

INTRODUCTION

The introduction of a draft Fissile Material Cut-off Treaty (FMCT) by the United States at the Conference on Disarmament (CD) in Geneva, on May 18, 2006, during the thematic debate on the subject, and the expression of the American desire to fast track the treaty through the CD has brought the issue to the forefront of the agenda of that body. The CD has been unable to hold substantive discussions on disarmament issues for almost a decade because of the deadlock on its programme of work, due primarily to the rejection by the United States of all proposals designed to promote a consensus on a work programme.

This monograph traces the genesis of the FMCT, examines the substance of the US statement introducing the draft treaty, looks at the content of the US draft, places the proposal and its ramifications in perspective, examines the position adopted by Pakistan, and makes some recommendations regarding Pakistan's negotiating and possible fallback strategy should the US draft be accepted as a basis for further negotiations.

Background

The Nuclear Non-Proliferation Treaty (NPT) which was opened for signature on July 1, 1968 and entered into force on March 5, 1970 (Appendix I), is adhered to by all countries with the exception of India, Israel and Pakistan, all of whom never became parties to the Treaty; and North Korea which withdrew from the Treaty in April 2003, after giving the required 90-day notice under Article X:I of the NPT.

India did not become a party to the NPT because of its nuclear ambitions, which were brought into the open by its first nuclear test carried out in 1974. Pakistan also refused to join the Treaty because it did not wish to give up its option of acquiring nuclear weapons as long as India retained it. This was due to the mutual rivalry and hostility between the two countries manifested in a number of wars fought by them against each other. The 1971 war between India and Pakistan, which led to the dismemberment of Pakistan and the creation of Bangladesh, heightened the sense of insecurity in Pakistan and intensified its conviction that a nuclear deterrent was essential for its existence as a sovereign and independent state.

As a justification for refusing to sign the Treaty, both India and Pakistan advanced the undeniable argument that the Treaty was discriminatory and unbalanced since it created two classes of states i.e. the nuclear haves and the nuclear have-nots, with the non-nuclear weapon states having to accept most of the obligations imposed by the Treaty. The 1998 May nuclear explosions first by India and, in response, by Pakistan, brought the two countries out of the nuclear closet. They thus became overt nuclear weapon states.

Israel also refused to sign the NPT because by the late 60s it was already far advanced on the path of acquiring nuclear weapons with the assistance of France, the United States and other European countries. Israel has consistently followed a policy of ambiguity about its nuclear status. It is, however, believed to have conducted nuclear explosions clandestinely and to have acquired a large nuclear arsenal.

According to the US Central Intelligence Agency (CIA) estimates, North Korea, which opted out of the NPT in 2003, may have manufactured a few nuclear devices and may hold fissile material sufficient for 8-10 nuclear weapons. After the missile tests conducted by North Korea, which led the UN Security Council to adopt Resolution 1701 against it, apprehensions were already being expressed that North Korea may be moving towards conducting of a nuclear explosion.

Despite mounting criticism North Korea announced on October 3, 2006 that it would carry out a nuclear test in the future. This announcement led the UN Security Council to adopt a Presidential Statement on October 6, (UNSC Document S/PRST/2006/41) expressing deep concern over the North Korean statement and reaffirming that the proliferation of weapons of mass destruction and their means of delivery constitute a threat to international peace and security. The Security Council urged DPRK to return immediately to six-party talks without preconditions and to abandon all nuclear weapons and existing programmes. The Security Council stressed that a nuclear test if carried out by the DPRK, would represent a clear threat to international peace and security and that should the DPRK ignore calls of the international community, the Security Council would act consistent with its responsibility under the Charter of the United Nations.

Notwithstanding the UNSC Presidential Statement, North Korea announced, on October 9, that it had successfully conducted a nuclear test. This announcement was met with universal condemnation including by North Korea's friends and supporters like China, which was placed in a very embarrassing situation. After intensive consultations the UNSC adopted resolution 1718 (2006) on October 14, 2006 under Chapter VII of the UN Charter condemning the nuclear test proclaimed

by the DPRK. The Security Council demanded that the DPRK not conduct any further nuclear test or launch of a ballistic missile; return to the NPT and IAEA Safeguards; suspend all activities relating to its ballistic missile programme; abandon all nuclear weapons and existing nuclear programmes and abandon all other existing weapons of mass destruction.

It also decided to prevent the supply, sale or transfer to or from DPRK, of military equipment as well as items, materials, equipment goods and technology which could contribute to DPRK's nuclear related, ballistic missile related and other weapons of mass destruction related programmes. It demanded that the DPRK return to the six-Party Talks without preconditions and work towards the expeditious implementation of the Joint Statement issued on September 19, 2005 by China, DPRK, Japan, the Republic of Korea, the Russian Federation and the United States. It is worth recalling that in the statement of September 19, 2005 the DPRK had indicated its willingness to give up its nuclear weapons programme under certain conditions.

Subsequent to the adoption of the resolution, China undertook high level contacts with the DPRK for the revival of the Six-Party Talks and it was announced on October 31 that the DPRK had signified its willingness to return to the Six-Party Talks. No dates have yet been fixed for the resumption of the talks.

The North Korean nuclear test has opened a Pandora's Box for the security situation of the region and the reactions and policy adjustments by the United States, China, South Korea and particularly Japan would need to be monitored carefully over a period of time.

India, Pakistan, Israel and North Korea are now in a situation where they cannot become parties to the NPT in its present form unless they renounce nuclear weapons and dismantle their nuclear arsenals. Having acquired nuclear weapons as well as the means of their delivery, they would not be willing to join the NPT as non-nuclear weapon states. And they cannot join the NPT as nuclear weapon states either, since Article IX:3 of NPT recognizes only those countries as nuclear weapon states which manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967. As such, the NPT would have to be either amended or a new protocol would have to be adopted to accommodate India, Pakistan and Israel as nuclear weapon states. Neither of these possibilities is likely and therefore the present ambiguous status of these states, as de facto but not de jure nuclear weapon states will continue for the foreseeable future.

The NPT was touted as a 'Grand Bargain' between the nuclear weapon states and non-nuclear weapon states. In return for giving up their right to develop and acquire nuclear weapons and agreeing to bring all their nuclear activities under IAEA safeguards, the non-nuclear weapons states were promised:

- The inalienable right "to develop research, production and use of nuclear energy for peaceful purposes without discrimination" (Article IV 1);
- That the nuclear weapon states would share with them the potential benefits from any peaceful applications of nuclear explosions (Article V);
- Most importantly, that the nuclear weapon states would "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" (Article VI).

None of these pledges has been redeemed by the nuclear weapon states. On the other hand, there are efforts afoot now to deny to the non-nuclear weapon states the rights which are specifically allowed to them under Article IV of the Treaty, namely the right to research, production and use of nuclear energy for peaceful purposes. The failure of the last Review Conference of the NPT held in 2005, was due partly to the controversies over Israeli nuclear weapons and the Iranian nuclear programme and partly to the fact that the United States reneged on the 13 promises which had been adopted by consensus at the NPT Review Conference in the year 2000 (Appendix-II). This has given rise to serious dissatisfaction among the non-nuclear weapon states members of the NPT.

In pursuit of the objectives of the NPT for non-proliferation of nuclear weapons as well as for the cessation of the nuclear arms race and nuclear disarmament, the international community has sought to put in place internationally accepted controls over both vertical and horizontal proliferation of nuclear weapons through the adoption of international instruments to place limits on improvements in the quality of nuclear weapons as well as the quantity of fissile material available for their manufacture.

CTBT

The Comprehensive Test Ban Treaty (CTBT) was negotiated at the CD and finally adopted by the United Nations General Assembly (UNGA) in 1996 to prevent all testing of nuclear weapons and other nuclear explosive devices and thus to control both horizontal and vertical proliferation. It is, however, in some ways an imperfect treaty because it allows for sub-critical testing.

The CTBT has not come into force and is unlikely to do so any time soon since the US and some others including India, Pakistan and Israel, whose signature and ratification are essential for its

coming into force are unlikely to become parties to the Treaty. However, the unilateral moratorium on further nuclear testing accepted voluntarily by all nuclear weapon states as well as by India and Pakistan has so far not been breached. Israel has not announced any moratorium on testing since, in pursuit of its policy of ambiguity about its nuclear status, it has never accepted or denied the possession of nuclear weapons. North Korea, for its part, had agreed to dismantle its nuclear weapons programme under certain conditions at the last meeting of the Six-Party talks. However, as mentioned earlier, it has now carried out a nuclear test.

FMCT

The other facet of nuclear arms control and disarmament is the quantitative curbs which are sought to be imposed through banning of fissile material production and the eventual elimination of fissile material stockpiles. This has been reflected in the desire of the international community to negotiate a treaty on fissile material. It was in this context that the declaration adopted by the First Special Session on Disarmament (SSOD-I) in 1978 called for a ban on fissile material as part of the twin objectives of nuclear disarmament and non-proliferation.

