US and the UK reversed previous policy and denounced the use by Iraq of chemical weapons. Following the release of the first UN investigation report, France, the US, the UK, Japan and Australia banned the sale to Iraq of chemicals needed for the production of mustard and nerve agent. Nevertheless, within the Council, no concrete action was taken to immediately address the problem and major powers continued to appear unwilling to act despite the gravity of the situation. Initiatives took place outside the Council, with Australia's call for the adoption of a chemical weapons convention.

The limited response by the Council had no positive effect on Iraq's subsequent behaviour. It continued to expand chemical weapons use. This was reported in the annual reports of the team of experts. From 1987 to 1988 Iraq intensified the tempo of chemical attacks, especially against civilians, as reported by Secretary-General Pérez de Cuéllar in his 25 April 1988 report following the Halabja attack (S/19823). Indeed the Council, although seized of the issue of the use by Iraq of chemical weapons since 1984, proved unable to deter the Halabja catastrophe.

#### ***Democratic People's Republic of Korea***

The DPRK acceded to the NPT in 1985, and ratified its safeguards agreement with the IAEA in 1992.

In 1993, the IAEA discovered that the DPRK had underreported its plutonium holdings. The IAEA requested special inspections (GOV/2636 of 25 February 1993). But the DPRK rejected this and announced on 12 March 1993 that it was withdrawing from the NPT citing the treaty's escape clause on defending supreme national interests claiming that the IAEA had demanded inspections of military sites which the DPRK considered a violation of sovereignty and interference in its internal affairs.

The IAEA Board found the DPRK in violation of its safeguards obligations and referred the matter to the Security Council in GOV/2645 of 1 April 1993. On 8 April 1993 the Council adopted a presidential statement expressing concern at the DPRK's violation and passed resolution 825 in May 1993 urging the DPRK to reconsider its announcement to withdraw from the NPT and abide by its international obligations. On 11 June, one day before its notice of withdrawal was due to take

effect, the DPRK suspended the withdrawal and agreed to ongoing IAEA inspections. It seems that the prospect of the Council acting to impose serious economic sanctions, raised during negotiations of resolution 825, focused attention in Pyongyang and allowed China and the US sufficient diplomatic openings to persuade the DPRK to step back.

The DPRK's lack of cooperation with the IAEA continued. The IAEA reported to the Council that it was unable to draw conclusions as to whether there had been diversion of nuclear material because it was unable to perform its basic function in North Korea. The Council in a presidential statement of 31 March 1994 called on the DPRK to allow IAEA inspectors to complete their activities and requested the DPRK and the Republic of Korea (South Korea) implement a 1992 joint declaration on the denuclearisation of the Korean Peninsula (S/PRST/1994/13). The result of this firm statement was that the DPRK agreed that inspections could resume. However, in a further provocative move, it removed spent fuel from a five megawatt reactor and in the process jeopardised the IAEA's ability to ensure that the fuel rods could be measured. The Council on 30 May expressed grave concern and strongly urged the DPRK to proceed with the operations in a way which would permit fuel measurements (S/PRST/1994/28).

A new and tougher draft sanctions resolution was put on the table. Again this provided momentum for negotiation, which led to a framework agreement between the DPRK and the US on 21 October 1994. It envisaged freezing the reactors and related facilities (to be verified by the IAEA) and replacing them with light water reactor power plants (which carried less proliferation risk). In

exchange, full normalisation of political and economic relations would follow along with negotiations for peace and security and a nuclear free Korean Peninsula (INFCIRC/457 of 2 November 1994). On 4 November, the Council noted with satisfaction the adoption of this agreed framework (S/PRST/1994/64).

But the framework agreement progressively unravelled in the late 1990s, and the relationship between Pyongyang and Washington soured after 2000. In 2003, the IAEA faced a new crisis. After the DPRK refused to comply with its safeguards agreement—evicting IAEA inspectors, withdrawing from the NPT and resuming plutonium reprocessing—the IAEA Board decided to report the issue once again to the Council (GOV/2003/14 of 12 February 2003). This underlined the gravity of the situation and helped the establishment of the six-party talks involving China, the DPRK, Japan, Russia, South Korea and the US. Despite an initial agreement in which the DPRK agreed to abandon all its nuclear programmes and rejoin the NPT in exchange for energy assistance and the normalisation of its relations with the US and Japan, by 2006 tensions rose again and the action shifted back to the Council after the DPRK test fired seven ballistic missiles on 4 July 2006.

The Council immediately adopted resolution 1695 unanimously:

- reaffirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security;
- condemning the missile launches;
- demanding that the DPRK suspend all missile-related activities;
- requiring all UN members to prevent the DPRK from acquiring or selling missile or WMD-related goods and technology; and

- requiring all UN members to prevent “transfer of any financial resources in relation to the DPRK’s missile or WMD programmes” to and from the DPRK.

This was the first Council resolution on the DPRK to impose sanctions.

The DPRK then proceeded to a nuclear weapons test on 9 October 2006. The Council promptly responded with resolution 1718 of 14 October requiring all member states to:

- ban sales to or export from the DPRK of military hardware;
- ban the sale or export of nuclear and missiles related items;
- ban sales, transfers and supply of luxury goods;
- freeze finances and ban travel of anyone involved in nuclear and missile programmes;
- ensure that no funds, assets or common resources are made available to or for the benefit of persons or entities conducting the DPRK’s nuclear programme;
- cooperate in allowing inspection of cargo to and from the DPRK; and
- established a sanctions committee.

Influenced in part by Council action, but also by intense diplomacy from Beijing, the DPRK announced on 3 October 2007 that it would return to the negotiations and implement a 2005 joint statement in which it had agreed to abandon its nuclear weapons programme in return for energy assistance from the other parties and normalised relations with Japan and the US (in further agreements the parties agreed to specific phases in the denuclearisation process). However, the six-party talks quickly became bogged down, when at the end of 2007, the DPRK failed to submit a full declaration of its nuclear programme as it had agreed.

In May 2008, the DPRK handed over 18,822 pages of documents constituting operating and production records of the Yongbyon reactor. On 26 June 2008, Pyongyang submitted a declaration of its nuclear activities to China, the chair of the six-party talks and on 27 June it destroyed the cooling tower at Yongbyon. But by September new problems had emerged. The DPRK removed seals and surveillance cameras at Yongbyon, saying it intended to reactivate the reprocessing plant. IAEA inspectors were also barred from the site. The DPRK blamed the failure of the US to respect the “action for action” principle contained in the February 2007 six-party agreement and for not removing DPRK from the list of state sponsors of terrorism as the reason for this resumption of activities.

In early 2009, the DPRK announced its intention to put a communications satellite into orbit with a space launch vehicle (the Taepodong-2). In March 2009 the DPRK said it had acceded to the Convention on Registration of Objects Launched into Outer Space and to the Outer Space Treaty, which determines that outer space “shall be free for exploration and use by all States without discrimination of any kind”.

The Council held an emergency session following the 5 April 2009 launch (the rocket seemed to fail its objective and nothing entered orbit). Council members released a presidential statement on 13 April 2009 condemning the launch saying it was in contravention of resolution 1718, demanding that the DPRK does not conduct any further launch and agreeing by 24 April to adjust measures imposed on the DPRK in resolution 1718 through the designation of goods and entities subject to sanctions. (The 1718 Sanctions Committee had so far been inactive, and although a list of

prohibited items for exports to the DPRK was in place, the Committee had never adopted a list of individuals and entities subject to targeted sanctions.) The statement also supported the resumption of the six-party talks (S/PRST/2009/7).

The DPRK reacted immediately by expelling nuclear inspectors at the Yongbyon nuclear plant and by saying it would boycott the six-party talks.

On 24 April 2009 the 1718 Sanctions Committee designated three North Korean entities to be subject to assets freeze (SC/9642). In addition, a list of items, equipment, goods and technology which are prohibited from being exported and imported to and from the DPRK, was updated by the Committee, including recent technology relevant to ballistic missiles. This was denounced by the DPRK (S/2009/205).

On 25 May the DPRK conducted an underground nuclear test, followed by the launch of a short-range missile. On 12 June 2009 the Council adopted resolution 1874, condemning the underground nuclear test by the DPRK citing it as a violation of resolution 1718. The new resolution also expanded the existing arms embargo; authorised inspection of cargoes to and from the DPRK, including those on the high seas; prohibited financial services and transfers to the DPRK that could be linked to weapons related activities and authorised asset freezes in this regard; and called upon states and international institutions not to provide new financial assistance or trade support to the DPRK, except for humanitarian or development assistance. The Council also decided that the 1718 Sanctions Committee would adjust its measures within thirty days, through the designation of additional entities, goods, and individuals.

The DPRK on 4 July 2009 launched seven ballistic missiles into waters off its east coast in violation of resolutions 1718 and 1874. The launches were seen as a defiant gesture towards the international community regarding the enforcement of Council sanctions. The Council met in private consultations to discuss the 4 July missile launches. After the meeting, the Council president conveyed Council members' condemnation of the DPRK's actions to the press. In mid-July the DPRK indicated that it considered the six-party talks dead.

On 27 July 2009 the DPRK indicated that it was open to "a specific and reserved form of dialogue" on its nuclear issue. Some view this as being in line with its previously indicated preference for directly resolving differences with the US over its nuclear weapons programme, but excluding six-party talks involving other regional powers.

Washington has maintained that it would engage the DPRK in direct talks only if it agrees to return to the six-party talks.

At time of writing there was uncertainty about the implications, if any, of former President Clinton's visit to the DPRK, the freeing of the two US journalists or the meetings between DPRK diplomats and New Mexico Governor Bill Richardson.

But another sign of a possible desire in the DPRK to reduce tensions was the request from Pyongyang to send a delegation to Seoul for the funeral of former South Korean President Kim Dae-jung. This gesture was reciprocated by the South Korean government, which offered to meet with the delegation during its visit to Seoul on 23 August.

#### **India and Pakistan Nuclear Tests**

India and Pakistan are among the now very small group of countries who have resisted becoming party to the NPT. And

for many years analysts have assumed that both countries had active nuclear weapons programmes.

On 11 May 1998 India conducted three underground nuclear tests and then two more on 13 May in Pokhran in the state of Rajasthan. Pakistan responded on 28 May by conducting underground nuclear tests at Kharan.

This confirmation of nuclear weapon status prompted an immediate reaction by the Council. On 14 May 1998 the Council placed the item "responsibility of the Security Council in the maintenance of international peace and security" on its agenda and adopted a presidential statement that strongly deplored the tests conducted by India and urged it to refrain from further tests (S/PRST/1998/12). The Council emphasised that such testing was contrary to the de facto moratorium on the testing of nuclear weapons or other nuclear explosive devices and to global efforts towards nuclear non-proliferation and disarmament.

India's action was swiftly followed by a series of nuclear tests by Pakistan. On 29 May, in a similar presidential statement, the Council strongly deplored nuclear tests conducted by Pakistan and urged both India and Pakistan to resume the dialogue between them on all outstanding issues (S/PRST/1998/17).

These statements were followed by resolution 1172 of 6 June 1998, expanding the scope of Council's involvement. This resolution:

- condemned the nuclear tests;
- demanded that India and Pakistan refrain from nuclear tests and called upon all other states to refrain as well;
- called upon India and Pakistan to stop their nuclear weapons programmes and avoid the export of equipment

and technology that could contribute to nuclear or missile programmes in other countries;

- encouraged all states to prevent the export of equipment or technology that could assist programmes in India or Pakistan; and
- urged India and Pakistan as well as all states that have not done so to become parties to the NPT and the Comprehensive Test Ban Treaty.

Neither India nor Pakistan complied with the resolution. Although the Council decided to remain actively seized of the matter, it has not taken up the question of Indian and Pakistan's nuclear programmes again.

