

# THE ROLE OF THE EUROPEAN UNION IN DELIVERING RESOLUTION 1540 IMPLEMENTATION ASSISTANCE

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## I. INTRODUCTION

On 28 April 2004, in light of the threat posed by non-state actors, the United Nations Security Council adopted Resolution 1540 on weapons of mass destruction (WMD) non-proliferation using its powers under Chapter VII of the UN Charter. The resolution required states to prohibit support to non-state actors seeking nuclear, chemical or biological weapons by adopting and enforcing effective domestic legislation to that end; and by enforcing effective measures to control WMD, including physical protection of materials and border controls.<sup>1</sup>

Since its adoption, Resolution 1540 has come to be seen as complementing the multilateral non-proliferation regime. Specifically, it has introduced requirements for criminalization of proliferation activities; addressed proliferation by non-state actors; taken a holistic approach to chemical, biological and nuclear weapons and their delivery systems; is legally binding on all states without the need for ratification of a treaty; and has the potential to generate action by the UN Security Council to enforce it. Despite these strengths, obvious gaps and shortcomings have also been pointed out, including the resolution's omission of radiological materials and the fact that it does not address government-supported proliferation-related actions. Although the resolution seeks to address transnational threats, only national responses are mandated. Moreover, it does not set guidelines for implementation and standards of compliance and non-compliance.<sup>2</sup>

<sup>1</sup> UN Security Council Resolution 1540, 28 Apr. 2004, pp. 2–3; and US Department of State, Bureau of International Security and Nonproliferation, 'The United States makes a voluntary contribution to UN nonproliferation efforts', Fact sheet, 9 Nov. 2011, <<http://www.state.gov/t/isn/rls/fs/177257.htm>>.

<sup>2</sup> See e.g. Steyn, B., 'Understanding the implications of UN Security Council Resolution 1540', *African Security Review*, vol. 14, no. 1 (2005), pp. 85–91.

## SUMMARY

This paper analyses the role of the European Union (EU) in delivering United Nations Security Council Resolution 1540 implementation assistance in the framework of its external non-proliferation policy and cooperation programmes.

It assesses the institutional context of the 1540 Committee and explores the nature of cooperation between the EU and the Committee, including by identifying gaps in EU reporting on its assistance measures.

The paper concludes that although direct EU funding to the work of the 1540 Committee on assistance has been low, the EU has played a valuable role in capacity-building outside of the EU through bilateral and regional cooperation programmes in several relevant functional areas.

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Rightly or wrongly, implementation of the resolution is perceived to be costly, as well as politically and technically challenging.<sup>3</sup>

Five European Union (EU) member states—France, Germany, Romania, Spain and the United Kingdom—voted to adopt Resolution 1540 in the Security Council in 2004 and the EU was quick to announce its support for the resolution thereafter.<sup>4</sup> The objectives set out in the resolution fitted well with the first EU Strategy on WMD non-proliferation, which had been adopted in the Council only a few months before, in December 2003.<sup>5</sup> In 2006, the Council of the EU decided to extend EU support for the resolution to include helping states outside of the EU to meet their obligations. The EU's financial and technical support was delivered within the framework of a paragraph in Resolution 1540 on assistance, which was intended to facilitate the implementation of the resolution in all states. In the assistance clause the Security Council:

*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;*<sup>6</sup>

Since 2004 most EU member states have offered assistance, either bilaterally or by participating in multilateral programmes. In addition, various services across the EU institutions run their own assistance programmes. In 2008 the Council of the EU targeted further funding for the work of the UN Security Council Committee established pursuant to Resolution 1540 (the 1540 Committee).

<sup>3</sup> See e.g. Heupel, M., 'Surmounting the obstacles to implementing UN Security Council Resolution 1540', *Nonproliferation Review*, vol. 15, no. 1 (March, 2008); Crail, P., 'Implementing UN Security Council Resolution 1540: a risk-based approach', *Nonproliferation Review*, vol. 13, no. 2 (July 2006); and Bergenäs, J., 'The slippery slope of rational inaction: UN Security Council Resolution 1540 and the tragedy of the commons', *Nonproliferation Review*, vol. 15, no. 2 (July 2008).

<sup>4</sup> The resolution was adopted unanimously. Council of the European Union, 'EU Strategy against proliferation of weapons of mass destruction, draft progress report on the implementation of Chapter III of the strategy', 10448/04, 10 June 2004, p. 4. Romania did not become an EU member until 2007.

<sup>5</sup> Council of the European Union, 'EU strategy against proliferation of weapons of mass destruction', 15708/03, 10 Dec. 2003.

<sup>6</sup> United Nations Security Council (note 1), p. 3, para. 7.

This paper examines the implementation of the assistance clause of Resolution 1540 in the EU context. 'Assistance' in this paper is defined as an instrument for capacity and institution building that requires a clear commitment to cooperation on the part of the recipient government (or other beneficiary).<sup>7</sup> Other political instruments can be used to approach states whose political commitment is weak. While acknowledging that the effective implementation of Resolution 1540 will, in many states, require a range of reform measures, this paper focuses entirely on assistance.

In the 8 years since the adoption of Resolution 1540, 39 states and 2 regional organizations have requested assistance via a specific 1540 mechanism.<sup>8</sup> It has been assumed that the 25 states that have not filed preliminary reports to the 1540 Committee are also in a need of assistance (although there are also other, political, reasons why some states—such as North Korea—have not submitted a report).<sup>9</sup> A 2011 study on state compliance with Resolution 1540 argued that economic and governmental capacities, rather than national interests and external pressure, determine states' implementation of the resolution. In this context, capacity-building programmes become the obvious pathway to improving the implementation of Resolution 1540.<sup>10</sup> Although this view has been criticized for undervaluing existing political divisions on non-proliferation and disarmament, this paper assumes that the lack of capacity is the main reason for the low level of implementation of the resolution in at least some cases.<sup>11</sup>

<sup>7</sup> On definitions of measures required to achieve reforms see e.g. Börzel, T., Stahn, A. and Pamuk, Y., 'The European Union and the fight against corruption in its near abroad: can it make a difference?', *Global Crime*, vol. 11, no. 2 (2010), p. 131.

<sup>8</sup> United Nations, Security Council, Letter dated 1 February 2012 from the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) addressed to the President of the Security Council, S/2012/79, 6 Feb. 2012, p. 5; and United Nations, Security Council, 1540 Committee, 'Summary requests for assistance from member states', <<http://www.un.org/en/sc/1540/assistance/requests-for-assistance-from-states.shtml>>.

<sup>9</sup> Turpen, E., 'Non-state actors and nonproliferation: the NGO role in implementing UNSCR 1540', 6 Aug. 2007, <<http://www.stimson.org/spotlight/non-state-actors-and-nonproliferation-the-ngo-role-in-implementing-unscr-1540/>>.

<sup>10</sup> Stinnett, D. M. et al., 'Complying by denying: explaining why states develop nonproliferation export controls', *International Studies Perspectives*, vol. 12, no. 3 (Aug. 2011).

<sup>11</sup> For criticism of this view see e.g. Joyner, D. H., 'Non-proliferation law and the United Nations system: Resolution 1540 and the limits of the power of the Security Council', *Leiden Journal of International Law*, vol. 20, no. 2 (2007), pp. 489–518; and Stavrianakis, A., 'Small arms control

Section II of this paper provides an overview of the institutional framework for managing assistance under Resolution 1540. Section III maps interactions between the various parts of the EU and the 1540 Committee based on reports submitted by the EU member states and institutions and other public data collected by the 1540 Committee. Section IV describes relevant EU programmes beyond those that have been reported to the 1540 Committee. Section V provides conclusions and recommendations on how to enhance cooperation between actors.

## II. RESOLUTION 1540 ASSISTANCE: THE INSTITUTIONAL FRAMEWORK

The assistance clause was included in Resolution 1540 on the assumption that some states needed assistance to comply fully with the resolution. It could also be argued that the clause increased the legitimacy of the resolution and the authority of the UN Security Council acting as a legislator.

