

CHAPTER 4

IMPLEMENTING RESOLUTION 1540 IN AFRICA: BALANCING COMPETING PRIORITIES

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INTRODUCTION

Judging by the number and contents of reports submitted by African governments on their implementation of Security Council Resolution 1540, the African region rates well below that of any other region in the world. To date (January 2008), only 19 African states have submitted reports, and most of these reports are well below the average reporting standard worldwide.

The reasons for the slow rate of implementation in Africa are as diverse as the region itself. A key challenge in Africa is the lack of ability of many states to fulfil the central provisions of 1540, which require enacting domestic legislation and enforcement measures. Moreover, the issue of capacity to meet the obligations is not just a matter of overall state capabilities, but of conflicting priorities as well. In evaluating the submission of country reports, it should therefore be borne in mind that for most African countries the issue of nuclear, biological and chemical weapon (NBCW) non-proliferation is of very low priority. It is also important to acknowledge that very few countries in Africa are actually capable of producing NBCW-related materials.

Implementation of the resolution in Africa also has a political dimension. While no African state has outright rejected the resolution on the basis of legal doubts concerning the Security Council's right to dictate domestic law for UN Member States, the Non-Aligned Movement's (NAM) Ministerial Conference in 2004 expressed concern over this emerging practice:

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While noting the adoption of the resolution on weapons of mass destruction and non-states actors (S/RES/1540 (2004)) by the Security Council on 28 April 2004, the Ministers underlined the need to ensure that any action by the Security Council does not undermine existing multilateral treaties on weapons of mass destruction and of international organisations established in this regard, as well as the role of the United Nations General Assembly. The Ministers further cautioned against a practice where the Security Council utilises its authority to define the legislative requirements for Member States in implementing Security Council decisions.¹

In a similar vein, South Africa, a leading state in the NAM and in Africa, pointed out prominently in its report to the 1540 Committee that South Africa would be:

concerned if the Security Council were to assume legislative and treaty-making powers on behalf of the international community that are binding on all States and that are not envisaged by the Charter of the United Nations. Like other Governments, the Government of South Africa will also not accept externally prescribed norms or standards, whatever their source, on matters within the jurisdiction of the South African Parliament, including national legislation, regulations or arrangements, which are not consistent with South Africa's constitutional provisions and procedures, or are contrary to South Africa's national interests or infringe on its sovereignty.²

While South Africa's report is the only one that specifically mentions this concern, South Africa's influence in Africa and the NAM, as well as the fact that it has by far the most advanced NBCW control system on the continent, are important factors to bear in mind when evaluating the general approach by African governments toward the resolution.

Furthermore, African regional and subregional organizations, including the African Union (AU) and its predecessor the Organization of African Unity (OAU), pay little if any attention to non-proliferation issues. Non-proliferation and disarmament issues, including the entry into force of the African Nuclear-Weapon-Free Zone Treaty and implementation of Resolution 1540, do not seem to be a high priority for the AU or the Pan-African Parliament. Indeed, in its Statement of Commitment to Peace and Security in Africa, the heads of state and government of member states of

the Peace and Security Council of the AU do not refer to NBCW control at all.³ In one of the few references to NBCW control, the AU's Solemn Declaration on a Common African Defence and Security Policy states that external challenges to Africa's continental security may include, "The accumulation, stockpiling, proliferation and manufacturing of weapons of mass destruction, particularly nuclear weapons, chemical and biological weapons, unconventional long-range and ballistic missiles".⁴

Bearing in mind that the AU, and subregional organizations such as the Southern African Development Community and the East African Community (EAC), are constantly faced with pressing conflict resolution challenges, including ways to solve the conflict in the Sudan and the emerging crises in Zimbabwe, the implementation of Resolution 1540 is not likely to feature on these organizations' agendas unless a more concerted effort is made by the most influential African governments. Although some suggestions have been made that the AU may be an appropriate forum to enhance the implementation of Resolution 1540 in Africa, a recent UNIDIR report⁵ asserted that subregional groups may be more suitable due to their limited membership and relative homogeneity (see Chapter Annex B for a condensed version of this report). However, the nature of these organizations, the priorities of their members and their limited resources may require a different approach.

Instead of focusing on the role of African regional and subregional organizations as ways to promote the implementation of Resolution 1540, more attention should be given to the role of key influential states in the subregions, as well as the impact of regional and subregional seminars. The governments of Egypt, Nigeria, South Africa and so forth should be engaged not only to fully implement the resolution's provisions and thereby strengthen their control mechanisms, but also to use their sphere of influence to ensure that their own control systems expand beyond their borders. While subregional organizations could be useful forums to facilitate this process, their political nature and focus on other priorities could quickly lead to a deadlock. Implementation seminars (such as those held in Accra in 2006 and Gaborone in 2007) under the aegis of the United Nations, or other organizations or governments, could directly impact on the ability of African governments to implement the resolution.

It is also important to recognize when considering the overall implementation of the resolution in Africa that not all states in the region are of immediate

NBCW priority. A closer study of the proliferation risk of African states will show that very few African states, especially those in sub-Saharan Africa, pose a proliferation risk. It is, however, also important to recognize that the effective regional implementation of the resolution is dependent on a “network approach” in which the weakest link could potentially endanger the whole network.

This chapter examines the overall implementation of the resolution in Africa and the role of competing priorities as an explanation for the apparent lack of commitment among African governments not only to the implementation of 1540, but to other NBCW obligations in general. The first part provides an overview of the general perception among African states of the resolution. As such it examines the relevance of the resolution to African concerns, especially given the humanitarian crises on the continent. It also examines the linkage between the implementation of the resolution and the socio-economic development needs and limited government resources in most African countries. The second part identifies which states pose potential risks for NBCW proliferation, and which African states could potentially be used as transit states or as potential operating bases for terrorist groups. This analysis is aimed at identifying a subset of African states for which the implementation of the resolution is more relevant from a proliferation perspective. Part three examines the adherence to and implementation of non-proliferation and disarmament treaties as well as other relevant international obligations by African states with the objective of showing that many measures and mechanisms required by Resolution 1540 may already be in place. The final section of the report focuses on the potential of regional and subregional organizations in promoting the resolution in Africa. The role of regional implementation seminars, bilateral cooperation and civil society is also addressed.

The chapter concludes with a forward-looking approach by making specific recommendations.

REGIONAL OVERVIEW

Examining African country reports submitted to the 1540 Committee to a large extent reveals the general approach of most African governments toward NBCW issues. While the reporting requirement is not a true indication of the level of political commitment to non-proliferation, or the

effectiveness of measures undertaken to prevent proliferation, it is telling that only 19 African states have submitted reports, and that most of these are incomplete.⁶ In terms of the total number of African states (53), this number represents a 36% reporting ratio (see Table 1).

Table 1. Status of 1540 reporting by African states

Country	Date(s) submitted	Country	Date(s) submitted
Algeria	10 November 2004 7 September 2005	Mauritius	30 April 2007
Angola	27 October 2004	Morocco	28 October 2004 13 September 2005
Benin	3 March 2005	Namibia	26 October 2004 27 April 2006
Burkina Faso	4 January 2005	Nigeria	28 October 2004
Djibouti	17 March 2005	Senegal	31 March 2005
Egypt	28 October 2004 17 March 2006	South Africa	31 January 2005 3 January 2006
Eritrea	22 June 2006	Tanzania	29 August 2005
Ghana	5 November 2004	Tunisia	10 November 2004
Kenya	20 July 2005	Uganda	14 September 2005
Libya	12 April 2005 6 December 2005		

Source: 1540 committee website, <www.un.org/sc/1540/nationalreports.shtml>.

While not surprising that every African country submitting a report stated that it does not possess any type of NBCW, very few countries provided information on the type of measures they have implemented or are implementing to prevent their territories from being used as potential sources for NBCW acquisition or as transit routes.

Though Africa is free of any nuclear weapons programmes, there are several countries that have peaceful programmes in which nuclear materials are present. Many more countries have chemical and biological industries,

medical and agricultural research facilities and materials that could potentially be sought by non-state actors and terrorist networks. Therefore, the physical protection and safeguarding of these materials must remain a top priority. Furthermore, states must also work to assure the adequate protection and management of materials that are present and utilized in commercial chemical and biological industries in the region.

Although many African countries have expressed support for the resolution, few have submitted reports and those that have seldom provided sufficient details, suggesting that implementing the resolution is not a high priority for them. A further explanation for the lack of reporting from the continent is the absence of effective governance and political instability in several African countries.⁷ For instance, in its report to the 1540 Committee Eritrea stated:

Eritrea has not enacted specific national legislations on non-proliferation and has not instituted control lists. The delay in taking national implementation measures is mainly caused by the preoccupation of the Government with the unresolved border issue with Ethiopia.⁸

It is encouraging that almost all North African coastal countries have submitted reports to the 1540 Committee, especially given their close proximity to the Middle East. Several of these countries have acknowledged the need to prevent the spread of terrorism and have expressed their support in putting an end to it. Moreover, given their proximity to and bilateral ties with Europe, these countries are likely to be influenced by European security threat perceptions.

It is not unexpected that South Africa's report is by far the most comprehensive and detailed of all African reports. The country has a long history of being involved in NBCW-related issues. Since voluntarily giving up its nuclear programme in the early 1990s, South Africa has become a strong advocate for complete disarmament and non-proliferation, and has joined all the relevant treaties. South Africa is also the only African country member of most of the non-proliferation export control regimes.

Almost every country in the region that has submitted a report has stated that since it does not possess any type of NBCW, it therefore cannot provide any form of assistance to non-state actors in acquiring them. Namibia, for example, does little more than state this in its one-page report. When

reporting on existing non-proliferation measures and steps intended to be taken on implementing the resolution's provisions, many African countries have simply listed the conventions and treaties that they are party to, as well as existing national legislation that pertains to the provisions. Although a step in the right direction, this has hindered progress on the successful implementation of the resolution, as much of the legislation listed is broad, outdated and insufficient to effectively deal with more recent NBCW threats. Libya, for example, stated that provisions one to three of the resolution are already in force under a 1988 act,⁹ which prohibits the use and trade in NBCW and calls on all states to renounce such weapons,¹⁰ while Kenya stated that the development, acquisition, manufacture, possession, transfer, transport and use of nuclear materials, and by extension nuclear weapons, is controlled by a 1982 act.¹¹ This act is currently under review. Kenya made no reference to biological and chemical weapons in its report.¹²

The submission of additional reports is a fair indicator of states' political will to comply with the resolution, but only six African countries have done so. Three of these countries, Egypt, Libya and South Africa, have at some point possessed NBCW programmes, which gives them an advantage over those that have not, as they would have a better understanding of the measures and controls required over NBCW and related materials. Furthermore, having developed NBCW programmes and infrastructures, they would have had some control measures in place prior to adopting the resolution.

