Synergies between the implementation of UNSC resolution 1540 (2004) and the BWC

Biological Weapons Convention
Regional Universalisation Workshop for the Pacific

House of Representatives of New Zealand
Wellington, 21 September 2019

Scott Spence
Group of Experts supporting the 1540 Committee

“The views expressed are those of the presenter and do not necessarily represent the views of the 1540 Committee”.
Introduction to UNSCR 1540 (2004)

- **Proliferation** of nuclear, chemical, biological weapons, as well as their means of delivery, pose a **threat** to international peace and security.

- **Resolution 1540** imposes **binding obligations** aimed at addressing threats posed by **non-State actors**, particularly for terrorist purposes, acquiring nuclear, chemical or biological weapons, their means of delivery or related materials.

- The 1540 Committee is **not** a **sanctions** committee. Implementation facilitated through **co-operation and dialogue**.

- **Complements** relevant multilateral disarmament, non-proliferation and arms control treaties and arrangements (i.e. **BWC**, **CWC**, **NPT**, etc.).

- **All** UN Member States must comply with 1540 obligations irrespective of their status regarding these instruments.
“Reaffirming … the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction…”

“Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability…”

“Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation…”
“Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.”
“5. Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention, or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;”
“8. Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations… to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;”
Resolution 1540 neither conflicts with nor alters the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BWC).

Instead, the resolution seeks to strengthen the international non-proliferation regime by filling important gaps in the coverage of other instruments with respect to non-State actors, and by requiring Member States to implement effective controls over materials related to weapons of mass destruction and their means of delivery.

Resolution 1540 and disarmament and non-proliferation treaties are complementary.
Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC)

Opened for signature in London, Moscow and Washington 10 April 1972

Entered into force: 26 March 1975

Depositary Governments:
Russian Federation, United Kingdom of Great Britain and Northern Ireland and United States of America

Number of States Parties: 183
Signatory States: 4
**BWC link**

**BWC** first multilateral disarmament treaty banning an entire category of weapons, as States Parties to the BWC undertake "never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

1. *microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes*;

2. *weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.\“*
Under Article IV of the BWC, States Parties must take any necessary measures to prohibit and prevent the:

• development,
• production,
• stockpiling,
• acquisition, or
• retention

of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention …

*In contrast to OP 2 of UNSCR 1540, BWC does not explicitly cover, for example, use or transport. However, BW use in war is forbidden by the 1925 Geneva Protocol and use is now understood by the BWC States Parties to be covered by the BWC.*
BWC link: UNSCR 1540 OP 3(a)-(b)

Domestic Controls
- Controls over related materials

OP 3a
- Account for and secure: in production, use storage or transport

OP 3b
- Physical Protection measures

OP 3c
- Border control
- Law enforcement efforts to detect, prevent and combat illicit trafficking and brokering

OP 3d
- Export, transit, trans-shipment and re-export
- Provision of funds and services
- End-user controls
- Penalize violations
Biosecurity

- Regulations for genetic engineering work
- Measures for biorisk management
- Licensing, registration of facilities/people handling bioagents
- Regulations for physical protection
- Regulations to secure valuable information
- Measures to account for and secure production, use, storage & transport
- Reliability check on personnel

BWC link: UNSCR 1540 OP 3(a)-(b)
BWC link: UNSCR 1540 OP 3(c)-(d)

- **Domestic Controls**
  - Controls over related materials

- **OP 3a**
  - Account for and secure: in production, use, storage or transport

- **OP 3b**
  - Physical Protection measures

- **OP 3c**
  - Border control
  - Law enforcement efforts to detect, prevent and combat... illicit trafficking and brokering

- **OP 3d**
  - Export, transit, trans-shipment and re-export
  - Provision of funds and services
  - End-user controls
  - Penalize violations
Legislative measures under OP3 (c) and (d) should cover the following for biological weapons, their means of delivery, and related materials:

- Measures for border control and law enforcement to detect, deter, prevent and combat illicit trafficking
- Measures for border control detection
- Measures to control brokering
- Export control legislation
- Export licensing provisions and export control authority
- National control lists of materials, equipment and technology
- Measures to control intangible transfers of technology (ITT)
- Measures to control means of delivery
- Measures to control end-use and catch-all clause
- Measures to control transit, trans-shipment and re-export
- Measures to control financing and services related to exports and trans-shipments that would contribute to proliferation
Chair of the 1540 Committee

Secretariat of the 1540 Committee
Attention: Chair, 1540 Committee
2 United Nations Plaza, Room DC2-0870 United Nations, New York, NY 10017

Fax: +1 (212) 963-1300; Email: sc-1540-Committee@un.org

1540 Committee Group of Experts

Email: 1540experts@un.org

1540 Committee Website