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The Conference on Disarmament Issues and Insights

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The Conference on Disarmament

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About the cover

The Council Chamber at the United Nations in Geneva where the Conference on Disarmament (CD) holds its meetings (photo US Mission by Eric Bridiers).

NOTE

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UNITED NATIONS PUBLICATIONS

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NB: It needs to be made clear that the papers comprising this publication were not delivered in the Conference by UNIDIR directly. They were made available to the Conference President to draw upon as appropriate.

Please note that references to the CD sometimes include references to predecessor bodies of the Conference.

With the exception of the paper on prevention of an arms race in outer space, which was prepared by Theresa Hitchens, Director of UNIDIR, these papers were prepared by Tim Caughley, Resident Senior Fellow, UNIDIR.

FOREWORD

This publication contains a number of brief papers prepared by UNIDIR as background information for delegates participating in the Conference on Disarmament's series of thematic debates during the period from 22 May 2012 to 21 August 2012.

The debates were initiated by the six Presidents of the Conference on Disarmament (CD) for 2012, Ambassadors Gallegos (Ecuador), Badr (Egypt), Getahun (Ethiopia), Kahiluoto (Finland), Simon-Michel (France) and Hoffman (Germany). They followed a formal schedule of activities adopted by the Conference on 21 May 2012 (CD/WP.571/Rev.1), and took place in formal plenary meetings of the CD, i.e. on the record of the Conference.

Those debates covered key issues on the agenda of the Conference. In addition, members of the CD addressed the question of revitalization of that body. As noted in the compilation, the revitalization issue was originally given impetus by United Nations Secretary-General Ban Ki-moon. It has arisen because of concerns that, since the negotiation of the Comprehensive Nuclear-Test-Ban Treaty in 1994 through 1996, the Conference has been unable to get work underway on any new negotiation.

Although these papers are brief to meet the stipulations of the Presidents and are confined in scope to major developments within the Conference, I believe that this collection fills a niche in the work that this Institute has done over the years in support of the Conference.

In particular, I hope that these papers will serve to provide newcomers to the work of the CD with insights into how key issues on the agenda have been shaped over the years, as well as shed light on the complex procedural issues in play.

Theresa Hitchens
Director
UNIDIR
31 July 2012

THE CORE ISSUES ON THE AGENDA OF THE CONFERENCE ON DISARMAMENT

NUCLEAR DISARMAMENT

Nuclear disarmament was the subject of the first resolution adopted by the United Nations General Assembly in 1946. The first special session of the General Assembly devoted to disarmament (SSOD I) made clear in its consensus resolution that the accumulation of weapons, particularly nuclear weapons, constituted much more a threat than a protection for mankind. At its initial session in 1979, the Committee on Disarmament (precursor of the CD), which was established by SSOD I, agreed a list of issues for its future work on the cessation of the arms race and disarmament. Top of this list of ten subjects, often referred to as the “Decalogue”, was nuclear weapons in all its aspects.

The more detailed agenda for 1979 (CD/12) contained six items, three of which related to nuclear disarmament: (1) a nuclear test ban, (2) cessation of the nuclear arms race and nuclear disarmament, and (3) effective international arrangements to assure non-nuclear-weapon states (NNWS) against the use or threat of use of nuclear weapons.

The first proposal on the issue of “cessation of the nuclear arms race and nuclear disarmament” was submitted by the Group of Eastern European States in 1979. It 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.

That document was followed by a number of working papers submitted by the Group of 21 (G-21, members of the Non-Aligned Movement) proposing 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 on nuclear disarmament. No consensus emerged on any of these early proposals or on other proposed mandates for nuclear disarmament tabled in the 1980s.

As of 1994, the CD began negotiation of the Comprehensive Nuclear-Test-Ban Treaty (CTBT), which preoccupied the Conference through until late in 1996. Nonetheless, pressure to deal also with the issue of fissile material for nuclear weapons or other nuclear explosive devices was growing. Proposals at this time to list fissile material as a separate agenda item from

nuclear disarmament did not acquire consensus but ultimately, in order to ensure that fissile material would continue to be addressed, the CD agreed that the President would make a statement following the adoption of the agenda that this issue would fall within the nuclear disarmament item.

From the beginning of the 1995 session the atmosphere in the CD was influenced by uncertainties surrounding preparations for the Non-Proliferation Treaty (NPT) Review and Extension Conference and its outcome. It was expected by many NNWS that reciprocation for their agreement to the indefinite extension of the NPT would generate momentum for dealing with nuclear disarmament in the Conference.

When this did not eventuate the G-21 called for the immediate establishment of an Ad Hoc Committee to negotiate after the conclusion of the CTBT negotiations on a phased programme of nuclear disarmament and for the eventual elimination of nuclear weapons within a time-bound framework. Although this proposal did not command consensus, a number of members of the G-21 submitted a three-phase “programme of action for the elimination of nuclear weapons”, as a basis for work of an Ad Hoc Committee. 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”.

In the aftermath of the CTBT negotiations a range of other proposals emerged, among them one by Japan 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. South Africa submitted a draft decision and mandate for 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”. And Algeria submitted a dual proposal on nuclear disarmament and fissile material.

The first President of the 1998 session, mindful of the growing interest of members in addressing nuclear disarmament, conducted a series of consultations and issued a statement in which he acknowledged the “extremely high priority of the agenda item ‘Cessation of the nuclear arms race and nuclear disarmament’”. Later that year, the CD established subsidiary bodies on fissile material and negative security assurances (NSAs)

but not on nuclear disarmament per se, prompting the G-21 to state that a “satisfactory solution to the issue of nuclear disarmament will have a direct bearing on the work of the CD in the future”.