It is also interesting to note that some countries have mentioned that they have sufficient border controls in place, a requirement of Resolution 1540, though it is likely that these controls were put into operation to curb illegal trading in small arms and drugs. While these measures could contribute somewhat towards preventing the proliferation of NBCW and related materials, border controls on the continent are notoriously weak and porous, and given the nature of NBCW-related material and equipment, it is unlikely that these types of controls are sufficient for preventing the proliferation of NBCW or their components.

It is further noteworthy that most African countries that have been victims of terrorist attacks, for example Algeria, Kenya and Tanzania, have submitted reports and made reference to the attacks.

While not all sub-Saharan countries are of equal NBCW importance (see the discussion on NBCW risk assessment below) the implementation of

Resolution 1540 region-wide and globally would be greatly strengthened if all African countries, especially those which could potentially be targeted by illicit networks or terrorist groups, fully implement the resolution, and if they are not able to do so, to seek assistance from states from within and outside the region in a position to do so. Many African countries, especially sub-Saharan states, suffer from border skirmishes and conflicts while some borders, notably the Eritrean–Ethiopian border, have yet to be established. Due in part to border instability, many of these countries are sources, destinations and transshipment points for human trafficking, arms smuggling and the drug trade. It is presumable that the same border instabilities which facilitate the previously mentioned activities may also facilitate the proliferation of NBCW-related materials.

1540 AND COMPETING PRIORITIES

In considering African reporting on and the actual implementation of Resolution 1540, the issue of priorities should be recognized up front. Though many African countries have expressed their support for the resolution, NBCW-related issues remain a low priority on the continent—not surprisingly as no African country currently has the infrastructure to produce a nuclear weapon, and very few have the knowledge and technology to produce chemical or biological weapons. African perceptions of significant security threats differ greatly from those of developed countries. With much of the continent plagued by poverty, disease and internal conflicts, many states focus their limited resources on alleviating these problems, given that they have a far greater impact on their security and that of the continent as a whole.

Even if a state supports the aim of preventing NBCW proliferation and acquisition by non-state actors—as do all 19 African states that reported—the priority for most African countries is to deal with existing problems instead of devoting their limited resources to potential threats that may not necessarily be directed toward them. As such, an examination of reports submitted by African states shows that since they do not possess NBCW, this issue is of little or no importance to most African governments. Other pressing priorities, in particular the devastating effects of HIV/AIDS, the continuation of armed conflicts and genocide, and the overall impact on African economies of the proliferation and use of small arms and light weapons, require more attention and action from African leaders. Given

that African regional and subregional organizations are extensions of the national policies of their collective membership, the implementation of NBCW obligations, including those required by Resolution 1540, is not a priority for these organizations.

Moreover, since the resolution only emphasizes non-proliferation measures, African governments may also be reluctant to take measures to address a threat which they essentially believe is “northern”. Benin, an influential West African state, and one of the few African states that play an active role in international non-proliferation activities, including in the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) review process, stated in its report that:

the question of prevention of access by non-State actors to weapons of mass destruction (WMD) should be linked to that of disarmament, and that States in possession of weapons of mass destruction should be called on to eliminate them, where necessary, or further reduce available stocks by ending programmes on the modernization of such weapons.¹³

At a June 2006 regional seminar held in Accra, Ghana, to consider the implementation of 1540 in Africa, the Algerian delegate reiterated his country’s support for the resolution. But while stating that Algeria has actively fought against the scourge of terrorism, and that it supports the total elimination of NBCW, he also raised numerous concerns surrounding the lack of a balanced approach that needs to be addressed in the context of the NPT, particularly as it is one of the foundational treaties on which the resolution is based.¹⁴ And while the South African delegate at the same meeting emphasized the need to establish effective controls over NBCW-related materials and to guard against their abuse, he at the same time stressed that one size does not fit all and that regional considerations need to be taken into account.¹⁵

At an open meeting¹⁶ of the Security Council on 23 February 2007, held to discuss the overall implementation of the resolution, the Congo attributed the poor reporting by some countries to the lack of capacity that many states face, and more importantly to the question of states’ priorities in dealing with issues related to international security threats. They reminded the council that the issue of small arms and light weapons is a more legitimate concern for African countries, given that they threaten the daily existence

of the people, and that they are the primary means used by terrorists to carry out their crimes.¹⁷ South Africa stated at the same meeting that it fails to find assurances in the situation where NBCW, in particular nuclear weapons, are deemed safe in the hands of some but not in others, and mentioned concerns over the Security Council becoming involved in the domestic affairs of states.¹⁸ Both South Africa and the Congo acknowledged that it is predominantly developing nations that are behind on reporting on and implementing the resolution, but attributed this to a lack of capacity, as well as reporting fatigue. Given that reporting requirements are overly complicated and unsuitable for many developing states, and that developing nations mostly do not have proliferation-sensitive NBCW capabilities, it is often not a priority for them. South Africa suggested that the council should differentiate between states according to their capabilities.¹⁹ The Ghanaian delegate also stressed that given the difference in state capabilities, implementing the provisions of the resolution, even to a satisfactory universal level, would more than likely take years if not decades to accomplish. He also highlighted the 1540 Committee's lack of capacity to provide the assistance required by many countries to implement many of the resolution's provisions.²⁰

Most African states, especially in sub-Saharan Africa, may not consider the threat of NBCW terrorism as eminent. Instead, they are occupied with regional conflicts and other forms of terrorism and illicit activities. Most African governments also do not have the resources to implement what many consider to be very cumbersome requirements. However, despite their limited resources and conflicting priorities, African states should recognize that the global nature of non-state actors and entities, and the ease with which they have been able to operate and transfer weapons and materials across borders, place some level of responsibility on all countries to minimize the risk of these actors operating and transferring weapons across their borders.

Many African countries have emerging or weak economies and would be severely impacted by a terrorist attack. Furthermore, they need to attract foreign investment to strengthen their economies, and being seen to be compliant with international security measures can increase their own domestic security while making themselves more attractive for investment. It is also worth considering the impact that a major terrorist attack can have on the global economy, as was seen in September 2001, and the implications that this would have for a developing country. While short-

term effects such as the fall in commodity prices and the weakening of currencies are often quickly reversed, long-term effects can have more severe implications. Increased costs in international trading to tighten security, decreases in tourism traffic, and stricter immigration laws that have the potential to lower the number of workers employed abroad and therefore affect the level of remittances, all have dire consequences for emerging economies.²¹

Though African countries are largely preoccupied with more immediate problems, implementing some of the provisions of the resolution could contribute toward addressing these. There is little doubt that the proliferation of small arms and light weapons is a major concern for the continent, and significant amounts of resources are channelled toward curbing the illegal arms trade. Adopting effective laws and enforcement measures, as outlined in Resolution 1540, to prevent non-state actors from transporting or transferring NBCW or related materials, could at the same time strengthen existing controls established to curb the flow of small arms and light weapons through Africa's porous borders.

At the African regional seminar held in Accra in 2006, Ambassador Peter Burian, former chairman of the 1540 Committee, concluded the seminar by acknowledging and responding to various problems and concerns raised by African countries surrounding the implementation of the resolution. He reminded the 25 African delegations at the meeting that Africa has not been immune to terrorist activities, with both Kenya and Tanzania being victims, and referring to the revelation of the Khan network, he warned that the expansion of civilian nuclear programmes will provide more opportunities for non-state actors to get access to fissile and radioactive materials.²² He also acknowledged that numerous factors, such as a lack of capacity, the complexity of legislative procedures and preoccupations with other priorities, have all contributed to the lack of reporting from African countries, but he emphasized the benefits of implementing the resolution, especially since improved national legislation could provide increased security from possible future attacks. In addition, building effective border controls and legislative institutional systems to subvert the proliferation of NBCW would also work in conjunction with combating the proliferation of small arms and light weapons on the continent.²³

COMPETING PRIORITIES AND THE RISK OF NBCW PROLIFERATION

It goes without saying that certain countries are more at risk for NBCW proliferation than others, and that there is less incentive for countries that do not possess any NBCW capabilities to prioritize reporting and implementing provisions.²⁴ Those more at risk typically include countries that possess, or have possessed, any type of NBCW or related materials, and those that have the potential to be used as transit states for transferring weapons and components.²⁵ Very few African states fall into this category, making it difficult to substantiate why implementing the resolution should be of high priority for them. If one for instance compares the need for South Africa to implement all the requirements of the resolution, the same priority is not necessarily applicable, over the short to medium term, to most other African countries.

Given the stated purpose of the resolution to prevent the acquisition by or diversion of NBCW and related materials and technologies to non-state actors and non-parties to the treaties addressing the proliferation of these types of weapons, there are very few African countries that are of immediate concern. Based on their past involvement in NBCW activities, eight African countries are of particular relevance for some or all of the domestic legal obligations of Resolution 1540. The selection of these states derives from both a risk-based approach, which seeks to identify the most likely proliferation paths of NBCW, as well as a recognition of state accountability in which states that maintain NBCW-relevant capabilities have the responsibility to ensure that such capabilities are not misused.²⁶ Therefore, fulfilling the resolution's provisions is more applicable to states that fall into these two categories and they should be the first benchmarks in an overall strategy for 1540 implementation in Africa. However, given that many states in Africa have unstable economies, weak enforcement structures and are often prone to government corruption, the potential risk of an additional 24 countries should be added to the list of African states that could be targeted as potential transit states (see Tables 1–6 for an overview of the proliferation and other risks related to Resolution 1540 in Africa).²⁷

The purpose of the following NBCW risk assessment is not to imply that any state in the region possesses NBCW or actively assists illicit networks or terrorists in acquiring NBCW material and technologies.

SOUTHERN AFRICA

The risk of potential proliferation and transit of NBCW material and terrorism in Southern Africa is relatively low (see Table 2). Given that the Angolan civil war has severely debilitated the basic infrastructure needed for effective policing, the country is used as a transshipment point for cocaine destined for Western Europe and other African states.²⁸ The same networks and routes could potentially be used by non-state actors for illicit activities. Although the Democratic Republic of the Congo has no nuclear power programme, its research reactor²⁹ could become a source of sensitive technology and radioactive material. The decommissioned Shinkolobwe mine is a target of illegal miners. Uranium can be extracted from the mine and, since there is no government control, there is a potential risk of diversion to non-state or terrorist networks. Madagascar, an island state with a undeveloped coastline of more than 3,000 miles without adequate monitoring, could be a target of both illicit networks as well as terrorist activities.

While South Africa has nuclear, chemical and biological capabilities, the country also has the most advanced export control laws and systems on the continent and belongs to all of the non-proliferation export control groups except for the Australia Group. After dismantling its nuclear weapons programme in the early 1990s, South Africa's weapon-grade highly enriched uranium was placed under strengthened safeguard systems, and is well secured and under continual surveillance by the International Atomic Energy Agency (IAEA). However, given South Africa's extensive nuclear, metallurgical and other related industries, the country could be a potential target for non-state actors in search of nuclear-related material and equipment. A number of cases have been documented in recent years linking some individuals operating from South Africa to the A.Q. Khan network. South Africa also developed a robust chemical and biological defence protection programme and maintains an extensive animal vaccine production and pharmaceutical industry. It furthermore has a very advanced chemical and microbiological research and development capacity.

