

Translated from Spanish

Permanent Mission of the Dominican Republic to the United Nations

Office for Security Council Affairs

MPRD-ONU-NY 003-2020

The Permanent Mission of the Dominican Republic to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to transmit the report on the peer review exercise conducted between the Dominican Republic and Panama in March and April 2019 respectively, with a view to sharing experiences and good practices in the implementation of resolution 1540 (2004).

The Permanent Mission of the Dominican Republic to the United Nations takes this opportunity to convey to the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) the renewed assurances of its highest consideration.

New York, 7 January 2020

His Excellency Dian Triansyah Djani

Chair of the Security Council Committee established pursuant to resolution 1540 (2004)

United Nations, New York

General report

Peer review exercise

Security Council resolution 1540 (2014)

Republic of Panama and Dominican Republic

I. Background

In 2004, the Security Council (hereinafter the Council) adopted resolution 1540 (2004), in which it affirmed that the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constituted a threat to international peace and security. As a result, States undertook to refrain from providing any form of support to non-State actors that might be linked to the proliferation of weapons of mass destruction and their means of delivery.

The Dominican Republic and the Republic of Panama, committed to peace, international security and disarmament and aware of the threat posed by the proliferation of weapons of mass destruction, prohibit in their domestic laws, in accordance with resolution 1540 (2004), the development, acquisition, manufacture, possession, transport, transfer or use of nuclear, chemical or biological weapons, as well as their means of delivery, by non-State actors, especially for terrorist purposes. Both States also recognize the importance, for strategic trade, of controlling dual-use substances and materials.

In resolutions 1977 (2011) and 2325 (2016), the Council encourages Member States to prepare, on a voluntary basis, national implementation action plans mapping out their national priorities for implementing the key provisions of resolution 1540 (2004). In that context, the Dominican Republic and the Republic of Panama presented their national reports and national action plans in 2015 and 2017, respectively.

In November 2017, under the Panamanian presidency of the Inter-American Committee against Terrorism of the Organization of American States (OAS/CICTE), it was suggested to the Dominican Republic and the Republic of Panama that a peer review exercise (hereinafter referred to as “the exercise”) be conducted on the national implementation of resolution 1540 (2004), which would be the first to be conducted within the framework of the Central American Integration System

and the second to be conducted in the Americas. The aim of the exercise would be to examine public policies and share the experiences and good practices of the two countries with respect to the commitments assumed under the resolution. The suggestion was welcomed by both States.

In December 2018, representatives from the Dominican Republic and Panama began a process of exploratory talks to conduct the exercise, agreeing that it would be conducted in January 2019. To that end, two notes were sent to inform and request technical assistance from the 1540 Committee and its Group of Experts, as well as the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC), both of which are United Nations entities, so that they could join OAS/CICTE, in the initiative. OAS/CICTE coordinated the cooperation efforts needed for that purpose.

The Dominican Republic was represented by its Ministry of Foreign Affairs, Ministry of Defence, Ministry of Energy and Mining, Ministry of Environment and Natural Resources, General Customs Administration, Emergency Operations Centre and National Energy Commission.

Panama was represented by its Ministry of Foreign Affairs, Ministry of Public Security, Ministry of Trade and Industry, National Security Council and National Customs Authority.

Experts from OAS/CICTE, the 1540 Committee and UNLIREC defined the framework of the event over the course of 12 weekly videoconferences and teleconferences, with the participation of representatives of the two parties.

Discussions were held in January, February and March 2019 between representatives of the Dominican Republic and the Republic of Panama, who established the general guidelines that were then set out in a document that was agreed upon by the parties.

They also established a road map with the time frame in which to achieve the following goals:

- A. **National and international legal framework:** review of current normative instruments.
- B. **Strategic trade:** review of risk alerts, internal controls on export and import of dual-use goods and sensitive materials, licences, permits, quotas, and control lists.
- C. **Safe transport:** comprehensive review of operational areas, internal controls of hazardous substances and sensitive materials (chemical, radiological and biological).
- D. **Risk management plans:** comprehensive review of operational areas and risk management

plans for incidents involving chemical, biological, radiological, nuclear and explosive (CBRNE) materials.

It was also agreed that two onsite visits would take place, from 26 to 29 March 2019 in the Dominican Republic, and from 9 to 12 April 2019 in the Republic of Panama.

The visits went smoothly, with both delegations expressing their satisfaction with the progress and efforts made by the national authorities in addressing the issues and meeting the commitments of the two countries to implement resolution 1540 (2004).

II. Results of the thematic areas

A. International and national legal framework

1. Progress achieved by the Republic of Panama

The Republic of Panama relies on a strong international regulatory framework comprising the main international instruments and multilateral initiatives that are directly or indirectly related to the subjects covered in the exercise.

The national legal framework of the Republic of Panama on the proliferation of weapons of mass destruction has its origin in two articles of its Constitution, which refer to the country's commitment to respecting the rules of international law, including resolution 1540 (2004), and establish that only the State may possess war materiel (understood in the broadest sense), requiring special permits for their manufacture and export. Moreover, as part of its legal development, the country has adopted a number of normative instruments at various levels related to the topics covered in the exercise.

