

COUNTER-PROLIFERATION AND THE ROLE OF THE UNITED NATIONS SECURITY COUNCIL by Jayantha Dhanapala

Abstract

This paper seeks to trace the origins of the concept and strategy of Counter-proliferation from within the US Department of Defence during the Clinton Administration, through to its development, after 9/11, into a global strategy in the counter-terrorism context implemented both through the UN Security Council and outside such as through the Proliferation Security Initiative (PSI). Some major powers, who themselves maintain nuclear arsenals, have viewed traditional methods of containing and reversing the spread of WMD possession to other states and non-state actors as ineffective. They have, therefore, opted for a more aggressive non-proliferation campaign backed by military means and the international legitimacy of the Security Council through the January 1992 Presidential Statement and Resolution 1540. The sustainability of this policy, after the disproving of the WMD rationale for the 2003 invasion of Iraq and its difficult implementation in the face of complex issues like the DPRK and Iran, is examined. The paper concludes with some recommendations for the international community.

A. The Origins of Counter-proliferation

The expansion of the number of nation states likely to possess weapons of mass destruction (WMD) - that is nuclear, biological and chemical weapons - through non-compliance with the existing treaty regimes has been perceived as a grave threat to international peace and security for almost two decades. It compounds an already serious threat posed by the existing arsenals of nuclear weapons, estimated at 27,000, among the acknowledged five nuclear weapon states within the Treaty for the Non-proliferation of Nuclear Weapons (NPT) and the three outside the NPT, and the absence of any serious nuclear disarmament. Additionally, since September 11, 2001, when the diabolically awesome power and global reach of non-state actors was demonstrated in the attacks on targets in the USA, the international community has been preoccupied with the danger of WMD proliferation to non-state actors pursuing terrorist strategies and goals.

The cumulative effect of these threats is to increase the risk of the actual use of WMD significantly and render the Cold War rationale of deterrence irrelevant. The traditional constraints of a co-operative, rule-based world order are political and legal. Thus the barriers against WMD proliferation have been the treaty regimes of the NPT, the Biological Weapons Convention (BWC), the Chemical Weapons Convention (CWC) and, to a lesser extent, the Comprehensive Nuclear-Test-Ban Treaty (CTBT) which has still not entered into force but remains an influential norm. These barriers have weaknesses:

- the lack of universality of treaty regimes;
- the right of sovereign states to withdraw from treaties as the Democratic People's Republic of Korea (DPRK) withdrew from the NPT;
- the lack or inadequacy of verification of compliance with treaties;

- actual instances of non-compliance as with Iraq, Libya and DPRK with respect to the NPT and continuing concerns over Iran's compliance with the safeguards agreement it signed with the IAEA and, finally,
- the absence of enforcement mechanisms.

In addition to global treaty regimes export control regimes, both national and plurilateral, have been in operation for several years together with technology denial regimes which ensure that dual technology is not freely available. The lack of universality and the inadequate enforcement measures have exposed their limitations. The A.Q.Khan network of clandestine sales of nuclear technology and expertise illustrated clearly that a black-market existed despite export control regimes.

Another constraint against proliferation is the Co-operative Threat Reduction (CTR) programme originating in the Nunn-Lugar legislation in the US Senate. In the immediate aftermath of the end of the Cold War and the dissolution of the USSR there was a fear of "loose nukes". Thus the US legislation provided incentives to Russian nuclear scientists after the end of the Cold War so as to prevent their services being procured together with funding for the safeguarding of nuclear materials and technology against theft. Despite enhanced financing of the CTR by the G8 countries there can be no assurances that leakage does not take place.

The frailty of the treaty and export control regimes as an effective barrier against proliferation and sanctions as a penalty has led some states to look for other means that are more result-oriented. At an early stage the trend was towards ad hoc measures such as the negotiation and adoption of the Additional Protocol by the IAEA when Iraq was discovered, after the first Gulf War, to be in non-compliance with its NPT obligations. Still later when the DPRK's non-compliance was reported to the Security Council the Agreed Framework was negotiated outside the Security Council. Finally, when India and Pakistan detonated nuclear devices in 1998, Security Council Resolution 1172 was adopted. The condemnation and hortatory language contained in it have now been ignored and a nuclear co-operation agreement between the US and India is about to be concluded. This inconsistency exposes the conflicting demands of realpolitik versus adherence to the norm of non-proliferation and misguided efforts to draw distinctions between 'good proliferators' like India and 'bad proliferators' like DPRK. Proliferators like South Africa actually destroyed their nuclear devices to join the NPT as a non-nuclear-weapon state. Belarus, Kazakhstan and Ukraine sent back the nuclear weapons on their territory to Russia and affirmed their non nuclear weapon status under the Lisbon Protocol.¹

