

2021-2022 Comprehensive Review
Background Paper for the Open Consultations of the 1540 Committee
31 May to 2 June 2022, New York

1. Introduction

Resolution 1977 (2011) extended the mandate of the Committee established pursuant to resolution 1540 (2004), the 1540 Committee, for a period of ten years, until 25 April 2021. Resolution 1977 (2011) also provided for the continuing assistance of experts to the Committee. Operative paragraph 3 of that resolution stated that the 1540 Committee would conduct a comprehensive review on the status of implementation of resolution 1540 (2004), both after five years and prior to the renewal of its mandate, including, if necessary, recommendations on adjustments to the mandate, and would submit to the Security Council a report on the conclusions of those reviews, and decided that the first review should be held before December 2016. Following that first review the Security Council approved a successor resolution, 2325 (2016) on 15 December 2016.

The Committee developed a set of modalities for the conduct of the second Comprehensive Review (the “Review”)¹. In terms of these Modalities, the Review should be both retrospective and forward-looking. It should draw on an analysis of implementation of resolution 1540 (2004), based on information available to the Committee, including the approved matrices and inputs from Member States and related intergovernmental and regional and sub-regional organisations. The Review is intended to address ways of improving the implementation of the resolution by Member States by identifying and recommending specific, practical and appropriate actions to this end, and to analyze the operation of the Committee in the conduct of its tasks and recommend any changes to its mandate considered necessary.

By means of a letter dated 27 August 2020 the Chair of the Committee informed the President of the Security Council that, due to the disruption caused by the COVID-19 pandemic, the Committee had decided that all activities of the Review, including open consultations, should be postponed until 2021 with the exception of the process under way of revising the Committee matrices and any other activities that could be undertaken in an online format. Under resolution 2572 (2021) the mandate of the Committee was extended to 28 February 2022, and further to 30 November 2022 under resolution 2622 (2022) to allow time to complete the Review, including open consultations.

The Committee is conducting the Review, in line with the Modalities, in terms of the themes of its four Working Groups relating to implementation, assistance, cooperation, and outreach and transparency, as well as an examination of the current structure and methods for supporting the 1540 Committee.

¹ Published on the 1540 Committee’s website at <https://www.un.org/en/sc/1540/documents/2021%20CR%20Modalities%20Paper.pdf>

Accomplishing the objective of full implementation of the resolution by Member States is a long-term task that will require continuous efforts, with support from the 1540 Committee. Continuing support is also required from other components of the United Nations and relevant international, regional and sub-regional organisations (IROs).

2. What has been done so far since the 2016 Review?

The Committee has engaged Member States, international, regional and sub-regional organisations and civil society on the Review. In October 2019 the Committee held an informal meeting with relevant international, regional and subregional organisations, open consultations on specificity, and a closed, expert-level meeting on accounting and securing of related materials.

In 2019, in accordance with operative paragraph 20 of resolution 2325 (2016), the Committee revised assistance match-making procedures to make them more efficient. The Committee has revised its assistance template to enable States to provide specific details of assistance required. The Committee has also encouraged States to use this template, which is available on the Committee's website, while sending their assistance requests to the Committee.

In February 2020 the Chair of the Committee provided a procedural briefing to the Chairs of the UN Regional Groups and in April and November 2020 the Chair provided briefings to the Security Council on progress of the Review.

The Chair wrote to international, regional and subregional organisations on 2 June 2020 requesting written submissions to the Review. Thirteen have provided substantive responses to date.

In December 2020, with the approval of the States concerned, the Committee published updated matrices on its website², recording measures taken by each of the 193 UN Member States to implement the obligations of resolution 1540 (2004).

In 2021 and early 2022 the Committee held meetings to discuss papers covering themes of its four Working Groups, relating to implementation, assistance, cooperation, and outreach and transparency, as well on the Committee's support and administration.

