disarmament forum

10th anniversary

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IDEAS FOR PEACE AND SECURITY

UNITED NATIONS INSTITUTE FOR DISARMAMENT RESEARCH

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EDITOR'S NOTE

UNIDIR is delighted to announce that *Disarmament Forum* is celebrating its 10-year anniversary. For the past decade *Disarmament Forum* has been an accessible and informative tool, offering expert analysis and creative thinking to a broad audience. Each issue has brought together unique perspectives on topics as diverse as fissile materials and nuclear terrorism, and the role of civil society in disarmament issues. Not only does it remain the sole journal of the United Nations dedicated exclusively to disarmament and security topics, the French language version of *Disarmament Forum* has on several occasions made significant contributions to the disarmament and security literature in that language. All forty back issues of *Disarmament Forum* are available in their entirety on our web site—we invite you to come take a look.

This issue, "Ideas for Peace and Security", departs from our traditional format to offer a collection of short, forward-looking contributions focusing on a single idea for building security, promoting disarmament or a more peaceful world. The experts participating in this issue are selected from a range of disciplines and backgrounds. Each one brings unique expertise and vision to this endeavour. While we acknowledge that there is no single solution to the range of security challenges facing humanity today, we firmly believe that creative ideas to address distinct security problems will be the building blocks of a more secure future for all humankind.

The next issue of *Disarmament Forum* will consider the question of illicit brokering of arms in all its aspects. In UN General Assembly resolution 63/67, Member States are called upon, inter alia, to establish appropriate national laws and measures to prevent illicit brokering and encouraged to fully implement relevant international treaties, instruments and resolutions to prevent and combat illicit brokering activities. This includes not only the illicit brokering of conventional weapons but also the materials, equipment and technology that could contribute to the proliferation of weapons of mass destruction and their means of delivery.

Building on the 2007 report of the UN Group of Governmental Experts tasked with considering further steps to enhance cooperation in preventing, combating and eradicating illicit brokering in small arms and light weapons, as well as efforts undertaken by other relevant bodies, such as the 1540 Committee of the UN Security Council, Member States have many avenues of action open to them, from national measures to regional initiatives and international cooperation. As the General Assembly will return to the issue of preventing and combating illicit brokering activities at its sixty-fifth session, this issue of *Disarmament Forum* will examine recent initiatives to combat illicit brokering and ask how Member States could best address the issue.

On 12 March 2009, UNIDIR hosted a seminar entitled "Multilateral Approaches to the Nuclear Fuel Cycle" in the Palais des Nations in Geneva as the first public event of the project of the same name. Representatives from more that 40 countries attended the seminar and a productive discussion

took place following the presentations. The pre-publication study paper *Multilateralization of the Nuclear Fuel Cycle: Assessing the Existing Proposals* was distributed at the seminar and is available from our web site. The audio files of these presentations are also available at <www.unidir.org>.

UNIDIR held three events on the margins of the NPT Preparatory Committee in New York 4–15 May 2009. On 5 May, as a component of UNIDIR's multiyear research project on multilateral approaches to the nuclear fuel cycle, UNIDIR hosted the seminar "A Multilateral Approach to the Nuclear Fuel Cycle: Can It Strengthen the NPT?". The following day, the seminar "Nuclear Renaissance: Non-proliferation and Shared Responsibilities" brought together experts from both nuclear agencies and academia to explore the possible challenges and consequences that a resurgence in interest in nuclear energy has brought to the nuclear non-proliferation discussion. On 13 May, UNIDIR launched its recent publication *Unfinished Business: the Negotiation of the CTBT and the End of Nuclear Testing,* by Dr Rebecca Johnson.

Preparations are under way for UNIDIR's annual space security conference, to be held in Geneva on 15 and 16 June 2009. This year's theme is "Space Security 2009: Moving toward a Safer Space Environment". Building on the well understood potential elements of a space security regime, this year's discussions will focus on how to build these elements and implement new processes and structures to make space security a reality.

In closing I would like to express my personal appreciation to the *Disarmament Forum* team—Valérie Compagnion and Jane Linekar, as well as graphic designer Diego Oyarzún Reyes. The quarterly appearance of *Disarmament Forum* would not be possible were it not for the team's professionalism, commitment, experience and good humour.

Kerstin Vignard

SPECIAL COMMENT

As the new Director of UNIDIR, I'm pleased and proud to welcome you to the 10th anniversary issue of *Disarmament Forum*. For the past decade, *Disarmament Forum* has been serving the international community by providing insightful, and often prescient, articles by distinguished academics, scientists, political leaders and field practitioners in disarmament, arms control and human security. From small arms to nuclear weapons, from enabling women as peacemakers to securing outer space, from regional issues such as arms control in the Middle East to global problems such as the need for economic investment in security, *Disarmament Forum* has been at the forefront of thought and debate. Just as importantly, it was designed—and will continue—to be one of the few journals on disarmament-related issues published in both English and French.

In a change from the journal's traditional format, for this issue we have asked a range of experts to briefly describe realistic and achievable measures that would make an immediate contribution to security and disarmament. As you will see, these range from suggestions of specific next steps on, for example, space security, to more holistic thinking about the role, purpose and reputation of arms control in today's strategic environment. The contributions in this issue look back to draw lessons from both successes and failures, and look ahead to hopeful prospects for disarmament in the near term.

Under the capable stewardship of Editor in Chief Kerstin Vignard, I am certain that *Disarmament Forum* will continue to prove a valuable resource. Indeed, at a time of cautious optimism about the possibilities for progress on multilateral tools not only to prevent the spread but actually to reduce the threat of nuclear weapons, to prevent an arms race in outer space, and rein in the scourge of illicit trade in conventional weapons, the in-depth analyses and creative thinking showcased in *Disarmament Forum* are even more important. And, as always, we invite your comments, suggestions and ideas for future coverage. We at UNIDIR consider fostering dialogue across the disarmament community as one of our primary missions, and *Disarmament Forum* is a key tool for achieving that goal.

Theresa Hitchens
Director, UNIDIR

Arms control: forever Cinderella?

Alyson J.K. Bailes

The resemblance between the fate of arms control and disarmament (as distinct from non-proliferation) in recent years, and Cinderella in the fairy tale, is at least threefold. Though undoubtedly virtuous and attractive when looked at in a good light, arms control has been pushed aside, and sometimes openly insulted and bullied, by more than one important country acting in the style of the "ugly sisters". Second, just as Cinderella was forced to wear dusty rags, arms control has been starved of resources and attention (and too often, of the best human capital) within the overall spectrum of security action. Third, such consolation and progress as arms control has enjoyed have often been found among partners who are likewise disadvantaged, humble and exposed to suffering. Among the few areas where arms control has witnessed continuous dynamic development are the down-to-earth issue of limiting inhumane and indiscriminate weapons and the task of disarmament, demobilization and reintegration (DDR) after conflicts in weak states.

One set of reasons for this has already been much analysed: namely the attitudes of great powers, who have appeared since the 1990s to be less concerned about restraining and dissuading each others' military build-ups and more interested in freedom to optimize their own capacities for conflict intervention and the combating of non-state enemies like terrorists. In these latter contexts weapons have ceased to be seen as a danger per se or a necessary evil, but are regarded more as a legitimate, indeed essential, tool in the "proper" hands. To remove them from the "wrong" hands or stop them arriving there in the first place, the preferred methods have been *coercive*—unilateral denial or forceful destruction—rather than *cooperative*—the negotiation of mutual, identical or balanced restraints. The focus on non-state enemies has further undermined the traditional expedient of arms regulation by treaty, since international legal instruments are not well-designed to deal with such actors. At the political level these trends have been encapsulated in specific events like the US-led interventions in Afghanistan and Iraq and the latest actions of the Russian army in Georgia, which have divided world opinion and made it harder to sustain the sense of common values and purpose on which successful regulation needs to be based.

Since many others have written eloquently on these topics, the present commentary is not going to pursue further the question of who has mistreated arms control and why. Nor is it going to suggest that all will be solved—as it was for Cinderella—by a magical transformation and the arrival of a handsome prince. True, the next president of the United States will have a chance to signal a new start in this as in other fields; but he will be doing so in a difficult environment of new East–West as well as

Alyson J.K. Bailes is Visiting Professor at the University of Iceland in Reykjavik. Some of the arguments in this text were first developed at a seminar on Disarmament, Conventional Arms Regulation and Globalisation, hosted by the Geneva Centre for Security Policy and co-sponsored by the London School of Oriental and African Studies' Centre for International Security and Diplomacy (CISD), held at Geneva on 9 July 2008.

North–South tensions, where arms control is unlikely suddenly to become anyone's first priority and where the trust needed for major progress will take some time to build.

The more unconventional question to be raised here is: has Cinderella herself become too attached to the ashes? Has arms control in some sense helped to paint itself into a corner? At least two lines of argument could be developed on this. One is that there has perhaps been too much intolerance on both sides between advocates of arms control *pur et dur* and the new coercive/cooperative school.

Has arms control in some sense helped to paint itself into a corner?

Certain new approaches developed by states and institutions have been based on objective analysis of the treaty method's shortcomings, and have tried to preserve such values as self-restraint and mutuality, openness and the non-zero-sum enhancement of security. No one gains from rejecting these as "not really arms control", and it is high time to look instead for some kind of synthesis between the best of both the old and the new. Part of such a fresh start would be to find ways of enlisting "good", or at least compliant, non-state actors as part of the defence against destructive ones—and to search for regulatory methods that do make sense in a non-Westphalian setting.

The second question, posed in the rest of this text, is more general. Has arms control done enough to show its relevance to the broader concepts of security emerging since the end of the twentieth century, and to the challenges that seem most crucial for mankind in the twenty-first?

Take one example: the new preoccupation with "human security" and with building systems of security governance (after conflict or as part of more peaceful national transformations) that guarantee the rights and welfare as well as the physical survival of the citizen. This powerful concept has inspired several new lines of practical security thinking, including the call for more frequent international intervention inspired by a "responsibility to protect" (which of course demands more available forces with more weapons) and a focus on blocking flows of small arms and light weapons (SALW) that produce the greatest casualties in intra-state warfare. It pushes toward greater sophistication in post-conflict peacebuilding, where the need for security sector reform (SSR) to create viable, transparent and just central authorities has been understood for some time, and understanding is now dawning of the need to (re-)establish viable, just and self-sustaining economic conditions as well. Is the relevance of arms control in this fast-developing field really exhausted by SALW restraints, successful DDR within the conflict area, and an SSR policy that leaves the territory with a democratic army dedicated to peacekeeping?

These are all good things for the post-conflict nation itself: but they can leave gaps and even imbalances from a wider security viewpoint. A recovering or reformed state that aims to play a responsible part in global society should be advised that a good defence policy also includes *permanent* efforts for military self-restraint, arms control and disarmament. Nowhere in the world can a strong national defence be created in a vacuum, without considering the effect on neighbours and local security dynamics. Rebels, terrorists and SALW trafficking centres thrown out of one country can and do re-establish themselves next door. DDR and SSR programmes can easily overlook the need to make new regimes watertight also against possible long-range smuggling of weapons of mass destruction. Disarmament focused only on SALW can miss the destabilizing effect and human destruction produced by larger weapons systems. Outside aid for SSR can slide toward actual military assistance to the new regime, which—particularly if it reflects goals more important for the giver than the recipient, like global anti-terrorism efforts—can easily get out of proportion, alarm neighbours, and perhaps lead to abuse of the new equipment for internal repression.

In any continent, "security in one country" is just as hard to sustain as "communism in one country", and weak states above all need stable relations with their neighbours. Europe's nations have shown how good neighbourliness can be built by undertaking active military tasks together, notably for peacekeeping. But Europe's peace from the 1950s to the end of the twentieth century was also

grounded in a complex web of conventional and nuclear arms control agreements and codes of confidence-building measures, governing friends and potential opponents alike. The decay of that system in Europe since 2001 has led to results that have made even the rich, "strong" states of the West suddenly very nervous about their own safety, facing a resurgent Russian Federation that now in its turn finds arguments to disregard restraint. In other regions of the world that start off with, so to speak, a much greater arms control deficit, it seems reckless to believe that local rivalries and the divisive impact of outside interventions can be contained short of open war without any effort at all to discuss reciprocal arms limitations and clarify regional codes of conduct. It is great news that Iraq in 2008 ratified the Comprehensive Nuclear-Test-Ban Treaty, but why was this thought of—or why did it become possible—only five years after Saddam Hussein fell?

There is of course a larger argument about armaments and human security, based on the eternal "guns versus butter" trade-off. According to the *SIPRI Yearbook 2008*, military spending in Africa has increased by 51% *in real terms* during the 10 years since 1998, and slightly faster in North Africa despite the fact that that is not where the conflicts have been. Spending in South Asia has risen by 57%, in Oceania by 45%, in the Middle East by 62% and in South America by 38%. To take Africa in more detail, some of the rise derives from military reform and local peacekeeping, but in other cases spending seems related to actual or potential conflicts, ambitions for regional leadership and—significantly—the disposal of new oil wealth, which also explains some current steep rises among Latin American, Middle Eastern and post-Soviet countries.

It would be wrong to criticize these countries' choices in some top-down and West-centric way, especially when by far the single biggest factor inflating military expenditure worldwide since 2001 has been US spending. But another set of statistics about how countries prioritize the various aspects of their public spending is thought-provoking. On average, the world's rich countries spend three times as much on health as they do on defence and nearly three times as much on education. The *SIPRI Yearbook 2007* calculates that the world's low-income countries spend slightly less on health than on defence—an average of 2.1% of gross domestic product against 2.5%—and only 50% more on education than on defence. Those last proportions have been improving since 1999 but only slowly. The final part of this equation is to note that citizens of poor countries are not only more likely to die from conflict violence than citizens of rich ones, but are many times more likely to die of disease, hunger and other effects of poverty than they are to die by violence. What that adds up to is that the effect of defence spending in squeezing out other expenditure becomes much more serious the poorer a country gets. Of course much the same problem arises when rich countries make primarily military inputs into poor ones, pouring more effort into military operations than development aid.

These are hardly new problems, but in the early twenty-first century they need to be seen together with the evidence of new instability and extreme fluctuations in the prices of energy, food, and perhaps soon other commodities. Not only do such macro-crises greatly aggravate the riddle of proper resource use for all nations, and in the worst case perhaps help to trigger new conflicts, but they have the potential to combine with defence in a vicious circle. If a country is earning more oil money and profitably exporting food it is almost always tempted to put some of its gains into military equipment. If it lacks energy and food and fears that it might have to fight to protect what it has and to get more, it will be driven to greater defence efforts even while it can afford them less. If it is relatively prosperous but fears it might be swamped by climate refugees and famine refugees, it will probably invest more at least in barricading its borders. All this hardly helps the chances of the world's handling the increased shortage of and competition over vital resources—complicated and aggravated by climate change—in a peaceful, cooperative, just and lawful way. There is also a vicious sub-circle in the fact that military forces as such eat up disproportionate amounts of energy and have heavy carbon footprints. If we accept that importing luxury fruits from the other side of the world is

not helping global survival, what should we say about sending troops halfway around the world for sometimes quite small, local tasks?

The point about asking such questions is not to pretend to answer them. It is to suggest that if we want to free Cinderella from her dusty hearth without waiting for a prince, arms control needs to break out of the niche(s) it has been pushed into by others' neglect and—maybe—its own traditionalism. The questions raised here about the relevance of arms restraint to peacebuilding, regional cooperation, human development, new global economic instability, and climate change cover only part of the potential interface between the "big idea" of arms control and the hottest topics of the twenty-first century. Building such connections can be seen as a policy and philosophical challenge, but it is also about reaching out for contact between the elites, non-governmental organizations, international institutions and specialized forums involved. Cinderella does not need to be left "home alone" from the ball unless she wants to be.

