

Fissile Material Cut-off Treaty: an overview from Pakistan

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Preamble

A realization to stop the production of fissile material for nuclear weapons has been on the security agenda even before the NPT was conceived. In a broader sense, a consensus has been in place since 1946 when the Atomic Energy Commission's first annual report to the United Nations Security Council (UNSC) recommended the establishment of an international agency to, among other responsibilities, provide for the disposal of stockpiles of fissile material to ensure the prohibition of the manufacture and possession of nuclear weapons.¹ President Eisenhower's 1953 "Atoms for Peace" speech further developed this idea. Efforts in this regard continued over the next four decades nevertheless, the cold war enmities remained a stumbling block in attaining the desired objectives.²

Fissile material cutoff negotiations in the CD Geneva got a boost following President Clinton's 1993 call for FMCT negotiations at the United Nations General Assembly (UNGA) session. NPT Review Conf held during 1995 and later during 2000 further strengthened the call for ban on fissile material by negotiating 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 the light of Shannon report as adopted with consensus during March 1995 which was supported by all countries including Pakistan.³

Within the CD (a forum where the decisions are taken with consensus), there are four basic areas of work, namely, nuclear disarmament, prevention of arms race in outer space (PAROS), negative security assurances (NSA), and a fissile material production cutoff which continue to compete for priority. On the issue of fissile material cutoff, the main controversy in the CD discussions has been the fundamental differences between the parties over the scope of a treaty, the inventories to be included, the definition of what constitutes fissile material and the kinds of verification and safeguards measures needed.⁴ Moreover, several member states prefer to link progress in one area to progress in another

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area, which some observers call “hostage taking.”⁵ During January 2003, an attempt was made to break the logjam related to the program of work in the CD by a group of five former CD Presidents in the form of “A-5” Proposal that called for establishing four ad hoc committees to address above referred four issues. These committees could never be established till date due to one or the other reason.⁶

Until June 2004, the US proceeded along with other CD members with respect to Shannon mandate however, during July 2004; the US announced that an FMCT was inherently unverifiable and subsequently introduced a draft negotiating mandate on May 18, 2006 in the CD that excluded reference to effective verifiability of a treaty. The US opposed the “package approach” to a program of work and suggested to discuss the FMCT as a standalone issue. In 2008, for the 9th year in row, the CD was unable to agree on a program of work, though it did discuss informally the major FMCT related issues to incorporate definition of fissile material, scope that may include “comprehensive approach” or a “focused approach” to verification of an FMCT and the decision whether to cater for existing stockpiles etc.⁷

The US stance in the CD has changed as President Obama has already outlined his vision in his speech on April 5, 2009 to see the world free of nuclear weapons. The US renewed policy on FMCT once again brings in accountability through a verifiable treaty that will have long term implications on the overall working of the CD on the issues in hand. In 2009 the Conf broke a deadlock and agreed on a work plan to which Pakistan initially agreed but later withdrew its consent and demanded further consideration of the program due to its serious security concerns.⁸ Nevertheless, moving toward zero is going to be uphill task and may be a wishful thinking of the US President. Security concerns of some countries including Pakistan are likely to remain unaddressed irrespective whether the treaty is verifiable or not.⁹ There is a general feeling amongst academia and political circle that if current impasse in the CD continues, international community might look for alternate forums including the UNSC to realize the desired objectives of the proposed FMCT.

In this backdrop, this paper aims at highlighting various aspects of the proposed FMCT with focus on: First, main objectives and a brief background, two, current impasse including its implications and emerging trends, three, FMCT from Pakistan’s standpoint with special reference to South Asia and finally the suggested options. This short essay will not be able to present a systematic and comprehensive study on the scope of the FMCT and related verification arrangements. The views expressed in this

paper are solely those of the author and do not necessarily reflect the institutional or government policies.

FMCT: main objectives

The salient features of the FMCT include: One, a successful completion of an FMCT would be an important step towards the ultimate goal of eventual elimination of nuclear weapons.¹⁰ Two, a verifiable treaty would complement the NPT as well the Comprehensive Test Ban Treaty (CTBT) as its ban on un-safeguarded production of fissile material would place quantities constraint on the amount of fissile material available for use in nuclear weapons.¹¹ Three, the FMCT would restrain arms racing involving India, China, and Pakistan, limit Israel's arsenal, and establish ceilings on others' arsenal as well, thereby contribute to strengthening stability in particularly volatile regions.¹²

Four, a verified FMCT would help build a stable framework for reduction and elimination of warheads and fissile material stocks; help prevent acquisition of fissile material by terrorists; meet a key NPT commitment and institutionalize on the basic pillars of a nuclear weapons free world.¹³ Five, signing and implementing the FMCT will bring the non NPT-Nuclear Weapons States (NWS) into at least a part of the nonproliferation regime and will help in reducing the discrimination in the NPT's division of states' into NWS and Non Nuclear Weapons States (NNWS).¹⁴ Six, Five plus Three NWS that operate un-safeguarded nuclear facilities will become party to the proposed treaty thereby reducing the discrimination inherent in the present NPT regime by narrowing the gap between the mutual obligations of NWS and NNWS and finally, reducing the risk of nuclear terrorism through the illegal diversion of fissile material by improving the effectiveness of nuclear export policies.¹⁵

Historical perspective

The history of the FMCT can be divided in three distinct periods, pre-1993, and the 1990s and from 2001 till date. During the cold war period, only cursory attention was paid to put some kind of ban on fissile material. The first special session of the UNGA on disarmament was completed during 1978 in which member states agreed that the "ultimate goal" for dealing with the danger of nuclear weapons was their complete elimination. To that end, part of the consensus in the Final Document required the "urgent negotiation of agreements at appropriate stages and with adequate measures of verification satisfactory to the states concerned for cessation of the production of all types of nuclear weapons and related fissile material and their means of delivery."¹⁶ Until 1993, the US, United

Kingdom (UK) and France did not support the fissile material ban where as the Russia and India linked it to the nuclear disarmament.

