

STIMSON

A Piece of the Global Puzzle

The Role of the Gulf Cooperation Council and the League of Arab States in Implementing Resolution 1540

Johan Bergenas



December 2010

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Contents

Preface.....	5
<i>Ellen Laipson, President and CEO of the Stimson Center</i>	
Acknowledgements	7
Executive Summary	9
Introduction.....	11
United Nations Security Council Resolution 1540	13
<i>Trigger events and precedents for UN Resolution 1540.....</i>	
<i>13</i>	
<i>Early implementation challenges and current 1540 compliance rates</i>	
<i>14</i>	
<i>Ongoing efforts to assuage implementation challenges.....</i>	
<i>17</i>	
Regional Organizations and the International System.....	18
Regional Organizations and Resolution 1540	21
<i>Practical examples of Resolution 1540 implementation by regional organizations.....</i>	
<i>21</i>	
Middle Eastern Regional Organizations and Resolution 1540	23
<i>Gulf Cooperation Council.....</i>	
<i>23</i>	
<i>League of Arab States</i>	
<i>24</i>	
Conclusion	27

Appendices

Appendix A: UN Security Council Resolution 1540.....	31
Appendix B: 1540 Report Submitted by Germany.....	34
Appendix C: Resolution 1540 Request for Assistance Template.....	52
Appendix D: References	55
Appendix E: About the Author.....	60

Preface

Dear Reader,

I am pleased to present a new publication from the Stimson Center, *A Piece of the Global Puzzle: The Role of the Gulf Cooperation Council and the League of Arab States in Implementing Resolution 1540*, written by Johan Bergenas, Research Associate in the Managing Across Boundaries program. This study is part of the project's ongoing analysis of UN Security Council Resolution 1540, a 21st century nonproliferation tool that aims to prevent non-state actors from gaining access to weapons of mass destruction by calling on all UN members to implement a set of supply-side controls and security measures related to the nonproliferation of nuclear, biological, and chemical weapons. In this study, Bergenas considers whether regional organizations, in particular the Gulf Cooperation Council (GCC) and the League of Arab States, can play a more important role in assisting their memberships with complying with Resolution 1540.

In late 2010, there are signs that Middle Eastern countries and regional organizations are focusing on UNSCR 1540. Saudi Arabia is hosting a regional meeting in mid-December, demonstrating its recognition of the powerful logic of regional cooperation in implementing 1540. In light of the growing interest across the Middle East in exploring nuclear energy options, UNSCR 1540 can be one more tool to ensure that emerging civilian nuclear power programs are safe and proliferation-resistant.

The Stimson Center's Managing Across Boundaries, led by Senior Associate Brian Finlay, has taken an innovative approach to the challenges of nonproliferation, by considering the full array of security and economic interests of nations, and of the diverse threats - from weapons of mass destruction to human trafficking - that drive the policies of nations. The Managing Across Boundaries program looks at security in a holistic and inclusive way, and this current report on UNSCR 1540 is another example of the program's creativity and willingness to consider nonconventional solutions to the daunting security challenges of the current era. Nowhere is the search for such solutions more needed than in the Middle East.

We hope you find this report, and other publications of the Stimson Center on nonproliferation and other topics, of value.



Ellen Laipson
President and CEO
The Stimson Center

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Johan Bergenas
Research Associate
December 2010

Executive Summary

Proliferation of weapons of mass destruction (WMD), terrorism, and the nexus between the two are among the greatest threats facing international peace and security today. In 2004, the United Nations Security Council adopted Resolution 1540, obligating states to put into place a number of supply side controls and security and safety measures to counter the proliferation of chemical, biological, and nuclear weapons to non-state actors. Implementing Resolution 1540 is a long term goal that poses significant challenges to all states because of the time and resources necessary to fully comply with the resolution. This is especially true for states that lack the financial, human, and technical capacity to take steps toward 1540 compliance.

Regional organizations are important pieces of the puzzle when considering implementation of Resolution 1540. To that end, this study analyzes the complementary relationship between regional organizations and the United Nations in maintaining global peace and security. It demonstrates that regional bodies, both as a concept and as institutions, have evolved over the last six decades to become assistant guardians, with the UN, against regional and international perils.

By way of example, this study explores the opportunities and limitations of two regional bodies in the Middle East—the Gulf Cooperation Council and the League of Arab States—to assist their memberships in complying with Resolution 1540.¹ This region was selected because WMD proliferation in the Middle East is a global concern, export controls tend to be lax throughout the region, and borders are in several instances porous. These dynamics, while varying from state to state, make Middle Eastern nations attractive and prone to being exploited by non-state actors seeking to acquire WMD or transfer dual-use technologies through the region.² Resolution 1540 can play an important role in combating many of the regional security priorities in the Middle East, as well as ensuring proliferation-safe civilian nuclear programs and generally strengthen the nonproliferation regime. As such, Resolution 1540 is one mechanism toward greater security and stability in the region.

The study concludes that key features of the GCC and the Arab League, scope and focus, current and evolving institutional infrastructure, and ongoing and prior work related to 1540 implementation, make them appropriate bodies to assist their membership with 1540 implementation. Policy recommendations include that both the GCC and the Arab League consider requesting assistance available under 1540's mandate to employ a dual-hat 1540 Coordinator for their overlapping memberships to further 1540 implementation in the Middle East.

Introduction

Proliferation of chemical, biological, and nuclear weapons to terrorist organizations is one of the greatest menaces threatening international peace and security today. Since the turn of the century, this sentiment has spread across the world, and as a countermeasure to this threat, the United Nations Security Council passed Resolution 1540 in 2004 to combat the dangerous nexus between the spread of weapons of mass destruction (WMD) and terrorism. Adopted under Chapter VII of the UN Charter, the resolution is a 21st century WMD nonproliferation tool that mandates all UN member states to criminalize, and put into place a national enforcement system to deter and punish, proliferation activities. Additionally, provisions under Resolution 1540 entail physical safety and security measures, as well as the adoption of border and export controls to detect, deter, prevent, and combat illicit trafficking.

Implementing Resolution 1540 is a long-term goal that poses significant challenges to all states because of the time and resources necessary to fully comply with the resolution. This is especially true for states that lack the financial, human, and technical capacity to take steps toward 1540 compliance. While many resource-rich countries in the Middle East have the financial means to implement this nonproliferation measure, many states come up short on human and technical expertise.³

Regional organizations worldwide are important pieces of the puzzle in implementing Resolution 1540, and this study explores the opportunities and limitations of the Gulf Cooperation Council (GCC) and the League of Arab States (Arab League) in assisting their memberships with that task. Increased compliance with Resolution 1540 in the Middle East will lessen the risk that terrorist organizations are able to arm themselves with WMD. Implementing the resolution is also a means for greater regional security and stability in the Middle East. Implementation of Resolution 1540 can provide many advantages in achieving that goal. For example, today about 20 Middle Eastern countries are at various stages in pursuing nuclear energy.⁴ For countries to build safe and secure nuclear programs, and to make sure that they are proliferation-resistant and that materials and key technologies are not diverted to non-state actors, nearly all Middle Eastern states will require extensive human and technical support (some will also require significant financial assistance). Such assistance can be provided to states under the auspices of Resolution 1540.

Beyond the nuclear issue, some governments in the region are also faced with serious challenges stemming from porous borders, such as Yemen and Iraq. Many states also need to improve their judicial and law enforcement systems and institutions. This is part of the reason why the Middle East has become a haven for terrorist organizations and various forms of transnational criminal activity—including illicit finance, and drug and dual-use trafficking.⁵ Fortunately, border security measures, various forms of training, supply of equipment, financial regulation, and legal training all fall within the framework

of Resolution 1540, and would not only help to combat national and regional security challenges in the Middle East, but also strengthen the nonproliferation regime.⁶ In short, implementing Resolution 1540 can have “dual use” application, and regional organizations can help to capitalize on these opportunities.⁷

This analysis of the role of regional organizations in implementing Resolution 1540 in the Middle East begins with a narrative of the origins and content of Resolution 1540 and identifies key implementation challenges, as well as ongoing efforts to alleviate them. The study then turns to examining the evolution of regional organizations and the role they can play today in safeguarding international peace and security. A discussion on the specific role of regional organizations in facilitating and promoting implementation of 1540 then follows, including examples where these bodies have had an impact. The subsequent section analyzes the GCC and Arab League as it pertains to their ability to play a role in efforts to implement Resolution 1540 in the region. The concluding section illuminates opportunities and limitations for these regional organizations in facilitating and promoting Resolution 1540 implementation and offers policy recommendations.

United Nations Security Council Resolution 1540⁸

Resolution 1540 aims to prevent non-state actors, such as terrorist organizations, from gaining access to chemical, biological, and nuclear weapons, as well as means of their delivery, such as missiles. The measure was adopted on April 28, 2004, under Article VII of the UN Charter, making implementation binding on all UN member states. Specifically, Resolution 1540 requires all countries to “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.”⁹ It also calls on countries to establish a domestic judicial and law enforcement system appropriate to criminalize and punish terrorists who “manufacture, acquire, possess, develop, transport, transfer or use,” WMD, missiles to deliver these weapons, and related materials.¹⁰ Additionally, under the terms of Resolution 1540, UN member states shall account for and maintain security for all WMD, delivery systems and related materials, on their territories as well as to put into place border and export controls to prevent them from being transferred through or stored on national territory.¹¹ In short, Resolution 1540 has become an important component of the international nonproliferation regime, and its intent is to prevent the spread and use of WMD by a terrorist organization.

Recognizing that complying with all of Resolution 1540’s provisions requires a significant time and resource commitment from all states—but most notably among those in the developing parts of the world—the measure calls on able states to support others’ implementation efforts, by providing financial, technical, or human capacity and support. States that fail to implement the resolution may face punitive action from the UN Security Council, as 1540 was adopted as a Chapter VII measure. However, because of the general nature of Resolution 1540’s language—for example, it notes that states should take “appropriate” and “effective” measures to implement 1540’s measures, but does not specify what that means—full compliance, or noncompliance, are terms subject to interpretation. Also, much of the work under Resolution 1540 is an ongoing process as updates to the judicial system of any state, for example, are a constant work in progress. One can therefore argue that no state will ever be in full compliance of 1540, and as such, it is unlikely that the UN Security Council will ever consider singling out one or a group of states to punish them for not implementing Resolution 1540. Also, one 1540 expert has noted that the UN measure should not be considered a burden, but a “vision” for how to strategically plan for taking steps to implement the resolution.¹²

Trigger events and precedents for Resolution 1540

The terrorist attacks against the United States in September 2001 brought the perils of non-state actors to the forefront of the international security debate. The events on September 11 were catalysts for the unanimous adoption of UN Security Council Resolution 1373

(2001), which obligates the international community to take measures to halt or disrupt funding to terrorist groups worldwide.¹³ Subsequently, the terrorist attacks against the American homeland also increased the focus on the threat from non-state actors who were actively seeking chemical, biological, and nuclear weapons, or radiological materials, for a so called “dirty bomb,” and highlighted the dangerous nexus between WMD and terrorism. Resolutions 1373 and 1540 both passed unanimously and set the precedent of being the only UN Security Council resolutions that were not made in response to a specific phenomenon and do not target a specific country; instead, Resolutions 1373 and 1540 hone in on the general threat posed by terrorism and non-state actors acquiring WMD, respectively.

Revelations that A.Q. Khan, former head of Pakistan’s efforts to develop nuclear weapons, had successfully headed a nuclear black market by exploiting weak links in the global security chain was also an incentive to seek additional measures to combat the WMD terrorism threat. Peter Crail, a nuclear analyst with the Arms Control Association, noted in 2007 that the illicit network verified that non-state groups “may be the recipients as well as the suppliers of [WMD] and technologies [and that the] traditional international WMD nonproliferation regime was not formed to address these types of proliferation considerations.”¹⁴ This was dangerously coupled with the absence of measures to combat WMD proliferation to non-state actors.¹⁵

In the years leading up to the adoption of Resolution 1540, the United States was in a hurry to put on the books a measure that obligated the international community to take steps to shut down or disrupt terrorist networks seeking WMD. Specifically, the George W. Bush Administration did not believe that the time-consuming process of negotiating a multilateral treaty was an appropriate path, considering the urgency of generating a WMD terrorism nonproliferation tool.¹⁶ In sum, there were many events that triggered the passage of Resolution 1540, including the 9/11 terrorist attacks and the ensuing advanced consciousness of the threat posed by WMD terrorism, revelations about the A.Q. Khan network and the need for effective WMD terrorism security measures, and the Bush Administration’s rejection of the multilateral treaty route.

