

Conference on Disarmament

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Working paper – “Back to basics – the Programme of Work”

Submitted by the Netherlands

1. This working paper argues that the Conference on Disarmament should return to its origins and return to working on the basis of the programme of work as intended in the Rules of Procedure and used in the first one and a half decades from 1979 onwards. During this period, the programme of work merely served as a planning tool in which the allocation of time for each agenda item was set for the session ahead. The decisions on the establishment of subsidiary bodies (including the *ad hoc* committees that negotiated the Chemical Weapons Convention and Comprehensive Nuclear-Test-Ban Treaty) were taken separately from the programme of work.
2. This is in stark contrast to the last two decades, where efforts focussed on combining within the programme of work the prescribed schedule of activities with the establishment of subsidiary bodies. This linkage between the programme of work and the establishment of subsidiary bodies — including their respective mandates — is a key problem. Instead of a planning tool, the programme of work has become a procedural hurdle that has prevented the Conference from working on the substance of its agenda. This has led to a two-decade stalemate that has eroded the stature and standing of the Conference.

I. Rules of procedure

3. The programme of work is governed by Rule 28 of the rules of procedure¹, which only set out two substantial requirements for the programme of work: 1) it must be based on the Agenda of the Conference on Disarmament and 2) include a schedule of activities. In this context, it is also relevant to point out Rule 20 of the rules of procedure², which notes that the Conference shall convene in plenary meetings in accordance with a schedule to be agreed upon. It seems clear that the schedule of activities contained in the programme of work is meant by this. The programme of work is thus intended as a planning tool to organize the work of the Conference and hence to allow delegations sufficient time to prepare. This is the purpose of a programme of work in most — if not all — multilateral disarmament fora.

¹ Rule 28: “On the basis of its agenda, the Conference, at the beginning of its annual session, shall establish its programme of work, which will include a schedule of its activities for that session, taking also into account the recommendations, proposals and decisions referred to in rule 27.”

² Rule 20: The Conference shall convene in plenary meetings in accordance with a schedule to be agreed upon. These meetings shall be held in public unless the Conference decides otherwise. In the event that it is decided to hold a private meeting, the Conference shall also decide whether to issue a communiqué of the meeting. The communiqué shall adequately reflect the substance of the proceedings and decisions taken by the Conference.”



4. While Rule 28 has been amended twice since 1979, these amendments have not changed the purpose of the programme of work, which is to serve as a planning tool for the Conference. The first amendment in decision CD/421 was made to reflect the name change from Conference of the Committee on Disarmament to Conference on Disarmament, which came into effect in 1984. The second amendment reflects decision CD/1036 from 1990, in which it was decided that the programme of work from 1991 onwards should be established for the whole session, instead of for each of the separate parts of the annual session, which was the practice from 1978 until 1990.

5. The link made in contemporary proposals on the programme of work between the establishment of subsidiary bodies and the programme of work is not reflected in the rules of procedure. Neither Rule 28 (on the programme of work), nor Rule 23 and 24³ (on the establishment of subsidiary bodies) refer to each other. Moreover, the wording used in the different rules is clearly distinct, with Rule 28 using the wording: “shall establish”, which indicates that the programme of work is a requirement. In contrast to the wording of rule 23: “Whenever the Conference deems it advisable for the effective performance of its functions ... may establish subsidiary bodies”, which indicates that the establishment of subsidiary bodies is optional.

6. The table in annex I of this paper provides an overview of the programmes of work adopted and stand-alone decisions on subsidiary bodies of the Conference. This clearly shows that in the first fifteen years of its existence, decisions on the (re-)establishment of subsidiary bodies and their mandates were taken separately from the decision on the programme of work, fully in line with the rules of procedure.

II. Historic perspectives

7. As shown in the table in annex I, in the period 1978 to 1992, the Conference on Disarmament successfully adopted its programme of work and established one or more subsidiary bodies each year, including with negotiating mandates. During this period, the programme of work only contained a schedule of activities that allocated time for substantive work on the agenda items in the plenary session of the Conference. The subsidiary bodies were only established once consensus emerged on their mandate for each agenda item separately.

8. Following decision CD/1036 in 1990, the Conference used a simplified programme of work in 1991 and 1992, while also continuing negotiating in separately established subsidiary bodies, including on the Chemical Weapons Convention. Decision CD/1036 also recognizes in paragraph 5 the possibility that there is no consensus on the establishment of any subsidiary bodies and establishes a procedure to handle such a situation, by appointing a Special Coordinator to continue consultations on the establishment of subsidiary bodies.

