UNIDIR/92/60

UNIDIR
United Nations Institute for Disarmament Research
Geneva

Disarmament and Limitation of Armaments: Unilateral Measures and Policies

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UNITED NATIONS
New York, 1992

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UNIDIR/92/60

UNITED NATIONS PUBLICATION

Sales No. GV.E.92.0.23

ISBN 92-9045-067-3

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2. Promoting informed participation by all States in disarmament efforts;

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Preface

The mandate of UNIDIR, as contained in its General Assembly-approved Statute, requires that the Institute provide the international community with more diversified and complete data on disarmament issues, while promoting informed participation in negotiations and disarmament efforts, assisting ongoing negotiations via objective studies and analyses, and carrying out in-depth and forward-looking disarmament research. Apart from executing this mandate through research projects, conducted by individual researchers or multinational teams of researchers, UNIDIR also holds conferences, seminars, and symposia. We firmly believe in the importance of testing ideas and proposals in the crucible of discussion and debate among peers drawn from different disciplines and nations. The objective is not to arrive at a consensus document, but rather to enrich the harvest of ideas and to achieve an interchange of opinions. Disarmament and security are vitally important issues linked to the survival of mankind and nation states. They demand that the best available intellectual talents and efforts be invested in finding ways and means to achieve equal and collective security, through general and complete disarmament, under strict and effective international verification.

We are in what the United Nations has declared to be the Decade of International Law. As its own contribution to the observance of this decade, UNIDIR will be examining the relationship of international law to disarmament. The topic of this report is the first of the projects we have in mind for this programme. We are fortunate to have been able to assemble such an eminent group of experts.

It is useful to remind ourselves that unilateral measures for disarmament are not new. For some time, they have been recognized as having a role in disarmament. The final document of SSOD1 made a brief reference to the fact that unilateral measures could contribute to attaining the goal of limiting the arms race. In 1985, the United Nations published a study on unilateral nuclear disarmament measures. There is a section of that study that I would like to quote, and which is still relevant today, despite the vast changes that have occurred in the international situation since it was written. I quote, "There is no either/or choice between unilateral and negotiated measures of disarmament. Both are needed in view of their complementary nature". I think we all understand that unilateral measures, at the purely declaratory level for propaganda purposes, are unsatisfactory. However, concrete steps, taken unilaterally by Governments, alliances, or groups of countries, certainly have an important role as an initial step in the disarmament process. We need to discuss what supplementary steps are needed, recognizing that unilateral measures, unless translated into domestic law, are not legally binding, nor are they verifiable in the international community. Another obvious weakness lies in their reversibility. In other words, unilateral measures are more easily withdrawn or reversed than negotiated disarmament agreements. The advantages of unilateral measures, as positive demonstrations of political will, especially in times of uncertainty, and as a momentum activator for disarmament, are indisputable. They also reduce the time spent on bilateral or multilateral negotiations. They could constitute a valuable confidence-building measure. Most importantly, today they can be implemented outside the confrontational bipolar context of the past. A series of unilateral measures can form a solid foundation for negotiated multilateral disarmament agreements.

I must thank the Centre de Recherche Internationale (CRI) from the University Panthéon Assas (Paris II) for joining UNIDIR in this collaborative venture. It was also a pleasure for UNIDIR to hold this symposium in UNESCO, our partner in the United Nations system, whose own work in the cause of disarmament and peace is well known.

Jayantha Dhanapala, Director

List of Acronyms

ABM	Anti-Ballistic Missile
CANDU	Canadian Deuterium-uranium (reactor)
CD	Conference on Disarmament
CFE	Conventional Armed Forces in Europe
CMEA	Council for Mutual Economic Assistance
COCOM	Co-ordinating Committee
CONMAROPS	Concept of Maritime Operations
CORRTEX	Continuous Reflectometry for Radius Versus Time Experiments
CRI	Centre de Recherche Internationale
CSBM	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe
CTB	Comprehensive Test Ban
CW	Chemical Weapons
CWC	Chemical Weapons Convention
EPCI	Enhanced Proliferation Control Initiative
GPALS	Global Protection Against Limited Strikes
GSETT	Group of Scientific Experts Technical Tests
IAEA	International Atomic Energy Agency
ICBM	Intercontinental Ballistic Missile
IMF	International Monetary Fund
INF	Intermediate-Range Nuclear Forces (Treaty)
MIRV	Multiple Independently Targetable Re-Entry Vehicle
MTCR	Missile Technology Control Regime
NATO	North Atlantic Treaty Organization
NPT	Non-Proliferation Treaty
OOA	Out of Area
PNET	Peaceful Nuclear Explosions Treaty
SALT	Strategic Arms Limitation Treaty (Talks)
SDI	Strategic Defence Initiative
SLCMs	Sea-Launched Cruise Missiles
SLOCs	Sea Lines of Communications
SSOD	Special Session on Disarmament
START	Strategic Arms Reduction Talks (Treaty)
TNW	Tactical Nuclear Weapons
TTBT	Threshold Test Ban Treaty
UNSCR	United Nations Security Council Resolution
WEU	Western Europe Union

Introduction

Serge Sur

Unilateral measures in the field of disarmament and arms limitation: we should probably begin with a definition. Finding one is more complex than it might appear, for the expression covers several quite different attitudes. As far as purpose is concerned, it is relatively simple to contrast them with measures in support of the arms build-ups that form part of States' defence or security policies and usually serve to set off or sustain an arms race. To the extent that, historically, unilateral measures have most often taken this latter form, disarmament supporters still view them as being essentially negative in potential and thus they are not a priori looked on with favour. But they can also play a positive role and contribute to disarmament, for example through reductions in military budgets, cuts in armed forces, renunciations of particular types of weapons or tests, undertakings not to use certain modes of combat, or security guarantees for third parties. In practice there have been numerous, though sporadic, examples, which have not really been accounted for by any theory.

For the purposes of this exercise, unilateral measures are understood to be the positions, statements, attitudes and behaviour that States adopt on their own, with no external participation, and can directly apply by and for themselves without negotiations or reciprocal gestures. This definition includes both measures that are legally binding on the State or States concerned, which involve an actual commitment, and those of an uncertain or temporary, reversible nature, whose implementation depends on States' will alone. The former have a genuine international status; the latter fall within the realm of domestic action, States' control over their own behaviour and domestic legislation.

These measures can be approached and analysed through a series of approximations: by situating them in the general disarmament context (I); by illustrating the dialectical relationship between them and negotiations and treaties in the field (II); by describing their diverse functions (III); and lastly, by defining possible criteria for classifying them (IV).

I - General Considerations

The role of unilateral measures in the field of disarmament and arms limitation has long been viewed with a mixture of disdain and distrust, at least by most experts and officials.

Disdain because they are accorded neither the same consideration nor the same importance as agreements, the contractual commitments resulting from negotiations, laid down and solemnized in international treaties. The latter appear to represent the preferred path to disarmament. Thus the Final Document of SSOD 1, which since 1978 has embodied the official United Nations philosophy in this field, devotes most of its copious text to negotiations and agreements. Unilateral measures are a side issue.

Distrust, to the extent that reference to such measures often appears to connote some measure of delusion and naïveté, or deception and propaganda.

Delusion when pacifist movements with no real responsibility hail them on - albeit on respectable principles but at the risk of sacrificing rational and legitimate security requirements. Tragically, history has shown what can happen to countries that engage in a unilateral arms reduction policy if their neighbours take it as an encouragement to their own aggressiveness. It is striking that many of the political movements in the democratic countries which clamour for unilateral disarmament measures or the renunciation of certain types of weapons change their position when there is a real prospect of their coming to power.

Deception when Governments, for propaganda reasons, make pseudo-commitments that have no other purpose than to make a show of good will and embarrass opponents or partners while winning over onlookers, and that are not verifiable to boot. This is often the case, or in any event the risk is inherent with the declaratory measures that have so often hindered disarmament forums, gambits in the crooked poker game that sometimes characterizes multilateral negotiating bodies.

These initial and largely unfavourable impressions, however, should be brought into perspective. Unilateral measures do not belong only among the delusions of ingenuous pacifists or the range of ploys available to cynical Governments. They have always had an important specific role. Disarmament or arms reductions, like the arms acquisition that is their counterpart, depend primarily on the security policy of the States concerned. As such they are tantamount to unilateral decisions shaped by these States, security considerations, of which they are essentially the judges.

Managing disarmament through treaties or international agreements is certainly a more elaborate technique that offers more solid guarantees. It also functions in a more collective security context, where the interests of the various sides are brought into harmony instead of confrontation. But the very difficulty of the exercise and the relatively low number of agreements in force makes it impossible to identify this approach with the business of disarmament as a whole. Changes in arms policy, a decline in perceived threats, the obsolescence of certain types of equipment, the realignment of States' objectives, metamorphosing forms of power and still other factors, separately or cumulatively, lead to individual and, as it were spontaneous arms reduction measures, or to restrictions below the thresholds at which an arms race can develop. Thus unilateral behaviour, far from being unrelated or merely incidental to the business of disarmament, is in reality the backdrop to it. The 1978 Final Document (in paras. 77 and 93 (b), for example) acknowledges their role in the prevention of new, more destructive, weapons systems.

On another level, such measures have generated sustained interest from the theoretical or abstract point of view. Lawyers in particular have given thought to unilateral acts, the conditions in which they might express a commitment by the State and the consequences of such a commitment with respect to other States. In practice we have had several examples, including promises - as for example unilaterally-offered guarantees and renunciations as in the area of nuclear tests. But interest is not limited to this legal approach. These measures must also be analysed from a strategical and political point of view, and here concerns become more practical.

Thought may be given to the economy of means represented by such measures, which can avoid lengthy and costly negotiations, and whose substance and scope are fully controlled by the State enacting them, and coincide by definition with its interests as it perceives them.

Such a line of reasoning has some very real implications now that unilateral measures are unexpectedly being revived. Unilateral reductions are flourishing at a time when major bilateral, regional and multilateral conventions - such as INF, START, CFE and Open Skies and the promised chemical weapons convention - are reaching a conclusion. They coincide with rapid and unforeseen changes in the international context which conjure up a post-war era without open conflicts, and a sudden end to the policy of armed confrontation in which displays of fighting strength and battles of military plans and programmes replaced real clashes.

In a way there was a war, but without head-on combat: rather through a symbolic confrontation of stances, or through conflicts in which the main participants took each other on indirectly, carefully limiting the intensity of their jousting. This kind of thing is no longer in vogue, and an entire style of muscle-flexing has disappeared along with the dialectic that engendered it. The replacement of the concept of threat by that of risk in the vocabulary used to discuss security is indicative of this revolution in how problems are perceived. While a threat can be identified as to source, object, intensity and purpose, risk is a more abstract perception of a danger neither the source, object nor contents of which are identified a priori. This cannot but have major

consequences for disarmament as a whole. The change should in principle accelerate it, but also narrow the range of forms it takes and blur its prospects.

This blurring of prospects - of the future state of international society, the order of importance of the problems it will face, the very identity and the relative strengths of the partners, the new balance between forces for change and stabilizing mechanisms, the resources committed and the respective roles of States and international institutions greatly affects the status and dynamics of international conventions.

As regards status, one finds that agreements with a lengthy tradition behind them, the pillars of conventional arms limitation, are being called into question or even left behind. The NPT, which appeared virtually certain of renewal after 25 years of good and trusty service, is being challenged on two accounts: on the one hand, the Iraqi affair showed that the safeguards it provides are insufficient; on the other, its response to the growing risks of proliferation is less than adequate. The Convention on the Prohibition of the Development Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction also raises questions and doubts as regards both implementation and verification. As for the recent treaties, even before legally entering into force, they are in some respects out of date. One must wonder whether the break-up of the USSR and the uncertainty over its continued existence or what will succeed it will not undermine the lengthy efforts to conclude the START and CFE agreements.

One must wonder also whether the process of treaty-making - the agreements now in prospect or under negotiation - has not lost momentum. There is clearly a risk of its losing steam, both politically and technically.

Politically speaking, the uncertainties and growing instability of international society are weakening the very bases for any negotiation. A treaty must not only guide and structure future relations. It must also be built on sufficiently stable and solid foundations for the commitments made by the parties to be credible. Yet these foundations are lacking, though no doubt temporarily: even the partners, in Europe at least, are not always easily identifiable. The security context or system of reference which gives the agreed arms limitation measures their meaning, also varies greatly. Of course there is always some ambiguity. Even under a single, commonly accepted system of reference, there is still some room for fluctuation. Not everyone has the same interpretation of collective security, nuclear balance or deterrence, the principal systems applied. But this is a constructive ambiguity, which is both narrowed and clarified by the substance of the agreements. The current situation is quite different, and during the deconstruction phase that is developing, the reconstruction that will follow cannot be brought about prematurely by a continued act of will. Neither can we underestimate the role played, in the present context, by the United States' preference for unilateralism, its lack of enthusiasm for multilateralism and a tendency, reinforced by power, to mould the methods of international relations in its own image.

Technically speaking, the complexity of the issues involved can affect a treaty's usefulness. Limiting or prohibiting certain types of research or transfers of technology, or affecting dual-use activities, may be more a matter for domestic legislation than an international agreement. The very intrusive nature of the measures at issue implies that the State itself has control over the activities in question. Thus the actual taking of such measures, the international publicity given to them and the ability to have them enforced through internal procedures are the best guarantees. In addition, such measures may involve only a small number of countries and thus not justify recourse to multilateral negotiations.

Hence an expansion of current or foreseeable unilateral measures would in a sense be unilateralism by default default for lack of treaties, lack of the possibility or need to conclude an alternative international agreement - or because unilateral measures were better suited to the task. This is an assumption, but one that stresses that the relationship between unilateral and treaty-based measures is omnipresent, and merits thought.

II - Relationship Between Unilateral and Treaty-Based Measures

The types of regimes produced by these two categories of measures are opposite in appearance. It is worthwhile, however, to clarify where exactly the difference lies and how it can be decreased. Such an analysis demonstrates that even in a treaty-based regime, unilateral measures are omnipresent.

The Choice Between Treaty-Based Regimes and Unilateral Measures

Treaty-based regimes are understood here to mean not only treaties in the legal and strict sense of the word, *i.e.* instruments that bind parties under the principle *pacta sunt servanda*, but also negotiated instruments that are applied on a reciprocal basis. The confidence-building measures worked out in the context of CSCE fall under this heading. Thus treaties can be compared to unilateral attitudes without going into the legal nature of the commitment by the States concerned.

On first examination the treaty regime is strikingly better, and this is why it is preferred as a matter of principle. Of course the measures it lays down and the actions it entails, could also be taken through unilateral acts. But what a unilateral measure cannot contain is a commitment by the other party, or a stipulation which is what makes a treaty regime a mechanism for exchanging commitments binding the partner at the same time as it binds the State itself. In extreme cases, answering unilateral acts can achieve comparable results; when, for example, the SALT II Treaty did not enter into force after its conclusion in 1979, unilateral commitments by the USSR and the United States achieved the same results for 10 years or so. Thus a unilateral act can ultimately fulfil this mutual commitment function, but, it has to be acknowledged, in an incidental manner. Besides this specific case, there is the more general example of action taken under a treaty in anticipation of its official entry into force.

This essential advantage leads to an agreed channelling of behaviour. But it does not necessarily result in the establishment of genuine international mechanisms, *i.e.* procedures involving bodies independent of the parties in the implementation of the agreement, such as bodies to oversee and verify compliance with commitments, a court to settle disputes over their implementation and an external collective enforcement mechanism to deal with violation. Numerous proposals have been made along these lines, for example the idea of international agencies for supervision and verification. They would signify the crossing of a threshold, going far beyond the situation created by the current treaty regimes.

Current treaty regimes mostly leave it to the parties themselves to control the implementation and enforcement of their commitments, so that in many respects they are merely techniques providing a framework for unilateral measures. The agreed commitments are mutually dependent, but as long as they do not provide for international mechanisms external to the parties, they achieve only a rudimentary internationalization of disarmament and arms control. For the time being, this internationalization is only a potential one. The threshold might be crossed by the future chemical weapons convention, which would in every respect be a step forward in the business of disarmament.

Omnipresent Unilateral Measures in Treaty Regimes

The very existence of these regimes is, for the States concerned, a result of a unilaterally expressed commitment. Beyond this initial, founding act, the treaty regime produces only a very abstract change in the State's behaviour. In practice, the State, through its actions has to draw its own conclusions as to the obligations it has accepted.

- If the treaty so permits, implicitly or explicitly, the State can enter reservations authorizing it to alter and in fact unilaterally restrict the scope of its commitment. More generally, its freedom to interpret international instruments, unless explicitly transferred to an outside body, enables it to define its commitment with considerable latitude. One example has been the controversy surrounding the interpretation of the ABM Treaty. In such cases the distinction between treaty-based regimes and unilateral measures can become less than clear-cut.

- In implementing the regime, the State uses its own legislative, administrative and judicial means. These are crucial to the implementation of the agreement. To this extent, the effectiveness of the treaty regime is going to depend on the quality of the State's internal system. For example, article IV of the 1972 Biological Weapons Convention states that it is for each party to take any necessary measures for prohibition within its territory and under its jurisdiction. Thus it is for each State party to adopt the appropriate domestic measures. In practice very few have done so; conversely, the existence of such legislation independently of the Convention can yield comparable results - such as the 1972 French law which was brought forward as a substitute for accession to the Convention, and in a sense paved the way for France to become a party to the Convention in 1984.

Furthermore, this internal regime has to be implemented in its entirety; for example, legislation must be backed up by administrative or judicial measures to make it fully effective. Treaty regimes should spell this out if necessary. They could be considerably improved by a more precise indication and more careful supervision of internal implementation mechanisms. This aspect is no less important in practice than the development of international mechanisms proper.

- As for verification, with its two separate elements - monitoring and evaluating the behaviour of the other parties - most of the treaty regimes in force essentially leave the responsibility to each of the States concerned. Hence the recognition and protection of the role of national technical means. Existing international procedures, for example under the INF Treaty or the START agreement, merely provide for inspections conducted reciprocally by each party with its own means. Thus they are more an international means of channelling national technical means than a genuine international mechanism. The same is true of the conclusions as to compliance with the treaty that may be drawn from this organized monitoring: each party proceeds on its own behalf, and the position it takes derives from unilateral attitudes. One example was the face-off between the United States and the USSR over the compatibility of the Krasnoyarsk radar station with the ABM Treaty, which was only resolved by the USSR's acquiescence in the American position.

In these circumstances, one qualitative leap has yet to be made: not so much the creation of on-site inspection procedures as the establishment of an international mechanism independent of the parties and an external procedure for settling disputes over compliance with the Treaty. Without those elements, the framework remains one of possibly contradictory unilateral positions, which the existence of a treaty simply makes it possible to bring together by providing a common rule for reference and negotiation.

- Finally, regarding compliance with the Treaty by the other parties, and more exactly any violation of it, the unilateral attitudes of the State injured by the violation are also of considerable importance. Of course, the violation constitutes an international dispute which the parties must settle according to international procedures, especially negotiation. But in practice the difficulties in bringing such procedures to a successful conclusion may force the State that considers itself to be injured to take independently such conservatory or corrective measures as it feels appropriate to protect its interests.

Withdrawal from the treaty generally at short notice and on very broadly-defined grounds, is a weapon made available by most agreements. It can, however, be dangerous to use and may boomerang. In freeing itself from the treaty, the State recovers its freedom of action and ceases to be bound by obligations that have become unrequited burdens. But by the same token it releases its partner or partners. This may on the one hand bring it more advantages than disadvantages, and on the other, may in effect reward the State disregarding the treaty, whose attitude has led to the destruction of the instrument. If violations of treaty commitments led to the predictable disappearance of the treaties, what would remain of treaty law? Beyond the treaty at issue, the treaty procedure itself would be in danger of losing its meaning.

Thus legal theory and practice condone the concept of countermeasures, authorizing the injured State, without overstepping the bounds of a treaty, to take temporary measures enabling it to respond to the violation by protecting itself and bringing suitable pressure to bear on the partner. That was how the United States planned to react to the claimed violation of the ABM Treaty by the USSR, ruling out the option of withdrawal, and how it induced the USSR to acknowledge that building the Krasnoyarsk radar station was illegitimate. What countermeasures are, however, remains vague and poorly-delimited. Here, too, it would be a qualitative leap forward if a mechanism for collective reaction were established, taking enforcement out of the hands of individual parties by means appropriate to each treaty. The future chemical weapons convention looks set to attain this objective. This is perhaps no less important than the actual substance of the convention, considering the precedent it would set and the experience it should provide, even if it is to be hoped that its deterrent effect will obviate the need to use it.

Thus certain aspects of unilateral acts are closely bound up with treaty-based regimes, or rather the rudimentary state of many such regimes. However, unilateral measures also fulfil positive and diversified functions of their own, independently of any treaty.

III - Functions of Unilateral Measures

Our task is to identify functions rather than specific types of measures, for the same measures can fulfil several functions, some primary, others secondary, at once. First, in their simplest and most obvious function, they can define an attitude that a State adopts of its own accord, for its own benefit and with effects concerning it alone; second, they can combine with this basic function a more outward-oriented mission when some form of reciprocity is expected; lastly they can be designed chiefly for external effect on other States. Thus, though usually oriented towards the State taking them, they can affect third parties, by seeking reciprocity or independently of any reciprocity.

Unilateral Action for One's Own Benefit

In this approach, a State adopts attitudes, makes statements or behaves in such a way as to bring about restrictions on its own weaponry and help along the overall business of disarmament. Thus, like the United States in 1970, a State renounces biological weapons and destroys any elements it might possess; like France in 1972, it passes a domestic law imposing a prohibition on itself; like France in 1974, it suspends nuclear tests in the atmosphere; like the USSR in 1982, it states that it is renouncing the first use of nuclear weapons. More generally, a country may trim its military spending, cut its armed forces or change its security posture to a more defensive one. This is the case, for example, with nuclear deterrence, which controls arms through a purely defensive strategy and is posited on their non-use. Although basically unilateral, nuclear deterrence thereby becomes a nuclear arms control policy in itself.

Such measures are not unusual and account for a great number of arms limitation, on a spontaneous basis, as it were. They reflect constant adjustments in a State's perception of its

security needs and are achieved at its own initiative, with neither consultations nor conditions. They have the advantage of flexibility, rapidity of implementation and consonance with the needs of the State adopting them. They demonstrate that arms limitation is of a piece with the State's security requirements as subjectively defined, since the State itself has struck the balance between them.

Their existence emphasizes the positive role of unilateral measures. States' unilateral policies are generally perceived as being synonymous with arms build-ups, implying an inherent risk that disarmament will be sacrified. It is true that such measures did much to spur the arms race, and that spectacular decisions such as the deployment of the SS 20s in Europe, followed by the installation of the Pershing missiles, or the Strategic Defence Initiative which dominated the strategic debate from 1983 to 1987, highlighted the prospects of accelerating military competition and were related to disarmament only in a negative sense. But the upshot, partly unexpected and not one to take as a precedent, was instead a positive contribution to disarmament with the INF Treaty of 1987 and the 1991 START agreement.

Beyond these specific examples, more generally, one may take it that States allow for the need for arms limitation in their policies, and that treaties are necessary only to the extent that such self-control is not sufficient. The arms race is a bitty and fragmented phenomenon, like conventional arms limitation itself, which complements rather than brings about limitations that are to a large extent arrived at spontaneously through the convergence of individual decisions. Hence unilateral action for one's own benefit has a spontaneous spin-off and promotes a virtuous circle of arms limitations.

It has some considerable shortcomings nevertheless. On the one hand, there is little guarantee that it will be long-lived: measures adopted today can be reversed tomorrow. It is difficult for such action to establish the certainty and stability that lie at the root of security. On the other hand, such measures usually do not include specific verification procedures, and their implementation depends entirely on the goodwill of the State that takes them. They can be supervised or evaluated only by the various national means available to other States. Lastly, they do not derive from a clear and, above all, shared understanding of international security. They define the individual security of the State as it conceives it, possibly to the detriment of other States' security, and lend themselves to ambiguous interpretations. The worst-scenario game tends to emphasize not their positive potential but their shortcomings, in that they can be reversed and are difficult to verify. Motives can always be imputed, and reasoning in capacity terms naturally leads one to consider only the negative aspects. What they do not do is noticed more than what they do, and there is often a temptation to view them simply as propaganda.

Unilateral Action in Expectation of Reciprocity

In a broad sense all the measures under review belong under this heading. They all are part of a context where the State must evaluate and if possible anticipate its partners' reactions. Even if it acts alone and asks for nothing specific in return, it is reckoning on a few positive changes, without negotiations, through a sort of spontaneous adjustment: limiting bilateral tension, improving a diplomatic position, ending isolation, etc. ... Thus the USSR, after announcing various unilateral reductions in 1989, requested some reciprocal action from the Western countries, although not making it a condition. But there is a narrow meaning to the reciprocity expected, and this is the one being considered here.

The narrow meaning relates to measures taken temporarily or conditionally, the price of their continuation being an answering move which may or may not be specified: for example, moratoriums on nuclear testing in the expectation of an equivalent attitude on the part of the other nuclear Powers. Another example is compliance with an agreement not in force so long as the other signatory or signatories also comply. There can also be more general answering moves, leading to

a change in the disarmament situation - for example, the announcement that a reservation to the 1925 Geneva Protocol will be withdrawn as soon as the chemical weapons convention is concluded, or that manufacture of chemical weapons will cease immediately on the same basis.

These measures tend to establish an accelerated and simplified form of agreement, even if not spelt out in a formal instrument. They are more a kind of public negotiation at one remove whose outcome is anticipated or, more precisely, whose anticipated potential results are applied for the time being. They are not mere proposals but commitments, even if temporary or conditional, on behaviour. The idea is basically to give more substance to purely rhetorical proposals, to show by one's own attitude the seriousness of the proposed commitment, which remains uncertain or conditional nevertheless. Such measures can operate either in the framework of open negotiations, which they tend to revitalize, or outside any negotiation. Thus they are either an element of or a substitute for negotiations. The former category would cover measures concerning chemical weapons, and the latter, France's recent suspension of its underground nuclear tests, for example.

This is particularly useful under current circumstances, for it can simplify and speed up negotiations, or even obviate them altogether, at a time when it is especially difficult to identify the partners, bodies, or even the specific topics for an agreement. Thus such measures are very suitable for periods of transition and instability, when established negotiating bodies are apt to find themselves in an awkward position. They can give new political impetus to a process that is necessarily becoming bogged down in red tape and routine. Important and lengthy negotiations, whether bilateral, regional or multilateral, are always in danger of losing their cohesiveness because they tend to result in an exhaustive account of the obstacles to be overcome without themselves being able to overcome them. A particularly telling example is the measures affecting nuclear weapons announced by the United States in September 1991, and the subsequent Soviet reactions.

An absence of negotiations on questions thought to be too delicate can be partially offset by a unilateral policy of restraint: a decision not to deploy certain short-range missiles or to modernize certain forces can limit the disadvantages of a lack of agreement on the subject. It side-steps the difficulties of a formal entry into negotiations by avoiding discussion over the choice of partners or exposure to a demand for concessions that it might not be possible to control.

Unilateral Action for the Benefit of Others

On first examination this function is paradoxical, since the measures are not primarily designed to affect the State or States adopting them but third parties whose agreement is not sought. In essence, the effect is to apply pressure, for the tendency is to make those others accept obligations or constraints to which they would not subscribe spontaneously. It is easy to see why such measures are extensively used in relation to the various aspects of non-proliferation.

A certain resemblance to treaties should be stressed here. From the point of view of third parties, treaties appear to be very like collective unilateral acts. Treaties cannot be used against States that are not parties to them, but they cannot fail to exert some influence over their behaviour. This is true of the partial test ban instituted by the 1963 Treaty with respect to States not parties to it, and of the 1968 NPT for non-signatories. The extent of the regime they define and the number of participants can induce non-parties to enforce them in practice, even to do so on the basis of unilateral commitments and ultimately to become parties to them. The changing attitudes of France and China towards the NPT is a good example. However, it is not necessary for the treaty involved to be a widely-accepted multilateral one. The ABM Treaty, although bilateral, defined a regime of antiballistic weapons restrictions which it would be quite difficult for third parties to ignore, at least as long as the United States and the former USSR respect it themselves.

We are considering only State measures here, not measures taken by international organizations for example the Security Council in the maintenance of international peace and

security. The Council's action in the Iraq-Kuwait affair was shaped by different considerations entirely. There have been various examples of such State measures, sometimes individual but more often collegial, whose import has been basically external. Being collective simply tends to make them more effective, limit the risk of circumvention and further their implementation. But they are certainly perceived as being unilateral by those uninvolved in their enactment upon whom they impose a burden. Other examples are the London Club in nuclear matters, the Australia Group in the chemical area, the Missile Technology Control Regime (MTCR) to prevent the proliferation of missiles, and COCOM, which comes from a more openly conflictual background.

The measures respond to two kinds of consideration: preventive, when proliferation is to be forestalled; and corrective, which is also more openly coercive, when the intention is to limit the capacities of States singled out as adversaries. To some extent, this distinction corresponds to the distinction between risk and threat. With preventive measures, the tendency is to reduce a potential which in itself poses dangers without those dangers being linked to a specific State; with corrective measures, the specific aim is to reduce the capacity to do harm of States considered to be threatening because of their military policy, or their political system, or their open hostility. The result is a difference in technique. Preventive measures can seek cooperation from the States they affect and offer them something positive in return. Corrective measures do not seek the assistance of the targeted States, and their objective is broader than technologies with military applications.

Preventive measures of the London Club, Australia Group or MTCR type can come into play in the absence or in support of a treaty regime, as with the London Club and the NPT. It is doubtful, however, whether MTCR, even if it is extended to some importing countries and thus becomes at least partially consensual, can spawn and safeguard a multilateral regime for the non-proliferation of missile technology. As for the Australia Group, its future is uncertain, given the prospective entry into force of the chemical weapons convention. These unilaterally-defined measures are decidedly discriminatory. They thus run the risk of being circumvented by States that accept neither their objectives nor method. Their effectiveness can only be relative. But they make it possible to identify recalcitrant countries, by emphasizing the difference between those that accept the limitations and those that reject them. This identification can, if necessary, lead to more specific measures against them, more like corrective measures, and thus the first category can lead to the second.

