

The Breakdown of Disarmament Machinery

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RECOMMENDATIONS OF THE WMD COMMISSION

Revitalizing the Conference on Disarmament

The UN machinery is often seen as operating at three levels: a deliberative level (the United Nations Disarmament Commission), a consensus-building level (the United Nations General Assembly First Committee) and a body for negotiating treaties (the Conference on Disarmament). At present, all three of these main components of the machinery are plagued to different degrees by political obstacles and blockages. (*Weapons of Terror*, 178)

Recommendation 58: In order for the Conference on Disarmament to function, it should be able to adopt its Programme of Work by a qualified majority of two-thirds of the members present and voting. It should also take its other administrative and procedural decisions with the same requirements.

Negotiating a Cut-off of Fissile Materials for Weapons

Recommendation 26: The Conference on Disarmament should immediately open the delayed negotiations for a treaty on the cut-off of production of fissile material for weapons without preconditions. Before, or at least during, these negotiations, the Conference on Disarmament should establish a Group of Scientific Experts to examine technical aspects of the treaty.

Preventing an Arms Race in Outer Space

Recommendation 45: All states should renounce the deployment of weapons in outer space. They should promote universal adherence to the Outer Space Treaty and expand its scope through a protocol to prohibit all weapons in space. Pending the conclusion of such a protocol, they should refrain from activities inconsistent with its aims, including any tests against space objects or targets on earth from a space platform. States should adapt the international regimes and insti-

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tutions for space issues so that both military and civilian aspects can be dealt with in the same context. States should also set up a group of experts to develop options for monitoring and verifying various components of a space security regime and a code of conduct, designed inter alia to prohibit the testing or deployment of space weapons.

Recommendation 46: A Review Conference of the Outer Space Treaty to mark its 40th year in force should be held in 2007. It should address the need to strengthen the treaty and extend its scope. A Special Coordinator should be appointed to facilitate ratifications and liaise with nonparties about the reinforcement of the treaty-based space security regime.

Convening a World Summit on Disarmament

Recommendation 59: The United Nations General Assembly should convene a World Summit on disarmament, non-proliferation and terrorist use of weapons of mass destruction, to meet after thorough preparation. This World Summit should also discuss and decide on reforms to improve the efficiency and effectiveness of the UN disarmament machinery.

Revitalizing the Conference on Disarmament

The Geneva-based Conference on Disarmament (CD) is the standing UN body responsible for negotiating disarmament treaties. Here, governments have negotiated the main treaties on nuclear, biological, and chemical weapons. The last agreement reached in the CD was the Comprehensive Test Ban Treaty, whose negotiations were concluded in 1996. New norms and regimes will likely also be negotiated in the CD, so its successful functioning is crucial for progress on disarmament.

The Conference has not been able to conclude a treaty for the past decade because its members disagree over what to negotiate, and how to do so. The CD's rules of procedure require the 65 Conference members to agree by consensus on a program of work. The program of work generally establishes one or more mandates defining the subject of the treaty to be negotiated or topic to be discussed and the goals of the treaty or discussion. For the past ten years, however, Conference members have disagreed on both the subjects and their corresponding goals. This lack of consensus has meant no movement at all.

The underlying reality is that governments are using the Conference's

rules of procedure to block progress due to continuing differences in disarmament and non-proliferation priorities. The policy differences are masked by procedural wrangling, making it difficult to pinpoint blame or to clearly and simply define the debate for the public. Debates over priorities take place under the guise of finding a compromise on a program of work. Some governments suggest having an open discussion on priorities in order to clarify the underlying disagreements.

There are four topics within the CD on matters related to nuclear weapons: a Fissile Materials Cut-off Treaty (FMCT), Prevention of an Arms Race in Outer Space (PAROS), nuclear disarmament (meaning elimination of nuclear weapons), and negative security assurances (guarantees of non-use of nuclear weapons against states not possessing them). Under a widely but not universally agreed proposal from 2003, a program of work would encompass negotiation of an FMCT; discussion of PAROS, including examination of the possibility of negotiating a treaty; negotiations of security assurance “arrangements” which could take the form of a treaty; and discussion of “progressive and systematic efforts to attain” nuclear disarmament.¹ In 2007, the six presidents of the CD introduced another proposal that gained support in some quarters and possibly lost support in others. This proposal would also initiate negotiations on an FMCT, but without verification in the negotiating mandate; discussion of PAROS without the explicit possibility of negotiating a treaty; discussions “dealing with appropriate international arrangements” of negative security assurances; and discussions on nuclear disarmament and the prevention of nuclear war.²

Many of the Western states prioritize the fissile materials treaty and believe it is the only issue ripe for negotiation. Prior to compromising on the most recent proposal, which the United States just indicated it will not oppose,³ the United States has gone a step beyond prioritizing an FMCT and refused to agree to any program of work that includes the other three issues. China and Russia have refused to agree to a work program that *does not* include the prevention of deploying weapons in space, the agenda item usually referred to as PAROS. Members of the Non-Aligned Movement (NAM) insist upon the inclusion of nuclear disarmament and security assurances. Some member states think security assurances could be subsumed under nuclear disarmament. Other members, particularly those, like Iran and Cuba, which feel directly threatened by nuclear weapons, prefer that security assurances be debated separately, and soon.

