

## **A STANDING UNITED NATIONS WMD VERIFICATION MECHANISM?**

**Presentation by Trevor Findlay, Executive Director of VERTIC, to a Regional Meeting, sponsored by the Japanese Government, with the United Nations High Level Panel on Threats, Challenges and Change, Kyoto, Japan, 6 July 2004**

Excellencies, ladies and gentlemen,

I am very grateful for the opportunity to address you today on the important subjects covered by the agenda of the High-Level Panel and I thank the Government of Japan for inviting me to contribute.

My topic is the need for and feasibility of a standing United Nations monitoring and verification mechanism. Such a mechanism, I believe, would be invaluable in dealing with those cases of non-compliance with treaties and norms relating to weapons of mass destruction which cannot be dealt with by other verification means.

Such verification means clearly already exist in regard to nuclear weapons, in the form of the International Atomic Energy Agency (IAEA), and chemical weapons, in the form of the Organisation for the Prohibition of Chemical Weapons (OPCW). One clear imperative is therefore to avoid doing anything to harm or sideline these two substantial verification organisations which, by and large, are functioning well and contributing enormously to making the world safe from nuclear and chemical weapons.

### **Why, then, do we need a standing verification organisation?**

There are several reasons why we need a standing UN WMD verification organisation.

First, not every country is a party to the treaties that the IAEA and OPCW verify compliance with—namely the Nuclear Non-Proliferation Treaty (NPT) and the Chemical Weapons Convention (CWC). Moreover, non-compliant parties may, under current practice, simply withdraw from treaty membership, as North Korea has done in the NPT case. This, paradoxically, puts them out of reach of the relevant verification organisation at the very time that we need them in it.

The Security Council has made clear, however, that it regards WMD proliferation as a threat to international peace and security and that all states have obligations in this respect regardless of whether they are parties to particular treaties or not. Most recently, in April 2004, the Council adopted Resolution 1540, which obliges UN member states to take effective measures against non-state actors acquiring WMD. This Security Council legislative activism, combined with the longstanding international legal prohibitions relating to chemical and biological weapons dating back to the end of the 19<sup>th</sup> century, arguably makes WMD treaties tantamount to customary international law, enforceable by the Council. (The nuclear weapons issue is somewhat different due to the NPT's recognition of

the legality of such weapons in the hands of five designated nuclear weapon states—although at the same time committing them to pursue nuclear disarmament). If this is the case, then verification of compliance with such global norms is necessary.

A second reason for having a standing UN WMD body is that both the IAEA and the OPCW tend to focus on the basic components of nuclear and chemical weapons—fissionable material and chemical precursors respectively—rather than on the means of delivery of such weapons. The NPT itself ignores means of delivery, while the CWC bans delivery systems specifically intended for chemical weapons, but in practice focuses on chemical munitions. Although there is no multilateral treaty banning or restricting delivery systems, such as ballistic or cruise missiles, that may be used for any type of WMD, there is growing recognition, demonstrated by the Missile Technology Control Regime (MTCR) and attempts to advance a ballistic missile code of conduct, that such capabilities, when combined with development of actual weapons, can threaten international peace and security. Currently there is no standing multilateral monitoring body capable of conducting a monitoring and verification exercise in respect of means of WMD delivery, although missile verification was a key activity in Iraq.

Third, while it is to be hoped that both the IAEA and OPCW would be able to handle all cases of non-compliance in their respective fields, including the most serious, and they should be strengthened to permit them to do so, this may not always be possible. The cases of Iraq and North Korea, for instance, went well beyond the capability of the IAEA, and Iran might yet well do the same. Indeed most multilateral arms control and disarmament agreements provide for this very possibility, by either explicitly or implicitly allowing for hard cases to be referred to the UN Security Council.

While the Council may, of course, in turn call on the assistance of the IAEA and OPCW in whatever action it takes, there is currently no organisation that has a comprehensive understanding of, and capacity to monitor and verify all types of weapons of mass destruction and their means of delivery. As inspections in Iraq demonstrated, there is enormous synergistic value in having a multidisciplinary verification outlook and capacity rather than those dedicated narrowly to one type of WMD.

Fourth, although there is some overlap between chemical weapons and the third type of WMD, biological weapons, there is no treaty-mandated verification system for BW at all. Negotiations on a protocol to the Biological Weapons Convention (BWC) that would have produced such a regime collapsed in 2001-2 and currently appear to have no chance of resurrection. Although there is, in theory, a fact-finding mechanism that may be called on either by the UN General Assembly, the UN Security Council or the UN Secretary-General to investigate alleged use of chemical or biological weapons, it has not been used since 1992 (in Mozambique). When it has been used it has encountered great difficulties. The ‘mechanism’ currently consists of an out-dated list of experts that may be called on for hastily assembled, ad hoc, one-off missions. It has no standing equipment set, support staff or body of trained inspectors.