#### **Iran**

Iran acceded to the NPT in 1970. Its safeguard agreements with the IAEA came into force in 1974.

At time of writing Iran continued to be one of the most complex and difficult issues on the Council agenda.

The backdrop to the current situation involves many factors, including a persistent sense of insecurity on the part of many in the Iranian leadership. This has important historical elements to it including:

- a recent history of strained relationships between the US and Iran;
- an earlier period of grievance by many Iranians relating to the US (and the UK) involvement in regime change in Iran in December 1979;
- a long history of pressure on Persia from Imperial Russia followed in the twentieth century by active destabilisation efforts in Iran by Soviet backed communists; and
- a vicious war in the 1980s initiated by Saddam Hussein in which, as we have seen, Iran became the first victim of the use of WMD since atomic weapons were dropped on Japan in 1945.

Another key factor to understanding the current situation is that it seems that some western (and perhaps all P5) governments had acquired information in the 1990s that led them to believe that Iran, in breach of its NPT obligations, was undertaking covert nuclear activities consistent with a weapons programme.

In January 2002 US President George W. Bush designated Iran, Iraq and the DPRK as an “axis of evil”—countries that aggressively pursue WMD and export terror. This came at the same time as the US invasion of Iran’s eastern neighbour, Afghanistan, and the mounting pressure from the US and UK on its western neighbour Iraq.

At the IAEA General Conference in September 2002, Iranian Vice-President Gholam Reza Aghazadeh stated that Iran was “embarking on a long-term plan...to construct nuclear power plants with a total capacity of 6000 megawatts within two decades.” He also stated that such a sizeable project entailed “an all out planning, well in advance, in various fields of nuclear technology such as fuel cycle, safety and waste management.”

Iran’s nuclear programmes had been the subject of growing US and European questioning at the IAEA and strong pressure to accept enhanced IAEA inspections to verify that nuclear activity was strictly for civilian purposes. This was accepted by Iran in February 2003.

In a report submitted in June 2003, the IAEA found that Iran had failed to meet its obligations under its safeguards agreement with respect to the reporting of nuclear material imported since 1991 and the subsequent processing and use of that material and the declaration of facilities where the material was stored and processed.

A subsequent IAEA report in August 2003 provided new information, which revealed that, as far back as 1985, Iran had embarked on an extensive nuclear enrichment programme without declaring it to the IAEA. In addition, the IAEA found in Iran the presence of highly enriched uranium—the origin of which was unexplained but which may have resulted either from unlawful activities or from contamination from imported components.

Iran reasserted that all its programmes were for peaceful purposes. In December 2003 it signed the Additional Protocol and allowed the inspectors to have full access to all nuclear-related sites and promised to suspend its uranium enrichment programme as a confidence-building measure. The IAEA was then able to confirm certain aspects of Iran’s declarations. However, Iran never ratified nor assumed binding obligations under the Protocol.

The UK, France and Germany (the EU3) in October 2003, and again in November 2004, pressed Iran for clarification of the unresolved issues and insisted on continuation of the suspension of Iran’s enrichment-related and reprocessing activities as a confidence-building measure.

The IAEA continued to report that while it had not seen any diversion of nuclear material to nuclear weapons or other nuclear explosive purposes, it was unable to conclude that there were no undeclared nuclear materials or activities in Iran.

Iran, relying on the fact that under the NPT it had the right to enrich uranium to levels required for civilian use in nuclear power stations, insisted that there was no proof that it was any longer in violation of its safeguard agreement.

In mid-2005 Iran resumed uranium enrichment and in February 2006 it stopped its provisional implementation of the Additional Protocol.

On 4 February 2006, the IAEA Board reacted to these developments with concern. It adopted a resolution outlining steps that Iran should take to re-establish confidence in the peaceful nature of its nuclear programme, including suspension of uranium enrichment (GOV/2006/14). It also decided to report the issue to the Council.

Despite initial differences of views among the P5 (mainly about the speed and intensity of Council measures that would be effective), within a few months after the IAEA referral in February 2006, the Council decided to reinforce the IAEA Board decision with concrete enforcement measures. But it decided to proceed on the basis of an “incremental pressure” strategy that combined graduated action leading towards sanctions with incentives in the form of diplomatic initiatives.

Consistent with this graduated approach, the Council’s first step was to adopt a presidential statement on 29 March 2006, which simply urged Iran to implement the steps required by the IAEA to establish confidence in the peaceful nature of Iran’s nuclear programme (to be verified by the IAEA), namely:

- to suspend uranium enrichment-related and reprocessing activities, including research and development and the construction of a reactor moderated by heavy water;
- to ratify and implement the Additional Protocol; and
- to implement transparency measures, which extended beyond the formal requirements of the safeguards agreement and Additional Protocol, in order



to resolve outstanding issues of previously concealed nuclear activity.

Iran's negative response led four months later to a further graduated step. The Council elevated the format to a formal binding resolution. Resolution 1696 of 31 July 2006 demanded that Iran suspend all enrichment-related and reprocessing activities. In effect, the Council converted the previously non-binding elements of the IAEA decisions and its own presidential statement into binding legal obligations. It also expressed its intention to adopt sanctions in the event of non-compliance.

In the absence of any flexibility from Iran the Council, on 23 December 2006, adopted a further resolution—this time with punitive elements. Resolution 1737:

- banned trade with Iran of all items, materials, equipment, goods and technology that could contribute to Iran's proliferation-sensitive nuclear activities;
- required all states to prevent providing Iran with any technical or financial assistance or training, or the transfer of resources or services related to the supply, sale, transfer, manufacture or use of the prohibited items;
- listed persons and entities subject to a freeze on their financial assets; and
- established a sanctions committee to monitor compliance.

Non-compliance led next to the adoption on 24 March 2007 of resolution 1747 with additional punitive elements:

- establishing a ban on Iran's arms exports and calling upon states to exercise restraint in the supply of heavy conventional weapons to Iran; and
- tightening financial measures by calling upon states not to enter into new commitments for financial assistance to Iran (although this provision is not

mandatory) and by adding new names to the list of individuals and entities subject to assets freeze.

In 2007, Iran started to comply with some IAEA and Council demands in particular by agreeing to implement elements of a work plan to resolve outstanding issues. But uranium enrichment continued. And the IAEA Additional Protocol remained unratified.

Lack of progress in resolving the outstanding issues and continued non-compliance led in early 2008 to the adoption of resolution 1803 of 3 March:

- establishing a travel ban on some individuals already subject to assets freeze;
- tightening financial measures by adding new names of entities subject to assets freeze;
- expanding the scope of the embargo on items likely to be used for proliferation purposes by adding dual use items—and not just proliferation-sensitive items; and
- calling on all states to inspect cargoes to and from Iran if there are reasonable grounds to believe that they may contain prohibited items. It is also accompanied by a request to submit to the Council within five days a written report on each inspection including information on the grounds for inspection.

To monitor Iran's compliance and implement the incremental pressure approach, the Council requested reports from the IAEA on compliance with resolutions within three months after the adoption of each resolution, and repeatedly expressed its intention to adopt further measures. However, the Council's approach also contained some important incentives. If Iran suspended uranium enrichment sanctions would immediately be lifted

to allow for negotiations. If Iran fully complied with all its obligations the sanctions would be terminated.

The stalemate continued throughout 2008, the situation being further complicated by:

- reluctance by the US under the Bush Administration (perhaps for economic reasons related to the spike in oil prices at the time) to expand sanctions to the category of measures which might really be effective (i.e. a ban on petroleum exports);
- US political resistance to becoming directly involved in negotiations with Iran—which was becoming a domestic political issue in the American presidential election campaign; and
- mounting tension about the implications of the Bush Administration's threats that "all options" (assumed to be air strikes) were on the table.

In September 2008 the Council in resolution 1835 went no further than reaffirming its commitment to an early negotiated solution to the Iranian nuclear issue and calling upon Iran to comply with its obligations under previous Council and IAEA resolutions.

In 2009 further important developments occurred. The new US administration, under President Obama, made important changes in terms of its willingness to deal directly with Iran and in terms of the tone and level of respect in its messages to the Iranian leadership and people.

But the negotiating stalemate was further prolonged, initially because of the upcoming election in Iran and subsequently because of the disputed and violent aftermath. At the time of writing, further delays seemed likely in view of the fact that parliamentary approval of new ministers had become highly controversial.

In July 2009, US Secretary of State Hillary Clinton stated that the US would provide the Middle East a defensive shield against attacks from Iran if Iran continued its nuclear ambitions. Later that same month, US Defence Secretary Robert Gates hinted that US willingness to hold talks with Iran is not an “open ended offer.”

In August 2009 Iran’s envoy to the IAEA, Ali Asghar Soltanieh, was quoted by state TV as announcing, “Iran’s readiness to take part in any negotiations with the West based on mutual respect.” He was also quoted as saying that Iran sought “talks without preconditions.” Subsequently, he backed away from these comments, perhaps a reflection of the current political uncertainty in Tehran.

It remains to be seen at time of writing whether Iran will respond with flexibility to the overtures that have been made and enter into the kind of negotiations that will establish confidence for the future. Equally, it remains to be seen whether the P5 will be sufficiently flexible to find a formula that would allow Iran to undertake fully and effectively safeguarded enrichment in the future.

One positive sign was the report from Vienna that Iran had recently allowed IAEA inspectors access to the nuclear facilities at Arak which had previously been barred and increased access to Natanz.

The major issues are:

- The lack of clear answers from Iran on the discrepancies in its past nuclear activities which may suggest a possible weapons programme—and whether there are undeclared nuclear facilities in Iran.
- Whether the P5 will continue to insist on conditions (i.e. suspension of enrichment) prior to talks.

- Whether and how to find a formula that would permit effective safeguarding of enrichment up to civilian levels and whether there are intermediate options involving other countries undertaking some of the activities.

- The clear deficit in the NPT regime in terms of verification, which is demonstrated by the Iran case: unless a country agrees to implement the Additional Protocol, inspectors are not allowed to inspect non-declared facilities.

***Iraq: A Case of Fully Intrusive Inspections Backed by a Clear Disarmament Mandate and Full Scope of Sanctions***

Iraq signed the NPT in 1968 and a safeguards agreement with the IAEA in 1972. It signed the Biological Weapons Convention in 1972 and ratified it in 1991.

The first discovery of physical evidence of WMD in Iraq was in 1986 by the Secretary-General’s inspection team investigating allegations of use of WMD in the Iran-Iraq war, which discovered debris of exploded chemical bombs. As we have seen, this was not seriously pursued by the Security Council. There was no effort to put in place a comprehensive examination of Iraq’s WMD programme. It was only in 1991, in the context of the first Gulf War, that the Council became serious about the issues.

In 1991 the IAEA Board expressed grave concern about the evident deception and obstruction of IAEA inspectors in Iraq and transmitted its conclusions to the Council (GOV/2531). A month later, the Council adopted resolution 707 of 15 August, demanding that Iraq halt all nuclear activity, provide full disclosure of its weapons programmes and allow inspectors access to all sites.

In resolution 687 of 3 April 1991 the Council established a comprehensive

disarmament and verification regime. This was combined with the sanctions regime under Chapter VII of the UN Charter. Section C of resolution 687 called for the elimination, under international supervision, of Iraq’s WMD and ballistic missiles with a range greater than 150 kilometres, together with related items and production facilities. It also called for measures to ensure that the acquisition and production of prohibited items were not resumed.