Since 2004 new understandings of the links between assistance and state compliance have emerged. First, it appears that more states need assistance to implement the most basic requirements of the resolution than was originally envisioned, as shown by the fact that the majority of states failed to meet the requirement to present a national implementation report within six months of adoption. The broad and vague requirements of the resolution meant that early assistance was targeted towards meeting this initial requirement and raising awareness of the resolution. In other words, some states have only requested assistance in order to be able to interpret what compliance entails.

Second, the extremely uneven implementation of the resolution over the past eight years has given assistance measures a more prominent role today than at the time of adoption. While neither the legal form of the resolution nor the indirect threat of enforcement action by the UN Security Council seem serious enough to compel some states to comply even with the basic requirements, many more states have experienced difficulties in implementing all of the obligations, despite their political commitment to do so.

Third, the limited resources and mandate of the 1540 Committee have encouraged actors to bypass it and seek other institutions through which to channel

their assistance. Therefore, assistance has sometimes outgrown the resolution's support function. (Of course, it is likely that some actors would seek to circumvent the Committee regardless of its mandate). The following sub-sections describe the institutional framework of assistance, including the changing political and legal frameworks for delivering and receiving assistance, and the structure of the 1540 Committee.

### Political and legal context of assistance

Resolution 1540 was adopted shortly after information about the A. Q. Khan clandestine nuclear weapons technology proliferation network was made public in early 2004, and on the heels of the development of the 2003 Proliferation Security Initiative (PSI), along with the subsequent discussion about the lack of an international legal basis to back up some of the PSI interdiction principles.<sup>12</sup>

The political context for the resolution was also influenced by the situation in the UN after the 2003 invasion of Iraq, and the determination by the UK and the United States that UN Security Council Resolution 1441 provided a delegated right to use force on the basis of pre-existing resolutions.<sup>13</sup> Resolution 1540 was the second to be adopted by the UN Security Council acting as a legislator and not an executive body in the UN, and constitutes one part of a broader international counterterrorism regime created in the aftermath of the terrorist attacks on the USA of 11 September 2001.<sup>14</sup> Based on a draft resolution submitted by the USA, Resolution 1540 was adopted unanimously by the UN Security Council. Although more than 20 non-members were allowed to comment on the draft at an open Security Council meeting held on 22 April, none of the

<sup>12</sup> White House, 'President Bush addresses United Nations General Assembly', 23 Sep. 2003, <<http://georgewbush-whitehouse.archives.gov/news/releases/2003/09/20030923-4.html>>; and Alvarez, R. V., 'Between centrifugal and centripetal world forces: extra-territoriality of Resolution 1540 and southern perspectives', Paper presented at the workshop Cooperation to Control Non-State Nuclear Proliferation: Extra-Territoriality Jurisdiction and UN Resolution 1540 and 1373, Washington, DC, 4–5 Apr. 2011, <<http://nautilus.org/napsnet/napsnet-special-reports/centrifugal-alvarez/>>, p. 2.

<sup>13</sup> United Nations Security Council, Resolution 1441, 8 Nov. 2002.

<sup>14</sup> The first time the UN Security Council had taken such a decision was with the adoption of Resolution 1373 on counterterrorism in 2001. Joyner (note 11), p. 506. See also Alström, C., 'The Proliferation Security Initiative: international law aspects of the Statement of Interdiction Principles', *SIPRI Yearbook 2005: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2005).

proposals put forward by non-members were taken into consideration when the final text was drafted.<sup>15</sup> This specific political and legal context had implications for the resolution's implementation, including the way in which assistance was delivered and the openness with which it was received.

In general terms, the assistance clause divided states into two groups: those delivering assistance and those receiving such assistance. Although the resolution did not define either category (identification was to be made by states themselves), the differentiation between recipients and providers of assistance is widely regarded as echoing the distinction between 'developing' and 'developed' states prominent in international arms control and the UN system.<sup>16</sup> This differentiation has been publicly disregarded by some states classified as in need of assistance, resulting in a partial shift in the language from 'assistance' to 'cooperation' by some actors, for example the EU. The term 'cooperation' implies reciprocal interchanges between participants trying to solve a common problem, while also suggesting that a state can be both a provider and a recipient of assistance.

In the framework of Resolution 1540, the end-users of assistance are states. States alone are accountable for the implementation of the resolution. They must also comply with the resolution or risk facing sanctions including, as a last resort, the use of force (although this would be highly unlikely). National agencies are further responsible for enforcing Resolution 1540 in licensing offices, customs, law enforcement and so on.<sup>17</sup> While making compliance with the resolution obligatory for all states, in terms of committing resources and taking additional measures, a disproportionate burden falls on states receiving assistance and Resolution 1540 included no guidelines or obligations on actors delivering assistance. As the resolution 'invites States in a position to do so to offer assistance', it did not raise the need for coordinated actions. It was quickly recognized that the assistance clause could confuse international actors, and only a couple of months after the adoption of Resolution 1540 Barry Kellman wrote that:

<sup>15</sup> Nuclear Threat Initiative (NTI), 'UNSCR 1540 resource collection', 19 Mar. 2012, <<http://www.nti.org/analysis/reports/1540-reporting-overview/>>.

<sup>16</sup> Stavrianakis (note 11), p. 194.

<sup>17</sup> Kellman, B., 'Criminalization and control of WMD proliferation: the Security Council acts', *Nonproliferation Review*, vol. 11, no. 2 (summer 2004), p. 144.

the resolution specifically calls on international organizations to provide assistance to states. Currently, at least three dozen international organizations promulgate guidelines or exercise relevant responsibilities for keeping WMD items secure. . . . All these international organizations need to be coordinated . . . What may be foreseen is an integrated network of organizations working cooperatively but with specialized expertise to carry out distinct aspects of WMD security, with mutual representation and assistance.<sup>18</sup>

The issue of assistance harmonization was not formally addressed in the UN Security Council until the 2011 adoption of Resolution 1977, which reinforced Resolution 1540 with an enhanced focus on assistance.<sup>19</sup> In the text of Resolution 1977 the UN Security Council repeatedly urged the 1540 Committee, regional organizations and states to enhance their cooperation, information sharing, best practices exchanges and transparency in assistance programmes so as to fully implement Resolution 1540. This emphasis can be seen as placing a greater responsibility for the general level of implementation of Resolution 1540 on assistance providers. The shift towards a cooperative and transparent assistance process in Resolution 1977 raises questions about the current dynamics between the 1540 Committee, states, and regional and international organizations in implementing the assistance clause of Resolution 1540.

#### **The 1540 Committee: structure and mandate**

The 1540 Committee was formed as a subsidiary body of the UN Security Council. Its role is to regularly update the Security Council on what measures states have undertaken in relation to Resolution 1540.<sup>20</sup> While avoiding establishing an organization to monitor compliance by individual states, the Committee was initially set up to report on the status of implementation of the resolution. The Committee started collecting requests and offers of assistance and soon after created a voluntary template to 'facilitate match-making' of assistance offers and requests. The Committee later

<sup>18</sup> Kellman (note 17), p. 155.

<sup>19</sup> UN Security Council Resolution 1977, 20 Apr. 2011.

<sup>20</sup> UN Security Council Resolution 1540 (note 1), p. 3, para. 4.



started mapping national implementation in matrixes of individual states.

The Committee is composed of representatives of all members of the Security Council, with one rotating chair and three vice-chairs. It receives administrative support from the UN Office for Disarmament Affairs (UNODA). In addition the Committee is supported by a group of experts appointed by the UN Secretary-General after consultations with the 1540 Committee based on nominations by individual states. By June 2012, only two out of a possible eight expert positions had been filled. However, the following month the Secretary-General signed a letter appointing a total of nine individuals to the group.<sup>21</sup>

The Committee divides its activities into four working groups: monitoring and national implementation; assistance; cooperation with international organizations; and transparency and media outreach. Each group is coordinated by one UN Security Council member state and is open to all members of the Committee. Two of the groups have been coordinated by delegations of permanent Security Council members, while non-permanent members have coordinated the other two, although the latter positions have been difficult to fill.<sup>22</sup>

The role of the 1540 Committee in relation to assistance has slowly evolved since 2004. Its initial role—to receive requests and offers of assistance and report them in a systematic manner—has developed into a matchmaking role coupled with a clearinghouse function for new programmes. The Committee must acknowledge the assistance request, relay it formally to assistance providers and, at the end of the process, acknowledge offers of assistance and inform the requestor. The Committee's role was restricted by its original mandate of only 2 years (2004–2006), which was extended once for 2 years in 2006 and again for 3 years in 2008.<sup>23</sup> These short mandates meant that much of the energy of the Committee between 2004 and 2011 was directed towards renewing the mandate of its work. In April 2011, Resolution 1977 extended the

mandate of the 1540 Committee for another 10 years.<sup>24</sup> This extended mandate opens up the possibility of more long-term projects and outreach to new actors, including industry.

