

UNSCR 1540 Statement from World Customs Organization

Customs and Borders in 1540

In 2004, the United Nations Security Council unanimously adopted Resolution 1540 (UNSCR 1540), imposing binding obligations on all states to take and enforce “appropriate effective measures” to prevent proliferation of nuclear, chemical, or biological weapons and their means of delivery. Effective implementation of many of those measures, including export, transshipment, and border controls, as well as law enforcement efforts to detect, deter, prevent, and combat illicit trafficking in “related materials”, relies critically on Customs administrations. However, for Customs to enforce “appropriate effective measures”, they as an institution need to be supported by Member States government through provision of appropriate enabling legislation, adequate human and material resources, and the prioritization of the Security and Protection of Society Mandates of Customs. In turn Customs Administrations need to ensure that they have processes in place and staff aware of proliferation risks and commodity profiles so they can address this challenge. Allied to this is the need for Customs Administration and staff to have technical assistance through knowledge transfer and implementation guidance relating to UNSCR 1540 that is tailored specifically to the needs and circumstance of Customs.

Since 2012, the World Customs Organization (WCO) has been actively promoting UNSCR 1540 compliance by providing technical assistance to our Members through our Strategic Trade Control Enforcement (STCE) Project. One of the major international developments since 2012 has been the acknowledgement within the international Customs community of Customs’ security mandate of and its role as a guardian and gatekeeper for international trade. The security mandate of Customs needs to be recognized more fully in international instruments, highlighting the preventative role played by Customs, but also the role Customs plays as a guardian of world trade through insuring that international norms are adhered to. In 2022, it is clear that security and economic development co-exist in a complimentary way, enhancing each other’s functions. Customs is uniquely placed as the sole governmental agency globally

with responsibilities stretching across both areas, effectively contributing through its core functions to economic development, as well as to national/international security.

The WCO's Strategic Trade Control Enforcement (STCE) Programme has been running since 2016 and is a capacity building initiative engaging with Customs administrations to enhance their efforts and abilities to prevent the proliferation of weapons of mass destruction (WMDs) and their constituent materials. The goal of the Programme reflects obligations called for by UNSCR 1540 (2004) operative paragraphs 3c and 3d, namely, to enable the only state agency (Customs) responsible for implementing controls over commercial cross border movements to do so in an efficient way contributing to non-proliferation.

More broadly in 2022 the WCO made a number of revisions to the Harmonized System (HS) for classification of goods. These amendments have made it easier to facilitate control and tracking of trade in dual-use items (related items as defined in UN SCR 1540). Examples of this are specific HS codes for 3D printers and CWC Scheduled chemical precursors. Equally as e-commerce increases as a means of purchasing and moving goods the WCO is seeking to ensure controlled goods are properly declared and monitored through the supply chain.

Challenges Associated with Implementing 1540

Many of the challenges associated with the effective implementation of UNSCR 1540 relate to coordination within governments. This includes vertical coordination between Foreign Affairs Departments, which commit their states to 1540 enforcement and those Departments or operational agencies that have to implement them, as well as horizontal coordination between Customs, licensing, investigative agencies and Prosecutors in relation to effective controls, enforcement and deterrence. The WCO welcomes the Assistance and Cooperation initiatives undertaken by the 1540 Committee and Group of Experts which have involved a wider range of implementing parties and have led to a broader implementation of UNSCR 1540. The WCO

remains committed to support these initiatives and work with both the 1540 Group of Experts and the regional 1540 Coordinators over the coming 5 years. A benefit of this approach is that it engages at a whole state level with international assistance providers whilst also allowing specific training to address the needs of Customs or licensing authorities to be delivered by the appropriate international organizations.

The WCO is aware of developments in relation to the procurement of WMD goods and technologies, the growing use of e-Commerce was mentioned above is a challenge and there is a need to ensure timely and accurate completion of Customs and shipping documentation to enable Customs to conduct effective checks. This is a particular issue in relation to transshipment and in Free Trade Zones. The financing of proliferation networks also need to be addressed since 2004 when the resolution was drafted there has been the rise of darkweb market-places and the increasing use of crypto-currencies as a means of exchange. These developments mean that trading in WMD and related items can be hidden from conventional Customs audit controls, and there is a need to develop better understand of how these exchanges work.

What We Propose

A key starting point is awareness of everyone's role in relation to the enforcement of UNSCR 1540 controls. Since the inception of the STCE Project (2013) and the implementation of the STCE Programme (2016), thousands of Customs officials have participated in a variety of STCE themed events and trainings delivered by the WCO, a key element of these is awareness within Customs of their national strategic trade control system and legislation, and who their partners are in relation to licensing, technical reach back, and investigation. Activities delivered by the STCE Programme have established the Programme as the leading official, targeted, and Customs-focused global initiative.

UNSCR 1540 paragraph 3c highlights the importance of, among other things, international cooperation. The WCO is the only international organization acting on behalf, and by proxy of the global Customs community. The WCO feels wider promotion of the WCO STCE

implementation guidance and its training materials by the UN for Customs audiences is key in addressing this. This should also be allied to the development of complementary training material based on the same source for licensing and investigative agencies.

The WCO is committed to supporting other member lead international organizations in the development of complementary training and also recommends greater cooperation in the provision of assistance by the international implementation community. The 1540 Committee and Group of Experts are ideally placed to provide this direction and ensure through their matchmaking process that requests for assistance are actioned by the most appropriate provider.

Another key element for consideration is the development of an Implementation Assistance Note, "To assist Member States in their implementation of customs- and border-related aspects of 1540". The creation of this high-level document would, on the one hand, facilitate the implementation of already existing tools, such as the WCO STCE Programme, and, on the other hand, would focus on specific issues requiring concerted high-level political action, such as the issue of Free Trade Zones, or the issue of control and oversight of transshipments. The WCO would support actions taken by the UNSC to facilitate greater transparency and information exchange to enhance physical and documentary controls over the inventory and supply chains of commercial traders based within Free Trade Zones, as well as of shippers undertaking transshipment operations.

This implementation note would provide specific, detailed, and actionable guidance, tailored to different levels of national implementation maturity, and provide a basis for capacity building efforts to meaningfully enhance implementation. The WCO is willing to play a leading role or to support other international partners in the development and drafting of an Implementation Assistance Note relating to the implementation of the Customs and border measures.