



# African perspectives on countering weapons of mass destruction

## INTRODUCTION

In an effort to address recent security challenges, the international community has broadened its non-proliferation focus to include preventing the proliferation of weapons of mass destruction (WMD),<sup>1</sup> particularly to non-state actors.<sup>2</sup> In response to concerns over the possibility of non-state actors acquiring or producing nuclear, biological or chemical weapons, and in an effort to support and strengthen existing non-proliferation regime, the United Nations Security Council (UNSC) adopted Resolution 1540 in April 2004.

The aim of Resolution 1540 is to prohibit states from providing any form of support to non-state actors who attempt to acquire or produce WMD. In addition, Resolution 1540 requires states to develop and maintain effective measures and controls over WMD, their related materials<sup>3</sup> and delivery systems<sup>4</sup> in order to reduce the risk of proliferation (Woodward 2007). While building on, and complementing earlier Security Council Resolutions 1267 and 1373, Resolution 1540 has been met with some controversy because of its mandatory nature and the implications it holds for the domestic laws of sovereign states.

This paper aims to assess perspectives on, and attitudes towards, Resolution 1540 and progress made in its implementation, with a particular focus on the African continent. The first part of the paper examines the origins of Resolution 1540, the implications it holds for countries, as well as general concerns surrounding its adoption and implementation. Thereafter, the attitudes of African countries towards the resolution and non-proliferation issues in general are analysed, based on statements and reports submitted to the United Nations. Particular attention is paid to concerns surrounding implementation, and especially to the relevance of issues related to WMD to the continent. The final part of the paper considers the possible benefits for African countries in focusing more attention on implementing the resolution, concluding with an assessment of the

current problems they face in doing so, and possible ways forward to enhance implementation on the continent.

## THE CHANGING SECURITY ENVIRONMENT

The unveiling, in 2003, of a global nuclear smuggling network highlighted the ease with which non-state actors have been able to operate and transfer technology between countries as well as the potential for non-state actors to produce or acquire WMD. The Khan network, which was orchestrated and headed by Pakistani scientist A Q Khan, had been operating for more than three decades and was responsible for smuggling nuclear technology between several countries, including Libya, Iran and South Africa (Laufer 2005). It is estimated that between 30 to 40 countries were directly or indirectly involved in the smuggling network (RSA 2007).

The dangers involved in the proliferation of WMD to, and by, non-state actors poses a significant threat to international peace and security – a threat that the traditional non-proliferation regime have been ill equipped to deal with.

The principal international responses to dealing with WMD threats have been the 1968 Nuclear Non-Proliferation Treaty (NPT), the 1972 Biological and Toxin Weapons Convention (BTWC) and the 1992 Chemical Weapons Convention (CWC). These long-standing non-proliferation and disarmament agreements were based on a state-centric approach towards dealing with WMD-related threats, and have largely been based on co-operative measures, resulting in them being neither mandatory in nature nor universal in coverage (Bosch & Van Ham 2007:4). The possibility for withdrawal and the lack of effective enforcement mechanisms for monitoring and verifying activities have done little to deter states from renegeing on commitments, as was demonstrated by North Korea's withdrawal from the NPT, in April 2003.

In order to address more recent security risks, the international community has adopted several new

measures to close gaps in the existing non-proliferation regime. Where past initiatives focused predominantly on preventing state acquisition of WMD, the scope of these new measures has expanded to encompass threats arising from non-state actors.

The most recent of these is UNSC Resolution 1540. Resolution 1540 was preceded by two other significant resolutions aimed at dealing with terrorism-related issues. The first was Resolution 1267 (1999) and the second was Resolution 1373 (2001). In both cases a committee was established to monitor the implementation of the resolution. The 1267 Committee<sup>5</sup> was tasked with overseeing the implementation of UNSC sanctions measures (including assets freezes, travel bans and arms embargoes) by states on individuals and entities belonging to, or associated with, the Taliban, Osama bin Laden and the al-Qaeda organisation. The committee maintains a list of individuals and entities for this purpose (UN 1267 Committee 2007). The 1373 Committee was established to monitor and assist states in implementing measures to criminalise terrorism-related activities, and now continues to increase national counter-terrorism capabilities (UN 1373 Committee 2007).

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Following on from these two resolutions, Resolution 1540 was adopted in April 2004 with the aim of closing loopholes in the non-proliferation regime by addressing the inadequacies of existing treaties and conventions (Bosch & Van Ham 2007:4). It does this by requiring states to criminalise the proliferation of WMD to non-state actors and compelling states to implement and enforce effective measures in their national legislation to prevent non-state actors from being able to develop, acquire, manufacture, possess, transport, transfer or use any type of WMD (Crail 2006:356).

The resolution's primary requirements are set out in its operative paragraphs:

- Refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their delivery (operational paragraph 1)
- 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, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them (operational paragraph 2)

- Take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials (operational paragraph 3)

The resolution has generally been well received and commended by many as a positive step, particularly as it attempts to strengthen the current non-proliferation system by urging states to 'renew and fulfil their commitments to multi-lateral co-operation'. In doing so, it reinforces the foundation of traditional co-operative conventions while at the same time addressing new security threats (Weapons of Mass Destruction Commission 2006:55). The resolution was also adopted during a time when efforts to consolidate past global treaties had stagnated, as evidenced by the fact that the 2005 NPT review conference ended in acrimony and without a final statement (Weapons of Mass Destruction Commission 2006:65).

## THE 1540 COMMITTEE

Resolution 1540 also made provision for the establishment of a committee (the 1540 Committee). It consists of the permanent five Security Council members<sup>6</sup> as well as the ten non-permanent members that are elected on a two-yearly basis.<sup>7</sup> The committee's function is to monitor and oversee the implementation of the resolution, which it does with the assistance of a team of experts that evaluate reports submitted by states and make recommendations to the committee on them (Crail 2006:360).

Resolution 1540 obliges UN member states to report to the committee no later than six months after its adoption on steps the country has taken, or plans to take, to implement the resolution's provisions. Three sub-committees review submitted reports and when there is a need for clarification or additions, the countries concerned are informed and are requested to submit additional information (Olberg 2006).