Tanzania is considered to be a potential transit route given the prevalence of drug trafficking and money laundering networks in the country. It could also become an East African access point for illicit networks. Dar es Salaam is the principle port and a major sea outlet for Burundi, Malawi, Rwanda, Uganda, Zambia, Zimbabwe and eastern parts of the Democratic Republic of the Congo. The port is also well connected to the hinterland, especially

with Burundi, the Democratic Republic of the Congo, western Kenya and Uganda, through the railway system.

Though the Tanzanian rail network and seaport does not in itself contribute to terrorist activities, this transit point has the potential to be targeted by agents acting on behalf of illicit networks or non-state actors. There is already sufficient evidence that Tanzania is used as a transshipment point for heroin from South-West and South-East Asia, and South American cocaine destined for South African, European and US markets.³⁰

Table 2. Southern African states NBCW risk assessment

Country	Nuclear	Biological	Chemical	Transit	Terrorism
Angola				•	
Botswana				no data	
Democratic Republic of the Congo	•				•
Lesotho				no data	
Madagascar				•	
Malawi					no data
Mauritius				no data	no data
Mozambique				no data	no data
Namibia				no data	
South Africa	•	•	•		
Swaziland				no data	
Tanzania				•	•
Zambia					no data
Zimbabwe					

Note: The countries in this table are considered based on the following regional grouping: Southern African Development Community. Tanzania is a member of both the East African Community and the Southern African Development Community.

EASTERN AFRICA

The situation in Eastern Africa is slightly different. While none of the countries in the region have any NBCW-related material or activities to be concerned about, a number of countries could potentially be used as transshipment points, or as bases for terrorist cells seeking to acquire NBCW-related materials and equipment from a country such as South Africa (See Table 3). The porous borders and past and current conflicts in Burundi, Eritrea, Ethiopia, Kenya, Tanzania and Uganda make these countries potential transit countries, while Kenya, Rwanda, Tanzania and Uganda have been victims of terrorist activities. Although there is no history of terrorist groups operating in Djibouti, the geographical location of the country is of strategic importance. While Djibouti is not considered a high-risk country, its strategic location and close proximity to the Middle East, its status as a free trade zone in the Horn of Africa and the use of the Djibouti City port by many North African countries make it a potential transshipment point.

Table 3. East African states NBCW risk assessment

Country	Nuclear	Biological	Chemical	Transit	Terrorism
Burundi				•	
Djibouti				•	
Eritrea				•	
Ethiopia				•	
Kenya				•	•
Rwanda				•	•
Tanzania				•	•
Uganda				•	•

Note: The countries in the table are considered based on the following regional grouping: East African Community. Tanzania is a member of both the East African Community and the Southern African Development Community. Rwanda is also a member of the Economic Community of Central African States.

CENTRAL AFRICA

Angola, Burundi, the Democratic Republic of the Congo and Rwanda have already been discussed. The Central African Republic is largely lawless, especially in the rural areas where the government does not have full control. There is also widespread proliferation of illegal arms, as well as armed groups operating from the northern areas. In Chad, the alliance of Al-Qaeda in the Islamic Maghreb and the Salafist Group for Preaching and Combat uses the territory for training and as a transit point. Equatorial Guinea is considered a transit and destination country for human trafficking and these routes could potentially be used by illicit NBCW networks. Remnants of the civil war militias in the Congo are still active in the southern Pool region, and most have yet to disarm and many have turned to banditry. See Table 4.

Table 4. Central African states NBCW risk assessment

Country	Nuclear	Biological	Chemical	Transit	Terrorism
Angola				•	
Burundi				•	
Cameroon					no data
Central African Republic				•	no data
Chad				•	•
Congo				•	no data
Democratic Republic of the Congo	•				•
Equatorial Guinea				•	no data
Gabon					no data
Rwanda					•
São Tomé and Príncipe					no data

Note: The countries in the table are considered based on the following regional grouping: Economic Community of Central African States. Both Angola and the Democratic Republic of the Congo are members of Southern African Development Community, while Burundi and Rwanda also belong to the East African Community.

WESTERN AFRICA

While not a NBCW high-risk region, West African states are prone to be potential transit states or havens for terrorist activities. In the region, only Ghana and Nigeria are considered to be potential NBCW risks. Ghana has a SLOWPOKE-type 30kW reactor³¹ while Nigeria has a tank-in-pool type Miniature Neutron Source Reactor (NIRR-1),³² both using 90% enriched uranium as fuel. In Nigeria's case it is also worth noting that the government requested IAEA assistance to recover radioactive material missing from oil operations in the southern part of the country. Radioactive materials used in oil operations include cesium-137, which could be used in a so-called dirty bomb.³³ Given illicit trafficking activities in Benin, Cape Verde, Côte d'Ivoire, Liberia, Mali, Niger and Sierra Leone, there are some concerns that these countries could be potential transit states for NBCW-related activities. There is also a potential for terrorists to operate in Mali, as well as in Niger and Nigeria. Much of the Algerian-based Al-Qaeda in the Islamic Maghreb revolves around the black market economy (drugs, arms, vehicles, money laundering, extortion, kidnapping and racketeering) across the neighbouring borders of Chad, Libya, Mali, Mauritania and Niger.³⁴ See Table 5.

Table 5. West African states regional NBCW risk assessment

Country	Nuclear	Biological	Chemical	Transit	Terrorism
Benin				•	no data
Burkina Faso					no data
Cape Verde				•	no data
Côte d'Ivoire				•	no data
Djibouti				•	
Gambia					no data
Ghana	•				no data
Guinea					no data
Guinea-Bissau					no data
Liberia				•	
Mali				•	•
Niger				•	no data

Country	Nuclear	Biological	Chemical	Transit	Terrorism
Nigeria	•		•		•
São Tomé and Príncipe					no data
Senegal					
Sierra Leone				•	
Togo					no data

Note: The countries in the table are considered based on the following regional grouping: Economic Community of West African States. São Tomé and Príncipe is also a member of Economic Community of Central African States.

NORTHERN AFRICA

From a NBCW and terrorist-risk perspective, the North African region is of highest priority. It is however noteworthy that, with the exception of the Sudan, all North African countries have submitted reports to the 1540 Committee. This is probably due to their close proximity to the Middle East, as several states have acknowledged the need to prevent the spread of terrorism and have expressed their support in putting an end to it. Furthermore, being near to and given their ties with Europe, these countries are likely to be influenced by European security threat perceptions, of which NBCW proliferation is currently considered as the highest priority.

Algeria's 15MW Es Salam reactor has the theoretical capacity to produce as much as 3kg of weapons-grade plutonium a year. Some reports also claim the existence of a secret reprocessing plant near the reactor facility. Algeria has not signed an IAEA Additional Protocol. Furthermore, according to the US State Department:

the [Al-Qaeda in the Islamic Maghreb/Salafist Group for Preaching and Combat] continues to operate in the Trans-Sahara region, crossing difficult-to-patrol borders between Mali, Mauritania, Niger, Algeria, and Chad to recruit extremists within the region for training and terrorist operations in the Trans-Sahara, and possibly for operations outside the region. Its new alliance with Al-Qaeda potentially has given it access to more resources and training.³⁵

The proximity of the Algerian coastline to Europe and known human trafficking activities make Algeria a potential NBCW transit state.

Egypt has an active peaceful nuclear research programme³⁶ and has long expressed the desire to develop an independent fuel cycle, which was reiterated in 2006.³⁷ Egypt is also one of the few countries that has used chemical weapons in warfare³⁸ and is suspected of maintaining a chemical warfare capability.³⁹ Egypt has not signed the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC) and while there is no available evidence that Egypt has pursued an offensive biological weapons capability, for the purpose of this study Egypt is listed as a potential source for biological agents and toxins given its strong technical base in applied microbiology. There is a presence of indigenous extremist groups, especially al-Tawhid wa al-Jihad (a radicalized Bedouin extremist group responsible for the 2006 bombings in Egypt),⁴⁰ which supposedly has a pro-Al-Qaeda stance. The rugged northern Sinai region is a potential transit point for smuggling arms and explosives into Gaza. Egypt is also a potential transit route for drug trafficking into Europe, Israel and North Africa, and there are concerns of money laundering due to ineffective enforcement mechanisms.

Libya admitted in 2004 to having secretly imported raw uranium and the necessary equipment to convert it for enrichment into weapons-grade material. It has also been revealed that Libya was a recipient of technology and equipment sourced through the A.Q. Khan network. Libya also used mustard gas bombs against Chad in the late 1980s, though has since renounced all NBCW programmes. After joining the CWC in December 2003, Libya declared a significant stockpile of nerve gas precursor chemicals, an inactivated chemical weapons production facility and two chemical weapons storage facilities. Parts of the former chemical weapons production facility are being converted into a pharmaceutical plant to produce low-cost vaccines and medicines to treat HIV/AIDS, malaria and tuberculosis for distribution to the African market. In 2003, Libya also admitted its previous intentions to acquire equipment needed to produce biological weapons and, according to reports, revealed a number of medical and agricultural research centres that had the potential to be used in biological weapons research.⁴¹ Although the country has declared its intention of dismantling these programmes, there is a danger of leakage of these sensitive technologies—tangible and intangible—to non-state

actors. An Al-Qaeda-affiliated terrorist group, the Libyan Islamic Fighting Group, is reportedly based in Libya.

While Morocco is generally not considered a high-risk country, its strategic location along the Strait of Gibraltar and reports⁴² that Moroccan territory has been used as a route for drug trafficking into Western Europe should be noted. According to a 2004 UN press release:

Drug trafficking from Morocco (estimated at \$12.5 billion) has been identified as the major source of funding for three major terrorist incidents: the aborted attack on a US Navy vessel in Gibraltar in 2002; the bombing of several sites in Casablanca in May 2003, and the March 2004 attack on rail passengers in Madrid.⁴³

At the same press conference UN Office on Drugs and Crime Director Costa underlined the linkage between illicit drugs, crime and terrorist groups:

It has become more and more difficult to distinguish clearly between terrorist groups and organized crime units, since their tactics increasingly overlap. The world is seeing the birth of a new hybrid of “organized crime–terrorist organizations”, and it is imperative to sever the connection between crime, drugs, and terrorism now.⁴⁴

The Sudan is of both transit and terrorist concern given the presence of Al-Qaeda elements and reports that the Sudan could be a logistics and transit base for terrorist heading to Iraq. Due to ongoing conflict in the country, the borders are highly porous with weak enforcement of border controls, especially in the southern parts. The Sudan is also a concern given its long history in human trafficking. Tunisia’s proximity to vital shipping lanes makes it a potential target. While there are no overt terrorist activities there, Tunisian extremists have been arrested for or implicated in terrorist activities abroad, including in Algeria, Egypt, Iraq, Italy and Turkey. See Table 6.

