



**MANDATE AND  
WORKING METHODS  
IN THE CONFERENCE  
ON DISARMAMENT**

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A HISTORICAL PERSPECTIVE

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## List of acronyms and abbreviations

|        |  |
|--------|--|
| CCD    | Conference of the Committee on Disarmament                           |
| CD     | Conference on Disarmament  |
| CTBT   | Comprehensive Test Ban Treaty  |
| FMCT   | fissile material cut-off treaty                                      |
| NPT    | Treaty on the Non-Proliferation of Nuclear Weapons                   |
| PAROS  | prevention of an arms race in outer space                            |
| SSOD-1 | First Special Session of the General Assembly devoted to Disarmament |
| UNAEC  | United Nations Atomic Energy Commission                              |
| UNDC   | United Nations Disarmament Commission                                |

# Introduction

At the opening session of the 2017 Conference on Disarmament, Secretary-General Antonio Guterres challenged delegates with these resounding words: “The world looks to you: this Conference is the only multilateral negotiating body for disarmament—for providing rational and diplomatic solutions to promote security through peaceful action and creating the instruments necessary to develop international confidence and stability.”

Those words, which have a cautionary tone, with different origins and nuances, and are often heard in the Council Chamber, take on all the more weight when uttered by a Secretary-General who is very committed to momentum for disarmament and non-proliferation. That commitment has been reflected in an unprecedented document—the Secretary-General’s Agenda for Disarmament—which recognizes that “since the beginning of the twenty-first century, multilateral disarmament institutions have remained in a state of stagnation. These bodies do not seem to function as an essential part of what should be the integral architecture of peace and security.”<sup>40</sup>

In effect, although the Conference on Disarmament retains, at least on paper, its status as the “sole negotiating body for multilateral disarmament agreements”, as recognized in the final document of the First Special Session of the General Assembly devoted to Disarmament (SSOD-1),<sup>41</sup> and although it retains the aim of “providing rational and diplomatic solutions”, the paralysis that has taken hold for the past 23 years<sup>42</sup> has left its mark on the Conference on Disarmament (CD) in the form of a loss of centrality in the disarmament machinery and the progressive emergence, as a consequence, of alternative forums for the negotiation of multilateral instruments.

The purpose of this article is to examine the historical evolution of the negotiation and decision-making process, in accordance with the rules of procedure, in the Conference on Disarmament, and to inquire to what extent these legal/procedural constraints, often spurned in favour of a more substantive analysis of agenda items, have influenced the paralysis of this forum. The approach that we propose will lead us to the study of the Conference on Disarmament as a negotiating forum, with special attention on the formula of consensus as a decision-making method.

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<sup>40</sup> UNITED NATIONS, *Securing Our Common Future: An Agenda for Disarmament*, UNODA, New York, 2018, p. 61.

<sup>41</sup> UNITED NATIONS, GENERAL ASSEMBLY, *Final Document of the Tenth Special Session, A/S-10/23*, p. 120; “The Assembly is aware of the need to have a single multilateral negotiating forum on disarmament, limited in membership, which takes its decisions by consensus”.

<sup>42</sup> FIHN, B. “While Nuclear Weapons Are Being Tested, the CD Continues to Fail”, *Reaching Critical Will*, 12 February 2013, <http://www.reachingcriticalwill.org/disarmament-fora/cd/2013/reports/7426-while-nuclear-weapons-are-being-tested-the-cd-continues-to-fail>.

# 1 General information on the CD

## 1.1 THE MANDATE AND POSITION OF THE CD IN THE DISARMAMENT MACHINERY

We will begin the examination of the nature of the Conference on Disarmament by asking ourselves a recurring question:<sup>43</sup> what is its position on the disarmament machinery, its connection with the United Nations system and the reason for its apparent exclusivity, as the sole negotiating forum, on certain agenda items.

In recent times, there have been many calls for the General Assembly to reclaim the powers granted to the Conference on Disarmament, given the apparent inability of this negotiating body to exercise them successfully.<sup>44</sup> Other voices appeal to the character of “the only multilateral treaty negotiating body in the field of disarmament”, enshrined, according to widely held opinion, in the final document of SSOD-1.

The Charter of the United Nations, in its general principles, assigns to the General Assembly, that is, to all members of the international community, the competence for the maintenance of international peace and security. Article 11 of the Charter envisages that the General Assembly may make recommendations both to Member States and to the Security Council.<sup>45</sup>

Article 26 reflects the principle of establishing and maintaining international peace and security “with the least diversion for armaments of the world’s human and economic resources”. The same article gives the Security Council the competence to draw up plans for the establishment of an arms control system. Disarmament has been one of the priorities of the system born out of the ashes of the Second World War, as demonstrated by the fact that the first resolution adopted by the General Assembly on 24 January 1946 dealt with disarmament, giving rise to the first United Nations forum devoted exclusively to this subject, the first antecedent of the Conference on Disarmament—the United Nations Atomic Energy Commission (UNAEC).

The Charter acknowledges that this is, in short, a competence of the international community as a whole. It is the same guidance offered by article 6 of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)—the ‘endeavour clause’ of the treaty—when it states that:

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

At SSOD-1, and specifically in the concluding section of the final document, the General Assembly considered that the disarmament machinery should comprise two types of bodies: negotiating

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<sup>43</sup> BERKER, C., *Disarmament Without Order: The Politics of Disarmament at the United Nations*, Greenwood Publishing Group, 1985.

<sup>44</sup> SEEL, B., “Frustration Evident in UN First Committee”, Arms Control Association, 2 December 2011, [https://www.armscontrol.org/act/2011\\_12/Frustration\\_Evident\\_in\\_UN\\_First\\_Committee](https://www.armscontrol.org/act/2011_12/Frustration_Evident_in_UN_First_Committee).

<sup>45</sup> Article 11 of the Charter of the United Nations: “The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.”

bodies and deliberative bodies<sup>46</sup>—the latter open to all Member States, with the former having limited membership in order to ensure its effectiveness.

*Deliberative bodies:* Despite reserving the primacy of deliberations<sup>47</sup> to the General Assembly, the Disarmament Commission was singled out as a deliberative subsidiary body, the final document stating that it was the direct successor of UNAEC, created in 1952.<sup>48</sup> The Commission was mandated to make recommendations on disarmament issues at the request of the General Assembly.

