

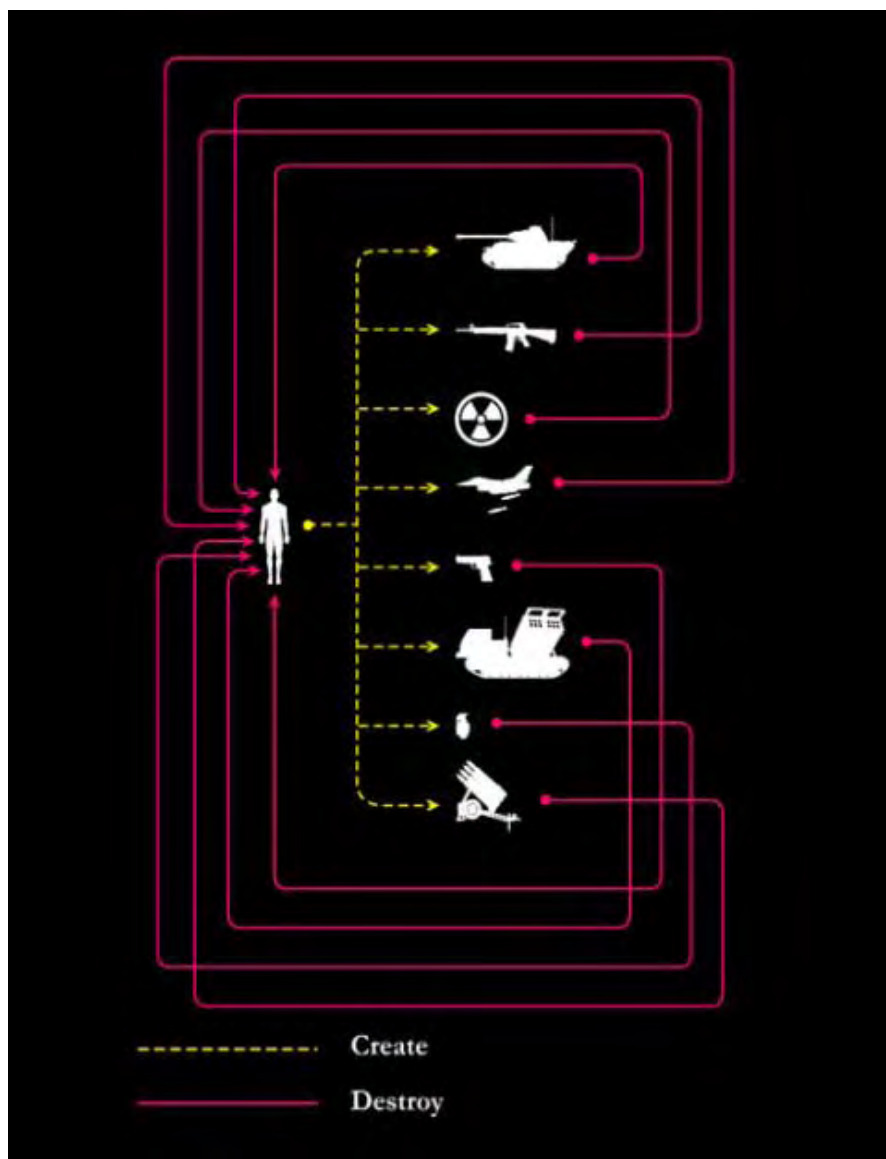
# FIRST COMMITTEE MONITOR

*NGO Reporting on the United Nations General Assembly  
First Committee on Disarmament and International Security  
4 October–1 November 2010*

**4 October 2010**

**Preview Edition**

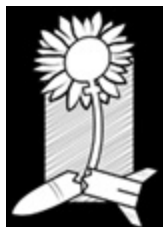
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Cluster Munition Coalition  
Global Action to Prevent War  
Lawyers Committee on Nuclear Policy  
Reaching Critical Will of WILPF  
Secure World Foundation



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**IN THIS EDITION:**

Editorial: Human security <-> disarmament	3
Reflections on the UN General Assembly general debate . . . . .	5
Moving the disarmament machinery forward: suggested follow-up to the high-level meeting. . . . .	6
Humanitarian law or nuclear weapons: choose one . . . . .	8
Space and international security: future directions and challenges. . . . .	10
Phasing out the illicit arms trade. . . . .	12
Convention on Cluster Munitions: a new global standard for international humanitarian law . . . . .	13
Millennium Development Goals versus military consumption. . . . .	14

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Regular reporting on the First Committee will commence on Monday, 11 October and will continue each week throughout First Committee. All topics related to disarmament and security will be covered by our team of NGO reporters.

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- Research and analysis of critical issues related to disarmament and arms control; and
- News and information about civil society engagement for a nuclear weapon free world.



**Editorial: Human security <—> disarmament**

Ray Acheson | Reaching Critical Will of WILPF

In the lead up to this year's UN General Assembly First Committee on Disarmament and International Security, several high-level events that are linked in complex ways took place here in New York. These included a summit on the Millennium Development Goals; a high-level meeting on the International Year of Biodiversity; a Security Council meeting on the international security environment; a high-level meeting on taking forward multilateral disarmament negotiations; and a thematic meeting on counterterrorism.

Two connections among these events are of particular relevance to disarmament. The first is redefining the concept of security to one that recognizes the importance of economic and social justice, human rights, and environmental preservation. The second is revitalizing the processes by which international relations are conducted and administered.

**Human security**

In its concept paper for the UN Security Council summit on the international security environment, the Turkish delegation recognized the linkages between security and development that have "given new prominence to the impact of poverty, global economic crisis, infectious diseases and environmental degradation on the security environment." While only the president of Uganda and prime minister of Japan specifically raised the issue of human security during the meeting, the outcome of the meeting, a presidential statement, does say that the Council "underlines the necessity to address the root causes of conflicts, taking into account that development, peace and security, and human rights are interlinked and mutually reinforcing."

However, the meeting failed to make the connection between these issues and some of the primary impediments to security: excessive military expenditure, unregulated arms trade, and the possession of nuclear weapons by the permanent members of the Security Council. As Costa Rica's President Miranda said at the General Assembly on 23 September, the accumulation and trade in arms is not only a threat to peace and survival, but "is also an aggression to development." She explained, "Each soldier who enrolls, each missile that is activated and each isotope enriched with military purposes, imply less schools and hospitals, less food programs, less roads, less wireless networks, less seeds for the farmers or less good judges to administer justice."

The international community needs to elaborate a robust framework for addressing the challenges to security, including a critique of militarism, overarmament, and the use or threat of use of force. Approaching disarmament and arms control through the lens of international humanitarian law and as an imperative for human rights and human security shifts the focus of debate away from

weapons as tools for "state security" to the needs of human beings to be protected against the impacts of such weapons. This in turn would also affect the processes by which the international community deliberates and negotiates disarmament and arms control.

**Process**

The existing machinery for multilateral disarmament negotiations, the Conference on Disarmament (CD) has been deadlocked for twelve years. Governments are starting to think creatively at how to get out of quagmire and the UN Secretary-General convened a high-level meeting two weeks ago to air options for moving forward. Delegations to the CD still disagree about the cause of the deadlock, particularly over whether it is the result of the machinery itself or the lack of "political will". Some, however, have suggested that something much more fundamental is at the heart of the problem.

