

Engaging parliaments of the Pacific region in the implementation of UN Security Council Resolution 1540

“Regional Cooperation and Awareness Raising”

**Wellington, New Zealand
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Assessing the Implementation of UNSCR1540: What can we learn from implementing the NPT, BWC & CWC?

- Implementing the non-proliferation regimes has been a major challenge for small island developing states (SIDS) with small bureaucracies and even smaller resources
- A key difficulty for SIDS in the non-proliferation space is in meeting reporting requirements related to the regimes and mandates such as UNSCR 1540 as well as establishing competent or national authorities to implement these conventions
- SIDS have extremely limited institutional capacity to draft enabling legislation, frameworks, or administrative controls such as licensing frameworks to prevent access to strategic goods by proliferators
- SIDS face considerable capacity challenges in administering these regimes and mandates as these activities are often undertaken by a single individual who is often also responsible for the implementation of all frameworks in the arms control/disarmament space such as the ATT challenges



UNSCR1540 Implementation: Strengthening Reporting Protocols to Advance Non-proliferation



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,

* 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.

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From the adoption of Resolution 1540 in April 2004, only two (2) out of the fourteen (14) CARICOM States fully complied with the Resolution's mandate to provide a detailed and comprehensive report highlighting national measures that were undertaken to implement the core Operative Paragraphs from its adoption until July 2009

With the inception of the CARICOM Programme, all CARICOM Members with only one exception reported within the next (9) months

United Nations Security Council Resolution 1540

A key mechanism for Regional Non-Proliferation Engagement

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Prior to the introduction of a regional programme in 2009 to implement UNSCR 1540 in the Caribbean, there was virtually no focus on WMD proliferation and national action was limited to only marginal engagement on only two the three non-proliferation regimes: the Nuclear Non-Proliferation Treaty and the Chemical Weapons Convention



CARICOM leaders have since 2009, formally designated WMD proliferation as a Tier 1 threat to the region and have mandated the following activities to address this designation:

- The full implementation of UNSCR 1540 in CARICOM Members, facilitated by the CARICOM 1540 Programme
- A regional programme to address proliferation and the possible intersect between the use of WMD in the commission of terrorist acts, particularly by non-state actors
- A regional initiative to address Financial Action Task Force Recommendations 6 & 7

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UNSCR1540 Implementation:

The Background and CARICOM's Nonproliferation Experience

- The security culture within the region has traditionally regarded the issue of the proliferation of weapons of mass destruction as a largely extraneous matter with a threat potential that is highly remote and with limited relevance to the existing security reality of the region
- With the Caribbean's designation by the United Nations Office for Drugs and Crime (UNODC) as the region with the second highest per capita murder rate in the world in its 2014 report and given the significant threat posed by trans-national crime, trafficking in small arms and light weapons, and trafficking in illegal narcotics and in persons, it is understandable that proliferation would not attract the highest priority
- Traditionally, there has also been limited success in linking proliferation priorities to other traditional security challenges confronting the region; there is limited appreciation that proliferation networks that facilitate trade in strategic goods or dual use materials could easily leverage existing networks within the region which currently enfranchise the illicit trade in guns and narcotics



UNSCR1540 Implementation:

Leveraging the Resolution to achieve other Nonproliferation objectives

- As mentioned, a significant challenge that small states, including those in the CARICOM region, have faced is dealing with the plethora of reporting requirements in the nonproliferation realm
- In addition to meeting requirements under UNSCR 1540, Member States have also to attend to key mandates under the Nuclear Nonproliferation Treaty (NPT), the Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BWC)
- In most instances in the Caribbean, matters relating to UNSCR 1540 as well as the NPT, CWC, BWC as well as the Arms Trade Treaty (ATT) are dealt with by a single official
- There is a vast differential in appropriated resources relating to nonproliferation issues when compared to governments in the global north, such as the United States; often separate offices/divisions, primarily within foreign ministries, field dozens of personnel to deal with UNSCR 1540 and other related nonproliferation treaty obligations



Furthering UNSCR1540 Implementation:

Lessons in leveraging 1540 to achieve other nonproliferation objectives

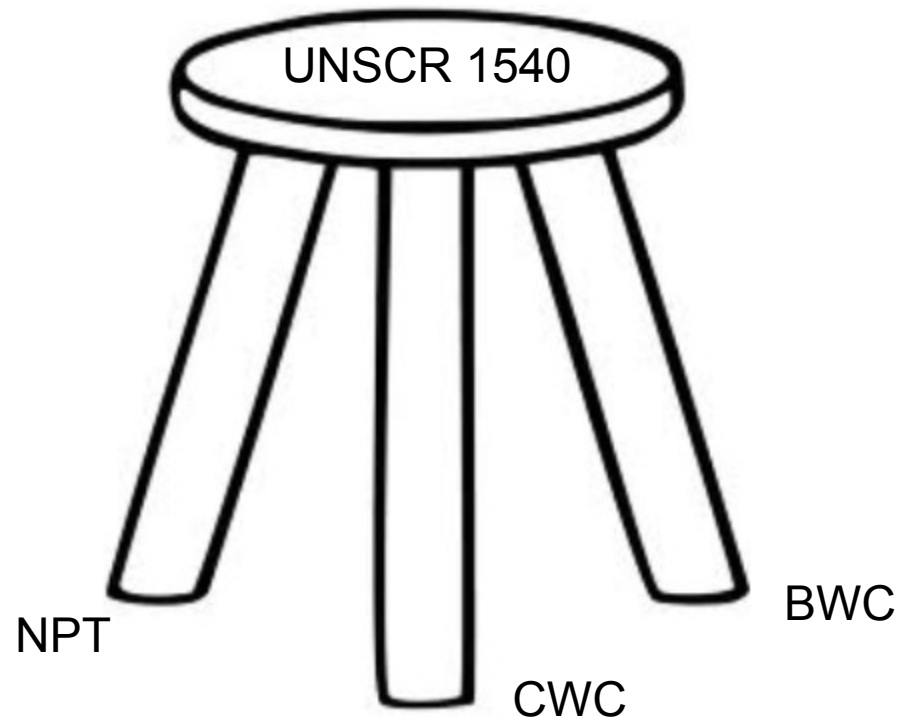
- A main focus of the CARICOM-UNSCR 1540 Programme has been to develop an appreciation among CARICOM Member States that any action on 1540 implementation also serves to meet important mandates under the three core nonproliferation regimes
- In relation to the Chemical Weapons Convention, the CARICOM Programme has assisted CARICOM Member States in linking obligations under Article VII of the Convention which mandates action covering National Implementation Measures related to prohibitions under the Convention to requirements under Operative Paragraph 3 of UNSCR 1540 which simultaneously requires legal and regulatory control over strategic goods and dual use materials
- Under the Biological and Toxin Weapons Convention, the CARICOM Programme worked with Member States to leverage action under Article III of the BWC to also substantively satisfy obligations under Operative Paragraphs 2 and 3 of Resolution 1540 which covers legal requirements relating to the manufacture and trade in strategic goods
- A similar approach has been used in relation to meeting Article II requirements under the Nuclear Nonproliferation Treaty and Operative Paragraph 2 of Resolution 1540 pertaining to the manufacture and acquisition of nuclear/radiological weapons and related materials



UNSCR1540 Implementation:

Leveraging the Resolution to achieve other nonproliferation objectives

Our working premise is simply this: UNSCR 1540 can be visualized as a stool in functional terms, with the implementation of each leg in this construct not only representing a set of activities that directly relate to the successful assumption of responsibilities under the Resolution, but indeed three different sets of complementary activities that together serve to advance nonproliferation objectives.



Furthering UNSCR1540 Implementation:

Aiding Implementation of the Three Core Non-Proliferation Regimes

Key corollary of the CARICOM-UNSCR 1540 Programme has been to assist States in implementing the Nuclear Non-proliferation Treaty (NPT), the Chemical Weapons Convention (CWC) and the Biological & Toxin Weapons Convention (BWC)

- Our core activities are centered on providing assistance to CARICOM Members in implementing legislation and attendant regulations to prevent proliferation and in providing training to allow enforcement, particularly customs, police and military personnel to identify, detect and interdict strategic items and dual-use materials
- Since the inception, the Programme has provided over US \$1.8 million in programming in legislative assistance and related capacity building to CARICOM Members with active initiatives currently underway in Antigua & Barbuda, Barbados, Haiti, Jamaica, St. Lucia and Trinidad & Tobago
- Our legislative work has been primarily with Offices of the Attorney General, Ministries of Justice, Legal Affairs, Foreign Affairs, National Security, Health, and Agriculture as well as national regulatory authorities



Furthering UNSCR1540 Implementation:

Providing Legislative and Enforcement Support to Member States

- Again, the delivery of legislative support has been the result of strong, ongoing collaboration with the international community and with partners in the academic community and allowed us to provide assistance in 2012 to Grenada in drafting and adopting non-proliferation legislation covering core areas including nuclear and radiological materials, the first CARICOM Member to do so
- In addition to the provision of the CARICOM-UNSCR 1540 Model Law covering CBRN and strategic items we have also had a range of partners providing legal technical assistance to Member States including the OPCW's Implementation Support Branch, IAEA's Nuclear Safety & Security Division, UNLIREC, OAS-CICTE, UNODC's Terrorism Prevention Branch, VERTIC, the Stimson Center, Harvard University, Georgetown University and the Center for International Trade and Security at the University of Georgia
- Our enforcement support has been even more robust with over US\$3.2 million dollars in programming support coming to us from the Governments of Canada and the United States to assist enforcement officials to prevent the proliferation of WMD-related items. Our partners include INTERPOL, the OPCW's Assistance & Protection Branch and the NNSA-DOE



