



UN SECURITY COUNCIL RESOLUTION 1540 AND THE CHEMICAL WEAPONS CONVENTION: CHALLENGES, COMPLEMENTARITIES AND SYNERGIES

Opening of the Third Review Conference of the Chemical Weapons Convention; Credit: UN Photo/Rick Bajornas

ABSTRACT

This article examines the collaborative potential of UN Security Council resolution 1540 (2004) and the Chemical Weapons Convention (CWC). It delves into implementation obstacles and the interplay between the two instruments, advocating for their inherent synergy to strengthen the international non-proliferation legal framework. Highlighting the complementarity between the CWC and resolution 1540, particularly in preventing non-State actors' access to chemical weapons and enhancing verification measures, this paper underscores the potential of collaboration for a more comprehensive chemical, biological, and nuclear non-proliferation approach, relying on international cooperation.



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This analysis is presented in commemoration of the 20 year anniversary of the adoption of United Nations Security Council resolution 1540 (2004) (UNSCR 1540). It delves into the inter-connection and collaborative potential between UNSCR 1540 and the Chemical Weapons Convention (CWC) in the vital realm of preventing the proliferation of weapons of mass destruction (WMDs), with a particular focus on chemical weapons. By shedding light on the hurdles in implementing the resolution, it meticulously examines the intricate

dynamic between the CWC and resolution 1540. The argument put forward posits that these two instruments can synergize to bolster the overall efficacy of the global non-proliferation regime.

UNSCR 1540

UNSCR 1540 underscores the Security Council's concern over the proliferation of nuclear, chemical, and biological weapons, along with their means of delivery, to and by non-State actors, deeming it a threat to global peace and

security. Notably, the resolution applies universally, irrespective of States' WMD status or developmental level, placing strong emphasis on the significance of international collaboration and assistance for the effective implementation of its provisions.

UNSCR 1540 involves the development and enforcement of laws and regulations; the resolution calls upon all States to enhance the security of sensitive materials, establish domestic controls, adopt laws against non-State actors

engaging in WMD activities, implement effective national export controls, and regulate access to intangible or dual-use technology.

THE CWC

The CWC is one of the most comprehensive disarmament treaties in the world. Banning a category of weapon, it opened for signature in 1993 and entered into force in 1997. The Convention has 193 States Parties, making it nearly universal. It prohibits the development, production, acquisition, stockpiling, retention, and use of chemical weapons. Its key elements encompass a comprehensive prohibition of chemical weapon-related activities, an extensive verification regime, and a commitment to destroy existing chemical weapons and production facilities under international supervision. Additionally, it mandates States Parties to provide assistance and protection to those affected by chemical weapons, foster cooperation in scientific and technical information exchange, and establish a legislative and regulatory

framework for treaty implementation.

Article VII outlines specific obligations, including the establishment of penalties for violations of the Convention, the implementation of controls over chemical weapon-related activities, the designation of a national authority for communication with the Organisation for the Prohibition of Chemical Weapons (OPCW), and collaboration with other States Parties to facilitate the Convention's implementation. These obligations aim to ensure the effective implementation and enforcement of the CWC within the national legal frameworks of the States Parties. Overall, the CWC represents a significant achievement in the field of disarmament and non-proliferation.

IMPLEMENTATION CHALLENGES OF UNSCR 1540

In terms of implementation challenges, a major obstacle for UNSCR 1540 is the difficulties faced by developing countries. These States struggle with a multitude

of pressing development and national security issues that more directly impact the well-being and quality of life of their citizens. Such challenges include pervasive public health issues, insufficient legal frameworks, limited technical capabilities, limited international assistance, and economic instability. In this context, diverting limited resources to address the WMD threat might seem impractical for leaders in the developing world. Persuading these governments to allocate greater and more sustainable investments to counterproliferation initiatives becomes a complex task. Essentially, it is not only a demanding proposition but also one that requires careful navigation through intricate socio-economic and political considerations.¹

Another obstacle lies in assessing compliance, due to the reliance on national reports submitted by States. These reports tend to emphasize adherence to regulations while downgrading areas of non-compliance. The 1540 Committee heavily depends on these reports, giving rise

1 Finlay, Brian, et al. "Implementation Challenges for 1540." *Beyond Boundaries in the Middle East: Leveraging Nonproliferation Assistance to Address Security/Development Needs With Resolution 1540*, Stimson Center, 2010, pp. 23–25. JSTOR, <http://www.jstor.org/stable/resrep10895.8>.



