

“problem of confrontation and polarization” that generated violence, while the social fabric that it represented and in which it functioned was torn apart.<sup>47</sup> Similarly, the representative of France highlighted the danger of civil society becoming the “vector of violent, criminal action”.<sup>48</sup> The representative of the United States urged the United Nations to support countries seeking self-government by encouraging the development of free institutions.<sup>49</sup>

At the end of the debate, the President made a statement on behalf of the Council,<sup>50</sup> by which the Council, *inter alia*:

Underlined the need for a broad strategy for conflict prevention and pacific settlement of disputes;

Reaffirmed the need for this strategy to be based on engagement with Governments, regional and subregional organizations as well as civil society organizations;

Underlined the potential contributions of a vibrant and diverse civil society in conflict prevention, as well as in the peaceful settlement of disputes; and noted that a well-functioning civil society has the advantage of specialized knowledge, capabilities, experience, links with key constituencies, influence and resources, which could assist parties in conflict to achieve peaceful solution to disputes;

Noted that a vigorous and inclusive civil society could provide community leadership, help to shape public opinion, and facilitate as well as contribute to reconciliation between conflicting communities;

[Stated that it] would strengthen its relationship with civil society, including, as appropriate, through, *inter alia*, the use of “Arria-formula” meetings and meetings with local civil society organizations during Council missions.

<sup>47</sup> *Ibid.*, p. 14.

<sup>48</sup> *Ibid.*, p. 24.

<sup>49</sup> *Ibid.*, p. 26.

<sup>50</sup> S/PRST/2005/42.

## 46. Items relating to non-proliferation

### A. Non-proliferation of weapons of mass destruction

#### Initial proceedings

##### Decision of 28 April 2004 (4956th meeting): resolution 1540 (2004)

At the 4950th meeting, on 22 April 2004,<sup>1</sup> statements were made by all members of the Security Council and the representatives of Albania, Argentina, Australia, Austria, Belarus, Canada, Cuba, Egypt, India, Indonesia, the Islamic Republic of Iran, Ireland (on behalf of the European Union),<sup>2</sup> Israel, Japan, Jordan, Kazakhstan, Kuwait, Liechtenstein, Lebanon,

Malaysia (on behalf of the Non-Aligned Movement), Mexico, Namibia, Nepal, New Zealand, Nicaragua, Nigeria, Norway, Peru, the Republic of Korea, Singapore, South Africa, Sweden, Switzerland, the Syrian Arab Republic, Tajikistan and Thailand.

The majority of speakers acknowledged that the acquisition of weapons of mass destruction by non-State actors posed a serious threat to international peace and security and pointed out that the non-proliferation regimes did not address the issue of how to prevent access by non-State actors to such weapons. Speakers discussed a draft resolution before the Council that would, *inter alia*, require States to take effective measures and establish domestic controls to prevent the proliferation of weapons and their means of delivery, as well as prevent States from assisting non-State groups in acquiring weapons of mass destruction. A number of representatives questioned the necessity of adopting the draft resolution under Chapter VII of the Charter, raising issues related to the binding nature of Council action.<sup>3</sup> The representative of Brazil, among others, argued that as Article 25 made all Council resolutions binding, the use of Chapter VII

<sup>1</sup> For more information on the discussion at this meeting, see chap. XI, part I, sect. B, with regard to Article 39 of the Charter; chap. XI, part IV, sect. B, with regard to Article 42; chap. XII, part II, sect. A, case 13, with regard to Article 24; and chap. XII, part II, sect. B, case 18, with regard to Article 25.

<sup>2</sup> Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Malta, Poland, Romania, Serbia and Montenegro, Slovakia, Slovenia, the former Yugoslav Republic of Macedonia and Turkey aligned themselves with the statement.

<sup>3</sup> S/PV.4950, p. 4 (Brazil); p. 5 (Algeria); p. 15 (Pakistan); S/PV.4950 (Resumption 1), p. 4 (Malaysia, on behalf of the Non-Aligned Movement); and p. 14 (Nepal).

was unnecessary.<sup>4</sup> The representative of Egypt noted the danger of using Chapter VII with respect to problems that were beyond the control of Member States.<sup>5</sup> Others stressed that Chapter VII would underline the serious and binding nature of the resolution.<sup>6</sup> A number of delegations also discussed the Council's right to assume the role of prescribing legislative action and the Council's legislative authority, some arguing that the Council was going beyond its mandate<sup>7</sup> and others stressing that, as a clear threat to international peace and security, the proliferation of weapons of mass destruction fell squarely within the Council's mandate.<sup>8</sup>

