

The United Nations and the Regulation of Conventional Arms

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DISARMAMENT AND GLOBALISATION

**How Can International and Regional Conventional Arms Regulation Efforts Help in
Achieving Stability and Security?**

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Ambassador Tanner, fellow panellists, distinguished guests and friends, I am very pleased to have this opportunity to return to the Geneva Centre for Security Policy, especially so soon after my remarks here last April concerning the NPT.

Today's subject, however, focuses on the difficult challenge of strengthening multilateral cooperation in regulating conventional arms. I wish to congratulate both the Geneva Centre and the Centre for International Studies and Diplomacy at the University of London's School of Oriental and African Studies, for jointly organizing this event and for their continuing efforts in this field of disarmament and globalisation.

I am very impressed by the diverse backgrounds of the other speakers at this international seminar, including their professional expertise and competence to address specific practical problems associated with the regulation of conventional arms. The organizers have wisely decided to address the issues of security sector reform, as well as disarmament, demobilization, and reintegration, both of which will likely be important areas for progress in the years to come.

While the world community has in recent years been deliberating various controls over arms sales—notably in the context of the proposed Arms Trade Treaty—I believe it is also important not to neglect the issue of existing stockpiles, and the related problems associated with the measurement of destabilising and excessive accumulations of conventional weapons. All of these issues also affect in various ways future social and economic development, as well as prospects for international peace and security. Together, these issues constitute an excellent subject for discussion, debate, research, and collective international action.

It is true that a great deal of the action in addressing conventional arms issues focuses on policies of states and cooperation among states within specific regions. Yet in our current age of globalisation, it is not at all surprising to see efforts underway to promote much broader cooperation on a fully global scale—such, I believe, was the intention of the promoters of an Arms Trade Treaty. It is also not surprising to see that this field of discourse is not limited to nation states, but includes a significant role for non-governmental organizations and other non-state actors.

Amid this whirlwind of activity stands the United Nations—an intergovernmental body created on the ashes of a war that killed over 70 million people, over half of them civilians, and almost all were victims of what we call conventional arms. While the UN Charter did refer to disarmament, it surely did not envisage the total elimination of all conventional weaponry. Instead, the Charter distinguished between what it called “disarmament” and the “regulation of armaments.” This distinction remains today, as the world seeks the total *elimination* of weapons of mass destruction, and the *limitation* of conventional arms for national territorial defence and for the maintenance of international peace keeping forces. Articles 11, 26 and 47 outline the respective roles of the General Assembly and Security Council in this field, while Article 26 also sets forth the general principle that international peace and security should be pursued “with the least diversion for armaments of the world's human and economic resources.”

The UN has officially been working to promote multilateral cooperation in the regulation of conventional arms since December 1946, when the General Assembly unanimously adopted Resolution 41, which recommended that the Security Council should develop practical measures “for the general regulation and reduction of armaments and armed forces.” In February 1947, the Security Council adopted Resolution 18, which established the Commission for Conventional Armaments. Though these early efforts at conventional arms control collapsed with the unfolding of the Cold War, the General Assembly in 1959

combined the twin goals of eliminating WMD and regulating conventional arms into a common term called, “general and complete disarmament,” which remains today the “ultimate goal” of the United Nations in this entire field.

Unfortunately, the international rule of law is rather weak when it comes to the regulation of conventional arms, especially when viewed against the widespread international recognition of the costs and risks posed by various types and accumulations of such weaponry. There are hardly any multilateral treaties in this field, with the notable exception of the Convention on Certain Conventional Weapons—commonly known as the inhumane weapons convention, which currently has 106 parties.

The five Protocols to that treaty outlaw various egregious conventional weapons and deal with explosive remnants of war. Of course, international humanitarian law also includes the Mine Ban (or Ottawa) Convention and will in due course be strengthened when the recently adopted Convention on Cluster Munitions enters into force, and at the apex of international humanitarian law lie the venerable Geneva Conventions and their Additional Protocols on the law of armed conflict. This body of law is based on the rule that the right of parties to a conflict to choose methods or means of warfare is not unlimited. Approaching conventional weapons regulation through this humanitarian prism is indeed a worthy pursuit—albeit one that is comparatively narrow, given the plethora of arms and armaments.

