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## **More Security and Less Weapons: the Need for Revival of Disarmament**

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There are different kinds of security

- Against hunger
- Against natural and environmental disasters
- Against war, weapons and violations of human rights

I shall **focus** on the **security against threats and use of armed force**, especially those that are linked to the continued existence of nuclear and other **weapons of mass destruction**.

Under **national** legal systems people are not allowed **to use force** or threaten to use force except in narrowly defined situations, notably for self defense. I shall talk about the difficult movement of the **international** community to come to the same rule.

There are those who seek to maintain that **weapons** are not dangerous – that only **people may be dangerous**. In the **domestic sphere** they advocate laws that generally allow people to possess weapons and make exceptions only for some people considered dangerous. However, there are evident problems to know who is dangerous.

Most people are never dangerous, a few people are dangerous all the time, but many may become dangerous at some occasions. **If they have no** weapons they will be less dangerous also on those occasions. In most **national societies** the principle has therefore developed and been implemented that – with a few exceptions – the possession and use of weapons is the monopoly of central authorities acting under law. It is recognized that there is more security for all with less weapons around.

Our **international community** has not yet developed to this civilized level. There is no general ban on the possession by states of weapons. Indeed, global military expenses amounted to about one trillion dollars in 2005.

Here, too, we find some people thinking that the **weapons** are **not**, in themselves, dangerous – **only some governments** possessing them. One may agree that most governments are prudent and only some may be reckless. But we have the same difficulty here as in the domestic sphere of knowing who may be reckless on what occasions. If all states are without weapons – or, at least heavy weapons – then the occasions when some could turn reckless would also be less dangerous.

We are not naïve. We know that in the international community it will be a long time before the right to use and possess weapons has become limited to a central authority.

However, we can identify some modest early steps in this direction as regards some particularly terrible weapons. In 1925, it was agreed to ban **the use of biological and chemical** weapons and that ban is now considered to be binding for all.

**In 1972** a convention was concluded that went further and prohibited even the **production and possession of biological** weapons and in **1993** another convention was adopted prohibiting the very **production and possession of chemical weapons**. These conventions are not yet ratified by all but there is a good hope that they will be. For nuclear weapons, as I shall explain in detail, we have not come this far. Indeed, we are at an impasse.

**This introduction** may sound a bit theoretical. However, I am talking about topical questions. Iraq under Saddam Hussein used armed force against Kuwait in 1990 and was stopped by action authorized by the UN Security Council. The US took the lead in invading Iraq in 2003 without Security Council authorization and the action has been criticized as a violation of the UN Charter. Officials of the Saddam regime now stand trial being accused of crimes in ordering the use of chemical weapons.

### *International legal restrictions on the threat or use of force*

I shall **first discuss** how the threats of all weapons – including the weapons of mass destruction – can and should be reduced through respect for a general **prohibition or restrictions on the threat or use of armed force in the international community**.

After the Second World War the **UN Charter** laid down important restrictions on the threat or use of force between states. Compared to earlier restrictions – in the League of Nations and in the Briand-Kellogg Pact -- these restrictions constituted a **leap forward**.

The Charter stipulated (in art. 2:4) that members **must not use force** against the territorial integrity and political independence of any state. Only **two exceptions** were made from the rule:

- A right was preserved (in art. 51) to individual and collective **self-defense**, when an **armed attack** occurred, until the Security Council has taken the necessary measures.

- The other exception allowed the **Security Council** to intervene – if need be even by authorizing military force – in the broader categories of cases of “**threats to the peace, breaches of the peace or acts of aggression**” and members undertook – in article 25 – to accept and carry out the decisions of the Council.

These restrictions, we are bound to note, have often been ignored by states and **during the Cold War** the Security Council was mostly inoperative as a result of the veto. Member states had to rely for their protection on individual or collective self defense – as in NATO

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**After the end of the Cold War** consensus between the five permanent members in the Security Council became – and still remains – possible.

It has led to a strong increase in the number of peace keeping operations. Today, there are some 60 000 – 80 000 UN peace-keepers in the field.

The **most important joint UN action** made possible by the new political climate was the authorization given by the Security Council in 1991 to the broad alliance created by President George H. Bush to **stop Iraq’s naked aggression against of Kuwait**. For some time this collective action gave the world hope that **a new will of the five great powers to cooperate** would at long last make the Charter work, as originally envisaged – to stop the use of arms for other purposes than self-defense. President Bush spoke of a **new ‘international order’**.