Corrective measures of the COCOM type reflect a philosophy of confrontation, not cooperation. Thus they tend to depart from the spirit of disarmament and arms limitation, maintaining military or technological superiority over countries considered to be adversaries. They could be brought back within the disarmament philosophy if they were based on general, objective criteria without aiming at any State or group of States in particular, but instead buttressing generally-accepted obligations. Their unilateral nature would be sharply attenuated.

These could be seen as the foundations of a regime for implementing and guaranteeing universal obligations in the chemical, biological, nuclear or other agreed fields. Such an adaptation of their spirit and technique would require them to become truly international, and presupposes procedures and mechanisms that are not at the discretion of the countries applying them. Such a development would imply a preference for multilateralism. The real choice is not between unfettered liberty and unilateral coercion, but between unilateral coercion and widely-accepted multilateral regimes. Hence unilateral measures are only stop-gap measures reflecting a lack of consensus on the objectives of and best routes to disarmament and arms limitation.

IV - Classification

The classification that follows makes no claim to be complete or final. Such a task would not only be academic and tedious, but impossible. Distinctions could probably be refined, teased out and

enriched. Practice will shape other categories in future by developing other potentials. Nor do we seek to advance a theory accounting for these measures, which require consideration from several points of view: the legal position, their substance, the context in which they operate and the conditions under which they are enacted. We would simply like to illustrate the diversity of unilateral measures in terms of certain chosen criteria. The various points of view can be considered separately.

Binding and Non-Binding Measures

Certain measures can legally bind the State that enacts them, while they remain unilateral and not buttressed by the acquiescence of any outside party that could make them the basis for an agreement. The International Court of Justice had an opportunity to make this explicit in a judgement rendered in 1974, following an application by Australia and New Zealand concerning French nuclear atmospheric testing in the Pacific. There is no need here to dwell on the specific relevance of its decision to the question at issue, which remains controversial because of the specific facts in the case and the procedural difficulties with which the Court had to deal. But the principle was firmly upheld that a unilateral commitment by a State had international legal authority in respect of that State excluding any discretionary right of withdrawal or modification.

Numerous questions remain open, such as the attitude of third parties and the conditions for renouncing a commitment, which can hardly be more final than a treaty. But it is clear that in principle certain unilateral measures are not reversible, and the State that adopts them is then legally bound to comply with them. Among other things, they should be verifiable. Nevertheless, the positive identification of such measures can be a delicate matter. Of course, it may be stated in principle that when the State concerned acknowledges or states that it intends to enter into a commitment, the commitment acquires binding significance for it. The same is true when cognizance of the obligation is taken by a third body that can itself take decisions, such as a competent international court. In addition, there is the case of estoppel, when a State can no longer go back on a freely-adopted attitude that has determined the behaviour of third parties acting in good faith.

Measures not binding on those enacting them, which are more numerous, include conditional or temporary measures, or the diverse internal provisions relating to arms policies - reductions in military spending and changes in strategic postures, which can be altered by new internal provisions. Voluntarily adopted confidence-building measures which have affect on third parties, without entitling them to continuation of the measures concerned are in a somewhat special position. The mechanism formalized on a consensual basis by the Helsinki Final Act could probably be applied to them. Even if the State in question is not legally bound, it is practically speaking very difficult, even impossible under normal circumstances, for it to go back on behaviour taken into consideration and approved by the other States concerned. Thus these measures are politically binding without being fully established legally.

Declaratory and Operational Measures

Declaratory measures have no other immediate effect than a rhetorical one, and their practical effect remains potential. This is the case of positions such as the renunciation of first use of nuclear weapons, as formulated by the USSR in 1982, or the renunciation of first use of nuclear weapons against non-nuclear Powers as expressed by other nuclear Powers. Do they amount to anything more than announcements? If they were held to be legally binding, would this obligation prevail if necessary over the "natural" or "inherent" right of self-defence? In any event their credibility is

more a product of their context than their intrinsic authority, especially as they involve no specific alteration in the capacities of the Powers concerned.

As for operational measures, they have a specific effect and pre-suppose an immediately perceptible change in the behaviour of the country enacting them. Hence moratoriums on testing, compliance, even temporary or conditional, of a treaty that is not in force, or cuts in forces or weapons. Despite their reversibility and thus their fragility, these measures imply a modicum of spontaneous and immediate implementation which lends them definite interest.

Promises and Renunciations

Promises involve, if not a positive effect, at least an active one, in the sense that they imply an act on the part of the country making them; renunciations have simply a negative effect, as with the renunciation of nuclear tests, decisions not to transfer weapons or commitments not to acquire or manufacture certain types of weapons. It is clear that in disarmament or arms limitation matters, unilateral measures consist more of renunciations than of promises.

One should not be misled by the term "promise": a promise may actually involve putting pressure on a third party by denying an advantage or withdrawing a right if it refuses to comply with certain conditions. Thus transfers of technology can be made dependent on compliance by the beneficiaries with restrictions on its use. The positive content is more limited and often relates more to security than disarmament. For example, when a State renounces the acquisition of certain types of weapons, it may obtain a guarantee of assistance from a third party in return.

Measures Taken with Respect to an Instrument or with Respect to a Situation

In the former case, there is an international arms agreement and the State in question, although not a party or otherwise bound by it, unilaterally defines its attitude towards it. Thus a State that is not a party to the NPT may declare that it will comply with its provisions, or, as in the example of the United States and the USSR with the 1979 SALT II Treaty, two States may provisionally honour an agreement that is not in force. These attitudes are not necessarily binding on the State that adopts them. They can, however, constitute an informal mechanism for strengthening a treaty or even preparing for subsequent accession. They are one element in the interplay of unilateral and treaty-based approaches that always lies behind unilateral measures.

Measures taken in the light of a given situation are closer to the general case where States freely evaluate the circumstances while reserving the option to adapt their future behaviour to developments - to go back on a cut in military spending or limits on certain arms programmes. They are in principle more fragile than the first type of measure, since circumstances can change but so can one's evaluation of them. Thus States are particularly reluctant to make binding commitments in such a setting. They are more apt to do so in the context of a pre-existing instrument which offers a certain stability and creates the conditions necessary for its own stability.

Individual and Collective Measures

Individual measures are those taken by one State alone, or by several States acting separately, each on its own behalf. Collective measures, more complex and ambiguous, are adopted by a group of States acting together. This has two consequences. On the one hand, they are of a mixed nature, since, in relations between the States enacting them, they have the nature of an agreement. On the other hand, they are basically designed for external effect, outside the circle of States enacting them. In this respect their unilateral nature is the prime consideration. They are chiefly concerned with

non-proliferation but, when their purpose is preventive, they can lead to an agreed general regime bringing together exporters and potential importers. It can be in the latter's interest to agree to participate in such a regime or even to accept certain verification measures if they obtain something in return. Thus the consensual aspect of these collective measures can expand and provide, at least in theory, the beginnings of a genuine multilateral regime.

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It is thus very difficult to consider unilateral measures in isolation. They are permanently and variously linked to treaty-based relations, and hence their unilateral nature is a qualified one. On the other hand, they fully belong, in their various forms, within the arsenal of disarmament and arms limitation techniques. As such they can fall within various categories - arms limitation, disarmament, arms control, or even confidence-building measures - or straddle the borders between them.

Part I

Reports

Unilateral Disarmament and International Security

Ednan Agaev

Approaches to Guaranteeing National and International Security at the Present Juncture and the Role of Disarmament

Far-reaching qualitative shifts are taking place in world politics and the whole system of international relations today that largely determine the nature and general orientation of the global political process as one century merges into the next. The end of the cold war, symbolizing the consignment to the past of the era of confrontation between systems and a break with the ideological stereotypes of confrontation and antagonism that dominated States' political thinking, has led to radical changes in the world geopolitical picture and the global strategic military situation. A set of new realities is taking shape, making it necessary to undertake a fundamental review of traditional outlooks in regard to the essence of, and ways and means of ensuring, international and national security and their increasing interrelationship in the context of achieving stable and crisis-free world development.

The tendency that can already be discerned for international relationships to lose the bipolarity that was their essential feature during the whole of the post-war period and for multipolar world political structures to be established is developing ever more actively. An intensive dispersion of political influence in the internatinal arena is taking place, finding its primary expression in the virtual emasculation of the very concept of "Super Power" as a State or group of States that by reason of its exclusive military and political position achieves complete domination and sets the tone in international affairs. The accelerating processes of regional and subregional integration and the internationalization of industrial production are leading to the emergence and increasing influence of transnational agents in international affairs - above all international organizations and large assemblages of States that are exerting an increasingly appreciable influence on the course of events in the world.

Priorities are gradually shifting also in the sphere of interstate relationships, the fundamental parameters of which are beginning to be multipartite interdependence and the dynamics of constructive political and economic interaction. For centuries the configuration of world politics and the extent and nature of interrelationships between States were determined mainly by the concept of the balance of power, based on military might, which played a decisive role in the establishment and maintenance of the real status of any particular State and was a guarantee of its national interests in the sphere of security. It is precisely for that reason that military measurement and strengthening of the national military potential have invariably predominated in the structure of State priorities. Under present conditions the position is changing. The concept of "national might" is being transformed. Its central components are coming to be the economic and technological might of the State, the moral, political and psychological status of society, the level of development and effectiveness of diplomacy, and the efficient functioning and rational organization of the State leadership.

Corresponding modifications are also taking place in the nature of national and international security and concepts of how to ensure it in practice are being given new content. "Security" is today a complex concept comprising a wide range of military, political, economic, ecological, sociocultural and humanitarian components. In the light of the considerable successes achieved recently in reducing international tension, a long-term tendency has become apparent in practice

towards reducing the role of military power as a means of maintaining security at all levels, with a simultaneous sharp increase in the importance and significance of non-military factors for ensuring security. Security is becoming less and less associated in the consciousness of members of the world community exclusively with the prevention of war and the escalation to the level of armed conflicts of interstate contradictions that still exist. In an interdependent world international security presupposes, it would seem, the establishment of the necessary prerequisites for the stable and positive development of all countries without exception and as a practical means of realizing that task the establishment and institutionalization of comprehensive multilateral co-operation, using the extensive intellectual and material potential of various international organizations.

Of course, the anchoring of new concepts of security in real politics does not in the least mean any reduction in the significance of the armed force factor that will play an important stabilizing role in the present transitional period in international relationships until such time as reliable material and legal guarantees ensuring the irreversibility of the processes of renewal going on in the world have been developed. In exactly the same way, the system of deterrence based on the broad effect of the armed force factor will remain the cornerstone of the new model of international security in the multipolar world that is taking shape, in which the balance of forces, understood in a wider sense and going beyond the military political sphere, will retain its importance as a key element in maintaining the global strategic balance. In the long run, as the level and acuteness of the contradictions between the interests of States is reduced the nature of deterrence will undergo considerable changes as the instruments of armed force that now sustain it are replaced by legal and political systems for ensuring security. At the same time it must be realized that this will be quite a lengthy process of evolution, coupled with the consolidation of a new quality in world politics the final jettisoning of ideology in interstate relationships and the establishment of a ramified infrastructure of multilateral co-operation in all the principal spheres of international activity. For that reason, the main task at all stages in the progression towards that end is to have an unambiguous regulation of the armed force factor by international law based on the United Nations Charter and ensuring the use of armed force, including also States' national military potentials, exclusively for strengthening global security and stability and in particular for preventing or bringing to an end acts of aggression and other threats to the peaceful development of international relations.

The material basis for the efforts of the international community in this direction could be the leading trend in modern strategic thinking that is taking shape at the moment - the idea of exerting deterrence with lower quantitative levels of armament. This applies both to nuclear weapons and to conventional armaments, manifesting itself correspondingly in the concepts of minimum nuclear deterrence, and defensive sufficiency and, in the case of conventional armaments, in the identical concepts of "non-offensive defence", "un-provocative defence" etc. A key factor in these concepts, with the quite evident differences in approaches to nuclear and conventional weapons, is the trend towards a quantitative reduction in war potentials with a simultaneous improvement in their qualitative parameters and an optimization of the structure of the armed forces by giving them greater mobility and flexibility and perfecting strategic, operational and tactical planning and also improving the level of training and professionalism of armed forces personnel. An analysis of the main postulates in the forthcoming reform in the strategy and military structures of NATO in particular bears witness to the fact that it is developing in this specific direction; obviously in the long run forces development in the leading military States in the world will follow the same path.

Persistance of this trend in the future can be achieved by virtue of the effect not only of political and military-technical factors but also under the pressure of quite concrete financial considerations, since under conditions where budget deficits in the economy of most countries are increasing, with a parallel increase in the scale and complexity of social programmes, the maintenance of large armed forces is becoming increasingly irrational and unjustified.

Rationalization of budgets, and in the first instance their military components, is emerging as one of the main priorities in the economic development of States and this naturally considerably encourages their more active involvement in achieving the aims of arms limitation and reduction.

Brought into being by the radical changes in the international arena and a resultant substantial re-evaluation of States' security interests and requirements, the trend towards reducing the number of national armed forces' personnel to a minimum may in its turn exert an appreciable favourable effect on the political climate in the world and open up good possibilities for activating disarmament and strengthening openness and trust in the military sphere as universal norms in the mutual relationships between States.

Under the influence of the latest tendencies in the global military strategic situation considerable adjustments are being made to the traditional concept of disarmament, which over the last few decades has been overshadowed by proclamatory pronouncements directed towards a maximalist and therefore in practice unviable approach to the multifaceted process of reducing the arsenals of weaponry that have accumulated. From being a relatively ineffective means of strengthening States' political weight and prestige in world affairs, disarmament today is becoming in the opinion of most States an important factor for ensuring both national and international security not only by reducing the quantitative levels of military confrontation but also by building up solid and functionally improved structures for ensuring transparency of information, openness and monitoring with a view to removing mutual anxieties and increasing the degree of predictability and hence stability in the military sphere. This new, more pragmatic and practical way of posing the problem presupposes a perception of disarmament as a step-by-step process going through a whole series of consecutive and objectively conditioned stages. Meanwhile, at each of these stages concrete measures, depending on their content and degree of applicability, may be carried out simultaneously at several levels - multilateral, bilateral and unilateral - with scrupulous attention to the interests of all those taking part.

In this connection questions arise that have become particularly topical in the present international situation: is unilateral disarmament possible? How effective is it? What are the limits and optimal formulas for unilateral disarmament measures in the light of what is needed to provide reliable guarantees of national security?

The achievement in the last few years of major agreements on arms reductions clearly demonstrates the fairly numerous advantages of negotiation as the basis for carrying out of disarmament initiatives. The negotiatory format gives the reductions that are to be carried out or have been proposed a balanced nature and, still more important, makes it possible to establish mutually acceptable and adequate procedures for monitoring the fulfilment of the agreements reached and hence to reduce considerably the possibility of cheating and failing to observe the obligations undertaken. The method of negotiations also opens up additional possibilities for concentrating the agreed reductions mainly on those categories of armament that are considered by the Parties to be the most destabilizing and liable to seriously upset the existing strategic balance. Moreover, within the framework of negotiations arrangements can be made for regular exchanges of information regarding the Contracting Parties' plans for developing their armed forces and creating new forms and systems of weapons; this would be an important step towards organizing of joint efforts by the leading powers to strengthen strategic stability and prevent the occurrency of crises fraught with the risk of direct military confrontation.

At the same time experience in arms control shows that negotiations following a successful course do not preclude the adoption by States of certain unilateral measures to reduce their armed forces and armaments which, being dictated in each concrete instance by different reasons and motivations, may intrinsically supplement the negotiating process, making it possible in some cases to arrive at mutually acceptable constructive decisions. Unilateral disarmament initiatives, provided that they are worked out and implemented in a rational and realistic way, fully correspond to the

new concept that is emerging in which disarmament is considered not as an end in itself but as a means of strengthening the world strategic balance and maintaining international security, bearing in mind the increasing number of elements involved.

The Importance of Unilateral Measures as One Means of Attaining Concrete Arms Reduction Targets

Despite the multifarious reasons that lead States at one period or another unilaterally to reduce their military arsenals, it is possible, we believe, to try to classify unilateral disarmament measures by picking out the most commonly encountered and characteristic groups of factors that determine their adoption.

1. Quite commonly encountered unilateral actions in disarmament practice are those designed to spur on the course of negotiations by attempts to solve the problems and remove the obstacles lying in their way. In this case the unilateral steps are on the whole of a positive nature and while sometimes not quite correctly designated as "concessions" enable States by renouncing some of their interim interests and accepting compromises to conclude agreements and reach decisions in the negotiations that correspond to their higher strategic interests.

An instructive example in this respect is the reaching of a Soviet/United States agreement on the elimination of medium- and short-range missiles, the conclusion of which became possible largely because of the flexible positions taken up by both sides, their readiness to reach compromise solutions and, not least important, the series of converging unilateral steps which they took. It is sufficient to remember that in April 1986 the USSR introduced unilaterally a moratorium on the further deployment of medium-range missiles in Europe. In addition, the Soviet Union carried out a number of practical measures to reduce its medium-range arsenal: the SS-5 missiles were completely taken out of service and the process of taking out of service the SS-4 medium-range missiles was continued. In its turn the United States played an important role in working out the so-called Reykjavik Formula, which represented an important breakthrough towards agreement. During the Soviet/United States summit in Reykjavik it was in particular agreed to eliminate the medium-range missiles of the USSR and the United States in Europe, while keeping on each side 100 warheads for such missiles in the Asian part of Soviet territory and in the United States out of range of the USSR. It was also decided to proceed forthwith to negotiate on missiles with a range of less than 1,000 km. Meanwhile, the Soviet side agreed not to count the corresponding British and French nuclear weapons in establishing the agreed levels of medium-range missiles for the United States of America and the USSR. The decisive stage in reaching final agreement was indubitably the adoption by the Soviet Union in July 1987 of the proposal previously put forward by the United States regarding a double global zero in regard to Soviet and American medium- and short-range missiles. This unilateral action, combined with the renouncement of a considerable quantity of nuclear weapons which were previously considered to guarantee the security of the Soviet Union in the continent of Asia, in essence laid the foundation for the constructive issue of the negotiations.

Unilateral initiatives in working out and subsequently preparing and ratifying the Conventional Forces in Europe Treaty also played a positive role. Thus, the NATO countries supported the Soviet proposal for bringing into effect the so-called rule of sufficiency for one country, in accordance with which the Soviet Union, within the framework laid down by the agreement on collective levels, has the greatest quantitative quota of the basic types of armament and military technology: armoured vehicles, artillery systems, warplanes and strike helicopters. The Soviet Union on its side retreated from its initial position of intending to liquidate all the disbalances in the relative military potentials of the Warsaw Treaty and NATO and taking into account the refusal on principle of the Western

powers to include naval armaments among the subjects of discussion decided to proceed to talks on conventional arms, leaving aside for the time being consideration of the problem of reducing naval forces, on the understanding that in the long run this extremely important component of the strategic correlation of forces will be covered by the disarmament processes.

Unilateral steps were also required with a view to eliminating the difficulties that arose in implementing the Conventional Forces in Europe Treaty. In the interests of regulating the very sensitive question of the armaments of three Soviet coastal defence divisions deployed in the area of application of the agreement, the USSR agreed additionally to a reduction in weapons equivalent to the amount of technical weaponry held by those divisions within the time laid down by the Treaty. For its part the United States agreed that armoured carriers defending the positions of Soviet strategic missile forces would not be included in the general ceilings for the limitation of conventional armaments. A question which had caused considerable dissension, regarding the armaments held by four Soviet brigades of marines, was decided in similar fashion: the Soviet Union expressed its readiness to compensate for this amount of armament with weaponry which in accordance with the Conventional Forces in Europe Treaty was to be stockpiled, thus not exceeding the overall limits agreed.

These examples illustrate the effectiveness of unilateral actions from the point of view of their positive effect on the course of disarmament negotiations.

Meanwhile, measures in this category, for all their undisputed significance, are closely linked in their basic characteristics with the context of the negotiation process and are determined by the course of that process, and strictly speaking cannot be considered as independent unilateral steps caused by any serious overestimation by States of their defence needs; they therefore make a considerable contribution to improving the political climate in the world and the resultant perspectives of a radical reduction in the level of military confrontation.

2. Quite often in the course of recent history unilateral reductions in military arsenals have been carried out as a result of a rethinking by the States concerned of the concrete tasks they face in ensuring the military aspects of national security. Here two factors usually stand out as a moving force: objective and, to a lesser degree, subjective changes in the development of the war potentials of those same States and also a shift in emphasis in the forces development and strategic planning of other countries perceived by them as potential enemies. The development of these two interconnected trends leads to the reduction and elimination of "physically" and "morally" obsolete arms and their replacement by qualitatively superior although less numerous systems capable of adequately performing the functions required of them at a lower quantitative level. In other words the reductions carried out in this way - and experience shows that under certain circumstances their scale can be quite considerable - form an organic part of a general policy of modernization that stresses the priority of qualitative indicators in forces development and the need for the greatest possible savings in the resources spent for those purposes.

Perhaps one of the most instructive examples in support of the considerations outlined above is the dismantling by the United States in the 1960s of its system of anti-aircraft defence set up during the Second World War, the main function of which in the post-war period was to neutralize a possible nuclear attack by the USSR on the United States of America using heavy bombers that took a relatively long time to reach the target and were highly vulnerable. The active expansion undertaken by the Soviet Union from the end of the 1950s in its nuclear missile forces based on heavy intercontinental ballistic missiles whose flight-time-to-target, destructive potential and penetrative ability were incomparably superior to those of bomber aircraft, considerably reduced the strategic significance and practical value of the American anti-aircraft defence system, the maintenance of which in a state of permanent combat readiness cost quite a considerable amount.

However, there was a second and more serious reason for dismantling the anti-aircraft system. It must not be forgotten that it was precisely the 1960s, beginning in approximately 1962, that the transition occurred in American strategic thinking from the outworn concept of massive retaliation to the doctrine of "flexible response" and at the operational level of nuclear planning to a strategy of "damage limitation", which in its original form presupposed the possibility and consequently the ability of the American armed forces to conduct a limited and protracted nuclear war with a view to liquidating the Soviet potential for a return retaliatory strike in the very first stages of warlike operations and subsequently to end the conflict on conditions corresponding to the interests of the United States of America. And although during that period the strategy of conducting nuclear war did not receive the necessary support from the American military political leadership, yielding place for a certain time (right up to the middle of the 1970s) to the system of concepts known as "mutually guaranteed destruction", such far-reaching conceptual changes were rapidly reflected in practical efforts in the building up of strategic forces. In particular in 1964, research work began in the United States of America on the design of intercontinental ballistic missiles with multiple independently targeted warheads, making it possible to multiply the country's nuclear arsenal manyfold and at the same time acting as a first-strike weapon designed to destroy Soviet land-based nuclear weapons which formed the basis of the USSR's strategic power. Obviously in these conditions, taking into account the promising nature of the emerging trend towards a change of outlook on the essence of nuclear deterrence, the anti-aircraft defence system, at least in the form in which it then existed, did not possess any particular value.

Similar motives can be discerned also in the decision taken by the Soviet Union in 1959 to carry out an extensive programme of naval development and to reduce unilaterally the numbers of surface warships. The arguments in favour of this fairly major unilateral measure taken at the height of the cold war were based on two key factors. On the one hand, the Soviet military leadership believed that the main potential threat to the security of the USSR from the sea arose at that time not from a possible landing of NATO amphibious forces from the sea but from the nuclear-equipped naval forces of the United States of America and its allies, and in the first place from aircraft carriers with nuclear bombers on board.

For that reason, in parallel with a reduction in the total number of warships, there was an accelerated re-equipment of the navy with missile weapons, while the number of personnel in the submarine fleet was considerably increased, qualitative parameters were improved and the submarines were also equipped with long-range missiles.

On the other hand, it was precisely in the middle of the fifties that the nuclear missile potential of the Soviet Union was intensively developed and first-rate importance was attached to its development in determining priorities for the military potential of the country as a whole. Swallowing up the lion's share of the defence budget, the maintenance of missile forces made it necessary to divert all the big programmes for economies on to other branches of the armed forces, and first and foremost on to the navy.

Examples of this category of unilateral disarmament measures are not of course limited to the experience of the Soviet Union and the United States alone. In 1960-1961 a far-reaching modernization of the French armed forces was undertaken, involving substantial decreases in numbers of personnel and a whole range of structural reorganizations, with emphasis on the newly formed and actively developing nuclear component, which gained an ever more prominent place among the priorities of France's military policy.

At the same time careful consideration makes it clear that all such measures usually coincide with the onset of a new phase in the improvement of States' military infrastructure and serve the aim of choosing the best methods and technical means of realizing their long-term security interests while maintaining the previous level and intensity of military confrontation in the world. It is precisely this that probably explains the fact that such initiatives, provided, of course, that the bright

aura always conferred on them by propaganda is disregarded, usually do not call forth any extensive international response and are quite rightly considered by the world community as yet another proof of the prevalence of one-sided approaches by the leading powers to prospects of maintaining and strengthening the global military strategic balance. Their direct effect on achieving the aims of disarmament is therefore small and is expressed rather in the establishment of purely psychological confidence in the technical feasibility of reducing and eliminating particular types of arms.

3. Unilateral measures can be extremely effective if they are taken by States in the interests of setting going bilateral or multilateral negotiating processes on the military matters of most interest to them. The positive role played by steps taken for such purposes lies in the fact that being essentially concerned with reducing or limiting the weaponry and military activity of these States in the spheres concerned, in practice they allow those same States to eliminate distrust and anxiety in other countries and produce a favourable political climate and more acceptable baseline conditions for conducting talks.

In addition to the general desire to strengthen international security and stability, the wish to extend negotiations to areas of military activity not previously touched upon by treaty and legal obligations has a completely realistic and politically "sensitive" cause. Indeed for the most part the subjects of a State's attention in this regard are those areas of military rivalry where the initiative for various reasons is not in their hands, and where a further increase in the rate of competition on its part while not bringing any appreciable practical advantage may in view of its quite important economic repercussions lead to additional financial outlays and thus lead to domestic policy clashes coupled in particular with a strengthening of opposition to the plans for modernizing the armed forces supported by the governments. Taking into account this pragmatic way of looking at the situation that has arisen, many States prefer to take a number of unilateral initiatives to encourage an initiation of the negotiating process and, having blocked through the agreements reached the trends in the development of the strategic balance that are undesirable for them, in that way counterbalance the advantages obtained by their opponents.

This last consideration was particularly obvious in the unilateral decision taken by the United States in 1967 to freeze the number of carriers of strategic offensive weapons, while at the same time reducing the number of intercontinental bombers and to propose to the Soviet Union the conclusion of an agreement on limiting strategic arms. The United States was particularly interested in reaching such an agreement in view of the massive and continuously accelerating expansion by the Soviet Union of its arsenal of strategic offensive weapons and particularly the accelerated implementation of programmes for the construction of heavy intercontinental missiles and the deployment of the latest sea-based systems. Calculations carried out by American specialists showed that in the absence of a monitorable agreement the USSR in the course of several years would have obtained a considerable advantage over the United States in the number of carriers of strategic offensive weapons and a number of other important indicators and parameters of strategic arms. It was this reasoning that incited the American administration to seek ways of concluding such an agreement, which would not only have limited the number of carriers of offensive nuclear weapons on both sides but would have put obstacles in the path of subsequent efforts of the Soviet Union to re-equip its nuclear forces with emphasis on systems that were more destabilizing from the American point of view. It was this reasoning that in the first place dictated the unilateral action by the United States of America, which indubitably played a decisive role in easing the approach to the signing of the SALT I agreements.

On the whole it must be said that the unilateral measures belonging to the category under consideration are dictated today not only by reasons connected with internal politics, among which growing importance attaches to ecological as well as financial and economic considerations, but also, and increasingly, by long-term concern for solving fundamental problems of security in the

contemporary multipolar world - such as the regulation of a range of questions connected with preventing the proliferation of weapons of mass destruction and the technology for producing them, limiting international sales and supplies of arms, etc. The successful solution of these problems is possible, as shown by practical experience of the last few years, only through intensive multilateral interaction and will directly serve to strengthen national security of all States without exception; it therefore fully justifies and makes expedient their taking at the prenegotiation stage of far-reaching unilateral initiatives.

In this context, it is worth paying attention to the experience of the introduction by the Soviet Union of a moratorium on all nuclear explosions covering the period from August 1985 to February 1987. Being to a certain degree a propagandist action called upon to demonstrate the USSR's determination to move towards putting into effect the principles and aims formulated in the programme for eliminating nuclear and other weapons of mass destruction before the end of this century, proposed by President Gorbachev in January 1986, the moratorium at the same time served as a sort of catalyst for international efforts aimed at achieving general and complete prohibition of nuclear tests, considered today by most members of the world community as a reliable guarantee of consolidating the present structures of non-proliferation. It showed that not testing atomic weapons is possible and can be effectively monitored. It was largely the moratorium and the unilateral pledge by the Soviet Union to reduce considerably the intensity of its test programme that succeeded in creating a constructive atmosphere for the Soviet-American negotiations that began in 1987 concerning the limitation and subsequent complete cessation of nuclear tests, an extremely important step in which was the ratification of the 1974 and 1976 agreements on the limitation of the power of underground tests of atomic weapons and underground nuclear explosions for peaceful purposes, which laid the foundation in the opinion of both sides for discussing further substantial limitations of nuclear explosions with a view to their ultimate general and complete prohibition.

Thus, the unilateral actions taken by States to initiate discussions on particular problems touching on the reduction of their armed forces have a positive effect in every case on the disarmament process and open up quite extensive possibilities for joint prenegotiation work on the subjects of the future agreements.

