

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.

the outstanding concerns of IAEA and suspend all enrichment-related and reprocessing activities. The letter dated 26 July 2006 transmitted a statement on behalf of the Ministers for Foreign Affairs of China, France, Germany, the Russian Federation, the United Kingdom and the United States, and the High Representative of the European Union, which noted that the Islamic Republic of Iran had given no indication at all that it was “ready to engage seriously on the substance” of the proposals and had failed to take the steps needed to allow negotiations to begin, specifically the suspension of all enrichment-related and reprocessing activities. The authors of the statement had agreed to seek a Council resolution to make the IAEA-required suspension mandatory, and if the Islamic Republic of Iran did not comply they would work for the adoption of measures under Chapter VII, Article 41, of the Charter.

The President also drew attention to a letter dated 8 March 2006 and a note by the President of the Security Council dated 28 April 2006,<sup>51</sup> transmitting the reports of the Director General of IAEA on the implementation of the Safeguards Agreement in the Islamic Republic of Iran, which discussed the uncertainties regarding the source of enrichment-related equipment in the nuclear energy programme of the Islamic Republic of Iran and the consequent inability of IAEA to make a conclusion about the scope, content and intent of the programme.

The President then put the draft resolution to the vote; it received 14 votes in favour and 1 against (Qatar), and was adopted as resolution 1696 (2006), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Called upon the Islamic Republic of Iran without further delay to take the steps required by IAEA Board of Governors in its resolution GOV/2006/14;

Demanded, in this context, that the Islamic Republic of Iran suspend all enrichment-related and reprocessing activities, including research and development, to be verified by IAEA;

Called upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to exercise vigilance and prevent the transfer of any items, materials, goods and technology that could contribute to the Islamic Republic of Iran’s enrichment-related and reprocessing activities and ballistic missile programmes;

Expressed its determination to reinforce the authority of the IAEA process and strongly supported the role of the Board of Governors;

Requested, by 31 August 2006, a report from the Director General primarily on whether the Islamic Republic of Iran had established full and sustained suspension of all activities mentioned in the resolution, as well as on the process of Iranian compliance with all the steps required by the Board of Governors and with the above provisions of the resolution, to the Board and, in parallel, to the Council for its consideration;

Expressed its intention, in the event that the Islamic Republic of Iran had not by that date complied with the resolution, then to adopt appropriate measures under Article 41 of Chapter VII of the Charter to persuade the Islamic Republic of Iran to comply with the resolution and the requirements of IAEA, and underlined that further decisions would be required should such additional measures be necessary;

Confirmed that such additional measures would not be necessary in the event that the Islamic Republic of Iran complied with the resolution;

Decided to remain seized of the matter.

After the vote, the representative of Qatar, while stressing that the demands of the Council were legitimate, maintained that the Council should have waited a few more days to exhaust all possible ways and means to determine the real intentions and willingness of the Islamic Republic of Iran to cooperate, especially since it had asked for time to consider the package that had been offered to it. He further stated that the resolution would only intensify the situation in the Middle East.<sup>52</sup>

The representative of the United States stated that nearly two months had passed since the European Union plus three countries<sup>53</sup> had made their offer and invited the Islamic Republic of Iran to enter into negotiations to avoid further action by the Council. He stated that the Islamic Republic of Iran had remained non-compliant with the Non-Proliferation Treaty and the IAEA Safeguards Agreement for the preceding three years. He argued that the continued pursuit of nuclear weapons by the Islamic Republic of Iran constituted a direct threat to international peace and security and demanded a binding resolution from the Council. He commented that the resolution just adopted called upon Member States to prevent the transfer of resources to the Islamic Republic of Iran’s

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<sup>51</sup> S/2006/150 and S/2006/270.

<sup>52</sup> S/PV.5500, p. 3.

<sup>53</sup> The European Union, the United States, the Russian Federation and China.

nuclear and missile programmes, and that his country and other Member States would ensure that the financial transactions associated with such proliferation activities would be subject to scrutiny. While expressing the hope that the Islamic Republic of Iran would renounce the pursuit of programmes of weapons of mass destruction, he stressed the expressed intention of the United States and other Member States to adopt measures under Article 41 in the event that the Islamic Republic of Iran did not comply with resolution 1696 (2006).<sup>54</sup>

