



1540 COMPASS: SECTION TWO
REGIONAL AND NATIONAL FOCUS

Challenges and Solutions for 1540 Implementation in the African Region

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UN Security Council resolution 1540 (UNSCR 1540) was adopted in April 2004 to strengthen the international nonproliferation architecture and to address the possibility of non-state actors' accessing weapons of mass destruction (WMD), their components, or their delivery systems. Although UNSCR 1540 initially met with some resistance from the developing world, many African states have subsequently expressed their support for the resolution. Enacted in April 2011, UNSCR 1977 extended UNSCR 1540's mandate for ten years—signaling the resolution's continued relevance in combating WMD-related security threats.

Although states have made significant progress toward implementing UNSCR 1540, the resolution's ambitious requirements continue to challenge some states, especially those in Africa. Unofficial estimates indicate that the resolution contains 113 specific prohibitions, 152 controlled activities, and at least 8 recommended activities. States often find themselves overwhelmed by these obligations and, in light of the expected expansion of nuclear power and nuclear-related technology, meeting these obligations will only become more demanding in the future.

Africa by briefly discussing implementation of the resolution on the continent and highlighting the needs of some African countries for collaboration and assistance as they attempt to comply with its provisions. We also consider the role that regional and subregional bodies can play in implementing UNSCR 1540 on the continent and offer some recommendations for stakeholders working in the fields of WMD disarmament and nonproliferation.

IMPLEMENTATION OF UNSCR 1540 IN AFRICA

The process of implementing UNSCR 1540 in Africa is often described as slow. This description is primarily based on the fact that fewer than two thirds of African states had submitted reports to the 1540 Committee as of October 2011. Most reports submitted by African governments contain very little detail about specific nuclear, chemical, and biological capabilities and safeguards. They simply contain a status list of disarmament and nonproliferation conventions and treaties and national legislation. In addition, observes Noël Stott, this legislation is often “outdated and insufficient to effectively deal with more recent WMD threats including the threat from radiological dispersal devices (RDD).”

States in Africa have provided various reasons for the lack of detailed reporting, including assertions that no WMD-related substances or

We consider the relevance of UNSCR 1540 for



The Institute for Security Studies (ISS) is a pan-African applied policy research institute headquartered in Pretoria, South Africa. The ISS seeks to mainstream human security perspectives into public policy processes.

technologies are found within their borders. However, the status of reporting in Africa should be placed in context. The continent must deal with a large number of competing priorities and challenges, and often the task of reporting rests with an individual who is responsible for a broad range of arms-control and disarmament issues. These individuals are often overwhelmed by other duties, have to deal with a poorly organized interagency process and tend to treat the UNSCR 1540 reporting requirements as a low priority.

The challenges African states have encountered while implementing disarmament and non-proliferation conventions and resolutions are not unique to UNSCR 1540. Even instruments related to small arms and light weapons (often considered the *real* weapons of mass destruction in Africa), such as the [UN Program of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects \(UN-PoA\)](#), continue to exhibit low levels of reporting from African states. Only 33 African states submitted reports under UNPoA in 2010.

We attribute this low level of reporting largely

to a lack of human and financial resources, and to “reporting fatigue,” rather than to deliberate decisions to assign low priority to weapons-related conventions and treaties. Deficient reporting does not necessarily mean that UNSCR 1540 is not being implemented on the continent. Submitting reports to the 1540 Committee is a requirement of the resolution. However, most states would argue that it is better to submit a quality report, which takes more time and contains accurate information, rather than submit a superficial report to check the block on a to-do list.

UNSCR 1540 acknowledges that states must determine how to implement the resolution domestically, but this is a daunting task for many developing states. The 1540 Committee suggest that states use the “[1540 matrix](#)” forms as a baseline for identifying priorities, but some states struggle to fully understand the forms. The paperwork leads to further confusion. Thus far, most discussions about implementing UNSCR 1540 in Africa have concentrated on the reasons why African states should put 1540 into effect. Few have examined how it is being implemented, or what ought to be done to make compliance easier and better.



One promising way to overcome this challenge is for African states to identify “best practices” in their subregions. Since few states in Africa pose much danger of WMD proliferation or view the proliferation of WMD or related materials as a pressing challenge for the continent, the argument for urgently implementing UNSCR 1540 remains difficult. A more convincing case for 1540 would accentuate how the resolution would further the development of African states while maintaining and improving safety and security standards. This should preferably be accomplished through a multilateral approach using existing regional and sub-regional forums.

