



## Security Council

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### **Security Council Committee established pursuant to resolution 1540 (2004)**

#### **Note verbale dated 12 October 2005 from the Permanent Mission of Norway to the United Nations addressed to the Chairman of the Committee**

The Permanent Mission of Norway to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and, with reference to the latter's letter dated 29 June 2005, has the honour to transmit herewith additional information, as requested, on the steps Norway has taken to implement resolution 1540 (2004).

**Annex to the note verbale dated 12 October 2005 from the  
Permanent Mission of Norway to the United Nations  
addressed to the Chairman of the Committee**

GENERAL COMMENTS CONCERNING THE ENQUIRY BY THE SECURITY COUNCIL RESOLUTION 1540  
COMMITTEE ON THE NORWEGIAN REPORT

Please be advised that the Norwegian comments to the enquiries of the SC Res 1540 Committee is in two parts. First there are general comments explaining different aspect of Norwegian law and regulations with respect to proliferation of Weapons of Mass Destruction, secondly we have filled in the matrix with relevant text and references.

General comments with regard to operative paragraph 2:

Norway believes that we currently comply with the core commitments under Operative Paragraph (OP) 2 of UNSCR 1540. Since the first report, no new legislation with respect to the Resolution has been passed. Norway is currently preparing a new Penal Code and will in this work carefully assess and duly take account of our obligations under OP 2 with a view to assuring that the requirements set out therein are fully met.

*Legislation with respect to nuclear materials*

As mentioned in the first report, Section 152 a of the Penal Code makes it an offence to receive, possess, use, transfer, alter, dispose of or distribute any material consisting of or containing plutonium or uranium without lawful permission and thereby cause a risk of damage to any person's body, health, property or living environment. In addition, an attempt to commit an offence and being an accomplice to (i.e. aiding and abetting) an offence as set forth in Section 152 a, are likewise subject to criminal penalties. Under Norwegian law, a person financing any act mentioned in Section 152 a will be considered as an accomplice with regard to the act itself. The financing must be intentional.

As a general point, it must be emphasised that, under Norwegian law, criminal liability as an accomplice does not depend on the criminal act under e.g. Section 152 a actually being committed. If the said criminal act is merely attempted, the person having intentionally financed the act is subject to criminal liability for aiding and abetting the attempt. Even if the said criminal act is not attempted, the person having intentionally financed the act is still subject to criminal liability for attempted aiding and abetting.

Moreover, Sections 152 a and 153 a (i.a.) of the Penal Code stating – in the English translation – that “Accomplices shall be liable to the same penalty” (in Norwegian:

“Medvirkning straffes på samme måte.”) cover any person participating as an accomplice, aiding or abetting (including financing, cf. above) or otherwise intentionally assisting in the crime in any way.

The following comments, in as far as they relate to complicity, aiding and abetting, financing, assisting etc., must be read in the light of the general remarks.

Furthermore, Section 5 of the Act 12 May 1972 no. 28 concerning Nuclear Energy Activities makes it an offence to unlawfully manufacture, own, store, handle, transport, sell or otherwise hold or dispose of nuclear substances without a permit from the Ministry concerned. In addition, an attempt to commit an offence and participating as an accomplice in any of the foregoing activities are also criminalized. A person financing acts as mentioned will be considered to be an accomplice.

*Legislation with respect to biological weapons*

As mentioned in our first report, Section 153 a of the Penal Code makes it an offence to develop, produce, store or otherwise obtain or possess bacteriological or other biological substances and toxins. In addition, an attempt to commit and participating as an accomplice in an offence as set forth in Section 153 a are also criminalized. A person who finances any of the foregoing activities will be considered to be an accomplice.

*Legislation with respect to chemical weapons*

Section 1 of the Act 6 May 1994 no. 10 relating to the implementation of the Chemical Weapons Convention makes it an offence to develop, produce, otherwise acquire, stockpile, transfer etc. chemical weapons in contravention of the Convention. In addition, an attempt to commit and participating as an accomplice in an offence as set forth in Section 1 are also criminalized. A person who finances acts mentioned in Section 1 will be considered to be an accomplice. Furthermore, Section 153 a of the Penal Code establishes criminal liability as regards any person who develops, produces, stores or otherwise obtains or possesses toxins regardless of their origin or method of production, of such a kind and in such quantities that they are not justified for preventive, protective or other peaceful purposes.

*Legislation with respect to terrorist acts and financing of terrorism*

The abovementioned provisions must be read in conjunction with the Penal Code Sections 147 a, which makes it a serious criminal offence to commit a terrorist act, and 147 b, which makes it a serious criminal offence to finance terrorism. Under Norwegian law, financing of terrorist acts is generally subject to criminal liability as aiding and abetting. What Section 147 b does, with respect to the financing of terrorist acts, is to establish this as a self-standing offence as well – and thus to highlight the grave nature of such financing.

