Conference on Disarmament

Australian Statement on consultations during Australia’s CD Presidency

30 June 2020

Australia’s CD Presidency was not the Presidency we planned. Although COVID19 meant we could not meet in plenary, our work did not stop.

Our Presidency was part of the P6+2 approach – and that continues. CD delegates told us over the time that we ran our consultations that they welcomed strengthened P6+2 coordination this year. The objective is continuity, better governance and transparency so CD members can get the most out of their significant investments in this body.

Over the period of our Presidency, we pursued a number of initiatives. We invited CD delegates to share their views about the priorities and role of the CD, ways to break the deadlock, and to be more effective.

Many saw this as an opportunity to think afresh about the CD. We thank colleagues for taking this exercise seriously, and are pleased to share the different perspectives we heard.

The following is a summary – without attribution. It is not exhaustive as we were not able to speak with every delegation. We spoke to more than 40 CD members and observers.

It is worth noting that many colleagues thought the CD should consider the implications of COVID-19 for our work. These span from practical logistics, to how can technology better support our work, to broader questions about trust, risk reduction, and the role of experts.

Views on the P6 package for 2020
During the past weeks we asked the Secretariat to provide all delegations with the three versions of the package put forward by the P6 this year, as a resource for future presidencies.

Delegations told us:

- The packages were the right approach under the circumstances – a good attempt to balance diverging views, there was regret that consensus was not reached; some saw it as a missed opportunity;
- Most had been ready to join consensus and show flexibility, despite perceived shortfalls;
- Some preferred structured discussion on agenda items this year, but were nevertheless ready to join consensus; others wanted subsidiary bodies;
- Some said that a Program of Work should match CD principles as a body created to negotiate legally binding instruments;
- The inclusion of a process on the improved and effective functioning of the Conference was seen as valuable, and was not new for the CD; but some were cautious and concerned it could be a distraction;

My delegation’s main takeaway is that there is no consensus on the question of whether the CD’s Program of Work should include a negotiation mandate. A plain reading of the Rules of Procedure does not require this – but some feel strongly that the CD’s program of work should reflect its negotiation mandate.

Is this difference so fundamental it will block any substantive progress on the issues themselves? Can we ever move from the lobby to the dining room?

What are the security/arms control issues most important to your country that you think CD negotiations could help manage?

As the CD has not negotiated for years, it is not necessarily front of mind for busy policy-makers in capitals. So we wanted to hear how capitals focused on national security priorities viewed the CD’s role. So what did you tell us about your priorities:

- The CD agenda could do with a shake-up. It does not reflect contemporary or emerging threats, including biological and cyber;
That said, the **four core items** continue to capture fundamental international security challenges – especially nuclear disarmament;

1. Many thought progress on **nuclear disarmament** was inadequate and were concerned about worsening geopolitical tensions;

   In this context, any good faith engagement was welcome, however small - to re-establish trust and a climate of constructive dialogue;

   Many see nuclear disarmament as the CD’s raison d’etre and would like to see a dedicated quasi-permanent subsidiary body;

   Implementation of the **Nuclear Non-Proliferation Treaty** is important for States Parties. Some thought a CD discussion before the NPT Review Conference would be useful, particularly when avenues for dialogue were reduced due to COVID19.

   Several initiatives on nuclear disarmament outside the CD, including the Stockholm Initiative, the Eminent Persons Group, and CEND could usefully be brought into the CD for consideration;

2. Several CD members think negotiation of an **FMCT** is a logical step for the CD - with a lot of preparatory work already done.

   But there is frustration over the chances of starting negotiations due to differences over scope and objective, and national security considerations. The view was also expressed that it is a treaty whose time has passed. (This is not Australia’s view.) Some feel strongly that negotiations should be on the basis of CD1299 and the mandate contained therein – others were less fixed on mandate and saw Shannon as sufficiently flexible to not impinge on any delegation’s core security concerns.

2. There was interest in substantive discussions on **nuclear risk reduction**, including through examining UNIDIR’s work and an expectation that that the NPT RevCon may also provide guidance to the CD on future work on risk reduction.

3. Reducing threats and risks in **outer space** is becoming more important to delegations. There was a desire to find ways to address security issues to, from, and in space to deal with constantly evolving threats;

4. **Negative security assurances** were raised but not as much as we expected. While very important for some, particularly in the context of the Middle East, there were few specifics on how the CD might address NSAs. Some did say a legally binding instrument was premature but fleshing out positions could be helpful.
Our main takeaway is that national priorities on security and arms control are fairly clear. However, many are sceptical about the prospects for negotiations in the CD on any of these issues in the foreseeable future. Trust is low and work is evidently required to rebuild it.

**What would you like the CD to negotiate over the next 5 to 10 years and how would you build consensus on negotiations?**

CD members were clear on what they want the CD to negotiate - there are no surprises here. These include for some a comprehensive Nuclear Weapons Convention, an FMCT or FMT, measures to address outer space security - from modest to more ambitious, and an instrument on NSAs. The point was made that the most important issues are those connected to strategic stability.

