

U – Documents of the Conference on Disarmament on the Issue of Fissile Materials

Report of Ambassador Gerald E Shannon of Canada on Consultations on the Most Appropriate Arrangement to Negotiate a Treaty Banning the Production of Fissile Material for Nuclear Weapons or Other Nuclear Explosive Devices

[Reproduced from CD/1299, 24 March, 1995]

At the beginning of last year's session, I was tasked with seeking the views of members on the most appropriate arrangement 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.

As you know I held numerous consultations, both bilaterally and with groups and reported formally to this plenary on five occasions in 1994.

Mid-way through the last session, consensus was reached that the CD was the appropriate forum to negotiate a treaty on this issue. At the end of the session in September, while there was no agreement on a mandate for an Ad Hoc Committee, there was agreement in principle, that an Ad Hoc Committee be established on this issue as soon as a mandate had been agreed. At that time, the CD asked me to continue consultations on an appropriate mandate for an Ad Hoc Committee in order to enable the convening of this Ad Hoc Committee as soon as possible.

At the beginning of this year's session, the Conference decided to continue consultations on a mandate.

I have since held numerous consultations, and am pleased to report that delegations have agreed that the mandate for such a Committee should be based on Resolution 48/75L of the UN General Assembly, and reads as follows:

1. 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".
2. 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.
3. The Ad Hoc Committee will report to the Conference on Disarmament on the progress of its work before the conclusion of the 1995 session.

During the course of my consultation, many delegations expressed 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 of past production. Still others were of the view that consideration should not only relate to production of fissile materials (past or future) but also to other issues, such as the management of such material.

Mr. President, it has been agreed by delegations that the mandate for the establishment of the Ad Hoc Committee does not preclude any delegation from raising for consideration in the Ad Hoc Committee any of the above noted issues.

Delegations with strong views were able to join consensus so we could all move forward on this issue. This means that an Ad Hoc Committee on Cut-Off can be established and negotiations can begin on this important topic. This has for some time been the common objective of all delegations of this Conference.

I have appreciated that the productive contribution and support of all delegations in arriving at this result.

The Formation of the Ad Hoc Committee on Fissile Materials in the Conference on Disarmament

[Extracted from the CD Report to the UNGA for 1998, CD/1557, 8 September, 1998]

10. At the 802nd plenary meeting on 11 August 1998, the Conference adopted the decision on the establishment of an ad hoc committee under item 1 of the agenda entitled 'Cessation of the nuclear arms race and nuclear disarmament' (CD/1547), which reads as follows:

"The Conference on Disarmament decides to establish, under item 1 of its agenda entitled 'Cessation of the nuclear arms race and nuclear disarmament', 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.

The Ad Hoc Committee shall present a report to the Conference on Disarmament on the progress of its work before the conclusion of the 1998 session."

Following the adoption of this decision, the President made the following statement (CD/1548):

"In connection with the decision we have just taken, I should like, in my capacity as President of the Conference, to state that the adoption of this decision is without prejudice to any further decisions on the establishment of further subsidiary bodies under agenda item 1 which may result from the provisions of paragraph 1 of decision CD/1501, and that the presidency will continue to pursue intensive consultations and to seek the views of the members of the Conference on appropriate methods and approaches for dealing with agenda item 1, entitled 'Cessation of the nuclear arms race and nuclear disarmament', taking into consideration all proposals and views in this respect."

11. At the 804th plenary meeting on 20 August 1998, the Conference appointed Ambassador Mark Moher of Canada as Chairman of the Ad Hoc Committee under item 1 of the agenda entitled "Cessation of the nuclear arms race and nuclear disarmament".

U.S. Draft Mandate of a Fissile Material Cut-Off Treaty

[Circulated by the U.S. at the Conference on Disarmament, 18 May 2006]

On May 18, 2006, the United States tabled a new draft Fissile Material Cut-Off Treaty (FMCT) at the Conference on Disarmament and circulated a draft mandate to establish an Ad Hoc Committee to negotiate the treaty. The draft treaty contains the essential provisions for a legally binding FMCT which would ban, after entry into force, the production of fissile material for use in nuclear weapons or other explosive devices.

