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Note verbale dated 19 February 2008 from the Permanent Mission of Montenegro to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Montenegro to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to transmit herewith the first report of Montenegro on the implementation of Security Council resolution 1540 (2004) (see annex).

**Annex to the note verbale dated 19 February 2008 from the
Permanent Mission of Montenegro to the United Nations
addressed to the Chairman of the Committee**

**Report of Montenegro on the implementation of United Nations
Security Council resolution 1540**

Montenegro is dedicated in its efforts to achieve the goals set out in numerous treaties and arrangements in the field of arms control and the prevention of proliferation of weapons of mass destruction.

The Government of Montenegro is aware of the importance of reporting and verification mechanisms in trust building. Thus, after it gained its independence in 2006, Montenegro continued to fulfill its obligations arising from various instruments which were in force during the existence of the previous State Union.

Montenegro has been a Partner of NATO's "Partnership for Peace" Programme for over a year, and in 2007 the Government signed the Stabilization and Association Agreement with the European Union.

The fact that the Government of Montenegro attaches great importance to Euro-Atlantic integration has as a consequence, and also as an initial idea of Government, undertaken implementation to high standards in various fields, including arms control.

**Operative paragraphs of United Nations
Security Council resolution 1540**

Operative paragraph 1

**Montenegro as a Party to Weapons of Mass Destruction
Non-Proliferation Instruments**

Montenegro is a Party to major **multilateral arms regulations and Disarmament Agreements**:

1. Treaty on the Non-Proliferation of Nuclear Weapons — NPT

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was signed by the Socialist Federal Republic of Yugoslavia in 1968 and ratified in 1970, on which occasion the Government made a Statement, explaining its interpretation of the essence and the importance of the Treaty.

Montenegro assumed the rights and obligations under this Treaty by the Successor Statement of 3 June 2006.

The Montenegrin Government has decided to sign an agreement with the IAEA on the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, Additional Protocol, and Small Quantities Protocol, and the letter on this issue was sent to the Director General of the IAEA.

2. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC)

The Socialist Federal Republic of Yugoslavia acceded to the Biological Weapons Convention (BWC) in 1972 and ratified it in 1973. In the Successor Statement of 3 June 2006, Montenegro assumed the rights and obligations under this Convention.

3. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)

Following the succession of Montenegro to the Chemical Weapons Convention (CWC) on 23 October 2006, the Government, in fulfilling the obligations of the country under the Convention, established a National Authority for the implementation of the Convention. The National Authority has fulfilled its first obligation by submitting the Initial Declaration to the Organisation for the Prohibition of Chemical Weapons (OPCW).

4. Comprehensive Nuclear-Test-Ban Treaty

Montenegro deposited the Successor Statement on 23 October 2006.

5. Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil Thereof

Montenegro assumed the rights and obligations under this Treaty by the Successor Statement of 3 June 2006.

6. Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies

Montenegro assumed the rights and obligations under this Treaty by the Successor Statement of 3 June 2006.

Montenegro is a Party to the following international protocols and conventions in **the field of counter-terrorism**:

1. 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft,
2. 1970 Convention for the Suppression of Unlawful Seizure of Aircraft,
3. 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation,
4. 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents,
5. 1979 International Convention against the Taking of Hostages,
6. 1979 Convention on the Physical Protection of Nuclear Material,
7. 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,
8. 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation,

9. 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf,
10. 1997 International Convention for the Suppression of Terrorist Bombings,
11. 1999 International Convention for the Suppression of the Financing of Terrorism, and
12. International Convention for the Suppression of Acts of Nuclear Terrorism (in the Successor Statement of 23 October 2006, Montenegro succeeded to the signature).¹

Montenegro has also signed the **Declaration on Implementation of the World Customs Organization (WCO) 2005 Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework)**.

On 24 October 2006 Montenegro became a Member of the World Customs Organization. Having in mind the importance of the WCO's 2005 Framework of Standards to Secure and Facilitate Global Trade, the Customs Department has submitted to the Secretary-General of the WCO a letter of intention concerning implementation of the Framework. As a consequence, the Secretariat of the WCO has forwarded to the Customs Department a Questionnaire for the Self-evaluation in order to start the Columbus program of assistance. After the Questionnaire was filled and submitted, a WCO delegation visited Montenegro. On the basis of this so-called diagnostic mission of the WCO, the Final report on the measures which must be taken for the acceleration of the implementation of the Framework Standards will be drafted. In due course, these measures would contribute to the implementation of operative paragraph 3 concerning border controls.

