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*United Nations Seminar on Implementing
UN Security Council Resolution 1540
in Africa
9-10 November 2006
Accra, Ghana*



United Nations
Office for Disarmament Affairs

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PREFACE

On 9 and 10 November, the UN Seminar on “Implementing the UNSC Resolution 1540 (2004) in Africa” took place in Accra, Ghana. The seminar was organized by ODA and was the first outreach seminar of the 1540 Committee in Africa. It was co-sponsored by the European Union and the Government of Norway. Fifty participants mainly from twenty-one States in the region, two subregional organizations — Economic Community of Central African States (ECCAS), Economic Community Of West African States (ECOWAS) — as well as international organizations — namely the International Atomic Energy Agency (IAEA), Organisation for the Prohibition of Chemical Weapons (OPCW), Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO PrepCom), World Customs Organization (WCO) — participated in the seminar. The Seminar was aimed at raising awareness about the obligations and requirements of UNSC resolutions 1540 (2004) and 1673 (2006) and at increasing and facilitating cooperation and assistance in implementing the resolutions at the national and regional levels.*

ODA would like to take this opportunity to express its deep appreciation to the Ministry of Foreign Affairs of Ghana for hosting the event and for their generous support of the Seminar.

** * **

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RESOLUTION 1540 (2004)

Adopted by the Security Council at its 4956th meeting, on 28 April 2004

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,* constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to

implement them fully in order to promote international stability,

Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation,

Affirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Gravely concerned by the threat of terrorism and the risk that non-State actors* such as those identified in the United Nations list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

Recognizing the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

Recognizing further the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

Encouraging all Member States to implement fully the disarmament treaties and agreements to which they are party,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Determined to facilitate henceforth an effective response to global threats in the area of non-proliferation,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective meas-

ures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) 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 accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. *Decides* that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention

and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.

** Definitions for the purpose of this resolution only:*

Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

* * *

RESOLUTION 1673 (2006)

Adopted by the Security Council at its 5429th meeting, on 27 April 2006

The Security Council,

Having considered the report of the Security Council Committee established pursuant to resolution 1540 (2004), hereafter the 1540 Committee (S/2006/257), and reaffirming its resolution 1540 (2004) of 28 April 2004,

Reaffirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Endorsing the work already carried out by the 1540 Committee, particularly in its consideration of the national reports submitted by States pursuant to resolution 1540 (2004),

Recalling that not all States have presented to the 1540 Committee their reports on the steps they have taken or intend to take to implement resolution 1540 (2004),

Reaffirming its decision that none of the obligations in resolution 1540 (2004) shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organisation for the Prohibition of Chemical Weapons,

Noting that the full implementation of resolution 1540 (2004) by all States, including the adoption of national laws and measures to ensure the implementation of these laws, is a long-term task that will require continuous efforts at national, regional and international levels,

Acting under Chapter VII of the Charter of the United Nations,

1. *Reiterates* its decisions in and the requirements of resolution 1540 (2004) and emphasizes the importance for all States to implement fully that resolution;

2. *Calls upon* all States that have not yet presented a first report on steps they have taken or intend to take to implement resolution 1540 (2004) to submit such a report to the 1540 Committee without delay;

3. *Encourages* all States that have submitted such reports to provide, at any time or upon the request of the 1540 Committee, additional information on their implementation of resolution 1540 (2004);

4. *Decides* to extend the mandate of the 1540 Committee for a period of two years, with the continued assistance of experts, until 27 April 2008;

5. *Decides* that the 1540 Committee shall intensify its efforts to promote the full implementation by all States of resolution 1540 (2004) through a work programme which shall include the compilation of information on the status of States' implementation of all aspects of resolution 1540 (2004), outreach, dialogue, assistance and cooperation, and which shall address in particular all aspects of paragraphs 1 and 2 of that resolution, as well as of paragraph 3 which encompasses (a) accountability, (b) physical protection, (c) border controls and law enforcement efforts and (d) national export and trans-shipment controls including controls on pro-

viding funds and services such as financing to such export and trans-shipment, and in that regard:

(a) *encourages* the pursuit of the ongoing dialogue between the 1540 Committee and States on the full implementation of resolution 1540 (2004), including on further actions needed from States to that end and on technical assistance needed and offered;

(b) *invites* the 1540 Committee to explore with States and international, regional and subregional organizations experience-sharing and lessons learned in the areas covered by resolution 1540 (2004), and the availability of programmes which might facilitate the implementation of resolution 1540 (2004);

6. *Decides* that the 1540 Committee will submit to the Security Council a report no later than 27 April 2008 on compliance with resolution 1540 (2004) through the achievement of the implementation of its requirements;

7. *Decides* to remain seized of the matter.

* * *

Opening Session

WELCOME REMARKS

*Akwasi Osei-Adjei**

Abstract

This seminar gives voice to the challenges African countries are confronting in their attempt to fulfill their obligations under UNSCR 1540. To put into practice the provisions under this resolution for international cooperation and assistance, it is essential to harness the appropriate bilateral and multilateral arrangements to enable all States to work together towards the prevention of WMD proliferation.

On behalf of the Government and people of Ghana, I wish to welcome all delegates to Accra for this United Nations Seminar on the Implementation of the UN Security Council Resolution (UNSCR) 1540 in Africa.

The Government of Ghana supports all international efforts at promoting a more peaceful and safer world, and Ghana considers it a privilege to host this seminar.

**Akwasi Osei-Adjei* is the Deputy Minister of Foreign Affairs of Ghana.

I also take this opportunity to commend the United Nations Department for Disarmament Affairs (DDA) for the effort it has put into organizing this Seminar.

This Seminar takes place at a period of grave uncertainties. The international community faces daunting security challenges in an already fragile global environment.

The most urgent concerns of terrorism and the proliferation of weapons of mass destruction (WMD) constitute the pre-eminent threat to global collective security in the 21st century.

Recurring acts of terrorism continue to pose a security challenge to humanity as terrorist groups choose their targets without discrimination, evolve their modes of operation, and devise more complex ways to carry out their heinous acts with deadlier consequences.

Against this backdrop, the noted intentions of terrorist groups to acquire and use WMD has been a source of concern, particularly in light of illicit trade in nuclear weapon technology and the increasing number of countries that seek to acquire such technological expertise, even as the prevailing regime prohibits such acts.

In the face of this situation, the Security Council's adoption of resolutions (UNSCR) 1540 of 2004 and 1673 of 2006 have been widely hailed as two landmark decisions.

These resolutions demonstrate the determination of the United Nations to pursue comprehensive efforts to address the nexus between WMD and terrorism, and to close the gap in international law regarding non-state actors and WMD.

UNSCR 1540, which was adopted under Chapter VII of the United Nations Charter, imposed new obligations for States that were non-existent under the Nuclear Non-Proliferation Treaty (NPT) and Biological and Chemical

Weapons Conventions (BWC and CWC). It also reinforced existing obligations and extended the application of the legal regime to cover the relatively few countries that are not party to the NPT, BWC and CWC.

Two years since the adoption of UNSCR 1540, a total of 132 countries have submitted their first national report.

In essence, Security Council Resolutions 1540 and 1673 prohibit States from providing any form of support to non-State actors attempting to acquire or use nuclear, chemical or biological weapons and their means of delivery. Additionally, they require States to adopt and implement appropriate measures, including national criminal laws, export controls, border controls, law enforcement, physical security and nuclear materials accounting techniques.

An important monitoring mechanism under the terms of UNSCR 1540 is the reporting obligation of Member States. Indeed, States are required to report on their national implementation to the Security Council Committee, established pursuant to paragraph 4 of the resolution.

Two years since the adoption of UNSCR 1540, a total of 132 countries have submitted their first national report. Of the remaining sixty countries that have yet to submit their reports, the majority are from Africa, Asia, the Pacific, and the Caribbean.

This Seminar is, therefore, significant as it provides an opportunity to discuss, identify and address the factors that have impeded some Member States from fulfilling their reporting and other obligations under the terms of the resolution.

We are encouraged by the successful seminars held in other regions of the world, and trust that the deliberations to

take place in Accra would similarly lead to a successful outcome, and greatly assist the participating African delegations to overcome their implementing and reporting difficulties.

Beyond the outcome to be derived from this Seminar, it is equally important to put into practice the provisions in UNSCR 1540 for international cooperation and assistance through appropriate bilateral and multilateral arrangements.

Practical measures must be adopted to help unlock the flow of technical assistance and resources. These would complement Africa's commitment and political will to implement necessary measures to deter and prevent non-State actors from exploiting weaknesses on the continent to carry out heinous crimes.

Certainly the commitment of African countries to the question of nuclear disarmament, non-proliferation of WMD and the fight against international terrorism cannot be in doubt.

Since 1999, when the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism was adopted, Africa has demonstrated that it stands shoulder-to-shoulder with the rest of the international community in the fight against terrorism. Africa recognizes the globalised nature of terrorist activities and is committed to help in this common fight.

Also, under the Pelindaba Treaty, Africa has sought to implement a nuclear-weapon-free zone to ensure that nuclear weapons are not developed, produced, tested, or otherwise acquired or stationed in any of the countries on the continent.

It is important to emphasize that all States have a responsibility to prevent the proliferation of nuclear weapons

Africa has demonstrated that it stands shoulder-to-shoulder with the rest of the international community in the fight against terrorism.

and promote nuclear disarmament with the objective of their elimination.

However, nuclear-weapon States have a special and higher responsibility, and must work to agree on an instrument on security assurances of non-use and non-threat of use of nuclear weapons.

As we all know, there is a link between disarmament and international development as well as disarmament and peace. Without any doubt, a peaceful and secure environment is a necessary requirement for the pursuit of sustainable socio-economic development. We must work to achieve the goals of peace and security, underpinned by an unwavering respect for the tenets of democracy, human rights and the rule of law.

It is my fervent hope that after this Seminar, the knowledge and skills of participants will be enhanced to enable our countries to effectively fulfill the obligations required of us by these two UN Security Council resolutions.

* * *

OPENING STATEMENT

*Nobuaki Tanaka**

Abstract

As no country today is invulnerable to the dangers posed by WMD, it is imperative that all States meet their obligations under UNSCR 1540. In this regard, the African continent has been particularly challenged. While SALW may appear to be the more immediate threat in the region, the serious risk of WMD exists here as well. This seminar provides opportunities to draw upon past experiences with a chance to plan for the future.

On behalf of the United Nations Department for Disarmament Affairs (DDA), I would like to welcome all participants to this regional seminar, the first of its kind in Africa, and to express my gratitude to the Government of Ghana for hosting this meeting in Accra. I would also like to express my appreciation to the European Union (EU) and to the Government of Norway for their generous support.

I wish also to thank the International Atomic Energy Agency (IAEA), the Organization for the Prohibition of Chemical Weapons (OPCW) and the World Customs Organization (WCO), as well as other relevant international and regional organizations for their support.

* *Nobuaki Tanaka* is the former Under-Secretary-General for Disarmament Affairs, United Nations.

One of the most troubling aspects of the current international security situation today is that no country, however small or remote, can consider itself totally immune from the threat of weapons of mass destruction (WMD), or of having its territory exploited by terrorists.

UNSCR 1540 does not alter the existing obligations already undertaken by States under multilateral disarmament and non-proliferation instruments.

This situation makes it all the more vital to meet the requirements set out in UN Security Council Resolution (UNSCR) 1540, of putting in place national, legal and regulatory measures, and committing to international cooperation on non-proliferation.

It is obvious that this will require a long-term effort at sub-regional and national levels.

I was particularly pleased when, on 27 April 2006, the Security Council extended the mandate of the 1540 Committee for another two years. With this resolution, we have entered a new phase that should see intensified efforts to promote its full implementation, including enhanced outreach, assistance and cooperation. The recently adopted programme of work of the 1540 Committee directly calls for the kind of activity represented at this regional seminar in Africa.

This seminar has particular significance because it is designed specifically to increase awareness of the obligations and requirements of UNSCR 1540, and to assist the Member States in implementing the resolution at the national and regional levels.

The African continent has experienced more challenges than other regions with the implementation of Resolution 1540. For instance, the total number of first reports received by the 1540 Committee globally was 132, with eighty-five having submitted additional information, whereas eighteen African States, submitted first reports, with six submitting additional information (only thirty-four per-

cent of the continent). It is clear that the initial steps of action are already difficult for some States to implement, and that other aspects of implementation will also represent similar challenges.

Some African members have said that the 1540 Committee is not the priority, that the small arms problem is the real issue. While it is true that small arms and light weapons (SALW) pose serious challenges in Africa, there is also a real risk of WMD proliferation on the continent. If you look at A.Q. Khan's extensive trip to Africa, you cannot be relaxed about the non-proliferation regime in this region.

This seminar will provide opportunities to draw upon the experiences and lessons learned during the first two years of the Committee's work, as well as a chance to think and plan ahead for the longer term. Here, I would like to point to some important perspectives to bear in mind:

First, it is critical to remember that the UNSCR 1540 does not alter the existing obligations already undertaken by States under multilateral disarmament and non-proliferation instruments such as the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC) or the Biological Weapons Convention (BWC). Indeed, the resolution is expressly designed to enhance the universality and full implementation of these instruments.

Secondly, it is equally important to acknowledge that States lacking the necessary legal and regulatory infrastructure, implementation experience or resources may require assistance in implementing the provisions of the resolution. For that reason, States in a position to do so are strongly encouraged to offer assistance in response to specific requests.

Thirdly, the role of the DDA can prove invaluable as an active participant in countering the proliferation of WMD. DDA currently provides substantive assistance to the work of

the 1540 Committee on a daily basis, including support to the experts serving the Committee, and ensuring the flow of communication between the Secretariat, the Committee and its experts. We also maintain databases for the Committee and provide administrative and logistical support for outreach activities.

This meeting is well timed to identify specific needs and to ascertain where further assistance is required. These needs may be country-specific, involving specialized support, or may be shared by several States, region-wide.

We are indeed fortunate to have with us the Chairman of the 1540 Committee, Ambassador Peter Burian, as well as two experts from the Committee, Mr. Berhanykun Andemicael and Dr. Roque Monteleone-Neto. They have in-depth knowledge of the national reports submitted by Member States and can contribute their extensive expertise on this issue as well as on other aspects of implementation.

The outcome of this meeting will hopefully assist States in their implementation efforts. This seminar may result in follow-up work and future meetings with greater focus given to specific priorities, cooperation and/or assistance.

In conclusion, DDA and its Regional Centre for Peace and Disarmament in Africa stand ready to support you, particularly in outreach, assistance and cooperation and all that the newly extended mandate of the 1540 Committee aims to achieve.

* * *

Session I:

*Status of implementation and
national experience in reporting*

NATIONAL EXPERIENCE IN REPORTING: GHANA

*Rexford Osei**

Abstract

This presentation outlines the requirements necessary for Ghana to successfully implement Resolution 1540, notably, the treaties necessary to prevent the proliferation of WMD. It focuses on the major disarmament treaties as well as other areas of particular relevance. Key domestic institutional stakeholders are highlighted along with guidelines to move forward.

Questions to answer

- What does Resolution 1540 require of Ghana?
- What are the disarmament treaties that curtail proliferation of Weapons of Mass Destruction (WMD)? — main treaties.
- What is the status of implementation of these treaties in Ghana? — signature, ratification, domestication of such treaties?
- What focal points and institutional framework are required? — i.e. National Authority?

**Rexford Osei* is Director of the Science Division, Ministry of Education, Science and Sports, Ghana.

- What are the focal points doing?
- What is to be done to assure global concerns on WMD?

UN Security Council Resolution (UNSCR) 1540

- Promote universal adoption and full implementation of globally agreed disarmament treaties notably, nuclear, biological and chemical weapons treaties to prevent the proliferation of Weapons of Mass Destruction.

- Adoption or accelerate adoption of national rules and regulations to ensure compliance with multilateral non-proliferation treaties.

- Renew and fulfill commitment to multilateral cooperation with International Atomic Energy Agency (IAEA), Organisation for the Prohibition of Chemical Weapons (OPCW), etc.

- Develop appropriate ways to work with, and inform, industry and the public regarding their obligations under the laws.

- Promote dialogue and cooperation in non-proliferation to address the threat posed by the proliferation of nuclear, biological and chemical weapons, and their means of delivery.

- Submit a report to the Security Council detailing status of implementation.

Initial Communication

	NPT	CWC	BWC
Signed	1968	1993	1975
Ratified	1970	1997	1978

Regulatory Framework

Ghana Atomic Energy Commission Act 2000 (Act 388)

Environmental Protection Agency (EPA) Act 1994

(Hazardous Chemicals)

LI 1559

Ghana Radiation Protection Board (GRPB) Guidelines

G1 – G9

Other areas

- Comprehensive Nuclear-Test-Ban Treaty (CTBT)
- Convention on Physical Protection of Nuclear Material
- Hague Code of Conduct (subscribed) — 2002
- Geneva Protocol of 1925 — signed 1966
- IAEA — 1960
- Nuclear Free Zones Treaty (Pelindaba) — signed 1996

Other chemicals treaties

- Stockholm Convention (ratified 2003)
- Rotterdam Convention (ratified 2003)
- Basel Convention (ratified 2003)

Biological weapons

- Biological and Toxin Weapons Convention (BWC) — signed 1975, ratified 1978
- Legal Framework, EPA, Act 1994 (Act 490) — Hazardous Chemicals
- Ricin — Chemical Weapons Convention (CWC) Schedule 1 (banned), also scheduled Biological and Toxin Weapons Convention (BWC)

Focal points

- Nuclear — Radiation Protection Board
- Chemicals — National Authority
- Biological — Chemical Weapons National Authority

Composition key stakeholder institutions

National authority for chemical weapons

- Ministry of Education, Science and Sports
- Ministry of Defence
- Ghana Police Service
- Ministry of Trade and Industry, Private Sector Development (PSD) and Presidential Special Initiatives (PSI)
- Ministry of Food and Agriculture — Plant Protection and Regulatory Services Department (PPRSD)
- Ghana Atomic Energy Commission
- Ghana Standard Board
- Customs, Excise and Preventive Service
- Environment Protection Agency
- Ministry of Foreign Affairs
- Association of Ghana Industries
- Ministry of Justice and Attorney-General's Department
- Kwame Nkrumah University of Science and Technology (KNUST) of Ghana

National Nuclear Security Committee

- Ministry of National Security
- Bureau of National Investigation
- Ministry of Justice and Attorney-General's Department
- Ghana Police Service
- National Fire Service (NFS)
- Customs, Excise and Preventive Service (CEPS)
- Ministry of Defence
- National Nuclear Research Institute (NNRI) of GAEC
- Radiation Protection Board

UNSCR 1540 — The way forward

Legal framework

- Draft Weapons of Mass Destruction Bill in place. Bill covers NBC regulations treaties.
- LI's for NBC treaties to derive from Bill
- Ministry of National Security to take WMD oversight and be focal point for UNSCR 1540.
- Strengthen National Authorities from Nuclear, Biological and Chemical Weapons Conventions.
- Seek bilateral/multilateral assistance for public education and awareness raising, especially for industry, importers, traders and exporters.
- Improve training for security agencies especially at the points of entry. (CEPS has only two radiation detector probes for vigilance activities.)

