

UN Security Council Resolution 1540: achievements and challenges

By
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Abstract

The possibility of a nexus between terrorism and nuclear weapons are today's greatest security concern. On 28 April 2004, UN Security Council unanimously adopted resolution 1540 to deny access of WMD to the non-State actors. It requires states to criminalise proliferation of WMD and their means of delivery by non-State actors, enact and enforce effective export controls and secure proliferation-sensitive equipment. The opinion over its enforcement authority is divided. With its adoption, the Security Council entered into a legislative phase. The binding nature of the resolution contributed to its universal acceptance and led the states to either introduce or transform their domestic laws for implementing the resolution. Its major achievement is that the non-State actors have so far failed to gain access to WMD. The political, structural and technical challenges to its implementation are significant. While the possibility of WMD proliferation by non-State actors has reduced, interstate proliferation continues in violation of international law and domestic norms of the proliferators. Since the U.S. spearheaded resolution 1540 (2004), the onus of addressing the challenges to its implementation falls on its shoulders

more than any other state.

Key Words: Resolution 1540 – non-State actors – WMD terrorism – nonproliferation – Neo-Nuclear apartheid

Disclaimer: The views expressed in this monograph do not reflect Government of Pakistan's position on the subject and are author's academic judgement.

RESOLUTION 1540: AN OVERVIEW

Challenge of the governments around the world is to keep fissile materials just as secure as treasures in the Kremlin Armoury and gold in Fort Knox.

--Graham Allison (2005)¹

In his address to the UN General Assembly of September 23, 2003, U.S. President Bush proposed a Security Council anti-proliferation resolution against the threat of weapons of mass destruction (WMD) by outlaw regimes and non-State actors.² The terrorism-nuclear weapons nexus is the greatest security concern of the day. Terrorist organisations continue to seek WMD and the possibility of their possession

1. Allison's original words have been rephrased above while retaining the intended sense. Quoted by Siegfried S. Hecker, "Toward a Comprehensive Safeguards System: Keeping Fissile Materials out of Terrorists' Hands," *Annals of the American Academy of Political and Social Science*, Vol. 607, *Confronting the Specter of Nuclear Terrorism* (Sep., 2006), 122. Available online at <http://www.jstor.org/stable/25097843> accessed on 12 December 2010.
2. White House, "President Bush Addresses United Nations General Assembly," UN, New York, September 23, 2003. Available online at <http://georgewbush-whitehouse.archives.gov/news/releases/2003/09/20030923-4.html> accessed on 9 December 2010.

in terrorists' hands is considered the foremost threat to the peace and security of the world.³ On April 28, 2004, the UN Security Council unanimously adopted resolution 1540 (2004), under Chapter VII of UN's Charter in order to deny the non-State actors access to WMD. Resolution 1540 (2004) was the outcome of U.S. and U.K.'s lobbying in the wake of 9/11⁴ and partly in response to the revelations about A. Q. Khan's nuclear procurement network.⁵ The resolution is unique as it declares WMD proliferation per se to be a threat to international peace and security, and establishes universal generic nonproliferation obligations.

Resolution 1540 (2004) is one of the seven U.S. initiatives to strengthen the nonproliferation regime that operate outside the framework of the Nonproliferation Treaty (NPT) and the two disarmament treaties—the Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BTWC). It requires states to criminalise proliferation of WMD and their means of delivery by non-State actors, enact and enforce effective export controls and secure proliferation-sensitive equipment. This is an essential step in reducing the dangers of illicit proliferation networks

and of terrorist efforts to acquire WMD.⁶ It not only seeks to plug the loopholes in the arms control and disarmament treaties of WMD but also in exports control cartels and other nonproliferation multilateral arrangements.⁷

The resolution obliges states to refrain from supporting by any means non-State actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, biological and chemical (NBC) weapons and their delivery means by establishing appropriate controls over related materials.⁸ It also encourages enhanced international cooperation in anti-proliferation efforts, in accord with and promoting universal adherence to existing international nonproliferation treaties.

Resolution 1540 (2004) also established a Security Council Committee—the 1540 Committee—and summons all states to report to the Committee on the measures they take or intend to take to implement the resolution. On 27 April 2006, the Security Council extended the mandate of 1540 Committee for a further two years with the adoption of resolution 1673. Resolution 1673 (2006) reiterated the objectives of resolution

3. On 31 January 1992, UN Security Council's meeting at the level of the Heads of State and Government concluded that the proliferation of WMD constitutes a threat to international peace and security and its members committed themselves to working to prevent the spread of technology related to the research for or production of such weapons and to take appropriate actions to that end. Refer to p.4 of the document S/23500. Available online at http://www.francetnp2010.fr/IMG/pdf/Declaration_CSNU_1992.pdf accessed on December 12, 2010.

4. Andrew C. Winner, "The Proliferation Security Initiative: The New Face of Interdiction," *Washington Quarterly* 28, No. 2 (2005): 129-143.

5. Fact Sheet, Bureau of International Security and Nonproliferation, "Security Council Resolution (UNSCR) 1540: Providing Assistance, December 9, 2010. Available online at <http://www.state.gov/t/isn/rls/fs/152631.htm> accessed on December 11, 2010.

6. "U.S. Concerns about Declining Effectiveness of Nonproliferation Regime," *The American Journal of Law*, Vol. 99, No. 4 (Oct., 2005), 918. Available online at <http://www.jstor.org/stable/3396693> accessed on December 12, 2010.

7. The exports control cartels include Missile Technology Control Regime (MTCR), the Wassenaar Arrangement (WA), the Australia Group (AG), and the Nuclear Suppliers Group (NSG). Nonproliferation multilateral arrangements include the Proliferation Security Initiative (PSI), the G8 Global Partnership, and the Global Initiative to Combat Nuclear Terrorism.

8. UN Security Council Resolution 1540 (2004), Article 3, available at www.un.org/Docs/sc/unsc_resolution04.html

1540 (2004); expressed the interest of the Security Council in intensifying its objectives and efforts to promote full implementation of the resolution; and obliged the 1540 Committee to report again in April 2008.

On 25 April 2008, the Security Council adopted resolution 1810 and extended the mandate of the 1540 Committee for a period of three years until 25 April 2011. Reaffirming the objectives of resolution 1540 (2004) and resolution 1673 (2006), the Security Council urged the 1540 Committee to continue strengthening its role in facilitating technical assistance by engaging actively in matching offers and requests for assistance. Hence, it also confirmed the Committee's clearinghouse function. Through resolution 1810 (2008), the Security Council also requested the 1540 Committee to consider a comprehensive review of the status of implementation of resolution 1540. The 1540 Committee decided to hold an open meeting with broad participation which will form part of this comprehensive review. The open meeting was held between 30 September and 2 October 2009. The 1540 Committee released its first report to the UN Security Council on implementation of the resolution in April 2006; the second one was presented in July 2008 and the third report is expected by 24 April 2011.⁹

The major criticism over tabling and adoption of the resolution 1540 (2004) was that it gave legislative powers to

the UN Security Council. The Security Council is dominated by P5 and is not a fully representative body. Pakistan had three major concerns over the resolution.¹⁰ First, the desirability of giving the Security Council Member states the right to assume the role of prescribing legislative action. Two, it questioned the viability of introducing resolution 1540 (2004) once the existing conventions prescribe most of the legislation on proliferation by both State and non-State actors. Third, if the existing regimes could be improved it was inappropriate to entrust UN Security Council the authority for oversight over nonproliferation and disarmament. Nevertheless, the resolution was adopted because the U.S. successfully managed to garner enough support and that Pakistan managed few amendments in text of the resolution before it was finalised.¹¹

The U.S. and like minded states support indefinite extension of the mandate of the resolution 1540 (2004). It is a crucial instrument that adds another layer of measures to the international counterterrorism regime by binding every UN member State to criminalise proliferation of WMD to non-State actors through its national legislation and establish effective domestic controls to prevent proliferation.¹² It, however, does not raise similar stakes for the states that cooperate in transfer of nuclear technology outside the scope of NPT. The opinion over resolution's enforcement authority is divided. To some, the resolution 1540 (2004) raises the possibility for the international

9. Complete text available at <http://www.un.org/sc/1540/>

10. American Society of International Law, "UN Security Council on Nonproliferation of WMD," *The American Journal of International Law*, Vol. 98, No. 3 (Jul., 2004), 606-608. Author?