*Negotiating bodies:* the aforementioned document also referred to the continuing need for a single multilateral negotiating forum on disarmament to take decisions on the basis of consensus, of which all nuclear-weapon States were members. However, the final document did not explicitly mention what this forum should be, merely stating that it recognized the work done to date by the “international negotiating body that has been meeting since 14 March 1962”—the date of the first meeting of the Eighteen-Nation Disarmament Committee.<sup>49</sup>

The mandate of the CD does not therefore come from the final document of SSOD-1; rather that document merely recognizes a pre-existing mandate. The question then arises: where does the mandate of the CD first appear?

The final document of SSOD 1 recognizes the Eighteen-Nation Disarmament Committee as the first ‘permanent’ negotiating body, predecessor to the Conference on Disarmament. It should be remembered, however, that the Eighteen-Nation Disarmament Committee had an even more restricted precursor body known as the “Ten-Nation Disarmament Committee”. Why the absence of referral to that body by the SSOD-1? Two reasons, in our opinion, explain this omission.

1. *The Eighteen-Nation Disarmament Committee was more universal than its predecessor, including for the first time the States of the Non-Aligned Movement.*<sup>50</sup> The list of original

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<sup>46</sup> UNITED NATIONS, SSOD-1 final document, para. 113: “For maximum effectiveness, two kinds of bodies are required in the field of disarmament—deliberative and negotiating. All Member States should be represented on the former, whereas the latter, for the sake of convenience, should have a relatively small membership.”

<sup>47</sup> Ibid., para. 115: “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.”

<sup>48</sup> Ibid., para. 118: “The General Assembly establishes, as a successor to the Commission originally established by resolution 502 (VI) of 1 January 1952, a Disarmament Commission, composed of all States Members of the United Nations, and decides that: (a) The Disarmament Commission shall be a deliberative body, a subsidiary organ of the General Assembly, the function of which shall be to consider and make recommendations on various problems in the field of disarmament and to follow up the relevant decisions and recommendations of the special session devoted to disarmament.”

<sup>49</sup> Ibid., para. 120: “The General Assembly is conscious of the work that has been done by the international negotiating body that has been meeting since 14 March 1962 as well as the considerable and urgent work that remains to be accomplished in the field of disarmament. The Assembly is deeply aware of the continuing requirement for a single multilateral disarmament negotiating forum of limited size taking decisions on the basis of consensus. It attaches great importance to the participation of all the nuclear-weapon States in an appropriately constituted negotiating body, the Committee on Disarmament.”

<sup>50</sup> Indeed, since 1954, when Indian President Nehru included the issue of nuclear testing on the United Nations’ agenda, the Non-Aligned Movement has played a dynamic role in disarmament, and these States, led by India, were pressing for its inclusion in a future negotiating forum on disarmament issues, a proposal also strongly supported by the USSR.



committee members—including Brazil, Burma, Ethiopia, Nigeria, Mexico and the United Arab Republic—reflected this new reality.<sup>51</sup>

2. *The Eighteen-Nation Disarmament Committee was established by a resolution of the General Assembly*, while the constitutive basis of the Ten-Nation Disarmament Committee was a resolution of the Disarmament Commission. Similarly, while the Ten-Nation Disarmament Committee was to send annual reports to the Disarmament Commission and, through it, to the General Assembly itself and to the Security Council,<sup>52</sup> the Eighteen-Nation Disarmament Committee reported directly to the General Assembly. It can therefore be considered that the Eighteen-Nation Disarmament Committee had much more direct legitimacy from the General Assembly than its predecessor body.

We see, therefore, that while SSOD-1 omits the reference to the Ten Nation Committee, this short-lived body was, indeed, the first precursor of the CD. Therefore, the first traces of the negotiating mandate of the Conference on Disarmament should be searched in the constituent document of the Ten-Nation Disarmament Committee.

The documents that gave rise to the Ten-Nation Disarmament Committee are, in essence, a letter and a resolution of the Disarmament Commission. The letter was addressed to the Disarmament Commission by the “four Powers” (the United States, the Soviet Union, France and the United Kingdom) and announced their decision to launch a restricted negotiating body.<sup>53</sup> The Disarmament Commission, in its resolution DC/146 adopted on 10 September 1959, takes note of this initiative outside of the United Nations, but at the same time recognizes that “the ultimate responsibility for general disarmament measures” belongs to the United Nations by virtue of its Charter.

The following conclusions can be drawn from these documents, as well as from the subsequent debate on the initiative of the “four Powers” within the United Nations Disarmament Commission (UNDC):

- At no time do the four States that agreed to the creation of the Ten-Nation Disarmament Committee question the fact that competence for disarmament lies entirely with the United Nations, in accordance with the Charter.

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<sup>51</sup> The Special Report of the Conference of the Committee on Disarmament (CCD) prepared for SSOD-1 notes that “Prior to the establishment in 1961 of the Eighteen-Nation Committee on Disarmament—the forerunner of the present Committee on Disarmament—multilateral disarmament negotiations within the framework of the United Nations took place, for the most part, in bodies of relatively restricted membership, composed exclusively of representatives of the two major military groupings of Europe and North America. The last multilateral negotiating body of that type functioning before the establishment of the Eighteen-Nation Committee on Disarmament was the Ten-Nation Disarmament Committee, created outside but linked to the United Nations, and that Committee terminated its activities in June 1960. From that date until the creation of the Eighteen-Nation Committee, no significant multilateral negotiations took place” (p. 2, para. 4). Therefore, the CCD itself did not consider the Ten-Nation Disarmament Committee to be sufficiently capable to be considered a precursor body. The document is available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N78/114/45/pdf/N7811445.pdf>.

<sup>52</sup> “[T]he committee will present reports on its work to the United Nations Disarmament Commission and, through it, to the General Assembly and the Security Council”, communiqué issued by France, USSR, UK and USA. *Disarmament Commission Official Records*. 8 September 1959. DC/144, annex, para.4, <https://s3.amazonaws.com/unoda-web/documents/library/Supplement%20for%201959.pdf>.

<sup>53</sup> *Ibid.*

- The aim of the four States was none other than to “provide a useful basis for the consideration of disarmament in the United Nations”<sup>54</sup> among States that had a special responsibility for disarmament, given that they had the largest arsenals. These States, in turn, echoed the division of the international context into blocs through the inclusion of other States from their zones of influence.
- The body created by the four States is not considered at any time as a subsidiary of the United Nations. The reason for this is obvious: if we start by admitting the universal character of the objective of disarmament, as enshrined in the Charter, a body created by only four States cannot arrogate to itself any authority to represent the entire international community.