Table 6. North African states NBCW risk assessment

Country	Nuclear	Biological	Chemical	Transit	Terrorism
Algeria	•		•	•	•
Egypt	•	•	•	•	•
Libya	•	•	•	no data	•
Morocco				•	•
Sudan			•	•	•
Tunisia				no data	•

OVERALL RISK ASSESSMENT

Without suggesting that any African country is of more importance or poses a higher proliferation risk than others, the above risk assessments highlight the need first and foremost to focus on those countries that are considered of highest potential NBCW risk (Algeria, the Democratic Republic of the Congo, Egypt, Ghana, Libya, Nigeria, South Africa and the Sudan). Illicit networks and terrorists seeking NBCW material and technologies are likely to target these countries as potential sources. Of these eight countries, only the Democratic Republic of the Congo and the Sudan have not yet submitted reports to the 1540 Committee. The second group of priority countries should be those considered to be of transit and terrorist risk. Given the porous nature of many African borders, weak border controls and enforcement mechanisms, proneness to other illicit activities including drugs and human trafficking, as well as established terrorist activities in some of these countries, they have the potential of being targeted by NBCW networks or terrorist groups. Compared to the NBCW high-risk group, there are a significant number of these secondary risk countries (24) that have not yet submitted reports to the Security Council.⁴⁵ Considered against the backdrop of other issues such as ongoing internal conflicts and other pressing socio-economic and development priorities in these countries, a direct linkage can be made between their lack of 1540 implementation and these priorities.

1540 IN RELATION TO EXISTING NBCW OBLIGATIONS AND AGREEMENTS

In examining the implementation of Resolution 1540 by African states, comparisons should be drawn between the resolution's key provisions and that of existing NBCW treaties in order to point to several overlapping areas. In fact, effective implementation by African parties of all their existing legal NBCW obligations will greatly enhance the level of implementation of the resolution's provisions. Chapter Annex A contains a comparative table showing African states' adherence to NBCW-related treaties and agreements.

As states parties to the NPT, all African states have a legal obligation to enter into comprehensive safeguards agreements with the IAEA. However, only 31 states have such agreements in place.⁴⁶ In addition to the NPT, the African Nuclear-Weapon-Free Zone Treaty (the Pelindaba Treaty) also requires its member states not only to implement comprehensive safeguards, but also to ensure that such arrangements are implemented by recipients of any transferred nuclear materials and technologies, particularly given that the treaty requires that such agreements should be a condition of supply of such materials and technologies. Unfortunately only 25 African states have so far ratified the Pelindaba Treaty. Since it represents a long-aspired goal to make Africa completely nuclear-weapon-free, all African nations have an obligation to ensure not only its entry into force (the treaty requires 28 states to ratify), but—for the zone to be truly effective—all African states should ratify and implement the treaty's requirements, including the key safeguards agreement obligation. Concluding comprehensive safeguards agreements are not only legally required under both the NPT and the Pelindaba Treaty, but it would contribute significantly to meeting 1540 obligations.

To date almost all African governments (49) have ratified the CWC, which not only requires its states parties not to develop, procure or use chemical weapons, but also to implement measures to prevent or control the transfer of certain dangerous chemicals and precursors. As such most African states should already have a national authority and some form of control system in place to prevent the spread of banned or controlled substances. A smaller number of countries (32) are also party to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC) which places a legal obligation on states parties not to develop and transfer biological agents

and toxins which could be used in biological weapons. Unlike the CWC, the BTWC does not have a verification system and thus African parties may not have systems in place to control biological agents. In addition, adherence to and full implementation of obligations under other nuclear safety- and security-related treaties such as the Convention on the Physical Protection of Nuclear Material (CPPNM), the International Convention for the Suppression of Acts of Nuclear Terrorism (NTC) and the Africa-specific Bamako Convention on the Ban of the Import Into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes Within Africa would greatly enhance African security against potential NBCW threats. It is encouraging that a larger number of African countries are already members of the CPPNM (32) and the Bamako Convention (23) which means that they should already have measures in place to protect hazardous nuclear material and other waste against possible diversion.

When considering the relationship between 1540 implementation and that of multilaterally negotiated NBCW treaties it is important to point out, especially to African countries concerned about setting up additional legal mechanisms, that membership of these treaties already requires adherence to a large portion of the requirements of 1540. Considering the number of states with comprehensive safeguards agreements in place (27), states party to the CWC (49) and to the BTWC (32), then a larger number of African governments should be able to report that they have measures in place to prevent NBCW proliferation. Yet, 17 African governments with comprehensive safeguards in place, 32 African parties to the CWC and 19 to the BTWC have not yet submitted reports to the 1540 Committee. In fact, 18 countries have comprehensive safeguards in force and are party to both the CWC and BTWC, but have not submitted reports. Since these governments should in theory have most of the controls and mechanisms required by Resolution 1540 in place already, there is no reason why they should not be able to report that they meet the resolution's requirements.

Given the focus of the resolution, it is noteworthy that very few African governments (nine) have signed the NTC and only South Africa has ratified it. Given its direct relevance to Resolution 1540, more emphasis should be placed on adherence to this convention by African states.

A comparison of the list of states considered to be of NBCW, transit or terrorist risk with the level of adherence to the most important NBCW treaties and agreements (as seen in Chapter Annex A), shows that in

addition to the six states that are considered of highest potential for NBCW risk and that have submitted reports to the 1540 Committee (Algeria, Egypt, Ghana, Libya, Nigeria and South Africa), eight other African states with the potential of being targeted by NBCW networks or terrorist groups have also submitted reports (see Tables 2–6). Admittedly, the contents of many reports submitted by African governments require additional work, but going by the number of reports submitted, this comparison shows that a much larger percentage of African states that are relevant to the provisions of the resolution have submitted reports. As such, 14 of the 19 reporting are listed as priority states, representing roughly 44% of the total number of African states with NBCW potential (32), or that could be targets from a transit and or terrorism perspective. While this number may still be still be low in comparison to other regions, it should be considered within the context of more pressing priorities from an African perspective, as well as the relatively low NBCW risk factor in Africa.

ROLE OF REGIONAL AND SUBREGIONAL ORGANIZATIONS

A strong case can be made for African regional and subregional organizations to become more actively involved in assisting member states in implementing Resolution 1540. As pointed out in a 2007 study commissioned by UNIDIR,⁴⁷ regional and subregional organizations generally consist of states in close proximity to each other with similar political, social, economic, cultural and historic experiences, and as such they present a more appropriate platform to discuss national and regional security benefits and challenges involved in implementing Resolution 1540. These organizations also provide useful opportunities for states in the region and subregions to exchange experiences in implementing the resolution and to seek assistance from other states in a position to do so. Given the political nature of organizations such as the AU, the role of peer pressure through the adoption of resolutions by the organization's main bodies could raise the level of awareness about the resolution and the need for full implementation by states that have not yet done so. In reality, however, the AU and subregional organizations in Africa currently play almost no role in promoting Resolution 1540.

While the OAU, the predecessor to the AU, often passed resolutions relating to global and regional nuclear disarmament, including resolutions in response to French nuclear testing in Algeria during the 1960s, in opposition to South Africa's clandestine nuclear programme, and in support

of the Pelindaba Treaty, the AU has since its inception been less active in its focus on NBCW issues. Although the AU has passed resolutions about African states' determination "to preserve Africa as a nuclear free zone in conformity with the Pelindaba Treaty" and their "resolve to leave no stone unturned to ensure the early entry into force of this Treaty",⁴⁸ it has no strategy or mechanisms in place to facilitate the Pelindaba Treaty's entry into force.

While the AU Peace and Security Council states that the council shall "promote and encourage the implementation of ... UN and other relevant international conventions and treaties on arms control and disarmament",⁴⁹ it is silent on any issue related to NBCW non-proliferation and the implementation of international obligations in this regard. While the Protocol Relating to the Establishment of the Peace and Security Council of the African Union includes several references to small arms and light weapons as well as anti-personnel mines, there is not one reference to NBCW non-proliferation. This underlines the point that NBCW proliferation is not a concern of African states. In the case of individual African state priorities, other pressing issues such as regional conflicts, the situation in the Sudan and dealing with socio-economic crises in Africa have resulted in the AU's primary focus being on peacekeeping and other crisis-management initiatives. Yet, its efforts to deal with these pressing priorities have largely failed, not for a lack of political commitment but rather because of limited financial and other resources as well as expertise. The prevailing view among African governments that not enough is being done about issues such as small arms proliferation and global nuclear disarmament is also an important factor to bear in mind. Since leading African countries, such as Algeria, Nigeria and South Africa, focus on other pressing priorities from an African perspective, the broader AU membership is likely to not be sensitive about the need to broaden its agenda to include non-proliferation orientated issues.

Although its political framework allows the AU council (and by implication the AU secretariat) to focus on the implementation of African states' obligations under regional and international NBCW agreements, there is no dedicated technical and financial framework to do so. While the proposal by the former Nigerian foreign affairs minister Oluyemi Adeniji to establish a dedicated unit within the AU secretariat to promote African states' ratification of and adherence to international non-proliferation and

disarmament agreements is a step in this direction, there has been no political willingness among African leaders to implement this proposal.

It is encouraging that the Ghanaian Permanent Representative to the United Nations at the February 2007 open meeting of the Security Council emphasized the role of regional organizations, such as the Association of Southeast Asian Nations, the Caribbean Community, the Organization of American States, the League of Arab States and the AU, as being “appropriate mechanisms to pool resources for the implementation of such 1540 obligations as border controls and illicit financial networks within the regional context”. He also noted that regional organizations, “given their regional characteristics, [are] able to develop more effective and contextually-driven means to fulfil the obligations of 1540, rather than simply transplanting measures from states with different values and culture”.⁵⁰ It is also encouraging that statements of support for increased regional and subregional cooperation in strengthening the non-proliferation regime in Africa, especially in the area of establishing more effective border controls, were iterated by several African delegates at regional implementation seminars in Accra and Gaborone.

However, despite some statements to this effect, not one African report on the implementation of 1540 mentions the need for the AU or any of the subregional organizations to become more actively involved in facilitating the implementation of the resolution. While several of these reports make reference to the participation of the reporting states in the activities of regional organizations in their efforts to curb small arms and light weapon proliferation and to combat terrorism, they are silent on the role of these organizations in implementing Resolution 1540. Kenya, for instance, referred to the Eastern Africa Association for Radiation Protection, which “has been mandated to train users of Radioactive Materials in radiation safety” and mentioned plans for tripartite meetings including Kenya, Tanzania and Uganda to coordinate radiation protection matters.⁵¹ Benin, Egypt and Eritrea mentioned their ratification of the OAU’s Convention on the Prevention and Combating of Terrorism.⁵²

As was highlighted at a 2002 UNIDIR workshop entitled “Strengthening the Role of Regional Organizations on Treaty Implementation”, the lack of institutional capacity, funds and enforcement mechanisms within these organizations may contribute to their apparent reluctance to be more actively involved in this important issue. It is therefore unlikely that these

organizations will become involved in promoting 1540 without some sort of external support. Taking this into consideration, the 1540 Committee has committed itself to expanding and intensifying regional and subregional activities in order to better provide assistance to states in implementing 1540. The committee might also consider establishing ties with the AU as it has the potential to act both as a facilitator and focal point for dialogue between the continent and the committee.

