

Arms control, disarmament and the United Nations

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The subject of arms control, disarmament and proliferation is back on the international agenda with a vengeance. The list of concerns includes the issue of what happened to the weapons of mass destruction (WMD) in Iraq that were the primary stated justification for a war unauthorized by the United Nations, the proclamation of a weaponized nuclear capability by North Korea, the concerns expressed by the International Atomic Energy Agency (IAEA) about Iran's nuclear programme, press reports that other countries may be contemplating developing nuclear weapons or buying them 'off-the-shelf', and fears that the United States is lowering the threshold of normative barriers and developing a new generation of nuclear weapons that some in the current administration see as 'useable'.

Since the creation of the United Nations in 1945, the goal of containing the spread and enlargement of weapons and arms stockpiles has rested on three pillars—norms, treaties and coercion—each of which has been under attack in the last few years.

Norms are efficient mechanisms for regulating social behaviour from the family and village to the global setting. They enable us to pursue goals, challenge assertions and justify actions.¹ One of the most powerful norms since 1945 has been the taboo on the use of nuclear weapons. Norms, not deterrence, have anathematized the use of nuclear weapons as unacceptable, immoral and possibly illegal under any circumstance—even for states that have assimilated them into military arsenals and integrated them into military commands and doctrines. Respect for this norm is evident in the fact that there have been many occasions since 1945 when nuclear weapons could have been used without fear of retaliation but were not, even at the price of defeat on the battlefield.²

There exists a very large number of treaties and conventions regulating the use, spread and possession of armaments. The WMD trinity is regulated by the Chemical Weapons Convention (CWC), the Biological and Toxin Weapons Convention (BTWC), the Nuclear Non-Proliferation Treaty (NPT, the arms control treaty with the widest adherence of all with India, Israel and Pakistan being the only countries never to have joined it), the Comprehensive Test-Ban Treaty (CTBT), several regional nuclear-weapons-free zones (NWFZ), and a whole series of bilateral and multilateral treaties and agreements. It is worth noting that Article 6 of the NPT is the only explicit nuclear disarmament commitment undertaken by all five nuclear-weapon states (NWS). There are even more agreements imposing curbs and controls on conventional weapons including, for example, the Ottawa Convention on anti-personnel landmines—which has the dual distinction of banning a class of weapons already in widespread use and being a disarmament treaty rooted in humanitarian concerns.

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Although the United States, along with other major mine-producing countries like China and India, has not signed the Ottawa Convention, it is perhaps even more worrying that it has also retreated from a series of arms control and disarmament agreements, including the Anti-Ballistic Missile (ABM) Treaty and the CTBT. In doing so, the United States contributes to a worsening of the proliferation challenge. It is difficult to convince others of the futility of nuclear weapons when some demonstrate their utility by the very fact of hanging on to them and developing new doctrines for their use. Simply put, *treaty* setbacks contribute to a weakening of *norms*, which then sets in train a vicious cycle, since the heightened risk of proliferation is used to justify a further scaling back of treaty or voluntary commitments (such as no nuclear weapons testing).

A norm cannot control the behaviour of those who reject its legitimacy. India had argued for decades that the most serious breaches of the anti-nuclear norm were being committed by the five nuclear powers who simply disregarded their disarmament obligations under the NPT. The non-fulfilment of treaty obligations (specifically Article 6 of the NPT) by the NWS weakens the efficacy of the anti-nuclear norm in controlling the threat of proliferation. It defies history, common sense and logic to believe that a group of five countries can maintain a permanent monopoly on any class of weaponry, particularly when they have made promise after promise to nuclear disarmament.

Norms and laws are alternative and, in the normal course of events, complementary mechanisms for regulating social behaviour. If both should fail, then the question arises of how to enforce compliance on the actors deviating from the socially prescribed norms and legal obligations. Within countries,

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there are any number of social and legal mechanisms to ensure compliance and punish outlaws, from ostracism and corporal punishment to imprisonment and capital punishment. Among countries, the universe of compliance-enforcing tools is slighter, more contentious and divisive, and usually less efficacious. Compliance is especially problematical in relation to the production, exchange and use of arms, for they are at the very heart of national security. The core of the international law enforcement system is the UN Security Council.

Roles played by the UN

In relation to disarmament and arms control, the United Nations plays three linked but analytically distinct roles:³

- A *funnel* for processing ideas into norms and policies and for transmitting information from national sources to the international community;⁴
- A *forum* for discussion and negotiation of common international positions, policies, conventions and regimes; and
- A *font* of international legitimacy for the authoritative promulgation of international norms, appeals for adherence to global norms and regimes, and coercive measures to enforce compliance with them.

