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High-level fissile material cut-off treaty expert preparatory group Second session

Geneva, 28 May to 8 June 2018

Chair's Summary Informal Consultative Meeting pursuant to United Nations General Assembly Resolution A/RES/71/259 (New York, February 15-16, 2018)

Letter of transmittal

Distinguished delegates,

I have the honour to convey, in my capacity as Chair of the High-Level Fissile Material Cut-off Treaty Expert Preparatory Group (Preparatory Group), my summary of the second open-ended informal consultative meeting, which took place in New York on February 15-16, 2018.

Pursuant to UN General Assembly Resolution A/71/259, this meeting was organized for me to provide a report on the work carried out by the Preparatory Group to date, which is also now available on the website of the United Nations in Geneva. In addition to my report, I also offered the opportunity to all Preparatory Group experts to make individual presentations at this meeting to provide the General Assembly with a more detailed sense of the Preparatory Group's internal deliberations.

Resolution A/71/259 specifies that I organize these meetings so that all Member States can engage in interactive discussions and share their views on a future FMCT. I was, once again, impressed by the high caliber of the interventions tendered by delegations, as well as the breadth of views expressed. While the attached summary does not represent an exhaustive account of each intervention, I believe it captures the main points that were expressed during the consultation. I will also convey these points to the Preparatory Group when it meets for its final session from May 28-June 8, 2018 in Geneva.

Canada remains convinced that all Member States have a stake in ensuring the Conference on Disarmament is held accountable for the negotiation of this treaty at long last. In this context, I would like to express my deep appreciation for the seriousness of purpose with which Member States continue to approach discussions on an FMCT. These informal consultative meetings are a novel construct, created to help bridge the divide between the closed work of the expert group and the legitimate interests of the General

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Assembly. The inclusive character of this process, and the iterative path it follows between the expert meetings and the General Assembly, is in my view one of its greatest strengths.

I look forward to continuing this dialogue in the months to come.

(Signed) Heidi Hulan
Chair of the High-level fissile material cut-off
treaty expert preparatory group

I. Summary

1. Resolution A/71/259 requests the Chair of the High-Level FMCT Expert Preparatory Group (Preparatory Group) to organize, in New York, two two-day informal consultative meetings, open-ended so as all Member States can engage in interactive discussions and share their views, which the Chair shall convey to the Preparatory Group for consideration. The first informal consultative meeting took place on March 1-2, 2017. The Chair of the Preparatory Group organized the second on February 15-16, 2018, which mandated the Chair to provide a report in her own capacity on the work of the Preparatory Group. The Chair also collected the views of Member States on possible substantive elements of a future treaty.

II. General

2. The following constitutes the Chair's summary of the main views expressed at this informal consultative meeting:

(a) The start of FMCT negotiations in the Conference on Disarmament was widely viewed as being, more than ever, an urgent priority for the non-proliferation and disarmament community.

(b) Many delegations referred to the maturity of work carried out on this treaty to date, and affirmed that the groundwork for FMCT negotiations has been amply laid.

(c) For many delegations, an FMCT would contribute to both nuclear non-proliferation and disarmament, although views diverged on the mechanism by which these objectives would be achieved.

(d) Deteriorating trends in the international security environment were raised multiple times, both as impediments to future FMCT negotiations, but also as impetus for renewed engagement on this treaty.

(e) In particular, some delegations expressed concern that current moratoria on the production of fissile material were in jeopardy. From their standpoint, in its simplest, most attainable form, the FMCT would have great potential to stand in the way of such a reversal and take the momentum out of renewed arms racing.

(f) Some delegations also expressed the view that an FMCT would benefit global nuclear security.

(g) An argument was made that without prior agreement on the scope of the treaty, negotiations would be prejudicial to the national security of some states. Many delegations argued that the scope of the Treaty should be determined as part of the treaty negotiations itself.

(h) The complementary nature of a treaty to the existing non-proliferation framework was frequently raised. Some delegations suggested adding language to this effect in the treaty's preamble.

(i) Some delegations cautioned that to be successful an FMCT would need to be structured in such a way as to ensure that current disparities in the non-proliferation and disarmament regime are not further entrenched.

(j) Linkages were particularly made between this treaty and the Nuclear Non-proliferation Treaty (NPT), including in relation to the 2010 NPT Review Conference's 64-point Action Plan. Several delegations identified progress on a future treaty as key for a successful 2020 NPT Review Conference. Others viewed a contradiction with the NPT if the scope of the treaty does not address the past production of fissile material.

(k) Several delegations noted the importance of ensuring that an FMCT does not have unintended impact on the rights of States to the peaceful uses of nuclear energy.

