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Note verbale dated 23 March 2016 from the United States Mission to the United Nations addressed to the Chair of the Committee

The United States Mission to the United Nations presents its compliments to the Chair of the Committee and is pleased to submit additional information on recent measures taken by the United States to implement the nuclear security obligations and recommendations contained in Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 23 March 2016 from the United States Mission to the United Nations addressed to the Chair of the Committee

Submission of additional information on recent measures taken by the United States to implement the nuclear security obligations and recommendations contained in Security Council resolution 1540 (2004)

Introduction

The May 2010 National Security Strategy declares that "international peace and security is threatened by proliferation" and that:

> Terrorists are determined to buy, build, or steal a nuclear weapon. Our efforts to contain these dangers are centred in a global non-proliferation regime that has frayed as more people and nations break the rules. That is why reversing the spread of nuclear weapons is a top priority. Success depends upon broad consensus and concerted action, we will move forward strategically on a number of fronts through our example, our partnerships, and a reinvigorated international regime.

The United States considers the global implementation of Security Council resolution 1540 (2004) to be a cornerstone of a reinvigorated non-proliferation regime.

To bring more attention to the particular threat posed by vulnerable nuclear materials, President Barack Obama initiated the Nuclear Security Summit process, hosting the first Summit in 2010 and the final Summit in 2016. From the inception of this process, Security Council resolution 1540 (2004) has had an important role, as it provides an international legal framework, binding on all States, to develop and maintain appropriate effective measures to account for and secure nuclear weapons and related materials in their production, use, storage or transport. The national implementation of the nuclear security measures of the resolution contributes directly to preventing nuclear terrorism. As we look past 2016, the resolution and the Committee established pursuant to it will have key roles in helping to further the achievements of the Summit process.

As noted in its October 2013 report to the Committee, the United States has measures in place to address all of its obligations and the recommendations under Security Council resolution 1540 (2004), including those on nuclear security. The Committee has affirmed this information in the recently released Committee-approved implementation matrix for the United States. Where international standards for non-proliferation measures exist, moreover, the United States believes its measures meet or exceed such standards, many of which appear in its compendium of effective national practices to implement the resolution, which it submitted to the Committee in September 2014. The United States also has a wide range of assistance programmes and outreach efforts to help others to combat the proliferation of nuclear, chemical and biological weapons and their means of delivery, as recommended in the resolution.

Nonetheless, the United States believes that it must continually improve its policies and programmes to address existing or foreseeable vulnerabilities facing

States in combating the proliferation of weapons of mass destruction effectively. Following the 2016 Nuclear Security Summit, and given the continuing importance that the international community has placed on nuclear security, the United States submits the following additional information on some recent measures that it has taken to improve its implementation of its nuclear security-related obligations under Security Council resolution 1540 (2004).

Promoting and strengthening multilateral treaties

In 2015, the United States joined four treaties that contain obligations relevant to the objectives and obligations of Security Council resolution 1540 (2004). On 20 July, President Obama signed the instruments of ratification for:

(a) The 2005 Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, which the United States deposited with the International Maritime Organization on 28 August;

(b) The 2005 Amendment to the Convention on the Physical Protection of Nuclear Material, which the United States deposited with the International Atomic Energy Agency (IAEA) on 31 July;

(c) The International Convention for the Suppression of Acts of Nuclear Terrorism, which the United States deposited with the United Nations on 30 September during the 2015 treaty event.

The United States also regularly engages States bilaterally and in multilateral forums to promote the universal adoption and implementation of non-proliferation treaties and conventions.

