



Security Council

Distr.: General
16 August 2019
English
Original: French

Security Council Committee established pursuant to resolution [1540 \(2004\)](#)

Note verbale dated 9 August 2019 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Luxembourg to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution [1540 \(2004\)](#) and has the honour to refer to his note verbale of 18 March 2019 requesting that the Government of Luxembourg provide updated information regarding implementation of Security Council resolution [1540 \(2004\)](#) (see annex).

The Permanent Mission of Luxembourg to the United Nations has the honour to transmit herewith an updated report on the subject.



Annex to the note verbale dated 9 August 2019 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

National report of Luxembourg on the implementation of Security Council resolution 1540 (2004)

Policy of Luxembourg in relation to the provisions of resolution 1540 (2004)

1. Luxembourg welcomed the adoption by the Security Council of resolution 1540 (2004). We remain committed to complying with and implementing all the provisions of that resolution.
2. The risk of seeing terrorists gaining access to weapons of mass destruction and their means of delivery or to chemical, biological, nuclear or radioactive materials continues to pose a threat to international peace and security. The resolution is an effective instrument of international law, particularly with regard to non-State actors.
3. Luxembourg has also signed and ratified the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. The provisions of those treaties have been incorporated into Luxembourg legislation.
4. Luxembourg has also signed and ratified an Additional Protocol to the International Atomic Energy Agency (IAEA) Safeguards Agreement. That Agreement was ratified by the Act of 1 August 2001 and came into force on 30 April 2004 simultaneously in Luxembourg and all European Union member States.
5. Furthermore, Luxembourg is an active member of export control regimes such as the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement. The control lists of these regimes have been incorporated into Council Regulation (EC) No. 428/2009 (dual-use goods and technology) and Council Common Position 2008/944/CFSP (control of exports of military technology and equipment), which are updated regularly and are applicable in Luxembourg.
6. Luxembourg has subscribed to the Hague Code of Conduct against the Proliferation of Ballistic Missiles, an important policy instrument in the fight against the proliferation of ballistic missiles as a means of delivery of weapons of mass destruction, which has proved to be an effective confidence-building measure.
7. The creation of the Proliferation Security Initiative addressed an urgent need to combat the illicit transport of weapons of mass destruction and related materials and equipment. Luxembourg endorses the Statement of Interdiction Principles, adopted on 4 September 2003 in Paris, and intends to actively work towards its success.
8. The Global Initiative to Combat Nuclear Terrorism was developed in response to an urgent need to combat the diversion of radiological or nuclear materials for terrorist purposes. Luxembourg supports the Statement of Principles of the Initiative, agreed in Rabat on 31 October 2006, and is working actively towards its success.
9. The European Council adopted at Thessaloniki in June 2003 a Declaration on Non-proliferation of Weapons of Mass Destruction. In December 2003, that commitment was given concrete effect through the adoption of a European Union Strategy against the Proliferation of Weapons of Mass Destruction. The Strategy recognizes that non-proliferation, disarmament and arms export control policies make a substantial contribution to the fight against terrorism by reducing the risk of non-State actors gaining access to weapons of mass destruction and their means of

delivery as well as to related materials and equipment. As a member of the European Union, Luxembourg fully supports this instrument and is actively working towards its implementation.

10. In December 2006, the Council of the European Union endorsed a concept paper on how to monitor and enhance further the consistent implementation of the European Strategy against the proliferation of weapons of mass destruction through a weapons of mass destruction monitoring centre. Since the entry into force of the Lisbon Treaty on 1 December 2009, the consistency of European Union actions in combating the proliferation of weapons of mass destruction has been guaranteed by the European External Action Service. A consortium of leading non-proliferation think-tanks was established in 2010 to promote academic guidance and advice to the Service.

11. On 13 December 2010, the Council of the European Union adopted new lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems in order to raise the profile of non-proliferation measures within the European Union by turning this fundamental security issue into a cross-cutting priority of member States' policies in this field, and to identify existing best practice and to spread such practice at the level of member States.

12. In February 2017, Luxembourg joined the Nuclear Security Contact Group. Like the national security summits, the Group addresses emerging challenges in the area of nuclear security. Luxembourg recognizes the importance of implementing the commitments made by the Group and supports continued and sustainable action to create a comprehensive nuclear security architecture.

