

Transparency in Armaments: Consideration of the Item in the CD

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The CD Discussion Series

Between December 2010 and July 2011, the UNIDIR project “The Conference on Disarmament: Breaking the Ice” and the Geneva Forum are organizing a series of thematic discussions to examine the myths and realities of the CD—as well as the critical challenges facing it—with the aim to increase understanding of the history, processes and issue areas of this unique negotiating forum.

Background paper by Jerzy Zaleski for the discussion “New forms of WMD, transparency in armaments, and a comprehensive programme of disarmament—obsolete or ignored?” organized by UNIDIR and the Geneva Forum, 6 May 2011

Origins of the item “Transparency in armaments”

1. One of the reasons for introducing the idea of transparency in armaments by the members of the European Community and Japan at the forty-sixth session of the General Assembly was the idea of deterring the destabilizing accumulation of conventional arms through non-discriminatory measures. While recognizing the inherent right of states to individual or collective self-defence against an armed attack, the sponsors emphasized the principle of undiminished security for all states at the lowest possible level of armaments and believed that the extensive accumulation of arms could become an issue of concern to neighbouring states. Recalling the example of the 1990 Gulf War, the sponsors argued that no single state, especially in areas of tension, could strive for levels of armaments that no longer bear any relationship to its self-defence needs.¹
2. Resolution 46/36L on transparency in armaments, adopted at that session, had four operative paragraphs addressed to the Conference on Disarmament. Two of them contained specific requests giving the Conference a mandate for

¹ See introduction of the draft resolution on “Transparency in armaments” by the representative of the Netherlands (General Assembly, *Verbatim Record of the 26th Meeting*, UN document A/C.1/46/PV.26, 5 November 1991, pp. 14–20) and by the representative of Japan (*Ibid.*, pp. 21–3).

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substantive work in the area of transparency in armaments. In operative paragraph 12, the Conference was requested to address the question of the excessive and destabilizing accumulation of arms, including military holdings and procurement through national production, and to elaborate universal and non-discriminatory practical means to increase openness and transparency in this field. Moreover, in operative paragraph 13, the Conference was requested to address the problems of openness and transparency related to the transfer of high technology with military applications and to weapons of mass destruction, in accordance with existing legal instruments.

Consideration of the item “Transparency in armaments” by the Conference on Disarmament

3. At the beginning of the 1992 session, consultations were initiated on how to deal with this issue in the Conference. Initially, there was no consensus on inscribing this issue as an item on the agenda of the Conference due to the opposition of some members of the Group of 21. However, an agreement was reached to hold informal meetings on the substance of the issue, under the chairmanship of the Special Coordinator, so as to implement the relevant requests of the resolution and to facilitate the preparation of a report to the General Assembly. It was also agreed that the mandate for the meetings would be based on the relevant paragraphs of resolution 46/36L requesting, inter alia, that the Conference report on its work on the issue to the General Assembly, as well as on a list of topics prepared by the Special Coordinator on the basis of suggestions from all delegations. Although at the beginning of the session there was some resistance to include the item “Transparency in armaments”, after intensive consultations the Conference added this new item to the 1992 agenda on 26 May.

4. Subsequently, the item “Transparency in armaments” was considered at the informal meetings during which the following issues were addressed: (1) the excessive and destabilizing accumulation of arms including: (i) military holdings, and (ii) procurement through national production; (2) the elaboration of non-discriminatory practical means to increase openness and transparency in this field; and (3) the problems and elaboration of practical means to increase openness and transparency related to: (i) the transfer of high technology with military applications, and (ii) weapons of mass destruction.

5. The discussion was of a general nature, and statements were limited to highlighting the priority issues of delegations and indicating the specific areas of their interests without, however, addressing their substance. With regard to the mechanism for consideration of the item in the future, the Western Group advocated strongly for the establishment of an Ad Hoc Committee in 1993, while the Group of 21 was more restrained in this regard. The 1992 report of the Conference simply lists the issues put forward by delegations without attempting to summarize them.²

² General Assembly, *Report of the Conference on Disarmament*, UN document A/47/27, 23 September 1992, paras. 102–111.

