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## **BROADENED CONSENSUS on SMALL ARMS**

### **THE UN DISARMAMENT COMMISSION GUIDELINES ON SMALL ARMS CONTROL**

#### **THE PROBLEM OF SMALL ARMS AND LIGHT WEAPONS**

On 31 December 1999, two million people or more are expected to jam Times Square and New York City's streets, balconies, and watering holes. They will have decided that the widely reported threat of a Y2K catastrophe in which nuclear missiles are mistakenly released toward Manhattan is speculative and unnecessarily fatalistic. Any lingering fears of nuclear holocaust will be easily repressed by the thrill of the crowd and the buzz of champagne.

Meanwhile, the millions of people currently caught up in the many wars ravaging the globe will not have the luxury of cynicism and denial. They live in the midst of constant, undeniable danger. It is caused not by the threat of nuclear weapons but by a more immediate evil: the proliferation and misuse of small arms.

In 1997, there were 37 wars being fought around the world--all of them civil wars (1). In none of these conflicts has nuclear weaponry played a part. In almost all of them, small arms have been the primary cause of death. Weapons such as guns, grenades and landmines have escalated conflict to heightened levels of violence, undermined ceasefires and peace agreements, and drastically increased the wholesale victimization of civilians.

The international community has begun to shift its attention to the complex problems caused by small arms and light weapons. Non-Governmental Organizations (NGOs) such as Amnesty International, research organizations like Project Ploughshares, and university peace and conflict resolution departments devote increasing resources to the issue. By early 1999, over 175 NGOs, both northern and southern, had

joined the new International Action Network on Small Arms (IANSA). They based their agendas on the reality that small arms and light weapons represent the most urgent arms control problem related to current armed conflicts.

#### **THE UN AND SMALL ARMS AND LIGHT WEAPONS**

The United Nations has been actively engaged in stemming the proliferation of small arms and light weapons and has succeeded in identifying many of the major issues and strategies for dealing with this complex and multifaceted problem.

Most of the UN's numerous organs, departments and agencies now deal with the issue of small arms and light weapons in some way. Of the six standing committees of the General Assembly, First Committee deals exclusively with disarmament and international security issues, including resolutions specifically about small arms. The Department of Disarmament Affairs (DDA) services the Group (formerly the Panel) of Governmental Experts on Small Arms and the Study Group on Ammunition and Explosives, and works in collaboration with governments and regional organizations on small arms reduction measures, as well as other programs.

The Panel of Governmental Experts on Small Arms itself provided recommendations on small arms and light weapons to the General Assembly in 1997 and will submit a follow-up report in the fall of 1999. The Advisory Board on Disarmament Matters advised the Secretary General this year on improved integration of disarmament-related security measures with development in countries emerging from conflict. The

Office for the Coordination of Humanitarian Affairs (OCHA) is developing criteria for research on the impact of small arms on humanitarian affairs. The United Nations Development Program (UNDP) is studying the impact of small arms on sustainable development.

Furthermore, several individuals have been appointed to disarmament-related roles, including Jayantha Dhanapala as Under-Secretary-General for disarmament affairs, Olara Otunnu as Special Representative on children and armed conflict, and actor Michael Douglas as Messenger of Peace.

### **THE DISARMAMENT COMMISSION**

In the midst of all this activity, one UN body is noteworthy for a recent success. The Disarmament Commission (DC) produced a report this spring which embodies the widest lines of consensus on small arms control among UN member states. In a system where negotiation and compromise are often handcuffed by political maneuvering, documenting consensus language on a relevant topic is particularly beneficial. It becomes difficult to renege on points which have already been agreed upon. The report outlining these points of consensus is titled "Guidelines on conventional arms control/limitation and disarmament, with particular emphasis on consolidation of peace in the context of General Assembly resolution 51/45 N" (2) (referred to henceforth as the Guidelines).