A number of representatives said that the draft resolution, if adopted, should not undermine existing multilateral treaties on weapons of mass destruction,<sup>9</sup> while other speakers believed that no such conflict would arise.<sup>10</sup> A number of speakers suggested including more references to disarmament in the text of the draft resolution;<sup>11</sup> others indicated that such references could dilute the text's objective.<sup>12</sup>

The representative of the Philippines, echoed by the representatives of Brazil and Egypt, asked for details regarding the mandate of the committee to be established to monitor the implementation of the draft

resolution.<sup>13</sup> The representative of Pakistan declared that the creation of a Council committee was unnecessary and stressed that it could be utilized in the future to replace the role of existing treaty regimes and to "harass countries".<sup>14</sup> In contrast, other speakers believed that the committee should be given a two-year mandate<sup>15</sup> or sufficient time to carry out its objectives.<sup>16</sup>

Several representatives opined that a number of concepts contained in the draft resolution were not sufficiently precise and asked for clarifications on the definition of terms such as "means of delivery" and "related materials".<sup>17</sup> The representative of the Islamic Republic of Iran said that the draft resolution contained certain concepts and definitions that were either inadequately elaborated or inconsistent with the terms and definitions embodied in existing international instruments on nuclear, biological and chemical weapons. He gave as an example the fact that the definition for "means of delivery" failed to refer to fighters capable of delivering such weapons.<sup>18</sup>

At the 4956th meeting, on 28 April 2004, statements were made by most members of the Council.<sup>19</sup> The President (Germany) drew the attention of the Council to a letter dated 27 April 2004 from the representative of India,<sup>20</sup> conveying his Government's support for the draft resolution under consideration and its commitment to preventing the proliferation of weapons of mass destruction, as well as its determination not to accept externally prescribed norms against its national interests or sovereignty on matters within the jurisdiction of its parliament.

While a number of representatives welcomed the improvements over the initial draft of the resolution,<sup>21</sup>

<sup>4</sup> S/PV.4950, p. 4 (Brazil); p. 5 (Algeria); p. 11 (Jordan); and S/PV.4950 (Resumption 1), p. 4 (Malaysia).

<sup>5</sup> S/PV.4950 (Resumption 1), p. 3.

<sup>6</sup> S/PV.4950, p. 7 (Spain); pp. 8-9 (France); p. 11 (Chile); p. 12 (United Kingdom); p. 17 (United States); and p. 21 (New Zealand).

<sup>7</sup> *Ibid.*, p. 5 (Algeria); p. 23 (India); p. 32 (Islamic Republic of Iran); S/PV.4950 (Resumption 1), p. 14 (Nepal); and p. 15 (Nigeria).

<sup>8</sup> S/PV.4950, p. 9 (Angola); S/PV.4950 (Resumption 1), p. 7 (Australia).

<sup>9</sup> S/PV.4950, p. 18 (Germany); S/PV.4950 (Resumption 1), p. 6 (Belarus, Norway); p. 12 (Liechtenstein); and p. 15 (Tajikistan).

<sup>10</sup> S/PV.4950, p. 3 (Philippines); p. 10 (Chile); pp. 11-12 (United Kingdom); p. 14 (Romania); p. 16 (Russian Federation); p. 17 (United States); and p. 26 (Ireland); S/PV.4950 (Resumption 1), p. 7 (Australia); and p. 16 (Albania).

<sup>11</sup> S/PV.4950, p. 18 (Germany); p. 22 (South Africa); p. 31 (Indonesia); and p. 32 (Islamic Republic of Iran); S/PV.4950 (Resumption 1), p. 4 (Malaysia); pp. 6-7 (Norway); p. 8 (Kazakhstan); p. 10 (Austria); p. 11 (Jordan, Lebanon); p. 12 (Liechtenstein); p. 14 (Nigeria); and p. 18 (Thailand).

<sup>12</sup> S/PV.4950, p. 7 (Spain); and p. 11 (United Kingdom).

<sup>13</sup> *Ibid.*, p. 3 (Philippines); and p. 4 (Brazil); S/PV.4950 (Resumption 1), p. 2 (Egypt).

<sup>14</sup> S/PV.4950, p. 15.

<sup>15</sup> *Ibid.*, p. 12 (United Kingdom); p. 19 (Germany); and p. 27 (Ireland).

