

Report of the Committee established pursuant to resolution 1540 (2004)
25 April 2006

14. In paragraph 4 of the resolution the Security Council called upon all States to present to the Committee, no later than 28 October 2004, a first report on the steps they had taken or intended to take to implement the resolution. Fifty-nine States met the deadline. With the approval of the Committee, the Chairman sent five rounds of correspondence to the Permanent Missions to the United Nations of non-submitting States, reminding them of the reporting request made in resolution 1540 (2004). In addition, the Chairman organized informal meetings in New York with regional groups to address the issue of reporting and to facilitate the implementation of requirements under resolution 1540 (2004). As at 20 April 2006, 129 States Members of the United Nations and one organization had submitted first reports to the Committee. ...

21. The Committee recommends that the Security Council:

- (a) Continue monitoring the implementation of its resolution 1540 (2004), bearing in mind that enactment of national laws and other measures takes time and does not necessarily produce immediate results;
- (b) Continue outreach to States, including those that did not submit their first national report, both individually and on a regional or subregional basis;
- (c) Make available to States at an appropriate time the findings of the examination of the additional information provided by States for further clarification, where it is considered necessary;
- (d) Invite States to provide relevant additional information on the national implementation of resolution 1540 (2004) as an ongoing process to minimize reporting requests;
- (e) Inform States that have already reported to the Committee that the Committee intends to contact them again after a period of time to be determined by the Committee to take stock of the extent to which the resolution has been fully implemented by that time.

22. When examining the first reports, the Committee took note of the fact that additional information relevant to the implementation of resolution 1540 (2004) was available on public websites of Governments and international organizations. In the light of the experience of the use of such information, the Committee decided to develop a legislative database for the purpose of providing additional information on national legislation and measures related to the resolution.

23. For each State, the database contains links to the original texts of laws, ordinances, decrees, regulations and decisions related to activities addressed in the resolution. ...

35. By paragraph 2 of resolution 1540 (2004), the Security Council decided that all States, in accordance with their national procedures, should 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. ...

37. The Committee noted that most of the national implementation legislation on prohibitions and enforcement referred to in paragraph 2 had been in place before the adoption of resolution 1540 (2004). For this reason, the national implementation legislation, as far as nuclear, biological and chemical weapons are concerned, is primarily in line with the obligations under the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention but does not necessarily reflect all requirements mentioned in paragraph 2. This difference in language becomes most evident in States that considered the obligations under those three instruments as part of their national legislation, in accordance with their constitutional processes.

38. Such a procedure for implementing obligations under the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention that deal primarily with State-to-State prohibited activities does not explicitly address non-State actors. This can be addressed only by specific legislation that also penalizes prohibited activities of non-State actors. ...

54. The Committee recommends that the Security Council:

(a) Encourage States that have laws and regulations already in place to revisit their legislation with a view to filling the gaps related to all aspects of paragraph 2, and, where gaps exist, to update their legislation in line with the requirements of resolution 1540 (2004);

(b) Continue raising awareness that the lack of legislation to prohibit activities related to weapons of mass destruction and their means of delivery and of penalization of violations of such prohibitions places a State at risk by providing a potential safe haven for non-State actors. ...

131. The adoption by the Security Council of resolution 1540 (2004) was an important and timely measure in the international efforts aimed at preventing proliferation of weapons of mass destruction, their means of delivery and related materials, and a possible nexus between weapons of mass destruction and their means of delivery and non-State actors, in particular, terrorists. However, those efforts can be effective only if all States, irrespective of whether they possess a potential associated with weapons of mass destruction and their means of delivery, implement fully the requirements laid down in the resolution and cooperate closely among themselves to that end. Everybody should be aware that in this area the community of nations finds itself in a race against time.

132. In order to better prepare itself for its major function of monitoring implementation, the Committee decided to concentrate its activities, in the limited time available to it, on gaining as much information as possible about the actual situation with regard to the implementation of resolution 1540 (2004). It examined national reports, additional information provided by States and legislative data available on public websites of Governments, governmental agencies and international organizations.

133. After two years of its work, the Committee, with the help of its experts, was able to get a clearer understanding of the present implementation status of resolution 1540

(2004) as well as of the problems and challenges that need to be addressed to ensure the full implementation of the resolution by all States. In particular, the examination conducted by the Committee of the information in the national reports demonstrated that in many countries a number of legislative and other measures related to issues addressed in resolution 1540 (2004) were already in place before the adoption of the resolution. The examination also showed that after the adoption of the resolution some States started revisiting legislation in place to bring it into line with the obligations of the resolution or to establish national structures to develop new legislation to fill the gaps.