



RESOLUTION 1540 AND THE AFRICAN CONTINENTAL FREE TRADE AREA

Policy options to strengthen
non-proliferation controls and secure trade



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INTRODUCTION

In the decades since chemical, biological, and nuclear (CBN) weapons¹ entered the annals of history, States have gone to great lengths to prevent their proliferation and further use. An international legal regime to prevent the proliferation of these weapons consisting of the Geneva Protocol (1925), the Treaty on the Non-Proliferation of Nuclear Weapons (1970), the Biological Weapons Convention² (1972), and the Chemical Weapons Convention (1992) was gradually set up in the decades following the two world wars, the Cold War, and their aftermath. Global non-proliferation and disarmament norms were further strengthened and consolidated through the establishment of Nuclear-Weapon-Free Zones, including the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) adopted in 1996.³ The 2017 Treaty on the Prohibition of Nuclear Weapons constitutes the most recent addition to this global framework.⁴

These legal measures were all aimed at preventing CBN weapons proliferation by States and do not explicitly consider the role of non-State actors such as terrorists, organised criminal groups or illicit networks who might also show interest in proliferation activities for commercial, political, or ideological purposes – thereby creating an additional threat to international peace and security. The sharp increase in terrorist and violent non-State actor activity across the globe since the early 2000s has drastically reshaped the international security environment and the legal frameworks that govern it. The danger of potential CBN weapons proliferation by non-State actors is well-known and illustrated through several recorded incidents involving

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1 CBN weapons are considered weapons of mass destruction, defined by the UN General Assembly (A/RES/32/84-B) as ‘atomic explosive weapons, radioactive material weapons, lethal chemical and biological weapons and any weapons developed in the future which might have characteristics comparable in destructive effect to those of the atomic bomb or other weapons mentioned above’. This paper discusses CBN weapons exclusively (not radiological) as Resolution 1540 does not explicitly include obligations related to radiological weapons (radioactive material weapons), but focuses on chemical, biological and nuclear weapons, their means of delivery and ‘related materials’.

2 The BWC includes toxin weapons as well.

3 For more on Nuclear-Weapon Free Zones, see UN Office for Disarmament Affairs, <https://www.un.org/disarmament/wmd/nuclear/nwzf/>.

4 For more on the Treaty on the Prohibition of Nuclear Weapons, see UN Office for Disarmament Affairs, <https://www.un.org/disarmament/wmd/nuclear/tpnw/>.

chemical compounds, biological agents and nuclear technologies, and related materials across the globe since the late 1980s.⁵

It is within this context that the UN Security Council, acting under its Chapter VII powers,⁶ enacted UN Security Council Resolution (UNSCR) 1540 on April 28, 2004. This made UNSCR 1540 binding on all UN-Member States and requires that they 'refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use' any of the CBN weapons, their related materials, and their means of delivery.⁷

Illicit cross-border trade is an age-old problem, but when it comes to the proliferation of CBN weapons, the stakes are high. In an interconnected world where international trade is recognised as an engine for inclusive economic growth, poverty reduction, and the achievement of the Sustainable Development Goals (SDGs),⁸ it is important not to lose sight of this reality. With trading under the Agreement Establishing the African Continental Free Trade Area (AfCFTA Agreement) officially commencing on 1 January 2021, now is an opportune moment to consider the interplay between such a landmark agreement and the objectives of UNSCR 1540.

The AfCFTA Agreement is a flagship project for enhancing Africa's development and socio-economic integration and achieving the goals of the African Union's (AU) Agenda 2063 – its long-term development vision. The AfCFTA Agreement establishes a single African market, the largest in the world, and aims to enhance intra-continental trade while strengthening the continent's global

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5 See for example the WMD Terrorism Database of the Center for Nonproliferation Studies at the Monterey Institute for International Studies compiling incidents from 1900 to 2000, <https://www.nonproliferation.org/wp-content/uploads/npr/wmdchr72.htm>; and the Profiles of Incidents Involving CBRN and Non-State Actors (POICN) Database prepared by the National Consortium for the Study of Terrorism and Responses to Terrorism (START) Center at the University of Maryland, covering the period 1990 to 2016, <https://www.tandfonline.com/doi/abs/10.1080/1057610X.2019.1577541?journalCode=uter20>.

6 Resolutions enacted under Chapter VII of the UN Charter are binding on all Member States.

7 UN Security Council, Resolution 1540, Non-proliferation of weapons of mass destruction, S/RES/1540 (2004), [https://undocs.org/S/RES/1540\(2004\)](https://undocs.org/S/RES/1540(2004)).

8 UN General Assembly resolution, Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda), A/Res/69/313, July 27, 2015, <https://undocs.org/A/RES/69/313>.

market power.⁹ It is therefore important to ensure that the benefits to be reaped from removing barriers to trade are not overshadowed by the risk of CBN weapons proliferation by non-State actors. Additionally, the export and border controls required by UNSCR 1540 must serve as an enabler of trade flows and economic development within a reliable, secure, and predictable regional trading system.

This policy brief will consider the relationship between international trade and proliferation risks before taking a deeper, albeit brief, look at the transfer control obligations stipulated in UNSCR 1540. It then considers the interplay between the AfCFTA Agreement and UNSCR 1540, paying specific attention to the former's security exceptions, before finally identifying areas where further action is required to increase cohesion between these two distinct instruments.¹⁰

BOX 1 DEFINITIONS OF KEY TERMS PRESENT IN UNSCR 1540^a

Means of delivery: Missiles, rockets, and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, which are specially designed for such use.

Non-State actor: An individual or entity, not acting under the lawful authority of any State in conducting activities that fall 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.

^a UN Security Council, Resolution 1540, Non-proliferation of weapons of mass destruction.

⁹ AU, African Continental Free Trade Agreement (AfCFTA), 'About the AfCFTA', <https://au-afcfta.org/about/>.

¹⁰ The target audience of this policy brief is policymakers and practitioners engaged in the areas of trade and non-proliferation in Africa, including the AfCFTA Agreement organs and States Parties, the 1540 Committee, the United Nations and relevant regional and international bodies and donors.

INTERNATIONAL TRADE AND PROLIFERATION: WHAT ARE THE RISKS?

