

**Sherpa and sous-Sherpa Meeting,
Nuclear Security Summit**

The Hague, Netherlands
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**Presentation by Ambassador Claude Heller,
Chairman, UNSCR 1540 Committee**

Mr. Chairman, distinguished participants,

I would like to express my gratitude to the U.S. delegation and to our host, the Ministry of Foreign Affairs of the Netherlands, for organizing this Meeting, and in particular for providing the UNSC 1540 Committee an opportunity to make a presentation on its work, the status of Resolution 1540 (2004), and how the Summit might support its implementation.

This presentation will also cover the role of Resolution 1540 in promoting nuclear security and preventing nuclear terrorism, and the relationship to other applicable mechanisms and instruments. The theme of enhancing nuclear security, in particular in relation to the prevention of nuclear terrorism, is of particular relevance to the responsibilities of the Security Council Committee established pursuant to Resolution 1540, and we look forward to further developing our work in this area in cooperation with others here today.

The risks and threats associated with nuclear terrorism remain significant despite the many measures taken by States, and may be increasing. In November 2009, the outgoing Director General of the IAEA mentioned in his speech to the United Nations that the IAEA Illicit Trafficking Database for 2008 alone had reported more than 200 incidents of illicit trafficking and unauthorized activities.

I. Resolution 1540: contribution to nuclear security and preventing nuclear terrorism

Resolution 1540 is a decision of the Security Council taken under Chapter VII of the United Nations Charter affirming that the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security. Adopted in the wake of the A. Q. Khan nuclear trafficking revelations, the Resolution is significant for adding illicit trafficking in nuclear, chemical and biological weapons as a new dimension of proliferation, and in its recognition of the nexus of proliferation and the risk posed by non-State actors, including terrorists, acquiring such weapons or related materials.

Resolution 1540 establishes binding obligations on all States, in accordance with their national procedures, to “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” (OP 2).

Additionally, to address issues of illicit trafficking or other illicit activities, OP 3 of the Resolution calls for all States to adopt measures to establish domestic controls to prevent the proliferation of such weapons, including by establishing appropriate controls over related materials. These measures are to (a) account for and secure, and (b) physically protect WMD-related materials as well as to (c) develop border and law enforcement efforts and (d) establish export and trans-shipment controls over such items.

As producing nuclear weapons material remains prohibitively difficult for non-State actors, securing such materials from theft or illicit trafficking becomes perhaps the most important challenge in the effort to implement the nuclear elements of the resolution. Thus, compliance with these measures is a critical contribution in

promoting nuclear security in regard to preventing access to nuclear materials, in particular for purposes of terrorism.

As other international legal instruments mostly govern the activities of States towards other States, Resolution 1540 addresses the threat posed by non-State actors, thereby closing a gap in international law by explicitly prohibiting States from providing any support for proliferation-related activities to such actors and by preventing the latter from themselves engaging in such illicit activities.

It is important to recall that the obligations under Resolution 1540 are not in conflict with and do not alter the rights and obligations of State Parties to existing international instruments on disarmament and non-proliferation, such as the Nuclear Non-Proliferation Treaty (NPT). The Resolution calls upon States to promote universal adoption and full implementation of those instruments and to renew and fulfill their commitments to multilateral cooperation, in particular within the framework of the IAEA, the Organisation for the Prohibition of Chemical Weapons (OPCW) and the Biological and Toxin Weapons Convention.

The Resolution also calls upon States to report on steps they have taken or intend to take to implement its provisions. As of 1 January 2010, 163 States have provided first reports, 103 of which have submitted additional information. The 1540 Committee has also just completed the final document of its Comprehensive Review on the status of implementation of resolution 1540.¹ While States have taken a significant number of measures to implement the Resolution, areas identified in which States have adopted fewer measures include on biological weapons, means of delivery, national control lists and access to related materials and financing of prohibited or illicit proliferation activities.

From the July 2008 report of the 1540 Committee to the Security Council on the status of implementation of resolution 1540, the areas of *accounting/securing* and

¹ Information about the Comprehensive Review is available on the 1540 website at www.un.org/sc/1540.

physical protection of nuclear related materials (Annex XI.B) show that 154 States have taken measures in each of the areas to *account* for production, use and storage. Such a high rate can be seen to be associated with the 167 States which have IAEA Safeguard Agreements that specifically address these issues. Enforcement of these measures, however, is much lower at around 50 countries for each of the three areas. Measures to *secure* production, use and storage range much lower with between 62 and 73 States having taken framework measures, with 56 to 65 States having enforcement provisions. Measures to *account* for and *secure* transport are taken by 58 and 91 States respectively, with 44 and 82 States having enforcement provisions.

