

United Nations Security Council Resolution 1540



Dr. Lawrence Scheinman
CNS Distinguished Professor,
Director of UNIDIR Study :
Implementing Resolution
1540 : The Role of Regional
Organizations..

Johan Bergenäs
Chapter author to UNIDIR book
on UNSCR 1540 and regional
organizations



The James Martin Center for Nonproliferation Studies
Monterey Institute of International Studies

Background to resolution

- 9/11, increased attention to terrorist threat
- UNSC Resolution 1373 (2001)
- George W. Bush administration approach to nonproliferation (PSI and other “activities” and initiatives not through conventional multilateral institutions)
- A.Q. Khan, threat of the spread of WMD to non-state actors, terrorists
- UNSCR 1540 passes 15-0-0 under Chapter VII of the UN Charter (two follow-up resolutions passed in 2006, 2008)

Operative paragraphs – key obligations

Operative Paragraph 2 (OP2)

“...**adopt** and **enforce** appropriate effective **laws** which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use” WMDs and their means of delivery...”

Operative paragraphs – key obligations

Operative Paragraph 3 (OP3)

“...take and enforce effective measures to establish **domestic controls**” to prevent the proliferation of WMDs, their means of delivery, and related materials:

“(a) Develop and maintain appropriate effective measures to **account for and secure**” WMDs, their means of delivery, and related materials.

“(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...the illicit trafficking and brokering” of WMDs, their means of delivery, and related materials.”

“(d) Establish, develop, review and maintain appropriate effective **national export** and **trans-shipment controls**...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...”

Current status of implementation

- Over 160 states have reported to the 1540 Committee on status of its implementation
- Reports vary in terms of depth and quality
- Reports missing from countries in developing parts of the world

Early challenges to implementation

- *Legitimacy* gap, SC vs. traditional multilateral legal instruments
- Insufficient understanding of Resolution, what is required to implement the Resolution and be in compliance with its provisions
- *Capacity/resources* *
- Political traction/*priorities*/WMD is “not our problem” mentality *

* Remaining challenges

Why it is important to overcome remaining challenges

- Avoid weak links in the common global security chain
- Not a 'they' problem, but a 'we' problem.

"Today the threat posed by terrorists is global, and the weapons they seek are of great destructive force. It is with the urgency of the worst-case scenario that one must approach the issue of combating the threat of WMD terrorism. It is impossible for a single state to achieve security by itself; joint efforts will be required. As former UN Secretary-General Kofi Annan said before leaving his post: 'In today's world, the security of every one of us is linked to that of everyone else.' In confronting WMD terrorism, the global community has a stark option: stand up collectively and confront the peril, or face the prospect of falling victim to it."

From Johan Bergenas', "The Slippery Slope of Rational Inaction," *The Nonproliferation Review* (July 2008)

Strategies pursued to that end

United Nations, 1540 Committee (UNSCR 1673, 1810)

- Regional outreach and awareness-raising seminars and workshops

International Organizations

- IAEA, OPCW in particular

Regional Organizations

- Follow-up resolutions in 2006 and 2008 stressed further the importance of regional organizations facilitating implementation (EU, OSCE, AU, OAS, ASEAN, PIF, GCC Arab League etc)

Nongovernmental organizations

- CNS, SIPRI, VERTIC, Stimson Center, Stanley Foundation, etc

IAEA

IAEA

- State systems of accounting for and control of nuclear material (SSACs)
- Export/Import Controls
- Convention on Physical Protection of Nuclear Materials (CPPNM)

OPCW

■ Chemical Weapons Convention Article 7

Each State Party shall...

- (a). Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under this Convention, including enacting penal legislation with respect to such activity;

- (c). Extend its penal legislation enacted under subparagraph (a) to any activity prohibited to a State Party under this Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.

Regional organizations: an additional security layer*

- Chapter VIII of the UN Charter sets out the (weak) role for regional organizations
- Emergence of regional organizations throughout the Cold War, but early criticism included that they were “hostages of bipolarity or mere debating chambers, ineffective through lack of capacity and resources.” *Louise Fawcett, 2006.*
- Increased role and emphasis in the 1990s: by the mid '90s it was “widely accepted that global [organizations] and regional institutions can and should work together in promoting international peace and security.” *Muthiah Alagappa, 1997.*
- Regional and subregional organizations are 21st century tools to fight 21st century threats: 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.” *UN Secretary General Kofi Annan, 2006*
- Last three UN Secretary Generals have endorsed the role and strengthening of regional organizations

* This and the next two slides represent broader themes in a forthcoming paper by Johan Bergenäs on the evolution of regional organizations as an additional security layer. The paper discusses the role of regional organizations in UNSCR 1540 implementation as one recent example of these entities being important UN partners in maintaining international peace and security.