As the world becomes increasingly interconnected – and with technology evolving at a rapid rate – new opportunities and resources for illicit activities by non-State actors are evolving simultaneously, heightening the risk of the proliferation of CBN weapons.¹¹ Of relevance for the African continent is the discovery in 2003 of an illicit nuclear network (colloquially known as the Abdul Qadeer Khan or AQK network) that illegally transferred nuclear technologies and related materials for decades. This

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vast network was reportedly active in over 30 countries, supplying crucial components for nuclear weapons programmes.¹² Among the private entities implicated in the network were two from South Africa, one of which was found to be in possession of equipment for a uranium enrichment plant. Authorities also found import/export documents for a flow-forming machine, classified by the International Atomic Energy Agency (IAEA) as ‘nuclear related dual-use equipment.’¹³ The IAEA worked closely with South African authorities to bring the guilty parties linked to these private companies to justice.¹⁴

In conducting its illicit activities, this network relied on the global trade and supply chain. By falsifying end-user certificates, purchasing dual-use equipment and components from complicit or unwitting suppliers, and circumventing weak controls in transit and transshipment hubs, the network illustrated how non-State actors can exploit weak regulations and transfer-enforcement measures, and go undetected for many years.

11 Togzhan Kassenova, *Preventing WMD Proliferation: Myths and Realities of Strategic Trade Controls*, (Carnegie Endowment for International Peace: January 25, 2012), <https://carnegieendowment.org/2012/01/25/preventingwmd-proliferation-myths-and-realities-of-strategic-trade-controls-pub-46631>.

12 Molly MacCalman, ‘A.Q. Khan Nuclear Smuggling Network,’ *Journal of Strategic Security*, Vol.9, No.1 (September 2016): 111, <https://digitalcommons.usf.edu/cgi/viewcontent.cgi?article=1506&context=jss>.

13 Abdul Minty (DIRCO Representative, South African government), ‘Update on the Illicit Network,’ (Statement at the IAEA Board, Vienna, 11 September 2007), <https://www.gov.za/minty-illicit-international-nuclear-weapons-proliferation-network>.

14 IAEA, ‘IAEA Helps South African Government Dismantle Illicit Nuclear Network,’ September 14, 2007, <https://www.iaea.org/newscenter/news/iaea-helps-south-african-government-dismantle-illicit-nuclear-network>.

The revelation that this illicit network was active in African States and that corporate entities were involved, illustrated the relevance of the proliferation of CBN weapons and related risks for the African continent.

Indeed, the AQK network is not the only example of illicit activity in Africa related to CBN weapons proliferation. This speaks clearly to wider concerns and threats related to terrorism and transnational crime. In February 2016, for example, Moroccan authorities sounded the alarm on chemical and biological agents found in a facility associated with the so-called Islamic State terrorist group (also known as Daesh). This discovery reminded African States of the looming risk of CBN weapons proliferation by non-State actors – particularly for terrorist purposes – and the need to encourage cooperation among States for the implementation of UNSCR 1540.¹⁵

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The misuse of CBN materials has far-reaching impact throughout Africa. In East Africa, Harakat Al-Shabaab Al-Mujaahidiin (Al-Shabaab), an entity designated by the AU as a terrorist group,¹⁶ is known to have been manufacturing home-made explosives since at least mid-2017.¹⁷ Over the years, the group has manufactured improvised explosive devices from a wide variety of commercially available chemicals that are commonly used in mining, construction, agriculture, and other industries.¹⁸ It is important to underline that the chemicals used by Al-Shabaab to build conventional improvised explosive devices are globally traded and used for a wide range of legitimate purposes not prohibited by the Chemical Weapons Convention (CWC). Nevertheless, the fact that States exported large

15 Nicolas Kasprzyk, ‘African Parliaments Lead the Continent’s Fight Against Weapons of Mass Destruction,’ *ISS Today*, April 4, 2016, <https://issafrika.org/iss-today/african-parliaments-lead-the-continent-s-fight-against-weapons-of-mass-destruction>.

16 African Union, *Press statement of the 1081st meeting of the Peace and Security Council*, (May 4, 2022), <https://www.peaceau.org/en/article/press-statement-2>.

17 UN Security Council, *Letter from the Chair of the Security Council Committee pursuant to resolution 751 (1992) concerning Somalia addressed to the President of the Security Council*, S/2019/858 (Nov. 1, 2019), paras 20-23, <https://undocs.org/S/2019/858>.

18 UN Security Council, *Committee established pursuant to resolution 751 (1992) concerning Somalia, Implementation Assistance Notice No. 3, Summary of the Improvised Explosive Device (IED) components ban and regulations in place for exportation of explosive materials to Somalia*, (August 3, 2020), https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/ian_3_english_final_3_august.pdf.

quantities of toxic dual-use chemicals without effective end-use and end-user controls – and despite the absence of known industrial demand for some of these materials¹⁹ – illustrates weak export controls and risk assessments of dual-use chemicals in Africa and beyond.²⁰

RESOLUTION 1540: AIMED AT WHERE IT IS NEEDED

The development, production, and delivery of CBN weapons depends on various materials, equipment and technologies that also have wide peaceful civilian applications – making them so-called ‘dual-use goods’.²¹ Thus, proper transfer controls are essential to ensure that such items are not diverted to unauthorised non-State actors. Significantly, such controls must not hinder the contribution of these items to industrial development and economic growth.

Export controls are familiar components of international trade and play an important role in prohibiting proliferation among a range of actors. The CWC requires States Parties to adopt the necessary measures to ensure that toxic chemicals and their precursors are only used for non-prohibited purposes. These measures include export controls to limit the risk of diversion of scheduled chemicals²² and their precursors that could be used by non-State actors.²³ Similarly, the

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19 UN Security Council, *Letter from the Chair*, paras. 24-26.

20 Considering the increase in IED attacks undertaken by Al-Shabaab, the Security Council adopted resolution 2498 (2019) which imposes an IED components ban and regulates the exportation of certain chemicals to Somalia. For more information see [https://undocs.org/en/S/RES/2498\(2019\)](https://undocs.org/en/S/RES/2498(2019)).

21 World Customs Organization, *Strategic Trade Control Enforcement Implementation Guide*, (2019), <https://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools/guidelines/wco-strategic-trade-control-enforcement-implementation-guide.aspx>.

22 The CWC contains three schedules governing three sets of chemicals: those that have high potential for use in chemical weapons and have little or no use for legitimate purposes (Schedule 1); those with properties enabling them to be used as a chemical weapon and which have limited legitimate applications (Schedule 2); and those that can be used as a chemical weapon, have legitimate applications, and are produced in large commercial quantities (Schedule 3).

23 Organization for the Prohibition of Chemical Weapons, ‘*Preventing the Re-emergence of Chemical Weapons*,’ (2022), <https://www.opcw.org/our-work/preventing-re-emergence-chemical-weapons>.