Implementation challenges and 1540 compliance rates

During the consultation process prior to the adoption of Resolution 1540 and immediately following the passage of the measure, numerous states questioned the legitimacy of the measure. The Non-Aligned Movement, as well as countries such as New Zealand, Switzerland, and the Republic of Korea, objected to their limited opportunity to participate in 1540 negotiations. They also objected to passing the Resolution under Chapter VII of the UN Charter, making 1540 implementation an obligatory exercise for all states under international law.¹⁷ Egypt, Pakistan, and South Africa were among over a dozen states that believed that in adopting Resolution 1540, the Security Council had effectively overtaken the legislative powers of the General Assembly and other multilateral negotiating bodies.¹⁸ The heavy emphasis on nonproliferation compared to disarmament also frustrated many non-nuclear weapons countries, among them Germany, Canada, and Norway.¹⁹

Another initial speed bump for the implementation of Resolution 1540 was the ambiguous resolution language, making it difficult for states to actually understand what was expected of them. The resolution, as previously noted, in several places calls on countries to take

“effective and appropriate measures” with regard to, for example, border and export controls, but provides no further guidance.

Today, however, several indicators suggest that early legitimacy questions have been partly assuaged. In December 2009, then-1540 Committee Chairman, Ambassador Jorge Urbina of Costa Rica, said “that the questions that were initially posed regarding the legitimacy of the resolution seem to have disappeared, as have the initial doubts on the need for the Committee. This represents a concrete achievement by the Committee and the Group of Experts that supports it.”²⁰ In keeping with that pronouncement, rarely does one hear in the public domain states challenging the legal mandate of Resolution 1540, or, for example, complaints about the skewed balance between nonproliferation and disarmament. Resolution 1540’s current mandate runs through April 2011, at which point it is expected to be extended. States and regional organizations have also endorsed the implementation of the resolution and, in the latter case, called upon member states to take all steps necessary to implement 1540.²¹ This is not to say that 1540 is not met with suspicion in some parts of the world. Concerted efforts must therefore be made to promote 1540 as a mandate that can benefit countries’ and regional security and development priorities, for example through the “dual benefit” application lens as previously mentioned.

Turning to current levels of implementation, in 2004, the UN Security Council, when passing Resolution 1540, also established the 1540 Committee, consisting of all Security Council states and a Group of Experts charged with monitoring 1540 compliance among UN member states. As a first step, countries were obligated to submit a report to the 1540 Committee six months after the resolution’s passage on “steps [countries] have taken or intend to take to implement [1540].” To date, over 160 states, or some 80 percent of UN member states, have submitted that report.²² Non-reporting countries are all located in the Global South. While all Middle Eastern states have fulfilled this aspect of the implementation obligation, most reports are inadequate insofar as length and depth are concerned. (Table 1 demonstrates at what point each member of the League of Arab States and the Gulf Cooperation Council submitted their reports and subsequent documentation to the 1540 Committee).²³

States’ 1540 report submission dates by month and year				
Arab League Member State	Submission Date	Additional information 1	Additional information 2	Additional information 3
Algeria	November-04	September-05	April-08	
Bahrain*	December-04			
Comoros				
Djibouti	March-05			
Egypt	October-04	March-06	February-08	
Iraq	April-05	February-06		
Jordan	February-05	May-06		
Kuwait*	March-05			
Lebanon	October-04	June-06		
Libya	April-05	December-05		
Mauritania				

States' 1540 report submission dates by month and year

Arab League Member State	Submission Date	Additional information 1	Additional information 2	Additional information 3
Morocco	October-04	September-05		
Oman*	December-04	March-06		
Palestine				
Qatar*	November-04	February-06		
Saudi Arabia*	November-04	March-06		
Somalia				
Sudan	March-05			
Syria	October-04	August-05	September-05	November-05
Tunisia	November-04			
United Arab Emirates*	December-04			
Yemen	December-04			

* Denotes State is also a member of the Gulf Cooperation Council

Source: UN 1540 Committee website, <<http://www.un.org/sc/1540/>>, accessed on September 10, 2010

To a large extent, poor reporting on 1540 implementation by developing countries indicates, more than anything, how difficult and expensive the task of complying with Resolution 1540 can be. This is particularly true for governments that have other legitimate priorities that more directly threaten the quality of life of their populations. For example, extreme poverty, public health challenges such as widespread HIV-/AIDS epidemics, domestic instability, and drug, human, and small arms and light weapons trafficking are often more pressing security issues in the developing world. As noted in a 2010 report on implementing Resolution 1540 in Central America:

Yet while few can question the disastrous consequences of a WMD terrorist incident, in the face of the daily threats to citizen safety and security—both economic and physical—in Central America and much of the Global South, such pronouncements are not only inaccurate, they are *prima facie* unreasonable. Requiring resource-strapped governments to divert attention from more immediate challenges to the seemingly distant threat of WMD terrorism is a proliferation-prevention strategy that is destined to fail—if not from a lack of political will then from a sheer lack of implementation capacity in these countries.²⁴

As a result of competing priorities and finite time and resources that can be committed to countering the WMD terrorism threat, implementing Resolution 1540 is in many cases an afterthought in the Global South.

There is no exact science in assessing to what degree states have implemented Resolution 1540. The 1540 Committee experts are charged with analyzing and determining the level of compliance and use a 1540 matrix to log states' self-reported achievements. A general overview of the reports and some matrices that are not made available to the general public indicate that some states have addressed numerous Resolution 1540 measures, while most countries are in compliance with only a limited number of the steps called for in the resolution.²⁵ However, one committee expert has noted that the 1540 Committee had seen a significant increase in implementation efforts in recent years, indicating that Resolution 1540 implementation may be gaining traction.²⁶ The fact that states today

pay more attention to Resolution 1540 can also be attributed to extensive, worldwide programs that raise awareness of the resolution and outreach events held and sponsored by developed countries' governments, and regional and international organizations. Requests for assistance to implement the resolution have also trickled in to the 1540 Committee (see appendix C for the 1540 request for assistance template). It should be noted that even though many of the early 1540 implementation challenges have been addressed, lack of capacity and resources remain a crucial obstacle to complying with Resolution 1540.

Ongoing efforts to assuage implementation challenges

Self-finance and bilateral assistance are two avenues for states to pursue in seeking greater Resolution 1540 implementation. Outreach and awareness-raising seminars and workshops organized by UN bodies are also ongoing. For example, in late 2009, Egypt hosted a 1540 implementation workshop in Cairo, which was attended by over a dozen African states.²⁷ Another African seminar took place in Kenya in February 2010 emphasizing, *inter alia*, the importance of in-region knowledge sharing from Resolution 1540 implementation experiences and capacity-building, principally in the biosecurity area.²⁸ Similar workshops, focusing on various aspects of Resolution 1540, have in recent years been organized in Brazil, Qatar, Vanuatu, Costa Rica, and Vietnam in order to target their respective regions or sub-regions.²⁹

Besides states, regional workshops are often attended by representatives of international organizations with specialized knowledge in subject matters connected to the issue at hand. For example, the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons can assist states with technical and human capacity in regards to their obligations under the Nuclear Nonproliferation Treaty and the Chemical Weapons Convention nonproliferation treaties intrinsically linked to the implementation of Resolution 1540. Other multilateral arrangements, such as the Organization for Security and Cooperation in Europe, are helping their states implement 1540. Moreover, the Verification Research, Training and Information Centre in the United Kingdom, the Center for International Trade and Security at the University of Georgia, the Monterey Institute of International Studies, and the Stimson Center in the United States are just a few nongovernmental organizations that work with individual states or groups of states to, for example, provide legal and scientific expertise and train customs, border, and export control officials on the ground.

Regional organizations are also playing increasingly important roles in implementing Resolution 1540. To provide context and explain these bodies' current and potential future successes in the Middle East, the following section will discuss the historical foundation of these groups, their place in the international system, and how regional organizations evolved throughout the Cold War. Then, the relatively recent emergence of the regional-global security mechanism will be examined, and ultimately, their role in connection to Resolution 1540.

Regional Organizations and the International System

By continent, examples of regional and subregional organizations across the globe include: in Asia, the Association of Southeast Asian Nations (ASEAN) and the Shanghai Cooperation Organization; in Europe, the European Union; in Africa, the African Union (AU) and the Southern African Development Community; in the Americas, the Organization of American States (OAS), the Caribbean Community (CARICOM) and the Central American Integration System (SICA); and in the Pacific, the Pacific Island Forum.³⁰ One prominent scholar in the field, Muthiah Alagappa, an expert on international politics, describes the assets, roles, and strategies of regional institutions in the following manner:

In theory, regionalism should facilitate communications and socialization, information sharing, increase in consensual knowledge, and growth in power through the pooling of resources and collective action. Based on these assets, regional institutions should be able to avail themselves of one or more of the following interconnected strategies: norm-setting, assurance, community-building, deterrence, non-intervention, isolation, intermediation, enforcement and internationalization. Norms can define identities of states as well as regulate their behavior. Through norm-setting, regional institutions can influence the collective expectations and the internal and international behavior of member states in the political, economic and security arenas.³¹

Regional organizations' formal role in maintaining international peace and security is only vaguely defined in the UN Charter, and there is no language that details the mechanisms of interaction with the UN Security Council.³² Article 53 in Chapter VIII of the Charter says that regional organizations "shall, where appropriate, utilize...regional arrangements...for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council."³³ The somewhat undefined position assigned to regional organizations in maintaining peace

League of Arab States

Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestinian Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen

Gulf Cooperation Council

Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates



and security is largely because, according to Tania Felizio at the UN University, “the notion of regionalism was still in its infancy” at the time when the Charter was drafted in the mid 1940s.³⁴ Alagappa provides an additional reason for the relatively weak role assigned to regional organizations in the UN’s founding document, writing that during the organization’s formative years, regional organizations “were seen as competing with and detrimental to the universal approach embodied in the UN.”³⁵

Despite weak treatment of regional arrangements in the UN Charter, regional and sub-regional infrastructures emerged strongly in the latter half of the 20th century, and the post-Cold War world provided a much better climate for regional arrangements to make positive contributions to peace and security issues in their regions and beyond. By the mid- to late-1990s, it was “widely accepted that global [organizations, such as the UN] and regional institutions can and should work together in promoting international peace and security.”³⁶ This realization sprung from the general recognition that the UN could not alone address the changing nature of the security landscape following the collapse of the Soviet Union. In this light, regional organizations were seen as appropriate arrangements to help share the burden of combating national, regional, and international security challenges.³⁷

Alagappa sums up well why academics and policy-makers have become increasingly interested in the role of regional organizations in combating threats to global peace and security in the post-Cold War era. He writes that, besides the end of the bipolar Cold War superpower struggle, “[r]egionalization of international politics, [the] inability of any one state or organization to manage the resulting world order [after the collapse of the Cold War security architecture], the growth of regional powers and the desire on their part as well as on the part of other regional states to seek greater control over their strategic environment, and growth of economic regionalism...underscore” the growing interest in examining the potential contributions of regional arrangements in maintaining peace and security worldwide.³⁸

The argument that “the UN and regional organizations should play complementary roles in facing the challenges of international peace and security,” has taken root among academics, policy-makers and practitioners, who refer to this dynamic as the “regional-global security mechanism.”³⁹ This is, for example, evident in the numerous UN and Security Council meetings with representatives from regional bodies which have taken place since the end of the Cold War.⁴⁰ Perhaps the strongest endorsement came from UN Secretary General Kofi Annan, writing in 2006 that the UN “is not equipped to handle every crisis in the world on its own. It is acknowledged that a partnership between the United Nations and regional and other intergovernmental organizations should be developed if peace and security are to be maintained.”⁴¹ Upon taking office, current Secretary General Ban Ki-moon said that UN “partnerships with regional and sub-regional organizations are stronger and more active than ever [and that]...[t]he United Nations is committed to helping build up the capacity of regional and sub-regional organizations.”⁴² Inarguably, despite the vague role assigned to regional organizations in the UN charter, these bodies have over time evolved, and today they are recognized in all quarters of the world as important players in the international system.

The pros and cons of regional organizations are often discussed through various peace and conflict-related prisms. However, many of the advantages and limitations can also be applied to other security related matters. To that end, at the beginning of the 21st century, a group of scholars, regional experts, and practitioners set out to explore the role of regional organizations in WMD treaty implementation and compliance.⁴³ The project sprung to life out of the perception that states were losing interest and political will to implement and

comply with WMD treaties. In particular, the efforts focused on the AU and subregional organizations on the African continent, as well as on ASEAN, ARF, and the OAS. The authors of the studies concluded that in all regions examined,

Regional organizations are one of the ways to deal with [implementation and compliance] challenges. Given the complexity of reasons for non-compliance such as ambiguity of treaty language, limitations on the capacity of states to carry out their responsibilities, and the temporal dimension as well as political decisions leading to deliberate non-compliance, there seems to be substantial opportunity for regional organizations to undertake activities with respect to treaty compliance and with regard to facilitating members who are delinquent to move toward compliance.⁴⁴

Suggested functions of the regional organizations included capacity building, establishing confidence-building measures, resource assistance, and verification participation. It was also noted that in some areas, “regional organizations have more legitimacy than global multilateral institutions, and cooperation could develop through bilateral and regional relationships.”⁴⁵

Regional Organizations and Resolution 1540

Resolution 1540, and its follow-on resolutions 1673 (2006) and 1810 (2008), stress the importance of regional implementation efforts, in addition to emphasizing the role of bilateral assistance and implementation support from international organizations. The current and previous 1540 Committee chairmen have continuously reiterated this mode of 1540 implementation, and there is a record of support among UN Member States and the secretariat leadership as well. For instance, in 2006 then-Secretary General Kofi Annan emphasized that implementation of Resolution 1540 was part of the burden-sharing concept between the UN and regional organizations.⁴⁶ In turn, and as noted above, the UN, independently and in cooperation with other states and organizations, has organized several regional workshops in Africa, Asia, the Middle East, and Latin America.

