COMMITTEE OF THE WHOLE OF THE
FIFTEENTH SPECIAL SESSION
Working Group III
Agenda item 13

CONSIDERATION OF THE ROLE OF THE UNITED NATIONS IN
THE FIELD OF DISARMAMENT AND OF THE EFFECTIVENESS
OF THE DISARMAMENT MACHINERY

Working paper submitted by Denmark, Ireland and New Zealand

CONFERENCE ON DISARMAMENT: PARTICIPATION
OF STATES NOT MEMBERS OF THE CONFERENCE

1. The Special Report of the Conference on Disarmament to the Special Session refers to the participation of States not members of the Conference (document A/S-15/2, sect. II.F, paras. 13-15). In addition to those States not members of the Conference attending its plenary meetings in conformity with Rule 32 of the Rules of Procedure, the Conference has, in recent years, invited representatives of non-member States to participate in the discussions on substantive items on the Conference's agenda at plenary and informal meetings. In 1988, 15 non-member States so participated.

2. The procedures under which non-member States participate in the Conference are established in the Rules of Procedure of the Conference (document CD/8/Rev.2 of 15 February 1984), specifically section IX, Rules 32 to 36. These Rules delineate the rights of participation of non-member States in plenary sessions of the Conference (Rules 33 and 34) and also in its informal meetings and in meetings of its subsidiary bodies (Rule 35, referring back to Rules 33 and 34).

3. There is widespread interest on the part of the international community in the disarmament negotiations undertaken in the Conference. Many delegations, including heads of government, have emphasized the fact that all countries have not only the right but also the duty to take an active part in disarmament efforts. Those efforts, in the context of substantive multilateral negotiations, are centred on the work of the Conference on Disarmament. Non-member States of the Conference
seek the opportunity to make the fullest contribution possible to the Conference's work. As the New Zealand Minister for Disarmament and Arms Control put it in his statement to the Session, "We look to arrangements that will allow them to make a full contribution. The Special Session should look to this ..."

4. The Group of Seven of the Conference on Disarmament has recently addressed the question of participation of non-member States in the work of the Conference (document CD/WP.341 of 12 April 1988). The Group agreed on, and submitted to the Conference, certain ideas in this respect. The Group "welcomed the interest shown by non-member States in the work of the Conference and agreed that their participation should be encouraged".

5. Decisions on any amendments to the Rules of Procedure of the Conference on Disarmament necessarily remain the prerogative of that body. The appendix attached to this proposal, however, sets out some ideas which the Conference may wish to take into account. These suggestions are advanced with a view to enabling interested non-member States to make a constructive contribution to the work of the Conference.

Proposal:

It is proposed that the Special Session, taking into account the points made in the appendix to this paper, invite the Conference on Disarmament to consider amending its Rules of Procedure to enable non-member States to participate fully in its work.
APPENDIX

The Final Document of the Tenth Special Session of the General Assembly states that "The Assembly welcomes the agreement reached following appropriate consultations among the Member States during the special session of the General Assembly devoted to disarmament that ... the Committee on Disarmament will:

(a) Conduct its own work by consensus;

(b) Adopt its own Rules of Procedure; ...

(c) Invite States not members of the Committee, upon their request, to express views in the Committee when the particular concerns of those States are under discussion; ..." 1/

The Rules of Procedure of the Conference on Disarmament were subsequently adopted "taking into account the relevant provisions of the Final Document ..." 2/ Express provision is made for the Rules of Procedure to be amended by decision of the Conference (Rule 47).

Rules of Procedure Concerning Non-member States

The Rules of Procedure make the following provision with respect to the rights of participation of non-member States:

(i) Automatic right to attend Plenary:

"Representatives of all non-member States shall have reserved seats in the Conference Room during Plenary meetings ..." (Rule 32)

(ii) Conditional right to attend other meetings:

"... and if the Conference so decides, at other meetings" (Rule 32 - continued)

(iii) Right to participate in negotiations:

"Interested States not members of the Conference may submit to the Conference written proposals or working documents on measures of disarmament that are the subject of negotiation in the Conference and may participate in the discussion of the subject matter of such proposals or working documents" (Rule 33)

(iv) Right to express views on "particular concerns":

"The Conference will invite States not members of the Conference, upon their request, to express views in the Conference when the particular concerns of those States are under discussion" (Rule 34)
(v) Right to participate in informal meetings and subsidiary bodies:

"The Conference may also decide to invite States referred to in Rules 33 and 34 to participate in informal meetings and any meetings of its subsidiary bodies, in which case the procedure of Rule 34 is applicable" (Rule 35)

These rules impose constraints on the ability of non-member States to contribute effectively to the work of the Conference. In particular, the following constraints are faced:

(a) Right to submit written proposals:

Rule 33 restricts their right to submit working documents to subjects that are under negotiation. At present, only four agenda items are the subject of negotiation. Four other items are not subject to negotiation in the Conference at present, and non-member States are therefore strictly precluded from submitting working documents on these items.

(b) The meaning of the phrase "particular concern":

Rule 34 restricts their right to express views to the Conference only when their "particular concerns" are under discussion. It is not made clear who has authority to determine a "particular concern" of a non-member State, or what criteria are adopted for making that determination. It is suggested that no agenda item of the Conference should be seen as falling outside the "particular concern" of a non-member State; and indeed, that the "particular concern" of a State in disarmament affairs should not be determined by membership or non-membership of the CD, that is to say, there should be no discrimination between member and non-member States in determining what subject matter each State may express its views on within the scope of the Conference's agenda.

(c) Restrictions on participation in informal and subsidiary body meetings:

At present, the above restrictions apply also to informal meetings and meetings of subsidiary bodies. The effect of these restrictions is felt more acutely in informal and subsidiary body meetings since it is these meetings in which negotiations are actually conducted. There have been instances in which non-member States of the Conference have been prevented from participating fully in negotiations under way in such meetings on the grounds that they are not members of the Conference itself.

Recommendations for Amendment

It is suggested that the Special Session recommend that the Conference on Disarmament adopt the following amended Rules of Procedure in respect of section IX, Participation by States not members of the Conference:
Rule 32 - No change

Rule 33 - Interested States not members of the Conference may participate in the discussion of any subject matter pertaining to any agenda item of the Conference. They may submit to the Conference written proposals and working documents on any agenda item.

Rule 34 - Delete

Rule 35 - The Conference may also decide to invite the States referred to in Rule 33 to participate in informal meetings on agenda items and in meetings of its subsidiary bodies. States so invited may participate in full, in which case procedure of Rule 33 is applicable.

Rule 36 - No change

Notes

1/ Final Document of the Tenth Special Session of the General Assembly as contained in its resolution 10/2, para. 120.