Thereafter mandates for subsidiary bodies were fused into a single document—the so-called “comprehensive and balanced programme of work”—under which no progress has been made on any of the core issues including nuclear disarmament. None of the work programmes proposed during the current deadlock has entailed a *negotiating* mandate for nuclear disarmament, but CD/1933/Rev.1 sought to strengthen the relevant mandate through the term “deal with nuclear disarmament” in contrast to CD/1864’s notion of an exchange of views on this issue.

For other work by UNIDIR on nuclear disarmament see also:

Nuclear Disarmament in the Conference on Disarmament

J. Zaleski, 2011

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-010-J-en>

Nuclear Disarmament and the Role of the CD

Conference audio

UNIDIR, 2011

<www.unidir.org/bdd/fiche-activite.php?ref_activite=577>

Transparency in the Nuclear Non-Proliferation Regime

T. Caughley, 2012

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-012-B-en>

Practical Steps towards Transparency of Nuclear Arsenals

P. Podvig, 2012

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-012-A-en>

Transparency in the NPT 2010 Action Plan: Concept and Practice

Conference audio and documents

UNIDIR, 2012

<www.unidir.org/bdd/fiche-activite.php?ref_activite=665>

The NPT Action Plan and Comprehensive Nuclear Safeguards

Conference audio and documents

UNIDIR, 2012

[<www.unidir.org/bdd/fiche-activite.php?ref_activite=679>](http://www.unidir.org/bdd/fiche-activite.php?ref_activite=679)

Unfinished Business: the Negotiation of the CTBT and the End of Nuclear Testing

R. Johnson, 2009

[<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=978-92-9045-194-5-en>](http://www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=978-92-9045-194-5-en)

FISSILE MATERIAL

There have been many working papers on fissile material (FM) submitted to the CD (or its precursors) culminating in CD/1910 tabled in 2011 by eight members (Bulgaria, Germany, Mexico, Netherlands, Romania, Spain, Sweden and Turkey). The first occasion on which a firm focus was provided for FM was in June 1964 when the United States submitted a working paper to the Eighteen-Nation Committee on Disarmament (ENCD) about “the inspection of nuclear powers under a cut-off of fissionable material for use in weapons.”

Then in 1978, following a Canadian proposal to ban FM for use in weapons, the United Nations’ first Special Session on Disarmament (SSOD I), in a consensus resolution (S-10/2), proclaimed that the achievement of nuclear disarmament would require “urgent negotiation of agreements ... with adequate measures of verification ... for: ... (b) Cessation of the ... production of fissionable material for weapons purposes”.

The Cold War and the CD’s preoccupation with negotiating the Chemical Weapons Convention and the Comprehensive Nuclear-Test-Ban Treaty dominated the scene until 24 March 1995 when Canadian Ambassador Shannon (the CD’s Special Coordinator on FM) produced a report known as the Shannon Mandate calling for an Ad Hoc Committee (AHC) within the CD to negotiate an FM treaty that would be “non-discriminatory, multilateral and internationally and effectively verifiable”. This term was drawn from a United Nations General Assembly resolution adopted by consensus in 1993 following a proposal by US President Bill Clinton for negotiations on a treaty to ban the production of FM. It was intended to

ensure that the outcome applied the same verification rules to all parties in contrast, for example, to the NPT.

The Shannon Mandate did not explicitly describe the scope of the negotiations but Shannon made it clear that the establishment of an AHC did not preclude any delegation from raising for consideration in the subsidiary body any of the issues noted in his report, including the highly contentious one of whether pre-existing stocks of FM would be covered by the eventual treaty.

Uptake of the Shannon Mandate was not immediate, and discussions on forming a subsidiary body to negotiate a treaty banning FM (or Fissban) stalled. Non-aligned members of the CD (the Non-Aligned Movement, or NAM) insisted that progress towards the negotiation of such an agreement should be linked to progress towards the elimination of nuclear weapons, another core issue on the CD's agenda. The NAM called for a specific timetable for nuclear disarmament. The five NPT-recognized nuclear weapons states disagreed with this linkage but several subsequently made linkages of their own, including to the negotiation of another core issue, the prevention of an arms race in outer space.

In 1998, in the wake of India's and Pakistan's nuclear tests, a breakthrough was achieved when the CD formally established an AHC to negotiate a treaty in accordance with the Shannon Mandate. But the Committee met for only three weeks. Despite many attempts to renew it, that mandate (CD/1299) remains unimplemented.

It has been blocked for various periods since 1998 by difficulties confronting just two delegations at separate times and has continued to be stymied also by linkages drawn with other core issues on the CD's agenda, including nuclear disarmament.

To sum up, the history of FM in the CD is inextricably linked in one way or another to progress on nuclear disarmament. The challenge facing the CD is not to determine whether one issue is riper than another but to deal with both issues in tandem or, more manageably, in sequence. To many states the obvious way forward—albeit highly controversial—is the inclusion of pre-existing FM stocks in the negotiation mandate, as Shannon sought to do, investing the process with joint non-proliferation and nuclear disarmament objectives.

This is not the same thing as inclusion of stocks in the eventual treaty. Compromise may lie, for example, in an outcome under which it would

be agreed that existing stocks would not directly be dealt with in the treaty except as part of a broader framework. Such stocks could be covered by a separate protocol—as proposed by Algeria in 1998 (CD/1545)—or be subject to a phased, multi-faceted approach entailing binding unilateral or plurilateral declarations or other binding commitments by the nuclear weapons-possessing states—see, for instance Brazil’s proposal in 2010 (CD/1888).

