

CHAPTER 3

FACILITATING IMPLEMENTATION OF RESOLUTION 1540 IN SOUTH-EAST ASIA AND THE SOUTH PACIFIC

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INTRODUCTION

At the start of the Fortieth Association of Southeast Asian Nations (ASEAN) Ministers Meeting, which was held in Manila in July 2007, the Philippine Foreign Affairs Secretary Alberto Romulo declared that the issue of nuclear non-proliferation would figure prominently on the agenda of the Ministers Meeting and the Fourteenth ASEAN Regional Forum.¹ Noting that the Philippines was a member of the UN Security Council when Resolution 1540 was originally adopted, he explained that participants attending the Ministers Meeting and forum meetings would adopt an ASEAN Regional Forum Statement on the Implementation of UN Security Council Resolution 1540 “in order to ensure that weapons of mass destruction do not spread, and that non-state actors are denied access to [them]”.² At the same press conference Romulo announced that he would be chairing a special Ministerial Meeting of the Southwest Pacific Dialogue, bringing together members of the Southeast Asia Nuclear-Weapon-Free Zone Treaty (Indonesia, the Philippines) and the South Pacific Nuclear Free Zone Treaty (Australia, New Zealand, Papua New Guinea) to discuss non-proliferation and disarmament priorities. These public announcements may signal a new prioritization of non-proliferation issues in South-East Asia and a break with past attempts to downplay sensitive issues that have traditionally been divisive in the region. They may also signal a greater sense of ownership among ASEAN members regarding regional proliferation and terrorism threats, which until now have tended to be dismissed or characterized as a strategic obsession of the West.

While these developments are positive their significance should not be overstated. Despite the leadership role that is being played by the Philippines

in ASEAN, the ASEAN Regional Forum and even in the Asia–Pacific Economic Cooperation (APEC) Counter-Terrorism Task Force, attitudes to the non-proliferation regime in general and to 1540 in particular vary enormously in South-East Asia and the level of implementation of the relevant obligations, though improving, is still low. This problem of uneven compliance and varying degrees of acceptance is also evident in the South-West Pacific, where there has been a high level of “buy in” to 1540 obligations on the part of Australia, New Zealand and to a lesser extent Papua New Guinea, and minimal buy in by the rest of the Island Pacific. In both regions low levels of technological development and poor capacity are partly responsible for this inconsistent record, but negative political perceptions of a US-dominated counter-terrorism agenda and resentment over “one size fits all” approaches to international security also play an important role and are much more difficult to overcome than the practical hurdles.

This chapter examines these problems, beginning with an assessment of the current state of Resolution 1540 implementation in South-East Asia and the South Pacific. The first section includes an analysis of political attitudes to the resolution in the two regions, an examination of the level of compliance with its various provisions and an assessment of ongoing capacity-building needs. The second part of the chapter explores the coordinating role that regional organizations—primarily the ASEAN Regional Forum and the Pacific Islands Forum—and bilateral assistance initiatives have played in facilitating implementation of 1540 and outlines some recommendations that could increase the effectiveness of these efforts.

RESOLUTION 1540 IMPLEMENTATION IN SOUTH-EAST ASIA AND THE SOUTH PACIFIC

In an ideal world there would be no weak links in the implementation of 1540 anywhere—all gaps in the counter-terrorism regime would be closed, from the isolated micro-states of the South Pacific to the interconnected states of mainland South-East Asia. Pursuit of this ideal is likely to remain the focus of the 1540 Committee and donor states because it is well known that terrorist networks seek to exploit loopholes, wherever those may be. However in assessing the level of 1540 implementation in different regions it is important to bear in mind the relative risks associated with non-compliance. South-East Asia for example is considered high risk due to the following factors: the expansion of nuclear energy and research,

the production and storage of hazardous chemicals, the location of busy transshipment points and the existence of known terrorist organizations based in the region. In contrast although serious risks are associated with the production and use of sensitive weapons of mass destruction (WMD) materials in Australia and Papua New Guinea's neighbour, Indonesia, none are produced in the Island Pacific, few transit through the region (with the exception of foreign-owned ships carrying nuclear waste) and radioactive materials are used only minimally in the health and industrial sectors. Thus while the exceptionally low level of implementation of 1540 in the South Pacific is a concern, the inconsistent record of implementation in South-East Asia presents a more serious threat to international security. Table 1 illustrates this point by identifying the known WMD risks in both regions.³

Table 1. Regional WMD risk assessment

Country	Nuclear	Biological	Chemical	Transit	Terrorism
Australia	•	•	•	•	
Indonesia	•			•	•
Malaysia	•			•	•
Myanmar			•		
Philippines	•			•	•
Singapore			•	•	
Thailand	•		•	•	•
Viet Nam	•		•	•	

Source: Peter Crail, "Implementing UN Security Council Resolution 1540: A Risk-Based Approach", *Nonproliferation Review*, vol. 13, no. 2, 2006, pp. 366–7.

1540 IMPLEMENTATION IN SOUTH-EAST ASIA

Resolution 1540 has had a poor reception in South-East Asia where attitudes can be influenced by a suspicion of global instruments that are highly formalized, legalistic and intrusive in nature. ASEAN members are much more comfortable with the locally bred, informal political culture that underpins their own institutional frameworks, favouring the principle

of quiet consultation, known as *musyawarah*,⁴ as the basis of settling differences between neighbours. Largely reflecting this informal, consultative approach all instruments of ASEAN and the ASEAN Regional Forum work on a voluntary basis—there are no institutionalized enforcement structures, verification mechanisms or official sanctions for uncooperative behaviour. Given this political culture it is not surprising to find a certain level of resistance in the region to Security Council resolutions such as 1540 that impose formal, legislative obligations on all states.⁵ Despite the efforts of the 1540 Committee to reassure states that its job is not to monitor compliance and that the resolution deliberately does not specify enforcement measures, ASEAN members remain suspicious because the Security Council invoked Chapter VII to legislate on a functional, rather than state-specific, threat.

In addition to this general reluctance to the formal instruments of global governance, states in South-East Asia resent what they regard as the heavy-handed imposition of “one size fits all” Western security agendas on the developing nations of the South without any thought for the specific security needs of different regions.⁶ Most view catastrophic terrorism as a remote threat and believe global attention should focus on more immediate priorities. Conscious of the fact that 1540 drew much of its inspiration from a series of Group of Eight- and US-led initiatives, a number of states in the region suspect that the 1540 assistance clause was inserted so that the United States could dictate to others on the implementation of new and burdensome non-proliferation and counter-terrorism obligations.⁷ This perception has undermined the legitimacy of Resolution 1540, along with the widespread belief in South-East Asia and elsewhere that an exaggerated non-state WMD threat is being used by the nuclear weapons states to distract attention from their failure to comply with their disarmament commitments under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).⁸ Inevitably this resentment over what is seen as a West-centric agenda has led to some reluctance among South-East Asian states to prioritize the implementation of 1540 and to a determination to ensure that counter-terrorism obligations are not separated from—or pursued at the expense of—disarmament commitments and development needs. The text of the UN Global Counter-Terrorism Strategy is significant in this regard in that it includes very little discussion of WMD threats and emphasizes the importance of adopting a balanced approach to counter-terrorism.⁹

Although negative attitudes to 1540 in South-East Asia have slowed the implementation process, progress is nonetheless occurring thanks in part to

the efforts of the 1540 Committee and its Expert Group, which has attempted to downplay the Chapter VII origins of the resolution and focus instead on building trust through a process of regional and subregional consultation. This has helped alleviate some of the political tensions outlined above but it has not removed them altogether. The result is a somewhat mixed record of implementation in the region: a certain amount of delay combined with genuine capacity constraints and a desire not to be seen to be deliberately shirking global counter-terrorism obligations.

The region's record on fulfilling the 1540 reporting requirements illustrates this ambivalence. On one hand it is positive that all 10 members of ASEAN have submitted national reports to the 1540 Committee. Although most of these were late and some were superficial in nature (in common with ASEAN reports to the Resolution 1373 Counter-Terrorism Committee) this demonstrates a mutual desire not to be seen to be violating international norms. Moreover none of the reports contained the political rhetoric that often dominates ASEAN statements in international non-proliferation and disarmament forums—rather, the individual ASEAN country reports were business-like and straightforward reviews of domestic efforts to introduce non-proliferation regulations. On the other hand responses to the requests by the 1540 Committee for additional information have been less forthcoming. As Table 2 shows, so far only Indonesia, the Philippines, Singapore and Viet Nam have submitted further information on their efforts to implement national WMD controls, which is just one sign of low prioritization of the WMD counter-terrorism agenda among some ASEAN members.

There are other indications of inconsistent implementation of Resolution 1540 in South-East Asia such as the poor record on meeting the obligations set out in operative paragraph 8, which requires all states to promote the universal adoption and full implementation of the multilateral WMD treaties and conventions.¹⁰ Most ASEAN states had already signed the NPT, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC) and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC) before Resolution 1540 was passed and little progress has been made since that time in achieving full ratification (see Chapter Annex A). The exceptions to this include Cambodia's accession to the CWC in 2005 and to the Convention on the Physical Protection of Nuclear Material (CPPNM) in 2006; the signing of the International

Atomic Energy Agency (IAEA) Additional Protocol by Malaysia, Singapore and Thailand in 2005 and the 2007 announcement by Viet Nam that it intends to follow suit; and the signing of the International Convention for the Suppression of Acts of Nuclear Terrorism by Malaysia, the Philippines and Thailand.

Table 2. Regional status of 1540 reporting

Country	Date(s) submitted
Brunei	30 December 2004
Cambodia	12 March 2005
Indonesia	28 October 2004 22 November 2005
Lao People's Democratic Republic	3 May 2005
Malaysia	26 October 2004
Myanmar	6 April 2005
Philippines	28 October 2004 28 October 2005
Singapore	21 October 2004 28 August 2005
Thailand	5 November 2004
Viet Nam	26 October 2004 12 December 2005

Source: 1540 committee website, <www.un.org/sc/1540/nationalreports.shtml>.

Information regarding the national implementation of WMD accounting and control in South-East Asian states is difficult to obtain—a situation that is exacerbated by the lack of detail in most of the relevant 1540 reports and the failure of six states in the region to respond to requests by the 1540 Committee for further submissions on their ongoing efforts to adopt and apply new counter-terrorism mechanisms. The information that is made available through the organizations involved in monitoring activities suggests that while progress is being made the pace of implementation is slow. The exception appears to be in the area of chemical weapons controls, which

have been developing at a faster rate than other WMD control systems—an important development given the existence of quantities of hazardous chemicals in the region. Clear evidence of this momentum can be found in the 2006 Organization for the Prohibition of Chemical Weapons (OPCW) report, which states that national protection programmes have recently been introduced in Indonesia (May 2005), Malaysia (September 2005), Cambodia (April 2006), and Viet Nam (July 2006).¹¹ This is a significant improvement on the regional situation before Resolution 1540 was passed, when only the Philippines and Singapore had introduced national protection programmes. However the news is not universally positive as there are problems concerning the national capacity of most of these states to operate the protection programmes that have been set up with the help of OPCW technical expertise. There is also some concern over the failure of Myanmar and Thailand to declare the status of their national controls (which is required under Article 10 of the CWC) and over the nature of the declarations submitted by Brunei and the Lao People's Democratic Republic, both of which have minimal national CWC controls in place apart from the inspection of imported chemical precursors and limited licensing procedures.¹²