In 2009, the Costa Rican delegation to the CD suggested that the forum's paralysis is rooted in governments' approach to disarmament from an "armament point of view and not from a humanistic approach." The Costa Ricans argued that an exclusively military lens leads at best to the regulation or control of arms but will never lead to world disarmament.

Taking a humanitarian approach to nuclear disarmament would revolutionize the agenda at the CD and beyond, enabling the multilateral disarmament fora to move away from the incremental approach to nuclear disarmament that has shown to be ineffective so far. It would focus efforts on banning nuclear weapons rather than merely limiting its spread to other countries.

The negotiation, adoption, and implementation of the Mine Ban Treaty and the Convention on Cluster Munitions both addressed the specific weapon systems from a humanitarian perspective, banning the systems on the basis of their violation of international humanitarian law, and both treaties contain provisions that address victim assistance. This approach is equally applicable to questions of nuclear weapons. One of the real positive outcomes of the 2010 NPT Review Conference was inclusion in the final document of language expressing "deep concern at the catastrophic human consequences of any use of nuclear weapons" and reaffirming "the need for all States at all times to comply with applicable international law, including international humanitarian law." The Review Conference's statement reinforces the moral unacceptability and presumptive unlawfulness of any use of nuclear weapons, which is a powerful challenge to their possession by any state.

Furthermore, the humanitarian approach to disarmament enables governments and civil society to define and implement actions that lead to the desired goal—and to oppose those that lead away from it. The process of ne-

***Editorial (cont.)***

gotiating the anti-personnel landmine and cluster munition bans made it clear that certain actions violated law and principles. The same would be true of a process to ban nuclear weapons. Such a process would highlight the problems of modernizing, refurbishing, or otherwise investing in nuclear weapon research, development, or infrastructure, for example. It would make clear the problems of use and possession, as outlined above, and would challenge doctrines, postures, and policies that signal the intent or possibility of use.

The humanitarian perspective is also necessary in the preparatory process on the arms trade treaty currently underway in the General Assembly. Ensuring that human rights and international humanitarian law are at the core of the final treaty—and not just buried in its preamble—will provide guidance for deliberations on all of the treaty's elements.

As John Borrie of the UN Institute for Disarmament Research has written in *Rethinking multilateral nego-*

tiations: disarmament as humanitarian action, “new and complex challenges of security this century ... increasingly call for supplementary perspectives in order for them to be addressed effectively. Humanitarian perspectives and concepts can constitute certain of these supplements. They do not need to be viewed as exclusive alternatives to national security approaches in order to assist negotiating practitioners and can help build common ground in responding to collective challenges in security, especially as states are responsible for contributing to their citizens’ security in individual and communal terms, as well as from external threats posed by other states.”

UNIDIR, civil society, and several governments have done much work to bring the humanitarian perspective to disarmament processes—but it is up to member states to employ these perspectives and bring them to the forefront in their deliberations and negotiations. 2010, the start of the next disarmament decade, is an excellent time to start. •

*Ray Acheson is the project director of Reaching Critical Will and the editor of the First Committee Monitor.*

UNITED NATIONS INSTITUTE FOR DISARMAMENT RESEARCH

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Building Effective Responses**

Tuesday, 5 October 2010, 13:15–14:30  
Conference Room I

**Space Security  
Next Steps for TCBMs**

(co-organized with Secure World Foundation)  
Thursday, 14 October 2010, 13:15–14:30  
Conference Room IV

**Improving the Effectiveness of the PoA  
Implementation Challenges and Opportunities**

Wednesday, 20 October 2010, 13:15–14:30  
Conference Room IV

**IDEAS FOR PEACE AND SECURITY**

## Reflections on the UN General Assembly general debate

Ray Acheson | Reaching Critical Will of WILPF

The UN General Assembly held its general debate from 23–29 September. The theme for this year's debate, set by GA President Joseph Deiss of Switzerland, was "reaffirming the central role of the United Nations in global governance". While the majority of statements applied this theme primarily to development, peace-building, and institutional reform, many included disarmament and arms control in their consideration of the UN's role in global governance. That said, the number of references to these subjects came down from 2009, when elite rhetoric in favour of a nuclear weapon free world was at its highest.

### By the numbers

How many countries referred to...

#### *Disarmament*

- 2008: 19 countries
- 2009: 80 countries
- 2010: 71 countries

#### *Non-proliferation*

- 2008: 19 countries
- 2009: 71 countries
- 2010: 65 countries

#### *Nuclear weapons*

- 2008: 17 countries
- 2009: 73 countries
- 2010: 72 countries

#### *Conventional weapons*

- 2008: 21 countries
- 2009: 31 countries
- 2010: 41 countries

#### *Militarism or military spending*

- 2008: 23 countries
- 2009: 21 countries
- 2010: 14 countries

### **Nuclear weapons**

As in previous years, the majority of the countries who spoke about nuclear weapons called for their complete elimination. Three countries—Costa Rica, Austria, and Uruguay—called for the negotiation of a nuclear weapons convention, while many more endorsed the UN Secretary-General's five-point plan on nuclear disarmament, the first point of which is a convention. Timor-Leste's president described nuclear weapons as obsolete, while Ecuador's vice-president called for the total dismantlement of nuclear arsenals and the criminalization of "the production and commercialization of weapons of mass destruction". While several countries welcomed the new Strategic Arms Reduction Agreement between Russia and the United States, the Brazilian minister for external relations reminded the Assembly, "Unilateral reductions are welcome but insufficient, especially when they occur in tandem with the modernization of nuclear arsenals."

Most governments welcomed the outcome of the 2010

NPT Review Conference, though several emphasized the importance of now turning to implementation. The Austrian federal minister for European and international affairs noted that for the first time in the NPT context, a 'world without nuclear weapons' was accepted as the goal of all parties, who pledged to ultimately eliminate all types of nuclear weapons," and, "For the first time, the catastrophic humanitarian consequences of the use of such weapons were recognized—an important step towards the eventual legal ban of nuclear weapons by means of a nuclear weapons convention or framework of legal instruments." He argued, "Although the results of the Conference are positive much remains to be done: The Action Plan needs to be implemented. The Nuclear Weapon States—who promised to engage among themselves on a number of vital issues and report by 2014—must lead by example."

### **Conventional weapons**

Thirteen countries—up from six in 2009—highlighted their support for an arms trade treaty. The increasing attention paid to conventional arms, and in particular the negotiation of an arms trade treaty, is likely due to the initiation of preparatory work toward a 2012 negotiating conference on the subject. Countries as diverse as Luxembourg, Trinidad and Tobago, and Zambia highlighted the problem that the illicit trade in conventional arms causes for socio-economic development.

The entry into force of the Convention on Cluster Munitions also resulted in a slight increase in attention for the issue this year, with nine governments addressing the subject (up from seven last year). However, only 20 countries referenced small arms and light weapons this year, down from 31 in 2009, which is curious since this summer marked not only the first preparatory meeting of the arms trade treaty process but also the fourth biennial meeting on small arms. Several governments who spoke on the arms trade treaty also addressed small arms, calling on the former to include regulation of the latter. The prime minister of Saint Lucia made the strongest call for action on small arms, suggesting the negotiation of "a comprehensive treaty on small arms and light weapons, alongside the nuclear non-proliferation treaty."

