



# 1540 Committee

Security Council Committee established pursuant to resolution 1540 (2004)

## **Engaging parliaments of the Pacific region in the implementation of UN Security Council resolution 1540**

Wellington, New Zealand

18-20 September 2019

### **Supporting Prohibition and Criminalization of WMD-Related Activities**

**Kiwako Tanaka**

Group of Experts supporting the 1540 Committee

"The views expressed are those of the presenter and do not necessarily represent the views of the 1540 Committee"



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Security Council Committee established pursuant to resolution 1540 (2004)

## Obligations under Resolution 1540 (2004)





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## Operative Paragraph 1

Obligates 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 or biological weapons and their means of delivery.



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## Operative Paragraph 2 (Legislations)

Obligation, in accordance with national procedures, to 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 attempts to:

- **engage in any of the foregoing activities,**
- **participate in them as accomplice,**
- **assist, or**
- **finance them.**



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## OP2 Obligations

### Examples of Legislative Frameworks:

- Constitution
- Dedicated legislation on Non Proliferation, such as NPT, CWC, BWC implementation legislation
- Criminal Code
- Counter-Terrorism Legislations
- Omnibus legislation specific to Resolution 1540 (2004)



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## Operative Paragraph 2 (Legislations)

International instruments with direct bearing on implementation of operative paragraph 2:

- 1925 Geneva Protocol (142 parties);
- 1975 BWC (183 parties);
- 1997 CWC (193 parties);
- 1970 NPT (191 parties); and
- Eight of the 19 international terrorist conventions have direct relevance to resolution 1540 (2004)



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## Operative Paragraph 2 (Legislation)

### Relationship to BWC

- BWC, Article III

*[States Parties] shall ... take any necessary measures to prohibit and prevent the:*

- development,
- production,
- stockpiling,
- acquisition, or
- retention

of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention ....

- In comparison to OP 2, BWC does not cover, for example, use or transport
- “Use” is forbidden by the 1925 Geneva Protocol.





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## Operative Paragraph 2 (Legislation)

### Relationship to CWC

- CWC, Article VII requires each State party to:
  - Prohibit natural and legal persons ... from undertaking any activity prohibited to a State Party ... , including enacting penal legislation with respect to such activity;
  - Extend its penal legislation ... to any activity prohibited to a State Party ... undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.
- Activities prohibited to States parties are:
  - develop,
  - produce or otherwise acquire,
  - stockpile or
  - retain chemical weapons), and not to
  - assist, encourage or induce, in any way, anyone to engage in these activities
- CWC does not cover transport.



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## Operative Paragraph 2 (Legislation)

### Relationship to NPT

- NPT differs from BWC and CWC
- Imposes obligations on States and lacks explicit requirement to apply these to non-State actors
  - Forbids non-nuclear weapon States to receive, have control over, manufacture or seek or receive assistance in the manufacture of nuclear weapons or other nuclear explosive devices.
- NPT does not, for example, include development



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## Operative Paragraph 2 (Legislation) Relationship to Counter-Terrorism Conventions

Eight of the 16+ international counter-terrorism conventions and protocols include aspects of WMD prohibitions and measures that complement implementation of resolution 1540:

- *International Convention for the Suppression of Acts of Nuclear Terrorism*
- *Convention on Physical Protection of Nuclear Material (CPPNM)*
- *2005 Amendment to the CPPNM*
- *1997 International Convention for the Suppression of Terrorist Bombings*
- *1999 International Convention for the Suppression of the Financing of Terrorism*
- *2005 Protocol to the Convention for Suppression of Unlawful Acts against Safety of Maritime Navigation (SUA Convention)*
- *2005 Protocol to the Protocol to the Convention for Suppression of Acts against Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*
- *2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation*



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1540 Matrix measures: OP 2 – All weapons – Global





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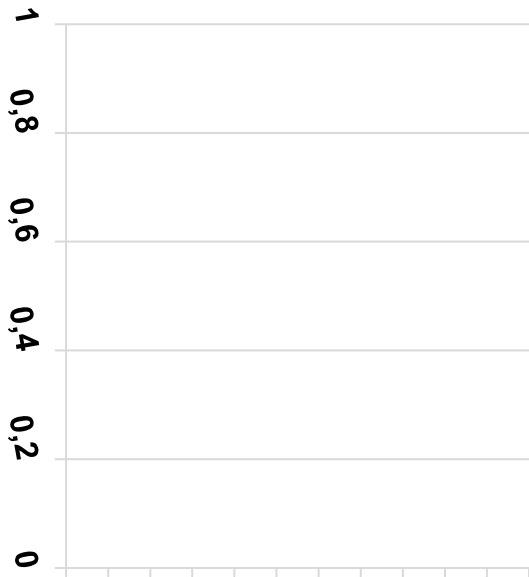
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## 1540 Matrix measures: OP 2 – NW/CW/BW prohibitions – Global

