



# INTERNATIONAL SYMPOSIUM ON NUCLEAR SECURITY

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## *Overview of Current Status of Implementation of UNSC Resolution 1540*

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# Part I

**UNSC RES. 1540 (2004) and 1810 (2008)**

**PROVISIONS**



## UNSCR 1540 (2004)

- Adopted by unanimity on 28 April 2004 under Chapter VII of the UN Charter.
- First formal decision ever taken by the Security Council to address the proliferation of weapons of mass destruction (WMD) as a global threat to international peace and security.
- Establishes binding obligations on all States to take a series of steps to prevent the proliferation of WMD, their means of delivery and related materials.
- Each State decides for itself how to implement resolution 1540.



# UNSCR 1540 (2004)

## Objectives

- To enhance the capacity of all States to respond effectively to the threats posed by the proliferation of WMD;
- To prevent the proliferation of WMD, their means of delivery and related materials;
- To fill some existing gaps in international law by preventing and deterring any non-State actor from manufacturing, acquiring, possessing, developing, transporting, transferring, or using WMD and their means of delivery, in particular for terrorist purposes.



# UNSCR 1540 (2004)

## Requirements under Res. 1540

- National legislation on prohibitions (OP.1 and OP.2)
- Domestic controls and enforcement (OP.3)
  - Accounting for, securing, physical protection (OP.3 (a-b))
  - Border controls (OP.3 (c))
  - Export and trans-shipment controls (OP.3 (d))
- Control lists, Assistance ... (OP. 7)
- Promotion and implementation of multilateral treaties (OP. 8)
- Promotion of dialogue and cooperation (OP. 9 and OP. 10)
- Reporting (OP. 4)



# UNSCR 1540 (2004)

## Definitions \*

- **Means of delivery:** missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.
- **Non-State actor:** individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.
- **Related materials:** materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

*\* for the purpose of this resolution only*

## UNSCR 1540 (2004)

### I. Prohibitions: NATIONAL LEGISLATION

- **Operative para. 1:** All States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use WMD and their means of delivery.
- **Operative para. 2:** All States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer, or use WMD and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them

# UNSCR 1540 (2004)

## II. DOMESTIC CONTROLS AND ENFORCEMENT

### Operative para. 3 (a-b): ACCOUNTING FOR, SECURING, PHYSICAL PROTECTION

- All States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of WMD and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:
  - Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport (OP 3 - a)
  - Develop and maintain appropriate effective physical protection measures (OP 3 - b)

# UNSCR 1540 (2004)

## II. DOMESTIC CONTROLS AND ENFORCEMENT

### Operative para. 3 (c): BORDER CONTROLS

- Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat the illicit trafficking and brokering in such activities (OP 3 - c)

# UNSCR 1540 (2004)

## II. DOMESTIC CONTROLS AND ENFORCEMENT

### Operative para. 3 (d): EXPORT AND TRANS-SHIPMENT CONTROLS

- Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations (OP 3 - d)

# UNSCR 1540 (2004)

## III. CONTROL LISTS

### Operative para. 6:

- When necessary, to pursue at earliest opportunity the development of effective national control lists

