



# Export Controls and UNSC Resolutions 1540 (2004) and 1673 (2006)

Prepared for:

8<sup>th</sup> International Export Control Meeting  
Bucharest, Romania  
6-8 March 2007

Presented by:

Dr. Richard T. Cupitt  
Scholar-in-Residence, American University and  
Expert, UNSC 1540 Committee  
Tel: +1 202 210 2741  
E: [cupitt@un.org](mailto:cupitt@un.org)



# UNSC Resolution 1540 (2004): Objectives

- Prevent and deter non-State actors from developing, acquiring, trafficking, using, *et cetera*, weapons of mass destruction (WMD) and their means of delivery
- Prevent and deter illicit trafficking in WMD, their means of delivery, and related materials, including by or to State and Non-State actors
- UNSC Resolution 1673 (2006) reiterates these objectives
- Other recent Security Council resolutions, such as UNSC Resolutions 1718 and 1737, also call on States to implement effective nonproliferation export control measures



# UNSC Resolution 1540 (2004): Export Controls

- Establish, develop, review and maintain appropriate effective national export and trans-shipment controls ..., including:
  - appropriate **laws** and **regulations** to control:
    - exports
    - transit, trans-shipment and re-exports
    - providing funds and services for the above;
  - end-user controls; and
  - appropriate **criminal** or **civil penalties** for violations of such export control laws and regulations.



# UNSC Resolution 1540 (2004): Methodology

- The 1540 Committee reviewed the national reports using a matrix of implementation measures based on the text of the resolution
- Characteristics of the implementation matrix
  - It follows the operational paragraphs of the resolution
  - It consists of 382 questions (“fields”) overall
  - 156 questions relate to border and export controls, mainly from Operative Paragraphs 3 (c) and (d)