Finally, quite apart from the practical advantages of having a standing UN verification capability for WMD, the mere *existence* of such a body should have a deterrent effect. Moreover, if a standing UN body were mandated to maintain a general watch over global WMD and related developments it could alert the Council to evolving threats and provide corroborative information to that provided to the Council by UN member states. The calculations of actual or potential violators are likely, at the very least, to be made more complicated by knowing that the UN has verification capabilities ready to deploy at relatively short notice and which can provide the Security Council with up-to-date information. The violator would not be able to count on having a long gestation period or lengthy negotiations with the governing bodies of verification organisations, during which it might try to accelerate its WMD programmes or hide them.

### **The capacities of UNMOVIC**

Luckily, we already have an organisation located at UN headquarters in New York that has, in a relatively short period, acquired proven expertise and capacity in the monitoring, verification and dismantling of all types of weapons of mass destruction, as well as their associated delivery systems and research, development and production activities. I refer of course to the UN Monitoring, Verification and Inspection Commission (UNMOVIC), established by the UN Security Council in 1999 to verify the disarmament of Iraq of its alleged WMD and related materials and activities. UNMOVIC in turn has drawn on the experience and expertise of its predecessor, the UN Special Commission (UNSCOM).

Together, these two unprecedented organisations have proved their ability to plan, organise and rapidly deploy a verification operation in the most difficult political circumstances, that of enforced, contested disarmament, and in the most difficult physical terrain and conditions. Not only were they able to conduct thorough, systematic, on-site inspections and other in-country monitoring and verification activities, they also successfully dismantled or supervised dismantling of extensive nuclear weapons and ballistic missile programmes, and other elements of WMD programmes in the chemical and biological fields. Both organisations were able to use information, including from national technical means and open sources, wisely and to great effect, as well as protecting confidentiality where necessary. While UNSCOM did have difficulties in its relationship with foreign intelligence agencies, UNMOVIC learned the correct lessons and avoided such difficulties. Both UNSCOM and UNMOVIC successfully withstood the political pressures from the inspected state and from other countries, that could have derailed or diverted their work. In short, both agencies demonstrated that the United Nations could organise an effective, efficient and suitably independent verification mechanism outside the structure of a specific treaty regime.

The capability and experience garnered by UNMOVIC still of course exists pending a decision by the Security Council about the organisation's future. Leaving aside the question of whether UNMOVIC will ever be permitted to complete its mission in a sovereign Iraq, it would seem that the international community would be unwise to simply let UNMOVIC be abolished or to waste away. Having invested an enormous amount of effort and funding in

the organisation, a way should be found to preserve and nurture its capacities, both human and material, and its institutional memory.

### **What should a standing UN verification and monitoring mechanism look like?**

Several key questions arise in regard to the nature of a standing UN WMD verification mechanism.

#### ***1) What should be its mandate?***

Ideally, a future UN WMD Verification Commission should be mandated to:

- maintain a watch on WMD and related developments worldwide, with a view to keeping the Security Council informed
- keep abreast of developments and conduct training in verification modalities, techniques and technologies
- maintain and develop a capability to undertake specific operations, including fact-finding missions, on-site inspections, ongoing monitoring and complete verification operations on request.

It could be used in a wide variety of situations, certainly not restricted to the complex, multi-purpose, multi-year exercise undertaken in Iraq. Possible scenarios include:

- where a state wishes to demonstrate its innocence and invites a verification exercise to take place on its territory
- where a state suspects that illicit WMD activities have taken place on its territory without its knowledge, either by foreign states or non-state actors such as terrorists, and it needs assistance in proving and dealing with this threat
- in cases where suspected use of a WMD (chemical, biological or radiological) has occurred and confirmation is urgently required (as is currently possible via the UN Secretary-General's fact-finding mechanism)
- where a state has been accused of non-compliance but refuses to accept verification by the IAEA and/or OPCW or wishes to ensure a different mix of verifiers (this may well occur in the North Korean case)
- where a state voluntarily renounces previous WMD activities and wishes to obtain internationally credible verification of such an undertaking in all WMD areas
- where the Security Council enforces a verification and/or on-going monitoring regime on a non-compliant state, as in the Iraq case.

