

# Heritage Special Report

SR-84  
SEPTEMBER 21, 2010



Published by The Heritage Foundation

## Restoring *the* Role *of the* Nation-State System *in* Arms Control *and* Disarmament

*By Baker Spring*





The Heritage Foundation is a research and educational institution—a think tank—whose mission is to formulate and promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.

Our vision is to build an America where freedom, opportunity, prosperity, and civil society flourish. As conservatives, we believe the values and ideas that motivated our Founding Fathers are worth conserving. As policy entrepreneurs, we believe the most effective solutions are consistent with those ideas and values.

## Leadership *for* America **Ten Transformational Initiatives**

This paper is part of the **Protect America Initiative**, one of 10 Transformational Initiatives making up The Heritage Foundation's Leadership for America campaign. For more products and information related to these Initiatives or to learn more about the Leadership for American campaign, please visit [heritage.org](http://heritage.org).



**American Leadership**



**Education**



**Energy & Environment**



**Enterprise & Free Markets**



**Entitlements**



**Family & Religion**



**First Principles**



**Health Care**



**Protect America**



**Rule of Law**

# **Restoring** *the* **Role** *of the* **Nation-State System** *in* **Arms Control** *and* **Disarmament**

*By Baker Spring*

Reprinted from  
ConUNdrum: The Limits of the United Nations and the Search for Alternatives  
by permission of Rowman & Littlefield Publishers, Inc.

## **Abstract**

The cause of the United States is the preservation of liberty, starting with its own. It is the most noble of callings, and U.S. leaders should never lose sight of this. The shortcomings of the U.N. system, particularly in arms control and disarmament, are increasingly focused, intentionally or unintentionally, on constraining our ability to defend liberty. The arms control and disarmament processes at the U.N. are being misused to disarm the defenders of liberty around the world, starting with the United States. At the same time, these processes seek to avoid confronting the arms buildups of forces for repression, such as Iran. Under these circumstances, the United States cannot afford to allow the U.N. arms control and disarmament institutions to remain unreformed.

## **About the Author**

**Baker Spring** is F. M. Kirby Research Fellow in National Security Policy in the Douglas and Sarah Allison Center for Foreign Policy Studies, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation.

© 2010 by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
(202) 546-4400 • [heritage.org](http://heritage.org)

This paper, in its entirety, can be found at:  
<http://report.heritage.org/sr0084>

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

# Restoring the Role of the Nation-State System in Arms Control and Disarmament

Arms control and disarmament sit at the intersection of foreign and defense policy. With the possible exception of policies governing decisions to use force or to form or break defense alliances, arms control and disarmament policy has the greatest potential to further or damage a state's national interest. As a result, sovereign states will not willingly cede control over arms control policy to outside forces unless the specific topic on the agenda is one in which they do not have a direct stake.

Given the compelling national interests at stake, it would be expected that the United Nations and its affiliated international organizations would be expected to play at most tangential roles in arms control and disarmament. This was certainly the case during the Cold War, when the United States and the Soviet Union addressed the most important arms control issues on a bilateral basis. The problem is that the United Nations and other international institutions have ambitions that far outstrip this appropriate and modest role. On this basis, they organize their institutions to address matters of arms control by raising the pursuit of irresponsibility to an art form.

In this context, the U.N. and its affiliated international organizations seek to expand both their bureaucratic structures and their claims to authority. Yet the U.N. as an international organization has no direct stake in the substantive outcome of any arms control or disarmament issue, only the purely procedural accomplishment of concluding agreements. The people who serve in the U.N. and its affiliated international organizations are not held accountable for protecting the lives and well-being of the people who may be made vulnerable by poorly conceived or biased arms control agreements and implementing measures. U.N. officials are not elected and claim no constituencies other than their colleagues and the nongovernmental organizations (NGOs) with which they work closely. These NGOs frequently see arms control and disarmament measures as ends in themselves and regard the national security interests of particular nations as only tangential concerns. Unsurprisingly, the U.N. disarmament and arms control structures tend toward far-flung and overlapping institutions that diffuse responsibility and accountability rather than a tight structure focused on outcomes and effectiveness.

In some cases, U.N. elites also seek governing authority without accountability to those whom they would govern. In arms control and disarmament policy, these elites disparage the concept of the national interest and see their neutrality as proof of their moral superiority. In reality, this neutrality is the height of irresponsibility because these elites maintain no direct obligation to provide security to the people over whom they claim authority to set policies that directly affect their safety. In short, these elites seek to destroy the nation-state system without offering a viable substitute that can assume responsibility for and ensure the security of peoples in nations around the world. If this international elite realizes these purposes, there will be catastrophic results.

To put the United Nations and its affiliated international organizations in their appropriately modest roles of creating and implementing arms control and disarmament agreements, it is necessary to examine the various component institutions of the U.N.:

1. The Security Council
2. The First Committee on Disarmament and International Security of the General Assembly
3. The Department for Disarmament Affairs (DDA) under the Secretariat
4. The Conference on Disarmament
5. The International Atomic Energy Agency (IAEA), the most important U.N.-affiliated international organization with arms control responsibilities
6. The myriad NGOs involved in arms control at the U.N.

This chapter examines each of these component institutions, recommends appropriate reforms, and suggests alternative venues that could prove more effective. The recommendations are designed to narrow the scope of U.N. involvement in arms control and disarmament, in accordance with the more direct interests and responsibilities of sovereign member states to provide security to their people. The recommendations are also designed to increase the level of responsibility that U.N. institutions and alternative institutions must bear in the narrow areas where they have appropriate roles to play.

## The U.N. Security Council

The U.N. Security Council is the United Nations' foremost institution for keeping the peace and responding to threats to peace and security at the international level.<sup>1</sup> As a result, the Security Council generally addresses arms control and disarmament matters in the context of both immediate and projected threats to international peace and security. This was the case, for example, when the Security Council adopted a series of resolutions after the first Gulf War that, among other things, imposed restrictions on Iraq's nuclear, biological, and chemical weapons programs and its ballistic missile program.<sup>2</sup>

The Security Council consists of fifteen members, including five permanent members (China, France, Russia, the United Kingdom, and the United States).<sup>3</sup> The permanent members have the power to exercise a veto on substantive matters. The ten nonpermanent Security Council members are elected for two-year terms by the U.N. General Assembly.

This organizational structure represents both the central strength and weakness of the Security Council. On one hand, veto power allows the United States and other permanent members to prevent the Security Council from taking action that is deemed unwise or unjust. On the other hand, the veto power undermines timely and aggressive action by the Security Council when it is called for and frequently results in a lowest-common-denominator approach to drafting resolutions that address important and pressing security issues.

For example, the United States has frequently exercised its veto when other Security Council members have offered resolutions that unjustly criticize Israel or that would undermine Israel's security.<sup>4</sup> It is easy to underestimate how much the adoption of such resolutions would undermine stability in the Middle East by isolating Israel and effectively encourage attacks on it. If not for the United States' vetoes, the Security Council—supposedly the United Nations' foremost institution for preserving peace and security—would have been encouraging aggression.

Conversely, the Security Council's tendency to adopt a lowest-common-denominator approach to important arms control problems has produced quite weak resolutions on Iranian and North Korean nuclear weapons programs. Former U.S. permanent representative to the United Nations John Bolton has described the Security Council's process of drafting these resolutions as one in which even France and the United Kingdom—allies of the United States—work to water down sanctions resolutions that respond to Iran's and North Korea's provocative behavior and enormously destabilizing weapons activities. The behavior of China and Russia, in threatening and casting vetoes, is even worse. In this process, adoption of any resolution, no matter how weak, is perceived as a success.<sup>5</sup> In the meantime, Iran has ignored Security Council demands to cease uranium enrichment activities and North Korea continues to pursue nuclear weapons, conducting explosive tests in October 2006 and May 2009.