4. Yet another and until recently probably the most commonly encountered category of unilateral actions comprises measures or rather initiatives that have a strictly propaganda nature and are carried out mainly for effect - an effect which is not followed up by appreciable, practical action. The aim of such sometimes large-scale and global initiatives may be both a desire to strengthen the international position and authority of the State in world affairs and an attempt to distract the attention of other countries - in the first place their regional neighbours - from the accelerating tempo of their own defence development. In either case however a characteristic feature of these actions is the marked lack of common measures between the content of the proposals that form the subject of the declaration and the real shape and structure of the military potentials of the initiator-States themselves. Moreover, the maximalist tendencies of such initiatives, completely divorced from existing military strategy and political realities, may sometimes have the opposite effect on the productivity of international efforts on arms control disarmament, diverting attention from objective and negotiatory work in the concrete and most important spheres of the military activity of States that require a gradual and balanced approach. As a result of the effect of the "all-or-nothing" principle that is shared by many third-world countries but is absolutely inapplicable in the sphere of security, disarmament instead of being gradually implemented perhaps not on such a grand scale but on a scale still significant in practice and based on adequately taking into account the interests of all participants in measures to reduce and limit armed forces and arms and also to reduce the extent of military production and defence expenditure, risks changing - if of course a realistic approach does not prevail in the end - into an extremely explosive focus of contradictions

in north-south interrelationships, which even without that are burdened with economic problems extremely difficult to solve. This in its turn may involve a further growth of regional instability, providing a favourable soil for the onset of various kinds of crisis and armed conflict.

Glancing at the past, it is not difficult to see that disarmament initiatives taken exclusively for propaganda purposes and keeping well into the background the continuing growth in and perfection of arsenals of weapons have quite often led to an exacerbation of friction in east-west relationships also and have provided a further justification for neutral accusations of demagogy and an intention to delude world public opinion.

It must be said that during the Cold War, when the basic direction in which interstate relationships evolved was a permanent increase in the level of armed confrontation of opposite social systems and their corresponding military and political unions, practically all initiatives or proposals of any significance in the sphere of disarmament whether put forward in the west or the east were deliberately designed rather for lasting propaganda and psychological effect than for any realistically glimpsed prospect of putting them into effect. With almost mathematical precision, after certain intervals of time both sides came out with widely trumpeted declarations at the highest level containing far-reaching plans and developed schemes for "general and complete disarmament", the radical limitation of nuclear and conventional arms, the formation of systems of collective security, etc. All these on the whole attractive propositions meanwhile were condemned literally from the start: the ever deepening contrast between the proclaimed peace-loving aims and the real logic of military confrontation was too striking.

Modern history, as already noted, abounds in examples of frankly propagandist unilateral initiatives for arms limitation and disarmament. To take only the well-known pledge of the Soviet Union not to be the first to use nuclear weapons, officially announced in 1987 and since then repeated more than once, its semantic content and consequently its practical significance from the very beginning were extremely limited. The fact is that the structure of Soviet nuclear power is uniquely oriented towards a preponderance of land-based strategic systems, among which a leading role is played by heavy multiple warhead ballistic missiles based in silos, i.e. stationary. These systems were highly vulnerable to a strike by the assumed enemy and since they were designed to annihilate that enemy's strategic forces and management and communication systems, they are indubitably an offensive and therefore extremely destabilizing form of nuclear armament, i.e. in other words a first-strike weapon. The offensive structure of the Soviet Union's nuclear arsenal is organically associated with the doctrine of mass retaliation, which in fact has retained its significance until the present day and is the basis for the development of the Soviet strategic forces, a doctrine that envisages in the event of an armed conflict arising between the USSR and the United States (until recently in a wider context between the East and the West as a whole) its immediate conversion into a global nuclear war with the striking of massive nuclear blows at the enemy's armed forces and vitally important administrative and industrial centres. And if at the same time account is taken of the great superiority of the Soviet Union over the NATO countries in tactical nuclear weapons, the basic functional purpose of which has very little to do with defensive aims, then the fact that this pledge by the USSR was simply for effect becomes quite clear.

This state of affairs persisted until very recently and positive shifts in that respect have been noted quite recently with the signature of the Soviet-American agreement on the limitation of strategic offensive weapons, which places special emphasis on increasing the stability of the nuclear balance by preferentially reducing the number of carriers and full payloads in the basic counterforce weapon systems, with stress on weapons designed to respond to an attack and therefore fulfilling a purely containing function. The further development of this tendency to all appearances will inevitably lead to a restructuring of the Soviet nuclear forces in the direction of increasing the relative importance of defensive systems and gradually reducing the quantitative aspects of the nuclear balance. It is only as a result of these qualitative structural changes that it will be possible

to speak of the real fulfilment on a material basis of the pledge made by the Soviet Union not to be the first to use a nuclear weapon.

Despite the fact that propaganda initiatives were most characteristic of the cold war period, it is possible to encounter no less striking unilateral measures of this type even at the present stage. Their initiators are almost always third-world countries, which, although among industrially developed countries the tendency that is becoming more and more marked is to make arms control and disarmament processes more pragmatic by adopting agreed realistic approaches, continue to consider disarmament as an arena for political and ideological confrontation, not between West and East as before, but between North and South, following in addition completely concrete economic interests for obtaining certain financial advantages in the form of some sort of "peace dividend" based on the development of successful disarmament measures they adopt quite rigid maximalist positions, making unacceptable demands on the leading military States.

Probably the most striking example in this respect was the action plan for ushering in a nuclear-weapon-free and non-violent world order put forward for consideration at the third special session of the United Nations General Assembly devoted to disarmament. That document reflected, as in a mirror, the contradictory and at the same time somewhat abstract nature, divorced from real politics, of the position taken up by developing countries and first and foremost a number of the non-aligned States who, on the one hand, show themselves very active in disarmament questions, and, on the other, confine their activity in that sphere in the main to the formulation of proposals that are radical in essence but do not take due account of ways and means of implementation, of the whole range of military, strategic realities and also of the nature and tempo of development of political processes in the world.

Thus, in setting the task of general and complete elimination by the year 2010 of all the accumulated stocks of weapons of mass destruction, India proposes to compress implementation of the task into a rigid temporal framework and this, for understandable reasons, is unlikely to succeed. In addition, in accordance with the Indian plan, it is in the first place the arsenals of the largest of the military Powers that will be subject to far-reaching limitations, whereas, at the same time, there is in fact no rational consideration of the possibilities and practical means of limiting regional arms races. What is no less important, in addition to requiring that the disarmament activities of the developed countries should be intensified, the document does not put forward concrete targets for strengthening the existing structures for non-proliferation of weapons of mass destruction and of the technologies for producing them as the most important guarantee for the achievement of a high-level of global stability at a stage when real shifts have taken place in the activation of the disarmament process. On the contrary, the Indians, supporting their position with the argument that the Non-Proliferation Treaty and the international law regime that has grown up on its basis is, in their opinion, discriminatory towards the third-world countries, propose conclusion of a new treaty envisaging the elimination by 2010 of all nuclear arms to replace the Non-Proliferation Treaty, i.e. in fact the question is raised of gradually dismantling the non-proliferation structures which, while not ideal, have nevertheless shown their viability and on the whole, their effectiveness. Naturally, in view of the immense destabilizing hazard contained in the threat of proliferation, particularly in a multipolar world, this approach is faced with unanimous disapproval on the part of the Western countries, which traditionally consider ensuring non-proliferation of weapons of mass destruction, technologies for producing them, and recently also means of transferring them, as a priority task in the sphere of military strategy.

Of course, it is obvious that propagandist, including unilateral, disarmamemt initiatives, are quite a common phenomenon among countries of all types and have quite profound historical roots. Their motivation is based on such imminent concepts of political thought and political practice as national prestige, a desire for consolidation of their own influence in the international arena, a wish to strengthen their influence on world public opinion, etc. For that reason, of course, it would be

unjustified to hope that with the end of the cold war such initiatives will recede forever into the past and the disarmament process finally go on a practical tack.

Meanwhile, today, the first encouraging symptoms are appearing of a consolidation - in any case among the industrial countries - of a new realistic approach to disarmament based on a recognition of the need to combine in optimal fashion unilateral, bilateral and multilateral efforts to reduce the level of military confrontation in the world. A corresponding change is also taking place in the conceptual content and practical advisability of States taking unilateral steps to reduce their war potential. Such steps are beginning to be understood not as made necessary by particularly unfavourable internal or external circumstances but as a fit response to objective changes in the geopolitical and geostrategic situation.

Among such measures are also comprised the following category of unilateral initatives that exert a very appreciable positive effect on the course and results of the global disarmament process.

5. The most important and substantial unilateral initiatives in the context of strengthening global and regional stability are measures adopted by States on the basis of a radical re-evaluation of the strategic situation in the world, the changing structure of threats to security and consequently the changes in the concrete aims and tasks in the military sphere that they are faced with. This cardinal reconsideration of security policy usually occurs as a result of the simultaneous effect of such external factors as the improvement in the general political climate in the world and thus a corresponding decrease in the danger of war breaking out, and of considerations of internal politics, among which is the intention to use the slackening of international tension to achieve their long-term foreign policy aims by using a wide range of non-military instruments of national power.

The rethinking of what national security really entails and ways and means of ensuring it under the qualitatively new conditions in the development of international relations is inciting States to make fundamental adjustments to their strategy, encouraging them to change not only their military doctrines but also the present systems of strategic, operational and technical planning, and forces development as a whole. All these doctrinal adjustments inevitably bring about corresponding transformations in the structure of the armed forces, the way in which they are organized and the relationship between basic quantitative and qualitative parameters. One of the logical consequences of this reorientation is the opening up of additional possibilities for carrying out quite large reductions in armed forces and arms, gradually slimming them down and rationalizing expenditure on defence, taking into account new requirements for ensuring national security. This comprehensive review of the main aspects of defence policy is in practice always of a forward-looking nature and reflects in essence not a political reality that has finally come into being but long-term objective tendencies in international life, the successful establishment of which is hedged about by considerable difficulties and therefore requires effective support from all members of the world community. In this sense, the unilateral initiatives under consideration, which to a certain extent have been in advance of their time, may provide good support for strengthening the positive tendencies that are developing and encouraging extensive interstate interaction in outlining a new pattern of international security, based on the primacy of non-military ways and means of ensuring it.

A considerable shift of emphasis in military policy, the central tenet of which throughout the post-war decades has been attachment to the principle of super-armament, is characteristic today of practically all the countries of east and west and affects to a varying degree all the most important spheres of their defence establishment. There seem to be sufficient grounds for supposing that the trend towards structural reorganization of the armed forces and the reduction of their size to a minimum is now becoming consolidated as the leading tendency in the development of the complex of strategic inter-relationships between States.

Striking confirmation at this is the recently published plans by the United States administration for unilateral reduction in their armed forces by 25 per cent in the next five years and the achievement by 1995 of the lowest level of defence expenditure in the whole post-war history of that country. Already preliminary work is developing to implement the plans announced: the Defense Department in the United States has decided to close by 1995 about a third of American military bases and facilities. In addition, the numbers of personnel in the American armed forces, and incidentally, in the forces of other NATO countries, stationed in Germany are being considerably reduced: by that same year of 1995 they are scheduled to be halved, from 300,000 to 150,000.

NATO also is reacting similarly to the basic changes in the world political situation. In addition to the programmes for reducing armed forces and defence budgets in individual member countries of the North Atlantic Treaty Organization, work is being completed on a review of the strategy and structure of NATO on the greatest scale ever seen during the whole existence of that alliance and this may quite justifiably be considered as part of the class of unilateral disarmament initiatives under discussion. It is a matter in particular of renouncing the strategy of flexible response adopted almost a quarter of a century ago, which placed emphasis on the presence of large nuclear-equipped NATO forces in forward positions along the frontiers of the former German Democratic Republic and of Czechoslovakia. The basis of the new military structure of the alliance is the rapid reaction forces, formed on a multinational basis, which are highly mobile and capable in the shortest possible time of beginning war-like operations in any part of NATO's zone of responsibility. Meanwhile, according to some estimates the total numbers of personnel in the armed forces of the alliance will be reduced in the next few years by more than 20 per cent. In addition to the planned abandonment of the advanced frontiers concept, this in fact is a sign of the coming transformation of the military organization of the North Atlantic Treaty and its gradual conversion to defensive principles.

In this context the growing interest among the world community in defence doctrines and problems of reorienting States' forces development and military activity on a defensive basis is deserving of special attention.

Defence doctrines may, it seems, become the conceptual basis that is necessary for the successful outcome of efforts by various countries to adapt their military potentials to the modern realities of the international situation and their use exclusively in the interests of supporting global security and stability in strict correspondence with the generally accepted standards and principles of international law.

The idea that was born at the beginning of the eighties in the heartland of European social-democracy that defence doctrines were a possible alternative to the accelerating arms race and an effective means of ensuring the military security of European States, covers both strategic levels - nuclear and conventional - and under concrete conditions is reflected correspondingly in the concept of "sufficient defence" or "non-offensive defence" and minimum nuclear containment. The implementation of both these concepts presupposes the carrying out of a range of measures in two mutually connected directions - a general quantitative reduction in military potentials together with their profound restructuring with a view to conferring on them only a non-offensive capacity. Concrete practical implementation of such activity is generally known and on the whole sufficiently well and fully worked out from a theoretical point of view. It is important, meanwhile, to note that the transition to defensive concepts, however transitory the internal policies and external economic reasons that determine them, is very closely linked with the dynamics of development of the international situation, the reaction of the other States and their military policy, and by virtue of this is only to a certain degree of a unilateral nature. The stability and irreversibility of the process of reorienting doctrines and defence development depends directly on similar actions in countries with large war potentials, inasmuch as a return to the principles of defensiveness does not eliminate but

on the contrary emphasizes considerations of maintaining a solid military strategic balance in the world. In this sense, transition to defensive concepts, beginning as a result of unilateral initiatives by individual States, may be successfully completed only through highly-coordinated multilateral efforts between leading military powers.

To one degree or another almost all large unilateral reductions in armed forces and arms that can be carried out at the present time are based on trends towards the development and implementation of defensive doctrines. Of course, many countries both in east and west have already long ago officially proclaimed the solely defensive nature of their doctrines and their military policy as a whole. However, it is only very recently, against a background and, largely as a result, of the breakthrough achieved in bilateral and multilateral disarmament expressed in the signature of unprecedented agreements on the reduction in conventional forces in Europe and of strategic offensive forces of the USSR and the United States of America that a real and purposive effort has been undertaken to bring national military power into line with the traditionally proclaimed defensive nature of that power.

This concerns in particular the Soviet Union also, the highest political leadership of which has invariably and despite the obvious facts emphasized the defensive essence of Soviet strategy. The beginning of practical work in the USSR on establishing a material basis for a defensive military doctrine was laid in 1988, when President Gorbachev in his declaration to the United Nations, indicated that the Soviet Union would reduce its armed forces unilaterally by 500,000 men. Since that time, in parallel with the implementation of certain international agreements that provide not only for the withdrawal of Soviet forces from the territory of European States but also for a substantial decrease in the armed forces and armaments of the country as a whole, the Soviet Union has been taking quite a wide range of unilateral measures to bring its military potential into line with the requirements of "sufficiency for defence". The number of armies, military districts and divisions in the armed forces as a whole has been reduced, the number of personnel serving strike-weapon systems has been cut and so has the scale of military production and military activity as a whole; programmes are being carried out to convert a considerable proportion of the defence industry to the production of non-military goods. Of course, these are only the first steps but they do bear witness to the fact that the movement towards institutionalization of a defensive Soviet military doctrine is taking real shape and this is undoubtedly having a favourable effect on the course of world political processes.

Strategic, Political and Legal Consequences of Unilateral Disarmament Initiatives

In investigating the main ways in which unilateral measures affect the prospects of global processes of monitoring armaments and disarmament, special importance should perhaps be attached to an analysis of their legal consequences. From a purely juridical point of view the unilateral steps taken by States do not create, and do not lead automatically to the formation of, permanent legal standards. It is in this, of course, that lies their main formal difference from bilateral and multilateral agreements, which have mandatory effect and give a clear-cut legal form to the subsequent practical activities of States in the sphere concerned. At the same time, without being legally binding, unilateral measures may in the opinion of many specialists be considered as a source of common law, creating an important precedent and hence stimulating convergent action by other members of the international community. This in its turn builds a road towards initiating a negotiating process and hence forming new legal standards.

Of course, in view of the "facultative" nature of unilateral disarmament initiatives, the question inevitably arises of how subsequently the States putting them forward will observe the pledges they have made.

Leaving aside the factor of their subjective wish and determination to implement their own initiatives and proposals, which naturally plays quite an important role, it is necessary here to take into account also the whole range of objective factors that set certain limits to unilateral measures. In addition to direct considerations of maintaining a global and regional military strategic balance and best ensuring the external security of the initiator-States themselves, the scale of the unilateral measures they put into effect is often limited by their obligations to their allies. This is an extremely important circumstance, since States obviously cannot indefinitely reduce their defence potential unilaterally without harming their status in a military and political alliance and such alliances have, of course, hitherto been the main form of ensuring collective security. Hence the acute need to introduce changes corresponding to modern realities, in the first place confirming the principles of defensiveness in the military policy not only of individual countries but also of defensive alliances such as NATO or the WEU. In this event wider possibilities would open up for carrying out unilateral disarmament measures, while at the same time strictly observing States' obligations to alliances and international obligations.

As regards the *political*, or to speak more accurately, politico-psychological consequences of unilateral measures in arms control and disarmament obviously the decisive consequence is the favourable effect on the general climate of interstate relations by way of extending and intensifying the disarmament process, strengthening the role and real importance of non-military factors and means of reinforcing international and national security. Of course, it is a matter here of those unilateral initiatives which, as shown above, are based on a serious and balanced analysis of the changed needs of States in regard to defence.

Strictly propagandist actions lead, or at any event may lead, to a diametrically opposed result, fraught with a sharp deterioration in the efficacity of international efforts to reduce the level of armed confrontation in the world.

Finally, the strategic results of major unilateral initiatives are seen in the fact that they are based as a rule on a comprehensive re-evaluation by countries both of the changing strategic situation and of their own aims and tasks in the sphere of national security, and concrete ways of achieving them. Such a re-evaluation is particularly significant when it occurs among leading military powers, since in that case, by making long-term adjustments to strategic thinking, it may have a positive influence in helping to bring about a qualitatively new strategic situation in the world. In other words, by gradually modifying their military policy on the basis of a reasonable sufficiency for defence needs, States will make an appreciable contribution to gradually reducing the role of the armed force factor, with a view to eventually eliminating armed force as a means of implementing world policy.

Unilateral Acts and Conduct by States regarding Disarmament and Arms Limitation

Gilles Cottereau

Introduction

Sovereign States seek to safeguard their existence by amassing the arms that they consider to be capable of ensuring their defence against possible aggressors. There is not any *a priori* limit. Each State is at liberty to build up stocks of weapons to the level that seems to it to be appropriate, just as it is up to it make improvements in the performance of those weapons absolutely or by comparison with the arms of potential enemies.

That being the case, disarmament entails the risk of being exposed and unable to provide effective defence; a situation of weakness that may moreover lessen the security of other border States or partners. There is an awareness that the decision to lower one's guard by comparison with a former level of vigilance is in no sense the counterpart of an increase in vigilance by the same amount.

If an equilibrium exists between two States or two alliances - a unilateral (or joint) decision to increase the capacity or the performance of a weapons arsenal or of an army entails far less risk, except in extreme cases, than the decision to reduce the military capacity of a State by the same amount. The risk of destabilization associated with the increase does not equal the risk of the vulnerability connected with the reduction in the potential for action.

This lack of symmetry explains why the initial realistic response to mythical hopes of general and complete disarmament is the policy of *Arms Control*, the main thrust of which is to restrict the race to increase capacity.[1]

The same factor helps us to understand why it is that States favour conventional undertakings regarding disarmament. If lowering one's guard leads to increased vulnerability, balance must be ensured through reciprocity. In that case the approach must be synallagmatic: only reciprocal undertakings would be realistic, because they would provide both the substance of the understanding and the proof of the agreement on it. A cursory look at the *corpus* of rules relating to disarmament tends to confirm this first impression. It is indeed treaties taken as archetypes of mutual agreement that go furthest in arms limitation: prohibition of the development, production and stockpiling of biological and toxin weapons, and their destruction is dealt with by one treaty, their use by another; nuclear-weapon tests, apart from underground nuclear tests, are prohibited by convention, and non-proliferation is also established by treaty; as in other areas, it is from a convention that most is hoped for regarding chemical weapons, and it is the convention that is used for the denuclearization or demilitarization of regions or particular zones.

The general impression is created that real disarmament is to be arrived at through a written undertaking that has come into force. There would not appear to be any place for other, more doubtful forms of undertaking. Consequently, disarmament would of necessity take the form of a convention, because it would embody the synallagmatic equilibrium and the certainty of being obligatory.

Conversely, the unilateral approach would be one to exclude, to regard with suspicion, as being too closely linked to political undertakings and, above all, too risky should there be trickery.

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[1] See, for example, Thomas C. Schelling, *Stratégie du conflit*, Paris, PUF, 1986. Regarding the source of such an outlook, see Charles Zorgbibe, "Communauté Internationale ou concert des Grands", *Humanité et Droit International*, Paris, Pedone, 1991.

Nevertheless, conventions are undoubtedly not the only legally possible approach, as was emphasized by the International Court of Justice in 1986:

> ... in international law there are no rules, other than such rules as may be accepted by the State concerned, by treaty or otherwise, whereby the level of armaments of a sovereign State can be limited, and this principle is valid for all States without exception.[2]

The Court's invitation that other approaches be considered apart from the treaty, suggests that interest be shown in approaches that would not be synallagmatic. The unilateral acts and conduct of States would also be capable of leading to disarmament.

The act is unilateral because it is the work of a single will. This is the most obvious meaning: "All authors consider that it is a feature of the unilateral act that it has a unique manifestation at its origin".[3] Its difference from the agreement, which presupposes at least two partners, seems quite clear in this case. The act may, however, also be considered from another angle. The material aspect of the act may be contemplated, instead of giving prime importance to its formal aspect: it would be unilateral because the obligation embodied in the act lies with only one party;[4] or yet again it establishes obligations that third parties will of necessity have to take into consideration. The unilateral nature has an intra-conventional effect in the first case and an extra-conventional effect in the second, and "as seen by the third State the treaty appears to be a joint unilateral act".[5]

As a procedure productive of rules of international law not addressing the question here of whether the act thus qualified is in itself a source of international *obligation* the unilateral act would therefore have a role to play in the legal process of disarmament.

Where the primary aim of analysis is to consider the effectiveness of unilateral action it cannot be confined to the examination of "acts". Strictly speaking, the formula excludes the conduct that is nevertheless involved in the production of rules of international law and to which attention must therefore be paid. Furthermore, its inclusion helps to reduce the difficulty that could arise from a literal notion of the act imputable to a subject at international law acting as such, which would result in leaving on one side the domestic laws with international purpose, ordinary juridical events for the international legal order seen through the prism of dualism.

The justification for the interest in an examination of unilateral acts and conduct regarding disarmament is not, however, purely legal. It is also apparent at the level of what might be termed the legal politics of disarmament. Unilateral acts seem to be a means of advancing the negotiation process, of rounding it off with declarations or actions, but also possibly to be a more subtle means of controlling it. The avowed aim of the negotiation of disarmament agreements is assumed to be to reach agreement on a future balance representing an increased détente between the partners, but this aim is negotiated, ex hypothesis, in an unstable situation in which any lack of proposal in the negotiation may be interpreted as an increase of the threat.

From this viewpoint, applying the argument to a bipolar situation for the sake of convenience, an advantage is gained by the one who is first to put forward a disarmament proposal, the one who opens the bidding one would say in game theory. He obliges his partner either to acquiesce or to make an equally liberal counterproposal. Any failure to respond, including a lesser offer or silence

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[2] *Military and Paramilitary Activities in and against Nicaragua*, ICJ, *Report*, 1986, p. 135.

[3] J. P. Jacque, *Eléments pour une théorie de l'acte juridique*, Paris, LGDJ, 1972, p. 321.

[4] A contract is "synallagmatic" when the two contracting parties undertake reciprocal obligations towards each other (A. 1102); it is "unilateral" when one or more persons are bound by obligation towards one or several other persons, without there having been any undertaking on the part of the latter (A. 1103), Planiol, *Traité élémentaire de droit civil*, 2nd edition, Vol. 2, Paris, LGDJ, 1947, p. 28.

[5] J. Combacau, *Le Droit des Traités*, Paris, PUF, 1991, p. 88.

amounts to justification for the resumption of the arms race. Soviet-American relations are quite exemplary on this point. In reality, the matter is more complex than the theory.

If one of the "players" is free to make proposals because he is not subject to the control of counterbalancing powers, while the other is not free, there is the additional real risk for the country that does not have the initiative, or that is unable to make a proposal without having to make allowance for them; the latter country risks being obliged to reveal one by one in the form of counter proposals all the plausible responses that it is able to make and not to obtain anything in compensation. The longer the negotiations last, the greater this risk becomes.[6] In that case, the unilateral act or unilateral conduct may help to avoid the "escalation" of proposals. The formulation of a set of testable and verifiable propositions on problems that have been voluntarily confined to particular facets creates a situation in which it is possible to expect the reply to a point that is becoming crucial to continuation of the process without the absence of a reply *ipso facto* entailing loss of trust and without being obliged to reveal, by a kind of negotiation against oneself, the limits of what can be agreed without loss of security.[7]

Identification

What are the unilateral acts and the unilateral conduct of States that should be considered when attempting to assess the contribution that such acts or forms of behaviour make to disarmament? A distinction must be drawn between acts and conduct in making this analysis. Acts have a formal and a material aspect; *a priori* only the material aspect is involved with conduct. Useful as it may be to make the contrast, it is not entirely systematic: conduct may also be distinguished by a series of relevant international acts; it may equally arise from the implementation of acts of domestic law clearly formalized in this legal order. From this point of view, acts and conduct could be reclassified, giving greater importance to the formal aspect, whatever it be, and then examining the events; while satisfactory for acts, the breakdown thus obtained is less satisfactory for events, which now include forms of international conduct that are in fact acts. The breakdown suggested by the dominant doctrine, in which acts are contrasted with conduct seems more appropriate. We shall therefore start by examining unilateral acts and then pass to conduct, including acts of domestic law.

Unilateral Acts

In the formal sense the unilateral international act corresponds to the outcome of the will of a single subject at law. Confining ourselves to the acts of States, those usually noted are undertaking, recognition, denunciation, and protestation. Recognition should be separately considered, by virtue of its specificity. The other three are not identical; only the undertaking may perhaps be regarded as an autonomous unilateral act, and that is open to dispute, while the other two are obviously reactions or responses to an entreaty.

Whilst the treaty seems to be the opposite of the unilateral act, the possibility is not ruled out, although the case is fairly uncommon, that it may in fact be used as a unilateral undertaking in the conventional form. Furthermore, a treaty that contains provisions that will affect third parties may be understood to be a collective unilateral act.

There would thus be principal acts that constitute an undertaking in themselves and ancillary unilateral acts.

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[6] Kenneth L. Adelman, "Arms Control With and Without Agreements", *Foreign Affairs*, 1984, p. 2401.

[7] Adelman, *op. cit.* and Th. C. Schelling, *op. cit.*, especially "Essai sur la notion de négociation", p. 37 *et seq.*

The undertaking is therefore the clearest and most original unilateral act because it would be separate from the agreement.

The existence of an act of this kind in the context of disarmament is not in question if we follow the reasoning adopted by the International Court of Justice in the cases between France and Australia and New Zealand in 1974 regarding nuclear-weapon tests in the Pacific.[8] In their examination of the statements of the Minister of Defence and above all those of the President of the Republic (attaching particular importance to the statement of 25 July 1974) the judges of The Hague were of the opinion that there had in fact been "acts of the French State". In the eyes of the Court, public statement, along with the intention to be bound by it, amounted to the adoption of a unilateral binding undertaking that did not presuppose anything in return.

In the proceedings of the Court there are not many international acts regarded as undertakings that create a right for third parties in the proceedings of the Court. Prior to 1974 there had been only two cases before The Hague of undertakings creating an obligation made specifically to the court.[9]

At first sight, however, unilateral declarations are not uncommon in contemporary practice with a bearing on disarmament.

Regarding army strengths, Germany undertook unilaterally at the London summit of 5 and 6 July 1990 to set a ceiling of 390,000 men after reunification.[10] This stand, which was included in the Agreements of the Caucasus of July 16, 1990 and reformulated on many occasions during the 2 + 4 negotiations, was seen by Germany as an "advance implementation"[11] of a forthcoming setting of a ceiling in Europe to be decided in the context of the negotiations on conventional forces; it figures as a declaration accompanying the Treaty on Conventional Armed Forces in Europe.

Chemical weapons have been the subject of especially interesting unilateral declarations without and with conditions. At the time of the Gulf crisis everyone was afraid that chemical weapons might be used on the orders of the Iraqi Head of State; nevertheless, the President of the French Republic let it be known that the soldiers engaged in the operations would not use weapons of this type under any circumstances. The remark was all the more interesting because there was a real danger of suffering because of it.

Whilst Paris has been especially active diplomatically for several years past in the area of chemical weapons, the text that most clearly binds France - the Geneva Protocol of 1925 has a reservation authorizing retaliation.[12] The United States, for its part, gave it to be understood that it would avail itself of its right of retaliation, in line with the reservation which it made in depositing its instrument of ratification of the Protocol.[13]

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[8] H. Thierry, "Les Arrêts du 20 décembre 1974 et les relations de la France avec la Cour Internationale de Justice", *AFDI*, 1974, pp. 286-293 and B. Bollecker-Stern: "L'affaire des essais nucléaires français devant la C.I.J.", *loc. cit.*, p. 299 and, in particular, for a French point of view, Guy de Lacharrière: "Commentaires sur la position juridique de la France à l'égard de la licéité de ses expériences nucléaires", *AFDI*, 1973, pp. 235-271.

[9] "The Mavrommatis Jerusalem Concessions", *PCIJ*, Series A, No. 5; "Case concerning certain German Interests in Upper Silesia", Series A, No. 7.

[10] Or an actual reduction of 170 000 men. See: J. Rives-Niessel "La Bundeswehr et l'unification de l'Allemagne", *Défense Nationale*, November, 1991.