Pursuant to the Final Declaration adopted by the SSOD-I, the CD in 1979 developed a list of the issues to be discussed in the CD. The annual programme of work of the CD is accordingly based on these issues. These issues are:

- i. Nuclear Weapons in all aspects.
- ii. Chemical Weapons.
- iii. Other Weapons of Mass Destruction.
- iv. Conventional Weapons.
- v. Reduction of Military Budgets.
- vi. Reduction of Armed Forces.
- vii. Disarmament and Development;
- viii. Disarmament and International Security.
- ix. Collateral Measures – Confidence Building Measures (CBMs) and effective verification methods in relation to appropriate disarmament measures, acceptable to all parties concerned.
- x. Comprehensive Programme of Disarmament leading to general and complete disarmament under effective international control.

The UNGA also discussed the need for a fissile material cut-off treaty and adopted the following recommendation vide its Resolution No. 48/75L of December 1993:

“Recommends the negotiation, in the most appropriate international forum, of a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.”

“Requests the IAEA to provide assistance for examination of verification arrangements for such a Treaty as required.”

In pursuit of the UNGA resolution 48/75L, the CD started discussions for the establishment of an ad hoc committee to negotiate a Fissile Material Treaty in 1994. However, agreement on the scope of the Treaty could not be reached and the CD decided to nominate Ambassador Gerald Shannon of Canada as a Special Coordinator to consult member states on the scope and the negotiating mandate of the proposed ad hoc committee. Ambassador Shannon submitted his report in March 1995, which was accepted by the CD. This is generally referred to as the Shannon Report/ The Report of the Special Coordinator, and is contained in document CD/1299. The salient elements of the compromise proposed by Ambassador Shannon and accepted by the CD were:

“The Conference on Disarmament decides to establish an Ad hoc Committee on a “ban on the production of fissile material for nuclear weapons or other nuclear explosive devices.”

“The Conference directs the Ad Hoc Committee 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.”

The Shannon report also state that:

“The mandate for the establishment of the Ad Hoc Committee does not preclude any delegation from raising for consideration any of the following issues:

- “Concerns about a variety of issues relating to fissile material, including the appropriate scope of the convention.”
- “Some delegations expressed the view that this mandate would permit consideration in the committee only of the future production of fissile material.”
- “Other delegations were of the view that the mandate would permit consideration not only of future but also past production.”

- “Still others were of the view that consideration should not only relate to production of fissile material (past or future) but also to other issues, such as the management of such material.”

The question relating to the scope of the Treaty was left open to be decided by the Ad Hoc Committee.

The CD operates on the basis of consensus. Any one delegation can block any decision indefinitely. As such, despite the agreement on the Shannon Report, negotiations could not start as India blocked the decision on the establishment of the Ad Hoc Committee as it wanted to register its dissatisfaction with the drift of the negotiations on the CTBT being held at that point in time in the CD.

However, after their nuclear explosions in May 1998, both India and Pakistan came under intense pressure and agreed in August 1998 to the establishment of an Ad Hoc Committee to negotiate a FMCT. The consequent decision of the CD, on August 11, 1998 to establish an Ad Hoc Committee stated:

“The CD decided to establish under item 1 of its Agenda, an Ad Hoc Committee which shall negotiate on the basis of the report of the Special Coordinator (CD/1299) and the mandate contained therein, a non-discriminatory multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.”

Despite this agreement, the Ad Hoc Committee to negotiate a fissile material treaty has not come into being since the CD, over all these years, has failed to agree on its programme of work for a variety of reasons. These include:

- The non-ratification of the CTBT by the US Congress.
- Nuclear tests by India and Pakistan in 1998 appeared to have reduced the urgency of finalising a treaty quickly, since the horses had bolted from the stable.
- The US decision to develop Missile Defence (MD).
- The US decision in the year 2000, to abrogate the ABM Treaty.

The US decision relating to MD and the ABM Treaty led countries like China to conclude that they might need larger stockpiles of nuclear weapons and therefore had to reassess their requirements of fissile material.

Furthermore, as some of the Missile Defence systems could be space based, China was of the view that the CD must also address the issue of Preventing an Arms Race in Outer Space (PAROS). This proposal received support from several countries including Pakistan and Russia. These countries supported by others linked the establishment of the Ad Hoc Committee for negotiating an FMCT to

the simultaneous establishment of another Ad Hoc Committee to discuss PAROS. The United States refused to discuss the prevention of an arms race in space and to establish an Ad Hoc Committee for this purpose in the CD. This led to the stalemate in the CD which continues to date.

A number of efforts were made to break the stalemate and to arrive at an agreement on the programme of work by the Chairs of the CD. Some of these proposals were acceptable to a large number of delegations but foundered on the rock of the rule of consensus. These included the Amorim proposal of August 24, 2000, contained in document CD/1624 (Appendix-III) which was a comprehensive proposal and commanded the support of a large number of delegations since it sought to meet the concerns of all delegations by creating Ad Hoc Committees for Nuclear Disarmament, FMCT, PAROS and NSAs, but with different mandates.

According to the Amorim proposal:

- a. The Ad Hoc Committee on nuclear disarmament would “exchange information and views on practical steps for progressive efforts to attain the objective of nuclear disarmament.”
- b. The Ad Hoc Committee on PAROS would “examine and identify specific topics or proposals which could include confidence building and transparency measures, general principles, treaty commitments and the elaboration of a regime capable of preventing an arms race in outer space.”
- c. The Ad Hoc Committee on NSAs would “negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons. These arrangements could take the form of an internationally binding instrument.”
- d. The Ad Hoc Committee on FMCT would “negotiate on the basis of the report of the Special Coordinator (CD/1299) and the mandate contained therein, a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.”

Under the proposal, the appointment of special coordinators on the issues of anti-personnel mines, transparency in armaments, review of the CD’s agenda, the expansion of its membership and its improved and effective functioning were also envisaged. The proposal was not accepted by the US. A somewhat similar proposal with some changes in the mandates of the different Ad Hoc Committees submitted by five Ambassadors to the CD in 2003 which came to be known as the A-5 proposal contained in document CD/1693/Rev-I (Appendix-IV) and some others prepared by the Chairpersons of the CD in an effort to break the deadlock also foundered because of US opposition.

The thematic debate in the CD on the FMCT was held on May 16-22, 2006. Around fifty delegations participated in the debate. Some of the countries participating in the debate, including Japan and Italy, also submitted written proposals. The discussions revolved around the same issues which had agitated the minds of the international community since the beginning of the debate on banning the production of fissile material. These related to the scope of the treaty, definition of fissile material, verification and linkages with other disarmament issues. These issues are examined below.

Scope of the Treaty

The fundamental issue to be addressed is that of the scope of the treaty. Should the Fissile Material Treaty be an arms control and disarmament measure or merely a measure for non-proliferation?

The established nuclear weapon states would like to maintain their advantage over non-nuclear weapon states by keeping intact their existing stockpiles of fissile material and only banning future production of fissile material. If existing stocks are not brought within its ambit, the Treaty would merely be a non-proliferation measure and would not promote the objective of disarmament. The non-nuclear weapon states, on the other hand, would like the FMCT to also be a disarmament treaty and therefore have taken the position that any Fissile Material Treaty must provide for a transparent rendering of existing stockpiles of fissile material and contain mechanisms for bringing them under international safeguards.

Some countries, e.g. Japan, are of the view that once the treaty banning future production has entered into force, state parties possessing fissile material production facilities for use in nuclear weapons would have the obligation to convert those facilities to non-nuclear weapon use or to decommission them or to close them down altogether. Any reversion of such facilities to production of fissile material for nuclear weapons would have to be banned. Any diversion of existing or future stocks of fissile material for non-nuclear weapons use to use in nuclear weapons would be equivalent to production and would have to be banned as well.

Transfer of stocks to any third state for nuclear weapons use would also be banned. Similarly state parties must also assume the obligation not to assist any state in its efforts to produce or acquire fissile material for use in nuclear weapons.

There is also the question of the negotiating strategy for the scope of the treaty. There are two possibilities: The issue of scope could be resolved before substantive negotiations on other aspects of the treaty. Alternatively, the scope could be agreed upon as the negotiations proceed, as happened during negotiations on the CTBT where verification was negotiated before agreement on the scope of the treaty. The latter approach created a problem since in determining the scope after verification procedures had been agreed upon, and so the loophole of sub-critical testing could not be plugged. As such many believe that it would be appropriate to resolve the issue of the scope of the treaty before the rest of the treaty is negotiated. The verification regime should be designed in accordance with the scope.

Definition of Fissile Material

There is then the issue of the definition of fissile material. What constitutes fissile material?