13. In April 2018, Luxembourg joined the International Partnership against Impunity for the Use of Chemical Weapons. The purpose of that partnership is to complement international regimes to combat the proliferation of chemical weapons by ensuring that perpetrators of chemical attacks anywhere in the world do not escape with impunity. For instance, Luxembourg has undertaken to use all existing mechanisms to identify the individuals and entities involved by providing all available documentation and supporting multilateral action to sanction them.

National bodies responsible for the implementation of resolution 1540 (2004)

Ministry of Foreign and European Affairs

The Department of Political Affairs in the Ministry of Foreign and European Affairs is the focal point for relations with the 1540 Committee. At the national level, the Ministry ensures coordination among the relevant ministries and bodies responsible for implementing resolution 1540. Under the direction of the Ministry of Foreign and European Affairs, a national authority is responsible for the obligations under the Chemical Weapons Convention and for liaising with the Organisation for the Prohibition of Chemical Weapons. The Ministry also acts as co-decision-maker for several types of authorization pertaining to export controls.

Ministry of State

The intelligence service of the Ministry of State is responsible for proactively gathering, analysing and processing intelligence relating to any activity that threatens or is likely to threaten the security of the Grand Duchy of Luxembourg, of States to which it is bound by a joint defence agreement, of international organizations that are based or operate in Luxembourg, or of Luxembourg's international relations.

Office of Export, Import and Transit Control, Ministry of the Economy

Within the Ministry of Economy, the Office of Export, Import and Transit Control is responsible for implementing Security Council resolution 1540 (2004) in

its area of competence. Authorizations for export, transit, transfer, brokering, technical assistance and intangible technology transfer are required, inter alia, for dual-use goods and defence-related products on the basis of the relevant European regulations. With regard to national legislation, such authorizations are granted jointly by the ministers whose responsibilities include foreign trade and foreign affairs.

Every application is processed individually taking into account the relevant goods or technology, the receiving party, the destination country, the end-user and the end use. Each application must include a certificate of end use or end-user. Applications are analysed and assessed on the basis of criteria established by European Union working groups.

Applications for export licences may be denied if a particular transaction is deemed harmful to the interests of Luxembourg or its allies; the transaction would contravene its commitments under non-proliferation regimes; the goods to be exported are to be or can be used for the development, manufacture, handling, operation, maintenance, stockpiling, detection, identification or dissemination of chemical, biological or nuclear weapons or the development, manufacture, maintenance or stockpiling of missiles for the delivery of such weapons; a European Union member State or another State party to any non-proliferation and export control regime has already denied a similar transaction and notified its other partners accordingly; or the application is not properly completed, is incomplete or inaccurate and the exporter refuses to cooperate with the authorities. A similar approach is used with respect to the processing of applications for the transit of strategic goods.

Customs and Excise Department, Ministry of Finance

As part of the efforts to combat fraud and drug addiction as well as to control the export, transit and import of all kinds of sensitive goods, including the chemical precursors of narcotic drugs, biological, chemical and nuclear weapons and dual-use goods, the Customs and Excise Department has several operational inspection units responsible for freight issues at Luxembourg airport. The Findel Freight Control Unit, which is part of one such inspection unit, is responsible for targeting sensitive air freight leaving and entering European Union territory through Findel airport. In Luxembourg, Findel airport is the only direct point of entry into and exit from European Union territory, since the country is surrounded by European Union member States.

The Findel Freight Control Unit also carries out continuous checks based either on documentary and/or electronic assessments or on the physical assessment of goods transiting through Luxembourg airport. Those checks are regulated by the Act of 27 June 2018 concerning controls on the export, transfer, transit and import of goods of a strictly civilian nature, defence-related products, dual-use goods, brokering, technical assistance, intangible technology transfers, and the implementation of Security Council resolutions and European Union acts imposing restrictive trade measures on certain States, political regimes, persons, entities and groups.

Radiation Protection Division, Ministry of Health

The Radiation Protection Division is responsible for protecting the public against the dangers of ionizing radiation. It is responsible for maintaining an updated inventory of substances, materials and equipment that emit ionizing radiation.

The Radiation Protection Division also has jurisdiction, together with the Office of Export, Import and Transit Control, over transfers of nuclear material, equipment and technology.

The Radiation Protection Division, together with the Ministry of Foreign Affairs, the Office of Export, Import and Transit Control, the Customs and Excise Department and the Intelligence Service, is responsible for preventing, investigating and reporting violations with respect to the implementation of legislation relating to weapons of mass destruction.

Compliance by Luxembourg with the requirements of individual paragraphs of resolution 1540 (2004)

Paragraph 1

Decides that 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 nuclear, chemical or biological weapons and their means of delivery;

Luxembourg does not provide any 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.