The representative of the United Kingdom commented that the “history of concealment” of nuclear activities of the Islamic Republic of Iran raised questions about whether they were solely for civilian purposes. He felt that, given the concern about its ambitions, the Islamic Republic of Iran could not be allowed to continue its enrichment-related and reprocessing activities, including research, that would allow it to develop the capabilities to produce fissile material suitable for use in nuclear weapons, but he stressed that suspension would not hinder the development of a modern, civil nuclear power industry.<sup>55</sup>

The representative of the Russian Federation however viewed the suspension of enrichment activities as merely an interim measure during the period necessary to resolve the issue and restore trust in the Islamic Republic of Iran’s nuclear programme. While noting that the resolution made the IAEA demand for suspension of enrichment activities mandatory under Article 40 of the Charter, he emphasized that any additional measures to implement the resolution should rule out the use of military force.<sup>56</sup>

The representative of China stated that the purpose of the Council reviewing the issue was to safeguard the international nuclear non-proliferation mechanism and strengthen the role of IAEA among other objectives. He regretted that the Islamic Republic of Iran had failed to respond to the requests of the IAEA Board of Governors and the calls of the Council, but felt that the delay in finding an appropriate solution to the issue was due to lack of trust among the main parties involved. He said that the Council could not

handle this issue “single-handedly” and that IAEA needed to always be the main mechanism for dealing with the issue. He reminded the Islamic Republic of Iran that Article 25 obliged all Member States to accept and carry out Council resolutions and urged it to practise restraint and lend importance to the appeals of the international community. He called for any ideas and efforts conducive to breaking the stalemate and facilitating compromises on the issue. He emphasized that this was a sensitive period and that the Islamic Republic of Iran and all other parties should not take any steps that would harm the diplomatic efforts or lead to “complications or loss of control”.<sup>57</sup>

The representative of the United Republic of Tanzania stressed the right of the people of the Islamic Republic of Iran to civilian nuclear energy and said that the resolution did not constrain that right in any way but sought to bring any such programme under a verifiable inspection regime. However, while regretting that the offer of the Islamic Republic of Iran to respond to the package of proposals by 22 August 2006 had not been accommodated, he urged all parties including IAEA to continue engaging the Islamic Republic of Iran. He also noted that his delegation had voted for the resolution because it “preclude[d] the use of force as an option in engaging the Islamic Republic of Iran”.<sup>58</sup>

The representative of France stated that the resolution was made necessary by the fact that three meetings between the Commissioner of the European Union and the chief negotiator of the Islamic Republic of Iran had resulted in no substantial discussion on the proposals made on 6 June by the permanent members of the Council and Germany, leaving the latter no choice but to resume action in the Security Council. He reiterated the possibility of adopting measures under Article 41 of Chapter VII in case the Islamic Republic of Iran refused to comply with the resolution.<sup>59</sup>

The representatives of Japan and Argentina stressed the importance of resolving the issue of non-proliferation through diplomatic and peaceful means.<sup>60</sup>

The representative of the Islamic Republic of Iran expressed his frustration at the fact that his requests to

<sup>54</sup> S/PV.5500, p. 3.

<sup>55</sup> Ibid., p. 4.

<sup>56</sup> Ibid., p. 5.

<sup>57</sup> Ibid., p. 5-6.

<sup>58</sup> Ibid., p. 6.

<sup>59</sup> Ibid., p. 7.

<sup>60</sup> Ibid., p. 7.

the President to address the Council, dated 29 March 2006 and 28 July 2006, had both been denied and that the Council had adopted several decisions without hearing the views of the concerned party. He recalled the history of resolutions against the Islamic Republic of Iran at the Council by some “Powers permanently represented at the Council”. He said that the Council had been prevented from acting against the “aggression against Palestinian and Lebanese peoples” and the threats of force including threat of using nuclear weapons issued daily against the Islamic Republic of Iran by representatives of the United States, the United Kingdom and the “Israeli regime”, in violation of Article 2 (4) of the Charter. He felt that a few “big Powers” had spared no effort in turning the Council into a tool to prevent the Islamic Republic of Iran from exercising its inalienable right to nuclear technology for peaceful purposes. He said that having been recent victims of weapons of mass destruction during the 1980-1988 war with Iraq, the people of the Islamic Republic of Iran had rejected all development of those weapons on ideological as well as strategic grounds and that the leader of the Islamic Republic had issued a public and religious decree against the production or use of nuclear weapons. He pointed out that since November 2003 all reports of IAEA had indicated the peaceful nature of the nuclear programme of the Islamic Republic of Iran. Since the peaceful programme posed no threat to international peace and security, there was no legal basis or utility in addressing it in the Council. He maintained that the right to enrich uranium was recognized under the Non-Proliferation Treaty and that upholding the rights of States parties to international treaties was as essential as ensuring respect for their obligations. He spoke of a dangerous trend in which, when “it suit[ed] the United States”, even the acquisition of nuclear weapons by Member States not parties to the Treaty was seen as “legitimate”, and questioned how Israel could complain of the peaceful nuclear programme of the Islamic Republic of Iran while its own “nuclear arsenal” had been repeatedly recognized, including by Treaty Review Conferences, as a “threat to regional and international peace and security”. He also said that the imposition of arbitrary thresholds was a function of bilateral considerations rather than objective or technical criteria and observed that the United States had begun efforts to deny the Islamic Republic of Iran any kind of nuclear activity by urging the Russian Federation to cease all cooperation, including