The NPT does not provide any specific definition of fissile material. Paragraph one of Article 3 refers to safeguards on all “source or fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility.” The safeguards shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

It can be construed from the language of the NPT that all “source or other fissionable material” which is not covered by safeguards can and may be used for nuclear weapons and should be covered by the FMT. There is a general view in the CD that the fissionable material described in the NPT would fall under the definition of fissile material for nuclear weapons.

The US draft treaty contains the following definition of fissile material in Article II:

- a. Plutonium, except Plutonium whose isotopic composition includes 80% or greater Plutonium-238.
- b. Uranium containing a 20% or greater enrichment in the isotopes Uranium- 233 or Uranium-235, separately or in combination; or
- c. Any material that contains the material defined in (a) or (b) above.

“Produce Fissile Material” means:

- a. To separate any fissile material from fission products in irradiated nuclear material;
- b. To enrich Plutonium-239 in Plutonium by any isotopic separation process; or
- c. To enrich Uranium 233 or Uranium-235 to enrichment of 20% or greater in those isotopes separately or in combination, by any isotopic separation process.

Some delegations are likely to argue that Neptunium 237 and Americium 241, which can be subjected to fission through bombardment with fast neutrons, and are not included in the IAEA definition of fissionable material, may also be included in the definition of fissile material. Others have said that Tritium, which is not a fissile material as such, should be included in the treaty since it is used as trigger for nuclear weapons and is a basic ingredient for thermonuclear weapons.

The issue of definition of Fissile material is thus likely to give rise to differences of opinion among the members of the CD.

Verification

The essential elements of the proposed FMCT which have been agreed by consensus are that the Treaty must be non-discriminatory, multilateral and internationally and effectively verifiable.

Verification would cover *inter alia*:

- i. Declarations of the stocks of fissile material for nuclear weapons or for nuclear explosive devices held by different countries;
- ii. Confirmation that the amount of stock of fissile material for nuclear weapons or for nuclear explosive devices has not increased from the date of the entry into force of the FMCT;
- iii. Confirmation that the reactors and facilities for the production of fissile material for nuclear weapons or nuclear explosive devices that have been converted, decommissioned or closed down are not reverted to producing fissile material for use in nuclear weapons;
- iv. Confirmation that fissile materials that have been voluntarily declared as in excess are not reverted back to nuclear weapons' uses;
- v. Confirmation that fissile materials for non-nuclear weapons purposes have not been diverted to nuclear weapons purposes.

The United States has moved away from the consensus on international and effective verification measures to be included in the Treaty in 2004 and now holds the view that verification should be carried out by national means only. In a statement at the CD on July 29, 2004 US Ambassador to the CD Ambassador Jackie Sanders declared that a US policy review had led the US to conclude that a realistic and effective verification of an FMCT was not achievable. Since then the US has been against the inclusion of international and effective verification clauses in the proposed treaty.

If the international community and particularly the developing countries agree to the US approach to verification, it would effectively mean that primarily the United States and perhaps a few of the major powers would have the means of challenging other countries for breaches, but no one would be able to challenge or inspect US or Western holdings and activities. This would make the treaty one sided and discriminatory.

Linkages

The FMCT is not a stand alone project. Over the years, the issue of negotiations on an FMCT has been inextricably linked with a number of other issues related to disarmament. The Group of Twenty plus China at the CD has adopted the position that along with the negotiations for an FMCT, there must also be simultaneous negotiations on Prevention of an Arms Race in Outer Space, Negative Security Assurances and Nuclear Disarmament. The United States on the other hand has strongly held the view that while an FMCT is ripe for negotiations, it must have a “clean mandate” that is not linked to other ‘unrelated’ proposals for the creation of Ad hoc Committees for other issues.

Presentation of the US Draft at the CD

The US Draft Treaty on FMCT was presented by Mr. Stephen G. Rademaker, Acting Assistant Secretary, Bureau of International Security and Nonproliferation, to the Conference on Disarmament, on May 18, 2006. His statement carried the rather lofty title of “Rising to the Challenge of Effective Multilateralism”. The statement was the authoritative enunciation of US approach to and thinking not only on the FMCT but also towards the CD itself and on issues like the nuclear programmes of Iran and North Korea. It would therefore be useful to examine it in some detail.

Rademaker made the following points:

- Proliferation of weapons of mass destruction had become the pre-eminent threat of the post Cold War era.
- The United States was convinced that multilateralism was more important than ever.

- US was determined to provide the international leadership necessary to ensure that multilateralism does not fail in “cases of vital importance to US security.”
- US “leadership” role designed to ensure that multilateralism succeeds “in such cases” should not be “confused” with so-called “unilateralism”.
- In confronting the threats posed by weapons of mass destruction, the fundamental building block was national efforts to control the dangers of chemical, biological, and nuclear weapons and the delivery systems for such weapons.
- Multilateral institutions and multilateral instruments could not by themselves substitute for the exercise, by sovereign governments, of their responsibility to prevent the proliferation of these weapons. While the former could establish norms, provide assistance and encouragement to those requesting help in complying with the norms, and impose consequences for violations of the norms, it was responsibility of sovereign states to stem WMD proliferation.
- The Bush Administration sought to promote the exercise of sovereign responsibility of states to act against WMD proliferation. United Nations Security Council (UNSC) Resolution 1540 adopted in 2004, was a direct effort to promote the exercise of sovereign responsibility to prevent proliferation. By requiring all states to criminalise WMD proliferation and to adopt and enforce controls on exports of sensitive WMD-related technologies, Resolution 1540 ended once and for all the debate about the propriety of such controls.
- Consistent with UNSC Resolution 1540, a coalition numbering over seventy countries, including the United States, have been working through the Proliferation Security Initiative (PSI) to interdict proliferation-related shipments that export controls fail to stop. PSI is another example of the exercise of sovereign responsibility carried out by sovereign governments in coordination with one another. Such measures are essential to successfully prevent terrorists from acquiring weapons of mass destruction, and can be extremely helpful in preventing governments from developing such weapons in violation of their legal obligations.
- In the case of governments that are determined to acquire such weapons, these kinds of measures are not always enough. In such cases, effective multilateralism requires not only that existing multilateral mechanisms be utilised, but also that they function to confront the proliferation threat.
- The US expected the Security Council to fulfill its responsibility under the UN Charter to address the threat to international peace and security posed by Iran's illegal nuclear weapons programme. It would be a defeat for effective multilateralism should the Council fail to live up to this responsibility.
- DPRK must avoid steps that would be contrary to the purpose of the Joint Statement issued at the end of the fourth round of the Six-Party talks and that the next round of the Six-Party talks should focus on the steps required for complete, verifiable, and irreversible elimination of North Korea's nuclear weapons and existing nuclear programmes.
- In the CD the fundamental problem was that it had permitted itself to become deadlocked by a lack of consensus on a work plan, thus reducing most CD meetings to meaningless exercises in rhetoric.
- The source of the deadlock was twofold. First, there had developed an unconscionable tolerance for ‘hostage taking’. For years, ‘worthy’ proposals to which no one objected had been taken hostage by proponents of ‘less worthy ideas’ that did not

command consensus. Second, far too many members remained committed to an outmoded and unrealistic agenda that dated back to the Cold War.

- It was time for delegations to acknowledge that the package approach to a programme of work would never succeed. For nearly a decade, well-meaning CD member states, groups of members, and individual representatives acting in their personal capacities had developed a series of these packages, on the same group of issues, and none had been able to elicit consensus support. The US did not believe that continuing to look for a package deal was any more likely to succeed this year.
- The only possible avenue for progress was for the Conference on Disarmament to concentrate its efforts on the one topic that all members of the CD professed to support i.e. a Fissile Material Cut-off Treaty.
- The US was tabling the text of a draft FMCT, a draft mandate for FMCT negotiations, and a White Paper summarizing US views on an FMCT. The Treaty text contained the essential provisions that would comprise a successful, legally binding FMCT. The draft Treaty had a straightforward scope: it would ban, after entry into force, the production of fissile material for use in nuclear weapons or other nuclear explosive devices. This was the fundamental objective that an FMCT should achieve.
- The draft clearly defined fissile material and related production methods in a manner consistent with established practices and past thinking on that subject. For example, the production of fissile material for non-explosive purposes, such as naval propulsion would not be prohibited by an FMCT. Existing stocks of fissile material would also be unaffected. The draft also spelt out the mechanisms needed for a treaty i.e. entry into force, dispute resolution, implementation, signature, accession etc.
- Consistent with the US position regarding the verifiability of an FMCT, the text included no provisions designed to provide verification. The primary responsibility for verification would rest with the parties using their own national means and methods through the exercise of the sovereign responsibilities of the states parties to monitor compliance.
- The US draft treaty was a way forward for the CD and for the maintenance of international peace and security. The US proposed that an ad hoc committee or even the plenary begin immediate debate on the US text, with the objective of approving a text for signature by the end of this year's CD session.
- The CD could continue to discuss other, so-called "traditional" issues as it conducted FMCT negotiations. The US also supported the discussion of so-called "new" issues, with the aim of identifying any that might be ripe for more serious consideration. The United States was always prepared to consider proposals designed to confront modern security threats with the seriousness that they deserved.
- US saw no need, however, for the negotiation of new multilateral agreements on nuclear disarmament, outer space, or negative security assurances. Such negotiations were unnecessary.
- The United States viewed the year 2006 as "critical to the continued existence of the CD as a meaningful international negotiating forum." The long deadlock at the CD had raised questions in many countries as to the continued viability of this forum.
- The US had renewed America's commitment to the CD by nominating a new ambassador to the CD in the hope that the time was ripe for progress on an FMCT and "other US priorities". All delegations should work with the US in order to ensure that the new ambassador did not serve as the last US ambassador to the CD.

