

Observations and lessons from the work of the Panel of Governmental Experts on Missiles

The following is based on what I have observed and learned from my participation in the United Nations Panel of Governmental Experts on the Issue of Missiles and all its Aspects.¹ The panel consisted of twenty-three governmental experts, meeting in three sessions over 2001 and 2002.

The panel, the first dedicated to this subject, was established by General Assembly resolution 55/33A of 31 October 2000, entitled 'Missiles'.² In accordance with this resolution, the panel was convened to discuss the issues of missiles in all their aspects and to submit a report. Initially, the report was expected to recommend any measures, if agreed, to address the issue of missiles. These recommended measures could have ranged from formulating a set of principles governing national missile activities, to politically binding commitments, to possible confidence-building measures (CBMs) to reduce missile threats, or even a legally binding treaty.

Given that there currently exist no globally binding instruments on missiles, the panel could have presented a good opportunity for considering how to establish a full-fledged, legally binding treaty on missiles. However, even before the conclusion of the panel's three sessions, it was clear that reaching agreement on a recommendation of this kind would be extremely difficult. In the end, the panel served merely as a forum for identifying and confirming the existing facts and issues arising from the possession and use of various kinds of missiles.

The panel's work included a review of the historical origins, chronological development and actual uses of missiles as weapons systems from the First World War to the present. The panel also held discussions to confirm the existing capabilities, characteristics and various types of missiles and the driving factors in their development. The panel identified missiles as a serious threat to international peace and security. However, in the end, the panel was not able to agree on next steps, and stopped short of recommending concrete measures.

Some thoughts on why the panel could not formulate recommendations

A MISSILE BAN WOULD BE CONTRARY TO THE TRADITIONALLY RECOGNIZED USE OF THESE WEAPONS

First of all, unlike weapons of mass destruction (WMD), such as nuclear and biochemical weapons, missiles have been conventionally recognized as legitimate weapons systems for national defence and security.

Since the use of nuclear weapons has presented phenomenal potential for the annihilation of humankind and the use of biological and chemical weapons has been condemned by the general opinion of the civilized world, the prohibition of WMD has been universally accepted through global treaties and conventions.

Missiles, on the other hand, have been used as legitimate battlefield weapon systems since the First World War. In a sense, virtually all countries claim the sovereign right to develop and use missiles for the sake of their national defence and security. It is therefore difficult for the international community to establish a general ban or regulations on the production, acquisition, development, testing, holding or use of missiles and missile technology.

DIVERSE NATURE OF MISSILE ACTIVITIES, AS REQUIRED BY VARIOUS AND DISTINCTIVE NATIONAL SECURITY INTERESTS

Virtually all states develop their national defence and acquire various missiles and missile technologies—ranging from tactical or strategic missiles to short-, medium-, intermediate- and long-range missiles—to respond to their perceived security threats.

The diverse security requirements of different states make it difficult to set uniform rules for the regulation of missile activities.

In the case of the regulation of nuclear weapons through the NPT, the international community was able to establish two clear categories to discriminate between nuclear-weapon states parties and non-nuclear-weapon states parties to the treaty. However, in the case of missiles, the process of reaching an agreement on discriminatory rules is complicated by the diverse needs and interests of each state.

OVERLAP BETWEEN MILITARY USE AND PEACEFUL APPLICATIONS OF MISSILE TECHNOLOGY

The dual-use nature of certain missile technologies allows for both military and peaceful applications, making them particularly difficult to regulate and ban.

For instance, the development of long-range missiles utilizes the same technology as the development of space launch vehicles (SLVs). As many states wish to further develop and take advantage of the space applications of this technology, it becomes difficult to regulate its possession and thus the development of long-range missiles.

EXPERTS UNAVOIDABLY REPRESENT THE INTEREST OF THEIR OWN COUNTRIES

The panel was composed of governmental experts from many countries and regions with conflicting security interests. Despite serving in their personal capacities, in practice the panellists represented the views of their own countries in the discussion.

In the course of the panel's discussion, political views and interpretations of the issues at hand were disclosed and created a stumbling block that impeded any potential agreement.

Due to the divergent views on politically sensitive and technically complex issues, such as missile defence and SLVs, the panel failed to establish a common set of objectives.