assistance to the light water reactor at Bushehr. He remarked that intervention by the Council would only hinder cooperation of the Islamic Republic of Iran with IAEA since it was designed as an instrument of pressure. He indicated the willingness of the Islamic Republic of Iran to negotiate. He noted that it had taken the European Union plus three Member States nearly five months to consider a proposal made by the Islamic Republic of Iran in 2005 and asked why the resolution had been “rushed” through the Council.<sup>61</sup>

**Decision of 23 December 2006 (5612th meeting):  
resolution 1737 (2006)**

At the 5612th meeting, on 23 December 2006, the President (Qatar) drew the attention of the Council to a draft resolution submitted by France, Germany and the United Kingdom.<sup>62</sup> The President also drew attention to several letters from the representative of France,<sup>63</sup> and a letter dated 7 December 2006 from the representative of the United Kingdom.<sup>64</sup> He also drew the attention of the Council to various reports from the Director General of IAEA, which stated, inter alia, that the Islamic Republic of Iran had not provided the necessary transparency to remove uncertainties associated with some of its activities or suspended its enrichment-related activities. The reports noted that IAEA would continue to pursue its investigation of all remaining outstanding issues but it remained unable to make further progress in its efforts to verify the correctness and completeness of the declarations to confirm the peaceful nature of the nuclear programme.<sup>65</sup>

At the meeting, statements were made by 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.

<sup>61</sup> Ibid., pp. 7-12.

<sup>62</sup> S/2006/1010.

<sup>63</sup> S/2006/521 (see the 5500th meeting, above, for more information), and two letters dated 13 October 2006 transmitting lists of items, materials, equipment, goods and technology related to nuclear programmes and ballistic missile programmes, respectively (S/2006/814 and S/2006/815).

<sup>64</sup> S/2006/985, transmitting guidelines for sensitive missile-relevant transfers.

<sup>65</sup> S/2006/150 and S/2006/270 (see above), and the report dated 31 August 2006, transmitted in a note by the President of the Council of the same date (S/2006/702).

Most speakers stressed their commitment to a diplomatic, negotiated solution to the crisis, but noted that the failure of the Islamic Republic of Iran to meet the deadline for suspending enrichment-related and reprocessing activities had meant that the Council had needed to adopt measures under Chapter VII. They stressed that if the Islamic Republic of Iran did suspend its activities the measures would be suspended and negotiations could resume, but if it did not then the Council would consider other measures under Article 41. A number of speakers noted that the sanctions were proportionate and reversible.

Several speakers also underlined that the right of all States to the peaceful use of nuclear energy needed to be respected and protected.<sup>66</sup> The representative of Qatar stressed that his country had “no suspicions concerning the sincerity of Iran’s intentions as regards the peaceful nature of its nuclear programme”. Calling on the Islamic Republic of Iran to respond to the draft resolution before the Council, he stressed that his delegation’s vote for the draft resolution was prompted by concerns over the safety of the nuclear facilities. He maintained that the potential benefits of cooperation with IAEA in guaranteeing nuclear safety could not be risked, particularly since the resolution would impede delivery of equipment necessary for the nuclear programme, which could have “dangerous repercussions for the nuclear safety issue”.<sup>67</sup>

The representative of the Russian Federation stated that the main thrust of the draft resolution was to support the activities of IAEA through the authority of the Council. He stressed that the restrictions being introduced on cooperation only applied to those areas that caused IAEA concern. His delegation firmly believed that cooperation with the Islamic Republic of Iran in areas that were not restricted by the draft resolution should not be subject to the draft resolution’s restrictions.<sup>68</sup> The representative of the United Republic of Tanzania agreed that the provisions of the draft resolution should not constrain other legal and commercial transactions that had no bearing on non-proliferation.<sup>69</sup>

