

1540 COMPASS

WINTER 2012 — VOLUME 1 ISSUE 1



The UN Security Council votes unanimously to enact UNSCR 1540. [UN Photo/Eskinder Debebe]

**Notes of welcome by 1540 Chair Baso Sangqu and U.N.
High Representative for Disarmament Sergio Duarte — p. 3**

**Organization for the Prohibition of Chemical Weapons
contributes to 1540 implementation — p. 21**

CARICOM: Strengthening capacity
to combat WMD trafficking and terrorism
in the Caribbean Community — p. 14

The unique challenges and solutions
needed for 1540 implementation
in the African region — p. 10



The 1540 Compass is published in cooperation with the United Nations Office for Disarmament Affairs

On 28 April 2004, the United Nations Security Council unanimously adopted resolution 1540 (2004) under Chapter VII of the United Nations Charter, obliging states, inter alia, to 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. All states are required to establish domestic controls to prevent the proliferation of weapons of mass destruction (WMD) and their means of delivery, including by establishing appropriate controls over related materials.

The Security Council Committee established pursuant to resolution 1540 (1540 Committee) is engaged in various types of activities to promote full implementation of the resolution, sharing of experiences and lessons learned, and capacity building in the area covered by the resolution. Support to the 1540 Committee and its experts is provided by the UN Office for Disarmament Affairs, which contributes to the Committee's activities in the area of national implementation, assistance, and cooperation with international, regional and sub-regional organizations as well as in outreach and transparency.

On 20 April 2011, the United Nations Security Council significantly reinforced international measures to prevent the proliferation of weapons of mass destruction and acts of terrorism with their use by unanimously passing resolution 1977 which extended the mandate of the 1540 Committee for ten years. UNSCR 1977 encourages the Committee, inter alia, to form partnerships with regional and intergovernmental organizations as well as recognizes the importance of voluntary contributions from member states to resource the Committee's activities.

For more information, visit the UNSCR 1540 Committee website at www.un.org/sc/1540/



1540 COMPASS

A journal of views, comments, and ideas for effective implementation of UN Security Council Resolution 1540 to prevent WMD proliferation and terrorism by non-state actors.

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The views expressed within are those of the authors and do not necessarily reflect those of the Center for International Trade & Security or the United Nations.

The Compass welcomes letters and articles from all concerned with 1540 implementation. Articles should be 1,500-2,000 words in length and written in English. Digital photographs should be submitted in their native format, typically JPEG; scanned photographs should be saved in a lossless format like TIFF or BMP. Send submissions to compass@cits.uga.edu.

Contents

| | |
|---|---|
| Notes of Welcome | 2 |
| Baso Sangqu, Permanent Representative of South Africa to the UN & Chairperson of the 1540 Committee | |
| Sergio Duarte, High Representative for Disarmament, United Nations | |

STRATEGY AND POLICY

| | |
|--|---|
| A Strategy for the 1540 Committee | 4 |
| Tom Wuchte | |
| Personal Reflections on UNSCR 1977 | 7 |
| Dr. Richard T. Cupitt | |

REGIONAL AND NATIONAL FOCUS

| | |
|--|----|
| Challenges and Solutions for 1540 Implementation in the African Region | 10 |
| Amelia Broodryk and Noël Stott | |
| Reflections on the 1540 Implementation Process in CARICOM Member States | 14 |
| O'Neil Hamilton | |
| The 2012 Nuclear Security Summit: A View from Seoul | 18 |
| Duyeon Kim | |

INTERNATIONAL ORGANIZATIONS

| | |
|---|----|
| Organization for the Prohibition of Chemical Weapons and UNSCR 1540 | 21 |
| Krzysztof Paturej | |
| UNSCR 1540 and the Organization for Security and Cooperation in Europe | 25 |
| Anton Martyniuk, Vaclovas Semaskevicius, and Adriana Volenikova | |

STAKEHOLDERS' PERSPECTIVE

| | |
|--|----|
| Civil Society and Non-Governmental Organizations Need Recognition and Support | 29 |
| Ambassador Ochieng Adala | |
| Non-Proliferation: Social Responsibility in Industry | 32 |
| Andreas Widl | |

REVIEW OF REPORTS & DOCUMENTS

| | |
|---|----|
| Summary: Assessing the Economic Impact of Strategic Trade Controls | 35 |
| Scott Jones | |

From the Editor:

It was with some trepidation that our team at the University of Georgia originally proposed to launch this publication focusing on resolution 1540. Over the seven years since its adoption in 2004, resolution 1540 has generated a wealth of commentaries. What would be our niche? we asked. What new can we introduce into an already ongoing discourse?



Our underlying motivation is to identify a substance and a format that will meet the criteria of clarity, specificity, and interactivity. Accordingly, the *1540 Compass* will give voice not only to policy decision-makers and the academic community, but, we hope, mostly practitioners — those who issue export control licenses, build physical protection, ensure security of sensitive materials, or inspect cargo crossing borders. We see it as a channel for intellectual cross-fertilization among all stakeholders who help implement 1540, directly or indirectly.

If clarity, and specificity are explicit requirements for our authors, interactivity is our responsibility and probably the main objective of our *Compass* project. Big undertakings like UNSCR 1540 tend to generate their own momentum. In this sense, the role of the *Compass* is to tap all available intellectual resources and point the way to possible new directions and activities. We welcome contributions both from established authors and from novices who want to warn, alert, or predict, or simply to challenge other authors. To this end, the next issues will feature a Discussion Forum reproducing your letters and comments. I encourage interested readers to take this opportunity to provide input into debates on critical issues. The *1540 Compass* will carry this give-and-take both in electronic format and, in time, through printed copies in most UN languages.



IGOR KHRAPUNOV
EDITOR, 1540 COMPASS
CENTER FOR INTERNATIONAL TRADE & SECURITY

Notes of welcome

Seven years ago, the international community was faced with an important question: what could we collectively do to ensure that non-state actors, including terrorists, did not gain access to materials that could be used in the development of nuclear, chemical, and biological weapons or their means of delivery?

[Resolution 1540](#) calls upon states to adopt and enforce effective measures to address the threat posed by the proliferation of nuclear, chemical, and biological weapons, as well as their means of delivery, to prevent non-state actors from gaining access to such items or related materials.

It is unique in that it is a cooperative tool that calls upon states to be proactive. In this spirit, the Security Council took the unanimous decision to extend the mandate of the Committee responsible for facilitating the implementation of the resolution for another ten years. Through [resolution 1977 \(2011\)](#), the [1540 Committee](#) has been mandated to continue to strengthen its role to facilitate the provision of technical assistance, and to enhance its cooperation with relevant international, regional, and subregional organizations such as the [International Atomic Energy Agency](#) and the [Organization for the Prohibition of Chemical Weapons](#).

Resolution 1977 enhances the Committee's ability to work with member states in support of their implementation efforts. One of the key challenges that many states may face is the question of capacity to implement the provisions of resolution 1540. It is important that we ensure that the coordinated and transparent assistance process is accessible to all states.

It is my belief that as we continue to implement the requirements of resolution 1540, we will have to actively engage in dialogue with states on implementation. It is especially pleasing to have a new journal devoted to examining these issues in a constructive manner. I thank the *1540 Compass* editorial team for this initiative and welcome their support.

I welcome the initiative of the Center for International Trade and Security (CITS) to publish an electronic journal "1540 Compass" and its invitation to the [United Nations Office for Disarmament Affairs](#) to cooperate in this project. My Office is committed to work actively with civil society and academia on disarmament and non-proliferation issues and will continue to strengthen this partnership in support of the objectives of Security Council resolution 1540 (2004).

The new journal offers a platform for sharing experience in implementing resolution 1540 (2004) and establishes an interactive forum for advancing and discussing ideas which could assist the international community to bolster existing cooperation and forging new partnerships in promoting the implementation of the resolution. I wish this project success.



BASO SANGQU
PERMANENT REPRESENTATIVE OF SOUTH AFRICA TO THE UNITED NATIONS
CHAIRPERSON OF THE 1540 COMMITTEE



SERGIO DUARTE
HIGH REPRESENTATIVE FOR DISARMAMENT
UNITED NATIONS



1540 COMPASS: SECTION ONE
STRATEGY AND POLICY

A Strategy for the 1540 Committee

Tom Wuchte
1540 COORDINATOR
U.S. DEPARTMENT OF STATE

Committee's mandate three times, underscoring the value of its work. The most recent extension came via [UNSCR 1977 \(2011\)](#), which authorized the Committee to press ahead for another full decade, until April 25, 2021. This long extension puts the Committee on a different footing, firmly establish-

UN Security Council Resolution (UNSCR) 1540 established a [UN Security Council Committee](#) to oversee implementation of the measures called for in the resolution, and it called on all member states to report on the laws, regulations, plans, and programs they enact to fulfill their obligations. The Committee works with states to ensure universal implementation of the resolution. As the U.S. Coordinator for UNSCR 1540, I believe this first journal provides a well-timed opportunity to consider next steps following the recent extension of the Committee's mandate for ten years. These ideas are simply food-for-thought in the continued spirit of collaboration that is the hallmark of the Committee's efforts.

This long extension puts the Committee on a different footing, firmly establishing it as a durable mechanism in international efforts to stem the proliferation of weapons of mass destruction.

ing it as a durable mechanism in international efforts to stem the proliferation of weapons of mass destruction. It also makes it possible for the Committee to undertake long-range strategic planning, allowing it to program work and harness resources, stepping up and expanding its efforts to assist member states. The new mandate should also provide ample opportunity to strengthen cooperation with relevant international, regional, and subregional organizations

(IROs), other UN organs, and nongovernmental organizations (NGOs).

1540 COMMITTEE AS A TOOL

Since it was established in 2004, the Committee has become increasingly valuable to UN member states striving to comply with UNSCR 1540 obligations. The Security Council has renewed the 1540

IMPACT OF RESOLUTION 1977

Resolution 1977 requests that the Committee intensify its efforts in a number of areas where it has already achieved success or that show promise. Chief among these are facilitating technical

assistance to states and providing expert advice. Other important fields of endeavor include actively engaging with states, relevant IROs, and the committees established pursuant to counterterrorism [UNSCRs 1267 \(1999\)](#) and [1373 \(2001\)](#); conducting country visits; identifying effective practices and compiling a technical reference guide for states; instituting transparency measures and outreach events to increase awareness of, and interest in, resolution 1540 and the Committee itself; and seeking out new sources of expertise to aid its efforts. The Committee's "Work Program" envisions holding meetings at least monthly and establishes four subordinate Working Groups on: (1) monitoring and national implementation; (2) assistance; (3) cooperation with IROs; and (4) transparency and media outreach. These subordinate groups have been encouraged to meet frequently — even monthly in some cases, to ensure key issues like assistance are responsive to new developments.

CHALLENGES FOR THE COMMITTEE

The Committee now faces a new set of challenges. As it takes on new activities while simultaneously redoubling efforts in fruitful areas, the demands placed on its Working Groups will grow. So too will the workload for the eight subject-matter experts who serve the Committee. The Committee can better answer these challenges if furnished with additional resources from voluntary contributions, and as it deepens its collaboration with IROs and NGOs. At the same time, the Committee's work will take on new complexity, demanding that it improve the way it does business and manages its work. The Chair must strive for a seamless relationship between the Committee, the four Working Groups, the group of experts, and the UN Secretariat (specifically the Office for Disarmament Affairs (ODA) and [Department of Political Affairs \(DPA\)](#)). Frequent consultation among the stakeholders is a necessity. And since full implementation of UNSCR 1540 is a long-term project, the Committee must take the long view, and be prepared to adapt to meet the evolving threat posed by WMD proliferation.

To capitalize on the successes it has achieved to date, the Committee is making the transition from offering outreach and guidance to member states

to taking a practical hand in promoting implementation of UNSCR 1540. An example of this transition is the recently concluded country visit to the United States, in which the Committee and its experts visited several U.S. government agencies and facilities to examine U.S. practices and procedures. Such visits will help the Committee assess future ways to better partner in assistance and in sharing lessons learned. Other areas of transition include helping states to develop national legislation to prevent WMD proliferation; and working with international and regional organizations to implement the resolution effectively. Furthermore, the Committee must ensure that the experts, the UN Secretariat, and the Working Groups send a consistent message about what it means for governments to implement UNSCR 1540. As it turns to face these new challenges, the Committee could benefit greatly from partnerships with other organizations, both governmental and nongovernmental, and on outside expertise in general. Finding, coordinating, and institutionalizing such relationships will pose new operational challenges, yet doing so is vital to continuously improving the advice and practical help supplied to UN members.