<sup>16</sup> *Ibid.*, pp. 19-20 (Canada); S/PV.4950 (Resumption 1), p. 6 (Norway); and p. 18 (Thailand).

<sup>17</sup> S/PV.4950, p. 28 (Switzerland); p. 33 (Islamic Republic of Iran); and p. 34 (Syrian Arab Republic); S/PV.4950 (Resumption 1), p. 4 (Malaysia); p. 11 (Lebanon); and p. 14 (Nepal).

<sup>18</sup> S/PV.4950, p. 33.

<sup>19</sup> The representatives of Angola and Benin did not make statements.

<sup>20</sup> S/2004/329.

<sup>21</sup> S/PV.4956, p. 2 (France); p. 3 (Pakistan); p. 7 (Algeria, United Kingdom); and p. 10 (Germany).

some speakers indicated their preference for a stronger reference to disarmament in the revised text.<sup>22</sup> The representative of Germany expressed regret that it had not been possible to introduce explicit language on the importance of verification, security assurances and regional security arrangements, and on the leading role the Council had to play in the context of the resolution.<sup>23</sup>

The representative of Brazil reiterated his belief that there was no need to put the whole resolution under Chapter VII of the Charter.<sup>24</sup> The representative of Pakistan explained his delegation's favourable vote by pointing to the fact that the legally binding obligations adopted under Chapter VII of the Charter offered reassurance that the provisions of the resolution would not serve to impose non-proliferation obligations on States or to transfer the general responsibility for global non-proliferation and disarmament to the Council.<sup>25</sup>

The draft resolution<sup>26</sup> was put to the vote and adopted unanimously as resolution 1540 (2004), by which the Council, acting under Chapter VII of the Charter of the United Nations, *inter alia*:

Decided that all States should refrain from providing any form of support to non-State actors that attempted to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

Decided also that all States, in accordance with their national procedures, should adopt and enforce appropriate effective laws;

Decided further that all States should take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery;

Decided to establish, for a period of no longer than two years, a Committee of the Security Council which would report to the Council for its examination, on the implementation of the resolution;

Decided that none of the obligations set forth in the resolution should be interpreted so as to conflict with or alter the rights and obligations of States parties to the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention.

<sup>22</sup> *Ibid.*, p. 7 (Chile, Algeria).

<sup>23</sup> *Ibid.*, p. 10.

<sup>24</sup> *Ibid.*, p. 9.

<sup>25</sup> *Ibid.*, pp. 3-4.

<sup>26</sup> S/2004/326.

### **Decision of 27 April 2006 (5429th meeting): resolution 1673 (2006)**

At its 5097th meeting, on 9 December 2004, the Council included in its agenda a letter dated 8 December 2004 from the Chairman of the Committee established pursuant to resolution 1540 (2004) addressed to the President of the Council,<sup>27</sup> transmitting the Committee's first report on activities undertaken with respect to the non-proliferation of nuclear, chemical and biological weapons, and a list of States that had submitted their national reports as at 7 December 2004. During the meeting, statements were made by most members of the Council.<sup>28</sup>

In his briefing, the Chairman of the Committee declared that cooperation with international organizations such as the International Atomic Energy Agency (IAEA) was foreseen as the Committee might require future technical assistance. He also announced that the Committee planned to recruit experts from the Asian and African regional groups to help in its evaluation of reports submitted by States.<sup>29</sup>

A number of speakers appealed to the States that had not yet submitted national reports to submit them as soon as possible.<sup>30</sup> Several representatives agreed on the need for the Committee to work in close cooperation with organizations with expertise in non-proliferation.<sup>31</sup>

Several speakers mentioned the importance of transparency in the work of the Committee.<sup>32</sup> The representative of Pakistan pointed out that the Committee's work was made difficult by, *inter alia*, the lack of agreed international standards in areas in which the Committee would be examining the actions to be taken by States and its limited expertise. He further stressed that the Committee would have to ensure that it did not infringe upon, or duplicate, the work of

<sup>27</sup> S/2004/958.

<sup>28</sup> The representative of Romania did not make a statement.

<sup>29</sup> S/PV.5097, pp. 2-4.

<sup>30</sup> *Ibid.*, p. 4 (France, Russian Federation); p. 5 (United States); p. 7 (Brazil); pp. 7-8 (Spain); and pp. 11-12 (United Kingdom).