The link between the Ten-Nation Committee on Disarmament and the United Nations was therefore of an eminently functional nature:<sup>55</sup> it was an initiative of a restricted group of States which, confident of their capacity to push forward disarmament negotiations, sought to give impetus to universal bodies (for example, the UNAEC) in its task of negotiating such multilateral agreements.<sup>56</sup> It does not seem that it was the intention of these four States to create a negotiating body parallel to the United Nations, nor therefore to promote any jurisdictional overlap between the Committee (the current Conference on Disarmament) and the United Nations. The United Nations had, and continues to have, exclusive competence.

The Conference on Disarmament is not, therefore, a body belonging to the United Nations, but is *recognized* by the United Nations, on the understanding that a body of its nature (that is, restricted, independent, which functions by consensus and where all ‘relevant actors’ meet) is more favourable than the General Assembly itself for negotiating multilateral disarmament and non-proliferation agreements—with obvious implications in the field of security and defence.

In the SSOD-1 final document itself, which recognizes the existence of this negotiating body, the links between the Conference on Disarmament and the United Nations system are established:<sup>57</sup>

- The General Assembly requests the Secretary-General to appoint a personal representative to the Conference on Disarmament. Today, the office of Secretary-General of the CD and of the Personal Representative of the Secretary-General to the CD fall on the same person—the Director-General of the United Nations Office at Geneva.
- The General Assembly can make recommendations to the Conference on Disarmament, but the Conference has exclusive competence over its rules of procedure and the setting of its agenda.

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<sup>54</sup> Ibid., para. 3.

<sup>55</sup> As the Mexican delegate to the Conference on Disarmament has pointed out: “The General Assembly recognized [at the First Special Session devoted to Disarmament] in 1978 the desirability of assigning different roles to the different fora of the disarmament machinery. These roles were embodied in the various mandates conferred, on the one hand, on the Disarmament Commission as a deliberative forum and, on the other, on the Conference on Disarmament as a permanent negotiating forum. The disarmament machinery was conceived as a tool; a vehicle to reach its destination” (author’s translation), statement by the Mexican delegation to the Conference on Disarmament, Geneva, 14 June 2012, [https://www.unog.ch/80256EDD006B8954/\(httpAssets\)/1998B4608EA074FFC1257A1D00533B52/\\$file/1262Mexico.pdf](https://www.unog.ch/80256EDD006B8954/(httpAssets)/1998B4608EA074FFC1257A1D00533B52/$file/1262Mexico.pdf).

<sup>56</sup> According to the British delegate, Ambassador Dixon, at the UNDC session devoted to discussing the creation of the Ten-Nation Disarmament Committee. *Disarmament Commission Official Records*. 10 September 1959. DC/PV/65, p. 11.

<sup>57</sup> See UNITED NATIONS, SSOD-1 final document, para. 120.

- The Conference on Disarmament has to negotiate and conclude a report with the General Assembly at least annually; this is a provision that can act as an audit report, since its budget is included in that of the United Nations (although without a budget line of its own) and it is the United Nations Office at Geneva that provides secretariat, translation, interpretation and security services, among others.

It can therefore be concluded that the Conference on Disarmament is a negotiating body for which the source of legitimacy lies in the *recognition* by the United Nations of its *usefulness as a facilitator* played by its predecessor bodies in the negotiation of disarmament, non-proliferation and arms control instruments.<sup>58</sup>

## 1.2 GENERAL ASPECTS OF THE CONFERENCE ON DISARMAMENT

It is not the purpose of this section to dwell on an explanation of the nature and functioning of the Conference on Disarmament, for which there is already a good number of case studies. We believe, however, that, for a better understanding of the reflections that follow on consensus, its use in the Conference on Disarmament, and the causes of paralysis, it is advisable not to overlook some general aspects concerning the composition and functioning of the Conference itself.

First, the Conference on Disarmament is a stable negotiating body for multilateral disarmament and non-proliferation treaties. It currently comprises 65 States, including all States possessing nuclear weapons (both NPT signatories and ‘threshold’ States—India, Pakistan and Israel, as well as the Democratic People's Republic of Korea). The Conference negotiates its treaties on the basis of an agenda known as the “Decalogue” which, except for specific modifications, has remained the same since its creation.

Since 2000, the agenda of the Conference on Disarmament has shifted towards four basic issues, called core issues. Those four core issues are the fissile material treaty, the arms race in space, negative assurances to non-nuclear States, and nuclear disarmament. Since the mid-1990s, a fissile material cut-off treaty (FMCT) has established itself as an essential element of this agenda, with the negotiation and conclusion of a treaty for the “cessation of production” of fissile material<sup>59</sup> as a priority.

At the beginning of each year, the Conference on Disarmament should approve its work programme. Without a work programme, negotiations cannot begin. The adoption of the work programme, like any decision in the Conference on Disarmament, is governed by the strict application of the consensus formula. Since 1995, with rare exceptions, such as in 1998 and 2009, the Conference on Disarmament has been unable to adopt its work programme.

The Conference on Disarmament is governed by the rules of procedure (see document CD/8/Rev.9). This set of rules has remained unchanged throughout its history and that of its predecessor bodies. It is inspired by the general principles contained in the final document of SSOD-1 (which also provides that the Conference on Disarmament shall establish its own rules of procedure).<sup>60</sup> For the

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<sup>58</sup> This idea was strongly reiterated by Secretary-General Ban Ki-moon in his references to the Conference on Disarmament, for example: “If the CD remains deadlocked, the General Assembly has a responsibility to step in”, statement by the Secretary-General to the General Assembly, 27 July 2011, SG/SM/13723, <https://www.un.org/press/en/2011/sgsm13723.doc.htm>.

<sup>59</sup> GOLDBLAT, J., “The Conference on Disarmament at the Crossroads: To Revitalize or to Dissolve”, *Nonproliferation Review*, vol. 7, no. 2, 2000, pp. 106–107.

<sup>60</sup> This is noted in the introduction to document CD/8/Rev.9.

purposes of this analysis, three articles should be highlighted: article 18 (consensus formula), article 27 (conference agenda) and article 28 (work programme).

- Article 18: “The Conference shall conduct its work and adopt its decisions by consensus.”
- Article 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.”
- Article 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.”