Efforts to retool the Committee's structure and reform its business practices, therefore, should concentrate on two broad areas: (1) revise internal resource management to bolster efficiency and accountability; and (2) refresh, deepen, and solidify external interactions with states, other UN organs, and outside organizations.

THE WAY AHEAD

Resolution 1810 required a comprehensive review in 2009. The review presented important findings and recommendations for improving the effectiveness of the 1540 Committee. The successor resolution (UNSCR 1977) also recommended exploring various modifications to the body's working methods and structure. These matters deserve immediate consideration because the Committee and its resource-strapped group of experts will find it increasingly difficult to perform existing missions, take on new ones, and meet the expectations of the Security Council and the needs of the global community. Among the most critical steps: (1) persuading member states to furnish new

resources to assist the Committee and its group of experts, as the United States did with a \$3 million contribution in September; and (2) establishing the position of a Coordinator to help oversee and support activities related to the 1540 Committee — to support the Chair like a “chief of staff” given the increasing demands on the group of experts through outreach and implementation.

Some other ideas to consider could include:

- Start planning conferences now to discuss the 2016 Comprehensive Review—yes, 2016! The idea would be to gather state representatives, IROs, and academic experts to peer ahead into the future of UNSCR 1540. Such gatherings should commence as early as 2012. The timing for a conference in the next year would be perfect, since the Committee will have just completed several tasks handed down in UNSCR 1977. ODA could demonstrate its support to the 1540 Committee by funding these events.
- Work with the group of experts, possibly through the Working Group on Implementation, to incorporate guidelines and templates into the existing “matrix” for 1540 implementation. This would contribute significantly to the objectives proposed from the 2009 Comprehensive Review. *The revised matrix should, among other things, aim to:*
 - › simplify the process for completing the UNSCR 1540 matrix without losing essential information;
 - › introduce the element of time into the UNSCR 1540 matrix, allowing stakeholders to chart trends in compliance/implementation;
 - › refine the “evidence of execution” and “enforcement of legislative measures” within the UNSCR 1540 matrix to cover not only penalties for violations of legislative measures, but also how such violations are investigated and prosecuted;

- › integrate standards related to nonproliferation of WMD set by international bodies more fully into the UNSCR 1540 matrix.

[NOTE: these revisions to the matrix are discussed in greater detail in the experts’ background paper prepared prior to the 2009 Comprehensive Review, located at [http://www.un.org/sc/1540/docs/CR%20paper\(Element%20G\).pdf](http://www.un.org/sc/1540/docs/CR%20paper(Element%20G).pdf). The revised matrix would also better reflect efforts to identify and assist countries requiring improved nonproliferation capabilities.]

There should be greater encouragement in the Working Group on International Cooperation to reach out to international organizations, regional organizations, and other multilateral groups more systematically, fostering dialogue with these entities and identifying possible synergies. *The Committee should pursue alliance-building efforts by selecting candidate organizations on a case-by-case basis, choosing those with the greatest potential to advance the Committee’s practical mission.*

The Transparency Working Group should consider issuing Committee *communiqués* after significant implementation milestones have been reached. An assistance-providers’ meeting would be one such occasion. These *communiqués* would be posted on the 1540 website, duplicated or linked to partners of the Committee through dedicated email lists, and broadcast on social media such as Facebook and Twitter. We hope the Committee will agree to such measures, which represent an easy way to make its endeavors more transparent while raising its profile – much in line with this welcomed Compass initiative.

The 1540 Committee must pivot to focus on these questions, collecting ideas and views and compiling recommendations to the Security Council. Only then can it play an effective long-term part in helping States comply with resolution 1540.





The UN Security Council votes unanimously to enact UNSCR 1977. [UN Photo/Devra Berkowitz]

Personal Reflections on UNSCR 1977

Dr. Richard T. Cupitt
1540 COMMITTEE EXPERT

By 2005, articles in law journals questioning the legality of UN Security Council resolution 1540 (2004) seemed to dominate scholarly debate on its adoption by the UN Security Council under Chapter VII of the UN Charter. Several states certainly believed that the General Assembly should handle the intersection between non-proliferation and non-state actors. To those of us appointed as 1540 Committee experts in early 2005, however, the debate on the legality of the resolution missed both marks. Whether states would abide by the resolution, legal or not, depended far more on how the Committee established by the Security Council to monitor implementation of the resolution, i.e., the 1540 Committee, would exercise its mandate. This essentially meant, how would the 1540 Commit-

tee monitor implementation and what would it do with the information it collected?

How could the Committee make the states and their stakeholders aware of the resolution and facilitate the two becoming partners in its implementation?

At the same time, little of this legal debate or even references to resolution 1540 itself had seeped into the mainstream of other academic and professional fields, much less into the talking points of policymakers. The obligations of the resolution cut across many far-ranging industry sectors and scientific disciplines, and the depth and breadth of the resolution meant that policymakers would have to use considerable amounts of their political capital for their state to implement these obligations. The receptivity of these stakeholders also depended on how the 1540 Committee did its job. How could the Committee make the

states and their stakeholders aware of the resolution and facilitate the two becoming partners in its implementation?

The 1540 Committee and its experts found some solutions, however imperfect, to those two early problems. In contrast to 2004-2005, in the buildup to the adoption of resolution 1977 (2011), discussions about approaches to implementation appeared regularly in the academic literature of many relevant scientific and professional fields. Over the past seven years, the 1540 Committee has documented that more states are taking more measures to implement all of their obligations under the resolution than ever before. Virtually all UN member states have voted several times in international bodies to support its implementation, including international organizations such as the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons, and the Financial Action Task Force and supranational, regional, and subregional organizations such as the European Union, the Association of Southeast Asian Nations Regional Forum, and the Organization for Security and Cooperation in Europe. In many instances, these institutions had taken this commitment past moral suasion to incorporate implementation of resolution 1540 into their programs of work, as in the case of the Inter-American Committee on Counter-Terrorism of the Organization of American States. This does not even count voting within the Security Council itself, whose members unanimously approved resolution 1540 and two subsequent resolutions, namely resolutions 1673 (2006) and 1810 (2008), that reiterated 1540 while extended and expanding the mandate of the 1540 Committee to monitor and facilitate implementation by states.

Certainly, resolution 1977 creates several new opportunities for the 1540 Committee to operate more effectively. Its new ten-year mandate will allow the Committee to engage states and other non-proliferation stakeholders on long-term mutual objectives and programs more easily than before.

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Resolution 1977 clearly reaffirms the use of Working Groups within the Committee to address long-term recurring tasks, from assistance to transparency. It gives increased emphasis to the need for identifying and sharing international standards and effective practices, as well as enhancing international cooperation and facilitating the building of assistance partnerships. The resolution also begins a process to restructure the resources, both human and financial, that support the work of the 1540 Committee in ways that can better sustain the long-term needs of the Committee. Once again, how the 1540 Committee exercises this mandate will go far toward determining its legitimacy.

To my mind, however, what the resolution did not change may prove even more important to the continued success of the 1540 Committee and full implementation of the resolution. Of course, the obligations of resolution 1540 remain intact, as does the presence of the 1540 Committee. But resolution 1977 leaves undisturbed three important principles that I believe have contributed to the success of the Committee and resolution 1540.

Even with an increased emphasis on identifying and sharing standards, the most important principle underlying the work of the Committee remains national discretion. Resolution 1540 creates a vision of what states need to do to combat the proliferation to non-state actors of nuclear, chemical, and biological weapons and their delivery means effectively, and to combat illicit trafficking or other illicit activities involving materials related to these weapons, all while fostering legitimate commerce and science using these proliferation-sensitive materials. One all too often hears the phrase “no one size fits all” in debates over policy; the 1540 Committee lives it. Although the Committee fosters the identification and dissemination of appropriate effective practices, including giving technical advice when requested by states or international bodies, neither the Committee nor its experts have tried to devise broadly applicable international standards or model laws. National authorities know their na-

tional systems and officials from specialized international bodies know their specific fields or regions better than the Committee ever will. The Committee and its experts, however, can facilitate the work of national and international authorities, with the added advantage of being able to look across all national and international efforts to combat proliferation. The principle of national discretion does not negate the value that harmonization of some laws and practices may bring, but by preserving this principle, such harmonization emerges from a much richer and deeper understanding of national and international needs. I believe this will make the ensuing cooperation more sustainable.

Resolution 1977 also preserves the principle that the 1540 Committee does not constitute a UN sanctions regime, either in the name of nonproliferation or counterterrorism. More important, resolution 1977 and its antecedents emphasize that the 1540 Committee must use the principle of cooperation as the basis for its work with all states. When the 1540 Committee identifies potential gaps between national policies and obligations under the resolution, usually during close dialogue with the states involved, the 1540 Committee and its experts do not “name and shame” or otherwise attempt to use the international community to coerce changes in state behavior. Obviously, under the principle of national discretion, a state may wish to implement its obligations under resolution 1540 by using national sanctions to target specific non-state actors. For example, a state might prohibit transfers of weapons-related materials to individuals or entities on the UN terrorist lists as it designs its export control system. The 1540 Committee does not take such actions; it neither possesses nor has endorsed a list of non-state individuals or companies, much less any list of states, that must be targeted for sanctions. The 1540 Committee does list states for cooperative purposes, however, most notably in its assistance efforts.

Assistance constitutes the third leg of the stool on which the 1540 Committee and its experts sit. When the 1540 Committee and its experts do identify a disparity between the measures taken by a state and the state’s obligations under the resolution, the Committee and its experts use this opening as an opportunity to engage the state in con-

crete dialogue about the challenges the state faces in implementing the resolution. Where requested, the 1540 Committee and its experts then seek potential assistance partners for the state, whether through a formal or informal request, through some appropriate mixture of exchanges among other states, or through some relevant international, regional, or subregional organization. Experience has dissuaded the 1540 Committee and its experts from trying to “teach the world.” All states have experiences in implementing the resolution that may help others, and that will certainly help those offering assistance make such programs more appropriate and effective.

When the current mandate for the 1540 Committee ends in 2021, I would expect you could predict the degree or success or failure of the Committee, and of implementation of the resolution, by how true the 1540 Committee has remained to these three principles in its work. Most important, infidelity to one of these principles will make it harder to live by the others. They truly are mutually reinforcing. Resolution 1977 certainly describes other important principles, such as increasing transparency and addressing matters of nuclear security and nuclear terrorism with a greater sense of urgency. The Security Council also had the foresight to include at least two opportunities for a more comprehensive review of the Committee’s activities, and it equipped the Committee with some capacity to address emerging or new related threats. By retaining the principles of national discretion, cooperation, and assistance as the touchstones of its work, however, I think the 1540 Committee can achieve continued—and perhaps greater—success in the next ten years as it fosters states’ efforts to combat the proliferation of weapons of mass destruction and their means of delivery to non-state actors, and to prevent non-state actors from undertaking illicit activities involving material related to these weapons.

The views expressed here are solely those of the author. These views do not necessarily reflect the views of the 1540 Committee, its members, or its other experts, the United Nations Security Council, General Assembly, or Secretariat, or any other official or unofficial body or entity.



1540 COMPASS: SECTION TWO
REGIONAL AND NATIONAL FOCUS

Challenges and Solutions for 1540 Implementation in the African Region

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UN Security Council resolution 1540 (UNSCR 1540) was adopted in April 2004 to strengthen the international nonproliferation architecture and to address the possibility of non-state actors' accessing weapons of mass destruction (WMD), their components, or their delivery systems. Although UNSCR 1540 initially met with some resistance from the developing world, many African states have subsequently expressed their support for the resolution. Enacted in April 2011, UNSCR 1977 extended UNSCR 1540's mandate for ten years—signaling the resolution's continued relevance in combating WMD-related security threats.

Although states have made significant progress toward implementing UNSCR 1540, the resolution's ambitious requirements continue to challenge some states, especially those in Africa. Unofficial estimates indicate that the resolution contains 113 specific prohibitions, 152 controlled activities, and at least 8 recommended activities. States often find themselves overwhelmed by these obligations and, in light of the expected expansion of nuclear power and nuclear-related technology, meeting these obligations will only become more demanding in the future.

Africa by briefly discussing implementation of the resolution on the continent and highlighting the needs of some African countries for collaboration and assistance as they attempt to comply with its provisions. We also consider the role that regional and subregional bodies can play in implementing UNSCR 1540 on the continent and offer some recommendations for stakeholders working in the fields of WMD disarmament and nonproliferation.

