

WORKSHOP SUMMARY

IPA WORKSHOP IN COOPERATION WITH THE CENTER ON GLOBAL COUNTER-TERRORISM COOPERATION

SECURITY COUNCIL COUNTER-TERRORISM REVIEW PROJECT

9 April 2007

On 9 April 2007, the International Peace Academy and the Center on Global Counter-Terrorism Cooperation convened the first of two expert workshops in New York aimed at providing an independent, comprehensive assessment of the United Nations Security Council's overall counter-terrorism contributions since 2001. The first workshop highlighted some of the key issues and challenges that need to be addressed. The second one, which will be held later in the year, will focus on the steps the Council might take to address them. The participants included UN officials, representatives from Security Council and other UN member states, as well as academic and other non-governmental experts. The workshops will culminate in the release of a report in the second half of 2007 that provides independent recommendations aimed at improving the Security Council's counter-terrorism program. The recommendations will be for UN member states and the broader UN community to consider in the lead up to the Council's discussions surrounding the future of the Counter-Terrorism Executive Directorate (CTED), which are expected to begin in the fall of 2007.

This summary of the workshop's proceedings highlights some of the themes of and observations put forward during the event, which was convened under the Chatham House Rule. It is not an official record and does not reflect the official views of any of the participants.

The Role of the Security Council

The first panel presentations and subsequent discussions focused on the work of the Security Council itself rather than that of its subsidiary bodies. Over the last five years, the Council has used its authority to impose a number of binding counter-terrorism-related obligations on all states via a series of groundbreaking resolutions and established a number of different counter-terrorism-related subsidiary bodies to monitor states' efforts to implement these obligations, to work with states to strengthen their counter-terrorism infrastructure, and to reach out to international, regional, and sub-regional bodies on these issues. Panelists and participants agreed that those efforts have been useful in laying out an ambitious legal framework, filling normative gaps, and putting terrorism on the international agenda. There was general agreement, however, that the Council has been less successful in overseeing routine operational tasks of its subsidiary bodies, facilitating technical assistance, and monitoring/enforcing compliance. Some participants argued that the Council should do more to confront non-compliance, pointing out that enforcement is the task for which that body is arguably best designed. Others

pointed out that the Council must more credibly try to extend and facilitate capacity building assistance before it can objectively address state compliance. Some noted that the Council's poor performance on enforcement is at least partly a function of its ambition in the norm-setting field: setting far-reaching rules for all member states (some of which are unpopular with some states) rather than addressing specific cases.

Despite some important achievements since 2001, there was general agreement that the Council's focus has drifted, momentum has slowed, and the high level of attention previously devoted to terrorism has been redirected to other priorities. Reasons for the drift were debated, with some participants citing lack of sustained interest from the permanent members of the Council and others pointing to the lack of a designated or self-selected Council member to take the lead on terrorism-related issues at the Council level. Some participants noted that the proliferation of programs and initiatives have produced overlapping mandates, duplication of work and continuing tension between the Council and the UN Secretariat. Many participants questioned whether the Council's practice of adopting resolution after resolution condemning specific incidents may render them meaningless and whether there may be a more constructive and coherent way for the Council to respond.

There was agreement that the Council has an indispensable role to play in providing leadership on counter-terrorism and many participants urged it to seize the opportunity to take decisive action to rationalize its efforts, tackle substantive discussions of terrorism related to issues such as conditions conducive to the spread of terrorism, and reconsider its relationship with the General Assembly with respect to implementation of the General Assembly's Global Counter-Terrorism Strategy. Some asserted that there was a need for the Council to reflect upon the contributions it can make to global counter-terrorism efforts and put forward a new vision in this area. Others suggested it should provide more proactive direction on the work of the committees and regularly take stock and reorient or clarify their priorities. Others suggested the Council's response to terrorism was essentially improvisational and temporary and wondered how much further the Council can go in this field, sensing that its authority in this area may be fading. The question was raised whether it should remain at the center of multilateral counter-terrorism efforts or whether there should be a redistribution of the counter-terrorism work within the UN system.

Contributions of the Individual Committees and their Expert Groups

While acknowledging the limitations of each, the panelists emphasized the role that the Al-Qaida/Taliban Sanctions Committee, the committee established pursuant to Resolution 1540 (1540 Committee), and the Counter-Terrorism Committee (CTC) have played in a number of areas: gathering unprecedented amounts of information from states on the state of implementation of their obligations; making much of that information public through their respective websites; establishing an ongoing interactive dialogue with states on counter-terrorism; helping to fill normative gaps; sharing standards/best practices; and reaching out to other international, regional and functional organizations. The panelists also pointed out that having decided to focus on facilitating the delivery of

capacity building assistance, the CTC and the 1540 Committee had made some modest contributions to capacity building efforts but that both were limited in what they could do as neither had any funds or staff to actually provide assistance. They acknowledged that the work of the different committees is fundamentally related but pointed out that serious challenges exist to better integrating and coordinating those efforts.