Getting the Conference on Disarmament back to substantive work: food for thought

UNIDIR

Purpose

In late 2008, stemming from UNIDIR's work related to the Conference on Disarmament (CD) over the last decade,[1] Canada asked UNIDIR to reflect upon and identify potential options for getting the Conference back to work. Following discussions with a range of experts, including a diverse group of CD delegates from countries of various regions of the world, UNIDIR has produced this discussion paper. While this paper does not claim to offer solutions to the CD's difficulties, it is intended to encourage dialogue among CD Members to this end.

Introduction

1 The CD's last decision to negotiate on substance (on fissile material, under the "Shannon mandate"[2]) occurred late in 1998. That decision was short-lived: since then the CD has been deadlocked. The Conference has not been inactive in the interim, but its efforts to obtain the consensus required by its rules of procedure to relaunch a negotiation on a fissile material treaty, or to take up any other substantive issue, have proved unavailing.

2 What are the causes of this long, unproductive period? Do they lie in the global security environment alone, or are they inherent to the CD? Has the Conference lost its relevance or importance? Are there new approaches that Member States might pursue to improve the chances of getting down to substantive work?

International security environment

3 At the macro level, it is axiomatic that a body entrusted with sensitive issues affecting international and national security does not operate in a vacuum, removed from the realities of geo-politics at large.[3] Global security issues are no longer defined as clearly as they were during the Cold War. A number of intractable regional issues complicate the security environment, several of them having a global reach.

4 Barren periods of the kind currently being experienced by the CD are not unprecedented in the security arena. The Vienna conventional forces reduction talks continued for 16 years from 1973 without result until an improvement in relations between the Soviet Union and the United States led

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This work was tabled by the Government of Canada at the formal plenary of the Conference on Disarmament on 26 March 2009.

to the conclusion of the Treaty on Conventional Armed Forces in Europe in late 1990. Nevertheless, already in 2009 the CD has heard the view that "We are at a pivotal time for nuclear disarmament. In the last weeks and months, we have seen a remarkable trend towards a renewed focus on international cooperation in general, and disarmament in particular".[4] Such remarks might allude to the outcome of the United States' presidential election and to the growing clamour from various international luminaries and civil society groups for progress to be made on nuclear disarmament, heralding, it is hoped, an imminent end to the CD's unproductive phase.

Enduring relevance and importance of the CD

5 Assessing the relevance of the CD and its key issues in the current security environment is, of course, a matter of perception. Some Permanent Missions in Geneva are finding it a challenge in the face of the Conference's prolonged impasse to keep their capitals interested in its workings. There are those who argue that the longer the CD's inactivity, the less its value. They fear that it could, in effect, be acting as an obstacle to the emergence of alternative efforts toward nuclear disarmament goals. For others, this unfruitful period is simply a reflection of the complexity of the strategic backdrop. Meanwhile, for many, the CD's latent importance is a more salient consideration than its relevance at any given point in time. The Conference's past products, albeit of increasingly distant memory, underline the CD's significance as well as its potential.

6 In this sense, the question of whether the CD retains its relevance for Members as a negotiating body or merely as a debating chamber is more a matter of timing than of evolution. At the time of writing (March 2009), the Conference is a negotiating chamber-in-waiting rather than a body that has regressed into a "talk shop". The steady stream of high-level officials that address the CD has not declined in recent years and, in 2008, 20 dignitaries, including the UN Secretary-General, made statements to the Conference. Whether or not this is evidence of the abiding relevance of the CD, it is difficult to deny that the Conference remains important to many Members even if the level of attendance of heads of delegation has declined in recent years.

7 Some Members may have doubts about the topicality of the CD's agenda, but its ongoing relevance is sustained by the understanding that "if there is a consensus in the Conference to deal with any issues, they could be dealt with within this agenda" (see also rule 31 of the Rules of Procedure). Moreover, the preamble to the agenda foreshadows the possibility of deciding at any time to "resume the review" of the CD's agenda, an activity that once occupied Members for many years but less so since 2002 (although the annual report continues to include a chapter heading on this topic). (See further below for discussion of "core issues".)

8 In any event, the CD's coherence has been consciously increased since 2006 through developments such as presidential continuity under which the six Presidents for the annual session have pooled their efforts to coordinate the activities of the Conference and to produce joint presidential proposals as well as term reports. Improved cooperation among Presidents has facilitated the development of informal work programmes (i.e., "schedules of activities", or "organizational frameworks") that span entire sessions of the CD rather than single months, resulting in valuable continuity that offsets concerns that operating the presidency "by committee" may result only in lowest common denominator leadership.

Relevance in terms of the CD's status as the "single negotiating body"

9 The General Assembly in 1978, during the First Special Session devoted to Disarmament (SSOD1), envisaged that the Conference of the Committee on Disarmament, the forbear to the Conference on Disarmament, would fill a "continuing requirement for a single multilateral disarmament negotiating forum of limited size taking decisions on the basis of consensus".[5] The Assembly attached "great importance" to the participation of all the nuclear-weapon States in such a body.

10 In the 30 years that have elapsed since SSOD1, several disarmament treaties have emerged from processes other than the CD. The so-called Ottawa and Oslo agreements, on anti-personnel landmines and cluster munitions respectively, resulted from negotiations that were purposely conducted outside another consensus-observing process, the Convention on Certain Conventional Weapons (CCW).[6] Moving current CD issues to bodies that might have less stringent decision-making rules (i.e., in which voting may occur) has from time to time been mooted by some Members, notably after the Ottawa and Oslo processes. But such proposals have not gained ground. One possible reason is that it evokes memories of the removal of the Chairman's text of the draft CTBT from the CD to the UN General Assembly (see paragraph 31).

11 Would it be possible to remove any of the current crop of issues from the CD for negotiation elsewhere? The likelihood of launching a successful negotiation outside the CD on issues such as nuclear disarmament, fissile material, prevention of an arms race in outer space and security assurances is, in reality, limited because the nuclear-weapon states would almost certainly not participate. And, as was implicit in the 1978 decision of the General Assembly just mentioned, the negotiation of a treaty pertaining to nuclear weapons that did not involve at least some of the nuclear-weapon states would probably be futile.

Relevance in terms of the membership of the CD

12 Perhaps the most noteworthy aspect of the composition of the Conference is that it includes among its Members all those States that possess, or are thought either to possess or to have ambitions to possess, nuclear arsenals. Although expansion of the membership of the Conference is an issue that is noted annually in the CD's report to the UN General Assembly, arguments that the composition of this forum is either unbalanced, unwieldy or in some other respect deleterious are seldom voiced. On the other hand, if a topic such as an arms trade treaty were to be promoted in the CD, it could be claimed that this forum does not include among its Members the most affected states.

Relevance of the "core issues"

13 For almost a decade, the CD has focused on four core issues.[7] While there are differing views as to the "ripeness" of the four issues for negotiation (or even for "substantive discussion"[8]), it is difficult to conclude, given that they feature in all of the draft proposals for a programme of work since 2000, that these issues have lost their relevance, even if the weight attached to them varies from delegation to delegation.

14 Would it improve the prospects of finding consensus on dealing with the core issues if, as a confidence-building measure, the CD first negotiated an agreement on a less complex question? Have more topical issues emerged since the deadlock on the four core issues first emerged? It might be argued that issues pertaining to missiles (since the demise of the Anti-Ballistic Missile Treaty), to military expenditure, to transparency in armaments (agenda item 7), and possibly to conventional

weapons such as anti-vehicle mines or man-portable air defence systems (MANPADS), could be pursued. But, apart from a US initiative to deal with persistent landmines,[9] no issue in recent years has been articulated as a CD proposal.

Current treatment of the four core issues

15 The term "core issues" has no procedural significance in itself, but has simply become a convenient way to refer to the four issues that have featured in successive proposals for a programme of work since the "Amorim proposal" of 24 August 2000.[10] Do Members believe that there is scope to amend the latest such proposal, CD/1840, in such a way as to increase the prospects of finding consensus on this multiple and comprehensive approach? Or does an alternative approach need to be explored?

16 The most pressing amendment involves the treatment of fissile material. It centres on the prospects for including an assurance that a mechanism for verifying compliance with the terms of a fissile material treaty will be explicitly recognized as part of the negotiations, an aspect that was crucial in the development of the Shannon mandate. It is believed that, ultimately, securing this ingredient is more fundamental than the issue of seeking a prior understanding on the scope of the treaty—that is, whether it would be confined to future production of fissile material or would also encompass existing stocks. The readiness of some Members to enter negotiations under a mandate that is silent on both the issues of verification and scope is severely limited, notwithstanding the fact that other Members regard it as unthinkable that they could somehow be constrained from raising these matters during the negotiation.

17 It cannot be taken for granted that a fissile material mandate that includes the negotiation of a verification mechanism will be sufficient on its own to break the deadlock. Some Members can be expected to seek assurances that other core issues will be accorded appropriate treatment—that is, that the pursuit of one topic will be linked to the pursuit of one or more other issues.

Linkages

18 Linkages raise a number of questions, not all of which are seen to have clear answers. For example, is the making of linkages, in essence, a negotiating device for preventing or delaying progress on one or more issues or, in other words, for prolonging or perpetuating deadlock? Are linkages simply a means of ensuring that, if and when the impasse is overcome, the schedule of activities of the Conference will allow scope for pursuing issues that are subject to a mandate that falls short of a negotiating mandate? Is the linkage in fact motivated by the need to secure "negotiating coin" to ensure that an issue or issues of vital interest to one or more delegations will not fall by the wayside when substantive work actually begins?[11]

19 Depending on the degree of flexibility that might accompany the making of linkages, there are two practical matters that would come into play. First, it is hard to imagine that two or more of the core issues could be dealt with simultaneously. The complexity of the subject matter of each of the core issues is such that, irrespective of whether their treatment began as a "negotiation" or a "substantive discussion", even the largest delegations could be hard pressed to service more than one of them at the same time.

20 Secondly, it should be possible, nonetheless, to develop an understanding that issues other than the one under negotiation would be allocated sufficient time in an operational framework or schedule of activities that could have built into it specific opportunities for taking stock, a structured occasion

for minority interests to be voiced and, if a consensus existed, addressed. While it would be implicit that such a review might allocate more or less time for the treatment of these other issues, it would also imply that those Members that sought to take such issues forward would have to be active in promoting and sustaining debate on them.

"Programme of work"

21 If it does not prove possible for Members to coalesce around CD/1840 or any amendment to it, the question arises whether a less complicated vehicle can be developed in which to carry the Conference forward. A current frustration for many Members is that, in the absence of consensus on what is clearly a complex programme of work, the Conference lapses into virtual inertia. Serious progress on any of the issues covered by the proposal depends on the flexibility of a small minority who may be quite content with a stalled process.

22 In these circumstances, is it realistic to expect those who are withholding consensus to put forward only amendments that will improve the prospects of securing consensus? More fundamentally, is a "programme of work", in the form that it has taken in recent years, serving a useful purpose? What is the value of a programme of work of the kind that has pre-occupied the CD since the tabling of the Amorim proposal (CD/1624) in 2000 and that, with refinements, has evolved into CD/1840? Would reversion to single-issue mandates such as the Shannon example facilitate the CD's efforts to agree a work programme?

23 The assumption that the CD's programme of work must contain mandates of the kind found in proposals tabled since the Shannon mandate is questionable. Rule 28 requires the CD to establish its programme of work "which will include a schedule of its activities" on the "basis of its agenda".[12] Nothing about mandates is mentioned: the activities must, however, deal with matters covered by the agenda. That rule took its current form in 1990 via CD/1036, which was adopted by the CD on 21 August of that year. One of the activities identified in the schedule of activities is "establishment of subsidiary bodies". This comes from paragraph 5 of CD/1036 in which it is stipulated that the "establishment of subsidiary bodies and their mandates is a deliberate act on which a decision has to be expressly taken by the Conference". Mandates, thus, are a creature not of the programme of work but of subsidiary bodies.

24 It can be concluded from this that, in the 1990s, the CD saw the programme of work as consisting mainly of a schedule of activities quite separate from the question of mandates of subsidiary bodies. Indeed, in 1990, the agenda of the Conference (CD/963) encompassed a programme of work that constituted a schedule of activities and an outline of items on which it proposed to focus, including improved and effective functioning. The approach adopted in CD/963, of equating the notion of a programme of work with a straightforward planning mechanism setting out the activities for the year based on fulfilling the CD's agenda, had the advantages of reducing the number of decisions to one and simply allowing work to flow as circumstances allowed. The Conference needs to ask itself whether it has consciously abandoned its former approach and, if so, why.

25 "Programme of work" is not a term of art. The rules of procedure prescribe no format except that the work programme must contain a schedule of activities, taking into account recommendations of the General Assembly, proposals presented by Member States of the CD, and decisions of the Conference. Examples of such decisions taken in the past are CD/1547 (fissile material) and CD/1380 on the negotiation of a nuclear test ban (under mandate CD/1238).

26 To repeat, Members are not obliged to develop a programme of work that embodies mandates. A programme of work need be nothing more than a list of projected activities accompanied by a timetable according to which those activities will be addressed. Mandates setting out the objectives of the negotiation (or substantive discussion) and the mechanisms by which those objectives would be pursued might be developed separately, as in the case of the Shannon mandate.

27 In this sense, the substantive work of the 2006, 2007 and 2008 sessions emerged from a work programme that comprised a set of activities. Deepening those activities is a matter that stands to be determined more by the will of Members than by any procedural device. Indeed, it might be the will of Members, explicit or tacit, that work would proceed, say in formal and informal plenaries, without any mandate at all, although should the Conference exercise its discretion under rule 23 to establish a subsidiary body, it is required to define a mandate for that organ.

28 Where the Conference believes that there may be a basis to negotiate a draft treaty warranting the formation of a subsidiary body, the actual mandate or mandates, rather than the programme of work, would define the objectives of the CD in respect to those issues covered by that mandate or mandates. The work programme would simply set out the details and timing of the conduct of business for pursuing those objectives. Such an approach would not necessarily avoid disagreements over proposed mandates nor prevent linkages being made, but it might help with the management of divergence on those fronts. It would offer the opportunity through individual mandates to remove explicit, written linkages.

Decision-making

29 It is a fundamental reality in the Conference—recognized implicitly in the inclusion of the consensus rule[13] in the CD's Rules of Procedure—that every Member should be entitled to protect vital national security interests. How a Member should properly exercise its right to block consensus nonetheless warrants examination, with a view to developing a new, less restrictive, community of practice or "culture".

30 The Blix Commission on Weapons of Mass Destruction recommended that the CD should adopt its programme of work by a qualified majority of two thirds of the Members present and voting and that it should also take its other administrative and procedural decisions in the same manner.[14] There is a view in the Conference that national security interests would not be placed in jeopardy merely through the adoption of a programme of work. As Jozef Goldblat has argued, "There is no risk in adopting veto-free procedures, because no conference or organization can impose treaty obligations on sovereign states through voting".[15] A Member of the CD that, after participating in the negotiation of a treaty in that body, chooses to stand aside from the outcome is perfectly free to do so.

31 There is, however, another perspective held within the Conference. Some Members are loath to commence a process—a "slippery slope"—over which their control may be subjected to external pressures including from NGOs but also from actions by other Members, as was the case when the Chairman's text of a draft CTBT was lifted out of the CD and tabled in the UN General Assembly shortly after it had failed to attract consensus in the Conference. This has made some Members very nervous about being led down a particular path unless they are sure they have a really good view of—and grip on—the map.

