

## Introduction<sup>1</sup>

1 At the start of the 2000 Review Conference for the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), UN Secretary-General Kofi Annan warned of the dangers of the accumulation of “rust” in the multilateral disarmament machinery. Ten years later that rust has developed to such an extent that neither the Conference on Disarmament (CD) nor the UN Disarmament Commission has produced any concrete results since 1996 and 1999 respectively.<sup>2</sup> This paper offers ideas and options for oiling that machinery and developing new approaches to disarmament diplomacy. Conclusions are drawn in paragraph 42.

2 The term “disarmament machinery” is used here to refer to multilateral processes, procedures and practices, and relevant international bodies whose purposes are to deal with issues of disarmament, non-proliferation and arms control.<sup>3</sup> A brief history of the development of multilateral disarmament machinery is provided in Annex 1.

3 Before embarking on this examination, a prior question needs to be weighed. Is the laboured, dysfunctional operation of parts of the disarmament machinery merely a symptom of more deep-seated considerations? If so, will those factors similarly affect future approaches, and place new obstacles on the path of efforts to develop solutions?

4 To concede at the outset that tensions in the Middle East, South Asia, the Korean Peninsula and conflicts elsewhere will continue adversely to affect multilateral disarmament machinery is to allow that machinery to be subjugated to regional differences. Part of the challenge in renewing disarmament institutions and practices is to develop mechanisms that are more sensitive to delivering outcomes sought by the majority of states while still recognizing—without being held hostage to—the legitimate national security concerns of other states.

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1 The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

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2 In 1996, the CD completed negotiation of the Comprehensive Nuclear-Test-Ban Treaty; in 1999, the Disarmament Commission adopted guidelines on establishing nuclear-weapon-free zones and on conventional arms control and limitation.

3 For a more extensive treatment of disarmament machinery and its coverage, see *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms*, Weapons of Mass Destruction Commission, 2006, pp. 177–80.

5 There is an argument that the current disarmament machinery would work properly if there were sufficient “political will” for it to do so. Is this simply an excuse for inaction? As one commentator has said, “It is not political will that is lacking—it is agreement on direction that does not exist right now. ... [T]he political will that does exist is pulling with equal force in opposite directions—a sure recipe for staying stuck in one place”.<sup>4</sup> Multilateral machinery, especially for something as fundamental as disarmament negotiations, should be designed to work in all conditions. “[W]orking on the machinery is not just tinkering at the edges while we wait for the political winds to change”.<sup>5</sup>

## Existing disarmament machinery—procedural issues

6 Is it sensible to try to remodel the existing machinery as a new base for conducting multilateral disarmament negotiations? In the case of the CD a number of institutional problems seem intractable—strict application of the consensus rule, complicated approaches to work programmes, misuse of regional groupings, and the political making of linkages between issues are just a few examples. Is the CD’s machinery rusted beyond salvation, or can it be oiled and re-started?

7 As to the **consensus rule**, the Blix Commission recommended<sup>6</sup> that the CD “should be able to adopt its Programme of Work by a qualified majority of two-thirds of the members present and voting. It should also take its other administrative and procedural decisions with the same requirements”.<sup>7</sup> Treating the **work programme** as an “administrative and procedural decision” warrants closer examination. Many would argue that the series of draft programmes of work are too bound up with substance to be categorized as procedural. But this is because the CD has become fixated on **linking the mandates** for each of its subsidiary bodies in a single programme,<sup>8</sup> instead of simply fitting each agreed mandate into a timetable or schedule of activities.<sup>9</sup>

8 The argument could likewise be made, of course, that a schedule of activities itself is not purely a matter of procedure. A particular schedule might be seen by some, for instance, as unbalanced in its allocation of time to a particular subsidiary body. Nonetheless, compared to deciding upon the actual terms of a mandate for a subsidiary body, it should not be so difficult to make the case for the adoption of the schedule of activities by a qualified majority of the kind recommended by the Blix Commission.

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4 P. Lewis, “If it's broke—fix it. What to do about the UN disarmament machinery”, comments to the First Committee of the General Assembly, 18 October 2006; the text is available at <[www.unidir.ch/unidir-views/pdf/pdf-uv-17-20.pdf](http://www.unidir.ch/unidir-views/pdf/pdf-uv-17-20.pdf)>.

5 Ibid.

6 *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms*, Weapons of Mass Destruction Commission, 2006, recommendation 58, p. 180.

7 Paragraph 120 of the Final Document of the Tenth Special Session of the General Assembly (the first special session devoted to disarmament) stipulated that the CD would (a) conduct its work by consensus; (b) adopt its own rules of procedure; General Assembly, *Final Document of the Tenth Special Session of the General Assembly*, UN document A/S-10/2, 30 June 1978.

8 Beginning with the Amorim proposal (CD/1624) of 24 August 2000, through the latest draft of CD/1889 (6 July 2010).

9 For further discussion, see <[disarmamentinsight.blogspot.com/2010/02/shannon-mandate-aged-15.html](http://disarmamentinsight.blogspot.com/2010/02/shannon-mandate-aged-15.html)>.

9 Bringing about the necessary consensus, however, to amend formally the CD's rules of procedure to that end would be problematic. This does not mean that efforts to *interpret*—as opposed to *change*—the rules should not be attempted. For example, could an understanding be reached that the use of the consensus rule would be confined to occasions of demonstrable national interest? In other words, rather than make changes such as the one just discussed, is there scope for embodying in a presidential statement that, in relation to certain rules such as rule 28,<sup>10</sup> members would not oppose a decision unless they can demonstrate that the decision in question would uniquely compromise their national interest? Such an interpretative statement might draw on the analogy of article X of the NPT, which permits a state party to withdraw from the treaty if it “decides that extraordinary events, related to the subject matter [of the NPT], have jeopardised the supreme interests of its country”.

10 A variation on an interpretative statement might be to try to develop an understanding (comparable to the kind urged on the Security Council in respect to the veto<sup>11</sup>) that would constrain the use of the consensus rule to certain defined circumstances. Such an understanding might prevent the adoption of essentially procedural precursors to a substantive negotiation if the majority supporting a decision in question exceeded, say, 90% of the membership. Any such understanding could be coupled with an NPT-type injunction that, prior to the vote, all efforts to achieve consensus must have been exhausted. But achieving any kind of understanding that would entail the use of voting for decision-making, even for the most anodyne matters of procedure, would be seen by some as a slippery slope to more radical reform.

