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Resolution 1540 (2004) and the Role of Parliamentarians

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"The views expressed are those of the presenter and do not necessarily represent the views of the 1540 Committee"
• 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
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))
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
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.
Background to Resolution 1540 (2004)

Advances in Science and Technology
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 fulfill 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 importation by 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.

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

Decides that:

1. 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. 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,
Resolution 1540 (2004)

Operative Paragraphs


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 fulfill 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 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 which is a key part of the international non-proliferation regime, to take further decisions which may be necessary in this area.**
   12. **Decides to remain seized of the matter.**
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)
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.
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 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
• 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.
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.
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)
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.
1540 Matrix measures in the Caribbean: All measures – NW/CW/BW

All measures: +1% increase
1540 Matrix measures in the Caribbean: All measures—NW/CW/BW

- **NW**: +4%
  - 2011: 25%
  - 2016: 29%
- **CW**: 17%
  - 2011: 33%
  - 2016: 50%
- **BW**: -3%
  - 2011: 26%
  - 2016: 23%
1540 Matrix measures: **All measures** – regional overall all categories: 2011-2016
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.
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)
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)
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*...
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
CONTACT DETAILS

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