### **Reducing militarism by reducing military spending**

There was also an unfortunate drop in the number of governments addressing issues of global militarism. The quality of these statements, however, remained quite high. Ireland's minister of foreign affairs noted, "The global security which we all wish to achieve depends crucially on the eradication of the means of conflict." In this same vein, many countries called not just for disarmament and arms control but the reduction of military spending. Nicaragua's foreign minister called for the resources saved as a result of disarmament to be directed





## Moving the disarmament machinery forward: suggested follow-up to the high-level meeting

Beatrice Fihn | Reaching Critical Will

At this year's First Committee, the international community will once again face the task of addressing the state of its disarmament machinery and its continued failure to deliver effective results. During the last couple of years, significant progress in the area of conventional disarmament has occurred outside of the so-called "sole multilateral disarmament negotiating body," the Conference on Disarmament (CD), including rapid negotiations of a treaty banning cluster munitions and a preparatory process for negotiations of an Arms Trade Treaty.

Unfortunately, the CD has remained paralyzed for more than a decade. The mounting frustration is significant and many delegations hoped that the Secretary-General's high-level meeting on 24 September, on "Revitalizing the work of the Conference on Disarmament and taking forward multilateral disarmament negotiations," could work as a potential catalyst for action. The meeting heard over 74 statements from foreign ministers and other high-level officials, as well as representatives from three groups of states, three international organizations, the UN Secretary-General, the President of the General Assembly, and the President of the CD.

The high-level meeting revealed a broad spectrum of views on both where the CD's problems lie and what to do about the deadlock. It is beyond doubt that serious challenges exist and that creative solutions must be attempted. In his summary of the meeting, the Secretary-General called for the General Assembly to include an item on its agenda to follow-up on the high-level meeting in plenary and First Committee. As the General Assembly is the main deliberative organ of the United Nations in the field of disarmament, the First Committee has a special responsibility to not only discuss potential follow-up actions in order to adequately address the wide range of issues raised at the high-level meeting, but also to consider adopting a resolution with concrete measures for moving forward on multilateral disarmament negotiations.

### *Reviewing the rules of procedures*

During the high-level meeting, several delegations called for a review of the CD's rules of procedure, particularly the rule of consensus and its application to procedural decisions. It is apparent that the rules are not likely to be amended, as such a decision would likely need to be taken by consensus in the CD. Furthermore, a number of delegations, including the Non-Aligned Movement, Brazil, China, Germany, Israel, Italy, and Russia, argued that the rules of procedure are not the problem.

However, First Committee could initiate a discussion of an interpretation of the consensus rule. The consensus rule has been misused, exercised principally as a veto. The General Assembly could take the opportunity to

send a strong signal to the CD that the consensus rule ought to be used in good faith and suggest that it should not apply to procedural issues. When refraining from using the consensus rule for procedural decisions, states will still retain the ability to protect national security concerns during negotiations, at the moment of adoption of a treaty, and as a last resort, by abstaining from signing the negotiated treaty. Member states should highlight that excessive use of the consensus rule as a veto in the name of national security concerns during the last 12 years has actually threatened global security.

### *Comprehensive review of the machinery and agenda*

At the high-level meeting, many delegations called for a review of the entire disarmament machinery. Suggestions ranged from convening a fourth special session on disarmament (SSOD IV), a working group of the General Assembly, or an eminent persons panel. The UN Secretary-General's announcement that he would have his disarmament advisory board thoroughly review the issues raised at the meeting is another of these options. The General Assembly should take action to facilitate such a review by encouraging the convening of a SSOD IV or the establishment of a working group. A comprehensive review, in whichever format it is carried out, should take the opportunity to rethink the disarmament agenda and modernize it to reflect the challenges and opportunities of the 21st century. A review of the entire disarmament machinery could also promote a full framework for the elimination of nuclear weapons, rather than the current step-by-step approach to disarmament that has shown to be inefficient so far. It is therefore necessary that the General Assembly also address the assumption that only a fissile material (cut-off) treaty is ready to be negotiated, and take into consideration recent progress and events with relevance to the other topics of the CD agenda. At this time, no state is officially opposing working groups with discussion mandates on the other three core issues, yet still no advancement on these issues are possible. By only accepting a certain type of negotiation mandate on fissile materials, some states are preventing progress on pressing issues like space security and preparatory work for a nuclear weapons convention. Recent developments and the urgent need for action on such issues have created cause for the General Assembly to discuss a review of the outdated disarmament agenda.

### *Moving forward within the CD*

In his conclusion of the high-level meeting, the Secretary-General urged the CD to adopt a programme of work in line with the programme of 2009 at the earliest possible time in its 2011 session. However, since previous attempts to regain the agreement from 2009 have

*continued on next page*



***Disarmament machinery (cont.)***

failed, delegations might need to look for new ways to formulate a programme of work. At its creation, the CD was mandated to negotiate the topics on its agenda. It is therefore important to remind member states that the CD already has a negotiating mandate on all items, and therefore specific mandates in a programme of work should not have to be necessary. A suggestion for moving forward would be that a programme of work could simply establish open-ended ad hoc committees or appoint special coordinators on all agenda items. It could avoid any specific references to negotiations of a FM(C)T. The ad hoc committee devoted to agenda item 1, “Cessation of the nuclear arms race and nuclear disarmament” could provide the forum needed for delegations to start negotiations on fissile material.

However, if consensus on a programme of work cannot be achieved, CD delegations should be encouraged to find creative ways to carry out substantive work in 2011 anyway. For example, each CD president or the P6 as a group could attempt to move work forward even in absence of consensus, as the President of the CD has a prerogative to do what is needed in order to facilitate processes that moves discussions forward. The presidents of the 2011 session could attempt to carry out the CD’s negotiating mandate even in the absence of an official programme of work. By simply presenting a “schedule of activities,” the Presidents could initiate another round of substantive discussions on all agenda items, as has been done since 2006. But in order to distinguish this from previous informal meetings, coordinators or “friends of presidents” on each topic could be named by the presidents to chair the meetings, which would take an active role in steering the discussions forward. This would constitute a more active role than previous thematic coordinators. They could draw substantive conclusions from the discussions, for example in reports submitted as working papers to the CD or in a joint resolution to the next General Assembly. Another proposal is that delegations could simply start negotiating and carrying out thorough discussions on all topics in plenary meetings. While these suggestions could be complicated to carry out, member states would be able to cover significant ground if they were willing to engage in unconventional solutions and take more advantage of both plenary and informal meetings to negotiate substance in the 2011 session, rather than spend another year debating the causes of the stalemate and waiting for political will to emerge.

***Taking work outside***

At the high-level meeting, some delegations indicated that they are ready to set a deadline for the CD’s resumption of work and to start negotiations outside if it fails to meet this deadline. Others emphasized that the CD should remain the sole multilateral disarmament negotiating body. After the member states of the CD themselves, the

responsibility for the work mandated to the CD lies with the General Assembly. The General Assembly could establish open-ended ad hoc committees on the four core issues on the CD’s agenda while waiting for resumption of formal work (as proposed by Brazil, Canada, Kenya, Mexico, New Zealand, and Sweden in 2005). Instead of returning to the programme of work of 2009, alternative mandates should be explored in order to address as broad a range of disarmament and non-proliferation issues as possible. The General Assembly could also appoint special coordinators on certain critical issues dealt with in the CD, in order to keep the discussions going until a programme of work is achieved or until the CD is abandoned for an alternative negotiating mechanism.