# UNSCR 1540 (2004)

## IV. REPORTING

### Operative para. 4:

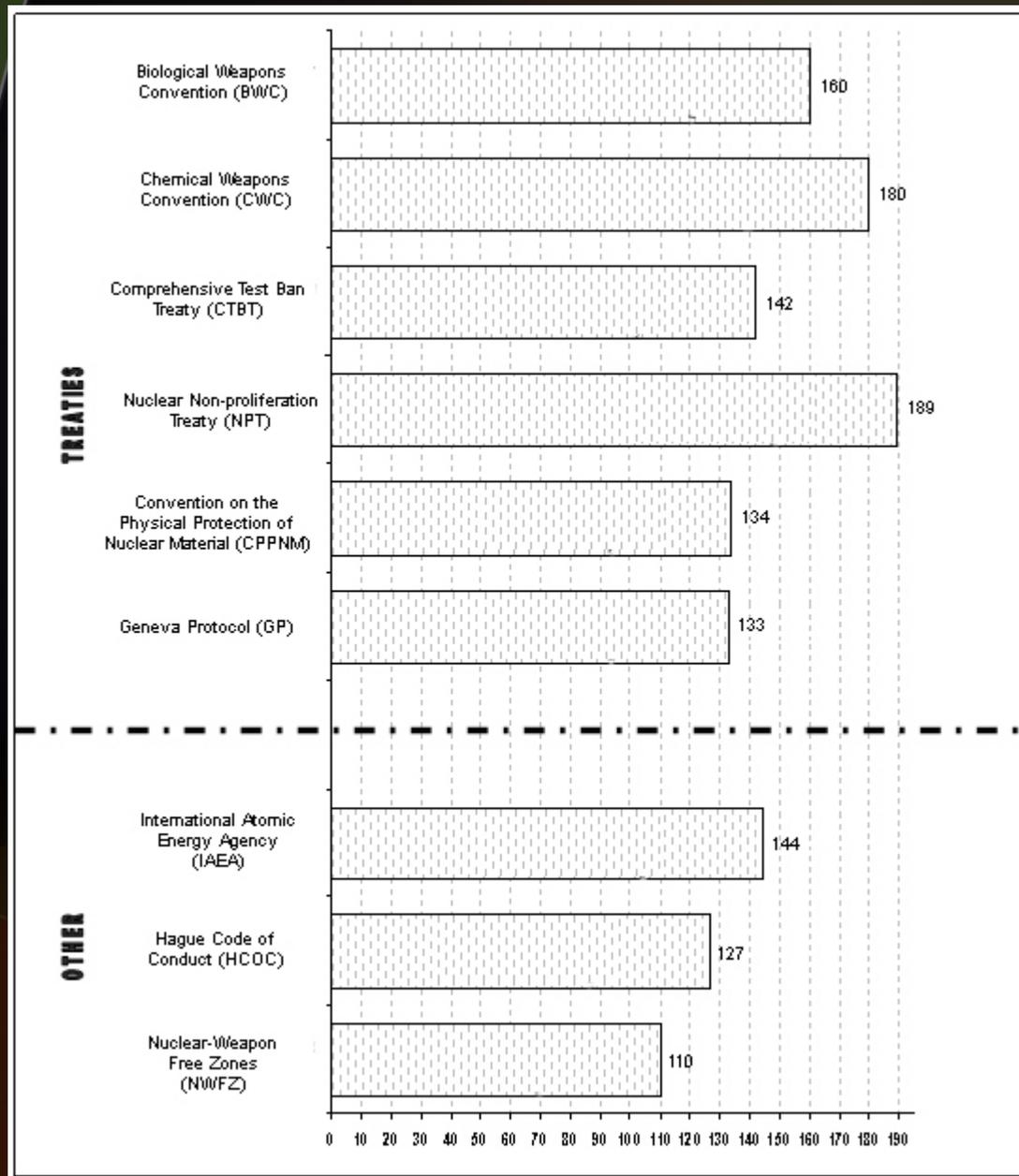
- Calls upon all States to submit a first report to the Committee on steps they have taken or intend to take to implement the resolution
- Reporting is not just an obligation, but the most important tool of informing the Security Council about national efforts to implement the resolution
- Reporting status: about 160 States and one organization (EU) have submitted reports; Over 100 States have also submitted additional information and clarifications;

# UNSCR 1540 (2004)

## WMD-RELATED CONVENTIONS, TREATIES AND ARRANGEMENTS

- Nuclear Non-Proliferation Treaty (NPT)
- Biological Weapons Convention (BWC)
- Chemical Weapons Convention (CWC)
- Comprehensive Test-Ban Treaty (CTBT)
- Convention on Physical Protection of Nuclear Material (CPPNM)
- The Hague Code of Conduct (HCOC)
- International Atomic Energy Agency (IAEA)  
Comprehensive Safeguards and Add.Prot.
- Nuclear Weapon Free Zones (NWFZ)

# Adherence to non-proliferation treaties, conventions, protocols and other instruments relevant to Security Council resolution 1540 (2004) \*



\* Based on 2008 Report to the Security Council (S/2008/493).