Shedding light on these or other variations and possibilities through the current formal discussions may, it is to be hoped, facilitate consensus on a FM mandate, and help the CD resolve its long-standing impasse over determining its negotiating priorities (also known as settling its programme of work).

For other work by UNIDIR on fissile material see also:

FMCT: Understanding the Critical Issues

UNIDIR research project, 2009–2010

<www.unidir.org/bdd/fiche-activite.php?ref_activite=477>

Disposition of Excess Russian Weapon HEU and Plutonium

A. Diakov, 2012

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-012-D-en>

Disposition of Excess Military Nuclear Material

P. Podvig, 2012

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-012-C-en>

Universalization of Comprehensive Safeguards—Next Steps

A. Shaper, 2012

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-012-E-en>

Disposition of Military Nuclear Material under the 2010 NTP Action Plan

Conference audio and documents

UNIDIR, 2012

<www.unidir.org/bdd/fiche-activite.php?ref_activite=671>

Fissile Material Negotiations in the Conference on Disarmament (v.2)

UNIDIR, 2011

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-010-H-en>

Nuclear Security: Challenges and Opportunities

Conference audio

UNIDIR, 2011

<www.unidir.org/bdd/fiche-activite.php?ref_activite=651>

Treatment of Pre-existing Fissile Material Stocks in an FM(C)T

H.A. Feiveson, 2010

<www.unidir.org/pdf/activites/pdf3-act477.pdf>

A Treaty on Fissile Material: Just a Cut off or More?

A. Schaper, 2010

<www.unidir.org/pdf/activites/pdf4-act477.pdf>

FM(C)T: Verification in Some of Its Aspects

Conference audio and documents

UNIDIR, 2010

<www.unidir.org/bdd/fiche-activite.php?ref_activite=505>

The Scope of a Fissile Material Treaty: A Question of Ambition

Conference audio and documents

UNIDIR, 2010

<www.unidir.org/bdd/fiche-activite.php?ref_activite=495>

PREVENTION OF AN ARMS RACE IN OUTER SPACE

The Conference on Disarmament—then the Committee on Disarmament—began formal deliberations of the prevention of an arms race in outer space (PAROS) in 1985, with the establishment of an Ad Hoc Committee on the issue. This followed from several earlier initiatives within the United Nations General Assembly initiated by the Soviet Union in 1981.

The United Nations General Assembly adopted two resolutions regarding arms control and outer space in 1981: A/RES/36/97, sponsored by the Western Europe and Others Group (WEOG), which asked the CD to negotiate a treaty to ban anti-satellite (ASAT) weapons; and A/RES/36/99,

sponsored by the Eastern European states, which urged the Committee to negotiate a treaty banning the placement of weapons in outer space. In 1982, General Assembly resolution A/RES/37/83 called on the Committee on Disarmament to prioritize the issue of “the prevention of an arms race in outer space” and to establish an Ad Hoc Committee during its 1983 session.

Thus the term PAROS was born as reflecting a compromise between the two earlier, more specific resolutions—which in turn represent long-standing differences that exist to some extent to this day about how to prioritize threats to space security.

The Ad Hoc Committee was tasked “to examine as a first step at this stage, through substantive and general consideration, issues relevant to the prevention of an arms race in outer space”. The programme of work was established as follows:

1. examination and consideration of issues relevant to PAROS;
2. examination and consideration of existing agreements relevant to PAROS; and
3. examination and consideration of existing proposals and future initiatives on PAROS.

Unfortunately, the fundamentally different perceptions of security threats, priorities and methods to address them ultimately doomed the Ad Hoc Committee’s efforts. The Committee met annually from 1985 to 1994, each year failing to result in any agreed pathway forward. Differences among states included the question of whether or not new legally binding measures were required, what threats (ASATs vs. weapons in space) were actually real and present dangers, and whether the Committee’s focus should be on substantive discussions or on developing a negotiating mandate.

The Ad Hoc Committee’s work finished at the end of its session in 1994; it was not re-established in 1995 because some Member States wanted linkage between the continuation of the PAROS Committee and an Ad Hoc Committee on a Fissile Material Treaty. As such, neither Committee was re-established. Indeed, the linkage between PAROS and a Fissile Material Treaty was for many years the fundamental reason for the CD’s overall paralysis.

In the years following the Ad Hoc Committee’s demise, interest in PAROS at the CD was kept alive essentially by three Member States: Canada,

the People's Republic of China and the Russian Federation. In January 1998, Canada proposed a new Ad Hoc Committee to negotiate the non-weaponization of outer space. In a February 2000 working paper, China proposed that the PAROS Ad Hoc Committee be revived with a mandate to negotiate a "new international legal instrument prohibiting the testing, deployment, and use of weapons, weapon systems and components in outer space".

In 2002, China and the Russian Federation put forward a working paper outlining possible elements of a future treaty to prevent the deployment of weapons in outer space; in 2008 the two states submitted a draft treaty—based on refinement of their initial proposal in response to comments and discussions over the intervening years—on the Prevention of Placement of Weapons in Outer Space (PPWT). Between 2006 and 2009, Canada submitted four working papers on various PAROS-related issues, including on verification of a treaty and transparency and confidence-building measures (TCBMs).

