

Nuclear Disarmament in the Conference on Disarmament

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The CD Discussion Series

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

Background paper by Jerzy Zaleski for the discussion “Nuclear Disarmament and the role of the CD” organized by UNIDIR and the Geneva Forum, 19 January 2011

A short introduction to the agenda of the CD

1 At its initial session in 1979, the Committee on Disarmament¹ established, on the basis of the results of the first special session of the General Assembly devoted to disarmament, a list of issues for its future work on the cessation of the arms race and disarmament. This list consisting of ten subjects, therefore frequently referred to as the “Decalogue”, had at its top nuclear, chemical and “other weapons of mass destruction”, and included also other areas of disarmament and arms control, such as conventional weapons, reduction of military budgets and of armed forces, confidence-building measures, verification methods, etc. The tenth and last issue on this list was a “comprehensive programme of disarmament leading to general and complete disarmament under effective international control”.²

2 Although the Decalogue was meant to be a framework for establishing annual agendas of the CD, the very first agenda adopted in April 1979 included

1 In 1982, the Committee on Disarmament was renamed the Conference on Disarmament.

2 The “Decalogue”: (1) nuclear weapons in all its aspects; (2) chemical weapons; (3) other weapons of mass destruction; (4) conventional weapons; (5) reduction of military budgets; (6) reduction of armed forces; (7) disarmament and development; (8) disarmament and international security; (9) collateral measures; confidence-building measures; effective verification methods in relation to appropriate disarmament measures, acceptable to all parties concerned; and (10) comprehensive programme of disarmament leading to general and complete disarmament under effective international control.

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only items related to weapons of mass destruction,³ with a clear dominance of nuclear issues.

3 Until 1992 the agenda was always adopted together with the programme of work, which in accordance with the CD Rules of Procedure consisted mainly of a schedule of activities of the Conference.⁴ However, after the conclusion of negotiations on the Chemical Weapons Convention in 1992, the Presidency of the Conference, responding to the requests of some Members, began consultations on the review of the agenda and the membership of the Conference. These consultations were intensified following the issuance of the UN Secretary-General's report on "New dimension of arms regulation and disarmament in the post-cold war era" and, at the beginning of the 1993 session, the results were presented to the Conference by the President as the "Presidential statement on organization of work". This document contained the agenda of the Conference (the same as in previous years, with the deletion of the concluded item on chemical weapons), a decision on the establishment of four Ad Hoc Committees ("nuclear test ban", "prevention of an arms race in outer space", "effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons" and "transparency in armaments"), as well as a decision on the appointment of two Special Coordinators⁵ to conduct consultations on the membership and agenda of the Conference. It also recorded the intention of interested CD Members to continue their informal consultations on non-proliferation in all its aspects.⁶

4 In 1994 and 1995 the Conference followed this practice, but the document title was slightly changed to "Presidential statement on the agenda and organization of work".⁷

3 The 1979 agenda (CD/12) contained the following six items: (1) nuclear test ban; (2) cessation of the nuclear arms race and nuclear disarmament; (3) effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons; (4) chemical weapons; (5) new types of weapons of mass destruction and new systems of such weapons; radiological weapons; (6) consideration and adoption of the annual report and any other report as appropriate to the General Assembly of the United Nations.

4 Rule 27: "At the beginning of each annual session, the Conference shall adopt its agenda for the year. In doing so, the Conference shall take into account the recommendations made to it by the General Assembly, the proposals presented by member States of the Conference and the decisions of the Conference."

Rule 28: "On the basis of its agenda, the Conference, at the beginning of its annual session, shall establish its programme of work, which will include a schedule of its activities for that session, taking also into account the recommendations, proposals and decisions referred to in rule 27."

5 Pursuant to Rule 19 of the CD Rules of Procedure "the work of the Conference shall be conducted in plenary meetings, as well as under any additional arrangements agreed by the Conference, such as informal meetings with or without experts". Establishment of subsidiary bodies of the Conference is regulated by Rule 23, which states that "Whenever the Conference deems it advisable for the effective performance of its functions, including when it appears that there is a basis to negotiate a draft treaty or other draft texts, the Conference may establish subsidiary bodies, such as ad hoc sub committees, working groups, technical groups or groups of governmental experts, open to all member States of the Conference unless the Conference decides otherwise. The Conference shall define the mandate for each of such subsidiary bodies and provide appropriate support for their work". Subsidiary bodies submit their reports to the Conference for adoption. Special Coordinators, however, are usually appointed by the Conference to perform specific tasks, such as ascertaining the views of CD Members on the establishment of subsidiary bodies and their mandates, and as well as on other issues, such as the review of the membership of the Conference, review of the agenda of the Conference, or the improvement of its functioning. Special Coordinators present reports on their findings to the Conference for approval, adoption or for decisions on the future course of action by the Conference.

6 Conference on Disarmament, *Presidential statement on organization of work at the 637th plenary meeting on 21 January 1993*, document CD/1180, 22 January 1993.

7 Conference on Disarmament, *Presidential statement on the agenda and organization of work for the 1994 session of the Conference on Disarmament at the 666th plenary meeting on 25 January 1994*, document CD/1239, 25 January 1994; and Conference on Disarmament, *Presidential statement on the agenda and organization of work for the 1995 session of the Conference on Disarmament*, document CD/1294, 3 February 1995.

5 In 1996, the Conference entered the final stage of negotiations on the nuclear test ban and therefore practically limited its activity to this issue only. Accordingly, it adopted only the agenda for that session⁸ and, separately, a decision on the re-establishment of the Ad Hoc Committee on a nuclear test ban.⁹ Moreover, the President of the Conference announced that he would conduct intensive consultations with a view to developing a basis for consensus on the issue of nuclear disarmament. These consultations were continued by the successive Presidents; however, they were inconclusive.

