

United Nations Security Council Resolution (UNSCR) 1540 (2004)



INTERNATIONAL & INDUSTRY LIAISON UNIT

TRADE BEAT



Under the United Nations (UN) Charter, the primary responsibility for the maintenance of international peace and security, lies within the remit of the UN Security Council. It is considered the most powerful body of the UN, as resolutions taken by the Security Council become legally binding on each member State. While members are guided by the recommendations of other UN bodies, decisions or resolutions taken by the Security Council, must be accepted and implemented by all UN members.

The Security Council is represented by a total of 15 UN members, 5 of which sit permanently; namely the United States, the United Kingdom, France, the Russian Federation, and China. The remaining 10 are non-permanent members elected with fixed term dates by the General Assembly.



UNSC Resolution 1540 - Adopted unanimously on April 28, 2004, the United Nations Security Council (UNSC) Resolution 1540 seeks to **prevent the proliferation of weapons of mass destruction (WMD) and their delivery systems by non-state actors**. Under chapter VII of the UN Charter, Resolution 1540 requires all States to implement effective non-proliferation measures inclusive of their domestic controls. These non-proliferation measures seek to prevent the spread of biological, chemical, and/or nuclear weapons and their delivery systems. All member States are therefore obligated to bring their domestic laws into conformity with the international requirements of the Resolution. In so doing, Resolution 1540 imposes binding obligations to adopt legislation, inter alia, where **all states should refrain from supporting by any means non-state actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems**.

Inside this issue:

UN Charter	1
UNSCR 1540	1
Non-State Actors (NSAs)	2
UNODA	2
CARICOM-UNSCR 1540	3
UNSCR 1540 in Jamaica	3
GOJ-Vertic Workshop in Jamaica	4



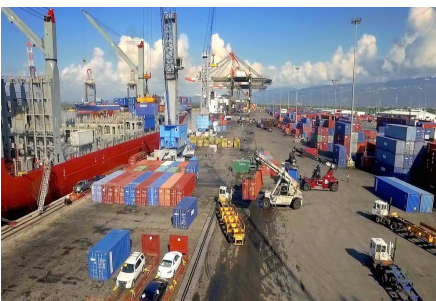
Thousands of nuclear weapons remain on hair trigger alert. More states have sought and acquired them. Nuclear tests have continued. And every day, we live with the threat that weapons of mass destruction could be stolen, sold or slip away. As long as such weapons exist...so too does the threat of nuclear terrorism.

— UN Secretary General Ban Ki-moon

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The international security environment is constantly changing. Threats to international peace and security are abundant, especially considering the risks presented by non-state actors. Non-state actors (NSAs) do not belong, and are not linked to any established institution of a State. However, they possess sufficient power and influence to cause change within the international environment, which affects the entire global community. By their very nature, NSAs are not obligated to uphold international law, which presents a particular threat to international security.

In response to this threat, Resolution 1540 has outlined the various ways in which support to NSAs may be eliminated, particularly related to the proliferation of nuclear, biological and chemical (NBC) weapons, collectively described as WMDs. States should ensure that the necessary legal, regulatory and administrative controls are in place and are implemented by each member to track and trace such activities.



Strengthening border protection and port detection capabilities therefore becomes an essential function for each UN member in combating this global threat.

In order to achieve the objectives of Resolution 1540, members are required to adopt legislative, regulatory and enforcement measures to prevent trafficking in both materials and technology related to the production of NBC weapons. Resolution 1540 also establishes a reporting mechanism which monitors the implementation progress of each UN member. As such, a 1540 Committee has been created under the UN Security Council, which is responsible for issuing specific mandates to implement the Resolution.