Operative paragraph 2

The Law on Foreign Trade in Arms, Military Equipment and Dual-Use Items (Article 5) provides for prohibitions in respect of non-State actors and reads as follows: "Foreign trade, transport, transfer, possession or use of nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, shall be prohibited to any non-State actor".

Criminal Law of Montenegro ("*Official Gazette of the Republic of Montenegro*" no. 70/2003, and *Correction*, no. 13/2004) contains provisions whose aim is to prohibit non-State actors to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

The Criminal Code defines the following criminal offenses: terrorism, international terrorism, terrorism financing, as well as other related criminal offenses: assassination of the highest state officials, causing general danger, endangering safety by nuclear substances, endangering security of air transport.

¹ Montenegro has deposited instruments of succession to the Convention for the Suppression of Unlawful Seizure of Aircraft, to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, and to the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation deposited with the United Kingdom.

The Criminal Procedure Code regulates the authorities and actions of the police, it specifies the register of search-related actions that the police undertakes, as well as the authority of the police to undertake anti-terrorist checks.

The following offences are contained in the provisions of the Criminal Code:

– **Article 313, Bringing dangerous substances into Montenegro**

“(1) Anyone who, by not adhering to regulations, brings into Montenegro radioactive or other dangerous substances or dangerous waste materials, or who transports such substances over the territory of Montenegro, shall be liable to imprisonment for a maximum term not exceeding three years.

(2) Anyone who by abusing her/his position or authority allows or makes it possible for substances and waste materials referred to in Paragraph 1 of this Article to be brought into Montenegro, or transports the above mentioned substances over the territory of Montenegro, shall be punished by an imprisonment sentence of six months to five years.

(3) Anyone who organizes acts referred to in Paragraph 1 of this Article shall be punished by an imprisonment sentence of one year to eight years.

(4) An attempted offence as of Paragraph 1 of this Article shall be punished.”

– **Article 314, Unlawful processing, taking away and storing of dangerous substances**

“(1) Anyone who contrary to regulations processes, takes away, collects, stores or transports radioactive or other dangerous substances or dangerous waste materials, shall be liable to imprisonment for a maximum term not exceeding three years.

(2) Anyone who by abusing his/her official status or authority allows or makes possible processing, taking away, collecting, storing or transport of substances or waste materials referred to in Paragraph 1 of this Article, shall be liable to imprisonment of six months to five years.

(3) If due to acts as of Paragraphs 1 and 2 of this Article, animal or plant life is destroyed to a large extent or the environment polluted to such an extent that a longer period or major expenses are needed to remove its consequences, the offender shall be liable to imprisonment of one to eight years.

(4) An attempted offence as of Paragraph 1 of this Article shall be punished.

(5) If a suspended sentence is pronounced for acts referred to in Paragraphs 1 to 4 of this article, a court may oblige the offender to take particular measures prescribed for protection from ionizing radiation or other prescribed protection measures within a specified time limit.”

According to the Regulation on the Organization and Way of Conduct of State Administration and other related regulations, the Ministry of Tourism and Environmental Protection, the Ministry of Health, Labour and Social Welfare and the Ministry of Interior Affairs and Public Administration are competent authorities for the issuance of licences for the shipments and import of radioactive materials and dangerous goods.

– **Article 315, Unlawful construction of nuclear plants**

“Anyone who contrary to regulations allows or starts construction of a nuclear power plant, plants for production of nuclear fuel or plants for processing of used nuclear waste, shall be punished by an imprisonment sentence of six months to five years.”

– **Article 335, Unauthorized handling of explosive and inflammable material**

“(1) Anyone who contrary to regulations stores, keeps, transports or hands over for transport by public traffic means explosive or easily inflammable material or transports such material by him/herself using a public transport means, shall be liable to a fine or imprisonment for a term not exceeding one year.

(2) Sentence referred to in paragraph 1 of this Article shall also be imposed upon anyone who unlawfully brings explosive or easily inflammable material into a premise or some other building which is the venue of gathering of a larger number of people or brings such material into a place where a large number of people gathers or where such gathering is forthcoming.

(3) Anyone who brings into a pit with methane or other inflammable gas or dangerous carbon dust or brings into a building at an oil or gas field or tries to bring easily inflammable substance or other goods whose bringing into such a pit or building is dangerous, shall be punished by an imprisonment sentence of three months to three years.