The DC was established in 1978 as the General Assembly's deliberative body on disarmament issues. Whereas the Conference on Disarmament in Geneva, another large disarmament-related body, has limited membership, rules of procedure, and negotiates treaties such as the NPT, and the General Assembly's First Committee (disarmament and international security issues) passes UN resolutions, the DC is designed simply to engage the general membership of the UN in thoughtful, exploratory discourse. As Under-Secretary-General Dhanapala noted, "the activities of the UN Disarmament Commission are most significant not for what they reveal about the persisting disagreements among member States, but for the light they shed on the basic objectives that unite all such States." (3)

Since the DC is mandated to convey those points about which all member states are in agreement,

formal deliberations are essential. The DC meets three times a year for several weeks, during which three working groups each confer on a designated issue. Each issue may be deliberated for up to three years. After three years, either consensus must be reached and then approved by the UN General Assembly in the form of a resolution, or the issue is shelved permanently.

This year, the issues of Nuclear Weapons Free Zones (NWFZ) and practical disarmament measures were in their third and final years of deliberation; consideration of a fourth special General Assembly session on disarmament was in its fourth year by special dispensation of the Assembly. Working Group III, which discussed practical disarmament measures, produced the Guidelines.

Though agreement requires compromise and operates to the lowest common denominator, DC deliberations have in fact produced twelve sets of recommendations in its twenty-year history, a remarkable record within the UN. The latest Guidelines, by describing the practical disarmament measures upon which all states agree, provide the international community with tools to be applied when needed, as needed, by states that may be desperate for just such resources.

#### **UNDERSTANDING CONSENSUS DECISION-MAKING AT THE UN**

While the UN Charter does not explicitly call for the application of consensus decision-making, "its fundamental principles and purposes imply consensus-

#### **MAJOR ACHIEVEMENTS OF THE GUIDELINES**

Working Group III's report on the Guidelines on conventional arms control/limitation and disarmament is

notable not only because it provides a written account of those points on which states are in agreement, but because it is one of the most comprehensive reports thus far to do so. While much work on arms and security is done piecemeal in the UN system, with for example OCHA working on the humanitarian impact of small arms, the Security Council on arms and peacekeeping, the DDA on regional arms reduction measures, and so forth, the DC Guidelines incorporate all of those elements related to small arms disarmament on which states agree, including language

on such disparate topics as arms control, illicit trading and weapons collection.

The DC must also be commended for aspects of its work other than the production of a tangible report. Significantly, those states that are not permanent members of the Security Council find the DC particularly useful as a forum in which they have a voice and are heard. Unfortunately, not all countries have the capacity to staff the DC, and participation is voluntary. However, the Guidelines represent the presence and participation of a broad range of UN member states from all regions of the world.

### **THE ROAD TO SUCCESS**

Several factors contributed to Working Group III's achievement of a concrete final product. First, arms control and post-conflict reconstruction are both current "hot topics." Second, the Disarmament Commission has had its last chance to produce a set of recommendations before its mandate on the issue expired.

Last but not least, a major reason for Working Group III's success was the significant efforts of its Chair, Michael Hoey, the Deputy Permanent Representative of Ireland to the UN. Hoey was Chair of the Working Group in its first year, 1996, during which time the group's agenda was developed. Later, when he was reelected as Chair in December 1998, three months before the third and final session of the Working Group, Hoey accepted on the condition that a serious and concerted effort would be made on the part of all states to reach consensus by the deadline.

Other factors worked to the group's advantage. Germany, having initiated the focus on this topic, provided a solid body of information from which to work. The agenda, developed in the first year, was still relevant. The title "Guidelines on conventional arms control/limitation and disarmament, with particular emphasis on consolidation of peace in the context of General Assembly resolution 51/45 N" provided a clear framework. Furthermore, Hoey's election three months before the scheduled start of the Working Group provided him invaluable time to draft a working paper and hold informal consultations, so that most of the difficult preparatory work was finished by the time the official session of the DC began.