Several of these states have been using the consensus rule to block progress in one of two ways. Either they have blocked consensus if their priority issue is not included in the program of work, or they have blocked consensus if the priorities they do not wish to proceed are included. Although many governments are blocking consensus by insisting on their own priorities, until now the United States was the only government insisting on its priority and *only* its priority. It was not even willing to agree to a program of work in which other priorities are only *discussed*.

Recent developments have shown a more complicated picture. Because the United States has been blocking work on any other issue, it was easy for other governments to say they would go along with the majority if their issue was covered with a degree of seriousness. In 2006, minor progress was made by holding week-long “structured” discussions on the priority topics despite the lack of a program of work.⁴ This approach was further developed with daily discussions during the First Session of 2007, culminating in the proposal for work described above. While the United States has agreed to the proposal, other CD delegations, including China, India, Pakistan, Egypt, Algeria, and Iran, have not yet given their positions on the proposal and are indicating resistance to it. While all of these delegations supported the 2003 proposal for work, they may have reservations about this proposal either because the mandates for PAROS and NSAs are weaker, or because their support for the original compromise package has changed. Some may try to introduce amendments strengthening the mandates of their priority issues, which would likely cause either the United States or France to oppose it.⁵

If CD member states accept this proposal, the CD would begin negotiating a treaty for the first time in a decade, and formally continue work in three other areas. This is the best opportunity for breaking the present impasse, and is not likely to come again soon. If it fails, it will be necessary to look at alternative options for moving forward.

Before this proposal was presented, the WMD Commission recommended that the CD alter its rules to allow administrative and procedural decisions to be adopted by a two-thirds majority of members voting and present in order to break the impasse. The Commission did not address how this alteration would be done, but if it is not feasible in the CD, it perhaps could be accomplished by the General Assembly or a World Summit. Another problem is that key states could simply decline to participate in negotiations, an outcome the consensus approach was designed to avoid in the first place. Presumably, however, CD members would consider this possibility in deciding whether to adopt a contested decision by a two-thirds majority. Of course, if initiation of negotiations were successful, the policy differences underlying the obstructionist tactics would remain. Still, states would at least be able to work toward resolving those differences in negotiations, something that is not facilitated by the present rules of procedure.

Another approach would be to undertake negotiations on one or more of the priority topics outside the CD, imitating the “Ottawa process” resulting in the adoption of the treaty banning anti-personnel landmines. Ignoring U.S. opposition, Canada initiated negotiations outside of the established but stalemated channel for controls on landmines, the review process for the Convention on Certain Conventional Weapons. The United States eventually participated in the negotiations but declined to sign the agreement when its demands were not met.⁶ Other non-parties include Russia, China, India, and Pakistan. Again, however, in the nuclear weapons context, the question of whether weapon-possessing states would participate is a crucial consideration.

The ban on landmines was important to a large number of countries due to the widespread use of mines, regardless of whether the world's most powerful states joined the negotiations or agreement. In the case of nuclear weapons, in contrast, it is only a handful of countries that possess them, thus making the participation of those countries especially vital for the successful conclusion of an effective treaty. For example, some governments have suggested negotiating an FMCT outside of the CD. The Bush administration opposes this approach.⁷ Yet U.S. involvement is crucial if an FMCT is to be meaningful and successful, in light of its large stocks of fissile materials and its capacity to produce more.

Negotiating a Cut-off of Fissile Materials for Weapons

The consequences of the blockage in the Conference on Disarmament have been dire for negotiations on a treaty banning the production of fissile materials for nuclear weapons. Fissile materials are defined as “materials that can sustain an explosive fission chain reaction,” and generally refer to highly enriched uranium and plutonium.⁸ The production or acquisition of such material is necessary for making nuclear weapons. As the WMD Commission notes, the world community has long supported banning the production of fissile materials for use in nuclear weapons.⁹ The scope of a Fissile Materials Cut-off Treaty (FMCT) was established by a 1993 consensus UN General Assembly resolution.¹⁰ This led to the development of a 1995 mandate for the negotiation of a fissile materials treaty within the Conference on Disarmament, accompanied by the understanding that the issue of how to address existing stocks could be dealt with in the negotiations.¹¹ The 1995 NPT Review and Extension Conference committed states parties to the “immediate commencement and early conclusion of negotiations” on an FMCT.¹² In 2000, the NPT Review Conference urged the CD to agree on a program of work which includes “the immediate commencement of negotiations on [an FMCT] with a view to their conclusion within five years.”¹³