United Nations Security Council Resolution 1540

Relevant Tenets and Operational Paragraphs to the NPT, CWC and BWC

To effectively kill multiple nonproliferation birds with the 1540 stone, CARICOM Member States have focused on the highlighted Operative Paragraphs of 1540

- Para 1: general commitment to not support non-state actors re WMDs
- Para 2: criminalize all activities of non-state actors (unauthorized entities) with regard to WMD-relevant items
- Para 3a: appropriate effective measures for nuclear materials control and accounting
- Para 3b: appropriate and effective measures for nuclear material protection (physical security)
- Para 3c: effective border controls
- Para 3d: comprehensive national export controls
- Para 6: appropriate control lists
- Para 8b: international obligations incorporated into domestic laws/regulations
- Para 8d: develop appropriate ways to work with industry and public
- Para 9: engage in dialogue and cooperation on nonproliferation
- Para 10: take cooperative action to prevent illicit trafficking in WMD items



United Nations Security Council Resolution 1540

The basis for renewed CARICOM action on NPT, CWC and BWC

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S/RES/1540 (2004)

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;

- A key lesson for the CARICOM 1540 Implementation Programme has been that effective action on Operative Paragraph 2 of Resolution 1540 is central to realizing the full implementation of the NPT, BWC, and CWC
- Our programming remains focused on the implementation of the NPT and in encouraging states to join the IAEA has been in keeping with this. The example of Belize remains instructive in this regard



United Nations Security Council Resolution 1540

The basis for renewed CARICOM action on NPT, CWC and BWC

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S/RES/1540 (2004)

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;

Operative Paragraph 8 of Resolution 1540 is very clear about Member States' responsibilities in fully meeting their obligations under the key multilateral nonproliferation treaties, effectively making the case that any progress in assuming mandates under the NPT, CWC and BWC also furthers the assumption of responsibilities with respect to UNSCR 1540



Implementing UNSCR 1540, the IHR and GHSA: Additional Challenges, New Opportunities

The Foreign & Community Relations Directorate of CARICOM has further mandated the 1540 Programme to facilitate the implementation of the Global Health Security Agenda (GHSA) by focusing biological proliferation threats which are germane to UNSCR 1540 and the Biological and Toxin Weapons Convention (BWC)

Bio-safety and bio-security mandates under the International Health Regulations (IHR) are also now given significant focus along with objectives under the GHSA to fulfil Operative Paragraph 8 (c) of Resolution 1540

With the appointment of the 1540 Coordinator to the Regional Coordinating Mechanism on Health Security (RCMHS) in May 2017, the 1540 Programme is now increasing collaboration with the Caribbean Public Health Agency (CARPHA) to focus on the overlapping/cross-cutting non-proliferation mandates stemming from 1540/BWC and to use action under GHSA to further these obligations.



1540 Enforcement Capacity Building: Commodity Identification Training (CIT)

- Given the need for specialized training to assist enforcement and customs officials in particular to identify dual-use materials at ports within the Caribbean that can be used to produce weapons of mass destruction (WMDs), the CARICOM- UNSCR 1540 Programme with the US Department of Energy's National Nuclear Security Administration (NNSA) has staged a number of Commodity Identification Training (CIT) workshops for CARICOM Member States
- These workshops have served to increase awareness in identifying strategic goods and has also acquainted a range of policy, enforcement and operational personnel about proliferation threats.
- The need for this specialized training for customs officials is critical as identifying strategic goods is a very difficult exercise as most of these commodities are similar to uncontrolled items.



IAEA-CARICOM Ongoing and Developing Technical Cooperation

- Establishing needed modalities for the Safe Transportation of Nuclear & Radiological Materials
- Legislative drafting support to assist CARICOM Member States in meeting core nuclear safety and security mandates both in relation to the Nuclear Non-proliferation Treaty and the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities (CPPNM). A very recent example of this cooperation was assistance to the Government of Jamaica in the development of the 2015 Nuclear Safety and Radiation Protection Act and ongoing assistance in drafting its Nuclear Safety and Radiation Protection (Strategic Goods Control) Regulations
- Assistance to CARICOM Members in developing national implementing legislation to reflect the principles and norms of the international nuclear liability regime, in particular the instruments adopted under the auspices of the IAEA, including the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage and the Convention on Supplementary Compensation for Nuclear Damage.

