Statement

Strengthening the Rule of Law in Disarmament: Contributions by the United Nations and Multilateral Treaties

By

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The theme of this second plenary meeting relates to law and disarmament. This is a worthy subject indeed for our consideration—it is both timely to address, and of unquestioned importance to the future of international peace and security.

The subject is timely because of the growing interest throughout the world in revitalizing multilateral efforts to eliminate nuclear weapons and other weapons of mass destruction (WMD), as well as to control conventional weapons. Though efforts have been underway at the United Nations over the last 64 years to achieve this goal, I believe nobody can deny that developments in the last few years have significantly brightened the prospects for success.

We are all familiar with what these developments have been. We have witnessed a renewed commitment by the leaders of the states with the largest nuclear arsenals—Presidents Obama and Medvedev—to the official policy goal of seeking to achieve a world free of nuclear weapons, or more specifically as President Obama said in his famous speech in Prague in April last year, “the peace and security of a world without nuclear weapons.”

We have seen an outpouring of civil society initiatives from non-governmental organizations around the world. We have read the final reports to two influential commissions—the international WMD Commission chaired by Hans Blix and the International Commission on Nuclear Non-Proliferation and Disarmament, jointly organized by Japan and Australia.

We have read the sage counsel of groups of senior statesmen who have published their respective opinion editorials for nuclear disarmament now in a dozen countries.

We have just witnessed the successful conclusion of the 2010 Review Conference of the States parties to the Nuclear Non-Proliferation Treaty—its Final Document contained detailed action plans for progress in nuclear disarmament, non-proliferation and advancing the peaceful uses of nuclear energy, as well as to implement the 1995 Resolution on the Middle East, aimed at establishing a WMD-free zone in that region.

In other regions, we also witnessed in March last year the entry into force of the treaty establishing the Central Asian nuclear-weapon-free zone, a truly historic achievement—the first such zone in a populated area ever to be established entirely north of the Equator. And in the same year, the Pelindaba Treaty entered into force, creating such a zone covering the entire continent of Africa.

I would also mention multilateral efforts at the UN in the field of conventional weapons, in particular small arms and light weapons (SALW), such as the recently concluded 4th Biennial Meeting of States on the implementation of the Programme of Action on SALW and the forthcoming meeting of the Preparatory Committee on an Arms Trade Treaty.
Now I wish to emphasize here an obvious fact—that none of these developments appeared out of nowhere, the spontaneous product of some hidden historical process. They were all the result of stubborn and persistent human action and their eventual success or failure will also depend on practical expressions of political support and leadership not just in the international community, but also in the domestic politics of States.

Yet the long-term sustainability of disarmament is not just based on the availability of strong political support, but also the qualities of permanence and bindingness that can only come from the law. Speaking at Harvard University in October 2008, Secretary-General Ban Ki-moon stated that “The United Nations has long stood for the rule of law and disarmament. Yet it also stands for the rule of law in disarmament ...”. Let us consider just for a moment some of the ways the United Nations has been working to establish and to strengthen the rule of law in disarmament.

Consider, for example, the origins of even some of the most fundamental terms we use in this business. The goals of “disarmament” and the “regulation of armaments” were contained in the UN Charter and have served as a basis for multilateral action ever since. The first resolution adopted by the UN General Assembly in January 1946 identified the specific goal of eliminating all nuclear weapons and other weapons “adaptable to mass destruction.” By 1959, the UN General Assembly had placed on its agenda the concept of “general and complete disarmament under effective international control”—a goal that combined WMD disarmament with the limitation and regulation of conventional armaments. At the General Assembly’s first Special Session on Disarmament in 1978, this became the world community’s “ultimate goal”.

The Biological Weapons Convention, Chemical Weapons Convention, and the Comprehensive Nuclear-Test-Ban Treaty were all negotiated in multilateral arenas under UN auspices—specifically the Conference on Disarmament and its earlier incarnations in Geneva. As for the Nuclear Non-Proliferation Treaty, it was negotiated primarily by the co-chairs of the Eighteen Nation Disarmament Committee—namely, the Soviet Union and United States—who brought the treaty to the General Assembly on their own authority. In all these cases, the imprimatur of the General Assembly to these great treaties helped to strengthen not just their political support, but also their basic legitimacy in the eyes of the world community.

Since its creation, the United Nations—and I include here the activities of both our Member States and the Secretariat under literally all the Secretaries-General—has been the world’s universal forum for deliberating and establishing global norms in both disarmament and the regulation of armaments. This is certainly apparent in the annual debates and votes in the First Committee of the General Assembly. And though it has been less productive in recent years, the UN Disarmament Commission has in the past also contributed significantly in the development of multilateral guidelines, such as the standards adopted in 1999 for establishing regional nuclear-weapon-free zones.
At times, the office of the Secretary-General has itself been a source of new initiatives in disarmament. In October 2008, for example, Secretary-General Ban Ki-moon launched his five-point proposal to advance global nuclear disarmament, a proposal that emphasized throughout the vital importance of strengthening the rule of law in disarmament. He called in particular for work to commence on a nuclear weapons convention or a framework of mutually-reinforcing instruments to advance nuclear disarmament.

The ability of these various UN institutions to advance disarmament goals, however, is overwhelmingly dependent upon the element of political will—which in the best of times is seen in strong support from the most powerful states, unity among the middle powers and others throughout the diplomatic community, and contributions by civil society. This process is driven forward by the degree that political consensus exists on key issues.