IMPLEMENTATION OF UNSCR 1540 IN AFRICA

The process of implementing UNSCR 1540 in Africa is often described as slow. This description is primarily based on the fact that fewer than two thirds of African states had submitted reports to the 1540 Committee as of October 2011. Most reports submitted by African governments contain very little detail about specific nuclear, chemical, and biological capabilities and safeguards. They simply contain a status list of disarmament and nonproliferation conventions and treaties and national legislation. In addition, observes Noël Stott, this legislation is often “outdated and insufficient to effectively deal with more recent WMD threats including the threat from radiological dispersal devices (RDD).”

States in Africa have provided various reasons for the lack of detailed reporting, including assertions that no WMD-related substances or

We consider the relevance of UNSCR 1540 for



The Institute for Security Studies (ISS) is a pan-African applied policy research institute headquartered in Pretoria, South Africa. The ISS seeks to mainstream human security perspectives into public policy processes.

technologies are found within their borders. However, the status of reporting in Africa should be placed in context. The continent must deal with a large number of competing priorities and challenges, and often the task of reporting rests with an individual who is responsible for a broad range of arms-control and disarmament issues. These individuals are often overwhelmed by other duties, have to deal with a poorly organized interagency process and tend to treat the UNSCR 1540 reporting requirements as a low priority.

The challenges African states have encountered while implementing disarmament and non-proliferation conventions and resolutions are not unique to UNSCR 1540. Even instruments related to small arms and light weapons (often considered the *real* weapons of mass destruction in Africa), such as the [UN Program of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects \(UN-PoA\)](#), continue to exhibit low levels of reporting from African states. Only 33 African states submitted reports under UNPoA in 2010.

We attribute this low level of reporting largely

to a lack of human and financial resources, and to “reporting fatigue,” rather than to deliberate decisions to assign low priority to weapons-related conventions and treaties. Deficient reporting does not necessarily mean that UNSCR 1540 is not being implemented on the continent. Submitting reports to the 1540 Committee is a requirement of the resolution. However, most states would argue that it is better to submit a quality report, which takes more time and contains accurate information, rather than submit a superficial report to check the block on a to-do list.

UNSCR 1540 acknowledges that states must determine how to implement the resolution domestically, but this is a daunting task for many developing states. The 1540 Committee suggest that states use the “[1540 matrix](#)” forms as a baseline for identifying priorities, but some states struggle to fully understand the forms. The paperwork leads to further confusion. Thus far, most discussions about implementing UNSCR 1540 in Africa have concentrated on the reasons why African states should put 1540 into effect. Few have examined how it is being implemented, or what ought to be done to make compliance easier and better.



One promising way to overcome this challenge is for African states to identify “best practices” in their subregions. Since few states in Africa pose much danger of WMD proliferation or view the proliferation of WMD or related materials as a pressing challenge for the continent, the argument for urgently implementing UNSCR 1540 remains difficult. A more convincing case for 1540 would accentuate how the resolution would further the development of African states while maintaining and improving safety and security standards. This should preferably be accomplished through a multilateral approach using existing regional and sub-regional forums.

COLLABORATION AND ASSISTANCE FOR UNSCR 1540 IMPLEMENTATION

A number of African states have requested help compiling UNSCR 1540 reports and matrices. About a third of the governments that have submitted reports requested assistance. Another, South Africa, offered it. However, the South African offer was couched within the broader disarmament and nonproliferation architecture rather than through the 1540 Committee structure. Of the countries that have submitted reports, two thirds have neither asked assistance from or offered it to the

1540 Committee.

The 1540 experts echo the South African approach to assistance under UNSCR 1540. They urge states to identify the appropriate channel for the assistance they are willing to supply. For example, states should contact the Organization for the Prohibition of Chemical Weapons (OPCW) for assistance related to chemicals and the [Biological Weapons Convention's Implementation Support Unit](#) for assistance on biological agents. Although the additional resources are welcome—the 1540 Committee does not have a large assistance budget—it depends on states’ embracing international conventions. It also requires significant coordination to ensure resources are used appropriately without excessive duplication of effort.

To overcome such challenges, some experts maintain that regional and subregional bodies can and should play a bigger role in assisting states. Bodies such as the [African Union](#), the African Commission on Nuclear Energy (AFCONE), and the [Forum of Nuclear Regulatory Bodies in Africa \(FNRBA\)](#) are well-placed to promote implementation of the resolution.

AFCONE is the implementation and monitoring body of the [Treaty of Pelindaba](#) (Africa’s nuclear-weapon-free-zone treaty). A key AFCONE effort will be to ensure that all parties comply with their nonproliferation obligations—including the requirement to prevent, by all means possible, non-state actors from manufacturing, acquiring, possessing, developing, transporting, transferring, or using nuclear, chemical, or biological weapons or their means of delivery. Although AFCONE remains at an early stage in its development, it will be a valuable resource once it is up and running. It will advance the goal of executing UNSCR 1540 on the continent. Established in 2009, the FNRBA provides a mechanism for exchanging regulatory experiences and practices among nuclear regulatory bodies in Africa. It complements the work of the IAEA’s Nuclear Security Program in Africa. Given that the Forum is an African initiative, its 33 member states can encourage and support their own members, as well as other African states, as they compile and submit their reports to the 1540 Committee.



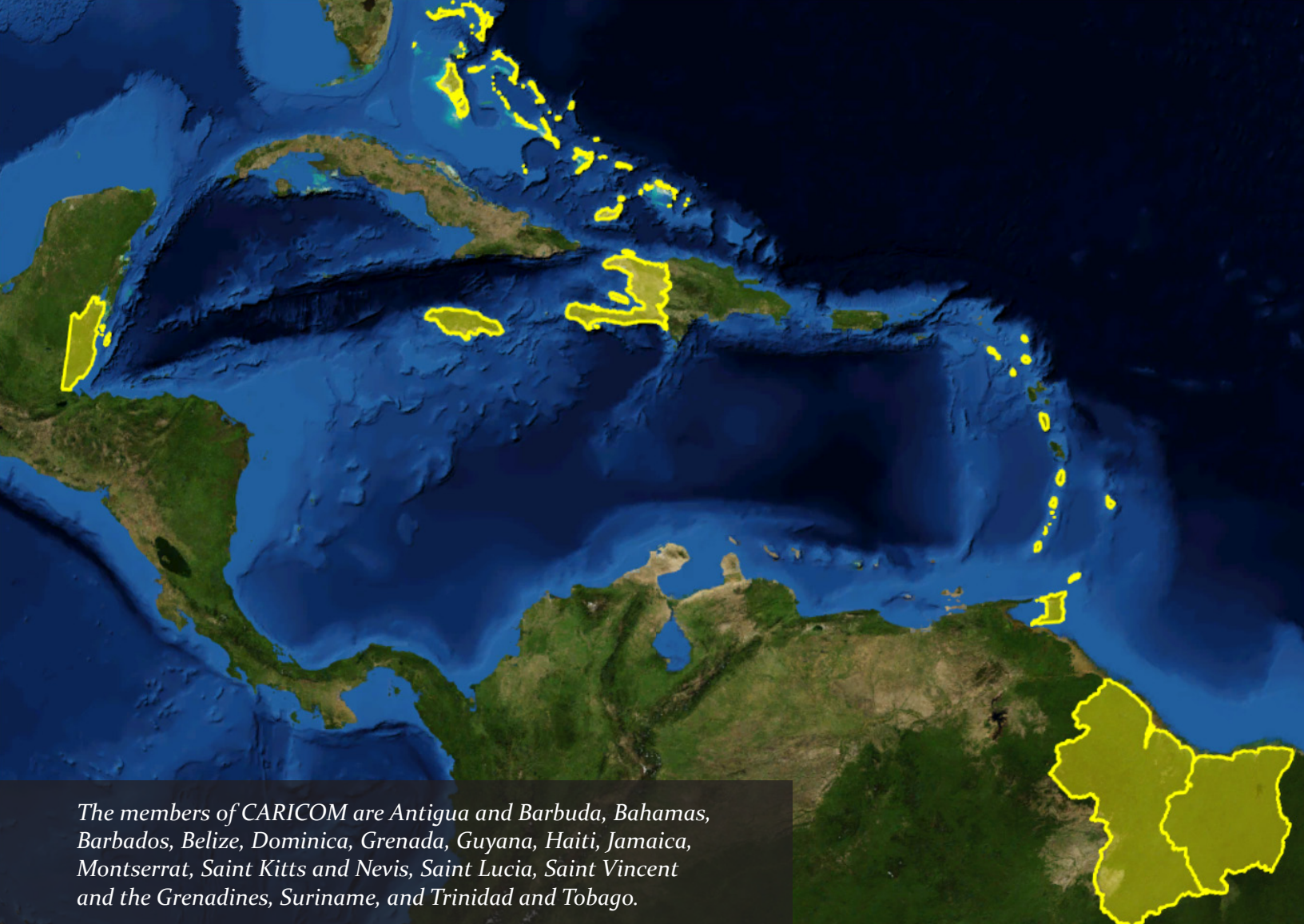
RECOMMENDATIONS AND CONCLUSIONS

Despite general support for UNSCR 1540 in Africa, states still voice concerns about the real impact and effectiveness of the resolution. In a paper presented at a Nautilus Institute for Security and Sustainability workshop on UNSCRs 1540 and 1373, Noël Stott highlighted the concerns expressed by African analysts:

- UNSCR 1540 does not address radioactive materials, which could be seen as a major flaw.
- UNSCR 1540 is drafted in broad terms that are vague and open to interpretation. In particular, governments covet clarity on the specific meaning of “effective laws” that “prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivering, 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.” Such clarity is essential for states developing and enforcing legislation based on their internal requirements and capabilities.
- UNSCR 1540 does not accommodate such situations as naturally occurring pathogens or sources of pathogens such as hospitals, medical waste, and diagnostic laboratories.
- The development of lists of items is essential to implementing 1540, but the more comprehensive the list of, say, biological agents, the harder it is to implement the measures that have been devised. The narrower the list, the easier to implement the same measures. This creates an incentive for governments to regulate fewer substances—perhaps letting others slip through the cracks.
- Some states view UNSCR 1540 as an anti-terrorism measure and not a nonproliferation instrument.

Recommendations:

1. UN Security Council resolutions, including 1540, should be viewed within the framework of UN General Assembly conventions and not as isolated, external initiatives.
2. UNSCR 1540 should be interpreted as a complementary provision for the existed legal framework and less as a supplement to it.
3. African countries must bolster their capacity to fulfill their obligations under international law, but UN resolutions must be easier to implement.
4. It takes creative national mechanisms for governments to meet the legislative and administrative obligations embedded in UNSCRs. It should be possible, for example, to create an “omnibus” statute that not only covers obligations under the Nonproliferation Treaty, Chemical Weapons Convention (CWC), and Biological and Toxin Weapons Convention but also provides for new technological developments and risks and any new UNSCRs pertaining to nonproliferation and terrorism.
5. African states must acknowledge that the proliferation of WMD and related materials is a global challenge that does not respect borders. They must contribute to global WMD security not only for their own benefit, but for the benefit of their neighbors.
6. African states should work through African regional and subregional bodies such as AFCONE and the FNRBA, since these are African initiatives established to represent the continent on nonproliferation and disarmament issues.



The members of CARICOM are Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

Reflections on the 1540 Implementation Process in CARICOM Member States

O'Neil Hamilton
1540 COORDINATOR
CARIBBEAN COMMUNITY

In general, setting a new policy priority amid other, significant, ongoing challenges runs counter to conventional practice, particularly in the security domain. Since July 2009, however, the member states of the [Caribbean Community \(CARICOM\)](#) have embarked on an undertaking that indeed runs counter to this dictum, launching into an ambitious regional initiative to implement United Nations Security Council resolution (UNSCR) 1540.

This effort represents the first time a group of countries has sought to implement a major Security Council mandate as a common, integrated enterprise. It comes at a time when the small island developing states of the Caribbean continue grappling with threats stemming from the proliferation

of small arms and light weapons (SALW). SALW proliferation is interlinked with the illicit trade in narcotics, both within the subregion and in Latin America as a whole. This reality has serious implications for the economic and social viability of the Caribbean. As a result, CARICOM member governments have had to commit significant resources to deal with this growing emergency.