In terms of assistance, Resolution 1977 stated that the 1540 Committee should strengthen its clearinghouse and matchmaking functions, including by considering new guidelines and encouraging states to provide updated information regarding former assistance requests or offers as well as assistance points of contacts. In order to fulfil its mandate the Committee has asked states and intergovernmental organizations to supply information on their assistance programmes. However, the Committee only *facilitates* matchmaking, which essentially means that it can provide actors with available alternatives, but cannot make any decisions about actually meeting requests or offers. Although the Committee reports that almost all direct requests for assistance have so far been met, it does not follow-up on actual programmes resulting from such cooperation. The Committee has, to a limited extent, become a coordinator and facilitator of technical assistance through the development of assistance templates, voluntary action plans and country visits at the invitation of states.<sup>25</sup> The country visits, in particular, suggest that the informal role played by the Committee's group of experts in facilitating matchmaking has been enhanced.

Another constraint affecting the 1540 Committee is its lack of a dedicated funding mechanism. The UNODA manages the Committee's budget through the United Nations Trust Fund for Global and Regional Disarmament Activities. While the trust fund's budget comes from a variety of donors and is used for a wide range of activities within the broad spectrum of the UNODA's activities, contributions may be earmarked for 1540 Committee activities.<sup>26</sup> In essence this means that donors may negotiate directly with UNODA about their contributions to the trust fund rather than with the 1540 Committee. Earmarked funds have been in short supply—by 2007 the trust fund's contributions for Resolution 1540 had been exhausted.<sup>27</sup> Donors may also contribute through other channels, for instance

<sup>21</sup> United Nations, Security Council, Letter dated 26 July 2012 from the Secretary-General addressed to the President of the Security Council, S/2012/585, 26 July 2012.

<sup>22</sup> United Nations, Security Council, 1540 Committee, 'About 1540 Committee', <<http://www.un.org/en/sc/1540/committee/composition.shtml>>.

<sup>23</sup> The Committee's mandate was extended through two resolutions: United Nations Security Council Resolution 1673, 27 Apr. 2006; and United Nations Security Council Resolution 1810, 25 Apr. 2008.

<sup>24</sup> UN Security Council Resolution 1977 (note 19), p. 3, para. 2.

<sup>25</sup> United Nations, Security Council, Report of the Committee established pursuant to Security Council resolution 1540 (2004), S/2011/579, 14 Sep. 2011.

<sup>26</sup> United Nations, Security Council, Consideration of options for funding mechanisms for the implementation of Security Council resolution 1540 (2004), annex to S/2009/171, 1 Apr. 2009, pp. 4–5.

<sup>27</sup> United Nations, Security Council (note 26), p. 8.

by choosing to manage their assistance funds to the Committee's activities at the national level. According to a former Committee expert, the EU's financial support for the Committee, which was renewed in 2008, has been substantial in comparison to other donors.<sup>28</sup>

### III. EUROPEAN UNION ASSISTANCE MEASURES: REPORTS TO THE 1540 COMMITTEE

EU assistance under Resolution 1540 has partly been motivated by the fact that a number of EU member states and institutions regard themselves as being in a position to deliver assistance in terms of legal and regulatory infrastructure, implementation experience, technical expertise, and resources for fulfilling the provisions set out in the resolution. However, national actors also regard assistance as a political priority, and this is reflected in the EU's non-proliferation strategies. This increases the relevance of some EU projects that pre-date Resolution 1540, such as the programmes on nuclear security.<sup>29</sup> EU assistance programmes are governed by the rules set out in the regulations of the EU financial instruments that support them, which were not drawn up with Resolution 1540 in mind.<sup>30</sup> To the extent that the EU has altered these older assistance programmes to fit Resolution 1540 (largely by incorporating the threat posed by non-state actors) this has mainly been due to the fact that the adoption of the resolution coincided with that of the 2003 EU WMD Strategy.

While Resolution 1540 provides for complex interactions between multiple stakeholders in interdisciplinary settings, an overview of EU interactions with the Committee has previously not been publicly available. Therefore this section provides a schematic overview of the different assistance programmes by EU member states and institutions as well as offers of assistance as they have been

communicated to the 1540 Committee in national reports, national matrices and offers of assistance, and other public Committee sources.

### European Union member states' interactions with the 1540 Committee

The EU mainly interacts with the 1540 Committee through the government ministries of its member states but also through state agencies. As permanent members of the UN Security Council, the role of France and the UK in Resolution 1540 cannot be overstated. It has even been suggested that the proposal to create a UN Counter-Proliferation Committee was initially put forward by the UK.<sup>31</sup> Other EU member states participate in the Security Council as temporary members on a rotating basis and this occasionally implies specific functions in the 1540 Committee. Germany is currently chairing the 1540 Committee working group on implementation, while France is chairing the working group on assistance. The event calendar of the 1540 Committee clearly shows that the EU member states have engaged in outreach activities to promote Resolution 1540 more often at times when they have a direct function in the Committee.<sup>32</sup>

All EU member states have submitted national reports to the 1540 Committee. France is the only EU member state to have submitted an accompanying action plan. Of the 46 states that have offered assistance through the 1540 Committee, 23 are EU member states, although this includes for example Denmark's offer to 'consider providing assistance' if asked.<sup>33</sup> Table 1 provides a summary of the assistance programmes offered and provided by the 27 EU member states as reported to the 1540 Committee. The offers of assistance differ in their level of detail, both in terms of the type of assistance offered and in what functional areas. However, one common denominator is that most offers involve sharing national experiences and training officials to implement obligations under export

<sup>28</sup> Former 1540 Committee expert, Interview with author, 20 Aug. 2012.

<sup>29</sup> See van Ham, P., 'The European Union's WMD strategy and the CFSP: a critical analysis', Non-proliferation Paper no. 2, Sep. 2011; Grip, L., 'Mapping the European Union's institutional actors related to WMD non-proliferation', Non-proliferation Paper, no. 1 May 2011; and Grip, L., 'Assessing selected European Union external assistance and cooperation projects on WMD non-proliferation', Non-proliferation Paper no. 6, Dec. 2011.

<sup>30</sup> See e.g. Grip, 'Assessing selected European Union external assistance and cooperation projects on WMD non-proliferation' (note 29), pp. 9–10.

<sup>31</sup> Rynning, S., 'Peripheral or powerful? The European Union's strategy to combat the proliferation of nuclear weapons', *European Security*, vol. 16, nos. 3–4 (2007), p. 276.

<sup>32</sup> United Nations, Security Council, 1540 Committee, 'Transparency and outreach: event list and related documents', <<http://www.un.org/en/sc/1540/transparency-and-outreach/outreach-events/events.shtml#B>>.

<sup>33</sup> United Nations, Security Council, 1540 Committee, 'Assistance: summary offers of assistance from member states', <<http://www.un.org/en/sc/1540/assistance/offers-of-assistance/states.shtml>>.

controls and various non-proliferation treaties relevant to Resolution 1540.

Although all EU member states have submitted at least two reports to the 1540 Committee as a way to follow-up on their national implementation of the resolution, hardly any of the additional reports provided any updates on ongoing bilateral assistance programmes. An exception to this trend, Finland provided information on its ongoing programmes in its national report in 2011. The French national Action Plan also provides information on assistance. The gap in reporting on more recent assistance programmes can only be filled in by other information available through the 1540 Committee to a very limited extent. The information mainly covers events such as seminars and conferences that are sponsored or co-hosted by an EU member state and in which a 1540 Committee member participate. These are then listed under 1540 Committee outreach activities.