The representatives of the Russian Federation and Argentina also maintained that an effective solution to the problem needed to be found within a political, diplomatic and legal framework and that the measures were taken in accordance with Article 41, which allowed no recourse to the use of force.<sup>70</sup>

The representative of the United States, noting that the Islamic Republic of Iran had continued to defy the international community, maintained that the draft resolution was clear and “not open to interpretation” on the fact that it would compel all Member States to take all measures necessary to deny equipment, technology, technical and financial assistance that would contribute to the enrichment, reprocessing, heavy water or nuclear-weapon delivery programmes of the Islamic Republic of Iran. He stressed that his Government would insist on “absolute adherence” to its requirements and would also take steps under domestic law to put in place appropriate measures against individuals and entities involved in the nuclear programme and call on other countries to follow suit.<sup>71</sup>

The representative of China commented that the Council could not handle this issue “single-handedly”, and that IAEA remained the principal mechanism for dealing with the issue. He said that diplomatic efforts outside the Council needed to be strengthened and called on all the parties concerned to adopt a constructive attitude, “remain calm, practise restraint, and refrain from taking any steps that would harm diplomatic efforts and lead to a deterioration of the situation”.<sup>72</sup>

The representative of the Islamic Republic of Iran, referring to recent statements made by Israel regarding its nuclear weapons, questioned the rationale of the Council in imposing sanctions on the Islamic Republic of Iran, which had “never attacked or threatened to use force” against any Member of the United Nations; had rejected the development of nuclear weapons on ideological grounds; was prepared to provide guarantees that it would never withdraw from the Non-Proliferation Treaty; had allowed IAEA inspections; had suspended its lawful enrichment activities for over two years and was ready to resume implementation of the Additional Protocol. He argued that the Council was obliged to respond to the “Israeli

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<sup>66</sup> S/PV.5612, p. 4 (Qatar); p. 7 (Japan); p. 8 (United Republic of Tanzania); and p. 8 (Argentina).

<sup>67</sup> *Ibid.*, p. 4.

<sup>68</sup> *Ibid.*, p. 2.

<sup>69</sup> *Ibid.*, p. 8.

<sup>70</sup> *Ibid.*, p. 2 (Russian Federation); and p. 8 (Argentina).

<sup>71</sup> *Ibid.*, pp. 3-4.

<sup>72</sup> *Ibid.*, pp. 7-8.

regime's unlawful possession of nuclear weapons" under Article 24 of the Charter. He said that finding solutions to the issue was never among the objectives of the resolutions proposed by "a few of [the Council's] permanent members, particularly the United States" as they had not seriously considered the proposals of the Islamic Republic of Iran, but were only trying to use the Council to "compel Iran to abandon its rights".<sup>73</sup>

The draft resolution was put to the vote and adopted unanimously by the Council as resolution 1737 (2006), by which the Council, acting under Chapter VII of the Charter,<sup>74</sup> *inter alia*:

Decided that the Islamic Republic of Iran should without further delay suspend its proliferation-sensitive nuclear activities;

Decided also that all States should take the necessary measures to prevent the supply, sale or transfer directly or indirectly from their territories of all items, materials, equipment, goods and technology which could contribute to the Islamic Republic of Iran's enrichment-related, reprocessing or heavy water-related activities;

Decided that all States should also take the necessary measures to prevent the provision to the Islamic Republic of Iran of any technical assistance or training, financial assistance, investment, brokering or other services, and the transfer of financial resources or services, related to the supply, sale, transfer, manufacture or use of the prohibited items, materials, equipment, goods and technology;

Decided that the Islamic Republic of Iran should not export any of the items in documents S/2006/814 and S/2006/815 and that all Member States should prohibit the procurement of such items from the Islamic Republic of Iran by their nationals;

Decided that the Islamic Republic of Iran should provide such access and cooperation as IAEA requested to be able to verify the suspension outlined in the resolution and to resolve all outstanding issues;

Decided that all States should freeze the funds, other financial assets and economic resources which were on their territories at the date of adoption of the resolution or at any time thereafter, that were owned or controlled by the persons or entities designated in the annex to the resolution, as well as those of additional persons or entities designated by the Council or by the Committee as being engaged in, directly associated with or providing support for the Islamic Republic of Iran's proliferation-sensitive nuclear activities;

Decided that technical cooperation provided to the Islamic Republic of Iran by IAEA or under its auspices should only be for food, agricultural, medical, safety or other humanitarian purposes;

Decided to establish a Committee of the Security Council to implement the resolution;

Requested within 60 days a report from the Director General of IAEA on whether the Islamic Republic of Iran had established full and sustained suspension of all activities mentioned in the resolution.