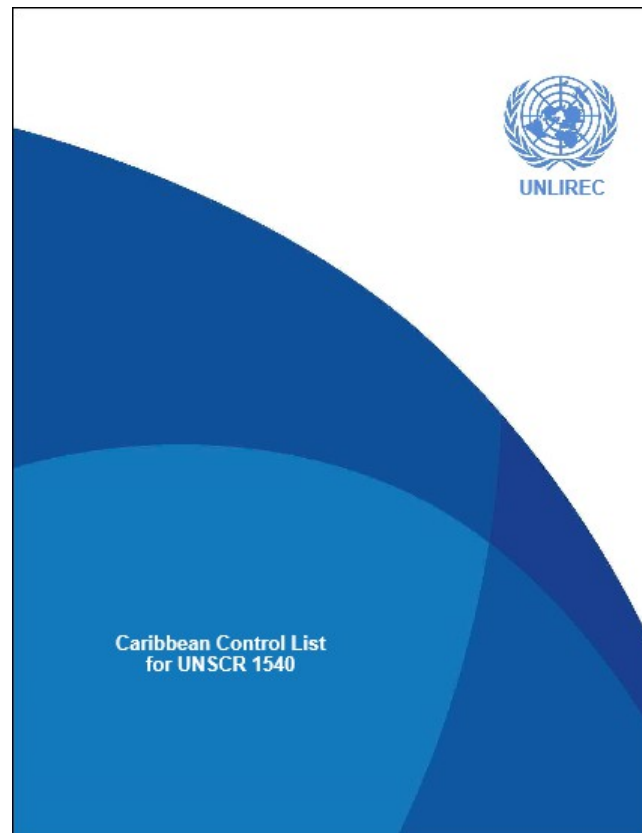


Aiding Nuclear Security in the Caribbean:

Collaboration with Our Partners: The Caribbean Control List

In mid 2016, the CARICOM 1540 Programme requested that UNLIREC undertake a special project to provide a composite list of primarily nuclear and radiological items that enforcement and customs officials could use as a composite control reference manual thereby allowing CARICOM Member States to fully meet obligations under Operative Paragraph 6 of Resolution 1540.

UNLIREC then requested funding from the Government of Canada to support the initiative. The Caribbean Control List represents the first such instrument specifically designed for a geographic region with the aim of implementing a particular Security Council Resolution



Australia Group & the Caribbean Control List: Ongoing Collaboration to improve Biosecurity

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- Leveraging constructs like the Australia Group lists complements mechanisms like the Caribbean Control List which focuses chemical and biological agents of regional proliferation concern
- While not constituting legal prohibitions or formal regulations within CARICOM Member States, the CCL helps States to meet mandates under Operative Paragraph 3 of UNSCR 1540
- The CCL assists States in detecting and identifying prohibited items under Article I of the BWC which prohibits States Parties from developing, producing, stockpiling, or otherwise acquiring or retaining biological agents and toxins, or related biological weapons or equipment.
- The application of both the CCL and Australia Group principles is intended to have the net impact of regulating the development and/or use of dual-use materials, enhancing export controls and preventing proliferation.



Cooperation with the OPCW

Developing Regional Chemical Emergency Response Capacity

Building Regional Resilience to Chemical Emergencies:

- Caribbean Member States view CBRN threats and chemical threats/emergencies as a remote possibility
- Over the years prioritizing training and developing competence in chemical emergency management has not been a priority
- This OPCW initiative is an indication of a new emphasis being placed on preparing first responders to deal with day-to-day practical events such as the accidental dispersion of chlorine, for example.
- Between 2013-2015, several CARICOM Member States have utilized training received from the OPCW to respond to emergencies such as chemical fires at waste management facilities and accidents involving chlorine as well as other noxious substances
- This activity is the outgrowth of a request by CARICOM to the OPCW in 2006 to assist the region with its security arrangements for the hosting of Cricket World Cup between March and April 2007



Promoting Regional Bio-Security Awareness

The NPCI and BWC Implementation

The Non-Proliferation and Counter-terrorism Initiative (NPCI) which was implemented in September 2015, has sought to:

- Raise awareness in the Caribbean that biological threats, whether naturally occurring, accidental, or manmade have the potential to kill thousands, cost millions in economic losses, and create political and economic instability
- Highlight the risk of a catastrophic biological event occurring in the Caribbean, and its probability enhanced by global travel – including tourism, urbanization, the growing interest in weapons of mass destruction by terrorists
- Demonstrate how rapid advances in technology, including risks posed by newly developed or manipulated pathogens with pandemic potential
- Highlight similarities in public health and governance systems in West Africa and the Caribbean where inadequate research facilities, deficient disease surveillance, and poor or absent legislation became the augury of the Ebola crisis



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