

Comprehensive Review on the Status of Implementation of Resolution 1540 (2004)

**Background papers prepared by 1540 Committee experts according to the document on
modalities for the consideration of a comprehensive review (S/2009/170)**

Specific Element (d)

“Generate new tools, such as sample action plans or assistance requests, and develop practical means to address the most commonly found or dangerous “gaps” in implementation ”*

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A. Status of development of practical means to address gaps in implementation

This paper describes the current status of several tools that the 1540 Committee uses to address the most common or dangerous gaps in implementation, the challenges the 1540 Committee faces in employing these tools, and some options for meeting those challenges. While critical in helping identify gaps in implementation of the resolution, the 1540 Matrix (examined in another background paper) does not assist States in making several important, practical decisions about how to address those gaps. To achieve that end, this paper draws on the concept of implementation planning to organize the discussion and focuses on four tools already in use by the 1540 Committee: the assistance databases and the assistance request template; the voluntary fund; the legislative database, and action plans.

As an integral part of the resolution, many States offered and requested assistance in implementing the resolution when making their initial reports. Through examination these reports the 1540 Committee adopted two initial databases, one for offers of assistance and one for requests of assistance, classifying each offer and request on several dimensions as well as providing a short summary. It posted the offers of assistance in 2005, but decided not to post the requests at that time. The 1540 Committee eventually established several parameters on its role in facilitating assistance activities. It would neither provide direct assistance to Member States (other than that associated with its outreach program related to preparing national reports), nor coordinate national or international assistance efforts. It would, however,

- Act as a clearinghouse for requests and offers of assistance related to the resolution;
- Help States offering assistance to cooperate and coordinate their national programs to assist Member States (which it did by sending an expert to a meeting of States and organizations offering assistance in Geneva in June 2006, then 2007 and so forth); and
- Distribute requests for assistance to States that expressed an interest in offering assistance, which it did.

Over time, further requests for assistance have arrived, which have been added to the database. The 1540 Committee has used this data to make States aware of offers and to guide the distribution of requests to all those offering assistance. In practice, however, most of the offers for assistance proved very general, which apparently contributed to their limited utility (e.g., few, if any, States requesting assistance referred to the database).

To improve its capacity to facilitate assistance in implementing the resolution, with the help of Norway and UN Office for Disarmament Affairs (UNODA), the 1540 Committee organized a meeting of States offering and requesting assistance in New York in April 2007. It followed this meeting with an internal thematic debate on assistance in May 2007, and an open meeting for States and IGOs in July 2007 (along with a meeting for non-government implementing

organizations organized by UNODA). That same month, the 1540 Committee agreed on four more decisions on assistance processes:

- Work with States that offer assistance, including sending a letter explaining the role of the Committee in assistance efforts, to share more information about points of contact for national assistance efforts, making the offers more specific, and develop an assistance offer template;
- Work with States requesting assistance to make more effective requests, particularly through the development and use of an assistance template and sending a letter explaining the role of the Committee in assistance efforts;
- Post the requests for assistance on the 1540 Committee website; and
- Facilitate enhanced coordination of assistance efforts.

Based on feedback from States and other parties, the Committee and its experts focused on creating an assistance request template, which they field-tested at regional outreach events, as well as at the New York meetings. The 1540 Committee adopted its assistance template in November 2007, and then sent the template along with a short letter of explanation to all States. At all times the 1540 Committee has reminded States that they may request assistance by using the template, by indicating requesting it in their national report, or by other means of communication with the 1540 Committee. Although the 1540 Committee has received only six requests using its template so far, at least two of those requests have been met, and recently two States expressed an interest in fulfilling two more of the requests. Fulfilling four of six requests demonstrates that using the assistance template increases the probability that the request will attract an appropriate partner for technical cooperation, when compared to earlier methods used by the 1540 Committee.

By October 2005, the 1540 Committee decided to create a database of relevant national legislation and regulations using information already available to the public on-line, as a means by which States share legislative experience. This Legislative Database is currently available on the 1540 Committee website at www.un.org/sc/1540/legisdatabase.shtml. Legislation and regulations contained in the database appear by State, and roughly parallel the organization of the 1540 Matrix. As with the data in the matrices the legislation is only from the official State sources, or from an international organization to which the State supplied official information. Neither the 1540 Committee nor its experts make any judgment on the quality of the legislation or regulations; nor is the database necessarily a comprehensive listing of all legislation or regulation. Currently, the database holds legislation or regulations from over 100 States and the European Union. The last major update of the database took place in preparation for the April 2006 Report. The experts have been updating the legislative database based on information developed for the July 2008 Report, intending to complete the task in 2009.