(4) Sentence referred to in paragraph 3 of this Article shall also be imposed on anyone who when entering a storehouse, warehouse or a storeroom with explosive material does not adhere to prescribed protection measure.

(5) If an act as of paragraphs 3 and 4 of this Article is done out of negligence, the offender shall be liable to a fine or imprisonment for a term not exceeding one year.”

– **Article 336, Unlawful acquisition and disposing of nuclear substances**

“Anyone who unlawfully acquires, possesses, uses, transports, hands over to another nuclear substances or makes it possible for another to acquire them, shall be liable to imprisonment for a term not exceeding three years.”

– **Article 337, Endangering safety with nuclear substances**

“(1) Anyone who threatens to use a nuclear substance to endanger the safety of people, shall be punished by an imprisonment sentence of six months to five years.

(2) If an act as of paragraph 1 of this Article is done with the intention to compel somebody into doing or not doing something, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(3) If a perpetrator commits an act referred to in paragraphs 1 and 2 of this Article through threats due to which a heavy bodily injury is inflicted or property damaged to a large extent, the offender shall be punished by an imprisonment sentence of two to ten years.

(4) If an offender as of paragraphs 1 and 2 of this Article pronounced threats due to which one or more persons died, the offender shall be punished by an imprisonment sentence of three to fifteen years.”

– **Article 338, Grave offences against general safety**

“(1) If due to acts referred to in Articles 327, paragraphs 1 to 3, 328, paragraphs 1 and 2, 329, paragraphs 1 and 2, 330, paragraph 1, and Article 333 of the present Code a heavy bodily injury is inflicted upon a person or large scale property damage is done, the perpetrator shall be punished by an imprisonment sentence of one to eight years.

(2) If due to acts referred to in Articles 327, paragraphs 1 to 3, 328, paragraphs 1 and 2, 329, paragraphs 1 and 2, 330, paragraph 1 and Article 333 of the present Code one or more persons died, the offender shall be punished by an imprisonment sentence ranging of two to twelve years.

(3) If due to acts referred to in Articles 327, paragraph 4, 328, paragraphs 3 and 4, 329, paragraph 3, and Article 330, paragraph 2 of the present Code a heavy bodily injury of a person is caused or property damaged to a large extent, the offender shall be punished by imprisonment for a term not exceeding three years.

(4) If as a result of acts referred to in Articles 327, paragraph 4, 328, paragraphs 3 and 4, 329, paragraph 3, and Article 330, paragraph 2 of the present Code one or more persons died, the offender shall be punished by an imprisonment sentence of one to eight years.”

– **Article 365, Terrorism**

Anyone who, with the intention of endangering the constitutional order and security of Montenegro causes explosion or fire or undertakes other dangerous measures or kidnaps a person, or commits another act of violence or threats to undertake some dangerous action or to use nuclear, chemical, bacteriological or other dangerous substance and whereby may cause fear or feeling of insecurity of citizens shall be punished by imprisonment for a term of three to fifteen years.

– **Article 447, International terrorism**

(1) Anyone who, with the intention of causing harm to a foreign state or organization commits abduction of a person or other act of violence, causes explosion or fire or takes other generally dangerous acts or threats by use of nuclear, chemical, bacteriological or other similar means, shall be punished by imprisonment for a term of three to fifteen years.

(2) If an offence referred to in paragraph 1 of this Article resulted in death of one or more persons, the offender shall be punished by imprisonment for a term of five to fifteen years.

(3) If in the commission of crime referred to in paragraph 1 of this Article the offender has committed murder, the offender shall be liable to imprisonment for a minimum term of ten years or to imprisonment of thirty years.

– **Article 448, Taking hostages**

(1) Anyone who commits abduction of a person or threatens to kill that person, or hurt or keep that person as hostage with the intention of forcing a state or international organization to do or not to do something, shall be punished by imprisonment for a term of two to ten years.

(2) The offender referred to in paragraph 1 of this Article who frees the hostage of his own free will, although the purpose of the abduction has not been reached, can be liable to a reduced sentence.

(3) If an offence referred to in paragraph 1 of this Article resulted in death of the hostage, the offender shall be punished by imprisonment for a term of three to fifteen years.

(4) If during the commission of offences referred to in paragraph 1 of this Article, the offender committed murder of the hostage, the offender shall be liable to imprisonment for a minimum term of ten years or a prison sentence of thirty years.

– Article 449, Financing of terrorism

(1) Anyone who provides or raises funds intended for financing of criminal offences referred to in Articles 447 to 448 of the present Code, shall be liable to imprisonment for a term of one year to ten years.