## 1540 Committee

- The 1540 Committee was established by the Security Council on 28 April 2004 pursuant to paragraph 4 of resolution 1540 of 28 April 2004.
- The Committee is a subsidiary body of the Security Council and it operates by consensus



## 1540 Committee

- The Committee receives and examines the national reports of Member States, on steps they have taken or intend to take to implement the resolution.
- Resolutions 1673 (2006) and 1810 (2008) extended the mandate of the 1540 Committee until 25 April 2011.

## **Resolution 1810 (2008)**

**The Council requested the Committee to:**

- **Continue its efforts to achieve full implementation of resolution 1540, including by enhancing its role as a clearing house for channeling assistance;**
- **Continue to promote through its work programme greater awareness, outreach, dialogue, assistance, and cooperation with Member States;**
- **Enhance its cooperation with the Council Committees established pursuant to resolutions 1267 (1999) and 1373 (200) and with States and international and other intergovernmental organizations.**

## **Resolution 1810 (2008)**

**The council encouraged States to:**

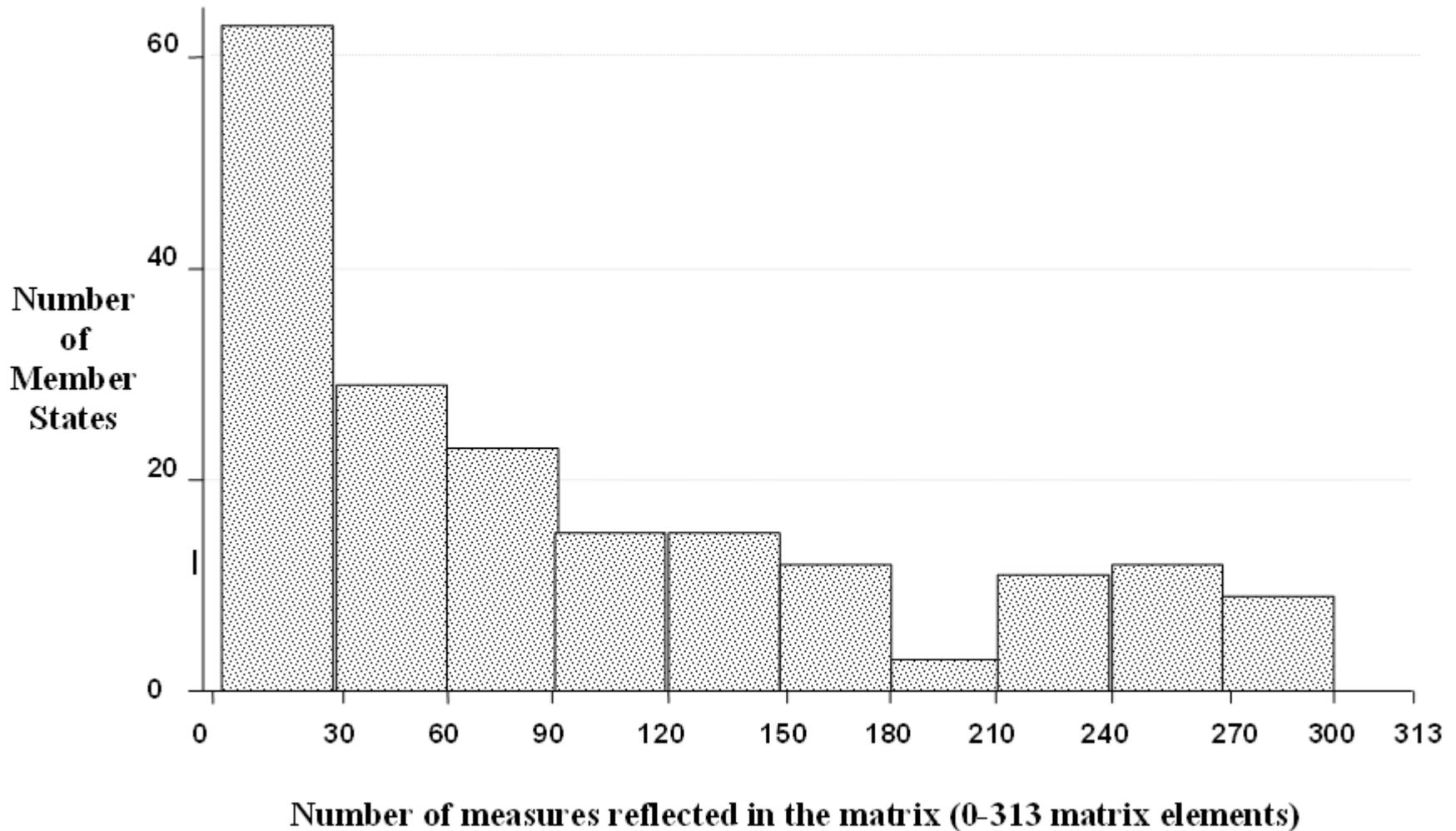
- Intensify their efforts to submit their first report without further delay and also submit any additional information on measures they have taken or plan to take;**
- To prepare summary action plans mapping out their priorities and implementation plans;**
- To submit their requests and offers of assistance, using if they wish the assistance template available in the Committee's website.**