The second but extensive phase started in the post cold war period. Bill Clinton, the former US President gave impetus to the cutoff demand by declaring in his 1993 speech at the UNGA that: "We will pursue new steps to control the materials for nuclear weapons..., we will press for international agreement that would ban production of fissile material forever." He reemphasized the importance of this issue during his next speech in UNGA and called upon the Geneva based CD to take up this challenge immediately. While

abstaining from giving any reference to existing stockpiles as was covered in previous resolution, the UNGA for the first time adopted a consensus resolution (48/75/L) during 1993.¹⁷

The negotiating mandate for the CD drawn from this resolution has the following elements: One, the treaty is to ban the production of fissile material for nuclear weapons or other nuclear explosive devices, two, the treaty is to be "non-discriminatory multilateral and internationally and effectively verifiable." The UNGA also requested the International Atomic Energy Agency (IAEA) to provide assistance for examination of verification arrangements for such a treaty, but it did not specify its role. In response to UNGA's call, the CD in 1994 appointed Canadian Ambassador Gerald Shannon as Special Co-coordinator to seek the views of its members on the most appropriate arrangement to negotiate an FMCT.¹⁸

In the CD's case, its procedural rules, strengthened through accumulation of historical precedent, demand consensus as the threshold for formal decision-making. In practice, the CD's manner of work provides a blocking power to a minority of countries to say 'no' to cooperation, for whatever reason, regardless of the interests of many others who might be affected. In this background, the CD managed to adopt the Shannon report in March 1995 that agreed to establish an ad hoc

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committee to negotiate a treaty as envisioned in the UNGA resolution 48/75/L. A special point to be noted in Shannon's report was that he did not preclude any delegation from raising the issues of scope and verification within the committee.¹⁹

During May 1995, at the NPT Review and Extension Conf, states parties endorsed resolution 48/75L earlier adopted by UNGA in the "Principles and Objectives for Nuclear Non-Proliferation and Disarmament" decision document. The position on the issue was further strengthened during 2000 NPT Review and Extension Conf in which a document entitled "13 Practical Steps on Nonproliferation and Disarmament" was adopted. Step 3 recognizes the necessity of negotiations in the CD on the issue in accordance with the statement of the Special Coordinator in 1995 and the mandate contained therein.²⁰

- The pressure to commence negotiations increased after India and Pakistan conducted their nuclear tests in 1998. Thus the US efforts focused on four benchmarks, signing the CTBT, help commence the FMCT negotiations, tighten export controls and elaborate a restraint regime. During the period from 1994 through 2004, the US along with other member states supported the element of verification in the proposed FMCT mandate; however since 1994/95, despite the Ambassador Shannon's efforts, the CD could not commence its work because of differing views of the member states.²¹

Third but the divergent phase with regards to the subject issue starts after 2000 NPT Review Conf. During January 2003, another attempt was made to break the logjam related to the program of work by a group of five former CD Presidents in the form of "A-5" Proposal which called for establishing four ad-hoc committees, one each on the FMCT, PAROS, nuclear disarmament and NSA. These committees were never formed due to disagreements on the scope and terms of an FMCT. As indicated earlier, during the period from 1994 through 2004, the US was supportive of Shannon mandate however, during July 2004, it came up with a fresh idea on FMCT and explained that while it still supported the FMCT, nevertheless, it was of the view that effective verification was not achievable as it would be too costly and "could compromise key signatories core national security interests", and pressed to discuss the FMCT as a 'stand alone' issue.²²

Later, on May 18, 2006, the US introduced a draft treaty in the CD on the cessation of production of fissile material for use in nuclear weapons or other nuclear explosive devices without taking into account the existing

stockpiles and fissile material produced for non-explosive purposes such as naval propulsion.²³ The draft treaty does not account for an independent verification mechanism and therefore compliance/ verification would rest with parties using their own national means and methods. The draft treaty also indicates that in case of a dispute arising with respect to the implementation, the issue can be taken up at the UNSC level. The US also opposed the “package approach” to a program of work. The US later during 2007 urged the member states that pending the conclusion of a cutoff treaty and the treaty's entry into force (EIF), all states should declare publicly and observe a moratorium on the production of fissile material for use in nuclear weapons.²⁴ China was one of a few states including Pakistan which remained prepared to discuss the FMCT only in the context of a “balanced and comprehensive” program of work.²⁵

Pakistan came up with its serious reservations against the proposed negotiation process on FMCT. For Pakistan, it was not a matter of choice but a question of survival that has compelled it to block the launching of negotiations.