While implementation in the realm of chemical weapons controls is inconsistent but encouraging overall, the same cannot be said for biological weapons controls, which range from weak to non-existent in South-East Asia. Information available through the 1540 reports and updates, and subsequently via INTERPOL's Bioterrorism Unit, indicates that very few concrete legislative steps have been taken to introduce bioterrorism regulations. The countries that have been transparent about this gap in their WMD controls—Cambodia, Indonesia, Malaysia, the Philippines and Thailand—have admitted that the only relevant domestic regulations that they have in place pre-date Resolution 1540.¹³ For example the only biosecurity legislation that Malaysia has in place appears to be the Poisons Act of 1952, the Prevention and Control of Infectious Disease Act of 1988 and the Occupational Safety and Health Act of 1994, none of which specifically address the threat of bioterrorism.¹⁴ In recognition of the inadequacy of this legislation Malaysia is in the process of “studying the need to draft a specific law to implement more effectively the [BTWC]”.¹⁵ This low level of implementation is a common problem throughout South-East Asia as highlighted by the 1540 Committee requests for ongoing updates on steps being taken to address this serious gap. It is noteworthy that neither

Indonesia nor the Philippines listed any concrete progress in this area in their updated submissions to the 1540 Committee in 2005.¹⁶

With regard to controls over nuclear and radiological materials there is an outstanding issue concerning the implementation of nuclear safeguards in the region as Brunei, Cambodia, the Lao People's Democratic Republic, Myanmar and Singapore all have Small Quantities Protocols (SQPs) in place and are therefore not required to share information on their nuclear material to the IAEA as long as quantities remain below certain limits.¹⁷ This is of particular concern because few states with SQPs have a State System of Accounting for and Control of Nuclear Material (SSAC) even though they are required to have such under their SQP arrangements and now also under their Resolution 1540 obligations.¹⁸ At the time of writing Singapore is the only South-East Asian state with an SQP that has signed the Additional Protocol, which automatically obliges it to comply with the modified SQP that was introduced in September 2005, including submitting an initial report on its nuclear material, allowing IAEA inspections and introducing an SSAC.¹⁹ It is also significant that of the five states in question only Cambodia has signed the CPPNM, which at least commits it to introduce domestic legislation to protect nuclear material on its territory. On a more positive note Indonesia and the Philippines have been improving their SSACs through cooperation with IAEA and US initiatives. These controls will need to be strengthened as Indonesia embarks on its nuclear energy programme and will also pose a challenge for Thailand and Viet Nam as they follow suit.

Weak export controls continue to be a serious problem in South-East Asia—a region of major transshipment and assembly points for critical strategic dual-use goods and technologies.²⁰ The main reason for the low level of implementation is that ASEAN members regard export controls with suspicion, viewing them as barriers to economic development at best, and at worst as part of a deliberate strategy of technology denial on the part of the developed world.²¹ Part of the reasoning behind 1540 is that it should help ease concerns over inequitable export control regimes, raise awareness that domestic exports controls need not undermine economic productivity and build consensus on the universal requirement to apply domestic controls on the trade in and movement of sensitive technologies.²² However developments since 2004 show that attitudes are slow to change. With the notable exception of Singapore, South-East Asia's export control systems remain unsophisticated and weak.²³ Brunei for example has sent

representatives to regional workshops but has not taken domestic measures to strengthen or clarify its export control system. This might not appear to be too serious a problem given that the sultanate has little in the way of WMD dual-use or WMD-related trade but the development of an indigenous petrochemical industry is raising concerns. Likewise in Myanmar, though it has sent officials to export control workshops, problems of domestic corruption and political apathy have meant that apparent enthusiasm to cooperate at the regional level has not been mirrored by parallel efforts at the national level. This could represent a potential proliferation risk given that Myanmar is suspected by some of having an illicit chemical weapons programme and may aspire to an indigenous nuclear weapons programme.²⁴ Some of the most worrying gaps however are present in some of South-East Asia's most technologically advanced states—Indonesia, Malaysia and Thailand. Although Indonesia has been cooperating with the United States and the IAEA to secure nuclear and radiological materials within its borders, export controls remain underdeveloped with insufficient legislation covering chemical and biological dual-use items.²⁵ Thailand has established a legal framework for export control legislation but its system also remains underdeveloped despite a growing chemical sector and industries with nuclear and missile dual-use potential.²⁶

Some good news to emerge from the region on the issue of export controls comes from the Philippines, which with the help of the IAEA, INTERPOL and the OPCW is in the process of establishing a comprehensive export control regime.²⁷ Although the Philippines has a series of export controls in place to deal with nuclear materials and chemical substances, little inter-agency coordination has existed until now and the area of biological weapons controls has been neglected entirely. This is likely to change as a major initiative, launched by the Office of the President and coordinated through the Office of the United Nations in the Philippines and the Special Envoy on Transnational Crime, has been working to identify the gaps in the Philippines' export controls system and to set up a new regime that meets international export control standards codified by the Nuclear Suppliers Group, the Wassenaar Arrangement, the Australia Group and the Missile Technology Control Regime. Training and seminars have already taken place in the Philippines to ensure that the human resources required for the implementation and enforcement of the proposed policies and regulations are available once they are introduced.

Given time, incentives and encouragement, and if current international and regional capacity-building efforts continue, the indications are that export control systems will grow and be consolidated in most of South-East Asia. Where the Lao People's Democratic Republic, Malaysia and Myanmar are concerned however the gaps in the system may be more difficult to close. In Malaysia, where only minor, primarily legislative changes have been introduced, the problem appears to be one of ideology. Despite revelations that a Malaysian firm manufactured some of Libya's nuclear equipment, and regardless of US efforts to persuade Malaysia to adopt more stringent export controls, its export controls remain some of the most basic in the region.²⁸ In its report to the 1540 Committee Malaysia admitted that its trade regulations were driven by economic rather than security considerations and explained that it was not a lack of capacity that was hindering the development of a more comprehensive export control system,²⁹ implying that its reasons are ideological rather than practical. Overcoming this kind of deliberate resistance, which stems from a long-held hostility to export controls, is likely to be difficult.

In addition to political resistance, poor capacity has been a significant problem in South-East Asia, hampering the implementation of UN counter-terrorism measures. This was clear in the national reports submitted to the 1540 Committee, all of which contained requests for assistance with the exception of Malaysia's. Most of these requests have since been taken up, some via bilateral programmes but more through UN agency activities, which are viewed in a more positive light than national donor assistance efforts. For example the current multi-agency development of the Philippines comprehensive export control system is taking place as a direct result of the assistance request in the Philippines' original report to the 1540 Committee in 2004.³⁰ Cambodia specifically requested assistance from the Director-General of the OPCW to help Cambodian legislators "collect laws for establishing national authority, roles and duties [of the national authority] for chemical weapons" and help train Cambodian officials to build a database of hazardous chemicals and help monitor their use.³¹ Since then Cambodia with the assistance of the OPCW has set up a national protection programme. These types of UN agency-led capacity-building efforts are welcomed by most states in the region, particularly where their unique domestic conditions are seen to be taken into account by those providing the assistance. Capacity-building efforts based on creating model legislation and model action plans—along the lines of those promoted by the APEC Counter-Terrorism Task Force—are less well received and have

lower levels of buy in, partly because they are seen as heavy-handed and insensitive to local needs.³²

Since there have been so few responses to 1540 Committee requests for further information it is difficult to keep track of current assistance needs in the region. However a fair amount can be gleaned from the speeches and presentations delivered at regional workshops and meetings, especially initiatives that take place at the Track II level such as the Council for Security Cooperation in the Asia Pacific (CSCAP). Overall the greatest needs are in drafting legislation, developing and enforcing export controls and creating bioterrorism controls.³³ The following specific capacity-building needs have been highlighted in recent months:

- Cambodia has requested assistance from relevant agencies to help it develop human resources and other skills and provide equipment for the National Authority to combat the spread of WMD;³⁴
- the Philippines has requested ongoing assistance to help transform its “clutter of laws and regulations”³⁵ into a harmonized export controls regime;³⁶
- Viet Nam needs help in building its human-resources capacity in the areas of customs and policing and requires additional technical equipment to assist with implementing export controls;³⁷ Malaysia needs assistance in the area of drafting counter-terrorism legislation, implementing container and border security measures and establishing a biosecurity framework; it needs help in drafting WMD control lists and identifying dual-use items;³⁸
- Brunei has requested assistance to enhance its biosecurity measures and its airport and port security, especially in the area of human resources development;³⁹ and Thailand has requested help in collecting and analysing counter-terrorism intelligence.⁴⁰

1540 IMPLEMENTATION IN THE SOUTH PACIFIC

The level of 1540 implementation in the South Pacific is lower than in South-East Asia. This is not surprising given the serious capacity-building needs of the small states and micro-states that populate the region and the attitude of the majority of Pacific Island Countries (PICs) to the threat of global terrorism—and especially to WMD terrorism—which is one of scepticism.⁴¹ Most of these countries have not been involved in any way with the conflicts and enmities that have fuelled global terrorism and thus do not

view terrorism as a major concern for Oceania. Some of the reasons for this low threat perception derive from their small populations and geographical remoteness. Furthermore due to the low level of development and lack of infrastructure the Pacific islands appear unattractive as both targets and havens for terrorists. In terms of WMD threats the situation appears even more benign as no nuclear, chemical or biological programmes or stockpiles exist in the region and there are longstanding legal frameworks in place to minimize and control proliferation risks. Chief among these are the 1985 South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga), which commits signatories not to develop nuclear weapons, and the 1995 Waigani Convention,⁴² which bans the importation of hazardous and radioactive waste into Forum Island Countries⁴³ and controls the transboundary movement and management of these materials in the Pacific. The only perceived WMD threats within the region stem from the Papua New Guinea border with Indonesia; the transit of foreign ships carrying nuclear waste through Pacific waters, which some believe could be vulnerable to hijacking by terrorists; and the presence of radioactive contaminants in the Marshall Islands resulting from US nuclear weapons tests there.⁴⁴

More recently the scepticism created by low regional threat perceptions has been accompanied by stronger feelings of resentment triggered by suspicions that the global counter-terrorism agenda was put together without serious regard for the circumstances of small island states and yet binds every UN Member State to new burdensome obligations. Pacific island leaders have expressed their frustration that the new resolutions—devised by the Security Council, which represents roughly 8% of the total membership of the United Nations—follow neither a consent-based, consensus-based nor community-based principle, but rather are an example of “rule by the few”. The belief that the large amount of Security Council legislation that followed the terrorist attacks of 2001 was based on emotion and heat of the moment decisions rather than careful consideration has added to this frustration and led to a certain detachment from the global counter-terrorism agenda.⁴⁵

Viewed in the context of small island state security priorities in the South Pacific this feeling of detachment is understandable. Only Papua New Guinea is seriously concerned about the regional impact of global terrorism due to its border with Indonesia.⁴⁶ All other PICs are preoccupied by what have been termed “fish and rice issues”—the provision of basic health and education services, the prevention of civil unrest and the management of environment and resource needs.⁴⁷ The challenge of providing these basic

services dominates the daily agenda of most of these countries, absorbing most if not all of their administrative and financial capabilities. In April 2006 this situation was clearly explained to Ambassador Ellen Margrethe Løj, then head of the Counter-Terrorism Committee, in a meeting of the Pacific Islands Forum Working Group on Counter Terrorism (WGCT). Ambassador Løj had been specifically invited by the forum in order to apprise her of the serious hurdles confronting PICs in meeting their counter-terrorism obligations given the scale and nature of their development and resources.⁴⁸

Adherence to international agreements by PICs is considered poor in general and compliance with 1540 is no exception.⁴⁹ The problem is that while it is relatively straightforward to accede to legally binding agreements and to issue verbal commitments in support of them, when it comes to implementation and enforcement, low prioritization, high implementation costs, lack of coordination and poor law enforcement capacity combine to limit compliance.⁵⁰ Where Resolution 1540 is concerned these problems are especially apparent: the resolution's Chapter VII mandate and reporting requirements ensure that non-compliant states in the subregion are more easily identified. Nearly three years after the resolution's first reporting deadline expired and a year since the resolution's original provisions were reaffirmed in Resolution 1673, half of the states in the Island Pacific had not submitted their first 1540 report. Table 3 shows the status of reporting in the region at the time of writing. To some extent this poor performance can be attributed to the burden placed on small states by their reporting obligations, but this is not the full story. For the past two years New Zealand and to a lesser extent Australia have offered assistance to PICs to help them meet their reporting obligations, removing some of the practical obstacles to submission. Despite this only Kiribati, the Marshall Islands, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu have accepted the offer and subsequently submitted reports. As discussed below the 1540 Committee, regional organizations and donor states have attempted to create a greater sense of urgency among PICs by stressing the long-term costs of non-compliance, including possible negative consequences for tourism, but the problems of poor capacity and low prioritization remain.