As already alluded to, the challenge for most delegations was how to build consensus on negotiations. All CD members share this responsibility. This means understanding others’ positions, looking for common ground, showing flexibility and having the political will to accept compromise.

Some thought that even though negotiation of legally binding instruments seems out of reach for now, the ground-work is still required. Agreeing to establish subsidiary bodies to advance preparatory work and have meaningful conversations would be a positive step, as the 2018 precedent showed.

The CD could also concentrate on softer instruments like codes of conduct or action plans – as provided for by its rules of procedure (rule 23).

This would expand the range of options for making concrete progress on disarmament in the CD with benefits for international security, and greater trust and confidence.

The oft-repeated refrain was to keep the focus on substantive work, build on work already done – tweaking it here and there - treat all issues in a balanced manner and build further trust in the process.

The CD could work from the ground-up rather than top-down - focusing on aspects or sub-aspects of larger issues, possibly paving the way to more
ambition. This could include nuclear risk reduction, nuclear disarmament verification, and transparency regarding military activities in space.

For **fissile material** negotiations, we need to overcome absolutist positions. Responsibility for this lies outside the CD and rather more in national capitals. There is a need for flexibility on all sides – including on the issue of existing fissile material stocks. Interpretation of the Shannon mandate should be as broad as possible and failing that, a new mandate could be considered. The point was also made that including existing stocks in a future agreement would require serious concessions by some nuclear possessor states.

On **PAROS**, people saw merit in looking at taking smaller steps. Success on smaller elements might build momentum for more ambitious undertakings down the track. Ideas shared included a ban or guidelines on debris creating ASAT tests, norms of responsible behaviour, consideration of dual-use technologies and counter-space technologies, and exchanges of information.

**What are your ideas for breaking the deadlock over a Program of Work? What is a Program of Work and what is its role?**

Many recognise that the deadlock is not a result of the CD’s Rules of Procedure. Breaking the deadlock requires political commitment beyond the CD.

SSOD1 which established the CD says the CD **has the authority to negotiate** – not that it must negotiate. Extensive work is needed before negotiations are ready.

One interpretation is that a Program of Work is a work plan agreed at the start of the year outlining what the CD will do during its session. It is a guide to facilitate our work and give it direction. There is no requirement that it set out the start or continuation of negotiations on any item – although it could if agreed. Opportunities to create ad hoc working groups or agreement to launch negotiations are meant to occur organically through our discussions.

One suggestion encouraged us to adopt a decision to establish subsidiary bodies to prepare for negotiations on core agenda items. These bodies
could be designed consistent with the CD’s mandate, regarded as pre-negotiation bodies to pave the way for negotiations with specific timelines. They should build on previous work and document and take stock of discussions.

Another idea was to limit the time spent trying for a program of work. If the first President of the year is not able to land a program of work, then work could move immediately to substantive discussions and continue other work behind the scenes.

There was also a sense that the countries with the largest militaries and nuclear arsenals had to show leadership in the CD. Others can advocate but without P5 leadership, we cannot break the deadlock.

Several colleagues raised lack of trust – delegations need assurance that their priority issues will be considered.

Some raised the value of making the CD a more effective platform for diverse views – civil society certainly adds value to our work.

**How could we make the CD more effective?**

CD members were broadly interested in how we could be more effective.

Some thought we needed a better environment for meaningful discussions on effective functioning without jeopardising the main tenets of the CD. Efforts needed to be depoliticised and might be more productive if held informally. Working papers which included a catalogue of ideas would also be useful.

Some thought it was important for the CD to review its membership – including enlargement – as the Rules of Procedure (rule 2) ask us to do periodically.

Many cited P6+2 cooperation as a good example of how we can work more effectively, without needing to ask permission. We have discretion to implement good ideas and incremental adjustments to the way we work.

Some argued for less fuss over what constitutes a program of work and more self-discipline in the application of the consensus-rule. Breaking with
consensus should be understood as a final resort to avert decisions truly detrimental to national interests, not as a tool to stifle general discussion.

One suggestion was to lengthen Presidencies to six weeks to reduce turnover and allow each President a more meaningful amount of time to guide the CD.

CD documents could note the year they were produced rather than just in sequential order (i.e. CD 1299 could become CD1299/95 or CD95/1299).

Another more radical suggestion was that if the CD continues to underperform then it should be shuttered (not abolished) until such time as states decide there is an actual treaty negotiation which they wish to see undertaken in the CD.

Some want the CD to be more interactive and less formal; others focused on preserving consensus and sovereign equality.

Overall, we see merit in continuing this conversation.

We thank the many delegations which support our proposal to make the CD’s Rules of Procedure gender neutral. This is a modest, sensible proposal whose time has come – to value diversity and equality in the CD.

We did a lot of groundwork and consultations. We were disappointed not to be able to take it further during our Presidency and we very much hope this issue will be taken up by others; doing so would be a simple but important gesture that the CD can do something that objectively has no downside. We look forward to working with you to agree these changes.

The final point to underline, is that the above is a compilation of reflections made by the CD membership. It is up to all of us to decide whether to move forward.

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