



# UN Security Council Resolution 1540: Effective practices and lessons learned in legislative implementation

Yasemin Balci, Senior Legal Officer, VERTIC

Workshop for IGAD States on Enhancing Implementation of Resolution 1540 and Other Non-Proliferation Instruments

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# Overview



- UNSCR 1540
- Status of UNSCR 1540 implementation
- Adherence to related instruments regionally
- Effective practices in legislative implementation
- Lessons learned in legislative implementation
- VERTIC's legislative assistance

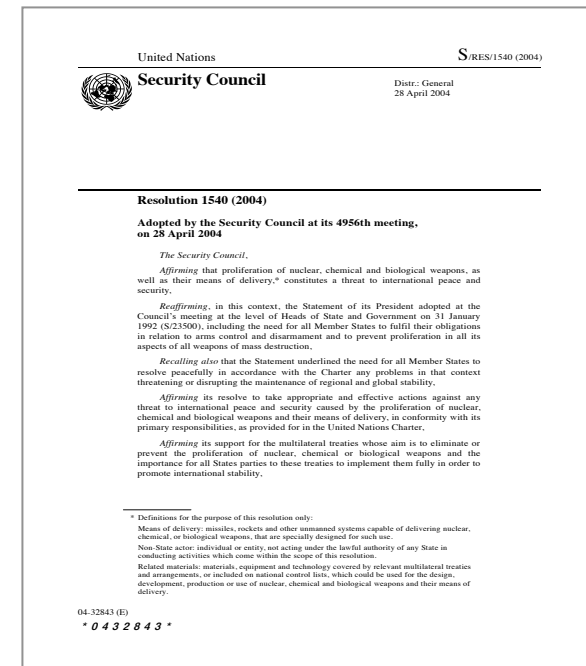
# UN Security Council Resolution 1540



– Includes legally binding decisions on all UN Member States:

1) To ***prohibit*** any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use NBC weapons and their means of delivery, as well as attempts, etc. (OP2)

2) To adopt measures to ***prevent*** the proliferation of NBC weapons and their means of delivery, including controls over dual-use materials (OP3)



# Status of UNSCR 1540 Implementation



## 1) Operative paragraph 2:

140 States had adopted measures by 2011 to prohibit the proliferation of nuclear, chemical and biological weapons, compared to 65 States in 2006.



## 2) Operative paragraph 3:

The 1540 Committee noted “an increase in the number of states that have taken steps to develop and maintain appropriate and effective measures to account for, secure and physically protect materials related to nuclear, chemical and biological weapons.”

- Most measures have been taken for materials related to nuclear weapons and the fewest for materials related to biological weapons.
- States have generally adopted more accounting measures compared with security and physical protection measures.

# Adherence to Related Instruments Regionally



- The BWC, CWC, CPPNM and COC RS are mentioned in UNSCR 1540 (except for CPPNM/A, ICSANT and the Guidance which post-date UNSCR 1540)

State	Legal instruments					Non-binding instruments	
	BWC	CWC	CPPNM	CPPNM/A	ICSANT	CoC RS	Guidance RS
Djibouti	No	Yes	Yes	Yes	Yes	No	No
Eritrea	No	Yes	No	No	No	No	No
Ethiopia	Yes	Yes	No	No	No	Yes	Yes
Kenya	Yes	Yes	Yes	Yes	Yes	No	No
Somalia	Signatory	Yes	No	No	No	No	No
South Sudan	No	No	No	No	No	No	No
Sudan	Yes	Yes	Yes	No	No	Yes	No
Uganda	Yes	Yes	Yes	No	No	Yes	Yes



# Effective Practices in Legislative Implementation

# Effective Practices in Legislative Implementation (1 of 4)



## On the **substance**:

- Identifying international obligations:
  - Review of membership to relevant treaties
  - Consider joining additional treaties and supporting non-legally binding instruments
  
- Identifying legislative and regulatory needs:
  - Comprehensive review of the existing national legal framework
    - Criminal law and procedure, export/import control law, regulation relating to dual-use materials
  - Gaps and need for additional legislative and regulatory measures
    - Adding the necessary definitions, prohibitions/penalties, jurisdictional measures, safety and security measures, transfer controls and legislative enforcement measures.