11 Short of achieving agreement to amend the consensus rule, is there scope for achieving an understanding as to the *means* of taking decisions in the CD? This would entail developing guidelines on the use of the “presidential prerogative”<sup>12</sup> with a view to investing the presiding officer with the power to move work forward if they judge that there is overwhelming support for a particular course of action. The required decision in such an instance would amount to the absence of any objection to the president's expression that, based on their consultations, the overwhelming wish of the membership is to proceed in a certain manner. The potential for abuse of the prerogative would be minimized in the CD by the otherwise unfortunate practice of the **monthly rotation** of the presidency. In practice, presidents seldom assert themselves unless they are confident that they will not be openly challenged. Bolder use of the prerogative may help to force into the open—and onto the public record—those who have been tying the hands of the presiding officer in their behind-the-scenes consultations.

12 The Blix Commission took the view, shared by many states, that the “wholesale application of the consensus rule [in the CD] is a relic of the Cold War and should be

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10 “28. On the basis of its agenda, the Conference, at the beginning of its annual session, shall establish its programme of work, which will include a schedule of its activities for that session, taking also into account the recommendations, proposals and decisions referred to in rule 27”; Conference on Disarmament, *Rules of procedure of the Conference on Disarmament*, document CD/8/Rev.9, 19 December 2003.

11 Whereby permanent members would exercise greater restraint in use of the veto, for example by restricting its use to matters under Chapter VII of the UN Charter.

12 The prerogative has no formal basis other than the authority with which any chair is endowed through being entrusted with the role of presiding officer.

eliminated”.<sup>13</sup> Contrast this with important decisions of the General Assembly that require only a qualified majority of two thirds of the members present and voting. The Blix Commission also took a dim view of the growth of the practice of reaching positions—inevitably lowest-common-denominator outcomes—in the CD **regional groups**. “Many states”, the Commission noted, “still benefit from participation in regional groups, but since those were formed during the Cold War, they may have done more to prevent than to facilitate consensus”.<sup>14</sup>

## Existing disarmament machinery—structural issues

13 The CD is not an isolated example of an unproductive disarmament forum. Despite the end of the Cold War in 1991 none of the disarmament institutions created during that time—through the UN General Assembly special session devoted to disarmament in 1978—have found success, nor have efforts to reappraise them. Some disarmament machinery has ground virtually to a halt, others are just ticking over, but as noted later in this paper various new mechanisms, not all of them multilateral, have come into being. The political imperatives that drove those processes, in response particularly to risks arising from terrorism, but also to actual or suspected instances of proliferation (for example in the cases of the A.Q. Khan network, the Democratic People’s Republic of Korea, Libya, Syria and Iran), tended at their height to overpower the continuing clamour from many states for more urgent steps towards nuclear disarmament. Indeed, the last two NPT review conferences were dogged largely by competing priorities—non-proliferation versus nuclear disarmament, epitomizing the clash of political wills in the sense of “pulling with equal force in opposite directions” as mentioned above in paragraph 5. Echoes of this stand-off have also resounded in the UN Disarmament Commission (UNDC), diminishing its standing as an inclusive deliberative body focused on disarmament issues.

14 It can be argued that divergences over *priorities*—as seen also in the CD—will have a stultifying impact irrespective of the machinery in place, thus complicating any efforts to develop new machinery. The problem is that when such disputes occur in bodies such as the CD and the UNDC they tend to become protracted. And in Meetings of States Parties, such as NPT review conferences and their preparatory committees, these stand-offs have resulted, in recent experience, either in no agreed outcome (2005) or a Chair’s “factual summaries” (in the preparatory committees) or—at best—lowest-common-denominator outcomes (2010). There is no apparent remedy. Or, where one exists, political pressures not to use it are often immense (for example the NPT and the Convention on Certain Conventional Weapons).

15 Bodies such as the CD that eschew **voting** have thereby denied themselves the normal means of breaking an impasse. That is not to say that the *objective* of taking

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13 *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms*, Weapons of Mass Destruction Commission, 2006, p. 179.

14 *Ibid.*

decisions by consensus is fatally flawed. The UNDC,<sup>15</sup> a deliberative body, and most Meetings of States Parties of disarmament treaties,<sup>16</sup> strive at all times for credible reasons to takes decisions by consensus even though ultimately there can be recourse to voting with decisions usually being taken by a two-thirds majority. But when a negotiating body—namely, the CD—is unable to carry out its fundamental purpose for well over a decade, it is understandable that, in the absence of a voting mechanism, frustrated members will seek external solutions.<sup>17</sup>

16 In an ideal world, deadlocks of the kind in the CD and UNDC should be able to be overcome by determined **leadership** by major powers. When the P5 have occasionally succeeded in finding common cause, as in the NPT review process<sup>18</sup> and in the Security Council,<sup>19</sup> the effects have been limited.<sup>20</sup> Such coordination has been seen either as self-serving or at best insufficiently sensitive in its focus on proliferation more than on broader concerns about nuclear disarmament. It is difficult to conclude from recent experience that either the P5 en bloc or the Security Council are willing or able to lift the multilateral disarmament machinery out of its malaise. A high-level meeting on 24 September 2010 hosted by the UN Secretary-General provided a platform for the Secretary-General to put forward a number of actions aimed at intensifying international action towards overcoming this malaise.

## A fresh approach

### Clean slate reform

17 A clean slate approach to the development of disarmament machinery would want to draw on lessons from the past (as just described). It would need to be sensitive to current geopolitical considerations, without becoming transfixed by them. But, how would resources in support of new processes be assured? Pressures on public expenditure resulting from the global economic downturn combined with dissatisfaction over the productivity of bodies such as the CD and UNDC might make the annual allocation of resources for interpretation, translation and documentation for existing machinery less automatic. The annual UN General Assembly resolutions on the CD and the UNDC

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15 The UNDC rules of procedure are those of the General Assembly, modified as necessary, and the Commission is required to “make every effort to ensure that, in so far as is possible, decisions on substantive issues [are] adopted by consensus”. See General Assembly, *Final Document of the Tenth Special Session of the General Assembly*, UN document A/S-10/2, 30 June 1978, para. 118(b).