Implementing Resolution 1540 through a regional approach is logical because of the cross border nature of several of the resolution's provisions unavoidably entail cooperation between neighboring countries. The regional perspective can help ensure consistency so that efforts are not duplicated, already scarce resources do not go to waste, and one country's advances are not immediately undercut by a gap in its neighbor's implementation.⁴⁷ The regional context provides an opportunity for states to, among other things, discuss and establish cost-sharing plans, exchange model legislation, and collaborate on enforcement mechanisms.⁴⁸

In short, for any given regional organization to be able to assist its membership with implementing Resolution 1540, (1) the body's scope and work must include a mandate for international and/or regional security (not always the case as some regional bodies focus exclusively on economic regional cooperation); (2) regional organizations must have, or be able and willing to build, infrastructures to support 1540 implementation work (for example, OAS's Committee on Hemispheric Security, or more specifically the regional organization's body fighting terrorism, the Inter-America Committee Against Terrorism); and (3). Finally, it is certainly helpful, although not necessary, to have some experience connected to the work required to implement Resolution 1540, for example in the areas of combating terrorism or the proliferation of small arms and light weapons.⁴⁹

Practical examples of Resolution 1540 implementation by regional organizations

While several of the previously identified regional or sub-regional organizations have taken important steps to assist their member states in implementing Resolution 1540, two examples stick out, CARICOM and the Central American Integration System (SICA).⁵⁰ A regional approach make particular sense in the Caribbean Basin and Central America due to many governments' significant lack of financial, technological, and human capacity to take steps toward 1540 implementation. Indeed,

in the case of CARICOM, several countries recognized the important role of regional organizations in assisting their memberships with implementing the resolution during a May 2008 workshop. Subsequently, a CARICOM 1540 Coordinator was hired.

Prior to these workshops, outreach activities and the hiring of a 1540 Coordinator, the Caribbean region's track record with Resolution 1540 had been nearly non-existent. Since the hiring of the 1540 Coordinator, however, all CARICOM countries have fulfilled the initial 1540 implementation step by submitting a report to the 1540 Committee.⁵¹ Also, more than half the states in the Caribbean region have established points of contact for 1540 implementation, several countries have formed interagency coordination groups, and half a dozen or so have drafted national action plans. CARICOM has also co-hosted an experts' workshop on export controls and maritime security and sought and received resources to evaluate member countries' national legislation relevant to Resolution 1540 implementation. The Caribbean countries are also receiving assistance drafting appropriate legislation where necessary. These streams of funding are the result of CARICOM Secretary General Edwin W. Carrington's submission of a proposal for assistance to the UN Security Council 1540 Committee, which was subsequently funded by the United States and Canada.

A similarly successful engagement is currently taking place in Central America under the auspices of SICA. Following the lead of CARICOM, this regional arrangement has submitted a request for resources to the 1540 Committee to hire a SICA 1540 Coordinator to guide implementation efforts in the region.

The pragmatic use of regional organizations in the Caribbean and Central America does not mean that those activities can be automatically replicated in other regions. States in the Caribbean Basin and Central America are relatively small, poor, and resource-strapped countries, and the political and security context are much different than in the Middle East, for example, which this study shall now turn to.

Middle Eastern Regional Organizations and Resolution 1540

The GCC and the Arab League have the ability to assist their member states in making progress toward 1540 compliance. While originally intended for different reasons than 1540-specific security and development opportunities, today, the GCC and the Arab League have the scope, the institutions (or evolving infrastructures), and precedents that suggest that they can play an important role in increasing region-wide 1540 implementation.⁵²

Gulf Cooperation Council

The GCC, consisting of member states Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates, was formed in 1981 as a regional economic and defensive organization in light of the Iranian Revolution. In regard to its scope in connection to Resolution 1540, the GCC Charter provides opportunity for such cooperation, especially in areas of economic and financial affairs, commerce, customs, communications, education and culture, as well as science and technology.⁵³

An additional legal mandate for 1540 implementation on a regional level is the “Unified Economic Agreement Between the Countries of the Gulf Cooperation Council,” (1981) which calls for GCC countries to coordinate activities in the areas of trade, commercial, customs, financial, import, export, transportation, communication policies, professional and technical training, as well as in projects facilitating overall economic development.⁵⁴ As noted, these are all relevant activities under Resolution 1540.

Regional infrastructures of interest include the GCC Ministerial Council, which according to the GCC Charter shall:

Propose policies, prepare recommendations, studies and projects aimed at developing cooperation and coordination between member states in various fields and adopt the resolutions or recommendations required in this regard... Endeavour to encourage, develop and coordinate activities existing between member states in all fields... Encourage means of cooperation and coordination between the various private sector activities, develop existing cooperation between the member states’ Chamber of Commerce and Industry... Refer any of the various aspects of cooperation to one or more technical or specialized committee for study and presentation of appropriate recommendations.⁵⁵

With regard to historical GCC 1540-related activities, in particular on terrorism and transnational issues, the GCC signed an anti-terrorism security agreement in 2004, and more recently, it hosted seminars discussing regional initiatives to combat fraud and money laundering.⁵⁶ With specific regard to nuclear energy, the GCC has partnered with groups like the European Union and the IAEA to ensure safe and secure development of nuclear energy.

In 2008, at the 18th EU-GCC Joint Council and Ministerial Meeting, the two regional organizations stressed “the importance of the establishment and implementation of effective systems of national export controls in accordance with [Resolution] 1540.”⁵⁷ The EU and GCC built upon this call to action with a 1540 workshop hosted by Qatar in 2009, and the GCC Secretariat led a workshop on nuclear safety and security in June 2010.⁵⁸ The GCC also engages with the IAEA on the members’ various nuclear activities.⁵⁹

At the GCC summit in Riyadh in December 2006, member states adopted a proposal to begin investigating the viability of a joint, peaceful nuclear program. Under the GCC Secretariat, a Gulf Team was created in 2007 to prepare a pre-feasibility study conducted in coordination with the IAEA. Subsequently, the IAEA and nuclear agencies of GCC members launched a program involving studies and workshops designed to assist members in establishing the appropriate legislation, infrastructure, and training to ensure that standards of efficiency, safety, and nonproliferation are met. The second of two workshops, which trained 80 GCC delegates in methods for establishing effective nuclear safety legislation, was conducted in June 2010 in Abu Dhabi.

In this light, one analyst has suggested that due to the territorial proximity and shared economic interests among the member states, the GCC “would be an ideal forum to coordinate” 1540 implementation, including information exchanges and reporting assistance.⁶⁰ There are 1540 lessons to be learned among GCC states. For example, in 2007 the United Arab Emirates adopted Federal Law Number 13, regulating imports and exports in order to prevent illicit transshipment and movement of illegal materials throughout the country.⁶¹ The law, if enforced, can contribute to greater compliance with Resolution 1540, including the banning of unlicensed imports and exports on chemical and biological materials, and dual-use items. In 2008, with a view to streamline its export control and enforcement system, the UAE updated Federal Law Number 13. According to the UAE government the measure has effectively thwarted and closed down numerous, as many as two dozen, UAE and international companies involved in illicit finance and illegal dual use exports.⁶² Enforcement of the export control law also includes several cases of interdiction of vessels suspected of carrying illicit goods, including to Iran.⁶³

For the UAE to share its experience with neighboring countries on both the drafting and enforcement of Federal Law Number 13, it would go a long way to implement Resolution 1540. Key countries in the region seem to agree that a regional approach is of considerable value. For example, during the 2010 Nuclear Security Summit in Washington, DC, Saudi Arabia announced that Riyadh would be hosting, at the end of 2010, a regional 1540 workshop inviting GCC member states. This workshop is another important step toward maximizing the benefits that a regional approach may yield with regard to Resolution 1540 implementation.

League of Arab States

Formed in March 1945 in Cairo, the Arab League originally consisted of Syria, Jordan, Iraq, Saudi Arabia, Lebanon, and Yemen. The League’s current membership totals 22 states, with four additional observer nations, all of which have populations that primarily speak Arabic. Although other countries have wielded influence at various times, the organization is dominated primarily by Saudi Arabia and Egypt. The effectiveness of the Arab League has at times been significantly reduced, for example during large periods of the Cold War when

the membership sympathized with opposing sides in the superpower struggle between the US and the Soviet Union. To this day, deep-seated divisions among member states continue to hamper collaborative efforts.

The Arab League focuses on a broad range of economic, peace and security issues. Economic collaboration laid out in Article II of the Arab League's founding document, "Pact of the Arab League of States," is directly connected to 1540 implementation activities. It calls on the League's membership "to draw closer the relations between member States and co-ordinate their political activities with the aim of realizing a close collaboration between them" *inter alia*, in the areas of "[e]conomic and financial matters, including trade, customs, currency, agriculture and industry."⁶⁴ As pointed out appropriately by Lars Olberg, a German nonproliferation expert who has written on Resolution 1540 and regional organizations in the Middle East, "export controls, transshipment, and end-user controls and licenses," which are key aspects of Resolution 1540 implementation, "can be subsumed under the terms 'economic affairs,' 'commercial relations,' and 'customs.'"⁶⁵ Moreover, the 1950 "Joint Defense and Economic Cooperation Treaty Between the States of the Arab League," provides similar legal foundation for Resolution 1540 implementation to take place under the auspices of the Arab League.⁶⁶ In short, the League's scope, as laid out in key legal documents, encompasses work necessary to help its membership toward greater Resolution 1540 implementation.

In regard to current or evolving organizational infrastructures that can support Resolution 1540 implementation, during a UN Security Council meeting in October 2009, Radwan ben Khadra, head of the League's legal department, said that his organization was considering the establishment of an office to specifically coordinate 1540-related implementation activities among its membership.⁶⁷ At the same meeting, Egypt's representative stated his country's commitment to promote 1540 implementation at the regional level through mechanisms such as the Arab League. That Egypt, and, as previously noted, Saudi Arabia, are supporting regional implementation of Resolution 1540 are important developments, as these two states are key players in the region, and within the regional organizations more specifically.

Further, following the UN October gathering, the Department of Legal Affairs of the Arab League organized a workshop focused on preventing terrorists from acquiring weapons of mass destruction. The meeting was attended by representatives of the 1540 Committee, as well as officials from 17 Arab countries' Ministries of Justice, Interior, Foreign Affairs, and Defense. The League's Department of Legal Affairs has also recently participated in regional 1540 workshops, including seminars on the preparation of 1540 reports. These activities by the Arab League represent capacity-building measures, which will help member states make greater use of its regional institution with regard to 1540 implementation.

The Arab League also has experience with working issues related to Resolution 1540 implementation. The organization has, for instance, engaged with the UN and its specialized security and development agencies to further increase cooperation on many of the dual-benefit regional security concerns identified previously in this study (trade and finance are additional areas where the League has sought outside assistance).⁶⁸ The League has also gained prior experience dealing with counterterrorism and the arms trade through both the 1998 Arab Convention for the Suppression of Terrorism and activities connected to the development of the Arms Trade Treaty, which includes various border and export control considerations for all states. In June 2010 the League co-hosted a

symposium together with the UN Institute of Disarmament Research during which the League's membership exchanged views with each other and with international experts on a prospective conventional arms treaty.

Many countries in the Arab League are more advanced and developed than their counterparts in the Caribbean Basin and Central America. However, despite reasons to be optimistic about the Arab League's political will to contribute to a regional 1540 implementation approach, this does not mean, as previously emphasized, that the success stories of CARICOM and SICA can be replicated in the Middle East. The League's membership is much larger than both these Latin American organizations and the previously-noted lack of trust and tensions among Arab states have, in the past, hindered cooperation on issues such as terrorism and transnational crime.⁶⁹ Nevertheless, based on the level of political support and prior and current activities, a regional approach under the purview of the Arab League should not be ruled out; especially if the previously discussed "dual use" connection between regional security and Resolution 1540 implementation is sufficiently established.

Conclusion

Resolution 1540 is an important internationally recognized measure that will, if implemented effectively, strengthen the nonproliferation regime significantly. Regional organizations are making important contributions to the implementation of Resolution 1540. The Middle East has been identified as an area of the world in need of increased 1540 implementation, and regional organizations have the scope, the institutions (or evolving infrastructures), and precedents that suggest they can be important pieces of the puzzle to increasing regional-wide 1540 implementation rates, and in so doing, providing additional stability and security throughout the region.

However, despite the powerful logic of a regional approach, there is no one-size-fits-all template detailing how a region can make the best use of its regional organizations, and legitimate challenges exist for the GCC and the Arab League. Yet effective implementation of Resolution 1540 serves a dual purpose, providing not only a stronger national and regional nonproliferation framework, but also addressing national and regional security and development needs. The experience of the GCC and the Arab League suggests that a regional approach for burden and capacity sharing can be promising. Several programs and initiatives are ongoing, and proposals for further cooperation have been presented. But a regional approach cannot take place in a vacuum. Honing in on “dual-use” issues—for example transnational crime and energy diversification—could create the traction necessary for these organizations to take further steps as laid out throughout this study. In this light, 1540 implementation should not be seen as a burden, but as an opportunity to attract international funding and technical assistance that will help address regional security challenges and, in some cases, development priorities, while at the same time moving toward compliance with the resolution.