The dichotomy raised by this last article is not trivial: it assumes that the Conference on Disarmament is governed, in each and every one of its elements—including merely procedural elements, such as the duration of meetings or the structuring of work—by the rule of consensus.<sup>61</sup> Similarly, its rules of procedure can also be reformed only by consensus.<sup>62</sup> By consensus, at the beginning of each year, the agenda—the Decalogue—should be adopted. The Decalogue is essentially a list of general issues that should occupy the attention of the Conference on Disarmament, and reproduces the agenda recognized for it in article 50 of the final document of the First Special Session on Disarmament, without many amendments. We can state that the Decalogue is a broad enough document for any disarmament or non-proliferation negotiation to have a place in it.<sup>63</sup>

However, the work programme is a peculiar document. From the mid-1990s, coinciding with the approval of the Shannon Mandate,<sup>64</sup> it is understood that it must create working groups with a negotiating mandate. As Tim Caughley points out, this interpretation of what should have been a work programme did not always exist; until the mid-1990s, the work programme was a document of a purely procedural nature:<sup>65</sup> it established the distribution of the working time of the Conference on Disarmament—which is the only requirement under article 28—without creating negotiating subcommittees or giving them a mandate.

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<sup>61</sup> The use of consensus in the Conference on Disarmament has only a minor limit, found in article 25 of the above-mentioned rules: “The approval by consensus of reports shall not be interpreted as affecting in any manner the essential requirement that such reports must reflect faithfully the positions of all the members of the respective organs.” In other words, the Member States of the Conference on Disarmament cannot decide, not even by consensus, to ‘misrepresent’ the positions expressed by themselves in the course of the work. The logic of this rule rests on the fact that working groups could hold their sessions behind closed doors so that the only way for national positions to be recorded is, in theory, in this report.

<sup>62</sup> “The quest for changing the CD’s rules of procedure extraneously is a dead end, because only the Conference on Disarmament itself is empowered to do so”, Pakistan Ambassador Zamir Akram’s address to the Conference on Disarmament, 1 February 2011, CD/PV.1201, p. 3.

<sup>63</sup> The agenda currently includes the following items: nuclear weapons in all their aspects, other weapons of mass destruction, conventional weapons, reduction in military budgets, reduction in armed forces, disarmament and development, disarmament and international security, confidence-building measures, and general and complete disarmament. The reference to chemical weapons was removed from the agenda following the adoption in 1992 of the Chemical Weapons Convention.

<sup>64</sup> Document CD/1255, also known as the Shannon Mandate, provided for the negotiation of a comprehensive, balanced and internationally and effectively verifiable treaty for the cessation of production of fissile material for nuclear weapons or other nuclear explosive devices.

<sup>65</sup> CAUGHLEY, T., *Breaking the Ice in the Conference of Disarmament: A Wrap-up*, UNIDIR, Geneva, 2011, p. 5.

Due to this formerly procedural nature, its approval was not very controversial, and in some cases even omitted. In fact, as Japanese delegate to the Conference on Disarmament Ambassador Aiko Suda recalled, the Conference on Disarmament was able to negotiate the Comprehensive Test Ban Treaty (CTBT) in 1996 without even formally adopting a work programme: it merely reinstated the working group that had existed the previous year.<sup>66</sup> During those years, the last years of great negotiating activity of the Conference on Disarmament, there were ad hoc committees that were established before or after the adoption of the work programme itself, in separate decisions.<sup>67</sup>

The Conference has to approve the agenda and programme of work at the beginning of each year. But in so doing, the fragile agreements reached by the end of each annual session are lost the following year, returning the Conference to square one. In the case of FMCT, the only year (1998) in which the ad hoc group on FMCT was able to undertake its work, under the able leadership of Canadian Ambassador Mark Moher, work was suspended after three weeks because of the end of the session. When the Conference on Disarmament resumed the following year, it was impossible to adopt the new work programme, and thus to reconvene the group.<sup>68</sup>

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<sup>66</sup> Address by Ambassador Aiko Suda to the Conference on Disarmament, Geneva, 27 January 2011, <http://www.disarm.emb-japan.go.jp/Statements/110127CD.htm>.

<sup>67</sup> Deepening the example of 1996, the Burmese Ambassador to the Conference on Disarmament, then its president, at the beginning of that session was limited to re-establishing the working group on the CTBT simply by presenting document CD/470, entitled "Draft Decision on the Ad Hoc Committee of the CTBT", for the approval of the plenary in its first working session of that year on 23 January 1996. At the same session, the above-mentioned document was adopted by consensus.

<sup>68</sup> A good description of the complex process that led to the adoption of the last work mandate in the Conference on Disarmament can be found in UNIDIR, *Fissile Material Negotiations in the Conference on Disarmament*, ver. 2, 2011, pp. 4–6.

## 2 Consensus in the CD

### 2.1 CONCEPT OF CONSENSUS AS A DECISION-MAKING METHOD

As Ulf Lindell, the Swedish delegate to the Conference on Disarmament, points out, consensus is a decision-making tool that is difficult to characterize in the international arena and for which there is no clear definition.<sup>69</sup> One way to define it is as an attempt to reach an agreement among all participants in a multilateral conference without the need for a vote (with its potentially divisive impact).<sup>70</sup>

Consensus became widespread in various international forums, especially in the fields of security and defence, from the 1960s onwards. The decolonization process involved the incorporation of a large number of new States into the international community.<sup>71</sup> These new actors took the floor for the first time on subjects in which they had not played a leading role until then and began to act with their own ideas, progressively emancipating themselves from the discipline of bipolar world blocs.<sup>72</sup> Consensus was used to protect this incipient right of new actors to decide on particularly sensitive issues such as security issues, without forgetting the disparities in terms of geopolitical influence that still existed with traditional actors.

As Jonathan Charney points out:

The consensus system assures that decision-making at a multilateral negotiation of a convention will not be dominated by the numerical superiority of any group of nations. ... Since it is difficult to obtain acceptance of voting systems that overtly recognize the differences in nations' importance, the consensus approach permits the maintenance of an egalitarian procedure which in practice may assure that multilateral negotiations reflect the real geopolitical power of the participating nations.<sup>73</sup>

There are two essential characteristics of consensus as a decision-making method: its dynamic nature and its use as a safeguard for minority positions.

- From the point of view of its *dynamic character*, a consensus decision is one that, from its initial stages, has been made jointly—all parties, to a greater or lesser extent, according to their political weight and their interest in the subject at hand, have been configuring the various options at different stages of the negotiation of the final product. It is thus configured more as a result in which everyone has participated than as a decision-making procedure.
- Consensus thus favours taking into account minority positions, leading to the adoption of decisions that are a middle ground acceptable to all. A decision taken by consensus need not necessarily be the result of full agreement on each and every one of its elements.