The Panamanian legal system contains a variety of normative instruments, including laws, executive decrees, agreements, resolutions and internal procedures based on good practices. The normative instruments are embedded in different normative compendiums addressing areas related to strategic trade and safe transport, and include multiple legally independent authorities that regulate specific segments but that collaborate and interact with one another frequently with a view to using their regulatory frameworks to strengthen the Panamanian comprehensive protection system. The Republic of Panama also has criminal laws that criminalize conduct related to terrorism and its financing, as well as the development, production, stockpiling, transfer or non-destruction of bacteriological, biological, toxic and chemical weapons for terrorist purposes.

(a) Comments from the Dominican Republic

As an active member of the international community, the Republic of Panama has developed a domestic legal framework in fulfilment of its obligations under the legally and politically binding international treaties and conventions on the subject, which prohibit the proliferation and punish the possession, development or manufacture of weapons of mass destruction and their means of delivery by non-State actors, and strengthen control over the trade, transport and protection of dual-use materials. Both the Republic of Panama and the Dominican Republic extend this prohibition to the States themselves, prohibiting any activity related to weapons of mass destruction and their means of delivery.

This all-encompassing legal framework is rooted in the Constitution, and covers the establishment of the necessary measures to ensure effective protection of CBRNE substances during their trade, transfer, protection, storage and stocktaking, as well as any actions aimed at preventing State actors from providing financial support.

One of the main strengths of the legal framework of Panama is it provides for administrative and criminal penalties for the conduct of any activity related to weapons of mass destruction and their means of delivery, as set out in Executive Decree No. 81 of 25 May 2017 and in the criminalization of proliferation-related conduct in the Criminal Code of Panama.

2. Progress achieved by the Dominican Republic

Resolution 1540 (2004) and related resolutions and international conventions give rise to important commitments for States parties, most notably those relating to prohibitions in domestic normative instruments aimed at establishing appropriate and effective measures to prevent and punish the proliferation of weapons of mass destruction and their means of delivery, as well as strengthening controls on dual-use materials.

The Dominican Republic is a signatory to and a member of the main international instruments that contribute to the non-proliferation of those weapons and to the control of their means of delivery, and draws attention to and establishes preventive measures for dual-use substances and goods.

As a Latin American country, the Dominican Republic is a peaceful State that is committed to a total ban on nuclear weapons, as established in the Treaty of Tlatelolco, and extends this ban to all weapons of mass destruction, as mandated by its Constitution.

In addition to having national a domestic normative instruments on the subject, the Dominican Republic has been working to strengthen its legal framework by focusing on the main issues set out in paragraphs 2 and 3 of resolution 1540 (2004). These include the following:

- Strengthening of normative instruments on border and customs control and internal security.
- Establishing criminal penalties for terrorism involving the use of weapons of mass destruction (chemical, biological or radioactive), linking their use to the terrorist purpose implicit in the type of wrongdoing referred to in article 7 of Act No. 267-08, on terrorism.
- Criminalizing certain types of conduct related to nuclear proliferation, regardless of their terrorist purpose and even though such a purpose may exist, as separate offences under articles 13 and 14 of Act No. 267-08.
- Securing and controlling the production, use, stocktaking, storage and transport of dual-use materials.
- Providing training on resolution 1540 (2004) for members of the judiciary and the Office of the Public Prosecutor, for the purpose of implementing the recommendations of the International Financial Action Task Force and good practices established by the Financial Action Task Force of Latin America (GAFILAT) to prevent proliferation financing.
- Submitting to Congress for approval the bill directly sanctioning all acts relating to the proliferation of weapons of mass destruction. The bill, once enacted into law, will position the Dominican Republic as the first country in the Central American Integration System and one of the few in the hemisphere to have a specific rule with the status of law that establishes penalties for the proliferation of weapons of mass destruction.

(a) Comments from the Republic of Panama

The good atmosphere and coordination between the representatives of the various Dominican institutions involved in efforts to implement resolution 1540 (2004) was evident over the course of the exercise and during the visit to the Dominican Republic.

The leadership exercised in terms of overall coordination by the Dominican Republic national point of contact enables efforts to be channelled and a defined strategy to be implemented through

regular meetings in which short- and medium-term goals are established. This is without prejudice to the fact that the work of the national point of contact is carried out with due respect for the jurisdiction, independence and administrative competence of each institution.

The efforts made by Dominican Republic entities in implementing their mandates are evident. The highest government officials, such as the Minister for Foreign Affairs, the Minister of Defence and the heads of national authorities involved in the issue, are aware of and support the tasks of the working groups within their respective purviews. This is despite the budgetary and personnel limitations and the shortage of robust legislation and political support for the adoption of national normative instruments that allow for the full implementation of the mandates, which is experienced in many Latin American States that do not produce or manufacture weapons. This is a result of the poor understanding of State responsibilities by business sectors and legislative and/or government entities in general concerning the need to establish clear policies on the issues addressed in resolution 1540.

Panama believes that the determination of the people of the Dominican Republic to overcome existing adversities will allow them to achieve the short-term structural and legislative objectives in the very short term, as well as the implementation objectives in the medium term. It also recognizes that the work of its national point of contact should serve as a model for other countries and be promoted by the 1540 Committee as a good practice for establishing clear, efficient, structured and logical policies for the fulfilment of the commitments to implement resolution 1540 (2004).

B. Strategic trade

1. Progress achieved by the Republic of Panama

The Republic of Panama, through Executive Decree No. 81 of 25 May 2017, has instituted two oversight bodies: the National Council of Trade and Safe Transportation and the Technical Committee of Trade and Safe Transportation. It has also created the National System for the Registration of Economic Agents and the Tracking and Inventory of Dual-Use Goods.