States also vary in their reporting of the bilateral and multilateral assistance programmes they engage in. Some for instance refer to the EU programmes, and Sweden noted in its report that the EU should update the UN on ongoing assistance programmes. Many make general comments on their participation in other international efforts such as the Group of 8 (G8) Global Partnership Against the Spread of Weapons and Materials of Mass Destruction (the G8 Global Partnership), the International Atomic Energy Agency (IAEA) nuclear security fund, the Organisation for the Prohibition of Chemical Weapons (OPCW) and so on. Others provide more detailed information. What appears to be true in all cases is that the national reports from member states contain examples of assistance programmes relevant for Resolution 1540, but not a complete list of measures.

### European Union institutions' interactions with the 1540 Committee

The EU institutions submitted a joint report to the 1540 Committee in October 2004, laying out the EU common policies and legal frameworks relevant to the resolution. The report was prepared by the Presidency of the EU, assisted by the High Representative for the Common Foreign and Security Policy (CFSP), in association with the European Commission.<sup>34</sup> The

<sup>34</sup> European Union report on the implementation of Security Council resolution 1540 (2004), annex to S/AC.44/2004/(02)/48, 15 Nov. 2004.

EU is the only supra-state actor to have submitted such a report to the 1540 Committee. Initial reports from individual EU member states specified that they should be read in conjunction with the EU report. The EU has not submitted an Action Plan—as noted above, the only EU member state that has done so is France, and no party is obliged to do so. While the 2004 EU report contained fairly detailed information on the extensive policies and regulations of the EU and the European Atomic Energy Community (Euratom), it did not provide details on EU assistance programmes.<sup>35</sup> Despite this, the EU institutions have interacted with the 1540 Committee on assistance efforts through direct support and bilateral briefings. This sub-section is based on publicly accessible information provided by the EU to the 1540 Committee.

The EU's targeted support to the 1540 Committee commenced in 2004 with a series of démarches encouraging non-EU member states to submit national reports under the resolution. These diplomatic efforts were followed by a Council joint action in 2006 on support for awareness raising, experience sharing and report drafting in states in Africa, Latin America, the Caribbean and the Asia-Pacific. Here the Council noted that:

Preparation of the national reports requires considerable effort and technical knowledge on behalf of these States [the ACP]. Therefore technical assistance and an exchange of experience gained from the process of drafting national reports and from the adoption of measures to implement UNSC Resolution 1540 (2004) can directly contribute to increased compliance with the reporting obligation under the Resolution and to its actual implementation.<sup>36</sup>

When the 2006 joint action expired in 2008, the Council more than doubled its support in a second joint action in support of the 1540 Committee's outreach on

<sup>35</sup> On the EU WMD policies see Van Ham (note 29). On EURATOM see Lundin, L. E., 'The European Union, the IAEA and WMD non-proliferation: unity of approach and continuity of action', Non-proliferation Papers, no. 9, Feb. 2012.

<sup>36</sup> Council of the European Union, Council Joint Action 2006/419/CFSP of 12 June 2006 in support of the implementation of the United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction, L 165, *Official Journal of the European Union*, 17 June 2006, p. 30, para. 5.

**Table 1.** Offered and ongoing assistance programmes of the European Union member states as reported to the 1540 Committee by June 2012

Member state	Offer of assistance	Bilateral support	Multilateral assistance
Austria	Yes, on export controls	Export controls in Croatia, Slovenia and Slovakia. Has hosted international meetings and workshops.	Via IAEA; OPCW
Belgium	Yes, on certain cases of trafficking in radioactive materials	None reported.	G8GP, IAEA, OPCW
Bulgaria	Yes, not specified	Training for 16 Ugandan experts in detection of chemical agents and protection from chemical weapons, for one week in late 2011.	IAEA NSF; OPCW
Cyprus	No	None reported.	G8GP through EU
Czech Republic	Yes, not specified		G8GP; IAEA NSF; OPCW
Denmark	Will consider providing assistance	Has provided assistance to activities related to chemical weapons destruction, nuclear materials safety and dual-use exports controls.	Through EU and G8; IAEA Technical Cooperation Fund
Estonia	Will do its best to assist states that may require assistance		EU support to the G8GP
Finland	Yes, in response to specific requests; training in analytical chemistry to help implement CWC; training in CTBT international monitoring system	Improve systems for nuclear material control, accountancy, physical protection and export/import; prevent trafficking; protect nuclear material. Has supported Stimson Center project promoting implementation of Resolution 1540 in developing countries since 2006. Organized border management seminar with Central Asian countries.	G8GP; projects in Kyrgyzstan, Russia and Ukraine since 2004.
France	General, Export Controls, Physical Protection	Bilateral outreach; funds a number of projects in the nuclear, chemical and biological fields; export controls and physical protection. Most activities (e.g. regional seminars) are in Africa and South East Asia.	IAEA; G8GP; OPCW
Germany	Yes, in implementation of CWC; BTWC prohibition and export control; designing and improving national systems for physical protection	Establishment and further development of national export control system in several European and non-European states.	G8GP; Northern Dimension Environmental Partnership; IAEA Nuclear Security Fund; OPCW
Greece	Provided on request within the framework of competency	Provides information on Greek legislation.	
Hungary	Yes, consultation and training of Armenian authorities on nuclear physical protection; assistance to Iraq in dual use material control mechanisms.	Has provided assistance in export controls to five countries in western Balkans.	G8GP
Ireland	Yes, expertise and training on nuclear issues	Upgrading radiation protection infrastructures since 2007, working visits to Botswana, Ghana, Kenya, Mauritius, Qatar, South Africa, Spain, Uganda and Tanzania (with IAEA); Under EU programme RPII provided training in Romania on implementation of EU legislation on monitoring of radioactivity in the environment.	IAEA Regulatory Authority Information Software; IAEA radiation protection.
Italy	Yes, not specified	Advice on implementation of CWC; Co-organized the third annual international symposium on Biosecurity and Biosafety, Oct. 2011.	G8; IAEA NSF; OPCW
Latvia	No		To G8GP through EU



Lithuania	Yes, expertise and training in developing legal framework and infrastructure, detecting and assessing radioactive and nuclear materials	Together with the University of California, in the field of identification of dual-use items and technologies.	
Luxembourg	No	None reported.	Export control assistance via EU
Malta	No, but prepared to share experiences	None reported.	None reported
Netherlands	Yes, not specified		OPCW; EU
Poland	Yes, domestic controls measures, legal and administrative measures, implementation of obligations, international and regional cooperation	Co-organized event on advancing international cooperation and assistance in national implementation of UNSCR 1540/1977 in 2011.	OPCW; PSI; Global Initiative to Counter Nuclear Terrorism; Global Threat Reduction Initiative's nuclear reactor conversion programme
Portugal	Yes, expertise in drafting legislation and implementation of export controls; registers and control lists; training; outreach and awareness-raising (private sector and academia)	Basic course for Portuguese-speaking countries on national implementation of CWC.	G8GP through EU budget
Romania	Yes, technical assistance offered to Moldova for implementation of the CWC; Border Defense Initiative.	Technical assistance on export control legislation and good practices for countries within the region. In 2004, launched the regional Border Defense Initiative for combating proliferation of CBRN materials.	Implementation of OPCW; IAEA POA for Prevention of Nuclear Terrorism, NSF
Slovakia	Will consider specific requests		IAEA; OPCW; EU
Slovenia	Yes, customs assistance under multilateral and bilateral agreements		EU contribution to G8GP
Spain	Yes, similar to existing projects	Provides regularly bilateral technical assistance, particularly to Spanish-speaking countries, in export controls and legislative implementation of international instruments (e.g. CWC, IAEA).	IAEA; OPCW
Sweden	Yes, technical support and advice to promote implementation of dual-use regulation. Legal and implementation assistance on chemical issues	Bilateral and regional exchanges on CWC implementation. Advice and support on legislation issues and other CWC implementation matters.	OPCW; EU
UK	Yes, guidance and technical advice on export control implementation and coordination	Export control outreach programme, outreach visits to a number of states, including some trans-shipment hubs.	EU; other (unspecified)

BTWC = Biological and Toxin Weapons Convention; CTBT = Comprehensive Nuclear-Test-Ban Treaty; CWC=Chemical Weapons Convention; EU=European Union; G8GP=Group of Eight Global Partnership Against the Spread of Weapons and Materials of Mass Destruction; IAEA=International Atomic Energy Agency; NSF=Nuclear Security Fund; OPCW=Organisation for the Prohibition of Chemical Weapons; POA=Plan of Action.