THE UNITED NATIONS AS A FUNNEL

It could be argued that the United Nations has not been the chief architect of arms control and disarmament. Most of the key treaties and regimes—not just bilateral treaties signed by the Soviet

Union and the United States during the Cold War on intermediate range and strategic forces, but even multilateral regimes like the NPT, CWC, BTWC and the various regional NWFZ—were negotiated outside the UN framework, such as in the Conference on Disarmament.

At one level, this is of course true. At another level, the literal truth masks a deeper underlying reality. The ideas behind many of the existing regimes were often first funnelled through the UN system. Thus the idea for a total cessation of nuclear testing was proposed by India at the General Assembly in December 1954, although not put to a vote.⁵ In January 1957, the United States submitted a five-point plan to the General Assembly proposing an end to the production of nuclear weapons and testing. Throughout the 1980s to the mid-1990s, pressure for a comprehensive test ban was funnelled through the General Assembly.⁶ Similarly, the idea of negotiating a South Pacific NWFZ was submitted to the General Assembly for endorsement in 1975 under the joint sponsorship of Fiji, New Zealand and Papua New Guinea, and the Rarotonga Treaty (1985) links the regional verification system for the South Pacific to the global IAEA inspections regime within the UN system. Indeed the closest approximation to a widely accepted definition of the NWFZ concept was contained in criteria identified in 1975 by a Group of Experts commissioned by the General Assembly.⁷

The United Nations has thus historically been the funnel for processing arms control and disarmament proposals and this role continues today. The New Agenda Coalition (NAC), a group which cuts across traditional regional groupings, has used the United Nations essentially as the funnel through which to advance the twin agendas of non-proliferation and disarmament. The basic policy positions are agreed among the NAC countries (Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa and Sweden), and then are taken to the international community through the structures of the United Nations.

As described in detail below, treaty negotiations may well be held in forums outside the United Nations, however this should not take away due credit from the Organization for its invaluable funnel role.

THE UNITED NATIONS AS A FORUM

The United Nations is the chief expositor of international norms. The international moral code is embodied in its Charter. General Assembly resolutions are the most commonly cited and widely accepted code of conduct, litmus test of international progress and metric of state compliance with internationally prescribed behaviour. The reconciliation of divergent interests by the UN has procedural as well as representational legitimacy: it is authenticated by the procedures that have been accepted by the authorized representatives of states.

The General Assembly is the arena where contested norms can be debated and reconciled. Such a role was true historically for the General Assembly in delegitimizing colonialism, even though decolonization resulted from policy decisions taken in the national capitals of the colonial powers. It was the United Nations more than any other institution or organization which proclaimed racial equality as a global norm and delegitimized apartheid as an ideology and system of government. The Organization has been at the forefront of the universalization of the human rights norm and the internationalization of the human conscience. And it is the General Assembly that civil society actors look to and Member States go to when they wish to proclaim and reaffirm arms control and disarmament norms. This is the chief explanation why so many declarations and resolutions are first adopted in the United Nations before producing conventions and treaties—norms followed by laws—in UN as well as non-UN forums.

If the General Assembly is the Organization's normative centre of gravity, the Security Council, the only enforcement part of the Organization, is its geopolitical centre of gravity. Faced with a challenge

to the norms and laws governing the acquisition, production, transfer and use of arms, the five permanent members of the Security Council (P5) may have to resort to measures of coercion ranging from diplomatic and economic to military. The non-proliferation norm became potentially enforceable in January 1992 when, in the context of the discovery of an advanced clandestine nuclear weapons programme in Iraq and threats and defiance from North Korea, the UN Security Council declared proliferation to be a threat to international peace and security (which can trigger enforcement action under Chapter 7 of the Charter).⁸

With the General Assembly having little substantial power and the Security Council often deadlocked, the weight of UN decision-making frequently falls on the shoulders of the Secretary-General. He may be ignored, but he is not easily delegitimized. However, on the issue of armaments and weapons platforms involving national security, the Secretary-General is not able to issue judgments and edicts against Member States, unless perhaps they have violated specific and binding obligations.

The remaining two structures within the United Nations to tackle disarmament and security issues are the First Committee of the General Assembly and the Disarmament Commission.