These problems have affected other aspects of 1540 compliance, a fact that would not be immediately obvious given the impressive list of South Pacific signatories to the various WMD treaties and associated non-proliferation mechanisms. PICs have made efforts to accede to the array of international non-proliferation and disarmament agreements but these have not been

accompanied by parallel efforts to ensure high levels of implementation (see Chapter Annex B).

Table 3. Regional status of 1540 reporting

Country	Date(s) submitted
Australia	28 October 2004
Cook Islands	
Fiji	
Kiribati	20 September 2005
Marshall Islands	23 November 2003
Micronesia	
Nauru	
New Zealand	28 October 2004
Malaysia	26 October 2004
Niue	
Palau	
Papua New Guinea	
Samoa	13 April 2006
Solomon Islands	
Tonga	5 April 2006
Tuvalu	13 March 2007
Vanuatu	22 February 2007
Viet Nam	26 October 2004 12 December 2005

Source: 1540 committee website, <www.un.org/sc/1540/nationalreports.shtml>.

For example although all PICs are members of the CWC none have achieved a minimal level of compliance with their obligations under the convention. According to the 2006 draft report of the OPCW on CWC implementation only Fiji (October 2006), Nauru (September 2006), the Solomon Islands (October 2006) and Vanuatu (August 2006) have

fulfilled the Article 10(4) requirement to submit information on their national protection programmes.⁵¹ Perhaps even more significant is the fact that the four submissions that have been forthcoming indicate that none of the states in question have national protection programmes in place. In contrast Australia has submitted comprehensive annual reports since September 1999 as has New Zealand since May 2005 and both countries are known to fulfil the national protection programme requirements.⁵²

The need to improve the level of 1540 and CWC compliance in the South Pacific is recognized by the OPCW, INTERPOL and donor states, all of which are currently providing technical assistance to help the PICs meet the relevant obligations.⁵³ These assistance efforts are ongoing and are detailed in some of the 1540 reports. Kiribati and Vanuatu for example, with the help of the OPCW, are in the process of drafting the necessary legislation to allow them to meet the legislative requirements.⁵⁴ This followed a visit from OPCW representatives to the 2006 meeting of the Forum Regional Security Committee in Suva, Fiji, where the technical challenges of meeting 1540 and CWC requirements were discussed. In a more recent initiative the OPCW organized in August 2007 a dedicated subregional legal workshop in the South Pacific to provide practical assistance in drafting national legislation to help implement the CWC.⁵⁵

While CWC implementation in the Island Pacific is poor, compliance with the BTWC and biosecurity elements of 1540 is almost nonexistent. Among PICs only Fiji, Palau, Papua New Guinea, the Solomon Islands, Tonga and Vanuatu are members of the BTWC. Of the total of 23 non-signatory states currently preventing the universality of the convention, eight are in the South Pacific.⁵⁶ Among the six PICs that are signatories, only Fiji and the Solomon Islands have provided information on their national implementation of biosecurity legislation and both submissions reveal an insufficient level of regulation of toxins and pathogens.⁵⁷ Reports submitted to the 1540 Committee tell the same story: of the seven submissions from PICs most appear to have modified their criminal offences legislation to cover the supply of chemical or biological weapons to terrorists or criminal gangs but none have legislation (either new or amended) specifically regulating the manufacture, acquisition, possession, development, transportation, transfer or use of biological or chemical weapons, their delivery systems or related components.

Again there is an acute awareness of this gap in implementation among representatives of the 1540 Committee and relevant agencies along with an acknowledgement of the extreme complexity and difficulty of drafting the legislative frameworks required to comply with 1540 bioterrorism provisions.⁵⁸ As the organization tasked with building capacity in this area, INTERPOL's bioterrorism unit has convened information seminars in the Asia-Pacific region with the intention of raising awareness of the threat, developing police training programmes, strengthening efforts to enforce existing legislation, promoting the development of new legislation and encouraging cooperation in this challenging area. However to date all of the Asia-Pacific regional seminars have been held in South or South-East Asia with representatives from the South Pacific needing to travel to Jakarta, Manila, Singapore or Colombo in order to participate. At the time of writing no dedicated subregional biosecurity workshop has been held for PICs despite their obvious need for capacity building and assistance. On a more positive note a group operating under the auspices of the Secretariat of the Pacific Community is currently working on a Model Bio-Security Act (discussed in Section 3.2), which it is hoped will be adopted by PICs when it is released in late 2007. But whether or not they will actually choose to adopt this legislation is unclear at present, partly due to concerns over whether a "one size fits all" approach is even workable in the subregional context.⁵⁹

Most PICs consider themselves to be model members of the nuclear non-proliferation regime, due in part to their membership of the Treaty of Rarotonga with its strong compliance procedures.⁶⁰ However the nuclear non-proliferation commitments under the treaty, to which most PICs are signatories, refer explicitly to state-based proliferation and do not extend to the activities of non-state actors. The only exception to this relates to the issue of dumping radioactive waste and materials at sea or anywhere in the nuclear free zone, which is prohibited to "anyone".⁶¹ The fact that 1540 obliges states to introduce operational and legislative measures to cover all aspects of the nuclear threat is well understood by PICs but a combination of low threat perception and the technical hurdles associated with fulfilling 1540 obligations are hampering progress. At present the available submissions to the 1540 Committee indicate that most PICs have SQPs in place and few have implemented the necessary nuclear controls. This is a concern given that low-level radiological threats do exist in the region as they do everywhere around the world where radioactive materials are used in medicine, industry, agriculture or research. In the case of the South

Pacific their use is not extensive but sealed sources are used in industrial radiography, smoke detectors and irradiation.⁶²

The low prioritization of nuclear and radiological terrorism threats among PICs is also evident from the regional status of the UN counter-terrorism conventions, most notably the CPPNM, which has been open for signature since March 1980, and the more recent International Convention for the Suppression of Acts of Nuclear Terrorism.⁶³ Chapter Annex B illustrates this point very clearly with only the Marshall Islands, Nauru and Tonga currently having acceded to the former and only Kiribati and Palau having signed the latter. This represents a significantly reduced level of support relative to the status of the other 11 UN counter-terrorism conventions in the South Pacific.

By any objective assessment there is an overwhelming gap between the requirements set out in 1540 and the legal, political, technical and financial capacity of most PICs to comply with them. They have small administrations that are already struggling to cope with the “fish and rice” issues—efforts to comply with 1540 are placing further pressure on domestic systems and limited resources. States that have submitted reports to the 1540 Committee have partly been motivated to do so by the opportunity that the reporting requirement provides in terms of raising international awareness of their major assistance needs. The list below highlights some of the key areas where PIC officials have identified the need for assistance from relevant agencies and donor states:

- Vanuatu has requested help in creating advanced operational capability within its police and border security agencies and help assessing the viability of adopting national control lists;⁶⁴
- with only 10 lawyers to handle all legal matters Kiribati “welcomes any offer to assist in identifying and remedying deficiencies in its existing legislation so that it may meet its obligations”; it is particularly interested in receiving technical assistance to identify deficiencies in its legislative obligations associated with CWC membership and assistance to help review and strengthen its existing domestic controls to prevent the proliferation of WMD, especially in relation to border security;⁶⁵
- Tuvalu has asked for help to develop legislative frameworks or supporting operational mechanisms to regulate the physical protection of nuclear, chemical or biological weapons, their

means of delivery and related components, and for controlling the movement of these weapons, their means of delivery and related components;⁶⁶ and

- the Marshall Islands has requested technical assistance to complete a review of its current national legislation in order to determine what further steps are needed to ensure full implementation of 1540 and the WMD treaties.⁶⁷

Other PICs have been less forthcoming about their technical assistance needs. Clearly the more specific a request for technical assistance the more helpful it is to the states, agencies and organizations involved in providing assistance. However a reasonable knowledge of the resolution and its requirements is necessary on the part of the requesting state in order to provide this type of information and certain reports, such as that submitted by Tonga in April 2006, demonstrate a gap in this basic knowledge—the report states that “it will advise in due course the specific area for which additional support is required”.⁶⁸ The assistance requests provided in Samoa’s report are similarly vague and general, covering “any technical assistance that is available”.⁶⁹

Although it has not yet submitted a report to the 1540 Committee Palau has been frank and open about the extent of its capacity-building needs. In 2006 for example, during discussions on the UN Global Counter-Terrorism Strategy, Ambassador Beck of Palau explained that while help in creating legislative frameworks is a useful first step it is meaningless unless states have the capacity to train officials in the skills necessary to monitor compliance and enforce legislation.⁷⁰ Furthermore he explained that although the provision of technical assistance from relevant agencies, such as the OPCW, IAEA or INTERPOL, is useful for many states, PICs are not always in a position to benefit from this expertise due to the financial burden that membership of such organizations entails. He gave the example of Palau’s wish to join INTERPOL, its inability to do so due to the prohibitive costs involved, and the need for a trust fund to be created to allow small developing states to join this and other specialist agencies.⁷¹

IMPLEMENTING 1540: REGIONAL AND BILATERAL COOPERATION

In theory the benefits of using regional security architectures to facilitate the implementation of Security Council resolutions are immense: local knowledge, sensitivity to cultural particularities and a greater awareness of regional priorities and concerns should provide regional organizations with an advantage over global bodies. Certain material advantages are also evident: burden sharing, the pooling of resources and associated efficiency gains all act as strong incentives for states to cooperate at the regional level to reduce the costs of implementing global obligations.

In practice however regional organizations take time to adjust to new tasks—learning can be slow and there can be many false starts, particularly where the tasks are difficult and compromise state sovereignty.⁷² One of the problems is that new agendas tend to create or reinforce hierarchies among regional security organizations, often with the stronger, Western-based organizations taking the lead and others following at different speeds, sometimes leading to frustration and resentment. This has been a problem in the Asia–Pacific where formal regional security institutions have been exceptionally slow to emerge and where the regional organizations that do exist tend to suffer from internal divisions, a lack of coordination and concrete action, and a reluctance to address hard security issues such as WMD proliferation. To an extent the diplomatic traditions of South-East Asia and the South Pacific have contributed to this situation by placing informal dialogue above more concrete forms of cooperation. Although this has played an important role in fostering trust and confidence it has sometimes left a gap between words and deeds.

The next part of the chapter identifies some of these problems as well as highlighting areas where regional organizations such as the ASEAN Regional Forum and Pacific Islands Forum have helped facilitate implementation of 1540. It also identifies some of the bilateral and other subregional initiatives that have been underway in the Asia–Pacific. The latter have played an important role in ensuring that results-based—rather than process-based—initiatives are launched and urgent capacity-building needs are met. In addition to possessing the relevant skills and knowledge associated with implementing WMD controls at the national level, states that engage in bilateral and subregional outreach activities can help create momentum and foster a greater sense of urgency. In South-East Asia Australia and

Japan are leading the most significant initiatives of this kind, whereas in the South Pacific New Zealand is leading the field. The key point about these activities as far as 1540 implementation is concerned is that their goals are limited and focused and thus more likely to be achieved. However as this part of the chapter explains the rush to assist has not always been well coordinated, leading to some inappropriate training, duplication of effort and wasted opportunities.