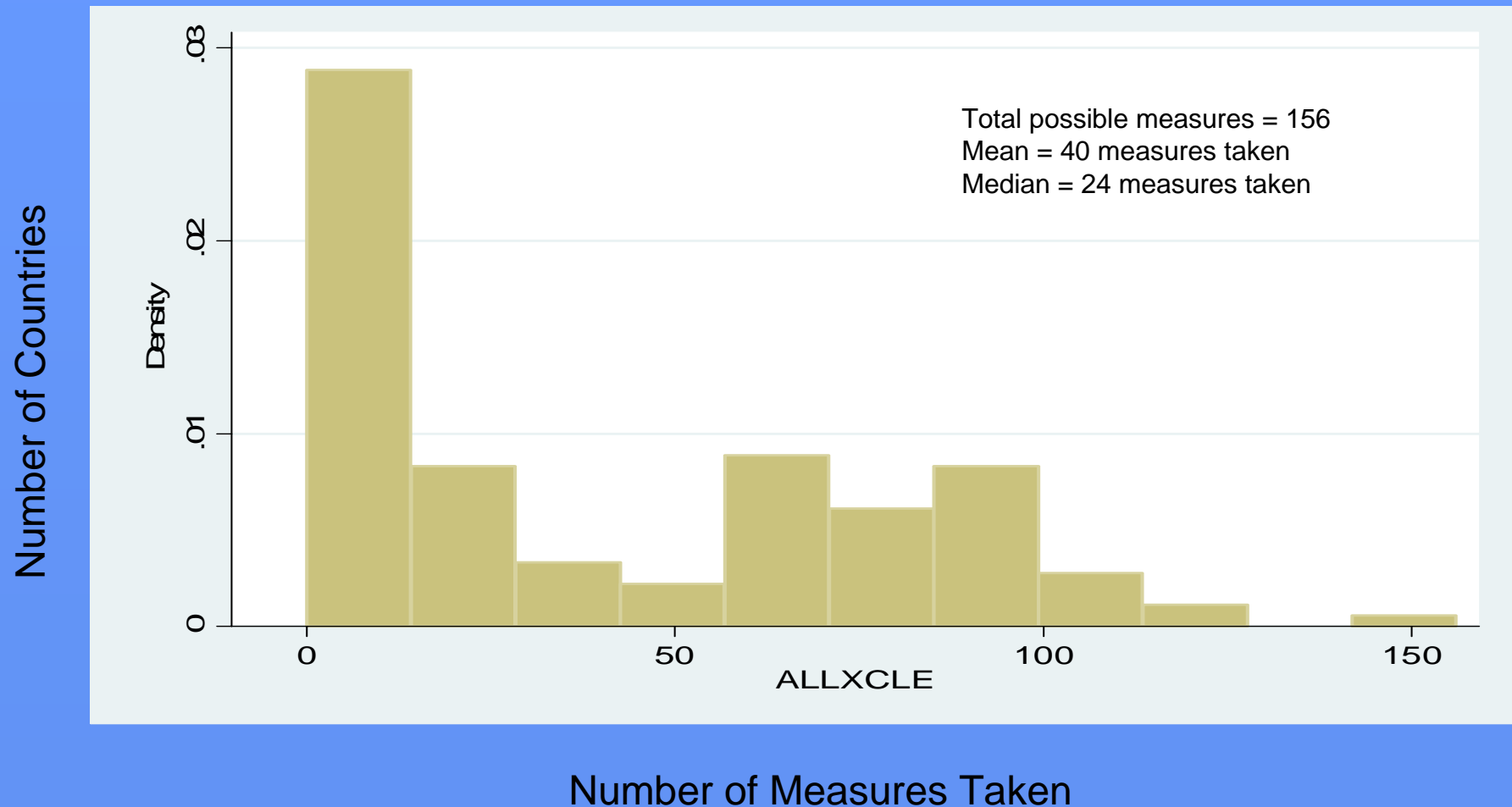


# An Index of Border and Export Control Measures by Country

- The *most* relevant fields from Operational Paragraph 3 (c) and (d) consist of matrix rows 162-187, 195-220, and 228-253.\*
- Counting each “yes” answer as 1 and then adding these answers generates a summary score for the number of measures taken by each country
- Table 1 shows the density (the number of countries) by the summary scores

\*To emphasize the most relevant activities, this index excludes the matrix fields (that is, the spreadsheet rows) denoting “other” measures.

# Table 1: Overall Measures Taken that Implement 1540 Border and Export Control Obligations





# Results

- Table 1 illustrates a “right-skewed” distribution in the number of countries taking steps to meet their 1540 obligations (i.e., it has a long tail to the right)
- Out of the 156 possible measures, States have a relatively low value for the mean number of measures taken, 40 (26%), which also exceeds the median number of measures taken, 24 (15%)
- Most States appear to fall into one of two groups:
  - States that have taken few if any measures; and
  - States that have taken around half the measures in the matrix (between 60 and 90).