16 For example the Anti-Personnel Mine Ban Convention, the Biological Weapons Convention, the Dublin Diplomatic Conference for the Convention on Cluster Munitions, the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, the Chemical Weapons Convention, and the NPT. In contrast, compare the Article XIV conferences of the Comprehensive Nuclear-Test-Ban Treaty, the Convention on Certain Conventional Weapons (although the reference in Rule 34 to Article 8 creates the possibility of voting), and the Environmental Modification Treaty annex prohibiting voting on matters of substance.

17 See “Getting the Conference on Disarmament back to substantive work: food for thought”, UNIDIR, 2009, <[www.unidir.org/pdf/activites/pdf2-act433.pdf](http://www.unidir.org/pdf/activites/pdf2-act433.pdf)>, para. 31.

18 For an example of such coordination, see <<http://ukunarmscontrol.fco.gov.uk/resources/en/pdf/5061551/P5nptstatement2008>>.

19 For example in the case of resolution 1887; see <[www.un.org/News/Press/docs/2009/sc9746.doc.htm](http://www.un.org/News/Press/docs/2009/sc9746.doc.htm)>.

20 Arguably, over time Security Council resolution 1540 (to counter the threat of terrorist acquisition of weapons of mass destruction) has proved an exception.



request the UN Secretary-General<sup>21</sup> to continue to ensure the provision to these bodies of adequate administrative, substantive and conference-support services including interpretation and translation facilities in the official languages. This request is sufficient to ensure that the necessary resources are available for these fora to meet annually for 24 weeks and three weeks respectively. Agreeing to fund replacement machinery in the current climate would be problematic.

18 Fresh approaches need not, however, be resource intensive. In terms of *deliberative* work on disarmament issues, could not the agenda of the First Committee of General Assembly be revamped to absorb the role of the UNDC? As for disarmament *negotiations*, if a replacement for the CD was favoured, should it operate in a less independent manner than as at present? That is, should it be more responsive to the General Assembly? Should its membership be expanded to make it more inclusive of UN Member States?

19 In the event that the CD and UNDC are closed down (or mothballed) or are convened only on an “as needed” basis, should existing UN bodies (the Security Council and General Assembly) take on a greater role in mandating negotiations and deliberations on selected issues? Should such a role be temporary until new institutions are established, or be permanent? Should the General Assembly, acting independently in the exercise of its powers under article 11 of the UN Charter<sup>22</sup> or in conjunction with the Security Council, enjoin Member States to initiate appropriate processes in response to priority issues? How would such processes and priorities be determined and resourced? Would the mechanics of making such determinations be an appropriate focus for a fourth special session devoted to disarmament or a World Summit?

## UN framework

20 Are new institutions even required? Important disarmament, arms control and non-proliferation processes already take place without the need for any dedicated institution other than the United Nations. In 2006, the General Assembly requested the Secretary-General to establish a group of governmental experts to look into “the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms”.<sup>23</sup> The report of that group in 2008 prompted the General Assembly to start discussions focused on a possible arms trade treaty, open to all Member States.<sup>24</sup> In 2009, the First Committee of the General Assembly resolved “to convene the United Nations Conference on the Arms Trade Treaty (ATT) to sit for four consecutive weeks in 2012 to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms”.<sup>25</sup> Despite difficulties along the route, a negotiating mandate has been developed and this process has successfully

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21 See, for example, General Assembly, *Report of the Conference on Disarmament*, UN document A/RES/64/64, 14 January 2010; and General Assembly, *Report of the Disarmament Commission*, UN document A/RES/64/65, 14 January 2010.

22 Particularly article 11.1 under which the General Assembly considers and makes recommendations on the principles governing disarmament and the regulation of armaments.

23 General Assembly, *Towards an arms trade treaty*, UN document A/RES/61/89, 18 December 2006, para. 1.

24 General Assembly, *The arms trade treaty*, UN document A/RES/64/48, 12 January 2010.

25 Ibid.

been launched within the framework of the largest standing multilateral conference of them all, the United Nations.

21 Another example relates to the proliferation of small arms and light weapons. This issue was first raised in a United Nations forum in a 1995 General Assembly resolution.<sup>26</sup> Two expert groups, established by the Secretary-General, issued reports on the subject, and in July 2001 multilateral cooperation in this area took a significant step forward with the convening of the United Nations Conference on the Illicit Traffic in Small Arms and Light Weapons in All Its Aspects. The participating states agreed to adopt the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

22 As a relevant aside, the Programme of Action is an example of a non-legally binding product of the disarmament machinery. Its status is that of “soft law”, setting out principles that parties are expected to respect as a matter of political or moral commitment. Although such a commitment is not enforceable, in circumstances where states are unable to reach a mutually acceptable compromise on a legally binding treaty, it is clearly better to have a commonly subscribed commitment to a statement of principles than no commitment at all. The argument has been made in the case of multilateral environmental agreements that there is at least as much adherence to those that are soft law and can be implemented by administrative action at the national level as to those instances that are legally binding and require domestic legislation and other comparatively intensive statutory and regulatory implementation.

23 Other UN-based vehicles for advancing disarmament issues are those that involve the use of experts. There is the UN Secretary-General’s Advisory Board on Disarmament Matters. There is also the power of the General Assembly to convene groups of experts on specific issues such as those just mentioned on an ATT and the small arms process. While those particular groups proved to be productive, this is not always the case. The practice of trying to reach consensus reports can result in lowest-common-denominator outcomes that not only add little to existing knowledge on an issue but sometimes even obscure the points of difference in the group. Yet there exists the potential for using experts—provided that Member States do actually nominate recognized experts to the group—to raise the level of research and understanding on issues perhaps as a pre-negotiation phase to a matter of international significance. The effect would be comparable to that of the group of scientific experts set up to lay the technical groundwork for the Comprehensive Nuclear-Test-Ban Treaty.<sup>27</sup>

## **Ad hoc processes**

24 *Ad hoc* processes, whether initiated as diplomatic conferences by the United Nations or by like-minded groups, might be a more pragmatic way of conducting

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26 General Assembly, *General and complete disarmament*, UN document A/RES/50/70B, 15 January 1996.

27 The Group of Scientific Experts was established in 1976 by the UN Conference of the Committee on Disarmament (the CD’s predecessor) with a mandate to conceptualize and test an international seismic data-exchange system. See also Conference on Disarmament, *Report of the Ad Hoc Group of Scientific Experts to the Conference on Disarmament on the GSETT-3 experiment and its relevance to the seismic component of the Comprehensive Nuclear-Test-Ban Treaty international monitoring system*, document CD/1423, 4 September 1996.

negotiations on issues such as those that feature perennially in CD work programmes. The Ottawa and Oslo processes on anti-personnel landmines and cluster munitions, respectively, were driven by largely like-minded groups of states for most of whom the existing machinery was seen as incapable of meeting their objectives. The two processes succeeded in circumstances in which the conventional weapons they were addressing had received “bad press” for their impacts on civilian populations, and a critical mass of governments was sensitive to the high public profile of campaigns to stigmatize them.