The overall package of measures included:

- arms embargo (S/RES/661);
- wide-ranging economic sanctions (S/RES/661);
- the creation in resolution 687 of a Special Commission (UNSCOM) independent of treaty regimes with unprecedented rights and mandate (Iraq had to provide UNSCOM with premises and appropriate levels of security at no cost);
- the Director General of the IAEA was requested to undertake activities similar to those of UNSCOM in the nuclear field;
- the establishment in resolution 986 on 14 April 1995 of the oil-for-food programme with the aim of relieving the general population from the impacts of economic sanctions, it allowed Iraq to sell oil on the world market via a UN managed programme in exchange for humanitarian goods;
- the UN Monitoring, Verification and Inspection Commission (UNMOVIC) replaced UNSCOM after Iraq refused to allow the return of its personnel in 1999 (S/RES/1284), while the IAEA retained its mandate;
- the authorisation of UNMOVIC and the IAEA to use more rigorous verification methods in 2002 (S/RES/1441); and
- individually targeted sanctions (assets freeze) against former Iraqi officials



and some members of Saddam Hussein's family in 2003 (S/RES/1483).

For several years Iraq continually sought to obstruct Council resolutions. From 1991 to November 1993, Iraq denied having WMD programmes and often obstructed inspection teams at weapons sites. The Council adopted several resolutions confirming UNSCOM and IAEA mandates, demanding Iraqi compliance and stepping-up the monitoring and inspection regime to make it ongoing (resolution 715). In 1994 and 1995, Iraq admitted having had weapons programmes and opened many of its sites to inspectors. Later defections and revelations within Saddam Hussein's ranks, notably by General Hussein Kamel Hassan, Saddam Hussein's son-in-law, provided extensive details of Iraqi weapons programmes.

In 1996, Saddam Hussein launched an offensive into the Kurdish safe haven in northern Iraq. Iraqi officials became increasingly hostile toward UNSCOM, barring inspectors from entering certain sites deemed "presidential," invoking Iraq's sovereignty and integrity, and destroying files. This was rejected by the Council in resolution 1060 where the Council emphasised the importance of full compliance by Iraq with its obligations to permit immediate, unconditional and unrestricted access to UNSCOM to any site.

In 1997 Iraqi obstruction grew when six US nationals working as UN inspectors were expelled. Resolution 1137 called this unacceptable and warned of serious consequences but Iraq, probably perceiving differences among the P5, emboldened its position. France, China and Russia abstained on the resolution. France and Russia in particular supported progressively

easing sanctions partly in the hope that the prospect of lifting sanctions would encourage Saddam Hussein to change his behaviour, but also because of their strong commercial interests in Iraq. The US and the UK had no faith that incentives would work and consistently blocked any lifting. This difference of approach made discussions on the Iraqi case difficult.

Mediation by Secretary-General Kofi Annan allowed for the resumption of UNSCOM's work, but the cooperation was short lived. In December 1998, a report from UNSCOM detailed persistent Iraqi non-compliance (S/1998/1172). In response, the US and the UK decided to engage in a bombing campaign, without seeking Council authorisation, and relied on the absence of Iraqi compliance with Council resolutions to justify action. Operation Desert Fox targeted about 100 Iraqi targets during four days, but still failed to convince Saddam Hussein to comply.

Inability to conduct inspections, coupled with increasing criticism toward the work of the Commission by France, China and Russia led to the closure of UNSCOM in 1999 and its replacement by UNMOVIC, created by Council resolution 1284 of 17 December 1999. The Council established three panels to provide a comprehensive review on UN approaches to Iraq (S/1999/100).

On 27 March 1999, the panels reported to the Council that "although important elements still have to be resolved, the bulk of Iraq's proscribed weapons programmes have been eliminated" (S/1999/356). Doubts remained in Washington and London. But, subsequent history has shown that the Council action and the work of the UN and IAEA inspectors were remarkably successful.

After the US invasion of Iraq in 2003 no WMD were found in Iraq.

In 2007, in resolution 1762 of 29 June, the Council terminated UNMOVIC's mandate. The Council also reaffirmed Iraq's disarmament obligations under its past resolutions and acknowledged Iraq's constitutional commitment to the non-proliferation, non-development, non-production and non-use of nuclear, chemical and biological weapons as well as delivery systems. It urged Iraq to adhere to all applicable disarmament and non-proliferation treaties and related international agreements. Finally, the Council invited Iraq to report on progress made in adhering to all applicable disarmament and non-proliferation treaties. Iraq did so on 29 May 2008 (S/2008/350).

### **Israel**

Israel is not a party to the NPT. Most observers seem to accept that Israel has developed a significant arsenal of nuclear weapons. It has military aircraft with potential WMD delivery capacities and is developing missile programmes.

Israel has signed but not ratified the CTBT and the CWC. It has not signed the BWC.

The Security Council in 1981, in resolution 487, called upon Israel to place its nuclear facilities under IAEA safeguards. This obligation in resolution 487 has never been fully complied with and the Council has never followed up its implementation, despite recognising in 1992 that proliferation of WMD is a threat to international peace and security.

The Council action in 1981 followed an attack on 7 June by the Israeli Air Force which destroyed the Iraqi nuclear reactor at Osirak. The attack was in response to concerns, subsequently validated,

that Iraq was violating its NPT obligations and was developing nuclear weapons. The IAEA Board adopted a resolution on 12 June 1981, strongly condemning Israel for an “unjustified attack” as the IAEA considered the reactor to be a civilian research facility covered by the Agency safeguards. The IAEA reaffirmed that the Agency’s safeguards system were the only reliable means of verifying peaceful use of nuclear facilities. It also requested the Director-General to submit the issue to the Security Council (S/14532).

The Security Council in resolution 487 strongly condemned Israel’s attack, in part because many members considered that unilateral action undermined the entire safeguards regime of the IAEA.

Significantly—as noted above—the Council also called upon Israel to place its own nuclear facilities under IAEA safeguards.

This case demands attention because it demonstrates a key weakness of the NPT/safeguards system and the limitations that flow when dual use technologies are being used by regimes like Saddam Hussein’s with determination and capacity to deceive.

But it is also important because it demonstrates the weakness of unilateral military actions. These tend to set up a backlash of sympathy for the regime in question and deflect attention from the larger underlying issue. In the case of Iraq this may have helped delay a more comprehensive review of Iraq’s intentions.

#### **South Africa**

In 1991 evidence emerged that South Africa had, between 1979 and 1989, built a number of nuclear weapons. The new democratic government after the end of the apartheid era renounced the nuclear

option. South Africa acceded to the NPT, concluded a comprehensive safeguards agreement with the IAEA, and submitted a report to the Agency on its nuclear material. In 1995 the IAEA concluded that South Africa’s weapons programme had been terminated and dismantled.

In 1977, the Council adopted resolution 418, which imposed a mandatory ban on all states from engaging in “any cooperation with South Africa in the manufacture and development of nuclear weapons”. However, there were no significant attempts to implement this aspect of the resolution.

In this regard, it should be noted that in 1979 uncertainties had arisen regarding South Africa’s involvement in proliferation activities. Some interpretations of the so-called “Vela Incident”, which occurred near a remote South African island in the South Indian Ocean, suggested a nuclear test.

#### **Libya**

Libya ratified the NPT in 1975 and concluded a safeguards agreement with the IAEA in 1980. Nevertheless, Libya’s leader, Muammar Qadhafi, in the mid and late 1970s, repeatedly proclaimed his country’s determination to acquire nuclear weapons. Evidence that Libya was seeking to acquire a medium-range missile capability emerged in 1980 when it was revealed that a West German firm had built a testing base in the Libyan desert. No efforts were made by the Council at the time, or subsequently, to follow up these matters.

Full details of Libya’s clandestine nuclear programme emerged publicly only in 2004 when Libya agreed to open its sites to IAEA inspectors after signing the Additional Protocol. In December 2003, Libya had informed the IAEA of its decision to eliminate “materials,

equipments and programmes, which lead to the production of internationally proscribed weapons,” and revealed that it had been engaged for more than a decade in the development of a uranium enrichment capability. Some of these activities were unlawful under Libya’s safeguards agreement but because Libya had not signed the Additional Protocol, the IAEA could not engage in thorough inspections.

According to a March 2004 report by the IAEA, starting in the early 1980s and continuing until the end of 2003, Libya had imported nuclear material from a number of countries, including China and Pakistan, and conducted a wide range of nuclear activities (GOV/2004/12).

In March 2004, the IAEA Board welcomed the Libyan decision to eliminate all materials leading to the production of nuclear weapons and reported the matter to the Council. The Council took note of this resolution in a presidential statement (S/PRST/2004/10).

### **5.2 Council Measures to Prevent WMD Proliferation by Non-State Actors**

The 2004 report of the High-Level Panel on Threats, Challenges and Change advised that a significant threat arose from the existence of large stockpiles of nuclear and radiological materials. Cases of nuclear material diversion and incidents involving illicit trafficking of nuclear material are sufficiently common enough that there is a high risk that such materials might fall into the hands of terrorists.

The Council has employed a very specific and innovative tool in seeking to prevent WMD proliferation to non-state actors. It adopted binding legal measures requiring all states to take specific action to prevent such weapons from



falling into the hands of terrorists. Moreover, it has created a Council subsidiary organ to verify implementation of these obligations. This tool is very specific to WMD terrorism and has not been replicated for proliferation by states.

Resolution 1373 of 28 September 2001, adopted in the immediate aftermath of the 11 September terrorist attacks in the US made the first link by the Council between WMD and terrorist activities. It aimed at placing barriers on the movement, organisation and fundraising activities of terrorist groups and imposed many legislative, policy and reporting requirements on member states to assist the global struggle against terrorism. Those measures included the prohibition of any kind of support to terrorists. Resolution 1373 also called upon states to find ways of intensifying and accelerating the exchange of information, especially the threat posed by the acquisition and use of WMD by terrorist groups. It established a Counter-Terrorism Committee to monitor state compliance with these provisions.

Subsequently, studies such as that conducted in 2004 by the High-Level Panel referred to above and by the Nuclear Threat Initiative, showed that there was evidence that terrorist groups, particularly Al-Qaida and affiliated groups, had been attempting to obtain WMD, their means of delivery and related material, and the knowledge to produce and assemble them.

The risks of proliferation of WMD and the resulting threat were underscored by revelations of illegal transfer of nuclear technology through a private network controlled by Dr. Abdul Qadeer Khan of Pakistan. Although the probability that terrorists can successfully detonate a nuclear weapon or produce large amounts of chemical and biological

weapons in secrecy may be small, the consequences would be extremely severe. Aum Shinrikyo's infamous nerve gas attack in the Tokyo subway in 1995 showed that the threat was real.

The perception of this threat, coupled with the realisation that existing international legal instruments on non-proliferation and disarmament lacked measures to deal with non-state actors, prompted action by the Council in 2004.

Resolution 1540 of 28 April 2004 stated that the illicit trafficking in WMD constituted a threat to international peace and security. Based on that finding the Council decided to require states to:

- refrain from providing support to non-state actors attempting to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;
- adopt and enforce laws that prohibit any non-state actor from engaging in any of the foregoing activities; and
- take measures to establish domestic controls to prevent the proliferation of WMD and their means of delivery, and appropriate controls over related materials.

Resolution 1540 also in effect expanded the existing obligation for states under the NPT not to proliferate to means of delivery and legitimised a number of measures linked to export control regimes. Therefore, although the main target of the resolution is non-state actors, measures under it are valid for both states and non-state actors.

#### **Implementation Measures**

Resolution 1540 established a committee comprising all Council members to oversee implementation of resolution 1540 by member states.

The mandate of the committee, originally set for two years, was renewed in 2006 for two years (S/RES/1673) and again in 2008 (S/RES/1810) for three years. Eight experts were appointed to support the committee, to evaluate reports from states on their implementation and to make recommendations.

The committee developed a legislative database of national laws and regulations relating to the prohibition of acquisition, manufacture, possession, development, transport, transfer and use of WMD by non-state actors for terrorism purposes, through the establishment of domestic control measures (such as physical protection, border control and law enforcement targeting illicit trafficking and brokering, export and trans-shipment control, criminal penalties, etc.).