Notwithstanding, the CARICOM Secretariat has sought to adopt approaches and implement enabling mechanisms that help members meet their nonproliferation obligations relating to the trade in strategic goods, even as they confront the perennial guns-drugs challenge. In this vein, the events of September 11, 2001 and subsequent recommendations from a 2002 regional assessment of contemporary security threats facing the region prompted the CARICOM Conference of Heads of Government to establish a Ministerial Subcommittee on Resource Mobilization for Crime and Security at the body's Twenty-Fourth Meeting, which convened in Jamaica in July 2003.

CONTEMPORARY REGIONAL SECURITY COOPERATION

This regional focus on thwarting terrorism and preventing the proliferation of chemical, biological, radiological, and nuclear (CBRN) weapons further intensified when CARICOM members formally approved a [Regional Security Plan](#) at the Eighteenth Intercessional Meeting of the Conference of Heads of Government of CARICOM. The event took place in St. Vincent and the Grenadines in February 2007, coinciding with the region's security preparations for hosting the 2007 Cricket World Cup.

This unprecedented effort entailed the enactment of legislation, including additional protocols relating to the CARICOM Treaty on Security Assistance Among Member States. It also constituted the basis for negotiating a status-of-forces agreement establishing the rights and privileges of security personnel from outside the Caribbean. Outside forces were stationed in several CARICOM member states throughout the games. In addition, this activity entailed adopting a common visa regime that allowed for the free movement of CARI-

COM nationals and visitors to CARICOM member states during the games.

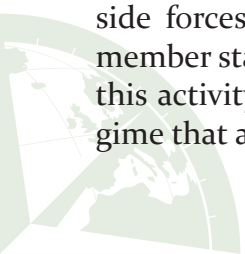
The success of this major security undertaking demonstrated to CARICOM member governments and the public at large that the region was indeed capable of forging creative inter-Caribbean security alliances that effectively leverage the region's enforcement capabilities. This acknowledgment laid the basis for a new era of security cooperation within the community. The CARICOM-UNSCR 1540 Implementation Program is one tangible legacy of this new dynamic. More importantly, CARICOM members increasingly agree that deepening regional security integration efforts will help them build an architecture capable of meeting both traditional threats and emerging challenges such as terrorism and other unconventional concerns.

CARICOM UNSCR 1540 IMPLEMENTATION PROGRAM RATIONALE

Too often in the security domain, the dominant assumption is that a global consensus, once forged, leads to quick, decisive action. This assumption is particularly acute with regard to prevention or management of unconventional threats. A consequence of this mindset is that states, particularly in the Global South, have often been left on the periphery of important global initiatives relating to the fight against terrorism and, more generally, to important nonproliferation efforts.

Because the Caribbean has no functional experience with either terrorism or protracted conflict such as insurgencies, regional security policy has concentrated largely on stemming the flow of drugs through the region and preventing the influx of small arms that further the narcotics trade. In addition, the tremendous resource constraints that typify crime-fighting efforts in the Caribbean effectively force regional governments to focus on domestic priorities almost to the exclusion of important security concerns.

While the aftermath of 9/11 focused attention on terrorism as a topical and important security challenge, there was no commensurate emphasis on linking terrorism with efforts to prevent



the proliferation of CBRN weapons and related technology. While engagement efforts by two of the three multilateral disarmament treaty implementing organizations, the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons, have acquainted CARICOM members with the responsibilities of parties to the two related conventions, these interactions have not measurably changed threat perceptions within the region.

In light of this reality, the CARICOM-UNSCR 1540 Implementation Program's initial—if not primary—task has been to raise awareness among publics in member states about the grave challenges posed by CBRN proliferation. The program has undertaken a corollary effort to sensitize governments to the dangers posed by terrorist groups that acquire chemical, biological, radiological, or nuclear materials, and to convince them that concerted and coordinated action across the Caribbean is necessary to prevent, detect, prepare for, and respond to CBRN threats.

These efforts are beginning to sway threat perceptions in the region. This is a necessary predicate to Caribbean publics' comprehending that the threat of CBRN proliferation is an urgent priority demanding immediate and concerted action.

A particular challenge has also been acquainting governments with the operative rationale behind UNSCR 1540 and then moving the conversation on UNSCR 1540 from the arcane and ethereal level into more practical discourse that allows CARICOM member governments to easily perceive the resolution's relevance to their everyday security concerns. The essential truism is that if a government sees a clear national benefit, it will engage more often than not.

FOSTERING PROCESSES IN SUPPORT OF UNSCR 1540 IMPLEMENTATION

UNSCR 1540 mandates that UN members “Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in ac-

cordance with their national legal authorities and legislation and consistent with international law.” The paragraph further calls on states to enact “appropriate laws and regulations to control export, transit, trans-shipment and re-export” aimed at controlling strategic trade.

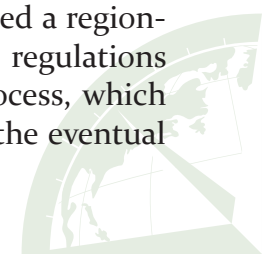
The CARICOM implementation program continues making gains toward putting in place legislation to effectively manage strategic trade. Still, Caribbean states need structural capacity to prevent or respond to a CBRN attack or related event.

IMPLEMENTING LEGAL AND REGULATORY FRAMEWORKS

A key challenge confronting CARICOM member states, like other small, developing countries, relates to shortfalls in capacity—on the legal, regulatory, and administrative fronts—for adopting and enforcing measures to prevent CBRN proliferation and instituting controls on strategic trade commodities. An addition, these countries confront obstacles to developing and implementing legal frameworks that complement, support, and build upon existing mechanisms that have attained success at dealing with traditional threats such as SALW and illegal narcotics trafficking.

As with strategic commodities and related technology, export and import controls are cornerstones to any effort to mitigate the illicit trade in small arms and light weapons. Effective export and import controls can also prevent unauthorized transfers and re-transfers that facilitate the arms and ammunition trade. As a result of often lax regulations governing re-transfers of legitimately traded arms, arms re-transferred without notification to the original exporter frequently create a nexus between legal and illegal trade within the Americas—acting as a conduit through which arms flow to insurgent and terrorist groups.

To address this challenge, CARICOM has forged a cooperative approach facilitated by the UN 1540 Committee and funded by the U.S. government. The institution has conducted a regional “gap analysis” of national laws and regulations pertaining to strategic trade. This process, which is nearing completion, will allow for the eventual



development of a Reference Legal Framework to help CARICOM member states institute controls that target illicit transfers and enable member states interdict, investigate, and prosecute these activities.

BUILDING EFFECTIVE NONPROLIFERATION CAPACITY

Without question, implementing measures to control the illicit trade in CBRN materials is a costly undertaking. The diverse array of states that have tendered requests for assistance to the UN 1540 Committee since 2004, not to mention the types of requests, attest to the economic and structural demands imposed on states striving to implement UNSCR 1540. These states—particularly Global South countries with small, largely undiversified economies—boast limited capacity and operational capability to deal with ongoing traditional security demands. These countries, predictably, face significant constraints as they attempt to fulfill their obligations under UNSCR 1540.

If countries are to “detect, deter, prevent and combat” CBRN proliferation effectively, they must be presented the tools to undertake these responsibilities. For states to prevent proliferation, a correlate involves the use of risk assessment to classify sensitive goods. States must also maintain control over and provide security for these materials and related facilities. The capacity for real-time detection, identification, and assessment of CBRN threats and to train and furnish technical support to operational and enforcement personnel is a lynchpin of nonproliferation.

Critical to this process is designing adequate preparedness and response systems. Also important is creating and strengthening national and regional capabilities and mechanisms that allow for effective responses to public health emergencies—particularly those involving mass casualties.

It is worth reiterating that resolution 1540 lays

equal weight on enacting laws to prevent proliferation, building and strengthening necessary capacity to detect and identify strategic commodities, and enforcing “appropriate criminal or civil penalties for violations of such export control laws and regulations.” Capacity-building initiatives serve a dual purpose by applying incentives to the implementation process. When states are offered resources that enable them to undertake corollary enforcement activities, this legitimizes prior national efforts to implement required laws and regulatory frameworks while lending added impetus to 1540 implementation activities.

CONCLUSION

The CARICOM-UNSCR 1540 Program represents a novel and unprecedented approach to implementing UNSCR 1540 and should be encouraged. This undertaking, which comes at a time when CARICOM member states facing a plethora of competing national security priorities, reaffirms the importance that CARICOM members attach to preventing CBRN proliferation in the Caribbean. This process remains nascent. Bolstering this commitment through capacity-building support, therefore, will empower the region to meet its stated goals under the CARICOM program while imparting sorely needed momentum to the implementation process.

It is worth noting that other regional organizations, including the [Central American Integration System](#), have adopted a similar multilateral construct aimed at helping member states meet their 1540 obligations. These initiatives all signal growing resolve on the part of the international community to employ innovative approaches—realizing national implementation goals while furthering global nonproliferation in keeping with resolution 1540. These fledgling processes must be actively supported, vigorously sustained, and properly resourced.

The 2012 Nuclear Security Summit

A View from Seoul

Duyeon Kim
DEPUTY DIRECTOR, CENTER FOR ARMS CONTROL AND
NONPROLIFERATION, WASHINGTON DC

The Republic of Korea (ROK) has been and remains a staunch supporter of the global non-proliferation regime as it borders a grave security threat and proliferator of weapons of mass destruction (WMD). South Korea is also familiar with the barrier created by nuclear proliferation to economic growth, trade and investment.

Seoul's concerns soon evolved to recognize a new security threat, namely the nexus between terrorists and nuclear devices. This prompted the leadership to lend its full support for UN Security Council resolution (UNSCR) 1540 in hopes of helping fill the gap in the existing nonproliferation regime.

With the [2012 Nuclear Security Summit](#) just months away, the Republic of Korea should be more interested in enhancing UNSCR 1540, not only as the Summit Chair but against the backdrop of a "Global Korea" policy and the nation's growing prominence in the nuclear energy industry.



Nuclear Security Summit Seoul 2012

remained hopeful for a negotiated settlement to Pyongyang's nuclear ambitions.

Supporting 1540 was uncontroversial in the ROK at the time—even for the Roh Moo-hyun administration, which preferred to avoid aggravating its northern neighbor, because the resolution targeted non-state actors and not states. If 1540 had targeted states, the story may have been different.

Resolution 1540 is generally considered complementary to efforts countering North Korea's proliferation activities. This is particularly true since [UNSCRs 1718](#) and [1874](#), adopted after Pyongyang's two nuclear tests, provided a robust sanctions regime against Pyongyang's proliferation activities.

The adoption of 1540 also came amid Seoul's efforts to construct the Kaesong Industrial Complex, a symbol of engagement between the two Koreas. This highlighted the need for more stringent export controls. For some observers, the Kaesong project naturally fanned awareness of 1540.

KOREAN INTEREST

CONTEXT

The ROK's top national security threat and challenge is North Korea. This explains Seoul's sensitivity to nuclear matters, as well as its natural tendency to frame policies in the context of this threat.

When 1540 was adopted in 2004, however, Seoul considered it as an international effort to combat terrorism in the aftermath of 9/11 rather than in the context of the North Korean nuclear threat and the North's proliferation activities. It was two years before Pyongyang tested its first nuclear device, and the political climate at the time

While UNSCR 1540 targets non-state actors, South Korea still sees an interest in such international efforts because it borders a major nuclear threat and a proliferator believed to assist non-state actors. A 2010 UN Panel of Experts report documented suspected illicit North Korean transactions with Myanmar, Syria, and Iran on WMD, missiles, and conventional weapons. The fall 2011 release of an International Atomic Energy Agency (IAEA) report on Iran spurred a flurry of media reports on the Iran-North Korea WMD connection. This complex network, believed to fuel Pyongyang's foreign currency stockpiles, is apparently sophisticated enough to dodge export controls.

The Republic of Korea would have a vested interest in 1540 because stringent regional export controls could help alleviate tensions on the peninsula and foster peace, the country's top national security priority. A more peaceful setting is expected to foster sustained economic prosperity. For example, at the 2005 Asia-Pacific Economic Cooperation (APEC) summit in Busan, South Korea agreed to implement the [IAEA Code of Conduct on the Safety and Security of Radioactive Sources](#) and the [IAEA Guidance on the Import and Export of Radioactive Sources](#). Both have since been incorporated into South Korea's national legislation. The agreement was a recognition that "terrorism and WMD proliferation pose a direct challenge to the basic principle of APEC for trade and investment liberalization."