Challenges faced by the Committees and their Expert Groups

Among the challenges discussed was the fact that the committees often tend to get bogged down in procedural matters or find themselves in protracted discussions of limited substance. A number of participants pointed out that work of these committees is also often slowed down by the Council practice of taking all decisions by consensus in its subsidiary bodies. Several participants suggested that the Council reconsider that practice to permit voting, dissociation or other procedures when full consensus cannot be achieved. Some participants cited a lack of cooperation/coordination among the expert staffs while others suggested that in many ways cooperation and coordination between the expert groups had gone as far as it could under current mandates. It was also noted that coordination was not only a problem between the expert bodies but between the committees themselves as well as between each committee and their respective expert staff.

Several participants suggested that individual Council members should be charged with spearheading coordination between committees. Some recommended reinforcing the expert apparatus, as the past few years of experience has shown, the work of these groups needs more support than originally anticipated. Many also reiterated support for some sort of consolidation of the Council committees and/or their expert staffs. Questioning whether the Security Council is the appropriate long term home for what have become essentially routine technical functions, other participants went further arguing that a more logical arrangement would be to spin those functions off to a new body that answers to the General Assembly. Such a fundamental reorganization would, however, have to overcome an apparent lack of political will among the general UN membership and the serious reluctance on the part of the Council to cede any authority for counter-terrorism efforts to the General Assembly. Although there was support for rationalizing the Council's counter-terrorism efforts, participants urged careful deliberation to ensure that any reform effort produces results worthy of the time, resources and political capital that would be required to affect those changes. Some cautioned, however, against placing too much emphasis on institutional issues, arguing that while institutional fixes are generally the easiest to carry out, they may not actually produce a more effective counter-terrorism program.

Human Rights

Many of the panelists and participants were critical of the Council and particularly its Al-Qaida/Taliban Sanctions Committee and the CTC for their initial reluctance to integrate human rights, including due process considerations, into their work, but welcomed more recent steps by both to mainstream human rights considerations and improve their

cooperation with the UN human rights machinery. With regard to the Al-Qaida/Taliban Sanctions Committee, there were calls for notifying targets of listings, establishing/improving mechanisms to appeal listings, and regularly reviewing listings to ensure that they do not become default assets seizures. Participants welcomed adoption of Council Resolution 1730, which established a new focal point mechanism for delisting requests and Resolution 1735, which offered states further guidance on what to include in “statements of case.” Some cautioned, however, that more remains to be done to address due process concerns, in particular in the area of the right to an effective remedy for those included on the Al-Qaida/Taliban Sanctions Committee’s Consolidated List.

With regard to the CTC, the panelists noted the absence in Resolution 1373 of any mention of the obligation of states to respect human rights and the consequential reluctance of the CTC to take human rights issues into consideration in its monitoring of states efforts to implement the provisions of the resolution. Subsequent resolutions, particularly Resolution 1456, did however reaffirm that that implementation of 1373 must be done in accordance with international human rights, humanitarian, and refugee law. Participants welcomed the addition of a human rights expert to the CTED’s staff and other efforts to liaise with the UN human rights machinery. Some argued, however, that the CTC could go much further by including human rights issues in its monitoring efforts, including as part of its site visits, and building upon the country-specific analysis being carried out by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. It was agreed that better integration of human rights considerations into the work of the Council and its counter-terrorism-related subsidiary bodies would only improve the overall effectiveness of their counter-terrorism efforts.

The Impact of the Strategy

All of the panelists and participants welcomed the adoption of General Assembly’s Global Counter-Terrorism Strategy. It was emphasized that the Strategy should not be seen as an alternative to the Security Council’s ongoing counter-terrorism efforts but rather as a broader policy framework for those efforts. Some noted that many states have not felt any real ownership of the counter-terrorism commitments imposed by the Council and the counter-terrorism initiatives launched under its authority. By including the Council-imposed obligations in a single consensus document adopted by the General Assembly, some argued that the Strategy helps to broaden the political constituency for those efforts by wrapping Security Council-imposed obligations in the consensus of the General Assembly. Others cautioned against unrealistic expectations, pointing out that while the Strategy marks an important consensus in the UN on terrorism, it will not by itself overcome the perception among many states that the Council largely represents the interests of the Western dominated counter-terrorism agenda, nor will it likely alleviate tensions between the Security Council and the General Assembly on the issue.

While participants also welcomed the institutionalization of the Counter-Terrorism Implementation Task Force (CTITF), some raised concerns and questions regarding the relationship between the CTITF and the Council and between the Strategy and Council,

and whether the task force would merely produce an additional layer of bureaucracy. In addition, some urged the CTITF to be more transparent with states. Most participants agreed, however, that the CTITF, even with no additional human or financial resources, was making strides in improving coordination and cooperation among the myriad different elements of the UN system working on counter-terrorism simply by bringing everyone around one table. It was emphasized that the implementation of the commitments contained in the Strategy is primarily the responsibility of member states and that states, therefore, have to take the initiative to demonstrate their progress in that regard. The CTITF's role, it was noted, is to mobilize all the resources of the UN system to help states and other stakeholders carry the strategy forward. In that context, the participants welcomed the planned symposium on "Advancing Implementation of the United Nations Global Counter-Terrorism Strategy" to be hosted by the Government of Austria, the United Nations Office on Drugs and Crime, and the Executive Office of the Secretary General on 17-18 May 2007 in Vienna.