Comments on the US Presentation

The language and the tenor of the US presentation was at times condescending, arrogant, self-righteous, evangelical, hectoring and accusing. The US representative made it very clear that the US was interested only in issues which were “US priorities” and which the US saw as being of importance to “US security”.

Under the cover of the concept of “sovereign responsibility”, the US has resorted to initiatives, designed to promote its national agenda and policy objectives, without allowing them to be considered, discussed, negotiated and agreed in international forums. This approach has been developed to bypass the UN and also those opposed to such unilateral initiatives. The United States, working with a small group of allied countries, finalises an agreement and then other countries are persuaded/ pressurised to accept/join in so as to give such arrangements greater legitimacy. PSI is one example of such an approach. This approach is a variation of the coalitions of the willing, cobbled together by the US to pursue its unilateralist policies when it cannot get the UN to do its bidding.

The Rademaker Presentation would seem to suggest that the US would use multilateral forums only if and when the ‘unilateral’ or the ‘coalition of the willing’ approaches fail. The US claim that the CD was bogged down with an outmoded and unrealistic agenda dating back to the Cold War was neither objective nor based on facts. Nuclear Disarmament, the Prevention of an Arms Race in Outer Space and Negative Security Assurances are as relevant today as they were during the years of the Cold War.

Furthermore, in the face of near unanimity in the CD on the issue of linkages, it is the US which has consistently blocked a consensus except on its own terms. As such the primary, if not the sole, cause of the deadlock in the CD has been the United States itself.

As for the charge of hostage taking leveled by the US representative against members of the CD, it would be appropriate to quote Michael Krepon, co-founder of the Henry L. Stimson Center of the United States and a recognised American expert on disarmament and nuclear issues, on the issue of ‘hostage taking’. Commenting on the US statement introducing the draft FMCT, Krepon wrote on May 18, 2006:

“The draft treaty may not be negotiated in the Conference on disarmament in Geneva if the Bush Administration continues to refuse to discuss issues related to space security. These two agenda items have been linked for many years at the 65-nation CD where procedural decisions are taken by consensus. Most US friends and allies (including India) object to Bush Administration’s negative stance towards verification. The CD is also overwhelmingly in favor of initiating discussion on ways to promote the peaceful uses of outer space, and to prevent the flight-testing and deployment of space weapons. The Bush Administration cleverly derides this linkage as ‘hostage taking’. In truth, negotiations on a verifiable ‘cut-off’ treaty and discussions on space security could begin tomorrow, if the Administration could ‘just say yes’ to both agenda items. It is the Bush Administration that has been holding the CD hostage, not the other way round.”¹

By setting deadlines, calling others as ‘hostage takers’ while in fact it is the US which has held the CD hostage through its refusal to join the consensus and demanding that all delegations should address “US priorities” to ensure continued US participation in the CD. Through this approach, the US representative was in fact holding out a thinly veiled threat to sideline, ignore or even quit the CD if the members refused to follow US prescriptions.

US White Paper on the FMCT

In the White Paper on the FMCT May 22, 2006² (Appendix-V), the United States underlines the desirability of a legally binding ban on the production of fissile material and declares that ‘one way’ of accomplishing this goal would be through negotiations at the CD. This contains the veiled message that if the CD cannot finalise the treaty the US could use the route that had been adopted for concluding the Proliferation Security Initiative (PSI), and then inviting/pressuring other countries to join in. The White Paper contains the same arguments as used in the presentation of the Draft FMCT by the US representative.

Also, in this paper, the US expresses the hope that the negotiations can begin and conclude in the very near future. It also states that pending the conclusion of the treaty and its entry into force all states should observe a moratorium on the production of fissile material for use in nuclear weapons such as the US has maintained since 1988.

The two draft documents presented by the US at the CD on May 18, 2006 during the thematic debate on the FMCT were the Mandate Text and the Draft Treaty.

Mandate Text

The Mandate Text (Appendix-VI), is a proposed decision by the CD to establish an Ad Hoc Committee on a “Ban on the Production of Fissile material for Nuclear weapons or other explosive nuclear devices”, and to direct the Ad Hoc Committee to negotiate a non-discriminatory and multilateral Treaty banning the production of fissile materials for nuclear weapons or other nuclear explosive devices and to report to the CD by an agreed date.

US Draft Treaty

The second document is the Draft Treaty itself (Appendix-VII). The Draft Treaty has 8 articles.

- Article 1: bans the production of fissile material.
- Article 2: defines Fissile material and its production.
- Article 3:
 - Para one defines the responsibility of states in implementing the ban.
 - Para two allows the use of national means to obtain information.
 - Para three provides for consultations between parties for clarifications.
 - Para four allows a party or parties to request a meeting of the parties to consider concerns regarding compliance.
 - Para 5 allows a Party to bring an issue of concern to the Security Council and provide evidence related to the matter.
- Article 4: relates to signature, ratification, coming into force and accession to the treaty.
- Article 5: relates to the deposit of the instruments of ratification and the responsibilities of the depository.
- Article 6: states that the Treaty will enter into force when instruments of ratification have been deposited by US, UK, France, Russia and China – the five nuclear weapon states recognized by the NPT which are also the permanent members of the UNSC.
- Article 7: contains the right of withdrawal and sets 15 years as the life of the treaty unless extended through consensus of state parties.
- Article 8: requires the registration of the Treaty with the UN in accordance with Article 102 of the Charter.

Pakistan’s Stance on an FMCT

Over the years Pakistan has sought to delay the start of the negotiations on an FMCT because it is interested in acquiring sufficient stockpiles of fissile material to achieve relative strategic parity with India and to have a strong deterrent capability. It has not, however, at any stage opposed the adoption of a Fissile Material Treaty.

As a part of its delaying strategy, Pakistan has sought to inject elements into the debate which would be unacceptable to some of the major nuclear weapon states.

The latest enunciation of the position of Pakistan was made during the recent thematic debate on the FMCT organised by the CD in the third week of May 2006. The permanent Representative of Pakistan highlighted the following issues in his statement to the CD in Geneva on May 16, 2006:

- FMT is at the heart of the debate in the CD.
- It is not a stand-alone issue. It has normative, legal and substantive linkages with nuclear disarmament, non-proliferation, prevention of an arms race in outer space and negative security assurances.
- Refusal to start negotiations on all four issues simultaneously is indicative of a crisis of political will on the part of some key states.
- The Shannon Report reflected consensus on the following:
 - i. To begin negotiations on a universal, non-discriminatory, multilateral and internationally and effectively verifiable treaty; and,
 - ii. The open and non-limiting scope of negotiations not precluding the issues of past and future production as well as management of the fissile material.
 - The agreement of Pakistan in 1998 to support the commencement of negotiations was a concession designed to help the CD start its work.
 - Nuclear Disarmament, PAROS, NSAs are essentially linked to an FMT. The argument that the time is ripe for an FMT but not for other issues is not valid. All of these issues qualify on the grounds of ripeness and contemporaneity. There can, however, be varying progression and a different trajectory for each issue, when negotiations start on the basis of a balanced and comprehensive programme of work based on the A-5 proposal.
 - A majority of the CD membership including Pakistan and the NPT member states maintain that the proposed FMT should also deal with the issue of past production of fissile material and through their progressive and balanced reduction promote the goal of nuclear disarmament.
 - According to the Pakistani representative, the Treaty must address the question of production – past, present and future. The rationale of this position is premised on the following:
 - A few states have huge stockpiles. For them a halt in their production at some time in the future will be virtually cost-free. A cut-off in future production alone will simply formalise and freeze the status quo. They would only be accepting safeguards on their non-operational enrichment and reprocessing facilities.