Some 50 states met the initial deadline of October 2004. However, for many it was not nearly enough time to negotiate, draft and adopt appropriate laws or to establish effective measures and controls, and for others it was not even enough time to plan steps to implement provisions (Olberg 2006).

The Committee's mandate was initially for two years (until 2006) but this was extended by UN Security

Council Resolution 1673 in 2006 for a further two years (UNSC 2007b). On 25 April 2008 the UNSC unanimously adopted Resolution 1810, extending the mandate of the committee until 25 April 2011 as well as strengthening its role in facilitating technical assistance for the implementation of the resolution. The committee was also tasked with undertaking a comprehensive review of the status of its implementation and reporting to the UNSC by no later than 31 January 2009.

More than four years after its adoption, some 50 UN member states have still not submitted preliminary reports to the 1540 Committee. Taking this into consideration, and despite the active encouragement of the committee and its experts, one has to question whether all states will have reported to the committee by the time its new mandate expires.

## CONCERNS SURROUNDING THE ADOPTION OF RESOLUTION 1540

Although Resolution 1540 was unanimously adopted by the Security Council and has generally been well accepted by UN member states, a number of concerns have been raised by states regarding its drafting, adoption and implementation.

There has been some unease over the origins of the resolution, particularly that it was a United States (US) initiative and not the result of traditional negotiation processes (Crail 2006:359). Rather than follow the traditional treaty-making process, the Security Council's permanent members spent some six months working on the draft text of the resolution before it was handed to the council's elected members. Furthermore, several members of the Non-Aligned Movement (NAM) and various non-governmental organisations had pushed to have some sort of input and though a few consultations were eventually held, their input was carefully controlled and had limited impact. This resulted in some initial animosity towards Resolution 1540, as several countries opposed the idea of implementing a resolution in which they had no say in drafting (Olberg 2006).

## THE UNITED NATIONS CHARTER

Of particular concern to some states is the resolution's adoption under chapter seven of the UN charter, making it legally binding (and thus legally enforceable) on all UN member states. Members of NAM have for example expressed concern over this, as treaties such as the NPT, BTWC and CWC allow for withdrawal and do not guarantee enforcement (Weapons of Mass Destruction Commission 2006:48).

There has also been some dispute over whose domain it will fall under to enact enforcement measures, with

some states questioning the Security Council's authority to act as an enforcement mechanism. There has been debate over whether issues of WMD proliferation should fall under the Security Council's mandate or not, though a counterargument is that UN member states have all agreed that on issues of international peace and security, the UNSC acts on their behalf and they are bound by its resolutions (Bosch & Van Ham 2007:7).

There has been some unease over the US's strong influence within the Security Council, which has raised concerns over US intentions, particularly with reference to enforcement measures. Fears that the resolution might later serve as a basis for imposing economic sanctions or even military interventions on states that are deemed to be non-compliant (Bosch & Van Ham 2007:6) are not entirely unjustified given the US invasion of Iraq in search of WMD.

Lastly, a major 'bone of contention' surrounding Resolution 1540 and the current non-proliferation regime in general is the lack of disarmament by states with WMD capabilities, particularly as it is widely recognised that disarmament measures are highly relevant for strengthening the non-proliferation regime (Olberg 2006). The resolution's emphasis on non-proliferation to the virtual exclusion of disarmament has not sat well with many states, as it maintains the longstanding situation where WMD are deemed safe in the hands of some and not in the hands of others.

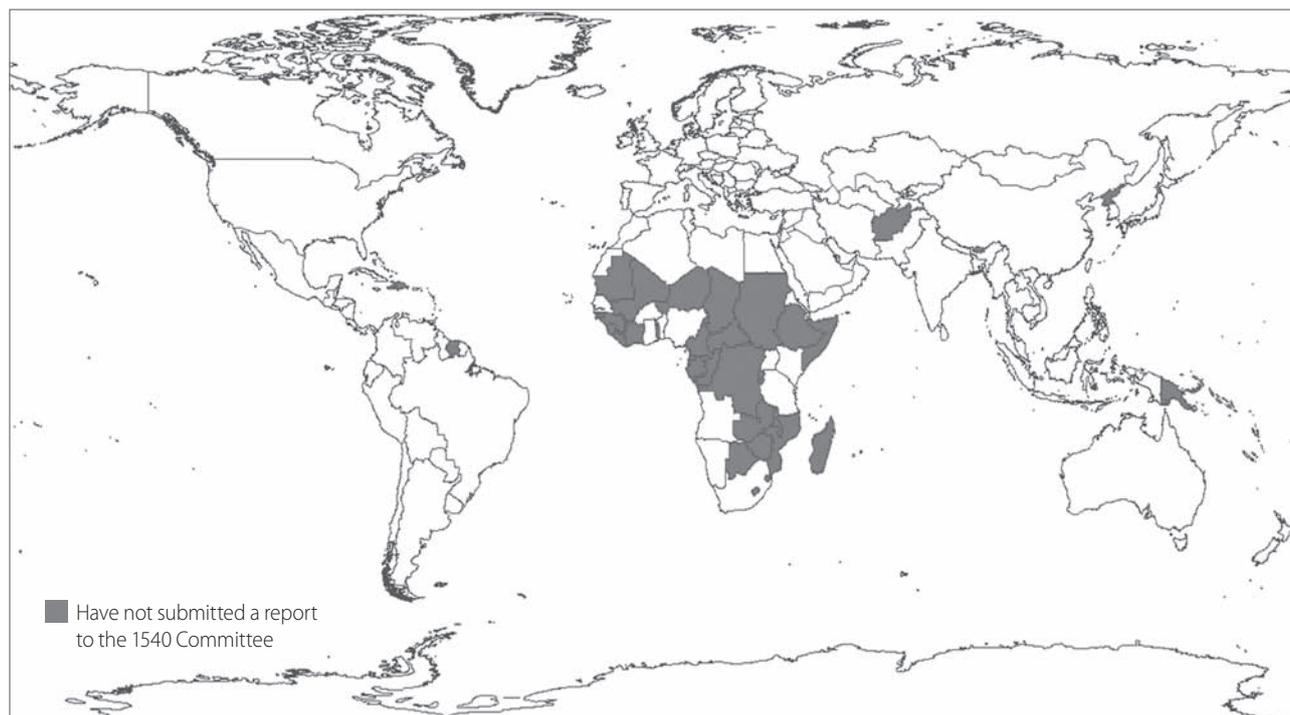
## UNIVERSALITY

While Resolution 1540 is unique in its global coverage, this has posed problems for its implementation, one being the degree of relevance of WMD threats to individual countries. The potential danger of a non-state actor being in possession of, and using, a WMD varies greatly between countries. For example, while the US and members of the European Union perceive WMD proliferation to be one of their biggest security challenges (Bosch & Van Ham 2007:3), many developing countries tend to prioritise issues such as poverty, famine and disease, which pose more immediate threats to their national security.