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<sup>69</sup> LINDELL, U., "Modern Multilateral Negotiations: The Consensus Rule and its Implications in International Conferences", *Lund Political Studies*, Lund University, 1988.

<sup>70</sup> BERRY, G.R., *Diplomacy: Theory and Practice*, Palgrave MacMillan, 2005, p. 24.

<sup>71</sup> The United Nations has grown from 51 Member States in 1945 to 193 today.

<sup>72</sup> PAYTON, A.L., "Building a Consensus Rule for International Organizations", MWP Working Papers, European University Institute, Fiesole, 2010, explains the impact of various historical phenomena, including the decolonization process, on decision-making in multilateral agencies.

<sup>73</sup> CHARNEY, J.I., "United States Interests in a Convention on the Law of the Sea: The Case for Continued Efforts", *Vanderbilt Journal of Transnational Law*, vol. 11, no. 1, 1978, p. 43.



- What truly characterizes consensus is the fact that *none of the parties involved* in a negotiation find *elements of disagreement that are strong enough to oppose*<sup>74</sup> in the final outcome of the negotiation. The essential problem raised by the consensus formula comes through its essentially ambivalent character: it can act as a stimulus or as a brake, depending on the characteristics of the forum or negotiating process in which it is applied.
- We could say that when consensus is applied in a cooperative negotiating forum, it manages to give impetus to the participation of all parties involved in decision-making, to the extent that all points of view have to be taken into account.
- On the other hand, when consensus is applied in a competitive negotiating forum, it tends towards rigid unanimity, preserving the most conservative position—that is, the status quo ante—and slowing down any decision that deviates one iota from what has already been agreed. In these cases, the consensus formula tends to fossilize the initial agreements, even if they become obsolete in the eyes of an outside observer.

## 2.2 THE APPLIED CONSENSUS FORMULA OF THE CD

What has been happening in the last years of the Conference, specifically since the mid-1990s, indicates this fossilization of the status quo ante. We can find the cause of this fossilization in the fact that the Conference on Disarmament has been losing the two (not mutually exclusive) circumstances that allowed consensus to work in earlier stages. We will call the first *group dynamic*, and the second *cooperative multilateralism*.

‘Bloc discipline’ characterizes the group dynamic of a supposedly multilateral negotiating context that is, in reality, governed by two or three blocs that embody various priorities and lines of action. In such contexts there is a rigid discipline in decision-making. The result is therefore not the fruit of genuine multilateral negotiation, in that only a few States play a leading role in the negotiated issue. Once three or four States have agreed in a negotiation, the outcome of that reduced consensus is endorsed by a larger number of States. The context of disarmament and nuclear non-proliferation lends itself well to such an approach—although the risks inherent in nuclear deterrence affect all States, only those with nuclear deterrence capabilities are called upon to disarm.

Today, this bloc discipline has disappeared, as shall be discussed later. With the disappearance of the bipolar world, the Conference on Disarmament has become a truly multilateral assembly, open to a large number of Member States, each prioritizing the pursuit of their security interests over the objective of concluding disarmament agreements. The context of small negotiating forum that led to the creation of the Ten-Nation Disarmament Committee in the early 1960s has largely been lost.

The second circumstance necessary for consensus to function properly is the existence of a cooperative atmosphere focused on the conclusion of agreements<sup>75</sup>—a negotiating environment that would reconcile the defence of national interests with the global interest in negotiating and concluding multilateral disarmament instruments. In the specific case of the Conference on Disarmament, as we shall see, the common interest that ends up prevailing is the very survival of the negotiating forum itself, the status quo ante, insofar as it guarantees respect for the national

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<sup>74</sup> An eloquent case of the use of consensus to assert one’s own interests is the one in which Malta played a leading role in the 1982 Law of the Sea Convention; see LINDELL, U., “The Consensus Rule in Two International Conferences”, *Cooperation and Conflict*, vol. 22, 1987, pp. 115–133.

<sup>75</sup> AXELROD, R. and KEOHANE, R., “Achieving Cooperation under Anarchy: Strategies and Institutions”, *World Politics*, vol. 38, no. 1, 1985, p. 43.

interests of each Member State through a rigid application of consensus. We will now pause to analyse these two circumstances.



## 3 The loss of effectiveness of consensus

### 3.1 THE DISAPPEARANCE OF BLOC DISCIPLINE

As Borrie points out, for much of its history the Conference on Disarmament was a falsely multilateral body, used by the nuclear powers, in particular the Soviet Union and the United States, to give a mark of universality to bilateral (or plurilateral) agreements previously reached among themselves. This gave rise to the existence of a strict discipline of groups, which in turn enabled the use of consensus as a decision-making method.<sup>76</sup> In order to examine this proposition, we must go back to the origin of the Conference on Disarmament itself.

The first antecedent of the Conference on Disarmament is in the Ten-Nation Disarmament Committee, as discussed above. This Committee was essentially a bilateral body. We shall see how it has evolved through its successor bodies (the Eighteen-Nation Disarmament Committee, the Committee for the Conference on Disarmament, the Committee on Disarmament, and finally the Conference on Disarmament). We will see how the bilateral discipline that held sway in this negotiating body persisted, despite the incorporation at the beginning of the 1960s of a third group of States (the Non-Aligned Movement). Only the end of the Cold War and the disappearance of the Soviet bloc leads to the breakdown of this group dynamic.

#### **Ten-Nation Disarmament Committee (1961)**

Although the final document of SSOD-1 does not refer to it, the first predecessor of the Conference on Disarmament was the Ten-Nation Disarmament Committee, a short-lived body created in 1960 with five members from Eastern Europe (Bulgaria, Romania, Poland, Czechoslovakia and the Soviet Union) and five members from the Western bloc (Canada, France, Italy, the United Kingdom and the United States). Its two working sessions, co-chaired by the Soviet Union and the United States, took place between March and June 1960.