In his presentation at the Accra seminar, former Under-Secretary-General Tanaka of the UN Department for Disarmament Affairs stated that as from the beginning of 2007, the department, through the Regional Centre for Peace and Disarmament in Africa (UNREC), intended to organize subregional follow-up workshops on challenging issues faced by African countries. He continued to say that, given that implementing the provisions of 1540 would complement efforts to curb the proliferation of small arms and light weapons, as well as contribute toward global security efforts, the department would continue to work with the 1540 Committee to increase awareness and provide assistance to states that require it.⁵³

The role of the United Nations Regional Centre for Peace and Disarmament in Africa (UNREC) in coordinating and facilitating both future seminars and regional implementation efforts however remains questionable. Although UNREC claims to be responsible for advancing the cause of NBCW disarmament, it has no specific programme for this purpose. While its main focus has always been small arms and light weapons proliferation, its ability to effectively assist states in implementing the 2001 UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA) is questionable, the main reason being that UNREC is severely under-funded, under-staffed and has very little political support from the main regional players.

While some lessons could be drawn from subregional approaches to implement the PoA,⁵⁴ there appears to be a lack of willingness among African governments to invest already stretched human and financial resources to cover NBCW-related materials, which in most cases are not present in their territories. Yet, as they continue to raise awareness and facilitate the implementation of national action plans to implement the PoA, these subregional organizations could play an important role—perhaps even more so than the AU—in promoting 1540 among African states. As such, they could assist and coordinate regional and national initiatives to increase

awareness, establish effective border controls, build capacity in national governments, assist in developing best practice guidelines based on the experience of other African states and create political forums for states in the region, as well as with extraterritorial states and other organizations, to discuss issues related to non-proliferation. Subregional organizations which are already actively involved in implementing the PoA include the Regional Centre on Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa and Bordering States; the Economic Community of West African States; the Southern African Development Community; and the Southern African Regional Police Chiefs Cooperation Organization.

The role and future potential of regional seminars on the implementation of Resolution 1540 should be further explored and expanded. These seminars could have a far greater impact on the overall implementation of 1540 than efforts to mobilize the AU and subregional organizations. The two African regional seminars held so far (in Accra and Gaborone) were successful in that they raised awareness about the resolution, provided guidance to government officials on the implementation requirements and how to address potential gaps in their legislation, and presented opportunities for African representatives to engage with experts from non-African countries as well as from international organizations. Since these seminars were sponsored by several non-African countries, they also provided opportunities for states outside the region to offer assistance in implementation of the resolution. Moreover, they presented first-hand opportunities for members of the 1540 Committee to engage with African officials responsible for compiling national reports and implementing the provisions of the resolution. These seminars also served to facilitate the sharing of experiences and development of action plans to achieve the full implementation of the resolution.

Following the Accra seminar the former chairman of the 1540 Committee Ambassador Peter Burian emphasized the importance of holding further regional seminars to complete the reporting process and facilitate further discussions on national priorities, as well as to identify implementation gaps and to further share experiences and develop action plans.⁵⁵

While more regional seminars in Africa would go a long way to increase awareness about the resolution, its provisions and ways to implement it, outreach activities in Africa should start focusing more on the national level, as opposed to the regional or subregional. In this regard, the emphasis

should shift to the role of influential countries in the region that already have the required measures in place, and to international organizations, such as the IAEA, INTERPOL and the Organization for the Prohibition of Chemical Weapons, to provide direct assistance and guidance on the implementation of Resolution 1540. Forging partnerships with these international organizations, in particular those that are able to provide technical assistance to countries, could significantly advance progress in implementing 1540 in Africa. A limited number of African countries have any sort of existing national legislation, let alone enforcement capacities, pertaining to the proliferation of NBCW. Since most countries have never possessed any NBCW, there is a distinct lack of knowledge and understanding of the measures required to prevent their proliferation. This has made it difficult for states to assess and outline the kind of assistance they require to implement the resolution. Given that complying with the obligations of the BTWC, CWC and IAEA would contribute significantly towards implementing the resolution, and the fact that the 1540 Committee lacks the mandate and capacity to provide direct assistance to states, these organizations could play a significant role in providing direct assistance to states in their efforts to implement the measures required by the resolution, including by providing training and technical expertise and assisting in drafting national legislation. These organizations could also assist the AU and subregional organizations to develop best practice guidelines on how to prepare national reports and implement effective measures to meet the provisions of the resolution.

Non-governmental organizations and civil society groups in Africa also have the potential to assist in implementation, given that they too are increasingly involved in security issues. They have become, especially in efforts against small arms proliferation and landmines, more effective mechanisms for channelling assistance to countries as they have a greater knowledge of local needs and environments. Furthermore, they could be used as an effective means for applying pressure on nuclear-weapon states to disarm.

THE WAY FORWARD

Given the slow rate of progress in implementing 1540 in many African countries, it is highly unlikely that the resolution will be fully implemented by the time the current committee's mandate expires in April 2008. Complying with the domestic requirements relating to legislation and enforcement is

proving to be the biggest challenge for African states, as many lack the necessary technical expertise and resources. This is further complicated by the different approaches required to prevent the proliferation of NBCW and their components, given their different natures and dual-use purposes.⁵⁶

Since most African states have other primary concerns, such as the prevalence of HIV/AIDS and the alleviation of poverty, and often lack the capacity and knowledge to make real progress in implementing the resolution, progress on the continent as a whole will continue to be slow. But, while the interest in and commitment to the implementation of the resolution may be lacking, especially in sub-Saharan Africa, it is important to emphasize that no country can consider itself immune from the threat of an attack involving NBCW or from having its territory exploited by non-state actors attempting to produce, acquire or transfer NBCW or their components. Furthermore, countering the threat of international terrorism and NBCW proliferation requires efforts at national, regional and international levels.

Implementing the provisions of Resolution 1540 has significant implications for developing countries, as they are required to adopt and enforce legislation and measures to prevent non-state actors from acquiring or being able to produce NBCW. The resolution's national implementation obligations can be broadly categorized into three types of provisions: the criminalization of non-state actor acquisition and use of NBCW, the adoption of accounting and security measures over NBCW and their related materials, and border and export controls. It is the last two of these obligations that are proving to be the most difficult to implement, particularly as little guidance is provided for states on the types of measures that should be adopted.

Although the extent to which African countries should prioritize implementing the resolution can be questioned, particularly given that most of them have never attempted to develop NBCW programmes, there are several reasons why they might consider focusing more attention on implementing the resolution:

- acts of terror recognize no geographical boundaries and have become a global threat;
- all African states are vulnerable to disinvestment, and instability in the global economy;

- establishing and enforcing effective border controls would contribute towards curbing other illicit activities, such as the illicit arms and drug trade; and
- a good reputation in compliance would be advantageous in getting nuclear energy developments approved, financed and established.

Although assistance can be made available to states that require it—and several African countries have requested assistance in their reports to the 1540 Committee—few have been specific or have provided the necessary details of the type of support they require. Assistance is predominantly needed with drafting legislation, training, and expert and technical advice.⁵⁷

At the regional implementation seminars held in Accra and Gaborone, several African countries have expressed support for increased regional and subregional cooperation in strengthening the non-proliferation regime in Africa, especially in the area of establishing more effective border controls. Regional organizations, such as the AU and the Economic Community of West African States, are being seen as more appropriate and effective mechanisms to assist countries in meeting the requirements of international conventions, as they are more in tune with regional contexts and environments. However it is unlikely that these organizations have the capacity to provide such assistance without some sort of external support. Taking this into consideration, the 1540 Committee has committed itself to expanding and intensifying regional and subregional activities, in order to better provide assistance to states in implementing Resolution 1540. The committee might also consider establishing ties with the AU as it has the potential to act both as a facilitator and focal point for dialogue between the continent and the committee.

Bearing in mind that not all African countries are equally of NBCW concern, 34 of 53 African states have yet to submit their first report to the 1540 Committee. There is thus still a long way to go in implementing the resolution on the continent, and in order to advance existing efforts African countries will need to be provided with significant amounts of assistance from regional and international organizations as well as from states outside the region in a position to do so. While it would be important eventually to ensure that all African states fully implement the resolution, priority should be given to the subset of states that are of immediate NBCW concern, and

those that could potentially be targeted by illicit networks or terrorist groups. It would also be important for states in the region such as South Africa to play a more proactive role in promoting the resolution among African states and involving regional and subregional organizations in playing a more active role. In particular, assistance is required in reporting, drafting legislation and in the technical implementation of the resolution's provisions.

Successfully implementing the resolution in Africa could significantly advance existing global efforts in implementing controls to curb NBCW proliferation, but implementing the resolution by putting in place the required legislation and control mechanisms would directly benefit African countries in building and enhancing their capacities to strengthen existing security efforts on the continent, including the means to curb the spread of illicit trade in small arms and light weapons, drugs and human trafficking.

RECOMMENDATIONS

RECOMMENDATIONS FOR REGIONAL STATES

- While acknowledging their limited resources and competing priorities, African governments should recognize that the global nature of the proliferation threat, and the ease with which weapons and materials can be moved across borders, place some level of responsibility on all countries to minimize the risk of non-state actors operating and transferring weapons across their borders.
- Considering that many African countries have emerging or weak economies, and that they need to attract foreign investment to strengthen their economies, being seen to be compliant with international security measures, including Resolution 1540, can increase their own domestic security while making themselves more attractive for investment. The impact of a major terrorist attack on the global economy—increased costs in international trading to tighten security, decreases in tourism traffic, and stricter immigration laws—could have direct negative consequences for emerging economies.
- Implementing some of the provisions of the resolution could contribute toward addressing other pressing security-related concerns in Africa, including the illicit trade in small arms. Adopting effective laws and enforcement measures as outlined in

Resolution 1540—to prevent non-state actors from transporting or transferring NBCW or related materials—could at the same time strengthen existing controls established to curb the flow of small arms and light weapons through Africa’s porous borders.

- States that have not yet fully implemented the resolution’s requirements and that have yet to submit reports should be encouraged to submit requests for assistance not only to the 1540 Committee, but also to subregional organizations and key states in their subregion that have already taken measures to implement the resolution.
- States that already implemented 1540 requirements should offer assistance and training to their subregional neighbours with the aim of expanding their own control mechanisms beyond their borders. For instance, South Africa (with the most advanced export control system and most comprehensive legislation in place) could work closely with its Southern African Development Community partners to ensure that these states implement at the very least the requirements of 1540.
- Based on a needs assessment, key states in a position to do so could also develop, in collaboration with key donor states and relevant international organizations, implementation action plans and implementation packs which could include legislative and export control guidelines (if not model legislation). Priority should be given to those states that are of higher NBCW or transit concern.
- Key capable states from the region, supported by and in cooperation with donor states and relevant international organizations, could initiate in-country implementation plans in states in their subregion.

