Policy Memo

DATE: December 18, 2009

SUBJECT: Implementing UNSCR 1540: Next Steps Toward Preventing WMD Terrorism

How can we work effectively in a multilateral fashion to prevent WMD terrorism? One important approach is timely implementation and smart steps to ensure the efficacy of United Nations Security Council Resolution 1540 in tackling this security challenge. But what does this mean in practice?

To gain a better sense of the current state of play of UNSCR 1540 implementation and where global efforts are heading, the Stanley Foundation convened two meetings in Washington, DC, on December 9, involving participants from throughout the official and NGO policy community. Key themes and observations from panel presentations, question-and-answer sessions, and informal policy salon conversations are summarized here.

Results of the 2009 Comprehensive Review of 1540 Implementation
An official report-out of the results of the first-ever 1540 Comprehensive Review will be presented to the Security Council later this month. Here, however, is a rough snapshot of the three days of intensive discussions among 1540 Committee member states, the 1540 Committee of Experts, and representatives of regional and international organizations:

- Assessments will be made public of what steps states have undertaken to implement the 1540 mandate and its requirements. These public papers, drafted by the 1540 Committee of Experts based on the member states' deliberations, will also focus on looking ahead to what must happen next for 1540 criteria to be realized.

- Topics will include, among other things, the need to generate new tools to handle assistance requests; the need to create capacities in New York for linking up with and engaging regional and subregional organizations, the need to develop evaluation capabilities to assess the impact of future projects and programs under 1540, and the future development of new methods for dealing with export controls.

- The experts are currently examining 68 distinct recommendations that were produced by the Review. These recommendations fall into five rough clusters:

    o Enhancement of capacity in New York to gather information, including the ability to ramp up country visits.

- o The development of more efficient committee practices.
- o The evolution of the "expert" support role in New York.
- o The development of more capabilities for facilitating assistance from donor countries and the committee to recipient states in need of capacity building to implement the resolution.
- o The need to involve, and interact effectively with, all forms of civil society, whether NGOs; domestic constituents in a recipient state; industry groups; or other forms of global, regional, and national nongovernmental knowledge networks.

In all of this, the overarching goal is to make the 1540 Committee and its supporting experts better at a "matchmaker role," in which willing donors are linked in a timely, efficient, and effective manner to willing recipients of aid for 1540 implementation purposes. And, in improving this role of "matchmaker," it is important the committee not become an overly bureaucratic institution, instead focusing on a key global and regional networking role, particularly in regard to regional organizations.

The Good News: Growing Legitimacy for 1540 and Its Mandate
One of the most positive and noticeable developments of the past few years has been the growing acceptance of 1540 as a legitimate international security instrument. One participant noted that 1540 might be seen as a broadly legitimate, symbolic international umbrella under which hard and sensitive discussions with the "de facto nuclear weapons powers" (India, Pakistan, Israel) might take place, in terms of looking past the usual deadlocks under the Nuclear Non-Proliferation Treaty (NPT) and cooperating on the more transnational goal of securing all plutonium and highly enriched uranium, wherever such stocks may exist. And, more broadly, the recent UNSCR 1887 of September 24, 2009, emphasized repeatedly the need to use 1540 as a serious instrument with valuable global security goals.

But Challenges Remain
Nonetheless, key challenges remain to effective implementation. Implementation remains slow and uneven, in part due to the incredible diversity of different national circumstances and the lack of rationalized machinery at the global level. While existing Track 2 dialogues involving IGO officials; national and international experts; the shipping industry; and domestic law enforcement, military, and internal security officials from key regions has been extremely valuable in highlighting opportunities and avenues for cooperation, there is a pressing need now to go beyond informational workshops and speak directly to the proper officials and civil society actors, with the right donor-recipient relations in place, for concrete, actual implementation.

One initial difficulty already encountered repeatedly by the 1540 Committee has been the relative lack of effective, clear, and consistent national legislation that provides the overall legal and regulatory context for moving forward with capacity-building efforts in individual countries. Therefore, a necessary first step in further implementation must be assistance to countries to craft new, effective legislation that provides the overall context for the international community to interact with a specific society in building up new capabilities for 1540 implementation.