The Committee held a total of 65 days of meetings, with very few practical results and in a climate of mutual mistrust. Most of the debates focused on general and complete disarmament, based on two proposals: one from the Eastern bloc and the other from the Western bloc. The leading role of the United States and the Soviet Union in the sessions was evident, but to preserve a certain plurilateral form, the representatives of all the States took turns to elaborate the position of both blocs<sup>77</sup> in interventions often loaded with pacifist rhetoric.<sup>78</sup>

#### **Eighteen-Nation Disarmament Committee (1961–1969)**

In 1961, by virtue of resolution 1722 (XVI), passed unanimously on 20 December that year, which endorsed a previous agreement between the Soviet Union and the United States, and in the wake

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<sup>76</sup> BORRIE, J., "Cooperation and Defection in the Conference on Disarmament" in BORRIE J. and MARTIN RANDIN, V., *Thinking Outside the Box in Multilateral Disarmament and Arms Control Negotiations*, UNIDIR, Geneva, 2006.

<sup>77</sup> For example, "I have been asked by my fellow representatives from Canada, Italy, France and the United States to present to the first working session of the Ten Nation Committee on Disarmament the plan which represents the proposals for comprehensive disarmament of the five Western members", speech by the UK delegate Ambassador Ormsby-Gore to the Ten-Nation Committee on Disarmament, 16 March 1969, TNCD/PV.2, pp. 4–5.

<sup>78</sup> BLACKER, C and DUFFY, G., *International Arms Control: Issues and Agreements*, Stanford University Press, 1984, 2nd ed., p. 109.

of the decolonization process, the body expanded its membership and changed its name to the Eighteen-Nation Disarmament Committee.

The new list of Committee members, long discussed between the Soviet Union and the United States,<sup>79</sup> maintained the balance between the States of the Eastern bloc (the Soviet Union, Bulgaria, Poland, Romania and Czechoslovakia) and the Western bloc (the United States, United Kingdom, France, Italy and Canada), adding eight non-aligned States: Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden and the United Arab Republic.

Between 1962 and 1965, the Committee concentrated on two proposals, one submitted by the Soviet Union, entitled “draft treaty on general and complete disarmament under strict international control”<sup>80</sup> and the other by the United States, entitled “outline of basic provisions of a treaty on general and complete disarmament in a peaceful world”.<sup>81</sup> Despite the inclusion of the non-aligned States, the configuration of the Committee could not be more expressive of its ‘false multilateral’ nature. There were two formats in plenary: the Committee of the Whole and the Ordinary Plenary. Despite their identical makeup, they had the competence to examine, in the first case, progressive disarmament measures (US approach) and, in the second case, the strategy for achieving general and complete disarmament (Soviet approach). It was, however, in a third committee, the Restricted Committee, comprised only of the Soviet Union, the United Kingdom and the United States, that the negotiation of the Limited Test Ban Treaty (signed on 25 July 1963) was concluded.<sup>82</sup> In the end this would be the great achievement of this Committee.<sup>83</sup>

### **Conference of the Committee on Disarmament (1969–1979)**

The bloc dynamics of the bipolar world remained intact at the successor conference of the Eighteen-Nation Disarmament Committee, known as the Conference of the Committee on Disarmament (CCD), which was re-established in order to give institutional support to General Assembly resolution 2602 (XXIV), which proclaimed the 1970s as a Disarmament Decade.<sup>84</sup> Bipolar dynamics and bloc discipline, tightly controlled by the United States and the Soviet Union, were also maintained in this period. Agreements were previously negotiated by both States, and only reached the CCD in the final negotiating phase, where agreements were modified in some detail by other members.

We can see how this method worked in practice by examining the procedure that led to the conclusion of one of the most relevant agreements reached at this stage, the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques.<sup>85</sup> In

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<sup>79</sup> In resolution 1660 (XVI) of 1961 the General Assembly urged the Soviet Union and the United States “to reach an agreement on the composition of a new negotiating body which they and the rest of the world can consider satisfactory”, General Assembly, Official Records: Sixteenth Session, Supplement No. 17, (A/5100).

<sup>80</sup> Official Records of the Disarmament Commission, Supplement for January 1961 to December 1962, p. 115 (ENDC/2, 19 March 1962).

<sup>81</sup> Ibid., p. 140 (ENDC/30, 18 April 1962).

<sup>82</sup> In fact, this agreement had already been negotiated in separate talks held by the United States, the Soviet Union and the United Kingdom, with little participation of other members of the Committee.

<sup>83</sup> LEGAULT, A. and FORTMANN, M., *A Diplomacy of Hope: Canada and Disarmament 1945–1988*, McGill Queens University Press, 1 October 1992, p. 198.

<sup>84</sup> Resolution 2602 (XXIV) of 1969 established the Conference of the Committee on Disarmament, with Argentina, Hungary, Japan, Mongolia, Morocco, the Netherlands, Pakistan and Yugoslavia joining the new committee. In 1975 the two Germanys, Peru, Iran and Zaire joined.

<sup>85</sup> The Conference was instrumental in the conclusion of the following multilateral agreements: the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the

August 1975, the delegations of the United States and the Soviet Union simultaneously presented identical draft agreements to the CCD—previously negotiated between themselves, and having only four articles in total. Less than a year later, in April 1976, the new treaty was already concluded, being adopted by the General Assembly later in the year, with 96 votes in favour, 8 against and 20 abstentions.<sup>86</sup>

### **Committee on Disarmament and first stage of the Conference on Disarmament (1979–1996)**

In 1979, during SSOD-1, the Committee was expanded yet again and renamed the Disarmament Committee, accommodating the five nuclear States and 35 others. France, which did not attend the CCD debates, despite holding a seat, joined in this new phase.<sup>87</sup>

In 1983, the Committee changed its name finally to the Conference on Disarmament, reaching 38 members. A year earlier, the Second Special Session of the United Nations devoted to Disarmament had urged the Conference on Disarmament to continue to negotiate a draft general disarmament agenda, but in 1989—it being clear that this work was not leading to an outcome—the CD suspended its work until circumstances were more conducive to achieving progress.

Note that between 1979 (the year the body was recognized by SSOD-1) and 1993 (conclusion of the Chemical Weapons Convention), the Conference was not able to conclude a single treaty. Does this mean that at that time the Disarmament Committee was as paralysed as the current Conference on Disarmament? No—the Committee continued to work, as evidenced by the fact that it managed to adopt its agendas and work programmes on time. The absence of conclusive results did not prevent the development of negotiating activity, which implies the existence of a certain dynamic cooperation in that forum.

