

CHAPTER 5

CONCLUSION

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In his report to the Security Council and the General Assembly on opportunities and challenges facing cooperation between the United Nations and regional organizations in maintaining international peace and security, then Secretary-General Kofi Annan stated that:

It has long been recognized that the United Nations is not equipped to handle every crisis in the world on its own. It is acknowledged that a partnership between the United Nations and regional and other intergovernmental organizations should be developed if peace and security are to be maintained.¹

While the focus of that report was on conflict prevention, peacemaking, peacekeeping and peace-building, it also addressed disarmament and non-proliferation. In that regard, Annan welcomed the fact that “regional and subregional cooperation to stem the flow of illicit weapons across national borders is on the rise” and that “collaborative efforts of the United Nations and regional stakeholders to implement the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects” were under way.² Specifically referring to Resolutions 1540 and 1673, he further expressed the belief that progress could be achieved “through United Nations interaction with regional and other intergovernmental organizations to design and undertake outreach activities aimed at raising awareness and, as appropriate, facilitate the provision of assistance and cooperation to strengthen States’ national capacity to implement their obligations.”³ Pursuant to that opinion, Annan recommended that the United Nations, in collaboration with regional and other intergovernmental organizations, hold a series of workshops “with a view to raising awareness and, as appropriate, facilitating the provision of assistance and cooperation to strengthen States’ capacity to implement their obligations under Security Council resolutions 1540 (2004) and 1673

(2006)".⁴ Parenthetically, earlier in that report he underscored as well the importance to this enterprise of subregional organizations whose existence is not formally acknowledged in Chapter VIII (Regional Arrangements) of the UN Charter.⁵

When considering the role of regional and subregional organizations in promoting and facilitating implementation by their members of Resolution 1540, it is important to bear in mind that while many regional organizations may be similar in the sense of being founded by like-minded states that share common values and, more often than not, common history, they may differ in significant ways, including the mandate and authority under which they operate, the resources and capabilities available to them, their cohesiveness in matters beyond the particular purpose for which they were created as well as the political circumstances in the region in question and, perhaps most important, the priorities that direct their attention, energies and resources in a particular direction, the diversion of which to other agendas could undermine confidence in, and support, for the organization. The studies undertaken herein identify current constraints and limitations, but also the opportunities and prospects, for successful engagement in security-related matters of the regional organizations that are the focus of this report: the African Union (AU), the Association of Southeast Asian Nations (ASEAN) and its Regional Forum, the Organization of American States (OAS) and the Pacific Island Forum (PIF). As far as opportunities and prospects are concerned, three observations can be made.

First, in contrast to some regional organizations—whose scope may only encompass, for example, economic and cultural issues—international peace and security or regional security, if not the primary concern, are increasingly important for ASEAN and its Regional Forum, the AU and the OAS. While the extent of engagement may vary, all of these institutions are concerned and engaged at least to some extent in facing security-related matters, such as counter-terrorism, small arms and light weapons, drug trafficking, trafficking in persons and other transnational crimes, as well as issues related to weapons of mass destruction (WMD).

Second, the regional organizations in question have established forums or bodies in which the mentioned issues are handled. In the case of ASEAN, the most obvious example is the Regional Forum, but ASEAN itself goes beyond this forum when it comes to addressing security issues. In 2003 the organization endorsed the Declaration of ASEAN Concord II (Bali Concord

II), which established the ASEAN Security Community (ASC). The Bali Concord II decided that the ASC “shall fully utilize the existing institutions and mechanisms within ASEAN with a view to strengthening national and regional capacities to counter terrorism, drug trafficking, trafficking in persons and other transnational crimes; and shall work to ensure that the Southeast Asian Region remains free of all weapons of mass destruction.”⁶ The ASC is also charged with exploring “enhanced cooperation with the United Nations as well as other international and regional bodies for the maintenance of international peace and security.”⁷ The implementation of 1540’s key provisions would impact directly all of the above listed issues, and cooperating with the 1540 Committee would be a clear cut example of enhanced cooperation with the United Nations for the maintenance of international peace and security.

With regard to the Pacific Islands, a Working Group on Counter Terrorism (WGCT) has been set up under the auspices of the PIF to deal with regional counterterrorism issues, including Resolution 1540 obligations and implementation. Recently, the working group appears to be moving toward becoming a regional point of contact for the UN Counter-Terrorism Committee and other UN Committees.