6 At the commencement of the CD session in 1997, some Western as well as Eastern European delegations proposed the elaboration of a new agenda consisting of two blocks of items related to nuclear disarmament and also, as a totally new approach, to conventional disarmament.¹⁰ These delegations were of the view that such an agenda would be more balanced and more responsive to the priorities of all the Members of the Conference. Moreover, they proposed that the issues of the “prohibition of production of fissile material for nuclear weapons or other nuclear explosive devices” and “anti-personnel landmines” be included in such an agenda as separate items. This proposal did not enjoy consensus and, in order to break the emerging deadlock in the Conference, its Members agreed to adopt the same agenda as in the previous years (with the deletion of the concluded item “nuclear test ban”) without listing these two issues as separate items. However, in order to ensure that these issues would be addressed, the Conference agreed that the adoption of such an agenda would be followed with a statement by the President of the Conference to the effect that these issues could be dealt with under the existing agenda items, subject to a consensus in the Conference. Accordingly, the issue of a prohibition of the production of fissile material for weapon purposes was to be considered under the item “cessation of the nuclear arms race and nuclear disarmament”, while the issue of the anti-personnel landmines was to be considered under the item “comprehensive programme of disarmament”.

7 That practice has been followed since then and, formally, the agenda has been unchanged, although the item “comprehensive programme of disarmament” has become a platform for addressing many other issues which, due to the divergence of views among the CD Members, could not be included on the agenda as separate items.

Nuclear disarmament in the work of the CD

8 The item “cessation of the nuclear arms race and nuclear disarmament” has been on the agenda of the Conference on Disarmament since 1979. The very first proposal on the issue was submitted by the Group of the Eastern European States and envisaged negotiations on the cessation of the production of all types of nuclear weapons and the gradual reduction of their stockpiles until their complete destruction. This proposal also envisaged the CD as a suitable forum for preparing negotiations on ending the production of nuclear weapons and their destruction.¹¹ This document was followed by a number of working papers submitted

8 Conference on Disarmament, *Agenda for the 1996 session*, document CD/1379, 23 January 1996.

9 Conference on Disarmament, *Decision on the reestablishment of the Ad Hoc Committee on a Nuclear Test Ban*, document CD/1380, 23 January 1996.

10 Conference on Disarmament, *Western Group observations on the future agenda of the Conference on Disarmament*, document CD/1434, 11 September 1996.

11 Committee on Disarmament, *Negotiations on ending the production of all types of nuclear weapons and gradually reducing their stockpiles until they have been completely destroyed*, document CD/4, 1 February 1979.

by the Group of 21. In the first of these papers, the Group of 21 proposed that the CD should begin informal consultations on the elements for negotiations on nuclear disarmament and, subsequently, establish a working group for negotiations of agreements and concrete measures in the field of nuclear disarmament.¹² Since then, at the beginning of each session the Members of the Group of 21 have proposed the establishment of a subsidiary body for negotiations on nuclear disarmament. Since there was no agreement on doing so, issues related to this item were extensively discussed at the informal meetings of the Conference and then summarized and included in the yearly reports. When, in 1993, the Conference decided to give a negotiating mandate to the Ad Hoc Committee on a nuclear test ban,¹³ which resulted in a considerable intensification of work for this subsidiary body, the practice of producing the extensive summaries of discussions on nuclear disarmament was discontinued and reporting was limited mainly to the listing of submitted documents and including references to summaries recorded in the previous annual reports of the Conference, in particular paragraphs 41–56 of the 1992 report of the Conference.

9 As of 1994, the Conference started consideration, under the item “cessation of nuclear arms race and nuclear disarmament”, of the prohibition of the production of fissile material for nuclear weapons or other nuclear explosive devices and appointed a Special Coordinator to seek the views of the Members of the Conference on the most appropriate arrangement to negotiate a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

10 In 1995, the Special Coordinator, Ambassador Shannon of Canada, presented his report containing a mandate for the Ad Hoc Committee,¹⁴ which was adopted by the Conference. The Conference also decided to establish the Ad Hoc Committee on the subject, but was unable to agree on the appointment of the Chairman of this Committee and, therefore, the Committee could not be convened.

11 The developments of 1995 related to nuclear disarmament could be seen as the source of persistent problems facing the Conference on Disarmament in the years to come. Firstly, from the beginning of the 1995 session the atmosphere in the Conference was influenced by the uncertainties surrounding the preparations for the Non-Proliferation Treaty Review and Extension Conference and its outcome. It was generally expected that the indefinite extension of the NPT would generate momentum for the Conference so that it could fully play its role as a negotiating forum dealing with global concerns in the field of disarmament. However, this was not the case and, on the contrary, the situation in the Conference worsened due to the hardening of positions, especially on the part of developing countries which expected that, after the indefinite extension of the NPT, nuclear disarmament would be in the forefront of activities of the Conference. Moreover, continued nuclear testing by China and the decision by France to resume testing were seen as departures from commitments entered into by the nuclear-weapon states at the NPT Review and Extension Conference. Given that situation,

12 Committee on Disarmament, *Working paper on cessation of nuclear arms race and nuclear disarmament*, document CD/37/Rev.1, 12 July 1979.

13 Conference on Disarmament, *Decision on agenda item 1 “Nuclear Test Ban”*, document CD/1212, 10 August 1993.

14 Conference on Disarmament, *Report of Ambassador Gerald E. Shannon of Canada on consultations on the most appropriate arrangement to negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices*, document CD/1299, 24 March 1995.

the Conference was unable to re-establish the Ad Hoc Committees on negative security assurances (NSAs), prevention of an arms race in outer space (PAROS), and transparency in armaments, nor to start negotiations on a Fissile Material Cut-Off Treaty (FMCT), although the mandate was adopted and the relevant Ad Hoc Committee established earlier that year. Although formally the Ad Hoc Committee on an FMCT could not start its work due to the insistence of the Group of 21 to appoint the Chairman from among its Members (despite the fact that Ambassador Shannon, as a negotiator of the mandate of this Committee, was seen by the majority of the Members as a logical candidate for the Chairmanship), it was evident that the appointment of its Chairman, and subsequently the commencement of its work, was held hostage to agreement on the commencement of substantive consideration of nuclear disarmament and the re-establishment of Ad Hoc Committees on NSAs and PAROS. Moreover, some developing countries perceived the future FMCT, and the CTBT under negotiation, as non-proliferation measures and not as nuclear disarmament measures, which they regarded as their priority.