11. Pakistan negotiated the inclusion of word 'henceforth' the last preliminary paragraph of the resolution. Explain this

12. Ambassador Rosemary A. DiCarlo, U.S. Deputy Permanent Representative to the UN, gave these remarks at an Open Security Council Debate on the UN's Counterterrorism Committees on November 15, 2010. Available online at <http://usun.state.gov/briefing/statements/2010/150906.htm> accessed on 10 December 2010. Also refer to the Fact Sheet, Bureau of International Security and Nonproliferation, "Security Council Resolution (UNSCR) 1540: Providing Assistance, December 9, 2010. Available online at <http://www.state.gov/t/isn/rls/fs/152631.htm> accessed on December 11, 2010.

community, through the Security Council, to penalise the states that fail to abide by the resolution's terms.¹³ To others it does not provide any enforcement authority, nor does it specifically mention interdiction.¹⁴ A close scrutiny of the text of resolution reveals that the resolution 1540 (2004) does not specify any punitive action against a state, which implies that for a legal action the Security Council will have to pass a separate resolution.

ACCOMPLISHMENTS OF RESOLUTION 1540

UN Security Council resolution 1540 (2004) – and resolutions like 1267, 1373 and 1566 – have considerably enhanced UN's role in countering WMD terrorism.¹⁵ With the introduction of resolutions 1373 in 2001 and 1540 in 2004, the Security Council entered into a legislative phase.¹⁶ The obligations imposed in these resolutions – and the follow up resolutions of 1540 – would be more akin to obligations entered into by states in international agreements.¹⁷ In the opening debate of resolution 1540 (2004) on April 22, 2004, there existed a sense of urgency to deal with the challenge non-State actors posed to the peace and security

of the world and to the nonproliferation regime. The sentiment was captured by the president of the Council, who stated with regard to resolution 1540 (2004):¹⁸

...there was a gap in international law pertaining to non-State actors. So, either new international law should be created, either waiting for customary international law to develop, or by negotiating a treaty or convention. Both took a long time, and everyone felt that there was an "imminent threat", which had to be addressed and which could not wait for the usual way.

Before April 2004, the nonproliferation regime was based on many partly overlapping treaties and informal-consensus based regimes that lacked universal mandatory obligations and their export controls were binding for only the states party to these.¹⁹ Resolution 1540 (2004) differs from these nonproliferation arrangements as it seeks to plug that gap. While it has initiated a system of effective domestic controls for the key states that are prone to proliferation of WMD,²⁰ it has introduced a propensity to contravene existing provisions of international law.

13. Wade Boese, "Implications of UN Security Council Resolution 1540," a presentation to the Institute of Nuclear Materials Management panel discussion on March 15, 2005. Available at Arms Control Association website <http://www.armscontrol.org/print/138> accessed on December 10, 2010.
14. Mary B. Nikitin, Paul K. Kerr and Steven A. Hildreth, "Proliferation Control Regimes: Background and Status," Congressional Research Service Report 7-5700, October 18, 2010, 15.
15. Gijs de Vries, "The European Union's Role in the Fight against Terrorism: [Opening Address – The role of the EU in the Fight against Terrorism]," *Irish Studies in International Affairs*, Vol. 16 (2005), 5. Available online at <http://www.jstor.org/stable/30001931> accessed on December 11, 2010.
16. Stefan Talmon, "The Security Council as World Legislature," *The American Journal of International Law*, Vol. 99, No. 1 (Jan., 2005), 175. Available online at <http://www.jstor.org/stable/324609/> accessed on December 12, 2010.
17. Stefan Talmon, 181.
18. President Security Council made this statement during a press conference. Text of his statement is available online at <http://www.un.org/News/briefings/docs/2004/pleugerpc.DOC.html> accessed on December 9, 2010. Also see Stefan Talmon, 184.
19. These nonproliferation treaties and regimes include CPPNM, CWC, NSG, the Zangger Committee and the Australia Group. Similarly, the MTCR has established guidelines for the export of unmanned WMD delivery systems.
20. Peter Crail, "Implementing UN Security Council Resolution 1540: A Risk-Based Approach," *Nonproliferation Review* 13, No. 2 (2006), 355-399.

For instance, the resolution [lays] a legal foundation to the U.S.-led PSI to interdict suspicious shipments and thus raise the difficulty level for the non-State actors to obtain and transfer WMD.²¹ This provision violates Article 27 of the UN Convention on the Law of the Sea that entered in to force in 1994.²² The notion used to support this provision contends that the resolutions has raised the probability of detection of proliferation networks and reduce the incentives for the vendors who could in past peddle WMD-related technologies and materials using lax domestic and international oversight mechanism. Additionally, supporters contend that it will facilitate netting of and dismantling the proliferation networks and introduce the risks of facing penalties for the states that collaborate with such networks.

In a bid to strengthen the nonproliferation regime, the resolution 1540 (2004) lays ground for adoption of universal mandatory minimum standards for domestic controls,²³ creation of a norm for states to report export and import of WMD-related materials and means of delivery,²⁴ and it may ultimately lead to making nuclear proliferation an international offence.²⁵ If effectively implemented, resolution 1540 (2004) can make proliferation of WMD

by non-State actors more difficult and less attractive, facilitate the dismantlement of proliferation networks, and create momentum to strengthen other aspects of the nonproliferation regime.²⁶ That said, actual effectiveness of resolution 1540 (2004) rests on the “if effectively implemented” clause.

Since the adoption of this resolution, countries around the world have crafted national legislations to make it harder for the criminals and non-State actors to acquire WMD-related material. For instance, G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction includes activities that count towards resolution 1540 objectives. Due to the resolution 1540, effective nonproliferation cooperation has been embedded in over two dozen regional and intergovernmental organisations. EU, the OSCE, NATO, the OAS, the Caribbean Community, the ASEAN Regional Forum, and others are undertaking important work for the implementation of the resolution. With 1540 Committee’s help and through multilateral funding mechanisms, countries have improved their export control regimes to limit the spread of the WMD-related material.²⁷ The 1540 Committee’s activities over the last six years are a landmark effort

21. Andrew C. Winner, “The Proliferation Security Initiative: The New Face of Interdiction,” *Washington Quarterly* 28, No. 2 (2005): 129-143.
22. Refer to Article 27, UN Convention of the Law of the Sea, 33. Available online at http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf accessed on 24 Dec. 2010.
23. Scott Jones, “Resolution 1540: Universalising Export control Standards?” *Arms Control Today* 36, No. 4, 2006, 18-22; Mathew Bunn and Anthony Wier, “Securing the Bomb 2006,” Project on Managing the Atom, Cambridge, MA: Belfer Center for Science and International Affairs, John F. Kennedy School of Government, Harvard University, July 2006, 26.
24. David Blackford, “Multilateral Nuclear Export Controls After the A. Q. Khan Network,” *Institute for Science and International Security (ISIS)*, August 2, 2005. Available online at <http://www.isis-online.org/publications/expcontrol/multilateralexportcontrols.pdf> accessed December 9, 2010.
25. George Perkovich, “Democratic Bomb: Failed Strategy,” Policy Brief 49, Washington D.C.: Carnegie Endowment for International Peace, November 2006.
26. Monika Heupel, “Implementing UN Security Council Resolution 1540: A Division of Labor Strategy,” *Carnegie Papers* No. 87, June 2007, 1.
27. Ambassador Alejandro Wolff, U.S. Deputy Permanent Representative to the UN, during the Comprehensive Review 1540 on September 30, 2009. Available online at <http://usun.state.gov/briefing/statements/2009/september/130100.htm> accessed on 11 December 2010.