**NW: +17%**

■ 2011

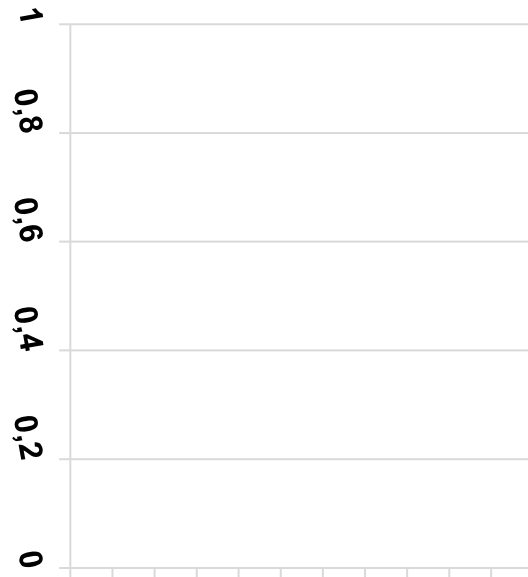
■ 2016



**CW: +15%**

■ 2011

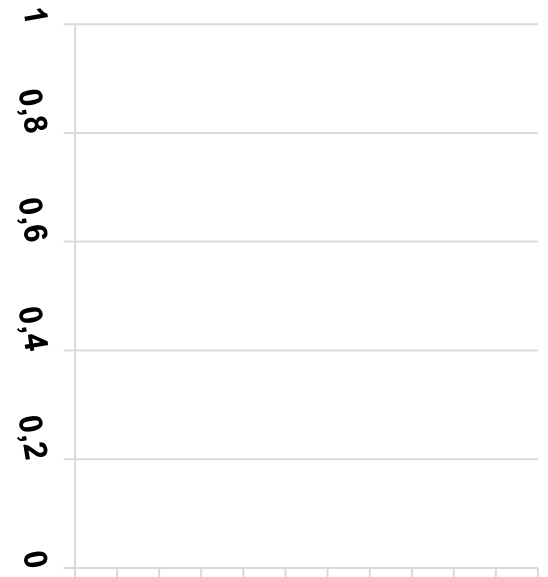
■ 2016



**BW: +13%**

■ 2011

■ 2016

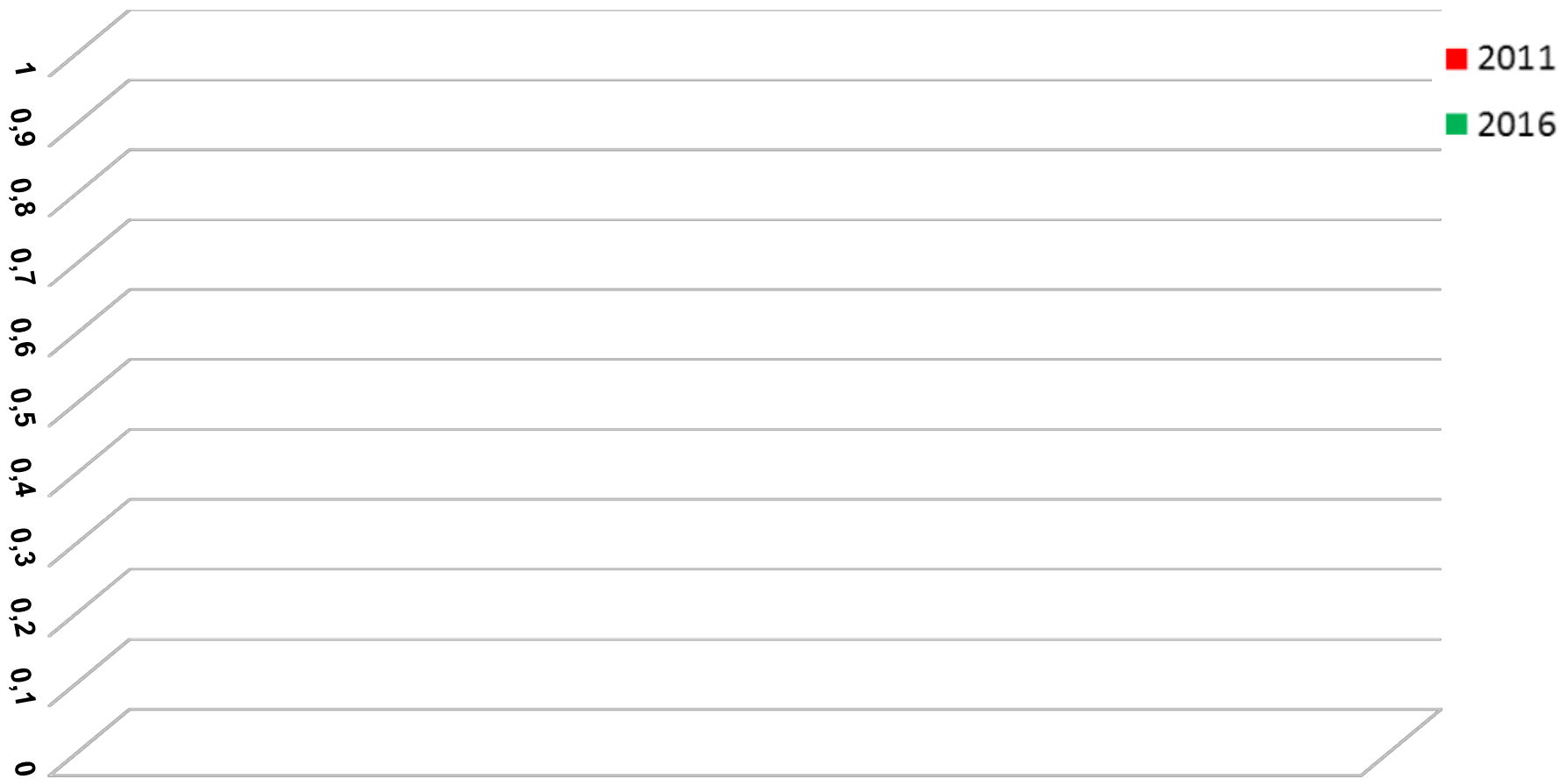




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1540 Matrix measures: OP 2 prohibitions – all weapons – regional  
overall





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1540 Matrix measures: **OP 2 prohibitions** NW/CW/BW: 2016  
(legislation/enforcement)

Obligations	NW	BW	CW
Manufacture/produce	146/117	129/105	161/142
Acquire	142/109	124/96	158/133
Possess	135/122	116/103	151/141
Stockpile/store	107/85	119/88	150/121
Develop	82/63	118/83	142/113
Transport	110/104	97/65	106/106
Transfer	125/117	123/102	159/143
Use	151/139	152/135	175/153
Means of delivery	41/37	105/68	116/93
Accomplice	145/139	146/140	159/154
Assist	148/139	146/138	166/156
Financing	158/155	161/156	166/161



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## Obligations under Resolution 1540 (2004)







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## Operative Paragraph 3 (Domestic Controls)

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



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## Operative Paragraph 3 (Domestic Controls)

(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;



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## Operative Paragraph 3 (Domestic Controls)

