



1540 Committee

Security Council Committee established pursuant to resolution 1540 (2004)

Regional Caribbean Parliamentary Workshop to Promote Ratification and Implementation of the BWC and Implementation of UNSCR 1540 (2004)

Port of Spain, Trinidad and Tobago

29-30 April 2019

Resolution 1540 (2004) and the Role of Parliamentarians

Scott Spence

Group of Experts supporting the 1540 Committee

"The views expressed are those of the presenter and do not necessarily represent the views of the 1540 Committee"



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Security Council Basics

- **Security Council (Chapter V, UN Charter)**
 - The Security Council has primary responsibility, under the UN Charter, for the maintenance of international peace and security (Art.24)
 - **All Member States are obliged to comply with Council decisions** (Art.25)
- **SC Structure**
 - 5 permanent members (China, France, Russia, UK, US)
 - 10 non-permanent members: elected by the GA for 2-year term





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Security Council Basics

- Chapter VII, UN Charter

Action with respect to threats to the peace, breaches of the peace, and acts of aggression

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Art.41 and 42, to maintain or restore international peace and security.

(measures include; complete or partial interruption of economic relations, and of rail, sea, air... the severance of diplomatic relations (Art.41), demonstrations, blockade, and other operations by air, sea or land...(Art.42))



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Background to Resolution 1540

Examples of proliferation of WMDs in the hands of non-State actors



Model of what a nuclear suitcase bomb might look like



Tokyo Subway Sarin Gas Attack in March 1995



Letters sent by USPS containing *Bacillus anthracis* spores in 2001



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Background to Resolution 1540 (2004)



60 Years

IAEA Atoms for Peace and Development

Board of Governors
General Conference

GOV/2017/31-GC(61)/14

Date: 25 July 2017

General Distribution

Original: English

For official use only

Item 16 of the Conference's provisional agenda
(GC(61)/1 and Add.1)

Nuclear Security Report 2017

Report by the Director General

30 June 2017. While the Agency does not have the ability to verify States' reports, the number of incidents reported to the ITDB demonstrates that illicit trafficking, thefts, losses and other unauthorized activities and events involving nuclear and other radioactive material continue to occur.

13. Of the 162 newly reported incidents, 4 were related to trafficking, 2 related to attempted malicious use and 1 was a scam. All of the material involved in these incidents was seized by the relevant competent authorities within the reporting State. No incident involved high enriched uranium, plutonium or category 1 sources.

14. There were 30 reported incidents in which the intent to conduct trafficking or malicious use could not be determined. These included 13 thefts and 17 incidents of missing materials. In 19 incidents the materials were not recovered including 1 incident relating to category 2 and 3 radioactive sources.

States had reported — or incidents were added to between 1 July 2016 and

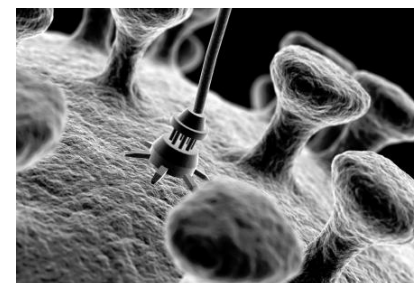
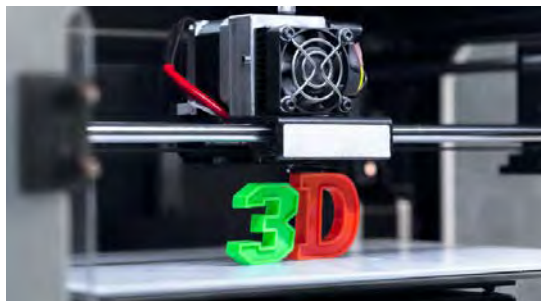


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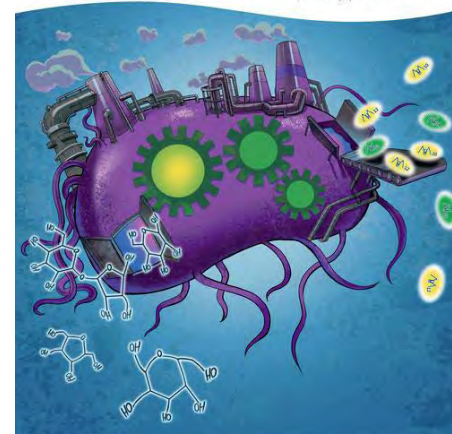
Advances in Science and Technology



ACS
Synthetic Biology

January 2013 • Volume 2, Issue 1

pubs.acs.org/synthetic



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Resolution 1540 (2004)

P1

United Nations

S/RES/1540 (2004)