- 
1. For a summary description of the Security Council's functions and powers, see U.N. Security Council, "Functions and Powers," at [www.un.org/Docs/sc/unscl\\_functions.html](http://www.un.org/Docs/sc/unscl_functions.html) (accessed May 8, 2008).
  2. Brett D. Schaefer and Baker Spring, "Bush Is Right on Iraq: The Issue Is Compliance, Not Inspections," *Heritage Foundation Backgrounder*, no. 1592 (September 19, 2002), at [www.heritage.org/Research/Iraq/bg1592.cfm](http://www.heritage.org/Research/Iraq/bg1592.cfm).
  3. For a list of the current Security Council members, see U.N. Security Council, "Membership in 2009," at [www.un.org/sc/members.asp](http://www.un.org/sc/members.asp) (accessed June 8, 2009).
  4. For example, see U.N. News Service, "US Vetoes Security Council Resolution on Israeli Operations in Gaza," November 11, 2006, at [www.un.org/apps/news/story.asp?NewsID=20576](http://www.un.org/apps/news/story.asp?NewsID=20576) (accessed May 8, 2008).
  5. John R. Bolton, *Surrender Is Not an Option: Defending America at the United Nations and Abroad* (New York: Threshold Editions, 2007), 291–340.

### The Insidious Assumption of Moral Equivalency

The source of the problem in the Security Council's process for drafting resolutions on arms control and disarmament is the assumption of moral equivalency between regimes. For example, the process too easily treats the structures and purposes of the regimes in Iran, Israel, and North Korea as morally equivalent. From this point of view, a particular kind of weapon in Israeli hands is the same as one in Iranian or North Korean hands. The result is a process that fails to differentiate between weapons programs that truly threaten international peace and security and those that would bolster peace and security.

Regrettably, no approach to institutional reform under the U.N. Charter is guaranteed to overcome this assumption of moral equivalency in U.N. bodies, including in the Security Council. The best the United States can do is to pursue an agenda that distinguishes among regimes, even in the Security Council. The United States should undertake a long-term and determined effort in the General Assembly to identify regimes that pose such immediate threats to liberty that they should be ineligible to serve on Security Council.

For example, Iran launched a bid for a nonpermanent Security Council seat starting in 2009.<sup>6</sup> Iran is actively seeking nuclear weapons in defiance of international treaties and Security Council resolutions. Iran's president has threatened to attack and destroy Israel, a U.N. member state. Because nonpermanent seats are allocated geographically, the United States needs to work with Asian countries to defeat Iran's bid by promoting a more desirable Asian candidate, such as Japan. If the United States can successfully reduce support for unacceptable candidates, this effort will not only improve the quality of members on the Security Council, but also counterbalance the assumption of moral equivalency in Security Council deliberations.

If U.S. efforts to exclude those regimes most opposed to liberty from the Security Council do not progress in the General Assembly, the United States should pursue a different approach. It should seek to create a competitor to the United Nations that consists of a coalition of nations committed to global freedom and security. This Global Freedom Coalition should undertake similar responsibilities as the Security Council in maintaining world peace and security, including arms control and disarmament matters. Unlike the Security Council, it would not involve an international bureaucracy. Rather, the coalition would be based on the nation-state system, and its member states would contribute their own resources to coalition activities. Generally, the Global Freedom Coalition would serve as a balancer in international affairs. Its arms control initiatives would support this balancing role and be pursued on a selective basis. Accordingly, its arms control initiatives would support the balance and not become ends in themselves.<sup>7</sup>

As long as the Security Council remains a viable institution such that the United States determines to have value or influence over matters critical to its national interests, the United States should remain an active participant, if only to veto actions inimical to its interests, the interests of its allies, or the cause of liberty.

### Undermining the Right of National Self-Defense

The Security Council and other U.N. institutions and affiliated organizations compound problems when they seek to operate outside the nation-state system. This is most dangerous when the Security Council seeks to ignore both the letter and the spirit of Article 51 of the U.N. Charter by undermining the inherent right of states to individual and collective self-defense. Article 51 states:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security

---

6. Betsy Pisik, "Iran Seeks Seat on Security Council," *Washington Times*, July 9, 2008, at [www.washingtontimes.com/news/2008/jul/09/iran-seeks-asia-seat-on-security-council](http://www.washingtontimes.com/news/2008/jul/09/iran-seeks-asia-seat-on-security-council) (accessed August 1, 2008).

7. Kim R. Holmes, "Time for 'Global Freedom Coalition,'" *Washington Times*, September 11, 2008, A4.

Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

The most alarming attacks on state sovereignty by Security Council members occurred in 2002 and 2003 during deliberations in advance of allied military actions against Iraq. In large measure, these deliberations were over how to respond to Iraq's unwillingness to comply with earlier Security Council resolutions requiring its disarmament in certain categories of weapons. For example, France and Germany asserted that the United States and its coalition partners could not take military action against Iraq unless specifically authorized by the Security Council.

Insofar as the United States and its coalition partners deemed Iraq a threat and considered the use of military force an exercise of their right to self-defense, the French and German position represented a de facto attempt to amend Article 51. The French and German argument claims that Article 51 does not recognize the inherent right of all states to defend themselves, but refers to a privilege that may be extended to states only by the Security Council—despite the clear language of Article 51 to the contrary. France and Germany, therefore, were effectively trying to use Security Council deliberations to amend the U.N. Charter by means other than those established by the Charter itself. Further, France attempted to use its veto to force this outcome. Its action was the international equivalent of Congress's attempting to repeal the First Amendment to the U.S. Constitution by simply enacting a statute. It utterly lacked legitimacy.

Bolstering the proposition that self-defense is a right and not a privilege should foreclose opportunities to repeat this abuse. The United States should make every effort to persuade the Security Council to adopt a resolution that affirms Article 51. Such a resolution should explicitly state that the Security Council recognizes the inherent right of all states to defend themselves and shall take no action that would subordinate that right to other specific Security Council actions. The language should clearly recognize that no state requires prior approval from the Security Council to engage in defensive actions, including the use of force. For its part, the United States should issue a unilateral statement of policy that it will not accept any U.N. Security Council action or withholding of action that in any way would impede both its right and ability to provide for its own defense and/or the defense of its allies.

Sadly, although its record in addressing arms control and disarmament matters is decidedly mixed, the Security Council represents the high-water mark of effectiveness of the U.N.'s component institutions. Its limited effectiveness stems from its semblance of a hierarchical structure (represented by the permanent members and their individual veto power) that has a small number of members, including at least some that have a sense of responsibility for the dangers and opportunities that arms control and disarmament efforts pose to international security.

Nevertheless, whether the Security Council in its current form furthers or undermines U.S. interests in arms control and disarmament is at best an open question. The question can be restated simply as: Can the United States use its veto in the Security Council to further its interests more effectively than the other permanent members can use their vetoes to thwart U.S. interests? If the United States can openly and honestly conclude that it can, then it should seek to preserve the Security Council in its current form. If the United States concludes the opposite, it should seek to create an alternative institution and use it in lieu of the Security Council to achieved desired multi-lateral outcomes in arms control.

## The General Assembly and Its First Committee

The U.N. General Assembly consists of all member states and operates under one country, one vote rules.<sup>8</sup> Article 11 of the U.N. Charter states:

The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

---

8. For a summary description of the General Assembly's powers and functions, see U.N. General Assembly, "Functions and Powers of the General Assembly," at [www.un.org/ga/about/background.shtml](http://www.un.org/ga/about/background.shtml) (accessed May 1, 2008).