2007

1. WMD Bill passed.
2. LI's on NBC Conventions enacted.
3. Public education and awareness-raising on threat of improved WMDs.
4. The Ministry of National Security strengthened.
5. Reporting to 1540 Committee expedited.

* * *

NATIONAL EXPERIENCE IN REPORTING: KAZAKHSTAN

*Murat Tashibaev**

Abstract

Kazakhstan believes that UNSCR has been transformed from a UN document into a legally and politically binding instrument against the proliferation of WMD and their acquisition by non-state actors. Various ministries and governmental bodies actively participated in fulfilling Kazakhstan's international obligations when preparing its national report. The country also possesses existing national legislation that can be applied to the non-proliferation of biological, chemical and nuclear weapons as well.

Let me express my gratitude to our host, the Republic of Ghana, for arranging this high level seminar and to the United Nations Department for Disarmament Affairs (DDA) for their assistance.

On behalf of the Republic of Kazakhstan, I congratulate all of you for holding the first regional seminar in Africa on the implementation of United Nations Security Council resolution (UNSCR) 1540, especially Ghana, which is the birthplace of the seventh Secretary-General of the United Nations, Kofi Annan.

**Murat Tashibaev* is the Director of the Department of International Organizations and International Cooperation, Ministry of Foreign Affairs, Kazakhstan.

We are all aware of how deeply concerned this great person is by the threat of worldwide proliferation of weapons of mass destruction (WMD). UNSCR 1540 was created under his authority and encouragement.

I believe the work of this Seminar will be successful for all of us.

As the first Security Council resolution specifically focusing on non-proliferation, it plays a significant role in enhancing international consensus and cooperation.

The fact that more than 130 States have already submitted their national Reports to the 1540 Committee clearly indicates that the Resolution is perfectly functioning and effective. We believe that it has been transformed from a Security Council document into a serious, legally and politically binding international instrument against the proliferation of WMD, bolstering the prevention of their acquisition by terrorists. Many countries have ensured implementation, while some still strive to meet the requirements.

In April 2004, the UN Security Council unanimously adopted UNSCR 1540. Kazakhstan was among the first States to welcome it. As the first Security Council resolution specifically focussing on non-proliferation, it plays a significant role in enhancing international consensus and cooperation.

The resolution also reflects the particular steps that should be undertaken in the context of combating WMD proliferation.

Kazakhstan submitted its national report and additional information giving a full and systematic review of its non-proliferation policy and legislation, and the specific measures it has taken in this area.

In the wake of preparing the national report for the 1540 Committee, our country did a lot of homework. We requested the assistance of numerous ministries and governmental bodies to fulfill Kazakhstan's international obligations. For example, the Ministries of Defense, Industry and Trade, Interior Affairs, Justice, Finance, Energy and Mineral Resources and the National Security Committee were all involved. Each of the ministries has done a lot of work. Additionally, a number of experts, from lawyers to nuclear scientists, were involved. Kazakhstan submitted its Report by the end of 2004, and after receiving feedback from the 1540 Committee, submitted an additional table.

There are several laws within the national legislation which may be simultaneously applied to the non-proliferation of biological, chemical and nuclear weapons. These include the Criminal Code of the Republic of Kazakhstan (16 July 1997), Act No. 416-I on Combating Terrorism (13 July 1999), Decision of the Supreme Council No. 2593 on Accession to the Nuclear Nonproliferation Treaty, Law No. 2200 on licensing (17 April 1997), Act on Narcotic Drugs, Psychotropic Substances and their Precursors, Measures to Prevent Illegal Trafficking and Abuse (10 July 1998), Law No. 17 on the Adherence to the Convention on Physical Protection of Nuclear Materials (22 December 2004), Act on Nuclear Energy Use (14 April 1997), Government Decision No.769 on the Organization of State Accounting and Control System for Nuclear Materials and Sources of Ionizing Radiation (22 July 2005), and Government Decision No. 1108 on the Issue Relating to the Nuclear Energy Committee of the Ministry of Energy and Mineral Resources (28 October 2004).

In 1992 Kazakhstan began the elaboration of its export control system — based on international obligations, administrative monitoring of the materials, dual-used technology and transparent monitoring.

The system of export controls in Kazakhstan meets the basic international principles. During the last period, the amendments and additions were made into the law "on export control".

The main ministry functioning in this area is the Ministry of Industry and Trade, which contains the Department of Export Control responsible for policy in Kazakhstan. It issues import and export licenses, works to improve export control legislation and coordinates activities of relevant government entities.

The legislation of an export control system in Kazakhstan consists of the Government Decree No. 183 (9 March 1993) and the Government Decree No. 1182 (28 July 1997), which set forth the requirements for nuclear exports and outline the responsibilities of the Committee on Atomic Energy in the sphere of nuclear export controls. The Government Decree No. 1037 (30 June 1997) outlines the export licensing process. Government Decree No. 1919 (14 December 1999) strengthens requirements for the export of nuclear materials and requires end-use assurances that the exported item will not be used for the manufacture of nuclear weapons.

The Law on Export Control of Weapons, Military Technology, and Dual-Use Goods (18 June 1996) provides a broad legal basis for export controls. The law gives the government of Kazakhstan the authority to create and develop an export control system, and to define the authority of other agencies. The law states that nuclear exports must be put under International Atomic Energy Agency (IAEA) safeguards, and also addresses issues of re-export and transit.

UNSCR 1540 has provided a practical response to the global threat of the possible linkage between terrorism and WMD. It sets forth important principles and mechanisms for a coordinated international action against any "black market" in WMD.

Currently, Kazakhstan is pursuing dialogue with a number of States and international organizations with a view to identifying potential projects for possible joint implementation, including relevant activities in the implementation of UNSCR 1540. We consider arrangements like this seminar to be of great value as it provides a good opportunity to discuss relevant issues and exchange information.

National implementation and reporting are essential to effectively meet the goals and objectives of UNSCR 1540. Kazakhstan has always actively participated in seminars and events concerning its implementation, including the following.

Workshops held in Beijing (China, 12-13 July 2006) and in Vienna (Austria, 8 November 2006).

On October 9-10 2006 in Almaty, the first regional workshop for the Central Asian and Caucasus States was held. It was organized by the Monterey Institute's Center for Non-proliferation Studies and co-sponsored by the Government of Kazakhstan with the support of Norway, Sweden, and the MacArthur Foundation. The seminar was attended by fifty-six participants from the countries of Central Asia and the Caucasus: Armenia, Azerbaijan, Georgia, Tajikistan, Uzbekistan, representatives of Canada, China, Germany, Japan, United States, and non-governmental organizations (NGOs). Among the participants attending were the Chairman of the 1540 Committee, Ambassador Peter Burian, the Director of the Center for Nonproliferation Studies, William Potter, Deputy Minister of Foreign Affairs of Norway, Kjetil Skogrand, and experts from the IAEA, headed

UNSCR 1540 sets forth important principles and mechanisms for a coordinated international action against any "black market" in WMDs.

by Director of the Division of Operations C of the Department of Safeguards IAEA, Kenji Murakami.

The two-day workshop was specifically designed to increase awareness on the obligations and requirements of UNSCR 1540, and to facilitate cooperation and assistance in implementing the Resolution on a subregional level. It was also aimed at fostering a global partnership between governments, international organizations and NGOs in fighting the proliferation of WMD and non-state actors.

The importance of regional cooperation intensifies regional dialogue and the exchange of information.

The participants stressed the importance of regional cooperation which intensifies regional dialogue and the exchange of information. An idea of using identified contact points for an operative communication between the countries of the region was raised. It has been underlined that while the year 2006 has been a year of

reporting, 2007 should become a year of implementing all aspects of UNSCR 1540. Participants identified areas where more efforts are needed:

- improving accountability and introducing more efficient measures for physical protection of related materials;
- setting efficient border controls with properly trained personnel and modern equipment;
- establishing functioning shipment and trans-shipment controls;
- strengthening law enforcement institutions;
- strengthening the culture of prosecution; and
- improving controls on providing funds and services such as financing illicit activities.

Many speakers pointed out the necessity and importance of small, tailored outreach activities addressing specific topics and problems in the areas mentioned above.

The Chairman of the 1540 Committee, Ambassador Burian, highly praised the role and results of the seminar for the Central Asian and Caucasus States, describing it as "a model for organizing similar subregional activities for promoting implementation of the Resolution and enhancing coordination of efforts on national, subregional and international levels in order to strengthen a global response to the threat of proliferation of WMD". There were a number of debates among the participants as to what measures should be taken in promoting full implementation of UNSCR 1540, and in coordinating the role of the Committee to ensure the assistance of donor countries to those in need of assistance. The appeal for more seminars and workshops in the regions of Central Asia and the Caucasus has been recognized, in order to facilitate implementation and success.

Kazakhstan has the most sophisticated, complex export control system in Central Asia area.

Most States of Central Asia and the Caucasus have obtained an effective export control system. However, based upon international documents, many experts stressed that the Republic of Kazakhstan has the most relevant national legislation, providing a highly effective export control system.

It would be no exaggeration to say that Kazakhstan has the most sophisticated, complex export control system in Central Asia area. Cooperating with the United States State Department's Export Control and Related Border Security Program (EXBS), our government draws special attention to building a mature export control system.

EXBS is aimed at enhancing the capabilities of Kazakhstan's border guards and customs agencies.

Kazakhstan has acceded, signed or ratified most of the international documents referred to in UNSCR 1540: the Nuclear Non Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC), the Comprehensive Nuclear Test Ban Treaty (CTBT), the Convention on Physical Protection of Nuclear Material (CPPNM), and the Hague Code of Conduct. In September 2006, in Semipalatinsk, Kazakhstan signed the Treaty on establishing a Nuclear Weapon Free Zone in Central Asia, which is in compliance with the NPT.

This treaty [Central Asian Nuclear-Weapon-Free-Zone] becomes the first multilateral agreement in a security area that brings together all five Central Asian countries.

In addition to a proper legitimate base, transparency of actions and efforts aimed at total non-proliferation should be taken into account.

Due to its geographic — or geopolitical — position, Kazakhstan has to strengthen its border guards as carefully as possible. We face many security threats and challenges, e.g., illegal migration, drug trafficking, refugee flow, illicit trafficking of small arms and light weapons (SALW) and human trafficking. Of these, only one remains a significant obstacle. That is why Kazakhstan welcomes the new initiatives in the field of non-proliferation and disarmament. It is also worth noting, that on 30 October 2006, the UN Security Council adopted the Resolution concerning the Central Asian Nuclear-Weapon-Free-Zone. This is a great step for the Central Asian region, as well as for Kazakhstan. While the hard work of all five Central Asian States has finally yielded success, there is still a long way to go. Kazakhstan will not stop combating nuclear proliferation or nuclear terrorism.

The newly denuclearized zone in Central Asia has a number of unique features:

- This zone includes Kazakhstan, once the fourth largest nuclear arsenal;
- This is the first denuclearized zone created in the Northern hemisphere;
- This treaty becomes the first multilateral agreement in a security area that brings together all five Central Asian countries;
- For the first time, a denuclearized zone has been created in the region which borders two nuclear States: China and Russia.

At the same time, Kazakhstan was among the first States parties to arrive at the diplomatic meeting to discuss the Global Initiative to Combat Nuclear Terrorism in Rabat, Morocco. The meeting was aimed at establishing the framework for future activities through the endorsement of the Statement of Principles, the fundamental document of the Initiative.

Kazakhstan is well aware of its purposes and future prospects, and we call upon all States to join the Global Initiative to Combat Nuclear Terrorism to prevent acquisition of WMD, their means of delivery and related materials by terrorists.

* * *

Session II:

Implementing measures related to accounting, securing, and the physical protection of nuclear, chemical and biological items, including related materials and means of delivery

RELEVANT LESSONS: SOUTH AFRICA

*Gerhard Rousseau**

Abstract

Committed to the non-proliferation and elimination of WMD, South Africa is party to many international conventions and regimes, and has national legislative machinery in place to give effect to measures outlined in UNSCR 1540. Comprehensive policy methods are under development to enhance border controls and import/export regulations. It is only through cooperation and information sharing between States that the challenges posed by WMD can be adequately confronted.

Since its inauguration in May 1994, the South African Government has committed itself to a policy of non-proliferation, disarmament and arms control, which covers all weapons of mass destruction (WMD) and their means of delivery and which extends to concerns relating to the proliferation of conventional weapons. In terms of this policy, South Africa is, committed to prohibiting the manufacture, acquisition, transport, possession or use of WMD and their means of delivery, including by non-State actors.

South Africa has incorporated all obligations flowing from international treaty obligations in the area

**Gerhard Rousseau* is the Deputy Director, Non-Proliferation Secretariat of the Department of Trade and Industry, South Africa.

of disarmament and non-proliferation of WMD in legislation, control mechanisms and processes. The implementation of these measures involves various departments and agencies. These legislation, control mechanisms and processes are constantly under review to ensure that best national and international practices are considered and implemented.

With the adoption of UN Security Council Resolution (UNSCR) 1540 on 28 April 2004, under Chapter VII of the UN Charter, South Africa's Cabinet took note of the Resolution and committed itself to the full implementation of this legally-binding obligation. South Africa's Cabinet also mandated an Inter-Departmental Working Group to identify its legal obligations and to compile South Africa's report to the 1540 Committee. Chaired by the Department of Foreign Affairs, the Inter-Departmental Working Group — which reports to South Africa's Cabinet — ensured that all relevant Government Departments and agencies were informed about the requirements contained in UNSCR 1540, and concluded that South Africa met them all. The country has provided two reports to the 1540 Committee, which are available on the UN's website.

There is a need to recognise that with increasing globalisation and the flow of goods in and between countries, there is a need to ensure effective control of sensitive goods and to guard against their abuse.

The South African Government underlines its conviction that in the implementation of UNSCR 1540, structures — such as the International Atomic Energy Agency (IAEA) and the Organisation for the Prohibition of Chemical Weapons (OPCW), which have already been established in accordance with international disarmament, non-proliferation and arms control agreements — should not be duplicated.

These organisations should be utilised as the primary institutions in the international community's endeavors to combat the proliferation of WMD, including to non-State actors. The UN Security Council should not subsume the work done in the IAEA and OPCW.

It must be borne in mind that the Matrix cannot be made applicable to all States in every aspect. One size does not fit all. However, there is also a need to recognise that with increasing globalisation and the flow of goods in and between countries, there is a need to ensure effective control of sensitive goods and to guard against their abuse.

The Government of South Africa, like other Governments, would also be concerned if the United Nations Security Council were to assume legislative and treaty-making powers on behalf of the international community that are binding on all States that are not envisaged by the Charter of the United Nations. Like other Governments, South Africa will not accept externally prescribed norms or standards, whatever their source, on matters within the jurisdiction of the South African Parliament. This would include national legislation, regulations or arrangements that are not consistent with South Africa's constitutional provisions and procedures, are contrary to its national interests or infringe on its sovereignty.

Based on South Africa's strong commitment to the non-proliferation of all WMD and their means of delivery, as well as the complete and verifiable elimination of such weapons, the Government has adopted a comprehensive legislative framework to give effect to its policies. In South Africa, the proliferation of chemical, biological, nuclear dual-use and missile delivery items is controlled by the South African Council for the Non-Proliferation of Weapons of Mass Destruction (NPC). The NPC is appointed in terms of the Non-Proliferation of Weapons of Mass Destruction Act, 1993, (Act No. 87 of 1993) by the Minister of Trade and

Industry. However, the proliferation of nuclear material is controlled by the Minister of Minerals and Energy in terms of the Nuclear Energy Act, 1999 (Act No. 46 of 1999).

The proliferation of other dual-use materials and items is controlled by the National Conventional Arms Control Committee (NCACC), which is a Statutory Committee of Cabinet Members constituted in terms of the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002) and appointed by the President.

South Africa is party to the following International Conventions and Regimes that have a bearing on proliferation of WMD:

- Protocol for the Prohibition of the use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol). *Acceded to: 24 May 1930.*

- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention or CWC). *Ratified: 13 September 1995.*

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (1972) (Biological and Toxin Weapons Convention or BWC). *Ratified: 3 November 1975.*

- Agreement between the Republic of South Africa and the Preparatory Commission for the Comprehensive Nuclear Test Ban Treaty (CTBT) Convention or BWC. *Ratified: 3 November 1975.*

- The Nuclear Non-Proliferation Treaty (NPT). *Acceded to: 10 July 1991.*

- Agreement between the International Atomic Energy Agency (IAEA) and the Government of the Republic

of South Africa for the application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons. *Signed: 16 September 1991.*

- Additional Protocol to the Agreement between the IAEA and the Government of the Republic of South Africa for the application of Safeguards in connection with the NPT. *Signed: 13 September 2002.*

- Treaty banning Nuclear Weapon Tests in the Atmosphere, Outer Space and Under Water. *Acceded to: 10 October 1963.*

- Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil thereof. *Ratified: 14 November 1973.*

- Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency. *Ratified: 10 August 1987.*

- Convention on Early Notification of a Nuclear Accident. *Ratified: 10 August 1987.*

- Convention on Nuclear Safety. *Ratified: 24 December 1996.*

- The African Nuclear Weapon-Free Zone Treaty (Treaty of Pelindaba) (OAU). *Ratified: 27 March 1998.*

- Comprehensive Nuclear-Test-Ban-Treaty (CTBT). *Ratified: 30 March 1999.*

Besides the aforementioned legislation, the South African Government has other legislative machinery in place to give effect to the measures contained in operative paragraph 2 of UNSCR 1540. These measures all apply to controlled items and are, therefore, applicable to both State and non-State actors:

The production, use, storage and transport of certain chemicals are controlled under the Hazardous Substances Act, the Explosives Act and the Non-Proliferation Act.

Biological pathogens are controlled under the Non-Proliferation Act, the Agricultural Pests Act, the Animal Health Act, the Genetically Modified Organisms Act and the Health Act.

All plants and plant sites that manufacture or produce chemicals, biological items, nuclear material or nuclear dual-use items and missile delivery items, have perimeter security and other security procedures in operation, including in some instances, the use of television monitoring systems in order to secure the facilities in the event of outbreaks of fire, or against theft. Such systems are in standard use throughout South Africa and are augmented by security personnel in motor vehicles.

The National Key Points Act, 1980 (Act No. 102 of 1980) regulates safety measure issues pertaining to places or areas, which are so important that their loss, damage, disruption or immobilisation may prejudice South Africa.

The legal import/export of goods from South Africa is dealt with by the South African Revenue Service (Customs and Excise) in terms of applicable legislation, whereas the Department of Home Affairs controls the entry/exit of persons.

The South African Police Service (SAPS) deals with illegal conduct pertaining to these two aspects. Comprehensive policing methods are used to curb illegal activities on South African borders, as well as at its ports of entry. Like most other countries responding to global security developments, South Africa is working on improving border controls to ensure maximum effectiveness. Legislation mentioned earlier also covers this and other areas.