Security Council

Distr.: General
28 April 2004

Resolution 1540 (2004)

Adopted by the Security Council at its 4956th meeting,
on 28 April 2004

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,* constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

* Definitions for the purpose of this resolution only:

Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

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Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation,

Affirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Gravely concerned by the threat of terrorism and the risk that non-State actors* such as those identified in the United Nations list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

Recognizing the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

Recognizing further the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

Encouraging all Member States to implement fully the disarmament treaties and agreements to which they are party,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Determining to file state herewith an effective response to global threats in the area of non-proliferation,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for

Preambular Paragraphs

Operative Paragraphs



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Resolution 1540 (2004)

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S/RES/1540 (2004)

terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. *Decides also* that all States **shall take and enforce** effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. *Decides* that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

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8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this resolution and, as the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.

Operative Paragraphs



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Resolution 1540 (2004) Basics

- Unanimously adopted on **28 April 2004** under Chapter VII of the UN Charter
- Binding instrument that addresses the threat posed by **non-State actors**, including terrorists, of **acquiring WMD, their means of delivery or related materials**
- **Complements** relevant multilateral treaties (NPT, CWC and BWC) and arrangements
- Reaffirmed by follow up resolutions most recently with **resolution 2325 (2016)**



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Resolution 1540 Key Definitions

- **Means of delivery:** missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons that are specially designed for such use.
- **Non-State actor:** individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.
- **Related materials:** materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.



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Basic Obligations

OP1

- Refrain from providing any form of support to **non-State actors** that attempt to **develop, acquire, manufacture, possess, transport, transfer or use** WMD and **their means of delivery**

OP2

- Adopt and enforce **appropriate and effective laws** which prohibit any non-State actor from engaging in or attempting to engage in such activities
- As well as engage in any of the **foregoing activities**, participate in them as an **accomplice, assist** or **finance** them

OP3

- Establish **domestic controls** to prevent proliferation of WMD and their means of delivery, including controls over of **related materials**, in the areas of
 - (a) Account for and secure: in production, use, storage or transport
 - (b) physical protection
 - (c) border controls, law enforcement to detect, prevent and combat...illicit trafficking and brokering
 - (d) export, transit, and trans-shipment and re-export control, provision of funds and services, end-user controls, penalize violations



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Significance of Resolution 1540

Op 3

3. Decide also that all States shall take and enforce effective measures to establish and enforce effective controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

- (a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;
- (b) Develop and maintain appropriate effective physical protection measures;
- (c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;
- (d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

- Impetus for a great number of States to establish or review their national export control or strategic trade management systems.
- It's **not only about “export”** controls: UNSCR 1540 acknowledges that a number of **related activities** need to be controlled as well (transits, transshipments, brokering, services etc).
- UNSCR 1540 recognizes the utility of **national control lists** and encourages States to **reach out to industry**.
- In summary, UNSCR 1540 identifies **key elements of effective export control systems**:
 - Legislation (incl. penalties for violations)
 - Enforcement capacity
 - Industry-government relations.



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Significance of Resolution 1540

Focus on non-state actors

- Existing treaties and regimes assume only States have the intention and capabilities to develop WMD – non-State actors are subject only to prohibitions laid down in domestic law.

Addressing delivery means

- Delivery systems are not the subject of legally binding instruments. International control of delivery means does not go beyond the politically binding international export control guidelines that countries implement through their national export regulations.

Obligations beyond those in NPT, CWC, BTWC

- Resolution 1540 (2004) concerns financial measures, security and accountability, physical protection, border controls, export controls and enforcement.



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1540 Committee

- Subsidiary body of the Security Council, composed of the fifteen current members of the Council
- Not a Sanctions Committee. Does not investigate or prosecute alleged violations of non-proliferation obligations
- Co-operative and transparent approach to facilitate implementation of resolution
- Working methodology:
 - Annual Program of Work
 - Annual Review
 - Comprehensive Review
 - Working Groups
- Assisted in its work by a Group of Experts
- Current mandate was set in resolution 1977 (2011)



Dian Triansyah Djani
1540 Committee Chair,
Ambassador and Permanent
Representative of Indonesia to the
United Nations