25 Stigmatization of landmines and cluster munitions has had an impact beyond the boundaries of the states parties to the Ottawa and Oslo Conventions.<sup>28</sup> Yet detractors of these ad hoc processes nonetheless maintain that the failure to date of key producers, possessors and users of the weapon systems prohibited by these two conventions to become states parties impairs the usefulness of the conventions both in themselves and in their value as precedents for processes for tackling non-conventional weapons, especially nuclear weapons. These arguments are considered further in annex 2.

26 There is, of course, a difference between attracting the participation of major producers and possessors of certain weapon systems in an ad hoc process addressing those weapons, and in securing the eventual accession of those states to a resulting treaty. The United States participated in the Ottawa process, but has to date not acceded to the Convention. Yet, it no longer exports anti-personnel landmines. Moreover, it has contributed \$1.5 billion in mine action in almost 50 countries since 1993. The point is that, whether or not major producers and possessors of weapons that become the subject of an ad hoc negotiating process participate in those negotiations, their approach to those armaments may ultimately be modified by the outcome. There should be no a priori assumption that the absence of key players from such processes dooms them to failure.

27 By the same token, it has been argued that a nuclear-weapon state that chooses to stand in the way of consensus on the adoption, for example, of a mandate for fissile material negotiations in the CD should content itself with not becoming party to the eventual treaty rather than with preventing the negotiations from even getting underway. The response to this argument is interesting. Even if it the state would not wish to become party to the resulting treaty, the very existence of that agreement would, perhaps, create norms that are antithetical to the state’s national interest and would subject it to pressures—of the kind mentioned in paragraph 24—to accede to the treaty.

28 Continuing with this look at the usefulness of ad hoc processes, one factor on which the participants would need to be clear is the **rules of procedure**—when to develop them and what they should contain, particularly on decision-making. If the ad hoc process being pursued is a conference or working group mandated by the United Nations in which a full spectrum of interests is engaged, it is normal to agree rules of procedure, even provisionally, at an early stage in the process. It is also customary under UN processes that such rules would have the following characteristics. The conference or working group would take decisions on questions of procedure by a simple majority of states present and voting. Substantive decisions would, if possible, be taken by consensus. If consensus was not attainable, a 24-hour period of deferment would be called by the chair and every

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<sup>28</sup> Allegations and counter-allegations by Russia and Georgia about use of cluster munitions during their 2008 conflict illustrate their sensitivity to the public profile of these weapons. Neither as yet has become party to the Convention on Cluster Munitions.



effort would be made to facilitate consensus. If this procedure was not successful, the conference might take a decision by a two-thirds majority of states present and voting. If the issue arose as to whether or not a question was one of substance, that question would be treated as a matter of substance. (It should be noted, however, that in the case of the ATT, the United Nations has agreed that the conference on the ATT “will be undertaken in an open and transparent manner, on the basis of consensus ...”.<sup>29</sup>)

29 Where ad hoc treaty negotiations are initiated and sustained by a core group of like-minded states, as with the Ottawa and Oslo processes, a more informal approach to the development of rules of procedure may be warranted. Despite differing degrees of like-mindedness, such endeavours can proceed on the understanding that what is essentially a common objective could be achieved without recourse to voting—not consensus at all costs, but an understanding that, if a deadlock emerges, voting will be necessary. In the Oslo case, an informal text was gradually refined by successive chairs based on their judgment on where compromise was possible. Only at the point at which the final phase began—the Dublin Diplomatic Conference—was that text invested with such formality as to give rise to a possible need to vote on it.<sup>30</sup> Against the possibility that voting was indeed needed, rules of procedure were adopted at the outset of the Dublin Conference. In the event, the treaty was adopted without the need to resort to the rules.

30 As we have seen in the case of landmines and cluster munitions, not all ad hoc processes in this arena take place directly under UN auspices. In recent years, determined efforts to address *proliferation* concerns have been made through a mix of new, largely US-led initiatives. These include:

- the Proliferation Security Initiative (involving the interdiction of proliferation shipments of weapons of mass destruction, delivery systems, and related materials at sea, in the air, or on land);
- the Global Threat Reduction programmes, initiated by US Senators Nunn and Lugar; and
- the G8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction.

Having the characteristics of coalitions of the willing rather than binding multilateral treaties, like-minded initiatives of this kind can be a useful means for responding to situations of concern provided that they do not undermine international law or detract from the effectiveness of existing institutions.

31 Ad hoc processes certainly offer an alternative to a structured approach to developing new disarmament architecture. They can be tailored to the needs and dynamics of the moment. Indeed, as we have seen with the Ottawa and Oslo processes they can be used to circumvent deadlocks in existing mechanisms.<sup>31</sup> In 1995, the case was made, however, for taking a *global* approach to current disarmament issues. That

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29 General Assembly, *The arms trade treaty*, UN document A/RES/64/48, 12 January 2010, para. 5.

30 This formality was conveyed by rule 30 of the rules of procedure of the Dublin Diplomatic Conference, which stated, “The draft Cluster Munitions Convention ... shall constitute the basic proposal for consideration by the Conference.”

31 See J. Borrie, *Unacceptable Harm: A History of How the Treaty to Ban Cluster Munitions Was Won*, UNIDIR, 2009, pp. 30–2.

year the General Assembly decided to convene a fourth special session devoted to disarmament, although decisions on the agenda and timing were left for a later date. Given that this special session still has not been convened, it is ironic that the preamble of the 1995 resolution welcomed “the recent positive changes in the international landscape, characterized by the end of the cold war ...”.<sup>32</sup> It is also significant that the United States opposed the resolution, maintaining that the time was not yet ripe for a special session. This same view prevented the Open-ended Working Group (OEWG), established by the General Assembly in 2006 to consider the agenda and objective of a fourth special session devoted to disarmament,<sup>33</sup> from reaching an agreed conclusion. Yet, by virtue of a draft decision sponsored by the Non-Aligned Movement,<sup>34</sup> the issue of convening of a fourth special session devoted to disarmament remains squarely on the First Committee’s agenda.

