

Information Note¹

- Event:** Nuclear Security and Nuclear Counterterrorism: Streamlining and Updating the Legal Framework
- Organizers:** Center for International Trade and Security of the University of Georgia (CITS), in cooperation with the Russian Institute of World Economy and International Relations (IMEMO) and the NATO Science for Peace and Security Programme and other partners
- Date and Venue:** 28-29 January 2010, Vienna, Austria
- Participants:** Over 100 specialists on disarmament and non proliferation issues, from 23 States², representing governments, research and public policy institutions and nuclear security/safety authorities, and from intergovernmental organizations: the IAEA, the OPCW, the EU, NATO and the United Nations, particularly UNICRI, UNODC and the 1540 Committee Expert Group. Other Expertise: World Institute for Nuclear Security (WINS)

1. Objectives

The objectives of the workshop were: (a) to analyze the legal framework comprising the legally binding and non-binding instruments designed to strengthen nuclear security and combat nuclear terrorism; and (b) to identify deficiencies and gaps in the current fragmented legal structure in order to promote universality and effective implementation. The purpose of participation by the 1540 Committee expert was: (a) to make a presentation addressing the theme of the workshop and focused on the nature and status of implementation of UNSC resolution 1540, with particular reference to the relationship between its provisions and existing international instruments concerning nuclear security; (b) to interact with panel members and other participants on the challenges and opportunities to enhance the composite legal framework in the nuclear area so as to achieve an effective nuclear security regime – as a contribution to the preparatory process for the April 2010 Nuclear Security Summit in Washington D.C.; and (c) to renew contacts with experts from international organizations and work on establishing a global network of legal and other experts for future contacts.

2. Background

The Vienna workshop on legal frameworks for nuclear security was organized as a special event sponsored by non-governmental entities and was related to the earlier IAEA symposium on nuclear security of March/April 2009, where a delegation of the 1540 Committee made a contribution. The workshop assumed special significance because of the adoption of resolution 1887 (2009) by the Security Council at the summit level of Heads of State or Government, with emphasis on nuclear security, which initiated a process of diplomacy and preparatory work leading to a Nuclear Security Summit scheduled for Washington DC in April 2010. The outcome of the workshop would be used as part of the briefing for the 1540 Committee Chairman, as he prepared to participate in the preparatory meeting for Nuclear Security Summit, scheduled for The Hague in February 2010.

¹ For information – not an official report. The views expressed here do not necessarily represent those of the 1540 Committee or of the organizers or participants in the event.

² Austria, Canada, China, Denmark, Egypt, Germany, India, Indonesia, Malaysia, Mexico, Morocco, Pakistan, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Sweden, Switzerland, Thailand, United Kingdom, United States and Uruguay.

The workshop was comprehensive in addressing both the binding and non binding legal measures and initiatives, but its main focus was on the main binding international legal instruments: the Convention on the Physical Protection of Nuclear Material (CPPNM) and the 2005 Amendment; the International Convention for the Suppression of Acts of Nuclear Terrorism; the International Convention for the Suppression of Terrorist Bombings; the International Convention for the Suppression of the Financing of Terrorism; and UN Security Council Resolution 1540 (2004). Also mentioned was UNSC Resolution 1373(2001) as part of the wider legal regime to combat terrorism

3. **Highlights**

The presentation by the 1540 Committee expert explained the uniqueness of UNSC resolution 1540 (2004) as a binding non-proliferation instrument under Chapter VII of the UN Charter applicable to all weapons of mass destruction (WMD), their means of delivery and related materials. As a new instrument to fill some gaps in the existing system of law, the resolution provided for measures to prevent and deter non-State actors from engaging in a list of proliferation-related activities and in illicit trafficking in MMD-related materials, in particular for terrorist purposes. The connection with other non-proliferation instruments was shown in a tabular presentation of the coverage in the nuclear field between the prohibitions and control measures under operative paragraphs 2 and 3 of resolution 1540 and the corresponding provisions of the IAEA and the NPT, the Nuclear Terrorism Convention; the Convention against Nuclear Bombing; and the CPPNM and its 2005 Protocol. It showed that the coverage under resolution 1540 was more extensive with respect to non-State actors and that close cooperation between the 1540 Committee and the IAEA and other relevant entities in the areas of overlap would enhance fuller implementation with mutual benefit.

The report of the workshop reflected the key issues and proposed some steps to achieve a nuclear security 'regime' by filling remaining gaps and reconciling inconsistencies and duplications. The presentations addressed both substantive and procedural issues for implementing effective measures to address the subjects of nuclear security and nuclear terrorism. The following issues were raised, which were of particular relevance to the work of the 1540 Committee.

(i) Given the significant but *ad hoc* responses the terrorist attacks on September 11 and afterwards, what can be done to cope with the fragmentation of legal framework and the slow pace of implementation of measures? Pending widespread ratification and universalization of the various instruments, can the 1540 Committee persuade the concerned institutions such as the IAEA to utilize the binding provisions of resolution 1540 in the areas of overlap, especially when the legal instruments are not yet in force?

(ii) The scope of some relevant instruments relating to nuclear security has been broadened since 2004, notably the CPPNM, to cover not only nuclear materials usable for explosives but also other radioactive materials that could be used in a radiological dispersal device. In resolution 1540, the definition of "related materials" refers to those related to WMD and their means of delivery, mindful of the coverage and definitions in existing legal instruments. Since States do not always distinguish between nuclear material and other radioactive sources in their reports to the 1540 Committee, a lesson from the workshop is that the evolution of concepts regarding nuclear security and cooperation with the IAEA and other entities may help in clarifying the scope of application of the 1540 definition to facilitate specific implementation.

4. **Additional comments**

For further information, please contact the 1540 Committee experts by e-mail at 1540experts@un.org.