12 When, in 1996, the Conference entered the endgame in the negotiations of the Comprehensive Nuclear-Test-Ban Treaty, delegations belonging to the Group of 21 intensified efforts for launching substantive work on nuclear disarmament in a systematic and organized way. At the very beginning of the 1996 session, the Group of 21 called for the immediate establishment of an Ad Hoc Committee to commence negotiations on a phased programme of nuclear disarmament and for the eventual elimination of nuclear weapons within a time-bound framework, and towards the end of the first part of the session submitted a proposal for the establishment of an Ad Hoc Committee on nuclear disarmament, to commence negotiations immediately after the conclusion of the CTBT negotiations.¹⁵ Although this proposal did not command consensus, a number of Members of the Group of 21 submitted a document entitled “Proposal for a programme of action for the elimination of nuclear weapons”,¹⁶ which the authors regarded as a basis for the work of the Ad Hoc Committee on nuclear disarmament. The programme proposed in this document was divided into three phases ranging from 1996 until 2020. The first phase (1996–2000) envisaged measures aimed at reducing the nuclear threat and measures of nuclear disarmament, the second phase (2000–2010) included measures to reduce nuclear arsenals and to promote confidence between states, and the third phase (2010–2020) was planned for “Consolidation of a Nuclear Weapon Free World”. Another important development in 1996 was the expansion of the Conference by 23 new Members. The expansion was closely linked to the finalization of the negotiations on the CTBT, as the expanded CD membership included all states that had developed or were involved in nuclear activities.

13 With the conclusion of the consideration of the item “nuclear test ban”, many CD Members saw the 1997 session as an opportunity for setting up new priorities for the future work of the Conference. Delegations (mainly from the Western Group) made proposals aimed at broadening the scope of the CD agenda from its predominantly nuclear focus by including some conventional issues like anti-personnel landmines. At the same time, there was still broad interest in taking up some aspects of nuclear disarmament.

15 Conference on Disarmament, *Proposal for the establishment of an Ad Hoc Committee on Nuclear Disarmament*, document CD/1388, 14 March 1996.

16 Conference on Disarmament, *Proposal for a programme of action for the elimination of nuclear weapons*, document CD/1419, 7 August 1996.

14 Japan put forward a proposal to appoint a Special Coordinator on nuclear disarmament charged with identifying issues in the field of nuclear disarmament that could be negotiated in the Conference.¹⁷ In its explanatory notes, Japan emphasized that nuclear disarmament was a high priority for the Conference. Although the paper identified the negotiations on an FMCT as the next task of the Conference, it also asked for a flexible mechanism that could identify issues for future negotiations in the field of nuclear disarmament and believed that the Conference could, with the assistance of the Special Coordinator, explore various possibilities for such negotiations.

15 Canada, while advocating the establishment of an Ad Hoc Committee to negotiate a ban on the production of fissile material for nuclear weapons, on the basis of the Shannon report, was also of the view that the Conference must address nuclear disarmament, and for that purpose it should “establish a mechanism for the substantive discussion of nuclear disarmament issues with a view to identifying if and when one or more issues should be the subject of negotiation”.¹⁸

16 The Group of 21, in its proposal on the programme of work, advocated establishment of an Ad Hoc Committee for agenda item 1, “cessation of the nuclear arms race and nuclear disarmament”, as well as two other Ad Hoc Committees on PAROS and NSAs. In addition the proposal envisaged the appointment of Special Coordinators on anti-personnel landmines and transparency in armaments.¹⁹ This paper was followed by the “Proposed mandate for an Ad Hoc Committee on nuclear disarmament” submitted by the 26 states of the Group of 21, which provided for the commencement of negotiations on “a phased programme of nuclear disarmament for the complete elimination of nuclear weapons within a specified framework of time”. The Ad Hoc Committee was to establish working groups to negotiate: (a) a legally binding agreement committing all states to the objective of complete elimination of nuclear weapons, (b) an agreement on further steps required in a phased programme with time frames leading to the total elimination of nuclear weapons, and (c) a convention on the prohibition of fissile material for nuclear weapons and nuclear explosive devices taking into account the Shannon report and the views relating to the scope of the treaty.²⁰

17 Despite numerous consultations by successive Presidents, no agreement was reached on any of these proposals during the 1997 session. Also, no agreement was reached on the inclusion of the issue of the prohibition of the production of fissile material for weapon purposes as a separate item on the CD agenda since a number of delegations, mainly from the Group of 21, were of the view that keeping this issue under item 1 was a guarantee that negotiations on that subject would also address the existing stocks of fissile material and, subsequently, their destruction. Serious controversies over the inclusion of fissile material and, to some extent, anti-personnel landmines as separate items lasted until the very end of the session and almost prevented the Conference from reaching agreement on its annual report.

17 Conference on Disarmament, *Proposal to appoint a Special Coordinator on Nuclear Disarmament*, document CD/1445, 13 February 1997.

18 Conference on Disarmament, *Views on the Conference on Disarmament's agenda and programme of work*, document CD/1456, 15 May 1997.

19 Conference on Disarmament, *Proposal on the programme of work*, document CD/1462, 5 June 1997.

20 Conference on Disarmament, *Proposed mandate for an Ad Hoc Committee on nuclear disarmament*, document CD/1463, 12 June 1997.