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Comprehensive Review 2016

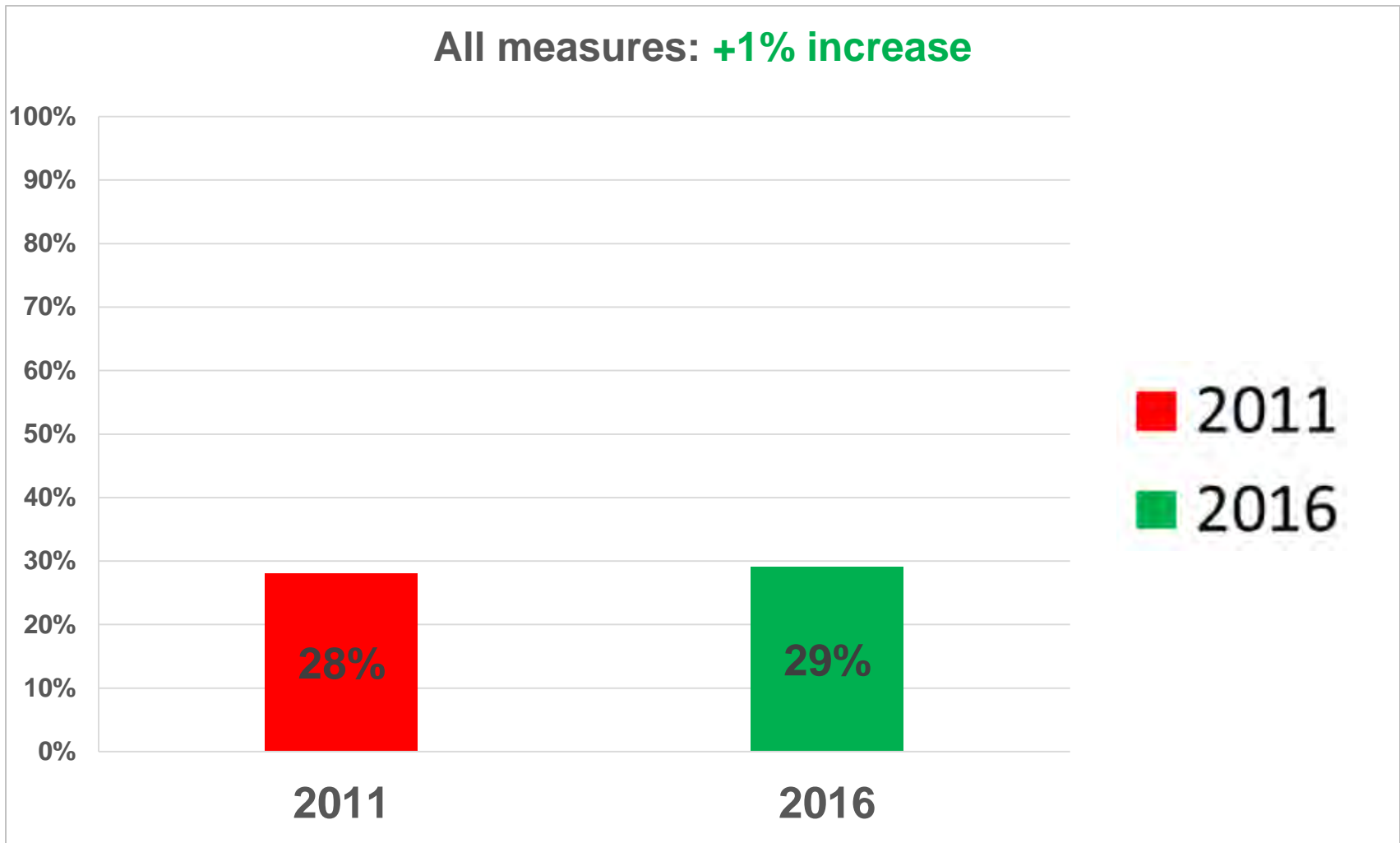
- **Comprehensive Review** was finalized in 2016 and a report was submitted to the Security Council
- **Matrix** is the primary source of data analysis for the Comprehensive Review: A matrix for each UN Member State (193) is prepared by the Group of Experts and approved by the Committee
- **Identification of trends and gaps** in the implementation of the resolution, as well as ways and means to improve level of implementation in five geographical regions



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1540 Matrix measures in the Caribbean: All measures – NW/CW/BW





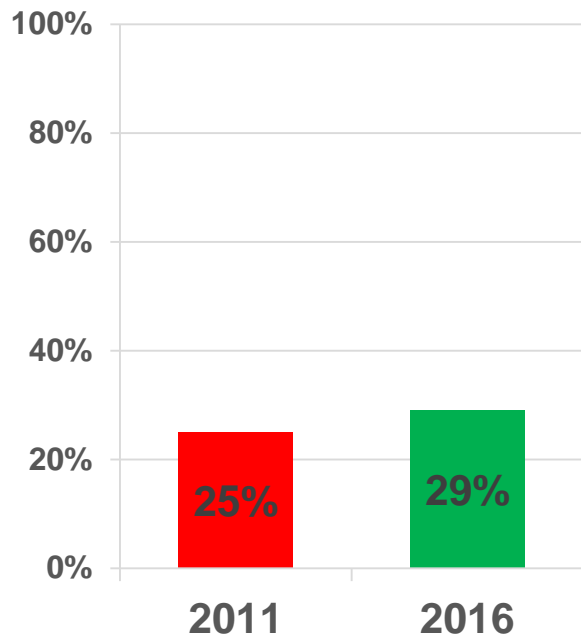
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1540 Matrix measures in the Caribbean: All measures— NW/CW/BW