REGIONAL AND BILATERAL INITIATIVES IN SOUTH-EAST ASIA

Concrete actions towards the prevention of WMD terrorism were initially slow to emerge under the ASEAN Regional Forum with the statements emerging from the annual meetings after September 2001 seemingly rather vague and more concerned with the status quo rather than adopting new initiatives.⁷³ As time progressed Regional Forum reports and documents revealed an increasing awareness of the need to cooperate at regional and international levels in order to deal with the threat of WMD terrorism, but while general consensus statements seemed to represent a step in the right direction they were not being backed with practical steps to prevent and detect the theft and misuse of sensitive materials and thus appeared increasingly hollow. In response officials in the West began to refer to a condition they called “meeting fatigue”—frustration from the perception that dialogue was being used as a cover for inaction in the realm of proactive counter-terrorism cooperation. These comments echoed long-established criticisms of the ASEAN Regional Forum based on the limitations imposed upon it by its founding principles—particularly the principles of consensus and non-interference. These principles, combined with low institutionalization and non-binding decisions, have ensured that the organization has been viewed by many as a talking-shop for diplomats and other government officials rather than a genuine regional security actor.

Despite this slow start and growing frustration in some quarters Resolution 1540 may provide the Regional Forum with an opportunity to prove that it has a meaningful role to play in promoting regional security cooperation, even in the realm of hard security. The first signs that this might happen can be traced back to the ASEAN Regional Forum Statement on Non-Proliferation, which was issued at the Eleventh ASEAN Regional Forum held in Jakarta on 2 July 2004 just a few months after Resolution 1540 was passed.⁷⁴ The statement explicitly stressed the need for Regional Forum member states to adhere to and implement each of the operative paragraphs

outlined in 1540 and emphasized the importance that they strengthen their national legislation regarding WMD, including regarding illicit trafficking and export controls. It also urged participants to enhance their levels of regional cooperation among each other and with the IAEA and OPCW. Beyond reinforcing the obligations outlined in 1540 the statement included more specific measures to increase regional assistance and strengthen WMD mechanisms, including a pledge to maximize the provision of technical expertise among Regional Forum participants; a decision to encourage the Regional Forum Chair to explore with the ASEAN Secretariat, or if established an ASEAN Regional Forum Unit, whether it would be willing to record requests for assistance; and a political commitment from participants to work towards following the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.⁷⁵

Since these issues were raised in Jakarta the ASEAN Regional Forum has taken some significant steps to facilitate counter-terrorism cooperation, playing a coordinating role for the region. Much of this work has been achieved with the help of the Regional Forum's official Track II diplomacy body, CSCAP, which through a series of seminars and workshops has been raising awareness of the need for concerted national implementation efforts and practical cooperation to fulfil Resolution 1540 provisions. At the suggestion of the CSCAP WMD Study Group for example the ASEAN Regional Forum held a workshop on the implementation of Resolution 1540 in San Francisco in February 2007, which was attended by officials from most ASEAN states and relevant UN agencies, and was characterized by a frank exchange of information on implementation efforts, capacity needs and assistance offers.⁷⁶ Subsequently at the Fourteenth ASEAN Regional Forum, which was held in Manila in July–August 2007, Regional Forum members discussed the possibility of creating a new regional body specifically to address disarmament and non-proliferation issues and to coordinate regional WMD initiatives.⁷⁷ At the same meeting ministers adopted a formal statement supporting national implementation of Resolution 1540, which was attached as an annex to the chairman's statement.⁷⁸ Although concerns over West-dominated counter-terrorism and non-proliferation agendas continue to be expressed in Regional Forum meetings and Track II seminars, these recent developments do signal a greater willingness among some ASEAN members to prioritize WMD issues and to acknowledge that Resolution 1540 addresses a genuine and serious global threat.

There are a number of important concrete steps that the ASEAN Regional Forum could now take to help consolidate and expand its regional coordination role. Some relatively small steps would have a significant benefit, such as the adoption of the Export Controls Guidelines, which have been developed by the CSCAP Export Controls Expert Group, as a regional standard for all Regional Forum members. A longer-term, more challenging initiative would involve setting up a Regional Forum oversight body to chart and coordinate 1540 initiatives in the region—a system of keeping track of capacity-building needs, assistance offers, ongoing assistance programmes and available expertise. This body could serve as the main contact point for the 1540 Committee and the relevant UN agencies, helping to provide timely and accurate information, prevent unnecessary duplication of assistance activities and ensure that the complex array of 1540 requirements are met. A similar body already exists in the South Pacific and makes a major contribution to coordinating South Pacific counter-terrorism activities. It is unlikely that such a concrete role is currently envisaged for the new non-proliferation body discussed at the last ASEAN Regional Forum in Manila in July 2007 as it would currently be viewed as impinging on domestic jurisdiction, but it would be beneficial if it could move in this direction.⁷⁹

While most ASEAN members have accepted the evolving counter-terrorism role of the ASEAN Regional Forum, as long as it is achieved without sacrificing other regional priorities, the same cannot be said for ASEAN attitudes to the APEC foray into the hard security realm. Reports indicate significant division within ASEAN over this issue: whereas the Philippines, Singapore and Thailand have welcomed US-led initiatives within this context, officials from Indonesia, Malaysia and Viet Nam have openly expressed reservations, arguing that they do not wish to be associated with the US “war on terror”, which is widely regarded among their populations with deep suspicion and scepticism. Such reservations go even deeper than the stated concern over the US foreign and security policy agenda, to a longer-term preoccupation with the issue of cultural pluralism. While APEC has traditionally operated on the basis of “non-binding commitments, open dialogue, and equal respect for the views of all participating economies”⁸⁰—which sits comfortably within the Asian diplomatic tradition—some ASEAN members are worried that the West-centric counter-terrorism agenda is forcing institutional change within APEC in favour of a more legalistic, formal framework.

Recent developments suggest that some of these concerns are not without foundation as there have been moves among some Western APEC members

to introduce stronger, more formal mechanisms, particularly with respect to the institution's evolving security role. More specifically this relates to the work of the Counter-Terrorism Task Force (CTTF), which senior APEC officials agreed to establish during the October 2002 Economic Leaders Meeting in Los Cabos, Mexico.⁸¹ Unlike parallel regional security institutions, which have issued numerous consensus statements in favour of concrete counter-terrorism cooperation but have achieved little in the way of actual deliverables, from its inception the goal of the CTTF was to serve as an action-oriented security actor drawing APEC members into an ever-deeper series of counter-terrorism commitments. Similar to the agenda of the UN Counter-Terrorism Committee, states are required to provide written reports (known as Counter Terrorism Action Plans) to the CTTF, outlining the counter-terrorism measures that they have undertaken, including in the area of WMD proliferation. Similar to the national reports to the 1540 Committee these action plans are functional documents that are cross-analysed and used for monitoring and assessment purposes.⁸² This exercise is somewhat at odds with the informal dialogue mechanisms that have previously dominated APEC interactions in the economic realm and, although Western states have made much effort to emphasize that the work of the CTTF is based on the objective of achieving secure conditions for the facilitation of trade and commerce in the Asia-Pacific, not all APEC members are convinced by such assurances and some are obstructing APEC's work in this area.⁸³

The most comprehensive bilateral assistance efforts currently underway in South-East Asia have been launched and overseen by Australia, Japan and the United States. The most successful of these are practical, action-oriented initiatives that take place at the ministerial or senior level and which focus on specific threats such as bioterrorism or specific functions such as policing. Ongoing successful initiatives include:

- the Bali Counter-Terrorism Process, coordinated by Australia and Indonesia, focusing on counter-terrorism collaboration in the area of law enforcement and legal frameworks;⁸⁴
- the BTWC Regional Workshops, also hosted by Australia and Indonesia, focusing on developing a range of implementation tools to help states fulfil their obligations under the BTWC;⁸⁵ and
- the Asian Senior-level Talks on Non-Proliferation, hosted by Japan, which focus on strengthening the nuclear non-proliferation regime.⁸⁶

A number of national initiatives aimed at capacity-building via bilateral engagement have also been constructive—particularly the bilateral technical assistance programmes launched by Australia and the United States. These inter-agency programmes tailor bilateral assistance to local needs. Targeted assistance programmes are also being pursued via a trilateral initiative led by Australia, Japan and the United States, which provides counter-proliferation and safeguards training to individual South-East Asian states. The good news is that examples of these types of initiatives are multiplying and that they are building capacity and expertise in the region. The bad news is that participation in them is inconsistent and coordination among them is poor. For these reasons it would be far preferable if technical assistance in South-East Asia could be coordinated through the ASEAN Regional Forum, which could help prevent duplication of effort, identify areas of greatest need and ensure a maximum return on available resources. However it is unclear at this stage whether the political will exists among ASEAN members for the organization to take on this role as there remain significant doubts as to the legitimacy of 1540 in some quarters.

The lack of regional coordination of bilateral assistance initiatives has resulted in missed opportunities to maximize their impact. For example resources have sometimes been “thrown at a problem” rather than being carefully tailored to meet particular needs. This has been particularly evident with training seminars, during which differences in knowledge and capacity levels have not always been acknowledged by the experts providing the training.⁸⁷ Thus although a state may be fulfilling its obligation to engage in outreach activities by providing the workshops the actual impact of these efforts is limited because the training provided is not meaningful for some of the officials attending the meetings. The importance of the context of assistance provision is only now being fully grasped with the realization that resources have been wasted on the part of donor and recipient states. Japan for example has literally held hundreds of workshops and training seminars since 2004 to facilitate the implementation of 1540, covering everything from aviation security to export controls to law enforcement cooperation.⁸⁸ These meetings have been attended by officials from all across the region but, while officials from the most advanced states in South-East Asia have been able to implement the training they have received, officials from states with the greatest capacity needs have not due to a lack of resources. The fact that the quality of training is more important than the quantity is now being recognized by Japan, which has begun to engage in follow-up activities and has launched a new assistance programme aimed at providing the

technical equipment that will ensure that its training programmes achieve more concrete results.⁸⁹

REGIONAL AND BILATERAL INITIATIVES IN THE SOUTH PACIFIC

In the South Pacific the primary regional organization tasked with facilitating counter-terrorism cooperation is the Pacific Islands Forum (PIF), which plays a major coordination role for the region.⁹⁰ However the PIF is not without its difficulties in the realm of security cooperation. As the current Secretary General Greg Urwin has noted, the historical circumstances of the formation of this political body are significant, influencing the style and type of security cooperation that is achievable under its direction.⁹¹ It grew at a time when island entities across the Pacific were making their preparations for independence and when these emerging nations were frustrated with the existing regional organization the South Pacific Commission. From its very beginnings, the PIF's members looked upon the organization not only as a means of promoting functional regional cooperation but also as a vehicle for the joint expression of their newly won national sovereignty. This has led them to place a premium on the principle of non-interference in each other's affairs and has restricted any deep institutionalization, such as in the realm of defence cooperation.

