



安全理事会

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安全理事会第 1540 (2004) 号决议 所设委员会

2005 年 12 月 12 日越南常驻联合国代表团给委员会主席的普通照会

越南社会主义共和国常驻联合国代表团谨向安全理事会第 1540 (2004) 号决议所设委员会致意，并谨就委员会主席 2005 年 10 月 10 日的信，向委员会转递与越南执行安全理事会第 1540 (2004) 号决议的报告有关的补充资料 (见附件)。



2005 年 12 月 12 日越南常驻联合国代表团给委员会主席的普通照会的附件

与越南执行安全理事会第 1540 (2004) 号决议的第一次国家报告有关的补充资料*

应安全理事会第 1540 (2004) 号决议所设委员会主席在 2005 年 10 月 10 日给越南常驻联合国 (纽约) 代表的信内提出的要求, 越南谨向委员会提供以下补充资料:

1. 越南同意委员会可使用和编入越南提交原子能机构附于上述信内的报表所载的官方数据。
2. 根据安全理事会第 1540 号决议并应安全理事会第 1540 号决议所设委员会主席在该信第二页内提出的要求, 越南想要提供关于禁止大规模杀伤性武器、相关材料及其运载工具扩散的国内法和条例的以下补充资料:

各种武器均由越南政府加以控制。不准个人拥有和使用武器, 体育射击枪和猎枪除外。凡个人想拥有和使用体育射击枪和猎枪, 必须向有关当局登记。武器及相关材料 (包括大规模杀伤性武器) 属特别物品类别, 禁止其生产、获取、运输和销售。除适用于各种武器的法律和条例外, 还颁发控制大规模杀伤性武器, 包括相关材料的其他条例。

(一) 核武器和相关材料

- 1998 年 7 月 16 日, 越南政府颁发第 50/1998/ND-CP 号法令, 执行 1996 年《放射安全和管制条例》。
- 1999 年 12 月 28 日, 科学和技术部及公共卫生部公布关于卫生部门放射安全的第 2237/1999/TTLT/BKHCNMT-BYT 号机构间通知。
- 2001 年 5 月 11 日, 越南政府颁发第 19/2001/ND-CP 号法令, 规定对违反放射安全和管制条例的活动的行政处罚。
- 越南科学和技术部使用由原子能机构提供的 RAIS 发展起来的 E-RAIS 软件, 增订国内放射源数据库。
- 出口管制主要由海关总署负责。不过放射性/核材料是根据《放射安全和管制条例》以及科学和技术部同海关总署达成的一项协议加以管制。这类物品只能经科学和技术部批准后, 由海关总署结关。
- 目前, 科学和技术部正在拟订核能法, 预期 2007 年由国民会议通过。这项法律草案旨在巩固保安措施、为和平目的发展核能, 并禁止使用核

* 法律法规案文存在秘书处, 备供查阅。

能妨害其他国家、组织和个人的权利及利益以及危害人类和自然环境的任何行为。

- 科学和技术部现正拟订《拥有、使用和发展放射性材料登记和许可证通知》。
- 科学和技术部正在研究一项关于加入《原子能机构放射性源安全和保安行为准则》的提案，并将提交政府审批。同时，值得说明的是，原子能机构该行为准则有关放射性源安全和控制的规定已写入《放射安全和控制条例》，正在越南适用。

(二) 化学武器和相关材料

- 2005 年 8 月 3 日，越南政府颁布关于执行《关于禁止发展、生产、储存和使用化学武器及销毁此种武器的公约》的第 100/2005/ND-CP 号法令，规定不得以任何形式发展、生产、获取、储存和使用化学武器，进出口化学武器；不得参加使用化学武器的军事行为；不得支持、鼓励或唆使组织或个人参加《化学武器公约》所禁止的任何行为。化学品的制造和进出口应完全符合该法令。该法令还规定对违法行为的惩罚。（该法令已译成英文，并附上副本，以供参考）。

(三) 生物武器和相关材料

2005 年 8 月 26 日，总理签署第 212/2005/QĐ-TTg 号决定，据此颁布《转基因生物和转基因生物产品生物安全控制条例》。为保护人类健康、环境和生物多样性，该条例规定国家监督和控制以下活动的生物安全：转基因生物和转基因生物产品的科研、技术发展、实验、生产、销售、使用、出口、进口、储存、运输、风险评估和管理，并发给这些生物及产品的生物安全认证。

根据现行法律的规定，如上文第 2. (一)、2. (二)和 2. (三)分段所述，核生化武器及其相关材料的所有扩散行为均被禁止和须受惩罚。根据 1999 年《刑法典》相关规定，该条例的执行得到加强。已列举若干相关条款。

还应再次指出，越南法律规定武器及其相关材料属禁制品，违法者须受惩罚，包括刑罚。

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. 越南严格遵守越南为缔约国的禁止大规模杀伤性武器扩散国际条约。2005年6月14日，越南国民议会通过《签署、加入和执行国际条约法》。根据该法的规定，越南社会主义共和国遵守越南为缔约国的国际条约。倘若执行国际条约时，需要修正、补充、废止或颁布国内法，就由决定越南可成为该条约缔约国的有关当局（国民议会、总统或政府）建议修正、补充、废止或颁布国内法，以便执行该条约。

4. 越南重申其一贯立场，大力支持裁军和不扩散、不生产、不研制和不使用任何种类的大规模杀伤性武器及其运载工具。越南坚决保证不向企图开发、获取、生产、拥有、销售、转移或使用核生化武器及其运载工具的非国家行为者提供任何形式的援助。

5. 可以说，越南执行的相关法律、条例和措施正在武器管理和使用方面产生积极成果和影响。迄今在越南尚没有向非国家行为者转移武器的行为。越南将继续改进相关法律体制，以坚决保证越南境内的武器正确用于维护主权、领土完整、国家安全和社会秩序，不流入非国家行为者和罪犯之手。

6. 根据越南执行安全理事会第 1540(2004)号决议第一次国家报告所提供的资料和本文的补充资料，在报表第 1 页栏标题“贵国是否做过如下声明，或者是否是如下公约、条约及安排的缔约国或成员国？”的分项 2（关于就裁军和不扩散的承诺发表的一般性声明）应当标明“是”，并应当把在报表第 2 至 4 页栏标题：“贵国是否制定实施有关法律，禁止个人或实体参与以下活动？是否规定了对违法者的处罚？”的任何分项内的“？”（问号）改为“是”。在栏标题“是否有以下可对核武器包括有关物质进行衡算、保安或以其他方式保护的任何措施、程序或立法？”和“是否规定了对违法者的处罚？”及报表第 5 至 17 页的其他相关栏标题的分项内都应标明“是”。

在此，越南还想要重申一个符合国际法的问题，即为执行关于大规模杀伤性武器的国际条约所建立的组织或这些条约规定的其他机制（例如国际条约缔约国定期会议）具有审查缔约国履行条约所规定义务的管辖权，因此可理解委员会所设计的报表主要是委员会的一个行政工具。

7. 越南愿意向委员会提供相关法律文书，同时欢迎委员会提供为把这些文件译成英文所需的财政支助。越南海关总署希望获得先进装备（例如摄影机、检测器等）以加强监控物品的活动；并希望获得关于检测、识别和控制大规模杀伤性武器及其相关材料的特别培训。