32 Given these dynamics, and the fact that consensus would be needed to amend the consensus (or any other) rule, any relaxation of rule 18 seems unlikely. In addition, the risk that a process in the CD might be removed to an alternative forum cannot be eliminated. On the other hand, it may be possible in practice to offer comfort to those Members that fear a slippery slope by subjecting work in progress to points of review by way of regular opportunities for stocktaking and by the familiar reassurance that "nothing is agreed until everything is agreed".

33 Consensus does not require unanimity. A decision may be taken by consensus despite reservations on the part of a Member or Members so long as such a reservation is not tantamount to an objection. Rule 25, which provides, in effect, that approval of reports does not require that every view contained in a report has to be agreed by every Member, is also relevant.

34 It is noted that when reference is made in the CD to the "prerogative" of the President, this can be assumed to apply to the general, unwritten responsibility of a chairperson to exercise leadership. In the CD, there is a tradition of cautious, consultative leadership in which decisions are filtered through regional groups (see paragraph 40 below). The advent of the P6 presidential collegium has not yet changed this practice, and Presidents continue to refrain from testing consensus directly from the podium except on anodyne matters (e.g., admission of "interested States not Members of the Conference" under rule 32).

Civil society/NGOs

35 Engagement with civil society has long been a divisive issue in the Conference. The rules of procedure contemplate only limited interaction with organizations and bodies of any kind,[16] and warrant updating to bring them more into line with other disarmament forums. In the case of NGOs, a re-examination took place in 2004 but in practical terms gave NGOs little more than was already available to them as members of the public, offering the prospect of addressing one informal plenary meeting per annum once the Conference had adopted a programme of work.[17] Constructing an approach more in line with other multilateral disarmament practice would enable the CD to take into account civil society perspectives and the value that engagement with NGOs tends to bring, which UNIDIR researchers have recently argued elsewhere is potentially considerable.[18]

36 This issue is perhaps best illustrated by the annual request of the Women's International League for Peace and Freedom (WILPF) to address the CD on International Women's Day by way of reporting on its annual seminar dedicated to the work of the CD (a point that is often overlooked). Unable to agree that WILPF should deliver its own address, the Conference instead witnesses the CD President read it out during a plenary meeting. That the WILPF paper should be read by the chair of the body to which this major disarmament NGO is wishing to report is seen by many as patronizing and demeaning to women and to the Conference itself.

37 Rather than agreeing to treat the Women's Day address as a specific case standing on its own merit (i.e., as an outcome of a seminar specifically focused on the CD), the issue has become symbolic of the need for a broad change in policy toward greater civil society participation. It is not inevitable that the two decisions must be linked; yet the Conference has found itself unable to find a way forward either on this specific case or on the broader one of engagement with civil society.

38 On the issue of interaction with civil society in general, at least two questions warrant attention:

(i) is the 2004 decision of the CD still tenable given that, five years later, no programme of work has emerged? It is arguable that the situation of enduring deadlock in the CD indicates

the need for increased contact with and outreach to the broader international community rather than continuing insulation from it; and

(ii) what is the rationale for the CD being more exclusive than Meetings of States Parties to the NPT, BTWC and CCW? To overcome the concern of some Members that only "relevant" NGOs should be permitted to have access to the CD, a modus vivendi between the CD and civil society could be established quite easily, for example, through the NGO Committee on Disarmament in Geneva.[19]

39 Settling these matters should not be allowed to dominate the Conference's activities, and might be carried forward in concert by the P6 or by a "friend" enlisted by them through consultations on elements such as:

(i) determining the formality of the level of engagement with civil society, that is, via a formal session of the CD "on the record", or in informal plenaries;

(ii) determining the regularity of opportunities for engagement, for example, once or twice an annual session or once a term (i.e., three times an annual session);

(iii) deciding whether the Women's Day address is to be treated separately from the practice of broader engagement with NGOs; and

(iv) settling upon a formula for receiving statements (whether in formal or informal plenaries) from NGOs deemed to be "relevant" or from the Geneva NGO Committee on Disarmament as a whole.

Regional groups

40 A method of work of the CD that is criticized by Members from time to time is the manner in which regional groups are being used.[20] Intended essentially to facilitate consultation between the President and Members on organizational matters, regional groups have assumed a role that is seen by many Members as having the effect of weakening if not circumscribing presidential authority. This is because it has become a matter of practice for Presidents to filter any potentially contentious issue through the regional groups while the dynamics within and among the groups have compounded, rather than facilitated, the task of finding consensus. Perhaps as a result, the formation of cross-regional groupings or informal groupings in the margins of the CD to develop more cooperative ways of promoting and brokering compromises among the key players is becoming more frequent.

Options for resuming substantive work

41 Whether or not changes in the international security environment soon emerge or CD/1840 can ultimately be successfully amended and adopted, the Conference might consider the following key options.

(a) Laying the foundations for future work by building on the results of the informal debates on the agenda items. This would be done through a discussion that had as its purposes:

(i) drawing conclusions about the comparative "ripeness" of core issues for more intensive treatment. The reports of the item coordinators and of the P6 offer sources for this activity;

(ii) identifying elements of each of the core issues that would be central to any negotiation or "substantive discussion" that would follow; and

(iii) identifying sources and potential sources for helping to deepen understanding of those central elements. The compilations produced by the Secretariat in 2006 are an obvious

point of reference. Another means might be to develop open-ended groups of experts from whom informal advice on the parameters of technical issues would be sought.

Pursuing option (a) has the virtue of engaging directly on matters of substance. The options below are of a more procedural nature (although matters of procedure in the CD are almost impossible to divorce from considerations of substance).

(b) Determining whether a basis for future work can be laid through means other than via a formal programme of work. Sustaining a topic or topics through focused discussions in plenary meetings (formal or informal) is a course of action open at any time to Members that are committed to pursuing such topics in the absence of consensus on a formal way forward (see rule 19). That is, as with any international negotiation, it is always open to those delegations most interested in the subject matter to act in concert by promoting texts, coordinating interventions on them, and generally driving the issue forward; or

(c) Departing from the current practice of developing a programme of work that seeks to embody actual mandates. As previously mentioned, a programme of work may simply be a list of projected activities set within a timeframe. In the absence of the emergence of a new momentum from plenary meetings (see (b) above), mandates setting out the objectives of a negotiation or substantive discussion and the mechanisms by which those objectives would be pursued might be developed separately, drawing on an approach that has served the Conference well in the past.

Notes

1. See also John Borrie and Vanessa Martin Randin (eds), 2005, *Alternative Approaches in Multilateral Decision Making: Disarmament as Humanitarian Action,* UNIDIR; John Borrie and Vanessa Martin Randin (eds), 2006, *Thinking Outside the Box in Multilateral Disarmament and Arms Control Negotiations,* UNIDIR; and John Borrie and Ashley Thornton, 2008, *The Value of Diversity in Multilateral Disarmament Work,* UNIDIR.
2. Named after Canadian Ambassador Gerald E. Shannon, Special Coordinator on fissile material 1994–1995; see Conference on Disarmament, *Report of Ambassador Gerald E. Shannon of Canada on consultations on the most appropriate arrangement to negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices,* document CD/1299, 24 March 1995. See also Conference on Disarmament, Decision on the establishment of an Ad Hoc Committee under item 1 of the agenda entitled "Cessation of the nuclear arms race and nuclear disarmament", document CD/1547, 11 August 1998.
3. See also Conference on Disarmament, *Final record of the eight hundred and sixty-first plenary meeting,* document CD/PV.861, 21 September 2000, statement by Abdelkader Bensmail, p. 17:
   > Multilateral disarmament forums have always evolved over the years in response to changed political realities. The Conference on Disarmament is no exception in this respect, and the difficulties it now faces are not due to what is perceived by some as the rigidity of its rules of procedure, of its working methods and the group system. They are rather a reflection of the complexity and the dynamics of contemporary international relations, and therefore all the efforts should focus on the creation of a political climate conducive to the full use of the Conference as a negotiating forum, in particular the restoration of the minimum harmony among the major players.
4. Statement to the CD plenary on 17 February 2009 by Espen Barth Eide, Deputy Minister of Defence, Norway.
5. General Assembly, *Resolutions and decisions adopted by the General Assembly during its 10th special session,* 23 May–30 June 1978, UN document A/S-10/4, 1978, para. 120.
6. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.
7. These are: fissile material, nuclear disarmament, prevention of an arms race in outer space, and negative security assurances.
8. The most recent proposal for a programme of work, CD/1840, differentiates, in terms of treatment of various core issues, between "negotiation" and "substantive discussion". CD/1840 contains, in the manner of some of its predecessors, a hierarchy of treatment of issues in which a fissile material treaty would be the subject of "negotiations" while the other issues would be the subject of "substantive discussions on", as for nuclear disarmament, or "substantive discussions dealing with" in the cases of the prevention of an arms race in outer space and of negative security assurances.
9. See Conference on Disarmament, *Final record of the nine hundred and sixty-second plenary meeting,* document CD/PV.962, 29 July 2004, statement by Jackie Sanders, pp. 5–7.

10. Conference on Disarmament, *Proposal on the Programme of Work for the 2000 session of the Conference on Disarmament,* document CD/1624, 24 August 2000.
11. For background, see Rebecca Johnson, "Changing Perceptions and Practice in Multilateral Arms Control Negotiations", in John Borrie and Vanessa Martin Randin (eds), 2006, *Thinking Outside the Box in Multilateral Disarmament and Arms Control Negotiations,* UNIDIR, pp. 74–76.
12. Conference on Disarmament, *Rules of procedure of the Conference on Disarmament,* document CD/8/Rev.9, 19 December 2003, p. 4:

    > 27. At the beginning of each annual session, the Conference shall adopt its agenda for the year. In doing so, the Conference shall take into account the recommendations made to it by the General Assembly, the proposals presented by member States of the Conference and the decisions of the Conference.
    >
    > 28. On the basis of its agenda, the Conference, at the beginning of its annual session, shall establish its programme of work, which will include a schedule of its activities for that session, taking also into account the recommendations, proposals and decisions referred to in rule 27.
    >
    > 29. The provisional agenda and the programme of work shall be drawn up by the President of the Conference with the assistance of the Secretary-General and presented to the Conference for consideration and adoption.

    See also Conference on Disarmament, Decision on the improved and effective functioning of the Conference on Disarmament, document CD/1036, 21 August 1990, para. 6 and 7.
13. Conference on Disarmament, *Rules of procedure of the Conference on Disarmament,* document CD/8/Rev.9, 19 December 2003, rule 18.
14. See the Final Report of the Blix Commission, contained in General Assembly, Letter dated 2006/06/29 from the Permanent Representative of Sweden to the United Nations addressed to the Secretary-General, UN document A/60/934, 10 July 2006, paragraph 58.
15. Jozef Goldblat, "The Conference on Disarmament at the Crossroads: To Revitalize or Dissolve?", *Nonproliferation Review,* vol. 7, no. 2, 2000, pp. 106–107.
16. See Conference on Disarmament, *Rules of procedure of the Conference on Disarmament,* document CD/8/Rev.9, 19 December 2003, rules 41 and 42.
17. See Conference on Disarmament, *Final record of the nine hundred and forty-sixth plenary,* document CD/PV.946, 12 February 2004.
18. See John Borrie and Ashley Thornton, 2008, *The Value of Diversity in Multilateral Disarmament Work,* UNIDIR.
19. Comprising WILPF, International Peace Bureau, QUNO, GIPRI, IPPNW, World Veterans Federation, Afro-Asian Peace and Solidarity Organization, WMD Project, International Fellowship of Reconciliation, Rissho Kosei-kai, and Soka Gakkai.
20. There are three regional groupings comprising Members of the Non-aligned Movement (known in the CD as the G21), Eastern European States, and Western European and Other States, and, as a separate entity, China.

Learn, adapt, succeed: potential lessons from the Ottawa and Oslo processes for other disarmament and arms control challenges

John Borrie, Maya Brehm, Silvia Cattaneo and David Atwood

The Convention on Cluster Munitions (CCM) is a stunning achievement. It sets a new international legal norm and enshrines a comprehensive package of weapon-specific measures to ban cluster munitions that endanger civilians, clear contaminated land and help victims. By adopting a humanitarian disarmament approach, the Oslo process also sends a powerful signal that progress is still possible on arms control-related priorities of international concern despite considerable difficulties in recent years. Yet is the Oslo process really of specific relevance to other arms control work? If so, what does it, along with the Ottawa process that achieved the Mine Ban Treaty in 1997 (to which it is often compared), have to offer multilateral disarmament practitioners in terms of lessons?

The Oslo process on cluster munitions, launched at an international conference hosted by the Government of Norway in Oslo in February 2007, resulted in the CCM's adoption on 30 May 2008. Ninety-four states signed this ground-breaking treaty banning cluster munitions on 3 and 4 December 2008. In many respects, the Oslo process was reminiscent of the Ottawa process that, over a decade earlier, had led to the successful conclusion of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Mine Ban Treaty). In the aftermath of the Mine Ban Treaty's adoption, some had argued that the Ottawa process was an approach—and a humanitarian disarmament outcome—that would not be repeated, in particular, because of the unusual and highly productive partnership that developed between a "core group" of states in favour of the ban and civil society organizations, a partnership hailed from many sides as the birth of a "new multilateralism". Yet, a decade later, the Oslo process led to another weapons ban through a process that was, once again, characterized by a strong cooperation between proactive governments and non-governmental organizations (NGOs) with a humanitarian disarmament goal.

From 19 to 20 November 2008, the Disarmament Insight initiative of the Disarmament as Humanitarian Action project of the United Nations Institute for Disarmament Research (UNIDIR) and the Geneva Forum convened an informal symposium with representatives from governments, intergovernmental and civil society organizations and academic institutions in Glion, Switzerland.[1] The objectives of the symposium were: to identify and elaborate key lessons that could be drawn from the Ottawa and Oslo processes; to explore how any such lessons might be adapted and applied to multilateral action in other areas of disarmament and arms control; and to reflect on how human security thinking could benefit disarmament policy-making generally and suggest possible next steps toward common disarmament and arms control objectives.

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Some key points identified about the Ottawa and Oslo processes

From Ottawa to Oslo. The Oslo process benefited from the Ottawa process experience in several ways, including the following:

- initiators of the Oslo process made use of informal trust networks established among those involved in the Ottawa process and adapted and expanded these to build a new transnational network, which included representatives of both civil society and states;
- the Ottawa process provided those involved in cluster munitions work with a "roadmap" for campaigning; and
- in terms of the outcome, the CCM text adopted many structural elements of the Mine Ban Treaty.

Focus on the human impact. Anti-personnel mines and cluster munitions were each initially treated at the international level as questions of arms regulation. But both the Ottawa and Oslo processes that subsequently emerged were framed in humanitarian terms using concepts and terminology that fit a humanitarian discourse. Such a discourse drew attention to the impact of these weapons rather than their military utility. In the two processes, supporters focused on the effects of landmines and cluster munitions on civilians during and after an armed conflict and on the human cost of the weapons' past and future use. A direct and strong link was thus established between the weapons and their impact on human beings.