Whereas most other States require export permits for the export or re-export of controlled goods, South Africa is one of a very few States that requires its industry to register before issuing any permits. Thereafter, industry has to apply for import and export permits from the NPC in terms of the Non-Proliferation Act to transfer chemical, nuclear dual-use and missile-controlled goods.

Industry also requires import, export or transport permits from the Department of Minerals and Energy in terms of the Nuclear Energy Act to transfer nuclear material.

South Africa is committed to multilateral cooperation within the framework of the IAEA, the OPCW and the BWC.

The import of biological controlled goods requires import permits from the International Trade Administration Commission in consultation with the Department of Health or the Department of Agriculture under the International Trade Administration Act. The export or re-export of biological controlled goods requires an export permit from the NPC under the Non-Proliferation Act. The import, export or re-export of conventional armament items or dual-use items requires import or export permits from the NCACC.

Applications for such permits are submitted to the NPC, the Department of Minerals and Energy, the International Trade Administration Commission or the NCACC, which also regulates and issues the permits. Legislation mentioned earlier also covers this and other areas.

South Africa has adopted national rules and regulations to ensure compliance with its commitments under the key multilateral non-proliferation treaties. South Africa is committed to multilateral co-operation within the framework of the IAEA, the OPCW and the BWC in order to achieve

common objectives in the area of non-proliferation and to promote international co-operation for peaceful purposes and for adequate resources and assistance to be provided for developing countries.

Whilst we fully support the strengthening of controls to curb activities that may contribute to the development of weapons of mass destruction and their means of delivery, we believe that it is only through close cooperation between States and the sharing of information that we can adequately address the challenge posed by the proliferation of these inhuman weapons. At the same time, South Africa remains fully committed to the equally important goal of the elimination of all WMD. Success in the achievement of this goal is the only real guarantee against the threat posed by these instruments of destruction.

The NPT calls on all States to disarm. South Africa would like to appeal to the possessor States to adhere to this provision in the NPT.

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RELEVANT LESSONS: UNITED KINGDOM

*Berenice Gare**

Abstract

The UK supports UNSCR 1540 to protect States from terrorism, to strengthen systems to meet the highest international standards and to avoid complacency. The Counter-Proliferation Committee, which unites policy and operational issues under one body, and the Counter-Proliferation Implementation Committee, which is tasked with carrying out strategies and initiatives to combat the proliferation of WMD, are two executive actions the UK is employing to comply with its obligations under the resolution.

Introduction

In developing this presentation we wanted to concentrate on those aspects of the UK experience that would be most relevant to participants at this seminar to spark ideas and recognition of useful mechanisms that others might want to follow.

Having looked at the UK's first and second reports to the 1540 Committee, and the matrix sent to the UK by the Committee after its first report, we came to the conclusions below.

**Berenice Gare* is Head of the Nuclear Issues Counter-Proliferation Department, Foreign and Commonwealth Office, United Kingdom.

Legislatively, the UK is not a model to follow:

- Generally, development of legislation relevant to United Nations Security Council resolution (UNSCR) 1540 was developed in piecemeal fashion.

- It evolved over a long period to address changing threats — e.g., The first legislation on biological weapons was brought into force after World War I.

When implementing measures relevant to UNSCR 1540, do not start with an eighty year old legislation.

- While the UK matrix indicates legislation available to tackle threats outlined by UNSCR 1540, with appropriate penalties in place, examination does not indicate a coherent picture. A jumble of legislation, and implementing and responsible bodies can take years to understand.

These should all be avoided when looking at how best to take forward national controls. Indeed, South Africa is a much better model than the UK in this respect — with its single, dedicated legal instrument, the Weapons of Mass Destruction Act of 1993.

The lesson is, when implementing measures relevant to UNSCR 1540, do not start with an eighty year old legislation.

General

The UK supports the aspirations of UNSCR 1540:

- to raise the bar internationally on the level of States' control, to ensure that mechanisms are in place to deter those that would harm us to acquire the means to do so;

- to work hard nationally to further strengthen our legislative and practical systems to meet the highest international standards;

- to avoid complacency and know that we must work equally as hard as others to ensure wider security for all.

Also, we are actively involved in providing assistance where we can. UK hopes to speak more about this in a later session of this seminar.

Relevant Aspects of UK Experience

This session is publicised as concentrating on accounting and securing material, as well as physical protection. My expertise in these fields is limited. I want to speak more broadly about lessons learned on implementing counter-proliferation measures — useful bureaucratic mechanisms that may benefit participants just starting to address what can seem like a gigantic task; or, for those who already have a considerable body of legislation in place, on knowing where to plug any gaps.

- Usefulness of 1540 matrix
- Identification of gaps
- Draft action plan assigning responsibilities

Executive Action

How to start, then keep up, the momentum?

- An appointment of a responsible officer — development of critical path.

- The Counter-Proliferation Committee (CPC) is UK's principal coordination mechanism for strategic counter-proliferation policy. Formed in July 2002, it brings together policy and operational issues previously dealt with by sepa-

rate bodies. The CPC consists of senior officials from relevant policy departments working with the intelligence community.

- The Counter-Proliferation Implementation Committee (CPIC) sits below the CPC and is responsible for actions to put into effect the UK's counter-proliferation strategies and initiatives. CPIC coordinates more tactical or technical policy development and provides guidance on priorities for the work of individual government departments.

- Mechanism means that policy is properly developed, taking into account all stakeholders. CPIC (for example) oversees work done in my department and approves the reporting that is prepared for the 1540 Committee.

Conclusions

The enactment of national controls in the areas outlined by UNSCR 1540 sets us side by side in ensuring that the risk of terrorism using weapons of mass destruction is reduced.

Seminars like this are about much more than listening to presentations. Meeting others engaged in similar issues, regionally and more widely, can facilitate better understanding of the challenges we all face.

This seminar provides opportunities for mutual support and virtual networks — including e-mail, which can be used as a tool for assistance provision. It offers an opportunity for effective multilateralism.

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ACCOUNTING, SECURING AND THE PHYSICAL PROTECTION OF CHEMICAL MATERIALS AND INSTALLATIONS — AN OPCW PERSPECTIVE

*Malik Azhar Ellahi**

Abstract

Highlighting the salient features of the CWC, in this presentation the Organisation for the Prohibition of Chemical Weapons (OPCW) spotlights adherence requirements, with an emphasis on their congruency to those of UNSCR 1540. Major challenges ahead include implementation on both global and national levels.

This presentation is structured as follows:

- Basic obligations of the Chemical Weapons Convention (CWC) and their congruence with UN Security Council resolution (UNSCR) 1540 requirements.
- How CWC implementation advances UNSCR 1540 goals.
- Physical security – national prerogative.
- Potential for cooperation between United Nations and the Organisation for the Prohibition of Chemical Weapons (OPCW).

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CWC: Salient Features

- Creates a verifiable, global disarmament regime
- Creates a global chemical industry monitoring capacity
- Establishes global transfer restrictions
- Prevents the spread of chemical weapons (CW)
- Establishes the OPCW for implementation assurance
- Provides for assistance and protection
- Promotes peaceful uses of chemistry

CWC requirements

- **Establish a National Authority**
- **Enact penal legislation and enforce it**
- **Adopt import/export controls over relevant chemicals**

The Chemical Weapons Convention provides both the legal framework for effecting the prohibitions, and the definitions to help implement the relevant provisions.

UNSCR 1540 requirements

- Criminalise WMD acquisition by non-state actors
- Accounting, securing and physical protection of WMD
- Export and trans-shipment controls
- Border controls and law enforcement to prevent illicit trafficking

Obligations

Initial and annual declarations:

- declare CW and chemical weapons production facilities (CWPF) and destroy them under OPCW supervision; old and abandoned CW
- declare relevant chemical production facilities and permit OPCW inspections
- declare imports and exports of certain chemicals and what riot control agents are held

Required Domestic Legal Prohibitions

No person or entity shall:

- (a) develop, produce, otherwise acquire, stockpile, own, possess, or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone
- (b) use chemical weapons
- (c) assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State party under the Convention

Activities to be prohibited:

- (d) transfer to or receive from any person in a State not party to any Schedule 1 or 2 chemicals
- (e) transfer any Schedule 3 chemicals to a State not party without first obtaining an end-user certificate issued by the competent government authority of the State not party

Key Verification Aims

- Establish and maintain confidence that the Convention is complied with by all States parties

- Enhance security through transparency
- Enhance knowledge about global use and traffic of dual-use chemicals

Summary of Inspection Activities (as of October 2006)

- 2,627 inspections concluded
 - 999 sites inspected
 - in 76 States parties
- Over 19% of the world's declared stockpile of approximately 70,000*

Accomplishments

- 180 nations, representing about 95% of the global population, have joined the OPCW
- 100% of the declared chemical weapons production facilities have been inactivated. All are subject to a verification regime of unprecedented stringency
- 100% of the declared chemical weapons stockpiles have been inventoried and verified
- 55 of the 65 chemical weapons production facilities declared to the Organisation by 12 States parties have been either destroyed or converted for peaceful purposes
- Nearly 30% of the 8.6 million chemical munitions and containers covered by the Convention have also been verifiably destroyed
- Over 19% of the world's declared stockpile of approximately 70,000 metric tonnes of chemical agent have been verifiably destroyed

Challenges

Universality and National Implementation. (Article VII)

- 180 States parties; 15 States not party
 - Africa:* Angola, Congo, Guinea-Bissau, Somalia
 - Asia:* DPRK, Myanmar
 - Eastern Europe:* Montenegro
 - Latin America and the Caribbean:* Bahamas, Barbados, Dominican Republic
 - Middle East:* Egypt, Iraq, Israel, Lebanon, Syria
- National Implementation-Status of Article VII
 - 84% of States parties have National Authorities
 - 60% have legislation
 - 34% have legislation covering all key areas (including import/export controls)
 - 25% have draft legislation under review by ministries or pending in parliaments

Physical Protection

- A national responsibility
- Concepts and principles are the same as included in the Convention on the Physical Protection of Nuclear Materials and Facilities
 - Quantities and numbers of facilities involved in the chemical area are immense by comparison. In some cases, hundreds of thousands of tonnes of potentially hazardous material routinely produced and transported
 - States need to adopt physical protection according to their own conditions and assets
 - Need to promote a “security culture”

- Resolution 1540 States, “develop and maintain appropriate physical protection measures”
- Consideration could be given to building the capacity of States in this area and collaboration between the UN and OPCW.

Annex

Article I

1. Each State party to this Convention undertakes never under any circumstances:

(a) To develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;

(b) To use chemical weapons;

(c) To engage in any military preparations to use chemical weapons;

(d) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State party under this Convention.

5. To use riot control agents as a method of warfare.

Art. II(1): Definition of “Chemical Weapon”

1. "Chemical Weapons" means the following, together or separately:

(a) Toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;

(b) Munitions and devices, specifically designed to cause death.

(c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices ...

Art. II(2): Definition of “Toxic Chemical”

2. "Toxic Chemical" means: Any chemical which through its chemical action on life processes can cause death,

temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

CWC regime of chemicals

• Strongest Verification Measures Ever Devised

• Approximately 50 Chemicals Under Control, Classified into Three “Schedules”

As per UNSCR 1540, States must develop and maintain appropriate effective physical protection measures.

-Schedule 1: Military Use; Ban on Production and Sale.

-Schedule 2: Dual Use; Trade with States Parties only.

-Schedule 3: Dual Use: Trade with Non-Members for peaceful purposes

All transfers to be reported to the OPCW.

UNSCR 1540

OP 3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures.

* * *

RELEVANT ROLE OF THE IAEA AND OPPORTUNITIES FOR ASSISTANCE

*Mauri Riihonen**

Abstract

In an effort to assist States in implementing UNSCR 1540, the IAEA has legislation on safeguard agreements and additional protocols, the physical protection of nuclear material and a Code of Conduct on radioactive sources. Its technical capabilities support States' systems in the maintenance, protection and detection of nuclear materials, and provide information, coordination, advice and guidance on illicit trafficking. The Agency possesses a number of programmes and activities that could help States to implement their international obligations, including the fulfillment of their obligations pertaining to the 1540 Resolution.

Introduction

Many programmes and activities of the International Atomic Energy Agency (IAEA or the Agency) are relevant for implementing UN Security Council resolutions (UNSCR) 1540 and 1673. By assisting States to prevent nuclear material and related technologies from falling into the hands of non-state actors, the IAEA helps them fulfill their obligations under these resolutions.

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Acting through the Board of Governors and the General Conference, IAEA programmes and activities are approved and financed by Member States through regular or extra-budgetary funds. The Agency is an independent inter-governmental organization. It is governed by its Statute and the decisions of its Member States, which act through its duly constituted policy-making organs. With reference to UNSCR 1540 and in accordance with authorized programmes, it is the Agency's view that assistance which may be useful to States in the implementation of their international obligations may be provided by the IAEA.

The most practical way forward would be for States requiring assistance to work directly with the IAEA and to report progress on the fulfillment of their international obligations to the relevant bodies

The most practical way forward would be for States requiring assistance to work directly with the IAEA, and to report progress on the fulfillment of their international obligations to the relevant bodies — such as the 1540 Committee, established pursuant to the resolution.

Relevant Agency programmes and activities include, *inter alia*:

- Legislative assistance to enable States to adopt the legislation necessary to implement instruments under the IAEA's purview, such as safeguards agreements and additional protocols and the Convention on the Physical Protection of Nuclear Material (CPPNM).
- Training of State officials in order to strengthen States' systems for controlling nuclear material and related technology, so as to enable States to implement legal instruments to which they subscribe and to tighten national controls.

- Support to States in the development and implementation of a high grade of physical protection of nuclear material and nuclear facilities through the elaboration of standards and through training and assessment services.
- Support for States' efforts to upgrade border controls, in order to better detect illicit trafficking of nuclear material and related technology.

Specific Agency activities relevant to the implementation of resolution 1540

Legislation

Safeguards Agreements and Additional Protocols

The IAEA safeguards system is designed to verify that States are fulfilling their commitments not to divert nuclear material from peaceful use towards nuclear weapons or other nuclear explosive devices. The Agency's safeguards system contains a number of elements that include commitments relevant to the strengthening of national controls of nuclear material and nuclear-related material and activities:

The IAEA safeguards system is designed to verify that States are fulfilling their commitments not to divert nuclear material from peaceful use towards nuclear weapons or other nuclear explosive devices.

- *State System of Accounting for and Control of Nuclear Material (SSAC)*: Comprehensive safeguards agreements (CSAs) — required for all non-nuclear-weapon States under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and comparable non-proliferation treaties and agreements — require States to maintain effective SSACs

to ensure that nuclear material is accounted for at all times and that any changes in the national inventories are recorded and reported to the IAEA. States with additional protocols (APs) in force are also required to provide information to the Agency, *inter alia*, on nuclear fuel cycle-related research and development activities not involving nuclear material.

- *Export and import controls:* IAEA comprehensive safeguards agreements require States to report exports and imports of nuclear material to the Agency. APs expand these export-reporting requirements¹ to certain specified equipment and non-nuclear material. These obligations assume that the States maintain import and export controls that enable them to report such international transfers to the Agency.

- *Highlights in implementation of CSA's and APs:* In the past four years, representatives of more than 130 States have attended IAEA regional and interregional seminars on safeguards agreements, additional protocols and the strengthened safeguards system. The Agency has an outreach programme to encourage and facilitate States' conclusion of CSAs and APs. In addition, the Agency also organizes an International Team of Experts (ITEs), comprised of legal and technical experts, to advise States on the adherence to and implementation of international instruments relevant to enhancing protection against nuclear terrorism. A number of such instruments are listed in the Annex. ITEs have visited seventeen countries to date in West Asia, Central America and Southeast Asia.

Convention on the Physical Protection of Nuclear Material (CPPNM)²

The CPPNM is included on the list of twelve legal instruments of relevance to combating terrorism adopted by

the UN.³ The CPPNM is the only legally binding international undertaking in the area of physical protection of nuclear material aimed at averting potential dangers of its unlawful acquisition and use. In particular, certain CPPNM commitments are relevant to the control and protection of nuclear material:

- *Protection of nuclear material:* The CPPNM obliges contracting States to ensure the protection of nuclear material used for peaceful purposes at the levels specified in the CPPNM on their territories, ships or aircrafts during international transport.

- *Export and import requirements:* States Parties to the CPPNM commit themselves not to undertake, or authorize undertaking international transports (such as the export and import of nuclear material), unless assurances are provided that the material will be protected at the required levels. Parties must also apply the agreed levels of protection to nuclear material during transit from one part of its territory to another, and while passing through international waters or airspace.

- *Measures to prevent, detect and punish offences relating to nuclear material:* Under Article 7, parties are obliged to make offences punishable by appropriate penalties in accordance with national law. These violations shall be included as extraditable offences in any extradition treaty existing between parties. Parties, which make extradition conditional on the existence of a treaty, may consider the CPPNM as the legal basis for extradition in respect of those offences.

- *Highlights in adoption of CPPNM and guidance:* The work of the IAEA has contributed to a considerable

In the past four years, representatives of more than 130 States have attended IAEA regional and interregional seminars on safeguards agreements

increase in the number of States adhering to the CPPNM, from sixty-three State parties in 1999, to ninety-five State parties in 2003 and 116 in 2005. The need to strengthen the international physical protection regime has been widely recognized, *inter alia*, by the Board of Governors (the Board) and the General Conference. Through the adoption of the Amendment to the CPPNM, the international community has recognized the need to strengthen the existing international legal regime in the area of nuclear security. A set of Physical Protection Objectives and Fundamental Principles have been endorsed by the Board and the General Conference and incorporated into the amended CPPNM. These objectives and fundamental principles are to be included in a security fundamentals document, which will serve as further guidance to all Member States. They provide a platform for national and international efforts to improve physical protection of nuclear material, in particular, in use, storage and transport. They underline the need for a security culture to be implemented at all levels. Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Rev. 4), revised in 1998, has obtained wide recognition and serves as the basis for

The IAEA provides advisory services and technical assistance to help States upgrade their ability to control and account for nuclear material and related technologies.

physical protection in Member States. The increased number of States requesting IAEA implementation support evidences the general acceptance of the recommendations contained in INFCIRC/225. In March 2002, the Agency published the Handbook on the physical protection of nuclear materials and facilities. This publication was

designed to help physical protection specialists in States apply the recommendations set in INFCIRC/225/Rev.4 (Corrected), and guidance and considerations for implementation of INF-

CIRC/225/Rev.4 (TECDOC-967). The Handbook offers detailed guidance for practitioners to understand the factors that influence a physical protection system, and to help ensure that appropriate protection measures are implemented. Further revision of INFCIRC/225/Rev.4, which awaited the successful conclusion of the CPPNM amendment process, will now be undertaken.

The Code of Conduct on Safety and Security of Radioactive Sources (the Code)

In undertaking to implement the Code, States are committed to:

- reinforce the responsibilities of manufacturers, suppliers, users and those managing disused sources for the safety and security of radioactive sources;⁴
- establish an effective national system of control over the management of radioactive sources;
- establish legislation and regulations that prescribe and assign governmental responsibilities for the safety and security of radioactive sources; and
- provide for the effective control of radioactive sources.