Clearly, the Charter envisions that the General Assembly should serve a supportive rather than a leading role in disarmament and arms control matters.

This makes eminent sense considering the General Assembly's nonhierarchical structure. Yet as with other matters, the members' direct responsibility for the results of arms control and disarmament is inversely proportional to the power that they seek to exert. Under these circumstances, the General Assembly is prone to adopting resolutions that essentially criticize the few members that have a direct stake in arms control and disarmament matters and a sense of responsibility for the consequences of their actions. For these benighted few among the member states, the adage "no good deed goes unpunished" has become a way of life in the U.N.

Under these circumstances, the assumption of moral equivalency is even more strongly entrenched in the General Assembly. At times, the General Assembly even turns the concept of moral judgment on its head by focusing its criticism on member states that take responsibility for their actions within the body. Its propensity to approve resolutions criticizing Israel<sup>9</sup> and its silence on Syria's clandestine nuclear reactor program are cases in point.

The First Committee of the General Assembly suffers from the same defects. The only difference is that the First Committee focuses narrowly on arms control, disarmament, and international security. Its primary work is to assist in drafting resolutions for consideration by the General Assembly. It also issues reports and records.<sup>10</sup>

### Counterproductive Procedures

The General Assembly's procedures encourage countries with limited interests in specific arms control and disarmament initiatives to involve themselves in these matters. Too many resolutions on arms control and disarmament issues brought before the General Assembly are sponsored by nations with only a distant or tangential interest in the subjects. Many are introduced on behalf of the Non-Aligned Movement (NAM).<sup>11</sup> The result is resolutions that tend to point out and complain about problems, but offer only abstract and/or impractical solutions.

For example, Indonesia sponsored a draft resolution in 2007 on the relationship between disarmament and development on behalf of the Non-Aligned Movement.<sup>12</sup> This resolution would take a portion of the resources made available by the implementation of arms control agreements and divert them to economic and social development, thereby reducing resources for arms control (in which Indonesia has little stake) in favor of development (in which Indonesia is strongly interested). Because countries with little direct stake in arms control dominate the General Assembly, its resolutions make virtually no direct contributions to solving problems related to the threats posed by dubious countries that possess or are seeking to acquire certain kinds of weapons.

This unduly broad involvement in arms control and disarmament could be corrected by implementing the voluntary funding mechanism that Ambassador Bolton recommends in the foreword to this book. Participation in the execution of General Assembly resolutions on arms control and disarmament and other matters should be limited to those countries that are willing to play a direct role by contributing resources to the effort. The text of the resolutions themselves should be limited to instructions to the U.N. Secretariat's Department of Disarmament Affairs to provide clerical and organizational support to the countries (sponsors) directly involved in resolving the relevant matter.

For example, if outside monitors were needed to confirm that a country is divesting itself of certain classes of weapons, this approach would permit only member states that are willing to contribute resources to the monitoring system and monitoring activities to sponsor the resolution. Further, this kind of resolution should have a sunset clause that would terminate U.N. involvement in the activity if the specific pledges of resources by sponsoring countries did not materialize or if the prescribed monitoring activity had been concluded. This way the resolutions would

---

9. U.N. General Assembly, "Israeli Nuclear Armament," A/RES/39/147, December 17, 1984, at [www.un.org/documents/ga/res/39/a39r147.htm](http://www.un.org/documents/ga/res/39/a39r147.htm) (accessed June 25, 2008).

10. For a description of the work performed by the First Committee, see U.N. General Assembly, First Committee, "Documents of the 62nd Session," at [www.un.org/ga/first/62/documentation.shtml](http://www.un.org/ga/first/62/documentation.shtml) (accessed May 1, 2008).

11. For a listing of the resolutions introduced in the General Assembly and referred to the First Committee during the 62nd Session of the United Nations, see U.N. Dag Hammarskjöld Library, at [www.un.org/Depts/dhl](http://www.un.org/Depts/dhl) (accessed August 1, 2008).

12. U.N. General Assembly, First Committee, "Relationship between Disarmament and Development," Agenda Item 98(j), October 23, 2007.

clearly identify the problem to be solved, avoid an unfunded mandate that would likely be financed by all member states through the U.N. regular budget, and provide a more direct path to the practical resolution of the problem. It would also ensure that those countries most directly involved would guide the process.

### **The First Committee's Excessively Broad Roles and Functions**

It is appropriate for the First Committee to assist in drafting General Assembly resolutions in a manner consistent with the process described above. However, it is not appropriate for the First Committee to issue reports on the general subjects of arms control and disarmament. Such reports have too often consisted of simple hectoring statements and are largely criticisms of the United States, such as the committee's November 2007 report *General and Complete Disarmament*.<sup>13</sup>

Instead, the First Committee should be a small group. This means the First Committee and by extension all the main committees should no longer be committees of the whole. Limiting membership of the First Committee will require the General Assembly to adopt an implementing resolution under Article 22 of the Charter, which instructs the General Assembly to "establish such subsidiary organs as it deems necessary for the performance of its functions."

The smaller First Committee should focus on working with the sponsoring states to draft resolutions. As described earlier, these resolutions should generally consist of establishing mandates to the Secretariat's Department of Disarmament Affairs to provide clerical and logistical support to the sponsoring countries involved in the activities established by the resolutions. They should also catalog the specific contributions that the involved (sponsoring) countries have pledged to the activity. Effectively, the First Committee should become a drafting board for resolutions to be presented to the General Assembly. The other existing roles and functions of the First Committee, including the drafting of reports, should be eliminated.

### **The Secretariat and the Department for Disarmament Affairs**

The U.N. Secretariat performs the executive functions of the organization. Its management duties cover the full range of U.N. activities, including those related to arms control and disarmament.<sup>14</sup> At the heart of the Secretariat is its staff: 36,579 (excluding more than 200 on special leave without pay or seconded to other organizations) were under contract as of June 30, 2007. Of this total, 30,745 were employed on contracts of one year or more. Slightly less than one-third (11,253 people) were employed at U.N. headquarters in Geneva, Nairobi, New York, and Vienna.<sup>15</sup> A U.N. budget document indicates that 9,993 "established and temporary posts" in New York were proposed for the 2008–2009 biennium.<sup>16</sup>

---

13. U.N. General Assembly, First Committee, *General and Complete Disarmament*, A/62/391, November 15, 2007, at [www.undemocracy.com/A-62-391.pdf](http://www.undemocracy.com/A-62-391.pdf) (accessed August 4, 2008).

14. For a summary description of the U.N. Secretariat and its staff, see U.N. Department of Public Information, "Secretariat," 2004, at [www.un.org/documents/st.htm](http://www.un.org/documents/st.htm) (accessed May 1, 2008).

15. See U.N. secretary-general, "Composition of the Secretariat," A/62/315, August 31, 2007, 9, 11–12, table 1. According to the U.N. document, the global U.N. Secretariat staff "includes all staff with valid contracts as of 30 June 2007, irrespective of source of funding, type of engagement, duration of contract, level or duty station. It also includes for the first time data on the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. Staff included in the analysis are those serving at headquarters duty stations (New York, Geneva, Vienna and Nairobi), at regional commissions (Economic Commission for Africa, Economic Commission for Europe, Economic Commission for Latin America and the Caribbean, Economic and Social Commission for Asia and the Pacific and Economic and Social Commission for Western Asia), in field locations where they are administered by the Department of Economic and Social Affairs, the Department of Political Affairs, the Department of Public Information, the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Human Rights, the Office of Internal Oversight Services, the United Nations Conference on Trade and Development, the United Nations Environment Program, the United Nations Human Settlements Program and the United Nations Office on Drugs and Crime, field missions administered by the Department of Peacekeeping Operations and in the international tribunals for the former Yugoslavia and Rwanda." U.N. secretary-general, "Composition of the Secretariat," p. 9.