[11] *Ibid.*, the text of the declaration is given in *Politique Etrangère*, No. 1, 1991, p. 289.

[12] The precise wording of the text is as follows: "With the following reservation, as regards the Protocol of 17 June 1925 on chemical warfare: (1) The said Protocol is only binding on the Government of the French Republic as regards States which have signed or ratified it or which may accede to it; (2) The said Protocol shall *ipso facto* cease to be binding on the Government of the French Republic in regard to any enemy State whose armed forces or whose Allies fail to respect the prohibitions laid down in the Protocol", Paris, 9 May 1926, ratified by Gaston Doumergue.

[13] Its reservation has the following wording: "That the said Protocol shall cease to be binding on the Government of the United States with respect to the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices, in regard to an enemy State if such State or any of its allies fails to respect the prohibitions laid down in the Protocol."

Chemical weapons have also been the subject of recent declarations by President George Bush. Although the undertaking entered into is conditional, it is not potestative; should the condition be fulfilled, it will have to take effect. After a convention on chemical weapons has come into force, the United States renounces the use of such weapons for any reason whatsoever, including reprisals against any State whatsoever. The government will destroy all its stocks, without making any security reservation; in addition to the abandonment of retaliation, this is a modification of the existing doctrine which considers that chemical disarmament ought not to go as far as the zero level; the total elimination of stocks will be achieved over a period of ten years from the date of entry into force of the Convention.[14]

The best known example in the nuclear field, and the one most often invoked by its authors, is the undertaking of the USSR not to be the first to use nuclear weapons. This undertaking, made in 1982, which clearly raised problems for the protagonists of a response employing low-power sub-strategic weapons was not responded to in the way that had been expected: the Bonn Declaration of 10 June 1982 merely confirmed that the weapons of the Alliance would be used only in response to an attack. It is common knowledge that the USSR was all the more insistent on the significant nature of its undertaking, which it shared with China, because it considered at the time that the reason why the United States had not been willing to abolish nuclear weapons in 1946, despite their offer, was because its intention was in reality not mutual assured destruction but the "disarming first strike" and hence the search for impunity.[15]

These examples, which are only a very small proportion of the unilateral declarations to be noted in international relations, confirm that use of the undertaking is not excluded from the sphere of disarmament, even when what are concerned are autonomous unilateral acts not confined to the setting in motion of procedures otherwise agreed.

It is statistically quite a rare occurrence for a treaty to be a unilateral act in conventional form; such an occurrence is even rarer if we confine ourselves to such a precise area of investigation as disarmament or arms limitation.

The hypothesis is as follows: the parties negotiate the text of a treaty which may come into force with regard to a single State, without it being necessary for another State to be required, at least not as a partner. The State that ratifies such a treaty enters into a unilateral undertaking, the content of which has been negotiated; whilst the wording is not therefore decided unilaterally, the binding nature may be.

Curiously enough, this is the case of the Treaty of Tlatelolco. Whereas entry into force as provided for in article 28 sets out fairly complex conditions enabling the countries of the region not to be bound by it unless the other continental or extra-continental States also ratify it, a State may waive these guarantees.

Every signatory State has the right wholly to waive the requirements laid down in the Treaty by means of a declaration. Entry into force may then be immediate and may concern only one State. On that hypothesis, that State moreover loses the right to invoke the rise of a new power possessing nuclear weapons as justification for the suspension of its undertaking.[16]

It is therefore possible to find the diametrically opposed example of the unilateral act taking the form of a convention in an area not only in which is greater importance attached to the synallagmatic written agreement, but one that is also regarded as the preferred ground for integral

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[14] Communiqué of President Bush on chemical weapons and "documentary note" of the White House of the same date distributed by the Embassy of the United States in Paris, *Documents d'Actualité Internationale* (DAI), No. 14, July 1991, documents 156 and 157.

[15] Speech of Mr. Shevardnadze, United Nations, New York, 24 September 1985.

[16] See Article 28 of the Treaty.

agreements, *i.e.* agreements without reservation in which all Parties are bound by the same undertakings.

The unilateral act is also the joint unilateral act constituted in some instances by treaties whose provisions have a bearing on the conduct or the situation of third parties. Agreement definitely exists between the authors and their mutual relationships are agreed; the unilateralness is not between them; it is the common position that they adopt that constitutes a "collective" unilateral act for the others. When the United States and the USSR agree by treaty to eliminate their intermediate nuclear forces installed in territories other than their own, their choice has a bearing on other States.

The same thing applies to the German-Soviet Treaty of 9 November 1990. The two States undertake to respect the territorial integrity of all States in Europe in their existing frontiers, declaring that they have no territorial claims, will not raise any such claims in the future, and that the frontiers as drawn on the day of the agreement are inviolable for the future. They further undertake not bring their forces into action against each other and also not against third States.

A whole series of ancillary acts is added to the unilateral acts that may be described as autonomous: they correspond to the exercise of a right that allows for their use. Despite its dependent nature, this is a situation that nevertheless plays a major role in measuring the real extent of the undertaking made by States.

One naturally thinks of reservations, some of which are so worded that they undoubtedly help to reduce considerably the probability that the undertaking will be found to be applicable. This may be thought, in particular, on reading the statement made by Chou En-lai, Minister of Foreign Affairs of the People's Republic of China, on 13 July 1952 concerning the 1925 Protocol. The Chinese statement has many special features because China had signed this instrument on 17 June 1929.[17]

The provision made in treaties to make their denunciation possible may also be an ancillary act. Most disarmament treaties have such a clause. An example is to be found in the Non-Proliferation Treaty. As stated in Article X: "Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests".[18]

Or again, an ancillary act may be one of the very many notifications that are a feature of the most recent disarmament treaties. An example is to be found in the provisions of point IV of the

[17] The cable sent to Mr. Robert Schuman, Minister of Foreign Affairs, was worded as follows: "In accordance with the provisions of the Geneva Protocol of 17 June 1925, I inform you officially that the Central People's Government of the People's Republic of China has decided to recognize the Protocol... and has also authorized me to make a statement to that effect. Having cabled my statement to the Secretariat of the United Nations for communication to the delegations of the United Nations and of the Security Council, I cable to you herewith the text of that statement. Statement of Mr. Chou En-lai, Minister of Foreign Affairs... on recognition of the Protocol: Mr. Chou En-lai... was authorized to make the following statement on the thirteenth of July of the year one thousand nine hundred and fifty two: In accordance with Article 55 of the General Programme of the People' Consultative Political Conference which stipulates that: "The Central People's Government of the Republic... will examine the treaties and agreements concluded between the Kuomintang and foreign governments and, depending on their content, will recognize, denounce, revise or renegotiate them, as the case may be, the Central Government... has examined the Protocol... signed in the name of China on 7 August 1929. The People's Central Government, being of the opinion that the said Protocol helps to strengthen international peace and security and is in accordance with humanitarian principles, has therefore decided to recognize the adherence to the said Protocol. The Government... undertakes strictly to apply the provisions of the Protocol, subject to reciprocity on the part of all the other contracting or adhering powers".

[18] A formula of the same order is to be found in Article VIII of the Treaty of 1971 on the Sea-Bed... which prohibits the emplacement of nuclear weapons thereon, in Article XIII of the 1972 Convention on Biological Weapons, in Article XV of the ABM Treaty signed in 1972, and also in Article XV of the INF Treaty of 1987.

protocol dealing with inspections connected with the INF Treaty, or the series of notifications for which provision is made on article IX in the actual text of the Treaty.

In order to make an exact assessment of the role of notifications, consideration must be given to those that have to do with "politically restricting" measures, i.e. that are not procedures relating to treaties in the strict sense, but are included in political agreements of the Helsinki and Stockholm type.[19]

The international organization may also be productive of unilateral acts. They do not retain the character of a joint unilateral act because the valid act of the international organization is imputable only to the international artificial person separate from that of States. From that point of view, the resolutions of organizations, including those that may be regarded as binding decisions, do not have to be included in a study of the unilateral acts and behaviour of States.[20]

That does not mean that all the unilateral acts of organizations should be excluded without further examination. They may, in fact, be defined as unilateral under the material criterion, as may treaties.[21] On these hypotheses, acts are unilateral in the same way as the non-synallagmatic contract may be. This applies, in part, to resolutions relating to the affair of Kuweit that prohibit Iraq from behaving in some ways and impose other forms of behaviour on it. One can find unilateral obligations in these instruments like those previously laid down in the Treaty of Versailles that, for example, prohibited Germany, which had been responsible for the use of chemical weapons in the war, from manufacturing or importing poison gases.

Although what are being considered in both cases are instruments to which those against whom the obligations are directed had agreed, directly in the case of the treaty and indirectly, by virtue of membership, in the case of the organization, they were nothing other than constraints for them. On such a hypothesis, we are so far removed from true consent that the Vienna Convention on the Law of Treaties took precautions on this point in its article 75.[22]

The reason why they are not accepted for consideration in the unilateral acts that we have to analyze here is because the aim of the study is to highlight the specific contribution of the unilateral element relative to what is agreed. In order to eliminate any doubt regarding legal scope and obligatory nature the problem was resolved in the cases referred to above by embodying a unilateral injunction and, correspondingly, a unilateral obligation in a formal framework, thus ensuring their obligatory nature. In order to avoid any questioning of their validity, these acts were made into a treaty in one instance and in the other into a series of obligations for an aggressor State embodied in measures adopted in conformity with the Charter of the United Nations.

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[19] There is no longer any need to demonstrate the importance of these political agreements; for a discussion of the matter see M. Virally, "Sur la notion d'accord", *Le Droit International en devenir*, Paris, PUF, 1990, pp. 135-145.

[20] The unilateral act of the organization is connected with the idea of the objective personality of organizations; it remains the case that not all the aspects of the problem of this distinct personality have been absolutely definitely decided. That is so for the problem of the possible residual responsibility of the member States of an organization. See R. Zacklin "Responsabilités des organisations internationales", *La Responsabilité dans le système internationale*, SFDI Colloquium - Le Mans, Paris, Pedone, 1991, p. 91 *et seq.* See also J. P. Jacque, *Eléments pour une théorie...*, *op. cit.*, p. 361 *et seq.*; see also P. Reuter, *Introduction au droit des traités*, Paris, PUF, 1985, p. 35.

[21] "The institution of demilitarized zones is a fairly long-standing practice. It has sometimes been presented as a kind of "military constraint" limiting the competence of a State regarding national defence. It is essentially seen as a generally unilateral obligation imposed on a conquered State by a peace treaty", J. P. Queneudec, "Le statut international des espaces et les armes", *Le Droit International et les Armes*, SFDI Montpellier Colloquium, Paris, Pedone, 1983, p. 240.

[22] The 1947 peace treaties further provided that they should come into force on their ratification by the victorious great powers independently of their ratification by the vanquished. See Paul Reuter, *op. cit.*, p. 129.

Conduct

The conduct of States may be acts of domestic law that constitute international practice; it may also be ordinary actual or potential behaviour.

Acts of domestic law may be highly important indicators of the real will of the State regarding disarmament. Here again, the attitude of France may supply a significant example. Although the position of the government was one of non adherence to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons,and on their Destruction, a law was adopted on 9 June 1972, the very title of which emphasized the relationship, prohibiting such activities and providing penalties for ignoring the law. In addition, in France, as in other countries, national provisions strengthen the measures set out in the text of the Convention before and after the entry into force of the treaty.[23]

With the recent changes in the strategic data the national measures are regaining an importance that was undoubtedly masked by bipolarization. States appear doubly interested by national rules. In the first place their content may promote the cause of disarmament, and subsequently their convergence may greatly strengthen the effectiveness of the process: "national rules are all the more effective, the greater is the number of partners applying them".[24] In April 1979 the Secretary-General of the United Nations emphasized the great importance of the strengthening and regional harmonization of legislation on the sale of arms.[25]

The adoption of national rules makes it possible to go beyond policy declarations that are, of necessity, imprecise. Thus, as regards bacteriology and chemistry, the declaration of the group of Canberra was followed by consequences for domestic law in three countries: The United States, Germany and the United Kingdom.[26]

The domestic act may be directly and wholly concerned with disarmament. This is the case for domestic regulation of trade in sensitive commodities, or regulation of the arms trade.[27] The question is once again becoming topical because future conflicts involving the great powers could change in nature.

Right down to the Gulf War and the significant progress over disarmament between the two great powers, the strategic thinking of decision takers had been dominated by dissuasion. The aim in mutual relations tended to be non- use of nuclear weapons, with the threat of their use avoiding direct armed conflict at any level. In those circumstances the only dissemination feared was of products capable of being used to produce nuclear weapons, which would weaken hegemony and increase the threat. Other weapons right up to excluded sub-strategic weapons could be sold, since the use being made of them in limited conflicts was not disturbing. Since the limited operation authorized by the United Nations in Kuweit this view has changed. If the powers take on their responsibilities, they run the risk of finding themselves up against their own equipment. The detente between the great powers is shifting the threat and, since they could involve themselves more often in conflicts, the likelihood of coming under limited attack with ballistic weapons will increase. States cannot believe themselves to be immune from all danger in this respect. They are even less

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[23] See J. Golblat and Th. Bernauer, UNIDIR Research Paper No. 9, *The Third Review of the Biological Weapons Convention: Issues and Proposals.*

[24] Extract from the Bonn communiqué of 6 February 1991 announcing a toughening of the penalties of the German law on foreign trade.

[25] Address of Mr. Perez de Cuellar to the European Parliament in Strasbourg on 16 April 1991.

[26] Mireille Couston, "Menaces chimiques et bactériologiques: la législation américaine", *Défense Nationale*, November 1991, p. 75 *et seq.*

[27] "At the present time it is domestic legislation and the political conduct of suppliers that form the basis for the regulation of arms sales", J. Benallal and Benbrahim, "Le tiers monde et le commmerce des armes", *Droit international et les armes*, *op. cit.*, p. 213.

immune to the extent that the operations that are likely to be carried out will necessarily be restricted to classical weapons - even if of very great strength if the intention is to use them to wage "just wars".[28]

The meeting of the five permanent members of the Security Council in July 1991 considered arms transfers and non-proliferation. They confirmed that they would not transfer even conventional arms when, having regard to the circumstances, such transfers would be capable of adversely affecting stability. The rules of restraint that they will observe must however remain compatible with the defence of each. The extent of the difficulty is apparent because the five consider that "States have the right to acquire means of self-defence". Therefore, conventional arms transfers carried out in a responsible manner ought to contribute to enabling States to carry out their obligations of security and national sovereignty and to play an active role in the collective measures requested by the United Nations with the aim of maintaining or restoring peace and international security.[29]

Good information is therefore to be found in domestic rules concerning foreign trade in general or concerning trade in certain especially sensitive commodities: that is the situation regarding trade in chemical and bacteriological products that is nationally regulated in the United States of America by the *Export Administrative Regulations*, the relevant *Executive Orders* and the Act of 17 January 1991.[30]

Domestic acts may be only partly or indirectly concerned with disarmament. A good example is that provided by the domestic legislation on appropriations. As President Reagan commented in 1986, Congress, by its refusal to authorize any American trials of an anti-satellite defence system had not merely granted a Soviet monopoly, but had unilaterally granted the Kremlin a concession that it could not have hoped to obtain through negotiation.[31] The examination of military budgets is openly regarded as providing an indication of potential risks at the present time; a reduction of investment may point to a real willingness for disarmament. That undoubtedly explains why the examination of military budgets was included in the document of Vienna adopted on 19 November 1990 by the 34 Heads of State and of Government of the CSCE.[32] The inertia of military expenditure (the ratio between military expenditure and income, and changes to it) is actually a useful indicator of the likelihood of a breach of the peace.[33] The budget, which is a unilateral domestic act, therefore provides pointers to the course being pursued by States, and even information on the extent of the foreseeable action.

The relevant conduct may perhaps be separated from every act of general scope and be backed either by pure facts or by particular decisions, whether or not covered by domestic regulations.

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[28] "Those who drafted the Charter based themselves on experience which had shown clearly that, given tanks and aircraft, the strongest modern army had rapid, complete ability to impose its law on a clearly weaker country. They had not attached decisive importance to the guerilla warfare carried out by the national resistance movements during the world war, and they would have been able, if need be, to foresee the development of nuclear weapons, but they were not thinking of that. ... For the permanent members of the Security Council to make the effort to arrive at unanimity, they need sufficient assurance that their determination and the Council's decision will not be frustrated on the ground, and furthermore that the measures needed for their implementation will not require the indefinite presence of national forces exposed to harassment. Return to the system for which provision was made in the Charter therefore presupposes a prior attempt to determine the means and methods by which respect for the decisions of the Security Council may be firmly established with rapidity and without excessive harshness towards populations", R. de Lacharrière, "Quelques observations sur les systèmes de la sécurité internationale", *Stratégique*, No. 25, Paris, Fondation pour les études de Défence Nationale, 1985.

[29] Communiqué of the United Nations Security Council, Meeting of the five permanent members on arms transfers and non-proliferation, Paris, 9 July 1991, *DAI*, 1986, No. 19.

[30] Mireille Couston, *op. cit.* French industrialists complain that national regulation is too harsh.

[31] President Reagan, Address on national security, Washington, 26 February 1986. French text in *DAI*, No. 8, 1986.

[32] Paragraphs 14 to 16 of section I are devoted to information exchanges.

[33] Louis Pilandon, "L'indicateur d'inertie des dépenses militaires", *Stratégique*, No. 25, Paris, Fondation pour les études de Défense Nationale, 1985, p. 123.

It is indisputable that the military defence doctrine of each State, which is not expressed by a particular "act", does characterize the general attitude of its armed forces. It gives meaning to the use made of equipment and manpower; it may be studied in the attempt to gauge the degree of tension of the security system, and its general strategic option: whether it be offensive, defensive, inclusion in a bloc alliance, or autonomy and all-round defence etc., the defence doctrine naturally results in the adoption of positions that may be quite precise in disarmament negotiations. The disorientation of strategies on the appearance of a defensive-offensive combination in the presentation of the SDI programme undoubtedly had an influence on disarmament; moreover, the President of the United States acknowledged that such ambivalence in strategy was increasing risk in the transitional period one of its effects was to focus attention on "weapons in space".

The French government has repeatedly reiterated since 1983, in the light of the general doctrine adopted, the conditions that would have to be satisfied for the inclusion of French strategic forces in the Western bloc and has stated that an obligation for *pro rata* reduction of the arms possessed may be deduced therefrom.[34] The general acceptance of the idea of "sufficiency" in the new military doctrines has concrete implications.[35]

Conduct may be a fact: the fact of not initiating a procedure, of not maintaining a piece of equipment, or destroying it, etc. During the summer of 1991 France reduced its nuclear triad to two components; it gave up the S 45 missile; the army will put its combat units "to sleep" for two months a year, the number of squadrons carrying sub-strategic weapons is being reduced from five to three and the number of artillery units from five to two, with a switch-over from Pluto to Hades.

In September 1991, President George Bush "deactivated" the B 52 stratofortresses that represented the willingness to counter-attack against a surprise attack; they are no longer on a state of alert. In 1990, he scrapped the programme for the modernization of ground-based theatre weapons; in the following year he decided to scrap 5,000 delivery vehicles of various ranges. This speeding up in the modification of the American stocks met with a significant response from the USSR; Obviously, however, as the President of the United States has pointed out, all such conduct is reversible.

Functions

The adoption of unilateral declarations as constituent parts of acts and ordinary conduct have different functions. We may take the binding agreement as a point of reference in considering their legal and political scope. Arising from an examination of the functions of unilateral acts, it may be noted that they are used all along a chronological chain extending from the establishment of a climate favourable to the adoption of an obligation to strengthening the implementation of duly agreed legal obligations, and including actual substitution for the agreement strictly speaking.

Preparatory Function

The State may, by a unilateral act, set in motion the preparation of a conventional agreement to be submitted for ratification. The act may then be a measure with the simple purpose of proving the

[34] This is a reaffirmation of a traditional position that came back into vogue during the euromissile crisis and has been maintained down to the present. In 1983, Claude Cheysson also stressed that in its key points the doctrine corresponded to the position expressed by Maurice Couve de Murville in August 1968.

[35] Budapest Appeal, 11 June 1986, drafted by the Political Consultative Committee of the Warsaw Pact: "In terms of the assessment of the real intentions of military-political groupings and individual States the question of military doctrines is no less important. The mutual suspicion and distrust accumulated over many years must be dispelled, the two sides must be thoroughly acquainted with each other's problems in this regard, too. For the sake of European and world security the military concepts and doctrines of military alliances must be of a defensive character". The Pact is of course of the opinion that it has a defensive doctrine.

existence of a climate of confidence or of already inserting its position into the logic of the agreement.

An example of the first hypothesis is to be found in the intervening period between the decision of NATO to deploy new medium-range missiles in Europe so as to restore the balance disturbed by the previous deployment of SS 20 missiles and the INF agreements.

Having noted that the United States and its allies seemed to have decided on deployment, the USSR and its allies wishes to make its own proposals, in fact a Russian proposal. The pattern is always the same whatever the context in which the proposal is made. It begins with an exhortation for disarmament and the non-deployment of NATO's medium-range missiles; the purpose served is to make it known that, for the USSR, the established situation is in balance, or is at any rate more in balance than it would be after the installation of the Pershing missiles, and that consequently the American zero option cannot be retained. In the event of a breakdown, the USSR announces that the results achieved in Geneva could be at risk, without acting as if there is a complete breakdown. Although the threat is there, it remains moderate.

The USSR then announces "a unilateral moratorium for medium-range missiles stationed in the European regions of its territory and a continuation of the unilateral reduction of such arms, which is already under way", if "the United States and its NATO allies abandons the time limits that they have set for their deployment".[36] It is going, at the same time, to reactivate a number of strategic ideas within the Warsaw Pact. To begin with, in the "spirit" of the Prague and Moscow meetings, it affirms the rejection of any doctrine of military supremacy (which the deployment of American rockets would tend to break, because there is a presumed balance), and it then calls for an undertaking by States not to be the first to use nuclear weapons, a qualitative and quantitative freeze on nuclear weapons of all classes, the banning of all nuclear tests, prohibition of the militarization of outer space and the use of force in outer space or from it against the Earth, the withdrawal of chemical weapons from Europe as a first step towards their total destruction worldwide, an analysis of ways of reducing armed forces in Central Europe, and a return to the long-standing Swedish idea of a denuclearized zone in Europe along the line separating NATO from the Warsaw Pact.[37]

At the end of 1983, the final communiqué of the NATO Council of Ministers comes as a blunt refusal, with the Allies calling on the USSR "not to substitute proposals of a declaratory nature for acts".[38] In view of the fact that this firm stand coincides with effective installation of missiles, Yury Andropov proceeds to cancellation of the moratorium. He announces four decisions in his declaration of 24 November 1983: The Soviet Union deems it impossible to continue the negotiations; "The undertakings entered into unilaterally by the Soviet Union with the aim of creating conditions more conducive to the success of the discussions are annulled; Consequently, the moratorium on the deployment of Soviet medium-range nuclear weapons in the European regions of the USSR is annulled";[39] Negotiations for the installation of missiles in the German Democratic Republic and in Czechoslovakia are to be speeded up, and new vehicles will be deployed in the oceanic and maritime zones.

The follow-up to the Andropov declaration announces "measures of retaliation" strictly within the limits dictated by the actions of NATO. "Should the United States and the other NATO countries demonstrate willingness to return to the previously existing situation... the proposals that

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[36] These formulas are to be found in identical form in the various declarations of bodies such as the Warsaw Pact and CMEA, and in the official end-of-visit communiqués following the Prague Declaration of 5 January 1983 and the Moscow Joint Declaration of 28 June 1983.

[37] These ideas are certain to be returned to by the countries of the Pact on their own account; for example, the GDR has declared itself to be fully in favour of the denuclearized zone on the basis of what will become a leitmotiv - equality and equal security.

[38] Final Communiqué of the Council of Ministers of NATO, Brussels, 8/9 December 1983.

[39] Declaration of Y. Andropov, Moscow, 24 November 1983 - Soviet Information Bureau, French text, *DAI*, No. 3, 1984.

we have previously formulated on the problems of the limitation and reduction of nuclear weapons in Europe would once again come into force. In that case, i.e. on condition that the former situation is restored, the unilateral undertakings of the USSR will once again become valid in this area".[40]

The promise was unilateral, but conditional and accompanied by a threat. This structure, which is absolutely classical, was an operational one only if the Russian point of departure, namely an initial balance, were to be accepted. In that situation, the threat could be perceived as dissuasive; in actuality, in the eyes of the Western countries, the initial imbalance made the threat less disturbing than the *status quo*.[41] It will be noted that this unilateral undertaking was conditional and reversible in the view of its initiators. The crisis created by the setback was to be long lasting, fourteen months were to be taken for the resumption of direct American-Soviet negotiations. The USSR was to reiterate its moratorium on medium-range nuclear weapons on 8 April 1985 until November, announcing that continuation was to be dependent on Washington's attitude. Agreement was finally to be reached on this point at the Reykjavik summit in October 1986. However, the essential aim of the moratorium on medium-range weapons in its second phase, April-November 1985, was no longer to slow the installation of such weapons. It was an element inserted in a more complicated set of new questions triggered by the SDI programme, which undoubtedly explains the setting of the duration in advance.

Weapons in outer space and nuclear tests were also to be the subject of plans for suspension and moratorium in order to create confidence.

Weapons in outer space were disturbing on several counts: they were an element in the arms race; the invulnerability of space vehicles and hence of observation and information satellites had to be ensured because they were stabilizing factors;[42] given that the strategic defence initiative programme overturned strategies, proposals had to be made to get away from it.

On 29 June 1984, the USSR proposed the declaration of a unilateral moratorium on the testing and deployment of these arms, but on the basis of reciprocity. On 27 September, Mr. Gromyko was to recall in the General Assembly that his country had adopted a unilateral moratorium on the stationing of anti-satellite weapons in space outside the Earth's atmosphere for as long as the United States and other countries acted in the same sense; this proposal had initially been formulated in 1983 as not being the first to install anti-satellite weapons in outer space.

Once again the proposal was to be poorly received because of lack of convergence in the assessment of the initial situation. The Western countries considered that the USSR already had advanced programmes and that it maintained some lead. Furthermore, the strategic defence initiative programme included the possibility of such weapons, and the United States was absolutely unwilling to relinquish that possibility.

During the same period, Moscow was to propose a moratorium on nuclear tests, stating that it would observe it unfailingly until 18 August 1986. On 6 March 1986, six countries were to call upon the Soviets and the Americans to halt tests. In seeking a measure that would halt the arms race in a concrete manner, the New Delhi group suggested the suspension of: "any nuclear test in the period up to the summit meeting. This could pave the way for an agreement on a mutual and adequately verified moratorium for nuclear explosions. It would also facilitate the negotiation of a comprehensive test ban treaty".[43] Consequently, this appeal for a mutual moratorium saw it as

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[40] *Ibid.*; an oft repeated formulation. See, for example, the joint communiqué of 4 January 1984 at the conclusion of the visit of the Minister of Foreign Affairs of the GDR (TASS agency).

[41] Address of Mr. Genscher, Bonn, 30 March 1984, "Le post-réarmement occidental représente notre veto contre les prétentions de prédominance soviétique", *DAI*, No. 11, 1984.

[42] See the address of François Mitterand in Moscow, 26 June 1984, in which he reiterates his remarks of December 1983 on the conditions for French participation in a negotiation involving its nuclear forces.

[43] Joint message from the Heads of State and of Government of Argentina and Greece, India, Mexico, Sweden and Tanzania on the halting of the arms race (Source: Embassy of Greece in Paris), *DAI*, No. 11, 1986.

a joint collective act capable of establishing the confidence for a comprehensive treaty, and this impression was strengthened by the proposal of the signatories of the appeal to provide assistance in on-site inspection and any other monitoring procedures. In reply, the USSR was to state that "The Soviet Union will not conduct nuclear explosions even after 31 March - until the first nuclear explosion in the United States"[44] and that it was ready to accept monitoring if the United States would do the same. Washington was to send a far more complicated reply to the New Delhi group proposing the resumption of bilateral discussions for true verification: Soviet practice was represented in it as a probable violation of the 1974 agreements; according to Washington, the protest of the USSR against the strength of some American tests were a proof that it had not have sufficiently precise means of measurement; the Americans were to propose to Moscow the passing on of information on the CORRTEX method (shock-wave measurement) and a visit by a team of scientists to the Nevada test site in the third week of April. President Reagan was to state that were progress then to be made on verification by an effective measurement system, he would be prepared to make progress towards ratification of the TTBT (underground tests) and PNET (peaceful nuclear explosions) treaties.[45]

The announcement by President Bush of the acceptance of restrictions on the use of chemical weapons, followed by the destruction of stocks of chemical weapons within 10 years, once again stemmed partly from the creation of confidence, and he made the announcement "To demonstrate the United States commitment to...".[46]

In a more general way, unilateral measures corresponding to political agreements describing measures of confidence and security are also intended to assure States of the continuation of a certain climate through the transparency of their actions.[47]

The unilateral act creative of a climate of confidence therefore generally creates a diplomatic drive favourable to disarmament. As the word itself indicates, disarmament is not static. The extent of what can be agreed at a given moment depends on the momentum imparted by diplomacy to the matter, just as the distance travelled during a given day may be dependent on the laws of kinematics. On this point, one ought not to overlook the combined spin-off from properly formulated agreements and from unilateral conduct going beyond the letter of the agreement, which accelerates movement in the direction decided.

In its preparatory function a unilateral act may go beyond the establishment of a climate and provide a preliminary expression of the content of the agreement. We may take as an example the announcement of a limitation on the size of the *Bundeswehr*, which was immediately given formal written expression in the agreements of the Caucasus; we could also take an earlier example, also concerning Germany, namely the Adenauer declaration of 1954. On that hypothesis there are two possible interpretations, and each protagonist can moreover find his own explanation. Prior announcement may be necessary to get the negotiations under way; such negotiations will not be of any interest unless they achieve precisely the goal emphasized by the unilateral announcement. The preliminary act guarantees that the said crucial point will in fact figure on the agenda. Respect for free will may however also be seen in it: unilateral announcement before a unilateral obligation is imposed in an agreement keeps up appearances. The State that is going to submit agrees to do so of its own accord, on its own; the fiction of respect for its sovereignty will enable it not to

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[44] 13 March 1986.