² The approved matrices can be viewed at: <https://www.un.org/en/sc/1540/national-implementation/1540-matrices/committee-approved-matrices.shtml>

3. Objective of the Open Consultations

The objective of the open consultations is to provide participants with an opportunity to inform the Committee of their views on the implementation of resolution 1540 (2004), in particular to recommend practical ideas for the improvement of its implementation. This background paper is intended to introduce the themes for the consultations.

During these open consultations, the Committee will look forward to hearing views and specific recommendations on, but not limited to, sections 4 to 7 of this paper, including on further enhancements and best practices, as well as on ways to improve the Committee's efforts, from Member States, relevant international, regional and sub-regional organisations and other entities, including members of civil society. The Committee's conclusions and recommendations will be further developed drawing on said views and recommendations.

4. Monitoring and National Implementation

4.1 General considerations

Through resolution 2325 (2016), the Security Council urged the Committee "to continue to explore and develop an approach, with regard to implementation and reporting, that takes into account the specificity of States, inter alia, with respect to their ability to manufacture and export related materials, with a view to prioritizing efforts and resources where they are most needed without affecting the need for comprehensive implementation of resolution 1540 (2004)".

Also through resolution 2325 (2016), the Committee was requested to take note in its work, where relevant, of the continually evolving nature of the risks of proliferation of nuclear, chemical and biological weapons, their delivery systems, and related materials, including the use by non-State actors, of rapid advances in science, technology and international commerce for proliferation purposes, in the context of the implementation of resolution 1540 (2004). Member States are called upon to take into account developments on the evolving nature of risk of proliferation and rapid advances in science and technology in their implementation of resolution 1540 (2004). The Security Council also reaffirmed that prevention of proliferation should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be misused for proliferation purposes.

4.2 Reporting

The Committee relies on information provided by Member States to monitor implementation of resolution 1540 (2004). Since 2016, 39% of all Member States (75) submitted national reports and/or provided additional, up-to-date information on national implementation to the Committee,

and the number of non-reporting States has been reduced from 17 to 8. Of the 185 States that have submitted national reports since 2004, 61 provided a first report only, 28 submitted two reports, and 96 more than two. A significant number of States have not submitted additional and up-to-date information on national implementation to the Committee since 2016 and several States have not submitted additional information since 2008.

4.3 The Committee's matrices

Measures taken by Member States to implement resolution 1540 (2004) are recorded in the Committee's matrices. In 2017 the Committee revised the matrix template. The recorded implementation increased globally since 2016 by approximately 6%, with differing degrees within the five UN regional groups.

Analysis of the updated 1540 matrices of Member States show that 79% of possible measures were recorded for operative paragraph 1 (the obligation to refrain from providing support to non-State actors); 77% for operative paragraph 2 (prohibitions), 51% for operative paragraph 3 (c) and (d) (border and export controls) and 40% for operative paragraph 3 (a) and (b) (measures to account for, secure and physically protect related material). Among the different weapons categories, on a global basis 61% of the possible measures were recorded in relation to nuclear weapons (NW), compared to 58% for chemical weapons (CW) and 50% for biological weapons (BW).

4.4 Points of Contact

Operative paragraph 6 of resolution 2325 (2016) "encourages all States that have not yet done so to provide the 1540 Committee with a Point of Contact for Resolution 1540 (2004) and urges the Committee to continue to undertake initiatives to strengthen the capacity of such Points of Contact to assist in the implementation of the resolution, upon request of States, including through the continuation on a regional basis of the Committee's Point of Contact Training Programme".

During the reporting period, 136 States have informed the Committee of their Points of Contact.

The Committee has taken a regional approach to training courses for Points of Contacts. From 2016 to date, courses have been organized in Chile (for the Latin American region), Barbados (for the CARICOM region), the Russian Federation (two, for the OSCE region), China (two, for the Asia-Pacific region) and the African Union (two, for the African Union region). Training programmes, some supported by international organisations, usually include basic concepts on resolution 1540, implementation tools, and assistance procedures. The Committee, Member States, and international organisations have contributed to the programmes.