The First Committee is charged with considering disarmament and international security. In the latter part of each year, Member States gather together to discuss resolutions put forward by one or more states. The resolutions cover the gamut of disarmament and security issues—landmines, small arms, terrorism, biological weapons, information technology security and nuclear weapons. Many resolutions are mere repeats of previous years' resolutions, but new resolutions are introduced every year and serve as a gauge of progress or lack of it, and weathervanes of current international thinking on disarmament and international security. Voting is by a simple majority. Resolutions may be adopted by acclamation, without objection or without a vote, or the vote may be recorded or taken by roll-call. After the committee has completed its consideration of items and submitted draft resolutions, all issues are voted on through resolutions passed in plenary meetings of the General Assembly, usually towards the end of the regular General Assembly session.⁹

The UN Disarmament Commission is the body where all Member States can come together to set the framework for disarmament. It is a deliberative body, an intersessional organ of the General Assembly, mandated to consider and make recommendations in the field of disarmament and to follow up the decisions and recommendations of the first UN Special Session on Disarmament (SSOD I) held in 1978. Unlike the First Committee, the Disarmament Commission does not pass resolutions. It focuses on a limited number of agenda items each session to allow for in-depth discussion.

There are several international bodies set within the UN framework as part of the implementation mechanism for disarmament: the IAEA (Vienna), the Organisation for the Prohibition of Chemical Weapons (OPCW, the Hague) and the Preparatory Commission of the CTBT Organization (Vienna). Finally there is the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) (and before that the United Nations Special Commission, UNSCOM) charged with the disarmament of the WMD in Iraq under Security Council resolutions 687, 715, 1284 and 1441 among others.

In addition, although not a UN body *per se*, the Conference on Disarmament (CD) is serviced by the UN Secretariat and is based at the UN in Geneva. The Final Document of SSOD I described the CD as the world's 'single multilateral disarmament negotiating forum'. Its origins lie in the Ten-Nation Committee on Disarmament of 1959 (five members each from NATO and the Warsaw Pact), which was subsequently expanded to include eight neutral and non-aligned countries and then further enlarged to its present strength of sixty-six, recognizing the increasing number of independent states that wished to participate in the CD. Nevertheless, its budget is included in the UN budget, its meetings are serviced by the UN, its Secretary-General is the Director-General of the UN Office in Geneva, its Deputy-Secretary-General is the head of the Geneva Branch of the UN Department for Disarmament Affairs, and it submits its annual report to the General Assembly.

However, the CD does not follow UN procedures—it has its own rules and procedures. For example, the CD operates by consensus; there is no voting procedure. In addition, the political groupings—the machinery that is in place to assist decision-making—have not changed since the end of the Cold War. There is a Western Group (which includes Japan and Israel), an Eastern Group (which includes some NATO states) and the G21 (comprising countries from the Non-Aligned Movement and now including two self-declared nuclear powers, India and Pakistan). Reaching agreement within each of these groups is often impossible. This means that the group chairpersons report to the CD presidency (which rotates alphabetically by country on a monthly basis) and state week in and week out that there is no agreement in the group, without having to expose the states that are causing/having difficulties.

The United Nations also serves as a forum for a number of processes such as the UN Programme of Action on the illicit trade in small arms and light weapons. Negotiated in July 2001, the Programme of Action has the full support of all Member States, the support of the UN and the UN family of organizations, and a large group of NGOs under the umbrella of the International Action Network on Small Arms. The Programme of Action divides its work into global, regional and national arenas and has an effective means of follow-up. The first Biennial Meeting of States to report on the implementation of the Programme of Action was held in July 2003. Of particular note at the first Biennial Meeting of States was the large number of reports made by states, NGOs and international organizations; the degree and scope of partnership between the three sectors; and the volume of work that had been carried out within two years.¹⁰

In addition to the UN Programme of Action, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime was also agreed upon in 2001.¹¹ This instrument covers solely commercial transactions, not state-to-state transactions and thus does not address military weapons. However, it puts in place a system of authorizations for commercial transactions and a mechanism for tracing and marking firearms. Following in its lead, the UN Programme of Action, which does deal with military weapons, will beget a negotiation on the tracing and marking of small arms and light weapons, to begin in February 2004. Plans for international instruments on the regulation of brokering and trading and on arms exports are also under discussion.

Multilateral treaties do not have to be negotiated within standing international machinery. They can just as usefully be negotiated at conferences called specifically for the purpose. Unfortunately major world summits have become increasingly discredited in recent years, becoming battlegrounds for carrying out political trench warfare by other means, occasions for finger-pointing rather than problem-solving. Better focused, practical meetings to negotiate a specific instrument often have more success.

THE UNITED NATIONS AS A FONT

Treaties, even if negotiated outside UN forums, are often submitted to the UN machinery for formal endorsement, which has no bearing on the legal standing of the treaty but does substantially enhance its moral weight. This has been true, for example, of the various regional NWFZ. India's protestations notwithstanding, probably the clearest example of the United Nations as a font of authority for global arms control treaties came with the CTBT in 1996. When India vetoed the final product in the CD in Geneva, Australia took the initiative to use a constitutional manoeuvre to move the text from the CD in Geneva to the General Assembly in New York. On 10 September 1996, the General Assembly approved the text of the CTBT by a vote of 158–3. Only Bhutan and Libya supported India in rejecting it.