Despite all this, a more aggressive effort to contain proliferation has been advocated even if it was for selective application. In the UN context, the justification for this was the 31 January 1992 Security Council Presidential Statement after a summit level meeting which stated that "the proliferation of all weapons of mass destruction constitutes a threat to international peace and security".² Ironically it is the 'proliferation' of WMD that is considered a threat and not the WMD per se! This set the stage for Security Council

action under Chapter 7 to punish proliferators as and when necessary although achieving consensus among the permanent five would not be easy.

Counter-proliferation represents the most aggressive policy of containing proliferation. It was adopted by Israel when it bombed Iraq's Osirak reactor in 1981 and gradually entered US policy where a readiness to use armed force to prevent proliferation becoming a threat to US interests emerged. The culmination of this policy was in 2003 when the US with a group of allies invaded Iraq on the basis that the Iraqi regime had WMD. This action, without Security Council approval, has been the subject of fierce controversy especially after it was revealed that no WMD existed in Iraq at the time. Counter-proliferation as a policy against nation states must however be distinguished from a similar policy against non-state actors.

The concept of aggressive counter-measures against proliferation originated in the administration of President George H.W. Bush. However, the actual use of the term "counterproliferation" began in the US Department of Defence (USDOD) during the first Clinton Presidency to describe the enforcement of non-proliferation by military means where proliferation threatened the security interests of the US. This policy was crafted by Defense Secretary Les Aspin as a response to the challenge of proliferation. The book 'Preventive Defence' co-authored by William Perry and Ashton Carter, both of whom were in the USDOD at the time, provides the rationale for counter-proliferation measures.³ In a Washington Post op-ed article on June 22, 2006 the two authors called for a pre-emptive strike against the Taepodong missile launch pad in the DPRK.⁴

B. Counter-proliferation in the post 9/11 context

The terrorist attacks of September 11, 2001 in the US are indisputably a watershed in global terrorism and political violence. They shocked the world into a realization, inter alia, that the tragedy could have been infinitely worse had WMD been used. WMD terrorism predated 9/11 and the 1995 use of sarin gas in the Tokyo subway was one example. Evidence has surfaced of groups such as Al-Qaeda seeking WMD. Counter-proliferation as a strategy against nation-states began to be adopted more vigorously as a policy against non-state actors and those states that gave them shelter and support. The administration of US President George W. Bush, already pursuing a neo-conservative hawkish agenda, seized upon this opportunity.

(1)The National Security Strategy of 17 September 2002⁵ - provided for counterproliferation and pre-emptive strikes in disregard of the conventional interpretation of the right to self-defence contained in Article 51 of the UN Charter. It stated specifically: "Our comprehensive strategy to combat WMD includes:

- Proactive counterproliferation efforts. We must deter and defend against the threat before it is unleashed. We must ensure that key capabilities—detection, active and passive defenses, and counterforce capabilities—are integrated into our defense transformation and our homeland security systems. Counterproliferation must also be integrated into the doctrine, training, and equipping of our forces and those of

our allies to ensure that we can prevail in any conflict with WMD-armed adversaries." Later on it continued "To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively". The Bush Administration strategy rested on three pillars:

- Prevention involving efforts to keep WMD and related materials and delivery systems from terrorists or so-called 'rogue' states.
- Protection or counterproliferation measures with capabilities to deter, detect, defend against and defeat WMD already possessed by terrorists or 'rogue' states.
- Consequence management - meaning the reduction of as much or as many consequences of WMD attacks at home or abroad as possible

In 1998, the Clinton Administration had bombed the Al-Shifa pharmaceutical factory in Sudan on the dubious grounds that it was linked with terrorists. After 9/11 the hunt for signs of WMD terrorism was intensified. The 'war on terrorism' launched by the US had counter-proliferation as an important component. In the same way as human rights became a casualty in the assault on terrorists, international law was also ignored, or re-interpreted, in the pursuit of counterproliferation after 9/11. Apart from the international legal arguments, in an article entitled "Preemption Paradox" in the July/August 2006 issue of the Bulletin of the Atomic Scientists, Bennett Ramberg analyses why the example of Osirak was not repeated and concludes that "surgical military strikes can only buy time" and that "preemption is no easy solution".⁶