In particular, in such legislation and regulations, States are obliged to include security measures to prevent, protect against, and ensure the timely detection of the theft, loss or unauthorized use or removal of radioactive sources during all stages of management

- *Update on implementation of the Code:* More than eighty States have made political commitments to the “Code of Conduct on the Safety and Security of Radioactive Sources”. “Guidance on the Import and Export” is also receiving wider attention. Technical meetings related to the imple-

mentation of this guidance are attended by over fifty States, including non-Member States.

Technical Capabilities

Upon request, the IAEA provides advisory services and technical assistance to help States upgrade their ability to control and account for nuclear material and related technologies. The advisory services, carried out by teams of international experts led by the Agency, typically result in recommendations for training and technical upgrades, some of which may be requested through various IAEA assistance programmes. Much of this is provided through the Nuclear Security Plan (2006-2009), approved by the Agency's Board of Governors in September 2005. The Action Plan contains a number of programmes and activities that facilitate States in strengthening national measures to protect against nuclear terrorism. Agency assistance of relevance to UNSCR 1540 includes the following:

Capacity-building for the maintenance of effective State Systems of Accounting for and Control of Nuclear Material (SSAC)

An effective SSAC is fundamental to a State's ability to (a) account for and control of nuclear material, and to detect its possible loss, unauthorized use or removal; and (b) fulfill its international nuclear non-proliferation obligations. At the request of States, the Agency offers an SSAC advisory service (ISSAS) whereby a team of experts, *inter alia*, reviews the legal framework and regulatory, administrative and technical systems of SSACs; and evaluates the performance of those systems in meeting safeguards obligations. In cooperation with the State, recommendations are made and an action plan formulated to improve their SSACs. The follow-up to such

missions may involve assistance with the procurement of equipment, or training of staff — from the SSAC authority and from facility operators.

Highlights in implementing SSACs: Over the 2002 to 2005 period, two ISSAS missions, and twelve SSAC evaluation missions have been undertaken at the request of Member States. In addition, eight seminars and workshops relating to the security and accountancy of nuclear material were held, and technical assistance provided (including equipment) to three States.

Assistance for the physical protection of nuclear material and nuclear facilities

The Agency's programmes in this area aim to strengthen States' capacity to protect nuclear facilities, and nuclear material in use, storage or transport against malicious acts. This is done by:

- a) developing internationally accepted recommendations and guidelines for the physical protection of nuclear material in use, storage and transport of nuclear installations;
- b) upon request, providing services for the evaluation of the national physical protection system, and their implementation at nuclear installations; and
- c) providing technical advice, expertise, training and equipment for specific security arrangements at various locations.

The Agency's International Physical Protection Advisory Service (IPPAS) provide States with recommendations on how to improve physical protection systems at nuclear facilities. The Agency also convenes a wide range of related training courses, including on the Design Basis Threat (DBT) methodology. The Agency offers international, regional and national courses for officials from national nuclear

operators, regulators, and law enforcement and security authorities.

Highlights in protection activities: While in 1999 only two States had requested IPPAS missions, in the three year period to December 2005, nineteen IPPAS missions were performed in seventeen States, and nine States received follow-up missions along with other IPPAS follow-up assistance. Workshops on physical protection against sabotage were held in four States, and several workshops on self-assessment of engineering measures for prevention of sabotage and on vital area identification were undertaken as well. In the area of prevention, more than sixty physical protection training events have been conducted in twenty States with over 700 people trained in physical protection practices. DBT workshops were held in seventeen States, with some 350 government experts trained. Several States have developed a process of defining DBT. In addition, guidance documents are under development as part of the emerging Nuclear Security Series. Documents in the series will cover topics such as security culture, DBT, protection against sabotage, vital area identification, security of radioactive sources, security of radioactive waste, transport security, developing physical protection regulations and material accountancy.

Detection of malicious activities involving nuclear material

This activity area aims to ensure that effective measures are in place to detect and interdict incidents of theft, illicit possession and illicit nuclear trafficking. While prevention is by far the most effective strategy, should that fail, States need to have in place the means to detect such incidents. The Agency helps achieve this by providing, on request, assessment services, training and technical support, and by coordinating the development by States of up-to-date detection instrumentation. Technical documents providing advice on

the detection and response to illicit nuclear trafficking have been issued and the programme of training courses on combating illicit nuclear trafficking is being conducted, at the regional, sub-regional and national levels. The Agency is also implementing a coordinated research project involving eighteen Member States designed to improve the technical measures available to detect and respond to illicit trafficking.

Highlights for activities in detection of, and response to, malicious acts: In connection with the illicit trafficking coordi-

nated research project (CRP), the IAEA established a Nuclear Security Equipment Laboratory (NSEL) in early 2003 for the purpose of facilitating States in the purchasing, testing and delivery of radiation detection instruments. The NSEL consists of a laboratory, calibration sources, equipment and a staff of Agency technical professionals with expertise in the area of radiation detection equipment, using synergies with the established laboratories in the Agency. The Agency has supplied thirty-two sets of Radiation Portal Monitors (RPMs), seventy-two Radiation Identification Devices (RIDs), over 600 Personal Radiation Monitors (PRM or Pagers) and thirty specialist radiation instruments to Member States — either directly with contributed funds — or bilaterally with other donor organizations. Close cooperation with States having bilateral support programmes is initiated to avoid duplication of efforts. For detection and response, more than 700 front line officers, managers and decision-makers were trained in illicit trafficking principles and practices. Nine States hosted national training courses in the area of detecting and combating illicit trafficking, fourteen regional training courses were

The Agency is implementing a coordinated research project involving eighteen Member States designed to improve the technical measures available to detect and respond to illicit trafficking.

conducted and four international training courses held. The Agency participated in assisting the Government of Greece in protecting the 2004 Summer Olympic Games from incidents of nuclear terrorism and, more recently, the Government of Germany in their preparations for the World Cup of football.

The Agency participated in assisting the Government of Greece in protecting the 2004 Summer Olympic Games from incidents of nuclear terrorism and, more recently, the Government of Germany in their preparations for the World Cup of football.

These projects serve as a multi-lateral model for the IAEA to help States develop effective nuclear security at large public events. Furthermore, the Agency is currently developing material to advise States hosting such activities. In the area of guidance, three new documents in the Nuclear Security Series have been published. Security Series 1 provides a set of technical specifications in design testing, qualifying and purchasing border

radiation monitoring equipment, with an emphasis on facilitating the deployment of equipment in States. This document was based on work undertaken through the CRP, and by external organizations on the detection of and response to illicit trafficking in radioactive material. Security Series 2 provides comprehensive guidance to States regarding tools and procedures of nuclear forensics investigations in responding to illicit trafficking events involving radioactive material. Security Series 3, prepared in cooperation with the Universal Postal Union and Interpol, provides a description of techniques and equipment used to detect and control radioactive material in international mail transported by public postal operators.

Information and Coordination

The Agency's Illicit Trafficking Data Base (ITDB) was established to provide an authoritative source of information on illicit trafficking incidents and to facilitate the exchange of such information among States. Its unique strength is that it is built upon information provided by the States in whose jurisdiction the incident occurred. The Agency disseminates reports on individual incidents and analytical assessments of the information in the database. Eighty-nine States currently participate in the ITDB programme by providing information on trafficking in nuclear and other radioactive materials. The ITDB information is analysed and evaluated to identify patterns and trends in illicit trafficking. Liaison, collaboration and coordination with regional and international organizations is an essential activity of the Agency whose relationships include Interpol, Europol, WCO, UPU, OSCE and UNODC. Memorandums of Understanding (MoUs) and cooperation agreements support some of these relationships. In 2005, the IAEA sponsored an International Conference on Nuclear Security: Global Directions for the Future. This conference considered:

*Eighty-nine States
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materials.*

- the threat of malicious acts involving nuclear and other radioactive material;
- the experiences, achievements and shortcomings of national and international efforts to strengthen the prevention of, detection of and response to malicious acts involving these materials; and
- the ways and means to achieve future improvements.

The Agency's experience in reviewing nuclear related imports and exports has developed into considerable expertise in analysing covert nuclear trade related activities and transactions.

In the findings, the president of the conference stated that nuclear terrorism is one of the biggest threats to society, and that continued and enhanced efforts are needed to strengthen security worldwide. This should be facilitated by establishing IAEA nuclear security guidelines and recommendations.

Legislative assistance

Compliance with international obligations usually requires legislative action from States. Upon request, the Agency assists States in adopting national rules and regulations pursuant to the obligations contained in the relevant bilateral or multilateral instruments. The Agency's legislative assistance programme supports States in their development of a comprehensive nuclear law governing radiation protection, nuclear and radiation safety, nuclear liability, safeguards and physical protection. Through the years, the Agency has provided assistance to a large number of States to develop their nuclear law in conformity with the international instruments to which they subscribe, including the setting up of independent regulatory authorities that are most often responsible for the control and licensing of nuclear material and related technology. Most of the Agency's legislative assistance advises States on how to draft specific legal provisions that meet their international commitments and obligations in the nuclear field.

Highlights with legislative assistance: Several States have strengthened the laws and regulations in the area of nuclear security. States have improved levels of preparedness by addressing the risk of malicious acts involving nuclear and other radioactive material. Since the year 2000, the IAEA has

provided legislative assistance to more than fifty Member States by means of written comments and advice in drafting national nuclear legislation for more than seventy Member States. In addition, at the request of Member States, individual training on issues related to nuclear legislation has been provided to approximately fifty-five fellows.

Effective national export controls

As mentioned above, safeguards agreements, additional protocols and other legal instruments require subscribing States to monitor exports and imports of nuclear material and related technology. If national authorities request IAEA assistance in setting up or strengthening their national control systems, the Agency endeavours to identify ways of helping the State.

Over the past few years, the Agency's experience in reviewing nuclear related imports and exports has developed into considerable expertise in analysing covert nuclear trade related activities and transactions.

Conclusion

The Agency has a number of programmes and activities that can benefit States in the implementation of their international obligations, such as UNSCR 1540. The most practical way would be for States requiring IAEA assistance to work directly with the Agency and to report progress on the fulfillment of their obligations to the 1540 Committee.

Notes

¹ Imports are to be reported by the State upon request of the Agency.

² INFCIRC/274/Rev.1.

³ See A/RES/46/51 (1991), Measures to Eliminate International Terrorism.

⁴ The Code does not apply to nuclear material, as defined by the CPPNM, except sources incorporating plutonium-239.

Annex

Examples of IAEA international instruments relevant to enhancing protection of nuclear material against nuclear terrorism:

- Convention on the Physical Protection of Nuclear Material and its Amendment
- Agreements for the Application of Safeguards concluded between the Agency and States Pursuant to the NPT (INFCIRC/153 (Corr.))
- Model Protocol Additional to the Agreement between State(s) and the IAEA for the Application of Safeguards (INFCIRC/540 (Corr.))
- Convention on the Early Notification of a Nuclear Accident (INFCIRC/335)
- Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (INFCIRC/336)
- Convention on Nuclear Safety (INFCIRC/449)
- Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (INFCIRC/546)
- The Code of Conduct on Safety and Security of Radioactive Sources (GOV/2003/49-GC (47)/9, 29 July 2003)
- International Basic Safety Standards for Protection against Ionising Radiation and for the Safety of Radiation Sources (IAEA Safety Series No.115)

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Session III:

***Reporting and implementation
measures related to border and
export controls***

THE RELEVANT ROLE OF THE WORLD CUSTOMS ORGANIZATION

*Emmanuel Doku**

Abstract

In addressing the security challenges of the 21st century, the WCO has taken strategic measures to strengthen security while facilitating international trade. It has prepared a Framework of Standards to harmonize electronic cargo information requirements, employ enhanced risk management to identify and inspect high risk cargo and reward businesses that meet supply chain security standards. In establishing global standards, customs administration can effectively protect borders while simultaneously support commerce.

After the events of 11 September 2001, security has become a major challenge to customs administrations. It has compelled customs authorities to extend their traditional role as gatekeepers at the border to now use the frontiers as security entrances for the international trade supply chain, protecting countries from terrorist threats and utilizing their authority to inspect in and out bound cargo.

Customs deal with all companies involved in the international trade supply chain (from origin to destination). They are required to assume security respon-

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sibilities by preventing “illicit trafficking in nuclear, chemical and biological weapons, their means of delivery and related materials”.

In its resolution 1373 of 2001, the UN Security Council expressed concern about the close relationship between international terrorism and customs fraud, and called for concerted efforts to curb threats to world peace and international trade.

The Framework of Standards (FOS) addresses the need to establish global standards for seamless movement of goods through a secure international trade supply chain for all modes of transport.

In response to this challenge, in 2002 the World Customs Organization (WCO) decided to adopt a holistic approach to trade and controls. Encompassing goods, transportation and people, a task force was set up to create a Framework of Standards (FOS) for securing the supply chain while facilitating interna-

tional trade. In 2004, the WCO then formed a High Level Strategic Group (HLSG) comprising a small, diverse group of Directors General. Building upon the work of the Task Force, they provide leadership and guidance on enhancing the position of the WCO and customs administrations with regard to security and facilitation. Additionally, the HLSG was given twelve months to prepare a framework of standards on security and trade facilitation, which was overwhelmingly adopted by the Council in June 2005.

The FOS addresses the need to establish global standards for seamless movement of goods through a secure international trade supply chain for all modes of transport. Using risk management, it discourages physical inspection of every shipment and consists of four core elements:

1. It harmonizes the advance electronic cargo information requirements on inbound, outbound and transit goods.
2. Based on advance electronic information, it commits each customs administration member to employ a consistent risk management approach to identify high risk-cargo.
3. Using non-intrusive inspection equipment, it requires customs in the exporting countries to perform outbound inspections on high risk cargo.
4. It provides benefits to businesses that meet minimum supply chain security standards and best practices.

To promote the members' use of harmonized advance electronic cargo information, the WCO has developed a Customs Data Model which includes detail requirements for assessing security risks. The data model defines maximum data elements necessary to complete border formalities, as well as their electronic formats compatible with UN standards. Using the data model, customs administrations will be able to strengthen security while facilitating trade.

The FOS provides benefits to businesses that meet minimum supply chain security standards and best practices.

Out of a membership of 169, it is significant that 139 members have expressed their intention to implement the FOS. Many WCO members, including Ghana, are currently receiving assistance from donors for capacity-building. To avoid creating a security divide between developed and developing countries, and multinational corporations with small and medium sized enterprises, the WCO has created a Capacity Building Directorate to help member administrations identify and fill in gaps in implementing the FOS. Additionally, WCO has launched the Columbus Programme, an ambitious course designed to train members to facilitate implementation.

One of the main thrusts of the FOS is enhanced risk management. It is based on advance electronic information provided by economic operators involved in the international supply chain, as well as the information exchange between customs administrations.

The Framework consists of two pillars: Customs-to-customs network and customs-to-business partnership.

The central tenet to the customs-to-business pillar is the Authorized Economic Operator (AEO) who, involved in the trade supply chain, is approved by customs as complying with security standards. Thus, AEOs operate as security partners evaluating and addressing threats to their own supply chain. In so doing, they reinforce customs security by minimizing risk and facilitating legitimate trade.

Finally, to implement global standards, the WCO considers it essential to strengthen partnerships between all stakeholders. It is only through cooperation and dialogue among stakeholders that we can effectively prevent the proliferation of weapons of mass destruction.

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RELEVANT LESSONS FROM NATIONAL EXPERIENCE: ALGERIA

*Mohamed Tefiani**

Abstract

Algeria's commitment to nuclear safety and security is reflected through its domestic legal framework, ratification of numerous international instruments, training programmes, awareness campaigns and organization of conferences and seminars. To provide verification of the BWC, national legislation is under recommendation, while strict legal provisions have already been implemented to more fully support Algeria's commitment to the CWC. Although UNSCR 1540 addresses the vertical and horizontal proliferation of WMD, there exists an imbalance between nuclear have- and have-not States that should be re-examined.

I would like to focus my remarks on two themes. The first will deal with what my country has been doing to implement UN Security Council resolution (UNSCR) 1540, particularly the specific aspects of intervention, namely the lessons to be drawn from national experience in the field of border and export controls. The second will consider at length the more general aspect of the non-proliferation of weapons of mass destruction (WMD), in general and in relation to Africa, in particular.

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Implementation of UN Security Council Resolution 1540 by Algeria

Without waiting for adoption of UNSCR 1540 in April 2004, and independent of the provisions of that Resolution, Algeria was already fulfilling its obligations by virtue of the international legal instruments to which it subscribes — treaties, international conventions and agreements on disarmament and those on combating terrorism.

Since its independence, Algeria has opted for a policy of preserving international peace and security, and promoting international cooperation as a factor for economic and social development. It has committed itself firmly to the objective of general and complete disarmament under international control, so as to eliminate the risks posed by weapons of mass destruction.

Algeria has opted for a policy of preserving international peace and security, and promoting international cooperation as a factor for economic and social development.

Consistent with this approach, which stemmed from a freely accepted strategic choice, today Algeria is party to nearly all international legal instruments in the area of disarmament and non-proliferation. It is committed not only to implementing them completely and consistently at the national level, but also to promoting them regionally and internationally to make them universally effective.

In light of a decade facing the scourge of terrorism, Algeria has helped to initiate an in-depth international debate on the situation. We have contributed significantly to alerting and mobilizing the international community against this scourge, and have tried to raise awareness of its transnational character — which affects all States regardless of their size, importance, or power. It is in this spirit that Algeria has

acceded to all international conventions against terrorism and has adopted rigorous legislation, which it has presented in reports to the Security Council. Algeria has not only been a participant but a principal player in drawing up the Conventions of the League of Arab States, the African Union and the Organization of the Islamic Conference on combating terrorism. Furthermore, we continue to call for preparation of a universal Convention in the United Nations against terrorism.

Through its accession to nearly all instruments governing the disarmament process in the world and guaranteeing the non-proliferation of WMDs (nuclear, chemical and biological), Algeria is working for their total elimination. Moreover, we abstain from developing, using or providing any form of assistance to State or non-State actors for such purposes.

Algeria's commitment in this area has been consistent and is reflected in the ratification of numerous international instruments, including the following:

- The Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, *ratified on 27 January 1992.*
- The Outer Space Treaty, *ratified 28 September 1991.*
- The Nuclear Non-Proliferation Treaty (NPT), *ratified 12 January 1995.*
- The Pelindaba Treaty on the African Nuclear-Weapon-Free Zone, *ratified 11 February 1998.*
- The Comprehensive Nuclear-Test-Ban Treaty (CTBT), *ratified 11 July 2003.*
- The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons

and on Their Destruction (BWC), *ratified 22 July 2001*.

- The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC), *ratified 14 August 1995*.

Nuclear area

With respect to nuclear safety and security, Algeria has ratified the following conventions:

- The Convention on the Physical Protection of Nuclear Material, *ratified 30 May 2003*.
- The Convention on Early Notification of a Nuclear Accident, *ratified 15 February 2003*.
- The Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency, *ratified 15 February 2003*.
- The International Convention for the Suppression of Terrorist Bombings.
- The 2005 Amendments to the Convention on the Physical Protection of Nuclear Material and Facilities.