Examples of hands-on activities that can be facilitated by the GCC and the Arab League include crafting national Resolution 1540 implementation plans, helping states increase existing assistance to the region and identify new streams of assistance, and avoiding duplications of specialization, which unnecessarily drain national resources.⁷⁰ A regional approach can prevent overlapping expertise and ensure that finite resources do not go to waste. A full-time 1540 Regional Coordinator inside the League of Arab States’ proposed 1540 unit would assist Member States in meeting their commitments under the resolution. The overlapping memberships of the Arab League and the GCC could also encourage a dual-hat role for the Middle East 1540 Coordinator.

The Coordinator’s activities could mirror the work of the individual in CARICOM, including outreach efforts that would link Resolution 1540 to the broader security and economic development mandate of the host organization(s). Supporting states in developing 1540 work plans, updating 1540 national reports, and developing implementation action plans would also be advantageous. The Coordinator would be responsible for working with

member states of the GCC and the Arab League on trainings, evaluations, and compliance with 1540 provisions as well as formulating best practices. The Regional Coordinator could also assist the organizations or member states in the development of requests for technical and other assistance as needed to the 1540 Committee, as well as for assistance requests from bilateral and other regional or international organizations. The 1540 Coordinator would reassure donor states that all assistance across the region is harmonized and leveraged. The coordinator would also provide donors with a regional ally to promote the long-term sustainability of those investments.

In a world where globalization continues to facilitate the diffusion of dual-use technologies, coupled with international smuggling networks, and individuals like A.Q. Khan who have proven willing to export dangerous technologies for financial profit, all mechanisms available must be used to counter the threat. The lack of adequate financial, human, and technical capacity is often a key obstacle that hinders efforts to strengthen nonproliferation measures. With Resolution 1540, states can seek out not only assistance for WMD nonproliferation initiatives, but also use that funding toward addressing regional security challenges and development needs. Implementing Resolution 1540 is one tool for furthering that trajectory, and regional organizations are important pieces of the puzzle to successfully achieving it—and in so doing providing increased regional stability and security.

Appendices



Appendix A:

UN Security Council Resolution 1540

Adopted by the Security Council at its 4956th meeting, on 28 April 2004

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation,

Affirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Gravely concerned by the threat of terrorism and the risk that non-State actors* such as those identified in the United Nations list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,* which adds a new dimension

to the issue of proliferation of such weapons and also poses a threat to international peace and security,

Recognizing the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

Recognizing further the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

Encouraging all Member States to implement fully the disarmament treaties and agreements to which they are party,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Determined to facilitate henceforth an effective response to global threats in the area of non-proliferation,

Acting under Chapter VII of the Charter of the United Nations,

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

(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;

1. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

2. Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

3. 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;

4. 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;

Appendix B: 1540 Report submitted by Germany

Operative 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

1. The Federal Republic of Germany does not provide 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. Relevant laws and regulations are in place and being implemented. Thus, effective domestic control is established and illicit actions are penalized. Furthermore, all relevant measures taken and laws implemented are constantly scrutinized with regard to amendments and revisions that current events or developments may make necessary.

2. Any other policy would violate the German Constitution, Article 26 of which prohibits all actions that might disturb the peaceful relations between nations. Article 26 also forbids the manufacture, the transport and marketing of weapons designed for war unless approved by the Federal Government. After the devastating experience of the Third Reich and the Second World War any government of the Federal Republic of Germany is firmly committed to contributing to a more peaceful and safer world.

3. The fight against terrorism along with an effective non-proliferation policy within a multilateral framework features prominently on the foreign and security policy agenda. Germany therefore welcomes Security Council Resolution 1540/2004 on measures to prevent non-State actors acquiring WMD as an important achievement in multilateral efforts in countering proliferation of WMD and shall contribute to its full implementation.

4. The Federal Republic of Germany is party to all relevant multilateral disarmament, arms control and non-proliferation treaties and conventions and remains firmly committed to its obligations within international institutions and conventions, i.e. the United Nations, EU, IAEO, NPT, CWC, BWC etc. The respective conventions have been translated into national law. Germany shall continue to promote an effective multilateralism as the best way to meet the challenges of the 21st century, in particular the proliferation of weapons of mass destruction. To this end Germany also supports relevant institutions and international cooperative efforts undertaken in the framework of relevant institutional fora, i.a. PSI, G8 Global Partnership, EU.

5. The Federal Government is strongly committed to a restrictive arms exports policy and reaffirmed its stance in the Political Principles Adopted by the Federal Government on the Export of War Weapons and Other Military Equipment adopted in January 2000. At the

same time Germany advocates adoption of the EU Code of Conduct for Arms Exports as legally binding guideline. German policy on the export of weapons in general and of related goods is guided by the wish to contribute to maintaining peace, preventing the outbreak of violence, protecting human rights and supporting sustainable development worldwide. With regard to WMD, their export is explicitly forbidden, the export of related goods and other equipment is subject to a very restrictive approval procedure guided by the above mentioned principles.

Operative 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;

6. National law, complemented by enacting obligations derived from relevant international conventions and treaties to which Germany is party, is geared towards effectively preventing proliferation of weapons of mass destruction to non-state actors and to states.

7. The basic regulations on manufacture, transport and marketing of war weapons are contained in the War Weapons Control Act established in 1961 in response to art 26 of the German Constitution (Basic Law), where all actions to develop, transport or market war weapons are prohibited unless explicitly approved by the Federal Government. Transport according to the constitutional article 26 includes not only cross border transport but also domestic transport. Thus, the War Weapons Control Act provides for a comprehensive framework; the Foreign Trade and Payments Act, the War Weapons Reporting Ordinance and the Implementation Act on the Convention on the Prohibition of Chemical Weapons as well as the Implementation Act on the Convention of 10 April 1972 on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons further complement the War Weapons Control Act. Further laws relevant for the prohibition of development, acquisition, production, possession, the transport, transfer or use of nuclear, chemical or biological weapons and their means of delivery are the Foreign Trade and Payments Ordinance of 18 December 1986, as well as the directly applicable Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology. The Federal Republic of Germany, therefore, has a comprehensive and effective system of laws which fulfils the requirements of state legislation deriving from Res. 1540/04 op 2.

8. Since the middle of the 80s proliferation through export of dual use goods has become particularly problematic as more and more actors tried to get hold of restricted technology. Since it became known in 1989 that a German manufacturer delivered sensitive material for a chemical weapons factory in Libya the German regulations and control procedures including not only the War Weapons Control Act, but i.a. also the Foreign Trade and Payments Act and the Penal Code have been repeatedly amended and rendered more severe. The details of German regulations are outlined below.

9. Pursuant to Sections 17 and 18 of the War Weapons Control Act all persons, groups and organizations are forbidden to develop, produce or trade in nuclear weapons, parts, devices, assemblies or substances especially designed for them and biological and chemical weapons, to acquire them from or transfer them to another person, to import or export them, to transport them through or otherwise bring them into or out of federal territory, or otherwise exercise actual control

over them. This comprehensive and absolute prohibition covers the possession of, influence on and use of nuclear, chemical and biological weapons. It is also forbidden to induce another person to commit one of the above-mentioned activities or to encourage one of these activities in any way, particularly through financing.

10. These punitive norms are reinforced by the fact that violations of the law are to be legally classified as crimes and punishable with a prison sentence of up to 15 years. This also applies to attempts to commit one of the above-mentioned acts. Specific penalties for the illicit use of nuclear or radioactive material, the transfer of this material to unauthorized persons or the brokering of such deals, preparation of a radiation offence, initiation of a nuclear explosion, the development, manufacture, purchase, import, export or transit of a nuclear weapon are stipulated in the German Penal Code and may result in fines of up to 250,000 euro, imprisonment for up to five or ten years or even for life.

11. As a party to the Nonproliferation Treaty (NPT) of 1 July 1968 (signed 28 November 1969, ratified 4 June 1974) Germany is committed to the principles and objectives enshrined therein. Germany therefore is bound not to provide source or special fissionable material or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to any non-nuclear weapon state for peaceful purposes, unless the source or special fissionable material is subject to the safeguards required under the NPT. Germany itself is bound not to receive any transfer whatsoever of nuclear weapons or other nuclear explosive devices or of control of such weapons or explosive devices directly or indirectly and not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices and not to seek assistance to this end.

12. Furthermore, as a State Party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their destruction (CWC) of 13 January 1993, Germany has undertaken never under any circumstances to assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention. To enforce this obligation, detailed prohibitions and licensing and declaration requirements for the chemicals specified in the above-mentioned Convention were incorporated into the CWC Implementation Act of 2 August 1994 and the related Implementation Ordinance of 20 November 1996. Under these stipulations the production, processing, acquisition, possession and trade, including the import and export, of such chemicals are subject to strict licensing. A licence is granted only if it can be ensured that performance of the activity requiring a licence will not violate any obligations deriving from the above-mentioned Convention.

13. Furthermore, as a State Party to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 10 April 1972, Germany has undertaken not to transfer to any recipient

whatsoever the goods covered by this Convention, directly or indirectly, and not in any way to assist, encourage or induce anyone to manufacture or otherwise acquire such weapons.

14. The handling of means of delivery is subject to strict licensing and is prohibited if a licence has not been granted or until a licence has been issued (Section 2 ff, War Weapons Control Act).

Additionally, Section 12 paragraph 1 of the War Weapons Control Act stipulates that all necessary steps must be taken to prevent conventional war weapons (including means of delivery) from going astray or being used by unauthorized persons. It must be ensured that only authorized and extremely reliable persons have access to the war weapons. Violation is punishable with a prison sentence of up to five years, in particularly serious cases up to ten years, pursuant to Section 22a of the War Weapons Control Act. This also applies to accomplices and abettors as well as attempts to commit an offence.

15. Additional regulations to guarantee safety with regard to the manufacture, use, storage and transport of other military equipment and related materials derive from various laws specifically designed to protect the public. In particular the stockpiling, storage, transport, import and export of explosive substances of relevance to the use of means of delivery are subject to many licensing and reporting requirements, which derive from the Explosives Act. These monitoring activities chiefly involve assessing and checking technical security aspects to prevent unauthorized persons gaining access to such substances and thus to protect the public. In addition, other requirements designed to guarantee transport security derive from the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) and the national regulations on the transport of dangerous goods by road, rail, sea and inland waterways.

Operative 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;

16. As listed above, the production, use, storage and transport of nuclear, chemical and biological weapons and related technologies is prohibited and a criminal offence. Accounts of legal transactions can therefore not be kept.

17. The handling of radioactive substances (nuclear fuels and other radioactive substances), chemicals and biological agents for exclusively peaceful purposes is subject to strict national monitoring according to the laws mentioned in op 2. In addition to these regulations further and specific rules apply for the use of nuclear material which are implemented and controlled by EURATOM. The EU-Council Directive 2003/122/EURATOM of 22 December 2003, which is binding for EU Member States, and the national Radiation Protection Ordinance regulate the handling of nuclear material. To implement the recommendations of the IAEA Code of Conduct on the Safety and Security of Radioactive Sources Germany is currently

amending the Atomic Energy Act in order to provide for the creation of a national electronic register for high-activity sealed radioactive sources.

18. In addition to requirements of official approval described in paras 23-27, the Radiation Protection Ordinance requires anyone authorized to handle or use radioactive substances - i.e. nuclear material and other radioactive material – for peaceful purposes to notify the responsible supervisory authority of any extraction, production, acquisition, transfer or other whereabouts of the respective radioactive substances within one month of the beginning by specifying the activity and type of the material. They must also keep detailed records of these actions and submit the inventory of radioactive substances to the responsible authority once a year. The authority conducts inspections to verify the accuracy of the records and declarations. Radioactive waste may only be disposed of in Federal repositories or State waste-collecting facilities, which are adequately secured in accordance with regulations. All radioactive waste must be registered electronically and transparently and the records regularly updated by the bodies authorized to use radioactive substances, as specified in an Annex to the Radiation Protection Ordinance. This data is included in the advance notification prior to any shipment of radioactive waste.

19. With regard to monitoring the handling of chemicals, the CWC Implementation Act and the related CWC Implementation Ordinance stipulate that all handling of the chemicals covered by the Convention is subject to comprehensive and strict licensing, declaration and reporting. Furthermore, anyone who is subject to these restrictions or required to report shall take all necessary steps to prevent the chemicals going astray or being used by unauthorized persons. The federal supervisory authorities may demand company assessments and inspections to check compliance with these obligations. Violation of these regulations is punishable with a prison sentence of up to five years.

20. Various legal provisions are in place in Germany to monitor the handling of hazardous biological agents, depending on the type of pathogen, such as the Animal Disease Act, the Plant Protection Act, the Protection against Infection Act and the Biological Agents Ordinance. They contain detailed reporting, controlling and licensing requirements. These special laws make it possible to track the whereabouts of biological agents even when they are used exclusively for civilian purposes.