Resolution 1810 (2008) also urges the 1540 Committee to continue strengthening its role in facilitating technical assistance. The resolution, for example, recommended that the 1540 Committee “consider options for developing and making more effective existing funding mechanisms.” In March 2009, the 1540 Committee approved a paper by the Chairman that closed with the recommendation that the 1540 Committee continue to use the UN Trust Fund for Global and Regional Disarmament Activities while it carried on its deliberations over how it might guide and oversee this fund.

Finally, both 1540 Committee reports to the UN Security Council have encouraged States to develop and submit to it plans of action or road maps toward implementation of the resolution. So far, the 1540 Committee has received action plans on implementation of the resolution from Argentina and the United States, although several other States have advised representatives of the 1540 Committee of their efforts to develop a national action plans. Although the 1540 Committee has not adopted specific guidance on the development of voluntary action plans, 1540 Committee representatives have made comments on such processes in several outreach presentations. In particular, the academic literature on implementation and assistance suggests that such plans include conducting a gap analysis, setting priorities for closing gaps, spotting potential problems or opportunities associated with closing the gaps; developing courses of action and making choices; executing the appropriate actions; and evaluating the results.

B. Challenges

The 1540 Committee confronts at least six major challenges for its tools in fostering implementation of resolution 1540 (2008).

Priorities for Implementation. Resolution 1540 (2004) has multiple objectives, but does not establish priorities or hierarchies for their implementation. In part this recognizes that States function under very different circumstances and influences from each other. Through this approach, each State determines its own priorities, as well as establishing its own definition of “appropriate effective” measures. As with the 1540 Matrix, the legislative database contains a broad range of measures that have some relevance to implementation of the resolution that, implicitly, States can peruse and use for direction. While these steps follow the dictum that “no one size fits all,” customers usually want to see samples of the many possible fabrics and styles, which they usual winnow to a select few before the tailor sets to work on the final choice. Without some tools that give guidance or suggestions, the complexity of the resolution can befuddle efforts to plan its implementation. Can the 1540 Committee generate or point to such guidance without diminishing the degree of national discretion the resolution seeks?

Planning, Assistance, and Capacity-building. Resolution 1810 (2008) again calls on States to consider preparing action plans, especially as a foundation for enhanced international

cooperation. Many, perhaps most, States face substantial obstacles to preparing road maps for implementation of resolution 1540. The scope of the resolution cuts across many traditional bureaucratic and political boundaries. At the very least this means that intense political and bureaucratic coordination processes often will accompany implementation planning, particularly in setting goals. In concrete terms, the adoption of a voluntary action plan might often be perceived as an important objective by State authorities, as experience suggests that in the absence of action plans, substantive advances in implementation just do not occur, except by fortunate accident. Developing these plans requires the planners to build and sustain political and bureaucratic support for implementation, particularly for reaching a consensus on needs. Obtaining outside help to build national capacity, however, remains an important incentive for States to develop implementation plans, especially if they can integrate such assistance into their overall plans for national development. Several kinds of detection equipment that States can deploy at their borders, for example, can uncover a host of illicit activities besides those directly related to resolution 1540, creating benefits for national development, such as raising revenue for government authorities, preventing the spread of infectious diseases or hazards to the environment, and stopping illicit trafficking in persons, drugs, and other contraband. How can the 1540 Committee advance implementation planning, and any assistance tied to it, among States?

Delivering Assistance. The 1540 Committee delivers direct assistance on a very limited scale. It provides information on its activities and on the global status of implementation of the resolution. When asked, it helps States prepare reports and assistance requests. It also will assist States in developing an implementation plan, if asked. Nonetheless, even these tasks stretch its resources. At the same time, the 1540 Committee has not used a variety of newer communication technologies that might allow it to foster implementation more efficiently. For example, the 1540 Committee relies largely on individual remarks or electronic presentations at conferences, workshops, briefings, and on its web site tools to deliver its messages. It has few connections with traditional news or commercial media that could elevate awareness of the resolution among key segments of the public. The use of newer media channels remains largely untested. The 1540 Committee, for example, has not used the web to distribute videos, podcasts, or interactive courses related to the resolution, such as ideas on preparing a national action plan or assistance request. How can the 1540 Committee make better use of existing or new technologies to promote implementation of the resolution?