This raises the question as to whether it is more important for some countries (such as those with WMD programmes) to implement Resolution 1540 than for other countries? Expecting developing countries with already scarce resources, and who, for the most part, are already party to several international non-proliferation treaties and conventions, to prioritise the implementation of Resolution 1540 over more immediate and possibly more relevant problems, such as combating the spread of HIV/Aids, may not be fair.

As of April 2008, 137 UN member states and one organisation have submitted their initial reports to the

Figure 1 Non-reporting states as of April 2008



Source Adapted from ESRI Data and Maps 2006.

1540 Committee. Of the remaining 56 non-reporting states, nearly all are developing countries and 34 of these are on the African continent.

## AFRICAN COUNTRY REPORTS SUBMITTED TO THE 1540 COMMITTEE

As was previously mentioned, Resolution 1540 calls on UN member states to submit a first report to the 1540 Committee on measures that have been taken or are planned to implement the resolution's provisions. Given that the focus of this paper is on African perspectives on Resolution 1540, only African reports are examined.

African country reports have gone a long way towards revealing the attitudes of these countries towards WMD proliferation issues and it is quite telling that only 19 African states have submitted reports, and that most of these are incomplete (ODA 2007a:100).

Almost every African country that has submitted a report has stated that it does not possess any type of WMD and therefore cannot provide any form of assistance to non-state actors in acquiring them. Namibia, for example, does little more than state this in its one-page report (Namibian report to UN 1540 Committee 2004). When reporting on existing non-proliferation measures and intended steps on implementing the resolution's provisions, many African countries have simply listed the conventions and treaties to which they are party, as well as existing national legislation that pertains to the provisions. Although a step in the right direction, this has hindered progress on the successful implementation

of the resolution, as much of the legislation listed is broad, outdated and insufficient to effectively deal with more recent WMD threats.

Libya for example states that provisions one to three of the resolution are already in force under a 1988 act<sup>8</sup> that prohibits the use of and trade in WMD and calls on all states to renounce such weapons (Libyan report to UN 1540 Committee 2005). Similarly, Kenya stated that the development, acquisition, manufacture, possession, transfer, transport and use of nuclear materials - and by extension nuclear weapons - is controlled by its Radiation Protection Act (1982). This Act is currently under review. Kenya makes no mention of biological and chemical weapons in its report (Kenyan report to UN 1540 Committee 2005).

It is also interesting to note that some countries have mentioned that they have sufficient border controls in place, a provision of Resolution 1540, though it is likely that these controls were put into operation to curb illegal trading in small arms and narcotics. While such measures could contribute somewhat towards preventing the proliferation of WMD and related materials, border controls on the continent are notoriously weak and porous, and it is unlikely that these are sufficient for preventing the proliferation of chemical, biological or nuclear weapons, or their agents/components.

Examining report submissions from a geographical perspective, it is noteworthy that most North African coastal countries have submitted reports. This is in all probability due to their close proximity to the Middle East, as several states have acknowledged the need to

prevent the spread of terrorism and have expressed their support for putting an end to it. Furthermore, their proximity to and ties with Europe means that these countries are likely to be influenced by European security threat perceptions and WMD proliferation is currently perceived as a major threat in Europe. Most African countries that have been victims of attacks by non-state actors, for example Tanzania, Kenya and Algeria, have also submitted reports and made reference to the attacks.

**Table 1** Reports submitted to the 1540 Committee

Country	Date of submission of first report	Date of submission of additional report
Algeria	November 2004	September 2005
Angola *	October 2004	
Benin *	March 2005	
Burkina Faso	January 2005	
Djibouti	March 2005	
Egypt	October 2004	March 2006
Eritrea	June 2006	
Ghana	November 2004	
Kenya *	July 2005	
Libya *	April 2005	December 2005
Mauritius	April 2007	
Morocco *	October 2004	September 2005
Namibia	October 2004	April 2006
Nigeria	October 2004	
Senegal	March 2005	
South Africa	January 2005	January 2006
Tanzania	August 2005	
Tunisia	November 2004	
Uganda *	September 2005	

\* African countries that have requested assistance with the implementation of Resolution 1540 in their reports to the committee.

Table 1 clearly shows that although many African countries have expressed support for Resolution 1540, few have submitted reports and those that have, have seldom provided sufficient details. This may be partly attributed to a lack of co-ordination and co-operation between relevant government departments, but it may also suggest that implementing the resolution is not a high priority for African states. Eritrea is the only country that actually states this explicitly in its report. Though deeply committed to international efforts to prevent WMD proliferation, 'Eritrea has not enacted specific national legislations on non-proliferation and has not instituted control lists. The delay in taking national implementation measures is mainly caused by the preoccupation of the Government

with the unresolved border issue with Ethiopia' (Eritrean Report to UN 1540 Committee 2006).

A further explanation for the lack of reporting from the continent is the absence of effective governance as well as political instability in several African countries (Persbo & Woodward 2005).

The submission of additional reports, while not mandatory, might be considered a fair indicator of states' political will to comply with the resolution (Olberg 2006), and it is significant that only six African countries have provided further information. Three of these countries, namely Egypt, South Africa and Libya, have at some point possessed WMD capabilities and would naturally have a greater understanding of the measures and controls required over WMD and WMD-related materials. Furthermore, having developed WMD programmes and infrastructure, they would have had some control measures in place prior to adoption of the resolution.