(2)The Proliferation Security Initiative (PSI) - was one pro-active response to combating the proliferation of WMD both by states as well as non-state actors. It was also aimed at both suppliers and recipients of illicit WMD materials and their delivery systems. The PSI was conceived and pursued outside the framework of the UN. It was formally launched in a speech in Krakow, Poland in May 2003 by President Bush. Initially driven by 11 countries it was expanded to include many more including Russia and developing countries like Libya. The Statement of Interdiction Principles⁷ clearly empowers states to use their national resources to interdict and seize, by force if necessary, shipments of goods believed to be part of illicit WMD programmes. The PSI was initially greeted with scepticism. Its inconsistency with international law, lack of transparency, extra-UN location, lack of a treaty base and selective application driven by political predilections were among the concerns expressed. A Congressional Research document of October 1, 2003 expressed doubts that current international law provided the authority for action contemplated under the PSI.⁸ The expansion of the participants in the PSI and the fact that promises have been made to ensure that its implementation will be consistent with international law, has greatly reduced the initial scepticism of this counterproliferation initiative. China remains outside the PSI along with several other countries. It remains an example of how counterproliferation and counter-terrorism have been amalgamated in a robust plurilateral initiative. We have, however, still to see evidence of its successful implementation. It has been suggested that PSI could implement the commitments of countries under Security Council Resolution 1540.⁹

(3) The UN - While counterproliferation remains identified as a unilateral measure or one that is implemented by a 'coalition of the willing', the UN, with its aura of legitimacy and universality, has also moved to act more purposefully against the threat of WMD terrorism. A policy-working group within the UN Secretariat submitted its report in June 2002 with general recommendations on how the UN could combat terrorism.¹⁰ Specifically on WMD terrorism, it recommended -

- ◆ strengthening the technical capabilities of the IAEA, the OPCW and the WHO to provide assistance to states in the event of the use of WMD;
- ◆ arrangements to develop and maintain adequate civil defence capabilities;
- ◆ the creation of codes of conduct for scientists aimed at preventing their involvement in terrorist activities and the restriction of public access to expertise on the development, production, stockpiling and use of WMD.

Significantly there were no robust measures similar to counterproliferation that were recommended.

In the General Assembly, which had unanimously condemned the 9/11 attacks, action on defining terrorism continued to be the subject of debate. The High Level Panel, appointed by the Secretary-General to assess current threats to international peace and security, addressed the issue of WMD proliferation and terrorism in paras 135-138 of its report.¹¹ Again the recommendations made avoided any reference to counter-proliferation or similar robust measures. The Secretary-General in his report of March 2005 warned of 'catastrophic terrorism' and recommended a series of measures including the conclusion of an international convention for the suppression of nuclear terrorism.¹² This was finally accomplished on 13 April 2005 when the General Assembly adopted an international treaty against nuclear terrorism by consensus. In June 2005 a Counter-terrorism Implementation Task Force was established with a view to enhancing coordination with various UN entities and beyond, and 24 entities are represented as of May 2007.

The General Assembly's 2005 World Summit Outcome Document, while failing to agree on disarmament issues, strongly condemned terrorism as "one of the most serious threats to international peace and security".¹³ At the same time it recognized that "international cooperation to fight terrorism must be conducted in conformity with international law". Another section of the Outcome Document, relevant to our discussion on counterproliferation, is the conclusion on the use of force under the Charter which basically reiterated Article 2.4 of the Charter. More importantly the Document considered "the relevant provisions of the Charter are sufficient to address the full range of threats to international peace and security". Consequently no expansion of the powers of the UN was considered necessary to combat either WMD proliferation or WMD terrorism or both.

In September 2006, the General Assembly, in its resolution A/60/288, formally adopted a Counter- terrorism Strategy for the UN. The Plan of Action annexed to the resolution has many aspects relevant to the potential use of WMD by terrorists. Specifically, –

- in Part II paragraph 5 there is reference to strengthening co-ordination and co-operation among states in combating crimes connected with terrorism including “smuggling of nuclear, chemical, biological, radiological and other potentially deadly materials”;
- paragraph 11 “invites the UN system to develop a single, comprehensive database on biological incidents” and a roster of experts and laboratories;
- paragraph 13 calls for stepping up national and international efforts to prevent and detect illicit traffic in nuclear, chemical, biological and radiological weapons and materials:
- paragraph 17 calls for co-coordinating the UN system’s response to WMD attacks by terrorists to help affected states; and, finally,
- In Part III there are calls on the IAEA, OPCW and WHO to continue efforts in capacity building measures for states to prevent access to WMD and to prepare for situations of WMD use.