The CD nearly broke its nine-year impasse on March 29, 2007 when Sri Lanka on behalf of the six Presidents (P-6) of the CD for the year, submitted a draft decision L.1 (CD/1840) to the Conf. The proposal appointed four ambassadors as "Coordinators to preside over" negotiations to ban fissile material for weapons and "substantive discussions" on other issues.²⁶ China, Pakistan and later India and Iran expressed reservations. Later during September, 2007 however, despite the concessions made by key states to try and jump-start negotiations, consensus could still not be reached on the Canadian FMCT draft resolution (A/C.1/61/L.23) that simply called on the CD to “commence immediately negotiations on a verifiable treaty. Similarly, during the year 2008, the CD also failed to achieve consensus on a program of work.²⁷

However, as indicated earlier, on May 29, 2009, the CD succeeded in adopting a program of work for the first time since 1998 (May document CD/1864). The program included agreement to begin negotiations on an FMCT on the basis of the Shannon mandate established in 1995. It also included agreement to begin substantive discussions on the CD's three other core issues but faced with a deadlock again, only three months after it ended 12 years of stalemate as Pakistan came up with its serious reservations against the proposed negotiation process on FMCT. For

Pakistan, it was not a matter of choice but a question of survival that has compelled it to block the launching of negotiations. Consequently, the CD could not engage in substantive work, once again that still continues.²⁸ To summarize, negotiations on an FMCT still remain hostage to many issues. The mood set during first session of the CD held between January-March 2010 indicates that we may not attach optimism ahead in the subsequent sessions of the year and beyond unless international community show magnanimity and take Pakistan on board by addressing its legitimate concerns.

Current impasse and emerging trends

While Resolution 48/75/L of 1993 was a consensus document, the language in the Shannon report of 1995 permitted the parties to come up with independent views on the issue. Therefore, some delegations from NPT-NWS and India supported a mandate that would only permit consideration of future production of fissile material, while many countries including Egypt, Iran and Pakistan argued that the mandate should also include consideration of existing stockpiles. Another group of states wanted the treaty to relate not only to production of fissile material (past or future), but also to other issues, such as the management of such material.²⁹

As pointed out earlier, the US changed its stance and voted against Canada's overwhelmingly supported verifiable FMCT resolution along with one country in the UNGA 2004 session while UK and Israel abstained, which opened the door to put into question the Shannon mandate. The US did not cooperate during NPT 2005 Review Conf and was at the forefront of the efforts to marginalize reference to the outcome of the NPT 2000 Review Conf in the agenda for the 2005 Conf.³⁰

The Obama Administration (adm) has stated its intention to conclude a treaty cutting off production of fissile material, highly enriched uranium and plutonium, for nuclear weapons, so did the Bush and Bill Clinton. Although the FMCT has been a key objective of the CD for many years, but experience of the past one decade indicates that it might fail to break out of its customary paralysis which might encourage the Obama adm to

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take a different approach and look for an alternative forum for realization, if indeed it wants such a treaty. As indicated by Christopher A. Ford, such a new approach may well be available.³¹

NPT-NNWS as indicated by Ford are already prohibited by the NPT Article II from manufacturing or otherwise acquiring nuclear weapons or other nuclear explosive devices.

Therefore, the FMCT will substantively affect only those states which work outside the purview of the IAEA's comprehensive safeguards (Five plus Three plus One (North Korea)) and threshold states which have contradicting national security interests.³² In most cases, the proposed verifiable FMCT would supplement as well undermine their respective national security interests. P-5 will have incentives to join the FMCT negotiations that would cap production in the DPRK, India, Israel, and Pakistan.³³ China would wish to cap Indian production and India would welcome a cap on Pakistani production while Israel would derive advantage from an FMCT that leaves its existing stocks in place but verifiably precludes production by other states in its region.³⁴

Of course, there is no shortage of contrary interests. China, in particular, with its more limited stocks, worries about the ability to expand its arsenal if its minimum deterrence is threatened – notably by US missile defence. India is obviously divided- uncomfortable with a treaty that would freeze its stocks to levels significantly below China, but tempted by a treaty that would freeze Pakistani stocks at levels well below India. The other states of the Middle East obviously have little incentive to pursue a treaty that halts production but leaves Israel's stocks in place and implicitly blessed.³⁵

The CD seems unable to break out of its new customary paralysis. In response to Pakistan's statement on the issue, the CD Secretary-General Sergey Ordzhonikidze while speaking on behalf of UN Secretary-General Ban Ki-moon on February 11, 2010 expressed "great disappointment" with the body's lack of progress, according to an official meeting summary. He described progress in the CD as "not even zero, it was minus."³⁶ The position taken by member states on various relevant issues over the last twelve years indicate, that none of the member which has the

stake in the FMCT was ever sincere and willing to negotiate a standalone FMCT with or without verification. After the lapse of almost one decade, 65 members CD has failed to even develop consensus on a “program of work” despite serious efforts made by some member countries in evolving an agreed document like Shannon mandate and A-5 Proposal.

As long as leading states are not enthusiastic about moving forward with a cutoff treaty, the member states would continue to find ways to block any progress on the issue.

China is believed to have halted its production of fissile material for weapons around 1990 but has not declared a permanent halt. It publicly supports a cutoff but until recently blocked the start of negotiations by linking it to other issues like PAROS due to its security concerns.³⁷ Russia has also shown reservation with regards to PAROS till 2003 but later it did not take strong position. Contrarily, the US has all along been refusing to negotiate on PAROS because of obvious reasons.³⁸ Russia and India including many other states have called for the start of negotiations in the CD on a broad multilateral agreement on nuclear disarmament. John Borrie believes that the CD's efforts to resume work have been in vain because of two "key" countries, China and the US, and there may be others, like Pakistan and Israel, hiding behind them. The 65 country CD has become virtually a two-player game.³⁹ However, the recent development might not support this argument.