Of the African country reports submitted to the committee, those submitted by South Africa have been by far the most comprehensive and detailed. The country has a history of being involved in WMD-related and disarmament issues and, since voluntarily giving up its WMD programmes in the mid 1990s, has become a strong advocate for complete disarmament and non-proliferation. South Africa played an active role in extending and strengthening the NPT at the 1995 and 2000 review conferences (RSA 2004).

## ATTITUDES ON IMPLEMENTATION OF THE RESOLUTION

There have been some concerns regarding the domestic requirements of the resolution, and South Africa, in its report to the committee, stated that it 'would be concerned if the Security Council were to assume legislative and treaty-making powers on behalf of the international community that are binding on all states and that are not envisaged by the Charter of the United Nations'. The report continued: 'Like other governments, the government of South Africa will also not accept externally prescribed norms or standards, whatever their source, on matters within the jurisdiction of the South African Parliament, including national legislation, regulations or arrangements, which are not consistent with South Africa's constitutional provisions and procedures, or are contrary to South Africa's national interests or infringe on its sovereignty' (South African report to UN 1540 Committee 2005: 2).

In addition to the reports submitted to the 1540 Committee, subsequent regional meetings held to promote the implementation of the resolution have been quite telling. These are reviewed below.

In June 2006, the 1540 Committee held a regional seminar in Accra, Ghana, to promote and assist with the implementation of the resolution in Africa.<sup>9</sup> Delegates from African countries presented papers on progress made in their countries and in Africa in general, and raised various concerns and problems they encountered.

In his presentation, the delegate from Algeria reiterated his country's support for the resolution and stated that Algeria has actively fought against the scourge of terrorism, and supports the total elimination of WMD. He also raised numerous concerns surrounding the NPT that need to be addressed, particularly as it is one of the foundational treaties on which the resolution was based. The NPT was built on three pillars, namely disarmament, non-proliferation and free access to nuclear energy and technology for peaceful purposes, and there has been a great deal of resentment towards the lack of disarmament and the double standard with regard to the possession of nuclear weapons, where some states were permitted to obtain nuclear capabilities while others were not (ODA 2007a: 87–89).

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## There has been a great deal of resentment towards the lack of disarmament

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He continued to state that not only were nuclear weapon states not fulfilling their obligations under the NPT and reducing their capabilities, but they were also denying other states the right to use nuclear technology for peaceful purposes – a right that is a provision of the NPT. Furthermore, he raised concern over the resolution's focus on non-proliferation and its failure to address the broader question of disarmament, and reminded the participants, that in Africa, small arms and light weapons, and also famine, poverty and pandemic diseases were the real weapons of mass destruction (ODA 2007a: 89–91).

The delegate from South Africa emphasised the need to establish effective controls over WMD-related materials and to guard against their abuse, particularly with increasing globalisation and flow of goods between countries, though at the same time stressed that a one size fits all solution was not applicable and that regional considerations needed to be taken into account. He reiterated South Africa's commitment to the total elimination of all WMD (ODA 2007a:33).

Despite having never possessed any type of WMD capabilities, the delegate from Kenya acknowledged the potentially devastating effects that they could have on a country, and cautioned against WMD-related materials

becoming more readily available, even in developing countries. He continued to warn that biological agents in particular were becoming more accessible, and given the necessary materials and a basic laboratory, together with an individual with some technical training, a crude biological weapon could easily be made. He stated that Kenya, having been the victim of a terrorist attack, was devising strategies to combat the scourge of violence. These included taking legislative measures to control the proliferation of small arms and light weapons, as the influx of small arms and light weapons into Kenya was a major concern to the country (ODA 2007a:142, 145–146).

At another meeting in February 2007, the UNSC met to promote increased multi-lateral co-operation, particularly with international organisations, such as the Organisation for the Prohibition of Chemical Weapons (OPCW) and International Atomic Energy Agency (IAEA), as an important means of promoting implementation of Resolution 1540. Speakers at the meeting presented progress reports from their respective countries, and the reports from the three elected African states on the Security Council reiterated the sentiments of many African countries. It is significant to note that the delegate from the US declared that the US would like to ensure that 2007 is the year of Resolution 1540 implementation, and that states must establish clear national priorities, develop plans to implement them, and begin to act on them (UNSC 2007b: 13).

In contrast to this, the speaker from the Republic of Congo (Brazzaville) stated that while his delegation fully appreciated the amount of work that the 1540 Committee had done, including the regional seminar held to promote implementation of the resolution in Africa, there was still much to be done. He referred particularly to the problem that reports were not being submitted on time, and those that were submitted, were often incomplete. He attributed this to the lack of capacity that many states faced, and more importantly to the question of states' priorities in dealing with issues related to international security threats. He reminded members of the UNSC that the issue of small arms and light weapons was of a more legitimate concern for African countries, given that they threaten the daily existence of Africans, and that small arms and light weapons were still the primary means used by non-state actors to carry out their crimes (UNSC 2007b: 14-15).

The South African delegate reiterated South Africa's support of the resolution, as well as his country's stance in promoting the universal elimination of nuclear weapons, and the assurance that they will never be produced again. He continued to state that South Africa failed to find assurances in the situation where WMD were deemed safe in the hands of some but not in others, and mentioned concerns about the UNSC becoming

involved in the domestic affairs of states (UNSC 2007b: 15–16). The South African delegate, like the Congolese delegate, acknowledged that it was predominantly developing nations that were behind on reporting on and implementation of the resolution, and that this was because of a lack of capacity, as well as reporting fatigue. Reporting requirements were overcomplicated and unsuitable for many developing states, and because they did not have proliferation-sensitive WMD capabilities, it was often not a priority for them. He suggested that reporting requirements should be differentiated according to the capabilities of the state in question (UNSC 2007b: 15–16).

The delegate from Ghana acknowledged that the risk of armed non-state actors acquiring WMD was becoming more serious as more countries embarked on civilian nuclear power programmes. He also stressed that given the difference in state capabilities, it was likely that it would take years if not decades to implement the provisions of the resolution to a satisfactory universal level. He continued by saying that despite the committee's tireless efforts, it lacked the capacity to provide the assistance many countries needed to implement a number of the provisions of the resolution. He did welcome the committee's recognition of the importance of forging partnerships with regional organisations in order to implement Resolution 1540 in Africa, as they were more appropriate mechanisms for pooling resources and would make it possible to develop more effective and contextually driven means to fulfil the obligations under the resolution (UNSC 2007b:21–22).