In 2009, with the adoption of resolution CD/1864, the long stalemate at the CD regarding its programme of work was broken—in part due to a compromise that delinked negotiations on PAROS and FM; instead providing a negotiating mandate on the latter and a discussion mandate for the former. On PAROS the programme of work would have created a working group to "discuss substantively, without limitation, all issues related to the prevention of an arms race in outer space". Sadly, the agreement collapsed almost as soon as it was printed. PAROS, however, remains one of the "core" agenda items for the CD and an eventual programme of work.

As the CD continues its efforts to reach agreement on its future activities, Member States should be aware of several other ongoing efforts regarding space security that could impact future PAROS discussions:

In 2010, the General Assembly established, under A/RES/65/68, a Group of Governmental Experts (GGE) on Transparency and Confidence-Building Measures for Outer Space Activities to meet in 2012 and 2013. It should be remembered that a similar GGE—on the "Study and on the application of confidence building measures in outer space" (A/48/305)—resulted in a study that was the subject of positive follow-up consideration by the CD's Ad Hoc Committee in 1994. If the current GGE is able to reach agreement on a report in 2013, the CD potentially could again be in a position to take such work forward—although there continues to be some disagreement

within the Conference between those Member States that see TCBMs as worth pursuit in and of themselves and those that see value in TCBMs only if they are linked to pursuit of a legally binding treaty.

The second ongoing effort of note is the European Union's initiative to develop an international code of conduct for space activities, which is essentially a macro-level, norm-setting approach. On 5 June 2012, the EU presented its latest draft text at an experts meeting in Vienna and will be launching a political process to refine the text and broaden support. The current draft text covers both military and non-military uses of space, and some TCBM-type elements that again would require consideration in any future PAROS discussions or negotiations within the CD.

Finally, the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) in Vienna is working to develop best-practice guidelines for space activities in order to promote the "long-term sustainability" of space. This is a largely technical undertaking and the Committee has no mandate to discuss military space operations. However, many of the foundational issues that are being discussed, such as exchange of data on orbital objects and notification of planned manoeuvres, are also foundational aspects of any future TCBM or treaty regime. This work is set to conclude with a proposed list of voluntary best practices in 2014.

Thus, there is a vast and growing body of work on PAROS and related issues that the CD could draw upon in future discussions or negotiations. This, in and of itself, is a source for optimism that if the CD begins work on PAROS, progress towards multilateral solutions could be forthcoming relatively rapidly.

For other work by UNIDIR on outer space see also:

The Conference on Disarmament and the Prevention of an Arms Race in Outer Space

P. Meyer, 2011

unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-B-en

The Conference on Disarmament and the Prevention of an Arms Race in Outer Space

Conference audio

UNIDIR, 2011

www.unidir.org/bdd/fiche-activite.php?ref_activite=597

Space Security Conference 2012: Laying the Groundwork for Progress

Conference audio and documents

UNIDIR, 2012

[<www.unidir.org/bdd/fiche-activite.php?ref_activite=681 >](http://www.unidir.org/bdd/fiche-activite.php?ref_activite=681)

Space Security Conference 2011: Building on the Past, Stepping towards the Future

Conference audio and documents

UNIDIR, 2011

[<www.unidir.org/bdd/fiche-activite.php?ref_activite=599 >](http://www.unidir.org/bdd/fiche-activite.php?ref_activite=599)

Space Security 2011: Building on the Past, Stepping towards the Future—Conference Report 4–5 April 2011

UNIDIR, 2011

[<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-l-en >](http://www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-l-en)

TCBMs in Outer Space Activities: Looking Back and Moving Forward

Conference audio

UNIDIR, 2011

[<www.unidir.org/bdd/fiche-activite.php?ref_activite=647 >](http://www.unidir.org/bdd/fiche-activite.php?ref_activite=647)

NEGATIVE SECURITY ASSURANCES

Since the negotiation of the Nuclear Non-Proliferation Treaty (NPT) during the late 1960s, many of the non-nuclear-weapon states (NNWS), especially those of the Non-Aligned Movement (NAM) that were not covered by any military alliance and were not in receipt of security guarantees under such alliance, expected that in return for agreeing to renounce nuclear weapons that they should receive assurances that they would not be left vulnerable to attack by states that still had them. That is, that they would receive legally binding “negative security assurances”.

In 1978, the final document of the First Special Session of the General Assembly devoted to Disarmament asked nuclear-weapon states (NWS) to “pursue efforts to conclude, as appropriate, effective arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”.

Since 1978 the Conference on Disarmament (CD) has included the topic of negative security assurances (NSAs) in its annual agenda. In 1979 an ad hoc working group was established chaired by Egypt. In its first report to the Conference, the group noted that there was wide (though not universal) recognition of the urgent need to reach agreement on effective international arrangements for NSAs, such as an international convention.

The following year the working group agreed that the object of the arrangements should be to effectively assure NNWS against the use or threat of use of nuclear weapons. But there were divergent views on whether there should be a blanket or qualified extension of NSAs to NNWS, and on the exceptions associated with the right to self-defence.

Ad hoc groups were reconvened every year until 1994, and in 1995 the NWS circulated renewed pledges on NSAs to the United Nations General Assembly and Security Council. These unilateral declarations from 1995 led to the adoption of United Nations Security Council resolution 984 to the effect that NNWS parties to the NPT would receive assurances that “the Security Council, and above all its nuclear-weapon State permanent members, will act immediately in accordance with the relevant provisions of the Charter of the United Nations” to protect NNWS against attacks or threats of aggression in which nuclear weapons are used.