**Decision of 24 March 2007 (5647th meeting):  
resolution 1747 (2007)**

At its 5646th meeting, on 23 March 2007, the Council considered the item entitled "Briefing by the Chairman of the Security Council Committee established pursuant to resolution 1737 (2006)". In addition to the briefing by the Chairman of the Committee, a statement was made by the representative of the United States.

The Chairman stated that he had instructed the Committee not to resort to interpretations of resolution 1737 (2006), and to instead implement the resolution as worded and ensure that it was correctly implemented. He then provided an overview of the activities of the Committee.<sup>75</sup>

The representative of the United States expressed satisfaction that many Member States had submitted reports on their implementation of the sanctions measures, but expressed concern that some reports provided inadequate details on steps that had been taken to enforce or enact laws or regulations to implement resolution 1737 (2006). He stressed that it was essential for Member States to provide comprehensive descriptions of their actions to meet the obligations of the resolution. Moreover, he also expressed concern that about 70 per cent of Member States had not yet submitted their reports to the Committee.<sup>76</sup>

At the 5647th meeting, on 24 March 2007, the President (South Africa) drew the attention of the Council to a note by the President of the Council dated 22 February 2007,<sup>77</sup> transmitting the report of the Director General of IAEA, which stated that the Islamic Republic of Iran had continued its enrichment-

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<sup>73</sup> *Ibid.*, pp. 8-13.

<sup>74</sup> See also chap XI, part III, sect. A, with regard to measures imposed under Chapter VII of the Charter.

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<sup>75</sup> S/PV.5646, pp. 2-4.

<sup>76</sup> *Ibid.*, p. 4.

<sup>77</sup> S/2007/100.

related activities and that IAEA remained unable to report progress in its efforts to verify the past development of the nuclear programme and was therefore not able to provide assurances about the absence of undeclared nuclear material and activities in the Islamic Republic of Iran or about the exclusively peaceful nature of that programme.

At the meeting, statements were made by most members of the Council,<sup>78</sup> and the representative of the Islamic Republic of Iran.

Most speakers expressed regret that the Council had needed to impose new sanctions on the Islamic Republic of Iran and urged its Government to cooperate fully with IAEA so that the peaceful nature of the nuclear programme could be verified, while stressing the need to find a peaceful solution to the impasse. Emphasizing the importance of efforts to stop non-proliferation, they also expressed strong support for the Non-Proliferation Treaty and called on all States to adhere to it.

Several speakers emphasized that the inalienable right of signatory States to develop and have access to nuclear energy for peaceful purposes was a cornerstone of the Treaty.<sup>79</sup> Others noted the importance of working towards the eventual disarmament of all nuclear-weapon States,<sup>80</sup> or specifically called for the establishment of a nuclear-weapon-free zone in the Middle East.<sup>81</sup> Other speakers expressed concern that even after several years of investigation IAEA was still unable to provide the international community with the assurance it required with respect to the strictly peaceful nature of the programme and noted that questions that had military implications remained unanswered.<sup>82</sup>

Several representatives also stressed that the draft resolution before the Council did not introduce any change to the provisions of paragraph 15 of resolution

1737 (2006).<sup>83</sup> The asset freeze, therefore, did not prevent a person or an entity designated in the annexes to Security Council resolution 1737 (2006) and to the current draft resolution from making payments due under a contract that entered into force before that person or entity was listed in cases covered by paragraph 15.<sup>84</sup> The representative of the Russian Federation added that this meant that the activities authorized by the Security Council in the area of trade and economic cooperation could continue.<sup>85</sup>

The representatives of the Congo, Indonesia and China concurred that the vote should not be seen as a punitive measure and that the role of the Security Council was not to become an “instrument of coercion”. Rather, the draft resolution was a way to persuade the Government of the Islamic Republic of Iran to comply with previous resolutions and resolve outstanding issues with IAEA.<sup>86</sup>

The representative of South Africa stated that his delegation would vote in favour of the draft resolution although it was far from ideal. He believed that coercive measures such as sanctions should be utilized with great caution and only to support the resumption of political dialogue and negotiations. He criticized the sponsors of the draft resolution for acting as if the Government of the Islamic Republic of Iran itself posed a threat to international peace and security, whereas the question was whether the nuclear programme of the Islamic Republic of Iran was a threat. He added that South Africa had proposed a

<sup>78</sup> The representatives of Ghana, Italy and Peru did not make statements.