<sup>31</sup> *Ibid.*, pp. 4-5 (Russian Federation); p. 8 (Spain); p. 11 (Germany); and p. 12 (United Kingdom).

<sup>32</sup> *Ibid.*, p. 4 (France); p. 5 (Philippines); p. 8 (Spain); p. 10 (China); and p. 11 (Germany).

established treaty regimes or seek to enlarge its scope beyond its mandate.<sup>33</sup>

At its 5429th meeting, on 27 April 2006, the Council included in its agenda a letter dated 25 April 2006 from the Chairman of the Committee established pursuant to resolution 1540 (2004),<sup>34</sup> transmitting the Committee's report with recommendations designed to enable the Council's monitoring of the implementation of resolution 1540 (2004), and enable States to continue fulfilling the requirements set by the resolution.

The President (China) drew the attention of the Council to a draft resolution;<sup>35</sup> it was put to vote and adopted unanimously and without debate as resolution 1673 (2006), by which the Council, *inter alia*:

Decided to extend the mandate of the Committee established pursuant to resolution 1540 (2004) for a period of two years, with the continued assistance of experts, until 27 April 2008;

Decided that the Committee should intensify its efforts to promote the full implementation by all States of resolution 1540 (2004) through a work programme which should include the compilation of information on the status of the implementation by States of all aspects of resolution 1540 (2004);

Decided that the Committee would submit to the Security Council a report no later than 27 April 2008 on compliance with resolution 1540 (2004) through the achievement of the implementation of its requirements.

#### **Decision of 23 February 2007 (5635th meeting): statement by the President**

At its 5635th meeting, on 23 February 2007, the Council included in its agenda the question of the implementation of resolutions 1540 (2004) and 1673 (2006), and a letter dated 12 February 2007 from the representative of Slovakia addressed to the Secretary-General,<sup>36</sup> transmitting a concept paper in preparation of the scheduled open debate on cooperation between the Council and international organizations in the implementation of the aforementioned resolutions. During the meeting, statements were made by all Council members and the representatives of Argentina, Australia, Bangladesh, Belarus (on behalf of the

Collective Security Treaty Organization),<sup>37</sup> Brazil, Cuba, El Salvador, Germany (on behalf of the European Union),<sup>38</sup> Guatemala, the Islamic Republic of Iran, Israel, Japan, New Zealand (on behalf of the Pacific Islands Forum),<sup>39</sup> Norway, Pakistan, the Republic of Korea, Uruguay and Viet Nam. The Under-Secretary-General for Disarmament Affairs, the Director-General of the Organization for the Prohibition of Chemical Weapons, the Representative of the Director General of the International Atomic Energy Agency to the United Nations, and the Director of Compliance and Facilitation of the World Customs Organization briefed the Council about the work of their respective organizations in the area of non-proliferation.

The majority of the representatives underlined the need for international cooperation in the implementation of the resolutions and expressed support for enhanced coordination within multilateral regimes. A number of speakers noted that States required assistance for carrying out their obligations under the resolutions,<sup>40</sup> while other speakers believed that the Committee should consider national priorities when evaluating the capacity of States to meet the requirements specified in the resolutions.<sup>41</sup>

The representative of South Africa said that since the adoption of resolution 1540 (2004) no credible efforts had been made to close the gap in the international regimes.<sup>42</sup> The representative of France observed that resolution 1540 (2004) had not established any norms regarding export controls but merely requested States to implement them. In his

<sup>33</sup> *Ibid.*, pp. 6-7.

<sup>34</sup> S/2006/257 and Corr.1.

<sup>35</sup> S/2006/263.

<sup>36</sup> S/2007/84.

<sup>37</sup> Armenia, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan and Uzbekistan aligned themselves with the statement.

<sup>38</sup> Albania, Bosnia and Herzegovina, Croatia, Iceland, the Republic of Moldova, Serbia, the former Yugoslav Republic of Macedonia, Turkey and Ukraine aligned themselves with the statement.

<sup>39</sup> Australia, Fiji, the Marshall Islands, Micronesia, Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu aligned themselves with the statement.

<sup>40</sup> S/PV.5635, p. 11 (Qatar); p. 20 (Peru); p. 21 (Ghana); and p. 24 (Panama); S/PV.5635 (Resumption 1), p. 2 (Norway).

<sup>41</sup> S/PV.5635, p. 16 (South Africa); and p. 23 (Indonesia); S/PV.5635 (Resumption 1), p. 16 (New Zealand).