For instance, there was a reluctance to even use the word ‘proliferation’ on the grounds that it is considered judgmental by some countries. There was also debate whether the concept of ‘self-defence’ is applicable to the discussion of missile proliferation. Furthermore, fundamental disagreement arose on the category of missiles (particularly ballistic and non-ballistic) on which the panel should focus. And there was no agreement on whether the proliferation of ballistic missiles had become an overriding security issue in the field of missiles.

Prospects for future work

Under these circumstances, will it be possible in the near future for the United Nations to come up with a meaningful action programme or normative instrument to address even some of the security issues related to missiles? It seems doubtful.

As the General Assembly agreed in 2002 that there will be another United Nations panel on missiles beginning in 2004,³ it will be important to utilize the lessons that we have learned from the first panel.

Taking into account such lessons, concrete measures we could conceivably take to address the threat stemming from missiles in the three areas of non-proliferation, arms control and disarmament, and cooperation include the following.

NON-PROLIFERATION

Given that national missile activities have been recognized as legitimate means for national defence and security, it is not feasible to ban or regulate such activities in a general manner, particularly on the demand side. But when it comes to the threat of missiles, there is an obvious danger that certain countries or non-state actors could seek excessive development or acquisition of missiles and there might be a corresponding over-supply of missiles in surplus of reasonable national defence and security needs.

As a corollary, when we look at the supply side, there must be some areas on which we can reach agreement. A typical example of this would be the activities of the Missile Technology Control Regime (MTCR) or the Wassenaar Arrangement—export control regimes designed to prevent the irresponsible transfer or over-supply of missiles and missile technology.

In going forward, the international community should build on the foundation of initiatives already in place. In this regard, future discussion on missile issues should be formulated in a way that is both complementary to and reinforcing of the existing initiatives and achievements that currently regulate missile activities.

The International Code of Conduct (ICOC, now known as the Hague Code of Conduct), initially formulated by the MTCR and now open for universality, exemplifies a best practice in this area. It is encouraging that more than ninety countries signed the ICOC at its launching conference held in the Hague on 26 November 2002.

ARMS CONTROL AND DISARMAMENT

In the area of arms control and disarmament we first need to encourage the further development of CBMs in the field of missiles. Because the main purpose of CBMs is to reduce the threat stemming

from missiles by increasing the transparency of national missile activities, it is a relatively easy area in which to agree. Ensuring that countries are aware of each other's missile activities would contribute to the reduction of this threat, leading to greater stability.

Second, the importance of regional context should be underscored. As demonstrated by the panel's discussion, in which many of the divisions among the group stemmed from regional considerations, regional coordination should be an integral part of the development of CBMs. Despite some opinions that stressed the global application of CBMs, the prevailing view within the panel was that CBMs could not be uniformly applied due to security concerns particular to each region.

While an approach to non-proliferation could be global, arms control and disarmament in the field of missiles is best addressed in the context of regional and bilateral efforts. Two examples of this effective approach can be seen in the Pre-Launch Notification Agreement ratified by the United States and the Russian Federation and the Lahore Declaration between Pakistan and India.

COOPERATION

This area concerns the ways and means to discourage any country from developing missiles, especially long-range missiles, for purposes other than space programmes.

The international community needs to further explore areas of cooperation by which incentives are provided to those states which forgo the development of missiles for military use.

In the case of dual-use technologies, such as SLVs, countries in possession of such technology should provide assistance to those countries interested in its space applications and other peaceful uses. In this way, we can use space-launching opportunities as incentives to prevent states from developing long-range missiles.

The ICOC has a few paragraphs on such incentives. But these need to be further elaborated so that they become an attractive and effective *quid pro quo*.

Conclusion

In conclusion, the fundamental question of how to deal with the issue of missiles rests with the individual country or collective actions of so-called missile clubs, such as the MTCR. Beyond that, I am confident that the ICOC will be the most effective tool for curbing the proliferation of missiles and missile technology, for some time to come.

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Notes

- 1 *The issue of missiles in all its aspects: Report of the Secretary General*, General Assembly document A/57/229 of 23 July 2002, available at < <http://disarmament.un.org/wmd/missiles.htm> > .
- 2 Available at < <http://disarmament.un.org/wmd/missiles.htm> > .
- 3 United Nations General Assembly resolution 57/71, available at < <http://disarmament.un.org/wmd/missiles.htm> > .