These unilateral commitments were a part of efforts to obtain the indefinite extension of the NPT at the 1995 NPT Review Conference. The NWS, however, were unable to find common language for a similar clause in the final outcome document of the Review Conference. Instead, the Conference adopted a recommendation that “further steps should be considered to assure non-nuclear-weapon States party to the [NPT] against the use or threat of use of nuclear weapons. These steps could take the form of an internationally legally binding instrument”.

Aside from Security Council resolutions, NSAs are also included in additional protocols of the treaties establishing nuclear-weapon-free zones (NWFZs). Although the NPT nuclear-weapon states express their support of these the treaties, of the existing NWFZ treaties the Treaty of Tlatelolco is the only one that has had its protocols and ratified by all five NPT nuclear-weapon states.

After several years of inability to continue work on NSAs, the CD reconvened the Ad Hoc Committee on this topic in 1998. That body’s mandate was to negotiate “effective international arrangements to assure non-nuclear-weapon States against the use or threat of use on nuclear

weapons". The Committee began work on 19 May, holding nine meetings in all. The Committee has not since been reconvened because of linkages drawn with other core issues under which progress on one would be dependent on progress on others. NSAs tend now to be addressed only in thematic debates on this topic such as those in the 2012 series in the CD or in individual statements by members. (Incidentally, the mandates on NSAs and fissile material in 1998 were stand-alone, not intrinsically incorporated into a single programme of work.)

Despite the CD's current long-standing deadlock over its programme of work and priorities, it is not thought that any state officially opposes the establishment of a working group on NSAs. Recent iterations of a mandate on NSAs (including CD/1864 and CD/1933/Rev.1) envisage that a subsidiary body dealing with NSAs would "discuss substantively, without limitation, with a view to elaborating recommendations dealing with all aspects of this agenda item, not excluding those related to an internationally legally binding instrument". This is a far cry from the negotiating mandate agreed by the CD in 1998.

A comparatively recent development of relevance to the debate on NSAs is that in the United States Nuclear Posture Review, released in April 2010, it was stated that the United States is now prepared to strengthen its long-standing "negative security assurance" by declaring that it will not use or threaten to use nuclear weapons against NNWS that are party to the NPT and in compliance with their nuclear non-proliferation obligations. This revised assurance is intended to underscore the security benefits of adhering to and fully complying with the NPT.

For other work by UNIDIR on negative security assurances see also:

The Conference on Disarmament and Negative Security Assurances

B. Fihn, 2011

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-A-en>

The Conference on Disarmament and Negative Security Assurances

Conference audio

UNIDIR, 2011

<www.unidir.org/bdd/fiche-activite.php?ref_activite=593>

REVITALIZATION OF THE CONFERENCE ON DISARMAMENT

On 24 September 2010, the United Nations Secretary-General Ban Ki-moon, noting that “Moving forward on multilateral disarmament negotiations requires political courage, creativity, flexibility and leadership”, convened and opened the High-Level Meeting (HLM) on Revitalizing the Work of the Conference on Disarmament and taking forward Multilateral Disarmament Negotiations. The United Nations General Assembly held a follow-up meeting on the HLM on 27 July 2011, chaired by General Assembly President Deiss (Switzerland). In the Conference itself, CD Secretary-General Tokayev made a statement on 14 February this year drawing the attention of members to Ban Ki-moon’s “persistent calls for serious decisions to be taken with regard to the future of the Conference on Disarmament”, and made a number of suggestions for moving forward.

“Revitalizing the Work of the Conference on Disarmament and taking forward Multilateral Disarmament Negotiations” has become an agenda item of the United Nations General Assembly. Separate resolutions under that item were tabled during the most recent session of the United Nations General Assembly by Austria, Mexico and Norway (though not pressed to a vote) and by the Netherlands, South Africa and Switzerland (A/66/66). The latter resolution, adopted by the United Nations General Assembly without dissent, urged the CD to adopt and implement a programme of work to enable it to resume substantive work on its agenda early in its 2012 session, and it decided that at its next annual session it would “review progress made in the implementation of the present resolution and, if necessary, to further explore options for taking forward multilateral disarmament negotiations”.

In his summing up of the HLM, the United Nations Secretary-General asked his Advisory Board on Disarmament Matters to undertake a thorough review of the issues raised at the meeting, including the possible establishment of a high-level panel of eminent persons with special focus on the functioning of the Conference on Disarmament. In its report of 11 July 2011 (A/66/125), the Advisory Board expressed differing views on such a panel as well as on its possible composition. Further steps towards setting up an eminent persons panel have yet to be taken.

The CD’s Rules of Procedure (CD/8/Rev.9) have not been substantively revised since the origin of the Conference post-SSOD I except to reflect changes in membership and to give effect to a decision in 1990 on the “Improved and Effective Functioning” of the CD (CD/1036). As well as

amending rules 7, 9 and 28, that decision included a direction to the Secretariat to simplify the programme of work—that is, to construct it as a schedule of activities giving indications of the weeks in which those activities would occur.

“Improved and Effective Functioning” of the CD was last taken up by the CD in 2002 under a Special Co-ordinator who reported that his consultations had not led to a consensus (CD/PV.911, pp. 14–19).

Additional possible areas within the CD’s practices and rules of procedure that may warrant revitalization

1. SIMPLIFYING THE “PROGRAMME OF WORK”, CONFINING IT LARGELY TO A SCHEDULE OF ACTIVITIES, SHORN OF NEGOTIATING MANDATES

Until 1992 the programme of work (rule 28) consisted mainly of a schedule of activities of the Conference *and* the agenda (rule 27), adopted together in a single document. However, after the conclusion of negotiations on the Chemical Weapons Convention in 1992, the presidency of the Conference began consultations on reviewing both the agenda and the membership of the Conference. This separate focus on the agenda led to it being treated as separate from the programme of work thereafter.