4.5 Visits to States at their invitation

Since 2016, visits have been conducted to 16 States at their invitation to discuss the implementation of resolution 1540 (2004). Two in 2016, four in 2017 (one State was visited twice), six in 2018, and four in 2019. In several cases the visits resulted in drafting of a national report or a voluntary National Implementation Action Plan, as well as offering advice and views on legislation and regulations to implement the resolution.

These visits provide opportunities for the Committee and its Group of Experts to discuss with States, including learning directly from their authorities about the types of legislation/regulations adopted to implement the resolution and potential implementation gaps and steps that they have identified, thereby contributing to a better understanding by the Committee of the challenges faced by Member States in general in implementing the resolution. Furthermore, during such visits, the Committee and its Group of Experts typically engaged government officials from a wide range of authorities, such as high-ranking officials, and ministries, including, for example, foreign affairs and defense ministries and health, police, and customs officials, thus raising awareness and facilitating development of effective internal coordinating mechanisms.

4.6 Voluntary National Implementation Action Plans

Operative paragraph 5 of resolution 2325 (2016) encourages States to prepare national implementation action plans on a voluntary basis, with the assistance of the 1540 Committee as appropriate. To date, 44 voluntary National Implementation Action Plans (NAP) have been submitted by 36 Member States. The Committee is currently supporting two States, namely Botswana and Mongolia, who are in the process of developing said action plans. Such plans provide the Committee with further information as to how States surmount challenges to this objective.

4.7 Peer Reviews

The peer review is an exercise whereby two or more countries voluntarily agree to share information and experiences related to the status of their implementation of resolution 1540 (2004). Usually, the exercise consists of preparatory meetings and exchanges of visits by delegations of the involved Member States.

Since 2016, peer reviews have been conducted. A trilateral peer review between the Kyrgyz Republic, the Republic of Tajikistan and the Republic of Belarus was conducted between 2014 and 2017. A review between Chile and Colombia took place in 2017. In 2019 peer reviews were conducted between the Dominican Republic and Panama, and between Paraguay and Uruguay.

5. Assistance

Resolution 1540 (2004) recognizes that some States may require assistance in implementing the resolution, and invited States, in a position to do so, to offer assistance in response to requests by States lacking the legal and regulatory infrastructure, implementation expertise and or resources for fulfilling the provisions of the resolution. The Committee's assistance template, available on the Committee's website, was revised in 2018.

Several States have contributed funds on a voluntary basis to assist States in implementing 1540 obligations, including through the United Nations Trust Fund for Global and Regional Disarmament Activities, managed by the Office for Disarmament Affairs. The Trust Fund has been used to finance outreach activities, and activities related to direct assistance by the Committee to States (visits to States and national roundtables). Many IROs have also responded positively to requests for assistance: data suggest that six of the 16 international organisations registered as assistance providers have responded to as many as 20 specific requests.

According to current data, of the 35 States that have requested assistance since 2016, 18 and 19 needed support on operative paragraph 3 (a-b) and operative paragraph 3 (c-d) areas. Twelve requested assistance on operative paragraph 2 obligations; 20 States requested training; 12 States requested assistance on outreach activities; 11 requested support for drafting legislation; 10 requested equipment and 11 requested funding support.

The Committee acts as a matchmaker between States requesting assistance and States and IROs that offer assistance. Where resources permit, the 1540 Committee itself has also offered States technical expertise in drafting reports to the Committee, in preparing assistance requests and in implementation planning. Since 2016, a total of 38 requests from 35 States have been received and another one State has maintained in force a previous request. Currently there are 20 assistance requests from 18 requesting States published on the website.

The number of States that use the 1540 Committee's assistance mechanism is relatively small. The feedback from requesting States, assistance providers, and other stakeholders on the functioning of the Committee's match-making role would be helpful to the Committee in further improving its assistance mandate, specifically on enhancing the specificity of requests and their technical soundness, the expeditiousness of the responses, and the systematic compilation of ongoing assistances programmes, among others.