21. With regard to the handling of means of delivery, pursuant to Section 12 paragraph 2 of the War Weapons Control Act and the Second Implementation Ordinance to the War Weapons Control Act a register of war weapons must be maintained to keep detailed and complete track of their whereabouts. Pursuant to Sections 9 and 10 of the Implementation Ordinance, the original stock levels, any changes and the stock levels on the reporting dates (31 March and 30 September each year) must be immediately entered in the war weapons register. In addition, the names and addresses of the manufacturer, the transporter and the purchaser of each weapon must be supplied. Improper keeping of the war weapons register shall be punishable with a fine of up to 5000 euro. Moreover, the War Weapons Reporting Ordinance of 24 January 1995 contains additional reporting requirements for the import and export of certain missiles. Pursuant to this ordinance the number of missiles, the war weapon serial number, the type, the date of import or export, the purpose and the country of destination for the import and export of such missiles are to be reported.

Operative Paragraph 3

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

1. With a view to securing nuclear facilities and nuclear materials against illicit use and sabotage Germany has put strict regulations in place that translate the principles of the Convention on the Physical Protection of Nuclear Material into national law as specified below.
2. According to the German Atomic Energy Act import and export, transport, possession, treatment, processing, other use, storage and disposal of nuclear material is subject to licensing and regulatory supervision by competent national authorities. These activities shall only be authorized if the licensee and State response forces can ensure the necessary physical protection against third party interventions, in addition to other licensing conditions. Additional physical protection measures for trans-boundary shipments of nuclear material as prescribed by the Convention on the Physical Protection of Nuclear Material have been implemented.
3. The respective physical protection measures are structural, technical, personnel-based and administrative. They observe the principles of graded approach and defence-in-depth and take the national design basis threat into account, as required by the Fundamental Principles and Objectives of Physical Protection endorsed by the IAEA General Conference in September 2001. The protection measures have been specified in a set of classified national guidelines and are complemented by the Ordinance on the Verification of Trustworthiness for Protecting Against the Diversion or Major Release of Radioactive Material and the General Administrative Provision on the Protection of Classified Information. The system of protective measures by the licensee as specified in laws, ordinances and authority guidelines plus protective measures by State response forces ensure that nuclear material is effectively protected against theft or any other unauthorized removal from its peaceful use and against transfer to illegal applications in nuclear or radiological weapons.
4. This licensing and physical protection regime is also regarded as a contribution to the implementation of the position of the EU in Article 4, last bullet of the Council Common Position 2003/805/CFSP of 17 November 2003 to promote measures which effectively exclude any possible misuse of civilian nuclear programmes for military purposes. Germany furthermore supports current efforts to amend the Convention of Physical Protection of Nuclear Material and Facilities.
5. For other radioactive substances, which might be used as materials for radiological weapons – in particular radioactive waste and high-level sealed sources –, the German Radiation Protection Ordinance and the EU-Council Directive 2003/122/EURATOM provide the legal basis for demanding and implementing physical protection measures against theft or other unauthorized removal from peaceful applications. Furthermore, Germany fully supports and is implementing the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.
6. If licensees fail to meet their obligations under the licence based on the legal prescriptions mentioned above, the national legal instruments specify sanctions such as

temporary revocation, complete withdrawal of the respective licence or fines of up to 50,000 euro.

7. Pursuant to the Protection Against Infection Act, the Genetic Engineering Act, the Animal Infectious Disease Act and respective ordinances the possession and handling of hazardous biological agents requires special authorization by the respective medical, veterinary or other agencies. The authorizations are granted for specified agents or specified purposes only. Furthermore, authorization is only granted in case of proven professional need, competence and reliability of authorized persons. Finally, the equipment must meet security requirements that comply with national and international standards. Domestic transfer of hazardous biological agents for legal peaceful purposes may take place only among authorized persons and facilities. Any handling of agents must be documented in detail. In case the licensee fails to meet his obligations national legislation specifies sanctions like temporary revocation or complete withdrawal of the respective authorization and/or administrative fines.

8. With regard to chemical weapons the German CWC Implementation Ordinance stipulates that any handling of the chemicals covered by the Convention is subject to comprehensive and strict licensing, declaration and reporting. Furthermore, anyone who is subject to these restrictions or reporting requirements shall take all necessary steps to prevent the chemicals going astray or being used by unauthorized persons. The federal supervisory authorities may demand company audits and inspections to check compliance with these obligations. Violation of these regulations is punishable with a prison sentence of up to five years.

9. Strict national security and safety regulations apply to the handling of World War I and II ammunition with chemical fill. This ammunition, once recovered from the ground, is treated according to the provisions of the Law on Explosives in conjunction with the 1st and the 2nd Ordinance Pertaining to the Law on Explosives as well as with the pertinent regulations on the storage of explosives and the rules and regulations issued by the chemical industry employer's liability insurance association. The handling of the chemical fill is based on the provisions of the Hazardous Substances Ordinance.

Operative Paragraph 3

(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;

1. In the Federal Republic of Germany any form of trade including cross-border trade in nuclear, biological or chemical weapons of mass destruction is prohibited pursuant to Section 17 ff of the War Weapons Control Act. The prohibition also applies to the conclusion or brokerage of contracts which involve the acquisition or transfer of weapons of mass destruction and to all activities leading up to the conclusion of such a contract. The specific regulations are outlined below.

2. The acquisition and transfer of means of delivery is governed by the strict licensing regulations applicable to war weapons and is prohibited unless a licence has been granted or

until a licence has been issued see op 2, para 14). Brokering such contracts or showing that an opportunity exists to conclude such contracts concerning war weapons located outside Germany also requires a licence (Section 4a, War Weapons Control Act).

33. Control of cross-border trade in related materials in Germany takes place in accordance with international agreements on the basis of European legislation. Pursuant to Art. 3 and 4 of Council Regulation (EC) No 1334/2000 of 22 June 2000, a licence is required for the export of the dual-use items listed in Annex I of the EC Regulation, and other related materials must be controlled if they are or could be intended for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of nuclear, biological or chemical weapons or for the development, production, maintenance or storage of missiles capable of delivering such weapons. A national licensing requirement also exists pursuant to Sections 5c and 5d of the Foreign Trade and Payments Ordinance, in cases where other related materials are or could be intended for military use or for the construction of, operation of or incorporation into a nuclear processing plant, and the purchasing country or destination is listed in Sections 5c and 5d of the Foreign Trade and Payments Ordinance.

34. If the military equipment is located outside Germany or outside the territory of the European Union, licensing is required pursuant to Section 40 paragraph 1 of the Foreign Trade and Payments Ordinance if a German acquires the equipment abroad from a non-German and resells it to a third party, unless the purchasing country and destination is an EU member state or listed in Annex II part 3 of Council Regulation (EC) No 1334/2000. Likewise, transit trade with dual-use items is subject to licensing pursuant to Section 40 paragraph 2 of the Foreign Trade and Payments Ordinance if the items are located outside the European Union and the purchasing country and destination is an embargo country or included on the Foreign Trade and Payments Ordinance Export List.

35. Furthermore, in addition to the above-mentioned equipment controls, Section 45 ff of the Foreign Trade and Payments Ordinance grant the authorization to control technological support services rendered inside and outside the Federal Republic of Germany. In Germany, therefore, both the transfer of equipment and the transfer of know-how require a licence.

36. These controls demand licences for all support services of relevance to the development, production, handling, operation, maintenance, storage, detection, identification and dissemination of chemical and biological weapons, nuclear weapons or other nuclear explosive devices. Support services rendered in connection with the development, production, maintenance or storage of missiles capable of delivering such weapons likewise require a licence. Violation is punishable with a fine of up to 500,000 euro. In particularly serious cases a prison sentence of up to five years may be imposed.

37. The Federal Ministry of Economics and Labour in agreement with the Federal Foreign Office and the Federal Ministry of Finance is also entitled to prohibit legal transactions and activities concerning external economic affairs in individual cases, especially exports and transfers, if they could significantly disturb the peaceful coexistence between nations or seriously disrupt the Federal Republic of Germany's security or external relations (Section 2 paragraph 2, Foreign Trade and Payments Act). This power of intervention, which was introduced partly to prevent the proliferation of weapons of mass destruction, can be used even if the legal transaction or the activity concerned does not require a licence pursuant

to the EC Dual-Use Regulation or the Foreign Trade and Payments Ordinance. It enables the Federal Government to take effective measures very quickly to counter an acute proliferation risk.

38. On 23 June 2003 the Council of the European Union adopted a Common Position on the control of arms brokering (2003/468/CFSP), the content of which is in line with the above-mentioned regulation in Section 4a of the War Weapons Control Act. The introduction of appropriate controls to enforce the contents of the Common Position is currently under way.

(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

1. With its extensive prohibitions on handling weapons of mass destruction, including related support services and the prescribed penalties for violation of the law, Germany complies with the requirements of op 3 d concerning nuclear, biological and chemical weapons.

2. Germany is a founding member of all export control regimes in the field of non-conventional weapons: the Nuclear Suppliers Group, the Missiles Technology Control Regime and the Australia Group. The Federal Government considers them to be a relevant contribution of major importance to achieving the goal of preventing the proliferation of WMD as enshrined in the international non-proliferation conventions and treaties (NPT, BTWC, CWC). With a view to contributing to the further development of the scope of all export control regimes, Germany has explicitly supported the inclusion of a catch-all clause (approval requirements for non-listed items in case of possible misuse relevant to proliferation of WMD) and of an additional regime objective, i.e. preventing access of persons suspected of supporting terrorism to listed items. The adoption of the export control lists and the control regulations of the respective export control regimes by states outside the regimes features among the political goals of the Federal Government. Germany maintains that this is an important contribution to global efforts in the fight against proliferation that reaches beyond the state parties of the export control regimes. Germany faithfully implements the guidelines of the export control regimes and has to this end adopted, as necessary, the required national regulations as outlined below.

3. Export, transit, trans-shipment and re-export of means of delivery are subject to strict licensing regulations pursuant to Section 2 ff of the War Weapons Control Act in accordance with the provisions on conventional war weapons. Such activities are prohibited unless a licence has been granted or issued and are punishable with a prison sentence of up to five years, in particularly serious cases up to ten years. This also applies to supporting financial and transport services if they are deemed to contribute to the unauthorized export, re-export or transit, as well as to attempts to do so.

42. Export controls for related materials, if they are dual-use items, take place on the basis of Council Regulation (EC) No 1334/2000 of 22 June 2000. The Federal Office of Economics and Export Control (BAFA) subjects such export applications to a thorough technical examination. Decisions on exports to specific countries or recipients with potential proliferation risks are taken by an interministerial export committee representing various ministries and competent authorities. Licences are generally granted only if the end-use of the items for civilian purposes has been presented convincingly and plausibly and there are no indications that the items will be put to sensitive use. Licensing practice is largely shaped by the Federal Government's decision not to contribute to the proliferation of weapons of mass destruction and the missiles and systems that deliver them.

43. Moreover, the export of unlisted dual-use items, i.e. items which the international export control regimes have not deemed generally worth controlling, may also require a licence. The export of such goods requires a licence if they are or could be intended for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of nuclear, biological or chemical weapons or for the development, production, maintenance or storage of missiles capable of delivering such weapons. In addition, pursuant to the supplementary national stipulations, a licence must also be obtained if these goods are or could be intended for a military end-use or for the construction of, operation of or incorporation into a nuclear processing plant and the purchasing country or destination is listed in Sections 5c and 5d of the Foreign Trade and Payments Ordinance. For applications of this nature a licence is granted only - in line with the licence procedure for dual-use goods - if comprehensive examination of the use of the goods and the final recipient reveals no potential proliferation risks. This corresponds to the licensing procedure for dual-use items.

44. Another central condition determining whether a licence is granted is the reliability of the exporter, which is checked regularly. Every application for an export licence is carefully compared with the lists of names in the various anti-terrorism regulations to prevent weapons of mass destruction, their means of delivery or related materials from falling into the hands of persons suspected of supporting terrorism. The checks cover not only the exporter's name, but also everyone connected with the planned export.

45. Exporting items without prior authorization is prohibited and punishable with a prison sentence of up to five years, in particularly serious cases up to 15 years. Supporting financial and transport services are also punishable if they can be regarded as contributing to the unauthorized export or re-export, as are attempts to commit such offences. These rigorous individual examinations and the high penalties for violating the law guarantee an optimal level of security and have proved appropriate and effective in preventing export law evasion and in controlling the access of non-State actors to weapons of mass destruction, means of delivery and related materials.

46. Irrespective of the above-mentioned licensing procedure, the export, transit and transshipment of goods in Germany may also be prohibited and prevented by intervention in individual cases, as described in more detail in op 3c, pursuant to Section 2 paragraph 2 of the Foreign Trade and Payments Act. In this context it is important to mention that this power of intervention also exists if the activity concerned does not require a licence. The Federal Government has made use of this option on various occasions.