### **The dissolution of bipolar dynamics from the mid-1990s and its impact on the CD<sup>88</sup>**

At the beginning of the 1990s, three circumstances provide evidence that the context had changed radically, leading the Conference on Disarmament to the paralysis that persists today: the inability to find consensus on the CTBT; the imposition on new members of a commitment not to use the rules of procedure (that is, the consensus rule) to block the work of the Conference on Disarmament; and the emergence of the concept of ‘linkage’. We will analyse these three phenomena next.

1. *Negotiation of the CTBT*: The Comprehensive Nuclear-Test-Ban Treaty had begun to be negotiated among the major powers in the late 1980s. After several years of negotiations, a deadlock had been reached in the mid-1990s on a number of specific issues affecting just

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Ocean Floor and in the Subsoil Thereof (1971); the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (1977); and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (1972).

<sup>86</sup> Website of the “Bureau of International Security and Nonproliferation” of the US Department of State, <http://www.state.gov/t/isn/4783.htm>.

<sup>87</sup> BARNABY, F., “World Arsenals in 1978. Annual Report from the Stockholm International Peace Research Institute”, *Bulletin of Atomic Scientists*, September 1979, pp. 18–26.

<sup>88</sup> In fact, the origin of the two major agreements reached at the post-Cold War disarmament conference (the Chemical Weapons Convention and the CTBT) can be traced back to the bipolar world prior to the dissolution of the Soviet Union. The former is rooted in talks between Presidents Reagan and Bush and Mikhail Gorbachev, while the first negotiations on a test ban took place under Eisenhower; see KREPON, M., “The Conference on Disarmament: Means of Rejuvenation”, Arms Control Association, 1 December 2006, [https://www.armscontrol.org/act/2006\\_12/Krepon](https://www.armscontrol.org/act/2006_12/Krepon).

over 10 per cent of the text of the future treaty. India and the Islamic Republic of Iran opposed its conclusion, considering it an unbalanced treaty. The Indian delegate went so far as to declare that, “[India would] never sign this unequal treaty; not now, not ever”.<sup>89</sup>

The feeling that any progress was impossible in the Conference on Disarmament, because of the unwavering application of the consensus rule, was unanimous. Without prior consensus, it was impossible to transfer the agreement to the General Assembly for adoption. This led the other CD members to devise a coordinated ploy to bridge the need for consensus: the Belgian delegate, at that time chairman of the ad hoc group negotiating the draft CTBT, presented the draft as a national document, circulating it to all delegations of the Conference on Disarmament. The Australian delegation, in turn, forwarded the text, with few amendments, to the General Assembly, where it was approved as a resolution in September of 1996, with the 153 in favour, 3 against (Bhutan, India and Libya) and 5 abstentions (Cuba, Lebanon, Mauritius, the Syrian Arab Republic and the United Republic of Tanzania).<sup>90</sup>

2. *Further expansion of the Conference:* In light of what took place with the CTBT, with bloc discipline dismantled, the ability to use the consensus formula to block the Conference seemed obvious. A clear example of the widespread concern that this could render the CD useless as a negotiating forum can be found in its last major expansion, also in 1996.

As an example, it can be noted that one of the 23 States for which membership in the Conference on Disarmament was approved that year was Iraq, which at that time was subject to United Nations sanctions for its aggression against Kuwait.<sup>91</sup> The US delegation then insisted, with Russian and British support, that the new States should undertake, prior to their entry into the CD, to not use the rules of procedure (in particular the rule of consensus) to obstruct the work of the forum.

The new States not only accepted this solemn commitment, but formalized it through a collective letter addressed to the President of the Conference on Disarmament.<sup>92</sup> It was a very diluted commitment, due to the fact that for the new States not subject to the measures of Chapter VII of the Charter, the commitment of non-obstruction ended after two years. Some States spoke out against the creation of two categories (even if temporary) of member States in the Conference on Disarmament, but no one opposed the decision.

3. *Emergence of the linkage concept:* It is no coincidence that from June 1995, the concept of linkages was first introduced.<sup>93</sup> That year, during the discussions for the creation of ad hoc groups in the Conference on Disarmament, some delegations rejected the establishment of certain ad hoc negotiating groups if others that they considered to be priorities were not created in parallel. The United States pushed for the creation of an FMCT subcommittee with a negotiating mandate and rejected the creation of groups on the prevention of an arms race in outer space (PAROS) and negative security assurances. The Russian Federation and China

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<sup>89</sup> GOPALAN, R., “India and the CTBT”, Columbia University, 22 October 1996, <http://www.columbia.edu/cu/ipsg/ctbt.htm>.

<sup>90</sup> UNITED NATIONS. General Assembly resolution A/RES/50/245, 1996.

<sup>91</sup> Conference on Disarmament, document CD/1406, 17 June 1996.

<sup>92</sup> Conference on Disarmament, document CD/1407, 17 June 1996.

<sup>93</sup> This practice began with the ‘Amorim Proposal’ (CD/1624) and has continued to this day. The English terminology, as with the term FMCT, is the most used.

rejected the creation of an ad hoc group on FMCT without the creation, in parallel, of an ad hoc group to deal with PAROS.

This situation revealed two new realities. The first was an increasingly marked divergence of interests as to the *next step to be taken* following the ban on nuclear testing. The second was an increasing difficulty for members to embark on dynamic cooperation (discussed in the following section), reaching compromises that would allow the unblocking of the Conference on Disarmament.<sup>94</sup>

Since then, only a brief agreement in 1998 allowed the creation of a working group on FMCT. In 1999, five more States joined, and this time without conditions for admission, increasing the list of members to 65, although Yugoslavia soon ceased to participate because no agreement was reached on succession in representation.

Following this expansion, the Conference on Disarmament has been able to adopt a work programme on a single occasion: May 2009 (document CD/1864), which provided for the creation of four subcommittees to deal with each of the four core issues (FMCT, nuclear disarmament, negative security assurances and PAROS) and gave the FMCT subcommittee an explicit negotiating mandate. However, it was subsequently impossible to adopt the decision that, through the allocation of working time, would have allowed the programme to be implemented.