In moving forward, the process must be as transparent as possible while still allowing for discretion when 1540 implementation means (as it inevitably will in some cases) getting into "weak spots" in internal capacities of some nations, as well as digging into areas usually

considered as core sovereign concerns such as internal security, high technology industries, and the like. Ideally, the matrices produced by two different mandated reports of all UN member states to the committee over the past several years will be made as public as possible, allowing donor states to easily see where opportunistic link-ups may occur with recipient states, including specific potential development projects that increase customs acumen, export control procedures, sensitive materials security, public health infrastructure, disaster response, and control of movement of financial goods and services—all with the goal of shutting down potentially dangerous transnational illicit activities over the long term. And, when a "gap analysis" is done to highlight the difference between objective needs and existing capacities, ideally it is done in cooperation between national actors, regional organizations, and the United Nations, with clear identification of where targeted capacity building will do the most good while respecting the sovereign security and political concerns of the recipient state.

This will be a delicate tightrope to walk, however, as some states will absolutely insist on opacity and discretion, requiring difficult judgment calls by donor states and the 1540 Committee alike. Ideally, whenever transparency of data on national capacities is possible, it should be allowed, so that (for instance) agency concerns in donor countries with (say) export controls and trade rationalization will be able to see where best to target their technical and monetary assistance.

In all cases, this "tightrope walk" will be facilitated by a clear political and diplomatic sense by the recipient countries that *their* needs are being taken extremely seriously, even if their own focus is not on WMD counterterrorism per se, but rather on broader, more comprehensive security and development goals such as shutting down drug or arms smuggling. And, in turn, this will necessarily mean that donor countries such as the United States start moving steadily away from the old models of assistance that emphasize a "technology dump" or "hardware dump," and steadily toward a new model that looks at the long-range development of human-based infrastructure in the societies concerned.

One core evolutionary step toward walking this tightrope will be the steady incorporation of industry groups and associations into 1540 implementation and capacity building. Notably thus far, the Maritime Security Council has been involved in Track 2 workshop efforts, but much more needs to be done to incorporate associations related to both the biological sciences and the nuclear industry. For instance, trade groups and individual companies associated with biotech have already started to share information and undertake new internal guidelines for technology regulation without even referring to 1540; clearly, these efforts need to be tapped into and integrated by the global security community.

Creating a Voluntary Trust Fund
Some participants in particular advocated the creation of a voluntary fund or set of trust funds that could be used at the committee's discretion to play matchmaker between donors and recipient needs, based on the superior information and legitimacy that the New York mechanisms will have in some sensitive situations. However, others noted that for a voluntary fund or trust fund mechanism to work as intended, the following changes in 1540 Committee practices will be absolutely crucial:

- The "one-size-fits-all" approach will have to be abandoned in favor of a more flexible model that recognizes, for instance, the extreme differences between implementing 1540 in regions as s diverse as Europe, Latin America, Asia, and Africa. For instance, Latin America has some of the most well-developed domestic legislation and regional organizational bureaucracies. Perversely, this can be a roadblock rather than an open door to implementation, since states with long-developed legislation on questions such as export controls, and organizations that have dense regulations already in place, may be resistant to change. Meanwhile, in Africa, there may be an opposite problem of identifying where best to build capacity in states where governments may lack wholesale capabilities in some areas, such as in border control or trade regulation. Thus different entry points are required for each region, requiring much more nuance and flexibility on the part of the 1540 Committee itself.
- The committee should deliver more efficient routing and working practices, including formal actions such as more regular meetings, increased numbers of experts, and more thought about the kind of expertise the committee needs to deliver what is needed to UN member states.
- Overall, there is an urgent need for establishing and working with clusters or networks of experts in and out of UN system, especially in regard to country and regional visits for in-depth empirical assessments of needs.
- Capacity-building measures must be improved upon and delivered more effectively. Toward this end, the committee could host conferences with potential assistance partners to develop more effective assistance networks face-to-face.
- Finally, there is a pressing need to facilitate more interactions between states and civil society. Effective interaction helps civil society contribute to implementation but also gives them some ownership on the process of implementation.

But, in all of this, the time-worn dictum still holds true: it all comes down to the responsibility of individual member states themselves. This is because the 68 recommendations of the Comprehensive Review are so diverse and far-reaching that a common thread of a truly global nature is hard to find, due to different political concerns and geopolitical considerations. Therefore, 1540 implementation will necessarily require a case-by-case approach, which means, in the end, the need for adroit and effective diplomacy as part of the mix.