# Analysis

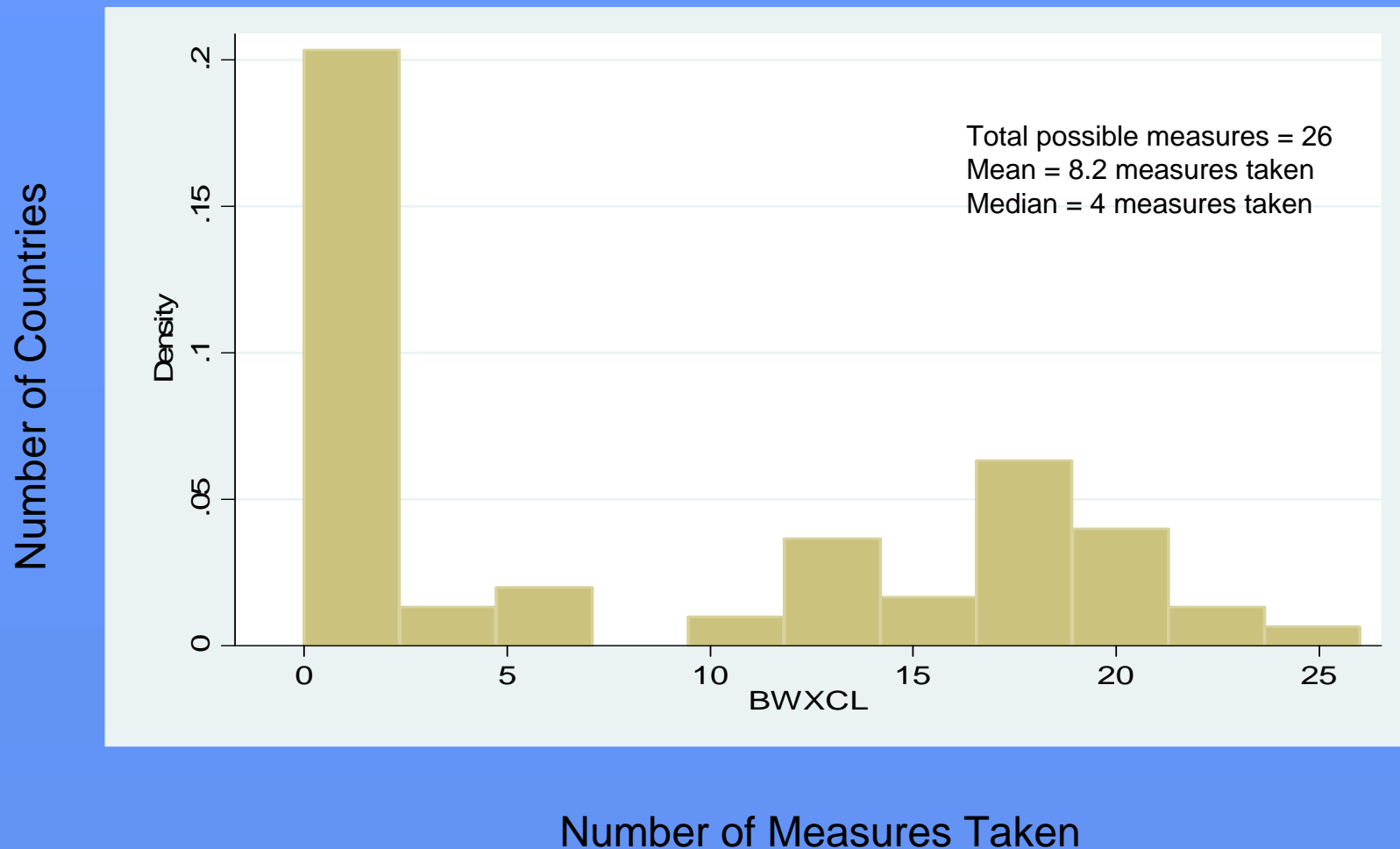
- The second group of States in Table 1 appears fairly distinct from the first group
- This suggests that a substantial number of standards and common practices have developed among some States that align with 1540 obligations
- A very small number of States appear to have adopted nearly all the measures in the matrix, which may imply the emergence of new standards



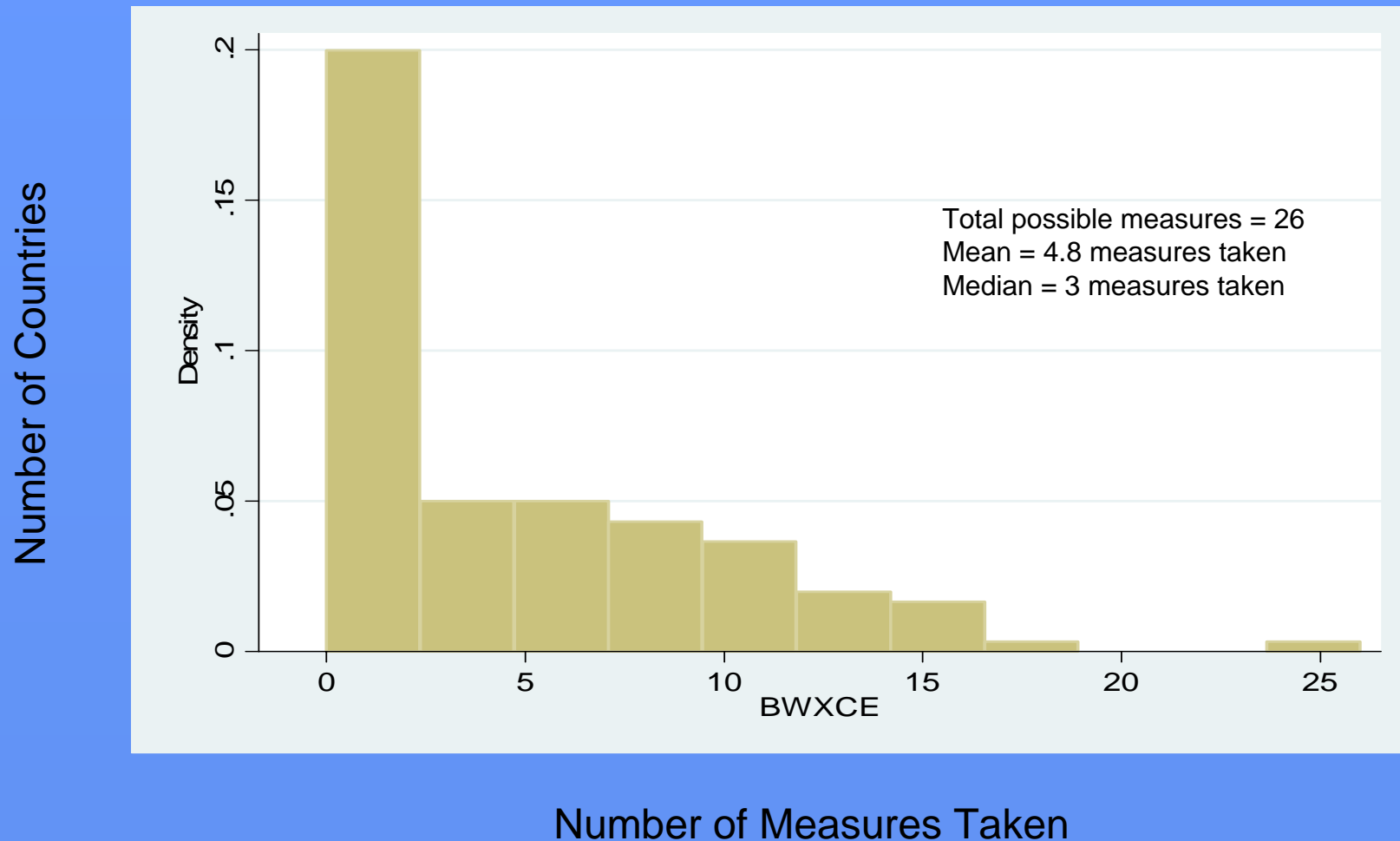
# Breakdown by Legislation and Enforcement