Source: United Nations Security Council, 1540 Committee, <<http://www.un.org/en/sc/1540/>>; and United Nations Security Council, 1540 Committee, <<http://www.un.org/en/sc/1540/transparency-and-outreach/outreach-events/events.shtml#B>>.

implementation (see table 2). Nevertheless, the EU has provided less financial support to the 1540 Committee than to any other multilateral organization charged with non-proliferation supported by the CFSP budget since 2004.<sup>37</sup> The second joint action expired in May 2010 and has not yet been followed up, although a new Council decision on the matter has been under preparation since at least June 2010.<sup>38</sup> The two-year gap in EU funding for the 1540 Committee is caused by the ad hoc nature of the Council's decision-making process, whereby EU member states unanimously agree on using the CFSP budget to respond to urgent needs caused by an international security crisis. The CFSP budget was not designed as a source of continuous support to international organizations, although it has developed such a function in the area of non-proliferation.

Since 2004 the EU has directly contributed a total of €670 000 to support the work of the 1540 Committee. The EU's staff resources are also modest. The EU Personal Representative for Disarmament and Non-proliferation, Annalisa Giannella, led the EU's institutional interactions with the 1540 Committee on WMD non-proliferation between 2004 and 2011. The Personal Representative and her team prepared the Council decisions and held bilateral meetings with the 1540 Committee chair, including one in September 2010.<sup>39</sup> However, since the Personal Representative's retirement in 2011 no replacement arrangement has been made. The EU Delegation in New York is responsible for following Resolution 1540 in the UN. However, non-proliferation is not among the delegation's main priorities, with only one person following WMD issues (in contrast, the EU delegations in Geneva and Vienna each employ three people on disarmament and non-proliferation issues).<sup>40</sup>

The European Commission has recently stepped up its engagement with the 1540 Committee through the regional EU chemical, biological, radiological and nuclear (CBRN) Risk Mitigation Centres of Excellence (COE) project, which was officially launched in 2010. With a budget of over €100 million, it is one of the largest assistance programmes on non-proliferation

undertaken by the EU, and will channel EU assistance within the framework of the EU Instrument for Stability.<sup>41</sup> The COE project is fully funded by the Commission but co-implemented by the Commission and the UN Interregional Crime and Justice Research Institute (UNICRI). Although cooperation between the COE and the 1540 Committee is ad hoc, the 1540 Committee has been informed of the COE and participated in two conferences on the COE in May and June 2012. According to the Commission, the COE project takes an 'all hazard approach' to CBRN risks and threats including intentional, accidental and natural events, which is one reason why UNICRI rather than UNODA is implementing the project.<sup>42</sup>

Some projects funded through the COE may nevertheless have a direct positive impact on the implementation of Resolution 1540. Among the early projects, 'Prerequisite to strengthening CBRN national legal frameworks' (in Cambodia, Indonesia, Laos, Malaysia and the Philippines) and 'Identification and strengthening forensic capacities in the area of prevention of organized crime and illicit trafficking of chemical agents, including training and equipment for front line customs officers' (in Bosnia and Herzegovina, Croatia and Serbia) appear directly relevant to Resolution 1540.<sup>43</sup> Future projects could also benefit Resolution 1540 if they are successful in bringing together a critical mass of institutions and experts in the region where the centre operates to cooperate on common security issues. The COE initiative is currently being implemented in eight different geographical areas in Europe, Asia, Africa and the Middle East. According to the EU:

The aims and objectives of the CoE Initiative present strong similarities with those of the UNSC Resolution 1540. Both are concerned with illicit trafficking and criminal use of CBRN materials and both target exclusively non-state actors. However, a major difference lies in the approach adopted by the two initiatives. While the UNSC Resolution 1540 is a binding document obliging States to comply with its provisions to establish and implement certain basic minimum standards, the CoE Initiative

<sup>37</sup> Grip (note 29), table 2, p. 3.

<sup>38</sup> Council of the European Union, Six-monthly Progress Report on the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction (2010/I), 11135/10, 14 June 2010, p. 38.

<sup>39</sup> United Nations, Security Council, 1540 Committee (note 33).

<sup>40</sup> European External Action Service, 'Overview: the European Union at the United Nations', <[http://www.eu-un.europa.eu/articles/articleslist\\_s88\\_en.htm](http://www.eu-un.europa.eu/articles/articleslist_s88_en.htm)>.

<sup>41</sup> European Commission, 'CBRN Centres of Excellence, an initiative of the European Union', <<http://www.cbrn-coe.eu>>.

<sup>42</sup> EU official, communication with the author, 13 July 2012.

<sup>43</sup> European Commission, 'CoE projects in the world', <<http://www.cbrn-coe.eu/Projects.aspx>>.

**Table 2.** Council of the European Union financial assistance to the 1540 Committee

Instrument	Type of activity	Recipient	Budget	Implementing agent
Council Joint Action 2006/419/CFSP of 12 June 2006	Regional seminars aimed at awareness-raising of requirements and obligations under the Resolution; drafting national reports on the implementation of Resolution 1540; and sharing experience from the adoption of national measures	Africa, Latin America and Caribbean, Asia-Pacific	€195 000	UNODA
Council Joint Action 2008/368/CFSP of 14 May 2008	(Sub)regional workshops to enhance the capacity and skills of officials in export control; put officials of targeted states participating in the projects in a position to clearly identify gaps and needs, taking into account different perspectives (government and industry) so that effective requests for assistance can be formulated	Africa, Central America, Mercosur, the Middle East, Pacific Islands and South East Asia	€475 000	UNODA

Sources: Council of the European Union, Council Joint Action 2006/419/CFSP of 12 June 2006 in support of the implementation of the United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction, L 165, *Official Journal of the European Union*, 17 June 2006; and Council of the European Union, Council Joint Action 2008/368/CFSP of 14 May 2008 in support of the implementation of the United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction, L 127, *Official Journal of the European Union*, 15 May 2008.

seeks to involve States on a voluntary basis as partners. In addition, the EU initiative offers a comprehensive package to fight against the CBRN risk regardless of origin. The risk is not limited to proliferation, but also encompasses accidental and natural causes.<sup>44</sup>

At a June 2012 press conference on the COE an European External Action Service (EEAS) representative stated that he believed the COE could facilitate cooperation with partners more effectively than Resolution 1540 due to the fact that preventive measures to mitigate CBRN risks are framed in the COE in relation to reducing accidental damage to public safety and the environment, rather than compliance with Resolution 1540.<sup>45</sup> This statement suggests that

the EU believes it has developed a more refined way to build partnerships and address security risks, making use of a strategy mainly influenced by development cooperation policy rather than arms control, and ensuring that recipients identify needs and maintain ownership of the assistance programmes (called cooperation programmes). It is clear that the ‘new’ methodology initiated by the EU in fact overlaps to a large extent with the approach to assistance taken by the 1540 Committee. While the COE approach may imply a methodological inconsistency with the 1540 Committee approach—based on the authority of the UN Security Council and functional dependency on the UNODA—the same inconsistency would also exist between the Instrument for Stability and the CFSP, which directly supports the Resolution 1540 structure.

<sup>44</sup> Council of the European Union, Six-monthly Progress Report on the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction (2011/II), C66, *Official Journal of the European Union*, 6 Mar. 2012, 2012/C 66/03, p. 9.

<sup>45</sup> United Nations, Department of Public Information, Press conference on risks mitigation initiative, New York, 22 June 2012,

<[http://www.un.org/News/briefings/docs/2012/120622\\_CBRN.doc.htm](http://www.un.org/News/briefings/docs/2012/120622_CBRN.doc.htm)>.

#### IV. EUROPEAN UNION PROGRAMMES BEYOND 1540 COMMITTEE REPORTING

This section illustrates gaps in formal reporting and information provision between EU actors and the 1540 Committee, focusing on three areas of assistance relevant to the implementation of the resolution where EU actors have been most active: nuclear security, dual-use export controls and border security. The section does not aim to cover all ongoing unreported programmes within these three thematic areas.