Regional organizations beyond war and peace

- 2002 – group of scholars, practitioners, regional experts examine the role of regional organizations in WMD treaty implementation and compliance.
- 2004 – resolution 1540 acknowledges regional organizations having a role to play; increased emphasis on this concept in follow-up resolutions in 2006 and 2008.
- All three 1540 Committee Chairmen have recognized that regional organizations have a role to play in facilitating and promoting resolution 1540 implementation.
 - “We believe that the regional organizations like OAS and also sub-regional organizations like MERCOSUR, Andean Community and other regional and sub-regional organizations have a more significant role to play in promoting regional implementation of resolution 1540.” Former 1540 Committee Chairman Ambassador Peter Burian speaking on the situation in Latin America (2006)
- Record of support among UN member states and regional organizations through adoption of resolutions and statements.
- In 2006 Secretary General Annan emphasized that implementation of UNSCR 1540 was part of the burden-sharing concept between the UN and regional organizations.

Regional organizations and 1540

- Similar states with similar and shared histories, interests and concerns.
- Understanding of common and local priorities, strengths and weaknesses.
- Potential for collaboration within regional organizations leading to:
 - Effective pooling of resources
 - Sharing of resolution 1540 implementation experiences/cost sharing plans/model legislation among membership
 - Identifying where assistance is necessary
 - Pinpointing potential donors within and outside their membership.
- Regional focus is logical because the resolution's provisions, such as effective border security, unavoidably entail cooperation between neighboring countries; regional organizations can be the glue providing forum for discussion.
- Can help ensure consistency so that efforts are not duplicated; already scarce resources do not go to waste.
- In short: regional initiatives can offer efficiency, legitimacy and confidence.
- 2008 study: regional organizations have a mandate, the infrastructure and precedent.

Case studies: Latin America & Caribbean

- Evolving regional 1540 infrastructure
- Committee on Hemispheric Security - 1540 a priority topic on committee agenda
- 2008 OAS resolution supporting the implementation of 1540
- Workshops and other programming to assist members to achieve full 1540 implementation and compliance.
- CARICOM full-time regional coordinator
- CARICOM points of contact for 1540 implementation in more than half of CARICOM's member states.
- Several countries have formed interagency coordinating groups, and five have drafted national action plans.
- CARICOM also followed up by co-hosting an experts' workshop on export controls and maritime security.
- CARICOM has sought and received resources to evaluate member countries national legislation relevant to UNSCR 1540 implementation and is also receiving assistance with drafting of legislation where necessary.

Case studies: Southeast Asia

- July 2007, official ASEAN Regional Forum endorsement of the implementation of resolution 1540

- Some study recommendations being implemented
 - UN 1540 workshop planned for Southeast Asia (in Bangkok)
 - Track II diplomacy efforts – CSCAP export controls template adopted by Steering Committee in January 2009
 - Dedicated non-proliferation body is being established in the ASEAN Regional Forum to address WMD threats & 1540

- ASEAN Security Community - implications for 1540
 - Growing network of sub-regional organisations involved in non-proliferation and counter-terrorism activities

Case studies: Africa

- Competing priorities – poverty, food security, peacekeeping, small arms and light weapons proliferation, HIV/AIDS

- International agencies
 - Regional 1540 seminars have raised awareness of WMD issues

- Potential extension of SALW programmes
 - Sub-regional organizations could extend controls & best practice related to SALW proliferation to cover WMD

- Potential AU non-proliferation role
 - Promote information sharing & national legislation
 - Contact point for 1540 Committee & donors

Next steps

- Just like their members some of the regional organizations are developing entities; require resources
- G8 Global Partnership expanding funding and scope
- Continue to build credibility
- Improving coordination, awareness, capacity-building
- Middle East region not sufficiently examined
 - Arab League
 - Gulf Cooperation Council
 - Arab Maghreb Union

Further Information

- 1540 Committee website:
<http://www.un.org/sc/1540/>
- Electronic copy of the UNIDIR study on UNIDIR website: www.unidir.org → “publications” → “view recent books and reports”
- “1540 Hub”
<http://1540.collaborationtools.org/about>