32 These efforts to date to convene a fourth special session devoted to disarmament are not very promising for pursuing a global review of multilateral disarmament machinery. Ambassador Alfredo Labbé, chair of the OEWG, noted in a paper he wrote for the Group in 2007 that, to command comparable political authority to the 1978 first special session devoted to disarmament, “the final document of a fourth special session should be a coalescing vehicle for all United Nations Member States. As such, it must enjoy significant consensus (including all key players) and add value over and above what was accomplished by the first special session”.<sup>35</sup>

## **Institution by institution reform**

33 Unless more encouraging signs for such a consensus emerge during the course of the next UN General Assembly, or in the follow-up to the Secretary-General’s high-level meeting on 24 September 2010, reforms may need to be pursued on an institution-by-institution basis. Such an outcome would seem inevitable in the absence of the development by Member States, acting cohesively, of new multilateral disarmament architecture that is inclusive and flexible enough to be responsive to new challenges.

34 International bodies generally do not reinvent themselves in the absence of universal support to do so. The status quo tends to be the default option. It is hard to imagine that the UNDC would reach a collective view that its debates currently added little if any value to those carried out elsewhere, such as in the First Committee of the General Assembly. It seems even less likely that it would decide to discontinue to meet, although there have been occasions as in 2002 when the Commission was unable to hold its annual session (ostensibly for scheduling reasons<sup>36</sup>) and when it has failed to agree its agenda as in 2004.

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32 General Assembly, *General and complete disarmament*, UN document A/RES/50/70F, 15 January 1996.

33 See General Assembly, *Convening of the fourth special session of the General Assembly devoted to disarmament*, UN document A/RES/62/29, 10 January 2008.

34 See General Assembly, *Convening of the fourth special session of the General Assembly devoted to disarmament*, UN document A/C.1/64/L.9, 14 October 2009.

35 General Assembly, *Report of the Open-ended Working Group*, UN document A/AC.268/2007/2, 31 August 2007, annex I; see also J. Langmore, “The possibility and potential value of holding a Fourth Special Session on the UN General Assembly on Disarmament”, International Commission on Nuclear Non-proliferation and Disarmament, n.d.

36 For a commentary on this situation, see <[www.acronym.org.uk/dd/dd71/71nr09.htm](http://www.acronym.org.uk/dd/dd71/71nr09.htm)>.

35 Unlike the UNDC, the CD has no alternative standing body that can replicate its negotiating mandate. It remains to be seen whether any decisive follow-up to the high level event of 24 September will be generated in the General Assembly. Steps to be taken by the General Assembly could include a resolution setting a deadline for the commencement of negotiations in the CD after which the General Assembly would decide how the issues occupying the CD might best be pursued. Another approach might be to no longer support the allocation of resources to the CD at the current level until circumstances improved markedly (see paragraph 17). As a last effort, perhaps like-minded Member States would first undertake negotiations directly in the Plenary, eschewing subsidiary bodies and attendant procedures, and see how far they can get, ideally gathering a growing group of participants if the process gained momentum.<sup>37</sup>

36 The First Committee for its part recognized in 2004 the need to improve its performance. Its chair, Ambassador Alfonso de Alba of Mexico, achieved agreement that year on a more purposeful, open and interactive approach to the work of the Committee. Following the general debate at the outset of the session, informal thematic sessions on key issues were conducted. These were made open to civil society, and the chair invited experts and officials from intergovernmental bodies to participate, and interactivity was encouraged. This format has been continued by successive chairs. Improved working methods have led to a more orderly conduct of business on clusters of issues, but a number of frustrations remain. For example, the repeated tabling of nearly identical resolutions year after year tends to reduce their adoption to a time-consuming routine rather than to reinforcing the messages contained. This has led some delegations to wonder why a resolution that has been adopted cannot be left to stand unless it is re-tabled by its sponsor(s) for substantive amendment. At the least, the sponsors of resolutions should be more responsive to the annual urging of First Committee chairs that those measures be tabled less frequently, for example every second, third or even fourth year.

#### **Fourth special session devoted to disarmament—rationales for convening**

37 Raising our eyes above the level of tinkering with the working methods and oiling the existing disarmament machinery, it is difficult not to conclude that, in the case of existing institutions, systemic change must be initiated by the UN General Assembly through a special session devoted to disarmament or otherwise. Given its universal nature, the General Assembly is fundamental to advancing the cause of disarmament and non-proliferation. Ideally, a fourth special session devoted to disarmament will be convened for this purpose. The International Commission on Nuclear Non-Proliferation and Disarmament (ICNND) considered that, with careful preparation, it might be propitious to hold such a session in 2012, allowing time for reflection on the outcome of the 2010 NPT Review Conference.<sup>38</sup> Whether or not the necessary groundwork can be carried out and a consensus forged by 2012, it is open to like-minded delegations

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37 For further discussion, see <<http://disarmamentinsight.blogspot.com/2010/02/shannon-mandate-aged-15.html>>; and Ambassador Z. Rapacki, statement by Poland to the CD plenary, 17 August 2010.

38 *Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers*, ICNND, 2009, paras. 17.2–3.

to pursue reform of the multilateral disarmament machinery directly through the First Committee and through the General Assembly itself.

38 Like-minded delegations wishing to press the General Assembly under the agenda item “Convening of the fourth special session of the General Assembly devoted to disarmament”<sup>39</sup> may choose to base their arguments on factors broader than that of the dysfunctionality of the multilateral disarmament machinery. The preamble of the resolution establishing the OEWG referred to earlier in paragraph 31 reminded Member States of the undertaking made by their heads of state and government in the Millennium Declaration. In the Declaration, states had resolved “to strive for the elimination of weapons of mass destruction, particularly nuclear weapons”. The significance of this reminder is that it underscores the link between development and disarmament. The linkage is not uncontroversial, but it is indisputable that article 26 of the UN Charter explicitly seeks to “promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world’s human and economic resources”.