18 From the beginning of the 1998 session it was evident that the Conference would not be able to engage in any substantive work without first reaching some understanding on how to address nuclear disarmament. Accordingly, several proposals on ways and means of dealing with nuclear disarmament were submitted to the Conference during the session. A draft decision and mandate submitted by South Africa envisaged the establishment of an Ad Hoc Committee on nuclear disarmament “to deliberate upon practical steps for systematic and progressive efforts to eliminate nuclear weapons as well as to identify if and when one or more such steps should be the subject of negotiations in the Conference”.²¹ Canada put forward a proposal for the establishment of an Ad Hoc Committee “for the substantive discussion of nuclear disarmament issues with a view to identifying if and when one or more such issues might be negotiated multilaterally”.²² It is worth noting that in Canada’s view the Conference on Disarmament should not negotiate nuclear weapon reduction per se or specific operational issues concerning such weapons but, instead, should support the nuclear-weapon states’ efforts in the disarmament field, as well as identify and explore issues which could be negotiated at an appropriate point through a multilateral mechanism. Belgium proposed the establishment of “an ad hoc group for reflection and study on ways and means of opening an exchange of information within the Conference on matters relating to article VI of the Nuclear Non-Proliferation Treaty”.²³ Algeria submitted a dual proposal on nuclear disarmament and fissile material. With regard to nuclear disarmament, the Conference was to decide to “establish an ad hoc committee ... with the task, as first stage, of negotiating a multilateral, universal and legally binding convention committing all States to the objective of nuclear disarmament for the complete elimination of nuclear weapons”. The second proposal envisaged the establishment of an Ad Hoc Committee on the prohibition of the production of fissile material for nuclear weapons, entrusted also with developing an international regime to govern stockpiles of fissile material for nuclear weapons.²⁴

19 The first President of the 1998 session, mindful of the growing interest of Members of the Conference in addressing the issue of nuclear disarmament, conducted a series of consultations and towards the end of the first part of the session issued a statement in which he acknowledged the “extremely high priority of the agenda item Cessation of the nuclear arms race and nuclear disarmament” and concluded that “the only way to move forward on substance at this stage would consist in substantially increasing consultations regarding this item, under his authority by using all possibilities, including the assistance of the outgoing and the incoming Presidents, with a view to reaching consensus on how to deal with this item”.²⁵ This decision introduced some new forms of consultations on nuclear disarmament with a provision for periodical oral reports by Presidents of the Conference at the plenary meetings and paved the way for the establishment of a subsidiary body on NSAs. Later that year, a similar statement allowed the establishment of a subsidiary body on fissile material.

21 Conference on Disarmament, *Draft decision and mandate on the establishment of an Ad Hoc Committee on Nuclear Disarmament*, document CD/1483, 20 January 1998.

22 Conference on Disarmament, *Working paper concerning CD action on nuclear disarmament*, document CD/1486, 21 January 1998.

23 Conference on Disarmament, *Proposal on nuclear issues*, document CD/1496, 12 February 1998.

24 Conference on Disarmament, *Proposal under item 1 of the agenda of the Conference on Disarmament*, document CD/1545, 31 July 1998.

25 Conference on Disarmament, *Presidential declaration*, document CD/1500, 26 March 1998.

20 Following this declaration, the Conference adopted a decision²⁶ on the establishment of an Ad Hoc Committee on NSAs with a mandate to “negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”, appointed three Special Coordinators (on PAROS, on questions related to anti-personnel landmines, and on transparency in armaments), as well as three other Special Coordinators on the review of the agenda, expansion of CD membership and on improved and effective functioning of the Conference.

21 In August 1998, following nuclear tests by India and Pakistan, the Conference decided to establish an Ad Hoc Committee to negotiate a treaty banning the production of fissile material for nuclear weapons and other nuclear explosive devices.²⁷ This decision was immediately followed by a Presidential statement that reiterated the resolve of the Presidency to pursue consultations on “appropriate methods and approaches” for dealing with agenda item 1 on “cessation of the nuclear arms race and nuclear disarmament”.²⁸ In this connection the Group of 21 issued a statement in which it emphasized its flexibility in accepting the proposal to establish an Ad Hoc Committee to negotiate a fissile material convention and stating that this gesture should be reciprocated by other CD Members through their agreement on the establishment of an Ad Hoc Committee on nuclear disarmament. The Group of 21 also stated that a “satisfactory solution to the issue of nuclear disarmament will have a direct bearing on the work of the CD in the future”.²⁹

22 The results of the work of both Ad Hoc Committees established for the 1998 session were satisfactory and subsequently the Conference on Disarmament agreed to recommend their re-establishment at the beginning of the next session of the Conference, in 1999.

23 But despite its 1998 recommendations, the Conference was not able to re-establish the Ad Hoc Committee on the prohibition of production of fissile material for nuclear weapons nor the Ad Hoc Committee on NSAs. This was the consequence of the fact that Presidential proposals for the establishment of subsidiary bodies did not meet expectations of the Group of 21 with regard to nuclear disarmament or to PAROS.

24 Also, a new practice was introduced to the Conference by the first President of the 1999 session—instead of establishing subsidiary bodies with separate decisions for each of them, all such decisions were grouped into one document for adoption as a single package. Moreover, although in previous years subsidiary bodies on agenda items had similar organizational frameworks (usually as Ad Hoc Committees), their mandates might differ (some had negotiating mandates, others had only deliberative ones; there was, however, the possibility of changing a deliberative mandate into a negotiating one, if the progress in the subsidiary body warranted such a change). Consequently, although previously there were some linkages in establishing subsidiary bodies, the new practice of taking decision on a package of mandates (called incorrectly a “programme of work”) led to the formalization and thus perpetuation of such linkages. Last but not least, since the conclusion

26 Conference on Disarmament, *Decision*, document CD/1501, 26 March 1998.

27 Conference on Disarmament, *Decision on the establishment of an Ad Hoc Committee under item 1 of the agenda entitled “cessation of the nuclear arms race and nuclear disarmament”*, document CD/1547, 11 August 1998.