<sup>79</sup> S/PV.5647, p. 2 (Qatar); p. 3 (Congo); p. 4 (Indonesia); p. 7 (France); pp. 11-12 (China); p. 12 (Panama); and p. 13 (Slovakia).

<sup>80</sup> Ibid., p. 3 (Congo, Indonesia); and p. 5 (South Africa).

<sup>81</sup> Ibid., p. 2 (Qatar); and p. 4 (Indonesia).

<sup>82</sup> Ibid., p. 3 (Congo); p. 7 (France).

<sup>83</sup> Resolution 1737 (2006), paragraph 15 reads, “15.

*Decides* that the measures in paragraph 12 above shall not prevent a designated person or entity from making payment due under a contract entered into prior to the listing of such a person or entity, provided that the relevant States have determined that: (a) The contract is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in paragraphs 3, 4 and 6 above; (b) The payment is not directly or indirectly received by a person or entity designated pursuant to paragraph 12 above; and after notification by the relevant States to the Committee of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, ten working days prior to such authorization”.

<sup>84</sup> S/PV.5647, p. 7 (United Kingdom, France); p. 9 (United States); and p. 11 (Russian Federation, China).

<sup>85</sup> Ibid., p. 11.

<sup>86</sup> Ibid., p. 3 (Congo, Indonesia); and p. 11 (China).

number of constructive amendments to the draft resolution so that it would be “proportionate, incremental, and reversible” and was disappointed that all the proposals had not been accommodated.<sup>87</sup>

The representative of the United Kingdom read out the text of a joint statement of the Foreign Ministers of China, France, Germany, the Russian Federation, the United Kingdom and the United States that deplored the failure of the Islamic Republic of Iran to comply with the earlier resolutions of the Security Council and IAEA. It also reaffirmed the “suspension-for-suspension” proposal which stated that for the duration of negotiations the Islamic Republic of Iran would maintain an IAEA-verified suspension of uranium enrichment, simultaneous to which Security Council discussion of the nuclear programme and the implementations of the measures adopted under the relevant Council resolutions would also be suspended.<sup>88</sup>

The representatives of the United Kingdom and France maintained that by adopting the resolution, the Council continued its “incremental and proportionate” approach to the stance of the Islamic Republic of Iran.<sup>89</sup>

The representative of the United States stated that the measures being taken were not meant to punish the civilian population and were tailored to target institutions and individuals who supported the nuclear and missile programmes of the Islamic Republic of Iran. He rejected the claim of the leadership of the Islamic Republic of Iran that the Council had sought to deprive it of its right to peaceful nuclear energy and pointed out the proposal made in June 2006 to render assistance in the construction of civilian light-water nuclear power plants. He said that the rejection of that offer had sent a “deeply troubling” signal to the international community. Noting that the leadership of the Islamic Republic of Iran had called the Council “illegal”, he stressed that Article 25 of the Charter placed binding obligations on all Member States to carry out the decisions of the Council. He also noted that the calls by the Islamic Republic of Iran to have Israel “wiped off the map” were a violation of Article 2 of the Charter, which made clear that all Members

should refrain from the threat of force in international relations.<sup>90</sup>

The representative of the Russian Federation highlighted that the measures imposed under resolution 1747 (2007) had been imposed according to Article 41 of the Charter and therefore precluded the possibility of the use of force.<sup>91</sup> The representative of the Congo also stressed that the solution to the crisis needed to be found exclusively through dialogue, without any threats to use force.<sup>92</sup>

The representative of China stated that in handling the nuclear issue no action should deviate from the goal of safeguarding international non-proliferation mechanisms and maintaining peace and stability. It was also essential to keep the process on a path of dialogue and negotiation and insist on a peaceful solution. Therefore, it was important to reinforce diplomatic efforts outside the Security Council.<sup>93</sup>

In response, the representative of the Islamic Republic of Iran alleged that the Member States who had initiated the resolution had first “manipulated the Board of Governors” of IAEA and then taken advantage of their “power to pressure and manipulate the Security Council to adopt three unwarranted resolutions”, which were trying to deprive his nation of its “inalienable right” to develop nuclear technology for peaceful purposes. He also argued that his country’s peaceful nuclear programme posed no threat to international peace and security and therefore fell outside the Charter-based mandate of the Council. He noted that IAEA had stated in its report that all nuclear material inside the Islamic Republic of Iran had been accounted for, verified that none of the declared nuclear material had been diverted, and indicated that it had not seen any industrial capacity to produce weapon-usable nuclear material. Nonetheless, the Council was “punishing a country” that had fulfilled all its commitments under the Non-Proliferation Treaty and the IAEA safeguards. Moreover, the resolution departed “from the stated claims of its sponsors” by targeting defence, economic and educational

<sup>87</sup> Ibid., pp. 4-5.