BOX 2 UNDERSTANDING STRATEGIC GOODS, DUAL-USE GOODS, AND INTERNATIONAL TRADE

According to the World Customs Organization (WCO) 'strategic goods' refers to weapons of mass destruction (WMD), conventional weapons, and related items involved in the development, production, or use of such weapons and their delivery systems. Goods may be identified as strategic by their inclusion on national control lists or by being destined for WMD end use or for use by a WMD-related end user. Development and production of these weapons and delivery systems depend on various manufacturing equipment, electronics, materials, and chemicals, most of which also have legitimate commercial applications, making them so-called 'dual-use goods'.

The Harmonized Commodity Description and Coding System (HS) is an internationally standardised system of names and numbers that classifies over 98% of the merchandise in international trade and is used by customs authorities around the world. While not constituting a complete or authoritative list, the WCO has identified over 94 HS codes potentially covering strategic commodities. They include chemicals, radioactive materials, micro-organisms, toxins, explosives, non-metallic materials, metals, production machinery, electrical equipment, and specialised systems and equipment.^a

States commonly adopt 'Control Lists' based on their national laws and international obligations. These lists contain items subject to trade control and whose export require authorisation. The 1540 Committee does not endorse or require any control lists that States must adopt, but recognises that several international conventions, intergovernmental organisations and multilateral or regional agreements or arrangements have already adopted lists of sensitive goods.

References to 'strategic' or 'dual-use' goods in this policy brief refers to the 'related materials' as defined in UNSCR 1540.

^a WCO, *Strategic Trade Control Enforcement Implementation Guide*, 2019

Biological Weapons Convention prohibits States Parties from transferring to any recipient whatsoever materials that might assist in the manufacture of biological weapons and requires them to take any necessary measures in this respect.²⁴ In addition to these legally

24 Biological Weapons Convention, Articles III and IV, <https://treaties.unoda.org/t/bwc>.

binding provisions, groups of States have established politically binding export control arrangements – through which they maintain common lists – to control the trade in arms and dual-use goods and technologies among their respective industries.²⁵

It is important to note that UNSCR 1540 and its latest follow-up resolution 2663 (2022) reaffirm that the ‘prevention of proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, should not hamper international cooperation in materials, equipment and technology for peaceful purposes’, while recalling that ‘such cooperation should not be misused for purposes of proliferation of weapons of mass destruction as well as their means of delivery’.²⁶

With its adoption under Chapter VII of the UN Charter, UNSCR 1540 imposed binding obligations on all States, irrespective of their status under the legally-binding instruments or export control arrangements discussed previously, to implement export controls to prevent non-State actors from acquiring CBN weapons. This fact is one of the most distinct ways in which the resolution acts to fill gaps in the existing multilateral framework governing CBN weapons. Through three key operative paragraphs, UNSCR 1540 requires that States ‘adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use’ CBN weapons and their means of delivery – especially where it involves terrorist aims – and to prevent any efforts by non-State actors to ‘engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them’.²⁷

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25 These include the Wassenaar Arrangement, Nuclear Suppliers Group, Australia Group and the Missile Technology Control Regime. For an overview, see Kolja Brockmann, ‘Challenges to Multilateral Export Controls: The Case for Inter-regime Dialogue and Coordination,’ *Stockholm International Peace Research Institute*, (2019), <https://www.sipri.org/publications/2019/other-publications/challenges-multilateral-export-controls-case-inter-regime-dialogue-and-coordination>.

26 UN Security Council, Resolution 2663, preambular paragraph 8, (2022), [https://undocs.org/S/RES/2663\(2022\)](https://undocs.org/S/RES/2663(2022)).

27 UN Security Council, Resolution 1540, operative para. 2-3.

TABLE 1 KEY PROVISIONS OF UNSC RESOLUTION 1540 (2004)	
UNSC RESOLUTION 1540 (2004)	
<p>OPERATIVE PARAGRAPH 1</p> <p>Refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer, or use nuclear, chemical or biological weapons and their means of delivery.</p>	
<p>OPERATIVE PARAGRAPH 2</p> <p>Adopt and enforce laws which prohibit any non-State actor from undertaking the following activities with respect to CBN weapons and their means of delivery:</p> <ul style="list-style-type: none"> • Manufacture • Acquire • Possess • Develop • Transport • Transfer • Use • Attempt to engage in these activities • Participate as an accomplice in these activities • Assist in these activities • Finance these activities 	<p>OPERATIVE PARAGRAPH 3</p> <p>Establish and enforce controls to prevent the proliferation of CBN weapons and their means of delivery, including controls over related materials.</p> <p>(a) Measures to account for and secure items in:</p> <ul style="list-style-type: none"> • Production • Use • Storage • Transport <p>(b) Physical protection measures</p> <p>(c) Border controls and law enforcement efforts to:</p> <ul style="list-style-type: none"> • Detect, deter, prevent and combat illicit trafficking • Control brokering <p>(d) Export and trans-shipment controls over:</p> <ul style="list-style-type: none"> • Export • Transit • Trans-shipment • Re-export • Provision of funds to export and trans-shipment • Provision of services to export and trans-shipment, including transportation <p>End-user controls</p> <p>Penalties for violations</p>

Source: UN Security Council, Resolution 1540, operative para. 1-3.

To this effect, it obliges all States to ‘take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery, including by establishing appropriate controls over related materials’.²⁸ This requires that States implement measures to account for, secure and physically protect relevant items ‘in production, use, storage or transport’. Specifically, it also requires States to adopt and implement ‘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’.²⁹

Resolution 1540 does not detail the materials, agents, equipment, or technologies that States must control. However, Operative Paragraph 3 obliges States to exercise discretion in determining the items to control based on those covered in multilateral treaties or arrangements where such items are agreed upon, or those included in national lists. Through its broad coverage, UNSCR 1540 seeks to create a transfer control system whereby dual-use materials, technologies, and equipment are controlled throughout their life cycle as they pass from producer to end-user (and all steps in between). This should ensure that at no point will these items be diverted by or to non-State actors for the proliferation of CBN weapons.

BOX 3 MONITORING AND REVIEW OF UNSCR 1540^a

The **1540 Committee** was established by UNSCR 1540 as a subsidiary body of the UN Security Council. It is composed of its 15 members and assisted by a Group of Experts. The 1540 Committee derives its mandate from UNSCR 1540 and its successor resolutions. It functions in accordance with a Programme of Work that encompasses monitoring and national implementation, transparency and outreach, assistance, and cooperation with international and regional organisations and relevant Security Council Committees.

