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French draft for a Treaty Banning the Production of Fissile Material for Nuclear Weapons or Other Nuclear Explosive Devices

Working paper submitted by France

Highlighting the commitment to and the mobilisation of France in support of disarmament, the President of the French Republic, Mr. François Hollande, recalled on 19 February 2015 the priority given to the definitive end of the production of fissile material for nuclear weapons. The French President announced that France would take the initiative to propose an ambitious, realistic and verifiable draft treaty on that subject.

The French Government has prepared a draft for a Treaty Banning the Production of Fissile Material for Nuclear Weapons or Other Nuclear Explosive Devices.

The draft text has been submitted on 9 April 2015 to the Conference on Disarmament as an official document of the Conference. It was presented to the disarmament community during a side-event organized in Geneva on 10 April 2015 by the French Permanent Representation to the Conference on Disarmament. France would also like to share this draft text with the State Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), in

discussions. France hopes that this initiative will enable the process of substantial discussions

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the disarmament community to join it in order to express that it is today urgent, necessary and

possible to start neg BT1.025 BDC 54.361 61..ET Tm[(T1.025 0 0 1 318.29 69 p)-1e Tm[(Tu)-16(31025 0 0 1

- Puts forward transparency and confidence-building measures (on the declaration of civilian stockpiles constituted prior to the entry into force of the Treaty and of material declared excess to defence needs);
- Sets out a supervised right to withdrawal.

Its entry into force, for an unlimited duration, depends on the ratification of the five nuclear-weapon States.

3. Presentation of the Treaty's main elements

Preamble

The preamble sets out the objective and purpose of the Treaty, and places it in a broader context of work already completed and still to achieve as regards disarmament and non-proliferation.

After recalling that the ultimate objective is the elimination of nuclear weapons and general disarmament under strict and effective international control, it sets out the objective of the FMCT, namely to contribute to nuclear disarmament, by quantitatively limiting arsenals by shutting down the production of fissile material for nuclear weapons.

It highlights the complementarity between an FMCT and the Comprehensive Nuclear-Test-Ban Treaty (CTBT), which to date has been ratified by 164 States. FMCT and CTBT

Paragraphs 4 and 5 set out the obligations of the States Parties to declare all facilities for the production of fissile material and all fissile material produced following the entry into force of the Treaty and subject to the verification regime, whether it is for civilian use or non-prohibited military use. To ensure the irreversibility of their use for civilian or, where applicable, non-prohibited military purposes, stockpiles of civilian fissile material produced prior to the entry into force of the Treaty must also be declared and verified, as well as any fissile material which States could, on a voluntary basis, have declared to be excess to their defence needs (see Article 9 below). Due to the sensitivity of certain information regarding such material that is excess to defence needs, States also have the option of making specific arrangements

The practical result of this principle is that the Treaty should not involve any additional commitment for non-nuclear-weapon States Parties to the NPT which have concluded a comprehensive safeguards agreement and an additional protocol.

The verification of treaty obligations is part of the framework of an arms control and nuclear disarmament contribution initiative. It is thus carried out in accordance with three principles: preserving national security interests, preventing the transfer of confidential information on nuclear weapons which is sensitive from a non-proliferation point of view, and preventing the dissemination of sensitive information from an industrial or technological point

The Treaty does not ban the production of fissile material for non-

In this objective, it:

- Sets out the principle and the main terms, in paragraphs 1 to 5, of a clarification and consultation process in the event of the substantiated presumption of clandestine activities. This process can be adopted under certain conditions on the initiative of either a State Party, based on substantiated information, or the Technical Secretariat which is responsible for verification. If the presumption remains, this process can lead to a challenge inspection being conducted in the relevant State Party. The detailed terms, in particular as regards the verification of, possibly, defence facilities, will be set out in the annex on verification. This annex, which has the same legal value as the Treaty, should state, for example, that if a State is unable to grant the requested access, it must do everything reasonably in its power to promptly meet the Technical Secretariat's requirements by other means;
- Sets out in paragraphs 7 to 11 a system to enable violations observed by the Executive Council to be sanctioned, including by referral to the United Nations Security Council and through adoption by the Executive Council and the Conference of the States Parties of measures to restore compliance with the Treaty.

Article 9 – Transparency and confidence building measures

The Treaty proposed by France is based on the mandate agreed at the Conference on Disarmament (CD/1299). However, to reflect the attention paid by the governmental experts within the framework of the GGE to the civilian stockpiles constituted prior to the entry into force as well as to the material that could have been declared excess to their defence needs by

the relevant States Parties on a voluntary basis, the French project proposes an Article 9 dealing with the declaration of this material.

This material must thus be declared to the Organization and made subject to the verification regime set out by the Treaty or, if necessary for the protection of sensitive information, to a form of verification to be defined between the relevant State Party and the Organization.