### *The Iraq war in 2003*

However, in 2003 the war in Iraq was launched by a number of states **without** the authorization of the Security Council. Indeed, they were perfectly aware that that their action **would not** obtain an authorization of the Council. The **political justification** given for the Iraq war was above all the contention that Iraq retained **weapons of mass destruction** in violation of Security Council resolutions.

As we know, the **evidence** of Iraqi weapons of mass destruction was **faulty** and the reports of UNMOVIC and IAEA inspections were ignored by the states launching the war. UNMOVIC had carried out some **700 inspections** of some 500 different sites, dozens of them proposed by the intelligence organizations, and had reported no finds of wmd.

So this was not a case of armed force authorized by the Security Council. **Nor** was it a case of **self defense** against an armed attack by Iraq. There was no threatening ‘smoking gun’, nor a trace of a nuclear cloud on the horizon. It is hard to avoid the conclusion drawn by Kofi Annan and most international lawyers in the world, that the action was a **violation of the Charter**.

Even more seriously, it was an act of **conscious repudiation** by the US of the Charter restrictions on the use of force. A **US National Security Strategy** published in September 2002 stated flatly that **a limitation of the right unilaterally to use armed force in self-defense** to cases where “armed attacks” were occurring or were “imminent” **would be insufficient** in the era of missiles and terrorists. That is to say: we are ready to ignore the limitation in UN Charter Article 51.

The position taken in 2002 by the US was **confirmed** in the National Security Strategy of **2006** and through many statements by the US President and other officials to the effect that in the cases of Iran and North Korea **“all options are on the table”**. One must conclude that the **current US administration** feels free to use force, if it so chooses, without any authorization by the Security Council, even if there is no armed attack or imminent attack. This is to say: **preemptively or preventively**.

The readiness of the current US administration to act preemptively without Security Council authorization does not exclude that, like other states, it may **seek the support of the UN Security Council for sanctions** in specific cases. Such support can be politically valuable and make non-military sanctions mandatory for all UN members.

An important question is when and how the Security Council will make use of its authority to adopt sanctions now that consensus between the five permanent members is within the realm of the possible. In particular, what will the Council judge to be a **“threat to international peace and security”**? Such a judgment is a necessary precondition for mandatory sanctions.

The Council did determine last year that **Iran’s program of enrichment of uranium** constituted a threat to international peace and security and ordered (demanded) that it should be suspended. It is **puzzling** that in the same period it had nothing to say about the known North Korean production of plutonium. One might have thought that an ongoing production of weapon grade plutonium was a more significant threat than the enrichment of a minute quantity of uranium to a level needed for reactor fuel – 3 to 4 %.

Nevertheless, the **testing** of a plutonium bomb **by North Korea** was unanimously condemned by the Council – as were the nuclear tests by India and Pakistan in 1998. The North Korean test was explicitly deemed to constitute a threat to international peace and security and non-military sanctions were imposed.

Yet, we cannot fail to note that **neither the US nor China nor North Korea** have ratified the comprehensive test ban treaty and that important voices in the US urge that new nuclear weapons should be tested. **Dare we conclude** that it is now the unanimous view of the Council that even in the absence of an operative comprehensive test ban treaty no state may undertake nuclear weapons tests? If so, perhaps the time would be ripe for a new general effort to get that treaty ratified and operative.

We must evidently **conclude** that despite the greater possibility of consensus among the permanent members of the Security Council and the authority conferred upon the

Council, a consistent **implementation of the concept of collective security** is by no means yet assured. Nor is there any guarantee that the Council members will be consistent in their attitude to nuclear weapons tests.

### *Non-proliferation and disarmament measures*

If **eliminating the threat or use of armed force** generally would be one way to eliminate the threat of WMD, a **more direct way** is obviously to eliminate the weapons themselves. The **best guarantee against any use** of nuclear weapons would be to secure their **absence** through bans on production, acquisition and stocking. No weapons – no use...

In 1946 the General Assembly declared its determination to physically **eliminate “atomic weapons”** and other weapons of mass destruction. However, even 60 years later the elimination of nuclear weapons **has not been attained**, while in the case of B and C weapons comprehensive conventions have been concluded.

