

Uranium Coverup 10/21 - DU-banning treaty

Some opponents of DU weaponry have proposed work on an anti-DU treaty. This can be very risky because a new “trick” of the US (and a few other governments) is to use treaty processes to try to weaken, if not completely undermine, existing customary law. The United States tries to assert that if there is a treaty on a subject, then any pre-existing customary international law on the subject is terminated.

Thus, even beginning the process to draft a treaty would be used by the US to argue that any ban on uranium weaponry in light of existing customary law is terminated.

This would be devastating in the US because Courts in the US are likely to be persuaded on this point even though the International Court of Justice categorically rejects this line of reasoning in the Nicaragua case (Military and Paramilitary Activity In and Against Nicaragua, 1986 International Court of Justice Reports). Note the US also "declined jurisdiction" of the Court in the Nicaragua case although the US is not legally allowed to do so. Neither the US Congress nor its Courts took up this matter. The United States then, uses public pressure for an anti-DU treaty to bolster its position and to argue against the existing ban under customary law and The Hague Conventions. Thus, unsuspecting activists can actually play into the US position and seriously undermine all anti-uranium initiatives.

Even if an anti-DU treaty were drafted, neither the US nor the UK would be likely to ratify it regardless of the language of the treaty -- which for sure the US would seek to control. However, the US would still argue that the existence of the treaty subsumes the customary international law banning DU. This would clearly make it more difficult for Gulf War veterans to take their issues directly to the Veteran's Administration as the VA would be taking the position that no illegality was involved. So we must emphasize most strongly, a treaty banning uranium weapons is not necessary, but preparations for one could be exploited to duck responsibility. Further, any treaty could be broken anyway, especially by US and other NATO countries, as history has proven.

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