# Effective Practices in Legislative Implementation (2 of 4)



## On the **substance**:

- Drafting of additional legislative and regulatory measures
  - Forming a drafting committee with representatives of relevant ministries/institutions
  - Organising drafting workshops
  - Using model legislation and other States' legislation





# Effective Practices in Legislative Implementation (3 of 4)



On the **method**:

- Deciding on the approach:

- **Comprehensive stand-alone law**
  - Law that only contains the necessary criminal provisions
  - Comprehensive law containing criminal provisions, transfer control measures, safety and security measures, enforcement measures
  
- **Weapons of Mass Destruction law**
  - Chapter divisions by type of weapon/material (RN, B, C)
  - Accountability and security measures are different for each type of regime
  - Criminal provisions are separated for each regime
  - Transfer permits can be combined for the three regimes
  
- **Implementation through several laws and regulations**

# Effective Practices in Legislative Implementation (4 of 4)



## On the **procedure**:

- Identifying relevant institutions/persons:
  - Link roles and responsibilities of national institutions with specific international obligations
  - Focal point in charge of coordinating legislative and regulatory actions
  
- Identifying possible need for assistance and assistance providers
  - Development of a UNSCR 1540 National Action Plan
  
- Establishing a timeline for legislative drafting, review and adoption:
  - Review and approval by ministries
  - Review and adoption by legislature
  - Outreach/awareness-raising to relevant national stakeholders



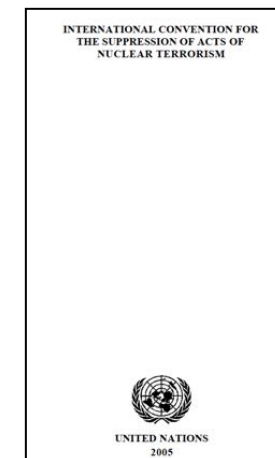
# Lessons Learned in Legislative Implementation

# Lessons Learned in Legislative Implementation (1 of 3)



## On the substance:

- Many complex obligations for national legislation drafters
- Difficulty in identifying which obligations are already covered by national legislation
- States are not sure or convinced of the relevance of the measures to them
- Other legislative priorities



# Lessons Learned in Legislative Implementation (2 of 3)



## On the **method**:

- States often wonder what legislative approach is most appropriate and effective for them, based on their national situation and constitutional arrangements
- States often look at other States' approach to legislation, particularly those with a similar legal or industrial background

# Lessons Learned in Legislative Implementation (3 of 3)



## On the **procedure**:

- Difficulties establishing inter-ministerial co-operation and co-ordination – perhaps the biggest hurdle
- Reasonable and realistic timeframes
- Drafting process requires capacity and time
- Co-ordination among assistance providers

## VERTIC's legislative assistance



# What is VERTIC?



VERTIC is an independent not-for-profit organization located in London, United Kingdom that promotes the effective verification and implementation of international agreements and related regional and national initiatives.

VERTIC's National Implementation Measures (NIM) Programme advises States on national implementation of the provisions in the following international instruments:

- the Biological Weapons Convention;
- the Chemical Weapons Convention;
- the Convention on the Physical Protection of Nuclear Material (as amended);
- the International Convention for the Suppression of Acts of Nuclear Terrorism;
- the Code of Conduct on the Safety and Security of Radioactive Sources and other instruments for the security of nuclear and other radioactive material;
- as well as UN Security Council Resolution 1540 (2004).



