

- 21 For the U.S. position on the Practical Steps and Article VI, see J. Sherwood McGinnis, Deputy U.S. Representative to the Conference on Disarmament, Remarks to the Second Session of the Preparatory Committee for the 2005 Review Conference, Geneva, May 1, 2003. Online at <http://geneva.usmission.gov/press2003/0501NPTMcGinnis.htm>.
- 22 See David E. Sanger, "Month of Talks Fails to Bolster Nuclear Treaty," *New York Times*, May 28, 2005.
- 23 *Weapons of Terror*, pp. 63-64.
- 24 See Canada's working paper submitted to the 2005 NPT Review Conference, "Achieving Permanence with Accountability." May 17, 2005, NPT/CONF.2005/WP.39. This paper proposes annual meetings and a standing "bureau" composed of representatives of states parties. Online at <http://reaching-criticalwill.org/legal/npt/RevCon05/wp/WP39.pdf>.
- 25 See Jayantha Dhanapala with Randy Rydell, *Multilateral Diplomacy and the NPT: An Insider's Account*, United Nations Institute for Disarmament Research, Geneva, 2005, pp. 129-132.

### Section 1.3: The Role of the UN Security Council

- 1 *Weapons of Terror*, p. 182.
- 2 *Id.*, p. 54.
- 3 Article XII(3) of the CWC provides that in the case of prohibited activities, the Conference of the States Parties, "may recommend collective measures to States Parties in conformity with international law." The NPT and BWC have no such provision, but there is no doubt that review conferences or other meetings of states parties could call for states to apply sanctions. One obstacle to overcome would be the practice of consensus.
- 4 *Weapons of Terror*, p. 18.
- 5 See generally José E. Alvarez, *International Organizations as Law-Makers*, Oxford University Press, Oxford, 2005, pp. 184-217.
- 6 See *id.*
- 7 Regarding some of these cases, see *Weapons of Terror*, pp. 180-181.
- 8 *Id.*, pp. 63-64.
- 9 United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) was the second body established by the Security Council to verify Iraq's compliance with requirements of dismantling chemical and biological weapons and missile programs. Its fate remains to be determined by the Security Council.
- 10 See Michael Spies and John Burroughs, "Commentary on Security Council Resolution 1696 on Iran," Lawyers' Committee on Nuclear Policy, New York, July 31, 2006, online at <http://lcnp.org/disarmament/iran/UNSCres-jul06.htm>; John Burroughs, "The Iran Situation: Options for the Security Council," Lawyers' Committee on Nuclear Policy, New York, May 2, 2006, online at <http://lcnp.org/disarmament/iran/remarks-may2.htm>.
- 11 Arms Control Association, "Hans Blix Reports on WMD Dangers and Solutions," June 7, 2006. Online at [http://www.armscontrol.org/events/20060607\\_Blix\\_WMDC\\_Transcript.asp](http://www.armscontrol.org/events/20060607_Blix_WMDC_Transcript.asp).
- 12 International Court of Justice, "Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding

- Security Council Resolution 276, Advisory Opinion of June 21, 1971,” *ICJ Reports*, 1971.
- 13 Security Council Resolution 1695 (2006), July 15, 2006.
- 14 Security Council Resolution 1696 (2006), July 13, 2006.
- 15 See Michael Spies, “Iran and the Role of the Security Council,” Lawyers’ Committee on Nuclear Policy, New York, March 8, 2007. Online at <http://lcnp.org/disarmament/iran/Iran-UNSC.pdf>.
- 16 See *id.*
- 17 Article 26 provides that the Security Council is to be assisted in developing plans for regulation of armaments by a Military Staff Committee. For an explanation of how that committee become non-functional, see Felicity Hill, “The Military Staff Committee: A Possible Future Role in UN Peace Operations?” Global Policy Forum. Online at <http://www.globalpolicy.org/security/peacekpg/reform/2001/msc.htm>. The UN Charter also gives the General Assembly the role of making recommendations regarding “disarmament and the regulation of armaments” (Article 11). Unlike the Council, the Assembly has fulfilled that role through resolutions that have initiated treaty negotiations on control or elimination of a wide range of weapons.
- 18 *Weapons of Terror*, p. 181.
- 19 For suggestions on how governments could implement resolution 1540 in ways reaching both non-proliferation and disarmament objectives, see Alyn Ware, “International Ju-Jitsu: Using United Nations Security Council Resolution 1540 to advance nuclear disarmament,” Lawyers’ Committee on Nuclear Policy, New York, July 2004, online at [http://www.lcnp.org/disarmament/Ju-Jitsu\\_UNSC1540.pdf](http://www.lcnp.org/disarmament/Ju-Jitsu_UNSC1540.pdf). For example, Ware advocates that states apply laws pertaining to acquisition and trafficking in NBC weapon-related items to both non-state and state actors.
- 20 *Weapons of Terror*, p. 57.
- 21 Lars Olberg, “Implementing Resolution 1540: What the National Reports Indicate,” *Disarmament Diplomacy No. 86*, Spring 2006. (“*Olberg*”). Online at <http://www.acronym.org.uk/dd/dd82/82lo.htm>.
- 22 *Weapons of Terror*, p. 55.
- 23 *Olberg*; see also Merav Datan, “Security Council Resolution 1540: WMD and non-State trafficking,” *Disarmament Diplomacy No. 79*, April/May 2005. (“*Datan*”). Online at <http://www.acronym.org.uk/dd/dd79/79md.htm>.
- 24 Security Council Resolution 1267 (1999), October 15, 1999.
- 25 Article 13(1) of the Charter provides that the General Assembly shall “make recommendations for the purpose of (a) promoting international cooperation in the political field and *encouraging the progressive development of international law and its codification*” (emphasis supplied). The Assembly often adopts resolutions that call upon member states, for example in the Conference on Disarmament, to negotiate multilateral treaties.
- 26 Eric Rosand, “The Security Council as ‘Global Legislator’: Ultra Vires or Ultra Innovative?” *28 Fordham International Law Journal*, February 2005, pp. 542, 544.
- 27 See *Datan*.
- 28 Axel Marschik, “IILJ Working Paper 2005/18: The Security Council as World Legislator?: Theory, Practice, and Consequences of an Expanding World Power,” Institute for International Law and Justice, New York, 2005. Online at