It has also been suggested by some states that the negotiation of an FM(C)T could be conducted in a parallel process, as was done with anti-personnel landmines and cluster munitions. However, while the Ottawa and Oslo processes were very successful examples of negotiations outside the UN, they might be less effective when dealing with fissile materials. Taking FM(C)T negotiations outside of the UN framework and negotiating with a smaller group of states would likely result in a weaker treaty and not include some or all of the states that are currently producing fissile materials for weapons.

The General Assembly could also consider following the model being used for the negotiations of an Arms Trade Treaty, where the creation of a Group of Governmental Experts was followed by a working group and then the establishment of a preparatory process leading to a negotiating conference. A similar action process in the General Assembly on fissile materials would be circumvent the deadlock in the CD while still offering the opportunity for all states to participate in the process within a UN framework.

***Conclusion***

This article does not contain an exhaustive list of suggested action for the General Assembly, it is only aimed to provide food-for-thought to the discussions about revitalization of UN disarmament machinery at the First Committee. It is important that the follow-up actions from the high-level meeting move beyond sending signals to the CD—the General Assembly should propose concrete actions. Regardless of the cause of the stalemate—the machinery itself or “political will”—the international community needs to find a way forward. The disarmament machinery must provide a space for dialogue and it must enable decisions to be taken. When governments disagree, negotiations must occur. Waiting for “political will” to emerge, or for governments to agree on all aspects of a treaty or agenda item, precludes the point of negotiations. All UN member states must do their utmost to ensure that the machinery enables negotiations rather than prevent their occurrence. •

*Beatrice Fihn is the project associate of Reaching Critical Will. Ray Acheson contributed to this article.*

## Humanitarian law or nuclear weapons: choose one

John Burroughs | Lawyers Committee on Nuclear Policy

In its landmark resolution 1653 of 1961, “Declaration on the prohibition of the use of nuclear and thermo-nuclear weapons,” the General Assembly declared that the use of nuclear weapons “would exceed even the scope of war and cause indiscriminate suffering and destruction to mankind and civilization and, as such, is contrary to the rules of international law and to the laws of humanity”. The resolution was adopted by a contested vote, with 55 in favor, 20 opposed, including the Western nuclear powers and China, and 26 abstaining. But a clear normative statement had been made.

Nearly fifty years later, in an innovation in the nuclear Non-Proliferation Treaty (NPT) context, in its Final Document the 2010 Review Conference “expresses its deep concern at the catastrophic humanitarian consequences of *any* use of nuclear weapons, and reaffirms the need for all states *at all times* to comply with applicable international law, including international humanitarian law.”<sup>1</sup> The provision marks a resurgence of emphasis on the humanitarian dimension of nuclear weapons, spearheaded by Switzerland and Norway and by the International Committee of the Red Cross (ICRC).

In an April 20, 2010 statement, ICRC President Jakob Kellenberger cited a recent ICRC study finding that there is “little” capacity to aid victims of a use of nuclear weapons. He also said that “the ICRC finds it difficult to envisage how any use of nuclear weapons could be compatible with the rules of international humanitarian law.” The ICRC’s critique of nuclear weapons began early. As Kellenberger noted: “Already on 5 September 1945 the ICRC publicly expressed the wish that nuclear weapons be banned.... In a communication to States party to the Geneva Conventions in 1950, the ICRC stated that before the atomic age: ‘[W]ar still presupposed certain restrictive rules; above all ... it presuppose[d] discrimination between combatants and non-combatants. With atomic bombs and non-directed missiles, discrimination became impossible. Such arms will not spare hospitals, prisoner of war camps and civilians. Their inevitable consequence is extermination, pure and simple....’” After several decades of reticence on the matter due to the resistance of nuclear weapon states to specifically addressing nuclear weapons within the international humanitarian law (IHL) context, notably in negotiation of the Protocol I to the Geneva Conventions, the ICRC’s reassertion of its original position is an important contribution to the ongoing delegitimization of nuclear weapons.

In assessing the significance of the Review Conference statement, it must first be noted that several of the NPT nuclear weapon states have previously acknowledged that IHL applies to nuclear weapons. In 1995 hearings before the International Court of Justice (ICJ), the US, UK, and Russia accepted that IHL applies to nuclear

weapons as it does to other weapons, though they contended implausibly that nuclear use could be compatible with IHL depending upon the circumstances. In contrast, in its idiosyncratic argument to the ICJ, France remained silent on the application of IHL, arguing instead that absent an express prohibition, use of nuclear weapons is “authorized” in self-defence. Now all the NPT nuclear weapons states, and their allies, are on record, and are accountable for meeting the IHL obligation within the NPT review process.

Also important is that the provision advances the 1996 ICJ advisory opinion. The Court explained that the principles of IHL protecting civilians and combatants are “fundamental” and “intransgressible,” and that “methods and means of warfare, which would preclude any distinction between civilian and military targets, or which would result in unnecessary suffering to combatants, are prohibited.” It found that “[i]n view of the unique characteristics of nuclear weapons, ... the use of such weapons in fact seems scarcely reconcilable with respect for such requirements.” However, given the facts and law available to it, the Court felt that it could go only so far as stating that threat or use of nuclear weapons would “generally be contrary” to international law, and could not reach a conclusion, one way or the other, regarding an “extreme circumstance of self-defence, in which the very survival of a State is at stake.” That outcome was voted for by seven of the Court’s then 14 members, and carried by the casting vote of the President, Mohammed Bedjaoui. Three judges dissented on the ground that threat or use is categorically contrary to international law.

In contrast to the ICJ’s indecision, the Conference’s reference to the catastrophic humanitarian consequences of “any” use of nuclear weapons, directly coupled with the call for compliance with law “at all times,” implies that use of nuclear weapons is unlawful in all circumstances. Since there is no doubt that IHL applies to armed conflict, the insistence on compliance with applicable international law “at all times” weighs against any suggestion that IHL bends or wavers depending upon the circumstances. That includes the “extreme circumstance” referred to by the ICJ, self-defence cited by France, or second use in “reprisal” intended to discourage further attacks.

The truth is that compliance with IHL requirements is impossible due to the uncontrollable collateral effects of nuclear weapons, as the Lawyers Committee on Nuclear Policy has explained.<sup>2</sup> A major ICRC study published in 2005, *Customary Humanitarian International Law*, is an authoritative statement of the requirements.<sup>3</sup> One does not have to be a specialist in nuclear warfare or IHL to see that use of nuclear weapons is incompatible with the

*continued on next page*





**Humanitarian law (cont.)**

rules laid out by the ICRC. *Indiscriminate attacks* are defined as those which are of a nature to strike military objectives and civilians or civilian objects without distinction. *Proportionality in attack* prohibits launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. *Due regard for the environment* imposes a similar requirement of proportionality in attack with respect to damage to the environment, and prohibits attacks which may be expected to cause widespread, long-term and severe damage to the environment.

In light of the foregoing, the IHL provision adopted by the Review Conference without question develops the norm of non-use of nuclear weapons. The welcome US statement in its Nuclear Posture Review is also relevant here: “It is in the US interest and that of all other nations that the nearly 65-year record of nuclear non-use be extended forever.”<sup>24</sup> The ICJ declined to recognize a customary legal obligation of non-use based on the record of non-use and resolution 1653 and subsequent General Assembly resolutions, citing the continuing assertion of doctrines of “deterrence”. With the Review Conference statement, the world is moving closer to the day when it can be said that the practice of non-use has become a custom of non-use recognized by law.

