



Security Council

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 12 December 2005 from the Permanent Mission of Viet Nam to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1540 (2004) and, with reference to the letter of the Chairman of the Committee dated 10 October 2005, has the honour to transmit to the Committee additional information relating to Viet Nam's report on the implementation of Security Council resolution 1540 (2004) (see annex).

**Annex to the note verbale dated 12 December 2005 from the
Permanent Mission of Viet Nam to the United Nations addressed to
the Chairman of the Committee**

**ADDITIONAL INFORMATION RELATED
TO VIET NAM'S FIRST COUNTRY REPORT ON
THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1540 (2004)***

With regard to the request raised in the letter dated 10 October 2005 from the Chairman of the Security Council Committee established pursuant to Resolution 1540 (2004) to the Permanent Representative of Viet Nam to the United Nations (New York), Viet Nam would like to provide the Committee with the following additional information:

1. Viet Nam agrees that the Committee may use and include the official public data, which was provided by Viet Nam to the IAEA, in the matrix attached to the above-mentioned letter.

2. Viet Nam would like to provide additional information on national legislations and regulations to prohibit the proliferation of weapons of mass destruction, related materials and their means of delivery in accordance with UNSC Resolution 1540 and at the request mentioned on the second page of the said letter of the Chairman of the UNSC Committee established pursuant to UNSC Resolution 1540 as follows:

In Viet Nam, all kinds of weapons are controlled by the State. Individuals are not permitted to possess and use weapons, except for sport and hunting guns. Individuals who wish to possess and use sport and hunting guns are required to register their guns with competent agencies. Weapons, and their related materials (including weapons of mass destruction) are categorized as special goods and their production, acquisition, transport and trade are prohibited. Besides legislations and regulations applicable to all types of weapons, other regulations were also issued in Viet Nam to control weapons of mass destruction, including their related materials.

(i) Nuclear weapons and related materials

- On 16 July 1998, the Vietnamese Government issued Decree No. 50/1998/ND-CP for the implementation of the 1996 Ordinance on Radioactive Safety and Control.

- On 28 December 1999, the Ministry of Science and Technology and the Ministry of Public Health issued Inter-Agency Circular No. 2237/1999/TTLT/BKHCMNT-BYT on the radioactive safety in the health sector.

- On 11 May 2001, the Vietnamese Government issued Decree No. 19/2001/ND-CP on administrative penalties for activities violating regulations on radioactive safety and control.

* The text of laws and regulations is on file with the Secretariat and is available for consultation.

- The Vietnamese Ministry of Science and Technology has updated the database on domestic radioactive sources using E-RAIS software, which was developed from RAIS provided by the IAEA.

- Export control is mainly carried out by the General Department of Customs. However, radioactive/nuclear materials are controlled by the Ordinance on Radioactive Safety and Control, and an agreement between the Ministry of Science and Technology and the General Department of Customs. This type of goods can only be cleared by the General Department of Customs upon the permission of the Ministry of Science and Technology.

- At present, the Ministry of Science and Technology is in the process of drafting a law on nuclear energy, which is expected to be passed by the National Assembly in 2007. This draft law is aimed at consolidating measures to ensure safety, development of nuclear energy for peaceful purposes and to prohibit any acts to use nuclear energy for other purposes harmful to other states, legitimate rights and interests of organizations and individuals, as well as to the human being and the natural environment.

- The Ministry of Science and Technology is currently drafting a Circular on Registration and Licensing for Radioactive Possession, Use and Development.

- The Ministry of Science and Technology is studying a proposal to be submitted to the Government for acceding to the IAEA's Code of Conduct on the Safety and Security of Radioactive Sources. Meanwhile, it is noteworthy that most of the requirements for radioactive safety and control specified in the said IAEA's Code of Conduct are being applied in Viet Nam as provided for in the Ordinance on Radioactive Safety and Control.

(ii) Chemical weapons and related materials

On 3 August 2005, the Vietnamese Government issued Decree No. 100/2005/ND-CP on the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, according to which all forms of development, production, acquisition, stockpiling and use of chemical weapons, export and import of chemical weapons; participation in military acts using chemical weapons; supporting, encouraging or inducing organizations or individuals to participate in any acts banned by the Convention on Chemical Weapons are prohibited. Manufacturing, exporting and importing chemicals shall fully comply with this Decree. The Decree also stipulates penalties on violations. (This Decree has been translated into English. Please find a copy attached herewith for your information).