(2) Funds referred to in paragraph 1 of this Article shall be seized.

The Law on the Prevention of Money Laundering and Financing Terrorism (*Official Gazette of the Montenegro*, No. 14/07) provides for measures and actions to be applied by all banks and other financial institutions, postal savings banks, the National Bank, Accounts and Payments Agency, insurance organizations, stock exchanges, brokers and all other entities dealing with monetary transactions. Violations of this Law are punishable with high fines and imprisonment (1 to 8 years).

With a view to preventing suspicious financial transactions, Montenegro passed the Law on the Prevention of Money-Laundering and the pertinent sub-legal acts necessary for its implementation. In addition, the Administration for the Prevention of Money-Laundering was established and it represents the financial intelligence agency of an administrative type. This status was further detailed and formalized with the signing of the cooperation agreement with the Police Administration, the Customs Administration, the Tax Administration, and the Central Bank of Montenegro, the Securities and Exchange Commission, and the basic courts. The requisite international cooperation was supported by cooperation agreements with financial intelligence agencies in the region that provide detailed accounts of the method of exchange of financial intelligence between the financial intelligence in the region and further. The efforts and work of the Administration for the Prevention of Money-Laundering have been internationally verified by full membership of the Egmont Group, the international association of financial intelligence units. Representatives of the Administration participate in the work of all Egmont working groups which, in addition to a simplified and safe exchange of information, contribute to sharing the latest achievements and practices in the organization of the fight against money-laundering and terrorism financing. In its work, the Administration for the Prevention of Money-Laundering is governed by standards set forth in EU Directives and Council of Europe and OSCE recommendations.

Operative paragraph 3 (a) and (b)

The following regulations concerning production, use, storage and transport of dangerous goods are in force in Montenegro:

- Law on the Transport of Dangerous Goods, *Official Gazette of Montenegro*, No. 05/08, adopted on 23 January 2008;
- Law on Foreign Trade, *Official Gazette of Montenegro*, No. 28/2004;
- Law on Environmental Protection, *Official Gazette of Montenegro*, Nos. 12/96-1, 55/00 and 80/05;
- Customs Law of the Republic of Montenegro, *Official Gazette of the Republic of Montenegro*, No. 73/03;
- Law on Explosive Materials, Inflammable Liquids and Gases, *Official Gazette of the Socialist Republic of Montenegro*, Nos. 44/76, 49/79, 34/86, 11/88 and 29/89;

All Federal Laws adopted in the Socialist Federal Republic of Yugoslavia, Federal Republic of Yugoslavia and State Union Serbia and Montenegro remained in force after Montenegro gained independence; their enforcement, however, was transferred onto the competent authorities of Montenegro.

- Law on the Crossing of the State Border and the Movement in the Border Area, *Official Gazette of the SFRY*, Nos. 34/79, 56/80 and 53/85 and the *Official Gazette of the FRY*, Nos. 24/94, 28/96 and 68/2002;
- Law on the Production and Trade in Arms and Military Equipment, *Official Gazette of the FRY*, Nos. 7/2005 and 8/2005;
- Law on the Transport of Explosive Materials, *Official Gazette of the SFRY*, No. 30/85;
- Regulation on the Transport of Arms and Military Equipment, *Official Gazette of the FRY*, No. 49/97;
- Rules on the Manner of Transport of Dangerous Goods in Road Traffic, *Official Gazette of the SFRY*, No. 82/90;
- Rules on the Manner of Transport of Dangerous Goods in Maritime Traffic and in Traffic on Inland Waterways, *Official Gazette of the FRY*, No. 12/97;
- Law on the Protection of the Population against Infectious Diseases that Pose a Threat to the Entire Country, *Official Gazette of the FRY*, Nos. 46/96, 12/02, 18/02 and 31/02;
- Rules on Space, Premises, Technical Equipment and the Manner of Carrying Out Counter-Terrorism Inspections at Airports, *Official Gazette of the FRY*, No. 13/00;
- Rules on the Manner of Seizure of Cold and Fire Arms and Ammunition and the Search of Persons and Baggage in Public Air Transport, *Official Gazette of the FRY*, No. 13/00.