In September 1997, nearly 100 'like-minded' states meeting in Oslo agreed on a text of a treaty banning anti-personnel landmines; the signing ceremony was held in Ottawa in December 1997. The

four countries most active in the Ottawa Process—Austria, Belgium, Canada and Norway—are members of the CD and indeed played an active role in taking the landmine negotiation out of the CD. The States Parties to the Ottawa Convention are careful not to organize the treaty's intersessional meetings or the Meetings of States Parties along UN lines. In so doing, they are keen to establish a modus operandum in which states, NGOs and international organizations can work in partnership with no barriers between them in terms of legitimacy and the right to speak. Although the treaty is integrated within the UN system through depositary functions and conference services, the States Parties set up an Implementation Support Unit that operates under the wing of the Geneva International Centre for Humanitarian Demining (an independent foundation), not within the United Nations.

Calling on the moral authority of the United Nations to ensure compliance with global norms is particularly needed when behaviour considered to be unacceptable is not in fact proscribed by any treaty to which a state may be party. In May 1998, India and Pakistan conducted nuclear tests. In doing so, they broke no treaty commitments, for neither had signed the NPT. But they violated the global anti-nuclear norm, and were roundly criticized for doing so. But the Security Council was in a peculiarly difficult position, for the simple reason that the P5 are caught in a particularly vicious conflict of interest with regard to nuclear non-proliferation, in that they are also the NPT-defined NWS. The

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In these circumstances, for the Security Council to condemn the 1998 Indian and Pakistani tests—when not one of the over 2,000 previous tests had ever been so condemned by the Council—inflamed opinion in the subcontinent. The Security Council's presidential statement of 14 May 1998, strongly deploring India's tests, was rejected by the Indian government as 'completely unacceptable'.¹² Security Council Resolution 1172 of 6 June 1998, condemning India's and Pakistan's tests and demanding that they stop, was similarly dismissed by Indian spokesmen as 'coercive and unhelpful in respect of the objectives it seeks to address.'¹³

Lessons from Iraq

The case of Iraq since the 1991 Gulf War illustrates the UN's roles as a font, a funnel and a forum. However, the case also throws into sharp relief the limits of the UN in the face of lack of agreement in the Security Council.

Despite incredible hurdles, UNSCOM and the IAEA were successful in determining the extent of the Iraqi WMD programme and in disarming Iraq even without the cooperation of the Iraqi government. But, following a 1998 cruise missile attack on Iraq by the United States, damning revelations about the abuse of UNSCOM by American intelligence brought about its downfall. UNMOVIC was established as a clean slate, a new mandate inspection body for Iraq. But it was not until the 2002 showdown with the United States—backed by the threat of massive military action—that Iraq allowed Hans Blix and the UNMOVIC inspectors into the country to carry out their mandate (although months passed before Iraq began to show genuine procedural cooperation). Concerned that Saddam Hussein had failed to honour his obligations to the United Nations, the United States, backed by the United Kingdom and others, went to war in early 2003 without UN authorization.

In the case of Iraq, a few things are now clear that have important implications for the UN and disarmament. First, UNSCOM did a very good job. Despite all the cat-and-mouse games, obfuscation, subversion and evasion by Iraq, UNSCOM did find and destroy most of the WMD in possession of the

Iraqi establishment between 1991 and 1998. Second, it appears that UN sanctions and national export controls may well have worked better than expected to prevent the purchase, acquisition and development of WMD by Iraq. Third, the painstaking analysis of all the UNSCOM data that UNMOVIC carried out in the period 1999–2002 paid off. UNMOVIC found more evidence of WMD in the few months of in-country inspections with very little useful intelligence information and very limited cooperation from the Iraqi government than the American-led Iraq Survey Group has been able to achieve since the end of the war. The Iraq Survey Group's interim report to the United States Congress in October 2003 stated that, at least so far, it had not found any substantive evidence of large-scale programmes for WMD in Iraq. The failure to find WMD since the war cannot eradicate the known historical record of Saddam Hussein's past pursuit of WMD and his will to use them against outsiders as well as Iraqis. So while the investigation continues, the success of UNSCOM and UNMOVIC still stands.

Most importantly, perhaps, the whole Iraq experience shows the enormous difficulty of enforcing compliance with international norms and commitments. Since 1998, the international community has been unable to agree on the appropriate response to one of the world's most odious regimes pursuing some of the world's most destructive weapons.