16. U.N. General Assembly "Proposed Programme Budget for the Biennium 2008–2009: Foreword and Introduction," A/62/6, June 8, 2007, pp. 33–41, table 5, at [www.un.org/ga/fifth/ppb89sg.shtml](http://www.un.org/ga/fifth/ppb89sg.shtml) (accessed September 6, 2008).

Secretariat operations, led by the secretary-general, and its staff are funded out of the U.N. regular budget and through extrabudgetary resources. The personnel are identified as international civil servants and are answerable only to the United Nations for their activities. In fact, they take an oath that precludes them from seeking or receiving instructions from member governments.

The secretary-general's direct line of authority on arms control and disarmament proceeds through the Department for Disarmament Affairs.<sup>17</sup> Its breadth of activities cuts across the full range of arms control and disarmament matters, including such detached subjects as gender and disarmament.<sup>18</sup> By outward appearances, DDA staff spends the majority of its time advocating disarmament.

In 2007, secretary-general Ban Ki-moon understandably proposed rolling the DDA into the Department of Political Affairs, its companion institution inside Secretariat. The proposal drew criticism from both the Non-Aligned Movement and NGOs that advocate arms control.<sup>19</sup> Shortly thereafter, the secretary-general dropped his proposal.<sup>20</sup> As in many other instances, the permanent U.N. bureaucracy demonstrated considerable skill in the art of institutional survival. Whether or not DDA should be a separate department under the secretary-general, however, is less important than operating a responsible and effective institution for addressing arms control and disarmament matters.

### Lack of Accountability to Member Governments

The offices and personnel of the U.N. Secretariat are not accountable to the member governments. The fact that Secretariat personnel, including those in the DDA, are accountable only to the U.N. is tantamount to saying that they are accountable to nobody. This is the chief problem with Secretariat, both generally and specifically in the DDA. The current system is wrong to separate the Secretariat from member states. In fact, the entire U.N. structure should serve the members.

Once again, a system of voluntary contributions from member governments to support U.N. activities would effectively correct the lack of accountability. It would build on the process of adopting resolutions in the General Assembly described earlier in this chapter. The resolutions, which would be sponsored by the members committed to participating in the activity established by the resolution, would establish the task for the Secretariat. A task-oriented Secretariat would be manned by officials from the participating governments, who would maintain their positions as officials of their sponsoring governments. Inherent in this approach is elimination of the oath currently administered to Secretariat personnel and their designation as international civil servants. Under this arrangement, seconded staff from participating governments would enjoy the privileges and immunities as U.N. staff, but strictly in the context of the missions assigned to them by the cooperating member states. Furnishing manpower for these purposes would constitute a voluntary in-kind contribution to the U.N. and its value would be counted toward the member governments' overall contributions to the activity established by resolution, whether that resolution is a Security Council resolution or a General Assembly resolution. Other contributions, of course, could be purely financial.

For example, in a monitoring activity, the participating countries would provide the resources to establish the appropriate task force within the DDA. In the greater scheme of things, the DDA would henceforth consist of a variety of ad hoc task forces. All personnel participating in the task force would remain employees of their sponsoring governments, cooperating with one another under the terms of the relevant resolution. Financial and material resources would be contributed by the participating countries and would be managed and consumed by the task force. Given the task-oriented structure of the system and the required sunset clause in the authorizing resolution, the task force would be dissolved upon completion of the assigned task or its failure to complete the task by the

---

17. For a summary description of the DDA, see U.N. Department of Public Information, "Disarmament," updated January 19, 2006, at [www.un.org/issues/m-disarm.html](http://www.un.org/issues/m-disarm.html) (accessed May 1, 2008).

18. U.N. Department for Disarmament Affairs, Office for Disarmament Affairs, "Peace and Security through Disarmament," at [disarmament.un.org](http://disarmament.un.org) (accessed May 1, 2008).

19. Thalif Deen, "U.N. Move to Downgrade Disarmament Triggers Protests," CommonDreams.org News Center, January 17, 2007, at [www.commondreams.org/headlines07/0117-05.htm](http://www.commondreams.org/headlines07/0117-05.htm) (accessed May 1, 2008).

20. Associated Press, "U.N. Drops Key Restructuring Proposal after Protests from Non-Aligned Nations," Fox News, January 19, 2007, at [www.foxnews.com/story/0,2933,244819,00.html](http://www.foxnews.com/story/0,2933,244819,00.html) (accessed May 1, 2008).

established deadline. The sponsoring governments would then assign their personnel to new positions on other U.N. activities or national activities. The task forces would continue only if reauthorized under a new resolution. This system would make the Secretariat and its activities accountable to the member states and restore the concept of state sovereignty to its proper place in the Secretariat.

## The U.N. Conference on Disarmament

The United Nations touts the U.N. Conference on Disarmament as “the single multilateral disarmament negotiating forum of the international community.”<sup>21</sup> It has sixty-five member states and is located in Geneva, Switzerland. The Conference on Disarmament provides an annual report to the General Assembly. Its 2007 annual report listed the following items on its agenda in 2007:

1. Cessation of the nuclear arms race and nuclear disarmament.
2. Prevention of nuclear war, including all related matters.
3. Prevention of an arms race in outer space.
4. Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons.
5. New types of weapons of mass destruction and new systems of such weapons; radiological weapons.
6. Comprehensive programme of disarmament.
7. Transparency in armaments.
8. Consideration and adoption of the annual report and any other report, as appropriate, to the General Assembly of the United Nations.<sup>22</sup>

The Conference on Disarmament operates by consensus. While it has not produced a major arms control treaty in recent years, earlier efforts by it and its institutional predecessors have produced:

- The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 1972 (Biological Weapons Convention)
- The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 1993
- The Comprehensive Nuclear Test Ban Treaty (CTBT) of 1996

All three treaties are fatally flawed to the point that they cannot accomplish their purposes because some countries refused to join the regimes or because compelling evidence exists that countries that joined are prepared to or are currently violating their obligations under these treaties. For these reasons, the U.S. Senate soundly rejected the Comprehensive Nuclear Test Ban Treaty on October 13, 1999.<sup>23</sup> In this instance, the Conference on Disarmament was the primary contributor to this outcome because it unwisely overreached by negotiating a “zero-yield” test ban, ignoring the fact that a zero-yield ban is not verifiable.

An ongoing example of overreaching is the Chinese and Russian proposal for a treaty on the “prevention of an arms race in outer space” (PAROS). In May 2008, the Chinese and Russians issued a joint statement in Beijing reiterating their support for such a treaty.<sup>24</sup> In this case, the treaty will attempt to ban something (i.e., space weapons)

21. For a summary description of the U.N. Conference on Disarmament, see U.N. Office at Geneva, “Disarmament,” at [www.unog.ch/disarmament](http://www.unog.ch/disarmament) (accessed September 6, 2008).

22. U.N. Conference on Disarmament, annual report for 2007, CD/1831, September 13, 2007, pp. 5–6, at [daccessdds.un.org/doc/UNDOC/GEN/G07/636/40/PDF/G0763640.pdf](http://daccessdds.un.org/doc/UNDOC/GEN/G07/636/40/PDF/G0763640.pdf) (accessed May 5, 2008).