39 This point has been extrapolated in other ways. The ICNND refers to the notion of focusing on nuclear disarmament:

through the lens not of traditional arms control, but rather international humanitarian law. The argument is that nuclear disarmament is at heart a humanitarian imperative because of the grotesquely inhumane and enormous impact of nuclear weapons; that the single most important thing is to prevent their use and the most certain way of achieving that objective is to eliminate them completely.<sup>40</sup>

This argument, the ICNND noted, maintains “that the best way of achieving that [objective] in practice—motivating like-minded governments and civil society alike—would be negotiations conducted through a humanitarian and human rights-focused process”.<sup>41</sup>

40 This approach—“disarmament as humanitarian action”<sup>42</sup>—seeks to inspire greater emphasis in multilateral disarmament diplomacy on the impact on persons of the use of certain weapons and less on the rationale for their existence in the arsenals of states. The individual is made the central object of protection from the impacts of use of such weapons, with humanitarian goals prevailing over issues of national security and military utility.

41 Hand-in-hand with such a philosophy is the greater accessibility it has to public appreciation of and engagement in the issues, facilitating the kinds of partnerships


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39 See General Assembly, *Convening of the fourth special session of the General Assembly devoted to disarmament*, UN document A/RES/62/29, 10 January 2008.

40 *Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers*, ICNND, 2009, para. 20.18.

41 Ibid.

42 Various UNIDIR publications on this topic include J. Borrie, *Unacceptable Harm: A History of How the Treaty to Ban Cluster Munitions Was Won*, UNIDIR, 2009; J. Borrie and A. Thornton, *The Value of Diversity in Multilateral Disarmament Work*, UNIDIR, 2008; J. Borrie and V. Martin Randin (eds), *Disarmament as Humanitarian Action: From Perspective to Practice*, UNIDIR, 2007; J. Borrie and V. Martin Randin (eds), *Thinking Outside the Box in Multilateral Disarmament and Arms Control Negotiations*, UNIDIR, 2007; and J. Borrie and V. Martin Randin (eds), *Alternative Approaches in Multilateral Decision Making: Disarmament as Humanitarian Action*, UNIDIR, 2005.



with civil society and interested intergovernmental bodies that have been a feature of the Ottawa and Oslo processes. Harnessing public pressure over time to revamp the multilateral disarmament machinery will be an important factor in bringing this matter to the forefront of international attention in multilateral disarmament fora, thereby overcoming the argument of some governments that the time is not yet ripe for such treatment.



## Conclusions

42 Expressed in terms of future steps and options, the following conclusions are drawn:

- (a) Scope for making significant improvements to existing processes is limited.
- (b) Theoretically, improvements could nonetheless be made to existing processes in the sense that certain fora have been productive in the past.
- (c) However, in the current security environment, a common interest in making the existing machinery work seems unlikely to be forged.
- (d) The absence of leadership and shared purpose in existing fora seems likely also to complicate the prospects of developing new machinery.
- (e) Like-minded efforts to build pressure initiatives led by the UN General Assembly, including the possibility of convening a fourth special session devoted to disarmament, may find traction over time in pursuing new approaches based on humanitarian and human-security approaches.
- (f) For the meanwhile, and perhaps for the indefinite future, ad hoc processes such as those that produced the Mine Ban Convention and the Convention on Cluster Munitions may need to be utilized to deal with pressing priorities.

## Annex 1

### Brief history

1 When the United Nations was founded, disarmament and “arms regulation”<sup>43</sup> were given a prominent place in post-war security arrangements. It was recognized in the UN Charter that the proliferation of arms presented an ongoing risk to international security and constituted a huge opportunity cost, in terms of economic and social development, as resources were diverted towards armaments.

2 The Security Council was given the lead responsibility to develop plans and oversee programmes of disarmament and arms regulation. The General Assembly was accorded the power to consider the principles governing disarmament and the regulation of armaments, and to make recommendations with on such principles to Member States or to the Security Council or to both.

3 At the outset, the Security Council tried to apply its mandate as intended in the UN Charter through a number of initiatives, especially in relation to weapons of mass destruction. Notably, the General Assembly recommended that the Security Council formulate practical measures to provide for the general regulation and reduction of armaments and armed forces, and to assure that such regulation and reduction would be generally observed, in effect reaffirming the Security Council’s obligations under the UN Charter.<sup>44</sup>

4 However, any hope of progress was stifled by the Cold War. For most of the United Nations’ first forty years, Cold War dynamics effectively drove questions of disarmament, non-proliferation and arms control out of the Security Council. To the extent that these were subject to multilateral negotiation at all, such took place mainly in the General Assembly and the predecessors of the Conference on Disarmament (CD), or bilaterally between the United States and the Soviet Union.

5 In 1947, the Security Council recognized that the general regulation and reduction of armaments and armed forces would constitute a real opportunity to strengthen international peace and security.<sup>45</sup> In an effort to implement its Charter obligations, the Security Council established the Commission for Conventional Armaments (CCA) to deal with armaments other than weapons of mass destruction, with a mandate to make proposals to the Security Council for the general reduction of armaments.

6 The membership of the Commission was identical to that of the Security Council. Discussions within the CCA quickly became deadlocked because of the underlying political dynamics. The Soviet Union pressed for immediate reduction of armaments. The United States supported reductions but linked agreement to progress on an effective framework for collective security. In 1950, the Soviet Union used the issue of the representation of

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43 See arts. 11, 24 and 26 of the UN Charter.

44 General Assembly, *Principles governing the general regulation and reduction of armaments*, UN document A/RES/41(I), 14 December 1946.

45 Security Council, UN document S/RES/18, 13 February 1947.

China in the CCA as a basis for withdrawing participation. This effectively ended the work of the CCA, which was dissolved in 1952.

7 From that point on, the General Assembly began to take up issues of disarmament, arms control and non-proliferation in application of article 11 of the UN Charter.<sup>46</sup>

8 In 1952, the General Assembly decided to establish the Disarmament Commission.<sup>47</sup> It provided that this Commission should be accountable to the Security Council and tasked it to address both conventional and atomic weapons. However, the new Commission produced nothing substantive. Disarmament issues were progressively removed from the collective discussion table at the United Nations in favour of smaller fora, such as the Eighteen-Nation Disarmament Committee (ENDC).

9 Twenty years passed before the United Nations established clear institutional arrangements to address multilateral disarmament and arms control. During this period there were ongoing bilateral, trilateral and multilateral efforts (with some UN involvement as well). These produced eight multilateral arms limitation agreements (including on weapons of mass destruction) relating to specific environments and weapons systems, and weapons testing.

10 In 1978, there was a minor breakthrough at the United Nations with agreement on convening the General Assembly's tenth special session, to be devoted to disarmament. This was made possible as a by-product of the limited détente of the era, but was also due to an initiative by the Non-Aligned Movement born of concerns that global military expenditures remained larger than global expenditures on health, education and economic development.