The **1540 Matrix** is the primary method used by the 1540 Committee to organise information about national implementation for each State. The information in the matrices originates primarily from national reports submitted by States and is complemented by official government information, including information made

28 UN Security Council, Resolution 1540, operative para. 3.

29 UN Security Council, Resolution 1540, operative para. 3.

BOX 3 CONT'D

available to intergovernmental organisations. The 1540 Matrix is not intended to measure States' compliance with their non-proliferation obligations but is used by the 1540 Committee as a reference tool for facilitating technical assistance and enhancing dialogue with States.

The 1540 Matrix provides a breakdown of the operative paragraphs into 228 fields and the corresponding measures instituted by States. The fields are denoted by one of three symbols: an 'X' signifies that the State has taken a relevant measure and provided specific references to the applicable legal basis or executive measures. A '?' signifies that there are questions of relevance or availability of legislation. And a blank space indicates that no information has been provided by a State or identified by the Committee. The matrices are published on the 1540 Committee website with the consent of States.

Based on the 1540 Matrices and inputs from States and relevant stakeholders, the 1540 Committee conducts comprehensive reviews on the status of UNSCR 1540 implementation around every five years and usually prior to the renewal of its mandate. To date, three comprehensive reviews were conducted in 2009, 2016 and 2022.

^a For more information on UNSCR 1540 and the work of the 1540 Committee, visit <https://www.un.org/en/sc/1540/>

AFRICA AND UNSCR 1540

Africa's commitment to the non-proliferation of CBN weapons predates the enactment of UNSCR 1540. The Treaty of Pelindaba requires States Parties, *inter alia*, to 'maintain the highest standards of security and effective physical protection of nuclear materials, facilities and equipment to prevent theft or unauthorized use and handling'³⁰. In February 2004, the AU adopted the Common African Defence

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30 The Treaty of Pelindaba, Article 10, 'Physical protection of nuclear materials and facilities', <https://au.int/en/treaties/african-nuclear-weapon-free-zone-treaty-pelindaba-treaty>.

and Security Policy, which recognises that the 'accumulation, stockpiling, proliferation and manufacturing of weapons of mass destruction, particularly nuclear weapons, chemical and biological weapons, unconventional long-range and ballistic missiles' pose a common threat to continental security, and calls for collective efforts by Member States.³¹

With the emergence of illicit commercial networks, expanding terrorist threats, and transnational organised crime, the AU adopted the Protocol to the Convention on the Prevention and Combating of Terrorism in July 2004. In its preamble, African States expressed grave concern at the growing risks of linkages between terrorism, weapons of mass destruction, and transnational organised crime. They committed to strengthening national and regional measures to prevent terrorist actors from acquiring CBN weapons, and to cooperate with the international community in implementing the relevant continental and international instruments.³²

The AU has also explicitly acknowledged on several occasions the importance of UNSCR 1540 and its relevance to the region. As early as 2013, the 20th Ordinary Session of the Union requested the AU Commission to 'take the necessary steps, in collaboration with the Security Council Committee established pursuant to UNSCR 1540 (1540 Committee) and all other stakeholders, to further promote and enhance the implementation of resolution 1540 (2004) in Africa'.³³ This call was reiterated by the AU Peace and Security Council in its 584th and 837th meetings, held respectively in March 2016 and April 2019.³⁴

At the national level, African States have displayed considerably high levels of commitment to UNSCR 1540. To date, 47 African States have submitted at least one

'At the national level, African States have displayed considerably high levels of commitment to UNSCR 1540'

31 African Union, *Solemn Declaration on a Common African Defence and Security Policy*, adopted by the 2nd Extraordinary Session of the AU, paragraph 9, (February 28, 2004), <https://www.peaceau.org/uploads/declaration-cadsp-en.pdf>. <https://www.un.org/en/sc/1540/documents/Conclusions%20AU%201540%20Conference.pdf>, 2.

32 African Union, *Protocol to the OAU Convention on the Prevention and Combating of Terrorism*, preambular para. 1, art. 2, f-g, (July 1, 2004), <https://au.int/en/treaties/protocol-oau-convention-prevention-and-combating-terrorism>.

33 African Union, *Decision on the Report of the Peace and Security Council on its Activities and the State of Peace and Security in Africa*, Assembly of the Union, Twentieth Ordinary Session, (Jan 27–28, 2013), <https://oau-aec-au-documents.uwazi.io/api/files/149522851725217th51fu6yjwaxufg8jv97wrk9.pdf>.

34 African Union, Peace and Security Council, 584th Meeting, (March 29, 2016), <https://www.peaceau.org/uploads/com-psc584-arms-control.pdf>; AU, Peace and Security Council, 837th Meeting, (April 4, 2019), <https://www.peaceau.org/uploads/psc.837.comm.disarmament.nuclear.weapons.4.4.2019.pdf>.

report to the 1540 Committee.³⁵ However, out of the eight States Parties that have never submitted a report to the 1540 Committee, seven are African.³⁶ Furthermore, data from the 1540 Matrices and the 2016 Comprehensive Review indicate that implementation of domestic, export, and border controls (under Operative Paragraph 3) among African States is uneven or lagging behind.

Despite an increase from the previous review in 2016, the 2022 review indicates that Africa's implementation of Operative Paragraph 3 is at a lower level than the global average.³⁷ In terms of accounting and security obligations (sub-paragraphs a and b), 24% of the required measures were recorded for Africa, while for border and export controls (sub-paragraphs c and d), 27% were recorded.³⁸ The 1540

Matrices of African States contain a significant number of blank spaces and question marks, including for the 16 fields related to border and export controls.³⁹ This indicates that African States continue to lag in terms of implementing appropriate border and export controls or are yet to provide information on relevant measures taken.⁴⁰

'African States continue to lag in terms of implementing appropriate border and export controls or are yet to provide information on relevant measures taken'

Evidently, African commitment to non-proliferation of CBN weapons is strong at the political level – but weak practical implementation remains one of the continental realities. The AU acknowledges that these implementation gaps are due to competing development and security priorities facing African States, combined with limited human

35 1540 Committee, *National Reports*, (2022), <https://www.un.org/en/sc/1540/national-implementation/national-reports.shtml>.

36 These states are Chad, Eswatini, Gambia, Guinea, Mali, Mauritania, and Somalia.

37 UN Security Council, *Letter dated 29 November 2022 from the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) addressed to the President of the Security Council, S/2022/899*, (Dec 1, 2022), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/725/80/PDF/N2272580.pdf?OpenElement>.