If an international pariah like Saddam Hussein cannot be confronted by a demonstration of collective will, then clearly it is simply not credible to threaten friends and allies who neither accept the validity of the norm nor can be accused of breaching treaties they have not signed. India today is being increasingly accepted back into the fold as a *de facto* nuclear power, which weakens the anti-nuclear norm still further. American policy has shifted *de facto* from universal non-proliferation based on the NPT to differentiated proliferation based on relations of the regimes in question with the United States. Countries friendly to the United States, like Israel, will be ignored; 'rogue regimes' hostile to the United States, like Iraq, will be threatened and punished.

However, such a dramatic deterioration of the security environment hardens the determination of the 'rogues' to acquire the most lethal weapons precisely in order to check armed attacks they fear (with or without good cause) will be launched by the United States. Some countries, not the least North Korea, may have concluded that only nuclear weapons can deter the United States from pre-emptive military action. Thus as the United States throws off fetters on the unilateral use of force and the universal taboo on nuclear weapons, it could well strengthen the attraction of nuclear weapons for others while weakening the restraining force of global norms and treaties.

The reality of contemporary threats—a virtual nuclear-weapons capability that can exist inside non-proliferation regimes and be crossed at too short a notice for international organizations to be able to react defensively in time, and non-state actors who are outside the jurisdiction and control of multilateral agreements whose signatories are limited to states—means that significant gaps exist in the legal and institutional framework to combat them.

Reform of the international disarmament machinery

SSOD IV

Because much of the programme of action for disarmament agreed at SSOD I in 1978 remains to be achieved—such as banning the production of fissionable material for weapons purposes, phased elimination of nuclear weapons, a NWFZ in the Middle East, a convention on radiological weapons, measures to prevent an arms race in outer space, limitation and reduction of conventional arms—a comprehensive review of the disarmament programme and machinery has met with fierce resistance.

A number of states want to reformulate the disarmament agenda in the light of political developments since the end of the Cold War, whilst others fear that dearly held and hard-won ambitions could fall prey to the revisionists and the goal of nuclear disarmament could be undermined. Consequently, the proposal to hold a fourth special session of the General Assembly devoted to disarmament in order to update the disarmament programme and machinery in the UN has not, as yet, led to anything.¹⁴

In 2002, a resolution on convening a fourth special session established an open-ended working group to consider the objectives, agenda and possible establishment of a fourth special session. The group reported on its work in July 2003. It had met thirteen times, prepared a working paper and reached no agreement. In the 2003 First Committee, the draft resolution on a fourth special session was withdrawn by its Non-Aligned Movement sponsors. Instead, a draft decision was adopted that took note of the report of the open-ended working group to consider the objectives and agenda, including the possible establishment of the preparatory committee, for the fourth special session. The decision requested states to continue consultations and to include the issue on the 2004 First Committee agenda.

THE CD

In the CD, every treaty is hostage to the veto of any one of its sixty-six members. All negotiators are national. Most are under instructions to close all the loopholes of the adversary but keep their own open. Most are reluctant to concede anything in negotiation from a position of weakness, fearing that they will be relegated to a permanent position of inferiority. But most are also reluctant to concede any advantage from a position of strength, seeing no virtue in giving up their relative superiority. Hence the alienation of public support from the intergovernmental forums of international arms control agreements.

The consensus rule, originally designed to help states find agreement, is now providing a convenient cover for countries that want to block progress. Ironically, in the Ottawa Convention the possibility of an item being put to the vote leads to consensus, whereas in the CD the insistence on consensus leads

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to stalemate. Since the completion of the CTBT in 1996, the CD has been unable to begin negotiations on a fissile materials ban or any other issue. To many outside the inner disarmament circle it seems bizarre that at a time of international crisis, the CD cannot get down to business and deal with one of the key issues at the heart of that crisis—WMD. Apart from a few weeks in August 1998, the CD has been unable to agree even on a programme of work. This dreadful state of affairs has been due to a few countries (sometimes only one or two) thwarting the majority. In the process the CD is bringing the whole of the multilateral disarmament process into disrepute.

The CD has spent a good deal of time over the last few years considering its effective functioning. The issues of consensus, political groupings and the role of NGOs have been discussed with little outcome. A large part of the problem is that inaction suits a numbers of countries and because consensus would be needed to change the rules and procedures of the CD, attempts to reform the working practices are effectively blocked. Of course, in the end it is political will that is required to make progress in the CD, nonetheless when such political will does not exist in all participating governments, then the rules and procedures of the CD act as a convenient shield behind which to hide. In the current debate on reforming the workings of the First Committee (described below), new proposals are also being brought forward for reforming the functioning of the CD.