11 The General Assembly has held three special sessions devoted to disarmament, in 1978, 1982 and 1988. Only the first of these succeeded in producing a final document, which established the following framework:

- the First Committee of the General Assembly was made responsible for preparing resolutions on disarmament for adoption by the General Assembly;
- the Disarmament Commission was re-established to include all UN Member States and was made a subsidiary organ of the General Assembly to serve as a deliberative body for making recommendations in the field of disarmament; and

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46 Art. 11.1: "The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both".

47 General Assembly, *Regulation, limitation and balanced reduction of all armed forces and all armaments; international control of atomic energy*, UN document A/RES/502 (VI), 11 January 1952.

- the CD was established in 1979 to serve as the world's single multilateral disarmament negotiating forum. It replaced its smaller predecessors, such as the ENDC.<sup>48</sup>

12 Counter-intuitively, the end of the Cold War did not bring the progress on arms control and disarmament that might have been expected. To the contrary, a deeper malaise in the multilateral arms control negotiating environment set in. With a few notable exceptions, the post-Cold War period has been one of stalemate in the UN disarmament institutions.

13 Even avenues to re-appraise the state of multilateral disarmament diplomacy and its machinery have been blocked. In December 1995, the General Assembly decided to convene in 1997 the fourth special session devoted to disarmament. Despite various attempts, especially on the part of the Non-Aligned Movement, this fourth special session has yet to take place, although in 2007 the General Assembly established an Open-ended Working Group under the Chairmanship of Ambassador Alfredo Labbé of Chile to consider the objectives and agenda for a fourth special session of the General Assembly devoted to disarmament.<sup>49</sup>

14 This a bald summary of the state of elements of the multilateral disarmament machinery:

- No issue on the agenda of the **Conference on Disarmament** has culminated in a successful negotiation since 1996. Since the negotiation of Comprehensive Nuclear-Test-Ban Treaty that year, the CD has only twice agreed a programme of work, in 1998 and 2009. Both programmes were short-lived.
- The **Disarmament Commission**, although not a negotiating body, has been unproductive for many years, deadlocked mainly over the relative priority to be accorded between nuclear disarmament and non-proliferation. Its last successes were in 1999 with the adoption of two sets of guidelines, one on the establishment of nuclear-weapon-free zones and the other on conventional arms control/limitation and disarmament.
- The **Security Council's** summit in 2009 on nuclear non-proliferation and nuclear disarmament, although a significant event in itself, resulted in a resolution that has been criticized for its preoccupation with non-proliferation and muted treatment of nuclear disarmament.<sup>50</sup>
- Although efforts have been made in the **General Assembly** since 2004 to bring greater focus to the **First Committee** of the General Assembly, its fresh outputs

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48 The CD is not a UN body but, over time, has developed a close working relationship with the United Nations. The CD originated in 1959 as a 10-nation Committee on Disarmament (five NATO and five Warsaw Pact states). It was expanded to an 18-nation Committee by including 8 neutral and Non-Aligned states (1962–1969) and subsequently became the Conference of the Committee on Disarmament (1969–1978) with the addition of another 13 members. This has enabled the CD to adopt its own agenda and rules of procedure, though linkages with the United Nations have become closer since 1978. Since the CD came into its current form in 1978, the membership has been expanded through two decisions of the Conference and now stands at 65 states.

49 General Assembly, *Convening of the fourth special session of the General Assembly devoted to disarmament*, UN document A/RES/61/60, 3 January 2007.

50 Security Council, UN document S/RES/1887, 24 September 2009.

and impacts are few and far between, and its efforts have become quite ritualistic.

- **Meetings of States Parties**, usually held annually, have had mixed results in recent years. Such events tend to have cumbersome decision-making mechanisms, use laboured practices and procedures for report writing, and lack the means of making urgent—that is, out of session—responses to extraordinary challenges to their regimes. Those meetings which proceed on the basis of taking decisions only by **consensus** have often found that that when consensus is actually achieved the outcome is so watered down that it amounts to a “lowest common denominator” product.



## Annex 2

### A case study: a new instrument on nuclear disarmament<sup>51</sup>

1 There is a valid question whether the Ottawa or Oslo approach could be replicated in relation to weapons of far greater potency than landmines and cluster munitions. While it is feasible that like-minded states could drive a process that did not include the United States, Russia, China, India and Pakistan on certain egregious conventional weapons, would it be realistic to initiate the negotiation of an *instrument on nuclear weapons* if the states possessing nuclear weapons were not part of the process? Answers to this question involve several considerations.

2 First, it should not be concluded that the nuclear-weapon-possessing states would be insensitive to public pressures to participate in negotiations potentially having an impact on their nuclear arsenals. Indeed, verifiable reductions might serve their respective national interests—for example, strong verification mechanisms accompanying a ban on the production of fissile material might help alleviate certain tensions between Pakistan and India.

3 Secondly, even if the nuclear-weapon-possessing states opted out of negotiations of, for instance, a first-use or a nuclear-weapons abolition treaty, that is not to say that domestic pressures on several of them would be readily deflected. Some, if not all, nuclear-weapon-possessing states would be sensitive to the kind of stigmatization that, in the case of landmines and cluster munitions, was a result of the Ottawa and Oslo processes.

4 So what lessons drawn from these processes could realistically be applied to non-conventional weapons? Recently, the Norwegian Foreign Minister stated:<sup>52</sup>

There are of course some critical differences between the nuclear disarmament agenda and the agenda that led to the ban on land mines and cluster munitions.

But at the same time, there are some key, shared lessons to be learned. For example, experience from humanitarian disarmament should guide us on how to pursue and negotiate disarmament issues in general.

And if we are to achieve results within a reasonable timeframe, we cannot allow those who want the least to set the pace. This is actually what is happening in most of the traditional negotiating bodies that were set up in the post-World War II era and during the Cold War, when the world was very different.

Some maintain that consensus is vital when it comes to nuclear disarmament. I am not fully convinced. I believe it would be possible to develop norms against the use of nuclear weapons, and even to outlaw them, without a consensus decision, and that such norms will eventually be applied globally.

We cannot leave it to the nuclear weapon states alone to decide when it is time for them to do away with these weapons. Their destructive power would affect us

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51 This case study is offered not as an exhaustive analysis but as a stimulus to discussion.