In accordance with its domestic procedures and in order to comply with the requirements of the international conventions to which it has acceded, Algeria has prepared, adopted and applied appropriate and effective legislation to prohibit any non-state player from manufacturing, acquiring, developing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their means of delivery — particularly for terrorist purposes and to prevent attempts to engage in these activities as an accomplice, participant or financier.

In January 2004, Algeria designated the Regulatory Organ installed in the Atomic Energy Commission (COMENNA) the responsibility to oversee and coordinate nuclear activity in Algeria. The Regulatory Organ has the tasks of:

- Updating national legislation and regulations on systems of notification, authorization and inspection.
- Evaluating national infrastructure with respect to the safety of nuclear wastes.
- Strengthening enforcement of regulations governing nuclear facilities and the management of radioactive waste materials.

It is also responsible for adapting national regulation. A set of national laws and regulations on systems of notification, authorization and verification is in place, and has been updated in accordance with basic international standards.

Algeria has also prepared regulations and administrative procedures governing the possession, transfer and use of radioactive sources and materials. It introduced a national regulatory framework for managing radioactive wastes and for protecting workers and the general public against radiation.

Algeria adopted the Decree of 27 May 1986, which established rules to protect workers against the risk of radiation and to control the possession of radioactive substances and devices that emit ionizing radiation.

In conjunction with its domestic legal framework, Algeria has also begun to reinforce its training programme for personnel involved in the nuclear field.

Consistent with the provisions of the NPT, a comprehensive nuclear safeguards agreement has been in force between Algeria and the International Atomic Energy Agency (IAEA). Since 7 January 1997, Algeria has provided the IAEA with regular reports accounting for the nuclear materi-

als in its facilities, and welcomes regular IAEA inspection visits.

Apart from these inspections, the Regulatory Organ has stepped up its verification of locations outside nuclear facilities and conducts regular monitoring over the movement of radioactive sources and materials. Additionally, the IAEA has organized training through various courses, meetings and seminars for all those responsible for nuclear-materials accounting and control in the various zones.

Algeria has provided the IAEA with regular reports accounting for the nuclear materials in its facilities, and welcomes regular IAEA inspection visits.

In June 2002, a national course for upgrading accounting and control activities for nuclear-materials was organized locally by COMENA, with the appropriate equipment and software acquired through the IAEA.

A system of accountancy and control over nuclear materials can only be effective if proper physical protection measures are in place. Recognizing this, Algeria has acceded to the various conventions in this area, and is strengthening its internal regulations.

The general portion of the additional arrangements to the Comprehensive Safeguards Agreement entered into force on 23 January 2003. In collaboration with the IAEA Secretariat, Algeria is now finalizing the standard reporting forms while also making careful preparations to conclude the Additional Protocol, which the IAEA Board of Governors authorized on 14 September 2004.

The provisions of the Codes of Conduct on the Safety and Security of Radioactive Sources and on the Safety of Research Reactors will also be progressively applied to nuclear safety and security. Other regulations, to update and supplement those currently in existence, are in the process of

being adopted. These include the protection against ionizing radiation, food irradiation and the management of radioactive wastes.

Chemical area

In the chemical area, Algeria has adopted strict legal provisions, comprising in particular:

- Executive Decree of 27 February 1990 regulating the transport of hazardous materials.

- Presidential Decree of 26 April 1997 creating the National Authority for the CWC, pursuant to article VII. This body also provides coordination with the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons (OPCW), and with the national authorities of other member States. The creation of this authority has served to strengthen control over activity in the chemical sector and has helped to prevent any threat of diversion or use of chemical substances for criminal purposes or any other purpose prohibited by the Convention.

The National Authority for the CWC...has served to strengthen control over activity in the chemical sector and has helped to prevent any threat of diversion or use of chemical substances for criminal purposes.

- Executive Decree of 8 July 1997 addressing prior authorization for the manufacture and import of toxic products or those presenting a particular risk.

- The Law of 19 July 2003 confronting violations of the provisions of the CWC. Criminal penalties

up to life imprisonment and administrative penalties are provided for violation of this law's provisions.

- Executive Decree of 1 December 2003 defining the safety rules applicable to activities involving hazardous chemical products and materials as well as pressurized gas containers, called "hazardous chemical materials and products". Other than by duly licensed operators, the purchase of hazardous chemical materials or products on the domestic market from individuals or businesses is prohibited. The admission of hazardous chemical materials, and products purchased on the external market into national territory, are subject to compliance testing by laboratories licensed in accordance with existing regulations.

- Executive Decree of December 1, 2003 establishing special conditions for the road transport of hazardous materials. Inter-ministerial Order of 1 August 2004 established conditions and procedures for the acquisition of hazardous chemical materials and products on the external market. Notwithstanding the procedures in effect, the import of chemical products from schedules 2 and 3 of the annex on chemicals to the CWC is subject to a declaration to the inter-ministerial committee responsible for implementing the Convention. The Customs services will make the release of these chemical products dependent upon a certificate of declaration delivered by the inter-ministerial committee.

- Decision of 24 March 2005 integrating the chemical products from schedules 2 and 3 of the annex on chemicals to the CWC into the list of hazardous chemical products that require prior import authorization from the Ministry of Energy and Mines, with the approval of the Ministries of National Defence, the Interior and the Municipal Government.

In summary, implementation of the CWC has produced a strict and sure regulation whereby the operation of, or any change to, a facility to manufacture the chemical products of schedules 1 and 2 of the annex on chemicals to the

Convention is subject to prior authorization by the Minister of Industry. Facilities for manufacturing chemical products of schedule 1 are subject to government approval before start-up, and to national and international verification. Thus, activities involving chemical products of schedules 1, 2 and 3, and facilities for their manufacture are subject to declaration obligations.

In the chemicals area, four regulations which apply the above-mentioned law have been finalized and are in the process of promulgation. These involve decrees on:

- Procedures for the declaration of activities not prohibited by the Convention.
- Inspection procedures for national and international verification of facilities and installations affected by the provisions of the Convention.
- Operating conditions for facilities to manufacture chemical products of schedules 1, 2 and 3 of the annex on chemicals to the Convention.
- Procedures and formalities for authorizing the transfer of chemical products of schedules 1 and 3 of the annex on chemicals to the Convention.

Biological area

Algeria neither possesses nor manufactures biological weapons and, under the terms of the BWC, prohibits any proliferation of such weapons on its territory. To this end, Algeria has undertaken never in any circumstances to develop, produce, stockpile or otherwise acquire or retain biological agents or toxins — except for with legitimate and specific purposes. It has also committed not to transfer the agents and toxins mentioned above to any recipient, or to encourage or assist a State or any other entity to manufacture or acquire them.

Following Algeria's ratification of the BWC, the lack of a verification mechanism has delayed the introduction of a domestic legal framework. Thus, no specific law has been adopted to date for repressing criminal acts that violate the provisions of the Convention. Nevertheless, it should be noted that control over the use, exploitation and circulation of biological agents currently falls within the scope of regulations governing hazardous products. A recommendation to adopt a law that would transpose the provisions of the Convention into domestic legislation is now under way. Apart from the criminal legislation needed to enforce the BWC, the following measures are also in force:

- Strict regulations over the manufacture, import, possession, marketing and transfer of biological agents in Algeria.
- Surveillance of manufacture and storage sites of biological agents, and limitation of access to authorized persons.
- Examination of the means of destroying outdated biological agents, in cooperation with the environmental authorities.
- Instituting controls to verify the application of these measures.

Other preventive measures have also been taken:

- The establishment of national and regional warning units.
- The strengthening of control measures in laboratories that perform services relating to food safety.
- The promotion of specialized reference laboratories.
- The preparation of recommendations on the steps to be taken in case of biological contamination, and

distribution of these recommendations to the institutions concerned.

With respect to Paragraph 3 of UNSCR 1540, particularly in lines a) and b), whereby “all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures”;

Decree 93/16 of 4 December 1993 establishes the conditions for safeguarding and transporting sensitive products.

Pertinent lessons to be drawn from national experience with border and export controls

With reference to paragraph 3 (c), the subject of debate in Session III, whereby States must “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 accordance with their national legal authorities and legislation and consistent with international law," Algeria has adopted a strict legislative and regulatory framework of border controls, consistent with its geographic characteristics and its extensive land, sea and aerial frontiers. Thus, any import or export of hazardous products (nuclear, chemical or biological) is subject to a strict and binding system of controls.

The existing legal and regulatory framework has been strengthened over the last decade, when our country has been fighting against terrorism. Among the legal and regulatory provisions we may cite:

- The Customs Code, promulgated by Law 79-07 of 21 July 1979, and amended and supplemented by Law to 98-10 of 22 August 1998.
- Ordinance 76-80 of 23 October 1976, the Maritime Code.
- Executive Decree 90-79 of 27 February 1999, regulating the transport of hazardous materials.
- Executive Decree 02-01 of 6 January 2002, regulating port operations and security and establishing conditions for the entry and exit of vessels.

Consistent with the Maritime and Customs Codes, the movement of merchandise entering by sea is subject to quadruple controls by the Coast Guard, Ministry of Transport, Border Police and the Port Authority.

Although rigorous surveillance of ports and airports allows not only for the detection but also for the deterrence of any trafficking in hazardous materials, considering the amount of human and material resources required, the extent of Algeria's land frontiers makes it difficult to enforce the strict controls required by law..

Thousands of kilometres of land borders pose a different challenge for Algeria — not the risk of proliferation of WMD, but rather one consisting of trafficking drugs, narcotics and organized crime that feed another threat — terrorism.

Pursuant to paragraph 3 (d), whereby States must “Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control

export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations", the import and export of chemical and biological products are subject to strict regulation.

In the case of nuclear materials, any transfer beyond Algeria's borders, in the context of technical cooperation, is subject to the pertinent provisions of the Comprehensive Safeguards Agreement with the IAEA.

To publicize the regulations and measures adopted in these areas, awareness campaigns have been aimed at both industry and the general public. For example, seminars and conferences are regularly held by Algerian Customs to sensitize domestic economic agents. They are made aware of the scourge represented by all forms of illicit trafficking in hazardous materials or those under international control.

These are the measures that have been taken in implementing the provisions of UNSCR 1540 itself.

Non-proliferation

Allow me now to address the second aspect of my report on the issue of non-proliferation.

While the general philosophy of UNSCR 1540 promotes the notion of criminalizing the proliferation of WMDs, particularly in the hands of non-state players, a careful reading of its provisions shows clearly that it goes well beyond that, and raises the broader question of disarmament and proliferation affecting all States. The Resolution includes proliferation in both its vertical and its horizontal dimensions.

Horizontal proliferation refers to the transfer of nuclear weapons, technology and materials from nuclear States to non-nuclear States. Vertical proliferation relates to research or development by nuclear States of new types of nuclear weapons, technology and materials, and the means by which nuclear warheads are delivered. That is why it would be simplistic and even misleading to confine the scope of UNSCR 1540 solely to non-State actors, or to horizontal proliferation. In implementing the Resolution and their own legislation, Member States must take into account all aspects of proliferation, arms control and disarmament.

Until now, proliferation in its dual dimensions, horizontal and vertical, has been almost exclusively the act of States themselves. Yet the commitments to which they have subscribed through the various agreements and conventions are clear and in no way dispense them from fulfilling their responsibilities, whether or not they possess these weapons.

In practice, we find that the nuclear States are fulfilling their obligations under the NPT only partially. Moreover they are denying other States the rights recognized by this same treaty when it comes to assuring them free access to nuclear energy and technology for peaceful purposes.

Thus, under the terms of the NPT, nuclear-weapon States are supposed to grant negative security assurances to non-nuclear countries that have taken the voluntary and sovereign decision to renounce the nuclear weapons option. The absence of these assurances and the refusal of the nuclear States to grant them to non-nuclear States have to some extent encouraged proliferation and made its prevention more difficult.

Similarly, when looked at from a broader perspective, the NPT rests on three fundamental pillars that are and must remain both complementary and inseparable, and must evolve without imposed priorities or hierarchies. These are disarmament, non-proliferation and guaranteed free access for all States to nuclear energy and technology for peaceful purposes.

As for the CWC, we must note that it provides a sufficiently binding verification system that is even intrusive, and leaves little opportunity for products to slip through the net. Similarly, while the BWC glaringly lacks a verification system, the provisions governing activities in this field at the national and international level are sufficiently clear to prevent any diversions for prohibited purposes.

We have the impression, then, of a desire to conceal vertical proliferation or to treat it as less dangerous. Even horizontal proliferation has become selective. There is a tendency to tolerate or allow certain States to rejoin or enter the closed nuclear club, or even to force their way in, while excluding others. This amounts to consecrating or perpetuating the now-common double standard, that a so-called Islamic nuclear weapon would be more fatal and constitute a more dangerous threat for the world than the weapons possessed by non-Muslim countries.

[BWC]...the provisions governing activities in this field at the national and international level are sufficiently clear to prevent any diversions for prohibited purposes.

How can the world accommodate one nuclear threat, and not another of the same kind? Are we in fact raising the problem of the responsibility and the maturity of States? Are we also on the way to substituting a pre-judgment of guilt for the presumption of innocence?

All of these questions translate into legitimate concerns for developing countries, which are calling upon the international community — and through it the United Nations — to consider the best way of dealing with the problem of disarmament and non-proliferation.

In the great majority of African cases, we are speaking of countries that do not export any products that fall within the scope of UNSCR 1540, with the exception of raw materials such as uranium. Hence, through the Treaty of Pelindaba their accession to the spirit and letter of the Resolution is consistent with their position of principle and the sovereign choice: renouncing the possession of WMD, and in particular nuclear weapons, by making Africa the only nuclear-free continent. This accession is then dictated by a duty of solidarity with the international community in a particular international political context that no country can ignore. Consequently, the adjustment, *mutatis mutandis*, of domestic legislation to line up with international standards and the provisions of the Resolution reflect a concern for conformity rather than any real worry of being accused of not respecting the Resolution.

In Africa, the real WMDs are...the light arms that add daily fuel to fratricidal wars, often fought by child soldiers.

All of this is to say that the playing field is not level, and the issue is something quite different.

In Africa, the real WMD are of another kind — unless we are speaking of dumping and burying radioactive and toxic wastes (witness the recent scandal in Cote d'Ivoire), which is done with the complicity of the receiving State, if not the direct act of a State itself. They are the light arms that add daily fuel to fratricidal wars, often fought by child soldiers. They are the anti-personnel mines that every day claim so

many human lives. They are also misery, famine, poverty and pandemic diseases such as AIDS, malaria and so many others.

Another paradox today is that, at a time when States that do not have nuclear, chemical or biological weapons, they are required by UNSCR 1540 to accept additional obligations beyond those already incumbent on them as States parties to the relevant treaties and conventions. Whereas, the nuclear powers, having long been immersed in an arms race, are now embarked on another frantic race to see who will win the largest share of the uranium enrichment market, which has become a very profitable niche business.

I would like to end my remarks by saying that Algeria deplores the lack of progress in nuclear disarmament. It repeats its call to reactivate the work of the Conference on Disarmament as the most appropriate multilateral framework for negotiating and concluding international legal instruments

Algeria deplores the lack of progress in nuclear disarmament. governing disarmament, particularly nuclear disarmament. I would also reiterate Algeria's wish to see a successful conclusion to the efforts and proposals for preparing a universal convention against terrorism.

By organizing regional conferences and seminars, Algeria continues to promote the non-proliferation and disarmament conventions and treaties, and to make them universal. It is in this context that in 2004 and 2005, Algeria hosted several events on light arms, chemical weapons, anti-personnel mines and their destruction. It has also hosted activities relating to nuclear safety and security, such as the conference on nuclear electricity legislation. In December of 2006, Algeria is preparing to host a seminar on Customs enforcement of the CWC, as well as a regional conference in January 2007 on the contribution of nuclear energy to peace and sustainable development in Africa.

Algeria is closely involved in implementing the African Regional Cooperative Agreement for Research Development and Training related to Nuclear Science and Technology (AFRA) developed by the IAEA for Africa. It is participating in the AFRA projects, hosting related events and making its national expertise available to the IAEA.

All of these actions and events are part of the framework of internal preparation for Algeria's accession to the Additional Protocol. At the same time, we are conducting an awareness and outreach campaign targeted at the various sectors concerned by implementation of this instrument to ensure broad dissemination of information on the obligations incumbent upon Algeria.

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**KEYNOTE ADDRESS —
SIGNIFICANCE OF UNSCR 1540
AND OPPORTUNITIES FOR
COOPERATION AND
ASSISTANCE**

*Peter Burian**

Abstract

The adoption of UNSCR 1540 was a major step towards strengthening the global framework of non-proliferation. In lieu of addressing this critical danger incrementally, this resolution takes a comprehensive approach. It supports wider acceptance of disarmament and non-proliferation instruments while striving to fill gaps in international treaties. Full implementation of UNSCR 1540 by all countries is a long-term goal and will require continuous efforts at the national, regional and international levels. National performance is crucial, and the 1540 Committee along with DDA and other international organizations stand ready to guide any State in need of assistance in fulfilling their obligations under the resolution.

Introduction

At the outset, I would like to thank the Government of Ghana for their hospitality and generous offer to host the first regional seminar dedicated to

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the implementation of resolution (UNSCR) 1540 (2004) in the African region.

I would also like to thank to Ambassador Nobuaki Tanaka and his staff at the UN Department for Disarmament Affairs (DDA) as well as the co-sponsors — in particular the European Union and the government of Norway — for their commendable efforts to support this seminar. I am encouraged by the fact that this seminar provides another opportunity for participation by representatives of the International

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Atomic Energy Agency (IAEA), the Organisation for the Prohibition of Chemical Weapons (OPCW) and the World Customs Organization (WCO), three important organizations with a significant contribution potential towards the full implementation of UNSCR 1540.

This event has a particular significance for the work of the 1540 Committee because it is specifically designed to increase awareness about the obligations and requirements of resolution 1540, and to facilitate regional cooperation and assistance in implementing UNSCR 1540. This workshop will continue to fulfill the main objectives of the Committee — outreach, assistance and fostering of the international cooperation — tasks that belong to the Committee's priorities adopted in its Programme of Work at the end of September 2006. For the 1540 Committee, this seminar is an exceptional opportunity to interact with representatives of African States whose commitment to promote and support the international non-proliferation regimes is demonstrated by their adherence to the relevant international treaties and also to the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty).

An overview of the objectives of UNSCR 1540 and the results being achieved by our Committee may help in providing a broader context for discussing issues at this seminar. The unanimous adoption of the resolution by the Security Council was a major step towards strengthening the global framework of non-proliferation undertakings. UNSCR 1540 addresses generally the threat of proliferation of weapons of mass destruction (WMD) and focuses on those aspects that call for special attention today.