Credibility through research and practice. Both the Ottawa and Oslo processes were described as data-driven, even though at the start of the Oslo process there were less systematically gathered data available on the humanitarian impact of cluster munitions than there had been about the impact of anti-personnel landmines a decade earlier when the Ottawa process began. Nevertheless, some proponents of weapon bans in each process based their arguments on practical knowledge from the field and evidence gained through data collection: research, data and evidence improved over the course of these international initiatives and provided them with greater credibility. The experience and expertise of humanitarian field workers, clearance personnel and survivors were also heavily drawn on and helped to focus the debate on the humanitarian effects of weapons. As for the United Nations, the organization was able to draw on its field expertise and play a significant role in the Oslo process, in contrast to the limited contribution of most parts of the UN to the Ottawa process.

Shifting the burden of proof. The stigmatization of anti-personnel mines and cluster munitions respectively began before treaty norms were agreed. The prominence of a humanitarian discourse in the Ottawa and Oslo processes contributed to this stigmatization. The presumption that anti-personnel mines and cluster munitions were acceptable weapons was increasingly challenged. Eventually the burden of proof concerning each weapon was reversed: those who wanted to continue to use them had to make a convincing case for their acceptability in humanitarian terms, regardless of their purported military advantage. In this respect, the International Committee of the Red Cross Expert Meeting on the Humanitarian, Military, Technical and Legal Challenges of Cluster Munitions held in Montreux, Switzerland, in April 2007 was seen by some participants as a key event on cluster munitions. The Montreux meeting brought military personnel from possessor states into contact with clearance personnel for systematic discussions, in which the latter made a stronger case. The subsequent development of the definition of a cluster munition in the CCM illustrates the shifting burden of proof: negotiations on defining what was to be prohibited in the CCM proceeded from the assumption that all cluster munitions would be banned because of the unacceptable harm they

cause to civilians. To exempt certain weapons from the definition, it had to be shown that they did not produce the same effects on civilians. The Convention on Certain Conventional Weapons (CCW), in contrast, adopts an approach where, based on technical criteria, weapons to be potentially restricted have to be "ruled in".

Building partnerships and trust. Similar to the Ottawa process, the Oslo process was characterized by a broad partnership between civil society organizations, governments and intergovernmental organizations. Although not free of inherent tensions, these partnerships served overall to advance a common goal using the various tools at the disposal of the different actors. The role of individuals was also highlighted as particularly important among both government and non-government stakeholders. People willing to take risks and foster a common sense of purpose, commitment and opportunity changed their institutions' positions, which contributed to collective reframing of the issues in humanitarian terms in the broader Ottawa and Oslo processes respectively. This extended to politicians who in some countries overruled entrenched bureaucratic positions, for instance in their defence departments. Moreover, potent networks of trust had been created among people representing diverse institutions in the Ottawa process; these relationships provided a basis for campaigning and diplomatic networks built on in the Oslo process.

The crucial role of civil society. In both the Ottawa and the Oslo processes, civil society campaigns framed the issues as humanitarian problems; helped set the international agenda; sustained the process by educating state representatives, the media and the public about the problem; maintained pressure on governments to participate in the process; and scrutinized the positions of governments.

Legitimacy through inclusiveness. The legitimacy of both the diplomatic process and the civil society campaign in the Ottawa and Oslo initiatives depended heavily on the involvement of actors from all regions of the world, in particular, actors from affected countries and survivors. Geographical balance, regional involvement and inclusiveness promoted ownership in the process among all participants and ensured that the process was (and was perceived as being) representative, transparent and credible. But this was not easily achieved. Polarization and regional divides also had to be dealt with. The capacity to reach out, build bridges and encourage convergence was important.

Urgent action, clear objectives. There was considerable discussion at the Glion symposium about how the Ottawa and Oslo processes managed to create a sense of urgency to deal with landmines and cluster munitions, respectively. Events such as the 2006 war in Southern Lebanon helped to create this sense of urgency on cluster munitions. The perceived failure of other forums to address the issue adequately and urgently enough, such as the CCW's work on landmines and cluster munitions, was also a factor in the emergence of both the Ottawa and Oslo initiatives. But, on its own, awareness of a crisis is not enough: potential solutions simple enough to communicate publicly must also be in the offing. Throughout each process, both core groups of governments and civil society campaigns had to be able to respond quickly to such events and communicate effectively. Moreover, strong leadership and strategic direction were considered vital, alongside clear messages based on sound data and arguments. Even before the 2006 Southern Lebanon conflict and the CCW's review conference late the same year, Belgium's national legislation outlawing cluster munitions in early 2006 was utilized by the Cluster Munition Coalition and others to convey a sense of momentum in the stigmatization of the weapon, as the International Campaign to Ban Landmines had done a decade before with anti-personnel mines following Belgium's March 1995 mine ban law.

Lessons from Ottawa and Oslo in the context of other initiatives

Same, but different? Progress in the field of multilateral disarmament and arms control has been difficult to achieve over the last decade. By providing examples that "we can make it happen", the Ottawa and Oslo processes have already provided inspiration to other initiatives such as efforts to regulate the trade in conventional arms, reduce the global burden of armed violence and challenge the acceptability of using explosive force in populated areas. But symposium participants also acknowledged that these issues are different from landmines and cluster munitions in important ways. Such differences could make it difficult and perhaps even undesirable to emulate some of the characteristics of the Ottawa and Oslo processes. Moreover, which aspects can or should be reproduced in other contexts is not easy to determine.

Regulating the global trade in conventional arms—refocusing the debate on the human cost. Like the Ottawa and Oslo processes, the campaign for an Arms Trade Treaty (ATT) is driven by a "core group" of like-minded governments in partnership with civil society organizations. Many of the actors involved have already worked together on landmines and cluster munitions. Inclusiveness and the involvement of actors at many levels are important and more could be done to involve governments as well as non-governmental actors and intergovernmental organizations from diverse sectors at the regional and national levels. This is particularly important bearing in mind that not all states are similarly well-informed about the issues the ATT process is intended to tackle, and each may have national concerns—something that hopefully the open-ended working group (OEWG) charged with considering elements for inclusion in an ATT could help, although many other efforts would be needed.

Among the major challenges confronting those seeking to regulate the global trade in conventional arms, including small arms and light weapons (SALW), is the difficulty of framing the issues at stake in humanitarian terms and focusing the debate on the human cost. Several participants in Glion argued that, without detracting from the importance of the issues or the ATT initiative, it was currently questionable whether available data and research powerfully support a humanitarian discourse. As regards SALW, because they are considered necessary to fulfil a state's core functions, such as upholding public order and ensuring external defence, and because in many countries private possession of arms is considered legitimate, reversing the presumed legitimacy of arms availability and their trade (as we have seen with landmines and cluster munitions) would be very challenging.

In order to achieve a meaningful result in humanitarian terms, some participants argued there needs to be a sense that the humanitarian crisis caused by the weapon must be addressed in an urgent, time-bound manner. The availability of data about the humanitarian impact of weapons plays a significant role in convincing others of the existence of a crisis. One view expressed was that efforts to curb the global trade in conventional arms currently lacks a sense of urgency or crisis and some of the more contentious and complex issues have not yet been tackled adequately. In addition, and unlike the Ottawa and Oslo processes, work on small arms proliferation and on the trade in conventional arms does not (yet) reflect a widely perceived inability to deal with these issues adequately in traditional disarmament forums: an OEWG has been established to carry forward consideration of an ATT and, despite the procedural failure of its 2006 review meeting, work continues in the UN to implement and monitor the 2001 UN Programme of Action on Small Arms and Light Weapons. But constraints on these respective processes raise questions as to whether and how meaningful results can be achieved in a timely manner, and how actors both within and currently outside such processes can be usefully mobilized.

Current work on SALW spans multiple issue areas, defying the formulation of a clear, unifying objective. For this reason, advocacy for a single legal instrument to address the problems of armed

violence caused by SALW does not seem realistic or appropriate. Which lessons from the Ottawa and Oslo processes should be transposed into this area was vigorously debated, although many participants stressed that effective communication of clear objectives is key to building political momentum, and a number of "lessons" from Ottawa were cited such as use of solid data, civil society "monitoring" of state behaviour, and drawing on field expertise of different kinds.

Reducing the global burden of armed violence—legitimacy through the involvement of the affected and of practitioners. Efforts to reduce the global burden of armed violence do not aim at singling out a particular weapon. By focusing on actors ("victims" of violence and their perpetrators), instruments, contexts and institutions, they try to address various aspects of armed violence in a multifaceted, cross-sectoral manner. This makes them different from the Ottawa and Oslo processes, which were both focused on the prohibition of a specific weapon based on its deleterious humanitarian effects. For instance, gender aspects and the problem of sexual violence were not at the centre of the debate on landmines and cluster munitions.

Parallels with the Ottawa and Oslo processes could be drawn, however. The 2006 Geneva Declaration on Armed Violence and Development resulted from a perceived failure in disarmament forums to frame SALW as a public health, development and humanitarian problem; hence, the Geneva Declaration's objective to shift the focus of the debate to the human consequences of armed violence. For this, accurate data and in-depth research are important, but it is not certain whether they have contributed to informing a human-centred debate and effective development programming so far. To mobilize people, concrete, tangible and achievable goals and benchmarks would need to be communicated clearly, and partnerships built among a wide range of actors, in order to better involve different practitioner communities. Gaps between those communities, like those between practitioners active in disarmament and those working in development, should be bridged. Greater informal dialogue and a common vocabulary would help.

A science of human security. An emerging conceptual approach to thinking about issues of armed violence considers prevention in a holistic way using a public health perspective. Enormous challenges to capturing adequate data about weapons use exist. However, if one accepts that acts of armed violence have public health outcomes, it is possible to begin to examine risk factors. By analysing such risk factors—particularly the relationship between victims and perpetrators of armed violence—it is possible to construct tools for dialogue and data gathering that could be described as potential elements of a "science of human security". Such tools could help to identify risk reduction measures as well as show that these can have synergistic effects. For example, in analysis and media coverage of acts of armed violence using explosives, the issues are usually framed with emphasis on seeking the *causes* for these acts. Another question worth asking and then proceeding from in the sense of risk reduction is: where do the explosives used in the attacks come from?

Stigmatizing the use of explosive force in populated areas. In a related approach, NGO data collection and analysis on the use of explosive force in populated areas suggests that some common concepts and assumptions about armed violence should be questioned. Although states conceptualize them as such, explosive weapons (such as bombs that project explosive force and fragment in an area at a certain time from a central point and so have some area effect—i.e. not bullets) are not recognized as a coherent category within existing international legal frameworks. Moreover, states seem to accept that explosive weapons are unacceptable in normal circumstances, but that in "special circumstances", like in conflict, the use of such weapons is acceptable against foreign civilians (governments do not usually use such weapons in proximity to their own populations). This raises questions about government accountability, and about whether such a distinction in circumstances

(and thus acceptability) should be made, especially as a recent exercise in data collection showed the majority of casualties from incidents involving explosive force were non-combatants. Lessons can be drawn from the Ottawa and Oslo processes with regard to research and data production and in order to decide what precisely should be stigmatized and what role legally binding instruments could play in this context.

Dealing flexibly with weapons contamination. The scale and difficulty of their tasks are increasingly compelling operational organizations dealing with landmines or unexploded submunitions posing hazard to civilians post-conflict to reconceptualize what they do (or should do) in broader terms. In particular, while mine action terminology and doctrine have become dominant, flexible operational approaches need to be maintained; that is, anything that has indiscriminate effect or long-term post-conflict impact is of concern, not just certain weapons and their consequences. Some lateral thinking is also required: for instance, in Cambodia, many people had been killed because economic need led them to interact with unexploded ordnance; perhaps this phenomenon could be alleviated by measures such as microfinance schemes as much as conventional battle area clearance. It was observed that thinking about explosive force in broader terms and analysing armed violence in terms of risk reduction (as summarized in the preceding points) was useful, not least because it showed the complexity of the challenges facing practitioners dealing with problems of armed violence on the ground. And, it suggested ways to approach the exercise of identifying means of improvement in delivering effective humanitarian response.

Conclusion

Room for greater synergy

Despite differing viewpoints about specific aspects and lessons to be adopted, adapted or avoided between the Ottawa process, the Oslo process and other initiatives, the general opinion emerged that ongoing and future work in multilateral disarmament and arms control needs to proceed from an awareness of these recent cases. Some practical reasons identified were:

- In order to frame issues in a manner that ties into existing discourses and allows urgent and effective humanitarian action.
- So as to avoid "reinventing the wheel". For instance, conceptual work on issues around explosive force, although still in its early days, has built on how the effects of weapons on civilians were dealt with in the Oslo process. Moreover, work on victim assistance in one field could benefit survivors more generally as the Mine Ban Treaty experience did in the negotiation of the CCM.
- In order to optimize resources, so as not to overstretch governments and campaigners involved in more than one initiative.
- To offer examples to traditional disarmament forums, such as the CCW and the Conference on Disarmament (CD), which are not impervious to outside influence—although they may sometimes seem so. Humanitarian disarmament initiatives show that productive work is possible even in difficult security environments, and that focus on clearly defined goals pursued within definite time frames and flexible processes yields results. The CCW and CD are not like-minded processes, and they are consensus-based: many participants felt that consensus should not be sought at all costs.

Final thoughts and future directions

Although the Oslo process is certainly not a replica of the Ottawa process, the two are similar in some significant ways. The achievement of the CCM seems to suggest that the Ottawa process was not a one-off fluke, and that the Mine Ban Treaty's achievement was not mainly or solely due to circumstantial factors, such as the end of the Cold War.

Although other initiatives differ from the Ottawa and Oslo processes, most participants thought that some key elements of the anti-personnel mine and cluster munition ban campaigns could be adopted and adapted to other contexts. It would appear from the Glion symposium's discussions that important lessons have already been drawn and adopted in the other initiatives discussed in order to try to reframe how issues are dealt with in arms control forums, improve campaigning and build alliances—although the applicability of such lessons would clearly vary. Some participants, with a view to the future, suggested that whether and which lessons from the Ottawa and Oslo experiences are transferable to the nuclear disarmament field was an important question, since these efforts appear to be approaching a critical juncture.

Discussions at the Glion symposium also suggested that singling out one weapon category after another may not be sustainable in the long run, considering the continual emergence and evolution of new weapons technologies as well as concerns about weapons proliferation and availability generally. A fundamental shift in thinking about armed violence, along with more preventive approaches, is called for. The armed violence "umbrella" may provide a means to group different initiatives together, around which common vocabulary can be developed—thus also drawing attention to some areas, such as socio-economic "drivers", which have not been to the fore in the Ottawa and Oslo processes to date. It was suggested by some participants that a possible vision for the future might be a "Framework Convention on Human Security" under which a range of initiatives, from those strictly focusing on particular weapons to those attempting to deal directly with the "drivers" of armed violence might be included.

The scarce results achieved in traditional disarmament and arms control forums over the last decade signal serious problems with "business as usual" in multilateral disarmament. Although, as the Ottawa and Oslo processes suggest, like-minded initiatives emerging from the failure of traditional disarmament processes can be successful, such ad hoc initiatives are not in themselves a comprehensive prescription for strengthening disarmament or humanitarian law, or alleviating human insecurity, in the face of all forms of armed violence.

Root and branch reform of multilateral disarmament and arms control mechanisms is needed to foster creative problem-solving and better ensure that processes are aligned to security goals rather than simply shaped by the dictates of established process, which as a decade of CD deadlock has shown, can obstruct meaningful progress. Hopefully, the examples set by recent initiatives like the Mine Ban Treaty and the CCM will inspire greater reflection and prompt more creativity and flexibility—to learn, adapt, and eventually succeed.