38 UN Security Council, *Letter dated 29 November 2022*.

39 1540 Committee, 'Committee Approved Matrices,' National Implementation, 1540 Matrices, (2022), <https://www.un.org/en/sc/1540/national-implementation/1540-matrices/committee-approved-matrices.shtml>.

40 Reports submitted by States do not always provide adequate information on measures taken or supporting documentation on the nature of measures taken. In addition to fulfilling reporting obligations, quality reports can guide dialogue with the 1540 Committee and facilitate the channelling of assistance from international partners. See Amelia Broodryk and Noel Stott, 'African Countries are Prioritising the Implementation of UNSC resolution 1540 to Stop non-State Actors from Acquiring Nuclear, Chemical and Biological Weapons', *ISS Today*, May 15, 2014, <https://issafrica.org/iss-today/making-progress-implementing-unscr-1540-in-africa>.

expertise and financial resources to dedicate to implementation.⁴¹ Indeed, preventing the proliferation of CBN weapons by non-State actors in Africa is outweighed by more immediate security concerns, such as the illicit trade in small arms and light weapons, drug trafficking, terrorism, and illicit financial flows, to name a few. This does not mean that the risk of CBN weapons proliferation by non-State actors is less serious, but that African governments are faced with a range of pressing threats to address.

Limited awareness of the potential benefits of implementing UNSCR 1540 to realising the SDGs is also among the factors contributing to its de-prioritisation.⁴² For their part, AU organs have emphasised the potential contribution of UNSCR 1540 and the multilateral non-proliferation regimes to enhance the peaceful application of nuclear, chemical, and biological science and technology, and encouraged States to implement them in a manner complementary to their socio-economic development processes.⁴³ However, dialogue on UNSCR 1540 at the national level remains concentrated among ministries of defence and foreign affairs.

'Preventing the proliferation of CBN weapons by non-State actors in Africa is outweighed by more immediate security concerns, such as the illicit trade in small arms and light weapons, drug trafficking, terrorism, and illicit financial flows, to name a few. This does not mean that the risk of CBN weapons proliferation by non-State actors is less serious, but that African governments are faced with a range of pressing threats to address'

41 African Union, *Opening Statement at the AU Review and Assistance Conference on the implementation of UNSCR 1540 in Africa*, (April 6, 2016), <https://www.peaceau.org/en/article/opening-statement-by-dr-admore-kambudzi-ag-director-of-the-peace-and-security-department-at-the-au-review-and-assistance-conference-on-the-implementation-of-un-security-council-resolution-1540-2004-in-africa>.

42 Richard Cupitt, '1540 Assistance Support Initiative: If only CBRN assistance matchmaking was easy,' Stimson Centre, <https://www.gpwm.com/stimson-1540-assistance-support-initiative>.

43 African Union, *AU Statement by the Chairperson of the Commission on the 40th anniversary of the Biological Weapons Convention*, (March 26 2015), <https://www.peaceau.org/uploads/auc.com.40th.anniv.conv.bio.-26.03.2015.pdf>; AU Peace and Security Council, *Communique of the 584th Meeting*, (April 14, 2016), <https://www.peaceau.org/en/article/the-584th-meeting-of-the-au-peace-and-security-council-on-arms-control-disarmament-and-non-proliferation>; 1540 Committee, *Conclusions of the Review and Assistance Conference on the implementation of UNSCR 1540 in Africa*, (April 6, 2016), <https://www.un.org/en/sc/1540/documents/Conclusions%20AU%201540%20Conference.pdf>.

To be successful, implementation must be a multi-stakeholder effort that entails the involvement of a wider range of civilian sectors, including industry, transport, trade, and agriculture, among others.⁴⁴ Building this inter-institutional relationship takes time and must be based on a shared understanding of not only the obligations imposed by UNSCR 1540 but also the benefits to be reaped therefrom. UNSCR 1540 can be elevated in national agendas through deepening stakeholders' knowledge of the potential benefits of implementation, including by providing tools and guidance to operationalise these links at the practical level.

'To be successful, implementation must be a multi-stakeholder effort that entails the involvement of a wider range of civilian sectors, including industry, transport, trade, and agriculture, among others'

RESOLUTION 1540 AND THE AFCFTA AGREEMENT

Although UNSCR 1540 and the AfCFTA Agreement are two distinct instruments with different objectives and purposes, they are linked by certain aspects of security. The overarching aim of UNSCR 1540 is to contribute to maintaining international peace and security by, inter alia, imposing controls to prevent illicit trafficking in CBN weapons and their related materials. While UNSCR 1540 does not address development, it does affirm that preventing the proliferation of CBN weapons should not hamper international cooperation in materials, equipment, and technology for peaceful purposes, and calls upon States to pursue multilateral cooperation to this end.⁴⁵

44 Thirty-two African States have designated national 1540 points of contact at the national level with almost 70% designated within the ministries of foreign affairs and defence. While this is common practice elsewhere, not all States in Africa have inter-institutional mechanisms that ensure the involvement of concerned entities in implementation. For more information see 1540 Committee, 'National Points of Contact,' <https://www.un.org/en/sc/1540/national-implementation/national-points-of-contact.shtml>.

45 UN Security Council, Resolution 1540, Preambular para. 7 and operative para. 8 (c).

BOX 4 THE AfCFTA AGREEMENT AND ITS PROTOCOLS^a

The AfCFTA Agreement,^b which entered into force in May 2019, is anchored in the Constitutive Act of the AU and its objective to achieve the political and socio-economic integration of the continent.^c The Agreement aims to harmonise trade rules and progressively eliminate barriers to the flow of goods and services to boost intra-African trade across all sectors of the economy, thereby establishing a single market connecting 1.3 billion people from 55 AU Member States.

To administer, monitor, and evaluate implementation, the Agreement establishes an institutional framework consisting of three organs:

- the Assembly of Heads of State and Government;
- the Council of Ministers for Trade;
- the Committee of Senior Trade Officials; and
- the Secretariat.

The Agreement incorporates several protocols, three of which were concluded in the initial phase. These are the protocols concerning Trade in Goods, Trade in Services, and Rules and Procedures on the Settlement of Disputes. Additional protocols are under negotiation covering Investment, Intellectual Property Rights, Competition Policy, Digital Trade, and Women and Youth in Trade.