(l) Several States underscored that while the Preparatory Group is not negotiating a treaty, there remained value in the work undertaken to outline options for treaty elements. It was also pointed out that since not all nuclear weapons possessing states are participating, the Preparatory Group's work risked being incomplete.

(m) A view that work ongoing in the Preparatory Group was duplicating efforts in the CD was raised. Overall, however, States lamented the inability of the CD to engage in substantive discussions on this treaty.

(n) Several participants referenced positively the recent decision to create subsidiary bodies in the CD, including on FMCT, and urged States in that forum to participate constructively and with a high calibre of intervention.

(o) While concern about the creation of selective groups outside the CD was raised, a majority of States expressed the view that the Informal Consultative Meeting was an important exercise in transparency and inclusivity and expressed appreciation for the opportunity to participate in open-ended discussions designed to feed into the High Level Expert Preparatory Group's work.

III. Treaty Aspects (scope, definitions, verification)

3. The following constitutes the Chair's summary of the main views expressed on issues pertaining to the scope, definitions, and verification of a Treaty:

(a) Many participants addressed the issue of the treaty's scope, including whether or not the past production of fissile material should be included.

(b) The issue of transparency and confidence-building measures was raised frequently as an area which could help bridge the issue of scope and where the Preparatory Group could carry out meaningful work toward the commencement of negotiations.

(c) For example, some States suggested that the treaty include preamble language encouraging states to undertake voluntary measures to draw down stockpiles of fissile material. Similarly, a treaty could include a provision for voluntary declarations of measures already undertaken by states possessing nuclear weapons on the past production of fissile material as a trust-building measure.

(d) On definitions, the range of views expressed corresponded to the options set out in the 2015 Group of Governmental Experts' report on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

(e) Many delegations referred to the International Atomic Energy Agency (IAEA) as the appropriate entity to verify a future treaty. While others preferred a separate, independent verification body, some participants did not rule out cooperation between the verification body and the IAEA, including access to IAEA resources.

(f) A large number of States reaffirmed the need to avoid duplication of verification efforts with the IAEA and recalled the necessity of striking a balance between resource-efficiency and effectiveness.

(g) A number of participants expressed desire for further examination of how a relationship with the IAEA would work in practice.

(h) Some States were of the view that a treaty should include legal obligations relating to the decommissioning or conversion of fissile material production facilities to civilian purposes.

(i) The need for an effective, non-discriminatory, and robust verification regime to ensure the non-diversion of fissile material was frequently cited.

(j) Several possible approaches for treaty verification were discussed, including a regime focussed on certain 'choke points' determined through an assessment of risk, as well as a more comprehensive approach to verification covering the entire nuclear fuel cycle.

(k) Overall, many delegations stressed the need for further work on treaty verification, and highlighted the benefits of such work for the broader non-proliferation and disarmament efforts.

(l) In this connection, some delegations asserted that the work of the Preparatory Group and that of the Nuclear Disarmament Verification Group of Governmental Experts should be mutually reinforcing.

IV. Treaty Aspects (legal and institutional arrangements)

4. The following constitutes the Chair's summary of the main views expressed on issues pertaining to the legal and institutional arrangements of a Treaty:

(a) Views on a treaty's entry-into-force provision fell along a spectrum. While some States preferred a more permissive entry-into-force provision in order to avoid challenges that have befallen other treaties, others expressed a preference for a model based on ratifications by a qualified number of States. Still others expressed a view that a treaty should only come into force once all States producing fissile material had ratified the treaty.

(b) The potential for a provisional application of the treaty to help resolve entry into force challenges was also raised.

(c) There was general agreement that the treaty should guard against abusive and frivolous allegations of non-compliance. Some States believed that the treaty should include provisions offering States parties a wide range of dispute settlement methods. Views diverged on whether or not cases of non-compliance should be referred to the United Nations Security Council.

(d) Most States expressed a preference for a treaty of indefinite or extended duration in order to ensure the irreversibility of fissile material produced after entry-into-force.

(e) Most States expressing views on this subject voiced support for a robust withdrawal clause so as to not defeat the object and purpose of the treaty.

(f) The potential utility of reservations and interpretive declarations in the context of an FMCT was also conveyed and contrasted with their use in other treaties on conventional weapons, where the stakes associated with non-compliance are lower.

(g) In terms of the institutional structure of an FMCT, while there was general agreement on the need for a Conference of States Parties and Executive Council, concerns were raised about an Executive Council of a limited composition.

(h) There were also divergent views as to whether a Conference of States Parties or an Executive Council should be the treaty's main decision-making body.

(i) Several delegations raised questions about the financial implications of a future treaty and underscored the importance of further analysis and information regarding the costing of the different institutional models.

(j) Overall, delegations noted with interest the work completed by the Preparatory Group in the area of legal and institutional issues and its importance to an eventual negotiation.