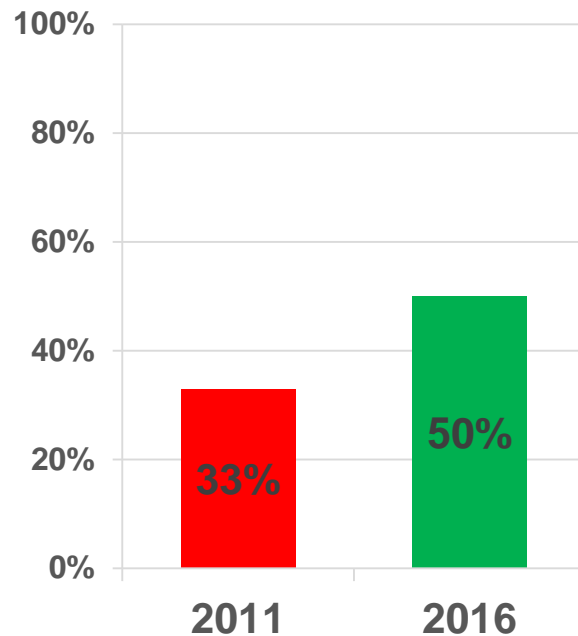
NW: +4%

■ 2011
■ 2016



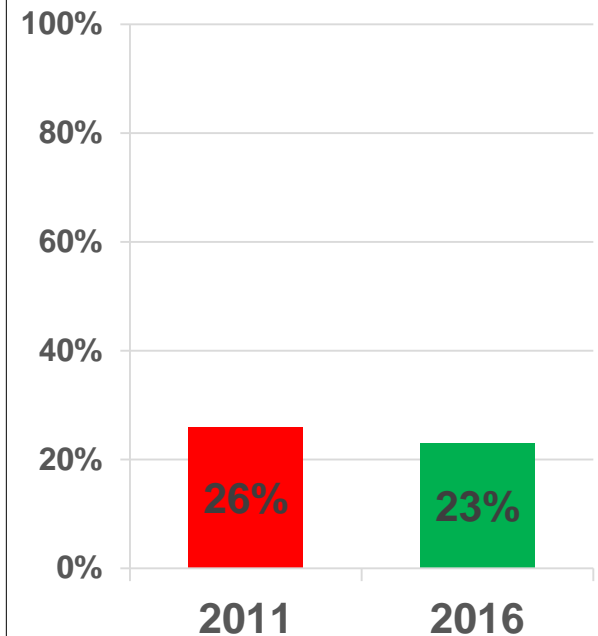
CW: 17%

■ 2011
■ 2016



BW: -3%

■ 2011
■ 2016

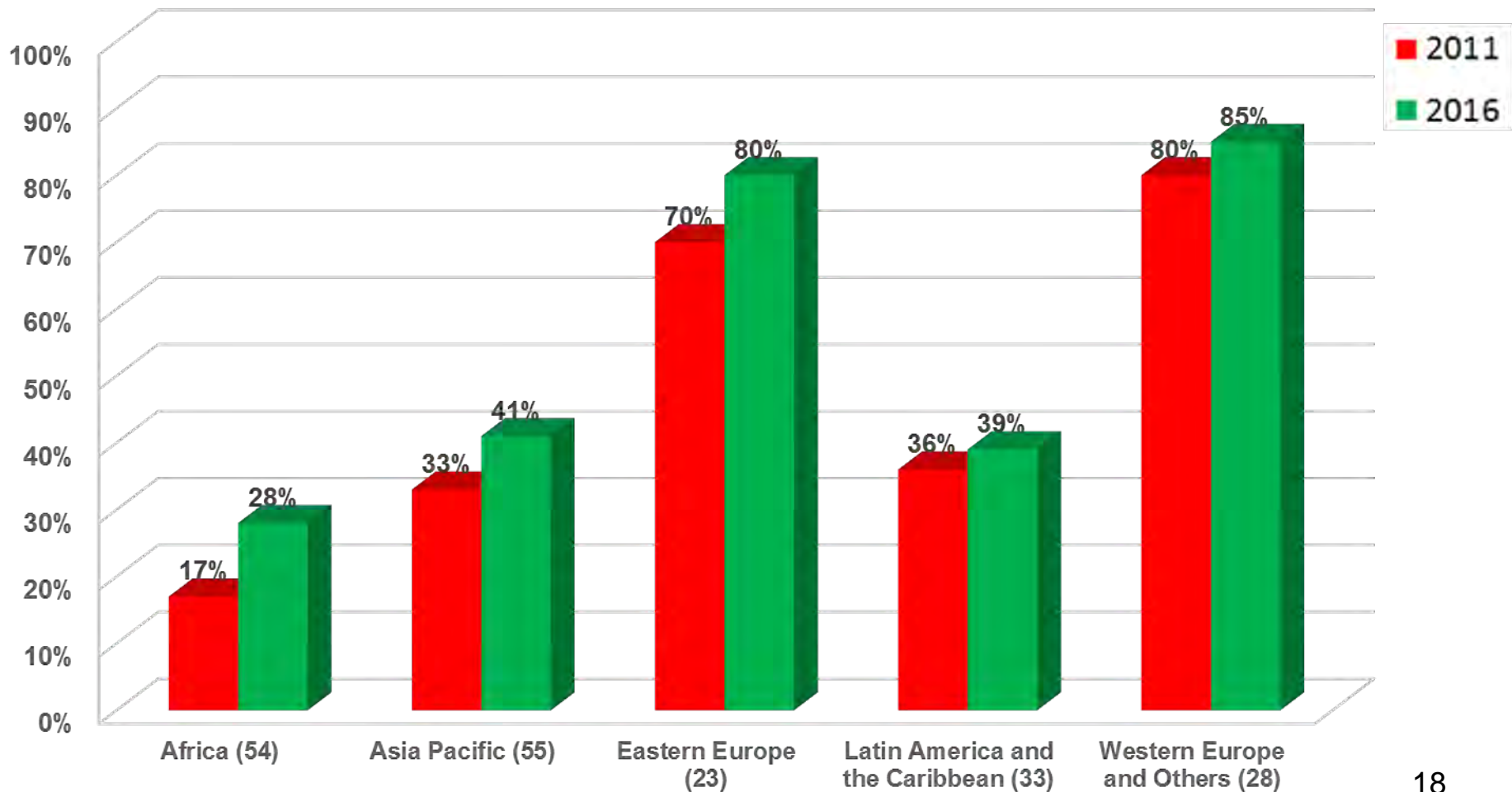




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1540 Matrix measures: **All measures** – regional overall all categories:
2011-2016





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Comprehensive Review 2016

Conclusions of the Review

- **Progress has been made** with implementation of border and export control obligations.
- More States have implemented **border control measures**, while fewer States -- mostly those members of the export control regimes – have **export-control-related measures**.
- Full implementation of export-control-related obligations is a **long-term task**.
- Goal: implementation of export controls that are **appropriate and effective** for each State in the context of its **industrial capability** and participation in the **global supply chain**.
- **Outreach** should be more **focused and targeted** on specific issues of implementation as identified by matrix information and the need for **closer cooperation and coordination** between relevant organizations.



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Resolution 2325 (2016)

Preamble)

Acknowledges **parliamentarians** have a key role in enacting necessary legislation to implement obligations in resolution 1540 (2004)

OP7)

Calls upon States to take into account developments in the **evolving nature of risk** of proliferation and **rapid advances in science and technology** in their implementation of resolution 1540 (2004)



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Resolution 2325 (2016)

OP14)

Recalls its decision that all States shall take and enforce **effective measures** to establish domestic controls

- Including by establishing appropriate **control over related materials**,
- Calls upon States that have not done so to start developing **effective national control lists** at the earliest opportunity for the implementation of resolution 1540 (2004)



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Resolution 2325 (2016)

OP 29)

Requests the 1540 Committee to continue to organize and participate in outreach events on the implementation of resolution 1540 (2004) at the international, regional, subregional, and, as appropriate, national level, including, as appropriate, inviting **parliamentarians**...



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Next Steps

- Implementing the Committee's 2019 Programme of Work
- Revision of the Matrices for country data for Comprehensive Review in 2021
- Engage 11 remaining non-reporting States
- Conduct 1540 Points of Contact training Courses: **POC Training for CARICOM Member States in July**
- Enhance assistance system
- Develop collaboration with international and regional organisations
- Focus outreach activities



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CONTACT DETAILS

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1540 Committee Website

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