47. The regulations on combating money laundering and terrorist financing applicable in Germany, which specifically aim to ensure the transparency of payments, also serve to control and prevent the funding of proliferation deals. In Germany a complex set of rules on combating money laundering based on two EU guidelines has been in place since 1993. Following the events of September 11, 2001, the member states of the Financial Action Task Force on Money Laundering (FATF), which include Germany, also pledged to translate the eight FATF Special Recommendations on Terrorist Financing into national law by June 2002. With the fourth Financial Market Promotion Act, which entered into force on 1 July 2002, and the Money Laundering Prevention Act of 8 August 2002, Germany has taken further legal steps to implement the FATF recommendations to combat money laundering and terrorist financing. The following measures deserve specific mention:

48. Section 25a paragraph 1 (4) of the Banking Act obliges credit institutes to establish all-inclusive computer monitoring systems to examine transactions according to risk groups and suspicious features and create appropriate security systems to screen clients and transactions. Implementation of the international customer due diligence standards requires active investigation of business relations and risk groups which have provided grounds for suspicion. Moreover, credit institutes, insurance companies and financial service providers have to set up appropriate security systems and controls for clients and transactions to prevent money laundering and terrorist financing pursuant to Section 14 paragraph 2 of the Money Laundering Act. The Federal Financial Supervisory Authority constantly updates this general clause with administrative provisions.

49. Pursuant to Section 25b of the Banking Act, when transferring funds via cash-free transactions with states outside the European Union, credit institutes must ensure that client data is fully recorded and passed on and that incomplete data can be identified and completed where necessary.

50. Pursuant to Section 11 of the Money Laundering Act credit institutes must immediately report to the responsible law enforcement agencies any facts which give rise to the suspicion that a financial transaction could involve a criminal money laundering activity or the financing of a terrorist organization. The financial market supervisory authorities and the finance offices have the same obligation pursuant to Sections 13 and 16 of the Money Laundering Act and Section 31b of the Fiscal Code respectively.

51. Section 5 of the Money Laundering Act provides for the establishment of a Financial Intelligence Unit – FIU in the Federal Criminal Police Office to pool, examine and evaluate all financial intelligence information and exchange data with central offices in other countries. Thus the instrument of financial intelligence on money laundering is to be used more to detect financial flows than serve terrorism.

52. According to Section 12a paragraph 1 of the German Customs Administration Act persons shall report upon request of the relevant officials (Customs and Federal Border Control Police) the nature, number and value of cash or equivalent means of payment to the value of 15,000 euro or more which they are taking or transporting into, out of or through the country. If there is reason to assume that cash or equivalent means of payment are being transported for the purpose of money laundering or terrorist financing, the respective officials may seize the cash or the equivalent means of payment up to one month. The relevant criminal authorities are to be informed without delay (Section 12a paragraph 2).

According to Section 12a paragraph 3, the competent customs authorities may record, process and utilize personal data. The customs authorities may forward this data to the responsible criminal prosecution authorities as well as to other financial authorities under certain conditions.

Operative 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.

53. The existence of national lists of items to identify the range of controllable items is a central aspect of German export control. These control lists contain all items classified as worthy of control in the international export control regimes, the competent European Union bodies and the Federal Government. These lists are subject to ongoing checks and updates. Specifically, the decisions taken under the international export control regimes and in the EU on changing the lists are to be translated into national law as soon as possible. This ensures that all items which have been classified as worthy of control at international level are also subject to checks in Germany.

Operative 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

1. The German government attaches great importance to assisting partner countries where necessary and requested in fulfilling their international obligations in the field of dismantlement, export control and non-proliferation of WMD.
2. Germany has pledged up to 1.5 billion US dollars up to 2012 for projects within the Global Partnership against the Spread of Weapons and Materials of Mass Destruction launched at the G-8 Summit 2002 in Kananaskis. Currently Germany is supporting three projects in the Russian Federation: -The construction of a CW destruction facility at Kambarka (appr. 300 million euro up to 2008).

The project Kambarka is the 'successor' of the only working Russian CW-destruction facility at Gorny, which has been erected with German help and is still receiving German support.

-The construction of a long-term intermediate storage facility for 300 reactor compartments of decommissioned Russian submarines at Saida-Bay including the dismantling of the decommissioned submarines there (appr. 300 million euro up to 2008)

-The modernization of the physical protection of almost 20 nuclear installations and storage sites (including for nuclear weapons destined for disarmament, appr. 170 million euro up to 2009)

1. As a member of the “Northern Dimension Environmental Partnership” Germany supports its nuclear window with 10 million euro up to 2007.

2. Germany has been actively supporting the IAEA Nuclear Security Fund, which helps to implement programmes to improve the physical protection of nuclear materials and radioactive sources, through in-kind contributions (experts in physical protection) plus financial contributions of 1.2 million euro since 2002. In addition, Germany has been advising and supporting nations in designing and improving their national systems for physical protection on a bilateral basis, through direct technical assistance, expert services and training courses conducted in the Russian Federation and the Ukraine. This support will continue as far as the financial resources will allow.

1. The Federal Government supports bilaterally through its implementing agencies (Federal Office of Economics and Export Control (BAFA), Customs Authority) the establishment and further development of national export control system in several European and non-European states. This support shall be maintained and partly expanded.

2. Furthermore, Germany has extended assistance in the field of national implementation of the CWC obligations to several countries.

3. Finally, on the occasion of the meeting of state parties to the BTWC Germany also offered to several countries to assist in implementing prohibition and export control obligations pursuant to BTWC.

Operative 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;

61. Germany is party to all relevant international treaties and conventions. It promotes bilaterally as well as within the EU framework the universalisation and the full implementation of multilateral control regimes in the field of non-proliferation of WMD, related material and their means of delivery. This policy has been confirmed within the EU-framework by the adoption of the Common Position of the European Council on the Universalisation and Reinforcement of Multilateral Agreements in the field of WMD and Means of Delivery in November 2003 as well as by the adoption in December 2003 of the EU Strategy against the Proliferation of WMD.

62. The multilateral treaty regime provides the normative basis for all non-proliferation efforts. Germany is committed to working towards strengthening the disarmament and non-proliferation treaties, agreements and arrangements, with a view to filling identified gaps in the current pattern of multilateral instruments. Particular emphasis is put on reinforcing compliance with their provisions,

i.a. by enhancing the detectability of significant violations and strengthening enforcement of the norms established by the multilateral treaty regime.

1. Germany is committed to working towards effectively strengthening the role of the UN Security Council, as the final arbiter on the consequence of non-compliance

– as foreseen in multilateral regimes - , to promote compliance with the non-proliferation commitments of the NPT by universalising the Additional Protocol and making it the verification standard for all NPT State Parties and fostering additional measures to ensure that any possible misuse of civilian programmes for military purposes will be effectively excluded. The promotion and implementation of the nuclear disarmament obligations of the Nuclear Weapon States in line with Article VI of the NPT and the practical steps contained in the Final Document of the 2000 NPT Review Conference contribute to this objective. Compliance with the nuclear disarmament obligations is crucial for maintaining the effectiveness, authority and integrity of the nuclear non-proliferation regime.

2. To this end Germany has made specific proposals during the ongoing review process of the Non-Proliferation Treaty (NPT/CONF.2005/PC.IIIWP.14 on Export Controls, NPT/CONF.2005/PC.IIIWP.15 on procedures and mechanisms to strengthening the NPT against withdrawal and non-compliance, NPT/CONF.2005/PC.IIIWP.16 on compliance, NPT/CONF.2005/PC.I/13 on implementation of article VI and paragraph 4(c) of the 1995 Decision on “Principles and Objectives for Nuclear Non-Proliferation and Disarmament, NPT/CONF.2005/PC.I/WP.12 on protection against nuclear terrorism and security of nuclear materials and nuclear installations, NPT/CONF.2005/PC.I/WP.5 on non-strategic nuclear weapons, NPT/CONF.2005/PC.I/WP.4 on attaining a nuclear-weapon-free world).

3. Germany continues to work on the strengthening and completion of the international treaty regimes and inspection mechanisms which can contribute to curbing and preventing the proliferation of ballistic missiles. In the context of the Hague Code of Conduct Germany has contributed to this end substantial proposals for an effective implementation of the Code (Working paper of 2 October 2003 and 17 June 2004 on the occasion of the HCOC Annual Conferences and Experts Meetings). Germany is promoting these goals in bilateral consultations with third countries and works for a universal participation to the Hague Code of Conduct.

4. In the absence of a verification protocol, Germany proposed at the BTWC Meeting of Experts in July 2004 in Geneva to revisit UN Resolution 42/37 C (Measures to Uphold the Authority of the 1925 Geneva Protocol) and UNGA Document A/44/561 (Chemical and Bacteriological (Biological) Weapons) with a view to supporting the UNSG in improving his capabilities to carry out investigations in response to reports that may be brought to his attention by Member States concerning the use of biological weapons.

5. As State Party to the Chemical Weapons Convention Germany has been actively pursuing a policy aimed at strengthening this important disarmament instrument in both the Executive Council and the Conference of the States Parties of the OPCW. Germany's regular contribution of nearly 10% to the OPCW programme and budget reflects its commitment to the object and purpose of the Convention. Germany has actively contributed to both the OPCW Action Plan on Universality by participating in demarches aimed at the universalisation of the CWC. In the context of the OPCW Action Plan on National Implementation, Germany has extended assistance to several other States parties with a view to enabling the speedy completion of their national implementation legislation.

Operative Paragraph 8

(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;

68. As mentioned in op 2 and 3 Germany has translated all obligations and commitments of the relevant international and multilateral treaties and conventions Germany has acceded to into national law. Germany is committed to continue to do so as the necessity occurs.

Operative Paragraph 8

(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;

1. Germany is a longstanding and active supporter of the International Atomic Energy Organisation and its work. As the third largest contributor to the IAEA Budget, Germany spends every year more than 27 million US-dollars in support of the Agency's regular budget with an additional amount of 4.5 million US-dollars in support of the technical cooperation activities of the Organisation. Germany was among the first to sign and ratify the changes in the IAEA statute to allow for biennial budgeting. A bilateral safeguards support programme and a number of cost-free experts provided to the Agency add to those amounts. Furthermore, Germany –through the active participation of numerous experts in IAEA working groups is substantially engaged in the work of the Agency, in particular with regard to its non-proliferation activities and the IAEA measures against the threat of nuclear terrorism.

2. Germany has been supporting the BTWC in all its aspects and has been working actively towards strengthening the Convention with EU and other partners. This includes annual demarches towards universality of the BTWC. Following the failure in 2001 to achieve a legally binding instrument to verify compliance with the Convention, States Parties took a pragmatic decision at the 5th Review Conference to launch a new process scheduled until 2005 with a view to contributing valuable expertise on a full range of topics including national legal implementation of the BTWC prohibitions and export regulations including penal legislation, implementation of national measures to improve the safety/security of dangerous biological agents, national and international efforts to improve biosurveillance of disease outbreaks and, finally, enhancing international capabilities for responding to and investigating cases of alleged use of biological weapons or suspicious outbreaks of disease. Germany is one of the main supporters of this process. Furthermore, in the absence of a verification protocol, Germany has been contributing since 1987 to the confidence building measures (CBMs) by annually reporting all relevant scientific projects, publications and institutions as agreed at the 2nd and 3rd BTWC Review Conferences.

71. Germany has been a staunch supporter of chemical disarmament and of the OPCW since its inception. It is noteworthy that the final text of the CWC was agreed on at the CD in Geneva in 1992 under German chairmanship of the ad hoc group. Germany has maintained for some time that, apart from the destruction of CW, the universalisation and

full national implementation of the CWC is one of the essential elements for its efficiency. A comprehensive national implementation legislation was already adopted in 1994, 3 years before the entry into force of the CWC, in April 1997. Germany has actively participated in various demarches of the EU to promote universality. Furthermore, Germany has extended assistance to several countries in the field of national implementation of CWC obligations. As a member of the Executive Council of the OPCW, since its entry into force, Germany has been actively involved in promoting the object and purpose of the CWC. Germany attaches particular importance to the further development of the challenge inspection regime with a view to making it a routinely usable instrument within the treaty.

Operative Paragraph 8

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

1. The publication of wide-ranging information on obligations pursuant to existing multilateral treaties and other agreements as well as under national law is a standard practice and a key element of German export control efforts. The effectiveness of our efforts in this field requires the provision of detailed instruction and the close involvement of the economic sectors affected.

2. To this end the Federal Ministries and the BAFA have published a large number of pamphlets and information sheets which can be read and downloaded free of charge from the respective websites (e.g. www.ausfuhrkontrolle.info). This information ranges from presentations of all relevant legal texts to explanations of administrative practice. Regular information days and expert discussions, providing the economic sectors concerned with updated information on current export control developments, supplement the publications. Furthermore, Germany is heavily involved in organizing information days at international level, especially as part of the outreach activities of the international export control regime, to promote the harmonization and strengthening of efforts to prevent the proliferation of weapons of mass destruction through international cooperation.