(iii) Biological weapons and related materials

On 26 August 2005, the Prime Minister signed Decision No. 212/2005/QĐ-TTg issuing Regulation for Bio-safety Control of Genetic Modified Organs (GMO) and GMO-based products. In order to protect human health, environment and biodiversity, this Regulation stipulates that the state shall supervise and control bio-safety of the following activities: scientific research, technology development, experiment, production, trade, use, exports, imports, storage, transport, risk assessment

and management of genetic modified organs and GMO-based products, and grant bio-safety certification for those organs and products.

According to provisions of the existing laws, all acts relating to the proliferation of nuclear, chemical and biological weapons, including their related materials are prohibited and penalized as mentioned in Para 2.(i); 2.(ii) and 2.(iii) above. The implementation of the said regulations are strengthened and enforced by related provisions of the Penal Code of 1999. A number of related articles are cited as examples.

It should also be noted once again that Vietnamese law stipulates that weapons and related materials are considered banned goods and violations are subject to penalties, including criminal penalties.

Article 155. *"Offence on manufacturing, stockpiling, transporting and/or trading of banned goods*

1. Those who manufacture, stockpile, transport and/or trade in goods banned from business by the State in great quantity, gain great illicit profits or who have been administratively sanctioned for acts defined in this Article or Articles 153, 154, 156, 157, 158, 159 and 161 of this Code or have already sentenced for one of these offenses, not yet entitled to criminal record remission but repeat their violations, if not falling under the cases stipulated in Articles 193, 194, 195, 196, 230, 232, 233, 236 and 238 of this Code, shall be subject to a fine of between five million VND and fifty million VND or a prison term of between six months and five years of imprisonment.

2. Committing offences in one of the following circumstances, the offenders shall be sentenced to between three and ten years of imprisonment:

- a. In an organized manner;*
- b. Abusing positions and/or powers;*
- c. Abusing the names of agencies or organizations;*
- d. Being of professional character;*
- e. Goods involved in the offense are in very great quantity or gaining very great illicit profits;*
- f. Serious recidivism.*

3. Offences with particularly great quantity of illicit goods or illicit earnings shall be subject to eight to ten years of imprisonment.

4. The offenders may also be subject to a fine of between three million dong and thirty million dong and may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years".

Article 236. *"Offence on illegally producing, stockpiling, transporting, using, trading in and /or appropriating radioactive substances*

1. Those who illegally produce, stockpile, transport, use, trade in and or appropriate radioactive substances shall be sentenced to between two and seven years of imprisonment.

2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between five to twelve years of imprisonment:

- a) In an organized manner;
- b) The objects involved in the offence are in great quantity;
- c) Conducting cross-border transport and/or trading;
- d) Causing serious consequences;
- e) Dangerous recidivism.

3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between ten and fifteen years of imprisonment:

- a) The objects involved in the offence are in very great quantity;
- b) Causing very serious consequences;

4. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between fifteen and twenty years of imprisonment or life imprisonment:

- a) The objects involved in the offence are in particularly great quantity;
- b) Causing particularly serious consequences;

5. The offenders may also be subject to a fine of between five million VND and fifty million VND, probation or residence ban for one to five years.”

Article 237. “Offence on breaching regulations relating to the management of radioactive substances

1. Those who violate the regulations relating to the management of the production, supply, use, preservation, storage, transport and/or trading of radioactive substances, which may actually entail serious consequences if not warded off in time, shall be subject to non-custodial reform for up to three years or a prison term of between six months and three years.

2. Committing the crime and causing the loss of lives or damage to the health of other persons, the offenders shall be sentenced to between three and ten years of imprisonment.

3. Committing the crime and causing very serious consequences, the offenders shall be sentenced to between seven and fifteen years of imprisonment.

4. Committing the crime and causing particularly serious consequences, the offenders shall be sentenced to between fifteen and twenty years of imprisonment.

5. The offenders may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years”.

Article 238. *“Offence on illegally producing, stockpiling, transport, using, trading in inflammables, toxins*

1. Those who illegally produce, stockpile, transport, use, trade in and/or trade in inflammables and/or toxins shall be sentenced to between one and five years of imprisonment.