**During the Cold War** there was a strong public anguish about the risk of a nuclear exchange in which the United States and the Soviet Union might have obliterated each other and a nuclear winter might have ended human life on earth. Fortunately, the Cold War ended and the risk of a **world war** now seems **remote**. However, the opportunity to make a new peace order has so far been missed.

Right now **attention** is focused on the risks of a further spread of nuclear weapons, in particular **North Korea’s** testing of a plutonium bomb and **Iran’s development of a capability to** enrichment uranium. There are also concerns that **terrorists** might acquire nuclear weapons or at least ‘dirty bombs’ – i.e. bombs containing radioactive material.

All this attention is fully **justified** but it **ignores** some unwelcome realities. Nuclear weapons as other weapons of mass destruction may, indeed, be particularly dangerous in some hands but we must recognize that they are dangerous in anybody’s hands. We must recognize that

- There are still **some 27.000 nuclear weapons** in the world: in the US, Russia, the UK, France, China, Israel, India, Pakistan and North Korea.
- Most of these weapons are in the US and Russia and many of them are on **hair trigger** alert.
- Neither the US nor Russia has a policy of **non first use**. Indeed, we have heard again and again from Washington that **“all options are on the table”**.

Despite some valuable progress in arms control and disarmament the world is actually **in a phase of rearmament**. As Kofi Annan said, we seem to be **sleep-walking into it**.

The US Department of Energy wants to develop new nuclear weapons and build a new **Bombplex**, reportedly to the tune of some 100 to 150 billion dollars.

The **UK** government has recently announced it wants to start a new nuclear program for the time beyond 2020.

We are now more than 15 years after the end of the Cold War and 40 years after the US and the UK committed themselves in the Non Proliferation Treaty of 1968 to negotiate toward nuclear disarmament. Could we not ask our friends to be a little more ambitious in this negotiation?

The risk of a spread of nuclear weapons to further countries and perhaps even to non-state actors and the stagnation in arms control and disarmament and risk of a renewed arms race is the background of the report of an independent international commission, which I have chaired and which was presented on 1 June last year: “*Weapons of Terror. Freeing the World of Nuclear, Biological and Chemical Weapons*”. ([www.wmdcommission.org](http://www.wmdcommission.org))

The report and its 60 recommendations were unanimously adopted by the Commission’s 14 experienced experts, who came from all over the world.

The Commission now hopes that governments, media, think tanks and the public will read the report and agree that it is time to wake up and revive disarmament. We need to get active to **reduce the threat of weapons of mass destruction – in particular nuclear weapons**.

**For nuclear weapons the international community has so far taken a fragmentary approach:**

- The **deployment** of these weapons in various **environments has been prohibited by conventions** (the Antarctic, the sea-bed and outer space),
- **The testing of nuclear weapons has been limited** by the partial test ban treaty.
- The possession of the weapons has been banned through treaties establishing **nuclear weapon free zones**; all countries in the Southern hemisphere are covered by such zones;
- The development and possession of nuclear weapons has been excluded **for non-nuclear weapon states** through **commitments** under the **NPT**; and
- The **nuclear weapon states** parties to the NPT have committed themselves to pursue **negotiations** in good faith toward **nuclear disarmament**;

This **fragmented approach** has taken us forward, but still leaves us a long way from a nuclear weapons free world. Can we get there?

**The European Union strategy** against proliferation of WMD counsels that

*“The best solution to the problem of **proliferation** of WMD is that countries should no longer feel they need them. If possible, political solutions should be found to the problems, which lead them to seek WMD. **The more secure countries feel, the more likely they are to abandon programmes...**”*

While the **EU strategy** conveniently counsels only how to avoid a **further** spread of WMD and **ignores** the spread that has already taken place (to states such as the EU members France and the UK), the advice is probably valid also for states which **have** nuclear weapons. To phase out their weapons they should feel and conclude that they do not need them, as South Africa did.

The WMDC notes – in line with the EU strategy – that in many cases “**perceived threats to security have been the incentive** for the acquisition of nuclear weapons and – conversely – security guarantees of various kinds have offered disincentives.” (p. 66).