- A mere cut off will run the risk of both vertical and horizontal proliferation.
- Existing stockpiles unless accounted for and monitored could be used for the development of new and more sophisticated nuclear weapons.
- The asymmetry in the stockpiles at the global and regional level will be a factor for instability. Over time, large stockpiles are bound to be converted into nuclear weapons thus accentuating asymmetries. Inequalities should not be frozen and perpetuated. An FMT which freezes regional asymmetries will accelerate not arrest nuclear weapons proliferation.
- An FMT will have little credibility if existing stocks of military fissile material are not addressed in some form. In addressing the question of existing stocks, upper limits of fissile material as well as the principles of proportionality and sufficiency must be taken into account.
- The proposed Treaty should not be called a Fissile Material Cut-off Treaty (FMCT). A Treaty that aims at only cut-off in the future production will be a non-proliferation measure whereas inclusion of the past production will be a step towards disarmament. The Treaty should be called a FMT.
- UN Secretary General had stated in May 2005 that the international community can only hope to achieve meaningful disarmament “if every state has a clear and reliable picture of the fissile material holdings of every other state and if every state is confident that this material in the other states is secure.”

Pakistan cannot accept a moratorium on fissile material production for three reasons:

- A moratorium should be discussed within the full context of the Treaty.
- A moratorium will perpetually freeze the asymmetric strategic advantages.
- Unilateral, bilateral or multilateral moratoria outside the ambit of the Treaty will remain unverifiable.

Pakistan’s perspective, as presented before the CD is based on the following:

- A fissile material treaty must provide a schedule for a progressive transfer of existing stockpiles to civilian use and the placement of these stockpiles under safeguards so that the unsafeguarded stockpiles are equalised at the lowest level possible.
- A cut-off must be accompanied by a mandatory programme for the elimination of asymmetries in the possession of fissile material stockpiles. Such transfer of fissile material to safeguards should be made first by states with huge stockpiles both in the global and regional context.
- Negotiations on an FMT would be influenced by salutary regional environments in South Asia and the Middle East.
- In order to maintain strategic deterrence in South Asia, Pakistan would need to take into account the existing fissile material stockpiles.

In Pakistan’s view, a verifiable treaty is an essential condition for the effective cessation of a nuclear arms race. A credible verification regime will be necessary to guarantee successful implementation. A mere normative, soft law treaty would not serve the purpose of non-proliferation and disarmament. International treaties on non-proliferation and disarmament cannot be implemented properly unless in-built provisions for verification support them. A stance rejecting verification would take the issue back to the pre-Shannon Report phase.

A verifiable treaty will be able to:

- Control the illicit spread of nuclear materials.
- Enhance the proportion of weapon useable material under international safeguards.
- Strengthen nuclear export controls.
- Reduce discrimination in the present NPT regime.
- One of the stated objectives of the FMT is to deny access to fissile material to terrorists. A verifiable FMT on past and present production will plug such leakage and stop all illicit diversion of fissile materials.

Finally, an anodyne and anaemic FMCT should not be sought since it would make the treaty inherently discriminatory. Nor should the proposed FMCT be used to influence internal decision-making on the Indo-US nuclear cooperation agreement.

Indian Position on the FMCT

India's position on the FMCT has evolved over the years. Although it co-sponsored UNGA resolution 48/75L adopted at the 48th session of the UNGA in December 1993, India blocked negotiations on an FMCT in the CD because of its dissatisfaction with the CTBT. However, India like Pakistan agreed in August 1998, in the wake of its nuclear tests, to allow the establishment of the Ad Hoc Committee for the FMCT.

India supports the parameters established by the Shannon Report for negotiating an FMCT. It holds to the view that the treaty must be non-discriminatory. It must stipulate the same obligations and responsibilities for all states. It must also be internationally and effectively verifiable. While the nature, extent and mechanism for verification would be determined during the negotiations, India believes that an FMCT must incorporate a verification mechanism in order to provide the assurance that all states party to it are complying with their obligations under the treaty. It argues that, "When a states consents to adhere to an instrument, it wants to be assured that other states parties to that instrument are also complying with their obligations. Verification which serves the dual purpose of detection and deterrence provides that assurance. Absence of a verification mechanism may encourage willful lack of compliance and lead to allegations and counter allegations of non-compliance."³

As for the scope of the treaty, India does not support the position that existing stockpiles of fissile material should be brought under the ambit of the Treaty. In its view an FMCT must be a Treaty for

banning the future production of fissile material only. It should contribute to nuclear non-proliferation. This would imply that India does not look at the Treaty as a step towards nuclear disarmament.

India is not prepared to agree to a unilateral moratorium on its fissile material production and would accept a ban on such production only in the context of a FMCT. In the Indo-US joint statement of July 18, 2005, India merely committed itself to “working with the United States for the conclusion of a multilateral Fissile Material Cut-off Treaty.”⁴

New US National Space Policy

A spanner was thrown into the works of the CD on August 31, 2006, when the US President authorised a new National Space Policy of the United States governing the conduct of space activities. This effectively left no room for negotiating any measures for the prevention of an arms race in outer space in the CD.

The new space policy enunciates that ‘Freedom of action in space,’ is as important to the United States as air power and sea power. In order to increase knowledge, discovery, economic prosperity and to enhance national security, the United States must have robust, effective and efficient space capabilities⁵

The principles governing the conduct of the US space programme and activities include:

- “Peaceful purposes” allowing the US to pursue defence and intelligence related activities in national interest.
- The US considers space capabilities - including ground and space segments and supporting links – vital to its national interests. Consistent with this policy, the United States will preserve its rights, capabilities and freedom of action in space, which include dissuading or deterring others from either impeding those rights or developing capabilities intended to do so; taking those actions necessary to protect its space capabilities; responding to interference; and denying, if necessary, adversaries the use of space capabilities hostile to the US national interest.
- The United States will oppose the development of new legal regimes or other restrictions that seek to prohibit or limit US access to or use of space. Proposed arms control agreements or restrictions must not impair the rights of the United States to conduct

research development, testing and operations or other activities in space for US national interests.

The fundamental goal of this policy according to the United States is to strengthen US space leadership and ensure that space capabilities are available in time to further US national security, homeland security, and foreign policy objectives.

While the new national space policy of the United States pays lip service to the concept of peaceful uses of outer space the interpretation of peaceful uses as given in the US policy document would allow it the latitude to militarise space in the pursuit of its policies designed to protect national security, homeland security and its foreign policy objectives.

The US has also reserved for itself the right to deny adversaries the use of space capabilities which it may regard as hostile to its national interests.

It has also become quite evident, if there was any doubt earlier, that the US has no intention of allowing the CD to enter into any discussions or negotiations on the issue of the prevention of an arms race in outer space. This position will have an adverse impact on the possibility of negotiations on an FMT, which is unlikely to be accepted as an issue with no linkages to other important issues within the purview of the CD. As such the announcement of its new space policy by the United States is bound to be seen as a retrogressive step by a large number of the members of the CD.

Future Outlook for an FMT

It would appear that the American initiative on the FMCT has been crafted to serve a number of US objectives. To begin with, having been accused of undermining the Non-Proliferation regime through many of its actions, not least of them being the Indo-US nuclear deal, the US is seeking to neutralise the accusations of its own non-proliferation lobby and improve its image among the parties to the NPT.

Secondly, the initiative is also meant to convey to the US Congress that the United States is aiming to limit Indian stockpile of fissile material through fast-tracking the FMCT, since India has agreed to support the FMCT in the US-India civilian nuclear cooperation agreement. This is designed to make

the Indo-US nuclear cooperation agreement more palatable to those in the United States who have expressed reservations, doubts or opposition to the deal.

In addition, by demanding that the Treaty negotiations should be completed by the end of 2006, the US is creating the impression that it is fast-tracking the FMCT to strengthen non-proliferation.

The Draft Treaty has been prepared to promote the fundamental objective of the United States that there should be no monitoring/verification of US activities in the area of either the existing stockpiles or any infraction of the Treaty by it. Very few countries have the national means to verify any US violations and even fewer would be ready to challenge the US over any alleged violations.

On the other hand, the United States would be in a position to use its national means to verify compliance and also force other countries to hold consultations and reassure the United States, failing which they could either be coerced bilaterally or could be hauled before the UNSC. The draft is thus heavily skewed in favour of the US.

Finally, the US by accusing others of 'hostage taking' is trying to weaken and place on the defensive those who would like the negotiations on PAROS and Negative Security Assurances etc. to commence simultaneously with the FMCT.

If the CD should agree to use the US draft as the basis for negotiations the United States may well achieve a Treaty which is in accord with its interests and objectives. If the members of the CD insist on verification, the US can walk away from the CD and go in for an 'FMCT of the willing' as it did in the case of the PSI and ask, persuade or coerce other countries to join the Treaty thus finalised and approved.