The following are the texts of the two documents presented by Stephen G. Rademaker, Acting Assistant Secretary, Bureau of International Security and Nonproliferation, at the CD.

See Also: Text of the Mr. Rademaker's statement introducing the proposal

Draft Mandate Text

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).

Treaty on the Cessation of Production of Fissile Material for Use in Nuclear Weapons or Other Nuclear Explosive Devices
(DRAFT TEXT)

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.
- (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.

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].

U.S. Statement to the Conference on Disarmament on an FMCT

[Statement by Christina Rocca U.S. Permanent Representative to the CD, 8 February, 2007]

The United States believes strongly that negotiating a legally binding ban on the production of fissile material for use in nuclear weapons and other nuclear explosive devices cannot be delayed any longer. The international community has expressed a desire for such a treaty in one form or another for decades. Here in the Conference on Disarmament, the history of this issue is somewhat shorter, but equally unsuccessful, despite the overwhelming support that negotiation of such a treaty enjoys. The United States believes that last year's CD session set the stage for negotiations to finally begin, and that this year's organizational plan for the CD might prove to be a successful vehicle for this beginning. This opportunity must not be lost. As a matter of record, there is a draft text from which we may begin. It is at once disarmingly simple and understandably complex. To establish the legal norm in a treaty is, in itself, simple. The discussions necessary to codify this ban will be complex. Nevertheless, the goal of ending the production of fissile material is achievable. The world community expects it of us. Now, we must demand it of ourselves.

I note with interest the statement made earlier by the German Ambassador on behalf of the ED. According to that statement, the EU supports the immediate commencement of negotiations on FMCT "bearing in mind the Report of the Special Coordinator." This comment deserves further scrutiny. In that regard, it is instructive to review what the Special Coordinator had to say about the most contentious issues surrounding FMCT, so I will quote from the report at some length:

"During the course of my consultation, many delegations expressed 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 of past production. Still others were of the view that consideration should not only relate to production of fissile materials (past or future) but also to other issues, such as the management of such material.

"It has been agreed by delegations that the mandate for the establishment of the ad hoc Committee does not preclude any delegation from raising for consideration in the ad Hoc Committee any of the above noted issues.

"Delegations with strong views were able to join consensus so we could all move forward on this issue. This means that an Ad Hoc Committee on Cut-Off can be established and negotiations can begin on this important topic."

So, what does it mean to "bear in mind" this report? If it means that there are many contentious issues that can only be resolved in the course of negotiations, then the United States is in full agreement. To that end, the mandate we proposed for such negotiations last year fully captures what is agreed and what is not. Our proposed mandate focuses on the one element on which we all agree, that is, that there should be a negotiation in the CD to ban the production of fissile material for use in nuclear weapons or other nuclear explosive devices. Beyond that essential point, our

proposed mandate does not rule anything in during a negotiation, nor does it rule anything out; and it perfectly reflects the Shannon Report's conclusion that any delegation may raise any issue it deems important in the course of negotiations.

As to the Treaty itself, 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. Our presentations last year made clear our position on some of the difficult issues we will encounter during the course of negotiations. To summarize our draft, the basic obligation under the treaty, effective at entry into force, would be a ban on the production of fissile material for use in nuclear weapons or other nuclear explosive devices. The definitions set forth in the U.S. draft treaty on "fissile material" and "production" represent the outgrowth of the decade-long international discussion regarding what an FMCT should encompass. In our draft, stocks of already existing fissile material would be unaffected by the FMCT. Finally, also in keeping with past discussions of this issue, the production of fissile material for non-explosive purposes, such as fuel for naval propulsion, would be unaffected by the treaty.

Our draft Treaty contains all the elements necessary to support a negotiation and we urge our colleagues, as we begin our discussion of Agenda Item II, to focus attention on this document as the most efficient means to finally begin this process. We have just spent three informal sessions on nuclear disarmament. As we said during those discussions, a necessary step in the achievement of a world free of nuclear weapons must of necessity be a ban on the production of nuclear material for those nuclear weapons. We also reiterate our view that, pending the conclusion of a Cutoff 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.

Thank you