to gain strong political support for the broad obligations created by this resolution.²⁸

IMPLEMENTATION OF RESOLUTION 1540

The binding nature of resolution 1540 (2004) has compelled the states to either conform their existing laws to meet the resolution's provisions or introduce new legislations. In adopting the resolution 1810 (2008), the UN Security Council reaffirmed its commitment to resolution 1540 (2004) and called upon the left over states to submit their reports on progress made in implementation of resolution 1540 (2004). It also called the states to intensify their efforts to promote full implementation through outreach, dialogue, assistance and cooperation. The following account of implementation of resolution 1540 (2004) only includes the 1540 Committee, nuclear weapon powers and some of the states whose non-State actors were reportedly linked to WMD proliferation network. It is interesting to note that by December 2010, the 1540 Committee website lists only 164 states that have submitted their national implementation reports.²⁹

There are two polarised perspectives on the approach that has been taken to deal with the proliferation of WMD by non-State actors. For instance, one

standpoint on Khan Network holds that it did not operate in vacuum. While Pakistan has taken measures to deal with the network, other states whose individuals and companies were linked to the Khan Network received only a slap on the wrist for their involvement. The second (western) perspective has several arguments to explain the anomalous laxity to deal with the rest of the network. Some individuals, like the Swiss Tinnars family, were exonerated and even paid in return for their cooperation with CIA in unearthing the network.³⁰ Though western suppliers were part of the network – it is contended – A.Q. Khan was the only scientist and member of the network who was heading a nuclear facility and was using his official position to export whole centrifuges, CDs of their designs, parts, and drawings etc.³¹ Likewise, while other members of the network exploited loose export controls in Europe and elsewhere, Khan violated Pakistan's Official Secrets Act and several export related statutory regulatory ordinances³² by engaging in unauthorised export of centrifuge-related equipment, technology and materials. Though the western companies sold instruments and parts that are of dual use, Khan illegally exported whole centrifuges and their complete designs etc. to Iran, Libya and North Korea.³³

The biggest drawback of the

28. Ambassador Rosemary A. DiCarlo, U.S. Deputy Permanent Representative to the UN, gave these remarks at an Open Security Council Debate on the UN's Counterterrorism Committees on November 15, 2010. Available online at <http://usun.state.gov/briefing/statements/2010/150906.htm> accessed on 10 December 2010.

29. Statistics are available on nti.org and 1540 Committee websites. Available online at <http://www.nti.org/db/1540/> and <http://www.un.org/sc/1540/nationalreports.shtml> accessed on 2 February 2011.

30. The case of Tinnars shows that they have not been prosecuted to date for their involvement with Khan's network. See David Albright and Paul Brannan, "CIA recruitment of the three Tinnars: A preliminary assessment," ISIS Report, 21 December 2010, 6 and 11.

31. Zahid Hussain, "Frontline Pakistan: The struggle with militant Islam," Columbia University Press, 2008, 156.

32. Shi-chin Lin, "The AQ Khan revelations and subsequent changes to Pakistani export controls," James Martin CNS, Monterey Institute of International Studies, October 2004. Available online at http://www.nti.org/e_research/e3_54a.html accessed 30 December 2010.

33. Robert I. Rotberg, "Corruption, global security and world order," Brookings Institution Press, 2009, 127.

resolution 1540 is the ‘inability’ of its sponsors in not introducing similar binding restrictions on illegal inter-state cooperation in nuclear technology and related materials as it does in the case of non-State actors. David Albright posits that some governments and business have too frequently overlooked or downplayed [illicit trade] pathways to the nuclear bomb.³⁴ Likewise, governments have also overlooked the universal laws on proliferation of nuclear technology to other states. In transferring technology and materials to states that are not party to the NPT they flout their Articles III, IV and V obligations. The latest example of such violation is that of India’s civil nuclear cooperation with P5 members other than China. Pakistan – China civil nuclear cooperation comes under similar criticism.³⁵ There, however, is a major difference in legality and nature of both. China acceded to the NPT in 1992³⁶ and joined NSG in 2004³⁷—long after it had entered a comprehensive civil nuclear cooperation agreement with Pakistan on 15 September 1986.³⁸ Under this agreement both parties entered separate agreements for nuclear power reactors in Pakistan under IAEA safeguards.³⁹ Since this agreement predates China’s accession to NPT and joining of NSG, it is legally binding for Beijing. The other difference

with Indo – U.S. nuclear deal is in the scope and nature of the agreement. While Pakistan is bound to return spent fuel to China, India is permitted to re-process the fuel for all its existing and future power reactors.⁴⁰

P5 minus 1 have entered civil nuclear energy agreements with India in clear violation of non-proliferation regime norms and their domestic laws. Trade and politico-economic imperatives override their legal obligations thus making the NPT almost defunct. Such exceptionalism and the propensities of extending illegal privileges that are otherwise meant only for the states party to the treaty have created Neo-nuclear apartheid.⁴¹

1540 Committee Report 2008

On July 30, 2008, the Security Council distributed the 71-page report by the Chairman of 1540 Committee. According to that report, the committee assisted the Security Council since April 2004 in monitoring the implementation of the resolution through examination of relevant measures taken by all states members of the UN, the organisation of intensive outreach activities in the development of deeper and mutually beneficial cooperation with other Security

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34. David Albright, “Peddling Peril: How the secret nuclear trade arms America’s enemies,” Free Press, 2010, 9.
 35. “China says Pakistan nuclear deal peaceful,” BBC News South Asia. Available online at <http://www.bbc.co.uk/news/10340642> accessed on 31 December 2010.
 36. Haralambos Athanasopoulos, “Nuclear disarmament in international law,” McFarland, 2000, 135.
 37. Evan E. Medeiros, “Reluctant restraint: the evolution of China’s nonproliferation policies and practices, 1980-2004,” Stanford University Press, 2007, 2.
 38. Eur, “Far East and Australasia 2003,” Routledge, 2002, 1188.
 39. Kenneth N. Luongo and Brig. Gen. (Ret.) Naeem Salik, “Building Confidence in Pakistan’s Nuclear Security,” Arms Control Today, December 2007. Available online at <http://www.armscontrol.org/print/2661> accessed on 1 January 2011.
 40. Cole J. Harvey, “The U.S.-India Reprocessing Agreement and its Implications,” Monterey Institute for International Studies, May 5, 2010. Available online at http://www.nti.org/e_research/e3_us_india_reprocessing.html accessed on 1 January 2011.
 41. Zahir Kazmi, “Neo-nuclear apartheid,” Dawn, 31 December 2010. Available online at <http://www.dawn.com/2010/12/31/neo-nuclear-apartheid.html> accessed on 12 January 2011.

Council counter-terrorism bodies as well as with global, regional, and sub-regional intergovernmental organisations, the creation of new tools to facilitate assistance and transparency, and the enhancement of its dialogue with individual states. These activities substantially raised the awareness of the international community concerning the dangers associated with the potential nexus between the proliferation of WMD, their means of delivery and related materials, and non-State actors.

