

**2010 Moscow Nonproliferation Conference
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**“UNSC Resolution 1540 and the Non-Proliferation Regime”
Statement by Ambassador Claude Heller
Chairman of the UNSC 1540 Committee**

Mr. Chairman, Distinguished Participants,

I would like to thank the Center for Energy and Security Studies and the co-sponsors for providing the 1540 Committee with an opportunity to participate in this important conference as the parties to the Nuclear Non-Proliferation Treaty (NPT) approach the 2010 Review Conference. I will focus my introductory remarks on the significance of Security Council resolution 1540 (2004) in strengthening the non-proliferation regime in broad sense applicable not only the nuclear weapons but also to chemical and biological weapons and the means of delivery for all weapons of mass destruction. The status of the resolution within the non-proliferation regime is stated in its preamble and spelled out in its operative paragraphs.

Let me outline the main features of resolution 1540. First, the Security Council, acting under Chapter VII of the UN Charter, affirmed that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to peace and security. In this context it reaffirmed the statement made by the President of the Council at a Heads of State and Government meeting in January 1992, including the need for Member States to fulfill their obligations in relation to arms control and disarmament, and to prevent proliferation in all its aspects of all weapons of mass destruction. Consequently, the Council was resolved to take appropriate and effective action against any threat to international peace and security caused by the proliferation of weapons of mass destruction and their means of delivery.

Second, the Council focused particular attention on the threat of terrorism and the risk that non-state actors may acquire, develop, traffic in or develop or use weapons of mass destruction and their means of delivery.

Third, the Council expressed grave concern at the threat of illicit trafficking in nuclear, chemical and biological weapons and their means of delivery, and related materials, which it recognized as adding a new dimension to the issue of proliferation of such weapons, which also poses a threat to international peace and security.

Fourth, the Council recognized the binding legal obligations and other commitments made by most States under existing treaties but it also stressed the urgent need to all States to take additional effective measures to prevent the proliferation of weapons of mass destruction and their means of delivery and to combat threats caused by terrorist acts.

Resolution 1540 (2004) complements existing non-proliferation obligations of States: it promotes the universal adoption and full implementation of multilateral treaties to which they are parties, and it renews and fulfills the commitments of Member States concerning international cooperation within the framework of relevant international organizations, in particular the IAEA and the OPCW.

How does resolution 1540 complement the existing legal obligations and seek to strengthen to non-proliferation regime, for example in the nuclear area? Before addressing this issue, let me explain the nature of the threat.

Nobody doubts that today there are few greater threats to international security than a terrorist attack with weapons of mass destruction. The catastrophic and ruthless terrorist attacks of 9/11 and, the impact of the lethal

mailed anthrax to selected targets, were the culmination of almost a decade of terrorist acts. Such incidents were the best testimony that terrorists would not hesitate to use even the most deadly weapons if they acquired them.

Indeed, the revelation of the A.Q. Khan nuclear black market illustrated that illicit trafficking is a slippery slope and that non-state actors, including terrorists, might have access to the most sensitive WMD knowhow and hardware. It is for this reason that after a breakthroughs of the 1990s in strengthening the nuclear and chemical arms control and disarmament regimes after the end of the Cold War, it became necessary to address the new threats from non-state actors.

The risks and threats associated with nuclear terrorism remain significant despite the many measures taken by States, and these threats may be increasing. In November 2009, the outgoing Director General of the IAEA mentioned in his speech to the United Nations General Assembly that the IAEA Illicit Trafficking Database for 2008 alone had reported more than 200 incidents of illicit trafficking and unauthorized activities.

The response of the Security Council in 2004 was threefold, as prescribed in operative paragraphs 1, 2 and 3 of Security Council resolution 1540 (2004). First, as international legal instruments mostly restrict the activities of States towards other States, resolution 1540 (2004) focused on the threat posed by non-State actors, thereby closing a gap in international law by explicitly prohibiting States from providing any support for proliferation-related activities to such actors and by preventing the latter from engaging in such illicit activities themselves (operative paragraph 1). Second, resolution 1540 established binding obligations on all States, in accordance with their national procedures, to “adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for

terrorist purposes” (operative paragraph 2). Third, in order to address issues of illicit trafficking or other illicit activities, the resolution required all States to adopt measures to establish domestic controls to prevent the proliferation of such weapons, including by establishing appropriate controls over related materials. These measures are to (a) account for and secure, and (b) physically protect WMD-related materials as well as to (c) develop border and law enforcement efforts and (d) establish export and trans-shipment controls over such items (operative paragraph 3).

Leaving the details of implementation to a subsequent presentation, I would like to conclude these opening remarks by emphasizing one point: that the obligations under resolution 1540 do not conflict with and are not meant to alter the rights and obligations of State Parties to existing international instruments on disarmament and non-proliferation or to hamper in any way international cooperation and trade of materials, equipment and technology for peaceful purposes. In this sense, those obligations and the measures adopted by States to implement them are an integral part of the larger non-proliferation architecture.

Thank you for your attention.