

**United Nations Seminar on Implementing UNSCR 1540 (2004)
in the African Region**

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Introduction

At the outset I would like to thank the Government of Ghana for the hospitality and generous offer to host the first regional seminar dedicated to the implementation of resolution 1540 (2004) in the African region.

I would also like to thank to Ambassador Nobuaki Tanaka and his staff at the UN Department for Disarmament Affairs as well as the cosponsors, in particular the European Union and the government of Norway for their commendable efforts to support this seminar. I am encouraged by the fact, that this seminar provides another opportunity for participation by representatives of the International Atomic Energy Agency (IAEA), the Organization for the Prohibition of Chemical Weapons (OPCW) and the World Customs Organization (WCO), three important organizations with a significant contribution potential towards the full implementation of the UN Security Council resolution 1540.

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

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

Resolution 1540 and its significance

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

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

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

The adoption of resolution 1540 was an important and timely measure in international efforts aimed at preventing proliferation of weapons of mass destruction, their means of delivery and related materials to non-State actors. Before resolution 1540 was adopted the international community addressed the proliferation of weapons of mass destruction incrementally through multilateral legal instruments such as the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention, the Biological and Toxin Weapons Convention, and also by various export control arrangements.

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

and transport and that internal controls are to be enhanced by a more stringent border control and import/export regulation.

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

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

A point to emphasize is that the obligations under resolution 1540 do not conflict with or alter the rights and obligations of State Parties to existing international disarmament and non-proliferation instruments. Indeed, it encourages wider acceptance of those instruments and lays down obligations with a view to filling the gaps in current disarmament and non-proliferation treaties. Such efforts to enhance international peace and security are to be taken without hampering international cooperation and trade in materials, equipment and technology for peaceful purposes.

Measures to counter proliferation, including the specific requirements set forth in resolution 1540, remain primarily within the responsibility of Member States. The resolution instituted obligations on all States to take legislative and administrative action in accordance with their national legal framework. It does not prescribe specific standards that should be implemented at the national level. That is what makes national performance so crucial for achieving the goals set forth in the resolution.

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

It should be stressed that when the resolution was adopted, the Security Council recognized that some States lack the legal and regulatory infrastructure, experience or resources for effective implementation. The information available to the Committee indicates that the problem is more serious in Africa than elsewhere and thus African States will require assistance in many areas to implement the provisions of 1540. The Council has invited States in a position to do so to consider offering assistance to any other State that may request such assistance.

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

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

As the majority of African States have yet to submit their first report, the Committee has undertaken to assist them by collating relevant data as published in their official websites or in those of international organizations. All the information that has been gathered from public resources was sent already to the States concerned and their representatives at this seminar may use this occasion to pose any questions they may have to the experts of the Committee who are present here in this seminar. For many States the reasons for non-reporting seem to be lack of capacity, preoccupation with other priorities and the complexity of the legislative procedures. African States may avail themselves of the assistance offered by States bilaterally or by the relevant international organizations to facilitate not only reporting but also in coping with any implementation gaps.

Reporting status in Africa

On 27th April 2006, in my capacity as the Chairman I presented to the Security Council a report on the status of the implementation of resolution 1540 (2004) with a conclusion that resulted in the Council's adoption of resolution 1673 (2006), extending the Committee's mandate up to 27 April 2008. The Committee's report was based on the examination of data submitted in the national reports, the additional information provided by States and the information available in the Committee's legislative database on relevant national laws and regulations. The experts will share with you in their contributions detailed information regarding both the overall status of implementation and the situation with respect to Africa. I will thus confine myself to highlight some of the particularly relevant findings and recommendations as updated in the Committee's work programme.

First, since the adoption of the 1540 resolution in 2004 - 132 UN Member States and one organization have submitted first national reports on measures they have undertaken or intend to take to meet fully their obligations under the resolution. Unfortunately this statistic includes only 18 of the African States, which means that 35 African States have yet to submit a national report. In response to the examination of the first national reports by the Committee, 85 States have submitted additional information, but only six States from Africa. I call upon all those States, which have not yet submitted a national report to do so as soon as possible. They already received basic assistance from the Committee in the form of a matrix that is building on the information available on the official websites. I would also like to invite African States that have already submitted their reports to provide the Committee with additional information, according to the Committee's correspondence distributed to the States, as appropriate.

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

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

I would like to use this opportunity to remind all States, that the implementation of the resolution provides not only obligations and paperwork but also provides benefits that all States, including African States, may gain from the full implementation of resolution 1540. Most important improvement will be better legislation and an internal administrative system providing improved security from possible terrorist activities along their borders or within their territories, and other legislative advice and technological benefits that could finally contribute to the social and economic development of States.

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

on a bilateral basis, and also to make full use of offers by international organizations, in order to enhance capacity-building to fully implement resolution 1540.

Concluding remarks

The Committee considers Africa a very important region for the full implementation of resolution 1540 (2004). The Accra seminar is therefore intended to be a major first step in the Committee's outreach activities in this continent. Subject to the availability of resources and with the support of the UN Department for Disarmament Affairs, the Committee hopes to follow-up with sub-regional outreach activities to provide as appropriate a structured and more focused guidance to States in this region for implementing all their obligations under resolution 1540.

Full implementation of resolution 1540 by all States is a long-term objective. It will require continuous efforts at national, regional and international levels, on capacity-building and assistance, made by States in implementing this resolution. The African region could contribute to the implementation of the 1540 resolution significantly. Now, it requires better cooperation and coordination in preparation of national reports between the Committee and other international bodies and African States.

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

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

Thank you once more for this opportunity.