The report identified the specific measures that states put in place to implement resolution 1540. The states' measures include developing new institutional means to incorporate the obligations of resolution 1540 in national practices, adopting new legislation and enforcement measures, executing new policies and creating new assistance programs directed towards implementation of the resolution. With the help of reports submitted by the states, the Committee has been able to develop a complete picture and raise the overall effectiveness of the resolution 1540. The Chairman of the Committee recognised that full implementation of the resolution 1540 will take time. Implementation will not be successful without vigilance and innovation to maintain effective policies. A long-term commitment by the states to the objectives of the resolution and nurturing a sense of urgency will make resolution 1540 successful.⁴²

1540 Committee's Program of

Work till January 2011

The Chairman of 1540 Committee, on 26 February 2010, issued ninth program of work of the committee till January 2011 in pursuance of resolutions 1540 (2004), 1673 (2006) and 1810 (2008).⁴³ According to the resolution 1810, the 1540 Committee will submit its next report by April 24, 2011 and the program of work was issued to achieve that end. According to that program of work the committee has focused on following areas of work. One, follow up on the comprehensive review of the status of implementation of resolution 1540 (2004) and examining the information in this regard. Two, promote implementation of resolution 1540 (2004) through outreach, dialogue, assistance and cooperation. Three, enhance existing cooperation between the committee and other international organisation, including the Security Council committees established pursuant to resolutions 1267 (1999) and 1373 (2001), respectively. Finally, the committee will encourage and take full advantage of voluntary financial contributions to assist states in identifying and addressing their needs for the implementation of resolution 1540 (2004) and making more effective existing funding mechanisms.

China

China has transmitted two reports on the efforts it has made till September 2005 to implement resolution 1540. Beijing did not HCOC since its suggestions were

42. Chairman 1540 Committee report no. S/2008/493 to the President of the Security Council on 8 July 2008, 1-2. Available online at <http://www.securitycouncilreport.org/atf/cf/%7B65BF9F9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Disarm%20S2008493.pdf> accessed on 12 December 2010. His predecessor, Peter Burian, had submitted report no. S/2006/257 on 25 April 2006. Text is available online at <http://www.securitycouncilreport.org/atf/cf/%7B65BF9F9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Disarm%20S2008493.pdf>

43. Claude Heller's letter no. S/2010/112, addressed to the President of the UN Security Council regarding the program of work. Available online at <http://www.securitycouncilreport.org/atf/cf/%7B65BF9F9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Terrorism%20S%202010%20112.pdf> accessed on December 10, 2010.

not incorporated. Beijing is, however, a party to intergovernmental agreements with 18 countries on the peaceful use of nuclear energy. It has enhanced its legal framework and tightened export control laws to preclude the possibilities of proliferation of NBC weapons and their delivery means. China offered to provide assistance to countries for implementation of resolution 1540 and larger nonproliferation regime.⁴⁴

France

To check proliferation of biological weapons, the French Health Products Safety Agency issued a public health code in July 2004 that binds the offices of mayor and police commissioners throughout France to maintain a complete record all biological substances.⁴⁵ In 2004, France repealed its earlier laws of 1998 on the application of CWC and instead promulgated an all-encompassing Defence Code to implement the provisions of the resolution 1540. Likewise, France repealed its laws of 1980 in nuclear domain to make provisions for resolution 1540 and incorporated these in the Defence Code. The legislation also set up a two-layered inspection system to prevent the theft or misappropriation of nuclear materials and introduced imprisonment and fine on violators. Paris had also introduced provisions related

to security and physical protection of nuclear materials, related technologies and their means of delivery.

Germany

Germany's report on the implantation of resolution 1540 (2004) gives an undertaking that it does not provide 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.⁴⁶ Germany reported that it has relevant laws and regulations in place and that it implements these for effective domestic control and penalising the violators.⁴⁷ Referring to 1989 incident of a German manufacturer's transfer of sensitive material to a chemical weapons factory in Libya, Germany reiterated that it has enhanced its exports control laws and introduced more stringent punishments.⁴⁸ Germany pledged up to 1.5 billion US dollars till 2012 for assisting partner countries in dismantlement, export control and non-proliferation of WMD.⁴⁹ Germany is an active member of PSI. In October 2003 it interdicted and recovered components of a centrifuge in five containers aboard a German vessel BBC China that was flying the flag of Antigua.⁵⁰

44. See Chinese Ambassador to UN, Wang Guangya's letter S/AC.44/2004/(02)/4/Add.1 dated 2 September 2005 to 1540 Committee. Available online at http://www.nti.org/db/1540/pdfs/1540_china_add1_20050902.pdf accessed on December 11, 2010, 1-9. The first report (S/AC.44/2004/(02)4) was transmitted to the UN Security Council on 4 October 2004, available online at http://www.nuclearthreatinitiative.org/db/1540/pdfs/1540_china_20041004.pdf

45. See French Ambassador to UN, Michel Duclos' letter no. S/AC.44/2004/(02)/58/Add.1 dated 25 August 2005 to 1540 Committee, distributed on 6 September 2005. Available online at http://www.nti.org/db/1540/pdfs/1540_france_add1_20050825.pdf accessed on December 10, 2010.

46. Germany's report No. S/AC.44/2004/(02)/20 of 26 October 2004 is available online at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/589/41/PDF/N0458941.pdf?OpenElement> accessed on 7 February 2011.

47. Ibid.

48. Paragraph 8, 5. Paragraph 14, 6.

49. Paragraph 54, page 15.

50. Paragraph 78. Page 21

India

India has submitted two reports to the 1540 Committee and a clarification in response to queries raised by the Committee on Indian report of January 2006.⁵¹ In the last report, India transmitted additional information and clarifications. India enacted WMD and Their Delivery Systems (Prohibitions of unlawful Activities) Act in 2005 which reinforces eight existing legislations. The act criminalises a range of unlawful activities in relation to WMD and their delivery means that also apply to non-State actors. In the latest report, India highlighted that it has made its export control regime more stringent. Besides these measures, India updated its national export control lists and licensing guidelines.

Iran

Iran has submitted two reports to the 1540 Committee to-date.⁵² The initial 2005 report reiterates Iranian oft-taken stance of general and complete disarmament as the ultimate solution to the threat of WMD landing in the hands of non-State actors or their use by the states in possession of or seeking to develop WMD. Iranian report specifies that acquiring, developing, and using WMD is inhumane, immoral, illegal and against its very basic principles.

In this report, Iran has repeated the concerns it raised against the resolution 1540 in the Security Council meeting of

22 April 2004. Iran highlighted that it was already in compliance of operative paragraph 1 of the resolution 1540 by being party to all international instruments banning WMD; it was also in compliance of operative paragraph 2 as Iran's legal system all treaties that it ratifies become part of its national laws. Additionally, Iran claims that its laws, enacted between 1970s and 2003, have provisions that meet the criteria laid down by resolution 1540.

Iraq

In 2005, the Interim government of Iraq introduced domestic legislative measures, created the Department of Border Enforcement, established Iraqi Radioactive Source Regulatory Authority and Iraqi Non-Proliferation Programs Foundation, levied import restrictions on control lists items, introduced stringent enforcement measures and decided to review what other treaties and conventions it could accede to.⁵³ Later, in February 2006, Iraq issued another report on developments concerning legislative measures, like and amendments in domestic law related to WMD proliferation.⁵⁴

Israel

Ambassador Dan Gillerman of Israel transmitted the report pursuant to paragraph 4 of resolution 1540 on 22 November 2004.⁵⁵ Israel expressed support to international efforts to curb proliferation of WMD and their means of

51. See reports S/AC.44/2004/(02)/62 of 1 November 2004, S/AC.44/2004/(02)/62/Add.1 of 16 January 2006 and S/AC.44/2004/(02)/62/Add.2 of 8 February 2006. Available online at http://www.nti.org/db/1540/pdfs/1540_india_add2_20060208.pdf, http://www.nti.org/db/1540/pdfs/1540_india_add1_20060116.pdf and http://www.nti.org/db/1540/pdfs/1540_india_add2_20060208.pdf accessed on 12 December 2010.

52. See Iran's report S/AC.44/2004/(02)/105 of 28 February 2005 and an additional report S/AC.44/2004/(02)/105/Add.1 of 14 February 2006. Available online at http://www.nti.org/db/1540/pdfs/1540_iran_20050228.pdf and http://www.nti.org/db/1540/pdfs/1540_iran_add1_20060214.pdf accessed on 12 December 2010.