Note

1. Participants came from diverse backgrounds and areas of work including armed violence, the arms trade, cluster munitions, conflict prevention, human security, humanitarian action, landmines, and small arms. Many participants had been involved in the Oslo process—as well as other disarmament-related multilateral work—and a few had also participated in the Ottawa process. This article provides a very brief synopsis of the Glion symposium's discussions. The full summary of the symposium, as well as information concerning Disarmament Insight and UNIDIR's Disarmament as Humanitarian Action project is available at <www.disarmamentinsight.blogspot.com>.

Creating a human rights standard for the Arms Trade Treaty

Clare DA SILVA

States widely acknowledge that irresponsible and poorly regulated transfers of conventional weaponry, munitions and equipment ("conventional arms") assist in perpetrating serious violations of international human rights law, fuel armed conflict and violations of international humanitarian law, destabilize countries and regions and undermine socio-economic development efforts. This acknowledgement has led to an increased recognition of the need to directly link the global arms trade to states' responsibilities under contemporary international law standards. In December 2006 the United Nations General Assembly passed resolution 61/89 recognizing the growing support across all regions for concluding a legally binding instrument with "common international standards for the import, export and transfer of conventional arms".[1]

The vote in favour of resolution 61/89 by 153 states is a strong indication that global political will now exists to regulate arms transfers through a comprehensive international treaty.[2] Following the completion of a process to obtain states' views on an Arms Trade Treaty (ATT),[3] and the release of a report by the UN Secretary-General prepared with the assistance of a group of governmental experts,[4] the General Assembly voted to take another important step toward creating an ATT, establishing an open-ended working group in 2009 to begin considering elements for inclusion in an eventual treaty.[5]

One such element is international human rights law. Conventional arms often assist in the perpetration of serious violations of human rights such as torture, the excessive use of force by security forces, extrajudicial executions, forced evictions and disappearances. If an ATT is to be an effective legal instrument in regulating the international arms trade, the inclusion of this body of law within an ATT is key as it defines a significant part of the normative responsibilities of states with regard to the transfer of conventional arms.

This paper will focus on the relationship between international human rights law and state authorization of conventional arms transfers and describe a workable human rights standard for arms transfers that could be included in an ATT.

Conceptual framework of an ATT

The main objective of an ATT is to create a comprehensive and legally binding international mechanism for ensuring a more responsible legal trade in conventional arms, while ensuring that states' abilities to lawfully sell, acquire and possess arms is not undermined. As many UN, multilateral and regional documents recognize, the primary responsibility for establishing and implementing systems to control

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international sales and transfers of conventional arms rests with states.[6] It follows then that the most effective means for controlling the trade in conventional arms is through robust national systems of export, import and transfer. An ATT would establish the standards and procedures that states parties must have in place in their national legal systems for licensing or authorizing international transfers of conventional arms.[7] That is, states parties would be obliged to effectively license, monitor, and prevent arms transfers according to national laws, mechanisms and procedures that conform with the international law standards set out in the ATT.[8] While the competence to authorize or refuse a request to transfer arms remains with the national authorities of each state, an ATT would ensure that all national authorization decisions are made using the same international standards.

At a minimum, an ATT should ensure that states have fully recognized and implemented the international norms and commitments of relevance to arms transfers that they have already assumed under, inter alia, the UN Charter, the Geneva Conventions of 1949, the two international covenants on human rights,[9] principles of customary law such as the prohibition on the threat or use of force in international relations, and emerging norms for arms transfers.[10] Many states already have their own laws, regulations and procedures governing arms transfers which would meet these international standards. Those that do not would be required to implement such measures to meet their obligations under the treaty.

A large number of states have in fact signed regional, subregional or multilateral agreements and guidelines with controls on international arms transfers, in addition to existing national controls and international obligations.[11] However, the content of each agreement differs, and states have not been consistent in their interpretation or application of the agreements. A multilateral ATT of universal application would remove the variable standards and gaps created by this patchwork of national and international measures. It would bring together and standardize the criteria that states are obliged to take into account when deciding whether to authorize arms transfers. One criterion is whether authorizing a transfer would result in a state breaching its international human rights obligations.

The legal basis for a human rights standard in an ATT

International human rights obligations have been described as the "only political-moral idea that has received universal acceptance".[12] Indeed, the corpus of human rights law developed over the last fifty years has achieved a level of recognition and acceptance unmatched in many other areas of international law. Since the signing of the UN Charter in 1945 over one hundred international treaties concerning the protection of human rights have been concluded, including a core of nine universal human rights treaties. Through the Charter, the Universal Declaration of Human Rights, the 1993 Vienna Declaration and Programme of Action and the numerous other human rights instruments, all 192 UN Member States have accepted the application of human rights law to state activities. State activities include the authorization of arms transfers.

The application of human rights law to transfers of conventional arms is widely accepted.

The application of human rights law to transfers of conventional arms is widely accepted. The majority of existing regional and multilateral arms transfer controls agreements and guidelines contain human rights standards.[13] At least 72 of the 101 submissions by states responding to the request by the UN Secretary-General for their views on an ATT referred to the centrality of human rights considerations in a future treaty.[14] Statements by members of the Security Council and the General Assembly also support including human rights considerations in the licensing of arms transfers.[15]

Application of human rights law to arms transfers

When states are involved in arms transfers, there are several ways in which their obligations under international human rights law apply. When acting as an importer, exporter, or transit state for arms transfers, states are bound by their obligation to realize and promote human rights under the UN Charter and bound to comply with their obligations under customary international law and the international human rights treaties to which they are party. Under principles of general international law, a state is responsible for breaches of these obligations by any of its organs, including members of state security forces, the army and the police,[16] and any other person or entity whose actions are attributable to the state,[17] and for aiding and assisting the breach of human rights obligations by another state.[18]

A state which is *importing* conventional arms must act with reasonable due diligence to ensure that those arms will not be used to violate its human rights obligations domestically.[19] Various statements by UN human rights bodies have addressed the content of the due diligence standard. For example, the Human Rights Committee has stated that states are obliged to protect individuals, not just against violations by state agents but also against acts committed by private actors or entities that would impair the enjoyment of rights under the Civil and Political Covenant.[20] Regarding extrajudicial, summary or arbitrary executions, the UN Special Rapporteur has said that "States have a legal duty to exercise 'due diligence' in protecting the lives of individuals from attacks by criminals, including terrorists, armed robbers, looters and drug dealers."[21]

A state *exporting* arms—or authorizing their transfer—to a state where the arms are used for serious human rights violations could be in violation of its international obligations in one or more of the ways outlined below.

Breach of obligations under the United Nations Charter

First, the exporter state will breach its obligations under the UN Charter where it fails to authorize transfers of arms in accordance with the principles and purposes of the Charter. One of the main purposes of the Charter is to set out the means by which states fulfil their obligation under the Charter to ensure international peace and security. While the Charter neither expressly prohibits nor permits the use or transfer of any particular weapon, it does contain a number of principles which are relevant to whether or not a state should authorize a transfer of conventional arms. These include the prohibition on the threat or use of force in international relations[22] and the promotion of human rights as a key aspect of maintaining international peace and security. For example, Article 55 states that the United Nations will promote universal respect for and observance of human rights and in Article 56 UN Member States pledge to take joint and separate action in promoting these rights. The UN Charter reflects a positive obligation on all states, including those who export or transfer conventional arms, to cooperate in the protection and fulfilment of human rights within and beyond their borders. States that transfer weapons and provide military assistance resulting in breaches of these Charter principles violate their international law obligations.[23]

Breaches attributable to exporting state for human rights violations in another state

States that intentionally transfer conventional arms to another state or to non-state actors for the purpose of carrying out serious human rights violations (that violate customary norms or treaty obligations) will be responsible for those breaches under the law of state responsibility, where the human rights violation is directly attributable to the exporting state. This would be the case if the state

had effective control of or directed the use of the arms in the act or acts which breach human rights.[24] The circumstances where this would arise, however, would be exceptionally rare.

Exporting state may aid and assist the importing state in human rights violations

States that transfer conventional arms to another state with the knowledge that the arms are to be used by the importing state for the commission of serious human rights violations are responsible under the law of state responsibility for aiding or assisting in that breach by the importing state. The exporting state's responsibility is based on its participation in the recipient state's wrongful act under international law. Article 16 of the Articles on the Responsibility of States for Internationally Wrongful Acts states:

> A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:
>
> (*a*) That State does so with knowledge of the circumstances of the internationally wrongful act; and
>
> (*b*) The act would be internationally wrongful if committed by that State.[25]

Aiding and assisting in serious violations of human rights does not require that a state intends to enable the state to which it has authorized the transfer of arms to commit serious violations of human rights. It only needs to have knowledge of the possible intended use of the arms in serious human rights violations by the receiving state. This is confirmed in the International Law Commission's commentary on the Articles on State Responsibility, which states:

> [A] State may incur responsibility if it … provides material aid to a State that uses the aid to commit human rights violations. In this respect, the United Nations General Assembly has called on Member States in a number of cases to refrain from supplying arms and other military assistance to countries found to be committing serious human rights violations.[300]
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> [300] *Report of the Economic and Social Council, Report of the Third Committee of the General Assembly,* draft resolution XVII, 14 December 1982, A/37/745, p. 50. [26]

The Articles on State Responsibility, together with the UN Charter, human rights treaties and customary norms provide a legal framework for delineating the obligations on states to prevent the transfer of conventional arms where they will be used for serious violations of human rights and these should form the basis for the creation of a human rights standard within an ATT.

A proposed human rights standard

While the relationship between international human rights law and arms transfers is clear, one practical difficulty is setting a workable human rights standard for states to apply when considering transfers. One of the main shortcomings of the existing regional, subregional and multilateral agreements and guidelines on transfers of conventional arms is the lack of specificity and clarity in the language of the criteria that states should consider when authorizing a transfer.[27] This has resulted in varying degrees of application of the provisions of these documents. If an ATT is to be an effective global instrument in creating a more responsible trade in conventional arms, its provisions will need to do better: it needs to contain clearly worded and sufficiently particular provisions which states can translate into domestic legislation that can be practically applied by national licensing authorities.

One suggested human rights standard would require states to assess whether there is a *substantial* risk that the specific transfer of arms under review will be used to facilitate *serious* violations of

international human rights law. Where such a risk exists, states shall ensure that the proposed transfer is prohibited until that risk is removed. This standard would incorporate the "due diligence" standard in human rights law, which requires that states engage in an effective inquiry in order to make a reasoned determination as to whether the proposed transfer carries substantial risk of facilitating serious violations.

What this would require in practice is that the national licensing authority look at the specific transfer in question and in particular at its end use and its end-user in the proposed recipient state.[28] All states have legitimate military, security and policing needs, and not all organs of the state as an end-user of a transfer of conventional arms pose the same levels of risk of perpetrating serious violations of human rights. Therefore the question requiring effective enquiry by the national licensing authority is whether there have been previous serious violations of human rights by the specified end-user and whether there is a substantial risk that further such violations are likely to be facilitated by the transfer of the conventional arms that are the subject of the transfer application.

On the continuum of risk, "substantial" risk represents a suitable level. A threshold of "clear" risk would set the standard of due diligence too high, doing little to control arms transfers used for human rights violations, whereas simply using "risk" would potentially make every proposed transfer a cause for concern. A standard of "serious violations" acknowledges that, while all human rights breaches are unacceptable, only those which are of greatest concern to the international community should engage the responsibility of the exporting state: that is, where a receiving state is engaged in persistent or pervasive violations of fundamental rights through the use of conventional arms.

The foundations for the standard containing the two qualifiers of "substantial risk" and "serious violation" lie in existing international human rights law practice.

The foundations for the standard containing the two qualifiers of "substantial risk" and "serious violation" lie in existing international human rights law practice. This also gives specific examples of applying the qualifiers which can be used as guidelines for those applying the ATT provision.

"Serious violations"

A review of the application of international human rights law shows that describing a violation of human rights as "serious" is generally assessed by the nature of the right violated and the scale or pervasiveness of the violation. Actions which violate the right to life are viewed as being among the most serious, given its status as a peremptory and non-derogable customary norm. Obviously, conventional arms are regularly used in the commission of breaches of this right, and such violations may be part of the commission of crimes against humanity, mass killings, torture and extrajudicial killings.

In their reviews of states' human rights reports, the UN human rights bodies have determined that certain actions constitute serious violations of human rights. For example, murder, rape, forced displacement and attacks against civilian populations,[29] the excessive use of force and ill-treatment by military and security forces,[30] disappearances, torture and murder of women as gender-based crimes,[31] targeting of minority communities with acts of extreme violence (including torture and extrajudicial killings),[32] forcible recruitment of children and torture and ill-treatment of child conscripts.[33]

As to the scale or pervasiveness of breach required to give rise to a "serious violation", human rights law has looked at conduct that involves a pattern of violations of a right, persistent violations or a single event which affects a large number of people. Examples where UN human rights bodies have described circumstances as serious in part because of the scale and the pervasiveness of the violation include widespread torture in local government prisons,[34] torture committed in a widespread and habitual manner by security forces and agencies,[35] widespread ill-treatment by law

enforcement personnel,[36] widespread use of excessive force by law enforcement officials,[37] and widespread forced evictions.[38]

"Substantial risk"

Where states are obliged to assess the likelihood or risk of breach by another state, for example the risk that an individual will be tortured by the state to which they are expelled or returned, contemporary human rights law sets a standard of "substantial risk" as the level of unacceptable risk. The Convention against Torture (CAT) requires states parties to determine whether there are "substantial grounds" to suspect a risk of torture if an individual is expelled or returned to another state and, if so, the state party cannot send the individual to that state.[39] This imposes an obligation on states to carry out a "meaningful assessment" of any claim that the individual may be tortured and requires the state to consider, among other things, the human rights practices of the potential receiving state.[40] This is a helpful model for the ATT: a state should not be able to send conventional arms to a state where there is a substantial risk that those arms will be used to carry out serious violations of human rights, and states must conduct a meaningful assessment of that risk—in other words, they must act with all due diligence when assessing whether arms transfer applications meet the human rights criterion.

The Committee against Torture interpreted the concept of "substantial grounds" in a Comment issued in 1997:

> Bearing in mind that the State party and the Committee are obliged to assess whether there are substantial grounds for believing that the author would be in danger of being subjected to torture … the risk of torture must be assessed on grounds that go beyond mere theory or suspicion. However the risk does not have to meet the test of being highly probable.[41]

The standard of risk can work in the same way in an ATT: risk must be beyond suspicion, but it need not be as high as "highly probable" to meet the due diligence standard.

Although assessment is never fool-proof, the combination of a clear standard of risk, the availability of interpretations of states' obligations in reports by the CAT Committee and other commentary provide states with the guidance needed to arrive at a decision. The standard is not perfect identification of risk. Case law demonstrates that the process of assessment is as important as the outcome, meaning that states must first engage in a meaningful process of assessment, and in doing so they must look at relevant and reliable evidence prior to making a decision on how to act. This framework is readily transferable to a situation of arms transfer, where the state needs to make a sound risk assessment related to the proposed transfer before deciding whether a transfer authorization can be given.

Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) contains similar provisions to the CAT.[42] ECHR jurisprudence has also established a requirement that states carry out an assessment of "real risk" when determining whether there are "substantial grounds"[43] to conclude that a person would face torture or inhuman or degrading treatment if deported, and it sets out indicators for risk that could equally be applied under an ATT. For example, the European Court of Human Rights has stated that an assessment of risk must be based on facts known at the time the assessment takes place,[44] the assessment must be based on relevant evidence,[45] and that current conditions within a state are decisive.[46] The court also requires that the risk be "real".[47] There is no precise definition in the ECHR's case law of what constitutes "real" risk, but the court has held that, while "mere possibility" is not enough,[48] certainty is not required.[49]

Conclusion

States already have obligations under current international law to look closely at other states' human rights practices and to assess the risk of breach before deciding what action to take, and these procedures work, as demonstrated by the CAT and the ECHR. Incorporating and applying a human rights standard in an ATT would operate in a similar way, requiring all arms transfer authorizations to be assessed on a case-by-case basis. States would be required to assess the types of conventional arms in question, the stated end use, and the stated end-user to make a determination as to whether there is a substantial risk of serious violations of human rights by the specific end-user and whether such violations are likely to be facilitated by the transfer of the conventional arms under review. Existing law and practice show that this is a workable standard that can be applied by national authorities charged with assessing authorization applications.