Securing nuclear materials

In addition to prohibiting the proliferation activities outlined in Security Council resolution 1540 (2004), under the Atomic Energy Act and under title 18 of the United States Criminal Code addressing crimes and criminal procedures, the United States has a mature legal framework of other controls on nuclear weapons-related material (as broadly defined under the resolution), issued by the United States Department of Energy and the Nuclear Regulatory Commission. Recent improvements in the legal regulatory regime include the following:

(a) The Nuclear Regulatory Commission issued its final rule on cybersecurity event notifications for nuclear power reactor licensees, November 2015;

(b) The Nuclear Regulatory Commission issued its final rule on revisions to transportation safety requirements and harmonization with International Atomic Energy Agency transportation requirements, June 2015;

(c) The Department of Energy amended its Order 474.2, Nuclear Material Control and Accountability, May 2015;

(d) The Nuclear Regulatory Commission confirmed the effective date of January 2015 for removing from its regulations the Safeguards Information — Modified Handling designation for certain security-related information;

(e) The Nuclear Regulatory Commission published its new rule establishing security requirements for risk-significant radioactive by-product materials in March 2013.

More generally, in April 2015 the Nuclear Regulatory Commission published a regulatory basis document to support a rulemaking that potentially amends its regulations concerning the security of special nuclear material.

To ensure compliance with its regulations, the Nuclear Regulatory Commission conducts roughly 1,500 inspections of its licensees annually, including 23 force-on-force inspections and 195 security inspections at nuclear power reactors in 2014. It also hosted an IAEA International Physical Protection Advisory Service mission in October 2013 to fulfil a commitment made under the Nuclear Security Summit process.

The Nuclear Regulatory Commission also has some new draft measures for comment and consideration, such as:

(a) Draft Regulatory Guide DG-5049 — Independent Assessment of Nuclear Material Control and Accounting Systems, which describes an acceptable method for the independent assessment of nuclear material control and accounting systems, issued September 2015, including regulatory revisions of Material Control and Accounting of Special Nuclear Materials;

(b) Draft Regulatory Guide DG-5057 — Special Nuclear Material Control and Accounting Systems for Non-Fuel Cycle Facilities, issued May 2015, updating the controls and expanding them to cover all non-fuel cycle facilities authorized to possess or use special nuclear materials or specified quantities of uranium-235, uranium-233 or plutonium;

(c) Draft Regulatory Basis for Cyber Security at Fuel Cycle Facilities Rulemaking to require licensees authorized to possess special nuclear material to have a cybersecurity programme and establish a regulatory framework to protect against cybersecurity attacks, issued September 2015;

(d) Draft Regulatory Guide DG-5027 — General Use of Locks in Protection and Control of Facilities and Special Nuclear Materials, Classified Matter and Safeguards Information, issued in December 2014, updating a guide first issued in 1973 with new technologies and standards.

Securing United States nuclear weapons

As a State that possesses nuclear weapons, the United States has a special responsibility to secure its weapons and special nuclear materials. As referenced in its 2015 Committee-approved matrix, the United States Department of Defense has several measures in place to account for, secure and physically protect nuclear weapons and related materials under its control. Although somewhat older than the measures identified elsewhere in the present report, the United States includes the measures below to highlight the importance of having a legal framework in place for items under military control. These include the following:

(a) The Department of Defense updated its 2004 Department of Defense Directive 5210.41, Security Policy for Protecting Nuclear Weapons, in January 2015;

(b) The Department of Defense issued Department of Defense Directive 3150.02, Nuclear Weapon Surety Program, in April 2013;

(c) The Department of Defense adopted Department of Defense Instruction 5210.42, Nuclear Weapon Personnel Reliability Program, which is currently undergoing revision, in July 2012;

(d) The Department of Defense unveiled Department of Defense Directive 4540.05, Department of Defense Transportation of United States Nuclear Weapons in June 2011;

(e) The Department of Defense issued Department of Defense Directive S-5210-92-M, Physical Security Requirements for Nuclear Command and Control Facilities (Unclassified), in August 2010.

Most, if not all, of the above documents are under continuous revision that takes into account changes in the security environment and policy. Although the specifics of some of these measures remain controlled for reasons of security, the United States sees value in assuring the international community that it has and implements this framework.