With regard to counter-terrorism cooperation the reluctance of most of the PICs to acknowledge terrorism as a genuine regional threat requiring urgent action, combined with their determination to guard the sovereign rights so recently acquired, has limited the level of security cooperation. Although the number of regional security agencies acting under the PIF's purview has been rapidly expanding and the proliferation of PIF declarations, treaty frameworks and far-sighted regional policy agendas give the impression of ambitious security cooperation in the Island Pacific and even a significant trend towards deep security institutionalization, there is a gap between the growth of a sophisticated security architecture and the willingness among some PIF members to utilize it.⁹² Part of this is due to the perception among many in the Island Pacific that regional security institutionalization is a form of twenty-first century neocolonialism led by Australia, the region's most powerful actor. They are wary of regional initiatives that erode their independence and that are regarded as being part of an agenda that does not serve their own national priorities and goals.⁹³ This has led to attempts to reform the Pacific Regional Institutional Framework in an effort to ensure

that it reflects the local needs of PICs, but the reality is that a national–regional disconnect still exists and suspicions remain.⁹⁴

Despite these reservations there have been some significant achievements in regional counter-terrorism cooperation and assistance, including in the area of 1540 implementation, many of which have been conducted under the auspices of the PIF. A key development has been the creation of the WGCT, which was proposed by New Zealand to report on progress within the region with regard to counter-terrorism cooperation and to discuss important trends and issues. The group, which includes delegates from the Forum Island Countries, representatives from the PIF Secretariat, the Secretariat of Pacific Communities, the Oceania Customs Organisation and the Pacific Islands Chiefs of Police, meets in advance of the Forum Regional Security Committee meetings and has become an important forum for information exchange, including on 1540 obligations and implementation. At the first meeting of the WGCT in June 2005 a proposal to create and continuously update a matrix showing the region's progress in fulfilling its counter-terrorism obligations was accepted. The idea is to use the matrix to record implementation and technical assistance needs. At the same meeting the issue of bioterrorism was addressed by the Fijian Commissioner of Police, who provided an account of a recent INTERPOL conference on bioterrorism and set out a number of steps that PICs should take to cope with outbreaks of disease.⁹⁵

Two years after its launch the WGCT appears to be moving beyond its original mandate, acting not only in a monitoring and facilitating capacity with regard to the implementation of UN counter-terrorism resolutions but also as a regional point of contact for the UN Counter-Terrorism Committee and relevant agencies. For example at the July 2007 meeting of the WGCT, representatives from the Counter-Terrorism Executive Directorate and the 1540 Committee briefed PIF members on their activities and on the costs of failing to comply with international counter-terrorism obligations. Committee officials also listened to the technical assistance needs of PIF members via bilateral discussions on the sidelines of the meeting and through attendance of the workshops.⁹⁶ The previous year the meeting of the WGCT had been attended by representatives from the OPCW, encouraging PICs to take advantage of the organization's offers to assist them in drafting legislation to help them meet their CWC obligations and to hold discussions on a dedicated OPCW workshop, which was later held in Palau in August 2007.⁹⁷

A number of regional agencies that operate within the purview of the PIF play a significant role in operational capacity building in the region. For example the Pacific Transnational Crime Coordination Centre in Suva provides an important intelligence coordination role that is very relevant to the implementation of 1540 in the South Pacific. If any suspicious goods are located by customs officials during routine searches of cargo in the region, PICs are supposed to immediately notify the centre. Through this regional intelligence agency PICs are able to gain access to regional and international intelligence networks, including the Customs Asia Pacific Enforcement Reporting System—a secure US-based website that provides sensitive customs-related information to members.⁹⁸

Another regional organization, the Secretariat of the Pacific Community (SPC), is also playing an important role in capacity building in the South Pacific, particularly in relation to biosecurity. One of the oldest regional organizations in the world, the SPC functions as a non-political, technical assistance and research body, working with donor states and other regional and international organizations to provide advice to its 22 island members.⁹⁹ The SPC mandate allows it to work on a variety of governance issues that concern its member countries, adapting as necessary to meet evolving regional needs. With regard to 1540 implementation its most significant work is being carried out by the Suva-based Biosecurity and Trade Support group, which has taken on the task of providing biosecurity advice to PICs, offering technical assistance to encourage the development of border security systems, legislative frameworks and safety and emergency response procedures.¹⁰⁰ At present the group is working with INTERPOL and other relevant agencies and organizations in the drafting of a Model Bio-security Act, which it is hoped will be adopted by PICs in order to close the serious gap in biosecurity legislation in the South Pacific. The key question is whether the PICs will take the advice of the Biosecurity and Trade Support group and adopt this model legislation when it has been completed or whether it will be viewed as an unnecessary burden, at risk of disrupting national trade and development goals. The prospects of “take up” should be reasonably good however given that this legislative instrument is being developed by a group of experts who possess local knowledge of the environment and trade dynamics of the South Pacific and is being tailored to ensure that it works in harmony with existing systems. The current situation, as noted in a number of PIC reports to the 1540 Committee, is that SPC members are “observing” the work of the Biosecurity and Trade Support group and are

withholding judgement on whether or not they will adopt and implement the finished legislation.¹⁰¹

The most significant bilateral assistance efforts in the South Pacific are being led by New Zealand, which places a high priority on helping states fulfil their global counter-terrorism obligations. Officials from New Zealand, as well as Greg Urwin, consistently stress the need to close any weak links in the global counter-terrorism effort—including in areas where there is no obvious or immediate threat, such as in the South Pacific. While acknowledging that the risk of direct terrorist attack in the region is relatively low, officials regularly point out that distance is no guarantee of immunity and that counter-terrorism commitments are global obligations that cannot be shirked.¹⁰² New Zealand's counter-terrorism ambassador, Dell Higgie, has been particularly outspoken in this regard, urging leaders of PICs to take into account the comprehensive nature of global security dynamics, including the linkages between terrorism, crime and civil unrest. By taking the difficult steps to implement their counter-terrorism obligations, she and others have argued, PICs will be working to build more secure societies that are more prosperous and less vulnerable to a whole range of threats.¹⁰³

It may seem surprising to some that, despite its small size and relatively limited resources in Organisation for Economic Co-operation and Development terms, New Zealand—rather than Australia—has been taking the lead in counter-terrorism capacity building in the South Pacific. This is partly a result of practical considerations: Australia's proximity to South-East Asia and the reality of known terrorist threats emanating from that region have led Canberra to focus more of its assistance activities on its northern neighbours. But there are other reasons why Wellington has taken a leading role in the Island Pacific that have more to do with PIC perceptions of the regional powers than operational factors: for example, New Zealand is often regarded as being more sensitive to the needs of small island states and thus a more trusted partner.

This trust is founded on New Zealand's balanced approach to counter-terrorism cooperation and especially on its efforts to articulate and promote the genuine capacity needs of small island states at the international level. A significant number of New Zealand's counter-terrorism initiatives and proposals originate from its desire to encourage greater international awareness of the resource and technical capacity challenges facing the region and of the need to bear these in mind when discussing international

counter-terrorism obligations. Such initiatives include New Zealand's suggestion that the Counter-Terrorism Committee could make a concession on national reporting requirements in order to allow the PIF to submit regional reports; the establishment of the Pacific Roundtable on Counter-Terrorism to discuss the resource constraints faced by PICs and the ways in which these might be addressed;¹⁰⁴ and the establishment of a PIF Expert Working Group to draft model counter-terrorism legislation for PICs.¹⁰⁵ When New Zealand's request for a regional reporting concession was rejected by the UN Security Council, Wellington responded by offering reporting assistance on an individual basis to every PIC—a service that has been applauded by the 1540 Committee and has helped seven PICs to fulfil their reporting obligations under 1540.

Most of New Zealand's assistance and capacity-building work is conducted through the PIF, but an awareness of the urgent needs of PICs and the difficulty of meeting these through slow-moving regional organizations has led New Zealand to set up the Pacific Security Fund to provide one-off contingency assistance. Through this fund New Zealand provides advice, training and technical support in the areas of aviation security, port and shipping security, customs processes, immigration and legislative drafting.¹⁰⁶ Examples of projects that have been funded over the past few years include the provision of x-ray machines for scanning luggage at airports in the Cook Islands, Fiji, Niue, Samoa, Tonga and Vanuatu; training assistance for officials from Pacific countries on the new International Ship and Port Facility Security Code, covering security at port facilities and the new US requirements on container shipping security; programmes to educate Pacific island officials on biosecurity requirements; and consultation services for those tasked with drafting national counter-terrorism legislation. Although a relatively small resource pool (with an annual budget of NZD 3 million), the key point about this fund is that it provides targeted, practical assistance and meets needs that are sometimes of a very basic nature and thus overlooked by countries that are not familiar with the challenges facing small island states. One example of this kind of assistance is the provision through the Pacific Security Fund of computer equipment and services to Tuvalu, which when installed in late 2007 will allow real-time electronic access to customs and other intelligence information for the first time. Until now Tuvalu has had to rely on the Pacific Transnational Crime Coordination Centre to download relevant intelligence information and to fax it through to their officials—a situation that reflects the very basic capacity-building needs of many PICs.¹⁰⁷

CONCLUSION AND RECOMMENDATIONS

The most serious problem affecting the implementation of 1540 in South-East Asia and the Pacific relates to its perceived lack of legitimacy among many states. In South-East Asia questions over legitimacy stem primarily from the origins of the resolution and its apparent connection to the US “war on terror” and the belief that the counter-terrorism agendas of Western states represent a double standard, expecting developing states to comply with stringent non-proliferation obligations while the nuclear weapons states give inadequate attention to their own disarmament commitments. Among the island states of the South Pacific legitimacy questions focus mainly on the nature of the counter-terrorism resolutions, which have imposed universal standards of compliance on all states without due regard for the special priorities and circumstances facing the micro-states of the region. In both cases these unresolved issues have bred resentment, creating an ambivalent attitude toward 1540 and a reluctance to prioritize its implementation. They have also created suspicions surrounding the assistance clause and the provision of donor assistance, which is regarded by some states as an underhanded extension of Western dominance, giving false legitimacy to the non-proliferation initiatives and projects of the United States and others.¹⁰⁸

The consultative approach of the 1540 Committee and the expert group and the efforts to work with regional organizations has helped to assuage some of these concerns but sensitivities remain. For this reason any efforts to develop a more formal monitoring role for the 1540 Committee or to adopt a more forceful approach in response to non-compliance would likely back-fire in South-East Asia and the South Pacific. In both regions cooperation with the 1540 Committee is dependent on careful persuasion and would be enhanced by incentivizing states to fulfil their obligations rather than by creating more intrusive monitoring systems.¹⁰⁹ With this in mind any positive linkages between non-proliferation instruments, such as export controls, and economic development should be explored and highlighted by the 1540 Committee in order to remove some of the negative associations. And rather than being undertaken at the global level, any formal monitoring should be carried out by agencies working under the auspices of regional organizations, which are more sensitive to local conditions.

A number of additional measures could help facilitate implementation of 1540 in South-East Asia and the South Pacific. Longer-term recommendations could include efforts to foster discussion within ASEAN of a new regional security concept. This could help detach UN resolutions such as 1540 from any perceived connections with the “war on terror” and the negative associations of that campaign for domestic audiences across the region. It would also help shift security debates away from China’s advocacy of its own “New Security Concept” and from unpopular suggestions that the Asia–Pacific should adopt European Union approaches to security cooperation.¹¹⁰ Developing a security concept that is particular to the region, that is co-owned by all regional players (rather than being associated with any one of them) and that addresses the causes of multiple transnational security threats, as well as the challenges of dealing with them, could help create a stronger security culture that is freed from current resentments.

Short- and medium-term recommendations for the implementation of 1540 in South-East Asia and the South Pacific focus primarily on developing a more coherent subregional approach to capacity building. To date most bilateral, subregional and regional assistance efforts have been uncoordinated and haphazard, with too little evaluation of their effectiveness and virtually no follow-up. This has led to wasted opportunities, duplication of effort and a poor match between the assistance provided and the capacity needs of recipient states. One way to overcome this problem would be to set up dedicated subregional “1540 oversight bodies” to coordinate and direct capacity building and to liaise with relevant international organizations, UN agencies, bilateral initiatives and donor states. But despite the practical advantages of this type of mechanism resistance to their establishment could be quite strong in both South-East Asia and the Island Pacific due to the widespread conviction that resources should be directed to urgent development and human security priorities rather than to reducing the remote—or exaggerated—threat of WMD terrorism. Given this situation a more realistic option could be to make more use of existing bodies within the two subregions to help develop capacity.

In the Island Pacific there is potential to expand and enhance the work of the WGCT, which operates under the auspices of the PIF. This body already plays an important role in identifying and addressing the capacity needs of member states and in monitoring the implementation of Resolution 1540 but there are ways in which its effectiveness and efficiency could be improved. For example more regular meetings of this body, which currently

meets twice a year, would increase the pace of 1540 implementation among island states, particularly if those meetings included tailored seminars on the technical aspects of introducing WMD controls and were attended by experts with knowledge of local industry, agriculture and commerce. The creation of a registry of expertise in the region would help assist this process as would a regularly updated compendium (both electronic and hardcopy) of relevant documentation relating to the meetings, which would help officials keep track of developments.