The mandate of the committee also includes the question of assistance to states without the necessary legal and regulatory infrastructure, implementation experience or resources to implement resolution 1540. In this context, the committee is authorised to establish cooperation arrangements with the IAEA, OPCW and other relevant international bodies and committees established by the Council if it decides that such arrangements can contribute to its work. In fact the 1267 Sanctions Committee on Al-Qaida and the Taliban, the Counter-Terrorism Committee established under resolution 1373 and the 1540 Committee regularly coordinate their work. They also brief the Council on their activities in joint meetings every six months. (This was encouraged in S/PRST/2005/16 and S/PRST/2005/34.)

#### **Challenges**

The 1540 Committee has produced two reports, one in 2006 (S/2006/257) and one in 2008 (S/2008/493) assessing

implementation of the resolution and providing recommendations.

A major issue is difficulties with the system of reports from the states. As of 1 July 2008, 155 nations plus the EU had submitted reports, and 102 had updated information, but 37 states had not yet submitted any report on implementation of resolution 1540. A significant issue seems to be the lack of technical capacity in some states to implement the resolution, particularly for the establishment of domestic controls to prevent the proliferation of WMD.

Another difficulty is that some states believe they do not need to enact specific legislation to control WMD because they do not have such materials within their territory. However, resolution 1540 (adopted under chapter VII of the UN Charter) makes it mandatory for all states to enact and enforce appropriate legislation. This recognised the fact that even if a state does not possess WMD material, its territory may still be used as a proliferation pathway.

Reporting fatigue seems also to be a factor in part as a result of increasing requirements for national reports from several Council subsidiary bodies. A way to address this issue has been to support coordination between the three anti-terrorism committees of the Council. In a 20 December presidential statement, the Council states that the committees should avoid duplication, including in their requests for information from member states (S/PRST/2006/56).

Another issue is the scope of the Committee's mandate. The 1540 Committee is limited in the sense that it cannot decide directly on how to provide assistance to states. It can only facilitate assistance needs and encourage donor states with appropriate

financial and technical capacity and expertise to provide assistance bilaterally to those in need.

A related issue is that the Committee is reactive rather than proactive as requests for assistance have to come from states. In an effort to overcome this, the Committee produced a template for assistance requests and recommended bilateral arrangements between states able to assist and those requiring assistance.

There is also reluctance within the Committee to evaluate whether measures taken by states are satisfactory in implementing resolution 1540. There is no agreement among its members on how to challenge states. (Council committees are comprised of all 15 members, however, unlike the Council, they arrive at decisions by consensus only.)

On 23 February 2007, the Council held an open debate on the issue of cooperation between the Council and international organisations (including those established outside the UN system) that deal with WMD (S/PV.5635 and resumption 1). It subsequently adopted a presidential statement supporting increased multilateral cooperation as an important means for enhancing states' implementation of resolution 1540 (S/PRST/2007/4). It reiterated its determination to enhance cooperation with international organisations by developing mechanisms for cooperation on a case-by-case basis. In a 2005 presidential statement, the Council had already encouraged relevant organisations to provide assistance (S/PRST/2005/34).

A key issue, therefore, has been to find ways to ensure broader and better implementation of resolution 1540. Resolution 1810 of 25 April 2008, renewing the mandate of the Committee, tried

to tackle some of the gaps by:

- encouraging states to use the Committee's template for technical assistance and urging other states and international organisations in a position to help to inform the Committee and provide a point of contact;
- deciding that the Committee submit annual programmes of work to the Council; and
- using more comprehensive language for the Committee's activities, such as urging it to continue to organise outreach events on resolution 1540, facilitate assistance to states, engaging actively to share experience and lessons learned, and requesting it to provide opportunities for interaction between states and international organisations.

On 26 May 2009, the Council heard briefings during an open debate by the chairs of the 1267 and 1540 committees on their respective work. During this debate, the committees reemphasised their commitment to cooperating and coordinating their work with the understanding that a crucial element of countering terrorism was realising the threat posed by nuclear, chemical and biological weapons for terrorist purposes. Ambassador Jorge Urbina of Costa Rica, chair of the 1540 Committee, said that a major focus during 2009 was a comprehensive review of the implementation status of resolution 1540, to be completed no later than 31 January 2010. (SC/9664)

Another challenge, at least initially, arose from the fact that in 2004 there were deep divisions between the Council and the UN membership at large over resolution 1540. A major criticism was that the Council should not legislate, a function that should be undertaken by the General Assembly. There was concern about a resolution that would require

states to enact legislation to address WMD proliferation by non-state actors. Many preferred that any such a norm should be the product of negotiations at the global level where all states could participate. Some even said that this was against the spirit of the UN Charter, which contains no reference to a Council role in the development of international law and that interfered with the principle of state sovereignty. Some states may also have feared that failure to implement the resolution could result in coercive action by the Council.

Other states argued that the resolution, by focusing only on proliferation of WMD, failed to address the related problem of disarmament. While the resolution calls on all states to promote full implementation of WMD treaties, it was indeed silent on disarmament, and in particular the obligations in article VI of the NPT. The Non-Aligned Movement argued that if nuclear weapons states were conscientiously implementing their commitment to fully disarm, the risk of WMD proliferation would be considerably reduced. These considerations may also have increased reluctance on the part of some states to implement resolution 1540.

Supporters of the resolution, particularly the P5, argued that by acting under Chapter VII, the Council was sending a strong political message of its resolve to prevent terrorists from obtaining WMD. Supporters also argued that the resolution would help close existing gaps in international non-proliferation regimes and that this was an urgent necessity, which could not await protracted negotiations in the General Assembly.

There now appears to be much wider acceptance of the resolution. Resolution 1540 has been extended twice and now

is in place at least until 25 April 2011. Council members seem to agree that attention should now focus on effectively implementing resolution 1540. This may be related to the fact that the Committee has taken a cooperative rather than a coercive approach.

Russia, China and some Non-Aligned members in the Council continue to be reluctant about more active and intrusive measures by the 1540 committee and are cautious about steps such as visits to states to determine what assistance they need. They argue that seeking assistance should be at the discretion of each state.

### **5.3 Thematic Action by the Security Council**

While the UN General Assembly and various other groups of states or bodies (UN-related or not) have been engaged in the task of policy making and negotiations regarding arms control and disarmament, the Security Council—as we have seen—has concerned itself principally with specific cases.

The Council has been reluctant to make general pronouncements. However, since the end of the Cold War, it began to engage tentatively—and somewhat selectively—on disarmament issues at the thematic level.

On 31 January 1992, following a summit-level meeting, the Security Council declared in a presidential statement that:

*The proliferation of all weapons of mass destruction constitutes a threat to international peace and security. The members of the Council commit themselves to working to prevent the spread of technology related to the research for or production of such weapons and to take appropriate action to that end. (S/23500)*

This was the first significant policy pronouncement on disarmament and non-proliferation of WMD by the Council in modern times. It came at a time of unique international cooperation soon after the end of the Cold War. It was adopted independently from any country-specific case on under the agenda and under a general agenda item of “maintenance of international peace and security”.

The statement also addressed several other disarmament related factors affecting international peace and security. The Council:

- underlined the need for all member states to fulfil their obligations in relation to arms control and disarmament, to prevent the proliferation of WMD, to avoid excessive accumulations and transfers of arms;
- emphasised the importance of ratification and implementation by states of international and regional arms control arrangements; and
- recognised that the proliferation of WMD constitutes a threat to international peace and security.

In 1995, the Council again took up the importance of preventing the proliferation of WMD. In a presidential statement the Council said that appropriate measures would be taken when provisions of international treaties that provide for recourse to the Council are violated (S/PRST/1995/9). In making this statement, the Council demonstrated that it was willing, in future cases of proliferation, to treat the matter as a threat to peace and security and thus to open up the prospect of deciding to impose Chapter VII measures, including economic sanctions.

In 1995, in resolution 984, the Council called for the implementation of article VI

of the NPT (in the context of its work on “security assurances”—see below).

And in 2004, acting under Chapter VII of the Charter, and responding to widespread concerns about international terrorism, the Council adopted resolution 1540 requiring all states to establish controls over WMD and the means to deliver them and to enact and enforce the necessary national implementing legislation with the objective of prohibiting non-state actors from developing, acquiring and using WMD. The measure is binding on all states whether or not they are party to the NPT, BWC or CWC.

In 2007, in a presidential statement on “threats to international peace and security,” the Council reaffirmed its resolve to take appropriate and effective action against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery (S/PRST/2007/1).

In 2008, the Council adopted a significant presidential statement which dealt with disarmament, non-proliferation and arms control, restating several of the Council’s responsibilities including that under article 26:

*The Security Council recalls its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security....The Security Council remains convinced of the necessity to strengthen international peace and security through, inter alia, disarmament, non-proliferation and arms control. It considers that the regulation and reduction of armaments and armed forces, as appropriate, constitutes one of the most important measures to promote international peace and security with the least*

*diversion of the world’s human and economic resources. (S/PRST/2008/43)*

It remains to be seen whether, in an improving climate for multilateral cooperation, this will result in fuller utilisation by the Council of its disarmament functions and more concerted follow-up actions.

Disarmament and non-proliferation matters do engage vital issues of national security for states, and member states are often sensitive (as shown in response to resolution 1540) to initiatives of the Security Council which might cut across their right to participate in the negotiation of and entry into treaties. A more active role by the Security Council in the area of disarmament, non-proliferation and arms control in the future would therefore need to be much more participatory and consultative than has been the norm for the Council. But a successful process could begin to assuage concerns, for instance, about the slow pace of nuclear disarmament undertaken to date by the permanent members of the Council.

Taking a generic approach to disarmament and arms control issues has been the exception rather than the rule. However, as we have seen there are some important instances in which the Council has taken up aspects of these questions as a thematic issue on its own.

#### **Security Assurances to Non-Nuclear Weapons States (1968 and 1995)**

A specific category of thematic attention by the Council relates to so called security assurances. These have their origins in the NPT negotiations in 1968 and a subsequent review and extension conference in 1995 that indefinitely extended the treaty. They both were accompanied by the adoption by the Council of thematic resolutions (255 of 19 June 1968 and 984 of 11 April 1995). The Council

decided to provide conditional security assurances to non-nuclear weapon states, party to the NPT, with the aim of attracting further accessions to the NPT.

In resolution 255, the Council pledged to act immediately in response to actual or threats of aggression with nuclear weapons against a non-nuclear weapons state party to the NPT and to provide assistance and support.

In 1995 the language in resolution 984 was broader. In it, the Council expressed its conviction that everything must be done to avoid nuclear war and prevent the spread of nuclear weapons as well as facilitate international cooperation in the peaceful use of nuclear energy:

- the Council reaffirmed that any state may ask it to take urgent action if its security was threatened by nuclear aggression;
- secondly, it invited all states to respond to requests for assistance by the state victim;
- thirdly, the Council established a policy for appropriate compensation procedures; and
- finally, it urged all states to implement article VI of the NPT relating to nuclear disarmament.

The resolution also took formal note of separate statements made by all five nuclear-weapons states providing security assurances to non-nuclear-weapons states by guarantees not to use or threaten to use nuclear weapons against NPT parties.

#### **Nuclear Weapons-Free Zones**

As seen above, nuclear weapons-free zones do not cover the entire planet. Europe, North America, South Asia, North Asia and the Middle East (except for North African Arab states of Morocco, Tunisia, Algeria, Libya and Egypt that are within the African free zone) are not part of any nuclear weapons-free zone.

The Council has addressed the thematic issue of nuclear weapons-free zones. Most recently, in 1998 it noted that the adoption of an African Nuclear Weapons Free Zone Treaty was an important contribution to the promotion of regional peace and security and to global efforts towards nuclear non-proliferation and disarmament (S/RES/1170).