Securing borders and nuclear exports

Controls on borders and exports constitute important elements in implementing the nuclear security obligations of Security Council resolution 1540 (2004) and in combating the proliferation of nuclear weapons-related materials. The United States has maintained border and export controls on such materials for decades, controls that it continually reviews and improves. In August 2014, the United States Department of Commerce amended the Commerce Control List categories to reflect changes in the Nuclear Supplier Group Part 2 Guidelines and Dual-Use List and licensing policies in the Export Administration Regulations that apply to items that require a licence for nuclear non-proliferation reasons or as a result of certain end users (in accordance with the resolution, all States are obliged to have end user controls) or end uses (see Implementation of Understandings Reached at the 2005, 2012, and 2013 Nuclear Supplier Group plenary meetings and a 2009 Nuclear Supplier Group Intersessional Decision: Additions to the List of Nuclear Supplier Group Participating Governments). Similarly, the Nuclear Regulatory Commission amended its regulations pertaining to the export and import of nuclear materials and equipment in July 2014 to conform to Nuclear Supplier Group Guidelines, but also incorporated the current version of the "Nuclear security recommendations on physical protection of nuclear materials and nuclear facilities" (INFCIRC/225/Revision 5) of IAEA.

Most recently, the United States Department of Energy issued its final rule revising its Part 810 regulations in February 2015, the first comprehensive update of the regulation since 1986. The revisions clarified the activities and technologies in the scope of Part 810; expanded the general authorizations for operational safety activities, the separation of medical isotopes from spent nuclear fuel and for transfers to foreign nationals working at Nuclear Regulatory Commission-licensed facilities and granted unescorted access in accordance with Commission regulations; and provided an affirmative list of destinations generally authorized to receive transfers of non-sensitive nuclear technology.

Assistance

The United States continues to offer several programmes through which it delivers various forms of assistance to States in implementing aspects of Security Council resolution 1540 (2004). For fiscal year 2016, programmes or offices offering such assistance include:

(a) United States Department of Defense, Defense Threat Reduction Agency;

(i) Cooperative Threat Reduction Program;

a. Global Nuclear Security Program;

b. Proliferation Prevention Program;

c. Threat Reduction Engagement Program;

(ii) United States-supported or sponsored Proliferation Security Initiative trainings and exercises;

(b) United States Department of Energy, National Nuclear Security Administration;

(i) Offices of International Nuclear Security, Radiological Security and Nuclear Smuggling Detection and Deterrence;

(ii) International Nonproliferation Export Control Program;

(iii) Nuclear Incident Policy and Cooperation Program;

(c) United States Department of State, Bureau of International Security and Nonproliferation;

(i) Office of Weapons of Mass Destruction Terrorism, Counter Nuclear Smuggling Program;

(ii) Office of Export Control Cooperation, Export Control and Related Border Security Program;

(iii) Office of Cooperative Threat Reduction, Partnership for Nuclear Security.

Outreach

The United States government entities that work on the nuclear security elements of Security Council resolution 1540 (2004) continue to make regular outreach efforts to work with and inform industry and the public. The Nuclear Regulatory Commission, for example, conducts periodic meetings with the nuclear industry's security working group, has a robust public meeting process and maintains a dedicated system for electronic communications with authorized licensees and other officials. The United States Department of Energy, National Nuclear Security Administration, regularly participates in meetings with industry and the national nuclear laboratories. The United States Department of Commerce has an extensive outreach programme on export controls with industry though its Office of Exporter Services, its Office of Export Enforcement and its system of technical advisory committees, including the President's Export Council Subcommittee on Export Administration. In recent years, all these institutions, along with the Bureau of International Security and Nonproliferation of the United

States Department of State, have increasingly used new social media tools to supplement more traditional public affairs programmes.

Cooperative action

The United States continues to co-chair the Global Initiative to Combat Nuclear Terrorism, which strengthens global capacity to prevent, detect and respond to nuclear terrorism through multilateral activities that enhance core nuclear security capabilities and promote the exchange of best practices. In addition, the 29-member Global Partnership against the Spread of Weapons and Materials of Mass Destruction has a mandate from the Group of Eight Leaders to implement Security Council resolution 1540 (2004). As such, the Committee has attended Global Partnership meetings since 2011.