In the case of Latin America, the OAS relies on its Committee on Hemispheric Security when it comes to matters of combating terrorism, arms trafficking and the proliferation of nuclear weapons, to name but a few issues in its purview. Among other things, the Committee on Hemispheric Security has issued a resolution that supports the implementation of 1540, and implementation is indeed one of the Committee’s themes in 2008. The OAS also carries out important counter-terrorism work through the Inter-American Committee Against Terrorism (CICTE), which was established in 1999.

As for the AU, it too has a body designated to address issues that threaten regional or international peace and security, namely the Peace and Security Council. While not specifically addressing WMD, one of its objectives is to “co-ordinate and harmonize continental efforts in the prevention and combating of international terrorism in all its aspects”.⁸ The potential linkage between terrorism and WMD is sufficiently well understood that it would be difficult to accept that the formulation of the article excludes that dimension of the problem.

Third, there are precedents showing that these regional organizations have been or are currently actively involved in activities similar to what would be required to implement Resolution 1540. A few cases in point are the work of the OAS on Resolution 1540 and terrorism in general, the AU's work with small arms and light weapons (particularly at the subregional level, for example the Southern Africa Development Community) and ASEAN's commitment to combating transnational crime and terrorism, as evidenced by the ASEAN Convention on Counter-Terrorism—the objective of which is to “provide for the framework for regional cooperation to counter, prevent and suppress terrorism in all its forms and manifestations and to deepen cooperation among law enforcement agencies and relevant authorities of the Parties in countering terrorism.”⁹

As far as constraints and limitations are concerned, four issues stand out: culture, legitimacy, priority, and capacity.

Culture relates largely to the socio-political foundations and the *modus operandi* of the organization in question. ASEAN for example is frequently characterized in terms of the “ASEAN way”, which refers to the commitment to non-interference in the internal affairs of states, sanctity of the principle of state sovereignty, and consensus-based decision-making. As noted in Chapter 3, informal dialogue predominates both in ASEAN and the Regional Forum, a practice that fosters trust and confidence but sometimes leaves a gap between words and deeds, with no formal mechanism to hold parties accountable for not following through on common understandings. In the case of the AU, there are concerns about too much Western influence intruding into the policy arena and dictating priorities, choices and direction. As for Latin America, there tends to be less distance between it and Western concerns regarding the linkage between terrorism and WMD.

Legitimacy, not so much in regard to substance, but rather in terms of the process by which the objectives and obligations contained in Resolution 1540 came into being, is a sensitive issue for many, particularly in Africa and South-East Asia, and while less so in Latin America, it is still a concern there. Many express the view that the appropriate way to have gone about it would have been to negotiate a treaty or convention in which all states could have participated equally. The counter-argument of course is that exceptional challenges call for exceptional measures, and the time required to carry out the successful negotiation of a treaty that would have incorporated all of the objectives and requirements of 1540 would have likely exceeded

the time necessary to take steps to thwart the risk of WMD in the hands of non-state actors. The issue here is less about what the resolution contains, substantively, than about binding international legislation for all states on the basis of a decision taken by the 15 members of the Security Council. Reviewing the evolution of Resolution 1540, Nobuyasu Abe, former Under-Secretary-General for Disarmament Affairs, underscored that:

At the time of the adoption of the resolution, there were [many] reservations expressed mainly by non-permanent members of the Security Council and non-Security Council members of the UN ... that the Permanent Members of the Security Council may be usurping the legislative power of the General Assembly But it was also true that the General Assembly did not or could not act expeditiously to meet the urgent concern about the proliferation of WMD to non-State actors. Thus, the Council eventually adopted the resolution with the understanding that it was an exceptional stopgap measure.¹⁰