# Part II

**UNSC RES. 1540 (2004) and 1810 (2008)**

**IMPLEMENTATION**

# Extent of implementation as identified through the measures taken by States and reflected in their matrices \*



*Note:* The above chart is based on information compiled by the Committee on the 313 of the 382 matrix elements that pertain to implementation measures, for example those contained in paras. 2, 3 (a-d), 6 and 8 (d).

\* Based on 2008 Report to the Security Council (S/2008/493).

# UNSCR 1540 (2004)

## THUS... OPERATIVE PARA. 2 REQUIRES

- NATIONAL LEGISLATION TO PROHIBIT ALL TYPES OF WMD IN RELATION TO NON-STATE ACTORS:
  - Manufacture
  - Acquire
  - Possess
  - Stockpile
  - Develop
  - Transport
  - Transfer
  - Use

# UNSCR 1540 (2004)

## ... OPERATIVE PARA. 2 ALSO REQUIRES

- NATIONAL LEGISLATION TO PROHIBIT ALL TYPES OF WMD IN RELATION TO NON-STATE ACTORS:
  - Participate as an accomplice in
  - Assist in
  - Finance
  - Conduct activities related to means of delivery

# Matrix for Structured Examination of Reports

## N.B

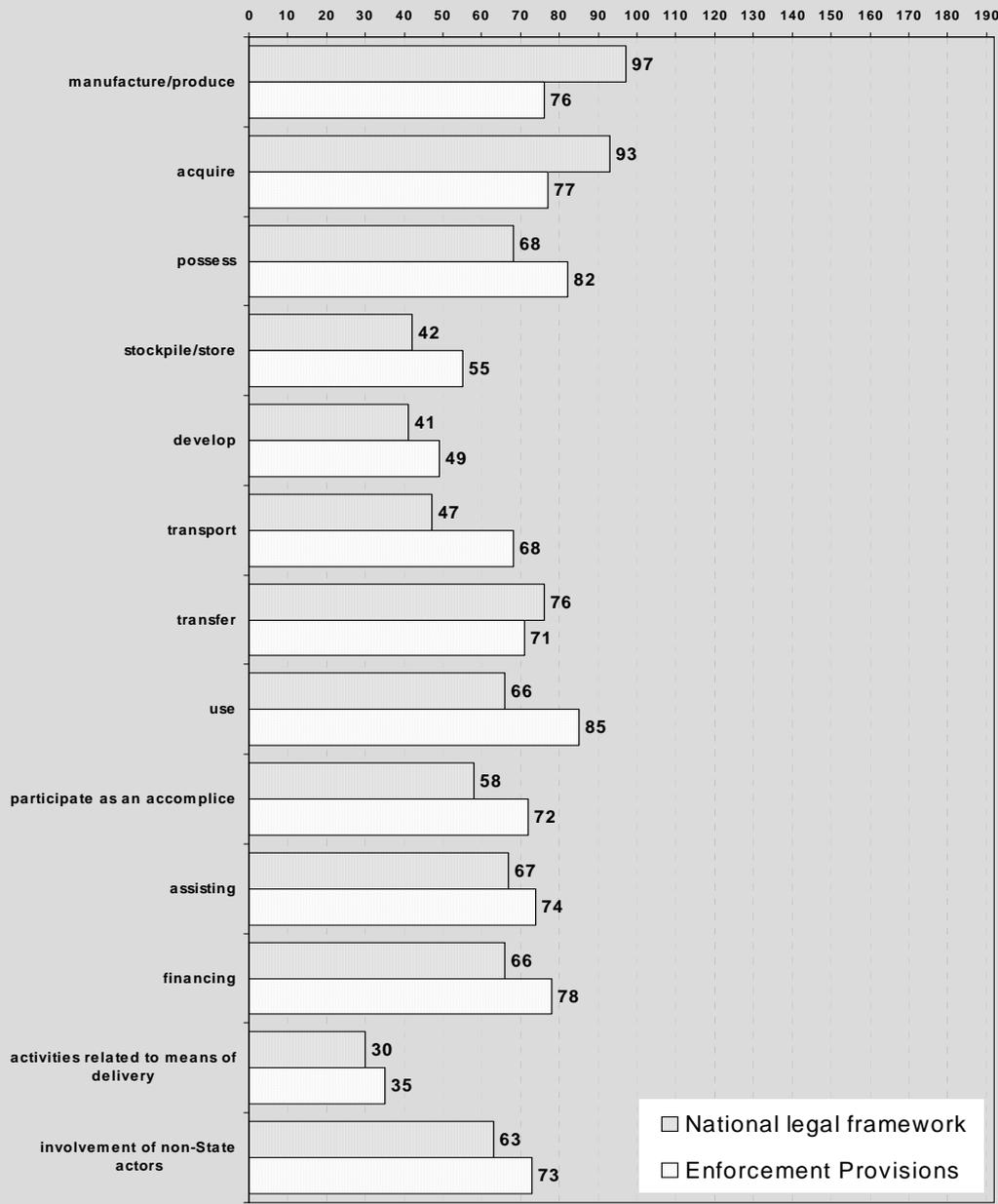
- Matrix pages give breakdown of provisions of Res. 1540 - Devoted to each weapon category:
  - Biological
  - Chemical
  - Nuclear
- incl. means of delivery & related materials