The most fundamental implication of the Review Conference statement is the imperative of humanitarian disarmament through fulfillment of NPT Article VI. The ICRC has recognized that implication, stating that “preventing the use of nuclear weapons requires fulfillment of existing obligations to pursue negotiations aimed at prohibiting and completely eliminating such weapons through a legally-binding international treaty”. The ICJ also effectively recognized the implication when it unanimously declared the obligation to bring to a conclusion negotiations on nuclear disarmament.

A second implication is that the NPT nuclear weapon states and members of nuclear alliances must come to grips with the inconsistencies of doctrines and deployments with the requirements of IHL. In action 5 of the Final Document, the nuclear weapon states agreed to “promptly engage” regarding, inter alia, further diminishing the role of nuclear weapons. IHL could not be more relevant to this task! At the end—or preferably at the beginning—of the day, the nuclear weapon states need to acknowledge the basic incompatibility of threat or use of nuclear weapons with IHL, and to change their policies accordingly. One way to formalize such an acknowledgement would be by a Security Council resolution.

Non-nuclear weapon states can also seriously explore what they can do to entrench the norm of non-use in compliance with IHL, regardless of the current attitude

of nuclear weapon states and their allies. One strategy would be to amend the Rome Statute of the International Criminal Court (ICC) to make use of nuclear weapons a specific international crime, as proposed by Mexico. This would codify what is already implicit in the Rome Statute’s general provisions on IHL and crimes against humanity, and build upon the Review Conference IHL statement. The ICC Assembly of States Parties will form a working group on amendments in December.

Another option would be to adopt a simple, categorical non-use treaty, designed so that it could be joined by nuclear weapon states and members of nuclear alliances when they accept their IHL obligations. The agreement could provide for prosecution or extradition of persons involved in possession, threat or use of nuclear weapons. Non-nuclear weapon states can also adopt national legislation along the same lines.

In his declaration accompanying the ICJ’s opinion, President Bedjaoui stated: “Atomic warfare and humanitarian law therefore appear to be mutually exclusive, the existence of the one automatically implying the non-existence of the other.” The Review Conference chose humanitarian law. •

*Dr. John Burroughs is Executive Director of the Lawyers Committee on Nuclear Policy and author of The Legality of Threat or Use of Nuclear Weapons: A Guide to the Historic Opinion of the International Court of Justice (2007).*

**“Humanitarian Law Versus Nuclear Weapons” will be the subject of a First Committee side-event on October 25, 2010, 1:15-2:45, location TBA, sponsored by the Lawyers Committee on Nuclear Policy and the Global Security Institute.**

**Notes**

1. Final Document, Vol I, at p. 19, I(A)(v) (emphasis supplied). The provision is part of the “Conclusions and recommendations for follow-on actions” adopted by the Conference. Document available at <http://www.reachingcriticalwill.org/legal/npt/revcon2010/FinalDocument.pdf>.

2. See Lawyers Committee on Nuclear Policy, “Ending U.S. Reliance on Nuclear Weapons and Achieving Their Global Elimination: Wise Policy and Required by Law,” March 2008, available at <http://lcnpp.org/disarmament/LCNPstatement2008.pdf>.

3. Jean-Marie Henckaerts and Louise Doswald-Beck, International Committee of the Red Cross, *Customary Humanitarian International Law*, 2 vols. (Cambridge University Press, 2005, reprinted with corrections, 2009), available at <http://www.icrc.org/web/eng/siteeng0.nsf/html/pcustom>.

4. US Department of Defense, Nuclear Posture Review Report, April 2010, p. 16.



## Space and international security: future directions and challenges

Ben Baseley-Walker | Secure World Foundation

On 4 October exactly 53 years ago today, the USSR launched Sputnik 1, the first ever spacecraft. In 1957, outer space was a new frontier for scientific exploration. Politically, it was an environment in which the two superpowers vied for technical success and national prestige. The latter may still be a factor in current global space endeavors, yet how the world uses outer space has changed dramatically since the days of Sputnik. Today, every nation in the world relies on space services to some degree. From weather information to credit card transactions, from disaster management to military communications, space is now an under-recognized enabler for much of the world's daily activities.

From a disarmament perspective, what does this increase in the number of space actors mean? The concept of space for too long has been focused on space objects—satellites, space shuttles, and solar arrays. Today, the most important, and also the most pervasive, component of any space system are individuals who rely on space services to achieve their non-space goals. In today's world, space is about people and is evolving fast. We in the disarmament community need to revisit how we think about space and revise our view to reflect the current realities of space diplomacy. It is hoped that the 2010 First Committee session will contribute to this process.

Looking back at the first wave of multilateral agreements on space issues, the 1967 Outer Space Treaty

seems to conceptualize space as an arena for all to participate in and utilize. In reality, in 1967 space was a commons which was only exploited by two major players. However, in 2010 we are a long way from the bipolar environment of the Cold War. The 1967 conceptualization of space as a global commons seems to be a much better description of space today: it is a global endeavor. With this move towards the internationalization of space comes a unique version of collective responsibility. Currently there are more than 60 states that own or operate satellites on orbit. Further, all UN member states use space services for civil and/or military purposes. As the number of space actors has increased, by default, the number of actors with a stake in protecting the space environment has also increased. Where would New York be without high speed finance and cell phones? What would the World Cup be without satellite television? How much would the global economy suffer without access to space? What would have been the plight of people in disaster afflicted regions such as those hit by the 2004 tsunami without the help of satellite communications and imaging? These are questions that should be of concern to all member states.

Given the unique physics of space, the impact of one kinetic space attack could affect many nations using space resources. As a result, all spacefaring nations bear

a responsibility to protect both their own interests and the interests of the international community at large in ensuring the long-term sustainability of space resources. While this idea of a selfless campaign for space sustainability may seem esoteric, the profound national security aspects of space, from military applications to weather data, make this a pressing and important goal for all States.

Given the evolution of the global community's use of space, is Prevention of an Arms Race in Outer Space (PAROS) really the right framework within which to discuss disarmament and space? As echoed earlier, the world is no longer dominated by two superpowers; the current international security environment is far more diverse and complex. As a result, it seems more productive to view current threats to the global community's continued use of space as opposed to viewing this issue through the single viewfinder of yesteryear's pitched battle.

Moreover, the situation is further complicated by the fact that operations in space are a relatively recent development in human history. One of the many problems we face in international space diplomacy, especially when discussing arms control, is that many foundational concepts have not yet been elucidated. For example, what are the thresholds for an act to be considered a violation of Article 2(4) of the UN Charter?<sup>1</sup> This issue is further complicated by the fact that space systems generally involve rapidly evolving technologies. Complex technological developments make discussing, let alone negotiating, these issues in a diplomatic context a significant challenge.

All the above elements should be borne in mind as the First Committee begins its 2010 deliberations on space issues. Previously, many proposals for addressing space security issues have been put forward in a variety of different fora. One example is the Chinese-Russian Draft Treaty on the Prevention of Placement of Weapons in Outer Space and the Threat or Use of Force against Space Objects, which was presented in the Conference on Disarmament in 2008. Without prejudicing the value of achieving major treaties, which may be an end state that the international community wishes to attain in time, much work on building common understanding and confidence is needed. The clear recognition of the necessity of an international approach to space activities that is enshrined in the 2010 United States National Space Policy provides a window of opportunity to make progress on establishing conceptual understanding and political foundations from which to build an effective regime that secures the sustainability of space for all actors.