9. In the period 1993 to 1996, the Conference did not adopt a programme of work but organized its work through so-called presidential statements, in which the agenda and different subsidiary bodies were agreed at the same time. Nonetheless, the different subsidiary bodies retained their separately agreed mandates, as can be seen from the table in annex I. The fact that the Conference agreed on this approach further demonstrates that the conduct of negotiations in the Conference is separated from the programme of work. The

³ Rule 23: “Whenever the Conference deems it advisable for the effective performance of its functions, including when it appears that there is a basis to negotiate a draft treaty or other draft texts, the Conference may establish subsidiary bodies, such as ad hoc sub committees, working groups, technical groups or groups of governmental experts, open to all member States of the Conference unless the Conference decides otherwise. The Conference shall define the mandate for each of such subsidiary bodies and provide appropriate support for their work.”

Rule 24: “The Conference shall decide if its own rules of procedure may be adapted to the specific requirements of its subsidiary bodies. The meetings of the subsidiary bodies shall be informal unless the Conference decides otherwise. The Secretariat shall provide assistance to the subsidiary bodies, as requested, including the preparation of unofficial summaries of the subsidiary bodies' proceedings in the working languages of the Conference.”

start of negotiations is thus not dependent on the agreement on a programme of work, as the latter only provided a timetable for the organization of work other than negotiations.

10. Following the conclusion of the Comprehensive Nuclear-Test-Ban Treaty in 1996, the Conference on Disarmament continued to organize its work during the 1997 and 1998 session in this way. The adoption of CD/1547 to negotiate “a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices” during the 1998 session was the last time that the Conference took a stand-alone decision on the establishment of a subsidiary body to conduct negotiations.

III. Changing course

11. From the 1999 session onwards, building on the newly established practice to group different mandates together, numerous proposals for a programme of work have been tabled. All of these seek to establish two or more subsidiary bodies simultaneously, thereby blurring the distinction between the programme of work as the planning tool intended by rule 28, and the stand-alone decisions on subsidiary bodies and their mandates as originally intended by rule 23. None of these proposals — with the notable exception of the adopted but never implemented programme of work contained in CD/1864 during the 2009 session — has garnered consensus.

IV. Key problems to address

12. The expansion of the programme of work from a planning tool, to an all-encompassing decision to both organize the work of the conference and establish subsidiary bodies is problematic and has significantly contributed to the two-decade stalemate of the Conference on Disarmament. The pursuit of a programme of work, that also establishes subsidiary bodies, has created a number of interrelated problems, which can be summarised as follows:

- *First*, linking the organization of work with the establishment of subsidiary bodies and their mandates has created a situation whereby disagreement on the mandate of a single subsidiary body prevents substantive work on all agenda items.
- *Second*, the programme of work has thereby become a goal in itself, rather than the planning tool it is supposed to be.
- *Third*, work on the substance of the Conference on Disarmament’s agenda has been replaced by procedural debates on the organization of work.

13. Addressing the above-mentioned problems can be done by returning to the well-established and functioning practice of using the programme of work as a planning tool for the plenary meetings of the session ahead and by delinking it from the establishment of subsidiary bodies, which should be done through a separate decision. Such a programme of work should follow the letter of the rules of procedure and thus only provide for a schedule of activities for that session based on the agenda agreed. An example of such an approach, based on the programmes of work of the 1990 session (CD/963 & CD/1003) and the current agenda (CD/2153), is contained in annex II.

14. Taking this approach would allow the Conference on Disarmament to focus again on the substance of its agenda during its plenary meetings. During these meetings, the Conference should work on the substance of the agenda item under consideration and with the goal of launching of negotiations. Once sufficient progress is made on an agenda item or a specific topic covered by it, the Conference could subsequently establish a subsidiary body on that topic, while work on the (other) agenda items continues under the programme of work.

15. An additional advantage to such an approach is that it provides all delegations, including the rotating presidency, with a clear plan that allows for sufficient time by all delegations to prepare and to facilitate participation from capital and the submission of

working papers and other proposals. As noted in rule 30, organizing the work in this manner, whereby statements in the plenary normally correspond to the topic then under consideration, does not impede the right of any member of the Conference to raise any subject relevant to the work of the Conference.