The US may then take the position that the CD has outlived its utility as an arms control and disarmament body and either refuse to participate in its work or even call for its dissolution. This would be a major blow to multilateral efforts at disarmament and multilateralism in general. The US representative in his statement at the CD made no secret of this intention.

Policy Recommendations for Pakistan

Pakistan and the United States are arrayed on opposite sides as far as the FMCT is concerned. Their positions are different from each other on all issues vital to the Treaty, namely, its scope, internationally verifiable and effective verification and linkages to other disarmament measures like PAROS, NSAs and nuclear disarmament.

So far, Pakistan has successfully worked to stall negotiations on an FMCT by linking the issue of the establishment of an Ad Hoc Committee of the CD for FMCT to the simultaneous establishment of Ad Hoc Committees to negotiate agreements on Nuclear Disarmament, NSAs and the Prevention of an Arms Race in Outer Space (PAROS).

It has also adopted the position, which is supported by non-nuclear weapons states members of the CD that any Treaty on fissile materials must not merely be a non-proliferation measure but a movement towards nuclear disarmament and therefore while the Treaty must ban all future production, it must also demand declarations of present stocks of fissile materials held by all countries with proper verification procedures.

Pakistan's position is that the management and the proportional reduction of existing stocks must also be a part of the Treaty to eliminate asymmetries in the possession of fissile material stockpiles by various states. It has proposed that the treaty should be named Fissile Material Treaty and not just a Fissile Material Cut-off Treaty.

While some nuclear weapon states, including China, India and others share Pakistan's position on linkages with other issues, nuclear weapon states including China as well as India are not in favour of the demand that existing stocks should also be brought under the purview of the Treaty.

The inclusion of verification clauses in the treaty has been accepted by consensus by all members of the CD in the past, but because of US rejection of any international verification procedures as a part of the Treaty some Europeans may well support the American position on this issue.

If the US pushes for the adoption of an FMCT and in the unlikely event that the members of CD agree, it would not be politic or possible for Pakistan to go against the consensus and it would have to join the negotiations. Pakistan would then have to assess, in consultation with other delegations like China, whether and if so in what form the linkages with other issues can be maintained. One option which has already been discussed among the membership of the CD would be to establish more informal mechanisms instead of formal Ad Hoc Committees for the other three issues namely PAROS, NSAs and Nuclear Disarmament.

On the issue of existing stockpiles, it is clear that Pakistan has the smallest stockpile of fissile material among all the nuclear weapons states including India. Pakistan has to decide whether it would like to keep its own stockpiles a secret or would be ready to bring them into the open. In other words, it has to decide whether its insistence on bringing the existing stockpiles within the ambit of the Treaty is a tactical ploy which can be given up at an appropriate time with or without a quid pro quo, or whether it is prepared, with the support of some non-nuclear weapon states, to make this a make or break issue for the Treaty.

While the principle that the Treaty should be a disarmament measure and not merely a non-proliferation measure is unexceptional, Pakistan should consider taking the pragmatic course and drop its demand for inclusion of existing stocks in the treaty at an appropriate stage. If Pakistan is prepared to take the pragmatic line it would be better for it not to pursue the strong and categorical position it articulated during the thematic debate on the FMCT. By doing so Pakistan has made its possible retreat from this position somewhat difficult and embarrassing.

The United States is unlikely to agree to any international verification mechanisms for the FMCT. The earlier negotiations on the Biological Treaty foundered on the same rock. The international community could not sway the US into giving up its rejection of an effective international verification mechanism. The US is using the same arguments for excluding a verification mechanism from the FMCT. Pakistan would have to decide whether the absence of an international verification mechanism and the inclusion of national means and bilateral consultations with a possible eventual role for the UNSC, as proposed in the US draft, would be acceptable and would not be open to abuse by the very small number of countries which have the national technical and other means to acquire such secret information.

These are difficult choices, but Pakistan must begin to formulate its position on these three major issues in preparation for the possible beginning of the negotiations for an FMCT. Consultations with

friends of Pakistan in the CD would also be useful at this stage. We must prepare our negotiating strategy and the various fallback positions in the expectation that the threat of the United States to make the CD irrelevant may lead many members of the CD to agree to start negotiations on the basis of the US draft with some feeble linkages to other issues and with some non-intrusive and unenforceable verification processes.

The bottom line for Pakistan should be that the United States should not be provided an excuse to destroy the principal and relatively effective multilateral negotiating forum to address arms control, disarmament, nonproliferation and security issues, where countries like Pakistan and the non-nuclear weapon states have a say in international disarmament treaty making. If, in the process, some collective concessions have to be offered and are agreed upon in the G-20 plus China, with no adverse impact on Pakistan's national interests, Pakistan should be prepared to join other delegations in doing so.

Conclusion

So far, even after the passage of four months since the introduction of the FMCT draft by the United States, the CD has not been able to agree on a programme of work and the FMCT issue has been effectively postponed to early 2007, when the discussions on a programme of work including the establishment of an Ad Hoc Committee for negotiating an FMT will be started afresh.

Notwithstanding the announcement of its new space policy by the United States, it is most unlikely that China and other countries will agree to drop their insistence on the simultaneous beginning of discussions on a FMCT and PAROS. If the deadlock is not resolved at an early date, the CD is bound to lose its relevance. This will work to the detriment of the large majority of the CD members and to the advantage of the United States. The US would be able to pursue its unilateralist policies with some degree of credence by claiming that the members of the CD had rejected the proposals made by it and had thus foiled its efforts to make the CD relevant to the international disarmament agenda.

Appendix-I

The Treaty on the Non-Proliferation of
Nuclear Weapons (NPT)

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty",

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to cooperate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties of the Treaty, whether nuclear-weapon or non-nuclear weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in cooperation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the cooperation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament under strict and effective international control,

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the worlds human and economic resources,

Have agreed as follows:

Article I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

Article II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

Article III

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this article shall be applied to all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.
2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this article.
3. The safeguards required by this article shall be implemented in a manner designed to comply with article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this article and the principle of safeguarding set forth in the Preamble of the Treaty.
4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

Article IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty.
2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organisations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

Article V

Each party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a nondiscriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

Article VI

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.

Article VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

Article VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.
2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.
3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realised. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

Article IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.
2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.
3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.
4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.
5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.
6. This Treaty shall be registered by the Depositary Governments pursuant to article 102 of the Charter of the United Nations.

Article X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have

jeopardised the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

Article XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorised, have signed this Treaty.

DONE in triplicate, at the cities of Washington, London and Moscow, this first day of July one thousand nine hundred sixty-eight.

Appendix-II

The Promises of the 2000 NPT Review Conference

At the 2000 Review Conference of the NPT, the following practical steps for the systematic and progressive efforts to achieve complete disarmament were agreed to by all Governments signatory to the NPT

- Signing the CTBT:

The importance and urgency of signatures and ratifications, without delay and without conditions and in accordance with constitutional processes, to achieve the early entry into force of the Comprehensive Nuclear Test Ban Treaty.

- Stopping Testing:

- A moratorium on nuclear-weapon-test explosions or any other nuclear explosions pending the entry into force of the Treaty.
 - Negotiation:
 - The necessity of negotiation in the Conference on disarmament on a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices in accordance with the statement of the Special Coordinator in 1995 and the mandate contained therein, taking into consideration both nuclear disarmament and nuclear non-proliferation objectives. The Conference on Disarmament is urged to agree on a programme of work which includes the immediate commencement of negotiations on such a treaty with a view to their conclusion within five years.
 - Negotiation:
 - The necessity of establishing in the Conference on Disarmament an appropriate subsidiary body with a mandate to deal with nuclear disarmament. The Conference on Disarmament is urged to agree on a programme of work which includes the immediate establishment of such a body.
 - No Going Back:
 - The principle of irreversibility to apply to nuclear disarmament, nuclear and other related arms control and reduction measures.
 - Abolishing Nukes:
 - An unequivocal undertaking by the nuclear-weapon states to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament to which all state parties are committed under Article VI.
 - Upholding Existing Treaties:
 - The early entry into force and full implementation of START II and the conclusion of START III as soon as possible while preserving and strengthening the ABM Treaty as a cornerstone of strategic stability and as basis for further reductions of strategic offensive weapons, in accordance with its provisions.
 - Implementing Existing Treaties:
 - The completion and implementation of the Trilateral Initiative between the United States of America, the Russian Federation and the International Atomic Energy Agency.
 - Step by Step:
 - Steps by all nuclear-weapon states leading to nuclear disarmament in a way that promotes international stability, and based on the principle of undiminished security for all:

§ Further efforts by nuclear weapon states to reduce their nuclear arsenals unilaterally.

§ Increased transparency by the nuclear-weapon states with regard to the nuclear weapons capabilities and the implementation of agreements pursuant to Article VI and as a voluntary confidence-building measure to support further progress on nuclear disarmament.