28 Conference on Disarmament, *Statement made by the President following the adoption of decision CD/1547 on the establishment of an Ad Hoc Committee under agenda item 1 entitled “cessation of the nuclear arms race and nuclear disarmament”*, document CD/1548, 11 August 1998.

29 Conference on Disarmament, *Statement by the Group of 21*, document CD/1549, 12 August 1998.

of the negotiations on the Comprehensive Nuclear-Test-Ban Treaty, the determination of many CD Members, most notably those belonging to the Group of 21, to address their priority item—nuclear disarmament—in the framework of a subsidiary body reached “a point of no return”. Therefore, the proposal put forward by the first President of the 1999 session,³⁰ which, inter alia, envisaged continuation of the mechanism used the year before (that is, Presidential consultations with the CD Members on how to deal with agenda item “cessation of the nuclear arms race and nuclear disarmament”) was not acceptable to them at all. Responding almost immediately, the Group of 21 introduced its own proposal for the programme of work,³¹ which, inter alia, envisaged establishment of Ad Hoc Committees on nuclear disarmament, fissile material, PAROS and NSAs. Shortly afterwards, the Group of 21 complemented this proposed programme of work with another document containing a mandate for the proposed Ad Hoc Committee on nuclear disarmament (“to start negotiations on a phased programme for the complete elimination of nuclear weapons with a specified framework of time, including a nuclear weapon convention”).³² The proposal of the second President of the session on the programme of work was more substantive in this regard and called for the establishment of an Ad Hoc Working Group to “exchange information and views on endeavours towards nuclear disarmament with a view to identifying measures that could be subject of negotiations in the Conference”.³³

25 In addition, a number of proposals were submitted on how to deal with nuclear disarmament and also with PAROS. These became known as “the two outstanding issues”, since it seemed that reaching an agreement on the mandates and organizational framework of addressing them (either through Ad Hoc Committees or Working Groups) would allow the Conference to start substantive work on other items as well. While many delegations, particularly those from the Group of 21, insisted on a negotiating mandate for nuclear disarmament, some other delegations, most notably the United States, started questioning the negotiating mandate for PAROS.

26 Proposals on nuclear disarmament were presented by Egypt (“to commence negotiations on a phased programme of nuclear disarmament with the objective of the complete elimination of nuclear weapons”, taking also into account a proposal by the Group of 21 for a programme of action for the elimination of nuclear weapons contained in document CD/1419);³⁴ Belgium, Germany, Italy, the Netherlands and Norway (establishment of an ad hoc working group to study ways and means of establishing an exchange of information and views within the Conference on endeavours towards nuclear disarmament);³⁵ and Canada (“to establish an ad hoc committee for the substantive discussion of nuclear disarmament issues with a view of identifying if and when one or more such issues might be negotiated

30 Conference on Disarmament, *Proposal by the President on the programme of work for the 1999 session of the CD*, document CD/1566, 2 February 1999.

31 Conference on Disarmament, *Proposal on the programme of work*, document CD/1570, 4 February 1999.

32 Conference on Disarmament, *Draft decision and mandate on the establishment of an Ad Hoc Committee on nuclear disarmament*, document CD/1571, 18 February 1999.

33 Conference on Disarmament, *Proposal by the President on the programme of work for the 1999 session of the CD*, document CD/1575, 10 March 1999.

34 Conference on Disarmament, *Draft mandate for an Ad Hoc Committee on nuclear disarmament*, document CD/1563, 26 January 1999.

35 Conference on Disarmament, *Proposal on nuclear disarmament*, document CD/1565, 2 February 1999.

multilaterally”³⁶ and “to set out considerations relevant to the substantive discussion of nuclear disarmament issues”³⁷).

27 Other Presidents of the 1999 session also held consultations on a set of mandates for subsidiary bodies and reported on their findings during plenary meetings of the Conference on Disarmament. Notably, Ambassador Dembri of Algeria during his presidency focused consultations on finding a compromise on the two issues which by that time generated the strongest controversies—nuclear disarmament and PAROS. He proposed to treat both issues on an equal footing through the establishment of two non-negotiating Ad Hoc Working Groups. This proposal, which in the prevailing view of the Members of the Conference brought the CD closest to consensus since the beginning of the 1999 session, served as a basis for the consultations of his successors. Regrettably, subsequent consultations in 1999 were inconclusive.

28 In 2000, the work of the Conference on Disarmament became heavily influenced by the outcome of the NPT Review Conference, in particular by the 13 practical steps outlined in the final document for the systematic and progressive efforts to implement article VI, in which step four emphasized the “necessity of establishing in the Conference on Disarmament an appropriate subsidiary body with a mandate to deal with nuclear disarmament”. In addition, the Conference on Disarmament was urged to “agree on a programme of work which includes the immediate establishment of such a body”, which was, in fact, a formal recognition (and acceptance) of linkages between the items on the agenda of the Conference on Disarmament and a guarantee that, for other items, first of all PAROS, the Conference would also establish a subsidiary body.

29 The formulation of step four helped the Conference to work out language for the mandate of a subsidiary body on nuclear disarmament that could command consensus. A month later, a proposal for a programme of work was formally presented,³⁸ with the following mandate on nuclear disarmament: “The Conference on Disarmament decides to establish, under agenda item 1, an Ad Hoc Committee/Ad Hoc Working Group to deal with nuclear disarmament, through an exchange of information and views on practical steps for progressive and systematic efforts to attain this objective”. This proposal did not command consensus, but toward the end of the session a new proposal was submitted that received wide support and that became a model and a point of departure in the years to come for other proposals on programmes of work.³⁹ The proposal—called the “Amorim proposal” after its proponent, the Brazilian President of the Conference—provided for the establishment, for the duration of the 2000 session, of “an Ad Hoc Committee under agenda item 1 entitled ‘Cessation of the nuclear arms race and nuclear disarmament’ to deal with nuclear disarmament. The Ad Hoc Committee shall exchange information and views on practical steps for progressive and systematic efforts to attain this objective”. The proposal also contained some assurances that “dealing” with nuclear disarmament might also include

36 Conference on Disarmament, *Proposal concerning CD action on nuclear disarmament*, document CD/1568, 4 February 1999.

37 Conference on Disarmament, *Working paper—Nuclear disarmament: substantive discussion in the Conference on Disarmament*, document CD/1574, 9 March 1999.