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## African perceptions of significant security threats differ greatly from those of developed countries

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Several coalitions have also made pronouncements on the resolution. For example, at their XIV Ministerial Conference in 2004, members of the NAM expressed concern over the 'practice where the Security Council utilises its authority to define the legislative requirements for Member states in implementing Security Council decisions', and expressed 'the need to ensure that any action by the Security Council does not undermine existing multilateral treaties on weapons of mass destruction and of international organisations established in this regard, as well as the role of the United Nations General Assembly' (Non-Aligned Movement 2004).

The New Agenda Coalition is another strong advocate for WMD disarmament, and both South Africa and Egypt are party to it. Both countries have also expressed

their support for disarmament and the complete elimination of WMD in their 1540 reports, stating that the best way to ensure that non-state actors do not acquire WMD was to work towards the total elimination of such weapons (Olberg 2006).

## A QUESTION OF PRIORITY

Though many African countries have expressed their support for the resolution, WMD-related issues remain a low priority on the continent. This is not surprising as no African country currently has the infrastructure to produce a nuclear weapon, and very few have the knowledge and technology to produce chemical and biological weapons. Nonetheless, several do have research reactors, chemical manufacturing facilities or relatively advanced biotechnology industries, all of which require physical protection measures.

African perceptions of significant security threats differ greatly from those of developed countries and with much of the continent plagued by poverty, disease and internal conflicts, states focus their already limited resources on alleviating these problems. These issues have a far greater impact on their security and that of the continent as a whole. Nevertheless, the global nature of non-state actors and entities, and the ease with which they have been able to operate and transfer weapons and materials across borders, do mean that all countries have some level of responsibility for minimising the risk of non-state actors operating and transferring weapons across their borders.

It is also worth considering the impact that a major attack by non-state actors could have on the global economy, as was seen with 9/11, and the implications that this would have for a developing country. While short-term effects such as the fall in commodity prices and the weakening of currencies may be reversed quickly, long-term effects can have severe implications. Increased costs in international trading to tighten security, decreases in tourism traffic, and stricter immigration laws that have the potential to lower the number of workers employed abroad which will in turn affect the level of remittances, all have dire consequences for emerging economies (OECD 2002:132). Many African countries have emerging or weak economies and would be severely impacted by such as attack. Furthermore, these countries need to attract foreign investment to strengthen their economies, and being seen to be compliant with international security measures will not only increase their own domestic security but also make them more attractive investment prospects.

Thus, despite being largely preoccupied with more immediate problems, implementing some of the provisions of the resolution could contribute towards

addressing some of those concerns. There is little doubt that the proliferation of small arms and light weapons is a major concern for the continent, and significant amounts of resources are channelled towards curbing the illegal arms trade. Adopting effective laws and the enforcement measures outlined in Resolution 1540 to prevent non-state actors from transporting or transferring nuclear, biological and chemical weapons or related materials, could strengthen existing controls established to curb the flow of small arms and light weapons across Africa's porous borders.

## NUCLEAR POWER

In making a case as to why African countries should implement Resolution 1540, it is worth considering the increased interest in nuclear power programmes. Concerns over diminishing oil supplies and the search for new and reliable energy sources have revived interest in the nuclear power industry. Given that energy is essential for development, current predictions point to a growth in global energy consumption of over 50 per cent by 2030, with 70 per cent of that demand expected to come from developing countries (IAEA 2007).

Renewed interest in nuclear power has raised awareness over the availability of nuclear materials and the need to establish more effective controls over them. Though the majority of African countries do not possess nuclear capabilities, many do possess fissile materials and are therefore part of the nuclear fuel chain. Several states have significant uranium resources and are considering nuclear power programmes, and/or are starting to attract investments from international mining companies. Namibia, for example, has the fourth largest uranium mine in the world, and other countries with significant uranium deposits include South Africa, Niger and the Central African Republic (World Nuclear Association 2007).

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Renewed interest in nuclear power has raised awareness over the availability of nuclear materials

The need to secure future energy supplies has resulted in international mining companies flocking to new projects in Africa, and several prospective mines are in the pipeline for countries with valuable uranium deposits. The geology in Africa makes it favourable for uranium mining, as most deposits on the continent are shallow and therefore relatively easy to excavate. Combined with this, the welcoming attitude of many

African governments and their more relaxed regulations speed up the time between discovery and production (Onstad 2007). Though uranium sources could prove to be valuable to African countries in attracting investment, providing fuel and jobs, they also increase the risk of uranium supplies and enriching equipment being proliferated to non-state actors. Such risks are further increased by the porous African borders and the absence of effective monitoring systems.

Several African countries (including Egypt, Tunisia, Libya, Algeria, Morocco, Nigeria, Ghana and Namibia) are actively considering nuclear power programmes and will need to develop effective control systems over nuclear materials. In a booklet published by the IAEA in 2007 called *Considerations to launch a nuclear power programme*, the IAEA states that before deciding to launch a programme, countries need to ensure that an effective legal framework is in place covering aspects such as safety, security, safeguards and liability. Ensuring that such a system is in place would require the adoption of various legislative and enforcement measures, which for the most part are not far out of line with the provisions outlined in Resolution 1540. It would also be in the interests of these African countries to take more proactive steps to implement Resolution 1540 for the purpose of attracting investment and funding from donor states with nuclear expertise and technology, as they will require substantial funding and assistance for the development of such programmes.

## BIOLOGICAL WEAPONS AND BIOSECURITY

Although the focus of this paper - and WMD debates in general - concentrates primarily on nuclear weapons, there is growing concern over the deliberate spread of disease by non-state actors, especially from the US. Just over 60 per cent of African countries are party to the BTWC, and although the requirements of the convention are fairly broad and non-prescriptive, the implementation of biosecurity<sup>10</sup> measures on the continent has been poor<sup>11</sup>.