The ROK rose rapidly from the ashes after the 1950-1953 Korean War to become the world's thirteenth-largest economy, which relies heavily on international trade and investment. It is renowned for exporting high-tech industrial goods and equipment, which not only obligates government officials to exercise vigilance against the potential misuse by rogue states and non-state actors, but it means that South Korea has everything to lose from a porous or failed global nonproliferation regime. Recognizing this, Seoul has beefed up its own export controls with stringent notification measures for domestic trading companies.

The Republic of Korea has also emerged as a fierce competitor in the global nuclear industry governed by [Nuclear Suppliers Group guidelines](#) and national export control regulation. However, Seoul's growing presence as a nuclear exporter further obliges it to exercise stronger vigilance over nonproliferation conditions and over export controls on transfers of nuclear items.

Finally, the Republic of Korea has an interest in 1540 because its cooperation with allies overseas has opened the door to it becoming a possible target of terrorist attacks. In 2004, for example, al Qaeda warned that it would "make Korea suffer" if South Korean troops were not pulled out of Iraq. The Taliban beheaded a Korean worker in Iraq that same year. Wikileaks documented North Korean missile sales to al Qaeda and the Taliban in 2005.



SOUTH KOREA ON THE GROUND

Since the adoption of UNSCR 1540, South Korea has established the necessary legal and administrative systems to ensure compliance, committing to full implementation of these measures at the national, regional, and international levels. For example, it has been enforcing "catch-all" controls since 2003, an online management system known as "Yestrade" since 2005, and controls on intangible transfers of technology.

Criminal laws are applied to terrorism, and trade and export control laws are applied to non-state actors involved in proliferation activities. From 2003-2010, there have been about 25 cases in which the South Korean government penalized and slapped export bans on firms found to have violated export controls and regulations. In 2003, for example, company "W" was found to have illegally exported sodium cyanide to China, which was then exported to North Korea. The case resulted in an 18-month jail sentence, two years of probation, and a one-year export ban.

As for outreach, the government has held regular seminars with the private sector to raise awareness about strategic materials and the need for export controls. On a regional and international

level, the Republic of Korea has forged bilateral consultative groups while joining global initiatives such as the Proliferation Security Initiative, the G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, and the Global Initiative to Combat Nuclear Terrorism. It also hosts joint international conferences, including the annual “ROK-UN Jeju Process” on Disarmament and Nonproliferation.

UNSCR 1540 AND NUCLEAR SECURITY SUMMITS (NSS)

The ROK, which focuses more on states’ proliferation behavior because of North Korea, faces an important juncture ahead of the 2012 Nuclear Security Summit. It is the Summit Chair, and the world’s paradigm for nuclear security is apparently focusing more on non-state actors. Expectations are high that the Republic of Korea should continue to strengthen nonproliferation measures in light of its NSS chairmanship and expanding share of the global market for nuclear reactors.

The NSS can provide the political impetus to implement UNSCR 1540, just as it can for IAEA nuclear security activities. While 1540 falls under the auspices of the United Nations, the NSS can help resolve problems that would otherwise be difficult to deal with under the UN system.

It may be politically difficult for the 2012 NSS to agree on specific, detailed steps to further advance the implementation of 1540. Instead, the most realistic and practical method to advance 1540 could come in the form of “house gifts” (national voluntary commitments) from individual heads of state. As the NSS Chair, Seoul should encourage such donations while the United States should continue to lead the global nonproliferation regime.

For example, participating states could be encouraged to present house gifts in the form of voluntary funds to be used for 1540 implementation. World leaders could request and provide assis-

tance and collaboration, particularly for countries that regard domestic challenges as more immediate priorities or lack the institutional capacity and resources to accommodate 1540 legislation. Leaders could also agree to work nationally, bilaterally, and multilaterally toward strengthening the legal framework and export controls. Other house gifts could come in the form of national reports to the 1540 Committee.

Finally, it is also important to engage the private sector amid this rapidly globalizing world. Businesses are vital to implementing national legislation governing exports of advanced equipment, technologies, and related items.

FURTHER READING

[T]he most realistic and practical method to advance 1540 could come in the form of “house gifts” (national voluntary commitments) from individual heads of state.

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Jeff Stein, “Wikileaks Documents: N. Korea Sold Missiles to Al-Qaeda, Taliban,” *Washington Post* “Spy Talk,” July 26, 2010.

Ambassador Oh Joon, Open Debate on the Implementation of Resolution 1540 (2004) and 1673 (2006), UN Security

Council, New York, February 23, 2007. For details on specific legislation, see: ROK National Report to the 1540 Committee, S/AC.44/2004/(02)/23, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/590/21/PDF/N0459021.pdf>.

Jun Bong-geun, “UNSCR 1540 and Korea’s Nonproliferation Policy,” *Analysis of Key International Issues*, Institute of Foreign Affairs and National Security, February 13, 2006 (Korean).

“Export Controls of Strategic Items,” Ministry of Knowledge Economy, Republic of Korea, 2009.

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1540 COMPASS: SECTION THREE
INTERNATIONAL ORGANIZATIONS

Organization for the Prohibition of Chemical Weapons and UNSCR 1540

Krzysztof Paturej
DIRECTOR OF THE OFFICE OF SPECIAL PROJECTS
TECHNICAL SECRETARIAT, ORGANIZATION FOR THE
PROHIBITION OF CHEMICAL WEAPONS

with other international stakeholders within the UN system and in the fields of international security and disarmament.

UN Security Council Resolution 1540 (2004) obligates all states to adopt concrete legal and administrative measures to prevent non-state actors from gaining access to and engaging in activities involving nuclear, chemical, and biological weapons.

As regards chemical weapons, these obligations are consistent with those enshrined in the [Chemical Weapons Convention](#) (CWC). These include but are not limited to the national implementation measures that parties to the CWC pledge to take in accordance with Article VII of the Convention. Parties to the CWC have already acquired considerable experience in fulfilling their obligations under the CWC. These experiences should prove equally useful for implementing resolution 1540.

The [Organization for the Prohibition of Chemical Weapons](#) (OPCW), a body constituted under the CWC, functions as an independent, autonomous international organization enjoying a working relationship with the United Nations and other international agencies. The OPCW has maintained regular contacts with the UN Security Council Committee established pursuant to UNSCR 1540—a.k.a. the 1540 Committee—as well as

Support that states receive to help implement resolution 1540 is an important element in developing helping them create effective national mechanisms to combat the misuse of toxic chemicals. And indeed, the 1540 Committee's own records testify to the fact that governments that successfully implement resolution 1540 achieve greater success in regulating chemicals. This in turn can be attributed to OPCW assistance to CWC parties, which helps them meet their commitments under the Convention and report more fully on their progress toward compliance with resolution 1540.

SYNERGIES BETWEEN IMPLEMENTATION OF THE CWC AND UNSC 1540

As noted before, the obligations states incur under UNSCR 1540 are consistent with those codified in the Chemical Weapons Convention. In other words, full and effective domestic implementation of the Convention also enables parties to fulfill their obligations under resolution 1540. Governments may improve their capacity to meet the requirements stipulated by UNSCR 1540 by identifying and adopting the best practices set forward under the framework of the CWC. They can

also embrace the experiences of other participating international agencies.

UNSCR 1540 encourages states to accede to the CWC and to implement all of its provisions, including concrete legal and administrative measures to prevent non-state actors from gaining access to weapons of mass destruction (WMD).

The OPCW, an international organization specifically referred to in resolution 1540, has amassed knowledge and experience that are directly relevant to the obligations imposed by UNSCR 1540. The organization boasts considerable experience in helping member states fulfill their obligations. The OPCW undertakes assistance activities under the provisions of resolution 1540, particularly operative paragraph 7 which recognizes the need of some states, particularly those lacking the legal and regulatory infrastructure, to receive assistance in response to their specific requests. Controls on transfers of scheduled chemicals are an important aspect of the CWC nonproliferation regime. This is especially important given the rise in the international trade in scheduled chemicals expanding free-trade zones. Activities not prohibited by the CWC are regulated under Article VI of the Convention and covered by operative paragraphs 3(c) and (d) of resolution 1540 regarding effective export and border controls as well as law enforcement efforts.

COOPERATION WITH INTERNATIONAL PARTNERS AND THE 1540 COMMITTEE

The OPCW's ties with the United Nations are regulated by a Relationship Agreement signed in 2000, which mandates a close working relationship between the two organizations while specifically recognizing the independent status of the OPCW. The OPCW's cooperation with the United Nations and its agencies is a logical outgrowth of these institutions' common quest to promote peace and security as envisaged by the UN Charter. It also reflects the UN's recognition that the OPCW's work is critical to overcoming new threats to international security. It is no accident that UNSCR 1540 defines the obligations of all states in terms similar to those of the CWC.

The OPCW Secretariat manages its contacts from the premise that the OPCW is not an anti-terrorism agency. It can operate only in strict accordance with its mandate under the CWC, pursuant to decisions handed down by the OPCW Council and Conference, and in compliance with the OPCW Policy on Confidentiality.

A vital OPCW objective is to ensure that all CWC parties continue making steady progress toward fully incorporating the Convention into their national legal and administrative systems. The 1540 Committee also facilitates assistance to countries to help put resolution 1540 into effect. This offers common ground for our contacts and cooperation with the 1540 Committee to help states introduce effective national nonproliferation measures in the chemical domain. This cooperation constitutes the most practical means to forestall the misuse of toxic chemicals for illegal purposes.

Formal cooperation between the OPCW Secretariat and the 1540 Committee was confirmed by an exchange of letters that designated specific points of contact. The recent cooperative arrangement takes the following forms:

- Introducing mechanisms for regular consultations and exchanges between experts from OPCW (both the Technical Secretariat and member states) and the 1540 Committee;
- Initiating reciprocal participation by OPCW and 1540 Committee experts at relevant outreach and implementation activities;
- Disseminating best practices and lessons learned from promoting legislative and other measures to combat the misuse of toxic chemicals.

The OPCW Secretariat, furthermore, has co-organized and supported important events to discuss how putting the Convention into practice contributes to the implementation of resolution 1540 in the area of chemical weapons, and how the OPCW enhances national standards and practices in the chemical domain. Such initiatives have included:



- An international workshop on “Implementation of United Nations Security Council Resolution 1540 at the National Level: Promotion of Best Practices and Policy and Technical Coordination and Co-operation,” held at the Netherlands Institute of International Relations (Clingendael), The Hague, the Netherlands, March 26-27, 2009.
- An international workshop on “The Chemical Weapons Convention and the Biological and Toxin Weapons Convention and Their Contribution to the Nonproliferation of Weapons of Mass Destruction,” held in Cavtat, Croatia, April 4-5, 2009.
- An “International Seminar on National Implementation of Nonproliferation Obligations: The OPCW as an Example of Effective Assistance in National Implementation of the Chemical Weapons Convention,” held in Jahorina, Bosnia and Herzegovina, June 22-23, 2009. One outcome of the seminar was a proposal for an Implementation Program Against CBRNE Terrorism, or IPACT. The IPACT program is designed to develop a more integrated, more holistic approach toward implementing measures aimed at the nonproliferation of WMD in the western Balkans.
- An “OSCE Workshop to Identify the Proper Role of the OSCE in Facilitation of UN Security Council Resolution 1540,” held in Vienna on January 27-28, 2011. The workshop provided a platform to exchange views on policy issues, implementation practices, and the need for further dialogue, co-operation, and assistance among national representatives and intergovernmental organizations involved in various aspects of the implementation of resolution 1540.
- A “[Seminar on the OPCW’s Contribution in the Sphere of Security and Nonproliferation](#),” held in The Hague on April 11-12, 2011. Among other things, the seminar considered lessons learned to date from international partners’ efforts to identify and implement best practices that bolster states’ capacity to prevent non-state actors from gaining access to WMD.

Experts from the 1540 Committee took part in a series of new OPCW program activities that aim at building national and regional capacity to prevent, prepare for, and respond to incidents involving the misuse or release of toxic chemicals. The 1540 Committee experts joined a slate of tabletop exercises created through the OPCW program, reviewing the preparedness of states to prevent terrorist attacks involving chemicals. This platform allows the 1540 Committee to add its expertise to OPCW efforts to help states devise measures to review their readiness to prevent, manage, and respond to terrorist incidents involving toxic industrial chemicals, to integrate these measures with preparations they have already made to mitigate risks associated with chemical accidents and environmental incidents, and to address the risks of misuse of chemical, biological, radiological, and nuclear (CBRN) substances in a comprehensive fashion.