Paragraph 2

Decides also that 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 nuclear, chemical or biological weapons 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;

- All the obligations under the Nuclear Non-Proliferation Treaty, the Safeguards Agreement and Additional Protocol, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention have been incorporated into Luxembourg legislation:
 - The Act of 20 December 1974 ratifying the Nuclear Non-Proliferation Treaty;
 - The Act of 28 November 1975 ratifying the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;
 - The Act of 10 April 1997 ratifying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction;
 - The Grand-Ducal Regulation of 3 June 1997 implementing the Act of 10 April 1997 ratifying the Chemical Weapons Convention;
 - The Act of 1 August 2001 ratifying the Additional Protocol on the strengthening of the non-proliferation of nuclear weapons designed to detect clandestine nuclear activities;
 - Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment;
 - Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;
- The Act of 15 March 1983 on weapons and ammunition introduces into Luxembourg legislation the prohibition of the use of weapons or other devices containing lachrymatory, toxic, asphyxiating, irritant or similar substances to

attack people. The Act and its numerous implementing regulations were brought together in a coordinated text on 15 December 2011;

- The amendment to the Act of 10 April 1997 ratifying the Chemical Weapons Convention provides for penalties against anyone who attempts to use, develop, manufacture, acquire, transfer or stockpile chemical weapons. Under Article 4, Customs and Excise officers holding the rank of deputy inspector or higher can act as police officers (*officiers de police judiciaire*) with authority to investigate and report infringements of the Act wherever they may occur in the country;
- The Act of 12 August 2003 on the suppression of terrorism and of its financing and the approval of the International Convention for the Suppression of the Financing of Terrorism;
- The Act of 27 October 2010 on the strengthening of the legal framework to combat money-laundering and the financing of terrorism; on the organization of controls on the physical transportation of cash when entering, transiting through or leaving the Grand Duchy of Luxembourg; and on the implementation of Security Council resolutions and acts adopted by the European Union concerning prohibitions and restrictive measures in financial matters in respect of certain persons, entities and groups as part of the effort to combat the financing of terrorism;
- In June 2018, Luxembourg introduced a new legal framework for export controls which strengthens the national control regime in order to prevent any non-State actor from obtaining, transporting or transferring nuclear, chemical or biological weapons or their means of delivery, in particular for political purposes. That framework is enshrined in the Act of 27 June 2018 concerning:
 - Controls on the export, transfer, transit and import of goods of a strictly civilian nature, defence-related products and dual-use goods;
 - Brokering and technical assistance, intangible technology transfers, and implementation of Security Council resolutions and European Union acts imposing restrictive trade measures on certain States, political regimes, entities and groups.

Luxembourg is:

- Currently preparing new legislation strengthening the legal framework for implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed in Paris on 13 January 1993;
- Actively participating in the process of updating Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment;
- Actively participating in the process of updating Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

- (a) *Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;*

- The Act of 28 May 2019 addresses the protection of human health from dangers resulting from ionizing radiation and the securing of sources of ionizing radiation from malicious acts. The Radiation Protection Division draws up an inventory at the national level of all substances, materials and equipment that emit ionizing radiation. That inventory is regularly updated;
- Council Regulation (EC) No. 428/2009 establishes a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

(b) Develop and maintain appropriate effective physical protection measures;

- The Act of 28 May 2019 on protecting human health from dangers resulting from ionizing radiation and on securing the sources of ionizing radiation from malicious acts highlights the importance of physical protection, particularly with regard to transport, transit, import, export, stockpiling and storage;
- Luxembourg is a party to the Treaty establishing the European Atomic Energy Community (EURATOM). The safeguards agreements provided for under Chapter 7 of the Treaty are implemented by the European Commission, which ensures that nuclear materials are not diverted from their civilian use in Luxembourg;
- Luxembourg has signed the IAEA Code of Conduct on the Safety and Security of Radioactive Sources;
- By the Act of 11 April 1985, Luxembourg ratified the Convention on the Physical Protection of Nuclear Material;
- In April 2018, Luxembourg endorsed the joint statement on strengthening the security of high-activity sealed radioactive sources (INFCIRC/910). The statement calls for the adoption of an appropriate approach to strengthen the existing framework to better manage the end of life of high-activity sealed radioactive sources, based upon the best available legal and technical data.
- Also in April 2018, Luxembourg endorsed the joint statement on minimizing and eliminating the use of highly enriched uranium in civilian applications (INFCIRC/912). Luxembourg is thus committed to making every effort to achieve further progress with regard to minimizing and eliminating the use of highly enriched uranium in civilian applications. By minimizing and eliminating highly enriched uranium stocks, States also eliminate the risk that terrorists could acquire such stocks in their country. Therefore, highly enriched uranium minimization is a way to permanently reduce the threat of nuclear terrorism.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