23. *CQ Almanac, 106th Congress, 1st Session* (Washington, DC: Congressional Quarterly, 2000), 9-40–9-46.

24. Peter Brookes, “Marking the Boundaries of Weapon Use in Space,” *Jane’s Defence Weekly*, July 22, 2008, reprinted at [www.heritage.org/Press/Commentary/ed072508c.cfm](http://www.heritage.org/Press/Commentary/ed072508c.cfm).

that experience demonstrates cannot be defined. For example, the Soviet Union sought to define the U.S. space shuttle as a weapon during the Cold War.

It is far from clear why the broader U.N. system would want to have a single multilateral negotiating forum on arms control and disarmament. The varying agendas of the sixty-five participants have undermined any sense of coherence and purpose. Its unwieldy structure has also exposed it to pressure from outside NGOs that advocate an unrealistic disarmament agenda. For example, numerous NGOs pressed for adoption of the unverifiable and unenforceable CTBT.<sup>25</sup>

Given the flawed products that the conference has produced, its susceptibility to pressure from NGOs, and its lack of productivity in recent years, the U.N. should abolish the Conference on Disarmament, as proposed by the United States Institute of Peace's Task Force on the United Nations.<sup>26</sup> The task force also recommended that the Security Council establish ad hoc negotiating bodies of manageable sizes to take on narrowly defined tasks.

The ad hoc approach recommended by the task force is the correct approach, except that the Security Council is not needed to establish these groups. Instead, the nations that are interested and willing to undertake such a narrowly defined arms control and disarmament negotiating task should form the groups themselves. If at an appropriate point the ad hoc group feels that it would benefit from Security Council support, it should appeal to the Security Council.

The Proliferation Security Initiative (PSI) is an example of a successful ad hoc arrangement. President George W. Bush proposed the establishment of the PSI at the G-8 summit in Poland on May 31, 2003. The PSI's governing principles were adopted at a meeting in Paris on September 4, 2003. The PSI established a means for participating states to cooperate in interdicting transshipments of weapons of mass destruction. Its strength is that, unlike U.N. bodies, it remains an activity and not an international organization. This permits it to harness the power of sovereign states and their institutions to achieve specific security, arms control, and nonproliferation goals.<sup>27</sup> While PSI is not a U.N. initiative—nor should it be—it is an existing and ongoing example of how a more flexible arrangement can be very successful where more traditional efforts have failed. Indeed, it is an excellent reason not to rely solely on the U.N. in pursuing arms control and disarmament efforts.

If the treaty under negotiation is designed to involve only the participating states in the negotiations, then the treaty should specifically identify these states as parties to the treaty. If the treaty under negotiation is designed to appeal to a broader group of nations, then the treaty should establish accession arrangements that provide due regard for state sovereignty. Under no circumstances should any arms control or disarmament treaty drafted by a group include provisions that could be binding on any state that has not signed and ratified it.

### The IAEA and Other U.N.-Affiliated Institutions

The U.N. includes not only the institutions within its structure, but also affiliated institutions that perform specific tasks, including a number of institutions that deal with arms control and disarmament issues. Among the most prominent is the International Atomic Energy Agency (IAEA). While each of the affiliated institutions has unique characteristics, their institutional structures are similar enough that the IAEA's structure can serve as a model for needed institutional reforms in this broader group of affiliated institutions.

The IAEA<sup>28</sup> consists of three bodies: the General Conference, the Board of Governors, and the staff. The General Conference consists of all the participating states. Typically, the General Conference meets annually and approves

---

25. International Physicians for the Prevention of Nuclear War et al., "Joint Statement Endorsed by 97 Non-Governmental Organizations (NGOs), Including IPPNW," September 5, 2003, at [www.ippnw.at/presse/030905-ctbt-statement.shtm](http://www.ippnw.at/presse/030905-ctbt-statement.shtm) (accessed June 25, 2008).

26. United States Institute of Peace, Task Force on the United Nations, "American Interests and UN Reform," 2005, p. 23, at [www.usip.org/un/report/usip\\_un\\_report.pdf](http://www.usip.org/un/report/usip_un_report.pdf) (accessed May 5, 2008).

27. Baker Spring, "Harnessing the Power of Nations for Arms Control: The Proliferation Security Initiative and Coalitions of the Willing," Heritage Foundation *Background*, no. 1737 (March 18, 2004), at [www.heritage.org/Research/NationalSecurity/bg1737.cfm](http://www.heritage.org/Research/NationalSecurity/bg1737.cfm).

28. For a summary description of the IAEA, see International Atomic Energy Agency, "The 'Atoms for Peace' Agency," at [www.iaea.org/About/index.html](http://www.iaea.org/About/index.html) (accessed May 6, 2008).

the budget and other matters brought before it by the Board of Governors. The Board of Governors is the IAEA's policymaking body and consists of thirty-five member states, which are elected by the General Conference. The outgoing board designates the new members for election based on each state's advancement in atomic energy technology and geographic distribution. The Board of Governors typically meets five times a year. It also selects the IAEA's director general. The director general leads the IAEA staff, which currently consists of 2,200 individuals from ninety countries. The staff is organized to perform work in three general areas: improving the safety and security at nuclear facilities, advancing nuclear science and technology for peaceful purposes, and applying safeguards and verification measures to ensure that peaceful nuclear programs are not diverted to weapons purposes. The safeguards and verification measures bring the IAEA into the field of arms control and disarmament.

Many other international institutions associated with the United Nations, including those with arms control and disarmament responsibilities, have similar structures. Generally, they consist of a general assembly of all the member states, a board with a smaller number of member states, and a staff that is led by an executive official. As such, these organizations possess both the strengths and weakness of the IAEA.

### **The IAEA's Unduly Broad Mandate**

The IAEA is charged with simultaneously expanding access to advanced nuclear technology and preventing the spread of nuclear weapons; this dual function creates a tension between these responsibilities because expanding nuclear technology can easily increase the risk of nuclear weapons proliferation. When U.N.-affiliated organizations have broad areas of responsibility, these kinds of tensions are all but certain to arise.

In the IAEA, this tension can jeopardize international security. The 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT) assigns the IAEA the responsibility to detect diversions of nuclear facilities and materials to weapons purposes. Effectively, this function is designed as a verification measure to ensure that nonnuclear-weapon states fulfill their treaty obligation of not pursuing nuclear weapons. Even though the risks to peace and security posed by diversion far outweigh the benefits of expanding nuclear technology, the IAEA's responsibility to safeguard against nuclear diversion is forced to compete against its responsibility to expand access to nuclear science and technology. Because these competing priorities are treated as equals, they can cause the organization to undermine its various efforts in either direction. In short, its unwieldy mandate has produced an unwieldy organization.

The answer to the IAEA's unduly broad mandate is to prioritize its competing responsibilities. Because its safeguard responsibilities are far more important than its responsibilities to expand access to nuclear technology and facilities, the IAEA Board of Governors should focus funding and staff on the safeguard mission and limit the scope of the assistance programs. It should make this prioritization explicit in its funding decisions, and its instructions to the staff to remove all doubt inside the organization about how it functions and where it should focus its attention. Preventing the diversion of nuclear material and facilities must come first.

Other U.N.-affiliated organizations with unduly broad mandates should also be forced to prioritize among their competing responsibilities.

### **The Director General's Involvement in Diplomatic and Political Matters**

The director general's position is intended to be nonpolitical. He is to supervise the staff in fulfilling its bureaucratic functions. Dr. Mohamed ElBaradei, the current IAEA director general, has certainly exceeded his mandate by involving himself in diplomatic and political matters related to Iran's nuclear program. Reports indicate that he has specifically demanded that the United States offer economic and security concessions to Iran.<sup>29</sup> In outward appearances, he behaves like a mediator, not an executive agent.