6. At the beginning of the 1993 session, the Conference established the Ad Hoc Committee on Transparency in Armaments.³ From the very beginning, controversies appeared over the framework of deliberation in the Ad Hoc Committee with a clear division between the Group of 21 and China, and the Western and Eastern European states. Western states suggested broadening the scope of reporting on military holdings and procurement through national production so as to cover all weapons and equipment under the control of states, focusing on numbers of items per category rather than aggregate numbers. Although many delegations supported that approach, arguing that resolution 46/36L did not limit the mandate of the Conference just to the UN Register of Conventional Arms, some members of the Group of 21 held that the proposal was not in line with the mandate of the Ad Hoc Committee and that, instead, the Committee should focus on the gradual expansion of the Register to include all categories and types of arms, including weapons of mass destruction, their stockpiles, indigenous production and weapons undergoing research, development, testing and evaluation. Also some states, which were not members of NATO or the Warsaw Pact, did not support the establishment of an international data exchange on military holdings and procurement through national production. They believed that further study was needed on criteria for determining what constituted an excessive accumulation of arms.

7. Some states from the Group of 21 proposed the establishment of an additional register on the implementation of relevant treaties on weapons of mass destruction. However some nuclear-weapon states and their allies pointed out that there already were global instruments prohibiting the transfer or acquisition of weapons of mass destruction and that universal adherence to these instruments should be pursued. They also believed that it was not appropriate to add weapons of mass destruction to the Register of Conventional Arms.

8. Controversies also appeared with regard to arms transfers and transfers of high technology with military applications. While some Western states advocated efforts aimed at harmonizing legislation and existing agreements in this field and were of the view that export controls contributed to the prevention of the proliferation of weapons of mass destruction, members of the Group of 21 argued that export control regimes impeded the economic and social development of developing countries.

9. In its report to the Conference, the Ad Hoc Committee stated that an increased level of openness and transparency in armaments may enhance trust and confidence among states, help ease tensions and conflicts, promote stability and strengthen regional and international peace and security. It also recorded the shared view that transparency could contribute to restraint in the production and transfer of arms, thus encouraging states not to seek levels of armaments exceeding their legitimate security requirements. The report also stated that transparency, coupled with restraint and responsible policies in arms transfers, increases confidence among states and enhances security and stability in the world.

10. A critical assessment of the proceedings of the Ad Hoc Committee by the Group of 21 led its members to conclude that the mandate of the Committee would expire at the end of the 1994 session and that, unless there was a positive change in the attitude towards transparency on the part of the main weapons exporters from both the Western and Eastern

³ See Conference on Disarmament, *Decision on Organizational Arrangements in Connection with General Assembly Resolution 46/36L*, document CD/1150, 27 May 1992.

European Groups, there would be no reason to extend the mandate of the Committee beyond that date. Such an approach was challenged by others, who were of the view that the mandate was limited neither in time, nor in scope.

11. Serious controversies emerged regarding the proposal by the Netherlands for inclusion in the Register of information on the organization, structure and size of armed forces. The Group of 21 argued that the issue was outside the mandate of the Committee.

12. Differences also existed with regard to proposals on expansion of the Register. While the Western and Eastern European states continued to advocate its expansion by including military holdings and procurement through national production, the Group of 21 focused mainly on the inclusion of weapons of mass destruction, particularly nuclear weapons, and of transfers of high technology with military applications.

13. Divergences of approaches to openness and transparency, and in particular to the development of the Register, reflected different perceptions of security, stability and potential threats. Hence, there were totally different understandings of “excessive and destabilizing accumulation of arms” held by members of the Conference. The Group of 21 considered that the main threat stems from weapons of mass destruction, particularly from nuclear weapons, which in its opinion are both excessive and destabilizing by their very nature. Furthermore, those states, as well as China, believed also that transparency in military holdings and procurement through national production would involve sensitive military information and could, therefore, be detrimental to national security. On the other hand, the Western and Eastern European states saw the main threat to security and stability in the accumulation of conventional arms beyond legitimate security needs. In addition, on the basis of their experience with the exchange of military information within the framework of the Conference on Security and Co-operation in Europe, they considered that the exchange of mutually agreed data on military matters enhances confidence among states and contributes to the strengthening of security.

14. Divergences of views in the Committee were further amplified during the consideration of the draft report and had a direct bearing on the formulation of recommendations concerning the future of the Ad Hoc Committee. Transparency in weapons of mass destruction was the key issue for the Group of 21. Most of its members strongly advocated the inclusion of such weapons in transparency measures, and demanded the annual submission of detailed information on these weapons to the UN Register. The Western and Eastern European states, however, opposed inclusion of weapons of mass destruction in the Register on the basis that to do so would imply international acceptance of transfers of such weapons. Instead, they advocated universal adherence to existing treaties on weapons of mass destruction and full implementation of their provisions, including relevant transparency measures. They also questioned the assumption of the Group of 21 that such weapons were excessive and destabilizing by their very nature and pointed, instead, to the destabilizing effect of massive accumulations of conventional arms.