<sup>88</sup> Ibid., pp. 5-6.

<sup>89</sup> Ibid., p. 7 (United Kingdom, France).

<sup>90</sup> Ibid., pp. 9-10. With regard to Article 25, see chap. XII, part II, sect. B, case 19; with regard to Article 2 (4), see chap. XII, part I, sect. B.

<sup>91</sup> Ibid., p. 11.

<sup>92</sup> Ibid., p. 3.

<sup>93</sup> Ibid., p. 11-12.



institutions, it was clearly pursuing objectives “far beyond Iran’s peaceful nuclear programme”. Finally, he reiterated that his country had always been ready for “time-bound and unconditional negotiations”, but that the only way forward was to “abandon unwise preconditions”, stressing that suspension was “neither an option nor a solution”.<sup>94</sup>

The President then drew the attention of the Council to a draft resolution submitted by France, Germany and the United Kingdom;<sup>95</sup> it was then put to the vote and adopted unanimously as resolution 1747 (2007), by which the Council, acting under Chapter VII of the Charter,<sup>96</sup> *inter alia*:

Decided that all States should notify the Committee of the entry into or transit through their territories of the persons designated in the annex I to the resolution 1737 (2006) or annex I to the resolution;

Decided that the measures specified in paragraphs 12, 13, 14 and 15 of resolution 1737 (2006) should apply also to the persons and entities listed in annex I to the resolution;

Decided that the Islamic Republic of Iran should not supply, sell or transfer directly or indirectly from its territory or by its nationals or using its flag vessels or aircraft any arms or related materiel, and that all States should prohibit the procurement of such items from the Islamic Republic of Iran by their nationals, or using their flag vessels or aircraft, and whether or not originating in the territory Islamic Republic of Iran;

Called upon all States and international financial institutions not to enter into new commitments for grants, financial assistance and concessional loans to the Government of the Islamic Republic of Iran, except for humanitarian and development purposes;

Called upon all States to report to the Committee within 60 days of the adoption of the resolution on the steps they had taken with a view to implementing effectively paragraphs 2, 4, 5, 6 and 7;

Requested within 60 days a further report from the Director General of IAEA on whether the Islamic Republic of Iran had established full and sustained suspension of all activities mentioned in resolution 1737 (2006), as well as on the process of Iranian compliance with all the steps required by the Board of Governors and with the other provisions of resolution 1737 (2006) and of the current resolution, to the Board and, in parallel, to the Council for its consideration.

<sup>94</sup> *Ibid.*, pp. 14-18.

<sup>95</sup> S/2007/170.

<sup>96</sup> See also, chap. XI, part III, sect. A, with regard to measures imposed under Chapter VII of the Charter.

At its 5702nd, 5743rd and 5807th meetings,<sup>97</sup> the Council considered the item entitled “Briefing by the Chairman of the Security Council Committee established pursuant to resolution 1737 (2006)”. At those meetings, statements were made by the representatives of the United States and Qatar.

In his briefing at the 5702nd meeting, the Chairman recalled that after his report of 24 March 2007, the Council had, by resolution 1747 (2007), imposed additional measures including a ban on arms export from the Islamic Republic of Iran, asset freeze and travel ban on additional individuals. The Chairman then provided an overview of the work of the Committee.<sup>98</sup>

At the same meeting, the representative of the United States referred the report of the Director General of IAEA to the Council confirming the failure of the Islamic Republic of Iran to suspend its uranium enrichment and heavy water-related activities, while limiting the access of IAEA to the Arak heavy water reactor. She reiterated the “generous offer” of China, France, Germany, the Russian Federation, the United Kingdom and the United States to the Islamic Republic of Iran. She cautioned that Member States should be prudent in applying exemptions to the asset freeze called for by the resolution.<sup>99</sup>

At the briefings at the 5743rd and 5807th meetings, the Chairman of the Committee provided overviews of the work of the Committee during that period.<sup>100</sup>

At those meetings, the representative of the United States reiterated his call on the Islamic Republic of Iran to change its confrontational course, suspend its proliferation-sensitive nuclear activities and cooperate fully and unconditionally with IAEA.<sup>101</sup>

At the 5807th meeting, the representative of the United States added that his Government endorsed the supply of enriched uranium by the Russian Federation to the nuclear power plant being constructed by the Islamic Republic of Iran in Bushehr, as it demonstrated that the Islamic Republic of Iran did not need to pursue

<sup>97</sup> Held on 21 June, 19 September and 18 December 2007, respectively.

