

Viewpoint

The Conference on Disarmament at the Crossroads: To Revitalize or Dissolve?

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While some arms control measures, mainly in the nuclear field, are negotiated bilaterally between the United States and Russia, arms control measures intended to be global in their application are negotiated multilaterally, mainly at the Conference on Disarmament (CD) based in Geneva. The CD is the successor to the Ten-Nation Committee on Disarmament (1959-60), established by the foreign ministers of France, the United Kingdom, the United States, and the Soviet Union; the Eighteen-Nation Committee on Disarmament (1962-69); the Conference of the Committee on Disarmament (1969-78); and the Committee on Disarmament (1979-83).

In the course of the four decades of its existence, the Geneva negotiating body has drafted several arms control agreements. The most important ones are the 1968 nuclear Non-Proliferation Treaty (NPT), the 1972 Biological Weapons Convention (BWC), the 1993 Chemical Weapons Convention (CWC), and the 1996 Comprehensive Test Ban Treaty (CTBT).¹ However, after the CTBT had been signed, the CD proved unable to agree on what measure to take up next and, in fact, interrupted its negotiating activities. This stalemate in

the CD is preventing negotiations on a range of possible measures. There are multiple reasons for this situation. They include an outdated membership setup based on the geopolitical and military realities of the 1970s, an obsolete agenda, an inability to negotiate more than one arms control measure at a time, and inflexible rules of procedure.

THE CD'S MEMBERSHIP

In 1978, the membership of the Geneva arms control negotiating body was increased from 31 to 40 states. The membership thus included all of the five acknowledged nuclear weapon powers plus 35 other states representing all geographical regions and political groupings.² In 1990, as a result of the unification of Germany, the CD membership was reduced to 39, and when Czechoslovakia, after its break-up, ceased to be a CD member, it fell to 38.

In 1996, the CD decided to admit 23 more states.³ Since one of them was Iraq, a country subject to UN sanctions for its aggression against Kuwait, the United States insisted that the newly admitted states commit

themselves not to obstruct any action of the Conference by resorting to the rule of consensus provided for in the CD Rules of Procedure. A “solemn” commitment to this effect was included in a joint letter of the 23 countries to the president of the CD.⁴ This commitment was to cease to apply if a consensus decision were reached in the CD that the “circumstance” that had given rise to the situation requiring it no longer existed. For any of the new members not subject to comprehensive enforcement measures under Chapter VII of the UN Charter, the above commitment was to cease to apply two years after the decision to enlarge the CD had been adopted. A few delegations questioned the appropriateness of creating a class of CD members whose rights of participation would be restricted, but they did not formally oppose the decision.

In 1999, five more states (out of over 20 requesting membership) were allowed to join the CD, this time without conditions attached to their admission.⁵ Thus, the CD membership was brought up to 66. The Socialist Federal Republic of Yugoslavia, although an original member, ceased to participate when no agreement could be reached on successor arrangements; the understanding was that representatives of the Federal Republic of Yugoslavia (Serbia-Montenegro) would not attempt to occupy Yugoslavia’s seat. Although the dissolution of the Warsaw Treaty Organization (WTO) and the expansion of the North Atlantic Treaty Organization (NATO) meant an end to the conditions that shaped the initial composition of the CD, some appearances of solidarity were maintained among the members of each of the three regional-political groupings inherited from the Cold War alignments: the Western Group, the Eastern European Group, and the “Group of 21” (G-21) non-aligned states.