Operative 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

1. In its Strategy against the Proliferation of Weapons of Mass Destruction the EU lists a number of policy areas and instruments relevant to the non-proliferation of WMD. Among these measures the promotion of a stable international and regional environment figures prominently. The best solution to the problem of proliferation of WMD is that countries should no longer feel they need them. To this end Germany is fully committed to the objectives of the EU Strategy against the proliferation of WMD, which provides for an intensified political dialogue on disarmament, arms control and non-proliferation with third countries. Germany fosters regional and trans-regional dialogue in order to create a safer environment. Our policy is to prevent, deter, halt and, where possible, eliminate proliferation programmes of concern, while dealing with their underlying causes. We further

work to strengthen export control policies and practices in coordination with partners of the export control regimes and advocate, where applicable, adherence to effective export control criteria by countries outside the existing regimes and arrangements. Germany also continues to strengthen supplier regimes and European coordination in this area. The EU also pursues a complementary approach geared towards mainstreaming non-proliferation policies into the EU's relations with third countries in introducing a non-proliferation-clause in future agreements of the EU with third countries. The EU economic co-operation or development assistance with third countries will take account of WMD proliferation concerns. Germany fosters, contributes and adds to these actions by the EU in its bilateral dialogue with third countries, promoting regional security arrangements and regional arms control and disarmament processes.

2. Germany as a member of G8 is fully committed to the work and the initiatives of the G8 in the field of non-proliferation . Germany has pledged up to 1.5 billion US dollars up to 2012 for projects within the “Global Partnership against the Spread of Weapons and Materials of Mass Destruction” launched at the G-8 Summit 2002 in Kananaskis (see para 54). Together with G8 partners Germany is promoting the G8 principles to prevent the spread of WMD and materials of mass destruction to terrorists and those that harbour them adopted at the G8 Summit in Kananaskis 2002 and the action plan on radioactive sources adopted at the G8 Summit in Evian 2003. Together with G8 partners Germany is working on the implementation of the G8 action plan on non-proliferation adopted by G8 at Sea Island in 2004 which foresees a whole range of further concrete measures to fight the proliferation of WMD.

3. Germany also participates in NATO's fora on non-proliferation. First and foremost, the Senior Group on Proliferation Issues (SGP) engages in analysis of proliferation of WMD and its means of delivery aimed at formulating conclusions and recommendations for the Alliance's policy. In addition, as an instrument of outreach policy the SGP regularly consults with member countries of the Mediterranean Dialogue or Ukraine on non-proliferation issues. The promotion of dialogue and cooperation on non-proliferation is also taking place within the NATO-Russia Council (NRC) “at 27”. Joint analysis of non-proliferation instruments and current non-proliferation challenges is geared towards elaborating common policy approaches for NATO and Russia to address the threat posed by proliferation of WMD and their means of delivery. The same applies to the Euro Atlantic Partnership Council (EAPC). The EAPC is another appropriate forum to address proliferation issues in order to bring about an international strategic consensus against the proliferation of WMD and their means of delivery.

Operative 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;

1. As mentioned in op 9 Germany is cooperating bilaterally as well as multilaterally with all state partners and with the relevant international institutions and fora.

2. Germany has from its inception been actively involved in the Proliferation Security Initiative (PSI). In the Statement of Interdiction Principles adopted on 4 September 2003 in Paris, the participating states reaffirmed their commitment to impede and stop shipment of WMD, delivery systems, and related materials flowing to and from states and non-state actors of proliferation concern, consistent with national legal authorities and relevant international law and frameworks, including the United Nations Security Council. In May 2004 Germany and its partners in the European Union have further pledged to fully endorse and subscribe to the Statement on Interdiction Principles of 4 September 2003. They noted in this context that UN Security Council resolution 1540 (2004) 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. Such a preventative operation was undertaken by German law enforcement agencies in cooperation with partners in October 2003. The German vessel BBC China, flying the flag of Antigua was rerouted to an Italian port and subsequently searched. The search revealed components for a centrifuge in five containers. On 31 March/1 April 2004, Germany organised the first PSI interdiction exercise exclusively designed for law enforcement at Frankfurt International Airport under the auspices of the German Customs. Eighty-six representatives from 29 countries and the EU Commission and the EU Council Secretariat participated in the exercise either actively or as observers. The goal of the interdiction exercise was to improve procedures for the prevention of the proliferation of weapons of mass destruction, related materials and technologies and their means of delivery.

3. Furthermore, as Germany is a member of the EU, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU Report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

II. Specification of requested assistance
 Note: The areas of requested assistance shown below are based on selected operative paragraphs (OPs) of UNSCR 1540 (2004)

Areas of requested assistance, based on the operative paragraphs (OPs) of UNSCR 1540	Specify, as needed, any particular application to nuclear, chemical, biological weapons, means of delivery, or related materials.	Comments Please indicate if you would like the Committee to keep your request confidential and only share it on a case-by-case basis with your consent
Assistance in reporting to the 1540 Committee – OP 4		
Drafting and implementation of legislation relevant to preventing non-State actors from acquiring WMD /means of delivery or any other activity set forth in OP 1		
Drafting and implementation of legislation to prohibit non-State actors from conducting, attempting to conduct, participating as an accomplice, assisting or financing any activity set forth in OP 2 relating to WMD /means of delivery		
Development and implementation of measures to account for and secure related materials to prevent the proliferation of WMD/means of delivery as set forth in OP 3(a). <i>Note: Assistance could include equipment or training relating to the development of measures</i>		
Development and implementation of physical protection measures to prevent the proliferation of WMD/means of delivery as set forth in OP 3(b). <i>Note: Assistance could include equipment or training relating to the development of measures</i>		
Development and implementation of measures, equipment or training to improve border controls as set forth in OP 3(c). <i>Note: Assistance could include equipment or training relating to the development of measures</i>		
Establishing and maintaining effective national export and trans-shipment controls over WMD/means of delivery/related materials, as well as controls on providing funds and services relating to such export and trans-shipment such as financing, including the drafting or improvement of relevant legislation - OP 3d		
Drafting, updating or implementing lists of export controlled items - OP 6		
Development of appropriate ways to work with and inform industry and the public regarding their obligations - OP 8(d)		
Other requests (e.g., for demonstrations of equipment, technical briefings, informal consultations, etc.)		

Any additional comments:

.....

.....

III. Funding source

Please indicate if you have a preferred funding source (circle appropriate response).
 If you would like to retain a provider from whom you already receive assistance in other areas, please identify after the relevant heading(s):

- 1) Self-funded
- 2) State Partner(s):
- 3) Inter-Governmental Organization(s) (IGO):

- 4) Non-Governmental Organization(s) (NGO) or other Private Source:

- 5) No preference

Estimated contribution by your State or other domestic source(s) toward proposed assistance event: % or dollar value (US\$)

Note: Possible requirements on assistance offered

For information in your dialogue with providers of assistance, you should note that certain requirements may be placed on offer(s) of assistance or incorporated into contracts. Listed below are some examples of possible requirements on the provision of assistance:

- a. Location where assistance is to take place (e.g., in-country training in assisted State only).
- b. Affiliation of participants (e.g., Government officials only; non-military personnel only).
- c. Timeframe for assistance provision.
- d. Total time allowed for training (e.g., not more than ten working days).
- e. Equipment (e.g., radiation monitors, purchasable by recipient State after completion of activity, subject to valid export licence from Government of the provider of assistance).
- f. Government involvement (e.g., does this assistance package require any Government approval).
- g. Implementation agreement requiring subsequent action by your country.

IV. Point(s) of Contact on 1540 implementation

In your country capital:

Name(s)	Position	Phone and Fax No.	E-mail Address
.....
.....

At UN Mission in New York:

Name(s)	Position	Phone and Fax No.	E-mail Address
.....
.....

References

1. This report draws heavily from research and writing done by the author for a Masters of Arts thesis at the Georgetown University. This study focuses on the GCC and the Arab League because their overlapping memberships encompass all but one Middle Eastern country, Israel, which does not belong to any regional body for reasons beyond the scope of this study. The third regional organization that could have been subject for analysis is the Arab Maghreb Union, which membership encompasses Algeria, Morocco, Tunisia, Libya and Mauritania. This regional body is newer, institutionally weaker and in the author's opinion, after initial research, significantly less well placed, relative to the other regional bodies, to be able to play a role in assisting its membership with implementation of international measures. All Arab Maghreb Union member states are also state parties to the Arab League, meaning that all Middle Eastern states besides Israel are under consideration in this study.
2. In connection to Resolution 1540 implementation levels, there is no precise measure for assessing how far UN member states have gone to implement the mandate. This is due to the fact that the reports (discussed below) that governments must submit to the 1540 Committee detailing 1540 implementation activities are productions of the state itself. However, many countries do not have the financial or human capacity to comprehensively identify if, and to what degree, they fulfill specific Resolution 1540 provisions. Subsequently, by using a 1540 matrix, the 1540 Committee's group of experts seeks to determine what 1540 provisions each country has fulfilled; yet at that point the data in many cases are to various degrees already flawed. To that end, the implementation generalizations made in this study represent a general overview of the 1540 reports submitted, as well as several years of following this issue, which has given the author a good general understanding of the ground truths with regard to implementation levels throughout the world. It must be noted that for the purpose of this work, a general understanding of implementation trends is sufficient; and widespread agreement exists about the regional implementation claims made throughout this study.
3. When referencing the Middle East region, this study is referring to member states of the Gulf Cooperation Council and the League of Arab States, including Arab states located in North Africa. Member states in these organizations include: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestinian Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.
4. These governments include Algeria, Bahrain, Djibouti, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, Tunisia, Turkey, United Arab Emirates, and Yemen. For discussions on the nuclear renaissance see Chen Kane, "Nuclear Energy Programs in the Middle East: US Strategies for Alternative Iranian Nuclear Future," May 12, 2010; US Department of State, International Security Advisory Board, "Report on Proliferation Implications of the Global Expansion of Civil Nuclear Power," April 7, 2008; Sharon Squassoni, "Nuclear Energy: Rebirth or Resuscitation?" The Carnegie Endowment Report, March 2009; and Ellen Laipson, Barry Blechman, Brian Finlay, Andrew Houk, "Nuclear Dangers, Nuclear Realities," Stimson Center Report, July 2010.
5. For a discussion on these and other regional security and development challenges in the Middle East see Brian Finlay, Johan Bergenas, Veronica Tessler, "Beyond Boundaries in the Middle East: Leveraging Nonproliferation Assistance to Address Security/Development Needs With Resolution 1540," Stimson Center and Stanley Foundation Report, September 2010.
6. *Ibid.*, p 26.
7. For a theoretical discussion on this concept see Brian Finlay and Libby Turpen, "The Next 100 Project: Leveraging National Security Assistance to Meet Developing World Needs," Stimson Center Report, February 2009. For practical applicability in the Caribbean Basin and Central America see Brian Finlay,

“WMD, Drugs, and Criminal Gangs in Central America: Leveraging Nonproliferation Assistance to Address Security/Development Needs With UN Security Council Resolution 1540,” Stimson Center Report, August 2010.

8. This section draws from the following texts written by the author: “The Slippery Slope of Rational Inaction: Resolution 1540 and the Tragedy of the Commons,” *The Nonproliferation Review*, vol. 15, no. 2, 2008, pp. 373 – 380; “Beyond UNSCR 1540: the Forging of a WMD Terrorism Treaty,” *CNS Feature Story*, October 2008; “UN Security Council Resolution 1540: Historical analysis, current status of implementation, and a look to the future,” *CISTEC Journal*, no. 126, 2010 (with Lawrence Scheinman).
9. Security Council, UN document S/RES/1540, Operative Paragraph 1, 28 April 2006.
10. Security Council, UN document S/RES/1540, Operative Paragraph 2, 28 April 2006.
11. Security Council, UN document S/RES/1540, Operative Paragraph 3, 28 April 2006.
12. Remarks by Richard Cupitt, UN 1540 Committee Expert, at the 10th International Export Control Conference in Istanbul, Turkey, 25-27 June, 2010.
13. Security Council, UN document S/RES/1373, 28 September 2001
14. Peter Crail, “Implementing UN Security Council Resolution 1540: A Risk-Based Approach,” *The Nonproliferation Review*, vol 15, no. 13, July 2006, p. 355.
15. Lars Olberg, “The Implementation of Resolution 1540 in the Middle East,” *Cooperative Monitoring Center-Amman Occasional Paper*, February 2008, p. 3.
16. In fact, the United States mirrored Resolution 1540 after the Proliferation Security Initiative, which is an all-voluntary measure guarding against the high seas being used as WMD trafficking routes.
17. During Security Council meetings, including UN Security Council 4950 Meeting on April 22, 2004, UN Security Council 4956 Meeting on April 28, 2004, UN Security Council 5106 Meeting on December 22, 2004, UN Security Council 5375 Meeting on February 21, 2006, UN Security Council 5886 Meeting on May 6, 2008, and in their reports to the 1540 Committee, the following states raised concerns with Resolution 1540 not being negotiated in a multilateral forum or called for such negotiations: Algeria, Chile, Benin, Peru, New Zealand, India, Singapore, Switzerland, Cuba, Indonesia, Egypt, Malaysia, speaking on behalf of the Non-Aligned Movement, Republic of Korea, Jordan, Liechtenstein, Nigeria, Namibia, Kuwait, Pakistan, Brazil, and Libyan Arab Jamahiriya.
18. For example, the following states raised concerns about the UN Security Council’s role as a legislator compared to an enforcer as is the case with the Nuclear Nonproliferation Treaty, the Biological Weapons Convention and the Chemical Weapons Convention: Pakistan, Indonesia, Islamic Republic of Iran, Egypt, Mexico, Lichtenstein, Nepal, Namibia, Brazil, and South Africa.
19. States concerned with the imbalance between nonproliferation and disarmament included Namibia, Germany, Canada, Peru, New Zealand, South Africa, India, Switzerland, Cuba, Indonesia, Islamic Republic of Iran, Syrian Arab Republic, Malaysia, speaking on behalf of the Non-Aligned Movement, Mexico, Norway, Kazakhstan, Austria, Lichtenstein, Nigeria, Namibia, Kuwait, Thailand, Chile, Algeria, and Brazil.
20. Briefing by Ambassador Jorge Urbina, Chairman of the Committee Established pursuant to Security Council resolution 1540 (2004), 14 December, 2009.
21. Organization of American States, “AG/RES. 2333 (XXXVII-O/07) Support for Implementation at the Hemispheric Level of United Nations Security Council Resolution 1540 (2004),” adopted at the fourth plenary session (June 5, 2007); ASEAN Regional Forum, “Statement Supporting National Implementation of United Nations Security Council Resolution 1540,” Statement at Manila, Philippines (August 2, 2007); Organization for Security and Cooperation in Europe, “Decision No. 10/06 Supporting National Implementation of United Nations Security Council Resolution 1540 (2004),” Fourteenth Meeting of the Ministerial Council (December 5, 2006).
22. UN Security Council Resolution 1540 Committee website, <<http://www.un.org/sc/1540/>>, accessed on August 31, 2010.
23. For example, Yemen submitted a one page statement to the 1540 Committee saying that the country “does not possess nuclear, biological or chemical weapons.” By contrast, countries that have more resources to devote to Resolution 1540 implementation activities, such as Germany, submitted elaborate reports that provided