(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



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1540 Matrix measures: OP 3(a)(b) – all categories  
accounting, securing & physical protection

**OP 3(a)(b): +6% increase**





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## 1540 Matrix measures: OP 3(a)(b) – NW/CW/BW Accounting, securing & physical protection

**NW: +12%**

■ 2011

■ 2016



**CW: +4%**

■ 2011

■ 2016



**BW: -1%**

■ 2011

■ 2016





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1540 Matrix measures: OP 3(a)(b) regional overall all categories  
Accounting, securing & physical protection





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1540 Matrix measures: OP 3(c)(d) – all categories border & export controls

## OP 3(c)(d): +6% increase





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1540 Matrix measures: OP 3(c)(d) – NW/CW/BW border & export controls

**NW: +7%**

■ 2011

■ 2016



**CW: +5%**

■ 2011

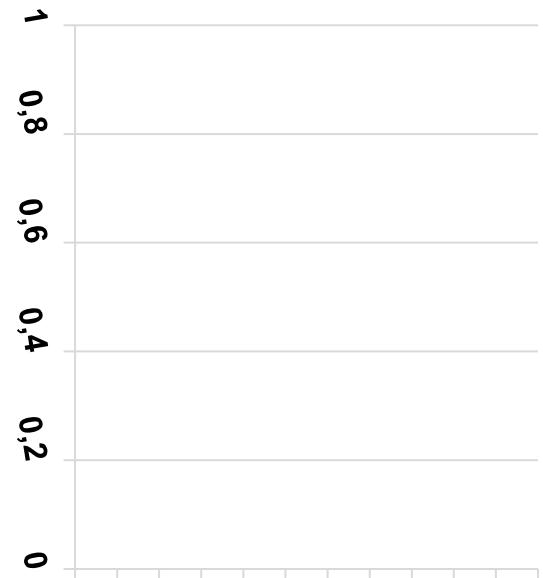
■ 2016



**BW: +3%**

■ 2011

■ 2016







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1540 Matrix measures: OP 3(c)(d) border & export controls –  
regional overall all categories





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## **CONTACT DETAILS**

### **Chair of the 1540 Committee**

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### **1540 Committee Website**

[www.un.org/sc/1540](http://www.un.org/sc/1540)