RECOMMENDATIONS FOR DONOR STATES

- Bearing in mind the need to first focus on states with higher proliferation risks, collaborate with the AU and subregional organizations, as well as key regional states, to channel indirect assistance to states in the region.
- Provide ongoing guidance to states, including on what types of legislation would be required and how to establish export controls and enforcement measures.
- Assess further assistance needs of states in the region, including equipment and training.

- Collaborate with international and regional organizations, such as the AU, IAEA, the Organisation for the Prohibition of Chemical Weapons and the United Nations, in follow-up activities such as regional seminars and bilateral outreach, to assess the effectiveness of assistance programmes and tailor future programmes accordingly.
- Fund and make use of regional and national implementation seminars and other initiatives as a means of assisting states to build capacity to implement the resolution's requirements.

RECOMMENDATIONS FOR THE AU, SUBREGIONAL ORGANIZATIONS AND INTERNATIONAL NON-PROLIFERATION ORGANIZATIONS

- Make non-proliferation and disarmament a permanent agenda item for AU summit and other meetings with the view to adopting specific resolutions and encouraging AU members to fully implement their international non-proliferation obligations including Resolution 1540 and the Pelindaba Treaty.
- Establish a dedicated non-proliferation and disarmament unit within the AU secretariat to coordinate the union's activities in this regard. This unit could also liaise with the 1540 Committee and subregional organizations, and coordinate 1540 training and implementation activities in Africa. Since the 1540 committee has committed itself to expanding and intensifying regional and subregional activities, the committee should establish ties with the AU as it has the potential to act both as a facilitator and focal point for dialogue between the continent and the committee.
- The UN Office for Disarmament Affairs could construct a website for the AU which could include a dedicated section on non-proliferation. This website could serve to provide information to members states, including on specific proliferation threats, ways to address these and a regional non-proliferation experts register.
- Convene annual non-proliferation experts workshops, to include participants from government, industry, donor states, the 1540 Committee, UN agencies and relevant non-government organizations.
- Encourage greater involvement of subregional organizations in assisting states in the implementation of the resolution. As they continue to raise awareness and facilitate the implementation of national action plans to implement the PoA, these subregional organizations could play an important role—perhaps even more so

than the AU—in promoting 1540 among African states. They could assist and coordinate regions and national initiatives to increase awareness, establish effective border controls, build capacity in national governments, assist in developing best practice guidelines based on the experience of other African states, and create political forums to discuss non-proliferation related issues among the regional states, as well as with extraterritorial states and other organizations.

- Since the lack of institutional capacity, funds and enforcement mechanisms within the AU and subregional organizations limit the scope of their activities, they will require external support, including financial and technical means.
- The role of both the IAEA and the Organisation for the Prohibition of Chemical Weapons should be enhanced not only to promote the implementation of measures required by the NPT and the CWC respectively, but at the same time to assist states to implement the requirements of Resolution 1540.

CHAPTER ANNEX A

REGIONAL ADHERENCE TO NBCW-RELATED INSTRUMENTS

It should be noted that all African states are party to the NPT.

Key for status

AP	IAEA Additional Protocol
ASQ	amended Small Quantities Protocol
CS	IAEA Comprehensive Safeguards Agreement
S	signatory
SP	state party
SQ	Small Quantities Protocol (note: the SQP is not considered to include sufficient controls as required by 1540)
*	agreements signed/approved but not yet in force

Key for instruments

ANWFZ	African Nuclear-Weapon-Free-Zone Treaty (Pelindaba Treaty)
Bamako	Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa
BTWC	Biological and Toxin Weapons Convention
CPPNM	Convention on the Physical Protection of Nuclear Materials
CTBT	Comprehensive Nuclear-Test-Ban Treaty
IAEA	agreements with the International Atomic Energy Agency
NTC	International Convention for the Suppression of Acts of Nuclear Terrorism

Country	1540	ANWFZ	Bamako	BTWC	CPPNM	CTBT	CWC	IAEA	JC	NTC
Algeria	•	SP		SP	SP	SP	SP	CS/AP*		
Angola	•	S			S					
Benin	•	S	SP	SP		SP	SP	CS*/AP*/SQ		
Botswana		SP		SP	SP	SP	SP	CS/AP		
Burkina Faso	•	SP	S	SP	SP	SP	SP	CS/AP/SQ		S
Burundi		S	SP	S		S	SP	CS/AP/ASQ		
Cameroon		S	SP		SP	SP	SP	CS/AP*/SQ		
Cape Verde		S		SP	SP	SP	SP	CS*/AP*/ASQ		
Central African Republic		S	S	S		S	SP	CS*/AP*/ASQ		
Chad		S	S			S	SP	CS*/AP*/ASQ		
Comoros		S	SP		SP	S	SP	CS*/AP*/ASQ		
Congo		S	SP	SP		S	SP			
Côte d'Ivoire		SP	SP	S		SP	SP	CS/AP*		
Democratic Republic of the Congo		S	SP	SP	SP	SP	SP	CS/AP		
Djibouti	•	S	S		SP	SP	SP			
Egypt	•	S	SP	S		S		CS		S
Equatorial Guinea		SP		SP	SP	S	SP	CS*/SQ		
Eritrea	•	S				SP	SP			

Country	1540	ANWFZ	Bamako	BTWC	CPPNM	CTBT	CWC	IAEA	JC	NTC
Ethiopia		SP	SP	SP		SP	SP	CS/SQ		
Gabon		SP	SP	S	SP	SP	SP	CS*/AP*/SQ	S	S
Gambia		SP	SP	SP		S	SP	CS/SQ		S
Ghana	•	S	S	SP	SP	S	SP	CS/AP		
Guinea		SP	S		SP	S	SP			
Guinea-Bissau		S	S	SP		S	S			
Kenya	•	SP	S	SP	SP	SP	SP			S
Lesotho		SP	S	SP		SP	SP	CS/SQ		S
Liberia		S	S	S		S	SP			S
Libya	•	SP	SP	SP	SP	SP	SP	CS/AP		S
Madagascar		SP	S	S	SP	SP	SP	CS/AP/SQ		S
Malawi		S		S		S	SP	CS/AP/SQ		
Mali		SP	SP	SP	SP	SP	SP	CS/AP/ASQ		
Mauritania		SP			SP	SP	SP	CS*/AP*/SQ		
Mauritius	•	SP	SP	SP			SP	CS/AP/SQ		S
Morocco	•	S		SP	SP	SP	SP	CS/AP*	SP	SP
Mozambique		SP	SP		SP	S	SP	CS*/AP*/ASQ		
Namibia	•	S			SP	SP	SP	CS/AP*/SQ		
Niger		S	SP	SP	SP	SP	SP	CS/AP		
Nigeria	•	SP		SP	SP	SP	SP	CS/AP		SP

Country	1540	ANWFZ	Bamako	BTWC	CPPNM	CTBT	CWC	IAEA	JC	NTC
Rwanda		SP	S	SP	SP	SP	SP			S
São Tomé and Príncipe		S		SP		S	SP			S
Senegal	•	SP	SP	SP	SP	SP	SP	CS/AP*/SQ		S
Seychelles		S		SP	SP	SP	SP	CS/AP/ASQ		S
Sierra Leone		S	S	SP		SP	SP	CS*/SQ		S
Somalia		S	S	S						
South Africa ¹	•	SP		SP	SP	SP	SP	CS/AP	SP	SP
Sudan		S	SP	SP	SP	SP	SP	CS/SQ		
Swaziland		SP	S	SP	SP	S	SP	CS/AP/SQ		S
Tanzania	•	SP	SP	S	SP	SP	SP	CS/AP/SQ		
Togo		SP	SP	SP	SP	SP	SP	CS*/AP*/SQ		S
Tunisia	•	S	SP/	SP	SP	SP	SP	CS/AP*		
Uganda	•	S	SP	SP	SP	SP	SP	CS/AP/SQ		
Zambia		S	S			SP	SP	CS/SQ		
Zimbabwe		SP	SP	SP		S	SP	CS/SQ		

¹ It should be noted that South Africa is also a member of the Missile Technology Control Regime, the Nuclear Suppliers Group, the Wassenaar Arrangement and the Zangger Committee.

Notes

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- ⁴ Solemn Declaration on a Common African Defence and Security Policy, 28 February, 2004.
- ⁵ See Johan Bergenas, "The Role of Regional and Sub-regional Organizations in implementing UN Security Council Resolution 1540: a Preliminary Assessment of the African Continent", United Nations Institute for Disarmament Research and Monterey Institute of International Studies, 2007.
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- ⁹ Great Green Document on Human Rights in the Age of the Masses.
- ¹⁰ Security Council, *Letter dated 12 April 2005 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/115, 18 April 2005.
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- ¹² Security Council, *Note verbale dated 20 July 2005 from the Permanent Mission of Kenya to the United Nations addressed to the Chairman*

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- ¹⁴ Mohamed Tefiani, "Relevant Lessons: Algeria", in UN Office for Disarmament Affairs, "United Nations Seminar on Implementing UN Security Council Resolution 1540 in Africa", *ODA Occasional Papers*, no. 12, 2007.
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- ¹⁸ Ibid.
- ¹⁹ Ibid.
- ²⁰ Ibid.
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- ²³ Peter Burian, "Concluding Remarks", in UN Office for Disarmament Affairs, "United Nations Seminar on Implementing UN Security Council Resolution 1540 in Africa", *ODA Occasional Papers*, no. 12, 2007.
- ²⁴ Peter Crail, "Implementing UN Security Council Resolution 1540: A Risk-Based Approach", *The Nonproliferation Review*, vol. 13, no. 2, 2006.
- ²⁵ Ibid.
- ²⁶ Ibid.
- ²⁷ The information has been sourced from the British Broadcasting Corporation *Country Profiles*, Central Intelligence Agency *The World Factbook* and the US State Department *Country Reports on Terrorism 2006*.