53. See Iraq's report S/AC.44/2004/(02)/116 of 13 April 2005.

54. See Iraq's report S/AC.44/2004/(02)/116 /Add.1 of 5 February 2006.

55. See Israel's report S/AC.44/2004/(02)/84 of 22 November 2004. Available online at http://www.nti.org/db/1540/pdfs/1540_israel_20041122.pdf accessed on December 12, 2010.

delivery, in particular to and by non-State actors. Israel takes a plea of its peculiar security environment to indirectly justify possession of WMD and to emphasise that it will enact laws and take measures to stop non-State actors and the ‘countries’ that support terrorism from acquiring WMD and their delivery means. Following paragraphs are instructive:

6. On the national level, Israel has consolidated its above mentioned policy through legislation and practices, enforced by its authorities. Israel’s legislation and practices, and their enforcement, encompass a wide range of measures intended to prevent proliferation of non-conventional weapons, as well as to prevent terrorists or states sponsors of terror from acquiring such weapons..
8. Israel is committed to acting forcefully against any form of support for terrorism.
8. The fight against proliferation has been placed high on Israel’s national security agenda. Israel is constantly seeking ways to improve and develop its capabilities in this field.
31. Israel would suggest that similar determination be devoted to the bilateral and multilateral efforts to curb the transfer, acquisition and use of MANPADS and very short-range rockets and missiles by non-State actors.⁵⁶

Israel is not a party to CWC and BTWC but it has domestic legislative measures – with catch-all clause – in place for effective export licensing systems for WMD and their delivery means. Tel Aviv claims effective export licensing processes and effective criminal and administrative penalties in case of violations. Its export control lists comply with MTCR, AG and NSG control lists that it regularly updates. Israel is also a signatory of Convention on Physical Protection of Nuclear Materials, supports IAEA’s Nuclear Security Fund aimed at combating nuclear terrorism and endorsed IAEA Code of Conduct of the Safety and Security of Radioactive Sources on March 2004. Israel supports international initiatives such as PSI and GTRI.

Libya

Libya’s first report on measures it had taken to implement resolution 1540 was issued in April 2005.⁵⁷ It announced adoption of a series of vague legislative and enforcement measures – like money laundering mechanism – some of which dated back to 1988. It is interesting to note that Tripoli had traded with Khan Network in the presence of such domestic laws. In a follow up report of December 2005, Libya reported that it had acceded to CWC and BTWC.⁵⁸ It also notified that it had signed IAEA’s additional protocol and would ratify it by end 2005. Libya is yet to ratify it. Rest of the seven page report only recounts the nonproliferation obligations it had taken long time ago.

56. Original text of the of UN Security Council Resolutions (1540 (2004) / 1673 (2006) /1810 (2008) from page 20-29.
 57. See Libya’s report no. S/AC.44/2004/(02)/115 of 12 April 2005. Available online at http://www.nti.org/db/1540/pdfs/1540_libya_20050413.pdf accessed on 30 December 2010.
 58. See Libya’s follow up report no. S/AC.44/2004/(02)/115/Add.1 of 6 December 2005. Available online at http://www.nti.org/db/1540/pdfs/1540_libya_add1_20051206.pdf accessed on 30 December 2010.

Malaysia

Malaysia gave an assurance that it would pursue adoption of CWC bill with its parliament, that it was committed to criminalise financing of terrorism and that it has increased cooperation with the IAEA.⁵⁹ Malaysia has not followed up on this report.

Pakistan

Pakistan is fully committed to the implementation of resolution 1540 and has offered assistance to the 1540 Committee. Since October 2004, Islamabad has transmitted four reports on the legislative, regulatory and administrative framework to fulfil its commitments to the nonproliferation of WMD regime and their means of delivery.⁶⁰ Its fifth report is being finalised and will be sent to the 1540 Committee shortly.⁶¹ A list of recent steps to strengthen the resolution 1540 is given below:⁶²

In October 2005, Pakistan adopted exhaustive national control lists pursuant to Export Controls Act-2004 in order to preclude the likelihood of proliferation of nuclear and biological weapons, their delivery means and plug all loopholes for technology and intangible transfers.

These lists were followed by an Export Policy Order in 2007 that makes

the lists enforceable by Pakistan Customs and other relevant agencies.

Pakistan also established the Strategic Export Control Division (SECDIV) in Ministry of Foreign Affairs to liaise between different agencies and act as the licensing authority by implementing the catch-all clause of Export Control Act, 2004. The SECDIV also issued elaborate licensing rules in 2009.

In May 2006, Pakistan's Nuclear Regulatory Authority (PNRA) initiated a National Security Action Plan to work with the IAEA to strengthen the safety and security of nuclear and radioactive materials and facilities containing such materials; prevent and detect illicit trafficking in nuclear and other radioactive materials; and respond to incidents of illicit trafficking and nuclear and radioactive security emergencies.

In 2006, Pakistan initiated a National Biological Weapons Convention implementation legislation to meet its obligations under BTWC.

Pakistan promulgated NCA Ordinance in 2007 and issued NCA Act on 11 March 2010⁶³ as steps to strengthen the national strategic regime and to reinforce safety and security measures on all matters concerning nuclear and space technologies, nuclear establishments etc.

59. See Malaysia's report no. S/AC.44/2004/(02)/35 of 26 October 2004. Available online at http://www.nti.org/db/1540/pdfs/1540_malaysia_20041026.pdf accessed on 30 December 2010.

60. Pakistan transmitted two other reports to the 1540 Committee earlier on 5 November 2004 (S/AC.44/2004/(02)/22) and on 27 September 2005 (S/AC.44/2004/(02)/Add. I). Available online at http://www.nti.org/db/1540/pdfs/1540_pakistan_20041027.pdf and <http://www.un.org/sc/1540/nationalreports.shtml>. Contents of fourth report are not yet available in public domain.

61. This was shared by a Ministry of Foreign Affairs, Pakistan's official during a telephone conversation on 10 February 2011.

62. See Note verbale dated 3 June 2008 from the Permanent Mission of Pakistan to the United Nations addressed to the Chair of the Committee (S/AC.44/2—7/19), 1-4.

63. Senate Secretariat's Act No. V, "An act to provide for the constitution and establishment of National Command Authority," the Gazette of Pakistan 11 March 2010.

Pakistan has participated in the IAEA Illicit Trafficking Database since 2005.

In 2007, Pakistan announced its participation in the Global Initiative to Combat Nuclear Terrorism by endorsing its Statement of Principles. Pakistan is participating in the U.S.' CSI as it is committed to the objectives of nonproliferation and international efforts against the threat of terrorism.

Russia

Highlighting the significance of resolution 1540 (2004), its 26 October 2004 report uses the "black market" instead of the oft-used term non-State actors. This usage indicates that Russians are not precluding the possibility of state involvement and collusion with so-called non-State actors in proliferation of WMD.

The resolution sets forth important principles and mechanisms for coordinated action against any "black market" in weapons of mass destruction and related materials.⁶⁴

Russian Federation has transmitted two reports to the 1540 Committee to-date.⁶⁵ Russia is party to NPT, CWC, BTWC, export control regimes and actively participates in CIS and Eurasian Economic Community on nonproliferation issues. Russia has criminalised the production, acquisition, sale (including export) or use of chemical or biological weapons.

In December 2000, Russia introduced a system of accounting and securing to prevent the proliferation of NBC weapons and their means of delivery, particularly by establishing appropriate controls over related materials.

Pursuant to CPPNM, Russia approved the rules for the physical protection of nuclear materials, related devices and storage facilities.

To detect, deter, prevent and combat illicit trafficking and brokering nuclear materials, Russia introduced an effective border control system. The system also includes willingness to increase its effectiveness through international cooperation.

On request, Russia has offered assistance to states that lack the legal and regulatory infrastructure, the experience and/or resources for fulfilling the said provisions. The Russian Federation initiated and promoted the draft convention on nuclear terrorism and is also a founding member of PSI.