2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between three and ten years of imprisonment:

- a) In an organized manner;*
- b) The objects involved in the offence are in great quantity;*
- c) Conducting cross-border transport and/or trading;*
- d) Causing serious consequences;*
- e) Dangerous recidivism.*

3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between seven and fifteen years of imprisonment:

- a) The objects involved in the offence are in very great quantity;*
- b) Causing very serious consequences;*

4. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between fifteen and twenty years of imprisonment or life imprisonment:

- a) The objects involved in the offence are in particularly great quantity;*
- b) Causing particularly serious consequences;*

5. The offenders may also be subject to a fine of between five million VND and fifty million VND, probation or residence ban for one to five years”.

Article 239: *“Offence on Breaching regulations relating to the management of inflammables, toxins*

1. Those who violate the regulations relating to the management of the production, supply, use, preservation, storage, transport or trading of inflammables and/or toxins, causing the loss of lives or serious damage to the health and/or property of other persons shall be sentenced to between one and five years of imprisonment.

2. Committing the crime and causing serious consequences, the offenders shall be sentenced to between three and ten years of imprisonment.

3. Committing the crime and causing particularly serious consequences, the offenders shall be sentenced to between seven and fifteen years imprisonment.

4. The offenders may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years”.

3. Viet Nam strictly observes the international treaties on the prohibition of the proliferation of weapons of mass destruction to which Viet Nam is a party. On 14 June 2005, the National Assembly of Viet Nam passed a Law on Signing, Acceding to and Implementing International Treaties. According to the provisions of this Law, the Socialist Republic of Viet Nam complies with international treaties to which Viet Nam is a party. In case, the implementation of an international treaty requires amendments, supplements, abrogation or promulgation of domestic legislatures, the competent authority (National Assembly, State President or Government) who decides that Viet Nam can be a party to that treaty also recommends amendments, supplements, abrogation or promulgation of domestic legislatures for the implementation of that treaty.

4. Viet Nam reaffirms its consistent position to strongly support disarmament and non-proliferation, non-production, non-development and non-use of weapons of mass destruction of any type and their means of delivery. Viet Nam is strongly committed not to supplying any kind of assistance to non-state actors who attempt to develop, acquire, produce, possess, trade, transfer or use nuclear, chemical or biological weapons and their means of delivery.

5. It can be said that the related laws, regulations and measures implemented by Viet Nam are resulting in positive outcomes and effects in weapon management and utilization. So far, there has not been any act of transferring weapons by non-state actors in Viet Nam. Viet Nam will continue to perfect the related legal system so as to ensure firmly that weapons available in Viet Nam are used for the right purpose of safeguarding sovereignty, territorial integrity, national security and social order and do not fall into the hand of non-state actors and criminals.

6. According to the information provided in Viet Nam's first Country Report on the Implementation of UNSC Resolution 1540 (2004) and this additional information, sub-item 2 under Column Title "Did you make one of the following statements or is your country a State Party to or Member State of one of the following Conventions, Treaties and arrangements ?" on page 1 of the matrix (about general statement on commitment to disarmament and non-proliferation) should be marked with "Yes" and "?" (question marks) should be replaced by "Yes" in any sub-item under Column Title: "Does national legislation exist which prohibits persons or entities to engage in one of the following activities ?"; "Can violators be penalized ?" from page 2 to page 4 of the matrix. The sub-items under Column Title: "Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect ..." weapons of mass destruction and "can violators be penalized?", as well other relevant Column Titles from page 5 to page 17 of the matrix should be marked with "Yes".

On this occasion, Viet Nam also would like to reaffirm one issue which is in line with international law, that it is the organizations established to implement international treaties on weapons of mass destruction or other mechanisms stipulated by these treaties (e.g. the periodical conference of the state parties to international treaties) that have the competence to review the implementation of obligations provided in treaties by state parties; and therefore, it can be understood that the matrix designed by the Committee mainly serves as an administrative tool of the Committee.

7. Viet Nam is willing to provide the Committee with related legal documents, at the same time, the Committee is welcome to provide financial support for the translation of those documents into English. The General Department of Customs of Viet Nam wishes to be provided with advanced equipments (such as cameras, detectors...) to strengthen activities of controlling and overseeing goods; and special training for detecting, identifying and controlling weapons of mass destruction and their related materials.