- detailed descriptions on, inter alia, interagency implementation coordination efforts, future plans of action, and next steps to be taken to comply with the UN measure (See appendix B for Germany's 1540 report).
24. Finlay, pp. 5-6.
 25. Remarks by Cupitt, Istanbul, Turkey, June 25-27, 2010.
 26. Ibid.
 27. The Egypt workshop was held from December 7-10, 2009 with financial support from the European Union and the Governments of Norway and the United States. Officials from the Republic of the Congo, Democratic Republic of the Congo, Egypt, Ethiopia, Ghana, Kenya, Libya, Mauritania, Morocco, Nigeria, South Africa, Sudan, United Republic of Tanzania and Uganda, as well as representatives from a number of international, regional and sub-regional organizations, were invited to participate.
 28. The Kenya workshop was held in Nairobi between February 2-4, 2010 and was attended by government officials from Algeria, Botswana, Burkina Faso, Cameroon, Democratic Republic of the Congo, Congo, Egypt, Ethiopia, Gabon, Ghana, Kenya, Libya, Mali, Morocco, Nigeria, Senegal, South Africa, United Republic of Tanzania, Tunisia and Uganda.
 29. The Workshop on Implementing UN Security Council Resolution 1540 in South-East Asia was held on September 28, 2010 in Hanoi, Vietnam. It was organized by the UN Office for Disarmament Affairs and was funded by the EU and governments of Norway and the U.S.
 30. Regional organizations are groups composed of geographically proximate nations sharing various characteristics and values that tie the states together. Compared to ad hoc collaborations between two or more states, regional organizations have, among other things, founding documents, formalized organizational structures, including budgetary means and staff, permanent headquarters or rotating chairmanships, annual summits, and/or lower level meetings throughout the year. Regional organizations can possess varying degrees of advanced bureaucracies to adopt binding resolution and implement decisions made by the member states. Regional organizations can focus exclusively on one set of issues, like economic cooperation, or include cooperation on a range of regional and international matters. They often will also have overlapping memberships. The level of integration among states within regional organizations is another important difference between these institutions. The most integrated regional body today is the European Union, but it is worth noting that the example from the European continent is far from the goal of other regional institutions, which member states prefer a more informal connection to one another.
 31. Muthiah Alagappa, "Regional institutions, the UN and international security: a framework for analysis," *Third World Quarterly*, Vol. 18, No. 3, 1997, p. 427. The ideas featured in quoted section was also prominent in Alagappa, "Regionalism and conflict management: a framework for analysis," *Review of International Studies*, Vol. 21, No. 4, 1995, pp. 5-7.
 32. Tania Felicio and Nikki Slocum, "The Role of Regional Integration in the Promotion of Peace and Security," *United Nations University – Comparative Regional Integration Studies Occasional Papers*, 2006, p. 10.
 33. Charter of the United Nations, chp. VIII, art. 52.
 34. Tania Felicio, "Managing Security as a Regional Public Good: A Regional-Global Mechanism for Security," *United Nations University – Comparative Regional Integration Studies Occasional Papers*, 2005, p. 8.
 35. Alagappa (1997), p. 422.
 36. Alagappa (1997), p. 422.
 37. Alagappa (1997), p. 421.
 38. Alagappa (1997), pp. 421-422.
 39. Felicio, p. 12.
 40. Between 1994 and 2007 the UN Secretary-General convened seven meetings between the UN and Regional organizations to explore the potential for broader and deeper cooperation. The UN Security Council has also invited regional organizations to meetings six times since 2003.
 41. Kofi Annan, "A regional–global security partnership: challenges and opportunities, report of the Secretary-General, United Nations (2006).

42. Louise Fawcett, "Regional Governance Architecture and Security Policy," Dialogue on Globalization, Freidright Ebert Stiftung, February 2006, p. 3; UN Secretary-General's remarks to the Security Council debate on the role of regional and sub-regional organizations in the maintenance of international peace and security New York, 6 November 2007.
43. This project was led by the Dr. Lawrence Scheinman of the James Martin Center for Nonproliferation Studies under the auspices of the United Nations Institute for Disarmament Research.
44. "Strengthening the Role of Regional Organizations in Treaty Implementation," summary paper from United Nations Institute for Disarmament Research Conference on Strengthening the Role of Regional Organization on Treaty Implementations, Geneva, Switzerland, June 10-11, 2002.
45. Ibid.
46. UN General Assembly, A Regional-Global Security Partnership: Challenges and Opportunities, 28 July 2006, A/61/204-S/2006/590.
47. Implementing Resolution 1540: The Role of Regional Organizations, Ed. Lawrence Scheinman, United Nations Institute for Disarmament Research, (Geneva, Switzerland) 2008.
48. These are among the findings of the aforementioned cited book edited by Dr. Lawrence Scheinman. In 2006, two years after Resolution 1540 was adopted, him and a team of researchers set out to gain further understanding on the potential role that regional organizations can play in facilitating and promoting Resolution 1540 implementation. The starting assumption of the team of six was that since regional arrangements consist of similar states with shared histories, interests and concerns, they inherently understand local priorities, strengths and weaknesses. As such, there is potential for collaboration within regional entities which ultimately could lead to the effective pooling of resources, sharing of Resolution 1540 implementation experiences among their membership, identifying where assistance is necessary, and pinpointing potential donors within and outside their membership. The study focused on organizations in Africa, Latin America and the Caribbean, Southeast Asia and the Pacific because states in these regions experience particularly low 1540 implementation rates. The book honed in on the AU, ASEAN, the ARF, OAS, CARICOM and the PIF and identifies the opportunities and limitations of the role these organizations can and currently do play in facilitating the implementation of Resolution 1540. Limitations include that in some cases institutional cultures do not lend themselves to quick decision-making procedures (e.g. ASEAN), WMD terrorism may not be a priority issue in certain regions (most prominently in Africa), and there may be a lack of capacity in the regional organizations to assist their membership in implementing the resolution (an issue across the board).
49. Scheinman, ed., p. 154-156.
50. The discussion on CARICOM and SICA reflects the ongoing work of the Stimson Center's Managing Across Boundaries program. See for example, Finlay and Turpen.
51. Haiti's report has been submitted to the Group of Experts for their review, but is still in draft format.
52. A comprehensive discussion on the political, security and societal contexts in the Arab Gulf and the wider Middle East is beyond the scope of this paper. For analysis see, for example, Amit Pandya and Ellen Laipson (editors), *Transnational Trends: Middle Eastern and Asian Views*, Stimson Center volume (2008); Laipson, "Prospects for Middle East Security-Sector Reform," *Survival*, 49:2, 99-110; and Laipson (editor), with Emile El-Hokayem, Amy Buenning Sturm, and Wael Alzayat, "Security Sector Reform in the Gulf," Stimson Center report (2006).
53. "Charter of the Cooperation Council For The Arab States of The Gulf," art. 4.
54. The Gulf Cooperation Council "The Unified Economic Agreement between the Countries of the Gulf Cooperation Council," 11 November 1981.
55. "Charter of the Cooperation Council For The Arab States of The Gulf," art. 12.
56. "Fraud and Anti-Money Laundering," GCC Regulation and Compliance Seminars, 28 November 2000.
57. "Joint Communiqué of 17th GCC-EU Joint Council and Ministerial Meeting," 8 May 2007.
58. "Qatar to Host Workshop on Implementing Security Council Resolution 1540 (2004), 8-11 March," UN Department of Public Information, News and Media Division, 6 March 2009.
59. "Kuwait praises GCC-IAEA 'atomic' cooperation," Kuwait Times, 20 September 2007.

60. Olberg, p. 27.
61. "UAE-US Relations," Fact sheet of the United Arab Emirate Embassy in Washington, DC, January 2009.
62. "Export Control and Combating Terror Financing," Fact sheet of the United Arab Emirate Embassy in Washington, DC, June 16, 2010.
63. Fact sheet of the United Arab Emirate Embassy in Washington, DC, January 2009.
64. The League of Arab States, "Pact of the Arab League of States," art. 2, 22 March 1945.
65. Olberg, p. 28.
66. The League of Arab States, "Joint Defense and Economic Cooperation Treaty Between the States of the Arab League," 17 June, 1950.
67. Security Council, UN document SC/9757, 1 October 2009.
68. U.N. General Assembly, 61st Session. Meeting 38. "Organization of work, adoption of the agenda and allocation of items," (A/52/525), 24 October 2006.
69. Islamic Educational, Scientific, and Cultural Organization, "Workshop on Implementing the UN Global Counter-terrorism Strategy in North Africa," 24-25 May 2010.
70. The recommendations in this section mirrors those identified in the CARICOM and SICA cases. See Finlay.

About the Author

Johan Bergenas is a Research Associate with the Managing Across Boundaries Program at the Stimson Center. He has previously held positions with the James Martin Center for Nonproliferation Studies and Oxfam America, as well as having worked as a reporter and freelance journalist. Bergenas focuses on a range of transnational security challenges and national, regional and international approaches to combat these threats. His work has appeared in such publications as a book published by the United Nations Institute for Disarmament Research, *Foreign Affairs* (snapshot section), *Foreign Policy*, *The Guardian*, *The Nonproliferation Review* and *World Politics Review*. He also periodically writes for newspapers and magazines in his native Sweden. Bergenas holds a Bachelor's degree from the University of Iowa and a Master's degree from the School of Foreign Service at Georgetown University.

The Stimson Center

The Stimson Center is a Washington DC-based non-profit, non-partisan institution devoted to enhancing international peace and security. Founded in 189, its work focuses on reducing weapons of mass destruction and transnational threats, building regional security, and strengthening institutions. Stimson's pragmatic approach seeks to understand and illuminate complex issues, develop new knowledge, and engage policymakers, policy implementers, and non-governmental institutions with recommendations that are actionable and effective.

Chapter VIII of the UN Charter clearly looks upon interstate regional arrangements and agencies as institutions that can alleviate the task of the UN Security Council to maintain international peace and security. Bodies like the Organization of American States, Association of Southeast Asian Nations and the African Union are cases in point, but also – in the field of nonproliferation – nuclear weapon free zone arrangements.

In this study Johan Bergenas of the Stimson Center shows ably how regional organizations, notably the Gulf Cooperation Council and the League of Arab States, can help both to prevent further nuclear proliferation in the Middle East and to facilitate cooperation in the peaceful uses of nuclear energy.

Being close to the governments in the region and with an understanding of how trade flows in and through it, these organizations can assist in the implementation of UN Security Council Resolution 1540 that obliges their members to enact and enforce trade restrictions designed to prevent nuclear proliferation. With knowledge of legislation in the region they can also help to draft national laws criminalizing acts and activities that aim at or further nuclear proliferation.

Bergen's study reflects the ongoing work of Stimson's Managing Across Boundaries program that successfully engages both public and private sector actors to combat proliferation and transnational security threats. In examining the role that regional organizations can play in nuclear nonproliferation, Bergenas contributes a very special perspective that is a welcomed addition in the vast literature on nonproliferation.

— **Hans Blix**

Former Director General of the International Atomic Energy Agency
and Executive Chairman of the United Nations Monitoring, Verification
and Inspection Commission