The 35 member states of the Zangger Committee (also known as the "NPT Exporters Committee") have a special interest in how the FMCT will look like, since a comprehensive FMCT has the possibility of universalizing export control.⁴⁰ The NNWS, in contrast, want an FMCT to serve as a significant step towards the eventual elimination of nuclear weapons. They therefore, want a cutoff treaty that includes deep cuts in existing weapons stockpiles, at least in those of Russia and the US, and would prevent the conversion to nuclear weapons of pre-existing stockpiles of civilian and other fissile material declared excess to weapon needs.⁴¹

Due to their vested national interests, Non NPT-NWS have been using delaying tactic by taking refuge behind one or the other block. In short, the prospects of all nine of these states agreeing to a cutoff in the near term are slim as the agreement does not appear to have the level of political support from the major powers. The impasse on issues of linkage may

reflect the reality that none of the NWS-NPT and otherwise-currently gives a high priority to pursue an FMCT. As long as leading states are not enthusiastic about moving forward with a cutoff treaty, the member states would continue to find ways to block any progress on the issue.⁴²

The proposed treaty if at all it comes into existence is expected to be a treaty of narrow scope which would be limited to future production of weapon grade material and associated facilities and would extend a right to produce fissile material for non-explosive purposes. As a consequence, such a treaty could still contribute to the proliferation of sensitive capabilities that would result in more countries attaining the option of acquiring nuclear weapons virtually at will. A non-discriminatory treaty with or without verification may dangerously undermine the existing verification system for the NPT Article III safeguards and the IAEA Model Additional Protocol.⁴³

The proposed draft mandate excludes civil nuclear materials including uranium enrichment and reprocessing, thus future consideration of any FMCT is likely to be influenced by the current debate on how to deal with sensitive parts of civil nuclear fuel cycle which leaves a number of questions with regards to the future of arms control, nuclear disarmament and nonproliferation and the outcome might not contribute towards the vision of the US President Obama to have nuclear weapons free world.⁴⁴

With the change of adm in Washington, the nuclear issues have once again come in spotlight. President Obama during his speech at Prague on April 05, 2009 said, "...the US has a moral responsibility to start taking steps now" and proposed a new international effort to secure all vulnerable nuclear material around the world within four years". He said, "to achieve a global ban on nuclear testing, his adm will immediately and aggressively pursue US ratification of the CTBT, and to cut off the building blocks needed for a bomb, the US will seek a new treaty that "verifiably" ends the production of fissile material, and a new framework for civil nuclear cooperation, including an international fuel bank, so that countries can access peaceful power without increasing the risks of proliferation.⁴⁵ Since then international community is still awaiting to see a comprehensive road map by the US adm to put his rhetoric into practice.

In view of President Obama's foreign policy statement, it was expected that in the coming time, the CD proceedings might start with a fresh approach where all four issues on its agenda might come under discussion as a package and the US earlier stance to discuss the FMCT as a "stand alone" issue might not hold good. However, his policy statement

did not make any difference and the consensus achieved during May 2009 focused on the FMCT only while leaving three other core issues for ‘substantive discussion’. With regards to Obama’s statement, Paul G. Buchanan believes that his “promise” was more of a statement of intent than an agenda for action, but nevertheless hopeful and sincere. It is an improbable goal but a worthwhile one. Moreover, even if all NWS and aspiring nuclear powers agreed to eliminate their stockpiles and weapons programs in the immediate future, that would only serve to reinforce the US conventional advantage over everyone else.⁴⁶

Emerging trends

Reservations of some members and think tanks with regards to performance and procedural reforms in the CD have surfaced occasionally. Hilda Skorpen, the Norwegian deputy permanent representative criticized the Conf rule that “requires consensus for a work program to move forward, saying that countries misuse it, hampering progress in the CD and suggested that it was “time for an open and honest debate about working methods, rules of procedures, consensus principle....” He also expressed concern that if the CD did not resume substantial discussions, countries would go outside to other fora and methods of negotiations.⁴⁷

The developing scenario indicates that with the backing of P-5 led by the US, the CD forum might one day be coerced to take decisions by majority vote instead of consensus. It will be a real setback for developing countries which enjoy equal status and have equal say at the CD forum.

Daryl G. Kimball, while addressing 18th UN Conf on “Accelerating the Entry into Force of the CTBT and Securing a Fissile Material Cut off Agreement” in Yokohama during August 2006 said that, “if the CD fails by the end of this year to take up the new US proposal on the FMCT, the US and other states should consider a new approach to break the deadlock”. The US had expressed similar concerns in the past. For example, Stephen Rademaker, former Acting Assistant Secretary of State for International Security and Nonproliferation, warned in 2006 that without progress, “the real work of confronting today’s security threats will shift to other fora that are producing results such as the IAEA, the Proliferation Security Initiative and (one hopes) the UNSC.⁴⁸ The developing scenario indicates that with the backing of P-5 led by the US,

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Mr. Kimbal stance notwithstanding, Dr. Maleeha Lodhi an eminent Pakistani scholar is of the view that such an option would be an exercise in futility because such a move would mean the nonparticipation of key nations including Pakistan and denude the process of any legitimacy. Therefore, she suggests that answer to the

present stalemate is not to circumvent the established disarmament machinery but ensure the FMCT negotiations take into account the security concerns of all states and not just the priorities of the powerful few.⁴⁹ Nonetheless, the author views that in case there was a convergence of interest of P-5, the alternative forum would be activated even if it was against the interest of Pakistan and many other developing states. Adoption of the Resolution 1540 by the UNSC in recent past is a case in point. Therefore, Pakistan's diplomatic channel should remain mindful of such developments in medium to long term.