38 Conference on Disarmament, *Proposal by the President on the programme of work for the 2000 session of the Conference on Disarmament*, document CD/1620, 29 June 2000.

39 Conference on Disarmament, *Proposal by the President on the Programme of Work for the 2000 session of the Conference on Disarmament*, document CD/1624, 24 August 2000.

negotiations and that the progress in the work of the Conference would be “influenced by and responsive to developments in the international strategic scene which affect the security interests of its individual member States”.

30 In 2001, divergences persisted on how to deal with the two outstanding issues of nuclear disarmament and PAROS. The Amorim proposal was still regarded as “a basis for further intensified consultations” and was seen as a delicate balance of the lowest common denominators on these issues with a very narrow margin for fine tuning. In addition, the Conference saw important developments: for the first time in the history of the Conference on Disarmament, the Russian Federation agreed to the idea of the establishment of “a subsidiary body with an exploratory mandate for broad discussion on nuclear disarmament”, and the United States declared its readiness to agree, “in the context of active and ongoing negotiations on a Fissile Material Cut-off Treaty”, on an overall programme of work providing for the establishment of an Ad Hoc Committee on nuclear disarmament and another Ad Hoc Committee that would conduct exploratory discussions on outer space issues. Unfortunately, the Conference was not able to take advantage of these developments.

31 Towards the end of the 2002 session, five ambassadors outlined a cross-group initiative on a programme of work of the Conference.⁴⁰ In 2003 this proposal was submitted as an official document (the so-called “A-5 proposal”), which was subsequently revised.⁴¹ The mandate for nuclear disarmament contained therein was as follows:

The Conference establishes, for the duration of the current session, an Ad Hoc Committee, under agenda item 1 entitled “Cessation of the nuclear arms race and nuclear disarmament” to deal with nuclear disarmament. The Ad Hoc Committee shall exchange information and views on practical steps for progressive and systematic efforts to attain this objective, and in doing so shall examine approaches towards potential future work of a multilateral character.

Although some 40 states expressed their support for the initiative (some of them being ready to accept it immediately), the amendment introduced by China to the mandate of the Ad Hoc Committee on PAROS, which was aimed at ensuring negotiations of an international legal instrument on the subject (the same amendment that China put forward in 2002 to the Amorim proposal), and the negative reaction of the United States on the Chinese amendment, prevented the adoption of the programme of work.

32 In 2004, the Presidency of the Conference made efforts to broaden support for an agreement on a programme of work on the basis of the A-5 proposal. However, consensus remained elusive. In addition to reservations expressed in previous year, the proposal was affected by the United States’ declaration that it remained opposed to the negotiation of a global treaty on security assurances since such a treaty was not relevant to today’s threats and was also not achievable. It led to a paradoxical situation—despite the still growing support from states, the amendments to the A-5 proposal were gradually undermining its delicate balance. Over time it became evident that a compromise could not be achieved through a purely drafting exercise.

40 Ambassador Mohamed Salah Dembri (Algeria), Ambassador Jean Lint (Belgium), Ambassador Camilo Reyes Rodríguez (Colombia), Ambassador Henrik Salander (Sweden) and Ambassador Juan Enrique Vega (Chile).

41 Conference on Disarmament, *Initiative of the Ambassadors Dembri, Lint, Reyes, Salander and Vega*, document CD/1693, 23 January 2003; and Conference on Disarmament, *Initiative of the Ambassadors Dembri, Lint, Reyes, Salander and Vega*, document CD/1693/Rev.1, 5 September 2003.

33 The proceedings of the 2005 session confirmed the irreconcilable differences among Members of the Conference. While some considered the A-5 proposal as the workable compromise solution, others felt that the Conference needed to address urgently a fissile material treaty, preferably with a verification instrument attached to it. After the setback of the 2005 NPT Review Conference, the Presidency initiated discussions on ways and means of dealing with the four substantive issues before the Conference on Disarmament—nuclear disarmament, a fissile material treaty, PAROS and NSAs, commonly referred to as the “four core topics on the agenda”. While the discussions were applauded by many Members, others, in particular Members of the Group of 21, questioned the value of the such discussions and instead advocated the continuation of efforts for the adoption of a “comprehensive and balanced programme of work” covering these four core issues.

34 In an effort to reinvigorate the work of the Conference, the first President of the 2006 session came out with the idea of close cooperation of all the 2006 Presidents throughout the entire session (later this new mechanism became known as “P-6”) and tabled the agreed timetable of activities engaging all the Presidents in focused and structured debates on the agenda items. These debates were held at plenary meetings and therefore their proceedings were included in the verbatim records of the meetings. In accordance with this timetable, the Conference held a focused debate on nuclear disarmament—two plenary meetings were devoted to the assessment of the implementation of nuclear disarmament and another two meetings to future nuclear disarmament measures.⁴²

35 The 2007 Presidents continued that practice, however they introduced certain changes. Discussions on agenda items were chaired not by Presidents but by Coordinators that they nominated, and were held at informal meetings. Subsequently, the Coordinators reported on the results of these discussions to the Presidents. This mechanism was criticized by a number of delegations, as the Coordinators were appointed by Presidents without the explicit endorsement and consent of the CD Members. The Coordinator on nuclear disarmament held six informal meetings from 6 February to 2 March 2007 and reported to the 2007 Presidents.⁴³ Informal meetings under agenda item 1 covered a wide spectrum of issues, including a possible convention prohibiting nuclear weapons, other legal instruments, a phased programme on nuclear disarmament, as well as transparency and confidence-building measures. Several other specific measures were also discussed. The work of the Coordinators ended with the conclusion of the first part of the session and was not resumed that year. The Presidential report on that period stated that the “continued focused work on issues under agenda item 1 ... carries the potential of establishing common ground on which to move towards future negotiations”.⁴⁴ During the remaining parts of the 2007 session, the Presidents focused on the elaboration of a programme of work that envisaged, inter alia, the