##### Nuclear security

One of the core objectives of Resolution 1540 is the prevention of terrorist access to WMD materials through the enhancement of physical protection of sensitive facilities and materials. Although the EU has not advanced a common approach to physical protection of biological and chemical materials, it has extensive experience in working with common standards and practices on the nuclear side. Nuclear physical protection is a competence of the EU member states; cooperation at the supranational level falls under the broader category of nuclear security.

As noted above, while the EU report to the 1540 Committee describes the legal and policy frameworks of the EU in this regard, its silence on the assistance programmes constitutes a gap in reporting. The most extensive reporting on EU member states' assistance programmes on WMD non-proliferation is instead provided by the annual report of contributions made by the G8 Global Partnership.<sup>46</sup> Eleven EU member states contributed financially to the G8 Global Partnership in the period 2002–12: Belgium, the Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, Sweden and the UK (see table 3).<sup>47</sup> Although some of these member states mention the Global Partnership in their national reports to the 1540 Committee, this information is not provided by all states, and none report on the specifics of their contributions to the partnership, such as basic information on funding.

<sup>46</sup> Group of Eight (G8) Global Partnership, <<http://www.partnershipforglobalsecurity.org/Official%20Documents/G8%20Global%20Partnership/index.asp>>.

<sup>47</sup> Global Partnership Working Group – CGWG Annual Report Consolidated Report Data 2011, 2008 and 2007 (Annex), <<http://www.partnershipforglobalsecurity.org/Official%20Documents/G-8%20Global%20Partnership/G-8%20Summit%20Documents/index.asp>>.

The G8 partnership programme, which expired in 2012, focused on projects in the former Soviet Union (primarily Russia itself) directly relevant to the implementation of Resolution 1540. However, only Finland and France listed projects designed to implement Resolution 1540 in their report to the G8 Global Partnership. In May 2011 the G8 countries decided to expand the mandate of the partnership for an unspecified period and the new mandate introduced the national implementation of export controls under Resolution 1540 as a priority for assistance under the Global Partnership commencing in 2012.<sup>48</sup> According to the USA, the G8 Global Partnership has reviewed 37 requests for assistance under Resolution 1540. The USA provided the 1540 Committee with responses to these and other requests via notes verbales in August and December 2010, and in October 2011.<sup>49</sup> The Committee has participated in the meetings of the Partnership and has developed an awareness of contributions made by EU members and the EU itself within the framework. Since 2012 the Committee has applied its matchmaking function to requests and offers in those meetings.

Information on EU member states' bilateral programmes can also be found in the text of commitments made in relation to the Nuclear Security Summits. These texts can provide data on recent initiatives and on programmes of states that are not necessarily in close or regular bilateral contact with the 1540 Committee. Several new commitments are relevant to the objectives of Resolution 1540 related to nuclear materials. For example, Romania's international assistance programmes have not been updated in the 1540 Committee database and other templates since 2004. However, before the 2012 Seoul Nuclear Security Summit, Romania reported that it takes part in physical protection assistance programmes in the nuclear field.<sup>50</sup>

<sup>48</sup> Kile, S. 'Nuclear arms control and non-proliferation', *SIPRI Yearbook 2012: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2012), p. 388.

<sup>49</sup> US Department of State, Bureau of International Security and Nonproliferation, 'Security Council Resolution (UNSCR) 1540: providing assistance', Fact sheet, 9 Nov. 2011, <<http://www.state.gov/t/isn/rls/fs/152631.htm>>.

<sup>50</sup> 'Romania, status of implementation of measures contained in the 2010 Washington Communiqué and Work Plan, as well as other related measures, global nuclear security architecture', Press release, 2012 Seoul Nuclear Security Summit, 27 Mar. 2012, <[http://www.thenuclearsecuritysummit.org/eng\\_media/press/press\\_view.jsp?oCmd=6&b\\_code=1&idx=306&rnum=3&f\\_gubun=0](http://www.thenuclearsecuritysummit.org/eng_media/press/press_view.jsp?oCmd=6&b_code=1&idx=306&rnum=3&f_gubun=0)>.



**Table 3.** EU member states' national contributions in the framework of the Group of 8 Global Partnership against weapons of mass destruction proliferation

Member state	Beneficiaries	Funds expended (€ million)
Belgium	N/A	8.2 (2001–10)
Czech Republic	Armenia, Bosnia and Herzegovina, Kyrgyzstan, Mexico, Moldova, Russia, Serbia, Tajikistan, Ukraine	1.4 (2004–08)
Denmark	Lithuania, Russia, Ukraine and others (unspecified)	18.3 (2000–04)
Finland	Eastern Europe, Kyrgyzstan, Russia, Ukraine	24.2 (2004–11)
France	Azerbaijan, Côte d'Ivoire, EU states, Georgia, IAEA, Jordan, Lithuania, Madagascar, Middle East, Russia, UAE, Ukraine, WHO members, worldwide (unspecified)	169.4 (contracted or nearly contracted)
Germany	FSU, Russia, Ukraine	1192.6 (2002–11)
Ireland	Russia, Ukraine	8.1 (1997–2006)
Italy	Iraq, Kyrgyzstan, Russia, Ukraine	104.7
Netherlands	FSU, IAEA, Russia, Ukraine	29.3 (1997–2007)
Sweden	Armenia, Georgia, Russia, Ukraine	14.9 (2003–09)
United Kingdom	Armenia, Azerbaijan, Bulgaria, FSU, Georgia, Iraq, Kazakhstan, Kyrgyzstan, Lithuania, Romania, Russia, Slovakia, Tajikistan, Ukraine	Up to 610

FSU = Former Soviet Union; IAEA = International Atomic Energy Agency; UAE = United Arab Emirates; WHO = World Health Organization

Source: The Group of 8 Global Partnership, Global Partnership Working Group – CGWG Annual Report Consolidated Report Data 2011, 2008 and 2007 (Annex), <<http://www.partnershipforglobalsecurity.org/>>.

Outreach activities conducted by state agencies in order to draw attention to their national programmes are also not reproduced in reports to the 1540 Committee. Several EU member states maintain national programmes to enhance the effectiveness of IAEA safeguards, including nuclear security aspects. For example, the Hungarian Atomic Energy Authority (HAEA) has provided assistance to reinforce the IAEA's safeguards system since 1991 and has recently organized a number of international events with the IAEA on the peaceful uses of atomic energy. Further, under the coordination of the HAEA, Hungarian institutions host up to 30 foreign scholars and scientists each year, typically from developing countries.<sup>51</sup>

The European Commission has also contributed €1 billion to the G8 Global Partnership and is among its top donors. EU institutions also carry out extensive work on nuclear security through the European Commission Joint Research Centre and the EU technical organizations, including Euratom, a regional supply agency that fulfils safeguards functions for

the IAEA; the Western European Nuclear Regulators Association (WENRA); and the European Safeguards Research and Development Association (ESARDA). These organizations conduct training on nuclear non-proliferation—for example, ESARDA's working subgroup on export controls regularly organizes a nuclear safeguards and non-proliferation course together with the Joint Research Centre for international participants from universities, authorities and industry. A 1540 Committee expert participated in an ESARDA co-organized workshop on the future directions for nuclear safeguards and verification in October 2011.<sup>52</sup> However, despite these occasional informal exchanges, information that is publicly available through the 1540 Committee suggests that there is no close cooperation between EU technical organizations and the Committee. A practical reason for this might be the inconsistency between the mandates of the EU institutions related to nuclear security issues and states' obligations under Resolution 1540.

<sup>51</sup> Hungarian Ministry of Foreign Affairs, 'Non-proliferation, disarmament and arms control', 26 July 2011, <[http://www.mfa.gov.hu/kum/en/bal/foreign\\_policy/un\\_sc/participation/non\\_proliferation\\_disarmament\\_and\\_arms\\_control.htm](http://www.mfa.gov.hu/kum/en/bal/foreign_policy/un_sc/participation/non_proliferation_disarmament_and_arms_control.htm)>.

<sup>52</sup> United Nations, Security Council, 1540 Committee (note 33).

