

**Preparatory Committee for the 2010
Review Conference of the Parties to
the Treaty on the Non-Proliferation
of Nuclear Weapons**

NPT/CONF.2010/PC.II/WP.21
30 April 2008

Original: ENGLISH

Second session
Geneva, 28 April-9 May 2008

**CREATING A NEW MOMENTUM FOR
A FISSILE MATERIAL CUT-OFF TREATY (FMCT)**

Working Paper submitted by Germany

1. The discussions in the Conference on Disarmament (CD) on starting negotiations on an FMCT have over the last few years gained an added momentum. However, notwithstanding the priority nature which is usually attributed to achieving an FMCT, the obstacles standing in the way of starting a meaningful negotiating process have also become plain during the discussions in the CD:

- (i) first, there is as yet no agreement on a programme of work for the CD; linkages to other subjects on the agenda of the CD have so far blocked the establishment of an Ad-hoc Committee on an FMCT;
- (ii) second, in terms of substance, key differences remain in particular regarding the issues of scope and verification of an envisaged treaty, which could pose substantial difficulties for an agreement on the terms of a negotiating mandate.

In the face of this situation it is of paramount importance that the opportunity provided by the draft decision, presented by the Presidents of the 2008 session of the CD and contained in document CD 1840 dated 13 March 2008, should be seized finally to get the process going. This

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should be done without prejudice to the continuing differences regarding some key issues (scope, verification) relating to an FMCT.

2. Progress on an FMCT is overdue. An FMCT continues to be the “next logical step” for nuclear disarmament and nuclear non-proliferation. The benefits are potentially huge for strengthening both these aspects of the NPT, inter alia by an FMCT

- (i) fulfilling the commitments made in the 1995 Principles and Objectives and the 2000 Final Document (thereby countering the significant risks of erosion of the NPT regime);
- (ii) demonstrating the commitment to multilateral negotiations and treaties (thereby providing a new impetus to the NPT and beyond);
- (iii) capping the nuclear arms race and instilling a new (realistic) momentum into the process of nuclear disarmament (thereby contributing to maintaining the integrity of the NPT);
- (iv) creating a non-discriminatory common denominator imposing essentially equal obligations on NWS and NNWS;
- (v) engaging the de facto NWS;
- (vi) establishing transparency with regard to current nuclear complexes, where there is no transparency yet (thereby allowing the NWS to demonstrate that they act responsibly, are accountable and are also making a step towards establishing a baseline for further nuclear disarmament);
- (vii) creating a “policy driver” for nuclear material security (enhancing the security, control and accounting of fissile material) and establishing a new focus of international endeavours (which is of particular relevance also with regard to preventing fissile material from being acquired by nonstate actors/terrorist groups);
- (viii) contributing to regional stability in particular in South Asia, the Korean Peninsula and the Middle East;

- (ix) enhancing confidence between NWS through increased transparency and a capping of fissile material (and possibly a reduction of existing stocks).

3. Even if started immediately, negotiations on an FMCT would take time to conclude. Thus, with a view to create a new momentum for a credible FMCT and positively impact the current NPT review process, political interest in the topic should be resuscitated and possibilities for achieving early results be explored.

The EU in its proposals presented to the 2005 Review Conference already stressed the need for an immediate commencement of FMCT negotiations without preconditions and advocated the observance of a moratorium pending the conclusion and entry into force of an FMCT. This already implies a phased approach geared towards achieving early tangible results. Such an approach would also mean that in the interest of achieving early results the resolution of some of the major divisive issues of substance would be postponed and left for a later stage, when confidence and the chances of achieving acceptable and effective solutions should have improved.

4. In light of the above consideration the adoption of an incremental/phased approach consisting of the following elements is proposed:

- (i) A political declaration (to be adopted as rapidly as possible) containing
- a fissile material cut-off commitment
 - a commitment to adopt/maintain the necessary measures for security, control and accounting of weapon-usable materials
 - a commitment to enter (without preconditions) into negotiations on a non-discriminatory legally binding FMCT (possibly indicating a roadmap for achieving this goal).

Such a political declaration could be prepared in the CD, alternative ways could also be considered (international conference, the attendance of which should at least comprise key states i.e. NWS, de facto NWS, important NNWS which possess or have the capacity to produce weapon-usable materials).

- (ii) An FMCT, which could be a framework treaty enshrining the basic norm(s) and charting the course for a gradual implementation process, which would start with

transparency measures (information exchange on existing stocks; security, control and accounting; voluntary visits to relevant facilities) and possibly voluntary measures (declaration of excess stocks; assistance/ threat reduction; placing facilities/materials under safeguards). The framework treaty could also set out a process/timetable for moving towards stricter verification and the incorporation of stocks. Political will permitting, such negotiations should best be conducted within the CD.

- (iii) On the basis of the commitments in the framework treaty, additional implementation protocols relating to the development of an effective verification system and the broadening of the scope of an FMCT could be worked out. These could also focus on specific additional questions like the use of HEU in civilian reactors, the naval reactors issue, tritium. This third stage could also be implemented using the example provided by the safeguards regime; i.e. (a) model agreement(s) could be negotiated providing the basis for bilateral implementation arrangements to be concluded (within a set timeframe) between the IAEA and individual states.

5. In parallel to advocating such an incremental approach, the establishment within the CD of a Group of Scientific Experts to examine technical aspects of an FMCT should be contemplated. This would be consistent with the procedure followed in the case of the CTBT where the negotiations were also preceded by an intensive process of discussions by experts held in the CD framework. The FMCT Group of Scientific Experts could be entrusted to examine from a purely scientific point of view issues like the scope of the materials to be covered by an FMCT and also ways to enhance confidence in compliance with the terms of an FMCT.

6. Another very interesting idea, which might be contemplated in the context of the suggested phased/ incremental approach, is the suggestion for a "Fissile Material Control Initiative" (FMCI). Such an initiative, conceived as a voluntary, multilateral arrangement open to any country possessing fissile material and covering fissile material not covered by an FMCT, is compatible with the above proposals. Thus, as part of the first step of the phased approach (political declaration), states could commit to establishing an FMCI alongside an FMCT and define the objectives and possibly the basic principles of such an initiative. The FMCI, which

would be geared towards increasing security, transparency and control over fissile material stocks worldwide and which could complement an FMCT primarily focussed on banning production, could even be pursued independently of an FMCT (with a view to achieving early results) and still remain part of the overall endeavours for achieving a comprehensive solution.