2. DELINKING MANDATES FROM THE PROGRAMME OF WORK

The reason why the agenda and the programme of work were once embodied in a single document was for ease of allocating blocks of time to respective agenda items. But if the work programme is treated in a manner separate from (but related to) the agenda, it can still serve the same purpose. The programme would set out specific periods of time and the relevant dates for taking up specific agenda items. It would also list other organizational matters that it wanted to address. For instance, in CD/963 of 7 February 1990 and CD/1119 of 22 January 1992, the Conference projected the need to convene subsidiary bodies “according to the circumstances and needs” of those bodies. It also agreed dates for the meeting of the Ad Hoc Group of Scientific Experts on seismic events (pre-CTBT).

In the past, the first step of the CD each year was to agree on the organizational framework for the session ahead, including the allocation of time or space for subsidiary bodies. No mention was made of actual mandates. The second step was to settle on mandates for the subsidiary

bodies that members agreed to establish. At its broadest abstraction, the United Nations General Assembly's mandate for the CD is that it must operate as a negotiating body. Hence, it was seen as logical that at least one of the mandates for subsidiary bodies would be a negotiating mandate or would foreshadow one. In any event, the CD is not compelled to establish subsidiary bodies, but can do so "when it appears that there is a basis to negotiate a draft treaty" (rule 23).

Incidentally, "comprehensive and balanced", the qualifying words used frequently in references to the work programme, carry no weight in terms of the CD's rules, but are political interpolations used to perpetuate linkages. The CD's rules of procedure require that a programme of work must be established each annual session as the basis for the CD's efforts for that year. But the rules do not require that that programme be "comprehensive and balanced" in those specific terms. There is no procedural requirement for the programme to be comprehensive, although it would need to be perceived to be balanced as a practical element of the consensus necessary for concerted implementation of it.

3. CONSENSUS RULE

In the absence of any likelihood of obtaining agreement to replace the consensus rule, there is a case for developing an understanding among CD members of the responsibilities attached to invoking the consensus rule. Such an understanding might situate the rule in the context of actual substantive negotiations and decisions on the mandate for those negotiations, leaving decisions setting the procedural parameters for those negotiations to a more relaxed "general agreement" approach—that is, the absence of any persistent objection (rule 18).

4. ADOPTION OF REPORTS BY CONSENSUS

There also needs to be a better understanding about the rule on adoption of reports by consensus. That rule makes it clear that the approval by consensus of Conference reports such as the annual report to the General Assembly requires the faithful reflection of the positions of *all* the members. This rule underpins the furnishing of substantive reports rather than minimalistic ones by making it clear that a member cannot object to the inclusion in a draft report of a viewpoint with which it disagrees as long as that viewpoint faithfully reflects the position of its proponent(s) (rule 25).

5. ANNUAL REPORTS TO THE UNITED NATIONS GENERAL ASSEMBLY

It is arguable that in the current circumstances of deadlock, the CD's annual report to the United Nations General Assembly should reflect substantive positions on issues of both substance and procedure, rather than the customary, anodyne procedural reports (see also the note on rule 25 above).

6. CONDUCT OF WORK IN PLENARY MEETINGS

Better understanding is needed of the rule that the work of the Conference shall be conducted in plenary meetings—the default option. It is open, of course, for the CD to agree on any additional arrangements, such as informal meetings with or without experts. There is a mistaken view that negotiations can only be carried out in subsidiary bodies. This is not the case. Subsidiary bodies are to be convened only on a *discretionary* basis 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 (rules 19, 22 and 23). In practice, however, negotiations of a draft treaty lend themselves to the greater informality (off the record) offered by subsidiary bodies compared to formal plenaries.

7. SELF-REVIEW

There is no mechanism in the CD's rules for self-review. Reform of the Conference might include provision for a five-yearly review of the kind familiar to parties to many disarmament treaties.

8. REGIONAL MEETINGS

Members may wish to bear in mind that originally regional meetings had the purpose of streamlining the president's consultations on matters of basic procedure and timetabling of meetings. There is no rule governing the role of regional groups. Nor are regional groups required to agree on matters of substance, although if no agreement exists within a regional group—whether on a matter of substance or procedure—it can usually be assumed that there will not be a consensus in the Conference as a whole. Sometimes, however, when it comes to the crunch in the plenary, and on the record, members may not pursue their objection to the point of breaking a consensus.

9. ROTATING PRESIDENCIES

The extremely short time frame for the rotating presidencies is often cited as a serious CD inefficiency. However, if and when negotiations get underway, continuity of those negotiations will be at least yearly, rather than monthly, because they will be presided over by an elected chair separate from the role of president (rule 9).

10. AGREEING THE PROGRAMME OF WORK ANNUALLY

More problematic is the rule that requires the work programme to be agreed annually. However, again, if the programme of work were to be seen in its original form as a schedule of activities, the CD should be able to rise above this obstacle especially if substantive negotiations had developed a momentum of their own (rule 28).

11. AGENDA

A comprehensive review of the CD would include a review of its agenda to update it to reflect modern realities (rules 27 and 31). In the background notes that follow on agenda items 6 and 7, the tendency of CD members to raise new topics under those items is noted, as is the view of some states that the agenda has a preponderance of items relating to nuclear weapons as opposed to conventional armaments.

12. EXPANSION OF THE MEMBERSHIP

Pressure is building for an expansion of the membership of the CD. It is anomalous that all United Nations Member States contribute to the costs of this body whether or not they are members of it (rule 2, rules 32–36, Annex 1).