Despite widespread support for an FMCT, for ten years governments have been unable to begin negotiations in the Conference on Disarmament due to the lack of consensus on a program of work, as discussed above. In recent years, a new problem has emerged: governments no longer agree on the scope of an FMCT and, therefore, the mandate for negotiations. Reversing a longstanding U.S. position, in 2004 the Bush administration announced its belief that an effectively verifiable FMCT is not feasible because it would require “an inspection regime so extensive that it could compromise key signatories’ core national security interests ... and still would not provide high confidence in the ability to monitor compliance.”¹⁴ At a 2006 CD session, the United States introduced a draft FMCT and a draft mandate for its negotiation.¹⁵ The draft mandate dropped language in the 1995 agreed mandate that set an “internationally and effectively verifiable” agreement as the goal. The mandate for negotiations on an FMCT in the most recent

proposal for work in the CD also uses this language. Every other member of the CD that has discussed the matter of verification supports aiming for a verified FMCT. Many see it as strictly necessary for a legitimate and effective treaty, and most are skeptical of the utility of an unverified treaty. In the context of discussing the most recent proposal for work, Iran and India have said verification must be included in an FMCT's negotiating mandate. As discussed in section 2.1, the WMD Commission and other experts believe that verification is feasible, and that solutions can be found to other difficult problems like that of existing stocks.

In order to remove the immediate roadblock to progress, the United Kingdom has supported taking the reference to verification out of the negotiating mandate on the understanding it could be dealt with in negotiations instead. Most Western states support this position and have been calling for the start of negotiations "without preconditions." The WMD Commission is open to this approach.¹⁶ However, it is important to be wary of a producing a treaty with no or limited verification provisions. It is true, as the United States argues, that rapid agreement on a simple ban on production of fissile materials for weapons would impede growth of arsenals in Israel, Pakistan, and India.¹⁷ This result, however, could also be attained by an extension and formalization of the existing moratorium accepted by Britain, France, Russia, and the United States.

The establishment of a verification regime would also be crucial in accounting for existing stocks, preventing their use in weapons, and moving towards their verified reduction and elimination. States agreed to adopt the Biological Weapons Convention (BWC) in 1972 and to negotiate a verification protocol separately. But after two decades of technical feasibility studies and negotiations resulted in a draft verification protocol, the Bush administration withdrew U.S. support for the negotiations, leaving the BWC unverified.¹⁸ Despite this history, many states are hopeful that the United States will eventually return to supporting verification of an FMCT when faced with facts, or following the election of a new administration.

Preventing an Arms Race in Outer Space

Weapons of mass destruction are banned from outer space by the 1967 Outer Space Treaty, but conventional weapons are not. As the WMD Commission explains, the world relies extensively on space technology, from meteorology to communications.¹⁹ For this reason, all states have a vested interest in protecting space, not least the United States, which has the largest number of space assets. Satellites are also used for early warning on missile launches, and attacks on satellites could be seen as the first sign of nuclear war. Importantly, and not noted by the WMD Commission, deploying any weapons in space would not only impede nuclear disarmament but would also likely kick start a new arms race—on earth as well as in space.

There are not yet any known weapons in space, but based on developments

over the past decade there is ample reason to be concerned that the United States is headed toward deploying them. The 1997 U.S. SPACECOM document “Vision for 2020” outlined a new military vision to control space and integrate space forces, in order to acquire “full spectrum dominance.”²⁰ The Bush administration withdrew from the Anti-Ballistic Missile Treaty in June 2002, arguing that the treaty would restrict testing and deployment of planned missile defense systems, including space-based ones. For a number of years, the United States and Israel abstained on the annual UN General Assembly resolution on preventing an arms race in outer space. In 2005 and again in 2006, the United States went further and cast the sole negative vote. On June 13, 2006, the United States told the Conference on Disarmament it would continue research on space weapons.²¹ The *U.S. National Space Policy* released in October 2006 states that:

The United States will oppose the development of new legal regimes or other restrictions that seek to prohibit or limit U.S. access to or use of space. Proposed arms control agreements or restrictions must not impair the rights of the United States to conduct research, development, testing, and operations or other activities in space for U.S. national interests.²²

As explained in section 2.4, development and deployment of space-based anti-satellite, anti-missile, and ground-attack systems face serious technical, financial, and strategic obstacles. This reality underlines the irrationality of U.S. opposition to arms control initiatives covering outer space. Nonetheless, there is considerable momentum behind U.S. efforts despite the unnecessary threat to international security posed by such programs. For example, Missile Defense Agency plans call for testing and deployment of a “test-bed” of up to six space-based missile interceptors in 2010-2012.²³

A legal regime to prevent weaponization of space could be created by a protocol to the Outer Space Treaty, as the WMD Commission suggests, or a new stand-alone international agreement. In the meantime, governments can engage in confidence building measures such as unilaterally renouncing the deployment of weapons in space and developing codes of conduct.²⁴ States have done some space security work in the Committee on the Peaceful Uses of Outer Space by developing “rules of the road” to mitigate space debris. As the state with the largest number of space assets, the United States has the most to lose from space debris. Because this is the one area where the Bush administration has not blocked multilateral work towards space security, some hope to use work on space debris as a first step toward preventing the weaponization of space.