<sup>42</sup> S/PV.5635, pp. 15-16.

view, the urgency of the issue demanded that the existing gaps in legislation be addressed.<sup>43</sup>

The representatives of the Congo and Panama called for attention to the threat posed by the proliferation of small arms and light weapons.<sup>44</sup> The representative of Israel believed that resolution 1540 (2004) could also apply to conventional arms, as in the case of transfer of rockets to non-State actors.<sup>45</sup>

The President (Slovakia) made a statement on behalf of the Council,<sup>46</sup> by which the Council, *inter alia*:

Affirmed its determination to promote increased multilateral cooperation, as an important means of enhancing implementation by States of resolution 1540 (2004);

Acknowledged with appreciation the activities of international organizations with expertise in the field of non-proliferation of nuclear, chemical and biological weapons and their means of delivery covered by resolution 1540 (2004), especially in providing assistance in the implementation of that resolution, without altering their mandates and responsibilities;

Reiterated its determination to enhance its cooperation with international organizations and to develop preferred mechanisms for cooperating with those organizations on a case-by-case basis.

## B. Non-proliferation

### Initial proceedings

#### **Decision of 29 March 2006 (5403rd meeting): statement by the President**

At its 5403rd meeting, on 29 March 2006, the Security Council included in its agenda the item entitled “Non-proliferation”. The President (Argentina) made a statement on behalf of the Council,<sup>47</sup> by which the Council, *inter alia*:

Reaffirmed its commitment to the Treaty on the Non-proliferation of Nuclear Weapons and recalled the right of States parties, in conformity with articles I and II of the Treaty, to develop research, production and use of nuclear energy for peaceful purposes without discrimination;

Noted with serious concern the many reports and resolutions of IAEA relating to the Islamic Republic of Iran’s

nuclear programme reported to it by the IAEA Director General, including resolution GOV/2006/14 adopted on 4 February 2006 by the Board of Governors of IAEA;

Called upon the Islamic Republic of Iran to take the steps required by the Board of Governors;

Strongly supported the role of the Board of Governors and commended and encouraged the Director General and the secretariat of IAEA for their ongoing professional and impartial efforts to resolve outstanding issues in the Islamic Republic of Iran, and underline the necessity of IAEA continuing its work to clarify all outstanding issues relating to the Islamic Republic of Iran’s nuclear programme.

#### **Decision of 31 July 2006 (5500th meeting): resolution 1696 (2006)**

At the 5500th meeting, on 31 July 2006,<sup>48</sup> statements were made by the representatives of Argentina, China, France, the Islamic Republic of Iran, Japan, Qatar, the Russian Federation, the United Kingdom, the United Republic of Tanzania and the United States. The President (France) drew the attention of the Council to a draft resolution submitted by France, Germany and the United Kingdom.<sup>49</sup> He also drew attention to two letters from the representative of France dated 13 July and 25 July 2006, respectively.<sup>50</sup> The letter dated 13 July 2006 transmitted the proposals of China, France, Germany, the United Kingdom, the United States and the Russian Federation, with the support of the High Representative of the European Union, for a comprehensive long-term arrangement that would allow for cooperation with the Islamic Republic of Iran based on the establishment of international confidence in the “exclusively peaceful” nature of its nuclear programme. In order to create the right conditions for a fresh start in the negotiations, the Council, *inter alia*, would agree to suspend discussion of the Islamic Republic of Iran’s nuclear programme in the Security Council and support the building of new light water reactors in the Islamic Republic of Iran through international joint projects, if the Islamic Republic of Iran would, *inter alia*, commit itself to addressing all

<sup>43</sup> *Ibid.*, pp. 17-18.

<sup>44</sup> *Ibid.*, pp. 14-15 (Congo); and p. 25 (Panama).

<sup>45</sup> S/PV.5635 (Resumption 1), p. 3.

<sup>46</sup> S/PRST/2007/4.

<sup>47</sup> S/PRST/2006/15.

<sup>48</sup> For more information on the discussion at this meeting, see chap. XI, part I, sect. B; part II, sect. B; and part III, sect. B, with regard to Articles 39, 40 and 41 of the Charter; chap. XII, part I, sect. B, with regard to Article 2 (4); and chap. XII, part II, sect. B, case 19, with regard to Article 25.

<sup>49</sup> S/2006/589.

<sup>50</sup> S/2006/521 and S/2006/573.