

Civil society statement on the high-level meeting on revitalizing the Conference on Disarmament and taking forward multilateral negotiations*

United Nations, New York, 24 September 2010

At the time of this meeting, the Conference on Disarmament (CD) has been deadlocked for 12 years. This ongoing stalemate, combined with recent progress in other areas of disarmament outside the CD, has underscored the need for revitalization of the CD or the creation of new processes in order to facilitate real results on nuclear disarmament and many other disarmament and arms control issues.

Civil society recognizes the great value of the CD—not only for its past achievements, but also for its important role in Geneva. Geneva is a centre for multilateral disarmament processes outside the CD. Negotiations and talks on landmines, biological weapons, cluster munitions, conventional weapons, arms trade and small arms and light weapons regularly take place in this city, with the participation of the same diplomats that are stationed in the CD. The international community's ability to work efficiently on these other disarmament and arms control initiatives can to a large extent be attributed to the presence of the CD, since it has been the principal reason for maintaining staff dedicated and specialized in disarmament matters. Some delegations have already scaled back on their disarmament staff in Geneva due to the lack of action in the CD. Further stalemate in this body will not only drain more financial and human resources from governments, but might also harm other areas of disarmament where progress actually has been made during the last 12 years.

The reasons for the CD's stalemate are widely debated. At times, blame is placed on the machinery itself—established under a different world order, the body's rules of procedure and limited membership, as well as its aversion to participation of other actors including those from civil society, make it susceptible to calls for modernization or revitalization. It is indeed worth reviewing the manner of operations of the CD—times have changed and we cannot keep using outdated equipment. However, it is important to remember that multilateral treaty negotiations on a variety of issues have taken many shapes and forms throughout the history of international law. While the machinery used to negotiate a treaty is an important part of the equation, ensuring continuity of efforts to achieve substantive outcomes to further international peace, security, and justice are also core elements of successful negotiations.

Blame for the CD's stalemate is also placed on whichever government happens to be most vocally opposed to the newest configuration of a programme of work. While it is frustrating for one or two governments to be able to block potential work in a body in which 65 states participate, it is also frustrating to see divergent views on priorities accepted as an excuse for inaction. Ultimate responsibility for the achievement of the work mandated to the CD lies with each of its members.

Proposals for action

Taking it outside. As stated in the Final Document of the First Special Session on Disarmament, “The General Assembly has been and should remain the main deliberative organ of the United Nations in the field of disarmament and should make every effort to facilitate the implementation of disarmament measures.” After the member states of the CD themselves, the responsibility for the work mandated to the CD lies with the General Assembly. Therefore, the General Assembly could establish a parallel

* This statement was drafted by the Reaching Critical Will project of the Women's International League for Peace and Freedom and the Lawyers Committee on Nuclear Policy. It is endorsed by Beati i costruttori di pace; Commission of the Churches on International Affairs, World Council of Churches; Global Action to Prevent War; IKV Pax Christi (Netherlands); International Fellowship of Reconciliation; Mayors for Peace; Nuclear Age Peace Foundation; and Pax Christi USA.

process until the CD adopts a programme of work, as per the draft resolution proposed by Brazil, Canada, Kenya, Mexico, New Zealand, and Sweden in 2005. In this configuration, the General Assembly would establish open-ended ad hoc committees on the four core issues on the CD's agenda. The mandates of the four core issues could be based on the most recent proposals for a programme of work within the CD, or alternative mandates could be explored. For example, an arrangement that provides for simultaneous negotiations on an FM(C)T and negative security assurances, together with a discussion mandate on nuclear disarmament and prevention of an arms race in outer space, would ensure that interests of both nuclear and non-nuclear weapon states would be addressed and would also aid the delegitimization of the use and hence possession of nuclear weapons. A treaty on negative security assurances would not be technically difficult to negotiate, hence alleviating workload concerns related to negotiating two treaties at once. The General Assembly should establish these ad hoc committees through the 2010 session of the General Assembly First Committee.