The Protocol on Trade in Goods has nine annexes, three of which directly deal with customs and border management, these are the annexes on Customs Cooperation and Mutual Administrative Assistance, Trade Facilitation, and Transit. The annexes outline measures and arrangements to standardise and harmonise procedures, as well as strengthen cooperation in enforcement, prevention, and investigation of related offenses. The implementation of the Protocol is steered by the Committee for Trade in Goods, including its Sub-Committee on Trade Facilitation, Customs Cooperation and Transit.

a For more information on the AfCFTA Agreement, visit <https://au-afcfta.org/>

b Agreement establishing the AfCFTA, (2018), https://au.int/sites/default/files/treaties/36437-treaty-consolidated_text_on_cfta_-_en.pdf

c African Union, *Constitutive Act of the African Union*, Art. 3 (c), <https://au.int/en/constitutive-act>

For its part, the AfCFTA Agreement recognises the importance of international security for the development of international trade and economic cooperation.⁴⁶ The Agreement therefore acknowledges the obligations of its States Parties under international law where it provides that nothing in the Agreement shall be construed to ‘prevent any State Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security’.⁴⁷ This underlines that the Agreement does not conflict with States’ obligations under the UN Charter and, by extension, UNSCR 1540.

BOX 5 AFCFTA PROTOCOL ON TRADE IN GOODS, ARTICLE 27 – SECURITY EXCEPTIONS^a

‘Nothing in this Protocol shall be construed to:

- (a) require any State Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
- (b) prevent any State Party from taking any action which it considers necessary for the protection of its essential security interests:
 - i relating to fissionable materials or the materials from which they are derived;
 - ii relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials taking place either directly or indirectly for the purpose of supplying a military establishment; and
 - iii taken in time of war or other emergency in international relations; or
- (c) prevent any State Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.’

a Agreement establishing the AfCFTA, Protocol on Trade in Goods, part VIII, art. 27

Overall, the AfCFTA Agreement is expected to boost intra-African trade by 40%, with transformative effects on the region’s economy.⁴⁸ Among the objectives of the AfCFTA Agreement is ‘enhancing industrial development across the continent, including through

46 Agreement establishing the AfCFTA, para. 7.

47 Agreement establishing the AfCFTA, *Protocol on Trade in Goods*, part VIII, art. 27.

48 UN, Economic Commission for Africa, *African Continental Free Trade Area (AfCFTA) to significantly increase traffic flows on all transport modes*, (April 7, 2022), <https://www.uneca.org/stories/african-continental-free-trade-area-%28afcfta%29-to-significantly-increase-traffic-flows-on-all>.

diversification and regional value chain development, agricultural development, and food security'.⁴⁹ When the AfCFTA Agreement was signed, intra-African trade was already dominated by industry.⁵⁰ The inaugural edition of the Africa Industrialization Index, released in 2022, shows that 37 African States have become more industrialised over the past decade, with industrial development taking place across all sub-regions at a slow but steady pace.⁵¹ Notably, manufacturing growth in Africa during the last decade has outpaced the global growth rate.⁵² The sector has also demonstrated an impressive level of resilience during the COVID-19 pandemic where existing capacities were repurposed to scale up pharmaceutical production and lay the groundwork for vaccine production. The sector has also refocused on industrialisation of agriculture and agro-processing products, and increased use of technology.⁵³

With the advent of the AfCFTA Agreement, the industrial sector is further expected to experience the highest growth, especially with respect to chemical, rubber, plastic, and pharmaceutical products, vehicles and transport equipment, and metals.⁵⁴ The AfCFTA Agreement will also prompt a shift from extractive exports toward industrialised goods to protect economies from the associated volatilities, add value to natural resources, and secure sustainable growth.⁵⁵ For example, several studies show that States with a wealth of critical raw material – such as cobalt,

'With the advent of the AfCFTA Agreement, the industrial sector is further expected to experience the highest growth, especially with respect to chemical, rubber, plastic, and pharmaceutical products, vehicles and transport equipment, and metals'

49 African Union, *Agreement establishing the African Continental Free Trade Agreement*, (2018), art 3(g), https://au.int/sites/default/files/treaties/36437-treaty-consolidated_text_on_cfta_-_en.pdf.

50 UN Economic Commission for Africa, 'New assessment of the economic impacts of the agreement establishing the African continental free trade area on Africa' (Policy Brief, July 2021), 1–9, <https://hdl.handle.net/10855/46750>.

51 AfDB, *Africa Industrialization Index 2022*, <https://www.afdb.org/en/documents/africa-industrialization-index-2022>.

52 AfDB, 'Africa Industrialization Day: Unlocking Africa's "value-added" industrial potential,' November 20, 2020, <https://www.afdb.org/en/news-and-events/africa-industrialization-day-unlocking-africas-value-added-industrial-potential-39116>.

53 UN Conference on Trade and Development, 'How can transformative industrialization and implementation of the AfCFTA stimulate Africa's sustainable development post COVID-19?', July 29, 2021, <https://unctad.org/meeting/unctad15-pre-event-how-can-transformative-industrialization-and-implementationofcfta>

54 UN Economic Commission for Africa, *New assessment*, page 1-9.

55 UN Economic Commission for Africa, 'African Continental Free Trade Area: Questions & Answers,' 2019, [African Continental Free Trade Area: Questions & Answers \(uneca.org\)](https://www.uneca.org/africa-continental-free-trade-area-questions-answers).

copper, phosphate, and lithium – can play a major role in the global lithium-ion battery supply chain and attract investment for downstream processing and manufacturing.⁵⁶

The shift towards industrial nearshoring, especially in the pharmaceutical sector, also comes in response to the growing number of public health emergencies and their humanitarian and economic impacts, recently underscored by the COVID-19 pandemic.⁵⁷ The disruption to the global supply chains and limited access to diagnostics, therapeutics, and vaccines has had the most impact on the informal sector. This constitutes nearly 70% of African economies, threatening to set back decades of development gains.⁵⁸ These factors prompted the development of the Partnerships for African Vaccine Manufacturing Framework for Action, which seeks to scale-up the vaccine manufacturing industry from 1% to 60% of the required vaccine doses (about 1.5 billion) by 2040.⁵⁹ Progress is already underway with 17 manufacturers in eight States announcing plans to commence production.⁶⁰

‘The shift towards industrial nearshoring, especially in the pharmaceutical sector, also comes in response to the growing number of public health emergencies and their humanitarian and economic impacts’

In powering trade and industry growth, the continent intends to deploy a range of energy sources. The African Common Position on Energy Access and Just Transition (the Common Position) provides that ‘natural gas, green and low carbon hydrogen and nuclear energy will [...] play a crucial role in expanding modern energy access in the short to medium term while enhancing the uptake of renewables in the long term for low

56 UN Development Programme, *Futures Report*, November 2021, <https://www.undp.org/africa/publications/futures-report-2021>; BloombergNEF, ‘The Cost of Producing Battery Precursors in the DRC,’ November 2021, <https://about.bnef.com/blog/producing-battery-materials-in-the-drc-could-lower-supply-chain-emissions-and-add-value-to-the-countrys-cobalt/>.