#### ***2) How should it be governed and authorised?***

The UNSCOM/UNMOVIC model appears to be an effective and efficient one, involving a College of Commissioners appointed by the Security Council to offer strategic guidance to the organisation, and headed by an Executive Secretary or Director-General also appointed by the Council.

The organisation could be available to be tasked by the UN Secretary-General at the request of the General Assembly or a UN member state, or under his own authority under the UN Charter to undertake less complex but time-urgent fact-finding missions of the kind that he is already able to independently initiate under his CBW use mechanism. However for more complex, politically charged verification missions, such as those along the lines of the Iraq and North Korea experiences, formal Security Council authorization would be expected.

### ***3) What capabilities should it have?***

Ideally such a mechanism should have the same capabilities as UNMOVIC, with a 'surge' capacity to expand rapidly should a particularly vexing non-compliance case arise. Currently UNMOVIC has a core establishment at UN headquarters of 51 weapons experts and support staff. In addition it has a roster of inspectors on call to conduct inspections as required. In November 2003 this numbered 350 experts from 55 member states. While the number of permanent staff has declined by about 10% since inspections in Iraq ceased, the number of rostered inspectors has not declined, indicating that states continue to be willing to provide personnel for inspections (even in a situation where they may never occur). Since this 'virtual' stand-by inspectorate is precisely what would be necessary for a permanent UN verification body, this augurs well. It is also notable that an estimated 3000 inspectors provided by member states rotated through UNSCOM during its eight-year existence, indicating that there is a vast pool of talent and experience available for a standing verification body. This has been further bolstered by the numbers involved in UNMOVIC.

Presumably a future UN verification body would not need as many CW experts as UNMOVIC, now that the OPCW is better established and able to cooperate as an equal partner. Nor will it need to duplicate the expertise of the IAEA, but work closely with it, as did UNSCOM and UNMOVIC. On the other hand, if it is to cover all types of WMD a future organisation clearly needs to maintain a core of experts of all relevant types, with perhaps nuclear and chemical weapons experts on secondment from the IAEA and OPCW respectively. Its BW and missile expertise would be particularly important as this is not replicated elsewhere in the multilateral system.

In terms of its structure a UN WMD body would presumably need the various components that exist in UNMOVIC: an administrative service; a division of technical support and training; a division of planning and operations to run field operations; a division of analysis and assessment, including multidisciplinary capacities across the three types of WMD; and a division of information to handle outside information sources, imagery and data processing and archives.

### ***Where should it be located?***

There have been suggestions that such capabilities should be vested in the UN Department of Disarmament Affairs rather than a separate organisation, partly on the grounds that it would give the Department a more substantive role than it has had to date. There are several reasons why I believe this would not be a good idea:

1. it would lessen the independence of the verification body
2. it would subject it to the whims of the General Assembly's budgetary committees
3. it would enmesh it in the politics and staffing challenges of the existing Department, which is neglected in terms of staff and budgetary support.

On balance, it would seem better to follow the UNMOVIC model, which is to physically locate it in the Secretariat building but to give it the status of a subsidiary body of the Security Council. The UNMOVIC name would probably have to be discarded because of its association with Iraq, notwithstanding that it sounds suitably neutral.

### **Who should fund it?**

Independent funding will be essential to maintain the independence of the operation. This could take the form of voluntary contributions by states into an endowment fund, plus money from philanthropic foundations, such as the Nuclear Threat Initiative. Regular assessed contributions by states is of course the normal model, but this may be hard to obtain support for and would embroil the funding in the machinations of the General Assembly's committees.

If it were not possible to gain the necessary political and financial support for the ideal model outlined above, it is possible to envisage a slimmed down, largely virtual verification mechanism which relied on a small core staff, a well maintained and regularly updated list of experts and necessary equipment that can be deployed at short notice, strong supportive links to other verification organisations and continuous planning and training exercises. Clearly this would not have the capabilities nor the deterrent value of the full-scale model, but it could nonetheless be useful in its own right, as well as being a base from which a more sophisticated mechanism could evolve.

### **Conclusion**

In conclusion, there would appear to be a strong case—in logic and bearing in mind the desirability of preserving hard-won existing capabilities—for a UN WMD verification body. It could certainly draw on the experience and capabilities of UNSCOM and UNMOVIC, while being sufficiently new to disassociate itself from the specific and controversial case of Iraq. Such a body would extend the range of tools and options available to the international community in tackling the threat of WMD, including from non-state actors, as well as expanding the frontiers of verification. Now, when the threat is so apparent, is the time for a bold initiative in this respect. A full-scale, comprehensive study of the idea is urgently warranted, but even more so is action to put it into effect.