Many leaders/scholars have already shown concerns as the CD has failed to perform during the last twelve years despite serious nuclear proliferation challenges. As a sequel, there is a realization occasionally expressed that alternate options may be exercised. Ford has already floated an idea that since "an FMCT would not add meaningfully to the obligations of NPT-NNWS anyway, why bother with all the trouble, uncertainty, and negotiating headaches of developing an FMCT in a consensus-based forum such as the 65-member CD...?"⁵⁰ In simple term, he has suggested negotiation on an FMCT outside the CD forum involving Five plus Three only; such a route once adopted for one issue might set precedence for others to follow, thus making the CD redundant.

In view of the current security environments in South Asia and the projected scenarios of terrorists being a grave threat to Pakistan's nuclear weapons, usually overplayed by international media, there is a possibility though remote that P-5 plus Two (India and Israel) may form an alliance

under the garb of global war on terrorism and fast track negotiations on the FMCT through an alternate route. Thus, UNSC may provide an alternate forum where Pakistan and possibly Iran may be stretched to their limits. As indicated earlier, UNSC Resolution 1540 has already set a precedent to target a few nuclear proliferation concerned countries. Nonetheless, keeping Pakistan out of such discussions might not yield the desired results.

FMCT from Pakistan's standpoint

Since 1993, Pakistan has all along been in favour of the UNGA resolution 48/75/L and supported Shannon mandate accordingly. The different scenarios which emerged over the last twelve years in the CD and the position taken by Pakistan have been narrated as follows: One, 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 while taking into account existing fissile material stocks.⁵¹ Pakistan's ambassador during May, 2006 CD session said that a fissile material treaty "sans verification sans stocks will be sans treaty". This has been Pakistan's principle stance since long that continues even today.⁵²

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Pakistan is in the camp of countries interested in reductions in existing stocks because it fears that a cutoff treaty could lock it into a position of disadvantage relative to India. According to many think tanks, this option does not serve Pakistan's security interest either as Pakistan would not like to declare its fissile material stocks too. In all probabilities, it is highly unlikely that this option will ever get consensus in the CD and seems impracticable. Pakistan's logic to strict to this option in the past was well known however, its security concerns in South Asian context with special reference to nuclear weapons' deterrence equation have gone from bad to worse over the past few years. As indicated by Dr Maleeha Lodhi, Pakistan's present position on the negotiating process stems from the concern that, as currently envisaged, the proposed treaty could upset the strategic equilibrium in the region by limiting its deterrent capability at a time when India has been offered other means to escape a similar cap on the size of its nuclear arsenal. In addition, India's pursuit of Ballistic Missile Defence (BMD) by seeking external help and given the likely

prospects of India acquiring this as well as developing a PAD (Prithvi Air Defence) capability in particular have changed Pakistan's threat perceptions that have a bearing on its position on the FMCT.⁵³

Two, 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 from the date of EIF of the treaty, without taking into account the existing fissile material stockpiles. This was an option which has generally been supported by majority members including China and India till July 2004 when the US parted away. Pakistan has been all along of the view that a verifiable FMCT taking into account the existing stocks would be able to control the spread of nuclear materials, enhance the proportion of weapon usable material under international safeguards, and strengthen nuclear export control and reduce the discrimination in the present NPT regime, thus it will serve Pakistan's interest better without being subjected to any discriminatory treatment. The proposed draft does not cater for the existing gap in fissile material stocks vis-à-vis India that impinges on Pakistan's supreme national interest.⁵⁴

Three, negotiate a non-discriminatory, multilateral treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices from the date of entry into force (EIF) of the treaty using national means/methods and bilateral consultations for compliance/monitor. This is exactly what the US has suggested on May 18, 2006.⁵⁵ While responding to the proposed idea, Pakistan expressed that this option ignores enormous positive tradeoff, of an independent verifiable fissile material treaty. Such a treaty would be discriminatory and against the national interests of many developing states and Pakistan would be no exception. It would have the potential to be used selectively. Given the current technological domination by the US, it might be extremely difficult to build consensus on the compliance and monitoring mechanism.

Four, negotiate a non-discriminatory, multilateral treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices from the date of EIF of the treaty leaving the issue of compliance/monitoring mechanism to be dealt in the CD later on similar lines as it was done in case of the NPT.⁵⁶ The author is of the view that the outcome of such a treaty would be alike Biological Weapons Convention that lacks compliance/ monitoring mechanism even after a lapse of over 34 years. However, in view of the UNSC Resolution 1540 obligations, the states would still be obliged to develop domestic laws which mean such a

treaty would remain a threat for countries of proliferation concern and some other countries, as non compliance could be challenged under Chapter VII of the UNSC.

Finally, the CD duly supported by the US has gone back to option II for a 'verifiable' cut off treaty but without taking into account the existing fissile material stocks. Over the years, Pakistan has sought to delay the start of the negotiations along with other like minded member states on an FMCT because it was 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 treaty. As a part of its delaying strategy, Pakistan has sought to inject elements into the debate elaborating the importance of verifiable treaty taking due cognisance of fissile material stockpiles, while giving equal priority to other three core issues. As indicated earlier, concerns expressed by Pakistan in the CD on February 18, 2010 and subsequently at various other important forums are no more part of delaying tactic. Pakistani nation is fully aware that unless the FMCT addresses the issue of past production of fissile material and its linkage with Indo-US nuclear deal, the treaty would not only freeze inequalities but also enhance the gap in terms of both quantity and quality and would place Pakistan at a strategic disadvantage.⁵⁷

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As pointed out by Dr Lodhi, the operational effect of the treaty once negotiated would principally be on Pakistan. Some experts argue that this is now a virtually Pakistan-specific instrument, for several reasons: One, P-5 have already ceased fissile production. The US, UK, France and Russia have formally declared this, while China has unofficially ceased production. Two, Israel has no nuclear competitor in the region and already has adequate stocks, three, India has been given the facility to acquire fuel from external sources, giving it the opportunity to vastly expand its stockpiles to fulfill its ambition of increasing the number of its nuclear weapons up to 400. Therefore, Pakistan will be obliged to respond by accelerating its missile development program and develop more

warheads, for which it will need more fissile material.⁵⁸ While Pakistan being a responsible NWS would continue to accommodate international proliferation related concerns nonetheless, its principled position expressed at the CD forum in its latest session and elsewhere should be seen and judged in true perspective.