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Stressing the need for continued systematic and progressive efforts to reduce the quantity of

Convinced that a multilateral, non-discriminatory and international and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices is a necessary step towards the realisation of the ultimate objective of a world without nuclear weapons and will contribute greatly to disarmament and non-proliferation of nuclear weapons in the context of a gradual and systematic approach,

Commending the work done in the context of the Conference on Disarmament with a view to the prompt commencement of negotiations for such a treaty, and recalling in particular document CD/1299 of 24 March 1995 in which all the Member States of the Conference on Disarmament agreed upon the mandate for negotiation of a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices,

Welcoming the discussions of the Group of Governmental Experts established by Resolution 67/53 of the General Assembly of the United Nations to make recommendations on aspects likely to contribute to the negotiation of a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, and taking note of its recommendations,

Affirming the purpose of attracting the adherence of all States to this Treaty,

Have agreed as follows:

ARTICLE 1

Object and purpose of the Treaty

The provisions contained in this paragraph are without prejudice to the right of the States Parties to continue producing fissile materials for civilian uses or, in compliance with Article 6, military nuclear activities not prohibited by the Treaty.

2. In order to fulfil the commitment made under paragraph 1 of this Article, each State Party undertakes:

- a) To permanently close-down and, insofar as possible, dismantle its facilities for the production of fissile materials for nuclear weapons or other nuclear explosive devices; or,
- b) To convert them to civilian uses.

3. Each State Party is under the obligation to agree to verification of compliance with its commitments under paragraphs 1 and 2 of this Article, subject to the conditions laid down by Article 5 of this Treaty and in accordance with the procedures detailed in an annex to the Treaty on verification.

4. Each State Party undertakes to declare all production facilities, subject to the conditions set out in Article 5.

ARTICLE 4

Organization

A. General provisions

1. The States Parties hereby establish the Organization of the Treaty Banning the Production of Fissile Material for Nuclear Weapons or Other Nuclear Explosive Devices *jgtgkpvgt"tghgttgf"vq"cu"vjg"öQticpk|cvkqpö+"vq"cejkgxg"vjg"qdlgev"cpf"rwtrqug"qh"vjk"Vtgcv{" to ensure implementation of its provisions, including those for international verification of compliance with the Treaty, and to provide a forum for consultation and cooperation among the States Parties. All States Parties shall be members of the Organization. A State Party shall not be deprived of its membership in the Organization.
2. There are hereby established as organs of the Organization the Conference of the States Parties, the Executive Council and the Technical Secretariat.
3. The Organization shall enjoy on the territory of any State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.

The representatives of the States Parties, and their deputies and advisors, the Director-

guidelines of the Conference and assure their proper implementation. The Executive Council

Energy Agency (IAEA) of a draft cooperation agreement for submission to the Conference at its first session and to the Council at its first meeting.

ARTICLE 5

Verification

For this purpose, each State Party shall declare all its production facilities. The facilities

1. Each State Party shall have the right, after the entry into force of this Treaty and without prejudice to its provisions, to continue producing fissile material for military nuclear activities not prohibited by this Treaty.

2. Each State Party shall adopt the necessary measures to ensure that the fissile material produced for unprohibited military nuclear activities is used solely for purposes not prohibited by the Treaty. To this end, and to guarantee that its activities are compliant with its obligations

2. Each State Party shall inform the Organization of the measures taken pursuant to this Article.

3. In order to fulfil its obligations under the Treaty, each State Party shall designate or set up a National Authority and shall so inform the Organization upon entry into force of the Treaty for it. The National Authority shall serve as the national focal point for liaison with the Organization and with the other States Parties.

ARTICLE 8

take promptly any other measures that may be necessary to clarify the situation and facilitate its resolution. The Director-General shall inform the Executive Council accordingly.

The provisions in the preceding paragraph shall apply in all cases of serious concern felt by the Technical Secretariat, whether such concern has arisen from information received from a State Party and evaluated in accordance with paragraph 1, or in connection with the verification activities provided for by Article 5 of the Treaty and the annex on verification.

3. The State Party concerned shall provide clarifications promptly to the Director-General.

4. In the absence of any response from the State Party concerned or in the event that the clarifications provided fail to clarify the situation, the Director-General may initiate a challenge inspection or any other particular measure he may deem to be necessary to clarify the situation. He shall at the same time inform accordingly the Executive Council, which may oppose his decision by a three-quarters majority.

The Director-General cannot oppose an explicit request from a State Party for the performance of a challenge inspection on the territory of another State Party unless he or she is able to demonstrate that the request is abusive or frivolous.

5. The details of the procedure to be followed in the event of the performance of a challenge inspection in the State Party concerned are defined in the annex on verification.

6. The Executive Council, acting in accordance with its powers and functions, shall

1. Disputes that may arise concerning the application or the interpretation of this Treaty

6. The provisions of this Article are without prejudice to those of Article 8 of the Treaty.

ARTICLE 11

Amendments

1. At any time after the entry into force of this Treaty, any State Party may propose amendments to the Treaty or to its annexes or protocol.
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5.

2. This Treaty shall be subject to ratification by States Signatories according to their respective constitutional processes.
3. Any State which does not sign this Treaty before its entry into force may accede to it at any time thereafter.

ARTICLE 14

Withdrawal

1. Each State Party shall, in exercising its national sovereig

Treaty may request their restitution or dismantling. If the State concerned does not make this request, or if restitution and dismantling are not materially possible, the aforementioned goods,

4. This Treaty shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

ARTICLE 17

Authentic texts

This Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