### 3.2 DYNAMIC COOPERATION

The second circumstance in the Conference on Disarmament that enabled consensus to be reached and agreements to be concluded was dynamic cooperation. By dynamic cooperation we mean a negotiating environment presided over by a certain degree of flexibility and mutual trust, where the exclusive security interests of each State could be reconciled with the fulfilment of a higher, global objective—the strengthening of the disarmament and non-proliferation regime.<sup>95</sup>

Delegates to the Conference on Disarmament express the absence of this dynamic cooperation by resorting to the term “lack of political will”, thus describing an inertia that tends to take the lack of consensus for granted. According to some authors, not far from this lack of political will is the waning prominence of disarmament and non-proliferation issues on the foreign policy agendas of some Member States. Ramírez González points out, “Perhaps it is the minimal prominence given to disarmament in domestic agendas that explains why governments seem to care little about the CD.”<sup>96</sup>

In the absence of consensus to begin negotiations, the only consensus that prevails in the Conference on Disarmament is precisely that which is required to ensure the survival of a forum that is governed by the application of consensus, becoming the guarantor that national positions will not be undermined by a possible vote. In other words, the status quo ante. The current status

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<sup>94</sup> KNOFF, J., “Nuclear Disarmament and Nonproliferation: Examining the Linkage Argument”, *International Security*, vol. 37, no. 3, winter 2012/2013, Belfer Center for Programs and Projects, pp. 92–132.

<sup>95</sup> “It is clear that this Conference can make a real impact on global security if it fulfils its mandate as a negotiating body. We must accept the fact that human security, national security and global security are interdependent, and that in fact global security, which we are tasked with building, is key to the effectiveness of lasting human and national security”, address by Chilean delegate Ambassador Pedro Oyarce to the Conference on Disarmament, 22 January 2013, CD/PV.1273, p. 16, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/641/97/PDF/G1364197.pdf>.

<sup>96</sup> RAMÍREZ GONZÁLEZ, E., “The Conference on Disarmament: Injecting Political Will”, *UN Chronicle*, vol. 47, no. 4, December 2010, p. 34.

quo that the States of the Conference on Disarmament, with a few exceptions, share regarding the preservation of the Conference is based, in turn, on the fairly widespread belief that there is no alternative body with the four characteristics that converge in the CD: permanence, a restricted nature, inclusion of all relevant actors, and rigid application of consensus. Such guarantees, particularly consensus, are necessary to the negotiation of *existential* issues such as those linked to the non-proliferation regime—or at least that is the understanding of a majority of CD members.

The Conference has not been oblivious to the inevitable effects of prolonged paralysis, which is also detrimental to the return to dynamic cooperation. A notable number of members have reduced their level of representation to the Conference on Disarmament, unifying the position of Ambassador Delegate to the CD with that of Permanent Representative to the United Nations in Geneva. There has also been a progressive drain of experts residing in Geneva (military and scientific attachés), with more experts travelling from their capitals on the basis of the debates. The Secretariat of the Conference on Disarmament itself has been downsizing. The paradox has thus been reached that, even if the CD members agreed to start negotiations on an FMCT, or any other agenda item, it would be difficult for them to begin immediately.

A new step forward was taken in 2018 with the adoption of document CD/2119,<sup>97</sup> and the consequent establishment of four subsidiary working groups to address the various agenda items. This development, due to the good offices of the Swiss Presidency and the willingness of all delegations to make better use of session time, has been regarded as a “mini-breakthrough” in the CD.<sup>98</sup> It seems to us that this is a qualifier in line with reality, insofar as these essentially deliberative groups do not allow the CD to fulfil its negotiating function, but rather bring it closer to the nature that SSOD-1 reserved for a deliberative body, rather than a negotiating body such as the Disarmament Commission.

Throughout these 20 years, the expressions of frustration at this inability of the Conference to hold negotiations have been unanimous and reiterated; we cannot help but return to the rhetorical question asked by Ambassador Gil Catalina, Spain’s delegate to the Conference on Disarmament, in a speech in July 2012: “Will this political will to change the procedure some day surface? I would like to cite the three words with which Dumas closed his novel *The Count of Monte Cristo*, which admittedly are untranslatable into Spanish: “Wait and hope” Make yourselves comfortable; the wait is likely to be long.”<sup>99</sup>

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<sup>97</sup> “Decision”, CD/2119, 19 February 2018.

<sup>98</sup> “Swiss Secure Mini-Breakthrough at Disarmament Conference”, SwissInfo, 28 March 2018.

<sup>99</sup> CD/PV.1262, 14, June 2012, p. 9.

# Conclusion

In this article, we have analysed the causes of the negotiating paralysis in the Conference on Disarmament. We have followed an approach that has taken us from exploring the general features of the Conference to analysing its rules of procedure, and in particular the use of the consensus formula for decision-making.

We have identified two circumstances required for consensus to function as a decision-making method: a bloc dynamic and a cooperative climate. We have tried to demonstrate, through a historical journey through the different phases of the Conference on Disarmament, how both circumstances, initially present in this forum, have been diluted, and how the historic watershed of the CD can be situated between the late and mid-1990s—the end of the Cold War. The dilution of both circumstances has, in turn, led to a loss of the effectiveness of consensus as a means of decision-making in the CD, thus leading this forum to prolonged paralysis.

This worrisome reality is not, in our view, a structural feature of the CD, but could be reversed with large doses of political will and a clear awareness of the need to take new firm steps in the non-proliferation, arms control and disarmament agenda. Today it is difficult to imagine a scenario of early resumption of negotiations, but we must not “throw in the towel” because, as Secretary-General Antonio Guterres points out, “the eyes of the world are still on this Conference.”<sup>100</sup>

In that same positive spirit, which seems almost obligatory for any delegate to take a seat in this forum, Spain’s Foreign Minister Alfonso Dastis, in his address to the CD in February 2018, referred to the murals adorning the roof of the Conference on Disarmament, donated by the Government of the Spanish Republic in October 1936. The Minister said the following:<sup>101</sup>

I ask you for a moment to return to José María Sert’s ‘Salamanca Lesson’. In his murals, he represented the three elements necessary to move the tilt of the scale towards what unites men, and not towards what separates them: peace, law and intelligence. It is these three traits: the search for peace, respect for law, and intelligence for consensus that must guide the efforts of any multilateral forum. I hope that they will also inspire, as in the best moments of its history, the work of the Conference on Disarmament.

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<sup>100</sup> Opening Statement by Antonio Guterres, United Nations Secretary-General, 24 January 2017.

<sup>101</sup> Address by Minister Alfonso Dastis to the Conference on Disarmament, 27 February 2018, [http://www.exteriores.gob.es/Portal/es/SalaDePrensa/Discursos/Documents/%2020180227\\_DISCURSO%20DESARME.pdf](http://www.exteriores.gob.es/Portal/es/SalaDePrensa/Discursos/Documents/%2020180227_DISCURSO%20DESARME.pdf).



# HISTORICAL OVERVIEW