52 J.G. Støre, “Disarmament—reframing the challenge”, 45th Annual Conference of the Norwegian Atlantic Committee, Oslo, 1 February 2010.

all if put to use—and their threat [continues] to affect us all—therefore they are everyone’s business.

So, taking a comprehensive and innovative disarmament approach means that we do not allow ourselves to be at the mercy of an unwilling—and often small—minority.

5 Norway’s point is that “international efforts to ban or regulate a particular weapon must also address the effects of the weapon, and not just its intended use. In this way, the focus has turned to the humanitarian consequences. This, in turn, reflects a new understanding of security, as an issue that directly affects human beings and their communities”.<sup>53</sup> Or, as put by the International Commission on Nuclear Non-proliferation and Disarmament (ICNND), “because of the grotesquely inhumane and enormous impact of nuclear weapons ... the single most important thing is to prevent their use and the most certain way of achieving that objective is to eliminate them completely; and ... the best way of achieving that in practice—motivating like-minded governments and civil society alike—would be negotiations conducted through a humanitarian and human rights-focused process”.<sup>54</sup>

6 Significantly, this point of view—asserted strongly at the 2010 NPT Review Conference by Norway and Switzerland—was reflected in the action plan for nuclear disarmament, agreed in the Conference’s final document.<sup>55</sup> The document recorded that: “The Conference expresses its deep concern at the catastrophic humanitarian consequences of *any* use of nuclear weapons, and reaffirms the need for all States *at all times* to comply with applicable international law, including international humanitarian law”.<sup>56</sup>

7 Commenting on the notion of stigmatizing nuclear weapons as inhumane and unusable, Rebecca Johnson, Director of the Acronym Institute, has drawn this analogy with agreements on other weapons of mass destruction:

Before the treaties prohibiting the production and possession of biological and chemical weapons were agreed (in 1972 and 1993, respectively), nations took the important first step of declaring that the use of such inhumane weapons would be considered a crime against humanity. If a similar step were taken now to ban the use of nuclear weapons, it would greatly strengthen non-proliferation and disarmament efforts.<sup>57</sup>

8 Is this just wishful thinking? As the ICNND remarked:

The Commission doubts ... whether [a nuclear weapons convention] can be of much immediate utility as a “campaign treaty” on the model of the Ottawa and Oslo processes. The primary difficulty is that the issues it addresses are simply too complicated and too controversial—certainly for all the existing nuclear-armed

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53 Ibid.

54 *Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers*, ICNND, para. 20.18; see also K. Berry et al., *Delegitimizing Nuclear Weapons: Examining the Validity of Nuclear Deterrence*, James Martin Center for Nonproliferation Studies, 2010, p. 41.

55 See the Final Document of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, UN document NPT/CONF.2010/50 (Vol. I), 2010, pp. 19–29.

56 Ibid., para. I.A.v., p. 19. (emphasis added)

57 R. Johnson, “Beyond Existing Treaties”, *eJournal USA*, vol. 15, no. 2, Bureau of International Information Programs, US Department of State, 2010.

states, but for many others as well—to be able to command the immediate broad-based support from governments that has been characteristic of the other vehicles mentioned and made them so practically useful.<sup>58</sup>

9 Has not the outcome of the 2010 Review Conference for the Treaty on the Non-Proliferation of Nuclear Weapons demonstrated that the nuclear-weapon states, 40 years after the entry into force of the Treaty, are reluctant—to greater and lesser degrees—in their responsiveness to the views of the vast majority of the international community? Their resistance to and modification of the drafts of the nuclear disarmament chapter of the final document of that Review reinforces the sense that the nuclear-weapon states prefer to focus on non-proliferation rather than nuclear disarmament, justifying their slow rate of disarmament by the tense current strategic environment.

10 Yet despite resistance, the final document did include mention of a nuclear weapons convention. As that document underlines, getting rid of nuclear threats requires not only concrete disarmament steps but also the establishment of “the necessary framework to achieve and maintain a world without nuclear weapons”.<sup>59</sup> Johnson draws this conclusion:

The action plan on nuclear disarmament as well as the inability of the NPT machinery to deal with noncompliance and to strengthen its own safeguards agreements, as illustrated in what was left out of the final document, make it now clear to everyone the need to initiate a process leading to negotiations on a nuclear weapons convention that will do away with the NPT distinction between nuclear haves and have-nots and comprehensively ban nuclear weapons for all.<sup>60</sup>

11 This paper makes no attempt to examine the political considerations affecting the *feasibility* in the current security environment of initiating a process of the kind urged by Johnson. But, taking the negotiation of a new instrument on nuclear disarmament as a case study through which to offer insights into this examination of disarmament machinery, what are the options for such negotiations?

12 For reasons already mentioned, the CD would be an inappropriate forum for the negotiation of a nuclear weapons convention unless it had developed a more flexible practice on the application of the consensus rule or developed less complicated approaches to programming its activities, working, instead in plenary sessions. There is also the question of CD membership. While its sixty-five members usefully include all the states that possess nuclear weapons, its relatively limited membership is a source of irritation among non-members, although this did not adversely affect negotiations during its heyday. The Disarmament Commission, however, though fully representative of UN membership, is a deliberative body only. The non-party status of India, Israel and Pakistan and the purported withdrawal of the Democratic People’s Republic of Korea renders the NPT framework inadequate for the negotiation of nuclear weapon issues.

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58 *Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers*, ICNND, para. 20.41.

59 Final Document of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, UN document NPT/CONF.2010/50 (Vol. I), 2010, para. I.B.iii., p. 20.

60 See R. Johnson, “NPT one week after consensus adoption of agreed document”, Acronym Institute, 2010, <<http://acronyminstitute.wordpress.com/2010/06/07/npt-one-week-after-consensus-adoption-of-agreed-document/>>.

# UNIDIR RESOURCES

## About UNIDIR

The United Nations Institute for Disarmament Research (UNIDIR)—an autonomous institute within the United Nations—conducts research on disarmament and security. UNIDIR is based in Geneva, Switzerland, the centre for bilateral and multilateral disarmament and non-proliferation negotiations, and home of the Conference on Disarmament. The Institute explores current issues pertaining to the variety of existing and future armaments, as well as global diplomacy and local tensions and conflicts. Working with researchers, diplomats, government officials, NGOs and other institutions since 1980, UNIDIR acts as a bridge between the research community and governments. UNIDIR's activities are funded by contributions from governments and donor foundations.