The question of a nuclear weapons-free zone in the Middle East has been raised on a number of occasions. (It was first proposed in 1974 in General Assembly resolution 3263 (XXIX).)

The Council has never given the concept full endorsement. However, a number of times the Council has acknowledged the idea of a Middle East nuclear free zone with some degree of positive support. These include:

- resolution 687 (1991) on Iraq which noted that actions to be taken by Iraq to meet its disarmament obligations represented steps toward establishing a zone free of WMD in the Middle East;
- resolution 1284 (1999) creating UNMOVIC recalled the goal of establishing in the Middle East a zone free from WMD; and
- resolutions 1747 (2007) and 1803 (2008) on Iran recalled IAEA resolution GOV/2006/14 stating that a solution to the Iranian nuclear issue would contribute to realising a Middle East free of WMD.

In early 2003, Syria—a Council member at the time—tabled a resolution specifically calling for the Council to approve a WMD-free zone in the Middle East and calling on Middle East countries to ratify arms control treaties. The draft was never put to a vote because it failed to gain enough support. While Russia, China and Pakistan agreed, the US in particular refused to support the draft.

So far, however, the efforts by regional countries to establish a nuclear free zone have not led to concrete negotiations.

### **Council Thematic Statements Deriving from Specific Cases**

It is interesting that at times when the Council has adopted resolutions on specific cases, it has sometimes included broad language of general effect including reaffirming the importance of existing disarmament and non-proliferation regimes, and promoting universality by calling on non-adherent states to accede to these treaties. For instance:

- *Resolution 487 (1981)* on Israel's attack against the Osirak reactor recognised the right of all states, especially developing countries, to establish programmes of peaceful nuclear development in accordance with their present and future needs.
- *Resolution 620 (1988)* on the Iran-Iraq conflict affirmed the Council's determination to intensify its efforts to end all use of chemical weapons.
- *Resolution 687 (1991)* on Iraq noted the importance of all states adhering to the convention on the prohibition of biological weapons.
- *Resolution 825 (1993)* and the three 1994 presidential statements on the DPRK reaffirmed the critical importance of IAEA safeguards in the implementation of the NPT.
- *Resolution 1172 (1998)* on India and Pakistan reaffirmed the crucial importance of the NPT and the CTBT for global efforts toward nuclear non-proliferation and disarmament, and welcomed article VI of the NPT and the commitments of the five nuclear-weapon states on nuclear disarmament.
- *Resolutions 1737 (2006), 1747 (2007) and 1803 (2008)* on Iran reaffirmed the Council's commitment to the NPT and

recalled the right of state parties, in conformity with articles I and II of that treaty, to develop research, production and use of nuclear energy for peaceful purposes.

The Council, however, never addressed those issues in a single generic resolution.

## **6. Analysis**

Council action to address proliferation issues has clearly intensified over time. In part this seems to reflect growing awareness by the P5 of the extent and determination of a range of countries' proliferation activities. But it seems also to coincide with a wider anxiety about the weaknesses of and ease of circumventing the NPT/safeguards system.

But equally it seems that political factors and relationships (including commercial relationships) may at times have played a role in deflecting Council action that might otherwise have been effective.

### **How a WMD Issue is Placed on the Council's Agenda**

The examples discussed in this report show that one very problematic part of placing a WMD issue on the Council's agenda is the basis on which information about the existence of a proliferation threat is collected. Historically, the Council has become seized of a proliferation issue in three different ways:

- IAEA referral using article XII.C of the statute;
- conclusions of a special UN team of experts, established by the Secretary-General; and
- likely or intended acquisition of WMD brought to the attention of the Council by one or more member states and accepted by Council members as a threat to international peace and security.

The chart below summarises when those triggers were used:

	IAEA Referral	UN Team of Experts	Threat to Peace and Security or Treaty Violation
<b>Israel 1981</b>	S/14532 of 12 June 1981		
<b>Iran-Iraq 1980-1988</b>		S/16337 and S/16338 of 10 February 1984	
<b>Iraq WMD Programme 1991-2007</b>	GOV/2531 of 18 July 1991		Yes
<b>DPRK 1993-1994</b>	GOV/2645 of 1 April 1993		
<b>DPRK since 2005</b>	GOV/2003/14 of 12 February 2003		
<b>India-Pakistan 1998</b>			Yes
<b>Iran since 2006</b>	GOV/2006/14 of 4 February 2006		

A key issue has been whether there is evidence of a violation of the non-proliferation regime or that a state intends to produce or obtain nuclear weapons. While the IAEA has a mandate and significant the expertise in this area, it is not a universal body and in the absence of universal implementation of the Additional Protocol, which permits intrusive inspection of components of the nuclear fuel cycle, the IAEA cannot be fully effective in the face of determined concealment of intentions. For instance, at the time of South Africa's nuclear weapons programme, it was not party to the NPT and did not sign safeguards agreements with the IAEA. The IAEA did not have any access to conduct inspections. By contrast, Libya was a party to the NPT and had safeguards in place, but it was not a party to the Additional Protocol and accordingly its unlawful activities were not discovered and not challenged.

Inevitably national intelligence plays an important role in whether Council members propose action against proliferation activities. But this has proven to be a highly controversial basis for Security Council action. For instance, Israel said it attacked the Osirak reactor in 1981 because its intelligence indicated nuclear weapons development was occurring. But this was not convincing to the Council which did not initiate an investigation into whether or not Iraq was seeking to acquire nuclear weapons. Rather, it condemned the attack because of its unilateral nature.

The UNSCOM findings in the early and mid-1990s, in the aftermath of the first Gulf War, exposed significant weakness of national intelligence about Saddam Hussein's WMD programmes and confirmed the accuracy of Israeli suspicions of the early 1980s. But intelligence sources were further discredited, in the opposite direction, in 2002 and 2003. The US had used national intelligence

to try to convince the Council of the necessity to intervene in Iraq because WMD programmes were said to be continuing. The lack of corroboration from UN weapons' inspectors led to reluctance by the majority of the Council to approve the US proposal for the use of force. These doubts about intelligence sources were later vindicated when no trace of renewed WMD programmes were found in Iraq after the 2003 US-led military intervention.

On Iran the US also used intelligence suggesting that Iran intended to build nuclear weapons. Initially this contributed to a sense of urgency. However, subsequently, a December 2007 US National Intelligence Estimate on Iran's nuclear programme reversed previous findings and noted that Iran had in fact halted its nuclear weapons programme in late 2003. This disclosure seemed to play an important role in slowing down Council members' appetite for adopting another resolution. It may also have contributed to the failure to secure unanimity on resolution 1803 (Indonesia abstained) and reinforced Russian and Chinese arguments in favour of more limited incremental pressure.

### Tools Used by the Council

The Council has used a number of tools to respond to country-specific proliferation issues:

- expressions of concern and condemnation;
- demands to adhere to international treaties;
- sanctions; and
- enhanced inspections and monitoring combined with sanctions and a disarmament mandate (only in the case of Iraq).

This chart summarises tools used by the Council to address each case:



	<b>Expression of Concern and Condemnation, Demands to Comply</b>	<b>Demand to Adhere to International Treaties</b>	<b>Sanctions</b>	<b>Enhanced Inspection/Monitoring</b>
<b>Israel 1981</b>		S/RES/487 of 19 June 1981		
<b>Iran-Iraq 1980-1988</b>	S/16454 of 30 March 1984; S/17130 of 25 April 1985; S/17932 of 21 March 1986; S/18863 of 14 May 1987; and S/RES/582 of 24 February 1986; S/RES/612 of 9 May 1988; and S/RES/620 of 26 August 1988			
<b>Iraq WMD Programme 1991-2007</b>		S/RES/1762 of 29 June 2007	S/RES/687 of 3 April 1991	S/RES/687 and others through 2007
<b>DPRK 1993-1994</b>	S/25562 of 8 April 1993; S/RES/825 of 11 May 1993; S/PRST/1994/13 of 31 March 1994; and S/PRST/1994/28 of 30 May 1994			
<b>DPRK since 2005</b>	S/RES/1695 of 15 July 2006 and S/RES/1718 of 14 October 2006	S/RES/1695 and S/RES/1718	S/RES/1695 and S/RES/1718	
<b>India-Pakistan 1998</b>	S/PRST/1998/12 of 14 May 1998 on India; S/PRST/1998/17 of 29 May 1998 on Pakistan; and S/RES/1172 of 6 June 1998	S/RES/1172		
<b>Iran since 2006</b>	S/PRST/2006/15 of 29 March 2006; S/RES/1696 of 31 July 2006; and S/RES/1835 of 27 September 2008		S/RES/1737 of 23 December 2006; S/RES/1747 of 24 March 2007; and S/RES/1803 of 3 March 2008	

In the case of Iraq, the Council brought to bear the most complex and intrusive disarmament and non-proliferation regime ever applied. It combined all of the tools previously used in other cases. It is now possible to conclude that substantive disarmament was achieved as a result of the Security Council measures. The absence of any new discoveries of WMD after the US-led coalition's invasion of 2003 demonstrates that the Council's measures were effective. For reasons that remain obscure, Saddam Hussein apparently chose to maintain a bluff by refusing to cooperate with UNMOVIC inspectors, thereby creating doubt over the presence of WMD.

But Iraq may be a special case in the sense that the consensus to disarm it was motivated not only by non-proliferation concerns but also by a sense of outrage at its recent unprovoked aggression against Kuwait.

By contrast it can be concluded that, so far, Council measures adopted in respect of the DPRK and Iran have had limited effect in altering behaviour. Clearly, the measures adopted are much less intrusive and have much less economic impact than for Iraq. This may account in part for continued defiance. But the weight of punitive measures and the degree of intrusiveness are inevitably also related to the degree of

agreement among Council members. It is hard to escape the conclusion that Iraq, because of its aggression against Kuwait, faced an unusually united Council and a consequential determination—for at least five years—to seriously enforce the disarmament provisions of the Council's decisions. In other more recent cases the Council has been less united and less determined. In part this may be because neither of the countries concerned have a recent history of aggression such as Iraq. But also perhaps P5 members seem to be acutely aware that in both cases the ultimate option of coercive military action under Chapter VII is less realistic than it was against Iraq in 1991.

Finally, the impact of the actual sanctions is important. In the case of Iraq the full scope nature of the sanctions certainly played a role. It can be argued that the threat of sanctions did have an impact on the DPRK's decision to go back to negotiations in 1994 and perhaps also in 2006. In 1993 China argued that actual implementation of sanctions would not lead to DPRK compliance and could precipitate an attack against South Korea, and that a negotiating process was therefore the best outcome. It was able in 1994 to use the realistic threat of the draft sanctions resolution and the serious ongoing discussions in the Council involving all 15 members as a lever to persuade Pyongyang to negotiate. In 2003 Russia and China repeated the same arguments in the wake of the renewed crisis following the IAEA referral to the Council. It was only in 2006 after it became clear that the six-party talks were not yielding results that Russia and China accepted that firm action by the Council was an essential ingredient for progress. This more robust approach was further employed in resolution 1718, which for a time seemed to be influential in changing DPRK behaviour.

The Council has assumed several distinct roles when dealing with WMD issues:

- a promoter of states' adherence to international regimes;
- an investigator of cases of violations (as in the Iran-Iraq War);
- an enforcer (albeit selectively) of the non-proliferation regime with adoption of sanctions to force a state to comply with international standards; and
- a legislator—with resolution 1540 creating norms to prevent the proliferation of WMD by non-state actors.

However, the Council has been less than consistent in performing these roles. Moreover it has failed to follow up many

cases of non or partial compliance—and sometimes thereby stored up even more intractable problems for the future.

Only in the case of Iraq did the Council avail itself of the full range of tools. This was effective in disarming the Iraqi regime and preventing it from acquiring new WMD programmes.