Moving beyond incrementalism. The notion that only a fissile material (cut-off) treaty (FM[C]T) is ready to be negotiated should be reconsidered. While it often described as the only "ripe" issue for negotiation by a subset of the CD's membership, the vast majority of CD member states appear ready to work on any of the other core issues on the CD's agenda. While an FM(C)T would be part of the architecture of a nuclear weapon free world, as generally envisaged today it seems of limited relevance to nuclear disarmament or non-proliferation. It is a quite indirect and slow way of attempting to address nuclear arms racing in South Asia. Since non-nuclear weapon states are already committed to IAEA safeguards on their fissile material and related facilities under the nuclear Non-Proliferation Treaty (NPT) to ensure that such material is diverted to weapons purposes, the few states that possess nuclear weapons could avoid drawn out negotiations on fissile material by engaging directly in nuclear disarmament negotiations, which would encompass a ban on the production of fissile materials for weapons purposes. Likewise, a convention or framework agreement would incorporate the negative security assurances issue as well, precluding the need for separate negotiations on a separate treaty. Many governments have voiced their support for the CD to start deliberations on a nuclear weapons convention, as proposed by the Secretary-General in his five-point proposal.

Initiating a preparatory process on a nuclear weapons convention. There are several ways work on a nuclear weapons convention could begin.

- 1) Because three of the "four core issues" on the CD's agenda would be addressed in negotiations on a nuclear weapons convention, another option would be for the CD to simply establish two ad hoc committees: one mandated to negotiate such a convention and another to discuss issues related to the prevention of an arms race in outer space.
- 2) Alternatively, a parallel process to negotiate a nuclear weapons convention could be established through the General Assembly, in a similar fashion to the UN negotiating process currently underway on an Arms Trade Treaty.
- 3) A third option could be for a group of like-minded states to initiate a preparatory process on a nuclear weapons convention outside of regular UN machinery.

Changes to the CD's mode of operation. Even if substantive work is being conducted elsewhere, the CD should focus on revitalizing its operating procedures.

Decalogue. The CD's permanent agenda, known as the Decalogue, and its narrower agenda adopted each year, are outdated. It needs to be modernized for the 21st century in a way that reflects the challenges and opportunities of today and includes a full framework for the elimination of nuclear weapons, rather than the current step-by-step approach to disarmament that has shown to be inefficient so far.

Civil society. The CD must reconsider its relationship with civil society. A clear majority of CD delegations have spoken in favour of increasing the role of non-government organizations and other civil society actors—a role that is exceptionally restricted compared to other disarmament fora. Civil society has been historically important in helping governments achieve outcomes that enhance international security. At a time when there is worldwide support for a world without nuclear weapons, the CD will only benefit from increased participation of committed civil society actors. Representatives of civil society have expertise and insights that will benefit negotiations and discussions, but the CD is missing out on such expertise by continuing to remain closed. By allowing NGOs to deliver statements and presentations on a regular basis, such as during an informal meeting each session or each year, would increase the opportunities for civil society to make a coordinated and substantial contribution to the disarmament work in Geneva. Participation by civil society in the negotiations of the Ottawa and Oslo processes showed the positive impact NGOs can have on disarmament negotiations. The CD could follow the model practiced in other governmental bodies, such as the UN Committee on the Peaceful Uses of Outer Space in Vienna, where certain NGOs can receive observer status through approval of member states. In the CD, this would allow for NGOs to participate more efficiently in the work of the CD and its potential ad hoc or subsidiary bodies, as well as be allowed on the floor of the Council Chamber.

Regional groups. The CD could abolish the practice of regional groups, which have proven to be inefficient, closed, and used for concealing true national positions. Cross-regional groups that are based on positions and priorities, rather than military alliances or geographical locations, can be better tools for facilitating progress.

Membership. The CD must also address the issue of expanding its membership. Work on nuclear weapons, space security, and a variety of related issues, should not be limited to 65 states only. The CD's agenda encompasses global concerns and the body itself needs to include broader participation of states from under-represented regions.

Rules of procedure. The CD should consider amending rule 18 of its rules of procedure in order to take decisions by a two-thirds majority, which is what the Charter of the United Nations stipulates for the work of the General Assembly.

Addressing disarmament machinery at large. The General Assembly could consider convening a Fourth Special Session on Disarmament (SSOD IV), in order to address current challenges in UN disarmament machinery and processes and potentially to modify the existing machinery. It is not only the CD that faces problems—the UN Disarmament Commission is also badly in need of repair and revitalization. An SSOD IV could be useful in amending the international disarmament agenda, modernizing it for the 21st century in a way that reflects the challenges and opportunities of today and includes a full framework for the elimination of nuclear weapons, rather than the current step-by-step approach to disarmament that has shown to be inefficient so far.

Conclusion

The above suggestions are not exhaustive. The purpose of this paper is to provide food-for-thought to the ongoing discussions about revitalization of UN disarmament machinery. Civil society has a vested interest in resolving the long-term structural, procedural, and substantive issues with respect to disarmament processes and intends to continue to collaborate with governments and UN officials on finding the most appropriate solutions to the continued deadlock.