Notes

1. UN General Assembly resolution 61/89 of 6 December 2006, UN document A/Res/61/89, 18 December 2006. Resolution 61/89 also recognizes "that the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism" and undermines, among others, peace, security, and sustainable development.
2. Work toward an ATT is one of a number of initiatives under way within the disarmament bodies of the UN to control the transfer of conventional arms more effectively, which include efforts to harmonize standards on marking and tracing, to enhance national, regional and global controls on brokering and to improve arm transfer controls through the development of reliable systems for end-use certification and verification.
3. UN documents A/62/278(Part I), A/62/278(Part II), 17 August 2007; A/62/278/Add.1, 24 September 2007; A/62/278/Add.2, 19 October 2007; A/62/278/Add.3, 27 November 2007; A/62/278/Add.4, 14 February 2008.
4. UN document A/63/334, 26 August 2008.
5. UN General Assembly resolution 63/240 of 24 December 2008, UN document A/Res/63/240, 8 January 2009.
6. For example, UN General Assembly resolutions 46/36 H, 49/75 G and 51/45 F; 1996 United Nations Guidelines for International Arms Transfers (A/Res/51/47 B); UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (Section II, paragraph 11); Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (Article 10a); Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (Article 5(3)(c)).
7. The scope of what constitutes a "transfer" and the range of conventional arms that would be included in a control list of an ATT will also need to be determined.
8. This should include basic licensing provisions such as case-by-case assessment of transfer licence applications, effective end-user controls, and conditions for re-transfer.
9. International Covenant on Economic, Social and Cultural Rights, 16 December 1966 and International Covenant on Civil and Political Rights, 16 December 1966.
10. Such emerging norms include, for example, the prohibition of arms transfers that will be used for terrorist attacks, violent or organized crime, or those that would adversely affect sustainable development. United Nations Security Council resolution 1373 (2001) already creates a binding obligation on states to eliminate "the supply of weapons to terrorists", UN document S/Res/1373(2001), 28 September 2001.
11. These include, for example: ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (2006); SICA (Central American Integration System) Code of Conduct on the Transfer of Arms, Ammunition, Explosives and Other Related Materials (2005); Best Practice Guidelines Associated with the Nairobi Protocol in the Great Lakes and Horn of Africa region (2005); OAS Model Regulations for the Control of Brokers of Firearms, Their Parts and Components and Ammunition (2003); Wassenaar Arrangement Best Practice Guidelines for Exports of Small Arms and Light Weapons (2002); SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials (2001); OSCE Document on Small Arms and Light Weapons (2000); EU Code of Conduct on Arms Exports (1998); OAS Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components, and Ammunition (1998) and Inter-American Convention against Illicit Manufacturing of and Trafficking in Firearms (1997).
12. Louis Henkin, 1990, *The Age of Rights,* New York, Columbia University Press, p. ix.
13. For example, Article 6(3)(a) of the ECOWAS Convention; Article I(2)(a) of the Wassenaar Arrangement Best Practice Guidelines; Section III (A)(2)(a) of the OSCE Document on Small Arms and Light Weapons.

14. See, for example, the submission of South Africa: "While States have an undisputable right to acquire conventional weapons for self-defence and law enforcement purposes, they also have a responsibility to do everything in their power to ensure that arms transferred by them are not used to violate human rights"; and that of Sweden: "manufacturing and exporting of arms places heavy responsibilities on States, such as the strict observance of international law, including human rights and humanitarian law" (UN document A/62/278(Part II), op. cit.).
15. See, for example, Sixty-second General Assembly, First Committee, "Irresponsible Weapons Transfers, Soaring Death Toll from Small Arms, Light Weapons Underscore 'Pressing Need' for Arms Trade Treaty, Disarmament Committee Told", UN Document GA/DIS/3350, 23 October 2007; and statement by Japan calling for an arms trade treaty to end irresponsible transfers, in UN document S/PV.5781 (Resumption 1), 20 November 2007.
16. Responsibility of States for Internationally Wrongful Acts 2001, Article 4, reproduced in UN document A/RES/56/83, 28 January 2002.
17. Ibid., Articles 5–11.
18. Ibid., Article 16.
19. The Code of Conduct for Law Enforcement Officials (reproduced in UN document A/RES/34/169, December 1979) and the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are two examples of detailed rules governing the use of state-sponsored force.
20. Human Rights Committee, *International Covenant on Civil and Political Rights, General Comment 31,* document CCPR/C/21/Rev.1/Add.13, 26 May 2004, paragraph 8.
21. Report of the Special Rapporteur, Philip Alston, *Civil and Political Rights, Including the Questions of Disappearances and Summary Executions,* UN document E/CN.4/2006/53, 8 March 2006, paragraph 47.
22. UN Charter, Article 2(4). Article 51 also sets out the inherent right of states to individual or collective self-defence , affirming that states can manufacture, import, export, transfer and retain conventional arms for their legitimate self-defence and security needs and in line with international law and standards. An ATT must be consistent with this Charter provision.
23. For example, the International Court of Justice (ICJ), in *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)* found that "the Republic of Uganda, by engaging in military activities against the Democratic Republic of the Congo on the latter's territory, by occupying Ituri and by actively extending military, logistic, economic and financial support to irregular forces having operated on the territory of the DRC, violated the principle of non-use of force in international relations and the principle of non-intervention" between 1998 and 2002 (ICJ Judgment of 19 December 2005, paragraph 345).
24. In the ICJ *Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America),* the court found that in training, arming, equipping, financing and supplying the Contra forces the United States had breached the customary international law obligation to not intervene in the affairs of another state (ICJ Reports 1986, Judgment of 27 June 1986, paragraph 292(3)) but in the absence of evidence that the "United States directed or enforced the perpetration of the acts contrary to human rights and humanitarian law" (paragraph 115) and therefore had the requisite intent, the United States was not held directly responsible for the human rights violations by the Contras.
25. Responsibility of States for Internationally Wrongful Acts, op. cit.
26. International Law Commission, 2001, *Report on the Work of Its Fifty-third Session,* UN document A/56/10(SUPP), chapter IV "State Responsibility", pp. 158–159.
27. For a review of these agreements from the perspective of their human rights content, see Lerna K. Yanik, 2006, "Guns and Human Rights: Major Powers, Global Arms Transfers and Human Rights Violations", *Human Rights Quarterly,* vol. 28, no. 2, pp. 357–388.
28. An ATT should also require states to have adequate law, regulations and administrative procedures to ensure the veracity of the stated end-user and to prevent diversion from the authorized end-user. This could include such controls as the use of standardized, authenticated end use certificates.
29. Report of the Human Rights Committee on Sudan, UN document CCPR/C/SDN/CO/3, 29 August 2007, paragraph 9.
30. Report of the Committee against Torture on Uzbekistan, UN document CAT/C/UZB/CO/3, 26 February 2008, paragraph 7. Given that the absolute prohibition on torture is a peremptory norm of international law, all acts of torture are serious violations of international human rights law. Acts of torture during armed conflict are also considered serious violations of international humanitarian law and constitute a war crime. See UN General Assembly resolution 63/166 of 18 December 2008, UN document A/Res/63/166, 19 February 2009.
31. Report of the Committee on the Elimination of Discrimination against Women on Guatemala, paragraph 23, UN document CEDAW/C/GUA/CO/6, 2 June 2006.
32. Report of the Committee on the Elimination of Racial Discrimination on the Lao People's Democratic Republic, UN document CERD/C/63/Dec.1, 10 December 2003, paragraphs 2–3.

33. Report of the Committee on the Rights of the Child on Paraguay, UN document CRC/C/15/ADD.166, 6 November 2001, paragraph 45. The UN Secretary-General has also called for the general cessation of arms transfers to groups were there is the use of child soldiers (see statement by Olara Otunnu, Special Representative of the Secretary-General for Children and Armed Conflict, in UN document S/PV.4684, 14 January 2003).
34. Report on the Committee against Torture on Uganda, UN document CAT/C/CR/34/UGA, 21 June 2005, paragraph 11.
35. Report of the Committee against Torture on Argentina, UN document CAT/C/CR/33/1, 10 November 2004, paragraph 6.
36. Report of the Committee against Torture on Nepal, UN document CAT/C/NPL/CO/2, 13 April 2007, paragraph 13.
37. Report of the Human Rights Committee on Brazil, UN document CCPR/C/BRA/CO/2, 1 December 2005, paragraph 12.
38. Report of the Special Rapporteur on Housing on South Africa, UN document A/HRC/7/16/Add.3, 29 February 2008, paragraph 97.
39. Article 3 of the CAT states: "No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."
40. See, for example, European Court of Human Rights, *Jabari* v. *Turkey*, Judgment of 11 July 2000, paragraph 40. The Court found that Turkey had not engaged in any meaningful assessment of the applicant's claim and violated Article 13 and effectively Article 3 of the Convention against Torture.
41. *General Comment on the Implementation of Article 3 in the Context of Article 22, Report of the Committee against Torture,* UN document A/53/44, 16 September 1998, Annex IX.
42. Article 3 states that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment".
43. See, for example, European Court of Human Rights, *HLR* v. *France*, Judgment of 27 April 1997.
44. European Court of Human Rights, *Cruz Varas and Others* v. *Sweden*, Judgment of 20 March 1991.
45. *HLR* v. *France*, Judgment of 27 April 1997, op. cit.
46. European Court of Human Rights, *Thampibillai* v. *The Netherlands*, Judgment of 17 February 2004.
47. European Court of Human Rights, *Soering* v. *The United Kingdom,* Judgment of 7 July 1989, paragraph 88; European Court of Human Rights, *Shamayev and Others* v. *Georgia and Russia,* Judgment of 12 April 2005, paragraph 335.
48. European Court of Human Rights, *Vilvarajah and Others* v. *The United Kingdom,* Judgment of 30 October 1991, paragraph 111.
49. *Soering* v. *The United Kingdom,* Judgment of 7 July 1989, op. cit., paragraphs 94–99.

Amending the non-proliferation regime

Jozef GOLDBLAT

To strengthen the international norm banning the proliferation of nuclear weapons, the 1968 Non-proliferation Treaty (NPT) must be adapted to the present national security requirements and the level of technological development in the field of nuclear energy. This could be achieved by amending the treaty so as to remove its shortcomings and fill the gaps that are becoming increasingly apparent. Among the possible amendments that could be envisaged:

Under Article I nuclear-weapon parties have undertaken not to transfer nuclear explosive devices to any recipient, directly or indirectly, and not to assist, encourage or induce any non-nuclear-weapon state to manufacture nuclear weapons.

> ***Recommendation*:** The ban on "indirect" transfer to "any recipient" must be understood to cover transfer through military alliances. The obligation not to assist, encourage or induce the manufacture of nuclear explosive devices should be binding on non-nuclear-weapon parties as well.

Under Article III(2) supplies of nuclear material or equipment to any non-nuclear-weapon state may take place if they are subject to the International Atomic Energy Agency safeguards (IAEA) required by this article.

> ***Recommendation*:** The "required" safeguards must be comprehensive, that is, applied in all peaceful nuclear activities of the supplied state. All parties should adopt the 1997 Protocol Additional to the 1972 Safeguards Agreement between states party to the NPT and the IAEA. A global register of stocks of plutonium and highly enriched uranium should be established and regularly updated. Withdrawal of nuclear material from international control for non-explosive purposes (such as propulsion) must be strictly circumscribed.

Under Article IV all parties have the inalienable right to use nuclear energy for peaceful purposes.

> ***Recommendation***: Parties may possess components of the peaceful nuclear fuel cycle subject to appropriate IAEA controls. Supplies of fuel for civilian nuclear reactors in countries not producing such fuel should be internationally guaranteed. Highly enriched uranium used for civilian purposes should be replaced by low-enriched uranium. Attacks on nuclear installations should be prohibited.

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Under Article V potential benefits from peaceful applications of nuclear explosions are to be made available to non-nuclear-weapon parties.

Recommendation: This article should be deleted. It is now generally recognized that conventional explosives can produce results equivalent to those of nuclear explosives, without posing health or environmental risks.

Under Article VI the parties have pledged to negotiate measures relating to the cessation of the nuclear arms race and measures relating to nuclear disarmament.

***Recommendation*:** It should be made explicit that measures relating to the arms race include adherence to the Comprehensive Nuclear-Test-Ban Treaty and the conclusion of a fissile material cut-off treaty, whereas measures relating to disarmament should lead to the elimination of nuclear weapons. Negotiations must be continuous and the agreements reached must be of indefinite duration.

Under Article VII the right of any group of states to assure the total absence of nuclear weapons in their region is affirmed.

***Recommendation*:** This right should be reinforced by a ban on the transit of nuclear weapons through nuclear-weapon-free zones.

Under Article X each party may withdraw from the NPT if it decides that extraordinary events have jeopardized its supreme interests. Notice of withdrawal is to be given three months in advance.

***Recommendation*:** Only a qualified majority of the parties should have the right to determine whether extraordinary events have occurred. Notice of withdrawal should be given one year in advance. Otherwise, the NPT must be considered irreversible, both in time of peace and in time of war. An international mechanism must be set up to deal with cases of non-compliance.

Under the protocol on "negative" security assurances accompanying nuclear-weapon-free zone treaties, each nuclear-weapon state is committed not to use or threaten to use a nuclear explosive device. This commitment was subsequently qualified by France, the Russian Federation, the United Kingdom and the United States stating that the assurances they offered would become invalid in the case of an invasion or any other attack on them, their territories, their armed forces or other troops, their allies, or on a state to which they have a security commitment, carried out or sustained by a non-nuclear-weapon state in association or alliance with a nuclear-weapon state. The four great powers have thus reserved for themselves the right to use nuclear weapons in a war started with non-nuclear means of warfare. Although it was conceived as a quid pro quo for the renunciation of nuclear weapons by non-nuclear-weapon states under the NPT, prohibition on the use of nuclear weapons may now be treated as a potential arms control measure to be negotiated by all states, regardless of their association with the NPT.

Recommendation: Employment of nuclear weapons must be definitively prohibited, except in case of reprisal for a nuclear aggression. A no-first-use obligation would facilitate the process of nuclear weapons elimination.

Under Article VIII the text of any proposed amendment to the NPT must be submitted to the depositary governments, distributed to the parties and considered at a conference convened at the request of at least one-third of the parties. To set the procedure in motion, unanimity or consensus is not needed. To be approved, an amendment requires a majority of votes, including those of the nuclear-weapon parties (as defined by the treaty) and those of other parties that are members of the IAEA Board of Governors on the day the text is circulated. Not all the changes proposed above would

entail new legally binding obligations. Some could take the form of politically binding undertakings or internationally agreed interpretations. In any event, by engaging in negotiations on the issues specified above, no country would run a risk to its security. In case of failure of the amendment process, the NPT would continue to be valid in its present form. The fear expressed by certain countries that amendments will lead to the break-up of the NPT is not justified.

Dual-use education for life scientists?