- ²⁸ Central Intelligence Agency, *The World Factbook*, "Field Listing – Illicit Drugs", <www.facts.org/docs/factbook/fields/2086.html>.
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- ⁴⁰ US State Department, *Country Reports on Terrorism 2006*, chp. 2, "Country Reports: Middle East and North Africa Overview".
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- ⁴² Pierre-Arnaud Chouvy, "Morocco's Smuggling Rackets: Hashish, People and Contraband", *Jane's Intelligence Review*, vol. 17, no. 12, 2005.
- ⁴³ UN Information Service, *UN Warns about Nexus Between Drugs, Crime and Terrorism*, UN document SOC/CP/311, 1 October 2004.
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- ⁴⁶ For purposes of this chapter, states with only Small Quantities Protocols in place, or states whose comprehensive safeguards agreements are not yet in force, are considered not to meet the requirements of the resolution.
- ⁴⁷ See Johan Bergenas, "The Role of Regional and Sub-regional Organizations in implementing UN Security Council Resolution 1540: a Preliminary Assessment of the African Continent", United Nations Institute for Disarmament Research and Monterey Institute of International Studies, 2007.
- ⁴⁸ See for example, the Lomé Declaration of 2000; and Peace and Security Council, African Union, *Information Note on the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba)*, AU document PSC/PR/2(LIII), 31 May 2006.
- ⁴⁹ African Union, *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, 9 July 2002, art. 7, para. 1(n).
- ⁵⁰ Security Council, *Security Council Affirms Determination to Strengthen Cooperation Aimed at Countering Nuclear, Chemical, Biological Weapons Proliferation*, UN document SC/8964, 23 February 2007.
- ⁵¹ Ibid.
- ⁵² Ibid.
- ⁵³ Nobuaki Tanaka, "Concluding Remarks", in UN Office for Disarmament Affairs, "United Nations Seminar on Implementing UN Security Council Resolution 1540 in Africa", *ODA Occasional Papers*, no. 12, 2007.
- ⁵⁴ See Johan Bergenas, "The Role of Regional and Sub-regional Organizations in implementing UN Security Council Resolution 1540: a Preliminary Assessment of the African Continent", United Nations Institute for Disarmament Research and Monterey Institute of International Studies, 2007.
- ⁵⁵ Peter Burian, "Concluding Remarks", in UN Office for Disarmament Affairs, "United Nations Seminar on Implementing UN Security Council Resolution 1540 in Africa", *ODA Occasional Papers*, no. 12, 2007.
- ⁵⁶ Peter Crail, "Implementing UN Security Council Resolution 1540: A Risk-Based Approach", *The Nonproliferation Review*, vol. 13, no. 2, 2006.
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2007.

CHAPTER ANNEX B

THE ROLE OF AFRICAN REGIONAL AND SUBREGIONAL ORGANIZATIONS IN IMPLEMENTING RESOLUTION 1540

Johan Bergenas, with guidance from Lawrence Scheinman

INTRODUCTION

In April 2006, the Security Council passed Resolution 1673. The resolution extended the 1540 Committee's mandate for an additional two years and invited the committee to "explore with States and international, regional and subregional organizations experience-sharing and lessons learned in the areas covered by resolution 1540 (2004), and the availability of programmes which might facilitate the implementation of resolution 1540".¹ In February the following year the Security Council debated ways to enhance implementation of 1540 and again expressed the need to further examine the role of international, regional and subregional organizations in terms of experience-sharing, lessons learned and availability of assistance programmes related to 1540 implementation. During that meeting some states' representatives noted that cooperation within regional and subregional associations could contribute to 1540 implementation.² Ghana's ambassador in particular stressed the role that Africa's largest regional organization, the African Union (AU), could play:

The European Union, the Association of Southeast Asian Nations, the Caribbean Community, the Organization of American States, the League of Arab States and the African Union ... have the appropriate mechanisms for the pooling of resources for the implementation of such obligations under resolution 1540 as border controls and illicit financial networks within the regional context. Given their respective characteristics, they are able to develop more effective and contextually-driven means to fulfill the obligations of resolution 1540, rather than simply transplanting measures from States with different values and cultures. Moreover, such bodies can place the fulfillment of

the resolution on the regional agenda and thereby promote its universal adherence by all States in the region.³

Also, as highlighted in this chapter, several African countries at the regional implementation seminars in Accra and Gaborone expressed support for increased regional and subregional cooperation in strengthening the non-proliferation regime on the African continent. The record of support for the involvement by regional and subregional organizations in implementing 1540 indicates that there exists political will to work on implementation of the resolution within such organizations. It is from this perspective that this annex explores Africa's regional and subregional organizations, as well as their past and current involvement with implementing security-related treaties. It looks at an issue area where regional and subregional organizations have played a role in implementation in recent years—that of small arms and light weapons (SALW).

It is important to note at the outset that issues concerning weapons of mass destruction (WMD) are currently a lower priority in Africa than SALW and other issues such as HIV/AIDS, poverty and civil war, all of which have a more immediate impact on social order and correspondingly greater political relevance at the state and regional levels. It is not that there is indifference to the WMD issue, but that political energy and scarce resources are focused on matters imperative to maintaining viable civil society. Nevertheless, exploring the involvement and infrastructure of regional and subregional organizations in the implementation of the goals and objectives of international treaties, especially as concern SALW, provides an opportunity to better understand the potential role and limitations of these institutions with regard to meeting challenges and defining goals and objectives to address them effectively.

THE CASE FOR REGIONAL AND SUBREGIONAL ORGANIZATIONS⁴

The UN Charter encourages regional organizations to take appropriate actions to maintain international peace and security.⁵ Regional and subregional organizations might be able to augment UN and other actors' efforts to assist states with 1540 implementation. In contrast to international entities, regional and subregional organizations generally consist of states in close proximity to each other with similar political, social, economic,

cultural and historical experiences. Therefore, forums within some regional and subregional organizations could be more appropriate venues in which to discuss the national and regional security benefits that successful 1540 implementation would provide.

Exchanges of experiences and best practices might also be more productive among a group consisting of states with similar strengths and weaknesses. There is also reason to believe that peer pressure applied from states within regional and subregional organizations will be more effective than efforts from outside states or international actors. Some states might find it politically viable to accept assistance earmarked for 1540 implementation from regional and subregional organizations in contrast to bilateral assistance from outside states that might also have other agendas tied to their assistance. Similarly, some countries might resist assistance from outside states and international organizations out of concern for protecting state sovereignty and to shield themselves against outside actors seeking to gain political influence over their internal affairs. The president of Sudan refusing to allow UN troops to replace the AU force in that country is one illustration of this issue.⁶

Some scholars and practitioners with knowledge of specific regional and subregional organizations foresee difficulties with these organizations playing a role in facilitating implementation of international treaties. In 2002, before 1540 was adopted by the Security Council, the issue of regional and subregional organizations and treaty implementation was discussed in Geneva during a UNIDIR workshop entitled “Strengthening the Role of Regional Organizations on Treaty Implementation”. Lack of institutional capacity, funds and enforcement mechanisms, as well as alternative agendas within regional and subregional organizations, were cited as reasons for the doubt.⁷ Additionally, some states are against broadening the agendas of regional organizations to include issues such as the proliferation of WMD. For example, Malaysia has opposed the increased focus on security within the Asia–Pacific Economic Cooperation forum.⁸

THE AFRICAN UNION

Africa’s major regional organization, the AU, has been involved with non-proliferation of WMD since the 1963 founding of its predecessor, the Organization for African Unity (OAU). All African states, apart from Morocco,

are members of the AU. In light of France's nuclear tests in the Sahara desert in the beginning of the 1960s, the OAU, during its first conference, passed a resolution on general disarmament deciding, *inter alia*, "To affirm and respect the principle of declaring Africa a Denuclearized Zone to oppose all nuclear and thermonuclear tests, as well as the manufacture of nuclear weapons and to promote the peaceful uses of nuclear energy".⁹ The OAU also agreed unanimously to destroy all existing nuclear weapons. Later in 1963 the OAU Council of Ministers echoed this resolution by suggesting that member states sign the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water.¹⁰ In addition, the OAU played a crucial role in promoting the Treaty on the Non-Proliferation of Nuclear Weapons.¹¹ As a result, African adherence to it is universal. However, many African states have not yet concluded comprehensive safeguards agreements with the International Atomic Energy Agency (IAEA).

In 1985, during the Twenty-first Ordinary Session of the Assembly of Heads of State and Government, OAU states aired "the need for the United Nations to establish an institutional arrangement in Africa to conduct indepth studies and promote the objectives of peace, disarmament and development".¹² The following year, the United Nations established the United Nations Regional Centre for Peace and Disarmament in Africa (UNREC). UNREC was mandated to provide OAU member states, upon request, with assistance in the areas of peace, arms limitation and disarmament and to help coordinate with similar regional efforts. An event that exemplifies UNREC's work was a November 2006 seminar held in Accra, Ghana, entitled "Implementing United Nations Security Council Resolution 1540 in Africa". The seminar was organized by the UN Department of Disarmament Affairs, through UNREC, and co-sponsored by the European Union and the Norwegian government. Another African nuclear weapons non-proliferation measure is the 1996 Pelindaba Treaty. Building on previous resolutions,¹³ the OAU took the initiative to negotiate this treaty that establishes the African continent as a nuclear-weapon-free zone. However, the treaty lacks the necessary 28 ratifications and has yet to enter into force.

Historically, the OAU has directly encouraged global and regional nuclear disarmament, but at the opening of the twenty-first century, with only 14 African states party to the Comprehensive Nuclear-Test-Ban Treaty, there were fears that the continent was losing interest in international nuclear disarmament agreements.¹⁴ By 9 February 2007, however, 33 AU states were party to the treaty. The AU has been less active in promoting other

WMD treaties,¹⁵ such as the Biological and Toxin Weapons Convention (BTWC) and the Chemical Weapons Convention (CWC). Since 1972, when the BTWC opened for signatures, 27 AU states have signed and ratified it. By June 2005, 14 additional states had acceded to the convention. In regard to the CWC, while as of 2002 only 34 AU states were party, that number had risen to 48 by October 2006.

One obstacle that faced the OAU, and now faces the AU, is the lack of follow-up mechanisms and ability to ensure implementation of multilateral and regional agreements.¹⁶ As noted above, not enough states have ratified the Pelindaba Treaty. The AU has drafted several resolutions encouraging states to sign and ratify the document, but without being particularly successful. Neither has the organization successfully promoted compliance with agreements to which African states are party—such as concluding comprehensive safeguard agreements with the IAEA, as mentioned above.

Nevertheless, the AU and its Peace and Security Council (PSC) have ambitious aspirations. Article 7 of the protocol establishing the PSC states that the council shall “promote and encourage the implementation of ... UN and other relevant international Conventions and Treaties on arms control and disarmament”.¹⁷ Factors on the continent, such as foreign and domestic conflicts and extreme poverty, have forced the AU to focus primarily on peacekeeping missions and crisis management. Unfortunately, its missions have at times been under-funded and under-equipped. Yet, the AU is crucial for the implementation of international agreements because many developing states in Africa lack the political, technical and financial framework to carry out the necessary steps themselves. One proposed vision to come to grips with these problems, suggested by Ambassador Oluyemi Adeniji, former Nigerian foreign affairs minister, is to establish a body focusing on international arms treaties within the PSC.¹⁸ Its focus would be on promoting ratification and adherence to international agreements as well as helping with implementation and compliance.

Although recognizing that the African continent might face implementation and compliance challenges—and that WMD issues receive little political attention—it should not be ruled out that Africa can continue to make progress in regard to WMD non-proliferation and international treaties. This is particularly true if external resources are provided.