C. The role of the Security Council 1992-2007

(1) Iraq - The Security Council played a major role in the disarmament of Iraq's WMD based on resolution S/RES/687 and other subsequent resolutions. UNSCOM and IAEA are credited with destroying more WMD of Iraq than the Gulf war did. UNMOVIC was similarly authorized by the Security Council to continue its task of eliminating WMD in Iraq - a task that was abruptly halted by the unilateral invasion of 2003. This can be seen as a strong counter-measure against WMD proliferation and has been discussed in many books and articles such as Hans Blix's "Disarming Iraq" (Bloomsbury: London, 2004) and Tom Kono's Chapter in "Arms Control after Iraq" (eds. Sidhu and Thakur, UNU Press, 2006).¹⁴ The divergence in the interests of the permanent five members of the Security Council and its impact on the work of the UNSCOM, UNMOVIC and IAEA has been well documented and will not be examined in this paper.

(2) The Presidential Statement of January 1992 - As stated earlier, the January 1992 Presidential Statement in the Security Council, arising out of the discovery of clandestine Iraqi programmes and identifying WMD proliferation as a threat to international peace and security, has become the foundation of its subsequent actions. These, ostensibly norm-based actions, are of course undermined by the general scepticism with which a body - where five nuclear weapon states hold veto power as permanent members - is viewed. Those who view proliferation as two dimensional - horizontal and vertical - remain concerned that the Security Council has taken no action on nuclear disarmament. As Ramesh Thakur stated in an op-ed in the “Hindu” of 11 May, 2007 - "If nuclear weapons did not exist, they could not proliferate. Because they do, they will". The unmet demands for the reform of the Security Council to make it more representative of modern global power realities adds to the legitimacy deficit of the Council.

(3) Resolution 1373 - Notwithstanding this, the Security Council has undoubtedly been the engine room where much of the action on combating terrorism in general and WMD terrorism in particular has been taken. Within three weeks of 9/11 the Council adopted

Resolution 1373 under Chapter VII unanimously. Operative paragraph 4 of the resolution noted with concern the close connection between international terrorism and "the illegal movement of nuclear, chemical, biological and other potentially deadly material" calling for intensified co-ordination of efforts at all levels to strengthen the global response to this threat to international peace and security. Thus the twin objectives of counter-terrorism and counterproliferation against WMD acquisition were conflated. The Resolution also established the Counter Terrorism Committee (CTC) to ensure and monitor the implementation of Resolution 1373. The speed of the adoption of this resolution and its wide sweep vesting so much power in the Security Council, is a contrast to its more usual fractious and dilatory conduct. Clearly there was a mutual interest on the part of the permanent five members to wrest the initiative from the General Assembly and to dominate the UN role in counter-terrorism and counterproliferation. Subsequent resolutions such as resolution 1535 have sought to revitalize the CTC establishing an Executive Directorate. A meeting held in May 2003 with the IAEA, OPCW and others participating was seen as an information-sharing exercise adding little to what was already being done in preventing terrorists from acquiring WMD.

(4) Resolution 1540 - Perhaps the need to focus more sharply on counterproliferation measures to prevent terrorists - and states allegedly supporting or harbouring them - from acquiring WMD, led eventually to the adoption, also under Chapter VII, of Security Council Resolution 1540 on 28 April, 2004. This resolution also established a Committee to ensure and monitor its implementation the mandate of which has now been extended to 2008.¹⁵ The resolution acts as a comprehensive ban on support to non-state actors in the development or acquisition of WMD. It is a call to all states to adopt measures for the safe custody of WMD materials and more proactive measures to prevent proliferation. This resolution empowers the Security Council to act decisively on WMD terrorism and provides a mechanism to coordinate action within the UN system and with member states. While counterproliferation measures per se are not advocated or envisaged, it leaves the door open for the Security Council to take such enforcement measures if agreement can be reached among the P5 and the other non-permanent members. One way in which PSI measures are being introduced subtly is via the DPRK sanctions resolution S/RES/1718 which provides for 'co-operative action including through inspection of cargo to and from the DPRK, as necessary'. Since non-state actors can both be recipients and suppliers of WMD materials the resolution does act as a brake on proliferation to both states and non-state actors.