Resolution 1540 and its significance

Nobody doubts today that there are few greater threats than a terrorist attack with weapons of mass destruction. The terrorist attacks of 9/11, the attacks in Madrid and London, foiled efforts to attack trains in Germany and blow-up planes full of passengers over the Atlantic among many other horrific acts or plans, are the best testimony that terrorists would not hesitate to use even the most deadly of weapons if they acquired them.

In addition, the revelation of the A.Q. Khan nuclear black market illustrated that non-state actors, including terrorists, might have easy access to even the most sensitive WMD know-how and hardware. Expansion of civilian nuclear programs also provides more opportunities to access fissile and radioactive materials, which might be misused for making nuclear bombs or dirty bombs for terrorist attacks. Thus, everybody should be aware that in this area the community of nations finds itself in a race against time and without further action this threat might become a cruel reality. We must also realize that there is no safe haven in the

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face of this threat, as the large number of developing as well as developed States touched by the A.Q. Khan network demonstrates.

The Security Council recognized this threat and in unanimously adopting UNSCR 1540 under Chapter VII of the United Nations Charter on 28 April 2004, affirmed that the proliferation of weapons of mass destruction, their means of delivery and related materials constitutes a threat to international peace and security. This was actually the first formal decision of the Security Council describing proliferation as a threat to international peace and security.

The adoption of UNSCR 1540 was an important and timely measure in international efforts aimed at preventing proliferation of weapons of mass destruction, their means of delivery and related materials to non-state actors. Before the resolution was adopted, the international community addressed the proliferation of WMDs incrementally through

Never before has the issue of proliferation of WMD and their means of delivery been dealt with in such a comprehensive manner.

multilateral legal instruments such as the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC), the Biological and Toxin Weapons Convention (BWC), and also by various export control arrangements.

The resolution obligates States to refrain from providing any support to non-state actors, including terrorists, that may seek WMD and related items, i.e., that attempt to develop, manufacture, acquire, possess, stockpile, transfer or use nuclear, chemical or biological weapons and their means of delivery and related materials. The resolution also requires States, in accordance with their national procedures, to adopt and enforce effective laws to prevent non-state actors from engaging in all of those activities. The non-proliferation effort under resolution 1540 also

includes measures to account for, secure and physically protect sensitive items in the process of production, use, storage and transport, and that internal controls are to be enhanced by a more stringent border control and import/export regulation.

Never before has the issue of proliferation of WMD and their means of delivery been dealt with in such a comprehensive manner. The resolution seeks to fill major gaps in international law concerning non-proliferation by preventing and deterring non-state actors from manufacturing, acquiring, possessing, developing, transporting, transferring, or using WMD and their means of delivery.

The obligations set up by UNSCR 1540 concern all States, not only those that possess WMD-related materials.

The obligations set up by UNSCR 1540 concern all states, not only those that possess WMD-related materials. No state is safe from this danger, as non-state actors might seek to exploit the territory of any state — using it as a safe haven, for instance to smuggle goods across in transit, for financing illegal activity, or to broker the sale of WMD-related items in third countries. Africa was not immune from catastrophic terrorist acts during the past decade: the memory of the tragic embassy bombings and of the attempted missile attack on civilian aircraft in East Africa are still fresh. We should also be aware that the terrorist group that released lethal nerve gas in the Tokyo subways was reported to have earlier sought to experiment with the Ebola virus from central Africa.

A point to emphasize is that the obligations under UNSCR 1540 do not conflict with or alter the rights and obligations of State parties to existing international disarmament and non-proliferation instruments. Indeed, it encourages wider acceptance of those instruments and lays down obligations with a view to filling the gaps in current disarmament

and non-proliferation treaties. Such efforts to enhance international peace and security are to be taken without hampering international cooperation and trade in materials, equipment and technology for peaceful purposes.

Measures to counter proliferation, including the specific requirements set forth in UNSCR 1540, remain primarily within the responsibility of Member States. The resolution institutes obligations on all States to take legislative and administrative action in accordance with their national legal

The resolution institutes obligations on all States to take legislative and administrative action in accordance with their national legal framework.

framework. It does not prescribe specific standards that should be implemented at the national level. That is what makes national performance so crucial for achieving the goals set forth in the resolution.

Some States may still encounter difficulties in preparing a first national report on implementation. At this point I must inform you that many of them are from the African region. Others might consider that they have nothing to report, as they neither possess weapons of mass destruction and their means of delivery nor the capacity to develop such items or related materials. However, they should be aware that non-state actors might seek to exploit their territory — using it for instance to ship goods across in transit, or for financing of illegal activity, or as a base to broker the sale of WMD-related goods in other countries.

It should be stressed that when the resolution was adopted, the Security Council recognized that some States lack the legal and regulatory infrastructure, experience or resources for effective implementation. The information available to the Committee indicates that the problem is more serious in Africa than elsewhere and thus, African States will

require assistance in many areas to implement the provisions of UNSCR 1540. The Council has invited States in a position to do so, to consider offering assistance to any other State that may request it.

In its future work, the Committee will identify national implementation practices that aim to cover all aspects of the resolution so that the experience may be shared with States that seek legislative assistance in order to fully implement the resolution.

The process for effective implementation of the resolution begins with the submission of national reports on the relevant measures a State has in place, or intends to take, to fully implement the provisions of UNSCR 1540. These reports are used by the 1540 Committee, with the assistance of its experts, to examine the extent to which the objectives of the resolution have been attained and to identify areas where further measures are necessary.

African States may avail themselves to the assistance offered by States bilaterally or by relevant international organizations, to facilitate not only reporting but also in coping with any implementation gaps.

As the majority of African States have yet to submit their first report, the Committee has undertaken to assist them by collating relevant data, as published in their official websites, or in those of international organizations. All the information that has been gathered from public resources was sent already to the States concerned, and their representatives at this seminar may use this occasion to pose any questions they may have to the experts of the Committee, who are present here in this seminar. For many States, the reasons for non-reporting seem to be lack of capacity, preoccupation with other priorities and the complexity of the legislative procedures. African States may avail themselves to the assistance

offered by States bilaterally or by the relevant international organizations, to facilitate not only reporting but also in coping with any implementation gaps.

Reporting status in Africa

On 27 April 2006, in my capacity as the Chairman, I presented to the Security Council a report on the status of the implementation of UNSCR 1540 (2004) that resulted in the Council's adoption of resolution 1673 (2006), extending the Committee's mandate up to 27

April 2008. The Committee's report was based on the examination of data submitted in national reports, additional information provided by States and information available in the Committee's legislative database on relevant national laws and regulations. The experts will share with you, in their contributions, detailed information regarding both the overall status of implementation and the situation with respect to Africa. I will thus confine myself to highlighting some of the particularly relevant findings and recommendations, updated in the Committee's work programme.

First, since the adoption of UNSCR 1540 in 2004, 132 UN Member States and one organization have submitted first national reports on measures they have undertaken or intend to take to meet fully their obligations under the resolution. Unfortunately, this statistic includes only eighteen of the African States, which means that thirty-five African States have yet to submit a national report. In response to the examination of the first national reports by the Committee, eighty-five States have submitted additional information, but only six States from Africa. I call upon all those States, which have not

Most African States are already State parties to the NPT, CWC, BWC and other relevant international treaties, but only a few of them have already adopted legislation beyond the ratification instruments.

yet submitted a national report to do so as soon as possible. They already received basic assistance from the Committee in the form of a matrix that builds on the information available on the official websites. I would also like to invite African States that have already submitted their reports to provide the Committee with additional information, according to the Committee's correspondence distributed to States, as appropriate.

Second, information from national reports and websites confirms that most African States are already State parties to the NPT, CWC, BWC and other relevant international treaties, but only a few of them have already adopted legislation beyond the ratification instruments. In view of this, it will be important to take into account the obligations of States under UNSCR 1540 and to ensure national implementation of these instruments in order to prevent prohibited and/or illicit activities and penalize any violations.

The most important improvements will be better legislation and an internal administrative system which provides improved security from possible terrorist activities along their borders or within their territories

Third, few African States have reported the adoption of control measures that encompass accountability, physical protection, border control or control of national imports, exports, transit and trans-shipment, or illicit financial and other services pertaining to WMD-related items and activities.

I would like to use this opportunity to remind all States that the full implementation of UNSCR 1540 provides not only obligations and paperwork, but also benefits that all States, including African States, may gain from the full implementation of the resolution. The most important improvements will be better legisla-

tion and an internal administrative system, which provide improved security from possible terrorist activities along their borders or within their territories, and other legislative advice and technological benefits that could eventually contribute to the social and economic development of States.

From a practical point of view, the Committee serves as a clearing house for assistance and is encouraged by the fact that many countries and relevant international organizations are helping with expertise and advice to States lacking knowledge, experience or resources to implement UNSCR 1540. After adopting the resolution that extended the mandate of the Committee, those efforts combined with many outreach activities have been further intensified. We would like, therefore, to use this opportunity to remind both groups of States — those making offers of assistance and those requesting assistance, including those from Africa — to take a proactive approach on a bilateral basis, and also to make full use of offers by international organizations, to enhance capacity-building to fully implement UNSCR 1540.

Concluding remarks

The Committee considers Africa a very important region for the full implementation of UNSCR 1540. The Accra seminar is, therefore, intended to be a major first step in the Committee's outreach activities on the continent. Subject to the availability of resources, and with the support of the Department for Disarmament Affairs, the Committee hopes to follow-up with subregional outreach activities to provide, as appropriate, a structured and more focused guidance to States in this region for implementing all their obligations under the resolution.

Full implementation of UNSCR 1540 by all States is a long-term objective. It will require continuous efforts at national, regional and international levels, on capacity-build-

ing and assistance made by States in implementing this resolution. The African region could contribute to the implementation of the resolution significantly. It requires better cooperation and coordination in preparation of national reports between the Committee and other international bodies and African States.

Compared to other regions, the first measure of success in the implementation of UNSCR 1540 will be reflected not only in the degree of advancement in worldwide awareness, but also in confirming a respect for the preparation and submission of national reports.

Before concluding, I would like to stress that the Committee, together with DDA and other international organizations, stands ready to provide support to all States, and especially to those still not in a position to prepare and submit their national reports. At the same time, I would also like to emphasize that we need active support in making sure that all requirements set forth in the resolution are met, and last but not least, that countries prepare and submit their report to the 1540 Committee, and engage in an open and transparent dialogue with us on any issues concerning the implementation of Resolutions 1540 and 1673.

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Session IV:

*Setting priorities for
cooperation and assistance
in implementation of
Resolution 1540 —
offers of assistance*

SETTING PRIORITIES FOR COOPERATION AND ASSISTANCE: EUROPEAN UNION

*Andreas Strub**

Abstract

In 2003, the EU adopted a strategy on national measures to combat the proliferation of WMD. Since then, it has been developing various types of assistance and cooperation projects, including regional seminars to strengthen communication and lend technical support. The EU has endorsed the 1540 Seminars held in China, Ghana and Peru as opportunities for dialogue, information exchange and technical assistance.

I would like to start by describing our precise role in Brussels. In October 2003, Javier Solana, the High Representative of the European Union, appointed Annalisa Giannella as his Personal Representative. Her mission was to implement and further develop the EU Action Plan to fight against proliferation. This became a full-fledged strategy in December 2003. She is also expected to promote the mainstreaming of EU's non-

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proliferation policies in our relations with third countries, particularly through specific cooperation and assistance projects.

The EU has carried out démarches to third States promoting the submission of national reports under UNSCR 1540.

UNSCR 1540 reaffirmed that the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security. It requests from States to comply with their obligations and identifies additional measures to be taken by all States.

It is worth noting that the EU Strategy against the proliferation of weapons of mass destruction (WMD) foresaw UNSCR 1540 (2004) in many aspects:

- the global approach to non-proliferation and the importance attached to the multilateral treaty base,
- the focus on the risk of terrorists using WMD,
- the focus on prevention,
- the insistence on collective as well as national responsibility: no State can succeed alone, efforts of all States are necessary,
- the importance attached to taking concrete and firm action in the area of export controls, and in securing sensitive materials.

In 2004, the EU welcomed the adoption of UNSCR 1540 and immediately started to prepare the requested reports. While EU Member States submitted theirs individually, on 28 October 2004, the Presidency, on behalf of the EU, submitted the European Union report on the implementation of UNSCR 1540. More recently, the EU welcomed the adoption of UNSCR 1673, which requests a work programme for

future activities of the 1540 Committee with a focus on outreach, dialogue, cooperation and assistance.

Early on, the EU has carried out démarches to third States promoting the submission of national reports under UNSCR 1540. Preparation of the national reports requires considerable effort and technical knowledge. Therefore, technical assistance and an exchange of experience gained from the process of drafting national reports and from the adoption of measures to implement UNSCR 1540 are of key importance.

In June 2006, the first EU Joint Action in support of UNSCR 1540 was adopted. Its aim is to help support regional seminars for the implementation of UNSCR 1540. The type of dialogue that we are having here in these regional seminars, together with such instruments as the matrix prepared by the 1540 Committee, will help us significantly to identify both potential recipients and specific areas of assistance. We will then consider each request and envisage follow-up EU Joint Actions to start effective cooperation.

Our outreach and assistance activities are already working in favour of the resolution's objectives. As we increasingly engage in cooperation and dialogue with our partners, we are learning more about concrete needs in the various regions. In this way, we will be able to further diversify our future assistance and cooperation.

Technical assistance and an exchange of experience gained from the process of drafting national reports and from the adoption of measures to implement UNSCR 1540 are of key importance.

I will briefly discuss specific types of assistance and cooperation projects under development since the adoption of EU's WMD Strategy in 2003:

a) We have launched an extensive cooperation programme in export controls. The German Federal Office of

Economics and Export Control (BAFA) is the implementing agency designated by the EU. One cooperation model, started in January 2005, was with China. It began with an EU-China workshop with the participation of foreign affairs, licensing authorities and customs officials. Now we are in the process of conducting a follow-up customs training cooperation.

b) We have adopted a Joint Action in support of IAEA assistance and cooperation programmes. These programmes focus on the fight against illicit trafficking of nuclear and radioactive materials, including improved border security and controls, as well as legislative and regulatory assistance programmes in the nuclear sector, in particular the implementation of the IAEA additional protocol.

There is merit in following a regional pattern in the dialogue, which prepares the ground for cooperation and assistance.

c) We have developed also activities in support of the Chemical Weapons convention (CWC) and the Biological and Toxin Weapons Convention (BWC). We also provide, in this context, legal assistance in their implementation obligations. In 2006, the EU launched the first two projects in support of the BWC. One project aims at promoting accession among States not party to the Convention. In June 2006 we held the first regional seminar for eastern and southern Africa in Nairobi. That autumn we planned another seminar in Singapore for Asian and Pacific States. The other BWC project is aimed at assisting interested States with the review and drafting of relevant BWC legislation. In that context, I would invite interested State parties to submit their specific requests for assistance. After examining the requests, we plan to start assistance visits in late autumn 2006.

In conclusion, I would recall that the first two years of the existence of the 1540 Committee contributed to an assessment of existing national measures relevant to counter non-proliferation challenges and to help in identifying loopholes. The final report which the Committee approved in April 2006 offered concrete ideas on which areas need improvement. We believe that future focus should be on overcoming the shortcomings in implementating the resolution. A forum like this one is irreplaceable for the exchange of experience and networking. The EU has decided to support the seminars in China, Ghana and Peru particularly because there is some merit to follow a regional pattern in the dialogue, which prepares the ground for cooperation and assistance. We have still a long way to go to ensure effective implementation of UNSCR 1540. But this is in our opinion a good way to start.

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OPPORTUNITIES FOR ASSISTANCE: UNITED STATES

*Jane Purcell**

Abstract

Implementation of UNSCR 1540 is a vital element in ensuring that no country be a source or beneficiary of WMD proliferation. To assist States in meeting their obligations under this resolution, the United States offers its support and encourages governments to work with the 1540 Committee and donor States to enact and enforce stronger measures for full implementation. As needed, the United States is also prepared to consider further requests for assistance from United Nations Member States.

The United States views implementation of the resolution as a vital element in global efforts to:

- a) to prevent the proliferation of Weapons of Mass Destruction (WMD), their delivery systems and related items by State and non-State actors,
- b) keep these ultimate weapons out of the hands of terrorists and other irresponsible actors.

President Bush initiated the creation of UNSCR 1540 in his United Nations speech of September 2003 when he asked the Security Council to adopt a new anti-proliferation resolution. In that

**Jane Purcell, Office of Counterproliferation Initiatives, Bureau of International Security and Nonproliferation (ISN), United States Department of State.*

speech, President Bush said, "the United States stands ready to help any nation draft these new laws and to assist in their enforcement".

UNSCR 1540 was agreed to under Chapter VII of the United Nations Charter, and places binding obligations on all Member States to adopt and enforce appropriate and effective laws prohibiting proliferation of WMD, their delivery systems and related items, by non-State actors. The possibility of WMD in terrorist hands is one of the preeminent threats to all nations, and terrorist groups are continually seeking these most deadly weapons. The US and the EU are working together to promote full implementation of UNSCR 1540 and make it an effective tool to prevent proliferation of WMD. If fully implemented, UNSCR 1540 can help ensure that no State or non-State actor is a source or beneficiary of their proliferation. Many African nations are engaged extensively in combating the proliferation of small arms and light weapons (SALW). The benefits of full implementation of UNSCR 1540 will complement the goals of this conventional arms counter-proliferation effort.

*The US views
implementation of
UNSCR 1540 as a vital
element in global efforts
to prevent the
proliferation of WMD.*

As you know, up to now the 1540 Committee has spent a great deal of effort in encouraging States to submit country reports detailing the steps they have taken or intend to take to implement the various provisions of UNSCR 1540, as well as reviewing these submissions. UNSCR 1673, adopted on 27 April 2006, renewed the 1540 Committee's mandate for two years and reemphasized the steps each State must take to implement its 1540 obligations. Resolution 1673 calls upon States that have not yet presented a report to the Committee to do so without delay, and encourages all States that have

submitted such reports to provide, at any time or upon the Committee's request, additional information on their implementation of UNSCR 1540. The United States echoes the calls of other speakers at this seminar in encouraging all States, which have not yet done so, to submit their report as the resolution requests.

Now that its work programme for the next twelve months is approved, a key role for the Committee is to undertake examination of the reports submitted, identify gaps in States' capacity as well as any pattern of deficiencies among States and across regions, and begin to prioritize steps that States should take to meet their obligations. While the Committee's recommendations would not be binding, they could help shape States' approaches to implementing the resolution's requirements and focus the action plans that States are encouraged to develop. Its recommendations would also be of use to the United States and other donors in assessing where funding is needed, and in planning assistance programmes.

To meet their obligations under the resolution, most States still need to take several significant measures, which include establishing legal prohibitions; implementing systems to account for, secure and physically protect sensitive materials; and developing appropriate and effective border and trade controls. The United States is ready to work with other States to identify and share lessons learned and best practices, and to help States who seek our assistance to build upon this experience to develop plans to implement the resolution.