Operative paragraph 20 of resolution 2325 (2016) urges the continued strengthening of the Committee's role in facilitating technical assistance for implementation of resolution 1540 (2004), in particular by engaging actively in matching offers and requests for assistance. The same paragraph further recognizes the regional approach as an effective way to promote match-making,

through the holding of regional assistance conferences that provide a platform for match-making. Although no regional conferences have taken place since 2016, the Committee has discussed the idea of holding such conferences.

6. International Cooperation

Operative paragraph 23 of resolution 2325 (2016) encourages IROs to enhance cooperation and information-sharing with the Committee on issues related to implementation of resolution 1540 (2004). Since 2016, by means of formal and informal arrangements, cooperation between the Committee and IROs has been pursued through exchange of information, sharing of implementation experiences and lessons learned, working towards closer coordination on outreach to States, and facilitating assistance to Member States.

The Committee has received notifications from 22 IROs on their Points of Contacts. The nomination of points of contact or coordinators, as called for in resolution 1977 (2011), as well as regular updates by IROs, have facilitated cooperative efforts, exchanges of information on actions taken to promote implementation of resolution 1540 (2004), and better use of resources offered by those organisations.

The Committee is aware of two regional organisations (OAS and OSCE), that, together with the Committee and other partners, are assisting States with the development and implementation of voluntary National Implementation Action Plans, Peer Reviews and strategies. Some regional organisations, such as CARICOM, OAS and OSCE, have dedicated regional 1540 coordinators. In addition, the UN Office for Disarmament Affairs has recently appointed 1540 Coordinators for Africa and Asia.

From 26 April 2016 to 15 April 2022 the Committee and its Group of Experts participated in 249 outreach events. Approximately 82% of these events were organized, co-organized by or involved international, regional or subregional organisations, UN bodies or other Security Council Committees.

The Committee has continued its cooperation with the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities (1267 Committee) and the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism (CTC). The 1540 Committee participated, within its non-proliferation mandate, in three visits to States of the CTC since April 2016, and one visit of the 1267 Committee. The three Committees jointly brief the Security Council on their cooperation on an annual basis. Under the direction of their respective Committees, Experts continue to meet and to share information relevant to their Committee mandates.

The Chair wrote to IROs on 2 June 2020 requesting written submissions to the Review, and to date 13 IROs have provided substantive responses.

7. Transparency and Outreach

Transparency and outreach of the Committee make an important contribution to enhancing confidence, fostering cooperation, and raising awareness among Member States, in their interaction with relevant international, regional and subregional organizations, and other entities, including civil society as relevant, regarding the requirements of resolution 1540 (2004).

The Committee continued to institute transparency measures and outreach activities, inter alia, by making the fullest possible use of the Committee's website, as well as quarterly messages from the Chair; video messages; press releases; and invitations to other organizations to speak to the Committee.

The Committee continued to organize and participate in outreach events on the implementation of resolution 1540 (2004) at the international, regional, subregional, and national level, including, as appropriate, parliamentarians, as well as representatives of civil society, including industry and academia. During the period from 26 April 2016 to 15 April 2022, the Committee and its Experts participated in 249 events. These included 144 outreach events to States and civil society. Of these, 104 included outreach to States; 15 to academia (for example, educational and research organisations); 17 to industry and professional associations and 10 to parliamentarians.

Resolution 2325 (2016) acknowledges the positive role performed by civil society, inter alia industry and academia, in promoting the full implementation of resolution 1540 (2004) by all Member States, and that parliamentarians have a key role in enacting the necessary legislation to implement the obligations of the resolution. During the reporting period the Committee was invited to several meetings that were convened by universities, by NGOs operating at both the regional and international level; by industry; in addition to briefings to the Committee.

8. Concluding remarks

Resolution 1540 (2004) is a non-proliferation instrument that has secured its place in the weapons of mass destruction non-proliferation architecture. It is designed to prevent the catastrophic outcome of the use of weapons of mass destruction by non-State actors, including for terrorism purposes. With its focus on non-State actors, the resolution has an important role in closing gaps in the array of relevant treaties and legal instruments. The Committee firmly believes that these Open Consultations will be an important contribution towards ensuring that the resolution continues to play a central role in the maintenance of international peace and security in the future.