THE FIRST COMMITTEE

In October 2003, United States Assistant Secretary of State Stephen Rademaker accused the First Committee of being stuck in obsolete Cold War-era thinking that had produced 'years of disappointing drift and growing irrelevance.' In its 2003 session, however, there were serious attempts to address the working of the First Committee, with a number of states proposing radical overhauls. For example Norway has suggested that the duration of the Committee should be shortened through more efficient time management such as focusing each session on key topics, that the number of resolutions and decisions could be drastically reduced and that the chair should be elected a year in advance so that better planning for the First Committee could be undertaken. The United States has suggested reforms such as rotating consideration of many of the resolutions on a biennial or triennial basis, having regional foci, limiting the number of studies that can be carried out to one per year, limiting the number of resolutions and instituting sunset provisions for actions generated by the First Committee. The European Union has suggested ways in which the time can be better managed such as limiting the speaking time in general debate, a rolling list of statements, increasing the interactivity, limiting the reporting requirements in resolutions and eliminating resolutions that do not have their main focus on the mandate of the First Committee. Sierra Leone put forward a proposed work plan and timetable with suggestions for deadlines and the amount of time spent on general debate, thematic discussions and action.

In the end a draft resolution on enhancing the contribution of the First Committee to the maintenance of international peace and security, put forward by the United States and forty other states, was adopted without a vote. The resolution requests the UN Secretary-General to seek the views of Member States and prepare a report on appropriate options for consideration at the fifty-ninth session of the General Assembly.

As a follow-up to the proposals for reforming the First Committee, the Government of Norway held a small workshop in Oslo in December 2003 to discuss the possibilities. Reform was discussed, not for its own sake but in the context of a means to strengthen global security. A number of proposals were put forward that will be discussed more widely in 2004, with a view to finding agreement on the way ahead.

THE DISARMAMENT COMMISSION

The work of the Disarmament Commission has become so moribund that the 2002 session was postponed to 2003 and, despite all hopes to the contrary, the Disarmament Commission concluded its 2003 session without concrete proposals to advance either nuclear disarmament or confidence-building in the field of conventional arms—thereby departing from its usual practice of completing consideration of two items in three years, with the consensus adoption of guidelines and recommendations. In the 2003 First Committee, a resolution on the Disarmament Commission was adopted without a vote.¹⁵ The resolution requested the Disarmament Commission to continue its work and meet for a period not exceeding three weeks in 2004 on topics that have yet to be determined.

Although the Disarmament Commission went through reforms of its working practices in 1989 and again in 2000—which resulted in limiting its substantive agenda to a maximum of two issues for in-depth consideration—there are calls for further reform. In the context of consultations over reforming the First Committee and the CD, options for the Disarmament Commission are concurrently being discussed.

NEW APPROACHES

The attainment of arms control treaties flounders on the insistence of each country on its maximum preferred goal as its minimum, irreducible position.

Arms control and disarmament agreements are negotiated outcomes among governments, with many compromises and give-and-take over a protracted period of time. Negotiation entails difficult technical and political judgments on reciprocity, mutuality and relative balance. Negotiators tend to exaggerate their own calculus of the balance of risks, threats and vulnerabilities, while downplaying that of their opponents. Arms control negotiations can also become hostage to cross-issue linkages and domestic political battles between rival political parties, competing centres of power or bureaucratic turf battles. Often, the attainment of arms control treaties flounders on the insistence of each country on its maximum preferred goal as its minimum, irreducible position. By definition, a *negotiated* international treaty entails compromises and accommodation of one another's interests. Convinced of the moral rectitude of its principled position, a self-righteous country can wreck the prospect of a multilateral treaty.

The preference for and success of the Ottawa Process and the Ottawa Convention shows why the standard static model of international agreements—'years of negotiations leading to a weak final product'—needs to be replaced by a fluid and dynamic model—'a rolling process of intermediate or self-adjusting agreements that respond quickly to growing scientific understanding'¹⁶ and, one might add, public opinion. A major factor behind the international support for the Ottawa Process was mounting frustration with the limitation of the Convention on Certain Conventional Weapons (CCW) and the painfully slow rate of progress in the CD. International organizations have their roots in the desire of states to collaborate in the pursuit of common goals. The United Nations is a forum for the harmonization of national actions and the reconciliation of national interests. Deadlock and stalemate on critically urgent issues of armaments delegitimize established international machinery; they do not detract from the credibility of creative ad hoc solutions that go outside the agreed framework of negotiations.

In order to address the existing gaps in the legal and institutional framework, a group of eleven like-minded countries (Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the United States, and the United Kingdom) has launched the Proliferation Security Initiative (PSI). The premise is that the proliferation of WMD deserves to be criminalized by the civilized community of nations. The goal is to be able to interdict air, sea and land cargo linked to WMD on the basis of a set of agreed principles. It signifies a broad partnership of countries that, using their own national laws and resources, will coordinate actions to halt shipments of dangerous technologies and materiels. The group has met several times, conducted some joint exercises and has plans for several more.