In South-East Asia there could be some potential to expand the work of the ASEAN Regional Forum Intersessional Meeting on Counter-Terrorism and Transnational Crime (ISM-CTTC) to include a more specific focus on the implementation of 1540 or to assign this work to the new body on WMD counter-proliferation, which is currently under discussion within the ASEAN Regional Forum. The problem here however is that both bodies—the existing ISM-CTTC and the proposed body on counter-proliferation—are seen to have US origins and may thus encounter some resistance based on opposition to the “war on terror” and on perceived double-standards in arms control and non-proliferation in general. In light of these sensitivities it may be more productive to promote the implementation of some 1540 obligations via subregional bodies that have little or no US connection, such as the Southeast Asia Nuclear-Weapon-Free Zone Commission and Executive Committee, which are supposed to oversee implementation of the Bangkok Treaty. Significantly, Articles 4, 5 and 6 of the treaty call for the implementation of strict nuclear security and safety measures by all member states—obligations that have significant cross-over with Resolution 1540 and are central to the Plan of Action for the implementation of the treaty, which was adopted in Manila in August 2007. In the same vein the Southwest Pacific Dialogue (the forum for discussion between members of the Bangkok and Rarotonga Treaties) could address nuclear security as well as disarmament issues when it meets on the sidelines of the ASEAN Regional Forum.

The following recommendations could also assist in capacity-building:

RECOMMENDATIONS FOR DONOR STATES

- Channel indirect assistance through international agencies and trusted donor states that have the greatest local knowledge of

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- capacity needs; in some cases this may be more effective and efficient than direct bilateral assistance efforts;
- provide ongoing legal drafting assistance to states, including tailoring model legislation to local requirements;
 - assess the equipment needs of recipient states and ensure that training matches local needs;
 - engage in follow-up activities to assess the effectiveness of assistance programmes and tailor future programmes accordingly;
 - fund and make use of Track II diplomacy initiatives, such as CSCAP, as a means of acquiring information on specific capacity-building needs in South-East Asia and the South Pacific; and
 - fund PIC membership of relevant agencies, such as INTERPOL, in order to improve intelligence sharing in the South Pacific.

RECOMMENDATIONS FOR ASEAN AND THE ASEAN REGIONAL FORUM

- Consider establishing a dedicated entity within ASEAN to liaise with the 1540 Committee and oversee and coordinate 1540 implementation in South-East Asia;
- consider setting up a working group on counter-terrorism, similar to the one that operates under the auspices of the PIF, to set goals and agree priorities;
- in the event of delayed creation or complete rejection of the above bodies, address key WMD security issues via existing ASEAN bodies, such as the Southeast Asia Nuclear-Weapon-Free Zone Commission and Executive Committee;
- construct an ASEAN website to identify gaps and keep track of all cooperative WMD-related counter-terrorism initiatives taking place across the region; this could include a regional experts register; and
- adopt the export controls template being developed by the CSCAP Export Controls Experts Group; this would create a peer review tool to assist in capacity building and monitoring and to encourage best practice in the area of export controls.¹¹¹

RECOMMENDATIONS FOR THE PIF

- Create a PIF website, including an experts register, to keep track of donor assistance and 1540-related activities in the South Pacific; and

- convene annual 1540 workshops, to include participants from government, industry, donor states, the 1540 Committee and UN agencies (that is, formalize and specialize the current dialogue that occurs on the sidelines of the PIF Regional Security Committee).

CHAPTER ANNEX A

STATUS OF ADHERENCE TO NON-PROLIFERATION INSTRUMENTS: SOUTH-EAST ASIA

Key for status

(Dates are included where significant changes have occurred since Resolution 1540 was passed.)

A	acceded
ASQP	amended Small Quantities Protocol
BA	board approval
R	ratified
S	signed
SQP	Small Quantities Protocol

Key for instruments

AP	IAEA Additional Protocol
BTWC	Biological and Toxin Weapons Convention
CPPNM	Convention on the Physical Protection of Nuclear Materials
CSA	Comprehensive Safeguards Agreement
CTBT	Comprehensive Nuclear-Test-Ban Treaty
CWC	Chemical Weapons Convention
JC	Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste
NPT	Nuclear Non-Proliferation Treaty
NTC	International Convention for the Suppression of Acts of Nuclear Terrorism
NWFZ	Southeast Asia Nuclear-Weapons-Free Zone Treaty

Country	AP	BTWC	CPPNM	CSA	CTBT	CWC	JC	NPT	NTC	NWFZ
Brunei		A		SQP	A	A		A		R
Cambodia		R	A 2006	SQP	R	A 2005		A		R
Indonesia	R	R	R	R	A	R	S	R		R
Lao People's Democratic Republic		R		SQP	R	A		A		R
Malaysia	S 2005	R		R	A	A		R	S 2005	R
Myanmar		S		SQP	A	S		A		R
Philippines	S	R	R	R	R	A	S	R	S 2005	R
Singapore	S 2005	R		ASQP 2005	A	A		R		R
Thailand	S 2005	R		R	A	A		A	S 2005	R
Viet Nam	BA 2007	A		R	A	A		A		R

CHAPTER ANNEX B

STATUS OF ADHERENCE TO NON-PROLIFERATION INSTRUMENTS: SOUTH PACIFIC

Key for status

(Dates are included where significant changes have occurred since Resolution 1540 was passed.)

A	acceded
ASQP	amended Small Quantities Protocol
D	deposited
R	ratified
S	signed
SQP	Small Quantities Protocol
*	state covered under New Zealand legislation

Key for instruments

AP	IAEA Additional Protocol
BTWC	Biological and Toxin Weapons Convention
CPPNM	Convention on the Physical Protection of Nuclear Materials
CSA	Comprehensive Safeguards Agreement
CTBT	Comprehensive Nuclear-Test-Ban Treaty
CWC	Chemical Weapons Convention
NPT	Nuclear Non-Proliferation Treaty
NTC	International Convention for the Suppression of Acts of Nuclear Terrorism
NWFZ	Southeast Asia Nuclear-Weapons-Free Zone Treaty

Country	AP	BTWC	CPPNM	CSA	CTBT	CWC	NPT	NTC	NWFZ
Australia	R	R	R	R	D	D	R	S 2005	D
Cook Islands				SQP*	D 2005	D	R*		D
Fiji	R 2006	R		SQP	D	D	R		D
Kiribati	S 2004			SQP	D	A	R	S 2005	D
Marshall Islands	R 2005		A	R	S	D 2004	A		D
Micronesia					D	D	A		
Nauru			A 2005	SQP	D	D	A		D
New Zealand	R	R	A 2004	R	D	D	R	S	D
Niue				SQP*		A 2005	R*		D
Palau	R 2005	A		ASQP 2006	D 2007	A	A	S 2005	
Papua New Guinea		R		SQP	S	D	R		D
Samoa				SQP	D	D	R		D
Solomon Islands		S		SQP	S	A 2004	S		D
Tonga		A	A	SQP		A	R		D
Tuvalu				SQP		A 2004	S		D
Vanuatu		A			D 2005	A 2005	A		D

Notes

- ¹ The Philippines, “Nuclear non-proliferation tops AMM agenda—Romulo”, press briefing, 27 July 2007.
- ² Ibid.
- ³ This assessment is based on the international WMD risk classifications provided by Peter Crail in 2006. See Peter Crail, “Implementing UN Security Council Resolution 1540: A Risk-Based Approach”, *The Nonproliferation Review*, vol. 13, no. 2, 2006, pp. 366–7.
- ⁴ This involves seeking agreement, harmony and consensus over confrontation, accepting the need for sensitivity, politeness and agreeability in dealings with others, and engaging in private elitist diplomacy over frank, open discussion of disagreements.
- ⁵ Olivia Bosch and Peter Van Ham (eds), *Global Non-Proliferation and Counter-Terrorism: The Impact of UNSCR 1540*, Brookings Institution Press, Chatham House and the Clingendael Institute, 2007, p. 8.
- ⁶ See comments by Laxanachantorn Laohaphan of Thailand in Security Council, UN document SC/8221, 19 October 2004. See also remarks by Lauro Baja of the Philippines in Security Council, UN document SC/8366, 26 April 2005. For more general ASEAN reservations, see Security Council, *Note verbale dated 3 May 2005 from the Permanent Mission of the Lao People’s Democratic Republic to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/117, 4 May 2005.
- ⁷ Olivia Bosch and Peter Van Ham (eds), *Global Non-Proliferation and Counter-Terrorism: The Impact of UNSCR 1540*, Brookings Institution Press, Chatham House and the Clingendael Institute, 2007, p. 12.
- ⁸ CSCAP, *Report on the Fifth Meeting of the CSCAP Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia Pacific*, 2007; Rajesh Basrur, *The Threat of WMD Terrorism: ASEAN Needs to Respond*, S. Rajaratnam School of International Studies, RSIS Commentaries, 6 June 2007.
- ⁹ See Alistair Millar and Eric Rosand, “Implementing the United Nations General Assembly’s Global Counter-Terrorism Strategy in the Asia-Pacific”, *Asian Security*, vol. 3, no. 3, 2007.
- ¹⁰ Security Council, UN document S/RES/1540, 28 April 2004, op. para. 8.
- ¹¹ The Philippines and Singapore have had national protection programmes in place since before Resolution 1540 was passed. See OPCW Executive Council, *Draft Report of the OPCW on the Implementation*

of the Convention on the Prohibition on the Development, Production, Stockpiling and Use of Chemical Weapons, and on their Destruction, OPCW document EC-49/4 C-12/CRP.1, 27 June 2007, pp. 39–44.

¹² Security Council, *Note verbale dated 3 May 2005 from the Permanent Mission of the Lao People's Democratic Republic to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/117, 4 May 2005.

¹³ According to INTERPOL.

¹⁴ Security Council, *Note verbale dated 26 October 2004 from the Permanent Mission of Malaysia to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/35, 4 November 2004. Updated information is available from the INTERPOL Bioterrorism Unit.

¹⁵ Ibid.

¹⁶ Security Council, *Letter dated 22 November 2005 from the Deputy Permanent Representative of the Permanent Mission of Indonesia to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/45/Add.1, 25 November 2005; Security Council, *Note verbale dated 28 October 2005 from the Permanent Mission of the Philippines to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/34/Add.1, 1 November 2005; Security Council, *Note verbale dated 30 November 2005 from the Permanent Mission of the Philippines to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/34/Add.2, 7 December 2005.

¹⁷ Verification Research, Training and Information Centre, "Strengthening Safeguards in States with Limited Nuclear Activities", *Trust and Verify*, no. 123, 2007, pp. 1–11.

¹⁸ Ibid., p. 3.

¹⁹ IAEA, "Latest Status of Safeguards Agreements & Additional Protocols", as of 13 June 2007.

²⁰ Operative paragraph 2 of Resolution 1540 deals with this issue, requiring parties to state the domestic laws they have in place that "prohibit any non-state actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery".

²¹ CSCAP, *Summary of Key Findings, Report of the Third Meeting of the CSCAP Export Controls Experts Group*, 2007.

²² See, for example, Peter Burian, "Keynote Speech", in UN Department for Disarmament Affairs, *United Nations Seminar on Implementing*

UN Security Council Resolution 1540 in Asia and the Pacific, DDA Occasional Papers no. 11, 2006, pp. 9–14.