OPCW maintains readiness to respond to the use of chemical weapons. Credit: OPCW

to apprehensions regarding the credibility of the information provided. The compilation of two sets of data, encompassing legislative developments and enforcement compliance, does indicate progress. However, it also raises pertinent questions about accuracy and realism when portraying the advancements in implementation.²

The aforementioned challenges are also encountered by the CWC. Effectively addressing and transcending these obstacles assumes paramount importance in laying the foundation for a united front against the illicit acquisition and deployment of WMDs by non-State actors.

SYNERGIES AND COMPLEMENTARITIES BETWEEN UNSCR 1540 AND THE CWC

The CWC and UNSCR 1540 share synergies in addressing the global threat of WMDs, albeit from different perspectives. UNSCR 1540 complements the CWC by reinforcing the efforts to prevent the proliferation of chemical weapons.

² Rehman, H., & Qazi, A. (2019). Significance of UNSCR 1540 and Emerging Challenges to its Effectiveness. *Strategic Studies*, 39(2), 48–66. <https://www.jstor.org/stable/48544299>

The cooperation encouraged by the CWC at the State level aligns with the collective global efforts mandated by UNSCR 1540, emphasizing the importance of international cooperation in preventing the proliferation of WMDs and safeguarding global security. Together, these instruments contribute to a comprehensive framework that addresses both State and non-State actors, fostering a more secure and cooperative international environment.

In terms of the complementarities between the Convention and resolution 1540, both instruments share the objective of preventing the proliferation of chemical weapons. The CWC prohibits the development, production, stockpiling, and use of chemical weapons, and requires States Parties to destroy their existing stockpiles and production facilities and to implement a rigorous system of verification and inspections to ensure compliance. Conversely, resolution 1540 focuses on preventing non-State actors from acquiring and using chemical weapons by requiring States to adopt and enforce effective measures to secure and control chemical weapon-related materials, including

export controls, physical security measures, and border controls.

Another aspect in which the CWC and resolution 1540 can complement each other results from the CWC's verification and inspection measures, which can be used to supplement UNSCR 1540's efforts to prevent illicit trafficking of chemical weapon-related materials. The CWC's provision for international assistance and cooperation can also support the implementation of resolution 1540, particularly in assisting States to establish effective export controls and other measures to prevent proliferation.

Finally, the absence of a precise definition for chemical weapons in UNSCR 1540 presents a notable gap, affording the CWC the opportunity to furnish a thorough definition and introduce the crucial "general purpose criterion." While UNSCR 1540 expresses apprehension about the proliferation of chemical weapons without providing explicit definitions, the CWC, recognized as one of the world's most comprehensive disarmament treaties, not only furnishes a precise and comprehensive definition, but also

imposes an unequivocal ban on the development, production, acquisition, stockpiling, retention, and use of chemical weapons, setting a robust verification regime in relation to scheduled chemicals.

CONCLUSION

To sum up, though the implementation of UNSCR 1540 encounters various challenges, the interplay between the CWC and the resolution reveals potential for collaboration. Despite the obstacles faced by UNSCR 1540, particularly in the context of developing countries grappling with multifaceted issues and assessing compliance by relying on national reports, the scrutiny underscores significant opportunities to exploit the intricate dynamic with the CWC. Emphasizing the synergies between both instruments and leveraging their strengths, such as the CWC's verification measures supplementing UNSCR 1540's efforts, can create a comprehensive framework addressing both State and non-State actors. Achieving this will require unwavering political determination and dedication from States, coupled with the establishment of robust international cooperation and coordination.

ATION FOR THE PROHIBITION OF CHEMICAL WEAPONS



OPCW Director-General and Ms Izumi Nakamitsu, Under-Secretary-General and High Representative for Disarmament Affairs, United Nations, at the OPCW. Credit: OPCW