THE CD’S AGENDA

At its First Special Session on Disarmament, held in 1978, the UN General Assembly gave the CD a mandate to deal with arms control and disarmament in the following areas: (1) nuclear weapons in all 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, and effective verification methods in relation to appropriate disarmament measures; and

(10) a comprehensive program of disarmament leading to general and complete disarmament under effective international control.⁶

Within the above guidelines, the CD adopts an agenda for each session. For the year 2000, this agenda (identical to that for 1999) includes:

1. Cessation of the nuclear arms race and nuclear disarmament.
2. Prevention of nuclear war, including all related matters.
3. Prevention of an arms race in outer space.
4. Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons.
5. New types of weapons of mass destruction and new systems of such weapons; radiological weapons.
6. Comprehensive programme of disarmament.
7. Transparency in armaments.
8. Consideration and adoption of the annual report and any other report, as appropriate, to the General Assembly of the United Nations.⁷

The agenda has little practical significance, because not all items that appear on it are actually dealt with by the CD. Only those items that are specified in the program of work, adopted for each session, may be subject to in-depth consideration and, as a rule, no more than one item is actually negotiated. Other items are occasionally referred to in the delegates’ statements, but it is the ability to agree on a work program that determines whether negotiations take place. Moreover, the fact that a new work program is considered every year means that negotiations agreed to in one year may not be re-authorized in following years. Several annual sessions have ended without agreement on a program of work because of linkages made between different, often unrelated measures of arms control.

THE CD’S PROCEDURES⁸

The CD holds annual sessions, each divided into three parts. The presidency rotates among all members, each president exercising his or her functions during a period of four working weeks. Representatives of non-member states may attend plenary meetings and, if the Conference so decides, other meetings as well. They may submit written proposals or working documents on the

subjects of negotiation. The Conference may invite non-member states, upon their request, to express their views in both formal and informal meetings. Non-governmental organizations do not have such rights. Their communications are retained by the Secretariat of the CD and made available to delegations only upon request. As a consequence, the CD is more immune to the pressure of public opinion than multilateral fora dealing with human rights or environmental protection.

The CD is not a UN organ but has close links with the world organization. Although formally autonomous in its activities, the CD often (but not always) takes into account resolutions of the UN General Assembly and regularly submits reports to it. It is taken for granted that the texts of agreements worked out in the CD should be transmitted to the UN General Assembly with the request to have them recommended for signature and ratification. The budget of the CD is included in the budget of the United Nations. The CD holds its meetings on UN premises and is serviced by UN personnel. The secretary-general of the CD is appointed by the UN secretary-general and acts as his personal representative.

As deemed necessary for the performance of its functions, especially when a draft treaty is to be elaborated, the CD establishes subsidiary bodies: ad hoc committees, working groups, technical groups, or groups of governmental experts. The CD defines a mandate for each subsidiary body, which is valid only for a given session of the Conference. Meetings of the subsidiary bodies are closed, whereas plenary meetings of the CD are normally held in public.

By its rules of procedure, the CD conducts its work and adopts its decisions by consensus. The requirement of consensus, understood as unanimity, enables any participant to block decisions on any matter, whether substantive or procedural, thereby paralyzing all CD work. This virtual right of veto has frequently been resorted to in order to prevent the CD from dealing with issues of paramount importance to a number of states. It has been used to thwart the appointment of—or the extension of the mandate of—special co-ordinators who elicit the views of delegations on issues under discussion and assist the president in conducting informal consultations. It has also been used to hinder the establishment of working committees for items included in the CD agenda or to block the appointment of chairpersons of these committees. It was grossly abused when the Indian delegation prevented the CD from informing the United Nations

that consensus on the text of the CTBT had not been reached. As a result of these various problems, the CD has been losing its credibility, and its enlargement has not improved the situation.

THE CD'S PROSPECTS AND ALTERNATIVE OPTIONS

It is true that the present critical situation in the CD is a reflection of larger dynamics in political relations among states, and that procedures for conducting negotiations are not of decisive importance. Nonetheless, to pursue arms control effectively, an institutional mechanism is necessary, but it does need to be the CD. In its report released in July 1999, the Tokyo Forum for Nuclear Non-Proliferation and Disarmament, an independent international panel of experts, recommended that the CD should be revitalized by updating its work program and revising its procedures, or else its operations should be suspended.⁹ Revitalization of the CD is unlikely to happen, whereas suspension of its operations would lead to its dissolution. What is the alternative?