### **A PROCESS OF TRADE-OFFS**

Hoey was prepared both to stand firm and to make concessions in order to support the process and achieve results. On the one hand, he refused to submit to last-minute bargaining tactics (often resorted to within the UN) which tend to derail previously agreed-upon clauses. On the other hand, since he wanted to reach out to those states that had proved resistant to the process in the past, significant ground was conceded as a confidence-building gesture. As a result, a give-and-take relationship developed in the Working Group, which contributed to the ultimate success of the deliberations.

There were two major changes made to the Chair's original draft. First was the addition of two sections devoted to "scope" and "principles". In these, the principles of state sovereignty and non-interference are explicitly highlighted. Thus, the application of these Guidelines is voluntary and no state can impose its will on another. Second, all references to human rights and good governance issues were removed. While this was a loss, in fact Working Group III was specifically mandated to deal with disarmament and not human rights. UN culture has perpetuated a workstyle in which committees and working groups adopt narrow foci and do not overstep these boundaries.

While the absence of any mention of human rights and the insertion of the "scope" and "principles" sections add real limitations to the Guidelines, without them the document might not exist at all. The control of small arms and light weapons is admittedly a multifaceted issue with humanitarian, public health, sustainable development and other aspects that cannot be ignored or addressed in isolation from one another. Yet by approaching the topic exclusively from the disarmament angle, the working group shifted from impasse to consensus.

### **THE GUIDELINES: A "TOOL" AND A "GRAB-BAG"**

The Guidelines "represented a substantial conceptual contribution to consolidating peace in post conflict situations and combating the excessive and destabilizing accumulation of weapons, particularly small arms and light weapons." (5) They have alternately been referred to as a "tool" and a "grab-bag of measures from which States can pick and choose what to implement." (6)

"Tool" and "grab-bag" are apt terms because first and foremost the Guidelines are voluntary and must not be used to interfere with another state's internal affairs. These caveats are explicitly stated in Sections 1, 2 and 3: Introduction, Scope and Principles. These first three sections give a general description of the problem of small arms, limit the scope of the Guidelines to recommendations that are "primarily applicable for the consolidation of peace in post-conflict situations," and underline the primacy of state sovereignty.

Sections 4, 5, and 6 were generally agreed to "fairly easily." The fourth section, on "Practical disarmament measures in post-conflict situations," includes a list of both reduction and prevention measures such as collection, control and disposal of arms, conversion of military facilities, demining, demobilization and reintegration of former combatants into civil society. This section consists of 18 recommendations. Key ones advocate:

- rapid, reliable and transparent collection, storage and destruction of arms from demobilized combatants;
- compliance with arms embargoes and import/export moratoria;
- cessation of mine-laying and information provided on mines laid;
- integrating mine clearance programmes with victim assistance and reintegration;
- early and accurate assessment of combatants to be demobilized, with registration and disarmament done simultaneously;
- establishment of demobilization centres separate from humanitarian centres;
- integration and demobilization occurring simultaneously;
- establishment of integrated security forces, guarantees for personal safety, return of refugees, and skills training for sustainable employment in demobilization planning; and
- securing adequate and timely funding for integration.

Section 5, called "Confidence-building in post-conflict situations," proposes measures including monitoring provisions of peace agreements, implementation of agreed measures and the re-establishment of public security. Key points from the four recommendations proposed include:

- the monitoring and verification of weapons disposal, with a commission to mediate differences of opinion;
- implementation of agreed measures to be enhanced by use of economic and social incentives;
- building confidence in an unbiased security force by providing adequate equipment and training, and including trained former combatants; and
- conducting an objective public information campaign and national dialogue, and encouraging civil society involvement.

Section 6, on "Regional and international financial and technical assistance," proposes three recommendations, including:

- international financial institutions should be involved early in the rebuilding process;
- financial and technical assistance should cover weapons collection and disposal, military facility conversion, mine clearance, victim assistance, reintegration of former combatants, and public information; and
- states in a position to do so should lend assistance to programs designed with input from affected states.