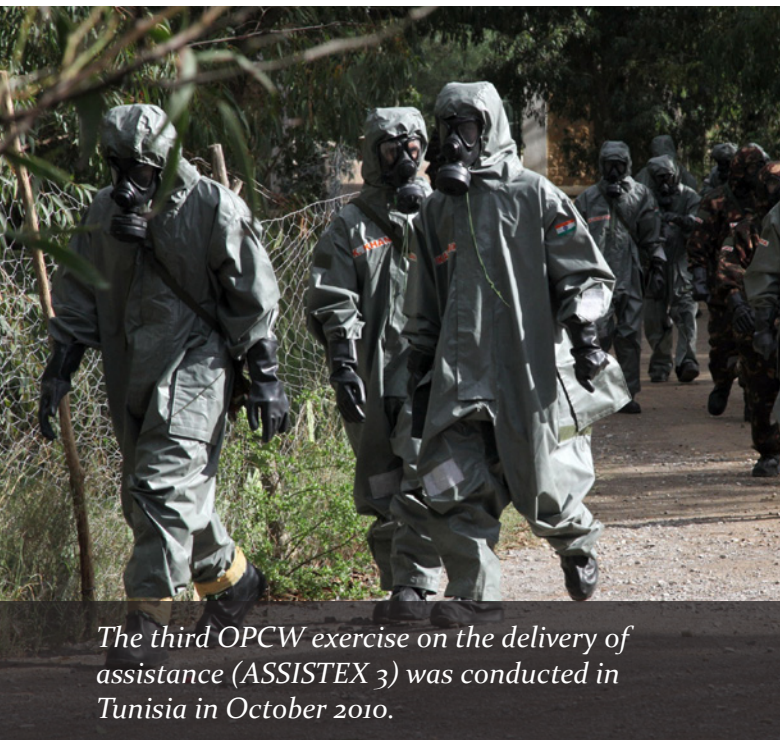
In partnership with national and international partners, including those from the 1540 Commit-

tee, the OPCW is developing its role as a platform to support global cooperation toward decreasing the chemical threat. It is doing so by promoting training, awareness of chemical security and safety, exchanges of best practices, and fostering cooperation between chemical professionals.

The OPCW Secretariat has also participated in a number of 1540 related events (workshops) organized by UNODA with a view towards lending the 1540 Committee its expertise on the implementation of the CWC, raising awareness, examining mechanisms for overcome obstacles to implementing resolution 1540, and facilitate the drafting of more comprehensive national reports.

These events and program activities built synergies and cooperation between OPCW, the 1540 Committee, member states, and relevant stakeholders from the private sector to improve member states’ mechanisms to meet the challenges stemming from the misuse of CBRN materials. They intensified their outreach campaign to inform





The third OPCW exercise on the delivery of assistance (ASSISTEX 3) was conducted in Tunisia in October 2010.

all stakeholders that UNSCR 1540 concerns all states—not just those that possess materials and technologies relevant to nuclear, chemical, or biological weapons. Lessons have been learned about best practices and capacity building that can deny non-state actors access to WMD or their makings.

IMPORTANCE OF FURTHERING THIS COOPERATION

Fully implementing the CWC means that all parties to the Convention must put in place relevant laws, regulations, and enforcement measures to prevent proliferation in the chemical domain. It also means fulfilling the requirements set forth in resolutions 1540 and 1977.

With its institutional capacity and broad experience, the OPCW is uniquely positioned to help states implement the Convention and thereby to advance the objectives of UNSCRs 1540 and 1977.

It is also evident that the task of achieving full implementation of the CWC and resolutions 1540 and 1970 is too difficult to be fulfilled through the efforts of individual governments or organizations. Cooperation and coordination of certain activities of various international, regional, and subregional organizations is imperative. Important progress

has been made in this area at the 2010 meeting of international, regional and subregional organizations hosted by Austria in cooperation with UNODA.

UNSCR 1810 underscored the importance of close cooperation between the 1540 Committee and relevant international organizations. Resolution 1977 confirmed it. The two resolutions acknowledged and commended the activities of international organizations with expertise in the field of nonproliferation of nuclear, chemical and biological weapons and their means of delivery as covered by resolution 1540. They singled out the International Atomic Energy Agency and the OPCW for special praise, especially for providing assistance toward full implementation of UNSCR 1540 without altering their basic mandates and responsibilities. The resolutions enhance cooperation between the 1540 Committee and international organizations on a case-by-case basis, reflecting the differences among these organizations' capacity and mandates. The OPCW, the 1540 Committee, and member states should intensify efforts to build synergies and orchestrate concrete activities to implement provisions of the CWC and resolutions 1540 and 1977, and to meet challenges of WMD proliferation and terrorism.

CONCLUSIONS

States are obligated to translate the prohibitions embodied in the Chemical Weapons Convention and UNSCR 1540 into domestic legislation enforceable vis-à-vis any individual or entity operating under their jurisdiction or control.

While we are striving to ensure that the provisions in the Chemical Weapons Convention and resolution 1540 remain effective and respond to evolving circumstances, the safety net against the possible acquisition, development, and misuse of CBRN agents and materials must be strengthened.

OPCW cooperation with the 1540 Committee promotes in a structured manner the message that effective implementation of the CWC contributes directly to meeting the requirements set forth in resolution 1540 in the area of toxic chemicals.





Customs officers from Turkmenistan in the process of 1540 training provided by OSCE in September 2011.

UNSCR 1540 and the Organization for Security and Co-operation in Europe

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Ten years prior to the adoption in 2004 of UN Security Council Resolution 1540, the states that take part in the [Organization for Security and Co-operation in Europe's](#) (OSCE) had already affirmed their commitment to prevent the proliferation of weapons of mass destruction (WMD) and their means of delivery, agreeing on [the 1994 Principles Governing Nonproliferation](#). The importance of the 1994 Principles derives from OSCE states' endorsement of universal adherence to the Chemical Weapons Convention (CWC), Nuclear Nonproliferation Treaty (NPT), and Biological and Toxin Weapons Convention (BTWC), as well as other international instruments. Over the past six years, a series of OSCE decisions and declarations have converted



these sentiments into action, raising the profile of UNSCR 1540.

A BIRD'S-EYE VIEW OF THE CURRENT STATE OF PLAY

It has been broadly recognized that, eight years after the enactment of resolution 1540, the time has come to move beyond awareness-raising toward concrete implementation measures. The means to this end are dialogue and capacity-building activities tailored to the needs of specific countries, based on coordination and cooperation at the regional and global levels.

The OSCE is the world's largest regional security organization. The OSCE, like many other regional and sub-regional organizations, enjoys regular contacts with and direct support from its 56 participating States and 12 countries, which are known as Partners for Co-operation. It puts the political will of participating states into practice by conducting security dialogue, negotiating politically binding commitments, and reviewing the implementation of such commitments within the unique platforms furnished by the Forum for Security and Cooperation and the Permanent Council. These are the two main OSCE decision-making bodies. They address both military and non-military aspects of security. As such, the two bodies play an instrumental role in helping OSCE states fully implement various aspects of resolution 1540.

The OSCE's importance in establishing a regional approach cannot be overstated. Its regional efforts are an important way to complement and support the existing endeavors of the 1540 Committee. OSCE structures include a number of well-established experts networks—on anti-terrorism and border controls, for example—as well as effective communication channels via OSCE field missions that can play an instrumental role in assisting OSCE states in implementing resolution 1540. In this context, OSCE states decided on a mandate in [Athens \(2009\)](#) and [Astana \(2010\)](#) to facilitate regional implementation of UNSCR 1540, providing assistance to those states that require it. This forward-looking decision conformed to the letter and spirit of UNSCR 1977 (2011).

So What Has the OSCE Done in Practical Terms?

DEFINING THE OSCE'S ROLE

In 2007, the OSCE set an ambitious goal for participating States, calling on them to develop a [Best Practice Guide on UN Security Council Resolution](#) (UNSCR) 1540. The guidebook represents an OSCE compendium of suggested implementation practices. Since many OSCE states already have well-developed implementation practices of their own, such a manual represents an ideal way to share best practices and lessons learned among all 56 states.

The first chapter of the handbook, on export controls and transshipment, was approved in 2009. Consultations continue on the next chapters, which will cover practices for preventing non-state actors from acquiring or using WMD; effective accounting for and security of WMD materials; development of physical protection for WMD materials; and establishing border controls to prevent cross-border transfers of WMD materials.

In 2010, as a direct consequence of the 2009 Athens mandate, the OSCE Secretariat established a full-time position for a 1540 adviser. This position is solely dedicated to strengthening OSCE expertise and capacity to translate political tasking into concrete assistance activities, and to support the global nonproliferation process led by the 1540 Committee in concert with other international organizations.

On January 27-28, 2011, in order to define the OSCE's niche in these global efforts, the OSCE held a "Workshop to Identify the Proper Role of the OSCE in Implementation of United Nations Security Council Resolution 1540." This event was co-sponsored by the UN Office for Disarmament Affairs. It provided a comprehensive platform for exchanging views on policy issues, implementation practices, and needs for further dialogue, cooperation, and assistance among national representatives and international organizations involved in implementing UNSCR 1540—including the OSCE.



Workshop participants identified a range of opportunities for the OSCE to play a beneficial part. National representatives spoke in particular about enhanced awareness-raising activities, tailored training courses, and new chapters of the Best Practice Guide. Most important is OSCE support to governments to help them, upon their requests, develop National Action Plans (NAPs) and fine-tune relevant legislation.

A National Action Plan is a document voluntarily compiled by a state in coordination between relevant ministries and agencies to map out priorities and plans for implementing the key provisions of resolution 1540. It is ultimately to be submitted to the 1540 Committee. The OSCE, together with the 1540 Committee experts, has already taken a direct hand in helping OSCE states draft such plans. Five states have requested such support to date. Depending on the specific provisions of the NAP, other international organizations will assist OSCE states with concrete implementation measures.

Another tool at the disposal of OSCE states is the OSCE Border Management Staff College in Dushanbe, Tajikistan. Courses on nonproliferation targeting customs and border officials, policy-makers, and officials from relevant ministries have been embedded in the 2012 curriculum at the Staff College.

NATIONAL PROGRESS IN THE OSCE REGION

As stated above, the OSCE turned a new page in 2010, commencing assistance to member states through a more structured and inclusive approach that synchronizes relevant aspects of UNSCR 1540 among the organization's various executive structures. At the same time, the OSCE is mainstreaming coordination of efforts at the national, subregional, regional, and international levels.

Ongoing, tailored dialogues with Belarus, Bosnia and Herzegovina, and Serbia, as well as contacts with Moldova and Kyrgyzstan, are some responses

the OSCE has provided these member states in the domain of WMD nonproliferation:

- Belarus has acknowledged the OSCE's usefulness to government's intent on implementing UNSCR 1540. It is currently developing a national framework document on WMD nonproliferation with assistance from the OSCE and the 1540 Committee experts.
- Bosnia and Herzegovina expressed interest in updating national legislation in line with UNSCR 1540 obligations. The government has requested support from the OSCE.
 - The joint OSCE endeavor with the Republic of Serbia is a pilot case in which an OSCE 1540 Advisor is helping draft a National Action Plan in close cooperation with the 1540 Committee experts. The draft NAP is currently undergoing inter-ministerial review.
- Kyrgyzstan has confirmed its interest in joining international export control regimes and has voiced willingness to cooperate with the OSCE to improving its laws and law-enforcement practices in order to comply with UNSCR 1540.
- Moldova requested OSCE help to buttress its capacity to prevent WMD proliferation and defend against chemical, biological, radiological, and nuclear threats. The OSCE is helping craft Moldova's National Action Plan, create and execute export, import, and transshipment controls over weapons of mass destruction and their delivery means, and establish a national network on biological threats.

Several other OSCE states have requested training and capacity-building for their law-enforcement agencies, especially in the field of fighting biological and chemical proliferation.

The OSCE, together
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[National Action] plans.



Border Management Staff College, Dushanbe, Tajikistan, October 2011

IMPLEMENTATION CHALLENGES

The OSCE's role fosters a regional approach to implementation. In a December 2008 statement to the Forum for Security Cooperation of the OSCE, Ambassador Jose Urbina, then chairman of the 1540 Committee, paid tribute to such efforts: "if the regional organizations and states of Europe cannot provide leadership on fulfilling their resolution 1540 obligations, then universal implementation of the Resolution will prove immensely more difficult than we already imagine."