- The matrix divides measures for most 1540 obligations into two sets for each type of WMD:
  - Types of WMD (Biological, Chemical, and Nuclear Weapons and Means of Delivery)
  - Sets of Measures (Legislation and Enforcement)
- In most States, however, similar border and export control measures apply for all three weapons types
- This presentation only uses the indices related to biological weapons, because these results parallel the results for the chemical and nuclear indices

# BW Border and Export Control Measures – Legal Framework



# BW Border and Export Control Measures - Enforcement





# Results

- The distributions are skewed to the right
- The majority of countries have taken few or no measures (i.e., there are low mean and median scores)
- For set of questions for the legal framework, a group of States have taken many more measures, even more distinctly than in the overall results
- States have taken more measures related to their legal framework than actions related to enforcement
- The group of States that have taken more legal measures tend to be in one or more of the main export control supplier arrangements, the European Union (EU), or both the EU and the supplier groups



# Changing the Long Tail

- Tables 1 – 3 demonstrate that almost ***all*** States need to take many more border and export control measures to meet their obligations under Resolution 1540, shifting the long tail from the right to the left
- Closing the many gaps, coupled with a variety of priorities and organizational cultures, calls for plans of action customized to the needs of each country
- Considering the standards and common legal practices of the group of countries that have taken many measures, however, may prove of value for other countries

# Using the Matrix for an Action Plan

- Each State can use its matrix as a planning tool for:
  - national action
  - offering or requesting assistance
- Effective action plans usually include six elements:
  - A gap analysis
  - Priorities for closing gaps
  - Potential problems or opportunities associated with closing the gaps
  - Identifying and choosing courses of action
  - Executing the appropriate actions
  - Evaluation
- The matrix appears particularly useful for conducting a gap analysis



# Selected Recent Actions

- February 2007: Open Debate in the Security Council
- Moving from raising awareness and reporting toward implementation and assistance:
  - February 2007: ASEAN Regional Forum Draft Statement on 1540 promotes action plans
  - January 2007: DDA Strategy for 1540 Workshops Emphasizing Action Plans to Guide Assistance Efforts
  - November 2006: OSCE FSC Decision promotes action plans



# Making a Difference

- Comments and Suggestions WELCOME
  - Direct Comments and Suggestions to
    - E-mail: **1540experts@un.org**
    - Fax: +1 212 457 4045
- For additional information about Resolution 1540 (2004) and the 1540 Committee
  - <http://disarmament2.un.org/Committee1540/index.html>
  - National Reports
  - Reports
  - Legislative Database