The P5 consensus initially started eroding in the mid-1990s during the Iraq sanctions experience. And it was seriously tested from 2003 after the US and UK's reliance on past WMD resolutions to justify the unlimited use of force against Iraq.

Despite this erosion, however, on DPRK and Iran, the P5 have recently demonstrated a renewed shared concern to prevent proliferation of nuclear weapons. Measures against the DPRK initially seemed to yield some results but subsequently stalled. As yet there is little evidence of effectiveness in the case of Iran. Diverging perceptions of the seriousness and urgency of the threats and what methods would be most effective contributed, in the case of Iran in particular, to a degree of uncertainty about the goals of sanctions.

Although the Council has clearly demonstrated a readiness to tackle proliferation challenges and that it has tools to address proliferation threats, its record, historically, has been uneven. Its reluctance to address disarmament issues thematically has arguably hampered the Council's ability to respond effectively in country specific situations because it is constantly reinventing the wheel.

The Council did break new ground conceptually by directing its attention thematically to non-state actors in resolution 1540.

Because the Council's role in non-proliferation is often perceived as an extension of P5 policy to preserve their WMD monopoly, any improvement in acceptance by the wider international community of the Council's approach to non-proliferation seems likely to be linked to real evidence of willingness to make the multilateral disarmament framework effective. In particular, the reform of the NPT system, the reenergising of the Geneva based mechanisms and better collective systems to ensure compliance with all NPT obligations, in particular article VI, and not just the non proliferation provisions, is likely to be an essential element for progress.

Finally, if there is to be renewed confidence by the wider international community in the Council becoming effectively and systematically involved in proliferation threats, it seems likely that the Council will need to give much greater and more sensitive attention to options for addressing on an ongoing and substantive basis its wider mandate in article 26 of the Charter.

## Appendix 1: Definitions of Terms and Concepts

While we have tried to avoid the use of technical terms in the report, the nature of the subject means that such language is inevitable. The terms and concepts below appear in the order in which they arise in the body of this study.

### Disarmament and Arms Control

In the case of conventional weapons (defined below), non-proliferation terminology is rarely used. The general terms used are disarmament or arms control. It is interesting to note, however, that in the case of small arms, "proliferation of small arms" is beginning to attract greater usage.

*Disarmament:* While there is nothing in the Charter that defines disarmament, the General Assembly, in its very first resolution adopted in January 1946 called for the elimination of atomic weapons and “all other major weapons adaptable to mass destruction.” The term involves destruction, removal, or rendering harmless of weapons and their means of delivery, under international supervision.

The UN Charter mentions disarmament twice.

- Article 11.1: The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.” And
- Article 47.1: There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council’s military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

*Arms control* refers to any international control or limitation of the development, testing, production, deployment or use of weapons. The concept implies ongoing collaboration between states in areas of military policy to control not only available weapons but also to provide greater transparency and assurance that the likelihood of war would be diminished.

### **Non-Proliferation**

Another important set of definitions relates to non-proliferation. The concept

of proliferation is most commonly applied in the context of WMD (defined below) and includes developing, acquiring, manufacturing, possessing, transporting, transferring or using WMD.

In a speech to the East-West Institute on 24 October 2008, Secretary-General Ban Ki-moon addressed the scope of non-proliferation and the need for it to be linked to disarmament. He said that a world free of WMD would be a global public good of the highest order because of the threat they pose and the tremendous financial resources needed for the endless pursuit of military superiority which could be allocated to more productive uses. He made a series of recommendations:

- beginning negotiations on effective measures leading to full nuclear disarmament (noting that this principle was accepted by the nuclear powers in the NPT as early as 1968);
- for the Council’s five permanent members to initiate discussions on security issues in the nuclear disarmament process, possibly within its Military Staff Committee and for the Council to convene a summit on this subject;
- strengthening and better implementing all treaties on nuclear weapons and establishing new nuclear weapons-free zones;
- increasing transparency worldwide about existing nuclear arsenals and stocks of fissile material; and
- strengthening efforts toward the elimination of other WMD, new efforts against WMD terrorism and additional limits on the production and trade in conventional arms.

### **WMD**

This category of armaments includes nuclear, chemical and biological weapons, as well as their means of delivery

(artillery shells, gravity bombs, missiles, rockets and other unmanned systems specially designed for such use). According to the 2006 final report of the Weapons of Mass Destruction Commission, “Nuclear, biological and chemical arms are the most inhumane of all weapons. Designed to terrify as well as destroy, they can, in the hands of either states or non-state actors, cause destruction on a vastly greater scale than any conventional weapons, and their impact is far more indiscriminate and long-lasting.”

### **General and Complete Disarmament**

*General disarmament* means that every member state would be committed to disarm.

*Complete Disarmament* means that weapons and forces would be scaled down to a minimum, defined as the point at which states retain just enough military capability to maintain order, but sufficient to assist the UN-sanctioned international operations. The intention of the member states was to create a single international document which would:

- cover the disarmament of both nuclear and conventional weapons;
- specify the steps to be taken to achieve nuclear and conventional disarmament; and
- define the status of the remaining forces and armaments.

The final document of the General Assembly’s first special session on disarmament in 1978 referred to general and complete disarmament as the “ultimate objective” of the United Nations in this field. These collective goals were similarly declared by the NPT parties in 2000 as their ultimate goal. Progress on nuclear disarmament would proceed hand in hand with progress in other

areas, not as hostage to the prior elimination of every other weapon or the resolution of every threat to security.

### **Nuclear Weapons**

The 2004 report of the High-Level Panel on Threats, Challenges and Change established by UN Secretary-General Kofi Annan in 2003 to assess threats to international peace and security dedicated an entire chapter to nuclear, radiological, chemical and biological weapons (A/59/565).

The report warned that, “any use of nuclear weapons, by accident or design, risks human casualties and economic dislocation on a catastrophic scale. Stopping the proliferation of such weapons—and their potential use, by either state or non-state actors—must remain an urgent priority for collective security.”

In fact, two relatively small atomic weapons caused immediate fatalities of some 140,000 people in Hiroshima and 80,000 in Nagasaki in 1945. Since then, tens of thousands more have died from bomb-related injuries or illness, most notably due to radiation exposure. In both cities, the overwhelming majority of the dead were civilians.

The International Court of Justice found in 1996, in an advisory opinion requested by the General Assembly, that “the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law.” However, the Court also stated that it could not “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.”

Today, despite reductions of arsenals after the Cold War, some 8392 nuclear

weapons remain in deployed mode. Over 90 percent of those weapons are in the US and Russia. The total of both deployed (in active service) and non-deployed weapons (not in service but not dismantled) is estimated to be around 23,300 although there is no precise and publicly available data.

### **Safeguards**

The IAEA was mandated to enter into safeguards (or verification) agreements with all non-nuclear weapons states joining the NPT, to assure that nuclear material was not used for weapons programmes. Each instrument focused upon accounting for the presence of all fissile material within the jurisdiction of the non-nuclear weapon state in question, and depended upon the party to declare to the Agency its initial inventory of such material and thereafter any changes in the location or size of the inventory resulting from transfers between and within states. In 1997 the IAEA approved an Additional Protocol aimed at strengthening the safeguards system. The state signatory is required to give the IAEA access to all aspects of its nuclear fuel cycle-related activities, including research and development and uranium mining, as well as granting the Agency broader access rights on the basis that this level of transparency would aid the detection of incipient nuclear weapons programmes.

### **Biological Weapons**

Biological warfare is the deliberate spreading of disease amongst humans, animals, and plants. Biological weapons introduce a bacteria or virus into an environment for hostile purposes. During World War I, Germany used anthrax and the equine disease glanders to infect livestock and feed for Allied forces. Japan, starting in the 1930s, conducted experiments for an

offensive biological weapons program (it is estimated that at least 10,000 prisoners of the Japanese were killed). Japan used biological weapons in 1940 against China, and later terminated its programme. The US also developed a biological weapons programme in 1943, but dismantled it in 1969. However, an extensive defensive research programme still exists. The USSR also developed a biological weapons programme in the 1920s and considerably expanded it during the Cold War. The programme comprised various institutions under different ministries and became known as Biopreparat after 1973, which pursued research and production of biological agents under the cover of civil biotechnology research. However the programme was never used in a conflict. Iraq also established such a programme in 1975 but apparently never used it. Other countries acknowledged having developed biological weapons programmes in the past, such as Canada, France, Germany, South Africa and the UK, but were officially ended. Many more countries are believed to be conducting research programmes, although there is no evidence of biological weapons production.

### **Chemical Weapons**

The 2004 report of the High-Level Panel on Threats, Challenges and Change report stated that, “Chemical and biological materials also pose a growing threat: they share with nuclear weapons the awful potential of being used in a single attack to inflict mass casualties. Chemical agents are widespread and relatively easy to acquire and weaponize...Chemical weapon states have lagged behind in the destruction of chemical weapons scheduled by the Chemical Weapons Convention.” The risk of chemical weapons falling into the

hands of terrorist groups is also extremely worrying.

During World War I, the use of chemical agents caused an estimated 1,300,000 casualties, including 90,000 deaths. The Spanish used chemical weapons against rebels in Morocco in the 1920s, and Italy in Ethiopia in the late 1930s. During the Second Sino-Japanese War (1937–45), Japanese forces employed chemical agents against Chinese targets. During World War II, poisonous gases killed millions in Nazi concentration camps, and chemical weapons were used in Asia, but there is no evidence of chemical warfare among World War II belligerents on European battlefields. In the post World War II era, Egypt used chemical weapons in North Yemen in the 1960s and there are allegations of use by the Soviet Union in Afghanistan in 1979 and by Soviet-backed forces in Laos and Kampuchea in the late 1970s and early 1980s, although this has not been proved. Iraq used chemical weapons on a large scale against Iran from 1983 to 1987 and in its domestic war against the Iraqi Kurds in the late 1980s. In the Vietnam War US forces used chemicals as defoliants.

The only known use of chemical weapons by a non-state actor was the March 1995 Tokyo Subway sarin gas attack which killed nearly a dozen people and injured approximately 5000 others.

## Appendix 2: UN Documents and Other Relevant Documents

### General Documents

#### Selected Security Council Resolutions

- S/RES/1170 (28 May 1998) recognised that the adoption of an African Nuclear Weapons-Free

Zone Treaty was an important contribution to the promotion of regional peace and security and to global efforts towards nuclear non-proliferation and disarmament.

- S/RES/984 (11 April 1995) expressed its conviction that everything must be done to avoid nuclear war and prevent the spread of nuclear weapons as well as facilitate international cooperation in the peaceful use of nuclear energy.
- S/RES/255 (19 June 1968) pledged to act immediately in response to actual or threat of aggression with nuclear weapons against a non-nuclear weapons state party to the NPT and to provide assistance and support.
- S/RES/97 (30 January 1952) dissolved the Commission for Conventional Armaments.
- S/RES/74 (16 September 1949), S/RES/52 (22 June 1948), S/RES/20 (10 March 1947) requested further discussions within the Atomic Energy Commission.
- S/RES/18 (13 February 1947) recognised that the general regulation and reduction of armaments and armed forces constitute a most important measure for strengthening international peace and security, and established the Commission for Conventional Armaments to deal with armaments other than weapons of mass destruction with a mandate to make proposals for the general reduction of armaments.
- S/RES/1 (25 January 1946) established the Military Staff Committee to advise and assist the Council, composed of the chiefs of staff of the Council's permanent members.

#### Selected General Assembly Resolutions

- A/S-12/32 (9 July 1982) was the

final document of the General Assembly's second special session on disarmament.