NW		
Measure e.g on 'acquiring'	Legal Framework: Act No..	Penalties/ Enforcement

CW		
Measure	Legal Framework	Penalties/ Enforcement

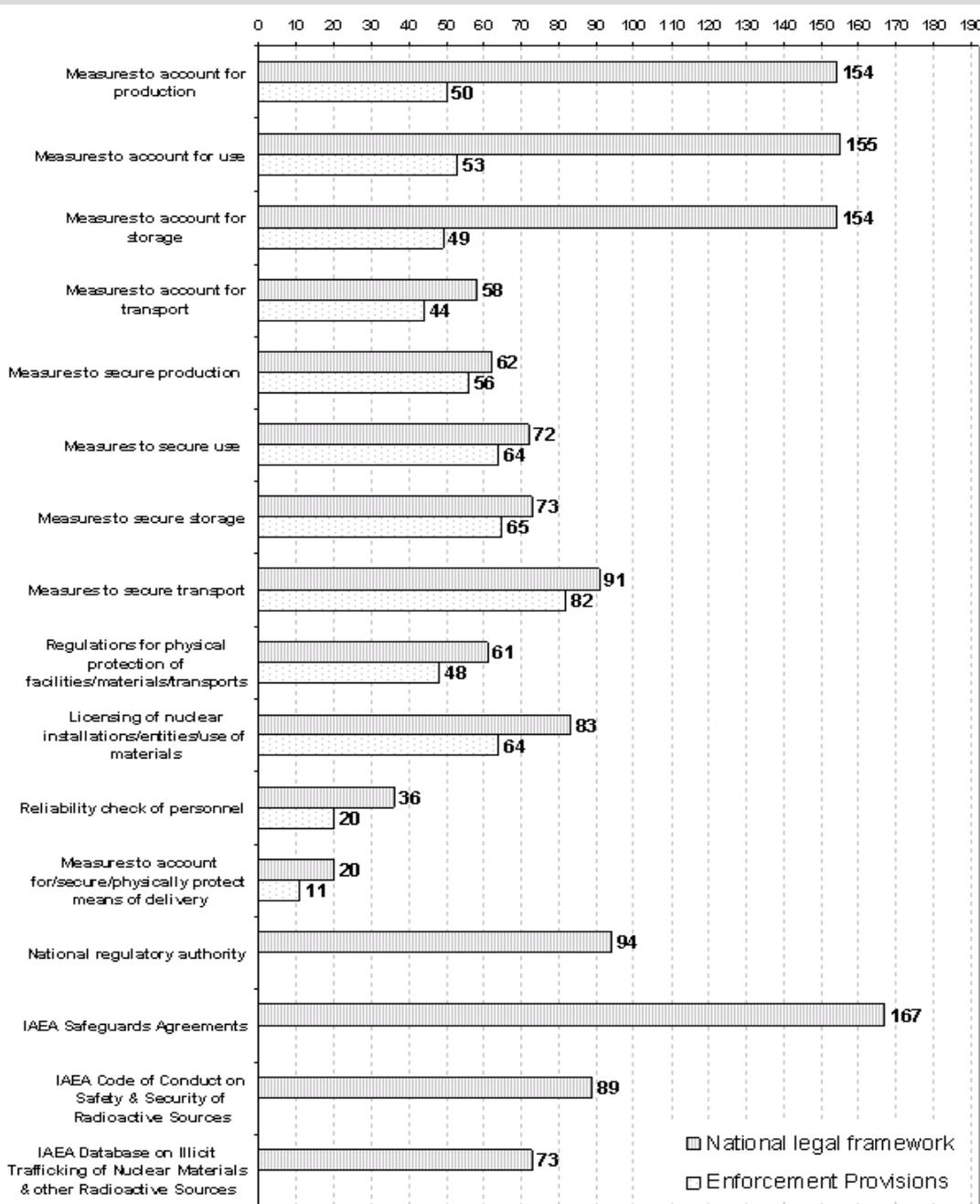
BW		
Measure	Legal Framework	Penalties / Enforcement