13. NGOs

Pressure for improved rules for access by NGOs to the work of the CD, comparable to that in other disarmament processes, also continues to build. NGOs enjoy no greater access to the Conference than members of the public in general. Unfortunately, the decision in 2004 to enhance the level of access is dependent first on agreement by the CD of its programme of work (rule 42) (see also CD/PV.946).

14. UNITED NATIONS SPECIALIZED AGENCIES

The rule for access by United Nations specialized agencies and other relevant organs has not been updated to reflect the growth in disarmament bodies and processes that could help advance the work of the CD (rule 41).

15. CD AS “A SINGLE MULTILATERAL DISARMAMENT NEGOTIATING FORUM”

The notion of the CD as a single negotiating forum is much misunderstood and misquoted. Even the CD’s own annual resolution and report to the United Nations General Assembly gets it wrong. The most recent CD resolution (A/C.1/66/L.13/Rev.1) tabled in the First Committee of the General Assembly mistakenly refers to the CD as “the sole multilateral disarmament negotiating forum” (emphasis added).

What is the difference between “single” and “sole”? “Sole” has come to be used in some quarters as though the CD were the only legitimate multilateral disarmament negotiating forum. The use of the words “a single” was intended by the United Nations General Assembly at its first Special Session on Disarmament (SSOD I) in 1978 to mean something else. What the General Assembly had in mind was that the CD would be a single (as opposed to the sole) forum. That is, it would provide a *single* edifice within which key disarmament issues would be negotiated by key states as needs arose (assuming the necessary consensus). It was seen as more effective and efficient to support a *single* institution and maintain a *single* repository of knowledge and expertise than to take up disarmament issues, one by one, in an ad hoc manner—not an exclusive forum for disarmament negotiations, but a convenient one.

16. RELATIONSHIP OF THE CD TO THE UNITED NATIONS GENERAL ASSEMBLY

There is no authoritative statement of this relationship to UNIDIR’s knowledge. Analysts most commonly describe the CD as an “autonomous body” but that word does not appear in the Final Document of SSOD I or anywhere else. Nor, given the CD’s close relationship with the United Nations, does that forum have all the qualities of autonomy. It is not fully independent.

For instance, the CD meets on United Nations premises, is serviced by United Nations personnel, its Secretary-General is appointed directly by the United Nations Secretary-General and acts as his Personal Representative, its rules require it to take into account United Nations General Assembly resolutions on disarmament (although it is not obliged to act on them), it is required to send its reports to the United Nations, and it has become the practice for the Conference to transmit the texts of any treaties or agreements to the General Assembly to be formally adopted and then opened for signature. Nor—crucially—is it self-sufficient: its budget is included in the United Nations budget, and the United Nations General Assembly has the capacity to withhold funding in total or in part.

17. “POLITICAL WILL”

There is a continual demand in the international community and civil society for the CD to show more “political will” to overcome its deadlock. CD members themselves in their debates frequently use this expression. But there is no absence of political will in the Conference. The problem is that there are *opposing* political wills. They cancel each other out. An outcome sought by one member or one group of members is the opposite of what another member or group of members wants. Voting is impossible. Decision-making is only by consensus, that is, the absence of any insistent objection. So to talk about the absence of political will is pointless. The real question concerns the lack of compromise.

For other work by UNIDIR on revitalising the CD and other disarmament machinery see also:

Breaking the Ice in the Conference on Disarmament: A Wrap-up

T. Caughley, 2011

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-H-en>

The Conference of Disarmament: Breaking the Ice

T. Caughley, 2010

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-010-I-en>

Transforming the Conference on Disarmament: Multilateral Arms Control and Disarmament for a Pluralistic World

J. King, 2011

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-C-en>

The Role of the Conference on Disarmament in History and Practice

Conference audio and documents

UNIDIR, 2011

<www.unidir.org/bdd/fiche-activite.php?ref_activite=563>

Discussing the Conference on Disarmament

UNIDIR, 2010

<www.unidir.ch/unidir-views/pdf/pdf-uv-23-26.pdf>

Getting the Conference on Disarmament back to substantive work: food for thought

Disarmament Forum

UNIDIR, 2009

<www.unidir.org/bdd/fiche-article.php?ref_article=2859>

OTHER ISSUES ON THE AGENDA OF THE CONFERENCE ON DISARMAMENT

1. NEW TYPES OF WEAPONS OF MASS DESTRUCTION AND NEW SYSTEMS OF SUCH WEAPONS; RADIOLOGICAL WEAPONS

This issue was first presented to the United Nations General Assembly in 1969 by Malta, and the CD in turn was tasked with considering the implications of possible military applications of laser technology. Early conclusions of the CD were that (a) laser technology applied to weapons did not warrant consideration at that time, and (b) the possibilities of radiological warfare were of limited significance for arms control.

In 1975, however, the Soviet Union tabled a draft international agreement in the United Nations General Assembly on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons. When discussion of the item resumed in the CD, the Soviet Union indicated that its purpose was to cover “ray” (i.e., radiological) weapons affecting human organs and behaviour as well as genetic weapons affecting heredity. But Western states, while supporting efforts to ban particular weapons of mass destruction (WMD), objected to the conclusion of a comprehensive convention banning unspecified future weapons.

This issue also arose at the First Special Session of the General Assembly devoted to Disarmament (SSOD I). The final document included a compromise between a general prohibition approach and the idea of specific agreements and stated that, “a convention should be concluded prohibiting the development, production, stockpiling and use of radiological weapons”.