42 See Conference on Disarmament, *Final record of the one thousand and sixth plenary meeting*, document CD/PV.1006, 28 February 2006; Conference on Disarmament, *Final record of the one thousand and seventh plenary meeting*, document CD/PV.1007, 28 February 2006; Conference on Disarmament, *Final record of the one thousand and eighth plenary meeting*, document CD/PV.1008, 2 March 2006; and Conference on Disarmament, *Final record of the one thousand and ninth plenary meeting*, document CD/PV.1009, 2 March 2006.

43 Conference on Disarmament, *Letter dated 10 August 2007 from the President of the Conference on Disarmament addressed to the Secretary-General of the Conference transmitting the reports of the seven Coordinators submitted to the President of the Conference on the work done during the 2007 session on agenda items 1 to 7*, document CD/1827, 16 August 2007, annex I.

44 Conference on Disarmament, *Presidential report to the Conference on Disarmament on part I of the 2007 session*, document CD/1820, 30 March 2007.

appointment of a Coordinator “to preside over substantive discussions on nuclear disarmament and the prevention of nuclear war”.⁴⁵ These efforts were inconclusive.

36 A similar approach was used in 2008 and 2009. In accordance with the joint initiative of the 2008 Presidents of the Conference, the Coordinator held three informal meetings on agenda items 1 and 2, with a general focus on nuclear disarmament, and reported to the 2008 Presidents on results of these meetings on 6 March and 13 August 2008.⁴⁶ Similarly, in 2009 the Coordinator held two informal meetings and presented a report to the Presidents.⁴⁷

37 Since 1999, efforts of the Conference on Disarmament to work out a comprehensive agreement on the commencement of substantive work (the so-called “programme of work”) have never succeeded. All the “comprehensive and balanced” proposals developed over the years have never enjoyed consensus. The mechanism used during these years to break the deadlock over the “programme of work”, namely, mandating a President or a group of Presidents to submit to the Conference a single (“comprehensive”) proposal on the basis of consultations with the CD Members, has never brought positive results since it has been relatively easy to undermine the overall balance of any proposal by challenging some of its elements as not reflecting the particular concerns of one or a few states. Moreover, almost always such criticisms have not been followed by corresponding draft proposals to overcome the perceived deficiencies, thus effectively stalling all efforts of the drafters.

38 However, in 2009 such efforts finally brought results. On 29 May, the Conference adopted the *Draft decision for the establishment of a Programme of Work for the 2009 session*,⁴⁸ which, inter alia, provided for the establishment of a Working Group “to exchange views and information on practical steps for progressive and systematic efforts to reduce nuclear weapons with the ultimate goal of their elimination, including on approaches toward potential future work of multilateral character”. The decision also established a Working Group mandated with the negotiations of a treaty banning the production of fissile material for nuclear weapons, as well as a Working Group for discussing substantively all issues related to PAROS and a Working Group on NSAs to “discuss substantively ... with a view to elaborating recommendations dealing with all aspects of this agenda item, not excluding those related to an internationally legally binding instrument”. Regrettably, after the adoption of this decision, the Conference, instead of proceeding immediately to substantive work, as provided for in the decision, entered into endless, unnecessary and inconclusive discussions on how to organize the work of the Working Groups. Despite the clear understanding that

45 Conference on Disarmament, *Presidential draft decision*, document CD/2007/L.1, 29 June 2007; Conference on Disarmament, *Complementary presidential statement reflecting an understanding of the Conference on the implementation of CD/2007/L.1*, document CD/2007/CRP.5, 14 June 2007; and Conference on Disarmament, *Draft decision by the Conference*, document CD/2007/CRP.6, 29 June 2007.

46 Conference on Disarmament, *Letter dated 14 August 2008 from the President of the Conference on Disarmament on behalf of the 2008 Presidents addressed to the Secretary-General of the Conference transmitting the reports of the seven Coordinators submitted to the President of the Conference on the work done during the 2008 session on agenda items 1 to 7*, document CD/1846, 15 August 2008, annex I.

47 Conference on Disarmament, *Letter dated 15 September 2009 from the President of the Conference on Disarmament on behalf of the 2009 Presidents addressed to the Secretary-General of the Conference transmitting the reports of the seven Coordinators submitted to the President of the Conference on the work done during the 2009 session on agenda items 1 to 7*, document CD/1877, annex I.

48 Conference on Disarmament, *Draft decision for the establishment of a Programme of Work for the 2009 session*, document CD/1863, 19 May 2009.

each and every subsidiary body would be given the same number of meetings, consultations on the schedule of meetings consumed all available time for substantive work.

39 In 2010, attempts to start work on the basis of the 2009 Programme of Work failed. The Conference therefore once again reverted to the mechanism used in the previous years and agreed on a schedule of informal meetings on its agenda items during the second part of the session. However, the role of these meetings was questionable, at least. In accordance with the agreed schedule of these meetings, they were “neither pre-negotiations, nor negotiations, and complemented and in no case replaced the Conference on Disarmament’s on-going activities”. The coordinators were required to report orally to the President, in their personal capacity, on the discussions on substantive items. Subsequently, the President, with assistance of the Coordinators, finalized the reports under his own responsibility. The text of the oral report on nuclear disarmament is contained in annex I of document CD/1899.