The actual implementation of Resolution 1540 indicates that a number of states have still not got the necessary national legislation in place and that all the obligations under the Resolution have not been fulfilled. The record is hardly inspiring. The November/December 2006 issue of *The Bulletin of the Atomic Scientists* commented editorially that "It's a curious state of affairs when a trafficker in nuclear technology gets less jail time than a corrupt businessman or a prolific spammer". It added that "According to a study by the Center for Nonproliferation Studies at the Monterey Institute of International Studies, out of the dozens of businessmen, agents, and scientists around the world with alleged ties to the Khan network, only three have been convicted and served

time". UNSCOM records of the mainly Western companies that supplied material and technology to Iraq for its clandestine WMD programme, remain a closely guarded secret and there is no evidence that any prosecutions were launched in their countries.

The Resolution does fill the gap in the global non-proliferation regime by addressing non-state actors. It is also applicable to all states irrespective of whether they are parties to the NPT, CWC or BWC or belong to the export control regimes like the Nuclear Suppliers Group (NSG) or the Missile Technology Control Regime (MTCR). The offer of assistance to states to strengthen their capacity to meet their obligations under the resolution is an important aspect of the resolution. It has been argued that some form of prioritization should exist in having states fulfill their obligations under the resolution. For example countries with nuclear facilities must obviously be regarded as more prone to risk from non-state actors than those who do not have such facilities. The assessment of how states have fulfilled their obligations is also a very subjective exercise entrusted to the Committee. In sum, while resolution 1540 safeguards the international community from WMD terrorism it must depend on the political will of individual states to ensure this through political and legal means without resorting to counterproliferation measures using military force.

D. Conclusion

Counterproliferation, as a unilateral measure or a step taken by a coalition of the willing involving military action, is likely to cause more complications than solve problems. The chain of events triggered off by the invasion of Iraq in 2003 with the elimination of WMD as the stated *casus belli*, provides lessons for us all. The Security Council, the primary body of the UN entrusted with the maintenance of international peace and security, must ensure that it follows the Charter. The non-use of force in international relations must therefore act as a normative restraint. The only use of force permitted - apart from self-defence under Article 51 - is the collective use of force sanctioned by the Security Council under Article 42. Thus counterproliferation, as an enforcement measure using the entire range of military means, should be approved by the entire Council and that too after all other peaceful measures are exhausted. The only world order that will be acceptable to all, is one that is based on the rule of law and a set of equitable norms in which all states co-operate.

A wide range of peaceful measures is already available to the international community to prevent WMD proliferation by states and non-state actors. Such preventive action places populations at a much lower risk than if pre-emptive action of a military nature is attempted to destroy WMD-capable sites. Existing treaty regimes can be strengthened and loopholes plugged. More intrusive verification measures, such as the 'challenge inspection' concept in the CWC, can be introduced. In the NPT, accepting the IAEA's Additional Protocol could be made mandatory before the benefits of peaceful nuclear energy are made available to states parties. The 13 steps contained in the Final Document of the 2000 NPT Review Conference can also help minimize the risk of nuclear

proliferation. The universalization of the BWC and CWC is vital. Finally missile proliferation must also be addressed in a treaty regime.

The report of the Swedish Government sponsored Weapons of Mass Destruction Commission (WMDC) chaired by Dr. Hans Blix was published in June 2006.¹⁶ It reaffirmed the system of multilateral treaties in a rule-based global order. The political costs of violating treaty obligations deter most countries. Verification processes are becoming more sophisticated through improved technology and more intrusive but national intelligence agencies must share information available with international inspection agencies. Recommendation 57 of the WMDC emphasizes that international legal obligations regarding WMD must be enforced but only after credible investigation and authoritative finding of non-compliance.

The final recommendation of the WMDC -Recommendation 60 - deserves to be quoted in full. It states "The United Nations Security Council should make greater use of its potential to reduce and eliminate threats of weapons of mass destruction - whether they are linked to existing arsenals, proliferation or terrorists. It should take up for consideration any withdrawal from or breach of an obligation not to acquire weapons of mass destruction. Making use of its authority under the Charter to take decisions with binding effect for all members, the Council may, inter alia:

- require individual states to accept effective and comprehensive monitoring, inspection and verification;
- require member states to enact legislation to secure global implementation of specific rules or measures; and
- decide, as instance of last resort, on the use of economic or military enforcement measures.