§ The further reduction of non-strategic nuclear weapons, based on unilateral initiatives and as an integral part of nuclear arms reduction and disarmament process.

§ Concrete agreed measures to further reduce the operational status of nuclear weapons systems.

§ A diminishing role for nuclear weapons in security policies to minimise the risk that these weapons ever be used and to facilitate the process of their total elimination.

§ The engagement as soon as appropriate of all the nuclear-weapon states in the process leading to the total elimination of their nuclear weapons.

- Excess fissile materials under IAEA safeguards:

- Arrangements by all nuclear-weapon states to place, as soon as practicable, fissile material designated by each of them as no longer required for military purposes under IAEA or other international verification and arrangements for the disposition of such material for peaceful purposes, to ensure that such material remains permanently outside of military programmes.

- General and Complete Disarmament:

- Reaffirmation that the ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control.

- Reporting:

- Regular reports, within the framework of NPT strengthened review process, by all state parties on the implementation of Article VI and paragraph 4 (c) of the 1995 Decision on “ Principles and Objectives for Nuclear Non-Proliferation and Disarmament”, and recalling the Advisory Opinion of the International Court of Justice of July 8, 1996.

- Verifying:

- The further development of the verification capabilities that will be required to provide assurance of compliance with nuclear disarmament agreements for the achievement and maintenance of a nuclear-weapon-free-world.

Appendix-III

Proposal by the President
on the Programme of Work for the 2000 session of the
Conference on Disarmament

(Amorim Proposal)

Draft decision

The Conference takes the following decisions:

1. The Conference establishes, for the duration of the 2000 session, an Ad Hoc Committee under agenda item 1 entitled "Cessation of the nuclear arms race and nuclear disarmament" to deal with nuclear disarmament. The Ad Hoc Committee shall exchange information and views on practical steps for progressive and systematic efforts to attain this objective.

The Ad Hoc Committee shall take into consideration all relevant views and proposals present and future and also address questions related to its mandate.

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the 2000 session.

2. The Conference establishes, for the duration of the 2000 session, an Ad Hoc Committee under agenda item 1 entitled "Cessation of the nuclear arms race and nuclear disarmament" which shall negotiate, on the basis of the report of the Special Coordinator (CD/1299) and the mandate contained therein, a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the 2000 session.

3. The Conference establishes, for the duration of the 2000 session, an Ad Hoc Committee under agenda item 3 entitled "prevention of an arms race in outer space" to deal with the prevention of an arms race in outer space. The Ad Hoc Committee shall examine and identify specific topics or proposals, which could include confidence-building or transparency measures, general principles, treaty commitments and the elaboration of a regime capable of preventing an arms race in outer space.

The Ad Hoc Committee shall take into consideration all relevant views and proposals present and future and also address questions related to its mandate.

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the 2000 session.

4. The Conference establishes, for the duration of the 2000 session, an Ad Hoc Committee under agenda item 4 entitled "Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons", to negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. These arrangements could take the form of an internationally legally binding instrument.

The Ad Hoc Committee shall take into consideration all relevant views and proposals present and future and also address questions related to its mandate.

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the 2000 session.

5. The Conference appoints a Special Coordinator under agenda item 6 entitled "Comprehensive programme of disarmament" to seek the views of its Members on the most appropriate way to deal with the questions related to anti-personnel landmines taking into account, inter alia, developments outside the Conference.
6. The Conference appoints a Special Coordinator under agenda item 7 entitled "Transparency in armaments" to seek the views of its Members on the most appropriate way to deal with the questions related to this item.
7. In implementing these decisions, the Special Coordinators shall take into consideration all relevant views and proposals, present and future.
8. The Conference requests the Special Coordinators to present early and regular reports on the outcome of their consultations throughout the session, including before the end of the 2000 session.
9. The Conference also decides to appoint Special Coordinators on the Review of its Agenda, the Expansion of its Membership and its Improved and Effective Functioning. These Special Coordinators, in discharging their duties and functions, will take into account all proposals and views, as well as future initiatives. The Conference requests these Special Coordinators to report to it before the conclusion of the 2000 session.
10. The taking of these decisions contained in paragraphs 5 and 6 does not prejudice the positions of delegations on the eventual establishment of subsidiary bodies on the issues identified, but reflects agreement to advance the Conference's work with a view to reaching consensus. This decision is also taken without prejudice to the rights of Members of the Conference to move forward with positions and proposals already made or to be put forward in the future.

Draft Presidential Declaration

In connection with the decision we have just taken on the Programme of Work, I should like, in my capacity as President of the Conference, to stress that the Conference on Disarmament is a disarmament negotiating forum, as stated in Rule of Procedure nr. 1, and that, therefore, the mandates of, and the work to be pursued by, the subsidiary bodies set up by that decision are to be understood under that light. It is also understood that progress in the work of the Conference on Disarmament will continue to be influenced by and responsive to developments in the international strategic scene which affect the security interests of its individual member States.

Appendix-IV

Conference on Disarmament

CD/1693/Rev.1

September 5, 2003

Initiative of the Ambassadors Dembri, Lint, Reyes,

Salander and Vega

(A-5 Proposal)

Proposal of a Programme of Work

revised at the 932nd plenary meeting on Thursday, June 26, 2003

Taking into account the several proposals tabled since 1999, the Conference on Disarmament decides to establish, for the duration of the current session, the following programme of work, in respect of the elements of the agenda of the Conference:

1. The Conference establishes for the duration of the current session, an Ad Hoc Committee under agenda item 4 entitled "Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons", to negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. These arrangements could take the form of an internationally binding instrument.

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the current session.

The mandate of the Ad Hoc Committee shall be reviewed as appropriate, taking into consideration all relevant views and proposals and the prospects for future work.

2. The Conference establishes, for the duration of the current session, an Ad Hoc Committee, under agenda item 1 entitled "Cessation of the nuclear arms race and nuclear disarmament" to deal with nuclear disarmament. The Ad Hoc Committee shall exchange information and views on practical steps for progressive and systematic efforts to attain this objective, and in doing so shall examine approaches towards potential future work of a multilateral character.

In discharging its functions, the Ad Hoc Committee will take into account current efforts and existing proposals and views, as well as proposals that may emerge from the study and discussion.

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the current session.

The mandate of the Ad Hoc Committee shall be reviewed as appropriate, taking into consideration all relevant views and proposals and the prospects for future work.

3. The Conference establishes, for the duration of the current session, an Ad Hoc Committee, under agenda item 1 entitled "Cessation of the nuclear arms race and nuclear disarmament" which shall negotiate, on the basis of the report of the Special Coordinator (CD/1299) and the mandate contained therein, a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the current session.

4. The Conference establishes, for the duration of the current session, an Ad Hoc Committee under agenda item 3 entitled "Prevention of an arms race in outer space" to deal with the prevention of an arms race in outer space. The Ad Hoc Committee shall identify and examine, without limitation, any specific topics or proposals, which could include confidence-building or transparency measures, general principles, treaty commitments and the elaboration of a regime capable of preventing an arms race in outer space, including the possibility of negotiating relevant international legal instrument. In doing so, the Ad Hoc Committee shall take appropriate account of the need to contribute actively to the objective of the peaceful use of outer space and the prevention of an arms race there, while also promoting international stability and respecting the principle of undiminished security for all.

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the current session.

The mandate of the Ad Hoc Committee shall be reviewed as appropriate, taking into consideration all relevant views and proposals and the prospects for future work.

5. The Conference appoints a Special Coordinator under agenda item 5 entitled "New types of weapons of mass destruction and new systems of such weapons; radiological weapons" to seek the views of its Members on the most appropriate way to deal with this issue.

In implementing this decision, the Special Coordinator shall take into consideration all relevant views and proposals, present and future.

The Conference requests the Special Coordinator to present a report before the end of the current session.

6. The Conference appoints a Special Coordinator under agenda item 6 entitled "Comprehensive programme of Disarmament" to seek the views of its Members on the most appropriate way to deal with this issue.

In implementing this decision, the Special Coordinator shall take into consideration all relevant views and proposals, present and future.

The Conference requests the Special Coordinator to present a report before the end of the current session.

7. The Conference appoints a Special Coordinator under agenda item 7 entitled "Transparency in armaments" to seek the views of its members on the most appropriate way to deal with the questions related to this item.

In implementing this decision, the Special Coordinator shall take into consideration all relevant views and proposals, present and future.

The Conference requests the Special Coordinator to present a report before the end of the current session.

Presidential Declaration

The Conference on Disarmament, the sole multilateral forum of negotiations as stated in article 1 of the Rules of procedures, considered many proposals aimed at achieving a consensus on a programme of work.

These proposals reflect the importance all delegations attach to the Conference in fulfilling its mandate and in addressing the aspirations of the international community.