Regarding the specific requirement for *physical protection*, the number of States taking measures is similarly low at 61, with 48 States having enforcement provisions. We welcome that, as in the July 2008 Report, 94 States had a national regulatory authority, 89 supported the IAEA Code of Conduct on Safety and Security of Radioactive Sources, and 73 participated in the IAEA Database on Illicit Trafficking. These figures indicate, however, that more effort needs to be made, to which further cooperation between the 1540 Committee and IAEA is essential.

II. Related and complementary mechanisms and instruments

On security of materials, the practices of the IAEA are deemed most important. These include the new *IAEA Nuclear Security Series* which contains the important document “Physical Protection of Nuclear Material and Nuclear Facilities”, a subject at the core of OP 3 of Resolution 1540.

In the framework of the UN Security Council itself, UNSCR 1373, while dealing with counter-terrorism measures, refers to the need to prevent non-State actors from acquiring nuclear, chemical and biological weapons that might be used for terrorist acts. Within the UN system more broadly, there are several international conventions and protocols dealing with counter-terrorism. Some of these

multilateral instruments do contain obligations to adopt prohibitions and measures that can contribute to nuclear security, non-proliferation and the prevention of nuclear terrorism.

III. How the Summit can facilitate implementation of Resolution 1540

Threats to nuclear security are, of course, not new. However, the initiative on the Nuclear Security Summit comes in due time. Global trade has facilitated commercial and affordable availability of related materials, which are increasingly needed for development, industry and public health. The growing interest and use of nuclear power makes it all the more necessary to raise awareness of the importance to improve nuclear security in such a way to also support non-proliferation efforts. Resolution 1887, adopted in October 2009 at the highest level, makes a link between nuclear security and non-proliferation.

Awareness raising

Awareness raising has been crucial for the success of the Committee's work and for the proper implementation of Resolution 1540.

By discussing the nature of the threat of nuclear terrorism and stressing the importance of enhancing nuclear security worldwide, the heads of State and government participating in the forthcoming Nuclear Security Summit will have a unique opportunity to raise further awareness and profile of the issues and challenges involved. This will complement ongoing outreach activities carried out by the Committee in cooperation with other U.N. bodies, as well as other international organizations and non-governmental organizations.

Cooperation

UNSC Resolution 1540 is implemented by States and relevant international organizations contribute significantly to this regard. Therefore, international cooperation is a key element for the *mise en œuvre* of the Resolution. This can be achieved through different means.

The sharing of experiences and lessons learned is one of them. The 1540 Committee has already through Resolution 1810 (2008) called on States and international organisations to improve experience sharing and practices, and has highlighted in its outreach activities the role of good practices by both international organisations and States that can be promulgated to improve nuclear security. For example, the 2008 Report of the 1540 Committee to the Security Council on the status of implementation of resolution 1540 contains in its Annex XVII practices of interest as mentioned in the related mechanisms above, that States can consider when implementing the resolution.

In addition to the well-known practices of the IAEA, nuclear regulatory bodies in States with long term use of nuclear energy can provide good practices and a wealth of practical knowledge to share with those States emerging with an interest in developing civil nuclear energy programmes.

The Committee is also available to receive assistance requests and, through Resolution 1810, has a strengthened role to match such requests with offers. In January 2009 and until January 2010, the Committee established a Working Group to deal specifically with the issue of assistance. This month the Committee will consider its new programme of work.

Consequently, the Committee sees great value in developing cooperative arrangements with the IAEA and with other international and regional organizations that play a complementary role in the implementation process of Resolution 1540,

operating under their respective mandates. This is emphasized by the Security Council not only in Resolution 1540 but also in more detail in Resolution 1810.

In this respect, the 1540 Committee welcomes the series of resolutions adopted by the General Conference of the IAEA in support of the work of the Committee in the area of nuclear security to prevent illicit trafficking.

The Nuclear Security Summit will represent an ideal forum to foster international cooperation in support of the effective implementation of the 1540 regime. We look forward to the Summit's contribution to assistance and cooperation processes to improve nuclear security. In the context of this meeting, I look forward to working with the present countries on potential ways to enhance assistance efforts in nuclear security and share lessons learned in this field, especially with developing countries where the consideration or use of nuclear technology and energy is increasing.

IV. Conclusion

We look forward to hearing, too, ideas from this preparatory meeting that the 1540 Committee might explore on how to increase cooperation with other relevant international entities, including those present at this meeting, and opportunities for fruitful dialogue to facilitate States' implementation of nuclear security measures, and so nearer to meeting the goal of nuclear security worldwide within the foreseeable future.

Thank you.