[45] Washington, 14 March 1986. These proposals were sent by the White House to President Gorbachev, to the New Delhi group, and at internal level to Senator Dole, the leader of the majority in the Senate.

[46] Communique of President Bush of 13 May 1991.

[47] Measures of confidence tend essentially to transparency, while disarmament agreements tend more towards the elimination of imbalances in order to establish parity. For an examination of this type devoted to the Stockholm Conference and the CFE Treaty see H. Van der Graaf, "Le document de la Conférence de Stockholm" in *La vérification des accords sur le désarmement et la limitation des armements: moyens, méthode et pratiques*, Genève, UNIDIR, 1991, 91/48, p. 313.

dispute the content of the obligation by maintaining that it did so under compulsion, and its expression will leave the State with the feeling that it did in fact decide what appears as its will.

Substitution Function

States may agree that they will be able to commit themselves alone. The Tlatelolco formula may be made general. The act is no longer a conventional agreement between the Parties to a treaty, the State enters into a unilateral undertaking in a conventional form. Obviously, however, this is not frequently the case.[48]

As is common knowledge, the reference case concerns the Salt II agreements. We know that they were signed, but not ratified, and that the United States wished in this way to bring pressure to bear on the USSR to change its policy in Afghanistan. Nevertheless, the two parties did in fact apply these agreements, more or less, or did from time to time protest against their being ignored, which is not a contradiction. In other words, *concretely*, the States concerned acted as if the agreement was being respected in a manner compatible with its provisions.

The declarations made at the end of May 1986 are especially significant in this respect. On 27 May, the American President recalled that the United States had taken the decision in 1982 not to wreck the SALT agreements as long as the USSR exhibited equal determination. The disarming of the submarine Sam Rayburn, which was armed with poseidon missiles, was not cancelled despite the ignoring by the Soviets of the SALT agreements on anti-missile missiles, the deployment of the SS 25, the coding of data making verification impossible, and the Krasnoyarsk radar establishment. The dismantling of two submarines was to ensure keeping within the limits laid down despite modernizations carried out in other respects. The President announced the act in respect of which the treaty was no longer to be applied (recalling in passing that there was no obligation): the commissioning of the 131-st B 52 bomber equipped with cruise missiles. The Soviet reply on 31 May 1986 stressed that continuation of SALT II would nevertheless be of fundamental importance in maintaining the balance and strengthening security; it threatened an equal but *opposite* strengthening of the agreement on the political level. Moscow announced, in effect, that if armament levels or other events were to violate the main clauses of these agreements that had until then been respected, it would consider itself free from the undertakings given by virtue of the provisional agreement of 1972 and the SALT II Treaty.[49]

In recently modifying its legal position regarding non- proliferation, France noted that it was signing and adhering, but that for some years previously it had been acting in accordance with all the limitations of the Non-Proliferation Treaty.[50]

The difficulty over these hypotheses, apart from the legal force of these acts and conduct, examined in other respects, is in assessing the appropriateness of the text, which should be the positive law, to the conduct. The written rule envisaged has some minimum generality, whatever its degree of precision, unlike conduct, which is singular in its determination. It seems impossible to deduce from regularly compatible conduct, possibly accompanied by a reference to the content of the text, that the whole of the conduct specified is being respected, except perhaps in the case of a practice that conforms to a text and is accompanied by a statement from which to identify what

[48] In the Carabdella message for peace, security and democracy in Central America, the Contadora group called for non-aggression undertakings by the five countries of the region through unilateral declarations - appeal of 15 March 1986.

[49] Declaration of President Reagan on respect for the ceilings set by the SALT II Treaty, Washington, 27 May 1986, *DAI*, No. 13, 1986, and Moscow Declaration of 31 May 1986, *Ibid.*

[50] On 12 June 1968, on the occasion of the XXII General Assembly of the United Nations, the French delegation announced that in future France would behave as if it was an adhering State, and this undertaking was repeated in 1973 before the Fifth Committee. See: Pascal Boniface, *Les sources du désarmement*, Paris, Economica, 1989, p. 154.

it is that is being rejected in the text and that justifies on that ground alone failure to carry out the procedures of the conventional legal undertaking.

However, the unilateral act may go beyond the mere faithful implementation of replacement. In some instances the acts or conduct will be substituted for the faulty rule as such. This will be the case for unilateral concordant acts exhibiting the characteristics needed to unite the States that originate them; normative substitution can also be effected through the constitution of a customary obligation. Constant and uniform practices stemming from regularly respected domestic legislation could also be the constituent elements sought. It may be this that explains the relative indifference to form that States may sometimes exhibit in this context; in touching on chemical weapons and their prohibition in 1984, the Warsaw Pact countries were examining the verification agreements and related agreements and were admitting that they might in themselves be documents with binding force, or a matching multilateral declaration, or several unilateral declarations.[51]

This function of substitution for an agreement that is not legally binding may be merely temporary and may be fitting in the critical period after signature and before ratification. The recent example of the CFE agreements may be used to illustrate the remark. Given that important legal and practical changes had taken place after these agreements had been concluded, only unilateral acts were capable of resolving the problems raised by the appearance of new States (or the restoration of independence) and differences of opinion over the meaning and scope of the text. These acts are effective at several levels; they confirm that the obligation not to take measures between the signing of the treaty and its ratification that would have the effect of rendering its object and aim impossible has not been lost from sight[52] and they help to resolve the tensions that result from a change of State situation when there are territorial aspects in a treaty for which the geography of the obligations plays an obvious role. It may represent a partial substitution to what could be an agreement by regrouping only some of the actors. There is at the present time no chance of regrouping all the countries of the Near East into a zone of moderate concentration of arms. The dialogue of the permanent members of the Security Council, which has apparently been taken over by the G7 countries and the European Community, may lead to a similar result[53] to the extent that such an agreement would primarily impose a unilateral obligation on the countries of the region that are dependent on the great powers for their deliveries of arms over and above what they need for their security and to enable them to fulfil their international obligations.

Application Function

It may be the function of unilateral ancillary acts to trigger certain procedures for which provision is made in the treaty, but that would remain "dormant" unless specially invoked. Whole sections of political agreements on measures of confidence, like large parts of legally binding agreements, have real scope only to the extent that the referrals and verifications for which provision is made in them are actually used. As has been seen, even without any reference to the clause *Rebus sic*

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[51] Proposal of the Member States of the Warsaw Pact concerning chemical weapons in Europe - Source: correspondence on foreign policy (in French), *DAI*, No. 11, 1984.

[52] Article 18 of the Vienna Convention on the Law of Treaties - Obligation not to defeat the object and purpose of a treaty prior to its entry into force.

[53] The proposals of Malta in 1965 and of Denmark in 1968 had aroused the hostility of purchasing countries. On non-proliferation, see also the remarks of J. Klein: "In any case, the NPT is not the only framework, nor even the main instrument for the control of proliferation and it has been noted that the successes achieved in this area over the last two decades come less from the application of this treaty as from concerted action by the main exporters and from the vigilance that they have shown in monitoring the activities of enterprises directly involved in the nuclear trade", "La réglementation des armements après la guerre du Golfe", *Politique Etrangère*, No. 3, 1991, p. 682.

Stantibus, it is through the device of unilateral declarations that disarmament treaties structure the aim of their applicability.

To these acts there may be appended reservations, the existence of which has a bearing on the applicability of the treaty because of circumstances defined in the said reservations. It has essential to have knowledge of these unilateral reservations, by which States seek to "exclude or modify the legal effect of some provisions of the treaty in their application". It is possible through analysis of the content of each of these acts to assess what is actually applicable or in what circumstances respect for the rule laid down is legally demandable. Furthermore, comparison of reservations and objections to them yields a precise picture of the group of States that are bound. A treaty that admits of reservations is not the collective instrument that represents a general obligation between the Parties. It is, at least potentially, only a system of bilateral rules. The existence of a right of retaliation established through the expedient of reservations to the Geneva Protocol of 1925, or of non-abandonment through the ratification of that instrument, seems especially significant.

In the framework of its normal application, the treaty may also include unilateral measures for fulfilling the obligations agreed. Thus, the Convention of 1972 contains articles integrating domestic measures in its application: "Each State... shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery...".[54]

The application measures of treaties may be exceeded when the limitation of the effort agreed in the instrument of positive law is displaced by a more generous application; that, however, is reversible from a strictly legal point of view, unless it were to serve to constitute a new obligation or a new threshold. One thinks here of the unilateral withdrawals of troops from Europe decided upon by the United States beyond the ceilings required by the agreements or on points not covered by them. Thus, Helmut Kohl thanked the United States in 1989 for having withdrawn American chemical weapons from Germany unilaterally and in advance. They could return while there is no real obligation prohibiting it, but it is quite evident that the dismemberment carried out is reversible only were there to be an increased risk. The same remark applies to the accelerated withdrawal of Soviet rockets ahead of the time limits of the INF agreement.

Value

International acts and conduct are of interest from various points of view. Their value may be considered in political, strategic and international terms.

Political and Strategic Considerations

At the political level, unilateral acts and conduct hold out increasing interest, in our sense, the further away we get from bipolar dissuasion. As soon as one is in a global strategy of mutual assured destruction, sweeping along in the same movement neighbours who must inevitably suffer catastrophe, the idea of a legal obligation *in the strict sense* exerting a distinct political pressure is of little interest. Furthermore, it is difficult to suppose, with such a scenario, that the absence or presence of a distinct legal obligation will play a major role if it is restricted to use - ordinary logic tells us that; the characteristic of what is legal is of being an organized social reaction to violations. The disappearance of society as a consequence of the use of nuclear weapons deprives the distinction of all interest. With the shift towards a strategy of limited conflicts, there is an increasing

[54] Article 4 of the Convention of 1972.

interest in allowing the expression of opinions, acts and conduct descriptive of an attitude of disarmament. The fact that the purely political act is imperfect at the legal level in no way detracts from its real efficacy in international relations. The communist parties in power in the countries of Eastern Europe would undoubtedly never have shown so much sympathy for the Basket III problems of Helsinki had they been able to assess beforehand the leverage that would result; at the same time they did not ignore it because they were relying on it to guarantee the redrawing of frontiers. Given, however, that political undertakings are not prescriptive, the crucial problem becomes fulfilment. Whereas, from the legal aspect, the essential point, in the strong sense, comes on ratification, from the political aspect the essential point is in the fulfilment, in the absence of an instrument *in the strict sense*. Consequently, politically significant undertakings will be those that can be distinguished from instances of *petitio principii* by verifiable detailed fulfilment.

What is political and unilateral is undoubtedly basically reversible, but because significant cases of undertakings with verifiable material conduct are involved, reversibility is not all that simple and is invariably, as has already been emphasized, in no sense a simple operation of the same value but opposite.

These remarks lead us to give immediate consideration to the strategic and tactical aspects, which are also uncommonly sensitive to the skill with which they are implemented. From a strictly military point of view, the immediate result is the same whether reduction of the range of a submarine-based missile is a gesture of good will, a consequence of a change of doctrine, or an application of a treaty. It becomes absolutely useless to target the silos of the Albion plateau if they are empty because they cannot be loaded any more, or because there is no wish to load them or because they ought not to be loaded. It will be noted, moreover, that the residual, marginal usefulness of their destruction is, for all that, stronger for the adversary who is convinced that they ought not to be loaded than for one who is won over by the conviction of being unable so to do. The importance of unilateral acts and behaviour will basically depend on their reversible or substitutable nature. The destruction of a missile-launching submarine, despite being a definitive phenomenon, is of minor importance if the means that remain still swamp the opposing defence; it is a crucial element if doubt develops. The radical Polish decision not to continue selling arms to the Middle East, and the even more radical Czechoslovakian decision no longer to sell arms at all, have immediate effects. The loss of modern productive capacity may subsequently become a handicap that makes the decision final through the obsolescence of the productive system.

International conduct will be of greater significance even than acts in political and strategic matters.

Legal Aspect

International law finds self-limitation repugnant. It seems extremely difficult to accept that a State should produce a rule that has an effect for another State without at least formulating a machinery of presumption.

It is common knowledge that the Court has not hesitated to do so in the matter of nuclear tests, and has thus helped to strengthen the concept of the obligatory act by the very fact of so doing, *ipso facto*, without any reception formula.[55]

The Court states that the undertaking must be "publicly expressed with the intent of being bound".[56]

The intention of being bound must be sought by restrictive interpretation of the conduct and declarations of the Parties. The Court expressly laid down, even if it does not appear that in this

[55] B. Bollecker-Stern, *op. cit.*, p. 329; P. Boniface, *op. cit.*

[56] ICJ, *Reports*, 1974, p. 267.

case the interpretation might have been restrictive, that "When States make statements by which their freedom of action is to be limited, a restrictive interpretation is called for".[57] It matters little whether the expression of intent is made orally or in writing, but it is essential that it be given publicly.

These clarifications are, however, merely secondary; the essential point lies elsewhere, in the absence of any other solicitation or reception. The formulation of the obligation - and it is here that the court departs from the finding of the PCIJ in the East Greenland case concerning the Ihlen declaration - is not a response and there is no need for it to be received for it to constitute an obligatory act of international law. As far as the Court is concerned, good faith is the basis of the obligatory character: "nothing in the nature of a *quid pro quo* nor any subsequent acceptance of the declaration, nor even any reply or reaction from other States, is required for the declaration to take effect, since such a requirement would be inconsistent with the strictly unilateral nature of the juridical act by which the pronouncement of the State was made".[58]

The Court does not exactly succeed in following through the reasoning of the unilateral act to the end: who can fail to see that when the judges consider that the State that makes statements "is bound to assume that other States might take note of these statements and rely on their being effective",[59] they reintroduce the implicit agreement precisely where they had intended to exclude it. Truthfully speaking, the international act that creates an obligation by self-limitation can operate only on a monist view with international law preeminent. It is not certain that the Court was following that line on legal politics.

Here the legal basis of the unilateral act matters less to us than its system.

Unilateralness is a form of expression of the undertaking, and the basic question is the reversibility of the unilateral act. Everybody understands that, given that treaties do not last for ever, no more so do unilateral acts. Consequently, it must be conceded that what may be accepted as a circumstance that extinguishes the conventional obligation must also extinguish it for the unilateral obligation.

In that sense, analysis of the statement of conditions in the act must tend to be favourable. When the American Head of State announces that his country is renouncing the use of chemical weapons, including their retaliatory use, as soon as in international convention comes into force, and when he announces that the residual security stocks will be given up within ten years of entry into force, he is announcing the essential element of the agreement to be bound: the existence of an international convention in force. From that time on, when that event takes place, the undertaking entered into will be obligatory in relation to any State whatsoever because the President has specified that this was going to hold for any adversary whatsoever. Furthermore, by analogy with the law of treaties, the United States, at least provided that it does not renounce the negotiation and ratification of such a convention, must refrain from acts that would defeat its object and purpose or make its entry into force impossible. It therefore seems to us that a unilateral act, a tacitly accepted draft rule, is reversible in circumstances that must come close to the law of treaties.

What still has to be established is to whom a unilateral act is addressed: is it to the international community, to States, or to named addressees?

In the nuclear tests case, although the proceedings concerned only two applicants and one party joined (PCIJ), the Court picked the first solution in an *obiter dictum*. Nevertheless, when the USSR makes a unilateral proposal on ICBMs, to this day, it is implicitly addressing the United States; a proposal connected with the negotiations on anti-satellite weapons may be of concern to the whole Community: its assertion seems somewhat unreasonable, since it is certainly the case that

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[57] *Ibid.*
[58] *Ibid.*, p. 267.
[59] *Ibid.*, p. 269.

Moscow does not believe itself to be facing all States on the international scene over intercontinental missiles. Prudence must be in place in the matter; extension outside the circle of those who have such weapons ought to be by way of a truly explicit provision or result from the actual terms of the proposed undertaking.

International acts that constitute domestic acts must also claim our attention. As domestic acts they are capable of affording legal remedies to the victims of failures to respect their provisions. The real problems on this point, especially in the area of arms sales, where it seems to have the most future in the medium term, are questions of immunities for the official trade and, both for the official trade between States and for private activities, of the limits connected with the territorial nature of domestic law. Some legal traditions are undoubtedly more open than others to consideration of contracts concluded and offences committed beyond the frontiers, but the problem of the oblique action of the prohibiting country and of the second or third level customer will arise in every case.

Solutions currently being envisaged revolve round a declaratory system under the aegis of an international organization, providing a guarantee of the transparency of the transactions.[60]

Difficulties of the same order exist for nuclear questions.

In 1983, China, which was not bound by the NPT, signed a protocol of agreement on co-operation in the nuclear field with Algeria, by which it undertook to supply a heavy-water reactor. Although IAEA procedures were evidently not demandable, China nevertheless required the Algerian Government to undertake to use the reactor for peaceful purposes, and the Algerian Government gave that specific undertaking. Since 1984, China has adhered to the following three principles in exports in the nuclear area: "an undertaking on use for peaceful purposes, submission to guarantee and verification measures to be applied by the IAEA, and non-transfer to a third State".[61] Nevertheless, we all know that there is great temptation for some customers to free themselves from these controls, and to limit their effectiveness. Were they aware twelve months ago in Vienna of everything that we now know about the armaments of Baghdad ... and what are the real intentions of Islamabad, and they are not the only ones who are suspect or guilty.

Conclusions

Unilateral acts and conduct abound in the area of disarmament. The existence of the phenomenon is not on doubt, on the contrary it is rather a better ordering of the process that might be profitable.

Politically speaking, it is the dynamic aspect that is prevailing: consequently there is point in the spreading of effective and verifiable models.

As regards acts, the effectiveness of the process is all the greater the more precise is the content and the clearer is it to whom it is addressed. The determination, even if it is conditional, and perhaps especially if it is conditional, must be stated in as precise a manner as possible so that it may be verifiable. The stating of conditions reduces the risk of denunciation without real motive: an announcement of those to whom it is addressed in as far as is possible when the undertaking is not general in scope would help to delimit the much debated problem of acceptance. As regards substance, preference must be given to acts that are conducive to obtaining precise and verifiable sequences. It is much better to have acts that constitute no more than a few links in the chain than a global expression of a general and distant goal to be attained.

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[60] France proposed to establish, under the auspices of the United Nations Secretary General, an international register of arms sales.

[61] Declaration of the spokesman of the Ministry of Foreign Affairs concerning the Algerian nuclear reactor, Beijing, 30 April 1991, (Source: Chinese Embassy in Paris), *DAI*, 1991, No. 12.

Domestic acts concerning some aspects of disarmament will have a role to play. Basically, it would be useful to have better dissemination of domestic rules; use should be made of the experience of some States to adopt alignments of legislation. Moreover, improved recognition of the validity of domestic jurisdictional decisions could play a part in better monitoring of the chain of causality from an offending arms dealer to the fraudulent user of prohibited arms.

Verified conduct could be the subject of international registration by declaration. Whereas the trend should be towards the joint management of agreed obligations, it should be acceptable to have regard to the reality of renunciations effectively in operation.

Unilateral Polices in the Field of Disarmament and Arms Limitation

Mohammad-Reza Djalili

The initiatives put forward by President George Bush on 27 September 1991 in the field of reduction of nuclear weapons, and the proposals made in response to those initiatives one week later, on 5 October, by Mr. Gorbachev, have placed the problems of unilateral arms control at the centre of international attention. Yet in recent years, unilateral acts and conduct have often been a feature of States' policies regarding disarmament and arms limitation. It is true that unilateral measures have been at their most spectacular in the field of armaments and the arms race since the end of the Second World War, but looked at more closely, at least during the past two decades, unilateral acts have also characterized the processes of disarmament and arms limitation both within the negotiating framework and, independently, outside it.

Specialists in disarmament issues were relatively quick to take an interest in unilateral methods. Without returning to the interwar period,[1] one may note that during the 1960s, many researchers studied unilateral methods and listed the advantages of what was already regarded at that time as an *alternative* approach to arms limitation.[2] This interest in unilateralism was, in fact, stimulated by the unilateral initiatives taken by the Soviet Union at the beginning of this decade, initiatives which were rarely given a favourable reception in the West, where they were viewed more as propaganda manoeuvres than the reflection of a genuine wish to disarm.[3] However, during 1963 and 1964, following the American decision to halt nuclear tests in the atmosphere, the United States and the USSR conducted a "joint example-setting policy" or a policy of "reciprocal unilateral action", whereby they carried out a number of budget cuts and reduced production of fissionable material for military purposes. The 1970s were characterized by detente and the conclusion of a number of arms limitation agreements. On those occasions unilateral measures were adopted which supplemented the bilateral and multilateral negotiations but never outweighed the duly negotiated and signed agreements. During the 1980s, appreciable progress was made both in the bilateral arms control negotiations between the two major Powers and in the multilateral negotiations at the European level.

In 1984, Kenneth L. Adelman, then Director of the United States Arms Control and Disarmament Agency, published an article in which he called on the two Super Powers to give priority to informal processes and reciprocal actions in the field of disarmament.[4] The "arms control without agreements" which he proposed constituted a flexible and rapid procedure whereby the individual efforts and "parallel" actions of States could be combined. Mr. Adelman's proposals were not well received at the time, but a few years later, thanks to changes in the international system and progress made in disarmament, they earned renewed interest even in the most conservative military circles.

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[1] Concerning this period, see Robert R. Ulin and Thomas-Durell Young, "Conventional Arms Control and Disarmament: Lessons from the Interwar Period", *Comparative Strategy*, Vol. 10, 1991, pp. 205-215.

[2] See, *inter alia*, April Carter (ed.), *Unilateral Disarmament; Its Theory and Policy from Different International Perspectives*, London, Housmans, 1965, and Charles E. Osgood, *An Alternative to War or Surrender*, Illinois, University of Illinois Press, 1962.

[3] Stephan Tiedtke, "Soviet Unilateral Arms Reductions in the Early Sixties", *Bulletin of Peace Proposals*, Vol. 10, No. 1, 1979, pp. 116-121.

[4] "Arms Control With and Without Agreements", *Foreign Affairs*, Winter 1984-85, pp. 240-263.

Definitions

A unilateral act is the manifestation of will by a subject of international law. It is generally restricted to unilateral conduct on the part of States, but may also include, especially in the modern era, certain actions by international organizations.[5] However, in an analysis devoted to the unilateral acts and conduct of States in the field of disarmament and arms limitation, the focus must be on a study of the individual acts of States, while taking account of their collective acts within military alliances.[6]

In general, a unilateral act takes the form of a declaration by a competent body which can incur the responsibility of a State. This type of declaration, which may be formal in nature, gives rise to a factual situation and creates juridical consequences. If a unilateral act is to be recognized in international law, it must be shown to be attributable to the State. Intention on the part of the State must be manifest, and the State must act within its powers, while striving to give adequate publicity to its act.

The commitment stemming from a unilateral act is not by definition subject to the condition of reciprocity; nor is its value as an obligation subject to acceptance of the promise by other States. In this way, for example, the Soviet declaration of 15 June 1982, at the second special session of the United Nations General Assembly devoted to disarmament, in which the USSR made a unilateral commitment not to be the first to use nuclear weapons, despite its rejection by Western countries, which did not wish to abandon the doctrine of *first use*, did not modify the legal nature of the latter. The statement "has the value of a norm: as such, it cannot be nullified by the negative - and lawful - attitude of other States, even if they are the principal beneficiaries of the commitment/norm".[7]

The legal scope of unilateral acts by States was confirmed by the International Court of Justice in the *Nuclear Tests* case:

> It is well recognized that declarations made by way of unilateral acts, concerning legal or factual situations, may have the effect of creating legal obligations. ... When it is the intention of the State making the declaration that it should become bound according to its terms, that intention confers on the declaration the character of a legal undertaking, the State being thenceforth legally required to follow a course of conduct consistent with the declaration. An undertaking of this kind, if given publicly, and with an intent to be bound, even though not made within the context of international negotiations, is binding.[8]

One of the most delicate aspects of the legal dimension relates to the revocation of a unilateral act. Can a State go back on an undertaking? In principle, no undertaking is irrevocable and there are no "perpetual" norms, but the modification of juridical acts is subject to certain guarantees. A State cannot free itself of obligations arising from unilateral acts, either by resorting to normal procedures of peaceful settlement of disputes or by invoking extraordinary events. In this regard, a parallel may be established with the withdrawal clause that appears in multilateral arms limitation conventions, for which article IV of the 5 August 1963 nuclear-test-ban Treaty is the model. This clause enables each State "to withdraw from the Treaty if it decides that extraordinary events, related to the

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[5] Concerning the unilateral acts of international organizations, see: H. Thierry, "Les résolutions des organes internationaux dans la jurisprudence de la Cour Internationale de Justice", *R.C.A.D.I.*, 1980, vol. 167, pp. 385-450, and P. Weil, "Vers une normativité relative en droit international?", *R.G.D.I.P.*, 1982, pp. 5-47.

[6] In addition to Eric Suy's *Les actes juridiques unilatéraux en droit international*, Paris, L.G.D.J., 1962, the juridical dimension of unilateral acts is discussed in A.-P. Rubin, "The International Legal Effects of Unilateral Declaration", *A.J.I.L.*, 1977, pp. 1-30, and J.-D. Sicault, "Du caractère obligatoire des engagements unilatéraux en droit international public", *R.G.D.I.P.*, 1979, pp. 633-688.

[7] Henri Meyrowitz, "Le débat sur le non-recours en premier aux armes nucléaires et la déclaration soviétique du 15 juin 1982", *Annuaire français du droit international*, 1982, p. 163.

[8] Judgment of 1974, 1974 Report, p. 267.

subject-matter of this Treaty, have jeopardized the supreme interests of its country". Similar considerations may also apply to unilateral acts.

Traditionally, jurists distinguish two categories of unilateral act: autonomous unilateral acts and acts tied to a requirement of a treaty or of custom. The validity of autonomous acts does not depend on their compatability with another juridical act, whereas tied acts extend the effects of the treaty or furnish precedents which contribute to the formation of customary rules. Above and beyond this general distinction, autonomous unilateral acts are classified into four groups. In order to speed up the enforceability of their claims on other States, States may proceed by *notification.* They may also, by an act of *recognition*, acknowledge certain facts. Conversely, by an act of *affirmation*, a State reserves its own rights *vis-à-vis* the claims of another State, and the absence of such an affirmation is equivalent to recognition of an originally disputable situation. However, among unilateral acts, *renunciation* has special significance. Firstly, renunciation does not call into question the rights of other States, but relates only to those of the renouncing State; secondly, unlike other unilateral acts, which relate to existing facts or acts, renunciation is a promise which gives rise to new rights to the benefit of third parties.

Although the distinction between autonomous acts and tied acts has a certain relevance, jurists are increasingly in agreement in recognizing that the requirement of autonomy is no longer a necessary criterion in defining unilateral acts. State acts of this type play a decisive role in the development and application of treaty law or customary law. The combination of a treaty and one or more unilateral acts is commonplace. In addition to measures of application, where the convergence of the two forms of act often occurs, a State may limit its obligations *vis-à-vis* a treaty by means of unilateral reservations. It may also acknowledge certain obligations arising from a treaty without formally acceding to it. Lastly, it has the option of informally extending the effects of the treaty in time. In this way, the Soviet and American declarations made in 1976 made it possible for the SALT I agreements of 1972 to apply up to the time of the conclusion of the SALT II agreements.

Forms

Unilateral acts by States in the field of disarmament and arms limitation may take a wide variety of forms.

One of the most common forms of unilateral act is renunciation. For example, a State may renounce the manufacture or acquisition of a certain type of weapon. It may also abandon certain plans to develop its military capabilities or halt the pursuit of research and studies which may lead to the introduction of new defensive systems. Moreover, it may decide to cease certain military activities, such as permanent surveillance or overflying, or put an end to a state of alert applying to some of its strategic arms. For example, following the announcement of the American decision to reduce its nuclear weapons, on 2 September 1991, the United States general staff began to disarm its strategic bombers, several hundred rockets and some of its cruise missiles.

The freezing of certain programmes for the development of sophisticated weaponry, such as missiles, with the aim of demonstrating a Power's goodwill or for the purposes of reciprocity, is a method which is similar to renunciation, although it is more temporary in nature. Self-limitation is also a unilateral means of reducing the number of weapons and embarking on a disarmament policy by easy stages. This at least is the approach that France appears to wish to pursue in connection with the limitation of its pre-strategic weapons, the Hades missile system.[9] This option stems not from negotiation, but from a unilateral decision.

[9] Statement by President Mitterand, *Le Monde*, 13 September 1991.

One form of unilateral measure especially valued by the nuclear-weapon States is the moratorium. On several occasions in recent decades, the nuclear Powers - principally the USSR, which has a long diplomatic tradition in this regard - have decided to suspend certain types of nuclear test, or all types of nuclear test, for a specific period. The most recent declaration of a unilateral moratorium was made by the Soviet Union on 5 October 1991, for a period of one year.

More "conventional" in nature are unilateral measures to reduce troop levels and cut military expenditure, which do not necessarily have the same consequences. Troop cuts may lead to the professionalization of the armed forces, and even an increase in expenditure, while a reduction in military budgets may lead to a decline in troop levels or a restriction in equipment and arms, or both.