- ²³ The key legislative measure that forms the lynchpin of Singapore’s domestic efforts is the 2003 Strategic Goods (Control) Act, which includes “catch-all” provisions and covers imports and exports, re-export, transshipments and intangible transfers of goods and technology that could be used for WMD development. Thanks to this, four other acts—the Regulation of Imports and Exports Act, the Chemical Weapons (Prohibition) Act, the Arms Offence Act, and the Arms and Explosives Act—and a bilateral cooperation agreement with Japan, Singapore is developing more effective ways to deal with the growing problem of illicit transfer of sensitive weapons materials, which will hopefully encourage other states in the region to follow its lead. Center for Nonproliferation Studies, “East Asian Governments Report on Export Control and Nonproliferation Progress: Review of Reports to the 1540 Committee”, *Asian Export Control Observer*, no. 6, 2005.
- ²⁴ Center for Nonproliferation Studies, “Myanmar–North Korea Nuclear, Missile Cooperation Alleged”, *Asian Export Control Observer*, no. 1, 2004, pp. 11–12; “N. Korea reactor for Myanmar”, *Newsinsight*, 6 May 2004; Alan Boyd, “Myanmar aims for missiles and misses”, *Asia Times Online*, 13 May 2004; and Ernst Jan Hogendoorn, “A Chemical Weapons Atlas”, *The Bulletin of Atomic Scientists*, September/October 1997.
- ²⁵ The fact that Indonesia recently co-hosted a workshop on the Biological Weapons Convention with Australia, which included discussion on improving security and oversight of pathogens and toxins and implementation of effective export controls as mandated by Resolution 1540, may signal a more proactive stance on this issue by Indonesia. Center for Nonproliferation Studies, “East Asian Governments Report on Export Control and Nonproliferation Progress: Review of Reports to the 1540 Committee”, *Asian Export Control Observer*, no. 6, 2005, p. 18.
- ²⁶ *Ibid.*, p. 10.
- ²⁷ Jaime Victor Ledda, “The Philippines and Export Control”, in UN Department for Disarmament Affairs, *United Nations Seminar on Implementing UN Security Council Resolution 1540 in Asia and the Pacific*, DDA Occasional Papers no. 11, 2006, pp. 171–4.
- ²⁸ Center for Nonproliferation Studies, *East Asian Governments Report on Export Control and Nonproliferation Progress: Review of Reports*

to the 1540 Committee, Asian Export Control Observer no. 6, 2005, p. 22.

- ²⁹ Security Council, *Note verbale dated 26 October 2004 from the Permanent Mission of Malaysia to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/35, 4 November 2004.
- ³⁰ Specifically, the Philippines requested assistance in training first responders, border control, the physical protection of Research Reactor PRR-1, enhancement and upgrade of container and cargo security in several seaports, and the drafting of appropriate laws governing border monitoring. See Security Council, *Note verbale dated 28 October 2004 from the Permanent Mission of the Republic of the Philippines to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)34, 4 November 2004, pp. 12–13.
- ³¹ Security Council, *Note verbale dated 21 March 2005 from the Permanent Mission of Cambodia to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/110, 1 April 2005, p. 4.
- ³² CSCAP, *Report on the Fourth Meeting of the CSCAP Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia Pacific*, 2006; Peter Burian, “Chairman’s Summary: Overview of the Current Status of Implementation of Resolution 1540”, in UN Department for Disarmament Affairs, *United Nations Seminar on Implementing UN Security Council Resolution 1540 in Asia and the Pacific*, DDA Occasional Papers no. 11, 2006, p. 33.
- ³³ For an overview of the nature of capacity-building needs in South-East Asia, see Brad Glosserman, *Progress on the Nonproliferation Front*, Center for Strategic and International Studies, PacNet Newsletter no. 31, 10 August 2007.
- ³⁴ Kouth Thavy, “Presentation by Cambodia”, in UN Department for Disarmament Affairs, *United Nations Seminar on Implementing UN Security Council Resolution 1540 in Asia and the Pacific*, DDA Occasional Papers no. 11, 2006, p. 201.
- ³⁵ CSCAP, *Report on the Second Meeting of the CSCAP Export Controls Experts Group*, 2006.
- ³⁶ Jaime Victor Ledda, “The Philippines and Export Control”, in UN Department for Disarmament Affairs, *United Nations Seminar on Implementing UN Security Council Resolution 1540 in Asia and the Pacific*, DDA Occasional Papers no. 11, 2006, pp. 171–4.

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- ³⁷ CSCAP, *Report on the Second Meeting of the CSCAP Export Controls Experts Group*, 2006.
- ³⁸ Ibid.
- ³⁹ Brunei Darussalam, APEC Counter-Terrorism Action Plan Report, 2006.
- ⁴⁰ Thailand, APEC Counter-Terrorism Action Plan Report, 2006.
- ⁴¹ See Dell Higgle, "Terrorism and Counter-Terrorism: Their Place on Pacific Island Security Agendas", Speech to the Asia-Pacific Centre for Security Studies, Honolulu, July 2005.
- ⁴² The Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Waste and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region.
- ⁴³ These being the members of the Pacific Islands Forum excepting Australia and New Zealand.
- ⁴⁴ Exporters of trans-boundary waste are obliged to issue notification of their hazardous shipments under Article 6 of the Waigani Convention. However, this provision is often ignored, leading Pacific states to repeatedly voice their objections to the nuclear waste shipments of France, Japan and the United Kingdom. Pacific Islands Forum Secretariat, forum communiqué, PIF document PIFS(06)12, 24–25 October 2006; Peter Heathcote, "Terrorism at Sea—The Potential Threat", *Maritime Studies*, vol. 122, Australian Association for Maritime Affairs, 2002; "Pacific Forum raises concern over nuke shipment", *Pacific Islands Report*, 7 April 2005.
- ⁴⁵ This detachment is especially evident in the speeches given by PICs during counter-terrorism debates in international forums. PIC officials stress the remoteness of the WMD threat to the day-to-day realities of small island states in the South Pacific, and their unwillingness and inability to prioritize this issue. See, for example, General Assembly, statement by Anote Tong, President of Kiribati, 28 September 2004; Security Council, *Note verbale dated 23 November 2004 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/82, 10 December 2004.
- ⁴⁶ General Assembly, statement by Rabbie Namaliu, Foreign Ministry of Papua New Guinea, 16 September 2005.
- ⁴⁷ "Fish and rice issues" was first used at the 2004 meeting of the Pacific Islands Forum Working Group on Counter Terrorism to highlight the challenges facing PICs. I am grateful to Tessie Lambourn of the Foreign

Ministry of Kiribati for her insights into these priorities. For further discussion of this issue, see General Assembly, statement by Anote Tong, President of Kiribati, 28 September 2004; Pacific Islands Forum Secretariat, forum communiqué, PIF document PIFS(06)12, 24–25 October 2006; John Henderson and Greg Watson (eds), *Securing A Peaceful Pacific*, Canterbury University Press, 2006; Ieremia Tabai, “The Ethics of Development: A Kiribati View”, in Susan Stratigos and Philip Hughes (eds), *The Ethics of Development: The Pacific in the 21st Century*, University of Papua New Guinea Press, 1987.

⁴⁸ Representatives from the PICs left this meeting with a sense of satisfaction that they had been able to express their genuine concerns about the counter-terrorism agenda, and feeling confident that Ambassador Løj had a much clearer understanding of their many capacity problems. Keynote speech by Ambassador Ellen Margrethe Løj, Pacific Islands Counter Terrorism Working Group Dinner, 28 April 2006.

⁴⁹ Neil Boister, “New Directions in Regional Cooperation in the Suppression of Transnational Crime in the South Pacific”, in Geoff Leane and Barbara Von Tigerstrom (eds), *International Law in the South Pacific*, Ashgate, 2005.

⁵⁰ Ibid.

⁵¹ OPCW Executive Council, *Draft Report of the OPCW on the Implementation of the Convention on the Prohibition on the Development, Production, Stockpiling and Use of Chemical Weapons, and on their Destruction*, OPCW document EC-49/4 C-12/CRP.1, 27 June 2007, pp. 39–44.

⁵² Ibid., pp. 39–42.

⁵³ Ibid., p. 47.

⁵⁴ Security Council, *Note verbale dated 22 February 2007 from the Permanent Mission of Vanuatu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/136, 22 February 2007; Security Council, *Letter dated 1 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) addressed to the Committee*, UN document S/AC.44/2004/(02)/127, 1 May 2006.

⁵⁵ OPCW Technical Secretariat, *Call for Nominations for a Legal Workshop for National Authorities of Pacific Island States*, OPCW document S/625/2007, 14 March 2007.

⁵⁶ The non-signatories of the BTWC are Andorra, Angola, Cameroon, Chad, the Comoros, the Cook Islands, Djibouti, Eritrea, Guinea, Israel, Kazakhstan, Kiribati, the Marshall Islands, Mauritania, Micronesia,

Mozambique, Namibia, Nauru, Niue, Samoa, Trinidad and Tobago, Tuvalu and Zambia.

⁵⁷ Information on the submissions are available under “national implementation” at the Biological and Toxin Weapons Convention website, <www.opbw.org>.

⁵⁸ For a discussion of these difficulties, and the futility of “one size fits all” approaches to drafting BTWC legislation, including a discussion of Australia’s approach of adapting existing legislation, see Treasa Dunworth, Robert Mathews, and Timothy McCormack, “National Implementation of the Biological Weapons Convention”, *Journal of Conflict and Security Law*, vol. 11, no. 1, 2006, pp. 93–118.

⁵⁹ See, for example, Security Council, *Note verbale dated 13 March 2007 from the Permanent Mission of Tuvalu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/137, 14 March 2007; Security Council, *Note verbale dated 22 February 2007 from the Permanent Mission of Vanuatu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/136, 22 February 2007.

⁶⁰ Verification and transparency procedures for the treaty include obligations to engage in consultation and information exchange on the application of peaceful uses of nuclear energy in the South Pacific, mandatory on-site inspections, the introduction of IAEA safeguards, and reporting on all matters relating to the treaty via the Consultative Committee under the auspices of the Pacific Islands Forum.

⁶¹ Treaty of Rarotonga, article 7.

⁶² A 2003 report stated that there were 1,854 sealed radioactive sources in use in the South Pacific; US General Accounting Office Government, *Nuclear Non-proliferation: U.S. and International Assistance Efforts to Control Sealed Radioactive Sources Need Strengthening*, document GOA-03-638, May 2003.

⁶³ IAEA, *The Convention on the Physical Protection of Nuclear Material*, document INFCIRC/274/Rev.1, May 1980; General Assembly, *Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996*, UN document A/59/766, 4 April 2005.

⁶⁴ Security Council, *Note verbale dated 22 February 2007 from the Permanent Mission of Vanuatu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/136, 22 February 2007.

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- ⁶⁵ Security Council, *Letter dated 1 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) addressed to the Committee*, UN document S/AC.44/2004/(02)/127, 1 May 2006.
- ⁶⁶ Security Council, *Note verbale dated 13 March 2007 from the Permanent Mission of Tuvalu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/137, 14 March 2007.
- ⁶⁷ Security Council, *Note verbale dated 23 November 2004 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/82, 10 December 2004.
- ⁶⁸ Security Council, *Note verbale dated 5 April 2006 from the Permanent Mission of Tonga to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/128, 7 April 2006.
- ⁶⁹ Security Council, *Letter dated 13 April 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Samoa to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/130, 17 April 2006.
- ⁷⁰ "Ambassador Beck's Statement at the Informal Consultation of the Plenary on Counter-Terrorism Strategy", *Palau UN Mission News*, 11 May 2006.
- ⁷¹ "Statement at the Informal Consultation on Counter-Terrorism", *Palau UN Mission News*, 16 May 2006.
- ⁷² Louise Fawcett, *Regional Governance Architecture and Security Policy*, Dialogue on Globalization Briefing Papers, Friedrich-Ebert-Stiftung Berlin, February 2006, pp. 2–8.
- ⁷³ This was apparent in the Chairman's Statement issued at the Ninth Meeting of the ASEAN Regional Forum, which took place in Bandar Seri Begawan, Brunei, on 31 July 2002. Rather than pressing for the urgent implementation of national controls, the statement merely "noted" the consultations between the Nuclear Weapon States and ASEAN concerning the former's signing to the Protocol of the Southeast Asian Nuclear-Weapon-Free Zone Treaty, and pointed to the pivotal role of the NPT in preserving peace and security in the world.
- ⁷⁴ ASEAN Regional Forum, *Statement on Non-Proliferation*, Jakarta, 2 July 2004.
- ⁷⁵ *Ibid.*, §§ 5(C), 6(A), 6(B).