During the 1980s a subsidiary body on radiological weapons considered a number of working papers but no consensus emerged. Since 1993 no subsidiary body has been re-established. In 2002, Germany tabled a discussion paper for revisiting the issue in light of new threats. The item was also discussed in 2006 in plenary, and from 2007 onwards in informal settings. Discussions remain inconclusive. As with agenda items 6 and 7, delegations have not envisaged reconvening a subsidiary body, preferring instead the appointment of a Special Coordinator to seek the views of members on the most appropriate way to deal with this issue.

2. COMPREHENSIVE PROGRAMME ON DISARMAMENT

The comprehensive programme of disarmament (CPD) has its origins in article 11 of the United Nations Charter. Under that article the United Nations General Assembly is mandated to consider and make recommendations on “principles governing disarmament and the regulation of armaments”. In 1969 when declaring the 1970s as a Disarmament Decade, the United Nations General Assembly requested the CD to elaborate a comprehensive programme on all aspects of the cessation of the arms race and general and complete disarmament under effective international control. SSOD I did likewise.

Interestingly, SSOD I also requested the Disarmament Commission (UNDC) to consider the elements of the CPD and submit its recommendations to the United Nations General Assembly and, through it, to the CD. UNDC duly elaborated the “Elements of a comprehensive programme of disarmament” and submitted them to the CD.

The item “Comprehensive programme of disarmament” has been on the CD’s agenda since 1980. That year a subsidiary body adopted an outline of the CPD. While there was a measure of agreement on several elements of the outline, fundamental divergences of views emerged on actual measures and stages of implementation and their time frames. Many CD members argued that the CPD should include a firm commitment to its implementation but there was disagreement over whether that commitment should be expressed in legally binding terms.

Since 1989, the item has not been considered as requiring a subsidiary body although over the years Special Coordinators have been appointed to consult members on its future. In recent years, Coordinators appointed by the Presidents of the Conference have chaired informal plenaries during which delegations raised a broad range of issues, both on conventional armaments and nuclear weapons. While some members saw value in resuming consideration of the CPD under the original mandate, others argued for reviewing what they saw as a predominantly nuclear agenda of the CD and updating it with items on conventional weapons.

3. TRANSPARENCY IN ARMAMENTS

During the 1991 session of the United Nations General Assembly the EU and Japan sponsored a resolution on transparency (46/36L). Recalling the 1990 Gulf War, the resolution asserted that no single state, especially in

areas of tension, should be able to strive for levels of armaments that did not bear any relationship to its self-defence needs. The CD was requested to address the question of the excessive and destabilizing accumulation of arms and to elaborate universal and non-discriminatory practical means to increase openness and transparency in this field.

Initially, there was no consensus in the CD on inscribing this issue as an agenda item. However, agreement was eventually reached to hold informal meetings chaired by a Special Coordinator. In 1993 the CD established an Ad Hoc Committee on Transparency in Armaments. Disagreement soon emerged over whether resolution 46/36L did or did not limit the mandate just to the United Nations Register of Conventional Arms. Some members of the Group of 21 took the view that the subsidiary body should focus on the gradual expansion of the Register to include all categories and types of arms, including WMD. But other states, largely from the Western and Eastern blocs, opposed inclusion of WMD in the Register because to do so would imply international acceptance of transfers of such weapons.

Work in the Ad Hoc Committee came to an end in 1995 when members were unable to reach agreement on its re-establishment. Since then the issue has been handled mostly in informal plenary meetings under Special Coordinators. The item has become a place of convenience for raising issues about conventional weapons rather than for seeking new agenda items to cover those issues.

For other work by UNIDIR on agenda items 5, 6 and 7 see also:

New types and Systems of WMD: Consideration by the CD

J. Zaleski, 2011

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-F-en>

Comprehensive Programme of Disarmament: Consideration of the Item by the CD

J. Zaleski, 2011

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-E-en>

Transparency in Armaments: Consideration of the Item by the CD

J. Zaleski, 2011

<www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-G-en>

ABBREVIATIONS

AHC	Ad Hoc Committee
ASAT	anti-satellite weapon
COPUOS	Committee on the Peaceful Uses of Outer Space
CD	Conference on Disarmament
CPD	comprehensive programme of disarmament
CTBT	Comprehensive Nuclear-Test-Ban Treaty
ENCD	Eighteen-Nation Committee on Disarmament
Fissban	treaty banning fissile material
FM	fissile material
G-21	Group of 21 (group of NAM members in the CD)
GGE	Group of Governmental Experts
HLM	High-Level Meeting
NAM	Non-Aligned Movement
NNWS	non-nuclear-weapon states
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
NSAs	negative security assurances
NWFZ	nuclear-weapon-free zone
NWS	nuclear-weapon states
PAROS	prevention of an arms race in outer space
SSOD I	First Special Session of the General Assembly devoted to Disarmament
TCBM	transparency and confidence-building measure
UNDC	United Nations Disarmament Commission
WEOG	Western Europe and Others Group
WMD	weapon of mass destruction

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This publication contains papers prepared by UNIDIR at the request of the CD President as background information for delegates participating in the Conference on Disarmament's thematic debates of May and August 2012.

Those debates covered key issues on the agenda of the Conference. In addition, members of the CD addressed the question of revitalization. This issue has arisen because of concerns that, since the negotiation of the CTBT, the Conference has been unable to get underway on any negotiation.

Although these papers are brief, it is hoped that they will serve to provide newcomers to the work of the CD with insights into how key issues on the agenda have been shaped, as well as shed light on the complex procedural issues in play.