There is no reason why global arms control problems should be dealt with in only one international forum, while global economic or environmental problems can be taken up in a wide range of fora. Nor is there any reason why only certain countries, those selected by the CD itself, should be “privileged” to negotiate global arms control agreements. The present single negotiating body could be replaced by specialized open-ended negotiating conferences, to be convened by countries interested in, or directly affected by, certain specific arms control measures. “The Ottawa Process,” initiated by Canada and a group of like-minded states to establish a ban on anti-personnel landmines, demonstrated that such an approach can bear fruit.¹⁰ To be effective, the proposed conferences would have to be autonomous, not accountable to other international bodies. The UN General Assembly may, of course, continue to recommend signature and ratification of treaties, but it should not be given authority to invalidate agreements reached by groups of states.

One of the major weaknesses of the CD could be avoided if the arms control conferences adopted more flexible rules of work than those of the CD. The rule of consensus should not apply to procedural or organizational matters. It is even arguable whether it should apply to substantive matters. There is no risk involved in adopting veto-free procedures, because no conference

or organization can impose treaty obligations on sovereign states through voting. Treaty texts, negotiated internationally, are not automatically binding on negotiating states; they remain to be signed by individual governments and subsequently approved by legislative bodies. In other words, if there is to be meaningful progress in the field of multilateral disarmament, the negotiating machinery must be thoroughly revamped.

A mechanism having the described characteristics could be set in motion to negotiate a cut-off of the production of fissile materials for nuclear explosive devices—an important transitional measure in the process of nuclear disarmament. Cessation of production of these materials directly concerns only the United States, Russia, the United Kingdom, France, China, India, Pakistan, and Israel. None of these countries is opposed to negotiating the measure in question. The first five are even formally committed to such negotiations following the Decision on Principles and Objectives for Nuclear Non-Proliferation and Disarmament, adopted by the 1995 NPT Review and Extension Conference.¹¹ Practically all other states are already obliged—as parties to the NPT—not to produce nuclear-weapon-usable materials and are subject to International Atomic Energy Agency (IAEA) safeguards covering all their nuclear activities. They are not expected to assume additional nonproliferation obligations, but could become involved, through the IAEA, in verifying compliance with the treaty concluded by the above-specified eight nations.

If, within the next months, no compromise is achieved to make possible the resumption of serious negotiations in the CD, it would be reasonable to dissolve the CD. Since, however, it is difficult to abolish an international institution, even an unproductive one, states may significantly lower the level of their representation at the Conference and eventually cease to attend it. The CD would then die a natural death.

¹ For the texts and analyses of these agreements, see Jozef Goldblat, *Arms Control: A Guide to Negotiations and Agreements* (London: SAGE Publications, 1994) and Jozef Goldblat, *The Nuclear Non-Proliferation Regime: Assessment and Prospects* (The Hague: Martinus Nijhoff Publishers, 1997).

² UN document A/RES/S-10/2, 13 July 1978.

³ Conference on Disarmament document CD/1406, 17 June 1996.

⁴ Conference on Disarmament document CD/1407, 17 June 1996.

⁵ Conference on Disarmament document CD/1588, 5 August 1999.

⁶ Final Document, First Special Session of the UN General Assembly Devoted to Disarmament, adopted on 30 June 1978.

⁷ Conference on Disarmament document CD/1603, 18 January 2000.

⁸ Conference on Disarmament document CD/8/Rev.8, 17 August 1999.

⁹ *Facing Nuclear Dangers: An Action Plan for the 21st Century*, The Report of the Tokyo Forum for Nuclear Non-Proliferation and Disarmament, Tokyo, 25 July 1999, reproduced in Conference on Disarmament document CD/1590, 16 August 1999.

¹⁰ Ken Rutherford, "The Hague and Ottawa Conventions: A Model for Future Weapon Ban Regimes?" *The Nonproliferation Review* 6 (Spring-Summer 1999).

¹¹ NPT Review and Extension Conference document NPT/CONF.1995/32/DEC.2.