57 African Union, ‘Call To Action: Africa’s New Public Health Order,’ September 21, 2022, <https://africacdc.org/news-item/call-to-action-africas-new-public-health-order/>.

58 Africa Centres for Disease Control and Prevention, ‘Framework for Fair, Equitable and Timely Allocation of COVID-19 Vaccines in Africa,’ January 2021, <https://africacdc.org/download/framework-for-fair-equitable-and-timely-allocation-of-covid-19-vaccines-in-africa/>.

59 Africa Centres for Disease Control and Prevention, ‘Partnerships for African Vaccine Manufacturing (PAVM) Framework for Action,’ 2022, <https://africacdc.org/download/partnerships-for-african-vaccine-manufacturing-pavm-framework-for-action/>.

60 Clinton Health Access Initiative, Inc., ‘The African vaccine manufacturing ecosystem: supply landscape and expansion plans,’ (White Paper, December 2022), <https://www.clintonhealthaccess.org/research/african-vaccine-manufacturing-supply-landscape-and-expansion-white-paper/>.

carbon and climate-resilient trajectory'.⁶¹

In adopting the Common Position, the AU Executive Council requested the African Commission on Nuclear Energy and African Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology to 'accelerate the implementation of appropriate frameworks to utilize nuclear energy and continue to foster cooperation at the regional, continental and global levels to mobilize financing, acquire technologies, enhance skills and expertise, and associated risks'.⁶²

'In powering trade and industry growth, the continent intends to deploy a range of energy sources'

Africa's interest in nuclear energy is not new. Currently, the continent is home to one operational nuclear power plant and eleven research reactors,⁶³ while several African countries plan to commission nuclear power plants in the next decade. Between 2013 and 2021, the IAEA undertook Integrated Nuclear Infrastructure Review visits to nine States that are exploring nuclear energy.⁶⁴ Currently, Egypt has commenced construction of its first nuclear reactor⁶⁵ while Ghana is expected to commission its first nuclear power plant by 2030.⁶⁶ Furthermore, at least 5 African States have expressed interest, or are already participating in the development of small modular reactors as a relatively affordable option compared to traditional reactors.⁶⁷

While trade in services will grow moderately under the AfCFTA Agreement compared to trade in goods, this growth will nevertheless be significant.⁶⁸ Intra-African trade in services is expected to reach 39.2% by 2045 with transport being among the subsectors with the

61 AU, 'Africa Speaks with Unified Voice as AU Executive Council Adopts African Common Position on Energy Access and Just Energy Transition', press release, July 22, 2022, <https://au.int/en/pressreleases/20220722/africa-speaks-unified-voice-au-executive-council-adopts-african-common>.

62 AU, 41st Ordinary Session of the Executive Council, decision EX.CL/Dec.1169(XLI), July 14-15, 2022, <https://au.int/en/decisions/decisions-forty-first-ordinary-session-executive-council>.

63 IAEA, Research Reactors in Africa: A directory, 2020 Edition, <https://www.iaea.org/sites/default/files/20/07/research-reactors-in-africa-2020.pdf>.

64 IAEA, Peer Review and Advisory Services Calendar, <https://www.iaea.org/services/review-missions/calendar>.

65 Gamal Essam El-Din, 'Egypt, Russia to lay foundation for Dabaa's second nuclear reactor on Saturday,' *Ahram Online*, November 18, 2022, <https://english.ahram.org.eg/News/480026.aspx>.

66 IAEA, *Climate Change and Nuclear Power*, 2022, <https://www.iaea.org/sites/default/files/iaea-ccnp2022-body-web.pdf>.

67 IAEA, 'Small Modular Reactors: A new nuclear energy paradigm,' September 22, 2022, https://nucleus.iaea.org/sites/smr/Shared%20Documents/SMR%20Booklet_22-9-22.pdf.

68 UN Economic Commission for Africa, 'New assessment of the economic impacts of the agreement establishing the African continental free trade area on Africa: Policy Brief,' July 2021, 1, <https://hdl.handle.net/10855/46750>.

largest projected growth.⁶⁹ By 2030, and with the planned infrastructure and services in place, the increased trade in goods will hike the demand for freight by nearly 28% across all transport modes. This includes rail, maritime, and air, with the latter nearly doubling in volume.⁷⁰

This growth in trade, industry and services will fuel the demand for advanced technologies, materials and equipment from a range of sectors such as energy, agriculture and agro-processing, chemical and pharmaceutical industries, extractive industries, and material processing. Whether supplied from within the continent or globally, a host of these technologies, materials, and equipment will potentially be of a dual-use nature and therefore subject to export controls. Data consolidated by the Strategic Trade Atlas of the European Commission Joint Research Centre indicates that Africa's share in the import and export of dual-use commodities for the period 2017–2021 were fairly moderate compared to other regions but are nonetheless spread across the continent as graphically represented in Figures 1 and 2.⁷¹ The implementation of the AfCFTA Agreement and related continental initiatives will likely expand these flows significantly.

FIGURE 1 NUMBER OF IMPORT EXPORT RECORDS BY COUNTRY



Source: Versino, Cristina; Martino, Stefano (2023): Strategic Trade Atlas Data 2017-2021. European Commission, Joint Research Centre (JRC) [Dataset] PID: <http://data.europa.eu/89h/615dfdd-4d29-4b0c-b558-56b8b8276da0>

69 UN Economic Commission for Africa, 'New assessment,' 9.

70 UN Economic Commission for Africa, 'The African Continental Free Trade Area and Demand for Transport Infrastructure and Services,' 2022, <https://hdl.handle.net/10855/47596>.

71 Cristina Versino, Stefano Martino, Strategic Trade Atlas Data 2017-2021. European Commission, Joint Research Centre. [Dataset] PID: <http://data.europa.eu/89h/615dfdd-4d29-4b0c-b558-56b8b8276da0>

FIGURE 2 NUMBER OF IMPORT RECORDS BY COUNTRY



Source: Cristina Versino; Stefano Martino, Strategic Trade Atlas Data 2017-2021. European Commission, Joint Research Centre. [Dataset] PID: <http://data.europa.eu/89h/615fdfdd-4d29-4b0c-b558-56b8b8276da0>

To meet the predicted rise in demand for technologies, materials and equipment of a dual-use nature, importing States in Africa and their respective sectors will have to demonstrate the capacity to prevent their diversion and comply with the related end-user controls. Likewise, producers and exporters of relevant dual-use goods in Africa have the obligation to ensure that such items do not contribute to non-State actor proliferation both inside and outside the African continent. Considering the complex supply chains on which international trade relies, the responsibility for preventing diversion rests not only on importers and exporters, but extends to transit and trans-shipment States. It also necessitates controlling related services, such as brokering and financing.