South Africa

South Africa has submitted two reports to the 1540 Committee and has made no national legislation to implement resolution 1540 (2004).⁶⁶ In its 13-page initial report, South Africa gave an account of all the international legal obligations it had acceded to. No new measures were introduced to implement resolution 1540 (2004).⁶⁷ However, the addendum report

64. Report No. S/AC.44/2004/(02)/14 dated 26 October 2004 and S/AC.44/2004/(02)/14/Add.1 dated 23 August 2005 for details. Available online at http://www.nti.org/db/1540/pdfs/1540_russia_20041026.pdf and <http://www.un.org/sc/1540/nationalreports.shtml> accessed on 10 December 2010.

65. Ibid.

66. NTI's UNSCR 1540 database is available online at http://www.nti.org/db/1540/region_subsahara.html#SouthAfrica accessed on 29 December 2010.

67. See South Africa's report no. S/AC.44/2004/(02)/102 of 31 January 2005. Available online at http://www.nti.org/db/1540/pdfs/1540_southafrica_20050131.pdf accessed on 29 December 2010.

issued a year later introduced some new measures like details of the control lists and assistance that it can render.⁶⁸

Switzerland

In its initial report, Switzerland only narrated the nonproliferation efforts in place before resolution 1540 was introduced.⁶⁹ On 19 September 2005, Switzerland gave a detailed report of its national legislations and answers the matrix on the control lists.⁷⁰

U.K.

Pursuant to resolution 1540 (2004), U.K. has submitted three reports to the 1540 Committee.⁷¹ U.K. is a member of all international instruments of nonproliferation and has numerous legislative measures in place to prevent the proliferation of WMD and their delivery means, especially to the non-State actors, like their Biological Weapons Act (1974), the Chemical Weapons Act (1996), the Anti-Terrorism, Crime and Security Act (2001), and the Exports Control Act (2002). U.K. had formed a Counter-Proliferation Committee in 2002 for strategic counter-proliferation policy and another Cross-departmental Counter-Proliferation Implementation Committee for actions to put into effect the strategies of the apex executive body and to monitor

national implementation of Resolution 1540.

Recognising that some states may require assistance in implementing the provisions of resolution 1540 (2004), UK offers such assistance and is already active in this area.

In its latest report to the 1540 Committee, U.K. announced that it would commence research and drafting of a 1540 (2004) national action plan. The plan will include sections on domestic implementation, existing outreach mechanisms and past assistance projects, and a consolidate guide to 1540 (2004) implementation assistance that may be available from the British government. As part of this national action plan, U.K. has initiated a Global Threat Reduction Program in 2006.⁷²

U.S.

U.S. has submitted three reports to the 1540 Committee to-date.⁷³ It has expressed its policy in the U.S. National Security Strategy and the U.S. National Strategy to Combat WMD (December 2002). U.S. law makes it a crime to provide material support or resources within the U.S. to a person intending to use the support or resources, or to prepare for, the commission of a wide

68. See South Africa's report no. S/AC.44/2004/(02)/102/Add.1 of 3 January 2006. Available online at http://www.nti.org/db/1540/pdfs/1540_southafrica_add1_20060103.pdf accessed on 29 December 2010.

69. See Switzerland's report no. S/AC.44/2004/(02)/102/9 of 22 October 2004. Available online at http://www.nti.org/db/1540/pdfs/1540_switzerland_20041022.pdf accessed on 29 December 2010.

70. See Switzerland's report no. S/AC.44/2004/(02)/102/9/Add.1 of 19 September 2005. Available online at http://www.nti.org/db/1540/pdfs/1540_switzerland_20041022.pdf accessed on 29 December 2010.

71. The three reports are: S/AC.44/2004/(02)/3 of 29 September 2004, S/AC.44/2004/(02)/3/Add.1 of 19 September 2005, and S/AC.44/2007/23 of 14 December 2007. Available online at http://www.nti.org/db/1540/pdfs/1540_egypt_20041028.pdf and <http://www.un.org/sc/1540/nationalreports.shtml> accessed on 11 December 2010

72. Details of the program available online at <http://www.berr.gov.uk/files/file36547.pdf>

73. The three reports are: S/AC.44/2004/(02)/5 of 12 October 2004, S/AC.44/2004/(02)/5/Add.1 of 15 September 2005 and S/AC.44/2007/10 of 21 December 2007. Available online at <http://www.un.org/sc/1540/nationalreports.shtml> accessed on 12 December 2010.

variety of terrorism-related crimes, including specifically those involving WMD.⁷⁴ It has a National Strategy for Counter-intelligence in place to empower FBI to prevent or neutralise the foreign acquisition of WMD or other means of delivery-related information etc.

U.S. also completed its National Action Plan in 2006 for inter-agency process for implementation of resolution 1540 (2004). It has also initiated and participated in various regional and sub-regional organisations – like OSCE, ASEAN Regional Forum, and the OAS – since 2004 and plans to continue these efforts. In December 2004, U.S. also introduced catch-all general provisions in its laws that, for instance, prohibit the provision of false information and would constitute it as a terrorism offence. Its 2007 report also summarises the actions that U.S. government has taken against the threat of WMD and its delivery means posed by Iran and Syria.⁷⁵

CHALLENGES TO IMPLEMENTATION

Due to its binding nature, the resolution 1540 (2004) has been implemented quite successfully. There is a need to address few political, structural and technical changes to make the resolution more effective. Even if the progress on these issues is slow and comes to a standstill,

the fact is that the existing level of 1540 related restrictions work.

In the political domain, effective implementation of resolution 1540 (2004) depends on the will⁷⁶ and implementation capacity of five actors—the 1540 Committee, the international organisations and regimes, individual states, and NGOs. The pace of implementation does not match the urgency with which the resolution wanted to address the proliferation risks.⁷⁷ In broader context, the interstate civil nuclear cooperation that violates the nonproliferation regime's norms is a bigger challenge than the threat by non-State actors.

Implementation of laws enacted in pursuit of resolution 1540 (2004) implies that they must be enforced and followed. Changing the behaviour of determined proliferators will continue to be a challenge because higher stakes involve more prospects of profiteering and ideological biases are difficult to change merely by threat of punishment or plugging the loopholes.⁷⁸ The governments must be both willing and able to enforce their laws, export controls, physical protection measures, and border controls to successfully impede proliferation. For instance, U.S. and its Western allies are not satisfied with the punishment given to A. Q. Khan and even term it as 'lack of punishment'; and question how the

74 Ibid.

75. U.S. Permanent Representative's report No. S/AC.44/2007/10 of 21 December 2007 to the Chairman of 1540 Committee, 18-36. Available online at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/319/00/PDF/N1031900.pdf?OpenElement> accessed on 23 December 2010.

76. John C. Bristol et al., "A New Urgency for Nonproliferation: Implementing United Nations Security Council Resolution 1540," Princeton, NJ: Princeton University, Woodrow Wilson School of Public & International Affairs, January 2007.

77. Monika Heupel, "Implementing UN Security Council Resolution 1540: A Division of Labor Strategy," Carnegie Papers No. 87, June 2007, 1.

78. Wade Boese, "Implications of UN Security Council Resolution 1540," a presentation to the Institute of Nuclear Materials Management panel discussion on March 15, 2005. Available at Arms Control Association website <http://www.armscontrol.org/print/138> accessed on December 10, 2010.

world responds under resolution 1540 to another government taking such lenient stand against a confirmed proliferator.⁷⁹ Similarly, the European states whose citizens were involved in proliferation of WMD, have not taken enough legal actions against the businesses and their citizens.

The 1540 Committee cannot prioritise on which states it must focus for implementation because the influence the permanent members exercise over its functioning. Then there are issues of consensus amongst permanent members of the Council, who often have disparate political interests.⁸⁰ The committee cannot address the legitimacy concerns about resolution 1540 (2004) whereby some states posit that the resolution should have been embedded in a treaty or convention instead of a less representative Security Council.⁸¹ Likewise, the 1540 Committee cannot dictate the P5 and other states with sufficient capacities and expertise to fully commit to implementing resolution 1540 (2004) because these states happen to be its pay-masters.