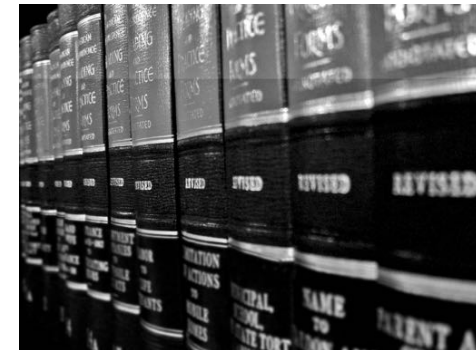
## Our legal services: Adherence



At a Government's request, we can provide cost-free legal advice to:

1) Assist States to adhere to the BWC, CWC, CPPNM (as amended) and ICSANT:

- Raise awareness of obligations through presentations at conferences and workshops, publications, or meetings with officials and other relevant national stakeholders;
- Prepare and/or supply accession and ratification instruments and related information on adherence procedures.

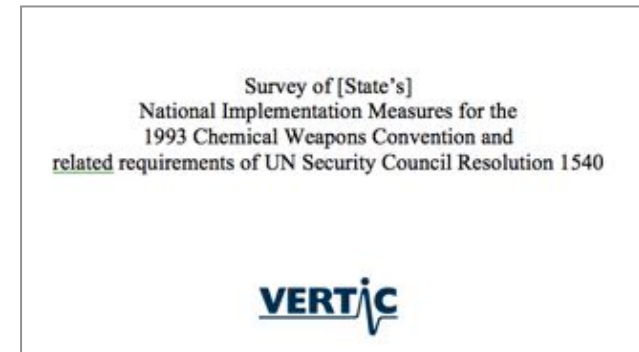


## Our legal services: Legislation surveys



2) Undertake comprehensive analysis of a State's existing legislation for the implementation of CBRN instruments:

- Legislation survey:
  - an analysis based on criteria covering definitions; prohibitions and penalties; jurisdiction; measures to account for, secure and physically protect CBRN material; measures to control transfers of material; measures for legislative enforcement;
  - Relevant national legislation and regulations are thoroughly reviewed;
  - Confidential.



## Our legal services: Legislative drafting



3) Organize and participate in awareness-raising workshops and technical assistance visits to:

- Draft/revise legislation;
- Elaborate national legislative action plans;
- Support national processes considering legislative development and treaty adherence (either in capital or at relevant workshops)



# Our legal services: Drafting tools



## 4) Legislative drafting tools:

- Sample Act for legislative implementation of the BWC and UNSCR 1540 and its Regulatory Guidelines
- National Legislation Implementation Kit on Nuclear Security
- Legislative Guide to National Implementation of UNSCR 1540

*These documents have been submitted by the UK to the 1540 Committee as examples of effective practices for implementation*



# VERTIC's BWC Legislation Database

A screenshot of the VERTIC website's BWC Legislation Database page. The page has a dark blue header with the VERTIC logo on the left, a search bar on the right, and a navigation menu in the center. Below the header, there is a breadcrumb trail: "Introduction | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z". The main content area is titled "BWC Legislation Database" and contains a section for "Implementation of the Biological Weapons Convention". To the right of the main content is a sidebar with a "Trust & Verify subscription" form and a list of navigation links.

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## BWC Legislation Database

### Implementation of the Biological Weapons Convention

Once a State has ratified or acceded to the Biological Weapons Convention (BWC), it will be bound by the content of the BWC, and obliged to implement its requirements.

In particular, Article IV obliges each State Party, in accordance with its constitutional processes, to take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of biological weapons in its territory and anywhere under its jurisdiction or control. States Parties have agreed that the prohibition of the use of biological weapons - originating in the 1925 Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare - also falls under the scope of the BWC.

In addition, Article III requires all States Parties to refrain from transferring biological weapons to anyone and from assisting, encouraging or inducing anyone to manufacture or acquire them.

VERTIC is in a position to assist States with national legislation to implement the BWC, at no cost, under our National Implementation Measures (NIM) Programme.

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## Contact VERTIC



- Yasemin Balci, [yasemin.balci@vertic.org](mailto:yasemin.balci@vertic.org)
- National Implementation Measures Programme: [NIM@vertic.org](mailto:NIM@vertic.org)
- VERTIC  
Development House, 56-64 Leonard Street  
London EC2A 4LT, United Kingdom  
Tel +44 20 7065 0880  
Fax +44 20 7065 0890  
Web [www.vertic.org](http://www.vertic.org)