A State may also take unilateral action in the field of arms limitation outside its national territory. By a policy of "restraint", and systematic, strict monitoring of its exports of arms or equipment that can be used for military purposes, it can help to limit the transfer of certain types of weapon. For greater effect it may also try to co-ordinate its policy in this area with other arms-producing countries. The harmonization of policies of export controls can, through exchanges of information, the development of rules and the adoption of a code of conduct, help to stabilize and improve the political climate in certain sensitive areas in the international system. At all events, as far as the Middle East is concerned, since the end of the Gulf war the five largest arms-producing countries have been endeavouring to define common rules for that region, and hope to extend them subsequently to other parts of the world.[10]

Lastly, among the various forms of unilateral arms control, mention should also be made of enforced unilateral disarmament. An international body may impose penalties on a defeated State and oblige it to take unilateral disarmament measures. In such cases, the defeated State yields to the force of circumstances, and the voluntary element is, of course, completely absent from this type of unilateral act. In order to paliate the draconian and discriminatory nature of the measures which are imposed, it is customary to link them with more general measures. In that way, under the Treaty of Versailles, German disarmament was to serve as a prelude to general arms limitation under the auspices of the League of Nations. A more modern example relates to Iraq. Security Council resolution 687 seeks to place the disarmament of Iraq in the context of "balanced and comprehensive control of armaments in the region", and to "work towards the establishment of a nuclear-weapons-free zone in the Middle East".

Motivations

Unilateral acts and conduct by States in the field of disarmament and arms limitation, like any act of authority, stem from a variety of motivations connected either with major government policy directions, or the international situation, or domestic constraints. An effort will be made here to draw up a list of such motivations, while bearing in mind that, in practice, unilateral decisions are very often dictated by several motivations simultaneously.

A State's unilateral initiatives in the field of disarmament always have a *political dimension.* Even the most unconstrained and unselfish acts are not completely free of ulterior motives of a political nature. A government measure aimed at arms reduction, which thereby influences national security options in one way or another, is essentially a political decision. A unilateral act, given its objective, which is to influence the evolution of international relationships (for example, by encouraging progress in negotiations on disarmament, opening up new prospects, creating a climate

[10] See on this subject Jean Klein, "La réglementation des armements après la guerre du Golfe", *Politique étrangère*, No. 3, 1991, pp. 671-686.

of trust, and so on), is an international *political* initiative. Domestically, too, a measure of this type, while founded on political considerations (pressure from public opinion, electoral imperatives, etc.), may in turn prompt favourable or unfavourable political reactions on the part of various political or socio-economic groups. Hence a unilateral act is an act which is eminently political per se, and its political nature does nothing to detract from its value. However, when politics becomes fiction or propaganda, it may jeopardize the credibility of the State's unilateral behaviour. If unilateral measures are ill regarded by specialists, that is no doubt due, at least in part, to the fact that they have very often been associated with ideological speeches, have been used in order to deceive or have constituted utopian, unrealistic projects designed to please militant organizations rather than to advance the disarmament process.

Economic considerations may also come into play in the devising of a unilateral arms limitation measure. Such a measure may be dictated by a difficult financial situation imposing budgetary constraints on the State. The State might then be tempted to turn this situation to advantage internationally by putting forward a unilateral disarmament initiative. Even if the economic factor does not play a key role in a decision of this type at the outset, it is highly likely that the decision will eventually have economic consequences. These, though generally positive for the exchequer, may have harmful consequences for certain social groups and create difficulties for defence-related industrial sectors.[11] Where an arms limitation initiative is substantial enough, it raises the question of converting military industries to civilian use, and placing the workforce in non-military activities. International agencies may also, for economic reasons, encourage States to take arms limitation initiatives. IMF, for example, has recently emphasized the need to review military expenditure, which should make it possible to release the resources needed to meet the world's new financing requirements.[12] It is interesting to note in this regard that many third world countries have proved rather reluctant to embark on an overall reduction of defence expenditure. They regard this as a matter of national sovereignty that is no business of IMF or the World Bank.

The breakup of *geopolitical* structures in a region, or of the international system in general, may also prompt States to take unilateral disarmament measures. This is very well illustrated by the evolution of the international situation over the past few years. The changes in eastern Europe, German unification and the dissolution of the Warsaw Pact have led the Powers involved in European security to contemplate troop reductions, reduce defence budgets, abandon a number of weapons development projects, etc. A military alliance may also, following major geopolitical changes, initiate unilateral collective action in the field of arms limitation. This is what the member States of NATO did on 17 October 1991, when they agreed a unilateral 80 per cent reduction in their stocks of nuclear weapons in Europe. Similar cases are likely to arise in the third world as a result of the settlement of certain regional conflicts and the consequent geopolitical changes. The proposals already put forward to limit the arms race in the Middle East and in Latin America constitute a follow-up to opportunities for change which have emerged in those regional subsystems.

Technological factors may also in some cases account for a unilateral decision in the field of arms limitation. For example, the fact that a particular type of weapon has become obsolete, bulky and useless may lead a government to take a disarmament step of greater symbolic than truly military value. Technological superiority in a given conventional or nuclear field that has become overwhelming in scale may also lead a State to abandon certain programmes for the development and construction of new weapons. Equally, the authorities of a country wishing to adapt its military systems to the conditions of modern combat may decide to reduce the size of its armed forces. In

[11] A particularly significant example involves the arms industry in Slovakia, now in its death throes. It would even appear that difficulties arising in converting arms factories to other uses are reviving nationalist claims in Czechoslovakia.

[12] IMF and World Bank summit, Bangkok, October 1991.

the guise of a unilateral measure to limit their forces, they are in fact conducting an operation to modernize and restructure their defence system.

However, a unilateral act may also be designed to create a *dynamic of disarmament.* A State may choose to follow such a course independently of any negotiations in order to prompt reflection, stimulate a reciprocal move or at least lead its partners to react, to make counter-proposals. Even if this does not enable the State to modify its adversaries' positions at the governmental level, it may hope to exert influence elsewhere - for example, in the legislative branch.[13]

A unilateral act may also occur prior to or following a set of negotiations. It may prepare the ground for future negotations or anticipate a forthcoming agreement. At the stage of treaty implementation, when a treaty imposes obligations, States must unilaterally assume their responsibilities. A unilateral measure may also form part of a negotiating strategy. In the context of an international bargaining process, a unilateral act may express a determination to reach a conclusion, intimate a concession and move the discussions forward.

The Third World

From the end of the Second World War until just a few years ago, international relations were essentially marked by the rivalry between East and West. The consequence of the bi-polar structure of the international system was to reduce arms control to the status of an American-Soviet problem. Yet despite being marginalized, third world countries took an interest in arms limitation issues at the global level, and were also involved in disarmament processes of more direct concern to them.

In this way, the States of the South initiated unilateral acts and conduct in the field of disarmament and arms limitation (renunciation of certain types of weapon, accession to regional denuclearization treaties, such as the Treaty of Tlatelolco, banning nuclear weapons in Latin America and the Caribbean, or the Treaty of Rarotonga, covering the South Pacific zone, cuts in military budgets or troop levels, etc.), while at the same time they were concerned by unilateral initiatives taken by the great powers in these areas. These initiatives at the global level can have positive consequences for the countries of the third world, but they also sometimes produce perverse effects.

The positive consequences include, first of all, the impact of the unilateral act on general trends in international relations. A unilateral disarmament measure may originate in a certain improvement in the international climate, and help to maintain and strengthen that trend. Conversely, however, it may also reflect a qualitative improvement in the international environment, as has been the case since the end of the cold war. At all events, the lessening of tensions and the strengthening of trust between the major Powers, resulting from or following after a unilateral act, may have positive repercussions for the rest of the world. In this way, the emergence of a degree of mutual understanding between the Super Powers was among the factors which contributed to the settlement of some regional conflicts.

Any unilateral measure at the global level which culminates in a slowing of the arms race, or, better still, arms limitation, may be perceived in the South simultaneously as a positive step towards the strengthening of international security and an act which carries promise for economic

[13] Roland Lomme cites an interesting example in this regard in American-Soviet relations: "... after trying in vain to secure the opening of negotiations on limiting ABM systems after the United States President had officially announced the launching of the Strategic Defense Initiative in 1983, the Soviet authorities announced a halt to construction work on the Krasnoyarsk radar station, which was regarded in the United States as a principal component of the Soviet ABM system, and then agreed that the installations in question should undergo an international check. Although the American administration still refuses to negotiate restrictions on the ABM systems under development in the United States, the American Congress has since then substantially reduced the programme's budget and restricted its scope". *Encyclopaedia Universalis*, supplément 1991, pp. 141-142.

development in the third world. These countries, making a link between disarmament and development - a little naively, perhaps hope to be the beneficiaries of a share of the resources released by any arms limitation programme.

The major Powers' unilateral initiatives in the field of disarmament can be favourably received in the third world and lead certain Governments in turn to contemplate similar actions. The exemplary function played by the industrialized countries' decisions in Asia, Africa and Latin America is by no means negligible. In this context, an Indian leader noted recently:

> The modern inheritors of non-European civilizations that cohabit the same world have had to adjust and adapt themselves to Europeanization of international relations, law, and practice. They are obliged to judge the world of today by the values and norms of European civilization.[14]

In circumstances where European States are tending to increase their unilateral actions in the field of disarmament and arms limitation, others elsewhere in the world are likely to follow suit in time.

Principal among the less positive effects of unilaterism, where conventional disarmament is concerned, are the aspects relating to arms transfers. A unilateral decision on arms limitation may lead to a rise in levels and quantities of weapons in the countries of the South, which are generally importers of military equipment.[15] If this type of equipment becomes more widely available, the producing States might be led to abandon destruction of their weapons in favour of their sale, even at throwaway prices. Such prices would stimulate demand from countries of modest financial means. To prevent such weapons from being dumped in the third world, unilateral measures of "restraint" could be contemplated. These, combined with regional arms limitation plans, would make it possible to stem flows of arms towards the countries of the South. Following the Gulf war, as noted above, a new approach to this question seems to be taking shape. The five permanent members of the Security Council, whose combined arms sales account for 85 per cent of the world arms trade, have worked together to introduce rules governing arms exports.

Nuclear disarmament too may prompt fears among third countries allied to a nuclear Power that has decided on a unilateral arms limitation measure. President Bush's recent proposal to reduce the American nuclear stockpile was received with apprehension by certain Asian allies of the United States. For these countries, in a region which still bears the marks of the cold war, the American initiative seems premature.[16]

Prospects

The coming years, in the wake of the end of the cold war, are likely to be marked by an acceleration in processes of disarmament and armed limitation. It is not excessively optimistic to discern in the present conduct of both the United States and the Soviet Union, the harbingers of a race against the clock, a disarmament race. In this context, emphasis will no doubt be given to unilateral measures, because of the benefits this technique offers. The fact that States have acquired new interest in this type of action may be attributed to a combination of factors.

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[14] Rikhi Jaipal, "Super Power Relations as a Key", UNIDIR, *Problems and Perspectives of Conventional Disarmament in Europe*, New York, Taylor and Francis, 1989, p. 116.

[15] One example among others relates to the countries of eastern Europe, which, following the breakup of the Warsaw Pact, decided to limit their arms and reduce troop levels. Each of these countries is striving to sell its surplus equipment on third world markets. For example, it is estimated that Czechoslovakia, which has a large arms industry, has placed on those markets 1,500 tanks, 1,900 pieces of artillery and 98 aircraft. Bulgaria has offered 450 tanks, 600 artillery pieces and 150 aircraft; Poland 50 aircraft and Hungary 47 artillery pieces. See the review *Défense nationale*, October 1991, p. 185.

[16] See *Le Monde*, 30 October 1991.

The first, general factor, which in fact determines all the others, is the improvement of the international climate. The shift from a situation of rivalry, tension and suspicion to a state of détente, co-operation and trust is in itself conducive to a proliferation of unilateral initiatives. In this way, for example, the unilateral decisions taken during the autumn of 1991 by the United States, the USSR and the Atlantic Alliance in the field of the reduction of nuclear weapons would have been completely inconceivable in the time of the cold war, and ideological and military competition. If current trends continue, there is no reason why other unilateral initiatives of this type should not be taken, either by the two Super Powers or by such European countries as France or Great Britain.

The second element working in favour of progress as regards unilateral measures is the substantial development, over the past two decades, of techniques relating to verification of the limitation and elimination of conventional, chemical and nuclear weapons, as well as the existence of possibilities for better monitoring of troop reductions. Verification, which for years was a serious stumbling-block in disarmament negotiations, has now become a familiar feature of international life.[17] As verification methods become increasingly effective, rigorous and reliable, unilateral initiatives acquire greater transparency and hence greater credibility. Not only can the State initiating a unilateral measure not deceive others; it is in a position both to take an initiative while in possession of comprehensive knowledge of its strategic environment, and at the same time to verify subsequently the countermeasures taken by its partners. Although the cost of verification procedures (in financial and human terms) has been rising in recent years, such measures, in view of their symbolic importance and their legitimizing function, remain very much in demand, especially when linked to confidence-building measures, which have experienced equally remarkable expansion over the past decade.

A further element which makes the unilateralist approach attractive is the time factor. Such agreements or treaties as SALT I, SALT II and CFE required long years of negotiations. The excessive length of these talks stemmed in part from a lack of goodwill on the part of the Super Powers, which were in no hurry to scrap their strategic weapons, but it also reflected the extreme technical complexity of the matter under discussion. This question does not arise with a unilateral act, which ultimately requires only a single authority, or the backing of a group of countries that are members of an alliance.

Together with speed, a unilateral act has another quality: independence. Unilateral disarmament leaves a State in complete control of its decision and the implementation of that decision. By proceeding unilaterally, a State can choose the most propitious moment, the type of weapons that suit it best, the timetable and the priorities it wishes to give to each stage. Moreover, the unilateral approach is often perceived by public opinion as a special indication of goodwill, and this strengthens authority both within the country and internationally.

Yet beyond these considerations, it must also be borne in mind that arms control through negotiation is a concept which derives from a specific set of international circumstances: the bipolar world and East-West rivalry. In this context, formal negotiations were aimed as much at maintaining dialogue on military matters between rival Powers as of limiting arms, if not more so. Arms control, while serving to harmonize diplomacy and strategy or to plan a rational reduction in military expenditure, also performed another function, that of crisis regulation, strategic stabilization and minimization of the risk of war. In other words, the merit of arms limitation lies in the process itself, rather than in its results, which have been relatively modest, at least until recently.[18] Recent transformations in the international system have made this function less and less important, and the

[17] Concerning changes in the Soviet point of view on this subject, see Mikhail Kokeev and Andrei Androsov, *Verification: The Soviet Stance, its Past, Present and Future*, United Nations publication, Sales No. GV.E.90.0.6. Concerning verification, see also Sidney D. Drell, "Verification Triumphs", *The Bulletin of the Atomic Scientists*, November 1991, pp. 28-29.

[18] Lawrence Freedman, "Arms Control: Thirty Years On", *Daedalus*, Winter 1991, pp. 69-82.

techniques developed in *conventional* negotiations on arms limitation less relevant. A new period is beginning in which unilateral initiatives and informal processes will become the most common means of arms control.

Should we deduce from all these positive aspects of unilateralism that the future lies with this form of disarmament and arms limitation? It would certainly be wrong to make such a claim. Negotiated disarmament, if only because of the guarantees and the level of detail it offers, is likely to form part of the means of regulating international relationships for a good while to come, especially in relation to multilateral disarmament. But the unilateral approach will help to accelerate the disarmament process while, if necessary, permitting the speedier development of legal instruments. In this way an interaction between the informal and the formal approach may become established. It can be seen that the path to disarmament involves a strategy moving step by step, weapon by weapon, from the unilateral to the reciprocal, backwards and forwards between concrete gestures and treaty texts.

In the current phase of international relations, characterized by a genuine desire on the part of the principal Powers to speed up the arms limitation process, unilateralism is nevertheless encountering certain previously unsuspected obstacles. It is not enough to desire disarmament; one must also be in a position to achieve it. The application of certain arms control programmes requires prevention of the risk of proliferation; the destruction of equipment and fissionable material call for know-how and vast resources that are not always available to a State that has taken a unilateral decision.[19] In such circumstances, consultation and multilateral co-operation is vital. In the specific case of the USSR, the question arises of the implementation of a centrally adopted unilateral decision by increasingly restive republics. But this issue is one that goes well beyond the context of disarmament and arms limitation.

[19] Thus, for example, the cost of the total destruction of Soviet weaponry under the CFE 1 agreement is estimated at between $5 billion and $10 billion. *Arms Control Today*, December 1990, p. 24.

Part II

Communications

A. *Mary Elizabeth Hoinkes*

New Developments and Prospects in the Unilateral Field

This past 27 September 1991, President Bush denuclearized the US army and announced other major nuclear disarmament and arms control unilateral initiatives. He called upon then-President Gorbachev to take similar action in response. The answer from the Soviet Union came on 5 October 1991. The result of the US initiatives and President Gorbachev's response amounts to another major achievement in East - West nuclear disarmament and arms control.

Unilateral disarmament initiatives are not new, nor have they been limited to the nuclear field. Time and again the important effect that "leading by example" can have on the achievement of formal agreements has been demonstrated. In 1962, the US unilaterally renounced the basing of nuclear weapons in Outer Space. Five years later the Outer Space Treaty was concluded. In 1969 the US unilaterally renounced development of biological and toxic weapons; three years later the Biological Weapons Convention was concluded. Conversely, negotiated, formalized disarmament agreements can lead to further, unilateral initiatives.

It has been, and will remain, the intention of the US to minimize its armed forces and military hardware whenever possible, and, with a view to reducing the risk of armed conflict any where, urge others to do likewise.

Throughout its history, when a threat recedes the US has sought to tailor and adjust its offensive and defensive mechanisms to reflect that reduced threat. During the past five years the US and the Soviet Union, after protracted negotiations, finally were able to agree upon major reductions in their nuclear forces, in the INF and START treaties. Coupled with a body of confidence building measures and the achievement of a stabilized relationship at greatly reduced levels between East and West in conventional forces, these nuclear reductions and the opportunities presented by changes in the former Soviet Union made possible the US unilateral actions of 27 September 1991.

The US initiative and then President Gorbachev's response will result in the elimination of all the nuclear warheads for each side's artillery and short-range surface- to-surface missiles. As a consequence of each sides action, and the INF Treaty, neither side will have any nuclear armed surface-to-surface missiles below strategic range.

All naval tactical nuclear weapons will be removed from ships and submarines, as well as all nuclear warheads associated with land-based naval aviation. Many of these will be destroyed, the rest will be stored in central locations.

On 27 September 1991, the President also announced that all US strategic bombers and all 450 ICBMs, which are scheduled for elimination under START, would be taken off alert. In response President Gorbachev announced that 503 Soviet Union ICBMs would also be taken off alert. In response to the US announcement that the SRAM II-Rail Garrison and the US mobile programme for the small ICBM would be cancelled, Gorbachev announced cancellation of plans for (a) a new short-range air-launched missile; (b) modernization of the rail-mobile ICBM; and (c) a new mobile small ICBM.

Finally, President Bush proposed that arms control efforts continue, with a view toward eliminating all MIRVed ICBMs from US and Soviet inventories; reaching agreement on limited deployment of non-nuclear defenses against limited ballistic missile strikes, and co-operating on matters of nuclear command and control, warhead security and safety, and safe and environmentally responsible storage, transportation, dismantling and destruction.

Such consultations have already begun.

Over the past several decades, achievements in nuclear disarmament have been shaped by the threat of East-West nuclear conflict. Today that threat is greatly reduced. But at the same time the efforts of countries in other regions to obtain weapons of mass destruction, and the ability to deliver them by ballistic missile, poses new threats, and arms control challenges.

Drawing on past experience mutually reinforcing unilateral and concerted efforts (formal and informal) are required. Initiatives such as the missile Technology Control Regime (MTCR) and that of the informal group chaired by Australia to place chemical weapon precursors under national export controls exemplify important first steps to combat the new proliferation threats.

The MTCR is not a formalized treaty regime, rather it is a voluntary co-operative undertaking of like-minded States to stem missile proliferation through national enforcement of agreed-upon guidelines to control exports of equipment and technology that could contribute to nuclear capable missiles. The members of the regime have increased, and discussions with important States that have not yet joined, such as China, are on-going. However, serious problems remain.

The US continues to place the highest priority on the achievement of a global ban on chemical weapons. A major challenge of such a ban is that it be truly universal, and the ability to meet that challenge is severely threatened by continued proliferation. Pending conclusion of the negotiation on a CW Convention the US strongly supports unilateral and co-operative efforts to inhibit CW proliferation. Multilaterally, the Australia led group has moved to implement restrictive reviews before an export license may be granted for any of the 50 precursors on its list. Recently, the group also agreed to expand national export controls to include CW-related equipment.

In November 1990 the US took unilateral action regarding CW, BW and Missile Technology. By means of an Executive Order launching an Enhanced Proliferation Control Regime (EPCI) the US now requires license controls on the Australia Group's 50 precursors and on chemical plants and designs for chemical plants. The initiative also tightened US controls over equipment and technology transfers in cases in which an exporter knows, or is informed, that an export may be destined for use in missile, CW or BW weapons design, development or production.

Finally, a few comments on the NPT.

Clearly a great deal of progress has been made since 1968. There are now 145 parties to the Treaty. Recently South Africa and most of its neighbours acceded and France and China have stated their interest to do so, as have several newly independent States of the former Soviet Union. Brazil and Argentina have agreed to full-scope IAEA safeguards and are negotiating to that end.

At the same time, problems remain. Iraq is not the only proliferation challenge. Elsewhere in the Middle East others have nuclear programmes with very questionable intentions. We are all aware that Israel continues its own nuclear programme at unsafeguarded facilities.

In other regions the activities of Pakistan and India cause grave concern, and North Korea's failure to live up to its obligations under the NPT continues.

The US, as a strong supporter of the NPT is anxious to find ways in which it can be strengthened. The Iraq experience points to the need for an enhanced inspection regime. We will work with other IAEA members to devise procedures for such inspections. We will continue to explore means of strengthening export controls, including an effort to develop controls on nuclear-related dual-use commodities.

As in the case of East-West nuclear force reductions, achievements in the disarmament field most frequently are the result of improved relations and reduced tensions rather than the cause. But arms control plays an important stabilizing, risk-reduction, role as well. The challenge to us is to design our efforts in the 90s to meet the new threats and problems, to act unilaterally where such action can achieve, or foster, further limitations on means of destruction and take decisive collective action to impose constraints on those who would threaten the well being of others through the illegal use of force.

B. *Miguel Marin-Bosch*

Unilateral Measures and Other Types of Weapons (Chemical Weapons)

Once again, unilateral disarmament is in fashion. And this Symposium is proof of it. For decades politicians and policy-makers the world over seemed incapable of using the words "disarmament" and "unilateral" in the same sentence. In the midst of the Cold War, the concept of unilateral disarmament was judged to be unrealistic if not unpatriotic. The twists and turns of the UK's Labour Party's platform are evidence of this.

The Final Document of the 1978 United Nations special session on disarmament contains only a passing reference to unilateral measures of arms limitation or reduction and the contribution they could make in the attainment of the early and successful completion of certain disarmament negotiations (paragraph 41). This brief yet important reference should be kept in mind when one assesses the course of the negotiations on a chemical weapons convention in Geneva.

One should also bear in mind the basic premise of the 1984 UN Study on Unilateral nuclear disarmament measures. That premise also holds true with regard to other weapons and weapons systems. It says:

> During the past 40 years the nuclear arms race has developed and escalated as the result of unilateral decisions by States taken in the name of national security. As decisions by one side were perceived to affect the security of the other side, an action/reaction process set in whose end is not in sight. The dynamics of the arms race can thus be traced to a series of unilateral an reciprocated steps. Conversely, its de-escalation and reversal could be facilitated by unilateral initiatives of States aimed at reducing the level of international tension, gradually creating an atmosphere of mutual trust and confidence and in general improving the environment for negotiations on arms limitation and disarmament (para. 2, document A/39/516).

One of the many lessons which military planners and practitioners learned from the Gulf War was that high-tech conventional weapons can prevail even over an army equipped with chemical weapons. By the spring of last year it was obvious to the United States that its so-called 2% chemical weapons option was unnecessary and thus the unilateral (though conditioned) decision to renounce chemical weapons. President Bush's announcement last May has given renewed hopes for a speedy conclusion to the Chemical Weapons Convention negotiations in Geneva.

The Geneva Conference has in the past negotiated a multilateral convention as a result of unilateral action: the 1972 Biological Weapons Convention. But the Chemical Weapons Convention is different in that it would ban a weapon of mass destruction that has actually been in production and has actually been used in recent years.

C. *Prakash Shah*

In finalizing the topic of discussion today, UNIDIR has taken great care in avoiding the use of the word "non-proliferation", and yet we all know that in any discussion of this type, particularly unilateral measures and policies in the fields of disarmament and arms limitation, it is an issue that becomes prominent. I am glad that it has been joined right at the beginning of this debate because, as I said, unless and until we address this issue frontally, all other matters, such as unilateral actions, the question of missiles, etc. become, I think, somehow peripheral, without bringing them into the context on non-proliferation. However, I will confine my comments to the overall question of unilateral measures.

In presenting the subject, there was a very clear-cut enunciation that unilateral measures have a threefold implication. When the question of unilateral measures as a desirable method of disarmament was discussed and mentioned in the first special session on disarmament, I believe that the intention was not to define it as a licence to act, unilaterally or jointly, to impose restrictions and sanctions on others. I think the intention at that time was that individual states should take constructive unilateral actions in a positive manner in order to set an example, and to make it complementary to what was and what remains the major objective - binding multilateral conventions and treaties, applied without discrimination, applied equally and with equitable obligations for all States, whether nuclear-weapon powers or non-nuclear-weapon powers. So I think it is necessary to emphasize this, because history since then has shown that the negative aspects of the unilateral measures are now beginning to overtake what we consider positive measures or positive aspects of unilateral measures. This historical trend portends a lot of dangers, and I think it is necessary that these dangers are spelt out and I will give you three or four examples.

The first, as I said, is the distortion of priorities. Instead of being complementary to and supportive of multilateral measures, they tend to be considered as primary and final: first, as the major vehicle of disarmament and arms control and, second, they are viewed by many as final, thereby completely sidelining multilaterally-negotiated conventions, treaties, etc. Of course, there are some very good examples where unilateral measures have been used to promote multilateral treaties. One such example is President Bush's announcement of the destruction of chemical weapons related, in a time-frame with the conclusion of a multilateral convention, and I think if we are to move forward in regard to nuclear disarmament, this is the kind of example that we should be talking about, wherein states undertake obligations to destroy nuclear weapons in a specified time-frame after a multilaterally-binding convention is established and work towards it. This, in my view, is the right way to approach unilateral actions, because they promote multilateral actions in the field of disarmament.

The second danger, as I briefly described, is that unilateral actions to punish others seem to get precedence over unilateral actions applied to themselves. I think there is a great danger in this. Whether you characterise them as action of "clubs" or "groups", or whatever disguise you give it, the basic point remains: here are a few countries, one, two, or a group of countries, who have decided to form an unholy alliance for whatever reasons, and decide that the world should behave in a particular way. Further, this small group of countries claim the right to decide how others should behave and how to stop them from behaving in a manner that they do not like. This, in my mind, flies totally in the face of what we are told in other international forums, of virtues of democratic decision-making and on the question of transparency, cooperation, consensus. Yet if unilateral measures to punish are based on the total absence of democratic decision-making, cooperation, and consultations, I think that this should not be the intention, and I don't believe that this is the kind of future desired for the world order.

The character of unilateral decision-making, as pointed out in the previous paper, is changing. Whether it is changing for the better or not, I have doubts. Yes, because the Soviet Union has collapsed, international communism does not exist. There is no independent Eastern view on disarmament negotiations, whether good, bad, or ugly, and wherever it is manifested, it is hardly different from the Western view. All this has an impact, but the danger is that disarmament has now become yet another North-South issue, and I think that is one thing that need be avoided. Disarmament, like the environment, is not a North-South issue. It is not an issue that knows territorial boundaries; rather it is an issue that transcends it. We all know it, but if we are going to now project it in the context of North-South issues, I see the same kind of conflicts as we have with other North-South issues, like development, environment, etc.

Also I think that there is another great danger in emphasizing unilateral actions as a kind of future guide for nuclear disarmament. And that is that its application is totally discriminatory and arbitrary. I will give you an example which few will like.

If a country unilaterally decides that it is against proliferation and it is, therefore, not necessary to be part of a discriminatory multilateral treaty, that is not accepted as a unilateral decision though it is, in my view, a positive unilateral decision for disarmament. It is a unilateral restraint which a country exercises. Despite it technical capability, it says that it will not produce nuclear weapons, but that country is criticised for this unilateral action, which would have been praised if taken by a nuclear weapon power in any other aspect of nuclear disarmament. So, we have a situation where a multilateral convention is valid when it comes to non-proliferation, but those who unilaterally decide not to proliferate must be criticised. However, unilateral actions, in other fields which suit developed countries, are projected as sufficient in order to avoid multilateral conventions in those fields. These are the dangers of, as I said, totally discriminatory and arbitrary application of unilateral actions, and I think that needs to be emphasised. I myself will be talking about unilateral measures and missiles at a later stage so I will not take much time now, but I wanted to bring back a certain balance in this discussion and reiterate that we should not run away with this feeling that the future of disarmament lies in unilateral actions.

D. *Frank R. Cleminson*

In our discussions thus far, we seem to have identified two aspects relating to the significance of a unilateral measure. One is very narrow: that a unilateral measure must relate directly to either the limitation or reduction of weapons. The second, a broader one, would include any sort of unilateral measure made by a government that might affect the overall atmosphere within which the arms control process might operate.

In the latter context, the first unilateral measure that Canada initiated could be seen as a parliamentary declaration in 1946 relating to peaceful use of nuclear technology. Although Canada had been an active participant in the Manhattan Project, and therefore had the potential capability to produce nuclear weapons, the Canadian government made a unilateral decision not to build weapons, to withdraw from any programme which was weapons-oriented, and to focus its nuclear research on peaceful use.

The fact that Canada took that unilateral measure benefitted not only our own country but others as well. The province of Ontario, for example, produces 60% of its electric-power from nuclear sources as part of the CANDU reactor programme. As a responsible member of the international community, Canada joined the NPT and it has been good for the nation. Just as membership has been good for us, it has been good for all other member states as well. All of our nuclear facilities are under IAEA safeguards and open to inspection. Although I have never thought of that as a unilateral measure, perhaps it is, in fact.