Africa is host to numerous dangerous endemic diseases such as Ebola haemorrhagic fever (caused by the Ebola virus) and anthrax, and many countries have the ideal conditions for the growth and persistence of bacteria and viruses. Despite the limited success of non-state actors in producing and using biological weapons in the past, new developments in the life sciences have the potential to lead to the development of biological weapons in the future. Advances in technology in the fields of chemistry and genetics (for example the generation of genetically modified organisms) have led to an increased understanding of, and ability to manipulate basic life processes,

which have in turn increased the threat of the misuse of scientific advances (Borrie & Loye 2005:94).

In order to minimise the spread and misuse of biological agents, states need to ensure that effective regulatory systems are in place for research programmes and facilities, and over biological agents that can potentially be used to produce biological weapons. Countries also need to increase awareness surrounding the risks and responsibilities of working in this scientific field (Borrie & Loye 2005:101–102).

Biosecurity concerns are often overshadowed by more immediate concerns in Africa, such as the overwhelming challenge of combating the spread of malaria and HIV/Aids. This has been reflected in the Resolution 1540 reports, where few countries have mentioned any sort of legislation pertaining to biosecurity threats.

Despite the debatable relevance of biosecurity threats to African countries, no state can consider itself immune from a biological weapon attack or can guarantee that it will never be the victim of one, no matter how unlikely an attack may seem. African states should take into account that, on the off chance of a deliberate outbreak of disease, the result would be catastrophic given the lack of medical services and the speed at which diseases can spread throughout the continent. Furthermore, several African countries have formally adopted agreements such as the Biological and Toxin Weapons Convention and therefore have an obligation to implement its provisions (Borrie & Loye 2005:97–98). Implementation of these provisions will also contribute towards the implementation of Resolution 1540.

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Biosecurity concerns are often overshadowed by more immediate concerns in Africa

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Lastly, a strong case can be made for implementing tighter regulations and controls over biological agents, research facilities and those working within the life sciences sector, as doing so will minimise the chances of dangerous agents or diseases being accidentally released and spread (Borrie & Loye 2005:99–100).

## CHEMICAL WEAPONS

At the previously mentioned UNSC meeting held in February 2007, the spokesperson from the OPCW warned that the threat of chemical terrorism should not be underestimated, as dual-use chemicals are becoming more easily accessible and easier to transport, and

knowledge about their properties readily available, making them an attractive potential weapons for non-state actors.

Despite almost all African countries being party to the Chemical Weapons Convention (CWC), few have had the capacity to fully implement its provisions. Uganda, for example, has made little progress in complying with the requirements of the CWC. Since signing the convention in 1993, and ratifying it in 2001, Uganda has in 14 years been unable to implement its provisions (OPCW 2007) and has requested funding to do so in a proposal in its 1540 report.

North African countries have tended to be more concerned over the potential threat of chemical weapons, which is not surprising given the use of chemical weapons in the Middle East during the Iran-Iraq war. Furthermore, two North African countries, namely Egypt and Libya, have stockpiled chemical weapons in the past (Nuclear Threat Initiative 2007). In December 2003 Libya announced that it would dismantle its WMD programme and destroy all of its chemical weapons stockpiles. Libya also pledged to accede to the CWC, which it did in January 2004 (Squassoni & Feickert 2004).

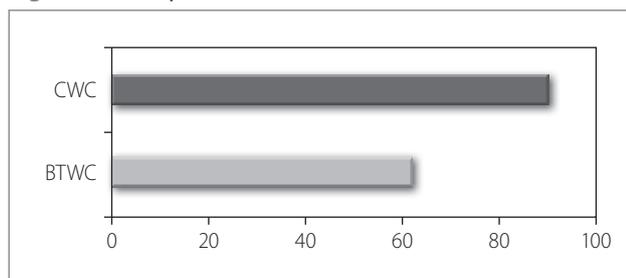
Although no longer suspected of producing chemical weapons, Egypt had an extensive chemical weapons program and is one of the few countries that was known to have used chemical weapons during World War I. While Egypt has, for the most part, committed itself to the principles of the CWC, it has never signed it and is still suspected of retaining a chemical weapon stockpile. The country has adamantly refused to sign the convention until Israel signs the NPT, arguing that it will maintain its stockpile of chemical weapons to counter Israel's nuclear threat (Nuclear Threat Initiative Website 2007). Egypt's position emphasizes the insecurity resulting from the discriminatory possession of WMDs globally, and poses a serious challenge to attempts at strengthening the non-proliferation regime.

Although Resolution 1540 has been hailed for seeking to reaffirm states' commitments to conventions such as the NPT, CWC and BTWC, there are still several obstacles to the successful implementation of these treaties and conventions, and in turn to that of Resolution 1540.

## CONCERNS AND PROBLEMS IN IMPLEMENTING RESOLUTION 1540 IN AFRICA

In view of the slow rate of progress in implementing Resolution 1540 in many African countries, it was not surprising that the resolution was not fully implemented by the time the committee's mandate expired in 2008. Complying with the domestic requirements relating to legislation and enforcement is proving to be the biggest

**Figure 2** States parties to the BTCW and CWC



challenge for African states, as many lack the technical expertise and resources to do so. This is further complicated by the different approaches required to prevent the proliferation of nuclear, chemical and biological weapons, and their components/agents, because of their different natures and dual-use purposes (Crail 2006:368).

Crail broadly categorises the resolution's national implementation obligations into three types of provisions: the criminalisation of non-state actor acquisition and use of WMD, the adoption of accounting and security measures over WMD and their related materials, and border and export controls (2006:365). It is the last two of these obligations that are proving to be the most difficult to implement, particularly as little guidance is provided for states on the types of measures that should be adopted (Persbo & Woodward 2005:6). Furthermore, although assistance can be made available to states that require it and several African countries have requested assistance in their reports to the committee, few have been specific or have provided the necessary details of the type of support they require. Areas that countries predominantly require assistance with are with the drafting of legislation, training and expert and technical advice (Bergenas 2007:3).