Just consider the difference between the outcomes of the 2005 and the 2010 NPT Review Conferences: there was no political consensus on either ends or means at the 2005 event and the result of that Conference was a disappointment to all. Yet in 2010, there was much greater evidence of agreement at least on some of the most fundamental aims of that treaty and on the legitimate and effective ways to achieve them. For its part, the productivity of the Conference on Disarmament in Geneva is also profoundly influenced by its recognition of the vital importance of consensus in achieving disarmament goals that are truly universal and widely perceived as legitimate.

Since the memory of the 2010 NPT Review Conference is still fresh in our minds, I would like to summarize briefly what was accomplished at that event and the work that remains ahead.

Let me say at the outset that these review conferences are not mere formalities or rituals—their outcomes matter quite a bit to the States Parties, as seen in the intensity of the negotiations over the content of their resulting final documents. These conferences are held only every five years, with three sessions of a Preparatory Committee before each Review Conference. Together, these meetings constitute the “review process” of the treaty—a process intentionally designed to strengthen accountability for implementing all the commitments under the Treaty. Through various initiative and interpretative statements adopted at the end of a review process, the States Parties help to ensure that the Treaty remains relevant and useful in addressing contemporary and emerging challenges.

Given that the NPT lacks its own secretariat, the United Nations secretariat has been truly indispensable in assisting its States Parties throughout the review process—we perform key administrative tasks like maintaining all the official records and performing conference services, yet we also provide substantive advice to the States Parties, and to the President and Bureau of the Review Conference, while also working closely with groups in civil society. Needless to say, we have been doing all this work with very limited resources—in fact, the entire budget of the Office for Disarmament Affairs is less than what the UN spends annually on “cleaning and waste disposal services.”
So I was especially pleased when the 2010 NPT Review Conference was able to reach a consensus final substantive document, one containing action plans for disarmament, non-proliferation, and the peaceful uses of nuclear energy, as well as for the implementation of the Resolution on the Middle East. The Review Conference was able to achieve this result because the States Parties had resolved key procedural issues earlier in the process, including agreement on an agenda and on the creation of subsidiary bodies. States Parties fought hard for their respective priorities and initiatives, yet also showed some flexibility and willingness to compromise that I believe really made a positive difference in the end.

As a result, the Conference has already helped to a large extent to alleviate an international “crisis of confidence” that has grown over the years, due to the fact that the Treaty has been subjected to a number of difficult challenges. First, the pace of disarmament has been very slow, to the deep disappointment of most States Parties. Second, compliance issues have arisen also with respect to non-proliferation in recent years, and one State Party—the DPRK—announced its withdrawal from the Treaty and then conducted two nuclear tests. Third, the safeguards system has come under strain, due to growing demands worldwide for peaceful uses of nuclear energy, the increasing quantities of fissile material to monitor and control, and the reluctance of the international community to expand significantly the safeguards budget of the IAEA.

Another set of challenges has arisen from the perception that efforts to promote peaceful uses of nuclear energy have been inadequate or that special types of nuclear cooperation have arisen in recent years that provide certain benefits even to non-Parties to the Treaty, a concern that has frequently been voiced in reference to the US/India nuclear deal. In short, each of the three pillars of the NPT has been under great stress in recent years, and the States Parties were clearly ready to welcome a successful outcome for this Review Conference.

The role of the United Nations in disarmament is of course not limited to our work in the UN disarmament machinery or in assisting States Parties of multilateral conventions. The Secretariat has been actively involved in assisting our Member States in implementing Security Council Resolution 1540, which obligates all States to adopt domestic laws and regulations against the proliferation of weapons of mass destruction or their acquisition by non-state actors. We are making progress both in establishing a “bio-incident database”, as well as in developing the Secretary-General’s mechanism for investigating alleged uses of chemical and biological weapons—in particular, we are updating the roster of experts and laboratories available carry out such investigations in timely an efficient manner.. We are also actively participating in implementing the United Nations Global Counter-Terrorism Strategy, which was adopted by the General Assembly in 2006.

One of our key activities relating to the rule of law in disarmament relates to our efforts to promote universal membership in key multilateral treaties in relevant fields, especially the Chemical Weapons Convention, the Biological Weapons Convention, the Nuclear Non-Proliferation Treaty,
and the Comprehensive Nuclear-Test-Ban Treaty. We are also urging the nuclear-weapon States to ratify the Protocols to treaties creating regional nuclear-weapon-free zones—this is very important, because these protocols include negative security assurances against the threat or use of nuclear weapons against non-nuclear-weapon States. Unfortunately, some nuclear-weapon States have still not ratified the protocols to four of the five major treaties establishing such zones.

With respect to efforts to establish a WMD-free zone in the Middle East, I am pleased to note that the NPT States Parties at their last Review Conference asked the Secretary-General—along with the three co-sponsors of the 1995 Resolution on the Middle East (namely Russian Federation, United Kingdom and United States)—to convene an international conference in 2012 on this issue, to appoint a facilitator to assist in the preparations for that conference, and to select a venue for this event. This is just another way that the UN is contributing to the evolution and strengthening of the rule of law in disarmament.

In conclusion, let me say that the future of all the great goals of general and complete disarmament— including the elimination of WMD and the regulation of conventional arms—will require great leadership by key states possessing such weapons, sustained cooperation throughout the diplomatic community, and strong support from a well-informed and active civil society. Throughout this complex political process, the UN Secretariat will be doing all it can to advance these goals, using all the tools available to it—including through our public advocacy, our publications and statements, our initiatives proposed by the Secretary-General, and our assistance to our Member States and non-governmental organizations. We all understand that disarmament requires the permanence, predictability, and legitimacy that can only be achieved through binding legal obligations, and we look forward to future cooperation with all who support these great objectives.