More difficult to negotiate was Section 7, "Other conventional arms control/limitation and disarmament measures," which includes subsections on national measures and regional cooperation and transparency. In a total of 13 recommendations, states are encouraged to "observe the highest standards of responsibility in the transfer of arms," to establish "national inventories of legally held weapons," to

ensure that arms production and trade are under "strict and effective control," and to harmonize international import and export regulations. However, there was no agreement reached on allowing the mention of the existing UN Register of Conventional Weapons or any of the existing Codes of Conduct that regulate the arms trade.

The Guidelines conclude with a section on the "Role of the United Nations." Few specifics are laid out since many of the details fall within the mandate of the Department of Peacekeeping Operations (DPKO). The central role of the UN in disarmament activities is acknowledged in the six fairly general recommendations, including:

- the Secretary-General could facilitate weapons collection and destruction programmes and mine-related activity;
- the UN should coordinate and facilitate the exchange of information and assistance; and
- the Department of Disarmament Affairs should coordinate all action on small arms in the UN, and cooperation and coordination between UN bodies should be increased.

## THE FUTURE OF THE GUIDELINES

There is no set future for the Guidelines beyond General Assembly (GA) adoption. Some participants in the DC do not see this as a problem. Rather, the very existence of the Guidelines is a positive step forward, since they are now available as a resource for situations like those of Kosovo and regions of Africa. In addition, for countries that already have national legislation related to disarmament, their own regulations are supported by the growing body of documentation on the subject.

However, other diplomats see the shortfalls of a system in which such Guidelines, after being passed by the GA, "sit on a shelf and die." To avoid the obscurity that often befalls UN documents once they have been adopted, there may be an attempt to bring the Guidelines to the GA and the Security Council for adoption as a stand-alone document. (Ordinarily, the reports of all three DC Working Groups would be com-plied as one document).

The Guidelines are not a cure: the world will not be free from the threat of small arms by this New Year's Eve. The report developed in the Disarmament Commission, however, demonstrates that countries around the world are opening their eyes to the destruction wrought by the proliferation of small arms and light weapons, and that states are willing to propose concrete steps toward a less threatening world.

prepared by Sarah Woodside

## For Further Reading:

Final Report of the Group of Governmental Experts on Small Arms in Pursuance of GA resolution 52/38/J, August 1999; <http://www.un.org/Depts/dda/CAB/program2.htm>

Report on the feasibility of restricting the manufacture and trade of small arms to manufacturers and dealers authorized by States (A/54/160), 6 July 1999; <http://www.un.org/Depts/dda/CAB/rep54160.pdf>

Report of the UN Group of Experts on Ammunition and Explosives in all their aspects (A/54/155), 29 June 1999; <http://www.un.org/Depts/dda/CAB/rep54155.pdf>

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- (1) Project Ploughshares, Armed Conflicts Report 1998, Introduction, <http://www.ploughshares.ca>
  - (2) Disarmament Commission, Report of Working Group III on agenda item 6: Guidelines on conventional arms control/limitation and disarmament, with particular emphasis on consolidation of peace in the context of General Assembly resolution 51/45 N, 28 April 1999 (A/54/42); <http://www.un.org/Depts/dda/CAB/rep5442.pdf>
  - (3) Jayantha Dhanapala as quoted in Disarmament Times, "Disarmament Commission Begins Amidst Much Cause for Despair," April 1999, p. 1
  - (4) Stephen Collett, Consensus as a tool for Peace-building through the United Nations, unpublished keynote address, June 1997
  - (5) UN Press Release, "Disarmament Commission Adopts Guidelines on Nuclear-Weapon-Free Zones, Conventional Arms, as it Concludes three-week session," 30 April 99 (DC/2641)
  - (6) Disarmament Times, "Success on Nuclear-Weapon-Free Zones and Small Arms but not SSOD IV," May 1999, p. 3
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