African states might gain from implementing the resolution, as better legislation could provide improved security

It goes without saying that certain countries are more at risk of WMD proliferation than others, and that there is less incentive for countries that do not possess any WMD capabilities to prioritise reporting and implementing provisions (Crail 2006: 368). Those more at risk typically include countries that possess, or have possessed, any type of WMD or WMD-related materials, and those that can potentially be used as transit states for transferring weapons and components (usually countries with heavy

port traffic) (Crail 2006:362–365). Very few African states fall into one or more of these categories, making it difficult to substantiate why they should prioritise implementing the resolution.

At the African regional seminar held in Accra in 2006, the then chairman of the 1540 Committee, Ambassador Burian, concluded the seminar by acknowledging and responding to various problems and concerns raised by African countries surrounding the implementation of Resolution 1540. He noted the high level of commitment towards non-proliferation issues by the 25 African states that attended the seminar and reminded everyone that Africa had not been immune to attacks by non-state actors, as both Kenya and Tanzania had been victims of such attacks. With reference to the exposure of the Khan network, he warned that the expansion of civilian nuclear programmes will provide more opportunities for non-state actors to gain access to fissile and radioactive materials, which could be used for producing nuclear weapons (ODA 2007a:95).

He acknowledged that numerous factors, such as a lack of capacity, the complexity of legislative procedures and preoccupations with other priorities, have all contributed to the lack of reporting from African states. He nevertheless continued to argue that African states might gain from implementing the resolution, as better legislation could provide improved security, diminishing the risk of possible future attacks. In addition to this, building effective border controls and legislative institutional systems to subvert the proliferation of WMD would also serve to combat the proliferation of small arms and light weapons on the continent (ODA 2007a:152).

## THE WAY FORWARD

Several African countries present at the Accra seminar expressed support for increased regional and sub-regional co-operation in strengthening the non-proliferation regime in Africa, especially in the area of establishing more effective border controls. Regional organisations such as the African Union (AU) and the Economic Community of West African States (ECOWAS) are being seen as more appropriate and effective mechanisms than international bodies to assist countries in meeting the requirements of international conventions, as they are more in tune with regional contexts and environments (Crail 2006:385).

However, it is unlikely that these organisations have the capacity to provide such assistance without some form of external support. Taking this into consideration, the committee has undertaken to expand and intensify regional and sub-regional activities in order to better provide assistance to states in implementing Resolution 1540. The committee might also consider establishing

ties with the AU as it has the potential to act both as a facilitator and focal point for dialogue between African countries and the committee.

Ambassador Burian stressed the importance of holding further regional seminars, such as the one held in Accra, to complete the reporting process and facilitate further discussions on national priorities, as well as to identify implementation gaps, share experiences and develop action plans to achieve the full implementation of the resolution (ODA 2007a:153–154).

In his presentation at the Accra seminar, the former under-secretary general for the then Department of Disarmament Affairs (DDA) (now the Office for Disarmament Affairs) at the UN stated that from the beginning of 2007, the DDA, through the Regional Centre for Peace and Disarmament in Africa, intended to organise sub-regional follow-up workshops on challenging issues faced by African countries. He continued by saying that, given that implementing the provisions of Resolution 1540 would complement efforts to curb the proliferation of small arms and light weapons as well as contribute towards global security efforts, the DDA would continue to work with the 1540 Committee to increase awareness and provide assistance to states that require it (ODA 2007a:158).

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## Implementing the provisions of Resolution 1540 would complement efforts to curb the proliferation of small arms and light weapons

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The Security Council has also recognised the need for greater collaboration with international organisations, such as IAEA and Interpol, to assist states in implementing the resolution. Given that security concerns no longer fall under the sole mandate of states, these organisations have had an increased involvement in issues pertaining to the non-proliferation of WMD. A Security Council meeting was held in February 2007 (UNSC 2007a) which aimed to promote partnerships with such organisations.<sup>12</sup>

Forging partnerships with international organisations, in particular those that are able to provide technical assistance to African countries, could significantly advance the implementation of Resolution 1540 in Africa. Few African countries have relevant national legislation in place, let alone enforcement capacities pertaining to the proliferation of WMD, and as most

have never possessed any nuclear, biological or chemical weapons, there is a distinct lack of knowledge and understanding about the measures required to prevent their proliferation. This has made it difficult for states to assess and outline the kind of assistance they require to implement Resolution 1540. Compliance with the obligations of the BTWC, CWC and IAEA would contribute significantly towards implementing Resolution 1540. This given that the committee lacks the capacity and mandate to provide direct assistance to states, these organisations might assist those countries identified by the committee as having difficulties in complying with the resolution, by providing training and technical expertise, as well as assisting in the drafting of national legislation (UNSC 2007a). The development of guidelines to assist states in reporting and complying with the resolution's provisions might also be considered.

Non-governmental organisations and civil society groups could also assist with implementation, given that they too are increasingly becoming involved in security issues. They have in many instances become more effective mechanisms for channelling assistance to countries, as they have a greater knowledge of local needs and environments. Furthermore, NGOs could be used as an effective means for applying pressure on nuclear weapons states to disarm (Heupel 2007:15).

## CONCLUSION

No country can consider itself immune from the threat of an attack involving WMD or from having its territory exploited by non-state actors attempting to produce, acquire or transfer a nuclear, biological or chemical weapon, or their components. Furthermore, countering the threats of international terrorism and WMD proliferation requires efforts at national, regional and international levels. In an international effort to strengthen the non-proliferation regime, the UNSC adopted Resolution 1540, which has been somewhat controversial, as it is both universal in coverage and mandatory for all UN member states.

Implementation of the provisions of Resolution 1540 has significant implications for developing countries, as they are required to adopt and enforce legislation and measures to prevent non-state actors from acquiring or being able to produce nuclear, biological or chemical weapons. Most African states lack the capacity and knowledge to make any real progress on implementing the resolution, and as a result progress on the continent has been slow. African countries have also been largely preoccupied with other priorities, such as curbing the spread of HIV/Aids and alleviating poverty.

Although the extent to which African countries should prioritise implementation of the resolution is

open to debate, there are several reasons why they might consider giving more attention to its implementation:

- Acts of terror know no geographical boundaries and have become global in nature
- All African states are vulnerable to disinvestment, and to instability in the global economy
- Establishing and enforcing effective border controls would contribute towards curbing other illegal activities, such as the illicit arms and narcotics trade
- A good reputation in compliance would be advantageous in getting nuclear energy developments approved, financed and established
- African states may contribute to multilateral co-operation as well as enhance their own security.