Before UN reform has made the Security Council more representative of the UN membership, it is especially important that binding decisions should be preceded by effective consultations to ensure that they are supported by the membership of the UN and will be accepted and respected."

The report of the International Commission on Intervention and State Sovereignty published in December 2001 helped to clarify what was hitherto vaguely and controversially referred as "humanitarian intervention".¹⁷ The classic political science concept of "State Sovereignty" was expanded to include responsibilities with the primary responsibility of the state being the protection of its people. The Commission stated as a basic principle that "Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect". The Commission however prescribed steps for the exercise of this international responsibility by citing the UN Charter and the need for Security Council authority. It is the view of the writer that the purposes for which the 'responsibility to protect' principle can be applied could include the prevention of proliferation and terrorist threats from WMD.

All states guard their sovereignty jealously. The sensitivity of nation states recently emerged from colonialism over state sovereignty is especially acute. However, in an interdependent world many state functions have to be co-ordinated at a global level to increase efficiency. This is as true of international peace and security as it is of fundamental human rights. Thus in the Outcome Document of the Heads of State and Government following the UN General Assembly Summit in 2005 there was agreement contained in paragraph 139 which stated: -

"The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out."

This is the agreement at the Summit level. We have now to ensure its consistent practice. It would be a confirmation that international peace and security is indivisible. WMD threats impact directly on human security affecting all countries. Counter measures against WMD proliferation must therefore be implemented by the Security Council alone, or after Security Council authorisation, to eliminate a WMD threat from states or non-state actors in exercise of the responsibility to protect principle. We must progress at the same time to eliminate all WMD possession itself from all countries as the surest guarantee against WMD proliferation.

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¹ Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Lisbon on May 23, 1992.

² "Note by the President of the Security Council", 31 January 1992, UN Doc. S/23500.

³ Ashton B. Carter and William J. Perry, *Preventive Defense: A New Security Strategy for America* (Washington, D.C.: Brookings Institution Press, 1999).

⁴ Ashton B. Carter and William J. Perry, "If Necessary, Strike and Destroy: North Korea cannot be allowed to test this missile," *The Washington Post*, June 22, 2006.

⁵ The National Security Strategy of the United States of America, The White House, Washington, D.C., 17 September 2002.

⁶ Bennett Ramberg, "Preemption Paradox", *Bulletin of the Atomic Science*, Vol. 62, No. 4, July/August 2006.

⁷ See "Fact Sheet, Proliferation Security Initiative, Statement of Interdiction Principles," Office of the Press Secretary, The White House, Washington, D.C., September 4, 2003.

⁸ Jennifer K. Elsea, "Weapons of Mass Destruction Counterproliferation: Legal Issues for Ships and Aircraft," *CRS Report for Congress*, Congressional Research Service, Washington, D.C., October 1, 2003.

⁹ Operative paragraph 10 of Security Council resolution provides that (the Security Council) *calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking of nuclear, chemical or biological weapons, their means of delivery and related materials.* UN Doc. S/RES/1540 (2004).

¹⁰ "Report of the Policy Working Group on the United Nations and Terrorism," UN Doc. Annex to A/57/273 and S/2002/875.

¹¹ "A More Secure World: Our Shared Responsibility," Report of the Secretary-General's High-level Panel on Threats, Challenges and Change, contained in the "Note from the Secretary-General", 2 December 2004, UN Doc. A/59/565.

¹² "In Larger Freedom: towards development, security and human rights for all", Report of the Secretary-General, 21 March 2005, UN Doc. A/59/2005

¹³ "2005 World Summit Outcome" Resolution adopted by the General Assembly, 24 October 2005, UN Doc. A/RES/60/1.

¹⁴ Hans Blix, *Disarming Iraq: The Search for Weapons of Mass Destruction* (New York: Pantheon Books, 2004; London: Bloomsbury, 2005 – an updated edition with a new chapter). Tsutomu Kono, "The Security Council's Role in addressing WMD issues: Assessment and outlook," in *Arms Control After Iraq: Normative and Operational Challenges*, edited by Waheguru Pal Singh Sidhu and Ramesh Thakur (Tokyo: UNU Press, 2006).

¹⁵ Security Council resolution 1673 (2006)

¹⁶ *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms*, Final report of the Weapons of Mass Destruction Commission, Stockholm, Sweden, 1 June 2006.

¹⁷ "Responsibility to Protect", Report of the International Commission on Intervention and State Sovereignty, published by the International Development Research Centre, Ottawa, 2001