

## Information Note<sup>1</sup>

- Event:** Conference on Combating the Financing of Proliferation of Weapons of Mass Destruction
- Organizers:** The Government of the United States of America and the Government of Qatar represented by the National Committee for the Prohibition of Weapons
- Date and venue:** 15-16 December 2013, Doha, Qatar
- Participants:** *States:* Australia, Cyprus, Egypt, France, Jordan, Morocco, Oman, Qatar, Saudi Arabia, United Arab Emirates, United States of America
- International organizations:* Financial Action Task Force Secretariat (FATF), Gulf Cooperation Council, Middle East and North Africa Financial Action Task Force (MENAFATF), 1737 Committee panel of experts, 1540 Committee group of experts
- Non-Governmental Organizations, Industry, Academia, and Other Entities:* Al Baraka Financial Group (Bahrain), Clyde & Co. LLP, Deloitte, Stockholm International Peace Research Institute (SIPRI), Union of Arab Banks (UAB)

### 1. **Conference objectives**

- The conference was aimed at gathering relevant authorities, practitioners and experts to share experience and information related to the financing of proliferation.
- The agenda of the conference was shaped to focus on practical issues such as the specific methods resorted to by proliferators to exploit the international financial system, the existing international framework and national practices to disrupt and deter financing of proliferation-related activities, and ways to build effective national and international capabilities to combat the financing of proliferation.

### 2. **Background**

- The matter of proliferation financing is of key importance to the work of the 1540 Committee, and to the implementation of resolution 1540 (2004).
- Important work in this area was conducted in the context of the Financial Action Task Force (FATF). FATF Recommendation 2, adopted in February 2012, addresses the matter of proliferation financing: “*Countries should ensure that policy-makers, the financial intelligence units, law enforcement authorities, supervisors and other relevant*

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<sup>1</sup> For information –not an official report. The views expressed here do not necessarily represent those of the 1540 Committee or of the organizers or participants in the event.

*competent authorities, at the policy-making and operational levels, have effective mechanisms in place which enable them to cooperate, and, where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering terrorist financing and the financing of proliferation of weapons of mass destruction.”*

- In February 2012, FATF adopted a Best Practices Paper on Sharing Among Domestic Competent Authorities Information related to the Financing of Proliferation, setting out best practices in implementing Recommendation 2.
- In June 2013, FATF adopted a Guidance Paper on *The Implementation of financial provisions of UNSCRs to counter the proliferation of WMD* updating and consolidating previous FATF guidance papers.
- Significant initiatives in this area were also undertaken by other partners, such as the Union of Arab Banks, which devoted a session to resolution 1540 (2004) as part of its 2013 Annual Summit (report circulated to the Committee under S/AC.44/2013/NOTE.105/Add.6).
- It was the second regional conference on the financing of proliferation co-organized by the United States (Department of State, Office of Export Control Cooperation), after the conference for Asia-Pacific States which was hosted by the Republic of Korea in May 2012,(see:[http://www.mofat.go.kr/webmodule/htsboard/template/read/engreadboard.jsp?boardid=303&typeID=12&tableName=TYPE\\_ENGLISH&seqno=311143](http://www.mofat.go.kr/webmodule/htsboard/template/read/engreadboard.jsp?boardid=303&typeID=12&tableName=TYPE_ENGLISH&seqno=311143) and <http://www.state.gov/strategictrade/program/161842.htm> ).

### 3. **Highlights**

#### **Opening**

The conference was opened by the Chairman of Qatar’s National Committee to Prohibit Weapons (NCPW), Major General Nasser Al-Ali, and by the Ambassador of the United States to Qatar, H.E. Ms. Susan L. Ziadeh. They both highlighted the importance of preventing the financing of proliferation, for successful non-proliferation strategies.

A video-presentation described the role played by the NCPW, since 2004, in advancing Qatar’s objectives related to non-proliferation, arms control and disarmament (see <http://www.ncpw.org.qa/ncpw/webpage/index.jsp>), highlighting most recent efforts to enhance the regional and international stature of its training center.

#### **Plenary sessions**

Five areas were addressed in plenary sessions, covering a broad range of issues related to the financing of proliferation: typologies and AML/CFT comparisons; international framework; targeted and systemic measures; compliance measures for the private sector; and, capacity-building.