The IAEA Board of Governors needs to rein in the director general, specifically warning him against involving himself in diplomatic and political affairs. It should reaffirm that his mandate is to put in place safeguards to detect attempts by nonnuclear-weapon states (e.g., Iran) to divert nuclear materials and facilities to weapons purposes. It

---

29. George Jahn, "Diplomats Say IAEA Chief Urging More U.S. Flexibility on Iran," Associated Press, May 6, 2008.

should prohibit him from undertaking any negotiations on the substance of any suspect nuclear program. Rather, his interactions with any nonnuclear-weapon state, including suspect states, should focus on putting the necessary safeguards in place and reporting to the board if a state is limiting a safeguard system in any way.

Other U.N.-affiliated institutions with executive branches that inappropriately engage in diplomatic and political functions should take similar steps to rein in such behavior.

### The IAEA's Monopolistic Behavior

The IAEA staff essentially considers itself the sole authority for designing and managing the safeguard system referred to in the NPT. Like all monopolies, it has become complacent and self-indulgent regarding its responsibilities. The discoveries of Iraq's clandestine nuclear facilities after the first Gulf War revealed that the IAEA staff was reluctant to challenge Iraq on the accuracy of its list of declared facilities prior to the conflict.<sup>30</sup> Prior to the second Gulf War, the IAEA staff's assessment regarding the lack of an Iraqi nuclear weapons program proved more accurate. However, it is entirely possible that its accuracy in this case was more the result of its traditional complacency than of a careful assessment of Iraq's program.

The argument demonstrating IAEA complacency is bolstered by its staff's failure to discover an illicit shipment of nuclear-related equipment to Libya. This discovery was a contributing factor in Libya's decision to declare and dismantle its nuclear weapons program in December 2003. In the aftermath of the Libyan declaration, the IAEA director general acknowledged that the IAEA would need to "kick start the process of verification."<sup>31</sup>

The answer to the IAEA staff's monopolistic behavior is for prominent states to break the monopoly. The United States should lead an effort by interested states to create a competing international institution to perform the safeguard mission. They can do this in two ways. First, the participating states can agree to undertake safeguard measures among themselves. These measures should be stricter than the IAEA's safeguards and should be conducted in addition to IAEA measures. They should be performed by national inspection teams on a reciprocal basis. Second, those states involved in negotiations to ensure nonproliferation goals regarding suspect states (e.g., the six-party talks on North Korea) should not simply allow the IAEA to manage the safeguard and verification systems resulting from any agreement. Instead, they should insist on conducting safeguard and verification activities that augment IAEA measures. These inspections should also be performed by national teams.

These two steps would fill the gaps in the safeguard system created by the IAEA's complacency and self-indulgence and they would force the IAEA to compete in performing safeguard functions or risk becoming irrelevant.

As needed, other U.N.-affiliated organizations that are involved in arms control and disarmament matters should likewise be forced to compete with other safeguard, verification, and inspection regimes.

## Nongovernmental Organizations

A wide variety of nongovernmental organizations participate in U.N. arms control and disarmament efforts. Many are nothing more than arms control and disarmament advocacy groups. Such NGOs have little interest in protecting member states' inherent right of individual and collective self-defense as stated in Article 51. They are interested in elevating the cause of arms control and disarmament as an end unto itself, rather than as a means to enhance national security or international peace and stability. This even includes pressuring the U.N. on internal organizational decisions that could be perceived as downgrading the value of arms control and disarmament in purely abstract terms. As noted, some NGOs challenged the U.N. secretary-general's proposal to fold the Department for Disarmament Affairs into the Department for Political Affairs in the U.N. Secretariat.<sup>32</sup> The secretary-general abandoned his proposal shortly thereafter.

---

30. Baker Spring, "Controlling the Bomb: International Constraints on Nuclear Weapons Are Not Enough," *Heritage Backgrounder*, no. 941 (May 19, 1993): 5, at [www.heritage.org/Research/NationalSecurity/bg941.cfm](http://www.heritage.org/Research/NationalSecurity/bg941.cfm).

31. Anjali Bhattacharjee and Sammy Salama, "Libya and Nonproliferation," James Martin Center for Nonproliferation Studies, December 24, 2003, at [cns.miis.edu/pubs/week/031223.htm](http://cns.miis.edu/pubs/week/031223.htm) (accessed May 7, 2008).

NGOs are too closely involved in the internal procedures of the U.N. This incident suggests that the NGOs are directly participating in the decision-making process in the U.N. structure, as opposed to performing an educational or advocacy function from outside the organization. To the extent that such participation leads the U.N. Secretariat to take one action instead of another, it undermines the U.N.'s primary purpose, which is to serve and be responsible to the member states. Indeed, some elements of the U.N. structure appear to answer more to the NGOs than to the member states.

In arms control, this shift started with the Ottawa Process, which produced a treaty banning antipersonnel land mines. In the Ottawa Process, the NGOs assumed roles functionally equivalent to the diplomatic representatives of states, although in collaboration with approving state delegations. Further, these NGOs did not even bother to claim that they represented a broad cross section of public opinion on the issue of banning antipersonnel land mines. They were explicitly advocates of a complete ban.<sup>33</sup>

The latest cause of the arms control and disarmament advocacy groups is to establish a treaty banning cluster munitions. Regardless of this proposal's merit or lack of merit, the conference convened in Dublin on May 19, 2008, reveals how NGOs are beginning to dominate the arms control process at the United Nations. First, the Dublin conference permitted a sponsorship arrangement in which the U.N. Development Program covered the participation costs of some states.<sup>34</sup> Many U.N. member states are pressed for funding and find it difficult to attend the multitude of U.N. meetings, conferences, and summits held every year. They frequently do not send representatives to events that they consider irrelevant or of limited interest. This is and should be their prerogative and serves as an important filter to limit attendance to those countries that highly value the particular conference. By funding attendance at these conferences, the U.N. discourages countries from appropriately weighing their priorities when deciding which conferences are most important to their governments and citizens and therefore justify the expense of attending. Instead, the U.N. is substituting nonnational priorities.

Second, the conference listed 259 individuals on the official list of delegates as NGO representatives.<sup>35</sup> These NGO representatives were provided direct access to the conference proceedings. This is the equivalent of the U.S. House of Representatives granting floor privileges to lobbyists. It mocks the role and stature of government representation in U.N. activities. Worse, the NGO representatives were not broadly based. Judging from the names of their organizations, nearly all 259 were arms control advocates and almost certainly committed to adopting a ban on cluster munitions. None appeared to represent organizations concerned about the ability of national militaries to fulfill their assigned missions.

*The first step* to restoring an appropriate relationship between internal U.N. bodies and NGOs is to restore the sovereign state to its preeminent position in the U.N. If the U.N. insists that member states take direct responsibility for their actions in the various U.N. processes, the NGOs will be forced to advocate their positions at the domestic level. This will limit their efforts to circumvent the member states to push their own agendas supranationally within the U.N. structure.

*The second step* is to implement a voluntary contribution mechanism. If U.N. positions are filled only by employees of the member states at their own expense, the NGOs will be effectively barred from assuming roles that should belong to the participating governments.