The Commission goes on to say more specifically:

*“It is not unreasonable to think that the governments of **Libya, Iran and North Korea**, often isolated, have convinced themselves that their security was threatened. In the case of **Iran** there was also a very real threat from Iraq, which armed itself with WMD and used chemical weapons against Iran during the long war of the 1980s. It is possible that in such cases incentives to acquire nuclear weapons may be reduced by **offers of normal relations** and by assurances that **military intervention** or subversion aiming at regime change **will not** be undertaken.” (pp. 66-67).*

In the case of **North Korea** the six power talks, which may soon be resumed, seem to have proceeded on the basis of this philosophy and offered the DPRK both **security guarantees** and a **normalization** of relations. Regrettably, such offers do **not yet** seem to have been made in the case of **Iran**.

Now let me turn **to the Non-Proliferation Treaty**. We often hear warnings that the most central global instrument in which states committed themselves against the acquisition of nuclear weapons and to nuclear disarmament **risks to collapse. I would rather say that it is under strain**. The treaty, concluded in **1968** is a **double bargain** aiming together at a nuclear weapon free world. As I mentioned,

- The **non-nuclear** weapon states parties commit themselves not to acquire the weapons; and
- The **nuclear** weapon states parties commit themselves to negotiate toward nuclear disarmament.

There are **successes** as well as **failures** to register in the fulfillment of these ambitions. All states **except India, Israel and Pakistan** have joined the treaty. A vast number of states have thus committed themselves to remain without nuclear weapons – and respect their commitments. This was not a given.

Negotiations after the dissolution of the Soviet Union, led **Ukraine, Byelorussia and Kazakhstan**, which had had nuclear weapons, to send the weapons to Russia. **South Africa decided** after the end of the Cold War to dismantle its nuclear weapons and accepted full IAEA control. These were important successes.

There have also been failures.

**Iraq and Libya** violated the NPT and although they were brought back to observance, confidence in the treaty suffered. In the case of two other countries – **North Korea and Iran** – the world is currently very actively seeking solutions. Are there any other potential proliferation cases? Not to my knowledge. The world is not full of would-be proliferators. We have to recognize, however, that the **DPRK and Iran** could trigger very grave **domino effects** in their respective regions, if they were not to agree to move to credible non-nuclear status.

On the other side of the bargain there is a momentous problem in the **poor implementation by the nuclear weapon states** parties of their obligation to negotiate toward nuclear disarmament. It is true, as I have noted, **that** the number of nuclear warheads has gone down from some 55 000 at the peak level to some 27.000 now **and it is welcome that the number** will shrink further from the enormous redundancies which existed. However, work on significant multilateral arms control and disarmament projects, has been paralyzed for the last decade and we **now see nuclear rearmament**, e.g. in the US and the UK.

A further sliding in this direction fifteen years after the end of the Cold War is an absurdity. The revival of disarmament and arms control is an urgent necessity.

The WMDC submits – in its very first recommendation – that all parties to the NPT should “**revert to the fundamental and balanced non-proliferation and disarmament commitments that were made under the treaty and confirmed in 1995 when the treaty was extended indefinitely**”.

Among non-nuclear weapon states parties there is a strong feeling of frustration, even of being cheated by the nuclear weapon states parties. This is true not least, when – as now – have-states are in the process of deciding on the development of a **new generation of weapons rather than** examining how they could manage their defense needs with other weapons than nuclear – as all other states have to do. (Recommendations 20 and 23).

**The negotiations with the DPRK and Iran** would not be easy under any circumstance, but I suspect that they might be somewhat less difficult, if the nuclear weapon states participating could show that they, themselves, were **actively moving toward** and leading the world toward nuclear disarmament.

While the Commission pleads for the goal of a **convention** “outlawing” nuclear weapons in a way similar to what has been done regarding biological and chemical weapons (Recommendation 30) there are **many other steps, some small some large** that could and should be taken without much delay.

**I shall describe some of these steps but let me first make some general observations:**



**First**, the UN Charter is not pacifistic, but it is also not trigger happy. It seeks peaceful solutions whenever possible. States need to pursue security needs more through **negotiation** and **positive incentives** and **less** through military threats, weapons and **sanctions**. The disasters in Iraq and Lebanon show the tragic consequences of an **excessive reliance on armed force**.