Chapter VIII of the UN Charter acknowledges the value of regional organizations in international peace and security. Regional and subregional organizations may enjoy closer relations with their members than do global institutions. They are more closely attuned to the politics, economic conditions, and problems of their home regions. The OSCE provides forums and opportunities to share experiences and lessons-learned, and it can act as a capacity-building partner.

The OSCE Secretariat and the United Nations signed a memorandum of understanding (MOU) in October 2011 to increase technical cooperation in implementing resolution 1540. The MOU, which is to be implemented by CPC/OSCE and UNODA, provides for joint OSCE-UN projects to stop the proliferation of weapons of mass destruction.

Adequate funding is of core importance. Analysis of financial resources and technical capacity and capability constitutes a key element of any OSCE state's National Action Plan. A full understanding of national financial resources and constraints equips the OSCE to offer adequate, targeted support to the requesting state.

In the current economic climate, it is hard to persuade partners to supply the OSCE with sufficient resources to undertake capacity-building. Continuity of assistance projects remains a challenge for the same reason. At present, OSCE efforts in help implement UNSCR 1540 are the beneficiaries of financial support from the U.S. and U.K. governments, but other donors are mostly welcome.

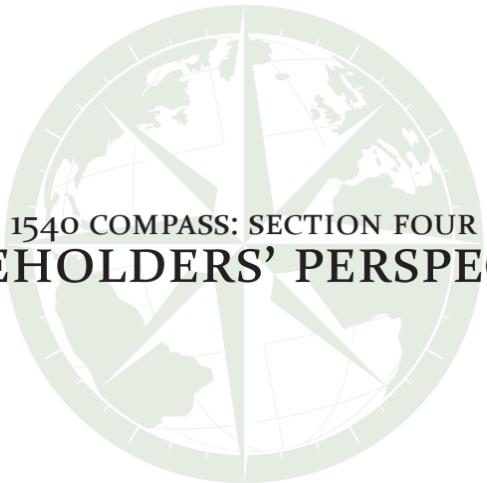
A CHANCE FOR THE OSCE TO ACTIVELY SUPPORT GLOBAL IMPLEMENTATION EFFORTS

As a consensus-based organization composed of 56 participating States, the OSCE finds it difficult to make progress as quickly as some may wish. Yet there are also advantages to this approach. Such a wide geographic area featuring vast political, socioeconomic, and cultural differences can generate strong political will and move forward in step.

The OSCE, furthermore, is founded on the principle of comprehensive security. True security encompasses economic, environmental, and human dimensions as well as the more familiar politico-military dimension. The OSCE thus provides a unique platform for the cross-dimensional approach that is particularly important in matters of WMD nonproliferation.

Though they remain pragmatic, many OSCE states clamor for more than incremental progress in regional implementation of UNSCR 1540. They have emplaced the global nonproliferation regime among the key priorities of the OSCE. The organization thus stands to benefit from the expertise and resources national governments boast as it strives to achieve regionwide compliance with UNSCR 1540. In turn, the OSCE will continue supporting participating States in this vital enterprise.





1540 COMPASS: SECTION FOUR
STAKEHOLDERS' PERSPECTIVE

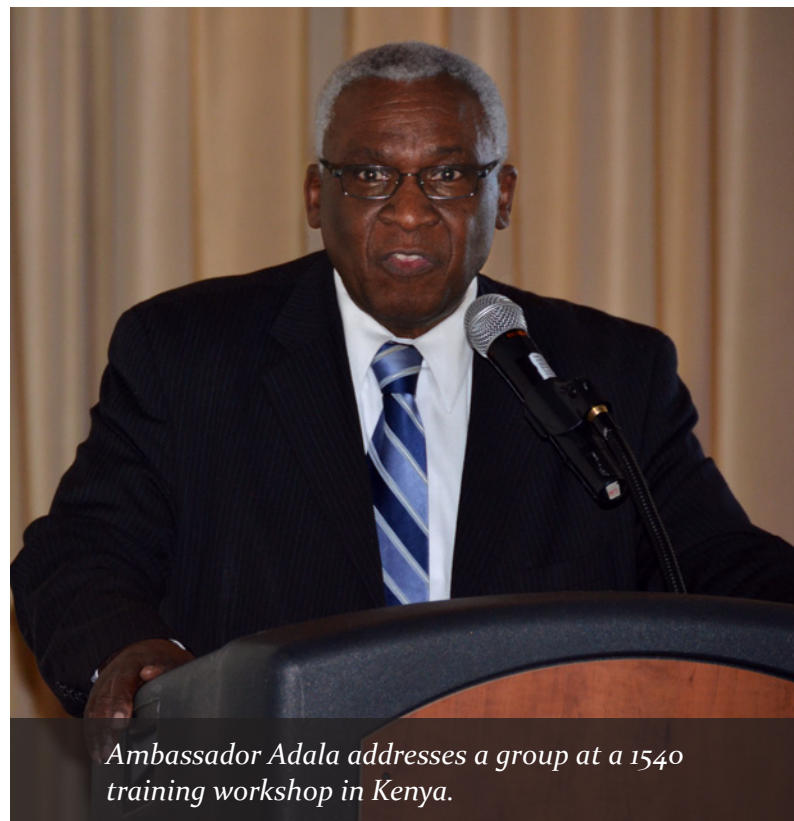
Civil society and non-governmental organizations need recognition and support

Ambassador Ochieng Adala
ACTING EXECUTIVE DIRECTOR
[AFRICAN PEACE FORUM](#)

In its resolution (UNSCR) 1540, the UN Security Council recognized the inevitability that some states may require assistance in implementing its provisions and invited states in a position to do so to offer assistance in response to specific requests to the states lacking the legal and regulatory infrastructure, implementation experience, or resources for fulfilling such provisions.

One of the challenges of UNSCR 1540 is its lack of reference to the role that civil society and nongovernmental organizations (CSO/NGO) can play in the process of implementing it. The latest [report from the 1540 Committee \(S/2011/579 of September 14, 2011\)](#), instructively recommends that the Committee, States, and international, regional and subregional organizations cooperate with academia, industry, and civil society where appropriate, taking a long-term approach that can contribute to national implementation of Resolution 1540. It is more than obvious that active participation and involvement of CSOs/NGOs in the implementation of requirements of resolution 1540 is not only important but also imperative.

It is encouraging, therefore, that a number of states have taken up the request and are offering



Ambassador Adala addresses a group at a 1540 training workshop in Kenya.

assistance not only to other states but also to civil society and nongovernmental organizations. The government of Finland readily comes to mind as one of the states that have taken the challenge seriously. In 2006, Finland brought together representatives of national governments, regional and subregional organizations, and members of civil

society in what resulted in the establishment of “The Beyond Boundaries Initiative.” This initiative aims at effectively and sustainably promoting the implementation of 1540.

A number of states, notably Sweden, the United States of America, Canada, and Japan, have shown interest in working with civil society and recognized its importance. These states are working with or are in the process of engaging CSOs and NGOs in the Caribbean, Central America, the Middle East, and Eastern Africa. These efforts aim at creating awareness of the provisions of UNSCR 1540 on nonproliferation and UNSCR 1373 (2001) on counterterrorism, while at the same time addressing broader issues touching security and development.

Nongovernmental organizations, notably the Stimson Center, the Stanley Foundation, and the University of Georgia Center for International Trade and Security are engaged in a series of regional “Beyond Boundaries” Workshops. Two have been held thus far in Nairobi, Kenya. The first workshop, “Beyond Boundaries in Eastern Africa—Bridging the Security/Development Divide with International Security Assistance,” was held in Nairobi on December 6, 2010, under the [“Managing Across Boundaries” Program](#), a joint initiative of the Stimson Center and the Stanley Foundation.

The goal of the project is threefold: to identify new sources of assistance to address endemic threats in the developing world, such as poverty, corruption, infectious diseases, trafficking, and economic underdevelopment; to expand a successful new engagement model that treats the root causes of proliferation rather than its symptoms; and to reinforce the legitimacy of the United Nations as an effective mechanism to address transnational issues. Unlike traditional assistance measures, this effort helps bridge the gap between “soft” security (development, human security) and “hard” security (nonproliferation) objectives, thereby addressing the needs of the Global South while building states’ capacity to manage and ensure the sustainability of nonproliferation and global security efforts.

In recognition of the pivotal role which civil society can play, the Nairobi workshop was attended by a number of nongovernmental organizations, besides representatives from various national ministries, UN bodies, and subregional inter-governmental organizations.

This was a commendable first step, later reinforced when a second workshop convened in Nairobi in September 20-22, 2011. The event titled “Promoting Regional Security and Development with International Security Assistance—Legal-Regulatory Workshop,” was organized by CITS/UGA, and sponsored by the U.S. State Department’s Export Control and Related Border Security Program. Once again, civil society organizations joined a large number of governmental, UN, and intergovernmental organizations at the workshop.

The participants seized the occasion to review the 1540 Committee assistance template and discussed how governments in the Eastern Africa subregion, in particular the Kenyan government, can request “dual-benefit” assistance for both security and development capacity-building objectives. They also looked more closely at global and regional nuclear proliferation challenges and how such influences shape economic security, trade, and development.

One of Kenya’s biggest challenges—indeed, its nightmare—is the nation’s porous borders. Recent kidnappings testify to insecurity along the Kenya-Somalia border. Such crimes are compounded by frequent raids into Kenya by nomads from neighboring states such as Ethiopia, South Sudan, and Uganda. Consequently, discussions at the workshop built upon issues from December 2010 workshop, placing special emphasis on border security challenges confronting East Africa. These include the traffic in small arms and light weapons, drug and human trafficking, the unchecked movement of people across common borders, and threats of terrorism at the regional level.

The proliferation threat and strategic trade responses elicited great attention, as did legal support and the requirements of countries in the subregion—Kenya in particular.



What emerged from the two workshops is the implication that implementation and enforcement of resolutions 1373 and 1540 depends largely on all stakeholders' working together and sharing information to promote effective practices for the implementation of these resolutions.

Civil society organizations have played important and effective roles in several other UN initiatives, for example the adoption of the [UN Program of Action on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects](#) (July 2001) and subsequent campaigns to renew this program's mandate during review conferences and biennial meetings. One significant aspect of this document is its specific appeal to member states to work closely with CSOs/NGOs on implementing the Program of Action. This appeal has been heeded by a good number of States.

Another example is successful lobbying by nongovernmental organizations and an ensuing, overwhelming vote in support of the General Assembly on resolution "Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export, and Transfer of Conventional Arms." (A/RES/61/89 adopted on 6 December 2006). Subsequent lobbying and input from civil society resulted in the General Assembly agreeing to convene the Conference on an Arms Trade Treaty in July 2012.

All these successes were possible because of a number of reasons: strong policy-oriented research backed by efficient information-sharing mechanisms; good and constructive networking between NGOs and governments, even among southern NGOs, where space has been created for such collaboration; capacity-building, particularly among southern NGOs which are relatively subpar in terms of communication infrastructure and other important capabilities.

Africa Peace Forum has had the privilege and advantage of participating in several UN and sub-

regional initiatives on small arms and light weapons, ATT, and the development of "Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol." With the assistance of the governments of Canada (Foreign Affairs and International Trade Canada, 2003 to 2007) and Germany (2005, through the Group of Interested States in Practical Disarmament), Africa Peace Forum undertook a series of awareness-raising initiatives with a number of NGO network partners in Uganda, Rwanda, Burundi, and the Democratic Republic of Congo. Unfortunately, these ended up being rather short-term encounters that terminated before creating the necessary impact.

It is worrisome, however, that very little is known about UNSCR 1540 in too many quarters despite the resolution's seven-plus years of life, extensive outreach and dialogue with UN Member States, and growing transparency with relation to international community as a whole. The efforts of CITS/UGA, the Stimson

Center, and the Stanley Foundation, along with governments like those of Finland, Sweden, Japan, the United States, and Canada, have gone a long way in reducing the knowledge gap. Nongovernmental organizations like Africa Peace Forum, which enjoy good working relations with governments and have contributed to progress in related areas, need help with its awareness-raising and capacity-building if they are to deliver better-quality service to all stakeholders.

It is worrisome ... that very little is known about UNSCR 1540 in too many quarters despite the resolution's seven-plus years of life, extensive outreach and dialogue ... and growing transparency.

FURTHER READING

Brian Finlay, Johan Bergenas and Veronica Tessler, *Beyond Boundaries in Eastern Africa: Bridging the Security/Development Divide with International Security Assistance*, The Stimson Center and The Stanley Foundation: Acknowledgement, p. 6.

