

## **Mongolia's law on nuclear-weapon-free status**

( paper presented by Amb. J. Enkhsaikhan of Mongolia at the RTD  
“Reinforcing the NPT: challenges and opportunities” )

There are a few countries in the world that have national legislation banning nuclear weapons. An elaborate legislation was first adopted in New Zealand in 1987 that set a model of legislative action and responsibility against nuclear danger. Since then Austria, Mongolia, the Philippines and Palau have adopted national legislation or constitutional provisions that prohibit stationing or transit of nuclear weapons through their territory. Iraq's 2005 Constitution makes the country a *de facto* single-State nuclear-weapon-free state.<sup>i</sup>

Bearing in mind the importance of national legislation in ensuring that a country's international commitments are faithfully translated into deeds at the national level, it could be said that the above-mentioned national legislative acts are only the “first larks” of future waves of national legislation that would firmly place nuclear security in the hands of peoples themselves through their duly elected representatives and national implementing and oversight mechanisms.

Mongolia's legislation<sup>ii</sup> defining and regulating its nuclear-weapon-free zone (NWFZ) status was adopted on 3 February 2000. This year marks 10<sup>th</sup> anniversary of the adoption of the law. When drafting the law, Mongolia bore in mind its NPT commitment, the commitments reflected in NWFZ treaties and New Zealand's Nuclear Free Zone, Disarmament, and Arms Control Act of 1987. It also requested and received legal advice from IAEA's legal experts. The law not only regulates the country's single-State NWFZ status that was unilaterally declared in 1992, but also provides the legal basis for institutionalizing that status at the international level. In the past ten years Mongolia has been working hard to implement the provisions of the law.

The basic provisions of the law in general correspond to the basic provisions of international treaties establishing NWFZs. The highlights of the law include:

- Prohibition of not only of developing, manufacturing or otherwise acquiring, possessing or having control over nuclear weapons by any means but also stationing or transit of nuclear weapons by any means;
- dumping or disposing nuclear weapons grade radioactive material or nuclear waste is prohibited;
- The use of nuclear energy and technology is permitted solely for peaceful purposes in accordance with the provisions of international treaties to which Mongolia is a party and the accepted norms and principles of international law, especially those reflected in the IAEA technical norms and standards;
- Dumping or storage in the vicinity of Mongolian territory of nuclear material or waste that might directly or in the long run adversely affect the safety or the population and the environment is prohibited;

- The law established national means of verification of its implementation. It also provides for international verification in cooperation with IAEA or other relevant international organizations or by concluding special international agreements thereon;
- Individuals and legal persons that violate the law are held criminally liable for their acts or criminal inaction;
- In case of violation or suspected violation of the law by a foreign State, Mongolia would officially notify the State concerned of the violation or suspected violation, demand explanation and peacefully resolve the issue. If deemed necessary, the IAEA and other competent bodies could be asked for advice and assistance. In case of a dispute of a legal nature, the issue could be referred to relevant international court or arbitration.
- One of the novelties of the law is that it allows relevant Mongolian NGOs and even individuals, within the mandate provided by the legislation, to exercise public oversight of the implementation of the legislation and submit proposals thereon to the relevant State authority.

An implementing resolution of the parliament was also passed on 3 February 2000 that instructed the Government to cooperate actively with other States, the IAEA and other relevant international bodies so as to ensure full implementation of the law as well as of the United Nations General Assembly resolution 53/77 D of 4 December 1998 entitled “Mongolia’s international security and nuclear-weapon-free status”<sup>iii</sup>. The Government was also instructed to report regularly on the implementation of the law and other legislative acts and to ensure normal functioning of the infrasound and radionuclide tracking stations in Mongolia designed to monitor nuclear-weapons tests in the region and globally<sup>iv</sup>. In implementing this resolution Mongolia has been closely cooperating with IAEA and CTBTO. Thus for example this March it will be holding a technical bilateral meeting with CTBTO and hosting a regional workshop to promote wider understanding of the importance of the treaty, strengthening national and regional capacity building. Mongolia will also be holding with the IAEA a bilateral meeting to tap into the Agency’s wealth of experience in implementing some specific provisions of the law, namely regarding international verification of the implementation of the legislation.