R. Rajaraman justifies continue production of fissile material by India and Pakistan by elaborating that there is an essential difference in this regard between the new NWS and the “official” NPT-NWS. He believes that the latter have been building their nuclear arsenal for 4-6 decades, and now possess what they perceive as adequate for-and in some cases overwhelmingly in excess of their security requirements. The NPT-NWS even if they want to renovate or improve their weapons, they have ample stocks of fissile material to do so when needed, they have no compelling reasons for producing more weapon-usable fissile material. By contrast, the new NWS states like India and Pakistan feel that their arsenals (few dozen warheads each) are still at the growing stage.⁵⁹

In changed political and security environment, Pakistan will have serious challenges ahead because the NWS to which Pakistan remained attached, are likely to move away as they see their respective national security interests being protected otherwise.

The environments in the CD till recent past remained friendly to Pakistan because its interests coincided with a number of other member states. With regards to some core issues, the countries like Pakistan, China, India, Iran and Israel had been sailing in same boat. However, in author’s considered view, in changed political and security environment, Pakistan will have serious challenges ahead because the NWS to which Pakistan remained attached, are likely to move away as they see their respective national security interests being protected otherwise and they would have no stakes in the FMCT irrespective of its nature. In this context, following arguments may support my stance: One, China has become a gigantic economic and military power with all sophistication, thus have no problem in negotiating a treaty with or without verification. Two, as brought out earlier, Indo-US nuclear deal and the consequent accommodation by Nuclear Suppliers Group (NSG), India stands at a different stature as a part of exclusive nuclear club. Thus India may also prefer to toe its line with the US lobby in the CD. Similarly, Israel would

love to see a freeze on enrichment process especially in Middle East context. While Pakistan has managed to closely coordinate with 118 Non Aligned Movement (NAM) group at New York session on September 24, 2010 and with G-20 at Geneva, it is highly unlikely that NAM would remain firm on ground for very long, giving sufficient protection to Pakistan's national interest. Therefore, Pakistan is likely to protect its supreme national interest in the forthcoming CD sessions single headedly.

With regards to India's stature as of today, C. Raja Mohan indicated that in the past, India was an 'outsider' demanding a voice in shaping the global nuclear rules; now New Delhi joins the debate as an 'insider' as a responsible nuclear weapons power. India has every incentive to work with the US in strengthening international cooperation to prevent extremist groups from acquiring atomic materials and weapons.⁶⁰ Since China and India have started moving on same frequency as they are competing for economic goals thus there is a least possibility that China and India would ever involve in military confrontation. Therefore, like China, India could afford to sign an FMCT of any kind. By the time the proposed treaty EIF, India will have sufficient stocks to develop additional nuclear weapons if need so.

Three, Iran having strong economic base can still withstand the pressure even if it decides to block consensus single headedly. It has no real security threat in near future as it is intimately involved in reforming Iraq in close coordination with the US and the Iraqi government. Iran's close cooperation in Afghanistan context is also important for the US. The US has serious national stakes in engaging Iran irrespective whether or not it likes it or otherwise. Therefore, no country including the US can put real pressure on Iran if it decides to stay away from an FMCT. Four, similarly I see no problem for Israel which has been fully protected by the West led by the US. It is not in competition with any other country of the region therefore, an FMCT would only freeze its current level of nuclear weapons stocks without impacting its security interests. The treaty would rather put Israel at ease because it would restrain other regional countries from undertaking nuclear path. Fifth, North Korea faces no immediate security threat because of two reasons: Alpha, North Korea has become a NWS and the US would not like to risk its forces stationed in South Korea, bravo, Chinese presence in neighbourhood makes the difference therefore, neither the US nor China would like to see a destabilized Korean Peninsula. However, a general impression is that North Korea will come back on negotiating table and resolve its nuclear related issues amicably that suits China and finally all NPT-NNWS are otherwise constrained by the NPT and other related treaties/protocols.

As highlighted by R. Rajaraman, the NPT-NWS have no compelling reasons for producing more weapon-usable fissile material. By contrast, the new NWS like India and Pakistan feel that their arsenals (few dozen warheads each) are still at the growing stage. As they see it, they have “just started” building their nuclear forces, so they are continuing to protect and improve their capability for making fissile material.

In the emerging political/strategic scenarios, India might show flexibility to achieve high moral ground that would bring more pressure on Pakistan.

Pakistan is known to be constructing two more plutonium production reactors along with a reprocessing plant at the Khushab site, where a 40 to 50 megawatt reactor has been operational since 1998. Clearly these countries don't feel ready to cap their fissile material production yet and will not announce any moratorium on its production right now. For similar reasons, India would like to keep its moratorium on testing voluntary, and not be bound by treaties.⁶¹ Nevertheless, in author's considered views, in the emerging political/strategic scenarios, India might show flexibility to achieve high moral ground that would bring more pressure on Pakistan.