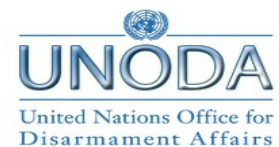


Full implementation of Resolution 1540 is considered a long-term task that requires continuous efforts at the national, regional and international levels by all member States. Consequently, the mandate of the 1540 Committee has been extended on three occasions, via Security Council Resolution [1673 \(2006\)](#), Resolution [1810 \(2008\)](#), and Resolution [1977 \(2011\)](#). Initiated in 2011, the most recent Resolution 1977, extends the Committee's mandate by 10 years, to 2021. It provides for two Comprehensive Reviews, one after five years (before December 2016) and one prior to the renewal of the mandate.

Resolution 1540 also strengthens the Committee's role in facilitating the provision of technical assistance, by enhancing cooperation with relevant international organisations, and further refines its outreach activities.



The 1540 Committee is engaged in various activities designed to promote the full implementation of the Resolution. Members of the 1540 Committee as well as its technical experts host various conferences, workshops, seminars and country specific engagements where experiences are shared and lessons are learnt. Extensive support is given to the 1540 Committee by the UN Office of Disarmament Affairs (UNODA), as well as other UN bodies. At the request of a UN member, UNODA organizes workshops and meetings on issues related to the implementation of Resolution 1540, through the financial assistance and contributions of other UN members, such as the European Union.



CARICOM-United Nations 1540 Implementation Programme

(contains excerpts from caricom.org/unsc-resolution-1540)

In order to meet their obligations under UNSC Resolution 1540, a region-wide initiative was launched to assist CARICOM Member States in implementing their strategic trade legislation. Changes to domestic import and export laws, will be implemented to prevent the transit, trans-shipment, import, export, re-export or brokering of dual-use materials. Dual-use materials are commodities that can be used for both civilian and military purposes, such as lasers or aluminum alloys. They can be used in the development of chemical, biological, radiological or nuclear (CBRN) weapons and related materials. Apart from non-proliferation initiatives, the implementation programme is also designed to build on existing regional port and border security protocols aimed at preventing illicit trafficking in small arms and light weapons (SALW) and the trade in illegal narcotics.



The Resolution also seeks to build on other major non-proliferation treaties which have previously been either signed or ratified by CARICOM members by further limiting access to, and transfer of, Weapons of Mass Destruction (WMD). These treaties include the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC), and the Biological and Toxin Weapons Convention (BWC), as well as associated export control arrangements.

Since the formal initiation of the CARICOM-UNSCR 1540 Implementation Programme in January 2010, there has been broad engagement with CARICOM members, both on the policy and operational/enforcement levels, in implementing effective control mechanisms to prevent the trade in dual-use materials. In addition to enacting these strictures, the programme has also focused on the two (2) other key components constituting the implementation process, namely building regional awareness relating to UNSCR 1540; and building necessary capacity to detect, identify and interdict strategic goods and related materials.

The Centre for International Trade and Security (CITS) at the University of Georgia has also been engaged, through the United Nations 1540 Committee, to provide the required technical assistance to CARICOM members in order to fully implement strategic trade legislation in compliance with UNSCR 1540 mandates.



Implementing UNSC Resolution 1540 in Jamaica

The Government of Jamaica, in collaboration with the Verification Research, Training and Information Centre (VERTIC) completed two workshops on the implementation of the Biological and Chemical Weapons Conventions, strategic trade control and the UN Security Council Resolution 1540, during April 6-8, 2016. VERTIC is an independent, not-for-profit non-governmental organization, which supports the development, implementation and effectiveness of international agreements and related regional and national initiatives, with particular attention to issues of monitoring, review, legislation and verification. The first workshop, also organised with the Legal Affairs Unit in the Ministry of Foreign Affairs, in co-operation with the CARICOM-UNSCR 1540 Implementation Programme, was on the implementation of Financial Action Task Force Recommendation 7 through Jamaica's 2013 United Nations Security Council Resolutions Act.