##### **Typologies and AML/CFT comparisons**

The Deputy Director of the Office of Strategic Policy Terrorist Financing and Financial Crimes in the U.S. Department of the Treasury described similarities and differences between money laundering, terrorist financing and WMD proliferation financing. The speaker highlighted the

diversity of activities that can be considered as entering into the scope of proliferation financing, such as extension of credit, payment guarantee, transaction clearing and settlement and insurance. While terrorist financing and proliferation financing may involve legally sourced funds, they need to hide ownership and the intended use of the money. In this regard, they share many similarities, such as: fraud used to disguise the origin, ownership and/or intended use of the funds; misuse of trade; licensed financial service providers used. In order to combat the financing of proliferation, a combination of measures contribute to efficiency: preventative measures (deter, disrupt and impede operations of WMD proliferators and supporters; isolate proliferators financially and commercially by denying them access to the international financial system; expose proliferators' activities publicly and inform their unwitting facilitators), systematic safeguards (customer due diligence; transaction recordkeeping; monitoring and reporting), and targeted financial sanctions (blocking accounts and activity in accordance with UNSC resolutions). The representative of the U.S. Department of the Treasury underscored the important role of the financial institutions, noting, however, the existing of systemic challenges which add to the complexity of the task.

Mr. Aaron Dunne, a researcher at SIPRI with extensive experience of strategic trade controls and WMD-proliferation issues, explored the complexity of proliferation supply chains using a flow-chart illustrating the information flow between actors along a supply route, and highlighted how financial and insurance information can be used to identify consignments of concern. The researcher referred to key aspects of the international framework, mentioning in particular relevant UNSC resolutions and the work done in the context of the FATF. He argued that implementing guidance and standards in this area represents an opportunity, rather than a constraint, for financial institutions. He also established a parallel between measures aimed at preventing the financing of proliferation and Islamic principles, concluding that they are fully consistent with each other.

### International framework

The 1540 Committee expert delivered a presentation on resolution 1540 (2004), highlighting its financial dimensions, in relation in particular to operative paragraph 1 (“*any form of support*”), operative paragraph 2 (prohibition of specific proliferation activities, “*as well as attempts to finance them*”) and operative paragraph 3 (“*controls on providing funds and services related to such export and trans-shipment*”). The 1540 Committee expert presented the clearinghouse function of the 1540 Committee, noting that a limited number of assistance requests and offers has been submitted to the Committee so far. The expert highlighted the cooperation with the FATF in the context of resolution 1540, which contributed to the adoption of FATF Recommendation 2 and of the related Best Practices Paper. The expert also noted that only two of the national implementation action plans submitted to the Committee so far (by France and the United States) are specifically highlighting the matter of proliferation financing. The expert noted that the 1540 Committee was mandated by the Security Council to identify and compile effective practices, with the support of States and international, regional and sub-regional organizations, to which a letter was sent by the Chair of the Committee in November 2013.

The expert from the Panel of Experts established by resolution 1929 (2010) presented on resolution 1737 (2006) and subsequent UNSC resolutions adopting certain measures relating to the Islamic Republic of Iran. Noting that Iran's attempts to circumvent sanctions put all States potentially at risk, the speaker described measures with a financial dimension: targeted financial sanctions; activity-based financial sanctions; vigilance measures; and, other financial provisions. The expert recalled that States are required to freeze funds, other assets and economic resources of designated entities and individuals (currently 43 individuals and 78 entities). The expert also recalled restrictions on transfer of financial resources or services related to supply, sale, transfer, manufacture and use of prohibited items, as well as on provision of financial services (e.g. insurance) and transfer of financial assets or resources which could contribute to prohibited activities. The expert explained that vigilance measures apply on activities of financial institutions of UN Member States with banks domiciled in Iran (in particular with Bank Melli and Bank Saderat), and that UN Member States are obliged to require their nationals, persons and companies to exercise vigilance when doing business with entities in Iran. The speaker also highlighted other important financial provisions of the resolutions: no new business by Iranian banks in Member States if related to prohibited activities; no new business in Iran by financial institutions of Member States; no grants, financial assistance or concessional loans by States or international financial institutions unless for humanitarian and developmental purposes.

