“Is the Current Nuclear Disarmament and Non-proliferation Machinery Fit for Purpose?”

Remarks

By

Randy Rydell
Senior Political Affairs Officer
United Nations
"There is … an urgent need that existing disarmament machinery be revitalized and forums appropriately constituted for disarmament deliberations and negotiations with a better representative character."

Those words were written 33 years ago – they appeared in the Final Document of the General Assembly’s first Special Session on disarmament (SSOD-I). Yet the same challenge of “revitalizing” the multilateral disarmament machinery persists today. This begs the question: why? Is the machinery to blame? Or perhaps are we asking the wrong question: are the priorities and policies of States “fit for disarmament”?

In opening the 2000 NPT Review Conference, then-Secretary-General Kofi Annan warned of the presence of “rust” in the disarmament machinery. He emphasized, however, that this rust was, in his words, “a problem due not to the machinery itself but to the apparent lack of political will to use it.”

The basic framework for the current UN disarmament machinery was agreed at SSOD-I. A metaphor might help explain its function: it works like an assembly line for multilateral norms for disarmament. Different parts of this “machinery” perform different functions, and the ensemble of these parts work best when they are oriented to common purposes and maintained by participants who view this machinery as serving such common purposes.

The norms that are developed in this machinery are intended to be “legitimate” in two senses: procedural (they allow for opportunities for participation by all States) and substantive (fairness, equity and the avoidance of double-standards). The political function of “collective legitimization” of the UN has long been recognized by scholars.

The most primitive level of norm-development is simple deliberation, a function of the UN Disarmament Commission, which typically takes up two agenda items each year, with a view to reaching a consensus on Guidelines on a specific issue after a three-year cycle of meetings. Such guidelines are non-binding, but can serve as seeds planted for later development into political agreements and legal norms. The last such Guidelines were agreed in 1999, concerning terms for establishing nuclear-weapon-free zones and conventional arms control. Since then, differences of priorities and policy preferences among Member States have prevented the Commission from reaching a consensus on any new subjects on its agenda.

The General Assembly’s First Committee typically devotes the month of October to the consideration of about 50 resolutions on disarmament, peace and security issues. Unlike the Commission, measures can be adopted by majority voting. Each year, resolutions dealing with nuclear disarmament issues have tended to be quite divisive, often with 50 or 60 States voting either against or in abstention. While adopted resolutions are also non-binding, repeated annual adoptions and indications of growth in support can help to build political support for such resolutions, which can eventually lead to further progress in norm development.

The highest plane of this process is the negotiation of multilateral legally-binding norms, the function of the Conference on Disarmament, which SSOD-I designated as the world’s “single multilateral disarmament negotiating forum”. While the CD and its antecedents has in the past been able to negotiate several multilateral treaties even during the Cold War (NPT, CWC, BWC, Seabed Treaty, et al.), the last treaty negotiated in the CD was the Comprehensive Nuclear-Test-

Ban Treaty in 1996. The CD is deeply divided by blocs of countries with different priorities: a majority now wants to start negotiations on a fissile material treaty; others want negotiations on nuclear disarmament and nuclear security assurances; still others want a focus on preventing an arms race in outer space. Under the consensus rule adopted by Members of the CD, unless everything is agreed, nothing is agreed. This de facto “unit veto” system was not imposed from outside the CD: it is entirely a creation of States—the States participating in SSOD-I, which created its original mandate, and the Member States of the CD.

In addition to this UN machinery, other multilateral arenas in the nuclear field include the sessions of the Preparatory Committees to the NPT Review Conferences. The UN Office for Disarmament Affairs serves as the de facto Secretariat for the NPT, given its lack of an implementing agency. The UNODA is also responsible for promoting (e.g. through workshops and training sessions) the implementation of UN Security Council resolution 1540, which obliges States to enact domestic controls against the proliferation or terrorist acquisition of WMD.

At one time or another, each UN Secretary-General in the history of the Organization has taken a personal role in seeking to advance disarmament norms. Secretary-General Ban Ki-moon has personally addressed the CD on several occasions. On 24 September 2010, he convened a High-Level Meeting on Revitalizing the Work of the Conference on Disarmament and Taking Forward Multilateral Disarmament Negotiations, and addressed a plenary meeting of the General Assembly in July 2011 to follow-up on the High-Level Meeting. All Secretaries-General also been aware of the extent that this machinery depends upon the priorities, policies, and political will of its Member States. As Dag Hammarskjöld once put it, “Organizational arrangements … do not change realities … Essential difficulties encountered within the United Nations are based on realities and not on the specific constitution of the Organization.”

