



## Security Council

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

#### **Note verbale dated 17 April 2006 from the Permanent Mission of Azerbaijan to the United Nations addressed to the Chairman of the Committee**

The Permanent Mission of the Republic of Azerbaijan 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 present herewith additional information requested by the Committee on its first report on the implementation of the Security Council resolution 1540 (2004) (see annex).



**Annex to the note verbale dated 17 April 2006 from the Permanent Mission of Azerbaijan to the United Nations addressed to the Chairman of the Committee**

**Measures taken for implementing 2nd paragraph of the resolution**

The issues concerning the prevention of the **proliferation** of nuclear, chemical and biological weapons, as well as their **means** of delivery **are regulated** by the constitution, criminal code, law "on export control", law "on border forces" of the Republic of Azerbaijan **and other** relevant laws, international **agreements** to which the Republic of Azerbaijan is a party and other legislative **acts** of the Republic of Azerbaijan,

According to the legislation of the Republic of Azerbaijan only individuals fall under the **sphere** of application of the criminal legislation. Legal entities are not subject of criminal responsibility. **They** are subject of administrative responsibility (**may** be fined or liquidated).

Illegal **acquisition, transfer, brokering, preservation, transportation** or **possession** of **firearms**, their components and ammunitions **are** crimes under the article 228 of the criminal code of the Republic of Azerbaijan. **Manufacturing/production** of **firearms** is regulated by the **229<sup>th</sup>** article, **A** person who has produced or repaired a **firearm**, its component and **ammunition** could be **punished** up to 3 years of imprisonment. Articles 230, 231 and 232 define criminal responsibility for careless preservation of **firearms**, non-fulfillment of the commitments on protection of **firearms**, ammunitions, explosive materials and **installations** and for plundering or demanding radioactive materials **by** threat **means**.

**The** criminal code of the Republic of Azerbaijan **determines** criminal responsibility also for terrorist activities. Article 214 **defines** what the **terrorism** **means** within the jurisdiction of the Republic of Azerbaijan. Article 214.2.3 prescribes from 10 to 15 years of imprisonment or life sentence for committing **terrorism** by using **firearms**. The Republic of Azerbaijan also adopted a law "on fighting against **terrorism**", dated June **18, 1999** which regulates some matters on these **issues**.

According to the article 33.1 of the criminal **code** the **criminal** responsibility of the accomplices' is determined on the **bases** of the character and extent of their factual participation in committing the crime. **The 64<sup>th</sup>** article sets the rules on punishing above mentioned criminals taking into account the character and extent of their factual participation, role in **accomplishment** of the **crime** and the **usefulness** of their participation, **the** personality of **each** accomplice, also **punishment** mitigating factors, the factual influence of the actions of the criminal to the **extent** and character of the physical, moral or **material** damages.

Administrative offences code of the Republic of Azerbaijan envisages administrative **responsibility** for "breaching of ecological **requirements** during

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\* Article 32 defines the accomplices as executor, organizer, inciter and assistant of the crime

engagement in **radioactive materials**" (article 77), "non fulfillment or breaching requirements of ensuring sanitary and hygiene rules of radiation security"\*(article 107), "breaking legislation on ecological security" (article 113.0.10) activities,

### Measures taken for **implementing (a) and (b) subparagraphs of the 3<sup>rd</sup> paragraph of the resolution**

Matters concerning the securing or protecting chemical, **biological** and nuclear weapons and their means of delivery are also regulated with the appropriate articles of the criminal code and some other acts of the Republic of Azerbaijan. Article 224 of the **criminal** code envisages criminal responsibility for the breaching of the **rules** on accounting, storage and use of the explosive, incendiary substances and pyrotechnic products, also illegal *transportation* of **these substances and products**. According to the legislation of the Republic of Azerbaijan all weapons should **be** registered.

### Measures taken for implementing (c) and (d) subparagraphs of the 3<sup>rd</sup> paragraph of the resolution

Articles **206.2-206.4**, 226, 227 and 350 of the criminal **code** of the **Republic of Azerbaijan prescribe** criminal responsibility for **smuggling radioactive**, explosive substances **and** installations, military weapons and technologies, nuclear, chemical, biological and other WMD, materials and **equipments** that could be **wed in** development of WMD, also for illegal treatment with radioactive **materials**, plundering or demanding **radioactive materials** by threatening **means** and for breaching rules of conduct with weapons and articles menacing the surrounding people. These **actions** are included into little severe and severe crimes and offenders **may** be punished **from 3 years up to 12 years** of imprisonment for these crimes. According to the 3.7 paragraph of the Presidential **decree** of the Republic of Azerbaijan of **25 august** of 2000 "On the application of the law of the Republic of Azerbaijan "on the confirmation, entering into force **of the** criminal procedural **code** of the Republic of Azerbaijan and legal regulations concerning these matters" and criminal **procedural** code of the Republic of Azerbaijan confirmed **by this law**" the competence to conduct **initial investigation** on these **crimes was** entrusted to the Ministry of National **Security** of the Republic of Azerbaijan,

**A number** of legislative **measures have** been taken to improve legislative base in this sphere, **A new** law of 26 October of 2004 "**On** export control" **was** adopted by **the** parliament of the Republic of Azerbaijan. According to this law **the** purposes **and** principals of **tho** realization export control in the Republic of Azerbaijan consist of **ensuring** compliance **with** the obligations of interstate agreements, to which the Republic of Azerbaijan is a party, on the **non-proliferation** of WMD and other **kind** of weapons (article **4.0.3**) and the **assessment of the** technological **level**, end-users and intermediary parties of the goods (works, services, results **of the intellectual activities**) which fall under export control (**article 4.0.4**).