Transparency and Confidence Building Measures (TCBMs) for space are a good start in moving forward

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**Space security (cont.)**

the space disarmament agenda. In this renewed climate of international cooperation, they can assist in building understanding and knowledge, which in turn can lead to a process of finding shared aims and objectives for more formalized possible agreements in the future. Let us hope that the 2010 session of the First Committee will produce a renewed focus on building common ground on transparency- and confidence-building measures (TCBMs). Prior to this session, there have already several proposals on this subject, such as the Canadian proposal on the Merits of Certain Draft Transparency and Confidence Building Measures and Treaty Proposals for Space Security of 2006 and the very strong list of proposals for space TCBMs put forward by Russia. It is hoped that steps can be made to implement some of these proposed measures.

Over the coming session and future sessions, the international community also needs to build a common lexicon for discussing space. Many key concepts and ideas need to be fleshed out and a joint understanding developed. There is talk of a recommendation that a Group of Governmental Experts be convened on space security issues. This would be a good start in moving towards clarifying key concepts of space stability for the international community and should be supported by Member States.

In sum, space security is a conceptually challenging area of disarmament. Even so, it is one which is going to be increasingly more important as more and more states take advantage of increased space services. At this point, we must not try to reach for the stars and try to build an all encompassing space disarmament treaty. Such a process will fail as the requisite foundations are not yet in place. During this session and the coming months, in addition to building those foundations the international community should assess how best to discuss and eventually negotiate the fast moving, technologically complex issue of space. Let us hope that in 2010, effective progress can be made to ensure that the valuable resources outer space presents us will not be compromised by conflict. •

*Ben Baseley-Walker is a Legal and Policy Advisor for Secure World Foundation.*

**Notes**

1. Article 2(4) of the UN Charter reads: "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

**UNGA general debate (cont.)**

to development. He argued, "If we were to gloss over the fact that trillion of dollars are spent on war, we would realize how many human problems could have been resolved, thus alleviating the pain caused by poverty and exclusion." Likewise, Costa Rica's president argued, "The accumulation and transference of weapons, in special nuclear, chemical and bacteriological ones, not only constitutes a threat to peace and survival. It is also an aggression to development. Each soldier who enrolls, each missile that is activated and each isotope enriched with military purposes, imply less schools and hospitals, less food programs, less roads, less wireless networks, less seeds for the farmers or less good judges to administer justice."

**Gender and disarmament**

One particularly exciting development was the announcement from the prime minister of Trinidad and Tobago regarding her government's intention to introduce in First Committee a resolution on 'women, disarmament, arms control and non proliferation' as a way to link the advancement of peace and security with the advancement of women. As noted by the Weapons of Mass Destruction Commission (WMDC) and the UN Department for Disarmament Affairs, women play a crucial role in promoting global disarmament and gender perspective affect the way society views weapons, war and militarism. Reaching Critical Will welcomes this initiative by Trinidad and Tobago and look forward to taking it forward at First Committee. •

*Reaching Critical Will, with the assistance of the PeaceWomen project, tracked all references to peace and security at this year's UNGA general debate, focusing on disarmament and weapons. Two indices, by country and by topic, are available at [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org). PeaceWomen also maintains an index on gender and women, available at [www.peacewomen.org](http://www.peacewomen.org).*





## Phasing out the illicit trade

Dr. Robert Zuber | Global Action to Prevent War

For over two months in the summer of 2010, diplomats wrestled over diverse and daunting tasks that are all highly relevant to the pursuit of a more secure world—enhancing provisions of the NPT, fulfilling the promise of the 2001 Programme of Action on small arms and light weapons, and developing elements, principles, and parameters that have become the basis for negotiations on a legally-binding arms trade treaty (ATT).

As this summer's ATT preparatory committee (PrepCom), there was much praise for Ambassador Moritan and his facilitator "Friends," as well as gratitude for their willingness to facilitate discussion through the provision of common texts on "elements" and other key treaty matters. There were expressions of determination from delegations to continue national and regional discussions on preferred ATT elements—with a special emphasis on those elements most likely to achieve consensus in future deliberations. And there was general agreement on the need to continue multilateral dialogue and engagement at the international level as well. As the Nigerian representative noted during the PrepCom to both laughter and nodding heads, "With many hands, the lion can be captured."

While several statements were issued urging delegates not to "prejudge" the elements that would eventually be adopted in a final treaty, there was nothing to indicate that this PrepCom had in any way compromised longer terms treaty prospects, including the next round of discussions scheduled to begin in late February in New York. Some delegations clearly see an ATT primarily as a means of regulating a business and are concerned first and foremost with the preservation of territorial integrity and the ability of states to conduct arms transfers without excessive international interference. Other delegations (and many civil society organizations) expect that a final ATT will make a strong, normative statement to the international community about human rights and international humanitarian law obligations as well as creating the means for robust regulatory coherence in an industry in which so many of its products have previously found an illicit market—diverted to criminality, terrorism, and insurgency, and even used to commit atrocity crimes. Strong delegate interest in eliminating all potential for diverting arms transfers was strongly endorsed by many in civil society as well.

While there remains much to debate in February, including many items of considerable interest to civil society, we see delegation differences at this point as more rhetorical than terminal. Nevertheless, we recognize that consensus on elements will require delegations to give up some of what they cherish for the sake of more of what they can live with.

The following are among the many critical points that

the consensus-driven ATT process will need to address as a final treaty begins to take shape:

- **Treaty coverage of small arms and light weapons:** While the threat that these would be left out of the final scope of an ATT does not seem formidable, it would be a grave disappointment to many delegations, NGOs, and global constituents if this somehow were allowed to happen. Other efforts to broaden the scope were intriguing, important, and might in some instances be feasible, but the inclusion of small arms within the scope of the ATT, for many, is an essential matter.
- **Cooperation and assistance:** A robust ATT will create heavy regulatory burdens on all states, but those burdens are likely to be felt most acutely by smaller states. Providing sufficient legal and technical capacity to support potential state activities as diverse as national transfer control systems and victim assistance—and to help assure compliance with reporting obligations—is of great significance to this process.
- **An ATT Secretariat:** Many potential tasks for the international community germane to treaty objectives were shared by delegations—including licensing, authorizations and denials, information sharing, record-keeping, enforcement, and even determining the extent to which treaty violations constitute criminal acts. An administrative structure that can both work closely with ODA and provide oversight of these and other critical, treaty-related tasks seems indispensable. Ultimately, the robustness of the infrastructure underlying this ATT will have much to do with its long-term viability, including the ability of treaty proponents to communicate to a sometimes skeptical global public that the international community is serious about eliminating illicit transfers.
- **End-use certifications/human rights assurances:** This priority can practically reinforce what many delegations and civil society organizations affirm as the treaty's core human rights/international humanitarian law aspirations, which many rightly believe should be reflected explicitly within the body of the ATT rather than relegated solely to the preamble. This priority also addresses other important issues of "divergence" raised by many delegations. The more assurances that can be provided by exporters and importers of arms regarding their intended uses, the easier the process of verification and the more trustworthy the ATT will likely be seen through the eyes of the global public.
- **Marking and tracing:** As many delegations acknowledge, standardization in this area would greatly assist overall transparency as well as allow us to

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## Convention on Cluster Munitions: a new global standard in international humanitarian law

Conor Fortune | Cluster Munition Coalition

The global disarmament and humanitarian agendas celebrated a major advance on 1 August 2010, when the Convention on Cluster Munitions (CCM) formally entered into force as the most significant piece of international humanitarian law in more than a decade.