Matching Cooperation Partners. Resolution 1810 (2008) specifically urges the 1540 Committee to foster implementation of resolution 1540 through matching offers and requests for assistance. Most offers and requests for assistance submitted to the 1540 Committee arrive as very general requests, usually without information on a point of contact. Consequently, the 1540 Committee circulates them to all those offering assistance, who in turn also must struggle to respond to the request. The 1540 Assistance Request Template helps States make the nature of their request more specific, as well as give States an opportunity to denote a preference for partnerships with States or International Organizations. As a relatively new tool,

few States have submitted requests using the template as of this moment. In addition, matching presupposes that the 1540 Committee analyzes the content of the offers and requests, which it now does only at the margins. The 1540 Committee has yet to develop tools besides the assistance template that make assistance data more useful to it and to potential partners for cooperation. Beyond distributing all requests to all those who offer help, the 1540 Committee has not developed standard procedures for handling requests or offers, much less for match-making. How can the 1540 Committee prompt the international community to deliver and absorb more assistance at a faster pace?

Promoting Cooperation among States (and Others) - Offering Cooperation. In recognition of the need to make the most efficient use of limited resources, the international community has had meetings of entities offering assistance in which the 1540 has participated, with the aim of facilitating cooperation. While these meetings took place, cooperation among these States, International Organizations and other bodies remains *ad hoc* and irregular, at best. This habitually leads to conflicts in the scheduling of 1540-related activities, which must compete for the relatively small number of available technical experts, much less the finite sources of funding. It also means that the States, International Organizations, and other entities do not meld the substance of their individual assistance programs in ways that enhance compatibility, experience sharing, and effectiveness. In some instances, the 1540 Committee even has trouble including certain multilateral institutions in its deliberations, especially when these institutions do not meet the criteria for categorization as an international or regional body. Implementing 1540 obligations may require some degree of redundancy, especially as personnel and policies change. Unplanned redundancy, however, may spread competing messages as well as reduce the efficient use of finite global assistance resources. How can the 1540 Committee promote such efficiencies in a non-discriminatory and effective way?

Promoting Cooperation among States Seeking Cooperation. As the request for assistance by CARICOM, which Canada and the United States have met, intimates and the UNODC encourages, requests for assistance from a group of States might prove more useful than requests from individual States, especially for inherently cross-border activities. Shortly after its inception, the 1540 Committee began approaching regional and sub-regional organizations to obtain political support for the implementation of resolution 1540 by their members, an approach that has met with success. This strategy, other associated outreach activities, and the experience some regions have had in hosting high-profile events, help make clear the potential value of assistance programs calculated to remedy a regional or sub-regional requirement, in addition to those programs designed around the needs of a single country. While the 1540 Committee has handled a request from a sub-regional organization, it does not have a strategy for fostering the submission of such requests. How can the 1540 Committee evoke more regional or sub-regional solutions to common problems?

C. Options to Consider

The 1540 Committee already has had some informal requests for sample implementation plans and assistance requests, which may be the most straight-forward activity it can conduct to address several of the challenges mentioned so far. It also can overhaul its legislative and assistance databases and make them more user-friendly, such as by making them searchable or employing easier to understand categories and tables. It can create ways for States and International Organizations to enter offers, requests or other information electronically. It can find incentives for States to make regional or sub-regional requests. Increased use of the dedicated parts of the UN Trust Fund for Global and Regional Disarmament Activities creates an opportunity for an ever more robust response to those offering and seeking technical cooperation on implementation of the resolution.

So far, the 1540 Committee has not made use of modern networking strategies. Networks of those individuals implementing assistance programs, however, promises many advantages, particularly when it comes to sharing experiences. For example, the 1540 Committee could foster efforts to bring together officials interested in implementing a specific aspect of the resolution in an electronically connected social network to supplement, if not always replace, the far less frequent face-to-face meetings that involve significant travel and opportunity costs. The 1540 Committee might help make it easier for States to use the Internet to build regional or sub-regional assistance requests, share experience on draft laws, avoid scheduling mishaps through timely notifications or a shared activity schedule, and so forth.

On a more substantive note, the 1540 Committee could sponsor, or conduct through the group of experts, more analysis of the requests, offers, and related assistance programs to develop effective matching strategies, as well as identify lessons learned and good practices in the delivery of types of assistance related to the resolution. Many institutions, including the Counter-Terrorism Committee, have examined their assistance efforts for lessons learned. At the same time, although many States in the international community have worked as partners in training on export controls, they have few measures to validate what actually does or does not work.