Given that 34 out of 53 African states have yet to submit their first report to the 1540 Committee, there is still a long way to go towards implementing Resolution 1540 on the continent. In order to improve existing efforts, African countries will need to receive significant assistance from regional and international organisations. In particular, assistance is required in reporting, drafting legislation and on the technical implementation of the resolution's provisions.

In November 2007 representatives from 36 nations, including 16 African countries, met in Gaborone, Botswana, to address issues surrounding the implementation of Resolution 1540 in Africa. On a positive note, participants from the African countries present agreed to develop plans of action and to identify priorities for implementation of Resolution 1540.

If it is successfully implemented, the resolution will not only advance existing global efforts to implement controls to curb WMD proliferation, but it would also benefit African countries, by building and enhancing the capacity of all states to contribute towards strengthening existing security measures on the continent.

## NOTES

- 1 The phrase 'weapons of mass destruction' refers to nuclear, biological and chemical weapons.
- 2 In terms of Resolution 1540, a non-state actor is defined as an 'individual or entity, not acting under the lawful authority of any State in conducting activities, which come within the scope of Resolution 1540'.
- 3 Related materials include materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.
- 4 Delivery systems are missiles, rockets and other unmanned systems, capable of delivering nuclear, chemical or biological weapons that are specially designed for such use.

- 5 Also known as the Al-Qaida and Taliban Sanctions Committee.
- 6 The United Kingdom, France, United States of America, China and Russia.
- 7 Currently these include South Africa, Ghana, the Republic of Congo (Congo-Brazzaville), Belgium, Indonesia, Italy, Panama, Peru, Qatar and Slovakia.
- 8 Great Green Document on Human Rights in the Age of the Masses (1988).
- 9 The participants were Algeria, Botswana, Burkina Faso, Congo, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Liberia, Malawi, Mauritius, Mozambique, Rwanda, São Tomé and Príncipe, South Africa, Togo, Tanzania and Zimbabwe.
- 10 Biosecurity refers to the protection against the malicious use of pathogens, parts of them or their toxins in direct or indirect acts against humans, livestock or crops.
- 11 See Du Rand (2008) for further information on Africa's experiences with biosecurity issues.
- 12 The meeting was attended by representatives from the Office of Disarmament Affairs, the Organisation for the Prohibition of Chemical Weapons, the International Atomic Energy Agency and the World Customs Organisation.

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## Security Council

Distr.: General  
28 April 2004

### Resolution 1540 (2004)

**Adopted by the Security Council at its 4956th meeting,  
on 28 April 2004**

*The Security Council,*

*Affirming* that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,\* constitutes a threat to international peace and security,

*Reaffirming*, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

*Recalling also* that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

*Affirming* its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

*Affirming* its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

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\* Definitions for the purpose of this resolution only:

Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

04-32843 (E)

**\*0432843\***

*Welcoming* efforts in this context by multilateral arrangements which contribute to non-proliferation,

*Affirming* that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

*Gravely concerned* by the threat of terrorism and the risk that non-State actors\* such as those identified in the United Nations list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

*Gravely concerned* by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,\* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

*Recognizing* the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

*Recognizing* that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

*Recognizing further* the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

*Encouraging* all Member States to implement fully the disarmament treaties and agreements to which they are party,

*Reaffirming* the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

*Determined* to facilitate henceforth an effective response to global threats in the area of non-proliferation,

*Acting* under Chapter VII of the Charter of the United Nations,

1. *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

2. *Decides also* that all States, in accordance with their national procedures, shall 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, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. *Decides* that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.





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\* Angola; Botswana; Burundi; Congo-Brazzaville; Democratic Republic of the Congo; Gabon, Kenya, Lesotho, Madagascar; Malawi, Mauritius; Mozambique; Namibia; Reunion; Rwanda; Seychelles; Swaziland; Tanzania; Uganda; Zambia; Zimbabwe (formerly African Postal Union countries).



## ABOUT THIS PAPER

On 28 April 2004, the United Nations' Security Council adopted Resolution 1540 at its 4956th meeting. It was the first formal decision by the Security Council, 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. The resolution, with extended mandates through Resolution 1673 (until April 2006) and Resolution 1810 (until April 2011), imposes binding obligations on all states to refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical and biological weapons and their means of delivery. The resolution thus aims at denying non-state actors access to the means (nuclear, chemical, and biological weapons) by which a terrorist act could be conducted. All states are thus required to adopt and enforce domestic controls to prevent the proliferation of such weapons. This paper assesses African attitudes towards Resolution 1540 as well as the challenges to, and progress made in, its implementation.

## ABOUT THE AUTHOR

Dominique Dye is a junior researcher with the Arms Management Programme (AMP) at the ISS in Pretoria. She has a degree in politics and international relations and takes a particular interest in the implementation of United Nations arms control conventions and agreements at the regional and national levels.

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## Security Council

Distr.: General  
28 April 2004

### Resolution 1540 (2004)

**Adopted by the Security Council at its 4956th meeting,  
on 28 April 2004**

*The Security Council,*

*Affirming* that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,\* constitutes a threat to international peace and security,

*Reaffirming*, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

*Recalling also* that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

*Affirming* its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

*Affirming* its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

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\* Definitions for the purpose of this resolution only:

Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

04-32843 (E)

**\*0432843\***

*Welcoming* efforts in this context by multilateral arrangements which contribute to non-proliferation,

*Affirming* that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

*Gravely concerned* by the threat of terrorism and the risk that non-State actors\* such as those identified in the United Nations list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

*Gravely concerned* by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,\* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

*Recognizing* the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

*Recognizing* that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

*Recognizing further* the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

*Encouraging* all Member States to implement fully the disarmament treaties and agreements to which they are party,

*Reaffirming* the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

*Determined* to facilitate henceforth an effective response to global threats in the area of non-proliferation,

*Acting* under Chapter VII of the Charter of the United Nations,

1. *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

2. *Decides also* that all States, in accordance with their national procedures, shall 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, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. *Decides* that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.