*The third step* is to limit arms control negotiating groups to those states with a direct interest in the outcome. The NGOs have worked their way into inappropriate positions within U.N. arms control and disarmament insti-

---

32. Global Action to Prevent War and Armed Conflict, "Secretary-General Ban Ki-moon: Don't Downgrade the Department for Disarmament Affairs!" February 7, 2007, at [www.globalactionpw.org/UN/Downgrade\\_DDA.htm](http://www.globalactionpw.org/UN/Downgrade_DDA.htm) (accessed May 7, 2008).

33. For a description of the Ottawa Process, see David Davenport, "The Ban on Landmines, the International Criminal Court and Beyond," *Policy Review*, no. 116 (December 2002 and January 2003), at [www.hoover.org/publications/policyreview/3458466.html](http://www.hoover.org/publications/policyreview/3458466.html) (accessed July 15, 2008).

34. Government of Ireland, Department of Foreign Affairs, "Dublin Diplomatic Conference on Cluster Munitions: Information for Delegates," at [www.clustermunitionsdublin.ie/delegation.asp](http://www.clustermunitionsdublin.ie/delegation.asp) (accessed June 26, 2008).

35. Government of Ireland, Department of Foreign Affairs, "Diplomatic Conference for the Adoption of a Convention on Cluster Munitions: List of Delegates," May 30, 2008, pp. 34–45, at [www.clustermunitionsdublin.ie/pdf/CCM\\_INF\\_1\\_ListofDelegates\\_Final.pdf](http://www.clustermunitionsdublin.ie/pdf/CCM_INF_1_ListofDelegates_Final.pdf) (accessed July 15, 2008).



tutions through states that have no interest in the outcome. If these disinterested states are excluded from a particular negotiating structure, the NGOs will not have the political space to involve themselves directly in the process.

*The final step* is for the U.N. to bar member states from granting proxies to NGOs to assume their responsibilities in U.N. activities. This step will eliminate the mechanism that the NGOs have used to assume inappropriate responsibilities, such as happened at the cluster munitions conference in Dublin.

### The U.N. Charter

Given the myriad structural shortcomings of the greater U.N. system in relation to arms control and disarmament issues, it is reasonable to ask whether adopting a new U.N. Charter would be the best way of reforming the entire system. If the changes to the U.N. system proposed in this chapter are not adopted, then the alternative of a new U.N. Charter should be examined. Too much has gone wrong with the U.N. in the field of arms control and disarmament since its creation in 1945 to let the problems continue to fester. Further, there is growing pressure to increase the size of the Security Council. The United States, in principle, supports expanding the Security Council to include Japan.<sup>36</sup>

The wisdom of expanding the Security Council is questionable. Even a modest expansion would make the council more unwieldy, contribute to gridlock, and dilute U.S. influence in the council. Expansion would inevitably make the council less able to respond to crises and less supportive of the United States on many key issues.<sup>37</sup> Ambassador Bolton said,

I felt strongly that any increase in the Council's overall size should be minimal, since it was hard enough to get any real work done with fifteen members, and each new addition increased that difficulty not just arithmetically but probably geometrically. The United States was certainly the most concerned about maintaining the Council's (limited) effectiveness as a decision-making body. Many aspirants for permanent membership never considered the consequences of expanding the body to twenty-four or twenty-five members, so eager were they to get a chair around that horse-shoe table, regardless of what would follow. I must confess, from time to time I had an "Atlas Shrugged" moment, concluding that we should just let the Council expansion happen, and, as we predicted, watch the whole thing slide into a ditch. But then, my sense of responsibility would assert itself, and I would revert to diligent defender of the Council's effectiveness.<sup>38</sup>

Regardless of the consequences, there is considerable interest in expanding the council. Expanding the Security Council would require revising the Charter, thus the United States must be prepared to undertake a revision in the Charter in any event.

However, amending or revising the U.N. Charter is not easy. The Charter amendment process is appropriately challenging. It is not the sort of document that should be tampered with frequently or for insignificant reasons, nor should a few countries have the power to change a treaty affecting all nations. Yet this also means that amending the Charter to address the organization's weaknesses will be difficult. In particular, it would be extraordinarily difficult for the United States to gain support from two-thirds of the General Assembly for any proposal limiting the U.N.'s role, revising U.N. staffing and funding procedures, or limiting participation in activities long considered the province of all U.N. member states to only those states with a direct interest. Nevertheless, considering the options for revising the Charter is necessary because the organization is seeking to override state sovereignty in a way that threatens liberty worldwide.

---

36. John R. Bolton, "Statement on Security Council Reform," U.S. State Department, November 10, 2005, at [www.state.gov/p/io/rls/rm/57420.htm](http://www.state.gov/p/io/rls/rm/57420.htm) (accessed May 8, 2008).

37. For a lengthier discussion, see Nile Gardiner and Brett D. Schaefer, "U.N. Security Council Expansion Is Not in the U.S. Interest," Heritage Foundation *Background*, no. 1876 (August 18, 2005), at [www.heritage.org/Research/InternationalOrganizations/bg1876.cfm](http://www.heritage.org/Research/InternationalOrganizations/bg1876.cfm).

38. Bolton, *Surrender Is Not an Option*, 251.

Given the difficult process of revising the U.N. Charter and the likelihood that other nations would use the opportunity to propose amendments inimical to U.S. interests, the United States should be very wary of supporting a process to revise the Charter and should regard any such effort as a long-term enterprise. It would require a consistent vision, patience, and determination—qualities not usually associated with the U.S. State Department, which would likely oversee the negotiations.

The United States will come under enormous pressure to adopt the product of a Charter amendment process, even if it is clearly inconsistent with U.S. interests. Therefore, the United States must be certain and clear about what it wants to obtain through a revision in the U.N. Charter and publicly state that goal. Clarity of purpose and a public statement of intent will provide a basis for U.S. leaders in Congress and the executive branch and for the public to judge whether the revision process is running in the wrong direction and would make the U.N. even less effective, or if it would expand U.N. authority in a manner that threatens state sovereignty and the cause of liberty. Knowing that the result will be held to a public metric of what constitutes a desirable outcome will stiffen U.S. resolve when other governments and NGOs pressure the United States to accept a deleterious outcome.

The two options for amending or revising the U.N. Charter are set forth in Chapter 8. Under the first option, the General Assembly can adopt an amendment by a two-thirds vote of its members. The amendment would enter into force when two-thirds of the members, including all five permanent members of the Security Council, have ratified it.<sup>39</sup>

Under the second option, two-thirds of the members of the General Assembly and any nine members of the Security Council can vote to convene a charter review conference.<sup>40</sup> The conference may recommend alterations in the Charter by a two-thirds vote. The alterations would enter into force when two-thirds of all members, including all the permanent members of the Security Council, have ratified them.

The United States should view an effort to revise the U.N. Charter as a long-term enterprise and should prepare to opt for the latter option if the revision process is being initiated. With this approach, the United States would signal to other members of the General Assembly its willingness to support a resolution calling for the convening of a review conference. This approach would allow initiation of the Charter revision process, which otherwise could be blocked at the outset by a recalcitrant permanent member of the Security Council.

However, entering into a Charter amendment process is far more likely to yield an unsatisfactory result. Indeed, a two-thirds majority of the member states is far more likely to expand U.N. authority in ways that would replicate or exacerbate the organization's current flaws than to restrict the U.N.'s role and make it more focused on and accountable to member states.

Moreover, if an effort to revise the Charter, whether initiated to expand the membership of the Security Council or for some other reason, were moving in the wrong direction, the United States would have little choice but to abandon the U.N. altogether. Once such misdirected amendments were submitted for ratification, many member states would eagerly press forward to ratify them, either because they would support increasing the U.N.'s authority and power or because they would face little consequence from such an expansion of power. Pressure on the permanent members of the Security Council to ratify such amendments would mount and ultimately prevail. At that point, the reform process would clearly have arrived at a dead end, and U.S. interests would be far better served by ending U.S.