A senior policy analyst at the FATF Secretariat presented FATF standards on proliferation financing. Recalling the role and mandate of the FATF, the speaker gave an extensive overview of FATF Recommendation 2 (National cooperation and coordination) and Recommendation 7 (Targeted financial sanctions related to proliferation), and of the Guidance Paper adopted in June 2013 to assist States in implementation of UNSC resolutions related to WMD proliferation. The FATF representative also described the FATF Assessment and follow-up processes, in the framework of which countries will be assessed against technical compliance with the 40 FATF Recommendations, and against effectiveness of the measures in place. The senior policy analyst underscored that FATF tools and UNSC resolutions are mutually reinforcing.

### Targeted and systemic measures

A representative of Australia described key aspects of targeted financial sanctions (TFS), in the context of the 10 existing UNSC list-based TFS regimes (DPRK (1718); Iran (1737); Al-Qaida (1267/1989); Taliban (1988); Somalia and Eritrea (751 / 1907); Cote d'Ivoire (1572); Democratic Republic of Congo (1533); Liberia (1521); Sudan (1591); Libya (1970)). The speaker explained the notion of freeze and detailed mechanisms related to the implementation of TFS. The speaker underscored the importance of coordination and communication in implementing TFS, of the establishment of a "compliance community" to facilitate collaboration between regulators and regulated entities, and of an appropriate legislative framework. The representative of Australia also briefed the audience on the criteria used by the Committees established pursuant to resolutions 1718 (2006) and 1737 (2006) to designate persons or entities subject to TFS.

A representative of France shared the national experience in criminalizing the financing of proliferation, with a focus on Law 2011-266 adopted on 14 March 2011. The speaker explained that Law 2011-266 was adopted with a view to clarifying and strengthening the domestic legal framework to prevent and counter proliferation of weapons of mass destruction. The representative of the Department for Strategic Affairs, Security and Disarmament in the Ministry of Foreign Affairs explained how the new Law clarified the obligations on individuals, companies and financial institutions, and provided stronger legal tools to the law enforcement and judicial authorities against proliferation financing in France. The speaker highlighted key aspects of the criminalization of proliferation financing (PF) under the 2011 Law:

- PF offenses were established, for each kind of weapon (nuclear, chemical, biological) and their means of delivery;
- a very broad understanding of PF is used, intentionally close to the terrorist financing definition. Intentionally, no reference is made to the notion of “proliferation”: for each field (nuclear, chemical, biological), the new offense is made in reference to the provisions forbidding or setting regime for manufacture, acquisition, possession, development, export, shipment or use of the weapons;
- knowledge (subjective element) is needed, but serious negligence can be considered as sufficient to prove knowledge.

As an example, the French representative quoted Article L. 1333-13-5 of the Defence Code (incorporating Law 2011-266), related to the nuclear field, which criminalizes “*the fact of obtaining a funding, by providing, collecting or managing funds, assets or properties of any kind, or by giving advice to this end, with the intention that such funds, assets or properties be used, or knowing they are intended to be used, in whole or in part, to perpetrate any of the offenses provided for by article L. 1333-13-4*”. The French representative underscored that the financing of proliferation is considered as a serious criminal offense, which follows the same procedural regime as for terrorism issues (longer time limitation for prosecution, specific investigation measures, etc.) and leads to severe penalties.

A representative of the U.S. Department of Homeland Security (Homeland Security Investigations – HSI) described the role of HSI in combating proliferation financing. HSI has full statutory authority to investigate and prosecute violations of all U.S. export laws related to military weapons and technology, controlled dual-use items, and sanctioned or embargoed countries. It is mandated also to prevent the illegal export of U.S. origin firearms and ammunition, military weaponry, sensitive technology, goods and services, and to prevent foreign adversaries, terrorists and transnational criminal organizations from obtaining weapons and strategic technology, funds and material support. HSI relies on 75 International HSI Attachés in 48 countries worldwide. The speaker elaborated on some aspects of the methods used by proliferators, highlighting the work done by the FATF in this area. The HSI representative explained how financial activities and investigations are inter-twined:

- financial activity may be a reason to initiate an investigation;
- financial activity may be a supplement to an on-going investigation;
- financial activity may be a separate criminal offense.