- A/S-10/2 (30 June 1978) was the final document of the General Assembly's first Special Session on disarmament.
- A/RES/3472 B (XXX) (11 December 1975) outlined the criteria for nuclear weapons-free zones.
- A/RES/2028 (XX) (19 November 1965) contained guidelines for the negotiation of a treaty on the non-proliferation of nuclear weapons.
- A/RES/1665 (XVI) (4 December 1961) called for legally binding commitments and comprehensive safeguards to stop the further spread of nuclear weapons and to work towards their eventual elimination.
- A/RES/1378 (XIV) (20 November 1959) put general and complete disarmament under effective international control on the General Assembly agenda.
- A/RES/502 (VI) (11 January 1952) replaced the Atomic Energy Commission and the Commission for Conventional Armaments with the Disarmament Commission.
- A/RES/192 (III) (19 November 1948) recommended the Security Council pursue the study of the regulation and reduction of conventional armaments and armed forces through the Commission for Conventional Armaments.
- A/RES/41 (I) (14 December 1946) recommended that the Council formulate practical measures to provide for the general regulation and reduction of armaments and armed forces, and to assure that such regulation and reduction will be generally observed. In effect this resolution was a reiteration of Council's obligations under the UN Charter.

- A/RES/1 (I) (24 January 1946) established the Atomic Energy Commission.

#### **Selected Security Council Presidential Statements**

- S/PRST/2008/43 (19 November 2008) dealt with disarmament, non-proliferation and arms control and restated several of the Council's responsibilities, in particular under article 26 of the Charter.
- S/PRST/2007/1 (8 January 2007) reaffirmed its resolve to take appropriate and effective action against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery.
- S/PRST/1995/9 (22 February 1995) reaffirmed the importance of preventing the proliferation of WMD, and said that appropriate measures would be taken when provisions of international treaties that provide for recourse to the Council are violated.
- S/23500 (31 January 1992) underlined the need for all member states to fulfil their obligations in relation to arms control and disarmament, to prevent the proliferation of WMD; to avoid excessive accumulations and transfers of arms; emphasised the importance of ratification and implementation by states of international and regional arms control arrangements; and recognised that the proliferation of WMD constitutes a threat to international peace and security.

#### **IAEA Documents**

- INFCIRC/540 (corr.) (September 1997) is the model protocol additional to the agreement(s) between state(s) and the IAEA for the

application of safeguards

- INFCIRC/254/Part1 are guidelines for the export of nuclear material, equipment and technology.
- INFCIRC/254/Part2 are guidelines for transfers of nuclear-related dual-use equipment, materials, software and related technology.

#### **Other**

- A/AC.227/2009/1 (20 July 2009) was the report of the Open-Ended Working Group towards an Arms Trade Treaty: establishing common international standards for the import, export and transfer of conventional arms.
- CD/1863 (19 May 2009) was the draft decision by the UN Conference on Disarmament for the establishment of a programme of work for the 2009 session.
- S/PV.6017 and resumption 1 (19 November 2008) was a Council debate on the wider dimensions of disarmament.
- S/PV.5635 and resumption 1 (23 February 2007) was an open debate on the issue of cooperation between the Council and international organisations (including those established outside the UN system) that deal with WMD.
- A/60/934 (10 July 2006) was a letter from Sweden to the Secretary-General enclosing the preface and some recommendations presented in the report of the Weapons of Mass Destruction Commission entitled "Weapons of Terror".
- A/59/565 (2 December 2004) was the report of the High-Level Panel on Threats, Challenges and Change.
- S/1995/261, S/1995/262, S/1995/263, S/1995/264 and S/1995/265 (6 April 1995) were letters from Russia, the UK, the US,

France and China providing conditional negative security assurances to non-nuclear-weapons states party to the NPT.

#### **DPRK**

#### **Selected Security Council Resolutions**

- S/RES/1874 (12 June 2009) expressed grave concern over North Korea's 25 May nuclear test and expanded the sanctions imposed on North Korea to include all arms and related material, as well as financial transactions, technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of such arms or material.
- S/RES/1718 (14 October 2006) expressed grave concern over North Korea's nuclear test, imposed additional sanctions and set up a sanctions committee.
- S/RES/1695 (15 July 2006) condemned North Korea's launch of ballistic missiles and imposed sanctions.
- S/RES/825 (11 May 1993) urged the DPRK to reconsider its announcement to withdraw from the NPT and abide by its international obligations.

#### **Selected Security Council Presidential Statements**

- S/PRST/2009/7 (13 April 2009) condemned the 5 April launch of a rocket by DPRK, saying it was in contravention of resolution 1718.
- S/PRST/1994/64 (4 November 1994) noted with satisfaction the adoption of the agreed framework between the US and the DPRK.
- S/PRST/1994/28 (30 May 1994) expressed grave concern and strongly urged the DPRK to proceed with the removal of spent

fuel in a way to preserve fuel measurements.

- S/PRST/1994/13 (31 March 1994) called on the DPRK to allow IAEA inspectors to complete their activities and requested the DPRK and the Republic of Korea to implement a 1992 joint declaration on the denuclearisation of the Korean Peninsula.
- S/25562 (8 April 1993) took note of the IAEA referral to the Council and expressed concern at the situation.

#### **Selected IAEA Documents**

- GOV/2003/14 (12 February 2003) found the DPRK in violation of its safeguards agreements and referred the matter to the Council.
- INFCIRC/457 (2 November 1994) was the agreed framework between the US and the DPRK.
- GOV/2645 (1 April 1993) found the DPRK in violation of its safeguards obligations and referred the matter to the Council.
- GOV/2636 (25 February 1993) requested special inspections in the DPRK.

#### **Other**

- SC/9642 (24 April 2009) was a press release by the 1718 Sanctions Committee designating three North Korean entities to be subject to assets freeze and updating previous sanctions. This was denounced by the DPRK in a letter (S/2009/205).

### **India-Pakistan**

#### **Selected Security Council Resolutions**

- S/RES/1172 (6 June 1998) called upon India and Pakistan to stop their nuclear weapons programmes and avoid the export of equipment and technology that

could contribute to nuclear or missile programmes in other countries, encouraged all states to prevent the export of equipment or technology that could assist programmes in India or Pakistan, and urged all states that have not done so to become parties to the NPT and the CTBT.

#### **Selected Security Council Presidential Statements**

- S/PRST/1998/17 (29 May 1998) strongly deplored nuclear tests conducted by Pakistan and urged India and Pakistan to resume the dialogue between them on all outstanding issues.
- S/PRST/1998/12 (14 May 1998) deplored the nuclear tests conducted by India and urged it to refrain from further tests.

#### **Selected IAEA Document**

- GOV/2008/30 (9 July 2008) was the agreement between India and the IAEA for the application of safeguards to civilian nuclear activities in India.

### **Iran**

#### **Selected Security Council Resolutions**

- S/RES/1835 (27 September 2008) reaffirmed its commitment to an early negotiated solution to the Iranian nuclear issue and called upon Iran to comply with its obligations under previous Council and IAEA resolutions.
- S/RES/1803 (3 March 2008) imposed additional sanctions on Iran.
- S/RES/1747 (24 March 2007) imposed additional measures against Iran and reinforced existing ones.
- S/RES/1737 (23 December 2006) imposed sanctions against Iran

and expressed its intention to adopt further measures under article 41 in case of Iranian non-compliance.

- S/RES/1696 (31 July 2006) demanded that Iran suspend all enrichment-related and reprocessing activities and expressed its intention to adopt sanctions.

#### **Selected Security Council Presidential Statements**

- S/PRST/2006/15 (29 March 2006) urged Iran to implement steps required by the IAEA to establish confidence in the peaceful nature of Iran's nuclear programme.

#### **Selected Security Council Meeting Records**

- S/PV.6036 (10 December 2008) and S/PV.5973 (11 September 2008) were briefings by the chairman of the 1737 Committee on Iran.

#### **Selected IAEA Documents**

- GOV/2008/59 (19 November 2008) was the latest report on implementation in Iran of safeguards and relevant Council resolutions.
- GOV/2006/14 (4 February 2006) underlined steps that Iran should take to re-establish confidence in the peaceful nature of its nuclear programme, including suspension of uranium enrichment, and reported the issue to the Council.
- GOV/2003/63 (26 August 2003) found that Iran had embarked on an extensive nuclear enrichment programme in the 1980s without declaring it to the IAEA, and found the presence in Iran of high enriched uranium.
- GOV/2003/40 (6 June 2003) found Iran in violation of its safeguards agreement.

## Iran-Iraq War

### Selected Security Council Resolutions

- S/RES/620 (26 August 1988), S/RES/612 (9 May 1988) and S/RES/582 (24 February 1986) deplored the use of chemical weapons, condemned vigorously their continued use in the conflict, expected both sides to refrain from their use, and called upon all states to adopt strict controls over transferring chemical products to any country believed to have used chemical weapons. In resolution 620 the Council announced it would take further measures.

### Selected Security Council Presidential Statements

- S/18863 (14 May 1987), S/17932 (21 March 1986), S/17130 (25 April 1985) and S/16454 (30 March 1984) following the submission of reports from fact-finding missions condemned the use of chemical weapons against Iranian soldiers and demanded that the 1925 Geneva Protocol be respected.

### Reports of the Secretary-General's Fact-Finding Missions

- S/19823 (25 April 1988) revealed that there had been an increase in the intensity of chemical attacks in terms of both the number of victims and the severity of injuries. Also, a higher number of victims were civilians.
- S/18852 (8 May 1987)
- S/17911 (12 March 1986)
- S/17127 (24 April 1985)
- S/16433 (26 March 1984) was the first report of UN fact-finding mission to determine whether chemical agents had been used in the Iran-Iraq War, and deplored that chemical weapons had been used in the form of aerial bombs in

contradiction of international law.

- S/15834 (20 June 1983) was the report of the first UN mission to inspect civilian areas within Iran and Iraq which had been subject to military attacks.

### Selected Security Council Letters

- S/16337 and S/16338 (10 February 1984) were letters from the Secretary-General to Iraq and Iran respectively, announcing his intention to dispatch a fact-finding mission to investigate attacks in civilian areas.
- S/15934 (18 August 1983) and S/16128 (3 November 1983) were letters from Iran which alleged that chemical weapons were being used by Iraq.

## Iraq

### Selected Security Council Resolutions

- S/RES/1762 (29 June 2007) terminated UNMOVIC's mandate and reaffirmed Iraq's disarmament obligations under relevant resolutions.
- S/RES/1483 (22 May 2003) recognised the occupying powers, requested the Secretary-General to appoint a Special Representative for Iraq, imposed individual sanctions against former Iraqi officials, lifted the economic sanctions on Iraq, and envisaged the termination of the oil-for-food programme within six months.
- S/RES/1441 (8 November 2002) decided that Iraq was in breach of its international obligations due to its lack of cooperation with UNMOVIC inspectors and authorised UNMOVIC and the IAEA to use more rigorous verification methods.
- S/RES/1284 (17 December 1999)

established UNMOVIC, which replaced UNSCOM.

- S/RES/1137 (12 November 1997) determined that six US nationals working as UN inspectors expelled by Iraq was unacceptable and warned of serious consequences.
- S/RES/1134 (23 October 1997) expressed its firm intention to impose travel bans on Iraqi officials obstructing UN inspections.
- S/RES/1060 (12 June 1996) emphasised the importance of full compliance by Iraq with its obligations to permit immediate, unconditional and unrestricted access to UNSCOM to any site, and found unacceptable any attempts by Iraq to deny access to any such site.
- S/RES/986 (14 April 1995) established the oil-for-food programme.
- S/RES/715 (11 October 1991) stepped-up the monitoring and inspection regime making it ongoing.
- S/RES/707 (15 August 1991) demanded that Iraq halt all nuclear activity, provide full disclosure of its weapons programmes, and allow inspectors access to all sites.
- S/RES/687 (3 April 1991) called for the elimination, under international supervision, of Iraq's WMD and ballistic missiles with a range greater than 150 kilometres, together with related items and production facilities. It also called for measures to ensure that the acquisition and production of prohibited items were not resumed. The resolution also established UNSCOM to implement the non-nuclear provisions of the resolution and to assist the IAEA.
- S/RES/661 (6 August 1990) imposed economic sanctions on Iraq after it invaded Kuwait,



providing for a full trade embargo, excluding medical supplies, food and other items of humanitarian necessity, to be determined by a sanctions committee.