Priority has to do with what are seen by states to be the most pressing concerns that they face. Latin America, more so than the other two regions, tends to share western concerns regarding the linkage of terrorism and WMD, although the institutionalized counter-terrorism programme of the OAS is not explicitly devoted to WMD. For many in the ASEAN community and the Pacific Islands, economic cooperation and prosperity are priorities, as they are for Africa. However, Africa also gives high priority to poverty, disease (in particular HIV/AIDS) and transnational crime such as illegal transfers of conventional weapons for use in local conflicts—issues that are of greater and more immediate importance than dealing with WMD, in particular nuclear weapons, which are seen as primarily a Western problem. What this attitude or judgment overlooks is that, in a globalized economy, to devote attention and resources toward security, in this case prevention of WMD terrorism, is in fact to focus on economic prosperity in that the economic consequences of such terrorism would be profound. It also overlooks the prospect that effective implementation of 1540 would benefit local security objectives—for example, putting in place effective border controls would affect not only WMD, but small arms and light weapons, illicit drug and human trafficking, and the like. This is true for all states, not just a privileged few, and it carries with it benefits that, as noted, extend into the economy generally and reinforce domestic efforts to meet social and economic objectives and raise the level of prosperity

more generally. This is a factor that affects all of the regions considered in this study.

Capacity is an issue in all of the regions here discussed. This relates to the drafting of appropriate legislation to implement the requirements of Resolution 1540, putting in place relevant administrative structures, training of personnel with respect to export controls, transit and border security, providing necessary technical equipment, and the like. An important question here is how best to deliver those resources—which brings us back to the question of the role and relevance of regional and subregional organizations.

There are a limited number of ways in which the resources necessary to effectively implement Resolution 1540 can be delivered. One way is bilaterally, by advanced industrial states individually or through organizations such as the European Union or the Organization for Security and Cooperation in Europe that have the experience and resources at hand, or in certain situations by specialized international organizations such as the International Atomic Energy Agency (IAEA) or the Organization for the Prohibition of Chemical Weapons (OPCW), any of which can work directly in a bilateral fashion with a state, or collectively with a number of states having common requirements. The other way is through the medium of regional or sub-regional organizations. The advantage of the latter is that empowering these organizations with resources to implement Resolution 1540 can bring with it the vesting of ownership (as in taking the issue of legitimacy out of the equation) and continuity (as in avoiding one-time assistance to one or another states from a bilateral source, instead giving focus to long-term assistance tailored to regional needs). Bilateral assistance can clearly be useful but suffers from several drawbacks: in the first place it may (particularly in the case of US bilateral assistance) reinforce the sense that recipient states endorse and are somehow in league with the “war on terror”, with which many countries object to being associated, and this potentially brings with it political problems. Secondly, such assistance risks detracting from, and loses the opportunity to reinforce, the role and relevance of regional organizations, which can and do serve a broader range of member interests and can, as noted above, provide a sense of ownership that leads to greater and more sustained commitment to effective implementation.

Culture, legitimacy, priority and capacity are challenges to be considered when trying to utilize regional organizations in facilitating the implementation of Resolution 1540. Notwithstanding differences among the regions addressed in this study, all of them either explicitly or implicitly converge on supporting measures that could reinforce the ability of regional organizations to facilitate implementation of the objectives of the resolution. One way to achieve this would be to establish a unit dedicated to the 1540 agenda within the existing regional organization forums mentioned above, each of which have a broadly defined security focus covering terrorism, transnational illegal trafficking in all its aspects, and related cross-border criminal activities. An alternative would be to create an independent unit dedicated exclusively to implementing Resolution 1540. Such a unit within each regional (or where more appropriate, sub-regional) organization would be dedicated explicitly and exclusively to the implementation of the resolution, unlike the earlier mentioned entities that have a broadly defined security focus. An independent unit could devote systematic, continuous attention to the WMD challenge while coordinating with institutions having broader but related missions. It could function as a bridge between the individual states, the regional organization and the 1540 Committee, but also liaise with subregional organizations and other institutions that have implementation resources available, such as the IAEA and the OPCW. Proposed entities could coordinate training, generate debate, provide for the sharing of information, establish best-practice guidelines and, in general, oversee the implementation of 1540. In cases where subregional organizations were deemed to be more appropriate (likely the case for Africa with its great expanse and wide diversification in terms of levels of development, prioritization of issues confronting contiguous states and the like), they could take on these responsibilities.