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- ⁷⁶ CSCAP, *Chairman's Report (Final)*, Fifth Meeting of the CSCAP Study Group on Countering the Proliferation of Weapons of Mass Destruction, San Francisco, 12–13 February 2007.
- ⁷⁷ Brad Glosserman, "Progress on the Nonproliferation Front", *PacNet Newsletter*, no. 31, 10 August 2007.
- ⁷⁸ Philippines, Department of Foreign Affairs, "Chairman's Statement, 14th ASEAN Regional Forum", press release, 2 August 2007.
- ⁷⁹ Despite the optimism expressed by John Negroponte, US Deputy Secretary of State (who attended the Fourteenth ASEAN Regional Forum in place of Condoleezza Rice) and Christopher Hill, US Secretary of State for East Asian and Pacific Affairs, there was some opposition to the non-proliferation forum proposal, which does cast some doubt on its future. According to a news report in the *Jakarta Post*, the proposal was criticized by Indonesian Foreign Minister Hassan Wirayuda, who accused the United States of trying to push through a new forum that focused on non-proliferation at the expense of disarmament. Abdul Khalik, "Indonesia Blocks US Proposal on Nuclear Weapons at ARF", *Jakarta Post*, 3 August 2007.
- ⁸⁰ Philippines, Office of the Press Secretary, "APEC 2007 Backgrounder", <www.ops.gov.ph/apec2007/backgrounder.htm>, § "The APEC Process".
- ⁸¹ See APEC, *CTTF Terms of Reference*, APEC document 2005/SOM1/026anxa_rev2, 3–4 March 2005. The work of the CTTF is founded on the APEC Counter-Terrorism Action Plan, which commits it to assisting members in the identification of counter-terrorism needs, coordinating capacity-building and technical-assistance programmes and facilitating cooperation between APEC forums on counter-terrorism issues.
- ⁸² APEC, *CTTF 2005 Work Plan*, APEC document 2005/SOM1/026anxb, 3–4 March 2005.
- ⁸³ The issue of export controls has been particularly controversial in the context of APEC's foray into the security realm, despite the huge potential for the organization to assist in capacity-building in this area. Japan's proposals, under the auspices of the CTTF, to introduce a common standard in export controls for APEC members was not well received among some Asian states, and efforts of the CTTF to conduct a survey of current practices related to the APEC Key Elements for Effective Export Control Systems were hampered by the failure of some states to cooperate. Despite this resistance, Japan has been able to engage in significant capacity-building activities to improve

technical knowledge of export control requirements in the region, holding a series of seminars and workshops for officials from across the Asia–Pacific.

- ⁸⁴ The August 2006 Bali Regional Ministerial Meeting on Counter-Terrorism established two working groups: the Legal Issues Working Group and the Law Enforcement Working Group, which have adopted benchmarks for assessing the adequacy of national legal frameworks for countering terrorism. See Japan, Ministry of Foreign Affairs, “Bali Counter-Terrorism Process: Report of the Australian and Indonesian Co-Chairs”, August 2006.
- ⁸⁵ See M. Slamet Hidayat, “Opening Speech”, in *Proceedings of the 2nd Biological Weapons Convention Regional Workshop, Asia–Pacific Centre for Military Law*, 2006.
- ⁸⁶ The Fourth Asian Senior-level Talks on Non-Proliferation meeting was held on 25–26 January 2007. In addition to its usual focus on the NPT, export controls and the Proliferation Security Initiative, this meeting discussed the implementation of the Security Council resolutions adopted the year before concerning North Korea and Iran.
- ⁸⁷ Philip Divett, “Providing and Receiving Assistance”, in UN Department for Disarmament Affairs, “United Nations Seminar on Implementing UN Security Council Resolution 1540 in Asia and the Pacific”, *DDA Occasional Papers*, no. 11, 2006, p. 168.
- ⁸⁸ For details of the training programmes provided by Japan, see Sho Ohno, “Japan’s Capacity-Building Assistance in Relation to Implementation of UNSCR 1540”, in UN Department for Disarmament Affairs, “United Nations Seminar on Implementing UN Security Council Resolution 1540 in Asia and the Pacific”, *DDA Occasional Papers*, no. 11, 2006, pp. 175–90.
- ⁸⁹ Japan earmarked 7 billion yen (more than US\$ 60 million) for this programme in 2006 to provide equipment for airport and port security and law enforcement agencies. This includes video cameras, x-ray machines, detector devices, radio communication systems, patrol boats and criminal identification materials. *Ibid.*, p. 189.
- ⁹⁰ The Pacific Islands Forum consists of 16 members—all of the sovereign independent Pacific states and a number of those in free association with a former administering power: the Cook Islands, Niue, Micronesia, Palau and the Marshall Islands, plus New Zealand and Australia. Its first meeting was in Wellington in 1971.

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- ⁹¹ Greg Unwin, "Preventing Conflict: What Role for the Pacific Islands Forum?", in John Henderson and Greg Watson (eds), *Securing A Peaceful Pacific*, Canterbury University Press, 2006, pp. 13–19.
- ⁹² The "Pacific Plan", which was proposed by an Eminent Person's Group that reviewed the forum in 2003, is specifically designed to achieve broader levels of cooperation and deeper regional integration. See *The Pacific Plan for Strengthening Regional Cooperation and Integration*, available at <www.pacificplan.org>. The 2002 Nasonini Declaration (on regional security and counter-terrorism) is also very relevant to this paper, as it commits forum members to meet the standards and obligations set out by the international community after the terrorist attacks of 2001, leading to the establishment of an Expert Working Group to develop a regional framework for model legislation, and subsequently to the provision of in-country drafting assistance for forum members. Pacific Islands Forum Secretariat, "Expert Working Group to co-ordinate the development of a regional framework including model legislation to address terrorism and transnational organised crime (2003)", press statement, May 2003; Sheryl Boxall, "The Pacific Islands Forum and Regional Security", in John Henderson and Greg Watson (eds), *Securing A Peaceful Pacific*, Canterbury University Press, 2006, pp. 166–86; Neil Boister, "New Directions in Regional Cooperation in the Suppression of Transnational Crime in the South Pacific", in Geoff Leane and Barbara Von Tigerstrom (eds), *International Law in the South Pacific*, Ashgate, 2005.
- ⁹³ "Pacific People Must Have Sense of Ownership of Pacific Plan", interview with Samoa Prime Minister and chair of the Pacific Islands Forum Tuilaepa Sailele Malielegaoi, Radio New Zealand International, 22 March 2005; Sinclair Dinnen, "Lending a Fist? Australia's New Interventionism in the Southwest Pacific", presented at the State Society and Governance in Melanesia Project Seminar Series, Australian National University, 18 March 2004; and Jon Fraenkel, "Myths of Pacific Terrorism", in John Henderson and Greg Watson (eds), *Securing A Peaceful Pacific*, Canterbury University Press, 2006, pp. 120–23.
- ⁹⁴ Kaliopate Tavola, Makurita Baaro, Lucy Bogari, Lourdes Pangelinan, Adrian Simcock and Epa Tuioti, *Reforming the Pacific Regional Institutional Framework*, Pacific Islands Forum Secretariat, 2006.
- ⁹⁵ Pacific Immigration Directors Conference, *PIDC News*, December 2005, <www.pidcsec.org/files/PIDC_Newsletters/pidcnews_dec2005.pdf>, p. 5.

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- ⁹⁶ Opening speech by Greg Urwin, Secretary General of the Pacific Islands Forum, to the UN Office on Drugs and Crime Sub-regional Consultation on Measures for the Legislative Implementation of the Legal Regime Against Terrorism in the Pacific Region and Related Technical Assistance Delivery in Close Cooperation with PIFS, Nadi, Fiji, 25–26 June 2007.
- ⁹⁷ OPCW Technical Secretariat, *Call for Nominations for a Legal Workshop for National Authorities of Pacific Island States*, OPCW document S/625/2007, 14 March 2007.
- ⁹⁸ Security Council, *Note verbale dated 13 March 2007 from the Permanent Mission of Tuvalu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/137, 14 March 2007; Security Council, *Note verbale dated 22 February 2007 from the Permanent Mission of Vanuatu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/136, 22 February 2007.
- ⁹⁹ “The South Pacific Commission, as it was formerly known, was founded in 1947 under the Canberra Agreement by the six ‘Participating Governments’ that administered territories in the Pacific: Australia, France, New Zealand, the Netherlands, the United Kingdom and the United States of America. Now all 22 Island countries and territories are full members, along with the five remaining founding powers (the Netherlands is no longer a member as well as the United Kingdom).” For further details, see “SPC - Our History”, <www.spc.int/AC/history.htm>.
- ¹⁰⁰ For information about the work of this group, see “Biosecurity and Trade Support”, <www.spc.int/lrd/biosecurity_trade_support.htm>.
- ¹⁰¹ See, for example, Security Council, *Note verbale dated 22 February 2007 from the Permanent Mission of Vanuatu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/136, 22 February 2007.
- ¹⁰² See, for example, Dell Higgin, “Terrorism and Counter-Terrorism: Their Place on Pacific Island Security Agendas”, Speech to the Asia-Pacific Centre for Security Studies, Honolulu, July 2005; Opening speech by Greg Urwin, Secretary General of the Pacific Islands Forum, to the UN Office on Drugs and Crime Sub-regional Consultation on Measures for the Legislative Implementation of the Legal Regime Against Terrorism in the Pacific Region and Related Technical Assistance Delivery in Close Cooperation with PIFS, Nadi, Fiji, 25–26 June 2007.
- ¹⁰³ *Ibid.*

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- ¹⁰⁴ The Pacific Roundtable on Counter-Terrorism was first proposed in 2004, when New Zealand was chairing the Pacific Islands Forum. It brought to Wellington key officials from the forum countries along with observers from other partners from within and beyond the region (including representatives of regional bodies and international institutions with a role in counter-terrorism).
- ¹⁰⁵ See Dell Higgle, "Terrorism and Counter-Terrorism: Their Place on Pacific Island Security Agendas", Speech to the Asia-Pacific Centre for Security Studies, Honolulu, July 2005.
- ¹⁰⁶ See New Zealand, "Ongoing funding for Pacific Security Fund", press release, 11 May 2004.
- ¹⁰⁷ Security Council, *Note verbale dated 13 March 2007 from the Permanent Mission of Tuvalu to the United Nations addressed to the Chairman of the Committee*, UN document S/AC.44/2004/(02)/137, 14 March 2007.
- ¹⁰⁸ See The Stanley Foundation, "Implementation of the UN Global Counterterrorism Strategy", *42nd Conference on the United Nations of the Next Decade*, Maryland, United States of America, 8–13 June 2007, p. 4.
- ¹⁰⁹ This assessment is based on the author's interviews with several representatives from South-East Asian states at the IAEA in Vienna, February 2007.
- ¹¹⁰ Some authors have argued that the EU roadmap for action in the fight against the proliferation of WMD may provide a model for others, reinforcing strict implementation and compliance with multilateral agreements, cooperating closely with key partners and providing assistance to third countries. However, the notion of copying another region's approach to security has not been enthusiastically embraced in South-East Asia, in particular, where a number of states have made it clear that they would prefer to develop their own regional institutions based on their own security culture.
- ¹¹¹ See CSCAP, *Chairman's Report (Final)*, Second Meeting of the CSCAP Export Controls Experts Group, Beijing, 11–12 May 2006.