COLLABORATION AND ASSISTANCE FOR UNSCR 1540 IMPLEMENTATION

A number of African states have requested help compiling UNSCR 1540 reports and matrices. About a third of the governments that have submitted reports requested assistance. Another, South Africa, offered it. However, the South African offer was couched within the broader disarmament and nonproliferation architecture rather than through the 1540 Committee structure. Of the countries that have submitted reports, two thirds have neither asked assistance from or offered it to the

1540 Committee.

The 1540 experts echo the South African approach to assistance under UNSCR 1540. They urge states to identify the appropriate channel for the assistance they are willing to supply. For example, states should contact the Organization for the Prohibition of Chemical Weapons (OPCW) for assistance related to chemicals and the [Biological Weapons Convention’s Implementation Support Unit](#) for assistance on biological agents. Although the additional resources are welcome—the 1540 Committee does not have a large assistance budget—it depends on states’ embracing international conventions. It also requires significant coordination to ensure resources are used appropriately without excessive duplication of effort.

To overcome such challenges, some experts maintain that regional and subregional bodies can and should play a bigger role in assisting states. Bodies such as the [African Union](#), the African Commission on Nuclear Energy (AFCONE), and the [Forum of Nuclear Regulatory Bodies in Africa \(FNRBA\)](#) are well-placed to promote implementation of the resolution.

AFCONE is the implementation and monitoring body of the [Treaty of Pelindaba](#) (Africa’s nuclear-weapon-free-zone treaty). A key AFCONE effort will be to ensure that all parties comply with their nonproliferation obligations—including the requirement to prevent, by all means possible, non-state actors from manufacturing, acquiring, possessing, developing, transporting, transferring, or using nuclear, chemical, or biological weapons or their means of delivery. Although AFCONE remains at an early stage in its development, it will be a valuable resource once it is up and running. It will advance the goal of executing UNSCR 1540 on the continent. Established in 2009, the FNRBA provides a mechanism for exchanging regulatory experiences and practices among nuclear regulatory bodies in Africa. It complements the work of the IAEA’s Nuclear Security Program in Africa. Given that the Forum is an African initiative, its 33 member states can encourage and support their own members, as well as other African states, as they compile and submit their reports to the 1540 Committee.



RECOMMENDATIONS
AND CONCLUSIONS

Despite general support for UNSCR 1540 in Africa, states still voice concerns about the real impact and effectiveness of the resolution. In a paper presented at a Nautilus Institute for Security and Sustainability workshop on UNSCRs 1540 and 1373, Noël Stott highlighted the concerns expressed by African analysts:

- UNSCR 1540 does not address radioactive materials, which could be seen as a major flaw.
- UNSCR 1540 is drafted in broad terms that are vague and open to interpretation. In particular, governments covet clarity on the specific meaning of “effective laws” that “prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivering, 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.” Such clarity is essential for states developing and enforcing legislation based on their internal requirements and capabilities.
- UNSCR 1540 does not accommodate such situations as naturally occurring pathogens or sources of pathogens such as hospitals, medical waste, and diagnostic laboratories.
- The development of lists of items is essential to implementing 1540, but the more comprehensive the list of, say, biological agents, the harder it is to implement the measures that have been devised. The narrower the list, the easier to implement the same measures. This creates an incentive for governments to regulate fewer substances—perhaps letting others slip through the cracks.
- Some states view UNSCR 1540 as an anti-terrorism measure and not a nonproliferation instrument.

Recommendations:

1. UN Security Council resolutions, including 1540, should be viewed within the framework of UN General Assembly conventions and not as isolated, external initiatives.
2. UNSCR 1540 should be interpreted as a complementary provision for the existed legal framework and less as a supplement to it.
3. African countries must bolster their capacity to fulfill their obligations under international law, but UN resolutions must be easier to implement.
4. It takes creative national mechanisms for governments to meet the legislative and administrative obligations embedded in UNSCRs. It should be possible, for example, to create an “omnibus” statute that not only covers obligations under the Nonproliferation Treaty, Chemical Weapons Convention (CWC), and Biological and Toxin Weapons Convention but also provides for new technological developments and risks and any new UNSCRs pertaining to nonproliferation and terrorism.
5. African states must acknowledge that the proliferation of WMD and related materials is a global challenge that does not respect borders. They must contribute to global WMD security not only for their own benefit, but for the benefit of their neighbors.
6. African states should work through African regional and subregional bodies such as AFCONE and the FNRBA, since these are African initiatives established to represent the continent on nonproliferation and disarmament issues.