The NPT is not a perfect treaty; no one would argue that it is. We have to look at improving it for all nations. Within the nuclear area, one of our primary objectives is a comprehensive test ban. We like to say that we share this objective with our colleagues, the United States and the United Kingdom, and differ only in timeframe. Our timeframe is sooner, their's considerably later.

Nevertheless, we would view a CTB as being unstabilizing, and perhaps detrimental to international security, if it couldn't be verified. That is one reason for focusing on verification of a CTB in the Conference on Disarmament (CD) and elsewhere. We continue a special forensic research programme in that area and have briefed the CD on it. We have participated actively in the Group of Scientific Experts Technical Tests (GSETT) and see our forensic research at the University of Toronto as a part of an attempt to derive an effective global seismic network. GSETT

II, now being evaluated, is a process within which every nation can contribute. I would hope that the report to be tabled in the CD this summer will indicate that developments are at a stage now where we can say, with some confidence, that a CTB can be verified adequately by seismic means and that what is required now is to identify the necessary global configuration.

It is essential that all nations recognize that membership in the NPT is in everyone's interest. It used to be said that the NPT was discriminatory. We used to talk about the fact that the nuclear powers had agreed to reduce the number of weapons, but had never done so. Now, with the unilateral measures undertaken by Russia and the United States, weapons numbers are being reduced at an unprecedented rate. So it seems to me that what we should be looking for in 1995 is a new process in which the NPT is revitalized and extended - because it is in everybody's interest to do so.

We are now coming into a new international relationship. Some have used the expression "New World Order", others here used different expressions to describe it, but I think all in this room must recognize that the arms control process we have recognized up to now is, perhaps, becoming antiquated. An improved and extended NPT may be one of the basis for a "New World Order" in whatever form one might wish to describe it.

* * *

The question is sometimes posed "Is there life in the CD after CW?" The answer is "Yes, there is and it's outer space." I've listed in the appendix, which has just been circulated, 12 points which I think are significant. In the first part, there are two concerning outer space: international law which is a part of it, and the negotiating tactics which determine the process by which the subject is addressed. First, in the field of disarmament and limitation agreements, outer space is likely to become the single most significant issue as chemical weapons fade from the negotiating framework. I firmly believe that, if the international community does not get a firm grasp on the issue over the next years, it will be out of control and it is an environment which affects us all. Even though a relatively few nations can operate effectively in outer space now, it is an issue of overwhelming importance to all nations. Some governments made a conscious and pragmatic decision not to establish a launch capability but to make use of other peoples' launch facilities. Certain nations decided to specialize in certain areas and contribute to the common good in a synergistic fashion. Canada chose to focus on communication satellites and made agreements with the United States - but also with the European Space Agency and such - to launch those satellites, to work on new generations of satellites and to make dual use of them where practical.

Moving from the peaceful and commercial use of space, there is a considerable body of international law relating to the disarmament aspects of outer space. Of the four environments which mankind uses, only outer space is weapon-free, the Limited Test-Ban Treaty and the Outer Space Treaty are two multilateral treaties which are often quoted as being cornerstones of international law relating to outer space. The Anti-Ballistic Missiles Treaty of 1972 is a bilateral agreement which is significant to the world community in terms of common practice.

In terms of negotiation, there are two forums of significance. The first is the bilateral defense and space talks within which the United States and Russia have successfully confined any meaningful negotiations. Multilaterally, the discussions on disarmament in the outer space context have taken place in the Outer Space Ad-Hoc Committee of the Conference on Disarmament. It does not have - nor as some might say has it earned - a negotiating mandate. It is regrettable in my view that neither the United States nor Russia have yet recognized that each of these forums could benefit from a closer relationship with the other.

It is in the realm of outer space where unilateral measures may have the greatest significance even in the new non-confrontational atmosphere which we now experience and in which the CD

operates as well. The unilateral measures to which I refer is the Strategic Defence Initiative of 1983. Originally described as a feasibility study, it has gradually taken in the form of a policy commitment without having to prove itself as feasible in terms of its initial objectives. The initial objective, as President Reagan described it was to make "nuclear weapons impotent". Even the most optimistic supporters recognized that this visionary concept was impractical in terms of current or foreseeable technology.

The Global Protection Against Limited Strikes (GPALS) architecture proposal constitutes a significant policy shift. This unilateral measure, in terms of weaponization of space, is more significant however in that it borders on the feasible given its limited mission.

Currently, there are two versions of GPALS. There is a US Administration version which suggests that, right now, weapons in space are needed for security purposes though the threat against which they are to be deployed remains unclear. It is likely that some sort of a campaign will be launched to convince other national governments about the utility of this GPALS approach.

There is an interesting difference between the view of the Administration and that of Congress in this same area. I was most impressed to hear Senator Albert Gore speak in Washington DC last November about GPALS as he and a number of other influential senators viewed it. Along with Senators Kennedy, Nunn and Glenn, Gora appeared to recognize the prudence of understanding research and development in this area and of developing the technologies on an operational site to determine the concepts' feasibility. These senators are apparently strongly opposed, however, to placement of weapons in space or to an operational deployment of ground-based weapons. Whatever the outcome, unilateral measures adopted by the United States could certainly have significant - and in the case of space-based weapons - irreversible consequences for mankind.

Finally, while unilateral measures by other states will most certainly be less dramatic, they may be more acceptable internationally given an inherent, incremental approach. One example is the French unilateral proposal to establish an International Trajectory Centre which parallels in some aspects its 1978 unilateral proposal for an international Satellite Monitoring Agency. Unilateral measures, which require multilateral acceptance to be successful, may constitute the way of the future.

E. *Gordon Wilson*

Unilateral Measures in the Maritime Environment

In addressing this subject I would first like to look at the issue from the perspective of the changing strategic balance, because the whole tone of the arms control debate has changed enormously over the past three years, reflecting the truly momentous changes that have occurred in international relations over that period.

NATO's approach in this changing strategic environment needs to be looked at in the light of the revised Alliance Strategic Concept published in November 1991. In the discussions on a new strategic concept we read about a "strengthening European pillar of the alliance" and "the preparedness of the European allies to take a greater share of responsibility for their own security", although under this changing balance it states that the "European security environment cannot be addressed without recognition of the broader global context. Substantial military power, including ballistic missile technology and weapons of mass destruction, already exists in the hands of states outside the CSCE process that may be hostile toward Alliance members. If such states either border on Alliance territory, or have weapons with sufficient range to reach NATO nations, they could put Alliance populations and territory at serious risk. These potential threats on the Alliance's periphery are clearly covered by articles 5 and 6 of the Washington Treaty". Later it goes on to discuss the

implications of the changing direction of the threat by stating that the Southern Region must not only address the (then) Soviet capabilities, but pointed out that "a different order of potential risks must also be considered, stemming from the substantial military capabilities of states outside the CSCE process or from other regional instabilities."

Manfred Worner addressing the North Atlantic Assembly at the end of November 1990 was very imaginative in his vision of the future, speaking of "variable geometry" in his concept of the limitations imposed by NATO's boundaries and, after all, this is a very important consideration in considering the response to such threats. He said that the Gulf Crisis demonstrated that "risks can arise from new and unexpected quarters" with the result that "threats to NATO's territorial integrity from beyond Europe cannot be downplayed as out-of-area threats". He believed that as a result "increasingly (the) Alliance must factor these risks into its defence planning" for they all required "a collective response and renewed focus on long term crisis protection".[1] These considerations will have the inevitable effect of pulling the centre of NATO's gravity south towards the Mediterranean and demand a pragmatic approach to deal with the threats that do exist to NATO's Southern Flank in an effective way.

The previous Commander in Chief of NATO's Southern Region, Admiral Jonathan Howe, spoke illuminatingly on these matters to the International Institute of Strategic Studies in January 1991, enlarging on Manfred Worner's philosophy. He said that NATO is in transition and would have to adjust quite rapidly to major political and strategic change and, looking beyond the traditional threat, the Balkans were an area of increasing instability, as has subsequently been proved. Looking further afield it was getting very difficult for NATO to maintain a firm distinction between in area and out of area (OOA) in view of the growing sophistication of weapons and the increasing number of OOA interests of the member nations and here of course he impinged on the debate on Europe's future defence posture, which I feel is the fundamental strategic question that has to be addressed by Europeans. Post 1992 Europe, with an economic strength greater than that of the US, must be seen to be doing more to protect its obvious interests and this will be as much on the US agenda as on that of the European nations themselves.

The traditional OOA zones, he said, had changed to direct, such as Iraq, Syria and Libya, which bordered NATO territory albeit Libya lay across the Mediterranean, and those a little further afield, no longer OOA, but now, he suggested, near area because they were able to impact directly on NATO's own territory. A combination of acute economic and demographic problems, irrational leaders, improved air-to-air refuelling techniques and ballistic missile proliferation gave rise to major concerns. In any case NATO's interests extended beyond the direct geographical area, as illustrated by the then current Iraq crisis. I suggest that in reality they have always extended that far, if only for the Middle East oil, but have never been properly addressed. It is only that the perceived greater threat of the USSR reduced the impact of this dependence.

If we look at the application of the revised Alliance Strategic Concept to the maritime sphere, we see that NATO has tailored its forces into three categories. First there are reaction forces, subdivided into two divisions, the first of which is immediate reaction in the form of the standing naval forces, of which there will be two each of escort and mine countermeasure groups, one of the practical effects being that the hitherto NAVOCFORMED has now been transformed to STANAVFORMED, a standing as opposed to an on call force. These will be complemented by rapid reaction forces in the form of on call task groups and forces with varying levels of readiness and exercise application periods. The other categories are main defence forces, the bulk of maritime assets, and finally augmentation forces. Whenever the real world strategic situation demands it, force levels will be enhanced and for an example one only has to go back some eighteen months

[1] Mandred Worner, Address by Secretary General of NATO and Chairman of the North Atlantic Council to thirty sixth annual session, London, 29 November 1990.

or so and note the large force operating in the Eastern Mediterranean in addition to the substantial presence in the forward areas of the Persian Gulf participating in Desert Storm.

Since the formation of NATO, maritime superiority has been fundamental to Alliance strategic thought, reflecting the need to protect the sea routes for resupply and reinforcement across the Atlantic in order to maintain Western Europe's security. The enormous dependence of Europe on seaborne trade only accentuated the importance of preserving the integrity of the maritime links with the outer world, across the Atlantic as well as to the South and East. The theatre in which it was envisaged that the main confrontation would take place was the North Norwegian Sea, because this is where the Strike Fleet would have to exercise control in order to contain the Soviets, protect the vital Norwegian airfields for NATO's use and prevent elements of the huge Soviet submarine fleet from breaking out into the Atlantic. Indeed by postulating an aggressive approach, exemplified in the US document, produced in 1986, the Maritime Strategy, the effect on the Soviets was to enhance the premium they placed on the protection of the SSBN bastions, because of the great importance they gave to maintaining the integrity of their counterstrike capability.

Thus, of the five major sea campaigns postulated in the NATO document Concept of Maritime Operations (CONMAROPS), the battle for control of the Mediterranean, which on paper was on a par with that for the North Norwegian Sea, has until recently been seen by strategists to have been the less important of the two. However, the Southern Region of NATO, centred around the Mediterranean, has assumed a new prominence over the past two years and who is to say that the emphasis has not now been reversed, albeit in a different strategic environment? This will no doubt be reflected in the revised version of the Concept now under consideration. The Soviets for their part maintained large forces in the Kola area, as explained for the protection of the so called bastions, but also for the extended air defence of the Soviet Union.[2] In the Mediterranean, prior to the new European order, they countered the NATO fleets with substantial surface and subsurface forces of their own, drawn from the Northern and Black Sea Fleets.

Subsequently in the Gorbachev years of arms control the Soviets adopted a different tack and made many proposals for limitations and cuts, as will be discussed in some detail shortly. However, one of the significant points was that the Mediterranean should be a sea of peace with all military forces withdrawn or, alternatively, that naval forces, which included those of the Soviets, should only operate in the region as a combined force under the auspices of the United Nations. These were resisted by NATO and subsequently such has been the change in the world balance of power, let alone the diversity of opinion coming out of the former Soviet Union, that one heard, for example, proposals that supported the strength of the NATO commitment to the Mediterranean in the interests of the security of the region[3] or that NATO and USSR forces should operate together with the same aim in mind.[4] This was a far cry from an ocean of peace and reflects the reality of world affairs.

The experience of the British and Americans in moving forces to the Gulf region underlined the enduring significance of the Mediterranean as a highway for sea movements between East and West. According to the testimony of Vice Admiral Donovan, the Commander US Military Sealift Command, to the House Armed Services Committee on 19 February 1991, the United States moved 94% of its total cargo to support Desert Shield/Storm by strategic sealift. Of this 75% went through the Mediterranean. From the UK perspective it took 72 ships to move 4 Brigade, the reinforcing brigade to 7th Armoured Brigade in order to make up 1st Armoured Division, from Germany to the

[2] See Captain V'yunenko et al, *The Navy: Its Role, Prospects for Employment and Development*, with forward by Admiral Gorshkov, 1986.

[3] Georgi Sturua, Dalhousie University, June 1990.

[4] UK/US/USSR discussions Adderbury series, Brown University, R.I., November 1990.

Gulf and by the cessation of hostilities last year a total of 146 vessels had been chartered for the movement of military equipment in support of Operation Granby (the UK name for Desert Storm).

It is well worth bearing in mind that, under the concept of the new United States Strategic Structure, the Atlantic, which is to be one of the four major commands, encompasses not only the Mediterranean but also the western Indian Ocean, which emphasises the link of the Mediterranean between the two areas of interest, hitherto regarded as separate, into one homogeneous region by the force of new strategic realities. Central to this debate is the question over the US presence in Europe. While there may be conjecture over the number of troops in Germany, or aircraft to support them, I do not see the US drawing down too greatly its significant maritime contribution to the Mediterranean and this may therefore well become the residual American commitment of substance to the defence of Europe, albeit it will doubtless be reduced somewhat from the force levels of the last few decades.

Europeans too, within and without NATO, see the Mediterranean as an area of great significance to their security interests. New threats in a changing world include demographic pressures from the Maghreb as it looks across the sea to an affluent and relatively underpopulated Southern Europe. Migration pressures are not only a threat from the South but also from the East and North-East, as illustrated by the Albanians, and note that the Italians used their navy to respond to the problem. Drugs, ballistic missiles and chemical warfare are all growing threats from a southerly direction to add to the established, if now somewhat less immediate, concerns to the East and it is worth recalling that it was at the Italian island of Lampedusa that Gaddifi fired Scud missiles shortly after the US Libyan air raids. New organisations, such as the Hexagonale, reflect the concerns of regional nations to respond to such pressures. Mangred Worner has described the area to the South and South-East of Europe from the Maghreb to the Middle East as an "arc of tension".[5] In his view NATO has to improve its crisis response and management attitudes to such threats and in tackling them in a wider area. His use of the term "variable geometry", mentioned earlier, is very much a call not to be hidebound by artificially restricting boundaries.

Therefore I see the region as one of increasing NATO interest and concern in which it is seen to be necessary to have the potential to respond to any crisis, rather as the Inner German Border and the Northern Flank have been viewed in the past. Certainly, as there is no question over limits of operational areas in the Mediterranean itself, I would expect any potential response to be robust. Whether Manfred Worner's vision of NATO's defence of firm interests somewhat beyond but associated with this vital area is viable is much more questionable. The inertia of the NATO system and the reluctance of several nations to move from the cosy assurance provided by the old form of NATO and address difficult questions hampers the introduction of imaginative ideas to address the changing world. However, the June 1992 commitment of the NATO Foreign Ministers to the potential use of NATO forces within the CSCE area with the aim of preserving stability is a significant step in the right direction. Certainly the Mediterranean needs more than ever to remain a direct area of NATO interest and the US will doubtless consider that, in tandem with the US efforts, Europeans should contribute substantially to the security of the area and still the only effective means by which they can do so in concert is through the infrastructure of NATO.

I have addressed the NATO perspective at length because an understanding of the new strategic order and issues is important when considering the changing arms control imperatives. So now I want to turn specifically to current arms control issues in the maritime sphere as I see them. Maritime measures were very firmly excluded from the mandate of the formal CFE arms control processes. This has been a strong Western principle, certainly at the official level, but is also reflected in the views of many independent commentators and academics, although certainly not all,

[5] Manfred Worner, address to North Atlantic Assembly, London, 29 November 1990.

for there are some who considered at the time of the CFE process that by this approach the West missed a major opportunity for change and exhibited a marked degree of inflexibility in retaining its entrenched position. Nevertheless there is strong consensus on this line among the major maritime nations of the West an in retrospect this position has been vindicated.

On the other hand, the erstwhile Soviet Union pressed very strongly for maritime forces to be included in the formal arms control negotiations. This approach really achieved significant status and a high profile after Gorbachev's Murmansk speech in October 1987, which was followed up by further high level speeches on closely related issues in 1988 by Gorbachev himself at Krasnoyarsk in September and earlier that year by the then Prime Minister Nikolai Ryzkov in Oslo in January. There were two reasons for this high profile Soviet response. One was a reaction to the US "Maritime Strategy", a concept of US naval operations for the first time published in an unclassified form, which was put to the world in 1986. This spoke in fairly strong terms of the need to adopt an active and forceful forward presence in the event of potential conflict and certainly gave the Soviets cause for concern. At the same time the CFE negotiations were taking place and the Soviets were about to make marked concessions in the land environment. With their continental perspective they felt that the West, with what appeared to them to be a marked superiority at sea, should make reductions in this area of perceived superiority commensurate with those being made by the Soviets on land. Their then Chief of the General Staff Marshal Sergei Akhromeyev never lost an opportunity to point this out, even as the dialogue between the two blocs brought a significant thaw in relations.

The philosophy of those in the West who wished to avoid the arms control process was founded on the perspective of an alliance and strategy held together by sea links and this can be traced back to the theories of such eminent writers on maritime affairs as Mahan, Corbett, Coulomb and Richmond, hardened by Allied experience during the Second World War, particularly in the Atlantic. In short, to preserve the integrity of the Alliance, there could be no restrictions on the passage of military and merchant ships outside territorial waters under Grotius' principle of *mare liberum* and in simplistic terms it was generally agreed that to conduct a defence at sea (as opposed to an attack on land) a ratio of 3:1 superiority was needed. Both strategically and economically the Western Allies relied to a much greater extent than the USSR on free use of the oceans.

Behind these formal positions there was some dialogue, not least being the Adderbury series of conversations in which views on matters of naval policy and strategy were exchanged on an unattributable and unactionable basis. It was by such means that both sides in the argument began to develop a better understanding of the concerns of the other and the rationale behind their national strategies. The benefit from such discussions may be gauged from the fact that Ambassador Vladimir Kulagin of the Ministry of Foreign Affairs, speaking in Copenhagen in early 1991 said that at last he understood the western preoccupations with the sea lines of communications (SLOCs). A major international conference held in Moscow in February 1990 brought into the open many of these views and subsequently it has become apparent that by and large the Soviets did not want structural arms control any more than did the western navies.[6] Other conferences have identified this outlook, although Admiral Chernavin, Commander in Chief of the then Soviet Navy, visiting the United States in November 1991 did say that he still felt there was a place for some form of structural arms reductions.

[6] In this context it is most interesting to read the Greenpeace reports of the visits made by their officials to the Severodvinsk and Vladivostock areas in the latter part of 1991. They appreciated that because the enrichment of the fuel was much lower than the commonly accepted norms of the western navies, the submarines required refuelling and repair work much more often than their western counterparts, with the consequence that they needed more of them to maintain the numbers considered necessary for operations and to counter their perceived threat. Reduction in submarine numbers would certainly not have met their aims.

There is a widespread feeling among some that while there might be little to be gained from attempting structural maritime arms control, not much would be lost by either side in having some form of dialogue and introduction of confidence-building measures. However, there was a fear that these might prove a slippery slope to further substantial arms control measures, although in the current climate of cooperation it remains to be seen whether such an outlook will prevail.

In a time of reducing defence expenditure among the major military powers of the world, driven, if nothing else, by financial imperatives, structural arms control is actually unrealistic and counterproductive. For a start it leads nations to hold on to ships and weapons they might otherwise put up for disposal, because they could be used as bargaining chips, even though they might be militarily worthless.

Perhaps a more important result of this financial pressure is the unilateral reductions that occur as a consequence and these seem to be much more significant and speedy than any that might be brought about by more formal measures and is a most interesting observation when compared to the inter-war years arms control process of the Washington and London treaties. This most commentators consider to have been a failure which created more problems, such as insecurity, suspicion and resentment, than it solved and ultimately failed to prevent conflict.

Richard Hill has pointed out with regard to the European process that, although unilateral measures clearly do not fall within the Madrid Mandate, since they are not politically binding in international terms, they nevertheless have a place in confidence-building and are definitely a CBM. Thus the US decision in 1990 to remove several varieties of tactical nuclear weapons[7] from their ships did have a significant effect and cut a considerable amount of ground from under the Soviets' feet. In reality these weapons systems were getting obsolescent and difficult to maintain and in due course there would have been nothing to stop their being replaces, although that would have been a very disadvantageous decision to have made in the public forum of world opinion. Nevertheless the step did have a confidence boosting factor, albeit many professional naval officers had serious doubts about the utility of nuclear weapons at sea, on the basis that they would probably create more problems than they would solve. For example, a nuclear depth bomb dropped on a submarine would make the water unusable as a medium for detection, for which it is virtually the only effective means, for several hours.

One of the three major fears of the Soviets in the maritime sphere has been the capability of sea launched cruise missiles (SLCMs) and they worked very hard to achieve a limitation on their numbers, tacked on to the START Treaty as a politically binding agreement. This concern must have been markedly accentuated by the effectiveness of this weapon during Desert Storm. Thus the unilateral announcement by President Bush in September 1991 that all tactical nuclear weapons (TNW), including nuclear armed SLCM, would be removed from ships at sea must have been a major surprise but a greater confidence boost to the dialogue between East and West. It also has a significant impact on the hitherto sacrosanct "neither confirm nor deny" (NCND) policy. For the first time in recent years the West had seized the initiative and the Soviets were certainly caught off guard such that their response, when it came, was in a rather low key fashion, although in general it matched that of the West, since the US had now been joined by the UK in the intention of removing TNW from ships at sea. These plans were given greater substance by, on the US side, the Bush-Yeltsin talks of June 1992 and on the UK side by the statement in the House of Commons, also in June, to the effect that British warships and maritime patrol aircraft would no longer possess a nuclear capability. There is one loophole in the exchange. The US regards SLCM as a tactical weapon, whereas from the Soviet, and now presumably Russian, perception it is a

[7] ASROC, SUBROC and Terrier.

strategic system and therefore probably not covered by the Soviet declaration, which did not specify weapon systems.

The general improvement in the atmosphere generated over the last eighteen months is such that weapon systems and potential confrontation at sea between the world's major navies is fast slipping of the agenda as the major naval issue, to be replaces by that of multinational cooperation. An official Russian view "does not link the naval arms control issue with the progress in other disarmament fora. It considers the limitation of naval power and means for naval warfare as an exclusively internal matter of any other state". This paper goes on to conclude "Russia is convinced: the high seas and oceans must unify rather than divide peoples". This goal can be attained in an atmosphere of stability in the World Oceans. A broad inter-navy cooperation between maritime nations which share this notion ... would meet such a requirements."[8]

The fact that we have reached such a state of affairs seems vindication for the western approach to maritime arms control over the last decade, namely that force levels or weapon systems are not a matter for negotiation, nor should the freedom of the seas be constrained by limitations to the movements of warships outside territorial waters and this includes proposals that constrain movements in international straits and traffic zones. There now seems to be consensus in the former area, but there is still much to be discussed and some way to go before there is agreement by all parties in the latter. Paradoxically force levels are now under greater jeopardy as decreasing budgets and a perception of a reduced threat lead governments of the major navies to consider cuts. Despite the fact that they are driven by self interests, unilateral disarmament moves in the maritime sphere and not formal arms control treaties are a consequence of the improvement in relations between East and West and indeed have themselves played a not insignificant part in this thawing of the atmosphere. We have to wait and see what happens in due course, but these measures could well prove more productive than the naval arms control steps of the inter-war years.

F. *Adam Daniel Rotfeld*

We are in a transitional period and there is a need and a great demand for new ideas. Unilateral measures cannot be perceived as competitive to multilateral measures. Rather, they should be compatible. In other words, one must consider them as elements of interdependent actions. This is very important, because too often people, and perhaps especially diplomats, have a tendency to see in isolation one new element which will solve our problems. In my view, one should regard unilateral measures as a type of facilitation, or as a means of easing the work in the multilateral or bilateral processes.

I would, however, like to return to a discussion of the contemporary importance of the problem of unilateralism. I would say that there are three reasons for this importance. First, over the last two years arms control lost some significance for the broader public opinion. In the past, the process was often considered merely as a channel of communication, rather than political negotiations. The results of negotiations reflected as a rule political willingness to improve mutual relations by reducing military confrontations. Now, we should speak about arms control *per se,* as valuable *per se.*

The second element is that the concepts and assumptions that have guided security in all of our countries in the past, in the divided and bipolar world, have largely become obsolete. We do have some patterns, and these patterns are not adequate in the new situation. I would, however, suggest that they should not be forgotten. On the contrary, I would say that it is often quite

[8] Russia's Views on Naval Arms by V. P. Kozin, Senior Counsellor, Disarmament and Military Technology Control Department, a paper for the RFN/RN/USN meeting on maritime issues, June 1992.

important to retain those positive attributes of the past. Frequently though, they were not necessarily designed to be implemented but rather, I believe, as an abstract concept, to promote discussion for example. This was the case with the 1958 and 1962 surprise attack conferences. Many of the good ideas which were expressed at that time, were not taken seriously. They were, however, particularly well prepared by experts, and in my view there is no need to rediscover America because it was done more than 500 years ago. Also, people quite often say that they have invented something completely new, and in fact it is good to know that we do have some ideas, for example, open skies. In 1955 the open sky concept proposed by Americans was rejected without negotiation since the USA knew that the Soviets would reject it. Nonetheless, we are now in a situation where we need to take this concept very seriously.

The third element is that arms control is now further reduced mainly to military and technical aspects, and the political and ideological confrontation does not play a role as was the case in the past. Therefore, there is a need to be considerably more professional. In the past it was enough to have a good idea. Now, one must be professional.

In this context I would like to say that there are some old and some new threats connected with nuclear weapons, and I will mention three such threats which are related to the utilization of the unilateral approach to facilitate our work in the arms control process.

To begin, there is a risk of regional wars involving countries other than the global powers. These countries include those which are either already in possession of nuclear weapons, or are capable of building them. Often, I would say, this threat is reduced to the former Soviet Union, but in my view it is not in fact the former Soviet Union. Rather, other regions, and especially the Middle East or the Gulf, are in this situation.

Secondly, unilateralism would facilitate the prevention of the spread of nuclear weapons to other countries. In such an event, there is a greater likelihood of the threat of use of the nuclear weapons in domestic conflicts, in civil wars. Here, I primarily allude to the former Soviet Union. In the case of a military *coup d'état*, one cannot completely exclude such a situation. Recently, I observed on Soviet television a one-day congress of 5,000 officers who pretended to have sole responsibility for the use of military force. I was a bit shocked because, for the first time, I could see a situation comparable with that of 1917 when the same tendency existed for the Russian army to take political responsibility for the country. This time, there was exceptionally strong pressure on the leadership and personally on Yevgeniy Shaposhnikov. I observed with some astonishment that he was in a position to manage it. He did, however, give up for the moment.

Finally, the last threat involves the accidental or unauthorized use of nuclear weapons, a situation which once again could be connected with developments in the former Soviet Union.

In order to alleviate these challenges during the period of transition, there is a need to do something quickly and precisely. The negotiation process would be the best method, though I would say that it is somehow condemned for a particularly long time, and we do not have time to spare. Therefore, the decision must be made unilaterally, and in my view the main problem now is how to strengthen the NPT regime. In this respect, some months ago several ideas were presented by Jonathan Dean and Kurt Gottfried about the new generation of CSBMs in this area. The new CSBMs they proposed could be facilitated by unilateral actions rather than by the initiation of a new process of negotiation.

Nevertheless, having said this I would like to add that one should not overestimate the unilateral approach. In fact, what we need is a supplement to the unilateral approach, or I would say the stabilization which would then be consolidated by uniquely international instruments. In other words, speaking about verification or compliance - implementation - verification, for example, there are many new challenges which are independent of the problems we confronted in the past. There is the problem of whether Russia is in a position to comply with all the commitments which were made, and I would say that they are obviously not. There is also the problem of cost. I would

prefer not to mention what kind of costs will be connected with the elimination of chemical weapons; even for the United States it will be impossible to implement Chemical Convention's provisions because the costs are enormous. Also, I suppose there will be a need (which should be thought about now) to organize a kind of international agency to implement and verify the destruction of chemical weapons. In other words, an international agency would simply be conceived to lower the cost of the arms control process.

A second point concerns the temptation to construct a model, a model of thinking and a model of future development. By definition, models should be logical, consistent, and elegant, yet life is not logical, not consistent, and not elegant at all. We have been, at least in recent years, confronted with numerous situations for which we were not prepared. CFE, for instance, was designed for a completely different situation. We do have some military districts under CFE provisions, but these districts exist in fact only on paper. We have a completely new security landscape, but how to deal with this situation? The American decision-makers are faced with extreme challenges. With whom should they speak and what should they say? There was, in the past, a tendency to stabilize and consolidate at least the rest of the Soviet Union. Another problem is connected with the fact that for the fundamental changes domestic and not international factors were decisive. For example, Russia has disappeared as a great global power because of the disfunctions of the system. It is also a reality for the United States, and for all of us in every country. The decisive factors for international politics are domestic factors, and for many years we were fascinated by the bipolar division and by the elements of balance of power. That is why domestication, if I can so say, to make the distinction from internationalization, is now so important. This last point is unfortunate, as one could predict the possible return to national strategies, instead of internationalization. How to prevent this very negative development, is an open question, and from this point of view it is important to not lose momentum. Unilateral measures could facilitate some decisions and create a legally binding and international *fait accompli*, which would then need to be formalized.