The effective implementation of UNSCR 1540 offers significant benefits in this regard. Regulatory measures can reduce risks and build confidence in the ability of African States to secure sensitive items and prevent their diversion. Border and law enforcement measures under UNSCR 1540 also complement efforts to combat illicit trafficking of counterfeit goods, including

‘Border and law enforcement measures under UNSCR 1540 also complement efforts to combat illicit trafficking of counterfeit goods’

pharmaceuticals, agricultural products, and chemicals. Likewise, economic benefits can also be derived from producers and exporters establishing themselves as responsible possessors of sensitive materials and technology and reliable partners in the global supply chain. More broadly, these measures contribute to a transparent and predictable environment conducive to trade and investment, thereby enhancing the continent's share of international trade and its role in supply chains of licit goods and services.

CONCLUSION: OPPORTUNITIES FOR SYNERGY IN IMPLEMENTING UNSCR 1540 AND THE AfCFTA AGREEMENT

States Parties to the AfCFTA Agreement are obliged to cooperate on customs and all trade-related matters and to enhance efficiency of customs procedures, trade facilitation, and transit.⁷² The Agreement provides that the Council of Ministers, established by article 11, is responsible for promoting the harmonisation of appropriate policies, strategies, and measures for the effective implementation of the AfCFTA Agreement.⁷³

Similarly, UNSCR 1540 and its successor place a high premium on cooperation at the sub-regional, regional, and international levels to strengthen the global response to the threat posed by non-State actor proliferation and to promote the sharing of experience, lessons learned, and effective practices. The AfCFTA Agreement and its institutional framework could therefore provide a suitable platform to promote dialogue and foster cooperation and exchange of expertise among States in their efforts to implement UNSCR 1540, particularly with respect to border and export controls. Specifically, cooperation can help ensure effective and harmonised practices among States in a manner consistent with their trade liberalisation obligations and without hindering legitimate trade.

'Cooperation can help ensure effective and harmonised practices among States in a manner consistent with their trade liberalisation obligations and without hindering legitimate trade'

72 Agreement establishing the AfCFTA, *Protocol on Trade in Goods*, part VIII, art. 4 (d, e) and art. 2, 2(c).

73 AfCFTA Agreement, art 11 para 3 (e).

This paper examined a number of areas where the objectives of UNSCR 1540 and the AfCFTA Agreement intersect, and which merit further exploration. Through collaborative approaches, the AfCFTA Agreement organs, the 1540 Committee, the UNODA and the relevant regional and international bodies, can consider the following pathways for action.

- Based on the 1540 matrices, form a shared understanding of the status of implementation of border and export control obligations under UNSCR 1540 in Africa as well as the gaps and challenges confronting States in this regard. Including with respect to legislative measures, human, and technical enforcement capacities, and specific capacity building and assistance needs.
- Establish platforms and avenues to maintain dialogue between the relevant AfCFTA organs, the 1540 Committee, and the relevant international and regional organisations to raise awareness among stakeholders on the benefits of effective export and border controls to trade facilitation and discuss potential actions to strengthen synergies where appropriate.
- Identify approaches to harmonise export and border control measures among States in a manner consistent with the AfCFTA Agreement, including by drawing lessons learned and effective practices from other regional experiences,⁷⁴ as well as means to adapt them to the African context.
- Develop assistance and guidance tools that can support States in implementing their obligations in a coherent and harmonised manner, including model controls lists, common guidelines on licensing and brokering, guidelines on transit and transshipment controls, as well as the related training and capacity building activities. These initiatives could also be implemented within the framework of the MoU between the AfCFTA Secretariat and the WCO signed in February 2022.⁷⁵
- Utilise existing data sources, such as the United Nations Commodity Trade Statistics Database, the Strategic Trade Atlas, and others, to assess the flows of dual-use

74 These may include the European Union export control system, as well as ongoing efforts by the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean to roll out guides on harmonized and tailored control lists, focus lists, and licensing.

75 The MoU has four broad objectives: 1) to capacitate the AfCFTA on ICT systems that would allow the standardisation of data and the connectivity of customs systems on the continent; 2) to develop an AfCFTA e-tariff Book to commence trading in terms thereof; 3) enhance the skills and expertise of customs officials to operationalise the AfCFTA; and 4) the migration of all AfCFTA States Parties to a Harmonised System. The said MoU thus provides a window of opportunity to build capacities in the area of dual-use export controls and thereby strengthening of UNSCR 1540 implementation. For more information see AfCFTA Secretariat, 'The AfCFTA and World Customs Union (WCO) join forces to operationalize the liberalization of trade', press release, February 22, 2022, <https://au-afcfta.org/2022/02/the-afcfta-and-the-world-customs-organisation-wco-join-forces-to-operationalise-the-liberalisation-of-trade/>.

commodities into and within the continent to inform and tailor export and border control efforts and possibly project future trends in the demand for and acquisition of dual-use commodities.⁷⁶

- Engage African industries and service sector, including transport, to raise their awareness of UNSCR 1540 and their responsibilities under the law, and jointly explore effective means and solutions to prevent proliferation by non-State actors and foster public-private cooperation.⁷⁷

76 The United Nations Commodity Trade Statistics Database is the largest depository of international trade data. It contains well over 5 billion data records since 1962 and is available publicly on the internet. The Strategic Trade Atlas is a project of the European Commission Joint Research Centre developed to promote understanding of global trade flows of strategic goods.

77 The 'Wiesbaden Process' is an example of outreach efforts that aim to sustain dialogue with industry to facilitate shared understanding and foster public-private cooperation in the implementation of export controls within the context of UNSCR 1540. The first of such outreach conferences was held in Wiesbaden, Germany, in 2012. Since then, regional conferences have been held in Europe, Asia, Latin America and Southern Africa to engage industry in the specific regions and address region-specific trade and security issues. For more information see UNODA, 'India-Wiesbaden Conference call for Enhanced Cooperation with Industry in Combating Proliferation,' April 23, 2018, [India-Wiesbaden Conference calls for enhanced cooperation with industry in combating proliferation of WMD – UNODA](#).



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