## Export controls

The strengthening of national export controls is an issue that is closely identified with Resolution 1540. Since 2006, most EU member states have contributed their expertise to an extensive dual-use export controls cooperation programme implemented by the German Federal Office of Economics and Export Control (BAFA) and funded by the Commission.

Many of the bilateral assistance programmes that member states have reported to the 1540 Committee are export control programmes. While EU member states vary in their interactions with the 1540 Committee and in the extent of their assistance efforts, the two are not necessarily interlinked. For example, the British report to the 1540 Committee stated that its export control agency has a bilateral outreach programme but did not provide the Committee with any further details. The Netherlands, which has not submitted any information on its assistance programmes, sets aside time for dual-use export controls outreach and capacity-building on an annual basis. It also supports programmes by larger assistance providers (such as the USA or Germany) or responds to direct assistance requests bilaterally. The situation is similar in many other EU member states.

On the other hand, it is not always clear whether the assistance programmes mentioned in the national reports are bilateral or part of EU-funded and BAFA-implemented assistance. Hungary, for example, reported to the 1540 Committee that it has provided assistance in export controls to five countries in the western Balkans. Without clarifying the framework in which the assistance is provided there is a risk of over-reporting programmes, which in turn runs the risk of overstating the EU's engagement.

The European Commission also has a comparative advantage when engaging in assistance projects on dual-use export control, based on its extensive experience, common legislation and strong EU representation in the multilateral export control regimes. EU external assistance programmes implemented by BAFA appear to have had positive effects on targeted countries' implementation of Resolution 1540.<sup>53</sup> This is especially true in terms of their submission of national reports to the 1540 Committee and the drafting of improved national

export control legislation. Dual-use export control, which is the responsibility of the Commission's Directorate-General (DG) for Trade, also attracts the attention of other actors in the Commission, such as the DG Development and Cooperation—EuropeAid (DEVCO) nuclear safety unit and the Joint Research Centre's nuclear security unit, leading to informal interactions with the 1540 Committee.<sup>54</sup>

Export controls were also the focus of the second joint action, the negotiations for which were conducted between the EU and the UNODA without prior input from or the participation of the 1540 Committee or its group of experts. When these experts learnt about the ongoing negotiations they questioned the programme's value, given that the EU, the USA, and Japan already had major export control assistance programmes in place. In the end, while the focus on export controls was kept, it was generally not integrated within existing EU programmes on export controls.<sup>55</sup>

## Border security

Many requests and offers of assistance made through the 1540 Committee have related to border security, which is a main cross-sectoral priority for the EU and a core issue for European integration. However, only Finland and Romania have actually reported border security assistance activities (see table 1). Finland's reported seminar activity appears to have been part of an EU programme.<sup>56</sup> The Border Defense Initiative of the Black Sea region countries—Bulgaria, Georgia, Moldova, Romania and Ukraine—was launched in 2004 to conduct simulation exercises to combat the proliferation of WMD, strengthen border control and share intelligence on illicit WMD-related activities in the region.<sup>57</sup>

In addition, several EU actors engage in bilateral customs cooperation. For example, a long-standing bilateral project between Dutch and Chinese customs

<sup>54</sup> See e.g. Export Control and Related Border Security Assistance program, Eleventh Annual International Export Control Conference, Kyiv, 8–10 June 2010, <<http://exportcontrol.org/pastconferences/2706c.aspx>>.

<sup>55</sup> Former 1540 Committee expert, Communication with author, 20 Aug. 2012.

<sup>56</sup> Organization for Security and Co-operation in Europe (OSCE), 'OSCE Border Management Staff College co-organizes seminar on cross-border conflicts', 14 May 2012, <<http://www.osce.org/tajikistan/90491>>.

<sup>57</sup> Matei, F. C., 'Combating terrorism and organized crime: South Eastern Europe collective approaches', Research Institute for American and European Studies, Research paper no. 133 (2009), p. 14.

<sup>53</sup> Grip, 'Assessing selected European Union external assistance and cooperation projects on WMD non-proliferation' (note 29), p. 13.

agencies deals with export controls and customs enforcement while also including an emphasis on CBRN issues. Chinese delegations visit the Netherlands twice a year for training, during which time they are also briefed on export controls.<sup>58</sup> The European Commission also funds and manages assistance programmes on border security in Georgia, Moldova and Ukraine, as well as elsewhere in the Black Sea region and other regions. In addition to financing the programmes using different budget lines in the EU budget, the EU institutions and member states also provide technical assistance and capacity-building.

The Commission's geographical programmes also include large-scale border management programmes in Central Asia and in the EU neighbourhood. One such programme is the EU Border Assistance Mission to Moldova and Ukraine (EUBAM), which has been ongoing since 2005. It provides training, technical assistance and advice to the Moldovan and Ukrainian border guard and customs services in order to reinforce their capacity to tackle customs fraud and corruption; detect cases of smuggling and trafficking in human beings; and carry out effective border and customs controls, and border surveillance. EUBAM has a budget of €21 million (2011–13) and approximately 100 staff mostly from EU member states, as well as more than 120 Moldovan and Ukrainian national staff. One outcome from the project has been the creation of an information system which enables the customs services of Moldova and Ukraine to share, quickly access, and coordinate information on imports and exports, thereby helping to tackle customs fraud and other illicit activities.<sup>59</sup>

The Joint Research Centre implements projects to combat trafficking of radioactive and nuclear material in former Soviet Union states, and border management in Mediterranean Basin countries and in the Association of Southeast Asian Nations (ASEAN) region. In September 2010, together with Norway, the EU launched a separate joint project with the UN Counter-Terrorism Implementation Task Force (CTITF) on border management and the combating of terrorism in Central Asia. The UN Regional Centre for Preventive Diplomacy for Central Asia (UNRCCA) implements the project, while the EU is called upon to provide technical assistance and capacity-building.

<sup>58</sup> Dutch official, Communication with author, 20 July 2012.

<sup>59</sup> European Union Border Assistance Mission to Moldova and Ukraine (EUBAM), 'What we do', <[http://eubam.org/en/about/what\\_we\\_do](http://eubam.org/en/about/what_we_do)>.

The IAEA, meanwhile, has been asked to provide the technical assistance required to ratify the 2005 International Convention of the Suppression of Acts of Nuclear Terrorism and the 1980 Convention on the Physical Protection of Nuclear Material.<sup>60</sup> In November 2011 the regional partners in the EU–CTITF project signed a Joint Action Plan to implement the UN Global Counter-Terrorism Strategy. Illicit transfers of CBRN materials and the prevention of WMD proliferation activities from non-state actors have been identified as priority issues for the programme.<sup>61</sup> In 2011 the programme noted that 'existing regional border management projects' would benefit from 'more direct linkages between border management and counter-terrorism'. However, it did not provide details on how functional programmes could benefit from results in the regional border management programmes.<sup>62</sup>

The UN Border Monitoring Working Group of CTITF sees WMD-related border management issues as a core focus of its work. The working group is made up of various UN agencies (including UNICRI and the 1540 Committee experts), the International Criminal Police Organization (INTERPOL), the World Customs Organization (WCO), the OPCW and others. It does not appear to be open to regional organizations—even as observers—and the EU does not participate. However, the working group 'has an interest in preventing unnecessary overlap in funding of measures to build border management capacity' and recently agreed 'to seek additional border-management references from regional and subregional organizations' as well as information on 'instruments, standards, recommendations and practices developed to address

<sup>60</sup> United Nations, Counter-Terrorism Implementation Taskforce (CTITF), 'Implementing the United Nations Global Counter-Terrorism Strategy in Central Asia: the 2nd expert meeting addressing pillar II of the strategy', Final report, <[http://www.un.org/en/terrorism/ctitf/proj\\_centralasia.shtml](http://www.un.org/en/terrorism/ctitf/proj_centralasia.shtml)>, p. 8; and United Nations Regional Centre for Preventative Diplomacy for Central Asia (UNRCCA), 'First experts' meeting on the UN Global Counter-Terrorism Strategy', <<http://unrcca.unmissions.org/Default.aspx?tabid=9301&ctl=Details&mid=12342&ItemID=10505&language=en-US>>.