Annex I

<i>Year</i>	<i>Programme of Work adopted</i>	<i>Subsidiary Bodies (re-)established in line with rule 23^a</i>
1978	CCD/551, CCD/574	August 25 1977 establishment Ad Hoc Working Group to Discuss and Elaborate a Comprehensive Programme for Disarmament (only reference document CCD/571)
1979	CD/12, CD/PV.33	CD/PV.39 Ad Hoc Working Group Effective International Arrangements to Assure non-nuclear-weapon States Against the Use or Threat of Use of Nuclear Weapons
1980	CD/62, CD/101	CD/77 Ad Hoc Working Group Effective International Arrangements to Assure non-nuclear-weapon States Against the Use or Threat of Use of Nuclear Weapons CD/78 Ad Hoc Working Group Comprehensive Programme of Disarmament CD/79 Ad Hoc Working Group on reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons CD/80 Ad Hoc Working Group Chemical Weapons
1981	CD/144, CD/186	CD/151 Ad Hoc Comprehensive Programme of Disarmament; Ad Hoc Working Group Effective International Arrangements to Assure non-nuclear-weapon States Against the Use or Threat of Use of Nuclear Weapons; Ad Hoc Working Group Radiological Weapons, and Ad Hoc Working Group Chemical Weapons
1982	CD/242, CD/304	CD/243 Ad Hoc Working Group Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons, Ad Hoc Working Group Chemical Weapons; and Ad Hoc Working Group Radiological Weapons CD/291 Ad Hoc Working Group Nuclear Test Ban CD/PV/176 Ad Hoc Working Group Comprehensive Programme of Disarmament
1983	CD/356, CD/382	CD/PV/207 Ad Hoc Working Group Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons; Ad Hoc Working Group Chemical Weapons; Ad Hoc Working Group Radiological Weapons; and Ad Hoc Working Group Nuclear Test Ban *Ad Hoc Working Group on the Comprehensive Programme of Disarmament resumed its work
1984	CD/433, CD/506	CD/440 Ad Hoc Subsidiary Body Chemical Weapons CD/441 Ad Hoc Subsidiary Body Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/442 Ad Hoc Subsidiary Body Comprehensive Programme of Disarmament CD/499 Ad Hoc Committee Radiological Weapons
1985	CD/550, CD/595	CD/551 Ad Hoc Committee Chemical Weapons CD/577 Ad Hoc Committee Radiological Weapons CD/584 Ad Hoc Committee Prevention of an Arms Race in Outer Space CD/628 Ad Hoc Committee Effective International

<i>Year</i>	<i>Programme of Work adopted</i>	<i>Subsidiary Bodies (re-)established in line with rule 23^a</i>
		Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons
1986	CD/653, CD/705	CD/654 Ad Hoc Committee Chemical Weapons CD/674 Ad Hoc Committee Radiological Weapons CD/694 Ad Hoc Committee Prevention of an Arms Race in Outer Space
1987	CD/735, CD/760	CD/736 Ad Hoc Committee Chemical Weapons CD/737 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/738 Ad Hoc Committee Radiological Weapons CD/741 Ad Hoc Committee of an Arms Race in Outer Space
1988	CD/796, CD/840	CD/801 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/803 Ad Hoc Committee Comprehensive Programme of Disarmament CD/804 Ad Hoc Committee Radiological Weapons CD/805 Ad Hoc Committee Chemical Weapons CD/848 Ad Hoc Committee Comprehensive Programme of Disarmament CD/816 Ad Hoc Committee Prevention of an Arms Race in Outer Space
1989	CD/884, CD/920	CD/885 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/886 Ad Hoc Committee Radiological Weapons CD/889 Ad Hoc Committee Chemical Weapons CD/898 Ad Hoc Committee Prevention of an Arms Race in Outer Space
1990	CD/963, CD/1003	CD/964 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/965 Ad Hoc Committee Radiological Weapons CD/968 Ad Hoc Committee Chemical Weapons CD/976 Ad Hoc Committee Prevention on an Arms Race in Outer Space CD/1016 Ad Hoc Committee Nuclear Test Ban
1991	CD/1049	CD/1050 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/1051 Ad Hoc Committee Radiological Weapons CD/1058 Ad Hoc Committee Chemical Weapons CD/1059 Ad Hoc Committee Prevention on an Arms Race in Outer Space CD/1060 Ad Hoc Committee Nuclear Test Ban
1992	CD/1119	CD/1120 Ad Hoc Committee Chemical Weapons CD/1121 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/1122 Ad Hoc Committee Radiological Weapons CD/1125 Ad Hoc Committee Prevention of an Arms Race in