Second, a **boosting of the role of nuclear weapons** by states that have them, especially if combined with military threats, seems more likely to **encourage** nuclear proliferation in states which feel threatened, than dissuading them from such proliferation.

Let me **now** tell you about some of the **specific recommendations** of the WMDC, starting with some important organizational items.

- **Given the setbacks** in arms control and disarmament, notably at the UN summit in 2005 and the continued stalemate, there is a need to give **new impetus**. The Commission suggests that the **General Assembly should convene a World Summit on disarmament**, non-proliferation and terrorist use of WMD. (Recommendation 59);
- Further, the **Conference on Disarmament in Geneva**, which for a lack of required consensus has been unable for almost a decade to adopt a **program of work, should** be enabled to do so by a two thirds majority. (Recommendation 58). It is an absurd relic from the Cold War that disarmament issues can be taken up by the expert body only after consensus, while in the General Assembly of the UN a simple majority decision is enough.

I continue with **a number of the substantive measures that the Commission recommends**

- No measure could be more urgent, important in substance and as a signal that arms control and disarmament are again on the world agenda, than the signature and ratification of the **Comprehensive Nuclear-Test-Ban Treaty** by states, which have not yet done so. (Recommendation 28). If the treaty **were not** to become operative, there would be an increased risk that some state might restart weapons tests. Demanding in negotiations with **North Korea** that the country should deposit its ratification of the treaty – which is necessary for the treaty to enter into force – would be easier if all the states participating in the six power talks had, themselves, ratified the treaty.
- Negotiating without further delay a treaty **prohibiting the production of highly enriched uranium and plutonium for weapons (FMCT)** is the next most urgent issue to tackle. (Recommendation 26). The combination of a continued reduction in the number of existing nuclear weapons and a verified closing of the tap for more weapon material would gradually reduce the world inventory of bombs. A draft treaty has been presented in Geneva. It has important weaknesses but should be discussed.
- The WMDC is of the view that such a treaty, to be meaningful, must provide for effective **international verification** of all enrichment and reprocessing activities. If there is no effective international verification, any controversy about respect for

the treaty would have to be discussed on the basis of evidence coming only from national means of verification. We know from the case of Iraq that this would not be satisfactory. Moreover, without independent verification suspicions about violations might arise and lead to a race between some countries in the production of fissile material.

- **Further steps**, by all nuclear weapon states, towards **reducing strategic nuclear arsenals** would be significant. The WMDC recommends that the US and Russia, which have the most weapons, should **take the lead**. With increasing cooperation between Russia and EU, Russian nuclear weapons should be withdrawn from forward deployment to central storage and US nuclear weapons should be **withdrawn from European** to US territory. (Recommendations 20, 21 and 22).
- In the view of the WMDC all states that have nuclear weapons should commit themselves categorically to a policy of **no first use** (Recommendation 15) and the US and Russia should reciprocally take their nuclear weapons **off hair trigger alert**. (Recommendation 17).
- **Regional approaches** should also be further developed, especially in **sensitive areas**. It would, for example, be desirable to obtain commitments from the states on the **Korean peninsula** and from all the states in the **Middle East** (including Iran and Israel) that they would accept a **verified suspension** for a prolonged period of time of any **production of enriched uranium and plutonium** while obtaining international assurances of the supply of fuel for any civilian nuclear power. (Recommendation 12). Such an agreement could be particularly valuable if, as it now seems, many states in the Middle East, may be moving to make use of nuclear power.
- Lastly, you will not be surprised to hear me submit that **international professional inspection**, such as it has been practiced under the UN, the IAEA and the Chemical Weapons Convention, is an important and economic **tool for verification**. Such inspection does not stand in any contradiction to national means of verification. Rather these two means of fact-finding **supplement** each other. States which operate intelligence may, in one-way traffic arrangements, provide information to the international verification systems. (Recommendation 55).
- The safeguards system of the IAEA needs to be strengthened through universal acceptance of the **additional protocol**. (Recommendation 3). The effective operation of the safeguards system should never have to suffer for **financial** reasons. It is paradoxical for states in the world to spend billions on inspections to ensure that no material or equipment of nuclear relevance is transported in containers or baggage in air travel and to deny the international safeguards system the fullest support.

The world can afford verified disarmament. It cannot afford war.