- The Act of 27 June 2018 concerning controls on the export, transfer, transit and import of goods of a strictly civilian nature, defence-related products and dual-use goods provides as follows:
 - Officials of the Grand Duchy Police Force and persons referred to in article 52 shall have accesses to the premises, facilities, sites, means of transport and all locations where the goods referred to in the Act or its implementing regulations are manufactured, handled, stored or sold. When there is serious evidence that the Act or its implementing regulations may

have been violated, they may enter those premises, facilities, sites, means of transport and locations by day or by night.

- Customs and Excise officials may suspend the export, import or transit through the territory of the Grand Duchy of Luxembourg of the relevant goods or, if necessary, use other means to prevent their leaving the European Union via the territory of the Grand Duchy of Luxembourg.
- Brokering activities involving the relevant products are explicitly covered by the Act.

(d) 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;

- The Grand Ducal regulation of 14 December 2018 on implementation of the Act of 27 June 2018 concerning export controls stipulates that applications for authorization shall include an end-user certificate containing guarantees with regard to the use of the exported goods and including a commitment not to re-export the goods. The national authorities may collect from the actors any additional information regarding the relevant activities and request detailed letters explaining those activities.
- The Act of 27 June 2018 concerning controls on the export, transfer, transit and import of goods of a strictly civilian nature, defence-related products and dual-use goods sets forth administrative sanctions for any violation thereof.
- Council Regulation (EC) No. 428/2009 establishes a Community regime for the control of exports, transfer, brokering and transit of dual-use items;
- Council Common Position 2008/944/CFSP defines common rules governing control of exports of military technology and equipment;
- Council Regulation (EC) No. 952/2013 establishes the European Union customs code (recast).

Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Luxembourg is an active member of the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement. The control lists of these regimes are integrated into the regularly updated list corresponding to Council Regulation (EC) No. 428/2009 and Council Common Position 2008/944/CFSP, which are applicable in Luxembourg.

Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Luxembourg recognizes that certain States may require outside assistance in order to implement effectively the provisions of the resolution.

Through the European Union, Luxembourg assists certain States in setting up export control mechanisms.

Paragraph 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;

In the context of the European Strategy against the Proliferation of Weapons of Mass Destruction, adopted in December 2003, and through its Council Common Position No. 2003/805/CFSP of 17 November 2003, the European Union has undertaken to work towards the strengthening and universalization of multilateral treaties in the areas of non-proliferation and disarmament.

The Union regularly approaches States that are not parties to the multilateral treaties in order to promote the universalization of those agreements.

In the context of the Nuclear Suppliers Group, the Union is working towards the establishment of the Additional Protocol as a condition of supply, thereby encouraging the universalization of Safeguards Agreements and of the Additional Protocol.

The Union seeks to incorporate non-proliferation clauses into agreements with third States.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Luxembourg has ratified all the main 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;

Every year, the European Union funds numerous projects in the area of disarmament and non-proliferation. In particular, it provides substantial funds to the Organisation for the Prohibition of Chemical Weapons, IAEA and the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO).

Luxembourg continues to provide its full support for the goals and activities of IAEA, the Organisation for the Prohibition of Chemical Weapons and CTBTO. In addition to its compulsory contribution to these organizations' budgets, Luxembourg also makes voluntary financial donations to the IAEA Technical Cooperation Fund.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

In Luxembourg, the State collaborates closely with industry. One of the official missions of the Office of Export, Import and Transit Control is to help prevent proliferation through awareness-raising activities for economic actors.

Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

Luxembourg attaches great importance to international cooperation and dialogue in the areas of non-proliferation and disarmament. It promotes dialogue and cooperation in international forums, since the threat of weapons of mass destruction is a global one and must be dealt with at the planetary level.

Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

The Proliferation Security Initiative and the Global Initiative to Combat Nuclear Terrorism, in which Luxembourg participates, are instruments that seek to intercept illicit trafficking in weapons of mass destruction, related materials and their means of delivery. These initiatives are a major contribution to international efforts against the proliferation of weapons of mass destruction, and complementary to the European Strategy against the Proliferation of Weapons of Mass Destruction.