In author's considered opinion, Pakistan seems isolated. Security situation in this region was still better before 9/11 however, since then, its security concerns have further grown. It still needs to have sufficient fissile material for maintenance of existing nuclear weapons over the next sixty to seventy years and would also need to have enough reserves to cater for any surprise disturbing the existing “minimum credible nuclear deterrence” equation between India and Pakistan in the backdrop of Indo-US nuclear deal that would free up India's domestic ore to make additional nuclear bombs. Pakistan would also like that its platinum route should also get matured. India seems close to attain second strike capability as it works in close collaboration with Russia and France.⁶² It is also involved in massive conventional weapons build up including anti ballistic missile system with a state of the art technology from France, US and Israel by spending \$200 billion over a period of next one decade.⁶³

It is believed that the way events in South Asia are unfolding, the current delicate strategic equilibrium between India and Pakistan may not hold well over the next five to ten years if appropriate measures by Pakistan are not taken because a substantial anti missile capability with India will make the difference. Pakistan would therefore, be forced to

review its strategic policies, in order to address the new security challenges. Whereas, the FMCT would freeze the fissile material stockpiles in Pakistan's disadvantage.⁶⁴

In this backdrop, I am of the view that from the year 2010 onwards, Pakistan may have to protect its supreme national security interests in the CD and other forums single headedly. Pakistan would need to maintain "credible nuclear deterrence", with the lowest possible number of nuclear weapons, consistent with its national security needs. But what it requires for minimum credible deterrence vis-à-vis India is not easy to quantify in concrete terms.⁶⁵ Thus, Pakistan has already been compelled to take an undesirable step of blocking consensus as a last ditch effort in the CD sessions to guard its supreme national interests because international community still remains unmoved.

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But for substantive progress, the process will require getting Pakistan on board in a forum that works on the principle of consensus. This will depend on how Pakistan's principal concern can be addressed: that the treaty should not become a vehicle to constrain its strategic deterrence capability and leave it in a position of permanent disadvantage to India. Though, the position taken by Pakistan in the CD is politically correct however, I see more trouble ahead for Pakistan because its decision might provide an excuse to P-5 and some other countries to take alternative route, though against the desire of many member states. The envisaged security environments are foreclosing options for Pakistan thus forcing it to accept following dictum: "We recommend that you should try to get what it is possible for you to get... since you know as well as we do that... in fact the strong do what they have the power to do and the weak accept what they have to accept."⁶⁶

Policy options for Pakistan

The bottom line for Pakistan should be that the US should not be provided an excuse to destroy the principal and relatively effective multilateral negotiating forum to address such issues where countries like Pakistan and the NNWS have a say in international disarmament treaty making.

In order to safeguard its supreme national interests, Pakistan may continue to withstand the pressure and try to muster the support of other stake holders. Nevertheless, as a responsible nation, we should continue to improve our nuclear security mechanism by putting our home in order. Internal stability and security and economic prosperity are the hallmark for being considered and accepted as a leading player in such debate. Unfortunately, our current domestic security environments do not allow our diplomatic channels to assert in this particular debate. However, despite having serious problems, our political/diplomatic, security and economic alliance must

remain intact with friendly countries especially China which may still be ready to “bail out” Pakistan at a difficult juncture.

The above stance notwithstanding, realistically, it might be a very hard task for Pakistan to withstand the pressure because of obvious reasons. It would not be politic or possible for Pakistan to go against the consensus for very long therefore, it may have to join the negotiations at some point in time and 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. The bottom line for Pakistan should be that the US should not be provided an excuse to destroy the principal and relatively effective multilateral negotiating forum to address such issues where countries like Pakistan and the NNWS have a say in international disarmament treaty making.⁶⁷

Pakistan may consider taking the pragmatic course and drop its demand for inclusion of existing stocks in the treaty at an appropriate stage however; it must put up its genuine demands to the stakeholders and accordingly give up the ground on “existing stocks” provided international community is ready to address its supreme national security interests in concrete terms. Preparing and maintaining fallback positions is very important to achieve flexibility. Pakistan must continue to improve its

negotiating strategy and the various fallback positions which must include the timeline for taking various decisions starting from adoption of the program of work to the finalization of negotiating mandate and till ratification of the treaty.

Negotiating a “verifiable” treaty is very tricky and would take considerable time. Therefore, it is very unlikely that the CD proceedings on the subject would be smooth whether or not Pakistan takes lead, after all many other member states also have serious national concerns and stakes in the outcome of the proposed treaty. Hypothetically speaking if Pakistan joins the debate at some stage, it must register its serious security concerns at every step so that it is in a position to include its reservations as a part of final document at the time of signing the treaty if need so.

In my considered view, negotiating a “verifiable” FMCT in first place may not be possible in real term. Nevertheless, in whatever form it may proceed, it will take considerable time after the adoption of program of work which may go up to three to four years. Secondly, its envisaged goals will not be achieved without Pakistan even if it EIF, as it will remain ineffective for very long time, unless Five plus Three endorse and ratify it. Pakistan would still have time to fight back and engage international community for a favorable response. Even if Pakistan joins the debate at later stage, it may continue to resist signing and ratifying the treaty until its security concerns are addressed amicably.