<http://www.iilj.org/papers/2005.18Marschik.htm>. Marschik believes that states have subsequently consented and acquiesced in resolution 1373, but reserves judgment regarding resolution 1540.

- 29 See *Olberg*. See also Olivia Bosch and Peter van Ham, eds., *Global Non-Proliferation and Counter-Terrorism: The Impact of UNSCR 1540*, Brookings Institution Press, Washington, D.C., 2007, pp. 211-212.

## Section 1.4: The Breakdown of Disarmament Machinery

- 1 “CD/1693/Rev.1: Initiative of the Ambassadors Dembri, Lint, Reyes, Salander and Vega (“A5 Proposal”),” Proposal of a Programme of Work at the Conference on Disarmament, Geneva, September 5, 2003. Online at <http://reachingcriticalwill.org/political/cd/A5.pdf>.
- 2 “CD/2007/L.1: Initiative of the 2007 CD Presidents: South Africa, Spain, Sri Lanka, Sweden, Switzerland, and Syria (“2007 P6”),” Presidential Draft Decision at the Conference on Disarmament, Geneva, March 23, 2007. Online at <http://www.reachingcriticalwill.org/political/cd/papers07/L1.pdf>.
- 3 Ambassador Christina Rocca, “The P6 proposal for continuing work in the CD in 2007,” Statement to the Conference on Disarmament, Geneva, March 23, 2007. Online at <http://www.reachingcriticalwill.org/political/cd/speeches07/1session/Mar23US.pdf>.
- 4 See Paul Meyer, “The Conference on Disarmament: Getting Back to Business,” *Arms Control Today*, December 2006.
- 5 The U.S. is unlikely to support any amendments referring to negotiations on PAROS, and on March 27, 2007 France said that while it would not oppose the proposal as it stands, it would oppose it if any changes were made to the mandates for nuclear disarmament or NSAs.
- 6 Nicole Deller, Arjun Makhijani, and John Burroughs, eds., *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties*, The Apex Press, New York, 2003, pp. 94-95.
- 7 Stephen Rademaker, U.S. Acting Assistant Secretary, Bureau of International Security and Nonproliferation, “Confronting Today’s Threats,” Statement to the First Committee of the General Assembly, United Nations, New York, October 3, 2005. Online at <http://www.reachingcriticalwill.org/political/1com/1com05/statements/us3oct.doc>.
- 8 Highly enriched uranium refers to uranium enriched to the concentration of 20% or above of the fissile isotope uranium-235. Other fissile isotopes include uranium-233, neptunium-237, and americium-241. Most of the world’s nuclear power reactors operate on low enriched uranium. Uranium enriched to reactor grade is not considered usable in nuclear weapons. Plutonium, any type of which is considered weapons-usable, does not exist in nature and is produced in nuclear reactors as a by-product (*see section 3.1*). See International Panel on Fissile Materials, *Global Fissile Materials Report 2006*, Princeton University, Princeton, NJ, 2006, pp. 6-10. Online at [http://www.fissilematerials.org/ipfm/site\\_down/ipfmreport06.pdf](http://www.fissilematerials.org/ipfm/site_down/ipfmreport06.pdf).
- 9 *Weapons of Terror*, p. 103.
- 10 UN General Assembly Resolution GA/48/75L, December 16, 1993.
- 11 Ambassador Gerald E. Shannon, “Consultations on the Most Appropriate Arrangement to Negotiate a Treaty Banning the Production of Fissile Material