<i>Year</i>	<i>Programme of Work adopted</i>	<i>Subsidiary Bodies (re-)established in line with rule 23^a</i>
		Outer Space
1993	no	CD/1121 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/1125 Ad Hoc Committee Prevention of an Arms Race in Outer Space CD/1150 Ad Hoc Committee Transparency in Armaments CD/1179 Ad Hoc Committee Nuclear Test Ban
1994	no	CD/1121 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons CD/1125 Ad Hoc Committee Prevention of an Arms Race in Outer Space CD/1150 Ad Hoc Committee Transparency in Armaments CD/1238 Ad Hoc Committee Nuclear Test Ban
1995	no	CD/1238 Ad Hoc Committee Nuclear Test Ban
1996	no	CD/1380 Ad Hoc Committee Nuclear Test Ban
1997	no	CD/1466 Special Coordinator to conduct consultations on a possible mandate on the question of anti-personnel landmines
1998	no	CD/1501 Ad Hoc Committee Effective International Arrangements to Assure non-nuclear weapon States Against the Use or Threat of Use of Nuclear Weapons, Special Coordinator on Prevention of an Arms Race in Outer Space, Special Coordinator Comprehensive Programme of Disarmament, Special Coordinator Transparency in Armaments, Special Coordinator Review of Agenda, Special Coordinator Expansion Membership and Special Coordinator Improved and Effective Functioning CD/PV/792 Special Coordinator Anti-Personnel Landmines CD/1547 Ad Hoc Committee Cessation of the Nuclear Arms Race and Nuclear Disarmament
1999	no	
2000	no	
2001	no	
2002	no	
2003	no	
2004	no	
2005	no	
2006	no	
2007	no	
2008	no	
2009	CD/1864 not implemented	
2010	no	CD/PV.1183 Schedule of informal meetings of the Conference on its agenda items during the second part of the 2010 session

<i>Year</i>	<i>Programme of Work adopted</i>	<i>Subsidiary Bodies (re-)established in line with rule 23^a</i>
		with mandates for seven coordinators (CD/WP.560/Amend.1 agreed on)
2011	no	CD/1907 Indicative timetable with informal meetings of the Conference on its agenda
2012	no	CD/PV. 1258 Schedule of activities (CD/WP.571/REV.1 followed)
2013	no	
2014	no	CD/1978 Decision on a schedule of activities of the 2014 session of the Conference on Disarmament
2015	no	CD/2021 Decision on schedule of activities of the 2015 session of the Conference on Disarmament
2016	no	
2017	no	CD/2090 Decision on the establishment of a working group on the "way ahead" to identify common ground for a programme of work with a negotiating mandate
2018	no	CD/2119

^a The Group of Scientific Experts (1976-1996), which started working in 1976 under the Conference of the Committee on Disarmament on seismic verification issues for a test-ban treaty and continued its work until the negotiations concluded in 1996 has been omitted from this list.

Annex II

Example based on the programmes of work of the 1990 session (CD/963 & CD/1003) and the current agenda (CD/2153), taking into account decision CD/1036.

<i>Part</i>	<i>Week</i>	<i>Topic</i>
I	1	Statements in Plenary. Consideration of the agenda and programme of work, as well as the establishment of subsidiary bodies on items of the agenda and other organizational questions.
	2	Statements in Plenary. Consideration of the agenda and programme of work, as well as the establishment of subsidiary bodies on items of the agenda and other organizational questions.
	3	Agenda item 1
	4	Agenda item 2
	5	Agenda item 3
	6	Agenda item 4
	7	Agenda items 5, 6 & 7
	8	Agenda item 1
	9	Agenda item 2
	10	Agenda item 3
II	11	Agenda item 4
	12	Agenda items 5, 6 & 7
	13	Agenda item 1
	14	Agenda item 2
	15	Agenda item 3
	16	Agenda item 4
	17	Agenda items 5, 6 & 7
III	18	Agenda item 1
	19	Agenda item 2
	20	Agenda item 3
	21	Agenda item 4
	22	Agenda items 5, 6 & 7
	23	Reports of subsidiary bodies and adoption of the annual report to the General Assembly.
	24	Reports of subsidiary bodies and adoption of the annual report to the General Assembly.