# Current assessment of implementation for 192 Member States — paragraph 2 — nuclear weapons



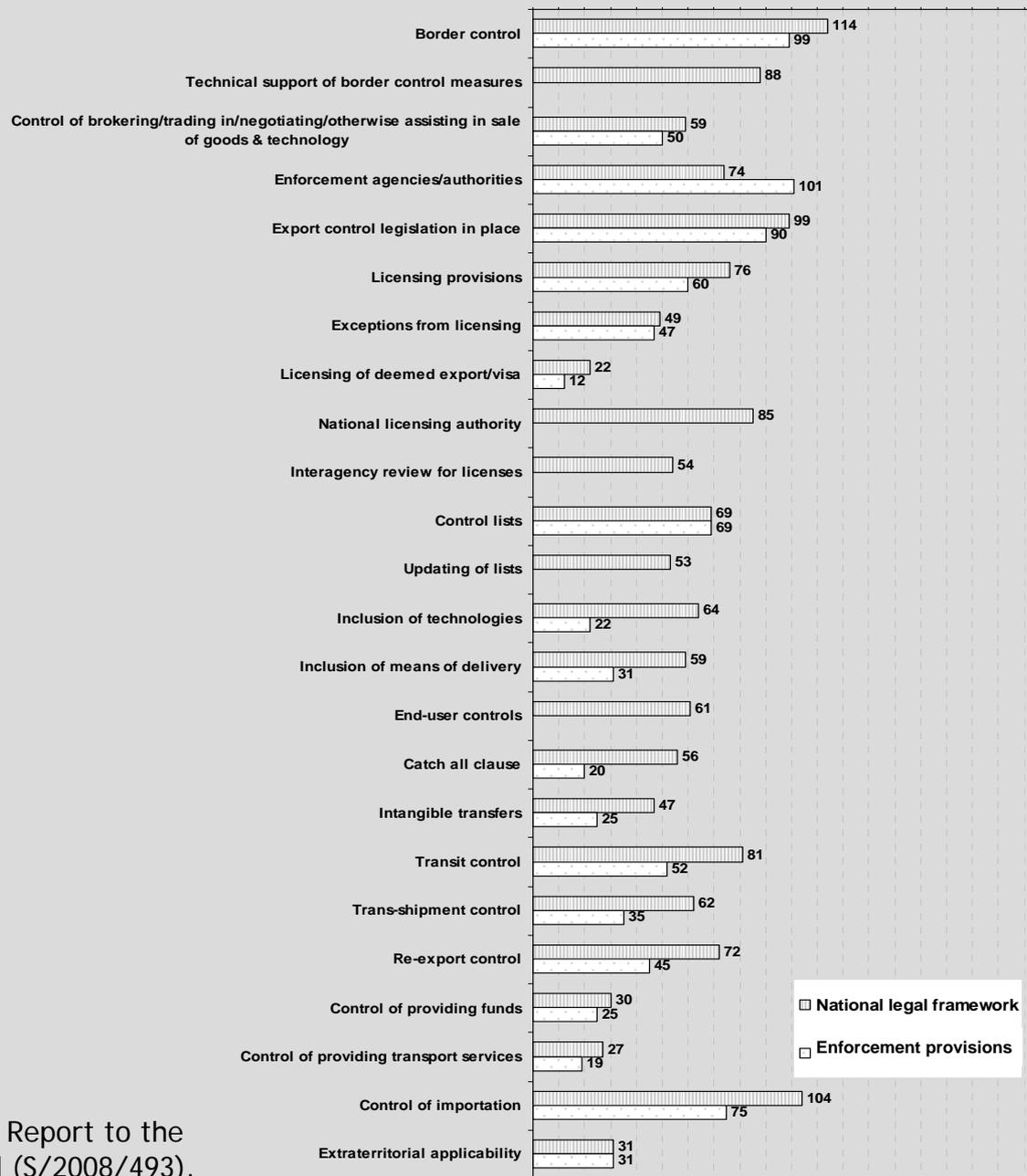
\* Based on 2008 Report to the Security Council (S/2008/493).

# Current assessment of implementation for 192 Member States — paragraph 3 (a) and (b) — nuclear weapons and related materials



\* Based on 2008 Report to the Security Council (S/2008/493).

# Current assessment of implementation for 192 Member States –paragraph 3 (c) and (d) – nuclear weapons and related materials



\* Based on 2008 Report to the Security Council (S/2008/493).