**Selected Security Council Letters**

- S/2008/350 (29 May 2008) was Iraq’s report on progress made in adhering to all applicable disarmament and non-proliferation treaties.
- S/1999/356 (27 March 1999) was the report from the three panels on Iraq.
- S/1999/100 (30 January 1999) was a note by the president of the Council announcing the establishment of three panels tasked to provide a comprehensive review on UN approaches to Iraq.
- S/1998/1172 (15 December 1998) was a letter from the Secretary-General to the Council enclosing the UNSCOM report that prompted Operation Desert Fox.

**Selected IAEA Documents**

- GOV/2531 (18 July 1991) expressed grave concern about the evident deception and obstruction of IAEA inspectors in Iraq and transmitted those conclusions to the Council.

**Israel**

**Selected Security Council Resolutions**

- S/RES/487 (19 June 1981) strongly condemned Israel’s military attack, considered that the attack constitute a serious threat to the entire safeguards regime of the IAEA and called upon Israel to place its nuclear facilities under IAEA safeguards.

**Selected IAEA Documents**

- S/14532 (12 June 1981) strongly

condemned Israel for the “unjustified attack” on Iraq’s Osirak reactor, reaffirmed that the Agency’s safeguards system was the only reliable means of verifying peaceful use of nuclear facilities, and requested the Director-General to submit this resolution to the Security Council.

**Libya**

**Selected Security Council Resolutions**

- S/RES/883 (11 November 1993) widened the travel ban imposed on Libyan individuals and imposed financial sanctions.
- S/RES/748 (31 March 1992) imposed an arms embargo and selective travel ban on Libya, and established a sanctions committee.
- S/RES/731 (21 January 1992) condemned the destruction of Pan American flight 103.

**Selected Security Council Presidential Statements**

- S/PRST/2004/10 (22 April 2004) welcomed the decision by Libya to abandon its programmes for developing WMD and the positive steps taken to cooperate with the IAEA and the OPCW.

**Selected IAEA Documents**

- GOV/2008/39 (12 September 2008) on the implementation of the NPT safeguards agreement of Libya, provided an overview of Libya’s past nuclear programme.
- GOV/2004/59 (30 August 2004) on implementation of the NPT safeguards agreement of Libya.
- GOV/2004/18 (10 March 2004) welcomed the Libyan decision to eliminate all materials leading to the production of nuclear weapons and reported the matter to the Council “for information

purposes only.”

- GOV/2004/12 (20 February 2004) on implementation of the NPT safeguards agreement of Libya, which found that Libya imported nuclear material from a number of countries, including China and Pakistan, and conducted a wide range of nuclear activities.

**South Africa**

**Selected Security Council Resolutions**

- S/RES/418 (4 November 1977) imposed a mandatory ban on all states from engaging in “any cooperation with South Africa in the manufacture and development of nuclear weapons”.

**Non-State Actors**

**Selected Security Council Resolutions**

- S/RES/1810 (25 April 2008) extended the mandate of the 1540 Committee until 25 April 2011.
- S/RES/1673 (27 April 2006) extended the mandate of the 1540 Committee until 27 April 2008.
- S/RES/1540 (28 April 2004) recognised that the illicit trafficking in WMD poses a threat to international peace and security, and required that states refrain from providing support to non-state actors in their attempt to acquire WMD, adopt and enforce laws in that regard, and take measures to establish domestic controls to prevent the proliferation of WMD. It established the 1540 Committee to monitor compliance.
- S/RES/1373 (28 September 2001) placed barriers on the movement, organisation and fund-raising activities of terrorist groups and imposed legislative, policy and

reporting requirements on member states to assist the global struggle against terrorism. It also established a Counter-Terrorism Committee to monitor state compliance with these provisions.

- S/RES/1267 (15 October 1999) established the Al-Qaida and Taliban sanctions.

#### **Selected Security Council Presidential Statements**

- S/PRST/2007/4 (23 February 2007) supported increased multilateral cooperation as an important means for enhancing states' implementation of resolution 1540, and reiterated its determination to develop mechanisms for cooperation on a case-by-case basis.
- S/PRST/2006/56 (20 December 2006) endorsed the 2006 report of the Counter-Terrorism Committee and stated that the terrorism committees should avoid duplication, including in their requests for information from member states.
- S/PRST/2005/34 (20 July 2005) and S/PRST/2005/16 (25 April 2005) encouraged the Counter-Terrorism Committee and the 1540 Committee to regularly coordinate their work and brief the Council on their activities in joint meetings every six months.

#### **Selected Reports of the 1540 Committee**

- S/2008/493 (30 July 2008)
- S/2006/257 (25 April 2006)

#### **Selected Security Council Meeting Records**

- S/PV.5955 (18 August 2008) was a briefing by the chairman of the 1540 Committee.

## **Appendix 3: Useful Additional Sources**

### **General Resources on Disarmament**

- Disarmament: A guide to resources throughout the UN System on the topic of disarmament [www.un.org/issues/m-disarm.html](http://www.un.org/issues/m-disarm.html)
- UN Office for Disarmament Affairs [www.un.org/disarmament](http://www.un.org/disarmament)
- UN Institute for Disarmament Research [www.unidir.org](http://www.unidir.org)
- Bhaskar Menon, *Disarmament: A Basic Guide*, United Nations, 2001
- *Armament, Disarmament and International Security*, Stockholm International Peace Research Institute, 2008 and 2009 Yearbooks
- *Reaching Critical Will* [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org)
- NGO Committee on Disarmament, Peace and Security [disarm.igc.org](http://disarm.igc.org)
- Disarmament Times [disarm.igc.org/dtimes.php](http://disarm.igc.org/dtimes.php)

### **Treaties, Conventions and Organisations:**

- Multilateral Arms Regulation and Disarmament Agreements <http://disarmament.un.org/TreatyStatus.nsf>
- Convention (II) with Respect to the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, The Hague, 29 July 1899
- Organisation for the Prohibition of Chemical Weapons [www.opcw.org](http://www.opcw.org)
- Comprehensive Nuclear Test Ban Treaty [www.ctbto.org](http://www.ctbto.org)
- Non-Proliferation of Nuclear Weapons & Nuclear Security: IAEA Safeguards Agreements and Additional Protocols, IAEA, May 2005
- The Zangger Committee [www.zanggercommittee.org](http://www.zanggercommittee.org)
- The Nuclear Suppliers Group [www.nuclearsuppliersgroup.org](http://www.nuclearsuppliersgroup.org)

- The Missile Technology Control Regime [www.mtcr.info](http://www.mtcr.info)
- The Wassenaar Arrangement on Export controls for Conventional Arms and Dual-Use Goods and Technologies [www.wassenaar.org](http://www.wassenaar.org)
- *Nuclear Weapons Free Zones at a Glance: Category and Description*, Arms Control Association, Fact Sheet, November 2007

### **Weapons of Mass Destruction**

- WMD Insights <http://wmdinsights.com>
- Nuclear Files [www.nuclearfiles.org/](http://www.nuclearfiles.org/)
- Federation of American Scientists—Nuclear Information Project [www.fas.org/programs/ssp/nukes/index.html](http://www.fas.org/programs/ssp/nukes/index.html)
- The International Commission on Nuclear Non-Proliferation and Disarmament [www.icndd.org](http://www.icndd.org)
- The Acronym Institute for Disarmament Diplomacy [www.acronym.org.uk](http://www.acronym.org.uk)
- *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms*, Weapons of Mass Destruction Commission, 2006
- Institute for Science and International Security [www.isis-online.org](http://www.isis-online.org)
- Global Security—WMD [www.globalsecurity.org/wmd/index.html](http://www.globalsecurity.org/wmd/index.html)
- World Nuclear Association [www.world-nuclear.org](http://www.world-nuclear.org)
- James Martin Center for Nonproliferation Studies and *The Non-proliferation Review* <http://cns.miis.edu/>
- The Center for Arms Control and Non-Proliferation [www.armscontrolcenter.org/](http://www.armscontrolcenter.org/)
- The Stanley Foundation's programme on Non-proliferation, Arms Control and Disarmament
- Report of the Canberra Commission on the Elimination of Nuclear Weapons, August 1996
- International Peace Institute Task Forces on Strengthening Multilateral Security Capacity for WMD and Biosecurity [www.ipinst.org](http://www.ipinst.org)



- *Nuclear Energy in the Next Quarter Century: The IAEA's Role*, Concluding Report to General Conference by Gareth Evans, President, International Crisis Group, as Chair of IAEA Scientific Forum 2007, Vienna, 20 September 2007
- *Safeguards to Prevent Nuclear Proliferation* (January 2009) and *Iran, North Korea & Iraq—Implications for Safeguards* (May 2009), World Nuclear Association
- Christine Wing, *Nuclear Weapons: The Challenges Ahead*, International Peace Academy, Coping with Crisis Working Paper Series, April 2007
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- Ramesh Thakur, Jane Boulden and Thomas G. Weiss, *Can the NPT regime be fixed or should it be abandoned?* Friedrich Ebert Stiftung-Dialogue on Globalization, No 40, October 2008
- *The United Nations and security in a nuclear-weapon-free world*, Secretary-General Ban Ki-moon address to the East-West Institute, New York, 24 October 2008
- *Lifting the nuclear shadow: Creating the conditions for abolishing nuclear weapons*, and speech by UK Foreign Secretary David Miliband at the International Institute for Strategic Studies, 4 February 2009
- *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of the International Court of Justice, 8 July 1996
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- Vik Kanwar, *The Legislator of Last Resort: Security Council's Emerging Role in WMD Proliferation Crises*, Opinio Juris Online Symposium, Social Science Research Network, 2006
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- *Nuclear Renaissance in Southeast Asia*, Consortium of Non-Traditional Security Studies in Asia, August 2008
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- Waheguru Pal Singh Sidhu and Ramesh Thakur, Ed., *Arms Control After Iraq: Normative and Operational Challenges*, UN University Press, 2006
- David M. Malone, *The International Struggle Over Iraq: Politics in the Security Council*, Oxford University Press, 2006
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- Julian Perry Robinson and Jozef Goldblat, *Chemical Warfare in the Iran-Iraq War, 1980-1988*, SIPRI Fact Sheet, Iran Chamber Society
- *Iran: Nuclear Intentions and Capabilities*, US National Intelligence Estimate, November 2007
- North Korea's Statement on NPT Withdrawal, 10 January 2003 [www.atomicarchive.com/Docs/Deterrence/DPRKNPTstatement.shtml](http://www.atomicarchive.com/Docs/Deterrence/DPRKNPTstatement.shtml)
- *The Six-Party Talks on North Korea's Nuclear Programme—Background*, Council on Foreign Relations, July 2009
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- Rajesh Rajagopalan, *Nuclear Non-Proliferation: An Indian Perspective*, Friedrich Ebert Stiftung – Dialogue on Globalization No.10, October 2008
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- "Chemical and bacteriological (biological) weapons and the effects of their possible use", with a special foreword by George Wald, by the UN Group of Consultant Experts on Chemical and Bacteriological Weapons, New York, Ballantine Books, 1970
- Remarks by President Barack Obama, Hradcany Square, Czech Republic 5 April 2009 and joint press conference with President Barack Obama and President Felipe Calderón of Mexico, Los Pinos, Mexico City, Mexico, 16 April 2009, [http://www.whitehouse.gov/briefing\\_room/Remarks/](http://www.whitehouse.gov/briefing_room/Remarks/)

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