

HOW TO IMPROVE EXPORT CONTROL REGULATIONS ON RADIOACTIVE MATERIALS IN INDONESIA AS POSSIBLE COUNTRY FOR TRANSIT AND TRANSSHIPMENT BY TAKING INTO ACCOUNT UNITED NATIONS SECURITY COUNCIL RESOLUTION NUMBER 1540

The United Nations Security Council Resolution 1540 (UNSCR 1540) in 2004 highlights the legislation phase of the United Nations Security Council. Before the establishment of this resolution, the Security Council Resolutions are interpreted mainly to maintain peace and security towards the existence of international armed conflicts. The mandate to maintain peace and security, as stipulated in Article 24 of the United Nations Charter, is also followed by the power as stated in Article 39 in the Chapter VII of the United Nations Charter. The power given to the Security Council in the latter Article, allows the Security Council to determine whether 'threat to the peace' has occurred or not. Since UNSCR 1540, this power has been interpreted in a broader sense. The measures that are taken by the Security Council to maintain or restore international peace and security have now comprised law-making power and as a member of the United Nations, Indonesia is also required to follow the rules and obligations as set forth in UNSCR 1540.

UNSCR 1540 regulates three objects: nuclear, chemical or biological weapons. One of the obligations related to nuclear in the UNSCR 1540 is that States shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear weapons and their means of delivery. Furthermore, the Resolution also requires States to take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear weapons and their means of delivery, including by establishing appropriate controls over related materials.

In Indonesia, the requirement related to the adoption and enforcement of appropriate effective laws has been stipulated by the Indonesian Government in a number of laws and regulations. For example, the Indonesian Government has established Act Number 5 of 2018 on Terrorism which threatens with penal codes the acts of non-State actor to produce, receive, obtain, deliver, possess, carry, supply or own, store, transport, hide, or remove from the territory of Indonesia, nuclear and radiological weapons. There is also Act Number 7 of 2014 on Trade which requires registration of items related to safety, though does not mention nuclear specifically. However, Indonesia is a Non-Nuclear Weapon State and not a member of the Nuclear Supplier Groups (NSG) and therefore there is only small possibility that a non-State actor in Indonesia could manufacture or produce nuclear and radiological weapons. It is more likely that Indonesia becomes the country of transit or trans-shipment of radioactive materials to be used as nuclear and radiological weapons due to its geographical position.

This paper will discuss how to improve export control in Indonesia by taking into account the obligations as stated in UNSCR 1540 in order to recognize the gaps in Indonesia's export regulations. The methodology used in this paper is publication research and reviews on the existing laws and regulations in Indonesia. This paper will find that some of the requirements from the UNSCR 1540 could be implemented in Indonesia by establishing stringent laws and regulations, especially related to end-user control in order to prevent the possibility of transit and trans-shipment of radioactive materials for possible use of nuclear and radiological weapons.

Gender

Female

State

Indonesia

Authors: Ms ARIETHIA, Midiana (Badan Pengawas Tenaga Nuklir); Mr SANYOTO, Aris (BAPETEN)

Presenter: Ms ARIETHIA, Midiana (Badan Pengawas Tenaga Nuklir)

Track Classification: PP: Transport of nuclear and other radioactive material: practices, challenges and regulatory issues