

NATIONAL IMPLEMENTATION MEASURES FOR UNITED NATIONS SECURITY COUNCIL RESOLUTION 1540 (2004)

FACTS ABOUT THE RESOLUTION

United Nations Security Council Resolution 1540 (2004) was adopted on 28 April 2004. It is legally binding on all UN member states.



UN Headquarters - New York City istock photo

WHY IS UNITED NATIONS SECURITY COUNCIL RESOLUTION 1540 RELEVANT?

UNSCR 1540 is a response to the threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, to non-state actors.

The resolution aims to curtail this threat by requiring states to criminalize certain activities and to put in place appropriate and effective national laws and enforcement measures to prohibit and prevent the misuse of controlled items.

IS MY STATE OBLIGED TO IMPLEMENT ITS PROVISIONS?

Yes, if your state is a member of the United Nations. The resolution was adopted under Chapter VII of the UN Charter and is legally binding on all UN member states.

WHAT TYPES OF NATIONAL IMPLEMENTING MEASURES ARE REQUIRED?

UNSCR 1540 specifies issues that must be addressed in national law and the areas of law affected by the resolution. These may include, for example, certain prohibited activities, transfer controls, 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.

ARE STATES REQUIRED TO CRIMINALIZE CERTAIN ACTIVITIES?

Yes. All states are required to adopt and enforce appropriate and effective national laws to prohibit and prevent any non-state actor from manufacturing, acquiring, possessing, developing, transporting, transferring or using nuclear, chemical and biological weapons and their means of delivery. Such legislation must also prohibit attempts to engage in any of the prohibited activities, acting as an accomplice in them, and assisting or financing them. This may be achieved by amending penal measures to criminalize and punish these activities.

IS MY STATE REQUIRED TO ENACT OTHER FORMS OF LEGISLATION?

Yes. The resolution calls for the establishment of a national legal framework to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery. This necessitates a regulatory framework that covers related materials, equipment and technology. The resolution specifies that this framework should include the following elements:

- A system to account for and secure 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.

DOES THE RESOLUTION PROVIDE DEFINITIONS?

The resolution provides definitions relevant for its implementation.

- Means of delivery are 'missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons that are specially designed for such use.'
- A non-state actor is an '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 are '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.'

WHERE SHOULD MY STATE'S LEGISLATIVE DRAFTERS TURN FOR ASSISTANCE?

States, inter-governmental organizations and international organizations have offered legislative assistance with different elements of UNSCR 1540 implementation. The UN 1540 Committee maintains a list of assistance providers on its website and seeks to coordinate assistance offers and requests.

In close co-operation with other assistance providers, VERTIC offers assistance with legislative drafting for obligations under the nuclear, biological and chemical weapons treaties (and the related elements of UNSCR 1540), remotely or in capitals, at no cost. VERTIC proposes approaches to fully implement the nuclear, biological and chemical weapons treaties, including amendments to existing legislation, single issue laws, or laws incorporating all obligations under these treaties. Please contact VERTIC (NIM@vertic.org) for more information.

HOW CAN MY STATE CONTACT THE 1540 COMMITTEE?

Secretariat of the 1540 Committee
730 Third Avenue, TB-08040E
United Nations, New York, NY 10017
United States of America

Tel: +1 212 963 3520
Fax (general): +1 212 963 1300 Fax (implementation assistance): +1 212 457 4045
E-mail (implementation assistance): 1540experts@un.org
Website: www.un.org/sc/1540

HOW DOES THIS RESOLUTION AFFECT THE IMPLEMENTATION OF RELATED TREATIES?

The resolution elaborates certain types of national measures that states parties to the related treaties require to give effect to their obligations under those agreements: the 1968 Nuclear Non-Proliferation Treaty (NPT), the 1972 Biological Weapons Convention (BWC) or the 1993 Chemical Weapons Convention (CWC). The resolution stipulates that its provisions do not conflict with or alter the rights and obligations of states parties to these treaties.

DOES THE RESOLUTION REQUIRE MY STATE TO JOIN EXISTING ARMS CONTROL AND DISARMAMENT TREATIES?

No, this is a sovereign decision for each state. However, as states' fulfilment of obligations under UNSCR 1540 also gives effect to certain requirements under the related treaties, non-states parties may now choose to join these treaties to benefit from the rights ascribed to states parties, such as multilateral technical assistance for implementation, cooperation and protection. In turn, this will assist states to adhere to their obligations under UNSCR 1540.

WHAT IS THE '1540 COMMITTEE'?

The '1540 Committee' was established by UNSCR 1540 to promote and monitor implementation of the resolution (through national reports), and seeks to coordinate offers and requests for assistance. The Committee's term was initially set to expire at the end of April 2006, but has been extended by UNSCR 1673 (2006), UNSCR 1810 (2008) and UNSCR 1977 (2011) until 25 April 2021. You can find out more about the Committee's work on its website: www.un.org/sc/1540. It includes national reports, a legislative database and directory of assistance (see below).