<sup>61</sup> The action plan was signed by Kazakhstan, Kyrgyzstan, Turkmenistan and Tajikistan, and by Uzbekistan as an observer. United Nations Counter-Terrorism Implementation Task Force (CTITF), 'Central Asia adopts regional counter-Terrorism Action Plan', *The Beam*, vol. 5 (2012), p. 7; and United Nations, Counter-Terrorism Implementation Taskforce (note 60), pp. 22–23.

<sup>62</sup> United Nations, Counter-Terrorism Implementation Taskforce (note 60), p. 2.

the challenges posed by open borders' from member states.<sup>63</sup>

## V. CONCLUSIONS

The EU member states and institutions play important roles in delivering Resolution 1540 assistance with respect to three broad obligations of the resolution: the physical protection of nuclear facilities and materials; dual-use export controls; and border security. However, the broad scope of Resolution 1540 often fits badly with the variety of frameworks within which EU actors operate, and which may be characterized by differences in regulations, mandates, budgets or expertise. Ongoing programmes—for example, in border security—have addressed the same officials and institutions in a region, while delivering assistance through different implementing actors with different methodologies. While current regional border management programmes and functional programmes to tackle illicit transfers are not executed in partnership, many joint programmes could be developed if true efforts were made to find synergies.

A comprehensive approach to border management is a sensible and logical future option, given that regional and functional programmes share an objective to improve inter-agency cooperation and harmonization within the targeted state. Finding synergies will require states and EU institutions to reach out to non-traditional partners. The matchmaking role of the 1540 Committee could be valuable in this regard, if strengthened, but needs to be complemented by a similar function within the EU. Between 2003 and 2010 the EU Personal Representative on WMD issues played this role, although mainly within the context of the CFSP. However, since the retirement of the Personal Representative, no such function currently exists. The EU should establish a coordinating function for WMD issues that takes into account all aspects of the EU approaches to non-proliferation issues, including those related to Resolution 1540. Given the multidimensional approach in the EU, this function needs to consist of more than one person.

The EU's main interaction channels with the 1540 Committee—namely, its Council Decisions and the Centres of Excellence—could be improved. The focus

on the innovative nature of the EU approach under the COE is of limited political value and the exclusion of the 1540 Committee from negotiations on targeted funding for its activities makes no sense. In addition, EU institutions do occasionally interact with the 1540 Committee through EU assistance and cooperation programmes beyond the two Council decisions and the CBRN COE (e.g. through the participation of various Commission services in 1540 events relevant to the work of the department in question). However, these interactions are not only informal and ad hoc, but sometimes also seem aimless on the part of the EU.

Interactions also take place in areas beyond the immediate mandate of the European Commission's directorates-generals. This undermines structural cooperation between the EU and the 1540 Committee and makes comprehensive information exchanges unnecessarily challenging. The EU's institutions and member states should strengthen their communication and cooperation with the 1540 Committee, both to fully make use of the Committee's mandate and to fulfil their requirements under Resolutions 1540 and 1977. Further, the Council of the EU must find a sustainable way of funding the work of the Committee, and should in the meantime without delay adopt a new Council decision in its support. In preparing the Council decision the EEAS should acknowledge that the agenda of the UNODA is not necessarily the same as that of the 1540 Committee. Whereas the budget structure of the 1540 Committee places the Committee's budget under the administration of UNODA, the EU may still request the inclusion of the 1540 Committee in the preparations to ensure that its views are taken into consideration.

Following the lead of its member states, the EU should submit an additional report to the 1540 Committee on the many relevant developments in the EU since 2004. Specifically, it should compile a comprehensive list of ongoing assistance programmes. Such a report would make a valuable contribution to improving existing public information and would increase transparency in bilateral assistance programmes, while fully informing the 1540 Committee of ongoing and planned programmes. EU member states could then submit new national reports and include information only on those assistance programmes that they are implementing beyond the EU framework. A comprehensive EU report would also

<sup>63</sup> United Nations, Security Council, 1540 Committee (note 33), pp. 1–2.



make better use of the 1540 Committee’s matchmaking role and help to reduce the number of expert meetings.

The EU functional assistance programmes to implement Resolution 1540 have focused overwhelmingly on technical solutions, reflecting the demand from partner countries. With the new methodology in EU assistance delivered through the CBRN COEs, there is little reason to doubt that this trend will continue into the next phase of EU programming. Technical assistance is also the assistance form with which EU member states are most comfortable. Although a technical response can be both right and necessary, the EU must start to think about when political solutions—for example, anti-corruption measures—would be more suitable, and what capacities the EU has to deliver such assistance. The EU’s regional programmes would also be crucial in this regard, but to make any judgement on such matters requires further in-depth cooperation with actors across the institutions in dialogue with EU member states.

## ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
BAFA	German Federal Office of Economics and Export Control
BTWC	Biological and Toxin Weapons Convention
CBRN	Chemical, biological, radiological and nuclear
COE	Centres of Excellence
CFSP	Common Foreign and Security Policy
CTITF	United Nations Counter-Terrorism Implementation Task Force
CWC	Chemical Weapons Convention
DG DEVCO	Directorate-General for Development and Cooperation—EuropeAid
EEAS	European External Action Service
ESARDA	European Safeguards Research and Development Association
EUBAM	European Union Border Assistance Mission to Moldova and Ukraine
Euratom	European Atomic Energy Community
G8GP	Group of 8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction
HAEA	Hungarian Atomic Energy Authority
IAEA	International Atomic Energy Agency
NTI	Nuclear Threat Initiative
PSI	Proliferation Security Initiative
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODA	United Nations Office for Disarmament Affairs
UNRCCA	UN Regional Centre for Preventive Diplomacy for Central Asia
WENRA	Western European Nuclear Regulators Association
WHO	World Health Organization
WMD	Weapons of mass destruction

## A EUROPEAN NETWORK

In July 2010 the Council of the European Union decided to create a network bringing together foreign policy institutions and research centres from across the EU to encourage political and security-related dialogue and the long-term discussion of measures to combat the proliferation of weapons of mass destruction (WMD) and their delivery systems.

## STRUCTURE

The EU Non-Proliferation Consortium is managed jointly by four institutes entrusted with the project, in close cooperation with the representative of the High Representative of the Union for Foreign Affairs and Security Policy. The four institutes are the Fondation pour la recherche stratégique (FRS) in Paris, the Peace Research Institute in Frankfurt (PRIF), the International Institute for Strategic Studies (IISS) in London, and Stockholm International Peace Research Institute (SIPRI). The Consortium began its work in January 2011 and forms the core of a wider network of European non-proliferation think tanks and research centres which will be closely associated with the activities of the Consortium.

## MISSION

The main aim of the network of independent non-proliferation think tanks is to encourage discussion of measures to combat the proliferation of weapons of mass destruction and their delivery systems within civil society, particularly among experts, researchers and academics. The scope of activities shall also cover issues related to conventional weapons. The fruits of the network discussions can be submitted in the form of reports and recommendations to the responsible officials within the European Union.

It is expected that this network will support EU action to counter proliferation. To that end, the network can also establish cooperation with specialized institutions and research centres in third countries, in particular in those with which the EU is conducting specific non-proliferation dialogues.

<http://www.nonproliferation.eu>



## FOUNDATION FOR STRATEGIC RESEARCH

FRS is an independent research centre and the leading French think tank on defence and security issues. Its team of experts in a variety of fields contributes to the strategic debate in France and abroad, and provides unique expertise across the board of defence and security studies.

<http://www.frstrategie.org>



## PEACE RESEARCH INSTITUTE IN FRANKFURT

PRIF is the largest as well as the oldest peace research institute in Germany. PRIF's work is directed towards carrying out research on peace and conflict, with a special emphasis on issues of arms control, non-proliferation and disarmament.

<http://www.hsfk.de>



## INTERNATIONAL INSTITUTE FOR STRATEGIC STUDIES

IISS is an independent centre for research, information and debate on the problems of conflict, however caused, that have, or potentially have, an important military content. It aims to provide the best possible analysis on strategic trends and to facilitate contacts.

<http://www.iiss.org/>



## STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

SIPRI is an independent international institute dedicated to research into conflict, armaments, arms control and disarmament. Established in 1966, SIPRI provides data, analysis and recommendations, based on open sources, to policymakers, researchers, media and the interested public.

<http://www.sipri.org/>