---

39. "Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council." Charter of the United Nations, art. 108.

40. "A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations including all the permanent members of the Security Council. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council." Charter of the United Nations, art. 109.

participation in the U.N. than by continuing to participate, with the notable exception of maintaining its presence on the Security Council to veto objectionable resolutions.

While reaching such a dead end in the U.N. reform process is not inevitable, the United States cannot just hope for the best. The United States will need to take steps in the interim to reserve its options. Simply leaving the U.N. would not be wise. While a number of national interests are not served by working through multilateral institutions, some indisputably are best served by working through that framework. The United States will need to move to an alternative institution. It can do this by taking concrete steps to build such an institution. Kim Holmes, vice president of The Heritage Foundation, has proposed creating a Global Freedom Coalition.<sup>41</sup> While it need not be created as an explicit alternative to the U.N., a Global Freedom Coalition could evolve into that if circumstances warrant.

### The Way Forward

The United Nations system has assumed a large and influential role in international efforts on arms control and disarmament. While the U.N. and some of its affiliated bodies certainly have roles to play in this arena, the United States should undertake an effort to revise and reform the U.N.'s arms control and disarmament infrastructure to make it smaller and more focused and to eliminate the processes and traditions that have proven counterproductive.

#### Preserving and Protecting the Primacy of National Sovereignty

The slow, incremental expansion of U.N. authority, power, and influence in a host of international areas is infringing on the authority and sovereignty of nation-states. This is unjustified and inappropriate because the nation-state is the sole means through which the rights and privileges of individuals can be protected and preserved. While numerous governments abuse their power by failing to promote the best interests of their citizens or even by oppressing them, no viable or superior alternative exists to a representative government with ample checks to prevent abuse. Certainly, subordinating national governments to a largely unaccountable international bureaucracy is not a recipe for success. The United States should:

- Press the Security Council to adopt a resolution that unequivocally affirms every state's right to self-defense
- Seek to make the offices of the U.N. Secretariat accountable to the member states through the system of voluntary contributions and by requiring all personnel participating in U.N. activities to remain the employees of their sponsoring states
- Block NGOs from directly participating in U.N. activities by forcing them to work through the governments of member states to further their positions

#### Promoting the Values of Liberty in the U.N. and Elsewhere

The presence of despotic nations on key U.N. bodies, including the U.N. Security Council, can dramatically undermine the bodies' effectiveness. The United States should use its influence to impede those member states most opposed to liberty from election to the Security Council, or at the very least, seeking to bar member states currently under Security Council sanctions from sitting on the Security Council.

The United States should also use its influence to convince regional groups to support good candidates for the Security Council, rather than spoilers such as Iran and Venezuela. If these efforts fail to improve the composition of the Security Council, the United States should seek to create a competitor institution to the United Nations composed solely of members committed to liberty. This alternative institution should include a body that has responsibilities similar to the Security Council's mandate to maintain world peace and security, including arms control and disarmament matters.

---

41. Kim R. Holmes, *Liberty's Best Hope: American Leadership for the 21st Century* (Washington, DC: Heritage Foundation, 2008), 118–30.

## Overhauling the International Arms Control and Disarmament System

The current system for dealing with disarmament and arms control issues has fallen increasingly under the U.N.'s purview. This shift away from a state-based system is undesirable and counterproductive because it gives undue influence to those who are not responsible for and are not accountable to the people who may be made vulnerable by poorly conceived or biased arms control agreements and implementing measures. The United States should seek to implement a series of changes to return the focus of international arms control and disarmament efforts to states that have a direct, vested interest in negotiating realistic, effective, and verifiable agreements. Specifically, the United States should seek to:

- Narrow participation in the General Assembly's First Committee on Disarmament and International Security to a smaller number of key countries central to the discussion, and narrow the committee's jurisdiction to assisting in drafting resolutions that recommend arms control measures for member states to consider, individually or in the General Assembly
- Reform the funding mechanism by shifting from assessed budgetary support to a voluntary contribution funding mechanism focused on executing specific General Assembly resolutions on arms control
- Review and reform the international organizations focused on arms control and disarmament. Specifically, the United States should seek to abolish the U.N. Conference on Disarmament, clarify the mandate of the IAEA to emphasize its safeguard responsibilities over its mandate to access to nuclear technology, prohibit the IAEA director general from engaging in political and diplomatic activities, and establish alternative forums to compete with the IAEA and break its monopoly on nuclear safeguards
- Promote alternative institutions and options in arms control and disarmament. The Proliferation Security Initiative is a sound, successful example of how a non-U.N. effort can enhance arms control and disarmament efforts. The PSI option should be explored and replicated where appropriate.

## Refusing to Sign or Ratify Arms Control Treaties That Would Undermine U.S. Interests

Recent arms control and disarmament treaties emanating from the U.N. system have proven greatly flawed. The Biological Weapons Convention and the Comprehensive Nuclear Test Ban Treaty are flawed to the extent that they are unable to accomplish their purpose. Yet the United States participated in formulating these agreements and even signed them. To avoid this in the future, U.S. negotiators should be instructed to demand that:

- Arms control treaties include provisions that further a relevant military or security goal outlined by U.S. strategy. For example, an arms control treaty could ease the burden on the U.S. military by eliminating targets that are difficult to hold at risk.
- The United States will not be bound in any way by a treaty that it does not sign and ratify or that fails to enter into force for other reasons.

The United States should clearly state that failure to accommodate these principles in the treaty will lead the United States to refuse to sign future agreements, precipitate a decision to "unsign" existing agreements, and even lead the United States to consider withdrawing from current agreements to which it is a party.

## Conclusion

To successfully reform U.N. institutions to better address arms control and disarmament, the United States must clearly understand its vital national interests and demonstrate a willingness to defend those interests. For example, the U.N. system was not entirely at fault for producing the fatally flawed Comprehensive Nuclear Test Ban Treaty in 1996. In the negotiations, the Clinton administration completely lost sight of U.S. security requirements. It actually pressed the U.N. system to produce a treaty that so jeopardized the vital interests of the United States that the U.S. Senate had no choice but to soundly reject its ratification in 1999.

## **Restoring the Role of the Nation-State System in Arms Control and Disarmament**

---

Preserving a nation-state, including the United States, ultimately depends on its people and institutions demonstrating a willingness to defend it and its sovereignty. The disintegration of the Soviet Union demonstrates the potential fragility of a state. Even the Soviet superpower ceased to exist when its people and institutions stopped believing in its purpose, albeit this loss of purpose came for good cause. The cause of the United States is the preservation of liberty, starting with its own. It is the most noble of callings, and U.S. leaders should never lose sight of this.

The shortcomings of the U.N. system, particularly in arms control and disarmament, are coming dangerously close to being tantamount to an attack on liberty. The arms control and disarmament processes at the U.N. are increasingly becoming transparent attempts to disarm the defenders of liberty around the world, starting with the United States. At the same time, these processes seek to avoid confronting the arms buildups of forces for repression, such as Iran.

Under these circumstances, the United States cannot afford to allow the U.N. arms control and disarmament institutions to remain unreformed. Nothing less than the future survival of the United States and the worldwide cause of liberty are at stake. There is no room for moral self-doubt, a lack of understanding of the nation's vital interests, or a lack of willingness to defend these interests by the leaders of the United States.



214 Massachusetts Avenue, NE • Washington, DC 20002 • (202) 546-4400 • [heritage.org](http://heritage.org)