



United Nations Security Council Resolution 1540 (2004)

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UNSCR 1540 at a glance

- Resolution 1540 was unanimously adopted on 28 April 2004 by the UN Security Council, under Chapter VII of the UN Charter.
- The resolution was a response to the risk that non-State actors might acquire, develop, traffic in or use nuclear, chemical or biological weapons and their means of delivery.
- Subsequent UN Security Council resolutions 1673 (2006), 1810 (2008), and 1977 (2011) were also adopted under Chapter VII of the UN Charter.
- The resolution deals with three kinds of so-called ‘weapons of mass destruction’ (nuclear, chemical, and biological weapons) and their means of delivery, as well as ‘related materials’.
- The resolution contains three sets of core obligations (in OP1, OP2 and OP3).

Definitions

UNSCR 1540 provides some 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*: an individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of the 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.

Obligations - Prohibitions

Operative paragraph 1 of resolution 1540 (2004) –

- ... 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...

Operative paragraph 2 of resolution 1540 (2004):

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

Obligations – Accountability, Security & Physical Protection

Operative paragraph 3 of resolution 1540 (2004) –

...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:

- Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport (OP 3a)
- Develop and maintain appropriate effective physical protection measures (OP 3b)

Obligations – Customs and Export Controls

Operative paragraph 3 of resolution 1540 (2004) –

- Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat ... the illicit trafficking and brokering in such items ... (OP 3c)
- Establish... effective national export and trans-shipment controls over such items, including appropriate effective 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... as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations... (OP 3d)

Other obligations

- The resolution calls upon States to present a report on the implementation of the resolution (OP4)
- Calls upon States to develop national control lists (OP6)
- Invites States in a position to do so to offer assistance to States that require assistance in implementing the resolution (OP7)
- Calls upon all States to promote the universal adoption and full implementation, and strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons (OP8a)
- Calls upon all States to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials (OP10)

UNSCR 1540 implementation

- Under UNSCR 1540, all States are required to adopt and enforce appropriate effective national laws to prohibit any non-state actor from manufacturing, acquiring, possessing, developing, transporting, transferring or using biological, chemical and nuclear weapons and their means of delivery (as well as attempts, participation, assistance and financing).
- Resolution 1540 also calls for establishment of a national legal framework to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery.
- This framework must cover related materials, equipment and technology and should include the following elements:
 - 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 implementation

- Accordingly, UNSCR 1540 addresses several areas of national law including, for example, criminal law, export-import and transfers control, regulatory systems for controlled materials and requisite enforcement measures.
- Each State will decide the type of implementing measures it requires in accordance with its constitutional processes.
- The scope of measures that a State adopts and enforces to give effect to the resolution will depend on its specific situation with respect to the activities covered by the resolution.
- Harmonization of national legal frameworks will be essential for effective implementation of global measures to restrain proliferation of biological, chemical and nuclear weapons.

1540 Committee

- Established pursuant to OP4; its mandate has been renewed in subsequent resolutions. UNSCR 1977 (2011) extended its mandate for a period of 10 years (until 2021).
- The 1540 Committee is a subsidiary body of the UN Security Council where each of the 15 members is represented; it reports to the Security Council on the implementation of the resolution.
- Four working groups were established to focus on important and recurrent issues:
 - Implementation (coordinator: Germany)
 - Assistance (coordinator: France)
 - International cooperation (coordinator: Togo)
 - Transparency and media outreach (coordinator: USA)
- Support includes up to 9 experts and the UN Secretariat (in particular the Office for Disarmament Affairs and Department for Political Affairs).
- The 1540 Committee is currently chaired by South Africa.

VERTIC Guide to National Implementation of UNSCR 1540 (2004)

- VERTIC recently developed a *Guide for National Implementation of UNSCR 1540*, toward the following objective in UNSCR 1977 (20/4/11) (OP 12):

‘...identify effective practices, templates and guidance, with a view to develop a compilation, as well as to consider preparing a technical reference guide about resolution 1540 (2004), to be used by States on a voluntary basis in implementing resolution 1540 (2004), and in that regard, encourages the 1540 Committee, at its discretion, to draw also on relevant expertise, including, civil society and the private sector...’

- VERTIC’s new *Guide* identifies and organizes in one document the model laws, implementation kits and handbooks that have already been developed by VERTIC, the OPCW and the IAEA to assist States in implementing the legal instruments to prohibit and prevent the proliferation of biological, chemical and nuclear weapons and related materials.

VERTIC Guide to National Implementation of UNSCR 1540 (2004)

- This Guide is divided into four parts:
 - Part I covers biological weapons and materials;
 - Part II covers chemical weapons and materials;
 - Part III covers nuclear weapons / nuclear and other radioactive material;
 - Part IV covers other obligations relevant to UNSCR 1540 national implementation relating to the suppression of unlawful activities involving civil aviation, maritime navigation and fixed platforms.
- A ‘Quick Reference’ at the end of each Part sets forth a list of the materials discussed in that Part and web links where available.
- The Guide is available in English, and under translation into Arabic, French, Russian and Spanish. It is available on VERTIC’s website: www.vertic.org > Programmes > NIM > UNSCR 1540 > Legislation Drafting Tools.



VERTIC's Assistance

VERTIC's NIM Programme provides legislative assistance to States, *at no cost*, in the development of laws and regulations for national implementation of:

- UNSCR 1540 (2004);
- 1972 Biological Weapons Convention;
- 1993 Chemical Weapons Convention;
- certain international instruments to secure nuclear and other radioactive material, including:
 - 1980 Convention on the Physical Protection of Nuclear Material (and 2005 amendment);
 - 2005 International Convention for the Suppression of Acts of Nuclear Terrorism;
 - IAEA Code of Conduct on the Safety and Security of Radioactive Sources; and
- certain other relevant international instruments, including:
 - 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (Beijing Convention);
 - 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (as amended by the 2005 Protocol); and
 - 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (as amended by the 2005 Protocol).



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