Not since the 1997 Mine Ban Treaty has a new instrument had such far-ranging humanitarian aims. Besides imposing a comprehensive ban on the use, production, and transfer of cluster munitions, states party to the CCM are obliged to destroy remaining stockpiles of the weapon within eight years and clear contaminated areas within ten. Furthermore, the treaty includes a revolutionary provision on victim assistance, requiring states party to assist affected communities and ensure that cluster munition victims are fully included in society and can enjoy their human rights.

That the CCM took effect and has achieved 108 signatures and more than 40 ratifications less than two years after it opened for signature in Oslo in December 2008 is a firm indicator of the international community's collective revulsion towards cluster munitions and the unacceptable civilian harm they inflict, both during armed conflicts and for years after. This rapid achievement also reflects an emerging multilateral approach to the development of international humanitarian law that pairs like-minded states with experts from the UN, international organisations, and civil society to negotiate and implement binding treaties that place humanitarian principles above supposed military advantage. United Nations Secretary-General Ban Ki-moon noted his appreciation for this collective approach in a statement marking the CCM's entry into force, when he praised "the power of collaboration among Governments, civil society and the United Nations to change attitudes and policies on a threat faced by all humankind."

The strong collaboration that led to the successful adoption of the CCM should serve as a firm foundation for continued engagement to implement the treaty's provisions and report on progress. This November, the CCM's First Meeting of States Parties will take place in Vientiane, Lao People's Democratic Republic, which is the most bombed country, per capita, in the world. A high level of participation at this meeting by states and other stakeholders will ensure rapid action on translating the CCM's provisions into concrete actions states party can take to meet their deadlines and improve lives in affected countries. The treaty's meetings need to become vibrant discussion forums where affected countries share experiences and best practices with each other and discuss projects and plans with those providing financial assistance.

To encourage the highest possible level of participa-

tion at the Vientiane meeting, the UN, along with the governments of Lao PDR and Japan, the International Committee of the Red Cross and the Cluster Munition Coalition, will hold a special event on the CCM on Tuesday, 19 October, during the UN General Assembly's First Committee. States used previous special events on the CCM in March and October 2009 as a public forum to deposit their instruments of ratification and to make statements of support for the CCM and its norms. This year's special event provides a key opportunity to raise awareness about—and encourage more governments to join—the treaty and the lifesaving work to implement its norms.

Work under way to clear cluster munition contamination in affected countries will receive a needed boost and can be completed faster thanks to the CCM. Several countries—Belgium, Colombia, Moldova, Norway, Portugal and Spain—have already destroyed their stockpiles of the weapons in line with the treaty's obligations. Countries have adopted or discussed national ban legislation, and several states and financial institutions

*continued on page 16*

### Arms trade treaty (cont.)

be able to follow the path of weapons throughout their full life cycle, well beyond their initial transfer. Most delegations recognize that the lethal lifespan of weapons can easily outstrip our capacity to monitor their post-transfer movements. More attention to the technology and political will needed to expand the reach of our monitoring capacity seems for many to be time well spent.

There is clearly much at stake as negotiations take shape in February, but also more to be done beyond the confines of the treaty process. In the end, we acknowledge that an ATT has no magic power to solve all of our weapons-related problems. A formal treaty will do little or nothing to dry up stockpiles of existing weapons that currently wreck havoc on our communities, to trace weapons that have already been diverted to illicit uses, or to convince states to act more with more conviction on the UN Charter principle of security at the least possible levels of armament. Nevertheless, regulatory control of this industry and the resulting transparency are seen by many as an important step to help states end their over-reliance on weapons as the means to guarantee national security. This is an opportunity that states, diverse civil society organizations, and the wider global public know we cannot waste. •

*Dr. Robert Zuber is the Organizational Development Director for Global Action to Prevent War.*

## Millennium Development Goals versus military consumption

Ray Acheson | Reaching Critical Will of WILPF

From 20–22 September, UN Secretary-General Ban Ki-moon called on world leaders to attend a summit in New York to accelerate progress toward realizing the Millennium Development Goals (MDGs). The *2010 MDG Report*, produced by the UN Department of Economic and Social Affairs in advance of the summit, noted that “unmet commitments, inadequate resources, lack of focus and accountability, and insufficient dedication to sustainable development have created shortfalls in many areas.”<sup>1</sup> Some of these shortfalls, the report explains, were aggravated by the global food, climate, economic, and financial crises as well as armed conflict. The report estimates that poverty rates will continue to increase throughout the world as a result of the persisting global economic crisis.

However, upon releasing its 2010 Yearbook, the Stockholm International Peace Research Institute noted, “The financial crisis and economic recession that have affected most of the globe appeared to have little effect on levels of military expenditure, arms production or arms transfers.”<sup>2</sup> In 2009, worldwide military expenditure totaled an estimated 1531 billion USD, which is an increase of 5.9% in real terms compared to 2008 and an increase of 49% since 2000. Of those countries for which data was available, 65% increased their military spending in real terms in 2009.

The shocking reality of this situation provides a clear opportunity to highlight the links between military expenditure, the arms trade, violent conflict, and the reduction of available resources for social and economic development. Governments that spend excessive financial, technological, and human resources on their militaries divert resources from economic, social, and environmental programmes. The military-industrial-academic complex absorbs vast amounts of funding that could otherwise be spent on human security, including the achievement of the MDGs. Furthermore, funds reserved for development initiatives are increasingly spent on emergency relief and rehabilitation operations to clean up after violent conflict.

While military expenditures increase every year, investment in conflict resolution, peacebuilding, and development lags far behind. As SIPRI notes in the release of its 2010 Yearbook, while the financial crisis did not seem to affect military spending, it “probably did undermine the willingness and ability of major governments and multilateral institutions to invest other, non-military resources to address the challenges and instabilities that threaten societies and individuals around the world.”

Since the end of the Cold War, militarism has been growing in response to an increasingly unstable world, propelling the world even further into tension and war. Weapons cannot address the main threats people all over

the world are facing today, such as natural disasters, increased food prices, and lack of adequate health care, education, and a clean environment. Yet these threats are aggravating arms races and weapons development. SIPRI has warned that growing competition for natural resources “may lead to increased military spending as a means of protecting resources from internal or external threats, while resource revenues are often a source of funding for arms purchases.”

These problems are not new. In a series of four studies entitled *Economic and Social Consequences of the Arms Race and of Military Expenditures* produced by the UN between 1971 and 1989,<sup>3</sup> the consultant experts appointed by the UN Secretary-General found that, among other things:

- the competition in armaments between military powers “is by far the most important, dangerous and resource-consuming aspect of the world-wide arms race, and its principal driving force;”
- the arms race is more intense than the size of individual arsenals suggest, because it is primarily a qualitative competition;
- this qualitative nature of arms race generates insecurity and negatively affects the possibilities for disarmament;
- the continuing development, trade, and accumulation in arms perpetuates the use of force in dealing with international issues, cultivates mistrust and violence, and prevents the development of cooperation among countries; and
- military consumption directly competes for resources which could be otherwise available for social and economic development.