The vague guidelines, ambiguous definitions, difficulties of national and international enforcement are another overload on resolution 1540 (2004). In a dispute the governments will tend to interpret and apply the inexplicit guidelines and definitions of the resolution 1540 (2004) as it suits them. This in turn may exacerbate the disputes and further weaken the nonproliferation regime. For instance, the delivery means for biological weapons have not been specified. Anthrax

can be delivered in an envelope. Does an envelope constitute a weapon? The resolution falls short on specifics like the items that have to be controlled. Should all items on the control lists of the AG, the NSG, the MTCR, and the WA be subject to all countries' national export controls?⁸² Some countries, like Pakistan, took a great pain to make lists of control items – that it regularly updates – but there is a large room for uniformity. The inconsistencies show lack of state will in fully implementing the dictates of the resolution 1540 (2004).

As the resolution 1540 was tabled at the Security Council floor, it bestows only few states with the legislative and enforcement powers. Not all states are Security Council members and thus its deliberations and decisions will be arbitrary. Some states raised objections – like Pakistan – to this aspect of the resolution once it was moved but later acquiesced due to international consensus and because their few objections were addressed. It will still be a challenge to build international consensus once a dispute arises. It cannot be guaranteed that the Security Council will apply the same rules and standards to all or will it be selective to check governments that do not fulfil their legally-binding responsibilities.⁸³ The political considerations and expediency of the situations will come in the way of tempering the behaviour of the states. These issues notwithstanding, the 1540 Committee does not have an enforcement mandate and neither can it make a judgement about non-compliance by states.

79. Ibid.

80. Monika Heupel, "Implementing UN Security Council Resolution 1540: A Division of Labor Strategy," Carnegie Papers No. 87, June 2007, 8.

81. Wade Boese, op cited.

82. Ibid.

83. Ibid.

In the longer run, resolution 1540's legitimacy will depend on how the norms against proliferation of WMD will be translated into commitment towards disarmament. Disarmament is considered as a pipe-dream. Though Obama supports a "nuclear-zero", even he acknowledged that it will not be achieved in his lifetime. Thus by not addressing the issue of the existing arsenals and fissile materials stockpiles in concrete terms and introducing resolution 1540 instead, the nuclear weapons states invite the developing world's criticism that the resolution is just another discriminatory, supply-side mechanism designed to keep [selected countries amongst] the latter down.⁸⁴

In the structural realm and considering the tough obligations that demand effective international oversight, the 1540 Committee lacks the commensurate ability to manage implementation on its own. The committee is structurally Spartan and is politically constrained compared to larger and politically robust international actors in providing legislative, technical and financial assistance to states. Nonproliferation regime cannot be strengthened until 1540 Committee gets full support by the U.S., major European powers and international NGOs to work in harmony and help states that lack the capacity to comply with the resolution's requirements, and seek

assistance. The technically advanced and financially strong states like U.S. offer such assistance to willing states. However, they offer such financial and technical assistance on the pre-condition that the fund contains effective transparency and accountability mechanisms.⁸⁵

WHAT IS TO BE DONE?

Building on our excellent bilateral cooperation in nuclear security, and the expertise of both countries in this area, we will work together to strengthen the ability of other nations to carry out their WMD nonproliferation obligations under UNSCR 1540.

--Obama and Medvedev's Joint statement⁸⁶

Since U.S. spearheaded resolution 1540 (2004), the onus of addressing the challenges to its implementation falls on its shoulders more than any other state. U.S. can help ensure its implementation by supporting transparency and access to 1540 Committee like its listing and delisting procedures.⁸⁷ It can consider ways to create conditions to make 1540 Committee's work more inclusive and allow it to benefit for the input of others, while not affecting the nonproliferation treaties and regimes that gel with the Resolution 1540. This can be achieved by extending the duration of the Committee beyond 2012.⁸⁸

84. Stanley Foundation, "Strengthening Nuclear Nonproliferation and Expanding Nuclear Energy: Incompatible or Complementary Goals?" December 7, 2006. Available online at <http://secure.stanleyfoundation.org/registration/securityconference/panels/nuclear.php> accessed on December 11, 2010.

85. Ambassador Alejandro Wolff, U.S. Deputy Permanent Representative to the UN, during the Comprehensive Review 1540 on September 30, 2009. Available online at <http://usun.state.gov/briefing/statements/2009/september/130100.htm> accessed on 11 December 2010.

86. The joint statement was made on July 6, 2009 regarding nuclear cooperation at the White House. Available online at http://www.whitehouse.gov/the_press_office/Joint-Statement-by-President-Barack-Obama-of-the-United-States accessed on December 11, 2010.

87. Kara C. McDonald and Stewart M. Patrick, "UN Security Council Enlargement and U.S. Interests," Council of Foreign Relations, No. 59, December 2010, 29. Available online at http://www.cfr.org/publication/23363/un_security_council_enlargement_and_us_interests.html accessed on December 12, 2010.

88. Ambassador Alejandro Wolff, U.S. Deputy Permanent Representative to the UN, during the Comprehensive Review 1540 on September 30, 2009. Available online at <http://usun.state.gov/briefing/statements/2009/september/130100.htm> accessed on 11 December 2010.

The criticism that the implementation of resolution 1540 through UN Security Council does not represent the voice of majority of nations can be addressed by letting plenary bodies of international organisations and regimes adopt declarations in support of the resolution.⁸⁹ To increase the sense of ownership the UN General Assembly and Conference on Disarmament could in future help in negotiation of conventions and treaties that cover some of the obligations determined in resolution 1540 (2004).

Political challenges to the resolution 1540 (2004) can best be addressed if the nuclear weapons states take credible steps to remove the asymmetries of the non-proliferation regime. Till the nuclear weapons states do not fulfil their NPT obligations towards the have-nots, the regime will continue to suffer a crisis of confidence and there will be a lack of commitment towards the resolution. NGOs and regional organisations can also play a constructive role and exert their influence on advanced states to treat implementation of resolution 1540 (2004) as a priority. It is necessary to draw parallels in counter proliferation initiatives and non-proliferation norms because the former do not take only interests of selected few states in to account.

Notwithstanding the objections to the resolution, there are three steps to be taken to strengthen the structural foundation of the 1540 Committee and make it more effective in implementation of the resolution. However, these arguments run against the notion of keeping anti-proliferation regime broad based in U.N. General Assembly's and CD's domain

rather than shifting to imbalanced UN Security Council. These recommendations are based on the empirical evidence that the powerful states generally have their way in creating norms which others are bound to follow. Resolution 1540 (2004) is the case in point. First, an increase in the personnel of the 1540 Committee will make it the clearing house for assistance to different actors. Two, to give credence to its decisions, the 1540 Committee can be made a permanent body of the UN. Granting such status will give it more authority and its decisions will be taken as part of a long-term strategy. Finally, if the actors involved in the nonproliferation regime work synergistically with the Committee and extend legislative, technical, and financial assistance; the former will be able to maintain the drive for universal implementation of resolution 1540 (2004).

IAEA, NGOs and the some advanced states offer and provide assistance to the states that lack the capacity to comply with resolution's requirements. For instance, U.S. has several programs in place to help countries develop their abilities to combat illicit trafficking in WMD and related materials.

In operative paragraph 3(a), resolution 1540 (2004) calls states to develop appropriate effective measures to account for their weapons and materials subject to control.