These are difficult choices, but Pakistan must begin to formulate its position on three major issues in preparation for the possible beginning of the negotiations for an FMCT: One, our diplomatic channels must continue their consultations with friends of Pakistan in the CD, two, evaluate the US likely stance in the coming CD sessions in view of President Obama’s foreign policy vision and accordingly evolve a

Pakistan must begin to formulate its position on three major issues in preparation for the possible beginning of the negotiations for an FMCT: One, our diplomatic channels must continue their consultations with friends of Pakistan in the CD, two, evaluate the US likely stance in the coming CD sessions in view of President Obama’s foreign policy vision and accordingly evolve a comprehensive negotiation strategy keeping all factors in mind.

comprehensive negotiation strategy keeping all factors in mind. As indicated earlier, the bottom line for Pakistan should be that the US should not be provided an excuse to neutralize the principal and relatively effective multilateral negotiating forum by adopting alternative options. Despite Pakistan's diplomatic struggle, P-5 may still be encouraged to exercise an alternate option to fast track the issue involving Five plus Two therefore, Pakistan should not be taken by surprise and must prepare its alternate plans to address this issue at any level, may it be the UNSC.

The global nonproliferation system could only be built on norms that applied to all, especially in a world divided by nuclear weapons.

Food for thought for international community

Symbolic gestures of reducing a few hundred nuclear weapons by the US and Russia in a mutually agreed form will bring no good to the ambitious desire of the President Obama's adm which has declared a goal of a world free of nuclear weapons. Since the action speaks louder than words therefore, in order to expect a wholehearted cooperation from the world, both countries will have to fast track their bilateral talks to address the issue of existing stockpiles of the fissile material which runs into thousands of tons. If a transparent road map is not drawn by the two sides for safe disposal of the existing fissile material stockpiles, it will continue to haunt international community on the account that same can still be used for developing thousands of new nuclear weapons.

As suggested by Bill Cohn, we must act now. "...Unless the official nuclear powers take steps to uphold their side of the NPT bargain that obliges them to work towards abolishing their nukes in exchange for keeping others from seeking the bomb, this opportunity could be lost. The treaty could unravel." Failure to make prompt progress may mean nuclear anarchy.⁶⁸ The positive spirit generated during 1995 and 2000 NPT Review Conf has been reinvigorated to some extent during the last Conf which was concluded on May 28, 2010. The Final Document covers three critical pillars of the Treaty: nuclear disarmament, nuclear nonproliferation and the peaceful uses of nuclear energy.⁶⁹ In order to find a viable solution to the nuclear proliferation concerns, implementation of the Article VI of the NPT in letter and spirit by the NWS is a must as indicated by Cohn.

The global nonproliferation system could only be built on norms that applied to all, especially in a world divided by nuclear weapons. The 65 member CD may appoint an ad hoc committee to revisit the whole CD process, evaluate the real causes of disconnect and make appropriate proposals to the CD members. The committee must come up with concrete measures to ensure that the CD remains intact and work smartly to achieve the intended goals related to disarmament as envisaged by the UNGA without further delay. If the CD is made redundant, it will further frustrate the developing and underdeveloped countries that must be avoided.

In order to embrace the vision of a world free of nuclear weapons by preventing their spread into dangerous hands, as proposed by former Secretaries of State George Shultz and Henry Kissinger, former Secretary of Defense William Perry, and former Senator Sam Nunn in their two essays published in Wall Street Journal, the US must establish common objectives with other states, applying the necessary political will to build an international consensus on priorities. The call made by these stalwarts must be heeded to.⁷⁰

While central to success in any effort leading to nuclear free world is the US cooperation with Russia however, sustained efforts involving China, France, India, Israel, Pakistan, and UK will be must to attain ultimate goals.⁷¹ If the lead is taken by so-called “Big Five”(comprised of China, France, the US, UK and Russia) to reduce their strategic arsenal and to limit the transfer of nuclear material and technology even to allies is seen as a way of promoting similar attitudes amongst newer NWS, that is, India, Israel and Pakistan.

Finally, if international community wishes to see that proposed treaty achieves its intended results smoothly, it would need to create a level playing ground by giving up its discriminatory attitude towards some countries especially Pakistan, by addressing its legitimate security concerns. It must accommodate Pakistan as a partner in “nuclear club” so as to develop mutual confidence and trust. A treatment similar to that of India will ease up pressure on Pakistan domestically to come forward and take greater initiatives to play its decisive role in the positive outcome of the proposed treaty.

Conclusion

The record of the past twelve years provides little basis for optimism that the CD is going to be able to rise to today’s challenges. However, Washington’s renewed zeal and enthusiasm has injected optimism that the

65 member CD might fly high and break the deadlock by adopting a balance approach. Nonetheless, it seems unlikely that without addressing Pakistan's concerns, the CD would be able to develop consensus over the next two years however, the US has already given space to the CD members by agreeing to a "verifiable" treaty therefore, it would continue to pressurize Pakistan inside and outside the CD forum. The pressure on Pakistan was also observed during the UN Secretary Ban Ki-moon's latest effort on September 24, 2010 to pave the way for convening of the CD meeting where diplomats from Pakistan and the US were seen locked in sharp verbal skirmishes on the subject issue.⁷²

The author has no illusion that a "verifiable" FMCT with flexibility to allow development of fissile material for non explosive purposes (such as naval propulsion), will be discriminatory. It will be a mere nuclear non-proliferation measure and not a nuclear disarmament treaty. In the emerging political/security scenarios, the treaty would affect Pakistan more than the remaining Five plus Two. Hence, it is quite obvious that making any commitment with the international community regarding the FMCT, in its envisaged form, does not serve the strategic interest of Pakistan. Therefore, it is highly unlikely that Pakistan would give up its stance without actually getting concrete security guarantee from the international community.

I would once again re-emphasize that if international community wishes to see a positive outcome of the proposed treaty, it must show magnanimity and immediately take all stakeholders on board without discrimination. Such gestures would definitely usher better results at the CD forum and pay back the investment that international community has made in maintaining this prestigious forum.

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