Established by the unanimously approved UN Security Council Resolution 1540 last April (see ACT, May 2004), the committee is tasked with reviewing reports volunteered by governments on their steps to meet the resolution’s legally binding requirement to institute “appropriate, effective” measures denying nonstate actors lethal weaponry. The resolution did not define what constitutes “appropriate” and “effective,” leaving that standard up to the committee to interpret.

The committee’s purpose in conducting the reviews is to identify where governments have overlooked or not owned up to proliferation loopholes in their national statutes, border controls, and export control systems. The committee is comprised of representatives of the current 15 members of the Security Council.

Although reports started trickling in around an October deadline last year, the committee’s consideration of those reports did not get underway until March.

An extended process to hire independent experts to assist in vetting the reports contributed to the delay. The committee selected four experts last December, but the last one did not arrive in New York to begin work until March. The experts are from Brazil, Germany, Russia, and the United States. Up to three more experts might still be hired.

India, Iran, Israel, Pakistan, and Syria have all joined the recognized nuclear-weapon states—China, France, Russia, the United Kingdom, and the United States—in submitting reports. As of March 23, a total of 105 countries had reported to the committee. North Korea is a notable exception.

Many of the other 80-some governments that have yet to file reports are from Africa and the Caribbean. Some of these states contend they do not believe the resolution applies to them because they lack the weapons and materials on which the resolution is focused. Others maintain they do not have the capacity or resources to execute the resolution’s mandate.

Still, Washington, other capitals, and the committee are urging all countries to file reports. Acting Deputy Assistant Secretary of State for Nonproliferation Mark Fitzpatrick asserted in a March 17 speech that “proliferators look for the path of least resistance—the unprotected border, the unenforced regulation, [and] the lax licensing system.” Therefore, Fitzpatrick concluded, “[e]ach state’s critical review of its own laws and regulations will help locate national, regional, and international gaps.”

The resolution calls on countries with the ability to do so to help others comply with its terms. London, Moscow, and Washington, among others, have pledged their willingness to lend such assistance, but none has been requested so far.

How the committee will seek to redress the problems or shortcomings revealed by the national reports remains unclear. An official close to the committee said its first resort would probably be notifying individual capitals of the committee’s concerns and recommendations for possible remedial steps. No judgments have been reached about follow-up steps that might be taken.
U.S. officials have said they do not view enforcement as one of the committee’s responsibilities, although they assert that their stance might be revisited.

A U.S. government official stated March 15, “The fact that Resolution 1540 has been adopted under Chapter VII of the UN Charter means that the obligations outlined in the resolution are legally binding on member states and that states can face punitive action for failing to fulfill their obligations.”

British government officials, as well as representatives of other foreign governments, hold that, because Resolution 1540 does not spell out consequences for noncompliance, an additional Security Council resolution would be required to punish a state for not fulfilling the resolution.

In addition to its hired experts, the committee has pledged to seek outside advice and assistance from international institutions. These include the International Atomic Energy Agency, which monitors peaceful nuclear programs worldwide to make sure they are not being used illicitly to produce weapons, and the Chemical Weapons Convention’s implementing body, the Organization for the Prohibition of Chemical Weapons. However, the committee is still trying to determine what type of information it wants from them.

Both U.S. and British officials have criticized the committee’s work pace. Emyr Jones Parry, the United Kingdom’s permanent representative to the United Nations, said after the December selection of experts, “I would be less than frank if I did not wonder why it has taken us so long to get to where we are.” The U.S. government official speaking March 15 commented, “The work of the [Resolution] 1540 committee, while slow to begin, is showing promise in assessing and evaluating how to close gaps against proliferation.”

Time is limited for the committee. Its expiration date, which could be extended, is set for April 28, 2006.

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