# Part III

## Comparative Tables: Measures in Res. 1540 and IAEA Instruments

### Table I

#### Comparison of Prohibited Activities under UNSC resolution 1540 (2004) and the Principal WMD Non-Proliferation Treaties<sup>1</sup>

Prohibited Activities under UNSCR 1540	Nuclear Non-Proliferation Treaty (NPT) <sup>2</sup>	Chemical Weapons Convention (CWC)	Biological and Toxin Weapons Convention (BTWC)	Nuclear Terrorism Convention <sup>3</sup>	Convention on Terrorist Bombing <sup>4</sup>
Manufacture/produce	X	X	X	X	
Acquire	X	X	X		
Possess	X (cannot "receive")	X ("otherwise acquire... or retain")	X ("otherwise acquire or retain")	X	
Stockpile/store		X	X		
Develop		X	X		
Transport					
Transfer		X	X		
Use		X	Per Sixth BWC <u>Revcon</u> , "use" effectively violates the BWC	X	X
Participate as an accomplice in aforementioned activities				X	X
Assist in aforementioned activities		X	(prohibition pertains to States and international organizations)	X	X
Finance aforementioned activities				Article 2(4)(c) (contribution) could cover financing	Article 2(3)(c) (contribution) could cover financing
Aforementioned activities related to means of delivery <sup>5</sup>			X		
Aforementioned prohibitions apply to non-state actors <sup>6</sup>		X	X	X	X

**Table II**

**Comparison of Activities Covered under UNSC resolution 1540 (2004) for Related Materials and Activities Covered under IAEA Conventions or Agreements Related to resolution 1540 (2004)<sup>7</sup>**

UNSCR 1540 Activities Covered for Related Materials (using the definition of related materials found in the resolution) <sup>8</sup>	Convention on the Physical Protection of Nuclear Material (CPPNM) <sup>9</sup>	2005 Protocol to CPPNM	IAEA Comprehensive Safeguards Agreement	IAEA INFCIRC 540 (Model additional protocol on safeguards)
Account or Secure Production <sup>10</sup>			X	
Account or Secure Use	X (international)	X (domestic)	X	
Account or Secure Storage	X (international)	X (domestic)	X	
Account or Secure Transport	X (international)	X (domestic)		
Physical Protection of Related Materials	X			
Export Trade	X		X <sup>11</sup>	X <sup>12</sup>
Transit Trade	X			
Transshipment Trade				
Re-export Trade				
Trade Finance				
Trade Services				

1. **The Geneva Protocol of 1925, which bans the use of chemical and bacteriological weapons, does not appear in this list for purposes of presentation.**
2. **These are the prohibitions for non-nuclear weapon state parties to the NPT. The treaty does not expressly prohibit stockpiling, transport, use, etc. by these countries as they are prohibited from possessing nuclear weapons. In addition, nuclear weapon state parties to the NPT undertake not to transfer nuclear weapons to any recipient or to assist any non-nuclear weapon state to manufacture or acquire nuclear weapons.**
3. **Except for certain provisions, NTC does not apply if the offense is committed within a single State, the alleged offender and the victims are nationals of that State, and no other State has a basis to exercise jurisdiction.**
4. **The Convention defines explosive device to include a weapon or device that is designed or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive material. It covers use, participation as an accomplice, directs, and "in any other way contributes" – as does the Convention on Nuclear Terrorism. Except for certain provisions, the Convention does not apply if the offense is committed within a single state, the alleged offender and the victims are nationals of that State, and no other State has a basis to exercise jurisdiction.**
5. **UNSCR 1540 (2004) defines means of delivery as "missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use."**
6. **UNSCR 1540 (2004) defines a non-state actor as an "individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution."**

7. Using the definition of “related materials” found in UNSCR 1540 (2004): “materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.”
8. Ibid.
9. Article 1 of the Convention defines “nuclear materials” as “plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing.”
10. The CPPNM does restrict “unauthorized alteration” of materials. For this paper, this is not interpreted as a measure of securing production.
11. Disclosure of exports and imports
12. Export of NSG Trigger List Items

# Conclusion: Implementation Challenges and Remedies

- National priorities - Raising awareness of security threat - Outreach effort
- Complexity of issues - Matrix as tool for data collation and examination of progress in implementation
- National capacities - Template for identification of specific needs and the matching of assistance requests offers of assistance
- Effective coordination at the national and international level



# Thank you

- Comments and suggestions are WELCOME
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