According to the 5<sup>th</sup> article of the above mentioned law WMD (nuclear, chemical, bacteriological and toxin weapons – article 1.1.5), as well as their **means** of delivery, **double-use** goods (works, services, results of the intellectual activities) that could be used in development of WMD, **military** techniques and ammunitions, explosive **and** radioactive substances, radioactive devices fall under the export control within the scope of the law.

**According to** the 8<sup>th</sup> article of the above mentioned law the list of states to which export of the goods (works, **services**, results of the intellectual activities) which fall **under** export control is prohibited, end-users and the goods (works, services, results of the intellectual activities) which **fall under** export control and which are prohibited to export is **determined** by the Cabinet of Ministries upon the consent of the President of the Republic of Azerbaijan.

The 9<sup>th</sup> article of this law notifies that the **export, import, re-export and re-import and transit** of the **goods (works, services, results of the intellectual activities)** which fall under **export** control are carried out under the license issued by relevant executive organ.

The 14<sup>th</sup> article of the law **prescribes** criminal, **civil** and **administrative** responsibility of the citizens of the Republic of Azerbaijan and foreign countries for the breaking the legislation on export control,

After the adoption of the law "on export control" the **criminal** code of the Republic of Azerbaijan was amended and according to the new article 224.1 a person who has applied the double-use goods (works, services, **results** of the intellectual activities) that could be used in **manufacturing** and development of **WMD, arms, military techniques, ammunitions** for ordered purposes may be punished up to 6 years of imprisonment. **Exporting** goods (works, services, results of the intellectual activities) which fall under export control to the states and to end-users to which export of these goods is prohibited or limited is also crime under the article of 224.2.

**According to** the article 4.6 of the law of the Republic of Azerbaijan "On border forces" and paragraph 9.7 of the "Charter on **State Border Service** of the Republic of Azerbaijan" **within its competences** the **State Border Service** of the Republic of Azerbaijan ensures the prevention of the transferring of WMD and their components **and** radioactive substances through state border.

The Republic of Azerbaijan also adopted a new law "On the **confirmation** of the lists of the narcotic **means and** psychotic substances, the **circulation** of which are prohibited or **limited** or under control and the precursors which demand special **permission** (license) for **exporting, importing and transit transportation and manufacturing in the** Republic of Azerbaijan<sup>n</sup> which, inter alia, includes the

precursors that a special permission (license) are demanded for exporting, importing and transit **transportation** and **manufacturing** these materials.

In order to **fulfill** the commitments in this sphere all of the admission **stations** from **state** border are supplied with band dosimeters, radiation control **paggers** and the **main** highways **are** provided with stationary **installations**.

**For the purposes** of the prevention of **illegal circulation** of nuclear and **radiological** materials and strengthening the protection of state border, the reparation of a **number** of exploiting ships, aircrafts and helicopters, **obtainment** one guarding ship, 2 patrol boats and **11** high speed powerboats, special technical devices on border control, purchase and installation of modern **communication equipments** and the creation of coastal technical observing stations and aviation group could be emphasized in line with **the** works done within the last 3 **years**.

A number of **enforceable measures** for the **prevention** of **illegal** circulation of nuclear, chemical and **biological weapons** and related materials **also** prescribed in the customs code of the Republic of Azerbaijan. For the purposes of **improvement** the **works** in the sphere of **radiation security** "rules on implementing customs inspection on **radioactive materials**" was adopted by **State** Customs Committee in consistent with the international **instruments**, as well as international radiation **security norms** and rules on safely carriage of radioactive materials,

**Measures taken for Implementing 1<sup>st</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 10<sup>th</sup> paragraphs and (a),(b) and (c) subparagraphs of the 8<sup>th</sup> paragraph of the resolution**

According to the constitution of the **Republic** of Azerbaijan **international** agreements to **which** the Republic of Azerbaijan is a **party** form inalienable part of the legislative system of the Republic of Azerbaijan (article 1482). 151<sup>st</sup> **article** of the **constitution** declares that if collision takes place between the legal acts which form the legislative system of the Republic of Azerbaijan (with the exception of the constitution and acts-adopted **by referendum**) and **interstate treaties** to which the Republic of Azerbaijan is a party, the latter prevails. **Taking** these provisions into **consideration**, the **Republic** of Azerbaijan **signed/ratified** a number of multilateral agreements **concerning non-proliferation WMD** and other related materials. **Since** the independence of the **Republic** of Azerbaijan it **has** become a party of the following **treaties**:

- "By the law, dated **august 4, 1992**, "**Nuclear non-proliferation treaty**";
- "By the law, dated **december 1, 1998**, "**Comprehensive nuclear test ban treaty** and annexes to his treaty and protocol to the **comprehensive nuclear test ban treaty** and annexes to this treaty";
- "By the law, dated **november 9, 1999**, "**convention** on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction;

- "By the law, dated **december 5,2003**, "**convention on the prohibition of the development, production, stockpiling of biological weapons and on their destruction**;
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