Questions remain about the legal basis for searching and interdicting ships in international waters. It runs the risk of being seen as a vigilante approach to non-proliferation by an eleven-strong posse led by a self-appointed world sheriff. Yet the very fact that the PSI has been launched and combined exercises have been held indicates a new determination to overcome an unsatisfactory state of affairs. Moreover, the involvement of Australia and Japan alongside the United States in the Pacific, plus eight European countries, signals a welcome return to multilateralism in trying to deal with the proliferation problem. But there is a long way to go before the PSI develops into a robust counter-proliferation strategy in which there is general confidence.

Over the last decade, two high-profile international commissions have reaffirmed and attempted to strengthen the international norms related to WMD. The Canberra Commission on the Elimination of Nuclear Weapons, established in 1995, argued that the case for the elimination of nuclear weapons was based on three propositions: their destructive power robs them of military utility against other

NWS and renders them politically and morally indefensible against non-NWS; it defies credulity that they can be retained in perpetuity and never used either by design or inadvertence; and their possession by some stimulates others to acquire them.¹⁷ Its conclusion has been amply vindicated.¹⁸ The 1999 Tokyo Forum for Nuclear Non-Proliferation and Disarmament sounded the alarm saying: 'To deal effectively with international security problems in the twenty-first century, the Security Council reform, new normative principles, operational arrangements, financial compliance and new sources of financing are urgently needed'.¹⁹ The WMD Commission, due to begin in 2004 under the chairmanship of Hans Blix and the sponsorship of Sweden, will again address the serious issue of WMD in the changing international security environment.²⁰ The new WMD Commission aims to avoid the problems that its predecessors encountered by having a robust follow-up mechanism to encourage the international community to take up its recommendations.

Conclusion

The crisis of legitimacy and credibility of the global arms control and disarmament regimes is not unrecognized within the United Nations. On 23 September 2003, in his address to the General Assembly, Secretary-General Kofi Annan announced his intention to set up a high-level panel to study global security threats. In so doing, the Secretary-General said that the past year had shaken the foundations of collective security and undermined confidence in the possibility of collective responses to common problems and challenges. The sixteen-strong panel is being asked to make clear and practical recommendations for ensuring effective collective action to meet future threats to peace and security. The supplementary note on the panel's terms of reference states that 'there may be a need to review and strengthen the international regimes ... such as [those related to] the proliferation of nuclear, chemical and biological weapons.'

In the past several decades, at least since the signing of the NPT in 1968, there has been great merit in relying on an integrated strategy of norms, treaties and coercion to keep the nuclear threat in check. Relying solely on coercion with little basis any longer on norms (morality) and treaties (legality) simply creates fresh problems. In order to enhance their credentials as critics and enforcers of the norm, the NWS need to move more rapidly from deterrence to disarmament.

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Norms cannot successfully regulate the behaviour of those who reject the legitimacy of the existing order. Their compliance with such norms will be a function of their incapacity to break out, not of voluntary obedience. And the *de facto* position of nuclear might equals right is an inducement to join the club of nuclear enforcers.

Sometimes it is possible to be mesmerized by the illusion of a numerical majority in the United Nations when, in reality, decisions are based on the weight of national security calculations in the real world of power politics. The three pillars of norms, treaties and coercion are mutually reinforcing in holding up the structure of global arms control. The edifice began falling apart in 1998 because ultimately the logic of non-proliferation is inseparable from the logic of disarmament. Hence the axiom of non-proliferation: as long as any one country has them, others, including terrorist groups, will try their damndest to get them. This, if nothing else, should convince those that have WMD to either give them before time and patience runs out—or else give up on the idea of an exclusive nuclear monopoly and any long-term prevention of proliferation.

