



**(South) Africa and the Control of Non-State Nuclear Proliferation: Extra-Territorial
Jurisdiction with Reference to UNSC Resolutions 1540 and 1373**

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Noel Stott

Overview



- **South Africa: Disarmament, Non-proliferation and Arms Control**
- **South Africa: Counter-Terrorism**
- **South Africa's Nuanced Approaches**
- **South Africa's Constitutional Provisions**
- **1540**
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- **1373**
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South Africa: Disarmament, Non-proliferation and Arms Control



- Committed to disarmament, non-proliferation and arms control as an integral part of its constitutional provisions
- Acceded to a range of international agreements
- Actively participates in a number of fora designed to promote multilateral approaches
- Has comprehensive legislation

South Africa: Counter-Terrorism



- Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No 33 of 2004).
- But: the struggle waged by peoples for their liberation or self-determination, including armed struggle is *not* considered as terrorist acts

South Africa's Nuanced Approaches



- Nuclear disarmament
- Focus on the root causes of terrorism
- Balance between security and development

South Africa's Constitutional Provisions



- Foundation of all law in South Africa is its Constitution
- Extra-judicial application must be provided in specific legislation
- Extraterritorial jurisdiction controversial and contradictory?

United Nations Security Council Resolutions 1540



- South Africa sensitive to Africa's constraints and to the initial backlash against 1540
- Equal attention must be given to disarmament and non-proliferation
- 1540 is a non-proliferation measure and not an anti-terrorism one
- 1540 as a temporary measure designed to close gaps in the international WMD regime
- Should not be used to usurp international conventions and forums

Conclusions



- Need to recognise Africa's other sources of insecurity
- Non-reporting or late reporting to UNSC Committees should not be seen as a lack of political will or of non-implementation
- No relaxation on the need to reinforce disarmament obligations
- UNSC Resolutions should ONLY be seen in relation to UNGA Conventions and not as separate entities to be implemented external to the broader context of these Conventions
- South Africa during its non-permanent tenureship of the UN Security Council in 2011/2012 should:
 - work with other members of the Council (and the General Assembly) to promote the implementation of the Global Counter-Terrorism Strategy, with a view to enhancing a multilateral framework for the prevention and combating of terrorism from the perspective of the developing world and Africa.

South Africa should support the work of the Counter-Terrorism Implementation Task Force (CTITF) to continue to strengthen the co-ordination and coherence of the entire UN system on matters relating to terrorism and the implementation of the Strategy with a view to eliminate wasteful duplication of efforts and resources. In

Conclusions



- South Africa should support the work of the Counter-Terrorism Implementation Task Force (CTITF) to continue to strengthen the co-ordination and coherence of the entire UN system on matters relating to terrorism and the implementation of the Strategy with a view to eliminate wasteful duplication of efforts and resources.
- South Africa should lobby for the inclusion of more developing countries at the next Nuclear Security Summit in the Republic of Korea in 2012.
- In the case of the 2012 Conference on the Middle East as a Zone Free of Nuclear weapons as well as other Weapons of Mass Destruction, South Africa should work to ensure that the US, Russia and the UK meet their commitment towards the timely convening of this important event.



☎: +27 12 346 9500

📠: +27 12 460 0998

💻: www.issafrica.org

📧: iss@issafrica.org