G. Igor Sherbak

The previous speakers elaborated in full about the role and the character of unilateral measures. Therefore I would limit my intervention to several observations.

The recent experience with the Conventional Forces in Europe Treaty showed that unilateral measures could play important and effective role not only in the preparation of major multilateral agreements in this field but also in producing favourable political and moral environment for reducing the level of military confrontation and strengthening regional stability in Europe. Of course, it is obvious that unilateral measures, in spite of their attractiveness, could be effective only if they are of reciprocal nature or in combination with other bilateral and multilateral steps. Unilateral measures should be approached through a careful balance of many political military and legal factors. It is extremely important that the state-parties should avoid excessive reliance on unilateral measures when they are not accompanied by corresponding degree of confidence, transparency and appropriately arranged exchange of information.

Hence, the necessity for European states to establish among themselves new security relations based upon co-operative and common approaches to security dictates the objective trend in favour of institutionalization of unilateral measures in the field of conventional disarmament in Europe. By this I mean setting up some basic rules which could govern the utilization of unilateral measures.

First and foremost, these measures should be accompanied by appropriate information about their substance and main parameters. They should be transparent and easily assessed.

It seems that these actions should be oriented towards improvement and further development of confidence- and security-building measures contained in the CFE Treaty and in future agreements in the conventional disarmament in Europe. It would be natural if these unilateral steps are applied by the states-parties in the area of major conventional disarmament agreements in Europe thus creating favourable conditions for the realization of these important agreements.

From the point of accountability of unilateral measures in the absence of verification mechanism for their proper observation it is important to subject them to a careful scrutiny on the part of corresponding national parliaments and parliamentary commissions. Participation of parliamentary and public circles in the preparation and implementation of unilateral measures would undoubtedly help to generate trust and confidence for these initiatives. It could be logical to expect that these bodies could play positive role especially in transforming unilateral measures in mutually reciprocal measures in the field of conventional disarmament.

Since defensive military doctrines could play a greater stabilizing role, it is desirable that perspective unilateral measures in the field of conventional disarmament be an integral part of broader actions aimed at forestalling and resolving crisis situations at the earliest possible stage so as to prevent of a large-scale armed conflict. Further-more, these harmonised unilateral measures based on mutual reciprocity could be woven into the fabric of military doctrines and brought into play by means of voluntary and individual political steps (rapid communication, inviting on-site inspections to dispel the suspicion, etc.) in time of crisis. A possible example of reciprocal unilateral measures could be renunciation by the armed forces in the particular crisis situation of any show of force or military activities that could cause concern to the other side (exercises, mobilization measures, etc.).

Part III

Responses and Comments

A. *Pierre Lellouche*

I have a few comments. I was deeply impressed by the convergence between the representatives of the United States of America and of the Russian Federation, which demonstrates that despite the geopolitical changes with which we are all familiar, there is still a long-standing intellectual complicity between our American and Russian friends. I would add that this complicity will spread to others, because I am convinced that to all intents and purposes, at least as far as what were until recently known as East-West nuclear matters are concerned; disarmament as we have known it since 1945 is probably dead and buried and the new forms of contact in arms control will be primarily based on measures taken unilaterally by the nuclear-weapon States. As Mr. Agaev has underscored, the end of ideological competition, together with the end of strategic nuclear competition, the declining role of nuclear weapons in relations between the rich States of the North, both in strategic terms and in political terms with regard to the hierarchy of powers, will all entail a considerable fall in levels of nuclear armament. This began at the tactical level, with the strategic level following suit. The new European geography makes it very hard to justify keeping tactical weapons, which will now land on our friends. This will lead to a generalization of reductions in nuclear-weapon ceilings, probably beginning with unilateral measures. My hope is that at some point there will be a form of codification of the remaining arms levels. I believe this will be possible and that it will probably be achieved within the framework of the United Nations Security Council. It is easily conceivable that in a few years, once the successor State of the USSR has been finally designated or taken shape and central control over nuclear weapons decided, that after a series of unilateral measures there will be a form of codification, at any rate by the States of the North. As I see it, this problem has been largely solved.

The real problem seems to concern North-South nuclear relations, and it is in this area that unilateral nuclear disarmament measures are in my view far from sufficient. Where do we stand today? In the first place, the multilateral legal regime, the Non-Proliferation Treaty regime, no longer enjoys a consensus and is either openly rejected by would-be nuclear-weapon States or openly violated by a number of parties to the Treaty. The most blatant case is Iraq. In addition, unilateral export control measures vary considerably from country to country. There are countries were they work well and countries where they work very badly. For example, in the case of the United States, where the relevant legislation is highly developed (the 1978 Non-Proliferation Act, with further legislation in prospect) it is clear that United States firms have violated the legislation. As this example shows, unilateral measures are not enough and they are extremely disparate from one country to another. Furthermore, the logic of unilateral measures, when all other enforcement measures have failed, is to use force oneself. This is a step backwards to the beginnings of non-proliferation, to the method used during the Second World War. There is a risk of disorder, of the law of the jungle. I believe that as far as proliferation is concerned, the future still lies with multilateralism. I believe it is important to do everything possible to strengthen the Non-Proliferation Treaty, which is due to expire in 1995, and in this connection I am glad that after 23 years the French Government has finally acceded to the Treaty and it is my hope that the Government will submit the Treaty for ratification by Parliament, which it has not yet done. I also hope that in the multilateral domain national legislation on exports will be harmonized. In this area too, there are considerable country-to-country discrepancies and penalties are often extremely light. In the cases of Germany and the Netherlands or other countries, export control measures must be standardized. Lastly, with regard to countries that cheat or that pursue military programmes, and we know who they are, this is not a deliberately theoretical problem. The measures provided for in the United Nations Charter, in particular in Chapter VII, must be expanded in order to give the international community the means to intervene, to apply sanctions and then to intervene in the

event of proliferation. Thus, while I believe that in the North unilateral measures will prevail as the means of lowering the level of armaments, in North-South relations, the effort must be multilateral and based on strong national policies that are nevertheless as fully harmonized as possible. I would add that the future of the United Nations is of great importance from the point of view of the punishment of violators, of those who violate these international rules.

B. *Prakash Shah*

The Chemical Weapons Convention, which is now being discussed and which we all want to be achieved by the target date in the fall of this year, and the Australia Club restrictions, and the imposition of one against the other is an important question. The point is that the Convention has reached a stage where we have identified schedules, we have identified chemicals in various places, (a), (b), (c), and simultaneously there is the Australia Club which has also identified its own export controls, etc. Now, for the sake of argument, let us say that since there is no Chemical Weapons Convention, as there is no international thing, the next best thing is for the Australia group to continue what they are doing. Fair enough. The question that arises is that, once there is a chemical weapons convention which is agreed upon by everybody, and this is an issue which we know is being considered there, why is it necessary that the Australia group restrictions must continue for two years, three years, or five years? This is where I raise the question about unilateral or group restrictions, decided upon individually by those groups, against agreed upon restrictions, or ones which will be agreed upon when the chemical weapons convention is signed. Yet, in these discussions we find a great deal of reluctance for anybody to even say that the moment the chemical weapons convention comes into force and it has all of those annexes, that the Australia group will be dissolved. So, I believe that this is what I wanted to explain about a multilateral convention - agreed to by everybody voluntarily, and after a great deal of discussion - why is it necessary to still maintain unilateral controls after that?

C. *Miguel Marin-Bosch*

I think that the United Nations has a role in disarmament, the Charter gives it a role - specifically to the Security Council. The Charter does not say "disarmament", but it talks about the regulation of armaments. Because of the Cold War and the conflicts between East and West, the Security Council was not able to act, and this was thus passed on to committees that included the members of the Security Council plus Canada at the beginning, etc., etc. Eventually, we ended up in this Conference on Disarmament which was originally called the ENDC in 1962. I was somewhat surprised to hear that the five permanent members should now retake this question, when I feel that they are really a group whose value is in doubt as long as they are the five nuclear-weapon States, a coincidence of history, but now the P5 do not represent all the nuclear-weapon States because of Kazakhstan, Belarus, Ukraine, plus Russia. So that's four. So three of those would be added.

Another question which we should raise is the juridical status of the Russian Federation as a permanent member of the Security Council. I think that it is an unheard of transition, but I do not know who decides that they are the lawful, legal successors to the Union of Soviet Socialist Republics. Apparently, it was the other four who said it was alright. However, I don't think that there has been a decision on this, and perhaps a consultative opinion of the International Court of Justice would be in order here. Is the judge of the International Court of Justice - who happens to be a citizen of the former Soviet Union legally allowed to stay on the Court? These are valid questions.

What I really want to raise is the matter of unilateral disarmament, specifically nuclear disarmament. We seem to be talking about unilateral steps taken by one country *vis-à-vis* another country. I do not think that is what we had in mind when, in 1984, four other so-called experts and I drew up the study on unilateral nuclear disarmament measures. When we talk about unilateral nuclear disarmament measures, we are talking somewhat in terms of the United Kingdom Labour Party platform. That is basically it, if you want to put it in capsule form. That's right, the former platform. That is what I would call pure unilateral disarmament. That is to say, I am doing this because I think it is good for me, regardless of anybody else. Regardless of whether it is going to be reciprocated by somebody else. Regardless of anything. It is good for us to get rid of nuclear weapons because we don't want to be in this nightmare that we have been caught up in. What I do not agree with are unilateral disarmament measures that arise when a weapon becomes obsolete, and you not only ban it yourself but then you want everybody else in the world to do the same. I don't think that you can interpret that as unilateral disarmament. That is codifying a *fait accompli.*

I am really concerned with this question of unilateral actions *vis-à-vis* others. That is to say *vis-à-vis* Iraq. Someone mentioned the example of UNSC Resolution 687, a unilateral action of the United Nations, by which the international community imposes unilateral restraints and disarmament on another country, which is what you are asking Iraq to do, via United Nations resolutions. You are actually asking them to stop thinking about arming themselves. That is what is being done, and I do not think that these are the kinds of unilateral actions that I was led to believe we would be discussing here.

D. *Mounir Zahran*

I would like to highlight some aspects of the unilateral measures or declarations concerning the disarmament process. We have to think about and evaluate the seriousness of such declarations. We cannot take seriously any declaration in unilateral measures as long as they are still declarations which have not been implemented. We have heard Mr. Aegev saying that most of the initiatives which were taken by the USSR in the past were destined for propaganda in the framework of East-West relations at that time, and now there is a new era in such commitments, and in such unilateral measures and actions.

Also, the seriousness of unilateral declarations, any unilateral declarations, should be measured by the possession of valid and reliable information about the capabilities of such measures. For instance, a declaration by a certain country to reduce its level of armaments, warheads, cannot be taken seriously if said country does not possess that many warheads or that significant a level of armaments. So an exchange of information on this matter would be most invaluable in order to evaluate the seriousness of such an action, declaration, or commitment. This should surely be coupled with an improved system of verification and inspection. Otherwise they would be empty words.

Another example, Israel. A country like Israel declares that it will not be the first to introduce nuclear arms in the Middle East. It has been said time and again, on every occasion when President Bush launched a regional initiative last year. That was a declaration of President Mubarak's initiative on eliminating weapons of mass destruction from the Middle East, when Egypt and Iran had their initiative in the United Nations since 1974 for the creation of a nuclear-free zone in the Middle East. They always said that they would not be the first to use nuclear arms in the Middle East. While everybody knows that such a country produces, develops, and possesses a considerable number of nuclear arms, unchecked and unverified. An exchange of information at the multilateral and bilateral levels among the countries concerned, especially those which have the technology and industry of armaments, would be most useful for comprehending and evaluating the seriousness of

any unilateral declaration or unilateral commitment, as long as such unilateral declaration, commitment, or measure has not been checked or verified. This would enable us to accurately evaluate the seriousness of such a declaration or measure, and as long as it has not been implemented it will be merely empty words. It would have no meaning or sense.

In the nuclear field, the NPT should be transformed into a nuclear ban treaty while we are preparing for the Review Conference, the last one in 1995, on whether to extend or to improve that treaty. It should at least be improved. Egypt is committed to the NPT, and serious about the proliferation of nuclear arms, not only in the Middle East but in the world, since nuclear arms and the threat of nuclear arms is not limited to a certain region while any country possesses such nuclear capability. By the same token, the partial test-ban treaty should be transformed into a comprehensive test ban. We were participating seriously in the conference which was held in New York last year. Unfortunately, there is no progress in this regard and we hope that a discussion to that end, at the Conference on Disarmament, will be beneficial and will create more confidence-building.

Also, from the lessons of the Gulf War, we need improvement in the safeguard mechanism of IAEA. We think that it should not be limited to nuclear facilities, declared and undeclared facilities. The exchange of information and reliable sources of information would be most useful to us, not only in the case of Iraq but in all other cases. This is the lesson we learned. We are serious about it and, in Egypt, when we received a team of experts to evaluate, seek results, and study the ways and means of implementing the resolutions of the United Nations concerning the establishment of a nuclear-weapon-free zone in the Middle East, we told the team that an inspection and verification safeguard should be extended to declared and undeclared facilities, not only the facilities which a country indicates are for peaceful purposes. After all, sometimes there are hidden facilities which would escape verification and the safeguard mechanism of IAEA. Unfortunately, this was not reflected in the report which was submitted to the forty-fifth session of the General Assembly last year, 1990. In reference to Chapter VII of the Charter, stating that sanctions would be or should be applied to a country which violates its commitments, deriving from disarmament treaties and commitments, we agree. However, as far as I am concerned, I think that the provisions as they appear in the Charter are satisfactory, and such a violation would pose a threat to peace and security, in my opinion. That would warrant intervention by the Security Council, under the provisions of Chapter VII.

E. *Adolfo Taylhardat*

I must first make a reservation to the statement that the non-proliferation regimes depend on an association between the NPT and the London Club. The London Club is not an international institution, it has no personality and I feel that one should take it very consciously when it is said that if the NPT disappears, what remains is the Club of London. Secondly, what refers to what really is a unilateral measure? I think that one has to admit that a unilateral measure is self-imposed. A measure calling for reciprocity is no longer unilateral. It involves more than one country and it ceases to be a unilateral measure. I think that, for a unilateral measure to exist, there are two main conditions. The first is confidence, confidence that there is no threat to one's own security; and the second, is will - political will, to apply a unilateral measure. Until now, none of these, or the condition of confidence existed. Now, we are in a situation in which the world had changed, which allows this confidence to exist and gives room for the adoption of this kind of unilateral measure as we are seeing almost everyday.

Next, I think it is now also important that when we speak of unilateral measures, we speak of real measures, effective measures of disarmament. Further, we do not confound them with

confidence-building measures, declarations, or other kinds of decisions, attitudes, or policies adopted by countries. When we speak of measures we should refer to the meaning of effective disarmament measures according to the final document of the first SSOD. Now, I think what we should avoid allowing the question of disarmament to become a north-south issue. This is a very important thing. Some of the statements that we heard this morning, referring to the application of Chapter VII of the Charter, in a way implies this trend to turn the disarmament issue into a north-south issue. I would say that I have no problem with the application of the Charter, as long as it is applied to everybody in the same terms, both to potential nuclear weapons countries and to real nuclear weapons countries. There is one measure which is mentioned in Mr. Djalili's paper, which I believe is one of the most important, which is the reduction of military budgets. This would have an overall impact on all kinds of disarmament measures, whether the reduction of weapons, the reduction of arsenals, or of troops; everything. I think this is one measure which should be encouraged as much as possible.

Finally, with regard to the relation between unilateral and multilateral measures, I believe that these are not exclusive of each other. I don't think that they should necessarily go together. In some cases, unilateral measures have served to adopt multilateral measures. The multilateral measures that have been taken are those which have been given us. Once, at the Conference on Disarmament, I used the term "lollipop" to refer to these "measures" because, at a given moment, the Super Powers did not need a certain kind of weapon or type of activity anymore. So, they gave this to us just to keep us busy and happy, making us believe that we were really legislating on disarmament. Take the partial test-ban treaty, for instance. When the Super Powers considered that they didn't want to conduct weapon tests in the atmosphere anymore, whether on the ground or under the water, then they told us, "O.K., this you can legislate on", but they kept the underground test for themselves.

So I think that this should continue to exist, in a sense, because it gives a legal status to some of the measures taken by the Super Powers - we shouldn't speak anymore of Super Powers - or by the principal military powers. Yet, at the same time, new measures should be adopted, and this is really the role of the Conference on Disarmament and of the multilateral bodies of disarmament, to truly conceive, apply, and legislate for new measures of disarmament which are applicable to everybody under the same conditions.

F. *Tibor Toth*

We started the work of the Conference on Disarmament this year by concentrating on two issues. One was an interesting proposal on how to discuss issues related to non-proliferation. The second one was related to the geo-political changes and to the composition of different groups within the Conference on Disarmament. This is a reflection of the fact that there are new challenges, and we have to face and discuss those challenges. Of course, we have to be abstractive in our thinking and strive for generalization to see the main tendencies.

At the same time, let's not crucify the word on the crucifix of East-West or North-South antagonism. We used to have the horizontal, East-West confrontation and I hope we won't replace it with a new one along the vertical, North-South axis. In political navigation, we should have not only the four cardinal points but rather 360 degrees. The word is much more complex than bringing national positions down to very general and sometimes sweeping concepts of antagonism.

Hungary is situated in a region where a lot of changes are taking place. We are not facing certain disarmament problems from the only angle, whether we should take one side or the other in the non-proliferation debate. In terms of non-proliferation, our approach is not based on pure extra-regional concept. For instance, in late 1988 and early 1989, we heard high level statements from one of the states in our region, a state which is a party to the NPT, which has signed the 1925

Geneva Protocol and many disarmament agreements, that they are able and might be ready to produce weapons of mass destruction. As a reaction to them Hungary came forward with unilateral confidence-building and transparency measures related to chemical and biological weapons, ideas on strengthening the IAEA inspection regime, mainly special inspections. From an external perspective, it might have been viewed that we were taking the side of the North on non-proliferation. In reality we are simply taking care of our own interest by answering the question, whether more weapons would serve our interest or not, and whether more weapons in more hands would serve our interest or not.

Non-proliferation is a controversial issue which is often discussed in very heated settings. I don't think it should be a prohibited word. At the same time I don't think that the notion of export control is a virtue in itself. We have to be practical and specific if we have a look at this issue. I believe we will have another look at it, as there was a particularly timely proposal from the Mexican delegation at the Conference on Disarmament to address the issue of non-proliferation in a wide sense.

Can we consider unilateral export control steps as traditional unilateral disarmament measures? I fully agree with the analysis that unilateral measures might complement legal or customarily rules. There are certain purposes which because they seem to be universally accepted, are being pursued through disarmament negotiations. These efforts might be complemented by unilateral steps. The non-transfer of certain agents, equipments or technologies by now has become a part of important disarmament agreements. It is a legal rule, in certain cases, and a customary one in others. In any case, it is an aim which should not be contested if approached in a balanced manner.

The problem with the NPT is that the NPT does not regulate the relationship between states inside the NPT and states outside of it. It may have been a reflection of the reality at the time, or it is simply a loophole in the treaty. In the case of the Biological Weapons Convention, we do not have specific regulation concerning the non-transfer to non-state parties. In the case of chemical weapons we are still waiting for the legal rule to be finalized. So the question is whether or not unilateral measures, which are trying to address those issues, are acceptable the absence of other regulation. In my view, they are acceptable though there should be a balanced combination of reduction and non-transfer provisions and measures. In the chemical weapons field, even in the absence of the CWC, there are reductions, both unilateral reductions and bilateral ones under the agreements between the US and the Soviet Union. In the nuclear field, if we leave open the question whether the reductions are deep enough or whether we are moving toward the fulfillment of Article 6 with acceptable speed, the export control regime are being accompanied by significant reduction measures. Thus the *raison d'être* of export control measures should be examined in conjunction with other measures, like the prohibition of acquisition or reduction of stockpiles and I think that unilateral steps as a result of such an analysis could be justified.

Besides the required balance between reduction and export-control measures, a broad dialogue is needed as well on these issues. A dialogue is needed under the NPT. There is an on-going dialogue in the chemical weapons negotiations. As a result of such a broad dialogue the most serious consideration should be given to the position of those who still do not believe in such balanced arrangements.

G. *Mary Elizabeth Hoinkes*

In light of the tendency among lawyers to make sure that every other lawyer in the room knows that he too has thought of the same problem, I should add to the remark of previous speakers that the successor state question is one which we have thought about in the United States, though, I would also say that I see a different role for lawyers from the one that has been mentioned. I hope

that it is a more positive role than locating where the problems exist. It is a matter of using legal talents to try to make things work, and to devise the means (without throwing the baby out with the bath water or opening agreements that don't need to be opened). Here, I am speaking specifically of the Charter and the NPT. Recognizing that means need to be found to strengthen, and adapt provisions to changing circumstances where we can. We don't want to jeopardize existing treaties. They took years to negotiate and it could be a bit of a pandora's box to open the text itself. Still, this should in no way preclude our ability to innovatively consider and adopt additional provisions, measures, means, and procedures, by which those old and well-proven mechanisms can be strengthened.

On another point, I would in no way suggest that decisions made in the Security Council should be perceived as being unilateral actions. To me, they are the very opposite, and I would say that our success in the future indeed turns upon finding the right multilateral forum and the right multilateral mechanism to deal with specific issues.

I would like to refer specifically to the comment that was made earlier that some unilateral initiatives or statements in the past may have been made for particularly propagandistic reasons. I think that is an interesting comment, interesting most importantly because it was articulated. Certainly, people have thought it before. I would add that I would put some of the rhetoric that has surrounded particular arms control proposals in the same category.

The United States has made no secret of the fact that it wants to conduct nuclear tests. It needs, and wants, to test less and less, but it is not presently willing to forego *all* testing while it has nuclear weapons which it believes must be protected, preserved, and rendered safe and effective. We have all seen, as you look at the record over the last several years, that the number of such tests is coming down and down. Nevertheless, the arguments are made, in the context of the NPT, that a comprehensive test-ban is necessary for non-proliferation. Yet the fact is that there is an ever increasing separation between proliferation and testing concerns. I believe that the horizontal proliferation issues can be dealt with elsewhere, and perhaps that even raises an interesting possibility for unilateral action. How should a particular country react, if it sees evidence of a test? I am not sure that turns upon whether or not there is a comprehensive test-ban in place.

With respect to vertical proliferation, I think the reciprocal initiatives that we discussed earlier between the United States and the Soviet Union are alleviating many concerns that have been expressed over recent years about the question of modernization. These are very serious and deep-reaching self-imposed constraints on modernization. All countries operate in their own enlightened self-interest, and no unilateral action is taken except as a matter of a country's perception of where its interests lie. In fact, one of the things that surprises me is the nature of criticisms, if I understand them correctly, raised about unilateral actions. Perhaps it is simply a question of where you sit, because one of the most difficult aspects of undertaking unilateral arms control actions is that a country which is anticipating or considering such an action may be taking unto itself a real restraint on its own competitive situation. For example, the imposition of export controls without a multilateral mechanism that imposes those same kinds of controls on other nations, can obviously put a would-be exporter at an economic disadvantage.

The challenge is thus how we look ahead and devise new, not old, mechanisms of arms control to deal with the new challenges. Let's try to come up with new ideas about how to enhance the inspection capability for undeclared sites, and about how we deal with technology transfer and the potential for brain-drains. Can we use the abilities of nuclear technicians in a country which is proceeding to go non-nuclear, in some effective, gainful way, and thereby, hopefully, prevent those capabilities and technologies from getting into the wrong hands? Such are the problems of the moment.

H. *Ednan Agaev*

I would like to stress that I don't see any linkage between non-proliferation and nuclear tests, and I think that several attempts by some groups of states to make such a link, are highly artificial and can be detrimental to the future of the non-proliferation regime. So, as for nuclear testing, I think that its a question to be decided by the nuclear states themselves. As for my country, for example, we simply cannot afford to continue our nuclear tests. That's why we have stopped them. So, unlike the decisions of the former Soviet Union, it is not a propagandistic action. Rather, we openly recognize and loudly declare that we cannot afford them, but this does not mean that we must call on all other nuclear States to stop their tests. My personal conviction is that, as long as we possess nuclear weapons, we need to test them, unless the scientists find another solution. This is why I believe that, the main actions may be solely unilateral, as we have made our unilateral decision. It is our decision, and we don't force nor invite others to join us. So they will make their decisions when they feel them necessary.

I. *Colin Cameron*

A number of participants have asked me about developments in the Western European Union concerning space, not quite outer space, but space in terms of verification. Thus, I thought that maybe the rest of the participants might like to know what we are up to at the moment. There have been various suggestions, going back to the 70s, in the United Nations context, to help with verification by using observation satellites. The French Government was instrumental in making various proposals, something which France has done consistently over the years. While it has not as yet been practical in the UN, in the Western European Union we have managed to convince our nine Governments that we should do something to help the verification process. So as of this month, we are in the process of setting up a satellite centre, to be located just outside Madrid in Torrejon, with a British director. We will begin by training analysts using current imagery - though, perhaps with all the inconveniences of those systems; at least this is a beginning - to be followed by satellite imagery which will be made available by the French Government together with the Italians and the Spanish, who are cooperating on the Helios programme. We hope this will be something which will contribute not only to CFE verification, but also to crisis management in the future. The idea is that this centre should not be exclusive, that it should be open to association with other agencies and other countries. Indeed, on the parliamentary side of the Western European Union, we see it as something to which all CFE signatories should have access. We also hope that eventually, maybe in the CFE context, we will have a role to play. Parallel with this, we now have a study group starting work in Paris on the possibilities of providing a satellite programme for the Western European Union. This is under Italian chairmanship, and the first group has recently set out to study on the possibility of a future radar satellite, perhaps an extension of the Helios programme, to include more countries than the three who have been involved up to now.

J. *Gilles Andreani*

I should like to speak on two points: on verification and on missile-control regimes.

When we address the question of biological weapons and the unilateral acts taken in the field of disarmament we raise a problem that is directly linked to the work currently under way at Geneva. which aims to add to the Biological Weapon Convention a number of verification provisions. What distinguishes unilateral measures, or even concerted unilateral measures, from a multilateral agreement in due form accompanied by verification measures? What makes one type

of measure preferable to the other, especially with regard to chemical or biological weapons? It seems to me that unilateral measures have their value but they take for granted a number of conditions, which are probably still not met in the case of chemical or biological weapons. The Soviet-American agreements in the nuclear field which took the form of the joint nuclear unilateral initiatives by Mr. Bush and Gorbatchev was possible because both parties already had a long experience of formal agreements accompanied by mutual verification, hence between them there already existed a level of political confidence which enabled this type of informal unilateral agreement to provide a practical, convenient and rapid substitute for agreements that would otherwise take a long time to negotiate. Unfortunately, these conditions do not exist in the biological and chemical field for the simple reason that the agreements are universal. A same degree of confidence and experience has unfortunately not yet spread to relations between all the States of the world, and we have to go through the stage of formal agreements containing multilateral verification regimes. Perhaps one day things will have improved and we will be able to do without them. But we have not reached that point as yet.

The second point concerns ballistic missile technology control. One has to go beyond the somewhat inevitable debate about the discriminatory nature of controls on technology transfers: there is a need for security, and a certain degree of legitimacy in the restrictive measures adopted in this respect by the producers of weapons or military technologies. They have particularly the right to choose to whom they want to export their arms and their technologies. There is, however, a particularity as far as ballistic missiles are concerned: in the nuclear, biological and chemical fields there is at least an implicit contractual basis for control measures with regard to technology transfers. These bases are the Non-Proliferation Treaty, the Biological Weapons Convention and more broadly a universal aversion from weapons of mass destruction. As a consequence there is a quasi-contractual agreement between the countries concerned to consider the dissemination of such weapons undesirable and needs to be prevented. However, this contractual basis does not yet exist in the sphere of ballistic missiles and we are dealing, in comparison with weapons of mass destruction in the strict sense, with a regime that is so far, conceptually speaking, purely unilateral. Our aim is to change this and to permit at least an informal dialogue, such as the dialogue beginning in the United Nations, perhaps eventually in the Conference on Disarmament, to establish a consensual basis that will enable us gradually to evolve from unilateral to multilateral measures. Where missiles are concerned, this will be a very arduous and long process, but it is certainly something that has to be attempted.

K. *Hugo Palma*

In keeping with the indication to be as concrete as possible I would like to state that there has been a number of specific steps taken by Peru in the field of arms limitations and disarmament.

Thus, Peru has promoted the Declaration of Cartagena by the Head of States of the Andean countries with respect to the proscription of weapons of mass destruction. The original aim was to include all Latin American countries and we certainly still hope that his will prove to be possible sometime in the future. Very recently Peru has presented to Ecuador a comprehensive draft agreement on confidence building measures.

These proposals are very much in line with the unilateral decision by Peru in 1985 to reduce the acquisition of military planes of the last generation as well as to decommission a number of landing ships; measures that belong in the field of disarmament.

Prior to that, Peru was also instrumental in the 1974 Ayacucho Declaration that included the possibility of restraint in military expenditures and in the 1968 Tlatelolco Treaty for the Proscription

of nuclear weapons in Latin America. All this is to say that we have been and still are firmly committed to the principle and practice of disarmament.

Then, I found some how puzzling the comment made here in the sense that in the future only the necessary weapons should be maintained. We should keep in mind that while possessed or sought, all weapons were deemed to be indispensable through lengthy rationalisation.

Additionally I do not consider unilateralism or multilateralism as a real dilemma. Certainly both approaches are necessary to diminish the possibility of the process of disarmament representing more disorder than the one we already have.

The matter is not irrelevant since in the very field of security the relationship between countries in the north and the south have become a new important topic. The matter is particularly sensitive since neither the international community nor the industrialised countries have tried to establish a system for rewarding moderation in arms procurement or military expenditures. On the contrary, the possibility of punishing some forms of arms expenditures now exists, according to news emanating from World Bank sources or some governments; which could be contradictory with the rush to sell all kinds of weaponry that is taking place at this time.

While arms will continue to be considered as means of keeping or gaining power, elements as the ones mentioned will contribute to increase the existing great deal of confusion. This, by itself, could be consider as a new threat.

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