



National Implementation of UN Security Council Resolution 1540

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129th Assembly of the IPU and Related Meetings –
Committee on UN Affairs Item 5: Preventing the Proliferation of Weapons of Mass Destruction and
Implementing UN Security Council Resolution 1540 (2004)

Geneva, 7 October 2013

UNSCR 1540 - National Implementation Measures

- UNSCR 1540 calls for the establishment of national legal frameworks to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery. These frameworks must also cover related materials.

- Such a legal framework should include:
 - Prohibitions on activities involving the proliferation of such weapons and their means of delivery to non-State actors, in particular for terrorist purposes, as well any attempts to engage in such activities, participate in them as an accomplice, assist or finance them;
 - a system to account for and secure such items in production, use, storage or transport;
 - effective physical protection measures;
 - effective border controls and law enforcement measures; and
 - effective national export and trans-shipment controls.

UNSCR 1540 - National Implementation Measures

- UNSCR 1540 addresses several areas of national law including:
 - criminal law;
 - export-import, strategic goods and transfers control;
 - regulatory systems for dual-use materials; and
 - requisite enforcement measures.
- Each State will decide the type of implementing measures it requires in accordance with its constitutional processes.

Comprehensive stand-alone law: the BWC example

- Examples:
Antigua and Barbuda, Australia*, Belgium, Brunei-Darussalam, Canada*, Cuba*, Czech Republic*, France, Japan*, Mauritius*, The Netherlands, Russian Federation, Saint Kitts and Nevis, Singapore, United Kingdom, United States
- Mainly common law countries have adopted this approach (with a few exceptions)
- 2 trends identified:
 - Law that only contains the necessary penal provisions for the BWC
 - Comprehensive law containing penal provisions, biosafety/biosecurity measures, export control provisions and enforcement measures: indicated with * above

A 'Weapons of Mass Destruction' law

- Examples:
 - India, South Africa
- Some countries have adopted legislation to implement the CWC and BWC in one law as there are similarities in the two regimes
- Such laws may include a 'CBRN National Authority'
- Characteristics:
 - Chapter divisions by type of weapon (nuclear, biological, chemical)
 - The accountability and security measures are different for each type of regime
 - Criminal provisions are separated for each type of weapon
 - Transfer permits can be combined for the 3 regimes

Implementation through several laws and regulations

- Most European countries (and civil law countries) have adopted this approach
- How the implementation works:
 - Criminal provisions
Penal Code or counter-terrorism legislation
 - CBRN material safety/security provisions;
 - Export control of dual use items
In export control laws, customs codes or military/sensitive goods/dual-use items legislation
 - Enforcement
Through criminal procedure codes, police laws, extradition laws, mutual assistance in criminal matters legislation
- Gaps can be filled with amending legislation:
 - For example, amending the penal code, adopting control lists (preferably through regulation), adopting a CBRN material safety/security law, and/or reinforcing the export control regime

Benefits of Implementation

- States can investigate, prosecute and punish any offences, including preparatory acts, associated with nuclear, chemical and biological weapons or related materials by non-State actors.
- States can monitor and supervise any activities, including transfers, involving nuclear, chemical or biological materials and their means of delivery.
- States will enhance their public health and safety and national security.
- States with effective legislation will strongly signal to potential investors that they are a safe and responsible location for activities involving these materials.
- States' obligations under the 1968 Treaty on the Non-proliferation of Nuclear Weapons (NPT), the 1972 Biological and Toxin Weapons Convention (BWC) and the 1993 Chemical Weapons Convention (CWC) will also be met.
- States will be able to comply effectively with international reporting requirements.

Legislative Assistance Providers

1540 Committee and experts (clearinghouse role and facilitator)

<http://www.un.org/en/sc/1540/committee/expert-group.shtml>

International Atomic Energy Agency (IAEA)

<http://ola.iaea.org/ola/legislative-assistance.html>

Organisation for the Prohibition of Chemical Weapons (OPCW)

<http://www.opcw.org/our-work/national-implementation>

United Nations Office on Drugs and Crime (UNODC)

http://www.unodc.org/unodc/en/terrorism/UNODC_Role.html

VERTIC's National Implementation Measures (NIM) Programme

http://www.vertic.org/pages/homepage/programmes.php - wb_142



About VERTIC's NIM Programme

- We advise States on national implementation of the BWC, CWC, certain international instruments for nuclear security, and UNSCR 1540.
- Our multilingual team of common and civil law lawyers provide legislative analysis and assistance across the international C-B-RN legal regimes ('one-stop shopping').
- The NIM Programme expanded in 2012 into assistance with adherence to and implementation of international instruments to control nuclear and other radioactive material.
- VERTIC has developed a *Sample Act* to implement the BWC, a *Nuclear Security Legislation Kit**, as well as a *Legislative Guide to National Implementation of UN Security Council Resolution 1540 (2004)**.



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VERTIC wishes to thank Canada (Global Partnership Program, Foreign Affairs, Trade and Development Canada), the United Kingdom (Strategic Programme Fund, Foreign and Commonwealth Office), the United States (Biosecurity and Chemical Security Engagement Programs, Department of State) for their financial and in-kind support for the NIM programme. The views expressed by VERTIC do not necessarily reflect those of these governments or agencies.