The Ministry of Interior Affairs and Public Administration drafted new laws on explosive materials, inflammable liquids and gases and on the transport of explosive materials. It is expected that the Parliament of Montenegro will adopt the drafts by the end of this year. The Law on the Transport of Explosive Materials was enacted by the Socialist Federative Republic of Yugoslavia in 1985, while the Law on Explosive Materials, Inflammable Liquids and Gases was last amended in 1989. The new laws will represent, in addition to the Law on the Transport of Dangerous Goods that is already enacted, a national legal framework, suited to the new

institutional framework, for the production, use, transport and storage of this kind of goods, including prevention and safety measures.

The control, production and trade in explosives, arms and ammunition fall within the competence of the Ministries of Internal Affairs and Public Administration of Montenegro.

Operative paragraph 3 (a) and (b): Chemical related materials

Members of the National Authority for the prohibition of chemical weapons of Montenegro were appointed by the Government of Montenegro on 5 April 2007. Since then this body meets regularly with the aim of discussing new projects in the Ministries in the field of the prohibition of chemical weapons, as well as related questions. These meetings are also conveyed for the purpose of reaching agreements on ways of fulfilling the obligations. The National Authority is responsible for drafting, approving and submitting Declarations. The Initial Declaration of Montenegro was submitted in October 2007.

The Ministry of Health, Labor and Social Welfare of Montenegro controls the production and trade in precursors and toxins, while the Ministries of Tourism and Environmental Protection control the management of chemicals.

Operative paragraph 3 (c): Border Control

At the end of 2003, the Montenegrin police forces were provided the authority over Montenegro border security previously held by the Army of Serbia and Montenegro. With continuous international assistance and support, Montenegro has been improving its capacities for the successful performance of this task, especially through cooperation with the relevant border authorities of all neighboring countries. The ultimate objective is the establishment of the system of integrated border management.

Thus, Montenegro attended the regional meeting of representatives of National Authorities for the prohibition of chemical weapons, held in Sarajevo in October 2007. The discussions at the meeting involved the exchange of experiences in the field of the regime and control of the export and import of chemical substances and the possibilities for joint determination of border crossings which would be used for the transit of such substances. Since then, Ministries of Foreign Affairs of the States within the EU Stabilisation and Association Agreement² have exchanged proposals on the points of entry for certain chemical substances, and it is expected that, during the Second Meeting of National Authorities, to be held in Montenegro, in February 2008, the initiative will be finalized.

Operative paragraph 3 (c) and (d): Arms Export Control Legislation

In 2005 the State Union Serbia and Montenegro adopted a new Law on Foreign Trade in Arms, Military Equipment and Dual-Use Items. This Law is still in force in

² Albania, Bosnia and Herzegovina, Montenegro, Republic of Croatia, Republic of Macedonia, Republic of Serbia.

Montenegro and it presents a good basis for secure and transparent trade, transport, transfer, brokering and issuance of licenses. In accordance with the Law, the responsible authorities must take into consideration eight criteria stipulated in the EU Code of Conduct in case of export of arms, in the process of issuance of licenses for exports of arms and military equipment. The mechanism set out in this law proved to be an efficient instrument. Although the 2005 Law was drafted in accordance with international standards, having in mind the recommendations given to the Ministry for Economic Development by SIPRI, BAFA and UNDP, the Ministry decided to draft a new law that will include face to face meetings of the persons responsible in the other Ministries for the tasks of arms control. The idea is to increase the responsibility of the actors involved in the issuance of licenses, as well as to encourage consultations on this subjects. Also the future law will include some other provisions that will facilitate bilateral cooperation in this matter. The Working Group is in the final stage of its work. It is expected that the Ministry for Economic Development will have the final version of the draft in two months' time.

The list of controlled arms, military equipment and dual-purpose goods is defined in accordance with the EU Code of Conduct on Arms Export and the EU Council Regulation of the regime for the control of exports of dual-use items and technology, and in agreement with the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Australia Group and the Chemical Weapons Convention (CWC).

Operative paragraphs 9 and 10

Montenegro joined the United States Proliferation Security Initiative (PSI) to combat the proliferation of weapons of mass destruction on 17 May 2007. Montenegro also supports the Global Initiative to Combat Nuclear Terrorism. The activities of Montenegro within these two initiatives are coordinated by the Ministry of Defense.

International cooperation and assistance

Effective international expert and technical assistance, as well as the possibility to exchange legislative, legal and administrative experience in the field of non-proliferation, would be most welcome and would make it possible for Montenegro to pursue the above-mentioned goals more effectively.

Montenegro expresses its readiness to fully implement UNSC resolution 1540 and other international obligations with respect to questions of non-proliferation and to cooperate with the United Nations and other international organizations, at the regional as well as at bilateral level.