The WMD Commission does not recommend dealing with space weapons within the Conference on Disarmament, though it has been on the CD agenda for years and is one of the CD’s four core issues. Instead it favors initiation of an Outer Space Treaty review process that would address broad

issues of space security and the establishment of a ban on all space-based weapons through negotiation of a protocol to that treaty. This is one possible path. However, as the CD is mandated to negotiate arms control and disarmament treaties, it is also a logical place to consider a new international instrument. Russia and China, the two major proponents of a new treaty to prevent the weaponization of space, insist that it be negotiated in the CD. The CD has accumulated some expertise in space policy. Russia and China have published several working papers on treaty issues, such as definitions, verification, and the current space policy regime. The UN Institute for Disarmament Research has held working sessions on space security in the CD for the last three years.

Currently, military issues of space are dealt with in the CD in Geneva, while civilian issues including space debris are dealt with in the Committee on the Peaceful Uses of Outer Space in Vienna. However, the majority of space assets are dual use, with civilian and military applications. We therefore agree with the WMD Commission that space security requires more interaction between these bodies, as well as the development of a comprehensive framework that can deal with both aspects.

Convening a World Summit on Disarmament

In recent years the international community has become increasingly divided on revitalizing disarmament and strengthening non-proliferation efforts. The 2005 NPT Review Conference ended in failure and acrimony largely because the Bush administration refused any reference to agreements reached at previous review conferences. Later that year at the World Summit, states again were unable to agree to a single word on nuclear disarmament and non-proliferation after the newly appointed U.S. ambassador, John Bolton, demanded drastic revisions to the outcome document. The WMD Commission concluded that the world's states must try again, and called for the convening of a World Summit on disarmament, non-proliferation, and terrorist use of WMD. The summit would also decide on reforms to improve the effectiveness of UN disarmament machinery. The Commission's call echoes that made in 2000 by Kofi Annan for an international conference on eliminating nuclear dangers.²⁵

For years, members of the Non-Aligned Movement have been calling for a fourth General Assembly Special Session on Disarmament (SSODIV) in order to lay out a disarmament program on both NBC and conventional weapons, and to ensure that UN disarmament institutions are up to the challenge. However, these proposals have gone nowhere, in large part due to U.S. opposition.

A World Summit on disarmament, non-proliferation and terrorist use of NBC weapons, as proposed by the WMD Commission, and an SSODIV each have their advantages. An SSODIV would build on the tradition of previous SSODs, and would address NBC weapons in the context of an overall demili-

tarization program, thus allowing consideration of linked issues, for example, missiles that can carry all types of warheads. A World Summit would bring together heads of state. It would follow on the 2005 Summit which, despite its shortcomings on nuclear issues, was able to carve new paths in areas like UN human rights machinery, and on the highly successful 2000 Summit which placed the reduction of poverty on the global agenda. Such a summit would focus exclusively on NBC weapons, and above all, on nuclear weapons. Because a World Summit would take place at a higher political level and has the endorsement of the WMD Commission, it seems the preferable course.

Regardless of which approach is ultimately taken, both a World Summit and an SSODIV would help catalyze governmental action on disarmament. Furthermore, the vast majority of the people in the world—including majorities in the nuclear weapon states—support the global elimination of nuclear weapons.²⁶ The subject no longer receives the attention it once attracted, but when it is raised, the global public overwhelmingly supports disarmament. A World Summit or SSODIV would assist greatly in turning that latent support into political pressure for disarmament.

Recommendations for U.S. Policy

- The United States should work with other countries to achieve agreement on a program of work for the Conference on Disarmament to commence negotiations on a Fissile Materials Cut-off Treaty and substantive discussions, with the possibility of negotiation, on preventing weaponization of space, nuclear disarmament, and security assurances. The United States should also support the WMD Commission's recommendation to eliminate the consensus requirement for procedural decisions in the Conference on Disarmament.
- The United States should terminate research and development of space weapons, renounce them, and protect U.S. space assets through the negotiation of a treaty banning all weapons in space.
- The United States should support the convening of a World Summit of heads of state on disarmament, non-proliferation, and terrorist use of nuclear, biological, and chemical weapons, or a UN General Assembly Special Summit on Disarmament.