A few final comments (and questions)

40 It has to be emphasized that the way of approaching the issue of nuclear disarmament in the Conference on Disarmament has developed considerably over the years, but has never reached the “critical mass” needed to start substantive work. For years, it has been next to impossible even to contemplate the possibility of establishing any kind of subsidiary body for nuclear disarmament. Therefore, the adoption of the 2009 decision on the Programme of Work indeed had a revolutionary character. The decades-long spell haunting this item was finally broken.

41 It has been, however, a Pyrrhic victory. Linkages that had developed and strengthened over the years culminated in the “comprehensive and balanced programme of work” (for some time now even called the “agreed, comprehensive and balanced programme of work”), which was considered by a number of Members as a guarantee that the priorities of each group of CD Members would be treated without discrimination, thus creating the opportunity for, inter alia, taking up nuclear disarmament by the Conference in a systematic way. At the same time, however, these linkages made the continuation of work on nuclear disarmament vulnerable to any developments that could destroy the delicate balance of such a programme of work.

42 The emergence of more states possessing nuclear weapons has added to the complexity of nuclear disarmament by creating a regional dimension, thus not only challenging the NPT, but also changing totally the existing clear-cut division of nuclear-weapon states and non-nuclear-weapon states. The question arises whether the Conference is ready to take up this problem and is able to find a solution that would not collide with the letter and spirit of the NPT.

43 The current impasse in the Conference has been, to a considerable degree, perpetuated by the concept of a “comprehensive and balanced programme of work”—a concept that has neither been worked out nor agreed by the Conference itself, that cannot be found in the Rules of Procedure, and that has been gradually introduced in the Conference over the years to establish linkages between diverging priorities of the CD Members. In some cases, these linkages were used to block substantive work on an item that was perceived as potentially threatening the existing balance of power or the perception of security of a certain CD

Member or group of Members. Because of the increased fatigue resulting from this unworkable concept, attempts could be made by some CD Members to take certain issues, first of all an FMCT, out of the Conference. Will the Conference survive such a development? And, what is most important to the subject of this paper, will it serve the cause of launching substantive work or negotiations on nuclear disarmament in the Conference?

44 So far, with the exception of a few resolutions on fissile material in the past, the General Assembly of the United Nations has not been able to adopt by consensus a single resolution on nuclear issues. The question then arises, can the Conference on Disarmament work out a formula that could bridge the divergence of positions on a subject that cannot be overcome in the UN General Assembly?

Food for thought on the role of the CD and its practices

45 It seems that the work done by the Conference during 2004–2010 produced a broad range of ideas and proposals under each and every agenda item, including nuclear disarmament. Therefore, it would be advisable to make an attempt to “distil” the results of these structured discussion on issues of the agenda, which are sometimes hidden behind formulations of items dating back to the Cold War, and summarize them in documents that may serve as a basis for decisions on the more structured framework of future deliberations and/or negotiations (establishment of subsidiary bodies or other mechanisms envisaged in Rule 23). This task may be performed by Presidents (as in 2006) or by Special Coordinators/Facilitators appointed by a decision of the Conference (in order to avoid problems encountered over the last few years related to the legality of such appointments by the Presidents only). The Conference should address issues on its agenda separately, on the basis of their merits, without preconditions, to prepare the basis for agreement on their respective mandates (including the organizational framework).

46 Another mechanism that could be considered for stimulation of the Conference might be the use of “like-minded states”, a group established freely from among the Members of the Conference, as well as non-members participating in the work of the Conference, for providing the Conference with conceptually developed elements of disarmament treaties (produced during quasi- or pre-negotiations by some CD Members, on the outskirts of the Conference, also with the participation of experts, the results of which could be submitted to the Conference as official documents, for stimulating or jump-starting the work of the CD). It may also be advisable that at an advanced stage of such quasi-negotiations, the results (preferably drafts of treaties or their key elements) be submitted as official CD documents, separately or jointly, by high-level officials from the like-minded states. Perhaps such an exercise of “building the case” in support of separate decisions on negotiations and/or deliberations might be a long process, but at least it would allow interested states to use the intellectual potential of negotiators in Geneva.

47 Also, the Presidencies in the forthcoming years could be strengthened by support from the CD Members interested in breaking the deadlock in the Conference. A group of such CD Members could be composed of the representatives of states that have both experience and logistical means to provide the Presidencies with ideas, proposals, working documents, draft decisions and, first and foremost, with active support at the meetings. The main criterion of the composition of such a group should be their “like-mindedness” with regard to CD

priorities and to the ways and means of achieving them. It would be advisable that such a group be composed of Members from the various political groupings in the Conference that are interested in progress.

48 A similar like-minded group could also be organized for promoting the review of the CD agenda, in order to reformulate the existing items so that they are clearly defined and responsive to current challenges, or to remove them if they have lost relevance. Many proposals were put forward in this regard and were summarized in the reports of Special Coordinators on the Review of the Agenda. Rule 27 of the CD Rules of Procedure stipulates that “At the beginning of each annual session, the Conference shall adopt its agenda for the year.” That means the Conference shall adopt its agenda, and not repeat it endlessly. It seems that the time has come to take out from the agenda the item “comprehensive programme of disarmament”. Also, it may be advisable to reconsider the meaning of the item “cessation of the nuclear arms race and nuclear disarmament”. Is it still adequate to the current situation? Why does the Conference include every year in its agenda the item “prevention of nuclear war, including all related matters” and then does not address it at all? In any case, after the end of the Cold War and the dissolution of the Warsaw Pact, this item completely lost its original meaning. What is the rationale for keeping the item “new types of weapons of mass destruction and new systems of such weapons: radiological weapons”, an item that also has not been considered for years? The review of the agenda should also result in the inclusion of some “conventional items”, as was proposed by a number of CD Members during the 1997 session of the Conference and in other years as well. After all, the disarmament priorities spelled out in the Final Document of the first special session of the General Assembly devoted to disarmament were distilled by the CD during the first year of its operation and listed in the Decalogue, in which the issue of nuclear disarmament is just a single issue among other disarmament priorities.

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