Weapons of Mass Destruction in the Report of the Secretary-General’s High-Level Panel: Renewing or Consolidating the Arms Control and Disarmament Regimes?

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The Report of the Secretary-General’s High-Level Panel on Threats, Challenges and Change, entitled “A more secure world: our shared responsibility,” released in December 2004, gives more than considerable prominence to the security threats posed by “nuclear, radiological, chemical and biological weapons”. While the latter are, with the exception of radiological weapons, commonly referred to as Weapons of Mass Destruction (WMD), the Report itself hardly ever adopts this terminology, a remarkable choice, given public opinion’s familiarity with the concept. The Panel’s implicit refusal to speak of WMDs indicates that these so-called WMDs are clearly distinguished types of weapons, which pose different security threats and in respect of which, in case of dual-use goods, entirely differently structured industries need to be regulated.

This contribution assesses the Report’s appraisal of, and recommendations for, the arms control and disarmament regimes for nuclear, radiological, chemical and biological weapons. To the extent that they contain an addition to, or as is for example unfortunately the case for biological weapons a weakening of the High-Level Panel, the recommendations contained in the Report of the Secretary-General, “In larger freedom: towards development, security and human rights for all,” released on 21 March 2005 as a preparatory document for the September 2005 summit of world leaders and aimed at reviewing progress made since the 2000 Millennium Declaration, will also be discussed.

This contribution does not address the issue of small arms and light weapons, nor the issue of conventional weapons, which the Panel only briefly and without

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1 For example, in para. 194.

2 In Larger freedom: towards development, security and human rights for all, Report of the Secretary-General, 21 March 2005, accessible via www.un.org/largerfreedom It needs to be noted that this Report only deals with nuclear, chemical and biological weapons and excludes radiological weapons from its analysis.

3 An issue separately dealt with by this Report and which the High-Level Panel does not explicitly take up concerns missiles and other means of delivery for weapons of mass destruction. See the Report In Larger Freedom, para. 101.
any spectacular insights deals with as part of the Report’s section on the prevention of armed conflict.4

The cluster is the message, the fear of Armageddon the stimulus.5

The opportunities the Panel has seized and the ones it has wasted

In line with the Report’s overall approach, the specific threat of “nuclear, radiological, chemical and biological weapons” is classified as one of a series of six clusters of threats to the UN’s system of collective security. In and of itself, given the UN’s past history of engagement and disengagement with attempts to tackle the proliferation of WMDs, identifying them as a separate cluster is a step forward.

Throughout the Report, it is emphasized that this cluster needs to be conceptualized as interconnected with the five other clusters, most relevant of which in this respect are terrorism and transnational organized crime. Indeed, “the prospect of organized criminal groups providing nuclear, radiological, chemical and biological weapons to terrorists is particularly worrying.”6 In parallel with observations made regarding all the other clusters, the Report rightly indicates that “no State, no matter how powerful, can by its own efforts alone make itself invulnerable to today’s threats. Every State requires the cooperation of other States to make itself secure.”7

This structural vision of reminding States of the virtues of international cooperation in order to further their own national security interest explains why the Panel recommends that all States should be encouraged to join the Proliferation Security Initiative.8 This voluntary initiative, while not relying on a classic international legal structure of a multilateral treaty, has so far resulted in participating States’ issuing, in September 2003, a Statement of Interdiction Principles.9

Equally encouraging of cooperation – this time between the Security Council, States and other bodies – are the Report’s observations concerning Security Council Resolution 1540 (28 April 2004) entitled “Non-Proliferation of Weapons of Mass

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4 See especially para. 95 – 97.
5 A Cascade of Nuclear Proliferation, Allison Graham, International Herald Tribune, 17 December 2004: “Among these (clusters) (...) the panel gives primacy of place to nuclear Armageddon.”
6 Para. 23.
7 Para. 24.
8 Para. 132.
9 For more information, see www.proliferationsecurity.info and Policing the High Seas: The Proliferation Security Initiative, Michael Byers, American Journal of International Law, July 2004, 526.