Notes

1. Friedrich V. Kratochwil, 1989, *Rules, Norms, and Decisions: On the conditions of practical and legal reasoning in international relations and domestic affairs*, Cambridge, Cambridge University Press, pp. 10–11.
2. Richard Price and Nina Tannenwald, 1996, Norms and Deterrence: The Nuclear and Chemical Weapons Taboos, in Peter J. Katzenstein (ed.), *The Culture of National Security: Norms and Identity in World Politics*, New York, Columbia University Press, pp. 114–52.
3. This conceptual terminology comes from Margaret Joan Anstee, a former Under-Secretary-General of the United Nations, who proposed the categorization in the context of the United Nations Intellectual History Project.
4. For example the UN publishes an annual *Disarmament Yearbook*. For the latest, see United Nations, 2003, *The United Nations Disarmament Yearbook Volume 27: 2002*, New York, United Nations Department for Disarmament Affairs.
5. Savita Pande, 1996, *India and the Nuclear Test Ban*, New Delhi, Institute for Defence Studies and Analyses, p. 25.
6. Ironically, it was India in the CD that vetoed the transmittal of the text of the negotiated CTBT to the General Assembly in 1996 and it is now the United States that emphatically repeats that the CTBT is no longer in its interests. See the American explanation of vote on the 2003 draft resolution on the CTBT in the First Committee of the General Assembly (A/C.1/58/L.52 of 15 October 2003): ‘The US delegation has again voted “no” on draft resolution L.52 because, as we have made clear before, the United States does not support the Comprehensive Nuclear Test-Ban Treaty and will not become a party to that treaty. The United States also intends, however, to maintain its moratorium on nuclear testing, in effect since 1992, and urges all states to maintain existing moratoria on nuclear testing’.
7. United Nations, 1976, *Comprehensive Study of the Question of Nuclear-Weapon-Free Zones in All of its Aspects*, New York, United Nations, Special Report of the Conference of the Committee on Disarmament, United Nations document A/10027/Add.1.
8. UN Security Council Declaration on Disarmament, Arms Control and Weapons of Mass Destruction, Security Council document S/PV.3046 of 31 January 1992.
9. It is worth remembering that, unlike Security Council resolutions, General Assembly decisions are not legally binding.
10. For a sense of the scale of the implementation of the Programme of Action on Small Arms see the database project of UNIDIR, The Small Arms Survey and IANSA through the Geneva Process on small arms, available at < <http://www.smallarmssurvey.org> > .
11. Known as the Vienna Firearms Protocol, General Assembly resolution A/RES/55/255 of 8 June 2001.
12. This statement, along with other official Indian pronouncements after the May 1998 tests, are available at < <http://www.meadev.gov.in> > .
13. See < <http://www.meadev.gov.in> > .
14. A second Special Session devoted to disarmament was held in 1982; a third in 1988. SSOD II confirmed the validity of the final document of SSOD I, and SSOD III failed to reach consensus on a final document.
15. United Nations, 2003, *Report of the Disarmament Commission*, United Nations document A/C.1/58/L.20 of 15 October 2003.
16. Jessica Tuchman Matthews, 1989, Redefining Security, *Foreign Affairs*, vol. 68, no. 2 (Spring), p. 176. Matthews was writing in the context of environmental negotiations.
17. Australia, 1996, *Report of the Canberra Commission on the Elimination of Nuclear Weapons*, Canberra, Department of Foreign Affairs and Trade, pp. 18–22. Ramesh Thakur was a consultant to the Commission and Patricia Lewis served as a reviewer.
18. As an editorial in the *Japan Times* put it, ‘Nuclear stockpiles must be reduced and then eliminated. ... As the cycle of action and reaction in South Asia has proven, nuclear stockpiles feed on themselves’. See South Asia’s Nuclear Chain Reaction, *Japan Times*, 30 May 1998.
19. The full report of the Tokyo Forum is available at < <http://www.mofa.go.jp/policy/un/disarmament/forum/tokyo9907/index.html> > . Patricia Lewis was a member of the Tokyo Forum.
20. Patricia Lewis is a member of the Weapons of Mass Destruction Commission.

This Report assesses U.S. compliance with arms control, nonproliferation, and disarmament agreements in 2020, as well as the 2020 compliance and adherence of other nations to arms control, nonproliferation, and disarmament agreements and commitments, including confidence- and security-building measures (CSBMs) and the Missile Technology Control Regime, to which the United States is a participating State. In these ways, such agreements and commitments can contribute broadly to transparency and stability on a global and regional scale. Effective arms control requires countries to comply fully with arms control obligations and commitments they have undertaken. Its field of expertise comprises arms control and disarmament initiatives at regional and sub-regional levels, cross-fertilization of disarmament ideas and initiatives across regions, consolidation and cooperation with regional groupings, landmines and explosive remnants of war, as well as gender-related aspects of disarmament. On 24 June, a UNODA group of governmental experts recommended updates to the United Nations Register of Conventional Arms which reflected new developments in technology and arms. On 26 August, High Representative Izumi Nakamitsu offered keynote remarks at the Fifth Conference of States Parties to the Arms Trade Treaty. On 26 July 2021, the United Nations Office for Disarmament Affairs (UNODA) and the United Nations Office on Drugs and Crime (UNODC), held a live webinar entitled "A double-anniversary: UNRCPD hosts webinar series on gender in small arms control for Cambodian officials. The United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific (UNRCPD) concluded a series of webinars on gender and small arms control for government officials UNODA concludes training series on gender and small arms control. In preparation of the Seventh Biennial Meeting of States on the United Nations Programme of Action on Small Arms (BMS7) and the Seventh Conference of States Parties to the...