Section 147 b, first paragraph, attaches criminal liability to those who obtain or collect funds or other financial assets in order that these financial assets should be used, in full or in part, to finance terrorist acts. The second paragraph of Section 147 b attaches criminal liability to any person who makes funds or financial assets, or bank services or other financial services, available to

- a person or entity that commits or attempts to commit such criminal acts as mentioned in Section 147 a,
- any entity owned or controlled by such person or entity, or
- any person or entity that acts on behalf of or at the direction of such person or entity.

General comments with regard to transportation

*Regulation 11 November 2002 no. 1264 concerning road and rail transport of Dangerous Goods.*

Transport of dangerous goods in Norway is regulated through the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) and Regulations concerning the International Carriage of Dangerous Goods by Rail (RID) respectively. Since 1. January 2005, both these regulations have transposed the security provisions of Chapter 1.4 of the United Nations Recommendations on the Transport of Dangerous Goods. The provisions are implemented in the Regulation 11 November 2002 no 1264 concerning road and rail transport of Dangerous Goods.

In these security provisions, general provisions are set out to minimize theft or misuse of dangerous goods. For high consequence dangerous goods, which are those that are deemed to have the potential for misuse in a terrorist incident and which may, as a result, produce serious consequences such as mass casualties or mass destruction, there is a requirement for security plans. Such plans shall allocate responsibilities, create records of dangerous goods concerned, set out measures to be taken to reduce security risks including training, security policies and operating practices, as well as procedures for reporting and handling of security threats and measures to ensure the physical security of the goods during transport.

General comments with regard to Fire, Explosions and Accidents

*Act 14 June 2002 no 20 relating to the prevention of Fire, Explosion and Accidents involving Hazardous Substances and the Fire Services (Fire and Explosion Prevention Act).*

The Fire and Explosion Act is already mentioned under OP 3 (a) on page 4 in the Norwegian national report on implementation of UNSCR 1540. In the following we would like to provide some more details about the provisions in this Act.

The purpose of the Act is to safeguard human life, health, the environment and material values against fire and explosion, against accidents involving hazardous substances and dangerous goods and other acute accident situations. Protection against proliferation of chemical weapons does not directly fall within this scope. However may the substances the Act applies to, in principle be used to produce such weapons. Although the direct scope of the Act is protection against accidents, many of the measures set out in the legislation, will also indirectly to a certain extent, represent a protection against proliferation of material that can be used as chemical weapons.

The Fire and Explosion Act applies to duties regarding accident and damage prevention in connection with the handling of hazardous substances and the transport of dangerous goods on land, as well as to duties regarding preparedness and response measures and efforts in cases of acute accidents where the Fire Service is required to respond. "Handling" is defined in Section 4 of the Act as "each and every activity involving hazardous substance such as manufacturing, storage, treatment, transport, loading, unloading, trade, commerce, import, export, transfer, use and destruction.

The relevant provisions of the Act in this context are: Section 6 Preventive safety measures and maintenance which contains general obligations for the owner and user of constructions, Section 19 which concerns safety in enterprises in general, Section 20 which concerns level of safety in enterprises which handle hazardous substances etc. and Section 42 which is a Penal Clause.

#### General comments with regard to Nuclear Energy

##### *Act of 12 May 1972 no 28 relating to Nuclear Energy Activities*

This Act states that “it shall be unlawful to manufacture, own, store, handle, transport, sell or otherwise hold or dispose of nuclear substances without permit from the Ministry concerned”. These requirements are further detailed in regulation no 433 of 12 May 2000 on Possession, Transfer and Transportation of Nuclear Material and Dual-Use Equipment, together with requirement among others for accounting of nuclear material, notification on dual use products, export licences etc. Regulation no 1809 of 02 November 1984 governing the physical protection of nuclear materials form a legal basis both for nuclear materials in installations and in transport. IAEA-INFCIRC225/rev.4 recommendations form the basis for all national work on physical protection of nuclear material, and work is currently being done to reflect changes in INFCIRC 225 from revision 3 to revision 4 in national legislation.

#### General comments with regard to Export Control

The Norwegian Export Control Act of 18 December 1987 and the Regulations for implementation of 10 December 1989, cover all strategic export controls (arms, military equipment and technologies, as well as dual use goods and technologies). On 24 July 2005, amendments to the Act was passed. The amendments apply to inclusion of the terrorism aspect, as well as expanding the scope of brokering controls to include certain sensitive dual-use items. The Regulations will be updated respectively.