Taking into account these several proposals, the Conference on Disarmament decides to establish, for the duration of the current session, a programme of work, in respect of the elements of the agenda of the Conference.

This will require that all member States work together, according to the rules of procedure, to build on converging points which could lead, in time, to international instruments acceptable for all.

Appendix-V

United States of America

White Paper on a Fissile Material Cut-off Treaty

The United States believes strongly that achieving a legally binding ban on the production of fissile material for use in nuclear weapons is a desirable goal. One way to accomplish this goal would be through the negotiation at the Conference on Disarmament (CD) in Geneva of a treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices. We aim to conclude a Fissile Material Cut-off Treaty (FMCT) as soon as possible.

The United States has given considerable thought to what an FMCT should look like. The draft treaty that we have put forward sets forth the essentials needed for an FMCT that would meet the objective of ending expeditiously the production of fissile material for use in nuclear weapons. The basic obligation under such a treaty, effective at entry into force, would be a ban the production of fissile material for use in nuclear weapons or other nuclear explosive devices. Stocks of already existing fissile material would be unaffected by the FMCT. The production of fissile material for non-explosive purposes, such as fuel for naval propulsion, also would be unaffected by the treaty.

The definitions set forth in the US draft treaty on "fissile material" and "production" represent the outgrowth of the decade-long international discussion regarding what an FMCT should encompass. We believe that the definitions set forth in that text are appropriate for the purposes of an FMCT without any provision for verification.

The US draft treaty omits verification provisions, consistent with the US position that so-called “effective verification” of an FMCT cannot be achieved. The ability to determine compliance with a high level of confidence is a requirement for effective verification. The United States has concluded that, even with extensive verification mechanisms and provisions so extensive that they could compromise the core national security interests of key signatories, and so costly that many countries would be hesitant to implement them, we still would not have high confidence in our ability to monitor compliance with an FMCT.

Furthermore, mechanisms and provisions that provide the appearance of effective verification without supplying its reality could be more dangerous than having no explicit provisions for verification. Such mechanisms and provisions could provide a false sense of security, encouraging countries to assume that, because such mechanisms and provisions existed, there would be no need for governments themselves individually or collectively – to be wary and vigilant against possible violations.

Negotiating an international ban on the future production of fissile material for nuclear weapons will be a difficult enough task, in and of itself. Avoiding time-consuming and we believe, futile efforts to negotiate “effective” verification measures will expedite action by the CD to conclude a legally binding ban on the production of fissile materials for nuclear weapons and nuclear explosive devices.

The United States believes that only by focusing on realistic objectives can the CD create the conditions necessary for negotiating an FMCT. The successful negotiation of an FMCT in the CD will be both a significant contribution to the global non-proliferation regime and an example of truly effective multilateralism.

The United States hopes that negotiations in Geneva on an FMCT can begin and conclude in the very near future. We also reiterate our view that, pending the conclusion of a Cut-off Treaty and the Treaty’s entry into force, all states should declare publicly and observe a moratorium on the production of fissile material for use in nuclear weapons, such as the United States has maintained since 1988.

Appendix-VI

CONFERENCE ON DISARMAMENT

CD/1776

May 19, 2006

Original: ENGLISH

UNITED STATES OF AMERICA

WORKING PAPER

DRAFT MANDATE FOR AN AD HOC COMMITTEE ON A "BAN ON THE PRODUCTION OF FISSILE MATERIAL FOR NUCLEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES."

1. The Conference decides to establish an Ad Hoc Committee on a "Ban on the Production of Fissile Material for Nuclear Weapons or Other Nuclear Explosive Devices."
2. The Conference directs the Ad Hoc Committee to negotiate a non discriminatory and multilateral treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.
3. The Ad Hoc Committee will report to the Conference on Disarmament on the progress of its work before (DATE)

GE.06-61548

Appendix-VII

CONFERENCE ON DISARMAMENT

CD/1777

May 19, 2006

Original: ENGLISH

UNITED STATES OF AMERICA
WORKING PAPER

DRAFT TREATY
ON THE CESSATION OF PRODUCTION OF FISSILE MATERIAL FOR USE IN
NUCLEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES

The States Parties to this Treaty (hereinafter referred to as the "Parties"), have agreed as follows:

Article I

No Party shall, after the entry into force of the Treaty for that Party, produce fissile material for use in nuclear weapons or other nuclear explosive devices, or use any fissile material produced thereafter in nuclear weapons or other nuclear explosive devices.

Article II

For the purposes of this Treaty:

1. "Fissile material" means
 - a. Plutonium except plutonium whose isotopic composition includes 80 percent or greater plutonium-238.

GE.06-61555

CD/1777

Page 2

b. Uranium containing a 20 percent or greater enrichment in the isotopes uranium-233 or uranium-235, separately or in combination; or

c. Any material that contains the material defined in (a) or (b) above.

2. "Produce fissile material" means:

a. To separate any fissile material from fission products in irradiated nuclear material;

b. To enrich plutonium-239 in plutonium by any isotopic separation" process; or

c. To enrich uranium-233 or uranium-235 in uranium to an enrichment of 20 percent or greater in those isotopes, separately or in combination, by any isotopic separation process.

3. The term "produce fissile material" does not include activities involving fissile material produced prior to entry into force of the Treaty, provided that such activities do not increase the total quantity of plutonium, uranium-233, or uranium-235 in such fissile material.

Article III

1. Each Party shall take the necessary measures to ensure that all persons and entities anywhere on its territory or in any other place under its jurisdiction or control do not produce fissile material for use in nuclear weapons or other nuclear explosive devices, and do not use fissile material produced after entry into force of this Treaty for that Party in nuclear weapons or other nuclear explosive devices.

2. For the purposes of this Treaty, no Party shall be precluded from using information obtained by national means and methods in a manner consistent with generally recognized principles of international law, including that of respect for the sovereignty of States.

3. Any questions that arise regarding the implementation by a Party of the provisions of this Treaty shall be addressed through consultations between that Party and the Party or Parties seeking clarification.

4. In addition, any Party may bring to the attention of the Parties to this Treaty concerns regarding compliance with the provisions of this Treaty by another Party or Parties and may request the depositary to convene the Parties to this Treaty to consider the matter.

5. If, in connection with the implementation of this Treaty, any Party believes that questions have arisen that are within the competence of the Security Council of the United Nations as the organ bearing the main responsibility for the maintenance of international peace and security, that Party may request consideration of such questions by the Security Council. The requesting Party should provide evidence related to the matter.

Article IV

1. This Treaty shall be open to all States for signature until its entry into force in accordance with paragraph 1 of Article VI.

2. After its entry into force, this Treaty shall remain open for accession by States that have not signed it.

3. This Treaty shall be subject to ratification by States Signatories in accordance with their respective constitutional processes.

Article V

1. Instruments of ratification and accession shall be deposited with [_____].
2. The depositary shall inform all States Signatories and acceding States promptly of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of the entry into force of this Treaty and of any amendments and changes thereto, and the receipt of other notices.
3. The depositary shall send duly certified copies of this Treaty to the Governments of the States Signatories and acceding States.

CD/1777

Page 3

Article VI

1. This Treaty shall enter into force on the date on which an instrument of ratification has been deposited by all of the following States: the People's Republic of China, the French Republic, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.
2. For a State that deposits an instrument of ratification or accession after the conditions set out in paragraph 1 above for entry into force have been fulfilled, the Treaty shall enter into force on the date of the deposit by that State of its instrument of ratification or accession.

Article VII

1. Each Party shall, in exercising its national sovereignty, have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized its supreme interests. A Party shall deliver notice of such withdrawal in writing to the depositary no less than three months in advance of the date of withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events that the notifying Party regards as having jeopardized its supreme interests.
2. This Treaty shall remain in force for a period of 15 years from the date of its entry into force. No later than six months before the expiration of the Treaty, the Parties shall meet to consider whether it will be extended. By consensus of the Parties, this Treaty may be extended.

Article VIII

This Treaty, of which the Arabic, Chinese, English, French, Russian, and Spanish language texts are equally authentic, shall be registered by the depositary pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty opened for signature at [_____] on [date].

References

1. Michael Krepon, "The Bush Administration Tables a Draft "cut-off" Treaty, The Henry L. Stimson Center, Washington DC, <http://www.stimson.org/pub.cfm?id=293>
2. Conference on Disarmament, CD/1782, "United States of America, Working Paper, White Paper on a Fissile Material Cut-off Treaty", May 22, 2006.
3. Statement by Jayant Prasad, Ambassador & Permanent Representative of India to the Conference on Disarmament, Geneva, May 17, 2006, p.2.
4. Text of the Joint Statement, July 18, 2005, at www.indianembassy.org/press_release/2005/july/21.htm
5. See US National Space Policy, August 31, 2006.