Malcolm Dando

The Biological and Toxin Weapons Convention (BTWC) is widely understood to be the weakest of the international arms control agreements prohibiting weapons of mass destruction as it lacks both an effective verification system and a major international supporting organization. Following the failure to agree a verification protocol, the 2001–02 Fifth Review Conference of the BTWC moved to consider more tractable issues in the first Intersessional Process of 2003–05. Given the increasing concern that the rapid advances being made in the life sciences for benign civil purposes could also be misused for hostile purposes (the "dual use" problem), the focus of the discussions in 2005 was on codes of conduct for life scientists. It has so far been unclear, however, to what extent this interest in potential dual-use aspects of the life sciences has led to concrete measures, particularly concerning education. This article considers the statements made at BTWC meetings and compares them to the current level of biosecurity education among life scientists.

Following the moderately successful Sixth Review Conference in 2006, a second Intersessional Process was agreed for the period leading up to the Seventh Review Conference in 2011. The topics for discussion and promotion of common understanding and effective action in 2008 were:

> (iii) National, regional and international measures to improve biosafety and biosecurity, including laboratory safety and security of pathogen and toxins;
>
> (iv) Oversight, education, awareness raising, and adoption and/or development of codes of conduct with the aim of preventing misuse in the context of advances in bio-science and bio-technology research with the potential of use for purposes prohibited by the Convention.[1]

The choice of these topics clearly confirms that it is now widely agreed that a web of integrated policies is needed to help prevent bioterrorism and biowarfare,[2] and that in-depth national implementation of the BTWC, including coverage of the relevant activities of life and associated scientists, is an important element in this web. The Meeting of States Parties to the BTWC in December 2008 was therefore expected to reach a variety of agreements in relation to oversight, education, awareness raising and codes of conduct.

In regard to education for life scientists, paragraphs 26 and 27 of the final report of the December 2008 meeting stated the following:

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> 26. States Parties recognised the importance of ensuring that those working in the biological sciences are aware of their obligations under the Convention and relevant national legislation and guidelines, have a clear understanding of the content, purpose and foreseeable social, environmental, health and security consequences of their activities, and are encouraged to take an active role in addressing the threats posed by the potential misuse of biological agents and toxins as weapons, including for bioterrorism. States Parties noted that formal requirements for seminars, modules or courses, *including possible mandatory components,* in relevant scientific and engineering training programmes and continuing professional education could assist in raising awareness and in implementing the Convention.
>
> 27. States Parties agreed on the value of education and awareness programmes:
>
> (i) Explaining the risks associated with the potential misuse of the biological sciences and biotechnology;
>
> (ii) Covering the moral and ethical obligations incumbent on those using the biological sciences;
>
> (iii) Providing guidance on the types of activities which could be contrary to the aims of the Convention and relevant national laws and regulations and international law;
>
> (iv) Being supported by accessible teaching materials, train-the-trainer programmes, seminars, workshops, publications, and audio-visual materials;
>
> (v) Addressing leading scientists and those with responsibility for oversight of research or for evaluation of projects or publications at a senior level, as well as future generations of scientists, with the aim of building a culture of responsibility;
>
> (vi) Being integrated into existing efforts at the international, regional and national levels.[3] [emphasis added]

Interestingly, also, in paragraph 31 states parties were encouraged to report steps that they had taken to achieve such objectives to the Seventh Review Conference in order to facilitate decisions on further actions being taken then.

On the face of it, then, this is a very constructive outcome of the Intersessional Process. Those with longer memories of the BTWC will not be as sanguine. As far back as the Second Review Conference of 1986, states parties have noted the importance of education. The Final Declaration of the Fourth Review Conference of 1996 stated, with regard to Article IV on national implementation, "the importance of … inclusion in textbooks and in medical, scientific and military education programmes of information dealing with the prohibitions and provisions contained in the Biological and Toxin Weapons Convention and the Geneva Protocol of 1925."[4]

Yet all the evidence available strongly suggests that among life scientists the level of awareness of the BTWC, and of their obligations under the Convention, is extraordinarily low worldwide. For example, we reported to the 2005 BTWC meeting (on codes of conduct for life scientists) on interactive seminars that we had carried out with life scientists at universities.[5] Our objective was to raise concerns that people involved with security issues had about what was happening in the life sciences—for example the Australian mousepox experiment reported in 2001, which suggested that smallpox might be made resistant to vaccination—and to listen to what life scientists had to say about such concerns. In our report we considered the results of 24 seminars held in the United Kingdom and 1 in Germany. The data were far from encouraging. Indeed, we concluded that:

> There was little evidence from our seminars that participants:
>
> a. regarded bioterrorism or bioweapons as a substantial threat;
>
> b. considered that developments in the life sciences research contributed to biothreats;

c. were aware of the current debates and concerns about dual-use research; or

d. were familiar with the BTWC.[6]

We reported on further work to the Sixth Review Conference in 2006: while the form of the seminar interactions could vary in different countries, the substantive findings were very similar; few life scientists had even heard of the BTWC, let alone given it deep consideration.[7] We have now carried out some 90 seminars in 13 different countries and we see no reason to alter that conclusion.

A survey of educational provision for life scientists in the European Union carried out at the end of 2008 highlighted the cause of the problem. The authors used the Internet to sample data on 142 courses from 57 universities in 29 countries in Europe. They concluded that:

> This research suggested that only 3 out of 57 universities identified currently offered some form of *specific biosecurity module* and in all cases this was optional for students.[8] [emphasis added]

Additionally, they noted (cautioning that a "reference" could have widely different meanings):

> ...a total of 37 life science degree courses out of our sample of 142 where there was clear evidence of a reference to biosecurity. Only a minority of the degree courses in the study – a total of 22 out of 142 – made reference to the BTWC, BW and/or arms control and a similar number, 29 degree courses, exhibited some reference to the dual-use issue...[9]

As the authors were easily able to locate many more courses on, and references to, biosafety and bioethics, it seems very likely that their findings reasonably reflect the real situation in Europe and likely in most other regions of the world. Little wonder that life scientists are so ignorant of biosecurity, as it rarely appears in their education!

A number of online modules have been developed recently, particularly in the United States where discussion of the problem of dual use is most advanced, to help scientists inform themselves about the potential hostile misuse of their benignly-intended work. At Bradford, we are collaborating with Japan's National Defence Medical College in developing an online educational module resource in English and Japanese to help with the development of courses in universities.[10] The problem is that such limited, ad hoc, non-mandatory efforts are very unlikely to make a significant difference to the present pervasive ignorance.

So the situation regarding education and awareness raising among life scientists after the 2008 meetings of the BTWC remains as it was before: until we see effective action by the governments of the states parties to ensure the development of compulsory courses on biosecurity issues for life scientists very little is likely to change.

Given the history of the lack of state action after previous statements of good intentions, therefore, it is necessary to ask what else might be done now to achieve this objective? Clearly, some national academies and scientific organizations are beginning to take the problem seriously,[11] and they may be able to encourage foreign ministries, defence ministries and education ministries to work more closely on this issue, but without political attention this may be a long, slow process at a time when development in the life sciences is rapid. So it may be that civil society, through knowledgeable non-governmental organizations, holds the key to effecting change by putting the issue onto the agenda through briefing the media and asking critical questions of parliamentary representatives. A good start might be to ask what national governments are doing to implement the actions described in paragraphs 26 and 27 of the 2008 agreement among BTWC states parties.

Notes

1. Meeting of the States Parties to the BTWC, 2008, *Informal Advance Report of the Meeting of States Parties,* Geneva, United Nations, December.
2. Brian Rappert and Caitriona McLeish (eds), 2007, *A Web of Prevention: Biological Weapons, Life Sciences, and the Governance of Research,* London, Earthscan.
3. Meeting of the States Parties to the BTWC, 2008, op. cit.
4. Fourth Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, *Final Declaration,* UN document BWC/CONF.IV/9 Part II, Geneva, 1996.
5. Malcolm R. Dando and Brian Rappert, 2005, *Codes of Conduct for the Life Sciences: Some Insights from UK Academia,* Briefing Paper no. 16, Bradford, University of Bradford.
6. Ibid., paragraph 64.
7. Brian Rappert, Marie Chevrier and Malcolm Dando, 2006, *In-depth Implementation of the BTWC: Education and Outreach,* Review Conference Paper no. 18, Bradford, University of Bradford.
8. Giulio Mancini and James Revill, 2008, *Fostering the Biosecurity Norm: Biosecurity Education for the Next Generation of Life Scientists,* Como and Bradford, Landau Network–Centro Volta and University of Bradford.
9. Ibid.
10. M. Minehata et al., 2009, "Developing an Educational Module Resource for Life Sciences through the Biological and Toxin Weapons Convention", paper presented to the 2nd Biosecurity Symposium, Sydney, Australia, 9–10 February 2009.
11. "FASEB Releases Statement on Dual Use Research and Biosecurity Education", *FASEB Washington Update,* 5 March 2009, at <opa.faseb.org/pages/WashingtonUpdate/Mar0609/page2.htm#6>.

At the crossroads: the necessity for "rules of the road" for space

Alex Karl

In 1967, when the space age was still in its infancy, the Outer Space Treaty entered into force with the aim to protect the common interest of all societies while regulating the competition for military advantage that dominated the pioneering space programmes of the United States and the Soviet Union.[1] The treaty was amended four times in the following 12 years with the introduction of the Rescue Agreement, the Liability Convention, the Registration Convention and the Moon Agreement.[2]

Since 1967, the uses and utilization of space have greatly multiplied and evolved. Space-based applications such as weather forecasting, terrestrial navigation, remote sensing, and telecommunications are taken for granted by most of the world's population. Therefore space security is essential to ensure continued access to many applications that benefit life on Earth.

However, general public knowledge of space and space security is poor. Most people would associate space weapons with science fiction rather than consider them a real issue within the current global security debate. It is likely that the vast majority of the global population is unaware of the basic processes that influence space security. Access to and knowledge about the processes involved is limited to a privileged few, which makes space security quite an exclusive matter, even though it affects most if not every single human being on this planet.

Increased awareness is the first step toward creating a broad base of people, especially youth, who are interested and eventually get involved. Fresh ideas have always enriched discussions and progressed debates. Young people are interested and active when the opportunity arises. But to act responsibly one has to be educated. Educating young people about how space and security are connected as well as allowing them to learn from decisions taken in the past will enable future generations to make the right choices to maintain and protect space security.

Space, it seems, is a vast and limitless resource. No wonder that 44 states have built and launched satellites and other space hardware either independently or in cooperation with others. Numerous private sector space players are on the verge of changing that landscape even more.

However, space is not the limitless resource it appears to be—a fact that has been discussed increasingly among decision makers and space professionals over the last decade. In fact, space could become largely inaccessible to spacefaring nations within a few decades. With the world's societies and especially some nations' military capabilities so dependent on space applications this could result

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in a severe global crisis. The events leading to such a scenario are closely related to space security and can only be addressed in that context.

The space environment

The reason for this grim outlook is simple. Space exploration and travel is a dirty business—with every rocket launch and most manoeuvres made in space there are "leftovers" (commonly referred to as debris), such as spent rocket stages, dead satellites, ejected holding mechanisms, camera lenses, paint flakes, fuel droplets and other man-made objects (as opposed to naturally occurring objects such as micrometeoroids).

Due to the laws of physics that describe orbital mechanics, some orbits are more suitable for certain mission objectives and thus more frequently used. The same laws, however, dictate that the trash that is produced as a result of those missions will populate and distribute itself in the very same orbit among the satellites that provide humanity with essential services.

There are billions of debris objects in orbit—from thousands of large ones, such as dead satellites and spent rocket stages, to hundreds of millions of millimetre-sized objects, such as paint flakes. Travelling at an average speed of 8km/s (approximately 27,000km per hour), these pose a destructive potential for other space objects. While even a centimetre-sized particle can cripple a satellite, our current ground surveillance infrastructure can only track particles of about 10cm or greater, thus leaving enough uncertainty for discomfort—especially for manned missions. In addition, there is no international coordinated surveillance system in place and the ones that exist cannot track all the debris at all times.

Mitigation measures include satellite shielding for objects up to 2cm, at the cost of weight (leading usually to an increase in the cost of the satellite and a decrease in its functionality) and evasive manoeuvres to avoid collisions with large and trackable debris objects (greater than 10cm), at the cost of fuel (leading to shorter satellite lifetime). Objects in orbits at altitudes less than 600km at least get cleaned out by entering and burning up in Earth's atmosphere due to sun–atmosphere interactions within weeks, months or a few years depending on the orbit and size of the object concerned. However, all objects in orbit above 600km are there to stay for hundreds if not thousands of years.

In sum, there is no current technological or economical solution to clean the mess up once it is made. Frighteningly, the situation could get even worse. Once a critical debris density is reached in an orbit, the amount of debris continuously increases due to debris–debris collisions even if no new satellites are launched into those orbits—resulting of course also in the loss of existing space hardware due to hypervelocity impacts. Thus the most important orbits are also the ones in the gravest danger of being the first to be degraded and eventually to become useless.[3]

The space security outlook becomes even more urgent when you consider the growing number of emerging spacefaring nations.

The space security outlook becomes even more urgent when you consider the growing number of emerging spacefaring nations, the plans of various countries to put satellite constellations in orbit for global positioning systems, and the nascent space tourism market. Additionally, ageing satellites will need to be replaced if commercial, civilian and military assets are to continue to be served. We can also expect to see a rising demand for Earth observation platforms for climate change monitoring. In short, space traffic will most likely increase in the years to come, not only leading to the creation of more debris but also toward an ever more challenging space situational awareness environment, by having to coordinate satellite manoeuvres within highly populated orbits to reduce the risk of collisions.

Two recent events provided a basis for additional concern that had lain somewhat dormant since the 1980s. In early 2007 and early 2008 respectively, China and the United States demonstrated the threat of kinetic anti-satellite weapons (ASATs) by targeting their own space hardware—simply put, this comprised a rocket launched from Earth to destroy a satellite in space.[4] The results of these ASAT tests are twofold: they increase the debris environment dramatically and they destabilize space security as other nations can interpret such acts as threats to their own space assets. This perceived threat will most likely result in the spread of ASAT capabilities and space negation technology development by several spacefaring nations, thereby leading to further insecurity.

Events on Earth are also shaping the landscape of space security. Some perceive the current space policy of the United States as threatening to the assets of other states and their access to space.[5] This position has not helped to advance the discussion of legal issues concerning the utilization of space. The standstill has resulted, for instance, in deadlock within the Conference on Disarmament on discussions on the prevention of an arms race in outer space (PAROS) since 1994—almost 15 years in which not only the world but also the utilization of space have seen significant changes.

Safeguarding space

Action must be taken to safeguard space if it is to remain utilizable by our children and if we are to ensure the long-term viability to use space for peaceful purposes in accordance with the Outer Space Treaty. Four key areas must be addressed: space debris, space traffic management, preventing conflict or use of weapons in space, and space governance. The majority of the members of the Space Generation Advisory Council,[6] the only youth organization with observer status at the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS),[7] are advocating the following actions to safeguard space for the benefit of future generations.[8]

Space debris

It is paramount that the creation of new debris in space is stopped. An important first step was taken by COPUOS in early 2007 when the Inter-Agency Space Debris Coordination Committee (IADC) Space Debris Mitigation Guidelines were adopted.[9] Of course, in order to tackle such a complex issue as the maintenance of secure and sustainable access to space, these non-legally binding recommendations need to be brought into a binding legal framework and enforced by international law to make them a globally accepted practice. How this could be done in detail is a task for the delegates and experts of the Legal Subcommittee of COPUOS and other bodies dealing with relevant international law. Recommendations for further action include:

- increase the resolution of surveillance capabilities of space debris observation infrastructure; and
- encourage international cooperation on coordinating observation strategy, ground systems utilization and data sharing.