One of the first measures taken by Mongolia after the adoption of the law was to sign and ratify the Additional Protocol which was done in May 2003. In November of that year Mongolia presented its first report . Several more reports have since then been presented to the Agency. Also additional measures have been taken to improve safety and security of nuclear or radioactive material, adopt IAEA standards and build capacity in the nuclear field.

In May-June 2006 an inter-agency working group representing relevant Mongolian authorities and Mongolian NGO “Blue Banner”<sup>v</sup> monitored implementation of the law and has presented its findings, together with concrete recommendations on how to more fully implement the law, to the Government and the State Great Hural (parliament) of Mongolia. A report on implementation of the law was also sent to the United Nations General Assembly<sup>vi</sup> and the IAEA<sup>vii</sup>.

Monitoring of the implementation of the law has also revealed that still much needed to be done to improve safety and security of existing nuclear and radiation facilities. This is even more important today in light of its decision to exploit its uranium and build a nuclear power plant (or plants) to satisfy its growing energy needs and minimize coal use.

The monitoring of the implementation of the law has also shown that full prohibition of transportation through Mongolian territory of nuclear weapons, parts thereof, of nuclear waste or any other nuclear material designed or produced for weapons purposes was still a challenge due to shortage of skilled personnel and the necessary equipment. The working group presented its findings and recommendations on the steps to be taken to the Government for its consideration and possible follow-up action.

At the international level, Mongolia enjoys the support of the world community in its policy to institutionalize the status by concluding an international treaty with the states concerned. In 2007 it has presented a draft trilateral treaty to Russia and China by which Mongolia would pledge not to allow stationing of nuclear weapons on its territory while its neighbors would pledge not to take any action that would violate Mongolia's status or compel it to violate its pledge. A draft protocol to the treaty would invite the other P3 to pledge to respect the treaty and contribute to its full implementation. In 2009 Mongolia held two rounds of consultations with China and Russia in Geneva to exchange views on the content and format of the treaty.

While enjoying wide support from the international community for its nuclear-weapon-free status, Mongolia, in its turn, tries to the extent possible, to play an active role in promoting the goals of nuclear disarmament and non-proliferation. Thus in April of 2009 it hosted the first meeting of focal points of nuclear-weapon-free zones and Mongolia, which for the first time discussed the possibility of NWFZs as a group to make joint statements on issues directly affecting their zones and the integrity of the concept of NWFZs. The joint position of representatives of focal points of NWFZs was then conveyed to the third NPT prepcom in 2009. This issue will also be discussed at the forthcoming Second Conference of States Parties and Signatories that Establish Nuclear-Weapon-Free Zones and Mongolia to be held on 30 April in New York.

## Endnotes:

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<sup>i</sup> Article 9 (E) of the Constitution stipulates that the Iraqi Government shall respect and implement Iraq's international obligations regarding the non-proliferation, non-development, non-production and non-use of nuclear, chemical and biological weapons and shall prohibit associated equipment, materiel, technologies, and delivery systems for the use in the development, manufacture, production, and use of such weapons.”

<sup>ii</sup> See United Nations General Assembly document A/55/56-S/2000/160 of 29 February 2000.

<sup>iii</sup> See United Nations General Assembly resolutions entitled “Mongolia's international security and nuclear-weapon-free status” adopted in 1998, 2000, 2002, 2004, 2006 and 2008. For the latest UNGA resolution see document A/RES/63/56 of 2 December 2008.

<sup>iv</sup> Primary seismic station (PS25 Songino), Radionuclide station (RN45) and Infrasound station (IS34 Songino).

<sup>v</sup> The Blue Banner is a non-governmental organization of Mongolia with open membership which works for promoting non-proliferation of nuclear-weapons, strengthening existing and promoting creation of additional NWFZs. It was established in 2005 and is based in Ulaanbaatar, Mongolia.

<sup>vi</sup> See United Nations General Assembly documents A/61/164 of 19 July 2006 and A/61/293 of 28 August 2006.

<sup>vii</sup> See INFCIRC/740 of 20 October 2008