United Nations Security Council Resolution (UNSCR) 1540 (2004)



The second workshop was facilitated by Vertic's Programme Director for National Implementation, Scott Spence, and Dr Michael Beck, Senior Research Associate at the Center for International Trade and Security, University of Georgia. Technical expertise was also provided by two UNSCR 1540 Committee experts who also participated in the workshop. Participants benefitting from the workshop comprised legal teams and trade experts from several government ministries departments and agencies (MDAs) including the Ministry of Foreign Affairs and Foreign Trade, the Ministry of National Security and the Jamaica Customs

Agency. The chief drafter from the Office of the Parliamentary Council was also represented at the workshop, where meaningful recommendations regarding drafting instructions were well received. Discussions by Vertic facilitators were focused on strengthening Jamaica's legislative frameworks for implementation of the Biological and Chemical Weapons Conventions and the related provisions of UNSCR 1540. Dr Beck focused on measures to strengthen strategic trade control over biological agents and toxins and scheduled chemicals, which often serve as dual-use commodities. Goods may be identified as strategic based on national control lists or by their end use as it relates to WMD.

In terms of implementing effective border controls for strategic commodities, Customs officials are often faced with two scenarios. In the first instance, the supply chain may be used as a delivery system for WMD, eg. an explosive device packaged within a container. The second scenario involves the supply chain being used to transport the materials, equipment, and components needed to produce a weapon. Security initiatives such as the SAFE Framework of Standards to secure and facilitate global trade (SAFE framework), seeks to address the first scenario, based on the standards for implementation that are recommended for each customs administration. The second threat scenario may be addressed through Strategic Trade Controls, such national control lists for strategic or dual-use goods.



Public awareness initiatives are also very important to combating illicit trading of strategic goods. Suppliers and traders of strategic goods may inadvertently support terrorists through the delivery of certain strategic goods. Traders may be unaware of trade restrictions related to these goods or may be tricked by procurement agents who disguise themselves as legitimate end-users of such commodity. Alternatively, complicit suppliers, brokers, or traders may knowingly attempt to circumvent restrictions using misclassifications, false declarations, smuggling, or exploiting loopholes.

United Nations Security Council Resolution (UNSCR) 1540 (2004)



The Jamaica Customs Agency is fully committed to the speedy implementation of the UNSCR 1540 as well as the implementation of the BWC and CWC. Our border control officers are essential to enforcing the trade restrictions that will be imposed via amendments, and the development of a comprehensive trade regime for commodities falling under the weapons conventions and the UNSCR 1540. With collaboration from related GOJ MDAs, a comprehensive Bill covering strategic trade and the weapons conventions will be ready for tabling by December 2016 to coincide with the Comprehensive review of UNSCR 1540.

Apart from the threat of terror, Resolution 1540 was adopted in the context of threats of illicit trafficking of nuclear material and associated technology. Of particular concern was that NSAs, for terrorist purposes, might acquire, develop, manufacture, or traffic in nuclear, chemical and biological weapons and the means of delivering them. By requiring that states commit to penalize those who attempt to proliferate WMD, the Resolution seeks to keep these threats from being realized. As customary, the Resolution obliges states to put in place domestic controls to secure, protect and account for related items and to control their global generation. The Resolution also considers the threat of dual-use items and technology, which may raise no alarms due to their domestic purpose, but based on the implications of their dangerous applications, may be detrimental to mankind.



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Country Above Self



The International and Industry Liaison Unit is committed to raising the level of awareness on topics relating to the Caribbean Community, as well as issues concerning the wider topic of international trade, to both our internal and external stakeholders. Our monthly newsletter seeks to highlight global trade topics and their importance to Customs Administrations worldwide and specifically how they affect the Jamaica Customs Agency. As we realize our vision of becoming a modern Customs administration delivering excellent service, we recognize the importance of knowledge transfer in delivering our objectives and use this forum as our way of contributing to the vision of the JCA. The International Liaison Unit is located at the Myers Wharf head office and our officers are available to respond to your queries and clarify any points of concern.

We're on the Web!
<http://www.jacustoms.gov.jm>

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