The United States recognizes that many governments might lack the necessary capacity or expertise to assess their ability to implement UNSCR 1540, or to close all the gaps they identify. Resolution 1673 recognized the role that the 1540 Committee can play in both assessing States' needs for

assistance and facilitating communication between such States and potential donors (States and international organizations). Thus, we encourage States to reach out to either the 1540 Committee or other States for help in gaining access to sources of technical assistance.

The United States has programs currently providing significant assistance to States attempting to undertake full implementation of UNSCR 1540. We are looking at how we can increase and better target our work, and at the steps needed to enhance our coordination with other donors to streamline efforts. Since UNSCR 1673 reemphasized regional cooperation and assistance, the United States conducted a thorough review of its programs. This will soon be reflected in an updated list of United States assistance programs on the 1540 Committee's Internet website. Through these programs, the United States works with countries globally to develop legal and regulatory infrastructure. We share implementation experience and/or resources to fulfill the provisions outlined in the resolution through bilateral programs, as well as being an active participant in multilateral programs.

For example, our Export Control and Related Border Security (EXBS) program has budgeted almost \$132 million since 2004 for 1540-relevant training, equipment, legal/regulatory and infrastructure development assistance. Since 2004, the EXBS programme has obligated over \$2.1 million in cooperation with the countries of Kenya, Tanzania and South Africa, in order to enhance their legal frameworks as well as tighten their enforcement controls at key border crossing points and major seaports. Through the United States Department of Energy — in cooperation with Interpol — we have provided sophisticated radiation detection equipment and inspection training to Tanzania and Uganda, and have cooperated with the IAEA to provide similar assistance in the Democratic Republic of Congo, Namibia, and Kenya. These

efforts have had a direct impact in stemming proliferation. There are also other 1540-related United States programmes designed to prohibit transfers of proliferation-sensitive materials to and from proliferators, enact and enforce effective export controls and secure proliferation-sensitive materials. In addition to United States efforts in this area, at least thirty-six other nations — from every continent — have pledged to provide technical assistance to help States implement UNSCR 1540. This broad level of commitment underscores the global nature of the proliferation threat and the seriousness with which the international community treats this issue.

An important approach to implementing UNSCR 1540 is that countries join the relevant treaties designed to prevent WMD proliferation. It is commendable that the Nuclear Non-Proliferation Treaty (NPT) is almost universally

An important approach to implementing UNSCR 1540 is that countries join the relevant treaties designed to prevent WMD proliferation.

adhered to, although it is under threat by the nuclear weapons programmes of Iran and Democratic Peoples Republic of Korea. The Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BWC) should also be adhered to universally. Unfortunately, in Africa, three countries have not yet signed the CWC while three others have signed but not yet ratified it.

Even worse, eleven African countries have not yet signed the BWC and ten have signed but not yet ratified it. Chemical weapons and biological weapons technologies and materials are easily obtainable, and threaten Africa as well as other regions. Governments should do everything possible to control them. By joining the various Conventions, States not only show their resolve to implement Resolution 1540's obligations and act responsibly in the international community, but

they also increase their own security as well as assist in the global struggle against terrorism.

Assistance in joining and complying with the obligations of the various non-proliferation treaties is available, not only from the international organizations that are responsible for those treaties, but also from the States parties to those treaties. For example, the United States and the Organisation for the Prohibition of Chemical Weapons (OPCW) have a long-term working relationship in providing advice and assistance for States parties under the CWC. The United States has also teamed up with Interpol to provide advice and assistance for those countries that need help drafting legislation to meet the requirements of the BWC and UNSCR 1540.

We encourage those States not yet meeting the requirements of UNSCR 1540 to work with the 1540 Committee, donor States and each other to provide additional information on national implementation as an ongoing process, including, for instance, a road map or an action plan to identify measures your government intends to take to implement the resolution, taking into account the examination provided by the Committee. Once a country has developed its action plan, we would encourage its government to submit assistance requests to relevant United States 1540 Points of Contact as listed on the 1540 Committee website. The US welcomes and is prepared to consider additional requests from United Nations Member States for assistance in these areas.

In summary, the United States provides significant assistance to States in helping them undertake full implementation of UNSCR 1540, and is looking at how we can increase and better target the efforts. We encourage other donor governments to do likewise, and encourage those States not yet meeting the requirements of UNSCR 1540 to work with the 1540 Committee, donors and each other to enact and enforce

strong measures to ensure full implementation of the resolution. In doing so, together we will help ensure that no State or non-State actor is a source or beneficiary of WMD proliferation.

* * *

OPPORTUNITIES FOR ASSISTANCE: ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

*Malik Azhar Ellahi**

Abstract

This presentation by the OPCW outlines States' obligations under both the CWC and UNSCR 1540. It highlights cross-cutting issues and details the tools needed to comply. The OPCW offers assistance through various courses, programmes and information services, and provides a selection of events focusing on the African continent.

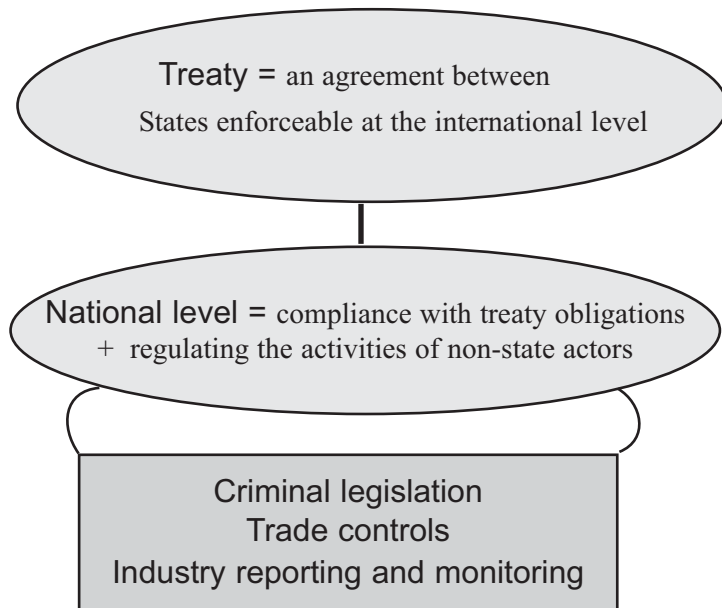
Obligations

- Declare chemical weapons (CW) and chemical weapons production facilities (CWPF) and completely destroy them under OPCW supervision.
- Declare certain dual-use chemical production facilities, and permit OPCW inspection of them or any other place under challenge.
- Declare imports and exports of certain dual-use chemicals.

**Malik Azhar Ellahi* is the Head of the Government Relations and Political Affairs Branch, Organisation for the Prohibition of Chemical Weapons.

- Implement the obligations contained in the Chemical Weapons Convention (CWC) within its domestic legislation.
- Cooperate with States parties in the implementation of the Convention.

Relationship of treaties to national law



Implementing Legislation

Purposes

- a) Enable State party to fully comply with CWC international commitments.
- b) Regulate within its jurisdiction activities related to CWC obligations.

CWC provisions impact

- Government (the National Authority, delegation to the OPCW, government policies in chemical disarmament, administrative arrangements).
- Military (means and methods of warfare).
- Police (riot control agents and enforcement).
- Private industry (reporting production, import and export of scheduled chemicals; respect of customs requirements for direct imports and exports).
- Traders (respect for customs requirements for imports and exports of scheduled chemicals).
- Customs (controlling foreign trade in scheduled chemicals).

The Convention and national law

- Article VII (primary basis):
 - prohibitions,
 - penal legislation,
 - enforcement,
 - extraterritorial application of penal measures,
 - cooperation and legal assistance,
 - inform the OPCW.
- Article VI (regulate scheduled chemicals).
- Article XI (review existing legislation).

Implications

- “never under any circumstances”, refers to times of peace or war (international or internal armed conflict).

- “transfer, directly or indirectly, chemical weapons”, covers tangible and intangible transfers, by tangible or intangible means.
- “assist, encourage or induce, in any way, anyone”, covers non-State actors and any type of support to them.

Article VII(1) CWC

Each State party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under this Convention. In particular, it shall:

(a) Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State party under this Convention, including enacting penal legislation with respect to such activity.

Article VII(1)

(c) Extend its penal legislation enacted under subparagraph (a) to any activity prohibited to a State party under this Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.

Tools for compliance

- Require licenses or permits
 - for production and for imports and exports,
- Collect customs statistics
 - actual imports received
 - actual exports sent

- Require reporting by:
 - producers of S1, S3, unscheduled DOCs,
 - producers, processors or consumers of S2,
 - importers and exporters of S1, S2, S3.

Criminalisation of violations

Penal enforcement

If someone violates the Convention in your jurisdiction:

- Can you prosecute?
- Can you punish?
- Can you cooperate?

UN Security Council Resolution (UNSCR) 1540

All United Nations Members are required to:

- adopt laws criminalising the proliferation of weapons of mass destruction (WMD) — nuclear, chemical and biological;
- adopt laws preventing non-state actors from manufacturing, acquiring or trafficking in nuclear, biological or chemical weapons, the materials to make them and their delivery systems;
 - take measures to secure all banned weapons;
 - develop border controls and law enforcement to detect, deter, prevent and combat the illicit trafficking and brokering in such items; and
 - report to the United Nations on compliance.

Cross-cutting issues

- National lists of controlled chemicals
- Identifying producers
- Licensing
- Inspections
- Notification and record-keeping
- National statistics
- Import/export controls
- Customs effectiveness
- Administration.

Effective implementation means proper enforcement

Outreach or training must be provided to:

- chemical industry
- traders
- customs officials
- police force
- military.

***OPCW Assistance Programmes for African States
Parties to the Chemical Weapons Convention***

- Associate Programme – 46/130
- Analytical Skills development Course – 34/78
- Conference Support Programme – 332
- Internship Support Programme – 21
- Programme for Support of Research Projects – 90
- Laboratory Assistance Programme – 10 labs
- Equipment Exchange Programme – 39 SP

- Information Service/ Legal Support
 - 2006: Comoros, Tanzania, Sierra Leone, Guinea, and Liberia.

Forthcoming OPCW Capacity-building and Assistance Programmes and Events for African Countries

- Workshop on the implementation of Article X — Capacity-building project for North African States Parties, 20–22 November 2006, venue to be announced.
- Project for African Member States — Capacity-building for African States, dates and venue to be determined.
- Subregional workshop for custom officials in North Africa, to be held 11–13 December 2006, Algeria.
- National Implementation Workshop for National Authorities of States Parties in Southern African region, during the first quarter of 2007.
- National Authorities from Africa are also invited to participate in the forthcoming annual National Authorities workshop for States parties scheduled to take place 2–3 December 2006, The Hague, Netherlands.

New requests

African States parties that have requested technical assistance in legislative matters in 2007 are Mali, Malawi, Namibia, Uganda, Kenya, Central African Republic, Botswana and Sierra Leone.

OPCW- AU Memorandum of Understanding (MOU)

- Sixth Ordinary Session of the Summit of the African Union, held in Khartoum – January 2006.
- MOU signed between OPCW and AU.
- Objectives:
 - Universality
 - Effective national implementation
 - Greater African participation.

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***OPPORTUNITIES FOR
ASSISTANCE:
COMPREHENSIVE NUCLEAR-
TEST-BAN TREATY
ORGANIZATION***

*Lassina Zerbo**

Abstract

The Preparatory Commission for the CTBTO works to establish a global verification regime to monitor compliance with the Comprehensive Nuclear-Test-Ban Treaty. It is building, testing, and provisionally operating the Internal Monitoring System and the International Data Centre to provide timely data, assessments and other products and services to Signatory States of the Treaty. Additionally, it offers complimentary hardware and software provisions, technical assistance as well as training to its Member States.

In the context of implementing United Nations Security Council resolution (UNSCR) 1540 in Africa, the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) has supported the establishment of national technical means in eighteen countries. Thirty-eight establishments ranging from universities to governmental ministries are currently

**Lassina Zerbo is Director of the International Data Centre Division, Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO PrepCom).*

participating and benefiting from access to cost-free data, products and services from the CTBTO PrepCom. There is still much work to be done and it is CTBTO's great hope that the remaining African nations come to benefit from its unique assistance.

This presentation provides details of the CTBTO PrepCom and its data, products and services.

Basic obligations

Article I of the Comprehensive Nuclear-Test-Ban Treaty (CTBT)

1. Each State party undertakes not to carry out any nuclear weapon test explosion or any other nuclear explosion, and to prohibit and prevent any such nuclear explosion at any place under its jurisdiction or control.

2. Each State party undertakes, furthermore, to refrain from causing, encouraging, or in any way participating in carrying out of any nuclear weapon test explosion or any other nuclear explosion.

CTBT contribution to regional security in Africa

- Security is a prerequisite for sustainable economic and human development, as anchored in the Constitutive Act of the African Union (AU) and New Partnership for Africa's Development (NEPAD).

- Pelindaba Treaty: Effective enforcement can rely on the CTBT verification technologies.

- Strategic partnerships with the AU Peace and Security Council and the United Nations Regional Centre for Peace and Disarmament will enhance regional peace, security and stability.

- NEPAD can benefit from the potential civil and scientific applications of CTBT verification technologies.

Africa and the Treaty: cooperation highlights

- 1999: Regional Workshop for CTBTO PrepCom International Cooperation, Cairo, Egypt.
- 2001: Sub-Regional Workshop for CTBTO PrepCom International Cooperation for States from West and Central Africa, Dakar, Senegal.
- 2002: Subregional Workshop for CTBTO PrepCom International Cooperation for States from East and Southern Africa, Nairobi, Kenya.
- 2003: The Commission facilitated the Experts Meeting of the Eastern and Southern African Seismological Working Group.
- 2004: Subregional Workshop for CTBTO PrepCom International Cooperation for States from Northern Africa, Tunis, Tunisia.
- 2004: Subregional Workshop for CTBTO PrepCom International Cooperation for States from Southern Africa, Pretoria, South Africa.
- 2004: Participation in the AU Consultations on the Elaboration of an Integrated Agenda for Disarmament in Africa: A Four-Year Policy Approach for the African Union.

Broad-based support from the world community

"This Treaty is a crucial element in the non-proliferation regime. The longer we delay its entry into force, the greater the risk that nuclear testing will resume — and that in turn would make non-proliferation much harder to sustain."

Kofi Annan
UN Secretary-General
November 2001

International Monitoring System (IMS) Verification

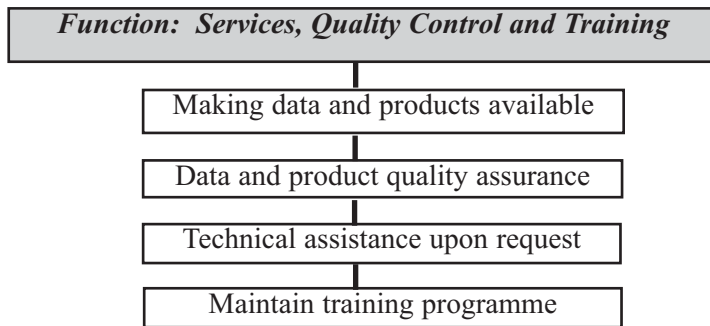
Over two thirds of the complete IMS Verification System is either installed or certified.

International Data Centre (IDC) Mission Statement

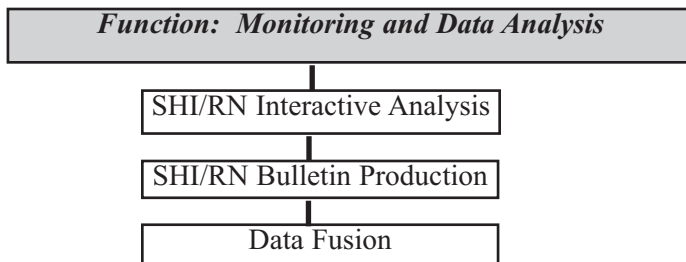
From IMS monitoring facilities, the IDC receives, collects, automatically processes, interactively analyses, reports on and archives data.

- Provide technical assistance
- Progressively enhance its technical capabilities
- Provide standard IDC products objectively

Provides technical assistance



Provides standard IDC products objectively



There are over 138,000 events reported in IDC's Reviewed Event Bulletin. Atmospheric Transport Modelling allows IDC radionuclide source locationing. Using Wind Speed and Direction, IDC can model from where radionuclides may originate.

Seismic Waveforms and Map

Indian Nuclear Test (11 May 1998)

- Origin Time: 1998/05/11 10:13:44.2
- Coordinates: 27.09°N, 71.69°E
- Size: mb = 5.0, Ms = 3.2
- Within 15km of known test site location.

Pakistani Nuclear Test (28 May 1998)

- Origin Time: 1998/05/28 10:16:17.6
- Coordinates: 28.91°N, 64.84°E
- Size: mb = 4.9, Ms = 3.5

DPRK Nuclear Test (9 October 2006)

- Origin Time: 2006/10/09 01:35:28 UTC
- Coordinates: 41.31°N, 129.02°E
- Size: mb = 4.1

Civil and scientific applications

The primary purpose of the CTBT verification regime is to verify compliance with the Treaty effectively.

The verification technologies of the IMS and the data, technologies and products of the IDC have the potential a range of useful civil and scientific applications, which could contribute to sustainable development and human welfare.

These civil and scientific applications demonstrate, in part, how State signatories could gain additional benefit from participation in the Treaty verification regime.

Hydroacoustic data is useful for (near real time) modeling of tsunami generation and propagation / directivity.

Using IMS hydroacoustic data, mapping the rupture zone of the December 2004 tsunami event indicated that Thailand, India, Sri Lanka and African states could probably have been warned in time.

Services to State Signatories: secure signatory accounts

All authorized users can request technical assistance from the IDC Services Help Desk. There are ninety-three States signatories with 778 users authorized to access IMS data and IDC products:

- Principal Users – 500
- Regular Users – 202
- Station Operators – 76

Technical Assistance – Training

An e-learning Initiative is in progress to enhance traditional classroom training and bring benefits such as:

- Increasing the number of participants in PTS training activities.
- Learning availability 24 hours/7 days per week.