Today, all five of the NPT nuclear weapon states—the US, UK, Russia, France, and China—intend to or are already engaged in the modernization of their nuclear weapons, delivery systems, or related infrastructure. They are investing billions of dollars in the name of “national security” at the expense of actual human security and international peace and stability. The United States alone has spent more on nuclear weapons than it has on education; training, employment, and social services; agriculture; natural resources and the environment; general science, space, and technology; community and regional development, including disaster relief; law enforcement; and energy production and regulation—combined.

The Chair of the 1983 edition of the study mentioned above has described this excessive “military consumption” as “the largest factor known so far in history of waste and diversion of world resources to non-productive, anti-social purposes.”<sup>4</sup> He explained that the arms race impedes solutions “to the grave economic and social problems confronting the world, perpetuates economic

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***MDGs vs. militarism (cont.)***

gaps and underdevelopment and prevents the necessary changes for the establishment of the new international economic order.” He also highlighted the insecurity within and among countries perpetuated by excessive military spending and arms racing.

History has shown that real human security cannot be brought about through military might. It can only be ensured through the equitable distribution of adequate food, shelter, clean water and air, health care, and education. Real security requires an environmentally sustainable, socially equitable world, empowering the majority to live a healthy, dignified, and productive life. As an added benefit, if funding was shifted from armaments to fulfilling basic human needs, some of the root causes of violence would at the same time be addressed, thus reducing the excuses for military actions around the world.

Article 26 of the UN Charter mandates the UN Security Council with formulating a plan to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world’s human and economic resources. The Security Council has entirely neglected this responsibility and its permanent members have instead engaged in weapons profiteering and arms races, resulting in crises of international, national, and human security and of sustainable development.

Many UN groups of experts, individual governments, and civil society organizations have made countless recommendations for changing the direction in military consumption, the arms race, and modes of solving international and domestic conflicts. Today, the Reaching Critical Will project of the Women’s International League for Peace and Freedom calls on all governments to:

- freeze and reduce military spending and redirect that expenditure to meet human and environmental needs, including fulfilling the MDGs;
- cease funding for modernization and refurbishment of nuclear weapon systems and related infrastructure (by those governments that possess nuclear weapons);
- engage in and support multilateral, bilateral, and unilateral nuclear disarmament, including through the negotiation of a nuclear weapons convention;
- support a robust legally-binding arms trade treaty that prevents arms transfers where there is a risk of violations of international humanitarian and human rights law and that acknowledges the impact of the arms trade on socio-economic development;
- report on military spending and arms trade through the established UN mechanisms;
- call on the UN Security Council to report on progress made towards a plan to reduce the human and economic resources spent on armaments and indicate an intention to evaluate the Security Council’s

performance and initiatives towards advancing article 26 in the next General Assembly session; and

- reframe the concept of security with a premium on universal human and ecological security, multilateralism, and a commitment to cooperative, nonviolent means of conflict resolution.

Since it has been more than 20 years since the last UN study on the economic and social consequences of the arms race and military expenditures, and more than 30 years since the last comprehensive UN study on nuclear weapons, it is long past time for UN Secretary-General to appoint another group of experts to conduct research and analyze the current state of affairs. This study could address a range of issues, including but not limited to patterns of military spending and dynamics of the arms trade and arms racing; arms industry and research, development, and production; the status of present nuclear arsenals and modernization programmes and related investment; the effects of the use of nuclear weapons, with data from recent studies; the doctrines of nuclear deterrence; the security, political, social, economic, and environmental implications of continued increase and improvement in nuclear weapon systems; the implication of international humanitarian law and other international law, including existing treaties, for nuclear and conventional arms control and disarmament; and recommendations for future action on disarmament and redirection of military expenditure.

Solving the seemingly intractable problems of the modern world are not only for governments, however. It is equally important for civil society to better understand the global connections between arms production and sales and the belief that more weapons or use of force will lead to security and peace. Activists, scholars, and citizens need to redefine and reclaim the discourse around peace, security, and justice, emphasizing the fulfillment of human rights and the nonviolent settlement of disputes. The realization of economic, social, cultural, political, and civil rights is essential for creating an environment that enables all people to be truly safe and secure and for addressing the challenges to human security. •

***Notes***

1. *The Millennium Development Goals Report 2010*, United Nations, New York, 2010. Available at: <http://www.un.org/en/mdg/summit2010/>.

2. “Media Background—Military expenditure,” *SIPRI Yearbook 2010*, 2 June 2010. Available at: [http://www.sipri.org/media/pressreleases/pressreleasetranslations/storypackage\\_milex](http://www.sipri.org/media/pressreleases/pressreleasetranslations/storypackage_milex).

3. *Study on the Economic and Social Consequences of the Arms Race and Military Expenditures*, Department for Disarmament Affairs, Report of the Secretary-General, 1971 (A/8469), 1977 (A/32/88/Rev.1), 1983 (A/37/368), and 1989 (A/43/368).

4. Constantin Ene, “New Ideas for Disarmament Action,” *Disarmament: A Periodic Review by the United Nations*, Volume VI, Number 3, Autumn/Winter 1983.





## *Cluster munitions (cont.)*

have put in place prohibitions to stem the flow of funds to corporations that manufacture cluster munitions. It is already well-known what is needed to adequately assist the victims and survivors. Now we need the resources and the commitment to accelerate and expand this work to put a stop to the harm once and for all. The work of civil society in the years ahead will be to monitor treaty implementation closely and to ensure that governments comply with their obligations. Further developing genuine partnerships with civil society will ensure that states will be able to enact and sustain a healthy regime based on the CCM. The past decade of implementation of the Mine Ban Treaty has shown that states rely on civil society as a source of expertise and analysis, of accountability and legitimacy, and of energy, enthusiasm, and passion.

While great strides are already being made to universalise the CCM and implement its norms, a minority of states outside the treaty have continued to breathe life into a languishing debate in the Convention on Conventional Weapons (CCW) about adopting a draft protocol allowing continued use of cluster munitions, to little effect. The debate is increasingly irrelevant, since more than two thirds of the states party to the CCW have signed or ratified the CCM, a strong instrument which prohibits use of the weapons outright. These negotiations should stop so that all states can focus either on implementing the CCM or on bringing their national policy and practice closer in line with this new international standard.

However, the CCM is designed to be much more than a prohibition on use. It needs to become the frame of reference internationally for solving the problem of cluster munitions: clearing the land of deadly remnants, assisting survivors and their families and communities, and destroying stocks so they can never be used again. As only a small percentage of existing cluster munition stockpiles was ever deployed in armed conflict, the CCM can be seen as preventive, in particular in comparison with other instruments of international humanitarian law, such as the Mine Ban Treaty, which was negotiated during the height of the landmine crisis.

The CMC looks forward to hearing statements of support from governments at this year's First Committee meetings, as well as additional commitments to join the CCM and participate in the First Meeting of States Parties in Lao PDR. Working together, the UN, governments, international organisations, and civil society have accomplished much—the rapid negotiation and entry into force of a new international treaty that is emerging as the clear global standard on cluster munitions. Only by carrying on the strong cooperation that led to the CCM can we make a real difference in preventing civilian suffering and furthering the treaty's norms. •

*Conor Fortune is a Communications and Media Officer with the Cluster Munition Coalition.*

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Ana Maria Cerini, UN Security Council

Resolution 1540 Committee

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