15. Towards the end of the session, differences concerning the interpretation of the mandate of the Committee become even stronger. The Western and Eastern European states were in favour of the broad interpretation, which, in addition to the issues related to the Register, would also allow for addressing guidelines for international transfers of conventional arms or the size and organization of armed forces. Moreover, they also

believed that transparency in armaments provided the opportunity to shift the Cold War preoccupation with the danger of nuclear war in order, subsequently, to address other concerns, particularly, the excessive and destabilizing accumulation of conventional arms. On the other hand, the majority of the Group of 21 maintained that the work of the Committee should be devoted solely to its mandate, which they interpreted as the request for applying transparency to all armaments, including weapons of mass destruction and their means of delivery, high technology with military application and all types of advanced conventional weapons.

16. Throughout the year some members of the Group of 21 were raising the question of the expiration of the Committee's mandate at the end of the 1994 session as a result of completion of its task as provided for by resolution 46/36L, despite the fact that such an interpretation of operative paragraph 11(b) of this resolution was evidently unilateral and could be easily contested. Perhaps, for that reason, towards the end of the activities of the Ad Hoc Committee, the Group of 21 linked the termination of its work to the reluctance of other Groups to broaden the scope of the Register to include weapons of mass destruction. As a result, the Committee was unable to reach agreement on its re-establishment in 1995.

17. In view of this situation, the Conference recommended that the decision on the re-establishment of the Ad Hoc Committee on Transparency in Armaments should be taken in a package with the re-establishment of the Ad Hoc Committees on Negative Security Assurances and on Prevention of an Arms Race in Outer Space. Since there was no consensus on the matter, none of these subsidiary bodies was recommended for re-establishment in 1995.

18. During the next two years, the attention of the Conference was focused on negotiations of the Nuclear-Test-Ban Treaty and, subsequently, the issue of re-establishment of the three Ad Hoc Committees was not regarded as the priority.

Some concluding thoughts and remarks

19. The case of the item "Transparency in armaments" is an example of how a narrow approach to the mandate of the Conference on Disarmament—resulting in a predominant focus on only one type of weapon, that is nuclear weapons—could lead to a serious crisis, the results of which could influence the activities and performance of the Conference for more than decade.

20. A review of the findings of Coordinators that have chaired informal meetings on "Transparency in armaments" since 2007 indicates that no concrete proposal was made on what should be the subject of deliberations or negotiations on that item. Proposals put forward during informal deliberations under the guidance of Coordinators have not defined any mandate for "transparency in armaments" per se, but rather tended to subsume under it other aspects of conventional weapons that should rather be subject of separate deliberations or negotiations. Therefore, a question should be asked: if the CD members want to deliberate or negotiate on, for example, man-portable air defence systems, why not include such an item on the CD agenda? What would be the "added value" to consider it under item "Transparency in armaments"?

21. The evident lack of clear-cut concepts on what should be achieved in the area of transparency in armaments puts into question the rationale for keeping this item on the agenda of the Conference. Many years of effort on the establishment and subsequent maintenance of the Register of Conventional Arms resulted not only in the development of a meaningful confidence-building tool, but also created an effective mechanism for the review and improvement of its operation—the periodic meetings of the groups of governmental experts. Is there still any role for the Conference on Disarmament in this well established, self-improving and effective mechanism?

22. It seems that time has come for the Conference to review its agenda so as to eliminate any “dead wood” items, thus making it more responsive to the priorities of the second decade of the third millennium.

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The United Nations Institute for Disarmament Research (UNIDIR)—an autonomous institute within the United Nations—conducts research on disarmament and security. UNIDIR is based in Geneva, Switzerland, the centre for bilateral and multilateral disarmament and non-proliferation negotiations, and home of the Conference on Disarmament. The Institute explores current issues pertaining to the variety of existing and future armaments, as well as global diplomacy and local tensions and conflicts. Working with researchers, diplomats, government officials, NGOs and other institutions since 1980, UNIDIR acts as a bridge between the research community and governments. UNIDIR's activities are funded by contributions from governments and donor foundations.