<sup>98</sup> S/PV.5702, pp. 2-3.

<sup>99</sup> *Ibid.*, pp. 3-4.

<sup>100</sup> S/PV.5743, pp. 2-3; and S/PV.5807, p. 2.

<sup>101</sup> S/PV.5743, pp. 3-4; and S/PV.5807, p. 2.

uranium enrichment and other sensitive aspects of the nuclear fuel cycle to have access to nuclear power. He reiterated that the United States, the United Kingdom, France, China, the Russian Federation and Germany could offer the Islamic Republic of Iran assistance in the development of a civil nuclear power programme if it complied with the requirements of the Council.<sup>102</sup>

At the same meeting, the representative of Qatar commented that it was important that the Non-Proliferation Treaty was implemented for all States in the Middle East without selectivity or discrimination. He welcomed the work plan agreement of August 2007 between the Islamic Republic of Iran and IAEA regarding the IAEA safeguards regime and urged all parties to the debate to maintain restraint and not attempt to affect the independence of IAEA.<sup>103</sup>

### C. Non-proliferation/Democratic People's Republic of Korea

#### Initial proceedings

##### Decision of 14 October 2006 (5551st meeting): resolution 1718 (2006)

At the 5551st meeting, on 14 October 2006,<sup>104</sup> statements were made by the representatives of Argentina, China, France, Japan, the Russian Federation, the United Kingdom and the United States and the representatives of the Democratic People's Republic of Korea and the Republic of Korea. The President (Japan) drew the attention of the Council to a letter transmitting a statement by the spokesman of the Ministry of Foreign Affairs of the Democratic People's Republic of Korea.<sup>105</sup> In the letter, the spokesman stated that the underground nuclear test conducted on 9 October 2006 was a measure to bolster the self-defence capacity of the Democratic People's Republic of Korea and "was entirely attributable to the United States nuclear threat, sanctions and pressure". He complained that as soon as the Democratic People's

Republic of Korea, which had already pulled out of the Treaty on the Non-Proliferation of Nuclear Weapons, had declared that it had conducted a nuclear test "the United States manipulated the Security Council to issue a resolution pressurizing Pyongyang, an indication of the disturbing moves to impose collective sanctions upon it". Nonetheless, while the Democratic People's Republic of Korea had conducted the nuclear test, he declared that his country maintained its will to denuclearize the Korean peninsula through dialogue and negotiations. However, if the United States increased pressure upon the Democratic People's Republic of Korea, it would continue to take physical countermeasures, and consider it as a declaration of war. The President also drew attention to three letters dated 13 October 2006 from the representative of France,<sup>106</sup> transmitting lists of items, materials, equipment, goods and technology related to nuclear, ballistic missile and other weapons of mass destruction.

The President drew the attention of the Council to a draft resolution;<sup>107</sup> it was put to vote and adopted unanimously as resolution 1718 (2006), by which the Council, acting under Chapter VII of the Charter and taking measures under its Article 41:

Demanded that the Democratic People's Republic of Korea not conduct any further nuclear test or launch of a ballistic missile;

Demanded that the Democratic People's Republic of Korea immediately retract its announcement of withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons;

Decided that the Democratic People's Republic of Korea should suspend all activities related to its ballistic missile programme;

Decided that the Democratic People's Republic of Korea should abandon all nuclear weapons and existing nuclear programmes in a complete, verifiable and irreversible manner;

Decided also that the Democratic People's Republic of Korea should abandon all other existing weapons of mass destruction and ballistic missile programmes in a complete, verifiable and irreversible manner;

Decided to impose measures relating to the export or import from the Democratic People's Republic of Korea of certain goods and materials.

Most members of the Council welcomed the resolution and stressed the need to respond firmly and

<sup>102</sup> S/PV.5807, pp. 2-3.

<sup>103</sup> *Ibid.*, p. 3.

<sup>104</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 III, sect. B, with regard to Article 41; and chap. XI, part IX, sect. B, with regard to Article 51.

<sup>105</sup> S/2006/801.

<sup>106</sup> S/2006/814, S/2006/815 and S/2006/816.

<sup>107</sup> S/2006/805.