The work of these entities could also benefit the outreach activities organized by the United Nations and other organizations because they would be able to pinpoint the specific regional or subregional issues needing attention and recommend that they be the focus of seminars, assistance and other outreach activities. These proposed entities would coordinate a regional organization's efforts with regard to 1540 implementation, ensure that there is no duplication of work and that valuable resources would be utilized for their intended purpose and not wasted. Outreach activities undertaken to raise awareness of Resolution 1540 and to support capacity-building efforts have taken place in Beijing, Accra, Lima, Amman, Kingston and Gaborone (representing the three regions with the lowest rates of reporting

to the 1540 Committee) among other places, and are a central feature not only of the 1540 Committee but of other organizations, including non-governmental organizations such as the Stockholm International Peace Research Institute, the Verification Research, Training and Information Centre and the Monterey Institute of International Studies. Past activities have enabled the 1540 Committee to identify implementation problems and to deploy efforts to address them. The continuation and even intensification of these endeavours are essential to increased and more comprehensive implementation of Resolution 1540. This is a task not only for the 1540 Committee, but for other organizations (such as those just noted), states and non-governmental organizations as well. A full effort that addresses understanding of the importance of Resolution 1540 to collective security offers the best prospect for achieving the objectives of the Security Council in this regard.

The preceding discussion on outreach reflects an initiative strongly espoused by Ambassador Peter Burian, Chair of the 1540 Committee from 2006 to 2008: increasing the number and role of regional seminars and related activities, not only to raise awareness of the requirements of Resolution 1540 but also to “facilitate sharing good national practices and lessons learned from national implementation” among regional states and to “develop frameworks of regional cooperation between the regional experts and institutions dealing with different aspects of resolution 1540.”¹¹

One final caution: Notwithstanding the obligatory nature of Resolution 1540, states that see the issues that prompted the resolution as remotely, if at all, relevant to their own situations in terms of urgency, priority or allocation of scarce resources, may consider non-implementation of Resolution 1540 to be a totally rational act on their part. Ultimately, however, such decisions, if pursued by other states for any reason, would lead to continued or increased risk of the spread of WMD to terrorist organizations and undermine the common security of all—a situation described in academic literature as a “tragedy of the commons”, wherein behaviour driven by self-interest to maximize private gains (or minimize private costs) threatens common security.¹² In an age characterized by the rise of disaffected, alienated or apocalyptic movements, the last thing that we can afford is the existence of weak links in the chain of control over WMD, their components or their means of delivery. Today, common security can only be achieved by common efforts because, as pointed out by former UN Secretary-General Kofi Annan, “In today’s world, the security of every one of us is linked

to that of everyone else.”¹³ In other words, the global community can either collectively strengthen measures against WMD terrorism, as laid out in Resolution 1540, or continue to face the same or increased risk of a terrorist organization acquiring and using a chemical, biological, or nuclear or radiological weapon with all the consequences that would entail for civil society and social order.

Notes

- ¹ United Nations, *A regional–global security partnership: challenges a opportunities, Report of the Secretary-General*, UN document A/61/204–S/2006/590, 28 July 2006, para. 6.
- ² *Ibid.*, para. 43.
- ³ *Ibid.*, para. 45.
- ⁴ *Ibid.*, para. 98(c).
- ⁵ *Ibid.*, para. 81.
- ⁶ *Declaration of ASEAN Concord II*, 7 October 2003, § A, para. 10.
- ⁷ *Ibid.*, § A, para. 11.
- ⁸ African Union, *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, 9 July 2002, art. 3(d).
- ⁹ Association of Southeast Asian Nations, *ASEAN Convention on Counter Terrorism*, 13 January 2007, art. 1.
- ¹⁰ Nobuyasu Abe, “The Role of the UN Security Council in Promoting in Promoting Compliance with Multilateral Disarmament and Non-Proliferation Treaties”, in *Assessing Compliance with Arms Control Treaties*, Geneva Centre for Security Policy and Centre d’études de sécurité internationale et de maîtrise des armements, 2007, p. 81.
- ¹¹ Briefing by Ambassador Burian, Chairman of the 1540 Committee, to the Security Council, 17 December 2007.
- ¹² See Johan Bergenas, “The Slippery Slope of Rational Inaction: Resolution 1540 and the Tragedy of the Commons”, forthcoming in the July 2008 issue of the *Nonproliferation Review*.
- ¹³ Kofi Annan, Independence, Missouri, 11 December 2006.