African organizations participating in CTBTO PrepCom activities

Geophysical/Geological departments

- Centre de Recherche en Astronomie, Astrophysique et en Geophysique (CRAAG), Algeria
- Department of Geological Survey, Botswana
- Egyptian Data Center at the National Research Institute of Astronomy and Geophysics, Helwan, Egypt
- Geophysical Observatory, AAU, Ethiopia
- Institute and Observatory of Geophysics (IOGA), Madagascar
- Geological Survey Department, Malawi
- Geological Survey of Namibia, Namibia
- Council for Geoscience, South Africa
- Uganda National Seismological Network, Geological Survey and Mines Department, Uganda
- Geological Survey Department, Zambia
- Goetz Observatory, Department of Meteorological Services, Zimbabwe

Atomic energy/radiation monitoring agencies

- Commissariat a l'Energie Atomique, Algeria
- Centre de Recherche Nucleaire d'Alger, Algeria
- National Radiation Protection Agency, Ethiopia
- Pelindaba Nuclear Institute, South Africa

Agencies for coordination of science, technology and/or research

- Ethiopian Science and Technology Commission, Ethiopia
- National Council for Science and Technology, Government of Kenya
- Centre National pour la Recherche Scientifique et Technique, Morocco
- Federal Ministry of Science and Technology, Nigeria
- National Institute for Scientific and Industrial Research, Zambia

Other governmental agencies/ministries

- Libyan Center of Remote Sensing and Space Science (LCRSSS)
- Renewable Energy and Water Desalination Research Center, Libya
- Comité Technique National de Surveillance du Essais Nucleaires (ISTN), Madagascar
- Department of Meteorological Services, Government, Malawi
- Ministry of Mines and Energy, Namibia
- Centre National de Télédetection, Tunisia
- Ministère des Mines de l'Energie et de l'Eau, Mali
- Ministère des Affaires Etrangères et de la cooperation, Mali
- Ministère des Mines de la Defense et des Anciens Combattants, Mali

- Direction Nationale de la Geologie et des Mines, Mali

Universities

- University of Ouagadougou, Burkina Faso
- University of Botswana
- Department of Geology and Geophysics, Addis Ababa University, Ethiopia
- Department of Geology, University of Nairobi, Kenya
- Department of Physics, University of Nairobi, Kenya
- Al-Fateh University, ibya
- Makere University, Uganda
- Department of Applied Physics, National University of Science and Technology, Zimbabwe

There are thirty-eight establishments from a total of eighteen African countries.

Summary

Primary ways CTBTO can assist its Member States:

- Provision of a large variety of data and products
- Technical assistance, including help to access data and products
- Provision of software
- Limited hardware provision in the form of recycled personal computers, fully loaded with our NDC-in-a-Box (National Data Center) software — on a first-come first-served basis

- Training — regional technical programmes, workshops.

This is all free of charge to Member States.

* * *

Session V:

*Setting priorities for
cooperation and assistance
in implementation of
Resolution 1540 –
requests for assistance*

NATIONAL EXPERIENCES ON ASSISTANCE: KENYA

*John Patrick Ochieng**

Abstract

Having suffered immediate and residual effects from two terrorist attacks, Kenya recognizes first-hand the urgent need for regional and global security. Strategies underway to combat the scourge of violence include legislative measures to control the proliferation of small arms and light weapons, regional partnerships to secure borders and collaboration with civil society on conflict management and arms control. Kenya, is calling for further assistance and cooperation at the regional and international levels, to combat threats posed by the proliferation of illicit weapons.

Introduction

The UN Security Council, in its meeting of 28 April 2004, affirmed that the existence of proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constituted a threat to international peace and security. The statement adopted at the Council meeting underlined the need for all Member States to peacefully resolve any problems threatening or disrupting the maintenance of regional and global stability. Kenya is gravely concerned by the threat of terrorist acts and the ease with which the illicit trafficking of these weapons is carried out.

* *John Patrick Ochieng* is Kenya's National Focal Point on Small Arms and Light Weapons.

If all States, under Chapter VII of the United Nations Charter, decided to refrain from providing any support to the development, acquisition, manufacture, possession, transportation, transfer or use of nuclear, chemical or biological weapons, this region and the world over would be a much safer place. This can be made possible when States establish and enforce effective domestic and regional controls to prevent the proliferation of these weapons. Laws and appropriate border and port controls are necessary to enforce the detection, deterrence, prevention, and non-proliferation of weapons of mass destruction (WMD). In addition, international cooperation is essential to further reduce problems associated with them. This clearly justifies the need to establish rules, laws, regulations and procedures to implement UN Security Council Resolution (UNSCR) 1540.

Kenyan experience

In the recent past, Kenya has been a victim of illicit weapons and is now being warned of the impending likelihood of yet another attack. The massive and uncontrolled influx of refugees through Liboi and other border points, and the ensuing increase in the population at the Kakuma and Dadaab refugee camps in the northern parts of the country have put Kenya at risk of these weapons. At the moment, we are particularly concerned with those entering from Somalia where the ongoing armed conflict is encouraging the continuous transfer of illicit arms and intensifying the conflict. These refugees may not have anything to offer but arms in return for their survival. Criminals will take advantage of

Kenyan humanitarian considerations and bring these weapons in illegally.

In view of the above, Kenya is in high alert and coordinating the efforts of the Immigration, Customs, Police and other law enforcement agencies to ensure strict measures are taken to identify and separate true refugees from the criminals who bring illicit arms across the borders.

Africa has not been spared the curse of terrorist attacks nor its economic consequences. The most recent experience was in November 2002 when the Paradise Hotel in Kikambala, Mombasa was bombed. This followed the 7 August 1998 bombings on the United States Embassies in Nairobi and Dar Es Salaam. Over the past seven years, the entire East African region has been affected by these attacks, in lost revenue and the costs incurred by indirect measures to combat the likelihood of further terrorist acts.

The terrorist bombings of the Paradise Hotel in Mombasa, combined with the vehicular bombings in Nairobi and Dar Es Salaam cost over 220 lives and wounded more than 4,000 people.

In the absence of significant training and contingency planning to deal with mass casualties and major destruction from such acts, the response is likely to be chaotic. This was apparent in the cases of Nairobi and Dar Es Salaam, which were further marred by a host of planning and logistical failures. When the Foreign Emergency Support Teams arrived in Nairobi about forty hours after the bombings, there was disjointed communication between the

Kenya is in high alert and coordinating the efforts of the Immigration, Customs, Police and other law enforcement agencies to ensure strict measures are taken to identify and separate true refugees from the criminals who bring illicit arms across the borders.

state actors and other players, and medical and other emergency equipment was not always readily available for use.

The investigation of the Nairobi bombing, for example, should have been done by our own experts but instead was conducted by the United States Joint Task Force. This elevated the attack to an international level, and provided valuable cooperation, along with financial and technical assistance.

We can recall the threat on the Israeli aircraft in Kenya, and the airline's subsequent withdrawal from the country. There have also been a recent series of anthrax incidents in the United States through the mail, indicating the global spread of dual-use technologies, materials and scientific know-how relevant to the production and delivery of such weapons, posing a serious threat to all.

These episodes demonstrate how the proliferation of WMD, as well as their delivery systems, have the potential to undermine international peace and security by posing the defining security challenge of this century. It also demonstrates how countries in this region are ill-prepared to deal with these threats.

It is well known how Kenya was negatively impacted by travel ban advisories. As a result of this ban, the primary economic victim was tourism, where the downturn in visitor numbers hit especially hard. The hotels were, of course, not the only ones affected. Taxi drivers, fishermen who supply restaurants, craftspeople who make tourist souvenirs, and producers and retailers of meat, eggs, vegetables and fruits all suffered in a ripple down effect. As the repercussions from the two terror blasts began to be felt, most small and micro-enterprises were compelled to scale down or close their operations altogether.

Nuclear weapons are considered WMD in the deadliest sense. In addition to killing hundreds of thousands of

people or more, a nuclear weapon can destroy the entire physical structure of a large city and contaminate an even larger area of a country with radioactive fallout. Chemical and biological weapons are particularly brutal tools of death that can kill slowly and painfully. Unfortunately, such weapons, particularly biological agents, are also easier and cheaper to produce than nuclear materials, and the technology and know-how is widely available. As these are relatively easy for third world countries to possess, there are potentially far more States capable of developing chemical and biological weapons programmes than nuclear weapon programmes.

Chemical agents include blood, choking, blistering and nerve agents. Some utilize toxic industrial chemicals that do not require much expertise to be adapted into potential weapons.

Biological agents include bacterial, viral and Rickettsial agents. Given the necessary materials and a basic laboratory, an individual with some technical training can apply the necessary expertise to make a crude biological weapon. Certainly, any state with a modestly sophisticated pharmaceutical industry, which Kenya is, is capable of producing these agents. Biological agents, in particular, can cause mass casualties if detection and treatment are impeded.

Kenya's initiatives

In order to improve control strategies, the following efforts are in place.

First, we have trained our security personnel and created a section within the security structure to deal with these issues.

Second, a law has been drafted for approval by the parliament to regulate and control issues pertaining to conflict, small arms and light weapons (SALW) and terrorism. In

July 2006, through the National Focal Point (NFP) on SALW Weapons, the government launched a National Action Plan (NAP). A policy on SALW, which includes laws, regulations and procedures for controlling proliferation, is currently under development.

Third, through the East African Community, the partner States have created a coordinating office on SALW affecting the common borders of the three States.

Kenyan security personnel are collaborating with international law enforcement agencies and regional bodies to improve on training and intelligence gathering.

Fourth, Kenya has established a Regional Centre on Small Arms and Light Weapons (RECSA) to coordinate SALW efforts in the Horn of Africa region.

Lastly, the government continues to work with civil society on issues of training, research, public awareness and technical support for conflict management and arms control, as well as a strategy to reduce the impact of the proliferation of these illicit arms.

Through the above structures, organizations and the Intergovernmental Authority on Drought and Development (IGAAD), we are in position to identify and establish priorities and gain assistance for the implementation of Resolution 1540. However, still pending is the need for more control measures to confront the problems of nuclear, chemical and biological weapons which are far removed from our situations.

Open areas for assistance

Technical assistance is still needed, however, to establish relevant laws, regulations and control policies to

reduce, if not to completely stop, the proliferation of the biological, chemical and nuclear weapons.

Kenya recognizes its lack of expertise and exigency for technical assistance to implement the provisions of UNSCR 1540. In particular, the legal and regulatory infrastructure must be focused upon the objective of adopting national rules and regulations to ensure compliance with the required commitments under the key multilateral non-proliferation treaties.

More control initiatives will also be required at various ports of entry, e.g., airports and sea ports, with adequate detection and surveillance facilities.

Conclusion

Victim of two terrorist attacks, Kenya has put in place mechanisms to prevent future threats within the country and at the borders.

The Government has implemented adequate measures to improve the security of people and installations at various entry points.

In a bid to detect potential threats caused by the proliferation of any illicit arms, Kenyan security personnel are collaborating with international law enforcement agencies and regional bodies to improve training and intelligence gathering.

However, more control measures are still needed at various airports and seaports. Kenya calls for assistance and cooperation at regional and international levels to those who have more experience and the required technical capacity to provide maritime and aerial controls of illicit arms.

* * *

Closing Session

CONCLUDING REMARKS

*Peter Burian**

Abstract

A comprehensive national approach in implementing UNSCR 1540 to subvert the proliferation of WMD would work in conjunction with building effective border controls and legislative institutional systems to combat small arms and light weapons. National plans of action best illustrate a country's commitment to fulfilling its 1540 obligations while simultaneously providing assisting nations with a blueprint of concrete requirements.

The discussions of the past few days have confirmed the importance of this first seminar in Africa dedicated to the implementation of UN Security Council resolution (UNSCR) 1540 in the African region.

The seminar was an important opportunity to foster regional approaches and cooperation in addressing the common challenges for creating a comprehensive system of prevention and protection against the proliferation of weapons of mass destruction (WMD) and their means of delivery.

I am pleased to note the high level of commitment to the implementation of the obligations and

**Peter Burian* is the Chairman of the 1540 Committee established pursuant to UN Security Council resolution 1540 (2004).

requirements of the resolution confirmed by participants from twenty-five African States during the discussion. All participants acknowledged the risk of proliferation of WMD while pointing out other urgent priorities and security challenges.

Several participants mentioned the trafficking of small arms and light weapons (SALW) as one of the imminent threats to the security of African States, comparable in impact to the use of WMD.

Building effective legislative, administrative and institutional systems, or border controls for fighting light weapons trafficking, can also help to address the proliferation of weapons of mass destruction.

Building effective legislative, administrative and institutional systems, or border controls for fighting light weapons trafficking, can also help to address the proliferation of WMD and vice versa. That is why the implementation of UNSCR 1540 would not hamper the realization of other goals and national priorities. On the contrary,

it can help in building and strengthening important capacities of a State administration to cope with other related problems.

The discussion helped to identify several problems in addressing the requirements of UNSCR 1540, including reporting by States to the Committee on measures they have taken, or intend to take to implement the resolution. They are mostly connected with a lack of administrative, technical and expert capacities, as well as the lack of financial and human resources.

We recognize that without tackling those problems, it will be difficult if not impossible to reach substantive progress in the implementation of UNSCR 1540. We need to define the best ways and practices to help countries build their national structures and capacities for fighting proliferation of WMD. In this regard, the Committee's activities to assist

States in meeting the implementation requirements of the resolution will concentrate on regions and areas where specific needs are identified.

Some participants have concluded that subregional cooperation is the key, and sometimes the only way for addressing some problems, especially in the area of establishing of effective border controls, and shipment and trans-shipment controls. That is why this kind of interaction and cooperation should be strengthened. In some cases it would be useful to design assistance programs for whole subregions, which will be more effective and cost efficient than individual assistance.

In this context, we believe that regional and subregional outreach and assistance activities must be widened and intensified with a view to providing guidance to States for implementing all of their obligations under the resolution in a structured manner.

It will also be necessary to further the role of the 1540 Committee as a clearing house for assistance, in addition to any arrangements for assistance made bilaterally or with relevant international organizations.

The national plan of action is the best reflection of national ownership of UNSCR 1540 implementation.

Several participants underlined the importance of national plans of action for drawing concrete requests for assistance. I share their views and I am pleased that some countries, like the host country, already have this national action plan for implementation of UNSCR 1540.

The national plan of action is the best reflection of national ownership of UNSCR 1540 implementation. On the one hand, it is a useful tool to identify priorities and timelines for implementing the resolution. On the other hand, for coun-

tries providing assistance, this kind of a planning document could provide a good basis for evaluation of what form of assistance might be most effective and useful.

In conclusion, I would like to underline that reporting is an essential step towards the implementation of UNSCR 1540 and an important tool of States' communication with the 1540 Committee on measures they have already taken or are planning to take to implement the provisions of the resolution.

In this regard I would like to encourage all States that have not yet done so, to send their reports to the Committee, or at least communicate the difficulties that they might have in preparing their first report.

Last but not least, I want to stress the importance of further outreach activities organized as subregional seminars or thematic workshops as a follow-up to the Ghana seminar, to be organized in Africa on a subregional basis in order to complete the reporting process and also facilitate a focused discussion on national priorities, identify implementation gaps, share experience and lessons learned, and develop road maps or action plans to achieve full implementation of UNSCR 1540.

Only a comprehensive and systematic approach to the implementation of UNSCR 1540 can secure adequate protection against and prevention of a threat of proliferation of WMDs. That is why I was pleased to hear that many countries have already established inter-departmental working groups for better coordination of implementation on a national level. It might be also useful to establish points of contact for more effective communication with the 1540 Committee.

Once again I would like to thank the organizers for a superb job in preparing this workshop, and for creating a

working atmosphere conducive to generating many useful ideas and suggestions on how to move forward the process of implementing UNSCR 1540 in Africa.

* * *

CONCLUDING REMARKS

*Nobuaki Tanaka**

Abstract

UNSCR 1540 works in conjunction with the curbing of SALW, both of which require mutual efforts and alliance throughout the region. DDA stands ready to assist Africa with follow-up activities on the country and regional levels, and to work with the 1540 Committee in procuring the support necessary for the successful implementation of the resolution.

This seminar has provided an excellent forum for developing and facilitating dialogue amongst African participants as well as with the 1540 Committee, donor States and international and regional organizations.

First in the region, this seminar has been both a rewarding and productive exercise. It has enabled participants, particularly those from Africa, to share experiences and chart a way forward towards effectively implementing the obligations under UN Security Council resolution (UNSCR) 1540.

This is a joint effort and can only be achieved through cooperation and collaboration.

As highlighted by many participants, this seminar has shown the need, and thus laid the groundwork for further follow-up activities at subregional and national levels.

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It has clearly demonstrated the importance of focusing on the gaps between the reality on the ground, the steps that have been undertaken so far and the requirements set out in the resolution. Closing the gaps and fully implementing the resolution will be a long-term effort.

This exercise also highlighted the need for these efforts to take into account national and subregional characteristics.

Beginning in 2007, through its Regional Centre for Peace and Disarmament in Africa, the Department of Disarmament Affairs (DDA) intends to organize follow-up subregional workshops on specific challenging issues that concern African subregions.

As highlighted during the discussions, the efforts in implementing UNSCR 1540 clearly complement those of curbing the small arms and light weapons (SALW) problem, as relating to aspects of border control, for instance.

DDA will continue to work with the 1540 Committee to ensure that outreach, awareness-raising and assistance to States in this region receive the required attention.

We appeal to States in a position to do so, to offer technical assistance to those States that have expressed the need.

We also encourage States to be proactive in making their specific assistance needs known to the 1540 Committee and to donors.

And finally, we offer our appreciation to the African participants, other States and the international organizations (OPCW, IAEA, CTBTO, WCO) that have come to share their experiences and exchange information to enhance the effective implementation of UNSCR1540 in Africa.

I thank the Government of Ghana.

* * *

CONCLUDING REMARKS BY THE CHAIRMAN OF THE SEMINAR

*J.H. Ephraim**

Abstract

Every effort should be made to meet the reporting obligations under UNSC resolution 1540. African States are encouraged to indicate where assistance may be needed, and to utilize the 1540 Committee as a clearing-house to match their requests with the resources being offered by other States. Additional outreach activities must be organized on a subregional level in Africa to further advance resolution implementation.

The discussions of the past few days have confirmed the importance of this first seminar, dedicated to the implementation of United Nations Security Council resolution (UNSCR) 1540 in the African region. In response to the opening statements and presentations by experts, international organizations, States and representatives of African subregional organizations, we have been able to exchange views on implementing the obligations and requirements of the resolution. From

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the discussions, the Chair may draw the following conclusions.

The Participants acknowledged their awareness of the risk of proliferation of weapons of mass destruction (WMD) and their means of delivery and related materials, and that no state is safe from this danger as non-state actors might seek to exploit the territory of any State, including those in Africa.

The Participants recognized that the essential step towards the implementation of UNSCR 1540 was for all States, including African States, to submit a national report on what measures they have already taken or are planning to take to implement the provisions of the resolution. As most States that have not yet submitted a first report to the 1540 Committee are from Africa, every effort should be made to meet this requirement without further delay. For this purpose, all non-reporting States were encouraged to check and amplify the legislative data that has been sent to them by the 1540 Committee for use in their first reports.

The Participants encouraged all African States to indicate in their reports what assistance they would need to implement the requirements of UNSCR 1540 — legislative assistance, technical assistance relating to accounting for, securing and protecting radioactive materials, and hazardous chemical and biological agents, assistance for improvement of border control, import/export regulations, control lists, licensing and law enforcement.

The Participants also encouraged States to utilize the 1540 Committee as a clearing-house in matching requests for assistance with offers by other States, in addition to any arrangements they have made bilaterally or with relevant international organizations.

Finally, it was also recognized that further outreach activities were important, in the form of subregional seminars

or thematic workshops to follow-up the Ghana seminar. These could be organized in Africa on a subregional basis in order to complete the reporting process, facilitate a focused discussion of national priorities, identify implementation gaps, share experience and lessons, and develop road maps or action plans to achieve full implementation of the resolution.

* * *

APPENDIX

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** On 1 April 2007, the Department for Disarmament
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