Non-proliferation: Social Responsibility in Industry

Andreas Widl

CEO, OERLIKON LEYBOLD VACUUM, GERMANY

Industry must comply with non-proliferation and export control regulations. The essence of corporate responsibility, however, is exercising self-triggered caution and voluntary self-restraint towards questionable business while maintaining a trusting partnership with governmental authorities and international institutions. One of the easiest and most pragmatic solutions for industry to prevent unlawful weapons-of-mass-destruction (WMD) and missile projects is to proactively share information with government authorities and the International Atomic Energy Agency (IAEA), disregarding political and commercial interests.

INFORMATION AS THE FIRST LINE OF DEFENSE

Export control regulations hinder proliferation, but only to a point. For decades, the media have reported on illegal shipments of high-tech commodities, mostly with nuclear-related end-uses. While state actors drive their ambitious nuclear projects towards completion, private companies and other non-state actors often try to procure what is required for the nuclear activities. The IAEA already has access to information related to attempted, intercepted, and seized shipments of forbidden substances and materiel, and it knows about successful illegal transactions once these become known. However, many more sources of information are available to industry, as illicit purchasing efforts leave documented traces.

WHAT IS REQUIRED MUST BE IMPORTED

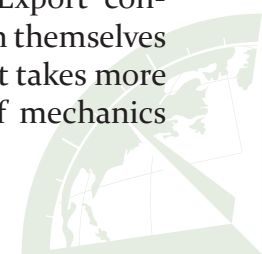
Patterns of procurement have changed little over the past decades. Today as in past decades, countries and other entities pursuing illegal programs seldom have the resources and capabilities to produce the required technologies domestically. In a technological sense, these countries are far from being “autonomous” and depend on a limited number of exporting companies to obtain what is required for their illicit end-uses.

Industry and trade can play an important part in preventing proliferation of WMD and missiles. Proliferation is highly dependent on importing large quantities of high-technology components and products. Trade always leaves traces that can be identified by industry, and so do attempts at illicit procurement. Such data, available in companies yet only occasionally shared by companies with government authorities, should be disclosed far more widely and shared with the IAEA. In a large-scale approach, this would lead to an ad hoc improvement of verification efforts while helping establish a unique early-warning system.

The IAEA needs effective help from many member states, primarily with regard to information sharing. The agency also needs emphatic support for the IAEA Procurement Outreach Program. Sharing procurement data will not cost industry or respective member state authorities any money; forwarding an email inquiry is as simple as a mouse click, and companies will feel rewarded by knowing they did the right thing. Supporting the global fight against potential nuclear terrorism and proliferation is its own reward. And besides the IAEA and other security authorities, the biggest winner of this simple approach will be the population of our global village. Industry can indeed do much to slow down, delay, or even stop illegal nuclear trade and proliferation.

EXPORT CONTROLS: A GOOD TOOL IN AN ALMOST EMPTY TOOL BOX

The core of “awareness”-related export control regulations is “positive knowledge” of the exporter about a WMD or missile end-use. Countries initiating WMD programs strive to cover their intentions. Purchasing companies hardly ever approach supplier representatives conceding that they have military end-uses in mind. Nor do they divulge drawings or other documents that would give the firm positive knowledge of the buyer’s WMD or missile-related end-uses. Export controls, then, are obviously not enough in themselves to counteract proliferation purposes. It takes more tools, as well as a dedicated group of mechanics



interacting as a team with one common goal: to fight illicit nuclear trade.

RESPONSIBILITY ON CORPORATE LEVEL

Procurement for illicit programs starts just like any other trade process within the supply chain. It starts with a requirement, an inquiry to a potential supplier, which leads to a price quote. Negotiations might follow, resulting in a customer order or contract, an order confirmation, and the production process. Then shipping procedures ensue through a forwarding company. Finally, payment involves the financial system. Many actors in industry, trade, transportation, and finance are involved. But the most suitable partner for the exposing suspicious or illicit requests is the manufacturer and exporter of the goods involved. Industry is the natural team player for enhanced counter proliferation support. It has the best overall vantage point on the entire transaction, the suitability of the product for the claimed end-use, and capacity to judge its plausibility. Protocols or “red flags” may alert the company, and a good internal compliance system can help the company determine whether identical or similar inquiries or orders were rejected.

As vacuum technology is an indispensable enabler of many state-of-the-art production processes, social responsibility at [Oerlikon Leybold Vacuum](#) is paramount to fighting proliferation. The international export control group at Oerlikon works as what we call a “centralized detection hub.” The entire sales force is trained for this purpose, including service technicians, the order management group, product managers, and everybody else who might have customer contact. For the Oerlikon Leybold Vacuum staff, training takes place at the headquarters in Germany, as well as at all 17 subsidiaries worldwide. Some of these affiliate companies produce world-class vacuum equipment locally. Production and sales of these parts was shifted from Cologne to these subsidiaries, and exposing them to the risk of being approached by dubious procurement companies. Additionally, awareness needs to be universal that subsidiaries may field inquiries involving illegal end-uses. Training on these issues and a global information platform for all parties involved is mandatory and

implemented at Oerlikon Leybold Vacuum.

To combat illicit procurement, it is not enough to concentrate on a handful of “wrongdoing” countries. All countries are potential targets for diversion of equipment and illegitimate procurement, and this is one reason for centralization and for maintaining an information platform.

EARLY WARNING OR LATE IDENTIFICATION

During training for subsidiaries, and in particular during Export Control Outreach seminars in a variety of countries, Oerlikon managers observed a prevailing lack of detailed knowledge of laws and regulations in force in their home countries. Many companies have very little awareness. Such firms do not screen their product portfolio against the current export control lists, or their business partners against Sanctioned Party lists. In some cases, export compliant behavior is achieved by sheer chance rather than triggered by a good internal control system. It has to be assumed that many shipments still proceed without the necessary licensing, and that many exporters simply do not know that there is a license requirement. Of course, there are also cases in which an exporter chooses to ship without a license deliberately, whether through false customs tariff numbers, misleading product descriptions, an incorrect country of final destination, or means the seller deems necessary to execute such business. The largest group of inquiries by far is the huge number of inquiries—both routine and illegal—that exporting companies do not execute, for very different reasons.

Yet these companies are often able to discern between a normal inquiry and a potentially problematic one, and the latter are exactly the ones that government authorities should be informed about, and should communicate to the IAEA. If government authorities and the IAEA had better access to these many puzzle pieces, they could certainly analyze them and get a better feel for newly developing nuclear ambitions of countries that have shown no such interest to date.

In any case, industry-government information and fearless communication with government of-

ficials is an indispensable verification tool that effective safeguards need. Other tools are already in use, such as physical inspection, surveillance cameras, environmental tests and satellite imagery. Industrial information would just be another tool in the tool box.

WINNERS, LOSERS AND INDISPENSABLE PREREQUISITES

Industrial leaders must come to their own conclusions about their ultimate social responsibility. Only they can decide whether they wish to help reduce the threat caused by the world's most dangerous weapons. What separates men from other species is the free will to decide to do good, to act in a socially responsible manner. And stakeholders rely on companies to maintain certain, if not the highest, moral and business ethics—not only for themselves but for the larger society and for the future.

If companies decide to deliver wares to suspect customers despite concerns about the potential end-use, they may score a short-term victory over a competitor, but they lose out in other respects. The Japan tsunami and earthquake disaster sent a wake-up call about the considerable risks that nuclear energy entails. Still this source is a fixed part of today's energy portfolio and will remain so considering the inexorable rise of electrical energy demand around the globe. It must be operated with the highest degree of operational excellence and compliance along the value chain. But no other technology yields that degree of proliferation threat. If companies decide not to deliver suspect shipments, if they inform government authorities and the IAEA instead, and if they raise general awareness about illicit requests, industrial companies can influence the situation. Industry can make the difference.

Government authorities wield the power to stop dubious attempts on the part of companies, entities, or individuals with bad track records to procure weapons-related items. This is not about procurement for normal nuclear energy development programs. Those are officially registered, follow the normal rules and guidelines, and are covered by export licenses and the proper legal framework.

But guidelines are devised by human beings, and humans tend to make mistakes; therefore, any help to strengthen an insufficient prevention system should be welcome. Government authorities should make every effort to reach out to domestic industries, enlisting them in the common effort to thwart proliferation. There is a wealth of information out there, and it needs to be harvested.

If these companies are to share their information, there must be a culture of mutual trust and understanding. In particular, companies must have the confidence to share sensitive information without fear that it will be used against them. Some companies have already achieved enviable levels of social responsibility, adhere to compliance guidelines, and could easily be won over to participate. For less pliant companies, enticement programs might be conceivable. The financial community might furnish incentives, for example, or specialized, simplified export procedures or export licensing “fast lanes” might do the trick.

Nuclear security, global stability, and world peace are not available for free. Proliferation has become global; therefore, counter proliferation must also become global. Governments, industry, and academia should start taking the next steps toward creating appropriate working conditions and providing the resources for mutually beneficial cooperation that includes the IAEA.

Not just manufacturers of weapons-related equipment and technology but also users in industry and research institutions must now shoulder increased responsibility, as their products may provide enabling technology for a multitude of manufacturing processes and end-uses. Such products are neither good nor bad in themselves, but dual use will remain a constant topic, and so will proliferation, unless and until all stakeholders understand, accept, and comply with our social responsibility. For industry as a UNSCR 1540 stakeholder, the concept of social responsibility is an important prerequisite for effective compliance.



REVIEW OF REPORTS & DOCUMENTS

Assessing the Economic Impact of Adopting Strategic Trade Controls

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A common concern expressed by some states attempting to meet requirements under UN Security Council resolution 1540 is that implementing robust strategic trade controls could impede trade. As globalization accelerates worldwide, all countries are under intense pressure to acquire their niche in the global economy. The concern that strategic trade controls will impede trade is a salient one. The common logic from government officials is that strategic trade controls may make trade an inefficient, resource-intensive activity that reduces traders' propensity to invest.

In cooperation with the U.S. Department of State, the University of Georgia Center for International Trade and Security (CITS/UGA) has recently conducted an academic study to gauge the actual impact of strategic trade controls on international trade. Conducted in December 2010, the study effectively dispelled the perception that strategic trade controls inhibit or constrict trade. The study examined the relationship between the introduction of strategic trade controls and a number of indicators for economic performance. Specifically, the study examined the claim that trade controls over high technology—in particular “dual-use” items—inhibit economic growth in general, and trade flows in particular. In examining both imports and exports, the study used data on trade in advanced technology products to and from the United States and the EU (prior to 2004). The countries selected for the study had introduced strategic trade control legislation. Albania, Azerbaijan, Belarus, Bulgaria, Croatia, India, Israel, Kyrgyzstan, Moldova, Pakistan, Singapore,

Ukraine, and Uzbekistan were the states reviewed. The CITS/UGA researchers reviewed advanced technology product data for a year prior and a year after each state which enacted trade controls. The results indicated that trade in advanced technology products suffered no adverse impact from the enactment of strategic trade control legislation in relevant countries.

In many cases, in fact, the trade in advanced technology products *increased* within five years after the adoption of strategic trade controls. It appears that the introduction of strategic trade controls allows countries to import advanced technology products that were formerly off limits because of export controls in their country of origin. Further, the existence of strategic trade controls may spur more sophisticated high-tech manufacturing and trade to occur, either within or through (e.g., transit or transshipment) a country. In the case of India, after comprehensive strategic trade control legislation was introduced in 2005, the trade in advanced technology products (imports and exports from/to the United States as well as EU), grew each year. Further, the percentage of overall exports classified as “high-tech” increased for Brazil, India, and Kazakhstan almost every year after these states introduced comprehensive strategic trade control systems. The study indicates that strategic trade controls may actually improve the probability that states can boost imports of items from major technology suppliers. It also suggests that trade controls improve these states' prospects for high-tech trade generally—possibly because of the reduced political risk incurred by investors and traders in countries with strategic trade controls.

View the full report online at:

<http://www.state.gov/documents/organization/156673.pdf>



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The Center for International Trade & Security's mission is to mitigate the global spread of nuclear, biological, and chemical weapons. The Center carries out this mission by researching the dynamics of arms trade control, training government and industry representatives to implement policies that limit the spread of these weapons, and educating students in the discipline of nonproliferation and international security. With offices on the University of Georgia campus and in the U.S. capital, CITS bridges the worlds of research and policy, bringing the best of each to the other.

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