In today’s UN disarmament machinery, these “realities” are seen in divergent priorities among Member States on issues relating to nuclear disarmament, non-proliferation, and the prevention of an arms race in outer space.

The current 66th session of the General Assembly is considering several resolutions that focus on revitalizing the disarmament machinery.

Most ambitious of these was draft resolution L.21/Rev.1 offered by Austria, Mexico, and Norway. It would in essence establish a deadline in 2012 for the CD to adopt a substantive programme of work, whereupon if there was still no consensus, the General Assembly would consider alternative ways of taking forward multilateral disarmament negotiations, including the “establishment of open-ended working groups” based in Geneva. The groups would consider specific issues (nuclear disarmament, negative security assurances, a ban on the production of fissile material for use in weapons, and prevention of an arms race in outer space) and report to the General Assembly, which would then decide whether to renew or amend the mandate for the groups “not excluding the possibility of negotiations on legally binding instruments”.

Netherlands, South Africa, and Sweden introduced L.39, which invited States “to explore, consider and consolidate options, proposals and elements for a revitalization of the United Nations disarmament machinery as a whole, including the Conference on Disarmament”, while placing on the agenda of the next session an item “review progress made in the implementation

---


7 For the texts and votes of the resolutions discussed below, see http://www.reachingcriticalwill.org/political/1com/1com11/resolutions.html.

of the present resolution and, if necessary, to further explore options for taking forward multilateral disarmament negotiations.”

Resolution L.13—which was introduced by China, Cuba and the DPRK—dealt only with the Conference on Disarmament, and called upon the CD to “intensify consultations and explore possibilities with a view to adopting a balanced and comprehensive programme of work at the earliest possible date during its 2012 session”.

Canada, meanwhile, introduced L.40, which focused specifically on the issue of commencing negotiations on a fissile material cut-off convention. As introduced, L.40 provided that if the CD were unable to adopt a programme of work by March 2012, the General Assembly would establish a group of governmental experts to identify options for pursuing such negotiations and to report its findings to the next session of the General Assembly. The resolution also provided that the General Assembly would “consider options” for commencing negotiating negotiations on such a treaty if the CD were unable to resume its work by the end of its 2012 session.

Three additional resolutions dealt at length with nuclear disarmament issues, but devoted varying degrees of attention to the machinery. Resolution L.31—introduced by the New Agenda Coalition (Brazil, Mexico, Sweden, Ireland, Egypt, South Africa, and New Zealand)—encouraged “all States to work together to overcome obstacles within the international disarmament machinery, including in the Conference on Disarmament, that are inhibiting efforts to advance the cause of nuclear disarmament in a multilateral context.” Japan’s nuclear disarmament resolution, L.41, contained a brief reference to the need for the “immediate commencement” of negotiations in the CD on a fissile material cut-off treaty. Myanmar’s resolution, L.49, echoed this reference, but also urged the CD to establish an ad hoc committee “to commence negotiations on a phased programme of nuclear disarmament leading to the total elimination of nuclear weapons within a specified framework of time.”

In conclusion, the question concerning whether this disarmament machinery is “fit for purpose” can only be answered in reference to the actions of the primary constituent parts of this machinery—namely, their Member States. It is they who vote, determine the rules of procedure, set official agendas, create mandates, agree on funding, and sign and ratify treaties. In this sense, the “machinery” is not some exogenous actor dictating outcomes and bearing the responsibility for failures when States are unable to agree on common multilateral approaches to disarmament. The machinery has worked best when the priorities and policies of these States are in alignment.

The machinery serves an important function of providing a means of measuring the degree of consensus among States. In this sense, blaming the machinery for failure to reach a consensus on a disarmament initiative is a bit like blaming a thermometer for causing hot weather. Moreover, even when treaty negotiations are not underway, this machinery provides a central arena for the deliberation and development of multilateral disarmament norms, for advocacy of new disarmament initiatives, for holding States accountable for their past legal and political commitments, and for the representation of views from civil society. The machinery is as fit for these purposes as its Member States enable it to be.

---

9 The First Committee adopted this resolution without a vote on 28 October 2011.
10 The First Committee adopted this resolution without a vote on 27 October 2011.
11 This resolution was adopted on 28 October 2011 by a vote of 151-2-23, without reference to the group of governmental experts.
12 The First Committee adopted this resolution on 28 October 2011 by a vote of 160-6-4.
13 The First Committee adopted this resolution on 26 October 2011 by a vote of 156-1-15.
14 The First Committee adopted this resolution on 27 October 2011 by a vote of 113-44-18.