- (a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport...⁹⁰

The nuclear weapon states do not share

89. Wade Boese, 9.

90. Ibid.

such information in violation of their NPT obligations. However, introduction of such a sharing mechanism can alleviate such criticism and promote cooperation and trust.⁹¹

In order to meet their counterterrorism obligations under resolution 1540 (2004), the countries should reprioritise their nuclear security financial allocation to further strengthen their Material Protection, Control and Accounting Program systems.⁹² For instance, U.S. Department of Energy's FY 2010 Congressional budget request shows that the U.S. spent \$ 6.386 bn on nuclear weapons activities and has requested \$ 7.629 bn for FY-2012. Conversely, it spent \$ 2.131 bn on defence nuclear nonproliferation activities and seeks \$ 2.549 bn for FY-2012. The disparity in funding is acute.⁹³

CONCLUSION

Resolution 1540 (2004) has bestowed legislative powers on the UN Security Council. It has propped up the anti-proliferation regime and has ostensibly made the acquisition of WMD, related materials and their delivery means effort intensive for the non-State actors and rogue states. The resolution has, however,

created a norm whereby counter-proliferation initiatives can be tabled in a misrepresented UN body, which is dominated by the P5, rather than UN General Assembly and the Conference on Disarmament. The almost universal willingness to implement the resolution and bring domestic laws in conformity with it indicates that states consider the possibility of WMD landing in to non-State actors' hands a threat to global peace and security. It faces significant political, structural and technical challenges and in turn does not advance nonproliferation goals as expected. Though the possibility of WMD proliferation by non-State actors has reduced, interstate proliferation continues in violation of international law and domestic norms of the proliferators. Being the world leader in nonproliferation regime and the initiator of the resolution 1540 (2004), U.S. must continue to promote steps for its implementation while making similar initiatives in future more representative of international community's will through the General Assembly and the Conference on Disarmament rather than UN Security Council.

Annexures: Complete texts of UN Security Council Resolution 1540 (2004) and it follow up resolutions

91. Ibid.

92. The objective of MPC&A programs is to improve the security of nuclear weapons and materials at their source, through material protection, control and accounting upgrades at nuclear sites.

93. U.S. Department of Energy, FY 2012 Congressional Budget Request, Vol. 1, February 2011, 9.

United Nations

S/RES/1540 (2004)



Security Council

Distr.: General
28 April 2004

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,² 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 prima-

ry 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 actors³ 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

1. Definitions for the purpose of this resolution only:
2. Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.
3. 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.

* 04-32843 (E)
0432843

delivery, and related materials,⁴ 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 co-ordination of efforts on national, sub-regional, 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 measures to account for and secure such items in production, use, storage or transport;
 - (b) Develop and maintain appropriate effective physical pro-

4. 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.

- tection 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.

United Nations

S/RES/1673 (2006)

**Security Council**Distr.: General
27 April 2006**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 Conven-

tion 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,

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 providing 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.

United Nations

S/RES/1810 (2008)



Security Council

Distr.: General
25 April 2008

Resolution 1810 (2008)

**Adopted by the Security Council at its 5877th meeting, on
25 April 2008**

The Security Council,

Reaffirming its resolutions 1540 (2004) of 28 April 2004 and 1673 (2006) of 27 April 2006,

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

Reaffirming 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,

Reaffirming 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,

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,

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 Organization for the Prohibition of Chemical Weapons,

Noting also that international cooperation between States, in accordance with international law, is required to counter the illicit trafficking by non-State actors in nuclear, chemical and biological weapons, their means of delivery, and related materials,

Endorsing the work already carried out by the Committee established pursuant to resolution 1540 (2004),

Endorsing the work already carried out by the Committee established pursuant to resolution 1540 (2004),

08-31865 (E)



ant to resolution 1540 (2004), hereafter the 1540 Committee, in accordance with its fifth Programme of Work,

Bearing in mind the importance of the report requested in paragraph 6 of resolution 1673 (2006),

Noting that not all States have presented to the 1540 Committee their national reports on implementation of resolution 1540 (2004), and that the full implementation of resolution 1540 (2004) by all States, including the adoption of national laws and measures to ensure implementation of these laws, is a long-term task that will require continuous efforts at national, regional and international levels,

Recognizing in that regard the importance of dialogue between the 1540 Committee and Member States and stressing that direct contact is an effective means of such dialogue,

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

Emphasizing in that regard the importance of providing States, in response to their requests, with effective assistance that meets their needs and stressing the importance of ensuring that the clearinghouse function for assistance is efficient and accessible,

Taking note of international efforts towards full implementation of resolution 1540 (2004), including on preventing the financing of proliferation-related activities, taking into consideration the guidance of the framework of the Financial Action Task Force (FATF),

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. *Again 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. *Encourages* all States to prepare on a voluntary basis summary action plans, with the assistance of the 1540 Committee as appropriate, mapping out their priorities and plans for implementing the key provisions of resolution 1540 (2004), and to submit those plans to the 1540 Committee;
5. *Encourages* States that have requests for assistance to convey them to the 1540 Committee, and *encourages* them to make use of the Committee's assistance template to that effect; urges States and international, regional and subregional organizations to inform the Committee as appropriate by 25 June 2008 of areas in which they are able to provide assistance; calls upon States and such organizations, if they have not done so previously, to provide the 1540 Committee with a point of contact for assistance by 25 June 2008;

6. *Decides* to extend the mandate of the 1540 Committee for a period of three years, with the continued assistance of experts, until 25 April 2011;
7. *Requests* the 1540 Committee to complete its report as set out in paragraph 6 of resolution 1673 (2006), and to submit it to the Security Council as soon as possible but no later than 31 July 2008;
8. *Requests* the 1540 Committee to consider a comprehensive review of the status of implementation of resolution 1540 (2004) and to report to the Council on its consideration on the matter by no later than 31 January 2009;
9. *Decides* that the Committee should submit an annual Programme of Work to the Security Council before the end of each January;
10. *Decides* that the 1540 Committee shall continue to intensify its efforts to promote the full implementation by all States of resolution 1540 (2004), through its Programme of Work which includes the compilation of information on the status of States' implementation of all aspects of resolution 1540 (2004), outreach, dialogue, assistance and cooperation, and which addresses 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 providing funds and services such as financing to such export and trans-shipment;
11. *Decides* in that regard to:
 - (a) *encourage* the pursuit of the ongoing dialogue between the 1540 Committee and States on their further actions to implement fully resolution 1540 (2004) and on technical assistance needed and offered;
 - (b) *request* the 1540 Committee to continue to organize and participate in outreach events at the regional, subregional and, as appropriate, national level promoting States' implementation of resolution 1540 (2004);
 - (c) *urge* the 1540 Committee to continue strengthening the Committee's role in facilitating technical assistance for implementation of resolution 1540 (2004), including by engaging actively in matching offers and requests for assistance through such means as assistance templates, action plans or other information submitted to the 1540 Committee;
 - (d) *encourage* the 1540 Committee to engage actively with States and relevant international, regional and subregional organizations to promote the sharing of experience and lessons learned in the areas covered by resolution 1540 (2004), and to liaise on the availability of programmes which might facilitate the implementation of resolution 1540 (2004);
 - (e) *request* the 1540 Committee to provide opportunities for interaction with interested States and

- relevant international, regional and subregional organizations to promote implementation of resolution 1540 (2004);
12. *Reiterates* the need to enhance ongoing cooperation between the 1540 Committee, the Security Council Committee established pursuant to resolution 1267 (1999), concerning Al-Qaida and the Taliban, and the Security Council Committee established pursuant to resolution 1373 (2001), concerning counter-terrorism, including through, as appropriate, enhanced information sharing, coordination on visits to countries, within their respective mandates, technical assistance and other issues of relevance to all three committees, and expresses its intention to provide guidance to the committees on areas of common interest in order better to coordinate their efforts;
 13. *Urges* the 1540 Committee to encourage and take full advantage of voluntary financial contributions to assist States in identifying and addressing their needs for the implementation of resolution 1540 (2004), and requests the 1540 Committee to consider options for developing and making more effective existing funding mechanisms, and to report to the Council on its consideration of the matter by no later than 31 December 2008;
 14. *Decides* that the 1540 Committee will submit to the Security Council a report no later than 24 April 2011 on compliance with resolution 1540 (2004) through the achievement of the implementation of its requirements;
 15. *Decides* to remain seized of the matter.

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