Efforts have been underway in recent years to conclude an Arms Trade Treaty, but the long-sought international consensus on such an initiative has proven to be elusive, despite extensive support for non-governmental groups and concerned governments. In 2006, the General Assembly asked the Secretary-General to establish a group of governmental experts to examine the feasibility, scope and draft parameters for such a treaty—this group will commence its final session later this month. Another such group is considering further steps to enhance cooperation with regard to surplus conventional ammunition stockpiles—its own final session is currently underway in New York.

Earlier groups of governmental experts have considered the feasibility of creating an international instrument—which the General Assembly ultimately adopted in 2005—to identify and trace illicit small arms and light weapons. Last year another such group was able to agree on recommendations for national legislation to enhance international cooperation against illicit brokering in such weapons. All of these efforts have built upon progress made since the adoption of the Programme of Action by states attending the 2001 UN Conference on the illicit trade in small arms and light weapons. The Third Biennial Meeting of States on implementing this instrument will take place next week at the UN.

These initiatives are definitely generating a lot of debate and reports, but it is clear that the process of forging a consensus on new international norms—especially in binding legal form—still has a long way to go.

The UN has also been working for many years to improve the transparency of transfers, holdings, and procurement of seven categories of major conventional arms, a task served by the UN Register of Conventional Arms. In recent years, well over 100 states have contributed data each year, including most of the largest arms producers and suppliers. In 2006, a group of governmental experts reviewed the Register and concluded that it has made “significant progress” in improving transparency since it was established in 1992.

The UN’s record in the area of missiles, however, is mixed. In April 1999, Secretary-General Kofi Annan called the world’s attention to the lack of multilateral norms for missiles and the General Assembly has

since adopted several resolutions on the subject. These have resulted in the establishment of three panels of governmental experts, two of which were able to reach agreement on consensus reports, including the group that completed its work last month.

Yet there are still significant differences between states on a wide variety of missile issues and further progress in developing multilateral legal norms for missiles will remain difficult, whether pursued inside or outside the United Nations. Though efforts have been undertaken on both levels, the process of building a truly universal, multilateral regime either specifically for missiles or more generally for conventional weapons will undoubtedly take a lot more time and political will.

It is easy to review this history and conclude that the UN's record in the field of regulating conventional arms has been a failure—easy, but in my view, wrong. First, the UN is not a monolithic institution that makes its own decisions on disarmament and arms regulation—it is an arena in which states meet, deliberate, and make decisions whether to support the creation of new multilateral norms, or adjust existing ones. The failure of the UN to produce more treaties and other binding norms in this field is nothing but a reflection of the will of its member states, and of the divergent views and interests inherent in the process.

Second, this negative conclusion neglects the positive things that the UN has managed to accomplish, even within an often adverse political environment. Multilateral norms are seldom created overnight, and efforts will no doubt continue by the vast majority of UN Member States to promote such norms in such fields as: the illicit trade in small arms and light weapons; the transparency of conventional arms transfers, holdings, and production; transfers of conventional arms; and missile controls. These efforts will be influenced by the priority they receive in the policies of Member States, in the range of states that support them, and in the level of concern by individuals and groups in civil society.

I share the conviction of many that the old nation-state system is facing new challenges from globalisation—as seen in the rapidly expanding linkages between peoples and economies, the ease of international communications, and the onward march of technology into many “dual-use” areas. Yet I also agree with a member of this Centre's Advisory Board—Jayantha Dhanapala, one of my predecessors at the UN—who once said that “The central challenge of our time is not to achieve the end of the nation state, but to rehabilitate the ends of the nation state.”¹

This view appears to be very much compatible with the efforts of many participants at our meeting today who are concerned about the issue of state capacity, security sector reform, and development. Changing the priorities and goals of states is, I believe, a necessary condition for real progress in the years ahead in forging multilateral controls in the field of conventional arms. Certainly, much can be done along the way, perhaps most notably in the gathering of facts and figures about the nature of this challenge, and in the field of education—for an enlightened public is also indispensable for long-term, sustainable progress both in disarmament and the regulation of conventional arms.

I view seminars like this one as a worthy and welcome step in this right direction. Please accept my best wishes for success as you continue this important work.

¹ Jayantha Dhanapala, “Globalization and the Nation State,” University of Colorado Law School at Boulder, Boulder, Colorado, 7 April 2001, available at <http://disarmament.un.org/speech/07apr2001.htm>.