The speaker briefed participants on the diversity of sources of financial data, as a consequence of numerous parties being involved in relevant activities (buyers, sellers, brokers, freight-forwarders, truckers, shipping lines, insurance companies, etc.). Many types of financial activities are of interest (purchase of product, purchase of insurance, purchase of transportation, etc.), from which different pieces of information can be gathered. The speaker shared experience on the basis of two real cases (U.S. Vs. Naader Modanlo and U.S. Vs. David McKeeve), and highlighted the need for domestic coordination of authorities, including to facilitate the sharing of relevant information. The speaker mentioned the recently-established Federal Export Enforcement Coordination Center, which coordinates information among 18 U.S. agencies and is responsible for developing educational information for the exporting and financial community. The speaker also shared experience in the use of red flag indicators in relation to proliferation financing.

A Senior Manager at Deloitte presented on ways and means to ensure compliance with non-proliferation requirements related to the financing of proliferation. The speaker presented a nomenclature of export controls, elaborating on measures and mechanisms to authorize exports, in particular at the level of the private sector entities.

#### Compliance measures for the private sector

The Secretary General of the Union of Arab Banks (UAB) underscored the importance of resolution 1540 (2004) to curb the proliferation of weapons of mass destruction and their means of delivery, noting though that the resolution does not directly impose obligations upon the private sector, leaving it to States to establish the appropriate domestic framework. In this context, the speaker underscored that there is a vital role to be played by the financial institutions themselves, and by relevant associations such as the UAB. The UAB representative stated that the Arab financial institutions are already implementing international standards and regulations, which make them indirectly comply with non-proliferation requirements. There is a need, though, for additional activities aimed at raising awareness and at facilitating the exchange of experience.

The Legal Director at Clyde & Co. LLP, based in Dubai, underscored the importance of compliance with non-proliferation standards for the shipping industry. Between 70% and 80% of the world trade is carried by sea, which represented 8.4bn tons in 2010. The speaker described the role played by the insurance industry, in relation with shipping activities, including in the context of resolution 1540 (2004) and sanctions resolutions. The presenter mentioned the development of a non-proliferation culture in the shipping industry as a way to hamper proliferators' activities.

#### Capacity-building

The U.S. UNSCR 1540 Coordinator highlighted the importance of resolution 1540 (2004) in triggering international efforts to combat the financing of proliferation, noting that it is still a new domain, in which there is limited direct experience on which to draw. The speaker described relevant aspects of resolution 1540 (2004) and other international instruments, and underscored the role played by the 1540 Committee to facilitate match-making, inviting States to resort to this mechanism, to request or offer assistance related proliferation assistance. The U.S. representative mentioned other potential sources of expertise on which to draw, such as States that contributed their experience to the FATF documents on countering proliferation financing, intergovernmental organizations, non-governmental organizations or industry associations.

MENAFATF's Technical Assistance and Typologies Officer described MENAFATF's role in providing technical assistance and training. Specifically, the speaker highlighted the lessons learned from the October 2013 MENAFATF workshop on the Effective Implementation of the UN Resolutions in Jordan. The workshop revealed that MENAFATF member countries are aware of their obligations but face many challenges in implementing UN sanctions resolutions. Such challenges include: understanding UN mechanisms for listing and delisting persons and entities; building adequate capacity to assist with implementation of UN sanctions in light of evolving technological means of financial transactions; and, facilitating compliance in small and medium-sized financial institutions.

### **Break-out session**

Participants gathered in small groups to examine a fictitious case study related to a proliferation financing activity, and exchange on mechanisms and procedures in place to deal with such situation in their individual countries and internationally.

### **Closing**

Closing remarks were delivered by the Deputy-Chair of the NCPW, Brigadier General Hassan Nesf, and by the Director of the Office of Export Control Cooperation at the U.S. Department of State, Ms. Nan Fife. They both highlighted the success of the conference, and called for continuing cooperation in this area. Ms. Nan Fife highlighted five areas in which further efforts may be considered:

1. Implement effective strategic trade controls as the first step to countering WMD proliferation.
2. Take steps to comply with the core international anti-money laundering and counter terrorist financing standards.
3. Make government outreach to financial industry a priority.
4. Maximize resources through increased interagency information-sharing and transnational cooperation in the investigation of suspicious financial transactions.

5. Harmonize controls across jurisdictions to prevent proliferators from establishing safe heavens in countries with lax controls.

4. **Additional comments**

More information on Qatar's National Committee for the Prohibition of Weapons is available at <http://ncpw.org.qa/ncpw/webpage/index.jsp>

For further information, please contact the 1540 Committee's Group of experts by e-mail at [1540experts@un.org](mailto:1540experts@un.org).