AFRICAN SUBREGIONAL ORGANIZATIONS¹⁹

A comprehensive framework within subregional organizations in Africa for implementing international treaties on the non-proliferation of nuclear, biological and chemical weapons has yet to be established. However, attention has been devoted to developing mechanisms to combat the proliferation of SALW. As noted above, compared to SALW, WMD proliferation is of less priority on the African continent. However, looking at the efforts to combat SALW proliferation provides an opportunity to learn about regional and subregional organizations' strengths and weaknesses in facilitating implementation of international treaties.

According to the 2001 UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA), implementation efforts are supposed to take place on the global, regional and national levels.²⁰ This is also a provision that applies to 1540 implementation.

Looking at the Great Lakes Region and the Horn of Africa, West Africa and Southern Africa, there are best practices and lessons to be learned in relation to regional and subregional organizations' role in international treaty implementation.

THE GREAT LAKES REGION AND THE HORN OF AFRICA

Some states in the Great Lakes Region and the Horn of Africa have promoted regional approaches to implementing the PoA. Consequently, a number of states have made progress implementing the Action Plan. In 2000, the states of the Great Lakes Region and the Horn of Africa signed the Nairobi Declaration, which demonstrated a political commitment to the issue of SALW proliferation. In 2004, states of the region transformed the Nairobi Declaration into the detailed, legally binding Nairobi Protocol. Signed by 12 states and ratified by the required two thirds of signatories, the Nairobi Protocol went into force in May 2006. Its provisions expand on the PoA and other subregional SALW agreements requiring states, inter alia, to introduce controls on illicit manufacturing, import, export and transit, promoting capacity-building, awareness-raising, information-sharing, cooperation and harmonization of legislation, and requiring states to incorporate specific provisions into national legislation. Further, a Best Practice Guidelines document for the implementation of the Nairobi Protocol was produced

in 2005, providing detailed policy and practice recommendations. In June 2005, the Nairobi Secretariat, the subregional coordinating body for SALW, was transformed into the Regional Centre on Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA). Unlike the Nairobi Secretariat, RECSA is a fully recognized, independent subregional coordinating body with a legal mandate. RECSA is helping states to share information on the implementation of the Nairobi Protocol. RECSA provides crucial assistance in harmonizing SALW legislation in the subregion as agreed upon in the PoA and the Nairobi Protocol. RECSA is also the forum for regional workshops and seminars on SALW legislation and the progress made in this area.

WEST AFRICA

Several governments in West Africa have been very active on SALW proliferation issues within the framework of the 15-nation Economic Community of West African States (ECOWAS). A 1998 ECOWAS Moratorium laid the foundation for combating SALW. The moratorium prohibits the import, export and production of SALW by ECOWAS states. The ECOWAS Small Arms Project and a Small Arms Unit were established after the Program for Coordination and Assistance on Security and Development failed to provide adequate capacity and support for the moratorium. The Small Arms Unit was founded to provide technical support on SALW controls implementation, while the Small Arms Project was to address political aspects of the moratorium. The following year, the ECOWAS Convention on Small Arms and Light Weapons expanded the moratorium to make it enforceable and legally binding. The expanded moratorium has yet to go into effect, but hopes are that it will generate stronger commitments and better-managed and organized efforts to implement the PoA.

SOUTHERN AFRICA

The Southern African Development Community (SADC) has been at the forefront of PoA implementation. The SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials entered into force in November 2004 and covers comprehensive PoA implementation measures. However, the protocol lacks a coordinating subregional body, such as RECSA in the Great Lakes Region and the Horn of Africa, and progress has been slow. The Southern African Regional Police Chiefs Cooperation

Organization (SARPPCO) has taken a leadership role. A Task Team to address SALW issues has also been set up (chaired by Tanzania, but also comprising Botswana, Namibia, South Africa and the SARPPCO Secretariat) and mandated to lead subregional efforts to implement the PoA. This subregional element focuses, inter alia, on developing best practices and guidelines and harmonization of national SALW control. The Task Team also aims to study the potential for implementation of the SADC Protocol, using the Nairobi Protocol and RESCA in its coordinating role as models.

Summarizing the key points from the above regional discussions: (1) Subregional organizations—consisting of a smaller and more homogenous membership—to a greater extent than regional organizations have been able to agree on and promote ratification of treaties, accords and protocols. The agreements have many times gone beyond the provisions set forth in the PoA. This could be because subregional organizations have the advantage of being able to tailor their efforts to the wants and needs of a smaller group of states having more similar goals, strengths and weaknesses. (2) Coordinating organs within subregional organizations have played a crucial role helping to implement agreed-upon treaties, accords and protocols. Such bodies have in some cases been relatively successful managing the sharing of information, harmonizing legislation, running awareness-raising programmes and lobbying governments to implement commitments. (3) Successful subregional implementation measures have served as models to other subregional organizations on the African continent. For example, as noted, SADC is looking at the Great Lakes Region and the Horn of Africa and its ratification and implementation of the Nairobi Protocol.

IMPLICATIONS FOR FUTURE RESEARCH

Today, potential WMD proliferators include not just states, but also non-state actors that aspire to acquire nuclear, biological and chemical weapons not for deterrence, but for possible use. In this security environment, in the words of former UN Secretary-General Kofi Annan, “the security of every one of us is linked to that of everyone else.”²¹ However, a vast majority of African states have yet to start the process of implementing 1540, and security for all depends, inter alia, on how well each one is able to address the challenges on the African continent. If motivated and provided with

adequate resources, African regional and subregional organizations could contribute to that process.

This annex laid out a historical overview of non-proliferation initiatives on the African continent, addressed current challenges regarding 1540 implementation and explored proposed visions and windows of opportunity in relation to regional and subregional organizations and 1540 implementation. It should be said that the outcome of the ongoing efforts to energize regional and subregional organizations to meet the obligations of 1540 cannot be predicted with certainty. It is, however, important to explore a wide variety of possible initiatives that could further enhance a comprehensive and effective 1540 implementation process. It is not realistic to envision that one size will fit all when it comes to the involvement of regional and subregional organizations in facilitating 1540 implementation in different parts of the world. Tailor-made regional initiatives are more likely to trigger an enhanced 1540 implementation process. This process is of utmost importance in hindering terrorists from acquiring and using the deadliest of weapons.

Notes

- ¹ Security Council, UN document S/RES/1673, 27 April 2006.
- ² See Security Council, *Security Council affirms determination to strengthen cooperation aimed at countering nuclear, chemical, biological weapons proliferation*, UN document SC/8964, 23 February 2007.
- ³ Ibid.
- ⁴ Ideas and themes for this section were developed during discussions with Lawrence Scheinman.
- ⁵ Charter of the United Nations, chp. VIII, art. 52.
- ⁶ Sudanese President Omar al-Bashir rejected the UN force and was quoted saying they would be “neocolonialists”; Audra Ang, “Sudan leader: no U.N. troops for Darfur”, *Associated Press*, 3 November 2006.
- ⁷ At the 2002 UNIDIR workshop “Strengthening the Role of Regional Organization on Treaty Implementations”, which was chaired by Lawrence Scheinman, Oluyemi Adeniji, Ralph Cossa, Monica Herz and Lawrence Scheinman presented papers entitled “Strengthening the Role of Regional Organizations in Treaty Implementation OAU/African

Union, ECOWAS”, “The Role of East Asia Regional Organizations in Promoting Regime Compliance and other Non-Proliferation Goals”, “A Role for the OAS in the Non-Proliferation of Weapons of Mass Destruction Regimes?” and “Regional Organizations and Treaty Compliance”, respectively.

- ⁸ Tanya Ogilvie-White, “Non-Proliferation and counterterrorism cooperation in Southeast Asia: meeting global obligations through regional security architectures?”, *Contemporary Southeast Asia*, 1 April 2006.
- ⁹ Conference of Independent African Heads of State and Governments, OAU document CIAS/Plen.2/rev.2 D, 22–25 May 1963.
- ¹⁰ OAU Council of Ministers, OAU document CM/Res. 3 (I), 2–11 August 1963.
- ¹¹ Oluyemi Adeniji, “Strengthening the Role of Regional Organizations in Treaty Implementation OAU/African Union, ECOWAS”, see note 7.
- ¹² OAU Assembly of Heads of State and Government, OAU document AHG/Res. 138 (XXI), 18–20 July 1985.
- ¹³ The Pelindaba Treaty was guided by (1) the Declaration on the Denuclearization of Africa (1964), adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its first ordinary session (AHG/Res. 11(1)), in which member states solemnly declared their readiness to undertake, through an international agreement to be concluded under UN auspices, not to manufacture or acquire control of nuclear weapons; and (2) by the resolutions of the fifty-fourth and fifty-sixth ordinary sessions of the Council of Ministers of the OAU in 1991 and 1992 respectively (CM/Res. 1342 (LIV) and CM/Res. 195 (LVI)), which affirmed that the evolution of the international situation was conducive to the implementation of the 1964 Declaration, as well as the relevant provisions of the 1986 OAU Declaration on Security, Disarmament and Development.
- ¹⁴ Oluyemi Adeniji, “Strengthening the Role of Regional Organizations in Treaty Implementation OAU/African Union, ECOWAS”, see note 7.
- ¹⁵ Ibid.
- ¹⁶ Sola Ogunbanwo, “Accelerate the Ratification of the Pelindaba Treaty”, *The Non-proliferation Review*, no. 10, 2003.
- ¹⁷ The protocol is available at <www.africa-union.org/root/au/organs/psc/Protocol_peace%20and%20security.pdf>.
- ¹⁸ Oluyemi Adeniji, “Strengthening the Role of Regional Organizations in Treaty Implementation OAU/African Union, ECOWAS”, see note 7.

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- ¹⁹ The material for the discussion on subregional organizations and the 2001 UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects was gathered from the following publications: Mike Bourne, William Godnick, Owen Greene, Elizabeth Kirkham, Jacqueline Macalesher, Janani Vivekananda and Charlotte Watson, *Reviewing Action on Small Arms 2006: Assessing the First Five Years of the UN Programme of Action*, Biting the Bullet, 2006; Michael von Tangen Page, William Godnick And Janani Vivekananda, *Implementing International Small Arms Controls: Some Lessons from Eurasia, Latin America and West Africa*, Jason Print and Design, 2005; and Elli Kytömäki and Valerie Yankey-Wayne, *Five Years of Implementing the United Nations Programme of Action on Small Arms and Light Weapons*, United Nations Institute for Disarmament Research, 2006.
- ²⁰ United Nations, *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, UN document A/CONF.192/15, 9–20 July 2001.
- ²¹ Remarks by former UN Secretary-General Kofi Annan on 11 December 2006 at the Truman Library in Independence, Missouri, United States. A transcript of the speech can be accessed at <www.un.org/News/press/docs/2006/20061211sgsm1000.htm>.