Space traffic management

To tackle the problem of an increase in space traffic, several space traffic management (STM) systems have been proposed.[10] This idea is analogous to applying existing international air traffic control standards and coordination to space objects. Of course, due to fundamental differences the standards cannot simply be transferred for use in space. However, once standards have been agreed upon, all spacefaring entities would benefit. Space would be a safer place in which to operate satellites and it

could be done with greater accuracy, that is to say with less distance between satellites in crowded orbits, as the necessary unclassified space awareness data would be available to all civil operators. It would also facilitate international cooperation in space observation and other realms and conserve resources, such as satellite fuel and orbital slots. Although looked upon with suspicion by nations that rely strongly on their space assets for national security, STM will become a necessity in the near future. Spacefaring actors must understand that an STM system is vital and will contribute to space security for all. Currently, space agencies and experts are holding conferences and workshops to discuss this topic and to propose an STM system to protect their (manned) space assets in at least the short term. A full-scale STM system could be developed in an IADC Working Group and, once agreed, presented to COPUOS.

Space weapons

More attention must also be directed at keeping space free from weapons. This should not only be limited to the nuclear weapons and weapons of mass destruction explicitly mentioned in the Outer Space Treaty but needs to encompass any ground-based weapons that can be used against space objects as well as space-based weapons in general. Placing weapons in space would lead to an increase in the development of countermeasures by nations who feel threatened by such weapons. These countermeasures are much cheaper and technologically simpler to build and use than the sophisticated space weapons themselves (for example ground-to-space ASAT strikes), thus making space weapons a risky and economically questionable asset.

There are sufficient arguments against placing weapons in space, and there are even stronger ones not to use weapons in space. Not only would attacks lead to an increase of space debris, but space assets from all spacefaring countries could be affected. Keeping space weapons-free thus acts as a confidence-building measure and ensures security while saving and protecting valuable assets, such as orbits and the space hardware located within them.

Recommended actions include:

- prohibit weapons and aggressive acts from space via a treaty;
- negotiate such a treaty in the CD or COPUOS or append the Outer Space Treaty; and
- establish an International Space Surveillance Centre for verification.

Space governance issues

Lastly, issues such as property rights in outer space and lunar governance will need to be addressed in the near future. Commercial spaceflight activities are already beginning to enter legally uncharted—or at least unclear—territory. The Outer Space Treaty's last amendment was made around 30 years ago. In the fast-paced realm of space technology this, in essence, dates from another epoch. In the interest of the peaceful uses of outer space, clarifying guidelines and legal frameworks for the use and utilization of space and space objects need to be amended or developed before technical realities create situations that are even more challenging to resolve. Discussion in COPUOS on lunar governance, property rights and related issues should be initiated.

Conclusion

The situation is far from ideal but it is not hopeless. To safeguard space and ensure the secure and sustainable long-term access to, and use of, space for peaceful purposes for all humanity, a set of rules of the road for space—a code of conduct that addresses the above-mentioned issues—is needed. This

code of conduct could be understood as a vision, a roadmap toward legal measures that should be implemented into international law and become common practice.

My generation grew up with the notion that space travel is something normal rather than miraculous and dreamed to be able one day to go in to space themselves. More important, a quarter of the world's population is under 25 years old, and they expect at the very least to have the opportunity to utilize space the way it has been over the past 50 years. The support of all generations is needed in this endeavour. If protective action is not taken soon, access to space for peaceful purposes as we know it will end.

Notes

1. Nancy Gallagher and John D. Steinbrunner, 2008, *Reconsidering the Rules for Space Security,* Cambridge, MA, American Academy of Arts and Sciences.
2. In order of decreasing number of UN Member States who have ratified these treaties and agreements.
3. A. Karl, 2006, "Active Removal of Space Debris – Discussing Technical and Economical Issues", International Astronautical Congress, held in Valencia, Spain, October 2006, document IAC-06-B6.4.04.
4. See Space Security Index, <www.spacesecurity.org>, the only annual, comprehensive assessment of space security.
5. For example, the US National Space Policy charges the Secretary of Defense to "develop capabilities, plans, and options to ensure freedom of action in space, and, if directed, deny such freedom of action to adversaries". See US National Space Policy, 31 August 2006 (released 6 October 2006), available at <www.ostp.gov/cs/issues/space_aeronautics>.
6. For more details, go to <www.spacegeneration.org>.
7. COPUOS was established in 1959 by the UN General Assembly "to review the scope of international cooperation in peaceful uses of outer space, to devise programmes in this field to be undertaken under United Nations auspices, to encourage continued research and the dissemination of information on outer space matters, and to study legal problems arising from the exploration of outer space." See the United Nations Office for Outer Space Affairs web site, at <www.oosa.unvienna.org>.
8. These recommendations were presented by the author during the UNIDIR Conference "Security in Space: The Next Generation", held in Geneva, 31 March–1 April 2008.
9. The IADC is an international governmental forum for the coordination of activities related to the issues of man-made debris in space. See <www.iadc-online.org>.
10. For example, the International Space University, 2007, *Space Traffic Management: Final Report,* at <www.isunet.edu>, and Johanna Catena, "Introducing a New Framework for Space Traffic Management", presentation at the 51st session of COPUOS, 11–20 June 2008.

Disarmament education: a building block for our children's future

Kerstin VIGNARD

In 2001, the United Nations Secretary-General convened a Group of Governmental Experts to examine the topic of disarmament and non-proliferation education and training. The group concluded that "[d]isarmament and non-proliferation education and training is a lifelong and multifaceted process… . It is a building block, a base of theoretical and practical knowledge that allows individuals to choose for themselves values that reject violence, resolve conflicts peacefully and sustain a culture of peace."[1]

The report of the group specifically mentions the need for disarmament and non-proliferation education to target children. During the group's deliberations, the Chairman, distinguished disarmament diplomat Ambassador Miguel Marín Bosch of Mexico, challenged us to think about how to capture the attention of children and youth—not just university students and adults. His premise was that if we want to build a more peaceful and secure world through disarmament and non-proliferation, we need children to know that these issues exist and that they too have a stake in them. He likened it to the explosion of environmental awareness that has taken place among young people over the past few decades. What we need is a comparable shift in awareness about peace and security by children and for children in order to prepare the next generation to be able to think critically about these issues.

It is daunting, however, to think about how to introduce the issue of disarmament and security to young children. By its nature, this topic has frightening elements, and the urge to shield our children from unpleasant realities is understandably strong. It is possible, however, to offer children tools for *how* to think about disarmament and security, not *what* to think. In so doing we are encouraging critical thinking skills, compassion and the ability to consider the perceptions of others in an age-appropriate manner.

Having children of my own has encouraged me to consider this at two practical, interwoven levels: first, how can I promote a more secure world for my children; and second, how can I give my children the tools they need to be able to think about issues of disarmament, security and peace?

The safety and security of one's child is of primary importance to every parent. You start thinking about protecting your child from pregnancy: you consider whether you need to change your diet, cut down on coffee, or perhaps finally stop smoking. You rearrange cabinets to put cleaning products out of the baby's reach, buy gates for the stairs at home and covers for the electrical outlets. And it isn't only physical safety. I assume that I am not the only parent who has spent more than a few moments imagining how I will try (and more often than not fail) to protect my child from disappointment, injustice and frustration.

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You think about your child's security and welfare in extremely broad terms—do those red spots mean he needs to see a doctor? Did I dress her warmly enough this morning? Health, education, safe streets and schools, the right opportunities and conditions for physical, emotional and mental development—we strive to protect our children to the best of our abilities—to keep them safe.

When many of us think about security in terms of our family, we think about their physical safety, nutrition, a stable environment, clean water and air, their health, that they wear a helmet when they ride their bike, that they don't get into a stranger's car or that they look both ways before crossing the street.

However, when we think about security in the larger world, we think about military power, and the threats posed by terrorism, violence and war. For those of us fortunate to live in countries at peace, it is easy to overlook the connection between these two levels—human and global—of security. Yet we cannot aspire to a more peaceful and secure world if people don't have security in their daily lives.

So how can we as adults, parents, community members and individuals contribute to building a more peaceful and secure world for our children? And how can we offer our young children the initial tools that will prepare them to think about security and disarmament issues as they grow older?

Perhaps we need to go back to the basics. These are the straightforward rules of any playground or school yard:

- Treat others as you would like to be treated
- Share
- Keep your promises
- Don't bully or shove
- Don't cheat
- Might doesn't make right

A few minutes spent in a local park will quickly confirm that parents and caregivers are teaching, reminding, and re-reminding their children about these concepts—sometimes in increasingly insistent tones! These concepts are the first building blocks for disarmament education. Yet as our children grow, it is easy to stop talking about these simple, but ever important, ideas. The good news is that we are already teaching these ideas to our children—but some work is required on our follow through.

While we are convinced that these are simple enough rules and concepts for young children to understand and obey, as adults we don't always hold our leaders to these same straightforward rules, particularly when it comes to matters of security. It's as if we lower our expectations, with the justification that "the world is complicated", "politics is a dirty business" or "those people don't share our values". Bullies are not unknown on the international scene, and we are often confronted with countries that wield their might—financial, political or military—to address their real or perceived grievances. Don't get me wrong. The world is complex. We do have differences. Not everyone will play by the rules. But that doesn't mean that we should lower our expectations. Our children are watching us, and they learn from our example.

Not everyone will play by the rules. But that doesn't mean that we should lower our expectations.

So, what can we do to make the world a more peaceful place for our children?

- First, make a personal commitment to offering the children of the world the security and safety they deserve—and then choose a way to act on that commitment.
- Second, teach our children respect for themselves and for others.

- Third, the next time you hear a child say "It's not fair", encourage him to seek out just solutions to the problem, and encourage compassion to be aware of the concerns of others.
- Fourth—and perhaps most important—tell them not to lower their expectations as they become older. By holding steady to some of the basic building block lessons of childhood they can help make the world a safer place for their own children—and for us, their parents.

Disarmament and non-proliferation education is a crucial tool that will build a culture of peace and, in the words of the preamble to the United Nations Charter, save succeeding generations from the scourge of war. While it is a long-term investment and one that requires continuous attention, it is one that we simply cannot afford to neglect.

Note

1. *Report of the Secretary-General: United Nations Sutdy on Disarmament and Non-proliferation Education,* UN document A/57/124, 30 August 2002, paragraph 20.

UNIDIR FOCUS

NEW PROJECT

Promoting Discussion on an Arms Trade Treaty

In January 2009 the European Council took a decision "on support for EU activities in order to promote among third countries the process leading towards an Arms Trade Treaty, in the framework of the European Security Strategy". UNIDIR was entrusted with the technical implementation of this decision, with funding from the European Union.

The overall objective of the project is to promote the participation of all stakeholders in the discussions around an Arms Trade Treaty (ATT), integrate national and regional contributions to the international process under way, and to identify the scope and implications of a treaty on the trade in conventional arms. The project aims at facilitating the exchange of views among states, regional organizations and civil society by encouraging discussions around different aspects of a possible international treaty on the arms trade. These views will serve as an important input to current discussions on an ATT, and hopefully support and stimulate related national, regional and international debates.

Within the 15 months foreseen for the project, UNIDIR will host six regional seminars in different parts of the world to increase the awareness of national and regional actors, United Nations Member States, civil society and industry of an ATT, and promote international discussions about the possibility of negotiating a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms. The regional seminars, organized in Dakar, Mexico City, Amman, Kuala Lumpur, Addis Ababa and Vienna, discuss the nature of a possible arms trade treaty, the process under way at the United Nations, scope, content and implications of such a treaty, as well as region-specific thematic discussions to gather ideas for further action, recommendations and suggestions that can feed into the ATT process.

In addition to the regional seminars, the project implementation plan contains a launch seminar, a side event in the margins of the First Committee (Sixty-fourth session of the UN General Assembly), and a final seminar to present the overall results of the project. Summary reports from each regional seminar outlining discussions, ideas and recommendations put forward for an ATT will be made available online. A final report compiling the summary reports of the regional seminars will be produced and presented for comments at the concluding seminar, and made available online.

In each issue of *Disarmament Forum,* UNIDIR Focus highlights one activity of the Institute, outlining the project's methodology, recent research developments or its outcomes. UNIDIR Focus also describes a new UNIDIR publication. You can find summaries and contact information for all of the Institute's present and past activities, and download or order our publications, online at <www.unidir.org>.

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PUBLICATIONS

The recently completed Disarmament as Humanitarian Action project looked at current difficulties for the international community in tackling disarmament and arms control challenges. The four volumes produced by the project examine multilateral negotiating processes more broadly to help practitioners "think outside the box" in their work by drawing on interdisciplinary research and explore how humanitarian perspectives add value to disarmament and arms control work, proposing new ways these approaches could assist multilateral processes.

Alternative Approaches in Multilateral Decision Making: Disarmament as Humanitarian Action, John Borrie and Vanessa Martin Randin (eds)
UNIDIR, 2005, 152 pages, sales number GV.E.05.0.8, ISBN 92-9045-172-6
US$ 18 (plus shipping and handling)

Multilateral arms control and disarmament negotiations have achieved scant success in recent years, despite pressing political imperatives. This volume critically assesses contemporary multilateral arms control and disarmament negotiating processes, considering, for instance, the role of "political will" in deciding outcomes. Starting from the premise that traditional practices and presumptions are insufficient to address real-world problems deriving from the possession, use or threat of use of weapons, the volume proposes recasting the challenges and responses to benefit also from humanitarian approaches.

Disarmament as Humanitarian Action: From Perspective to Practice
John Borrie and Vanessa Martin Randin (eds)
UNIDIR, 2006, 178 pages, sales number GV.E.06.0.9, ISBN 92-9045-182-3
US$ 25 (plus shipping and handling)

Disarmament and arms control challenges are, at root, issues of human security. This volume provides practical insights from various humanitarian contexts such as the anti-personnel mine ban treaty and international work on explosive remnants of war and small arms. Its aim is to inform and help the ongoing efforts of multilateral practitioners, especially in the field of disarmament and arms control.

Thinking Outside the Box in Multilateral Disarmament and Arms Control Negotiations, John Borrie and Vanessa Martin Randin (eds)
UNIDIR, 2006, 270 pages, sales number GV.E.06.0.16, ISBN 978-92-9045-187-7
US$ 35 (plus shipping and handling)

There is need for new approaches—to "think outside the box"—in order to make multilateral disarmament and arms control negotiations work better because continued failure has real human

costs. This volume offers new practical tools and perspectives to inform and help the ongoing efforts of multilateral disarmament practitioners, drawing from a range of contributors in civil society, diplomacy, and the policy and research fields.

The Value of Diversity in Multilateral Disarmament Work

John Borrie and Ashley Thornton

UNIDIR, 2008, 98 pages, sales number GV.E.08.0.5, ISBN 978-92-9045-193-8

US$ 19 (plus shipping and handling)

Serious political problems exist in multilateral disarmament and arms control work, but these are not the only difficulties. The unintended consequences of past practice, or the complex challenges those involved must deal with, can be obstacles to progress. Aspects of multilateral disarmament practice may compound cognitive challenges that individuals face in managing their perceptions and interactions with others in negotiating environments. While there is no way to ensure success in disarmament endeavours, multilateral practitioners can improve the chances by recognizing and harnessing cognitive diversity, as humanitarian perspectives in disarmament processes have shown. This book discusses practical suggestions to help achieve this.